

Principles for Businesses

Principles for Businesses

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Chapter 1

Introduction

1.1 Application and purpose

Application

1.1.1

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The *Principle* (see ■ PRIN 2) apply in whole or in part to every *firm*. The application of the *Principles* is modified for *firms* conducting *MiFID business*, *incoming EEA firms*, *incoming Treaty firms* and *UCITS qualifiers*. ■ PRIN 3 (Rules about application) specifies to whom, to what and where the *Principles* apply.

Purpose

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The *Principles* are a general statement of the fundamental obligations of *firms* under the *regulatory system*. This includes provisions which implement the *Single Market Directives*. They derive their authority from the *appropriate regulator's* rule-making powers as set out in the *Act* and reflect the *statutory objectives*.

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Link to fit and proper standard in the threshold conditions

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In substance, the *Principles* express the main dimensions of the "fit and proper" standard set for *firms* in *threshold condition 5* (Suitability), although they do not derive their authority from that standard or exhaust its implications. Being ready, willing and organised to abide by the *Principles* is therefore a critical factor in applications for *Part 4A permission*, and breaching the *Principles* may call into question whether a *firm* with *Part 4A permission* is still fit and proper.

Taking group activities into account

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Principles 3 (Management and control), 4 (Financial prudence) and (in so far as it relates to disclosing to the *appropriate regulator*) 11 (Relations with regulators) take into account the activities of members of a *firm's group*. This does not mean that, for example, inadequacy of a *group* member's risk management systems or resources will automatically lead to a *firm* contravening *Principle* 3 or 4. Rather, the potential impact of a *group* member's activities (and, for example, risk management systems operating on a *group* basis) will be relevant in determining the adequacy of the *firm's* risk management systems or resources respectively.

Standards in markets outside the United Kingdom

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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*. In considering whether to take regulatory action under these *Principles* in relation to activities carried on outside the *United Kingdom*, the *appropriate regulator* 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 *appropriate regulator* 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.)

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■ PRIN 4 (Principles : MiFID Business) provides *guidance* on the application of the *Principles* to *MiFID business*.

Consequences of breaching the Principles

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Breaching a *Principle* makes a *firm* liable to disciplinary sanctions. In determining whether a *Principle* has been breached it is necessary to look to the standard of conduct required by the *Principle* in question. Under each of the *Principles* the onus will be on the *appropriate regulator* to show that a *firm* has been at fault in some way. What constitutes "fault" varies between different *Principles*. Under *Principle 1* (Integrity), for example, the *appropriate regulator* would need to demonstrate a lack of integrity in the conduct of a *firm's* business. Under *Principle 2* (Skill, care and diligence) a *firm* would be in breach if it was shown to have failed to act with due skill, care and diligence in the conduct of its business. Similarly, under *Principle 3* (Management and control) a *firm* would not be in breach simply because it failed to control or prevent unforeseeable risks; but a breach would occur if the *firm* had failed to take reasonable care to organise and control its affairs responsibly or effectively.

1.1.8

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The *Principles* are also relevant to the *FCA's* powers of information-gathering, to vary a *firm's Part 4A permission*, and of investigation and intervention, and provide a basis on which the *FCA* may apply to a court for an *injunction* or restitution order or require a *firm* to make restitution. However, the *Principles* do not give rise to actions for damages by a *private person* (see ■ PRIN 3.4.4 R).

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The *Principles* are also relevant to the *PRA's* powers of information-gathering, to vary a *firm's Part 4A permission*, and of investigation and intervention, and provide a basis on which the *PRA* may apply to a court for an *injunction* or restitution order or require a *firm* to make restitution.

1.1.9

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Some of the other *rules* and *guidance* in the *Handbook* deal with the bearing of the *Principles* upon particular circumstances. However, since the *Principles* are also designed as a general statement of regulatory requirements applicable in new or unforeseen situations, and in situations in which there is no need for *guidance*, the *appropriate regulator's* other *rules* and *guidance* should not be viewed as exhausting the implications of the *Principles* themselves.

Responsibilities of providers and distributors under the Principles

1.1.10

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RPPD contains *guidance* on the responsibilities of providers and distributors for the fair treatment of *customers* under the *Principles*.

1.2 Clients and the Principles

Characteristics of the client

1.2.1

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Principles 6 (Customers' interests), *7* (Communications with clients), *8* (Conflicts of interest), *9* (Customers: relationships of trust) and *10* (Clients' assets) impose requirements on *firms* expressly in relation to their *clients* or *customers*. These requirements depend, in part, on the characteristics of the *client* or *customer* concerned. This is because what is "due regard" (in *Principles 6* and *7*), "fairly" (in *Principles 6* and *8*), "clear, fair and not misleading" (in *Principle 7*), "reasonable care" (in *Principle 9*) or "adequate" (in *Principle 10*) will, of course, depend on those characteristics. For example, the information needs of a general insurance broker will be different from those of a retail general insurance *policyholder*.

Approach to client categorisation

1.2.2

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Principles 6, 8 and *9* and parts of *Principle 7*, as qualified by ■ PRIN 3.4.1 R, apply only in relation to *customers* (that is, *clients* which are not *eligible counterparties*). The approach that a *firm* needs to take regarding categorisation of *clients* into *customers* and *eligible counterparties* will depend on whether the *firm* is carrying on *designated investment business* or other activities, as described in ■ PRIN 1.2.3 G and ■ PRIN 1.2.4 G.

1.2.3

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- (1) In relation to the carrying on of *designated investment business*, a *firm's* categorisation of a *client* under the COBS *client* categorisation chapter (■ COBS 3) will be applicable for the purposes of *Principles 6, 7, 8* and *9*.
- (2) The *person* to whom a *firm* gives *basic advice* on a *stakeholder product* will be a *retail client* for all purposes, including the purposes of *Principles 6, 7, 8* and *9*.
- (3) In relation to carrying on activities other than *designated investment business* (for example, *general insurance business* or *accepting deposits*) the *firm* may choose to comply with *Principles 6, 7, 8* and *9* as if all its *clients* were *customers*. Alternatively, it may choose to distinguish between *eligible counterparties* and *customers* in complying with those *Principles*. If it chooses to make such a distinction, it must comply with ■ PRIN 1 Annex 1 R in determining whether that *client* is an *eligible counterparty* (see ■ PRIN 3.4.2 R). In doing so, the requirements in SYSC will apply, including the requirement to make and retain adequate records.
- (4) In relation to carrying on activities that fall within both (1) and (3) (for example, mixed *designated investment business* and *accepting deposits*), a

firm's categorisation of a *client* under the *COBS client* categorisation chapter (■ COBS 3) will be applicable for the purposes of *Principles* 6, 7, 8 and 9.

1.2.4 [G] [deleted]

1.2.5 [G] [deleted]

1.2.6 [G] If the *person* with or for whom the *firm* is carrying on an activity is acting through an agent, the ability of the *firm* to treat the agent as its *client* under ■ COBS 2.4.3 R (Agent as client) will not be available. For example, if a *general insurer* is effecting a *general insurance contract* through a general insurance broker who is acting as agent for a disclosed *policyholder*, the *policyholder* will be a *client* of the *firm* and the *firm* must comply with the *Principles* accordingly.

[FCA]

Non-designated investment business - clients that a firm may treat as an eligible counterparty for the purposes of PRIN

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- 1.1** A *firm* may categorise the following types of *client* as an *eligible counterparty* for the purposes of *PRIN*:
- (1) a properly constituted government (including a quasi-governmental body or a government agency) of any country or territory;
 - (2) a central bank or other national monetary authority of any country or territory;
 - (3) a supranational whose members are either countries or central banks or national monetary authorities;
 - (4) a State investment body, or a body charged with, or intervening in, the management of the public debt;
 - (5) another *firm*, or an *overseas financial services institution*;
 - (6) any *associate* of a *firm* (except an *OPS firm*), or of an *overseas financial services institution*, if the *firm* or institution consents;
 - (7) a *client* when he is classified as an *eligible counterparty* in accordance with 1.2; or
 - (8) a *recognised investment exchange, designated investment exchange, regulated market or clearing house*.
- 1.2** A *firm* may classify a *client* (other than another *firm, regulated collective investment scheme, or an overseas financial services institution*) as an *eligible counterparty* for the purposes of *PRIN* under 1.1(7) if:
- (1) the *client* at the time he is classified is one of the following:
 - (a) a *body corporate* (including a *limited liability partnership*) which has (or any of whose *holding companies* or *subsidiaries* has) called up share capital of at least ?10 million (or its equivalent in any other currency at the relevant time);
 - (b) a *body corporate* that meets (or any of whose holding companies or subsidiaries meets) two of the following tests:
 - (i) a balance sheet total of 12.5 million euros (or its equivalent in any other currency at the relevant time);
 - (ii) a net turnover of 25 million euros (or its equivalent in any other currency at the relevant time);
 - (iii) an average number of employees during the year of 250;
 - (c) a local authority or public authority;

- (d) a *partnership* or unincorporated association which has net assets of at least ?10 million (or its equivalent in any other currency at the relevant time) (and calculated, in the case of a limited *partnership*, without deducting loans owing to any of the *partners*);
 - (e) a trustee of a trust (other than an *occupational pension scheme*, *SSAS*, *personal pension scheme* or *stakeholder pension scheme*) with assets of at least ?10 million (or its equivalent in any other currency), calculated by aggregating the value of the cash and *designated investments* forming part of the trust's assets, but before deducting its liabilities;
 - (f) a trustee of an *occupational pension scheme* or *SSAS*, or a trustee or operator of a *personal pension scheme* or *stakeholder pension scheme* where the *scheme* has (or has had at any time during the previous two years):
 - (i) at least 50 members; and
 - (ii) assets under management of not less than ?10 million (or its equivalent in any other currency at the relevant time); and
- (2) the *firm* has, before commencing business with the *client* on an *eligible counterparty* basis:
- (a) advised the *client* in writing that he is being categorised as an *eligible counterparty* for the purposes of *PRIN*;
 - (b) given a written warning to the *client* that he will lose protections under the *regulatory system*;
 - (c) for a *client* falling under (1)(a) or (b):
 - (i) taken reasonable steps to ensure that the written notices required by (a) and (b) have been delivered to a *person* authorised to take such a decision for the *client*; and
 - (ii) not been notified by the *client* that the *client* objects to being classified as an *eligible counterparty*;
 - (d) for a *client* falling under (1)(c), (d), (e) or (f):
 - (i) taken reasonable steps to ensure that the written notices required by (a) and (b) have been delivered to a *person* authorised to take such a decision for the *client*; and
 - (ii) obtained the *client's* written consent or is otherwise able to demonstrate that consent has been given.

Chapter 2

The Principles

2.1 The Principles

2.1.1

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Table The Principles

1 Integrity	A <i>firm</i> must conduct its business with integrity.
2 Skill, care and diligence	A <i>firm</i> must conduct its business with due skill, care and diligence.
3 Management and control	A <i>firm</i> must take reasonable care to organise and control its affairs responsibly and effectively, with adequate risk management systems.
4 Financial prudence	A <i>firm</i> must maintain adequate financial resources.
5 Market conduct	A <i>firm</i> must observe proper standards of market conduct.
6 Customers' interests	A <i>firm</i> must pay due regard to the interests of its <i>customers</i> and treat them fairly.
7 Communications with clients	A <i>firm</i> must pay due regard to the information needs of its <i>clients</i>, and communicate information to them in a way which is clear, fair and not misleading.
8 Conflicts of interest	A <i>firm</i> must manage conflicts of interest fairly, both between itself and its <i>customers</i> and between a <i>customer</i> and another <i>client</i>.
9 Customers: relationships of trust	A <i>firm</i> must take reasonable care to ensure the suitability of its advice and discretionary decisions for any <i>customer</i> who is entitled to rely upon its judgment.
10 Clients' assets	A <i>firm</i> must arrange adequate protection for <i>clients'</i> assets when it is responsible for them.
11 Relations with regulators	A <i>firm</i> must deal with its regulators in an open and cooperative way, and must disclose to the <i>appropriate regulator</i> appropriately anything relating to the <i>firm</i> of which that regulator would reasonably expect notice.

Note: The PRA applies Principles 1 to 4, 8 and 11 only.

Chapter 3

Rules about application

3.1 Who?

3.1.1

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PRIN applies to every *firm*, except that:

- (1) for an *incoming EEA firm* or an *incoming Treaty firm*, the *Principles* apply only in so far as responsibility for the matter in question is not reserved by an *EU instrument* to the *firm's Home State regulator*;
- (2) for an *incoming EEA firm* which is a *BCD credit institution* without a *top-up permission*, *Principle 4* applies only in relation to the liquidity of a *branch* established in the *United Kingdom*;
- (3) for an *incoming EEA firm* which has *permission* only for *cross border services* and which does not carry on *regulated activities* in the *United Kingdom*, the *Principles* do not apply;
- (4) for a *UCITS qualifier*, only *Principles 1, 2, 3, 7 and 9* apply, and only with respect to the activities in ■ PRIN 3.2.2 R (Communication and approval of financial promotions) ;
- (5) *PRIN* does not apply to an *incoming ECA provider* acting as such ; and
- (6) *PRIN* does not apply to a *firm* in relation to its carrying on of *auction regulation bidding*.

3.1.2

FCA PRA

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■ COBS 1 Annex 1 and the territorial *guidance* in ■ PERG 13.6 all contain *guidance* that is relevant to the reservation of responsibility to a *Home State regulator* referred to in ■ PRIN 3.1.1 R (1).

3.1.3

FCA PRA

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■ PRIN 3.1.1 R (2) reflects article 41 of the *Banking Consolidation Directive* which provides that the *Host State regulator* retains responsibility in cooperation with the *Home State regulator* for the supervision of the liquidity of a *branch* of a *BCD credit institution*.

3.1.4

FCA PRA

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■ PRIN 3.1.1 R (3) puts *incoming EEA firms* on an equal footing with *unauthorised overseas persons* who utilise the overseas persons exclusions in article 72 of the *Regulated Activities Order*.

3.1.5

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■ PRIN 3.1.1 R (4) reflects section 266 of the *Act* (Disapplication of rules).

3.1.6

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A firm will not be subject to a *Principle* to the extent that it would be contrary to the UK's obligations under an EU instrument.

3.1.7

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■ PRIN 4 provides specific guidance on the application of the *Principles* for *MiFID business*.

3.1.8

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The *Principles* will not apply to the extent that they purport to impose an obligation which is inconsistent with the *Payment Services Directive* or the *Electronic Money Directive*. For example, there may be circumstances in which *Principle 6* may be limited by the harmonised conduct of business obligations applied by the *Payment Services Directive* and *Electronic Money Directive* to *credit institutions* (see Parts 5 and 6 of the *Payment Services Regulations* and Part 5 of the *Electronic Money Regulations*).

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 3.2 What?

3.2.1

FCA PRA

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PRIN applies with respect to the carrying on of:

- (1) *regulated activities*;
- (2) activities that constitute *dealing in investments as principal*, disregarding the exclusion in article 15 of the *Regulated Activities Order* (Absence of holding out etc); and
- (3) *ancillary activities* in relation to *designated investment business*, *home finance activity*, *insurance mediation activity* and *accepting deposits*.

3.2.2

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PRIN also applies with respect to the *communication* and *approval* of *financial promotions* which:

- (1) if *communicated* by an *unauthorised person* without *approval* would contravene section 21(1) of the *Act* (Restrictions on financial promotion); and
- (2) may be *communicated* by a *firm* without contravening section 238(1) of the *Act* (Restrictions on promotion of collective investment schemes).

3.2.3

FCA PRA

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Principles 3, 4 and (in so far as it relates to disclosing to the *appropriate regulator*) 11 (and this chapter) also:

- (1) apply with respect to the carrying on of *unregulated activities* (for *Principle 3* this is only in a *prudential context*); and
- (2) take into account any activity of other members of a *group* of which the *firm* is a member.



3.3 Where?

3.3.1

FCA PRA

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Table Territorial application of the Principles

Principle	Territorial application
<i>Principles 1, 2 and 3</i>	in a <i>prudential context</i> , apply with respect to activities wherever they are carried on; otherwise, apply 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> unless another applicable <i>rule</i> which is relevant to the activity has a wider territorial scope, in which case the <i>Principle</i> applies with that wider scope in relation to the activity described in that <i>rule</i> .
<i>Principle 4</i>	applies with respect to activities wherever they are carried on.
<i>Principle 5</i>	if the activities have, or might reasonably be regarded as likely to have, a negative effect on confidence in the <i>UK financial system</i> , 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> .
<i>Principles 6, 7, 8, 9 and 10</i>	Principle 8, in a <i>prudential context</i> , applies with respect to activities wherever they are carried on; otherwise apply 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> unless another applicable <i>rule</i> which is relevant to the activity has a wider territorial scope, in which case the <i>Principle</i> applies with that wider scope in relation to the activity described in that <i>rule</i> .
<i>Principle 11</i>	applies with respect to activities wherever they are carried on.

3.3.2

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3.4 General

Clients and the Principles

3.4.1

FCA

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Although *Principle 7* refers to *clients*, the only requirement of *Principle 7* relating to *eligible counterparties* is that a *firm* must communicate information to *eligible counterparties* in a way that is not misleading.

3.4.2

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For the purposes of *PRIN*, a *firm* intending to carry on, or carrying on, activities that do not involve *designated investment business*, may treat a *client* as an *eligible counterparty* in accordance with ■ *PRIN 1 Annex 1 R*.

3.4.3

FCA

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- (1) ■ *COBS 3* (Client categorisation) applies to a *firm* intending to conduct, or conducting, *designated investment business* (other than giving *basic advice*) and *ancillary activities* relating to *designated investment business*. Any *client* categorisation established in relation to such business will be applicable for the purposes of *Principles 6, 7, 8 and 9*.
- (2) The *person* to whom a *firm* gives *basic advice* will be a *retail client* for all purposes including the purposes of *Principles 6, 7, 8 and 9*.

Actions for damages

3.4.4

FCA

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A contravention of the *rules* in *PRIN* does not give rise to a right of action by a *private person* under section 138D of the *Act* (and each of those *rules* is specified under section 138D(3) of the *Act* as a provision giving rise to no such right of action).

Reference to "regulators" in Principle 11

3.4.5

FCA PRA

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Where *Principle 11* refers to regulators, this means, in addition to the *appropriate regulator*, other regulators with recognised jurisdiction in relation to *regulated activities*, whether in the *United Kingdom* or abroad.

Chapter 4

Principles: MiFID business

4.1 Principles: MiFID business

4.1.1

FCA PRA

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■ PRIN 3.1.6 R ensures that the *Principles* do not impose obligations upon *firms* which are inconsistent with an *EU* instrument . If a *Principles* does purport to impose such an obligation ■ PRIN 3.1.6 R disapplies that *Principle* but only to the extent necessary to ensure compliance with European law. This disapplication has practical effect only for certain matters covered by *MiFID*, which are explained in this section.

Where?

4.1.2

FCA PRA

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Under ■ PRIN 3.3.1 R, the territorial application of a number of *Principles* to a *UK MiFID investment firm* is extended to the extent that another applicable rule which is relevant to an activity has a wider territorial scope. Under ■ PRIN 3.1.1 R, the territorial application of a number of *Principles* to an *EEA MiFID investment firm* is narrowed to the extent that responsibility for the matter in question is reserved to the *firm's Home State regulator*. These modifications are relevant to *Principles* 1, 2, 3, 6, 7, 8, 9 and 10. We have added further *guidance* in *PERG* on the ability of a *Host State* to impose conduct of business requirements (see Q67).

4.1.3

FCA PRA

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Principles 4, 5 and 11 will have the same scope of territorial application for *MiFID business* as for other business.

What?

4.1.4

FCA PRA

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- (1) Certain requirements under *MiFID* are disapplied for:
 - (a) *eligible counterparty business*;
 - (b) transactions concluded under the rules governing a *multilateral trading facility* between its members or participants or between the *multilateral trading facility* and its members or participants in relation to the use of the *multilateral trading facility*;
 - (c) transactions concluded on a *regulated market* between its members or participants.
- (2) Under ■ PRIN 3.1.6 R, these disapplings may affect *Principles* 1, 2, 6 and 9. ■ PRIN 3.1.6 R applies only to the extent that the application of a *Principle* would be contrary to the *UK's* obligations under a *Single Market Directive* in respect of a particular transaction or matter. In line with *MiFID*, these limitations relating to *eligible counterparty business* and transactions under the rules of a *multilateral trading facility* or on a *regulated market* only apply in relation to a *firm's* conduct of business obligations to its clients under

MiFID. They do not limit the application of those *Principles* in relation to other matters, such as *client* asset protections, systems and controls, prudential requirements and market integrity. Further information about these limitations is contained in ■ COBS 1 Annex 1.

(3) *Principles* 3, 4, 5, 7, 8, 10 and 11 are not limited in this way.

4.1.5

FCA PRA

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Although *Principle* 8 does not apply to *eligible counterparty business*, a *firm* will owe obligations in respect of conflicts of interest set out in ■ SYSC 10 which are wider than those contained in *Principle* 8 in that they apply to *eligible counterparty business*.

4

Principles for Businesses

PRIN TP 1 Transitional provisions

FCA PRA

	Material to which the transitional provision applies	Transitional Provision	Transitional Provision: dates in force	Handbook provision: coming into force
1.	PRIN 1 Annex 1 R 1.2(2) R	A <i>firm</i> need not comply with PRIN Ann 1R 1.2(2) in relation to an <i>eligible counterparty</i> if the <i>client</i> was correctly categorised as a <i>market counterparty</i> on 31 October 2007 and the <i>firm</i> complied with COB 4.1.12 R (2) (Large intermediate customer classified as market counterparty).	From 1 November 2007 indefinitely	1 November 2007

Principles for Businesses

Schedule 1 Record Keeping Requirements

Sch 1.1 G

FCA PRA

There are no record keeping requirements in *PRIN*.

Principles for Businesses

Schedule 2 Notification requirements

Sch 2.1 G

FCA **PRA**

The aim of the *guidance* in the following table is to give the reader a quick over-all view of the relevant requirements for notification and reporting.

It is not a complete statement of those requirements and should not be relied on as if it were.

Sch 2.2 G

FCA **PRA**

Handbook reference	Matter to be notified	Contents of notification	Trigger event	Time allowed
Principle 11 (PRIN 2.1.1 R)	Anything relating to the firm of which the <i>appropriate regulator</i> would reasonably expect notice	Appropriate disclosure	Anything relating to the firm of which the <i>appropriate regulator</i> would reasonably expect notice	Appropriate

Principles for Businesses

Schedule 3 Fees and other required payments

Sch 3.1 G

FCA **PRA**

There are no requirements for fees or other payments in *PRIN*.

Principles for Businesses

Schedule 4 Powers Exercised

Sch 4.1 G

The following powers and related provisions in the *Act* have been exercised by the *FSA* to make the *rules* in *PRIN*:

Section 138 (General rule-making power)

Section 145 (Financial promotion rules)

Section 146 (Money laundering rules)

Section 150(2) (Actions for damages)

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 *PRIN*:

Section 157(1) (Guidance)

Section 158A (Guidance on outsourcing by investment firms and credit institutions)

Principles for Businesses

Schedule 5 Rights of action for damages

Sch 5.1 G

FCA

The table below sets out the *rules* in *PRIN* contravention of which by an *authorised person* may be actionable under section 138D of the *Act* (Actions for damages) by a *person* who suffers loss as a result of the contravention.

Sch 5.2 G

FCA

If a "Yes" appears in the column headed "For private person?", the rule may be actionable by a "*private person*" under section 138D (or, in certain circumstances, his fiduciary or representative; see article 6(2) and (3)(c) of the Financial Services and Markets Act 2000 (Rights of Action) Regulations 2001 (SI 2001 No 2256)). A "Yes" in the column headed "Removed" indicates that the *FCA* has removed the right of action under section 138D(3) of the *Act*. If so, a reference to the *rule* in which it is removed is also given.

Sch 5.3 G

FCA

The column headed "For other person?" indicates whether the *rule* may be actionable by a person other than a *private person* (or his fiduciary or representative) under article 6(2) and (3) of those Regulations. If so, an indication of the type of *person* by whom the *rule* may be actionable is given.

Sch 5.4 G

FCA

Chapter/Appendix	Section/Annex	Paragraph	Right of Action		
			For private person?	Removed?	For other person?
All rules in <i>PRIN</i>			No	Yes	No
				PRIN 3.4.4 R	

Principles for Businesses

Schedule 6 Rules that can be waived

Sch 6.1 G

Sch 6.1A G

FCA

As a result of section 138A of the *Act* (Modification or waiver of rules) the *FCA* has power to waive all its *rules*, other than *rules* made under section 137O (Threshold condition code), 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 *FCA* to grant a waiver that would be incompatible with the *United Kingdom's* responsibilities under those directives.

Sch 6.1B G

PRA

As a result of section 138A of the *Act* (Modification or waiver of rules) the *PRA* has power to waive all its *rules*, other than *rules* made under section 137O (Threshold condition code). However, if the *rules* incorporate requirements laid down in European directives, it will not be possible for the *PRA* to grant a waiver that would be incompatible with the *United Kingdom's* responsibilities under those directives.

Senior Management Arrangements, Systems and Controls

Senior Management Arrangements, Systems and Controls

SYSC 1	Application and purpose
1.1	[Deleted]
1.1A	Application
1.2	Purpose
1.3	[Deleted]
1.4	Application of SYSC 11 to SYSC 21
1 Annex 1	Detailed application of SYSC
SYSC 2	Senior management arrangements
2.1	Apportionment of Responsibilities
2.2	Recording the apportionment
SYSC 3	Systems and Controls
3.1	Systems and Controls
3.2	Areas covered by systems and controls
SYSC 3A	These provisions have been moved to SYSC 13 [Deleted]
3A.1	[Deleted]
3A.2	[Deleted]
3A.3	[Deleted]
3A.4	[Deleted]
3A.5	[Deleted]
3A.6	[Deleted]
3A.7	[Deleted]
3A.8	[Deleted]
3A.9	[Deleted]
3A.10	[Deleted]
SYSC 4	General organisational requirements
4.1	General requirements
4.2	Persons who effectively direct the business
4.3	Responsibility of senior personnel
4.4	Apportionment of responsibilities

SYSC 5	Employees, agents and other relevant persons
5.1	Skills, knowledge and expertise
SYSC 6	Compliance, internal audit and financial crime
6.1	Compliance
6.2	Internal audit
6.3	Financial crime
SYSC 7	Risk control
7.1	Risk control
SYSC 8	Outsourcing
8.1	General outsourcing requirements
8.2	Outsourcing of portfolio management for retail clients to a non-EEA State
8.3	Guidance on outsourcing portfolio management for retail clients to a non-EEA State
SYSC 9	Record-keeping
9.1	General rules on record-keeping
SYSC 10	Conflicts of interest
10.1	Application
10.2	Chinese walls
SYSC 11	Liquidity risk systems and controls
11.1	Application
SYSC 12	Group risk systems and controls requirements
12.1	Application

SYSC 13	Operational risk: systems and controls for insurers
13.1	Application
13.2	Purpose
13.3	Other related Handbook sections
13.4	Requirements to notify the appropriate regulator
13.5	Risk management terms
13.6	People
13.7	Processes and systems
13.8	External events and other changes
13.9	Outsourcing
13.10	Insurance
SYSC 14	Risk management and associated systems and controls for insurers
14.1	Application
SYSC 15	Credit risk management systems and controls for insurers
15.1	Application
SYSC 16	Market risk management systems and controls for insurers
16.1	Application
SYSC 17	Insurance risk systems and controls
17.1	Application
SYSC 18	Guidance on Public Interest Disclosure Act: Whistleblowing
18.1	Application
18.2	Practical measures
SYSC 19	[Deleted]
19.1	[Deleted]
19.2	[Deleted]
19.3	[Deleted]
SYSC 19A	Remuneration Code

19A.1	General application and purpose
19A.2	General requirement
19A.3	Remuneration principles for banks, building societies and investment firms
19A Annex 1	Detailed provisions on voiding and recovery (SYSC 19A.3.53AR and SYSC 19A.3.54R)
SYSC 20	Reverse stress testing
20.1	Application and purpose
20.2	Reverse stress testing requirements
SYSC 21	Risk control: additional guidance
21.1	Risk control: guidance on governance arrangements
SYSC App 1	[Deleted]
App 1.1	[Deleted]
	Transitional Provisions and Schedules
TP 1	Common platform firms
TP 2	Firms other than common platform firms, insurers, managing agents and the Society
TP 3	Remuneration code
TP 4	Transitional Provision 4 Combined Code
Sch 1	Record keeping requirements
Sch 2	Notification requirements
Sch 3	Fees and other required payments
Sch 4	Powers exercised
Sch 5	Rights of action for damages
Sch 6	Rules that can be waived

Chapter 1

Application and purpose

1



1.1

[Deleted]



1.1A Application

[Note: ESMA has also issued guidelines under article 16(3) of the ESMA Regulation covering:
 - various topics relating to automated trading and direct electronic access. See <http://www.fsa.gov.uk/static/pubs/other/esma-guidelines.pdf> ; and
 - certain aspects of the MiFID suitability requirements which also deal with the system and control aspects of suitability. See <http://www.esma.europa.eu/content/Guidelines-certain-aspects-MiFID-suitability-requirements>.]

1.1A.1

FCA PRA

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, 21
<i>Managing agent</i>	Chapters 2, 3, 11, 12, 18, 21
<i>Society</i>	Chapters 2, 3, 12, 18, 21
Every other <i>firm</i>	Chapters 4 to 12, 18, 19A , 21

1.1A.2

FCA PRA

G

The provisions in SYSC should be read in conjunction with ■ GEN 2.2.23 R to ■ GEN 2.2.25 G. In particular:

- (1) Provisions made by both the *FCA* and *PRA* may contain obligations for or references to *FCA authorised persons*. ■ GEN 2.2.23 R limits the application of those provisions so that the *PRA* will only apply them in respect of *PRA authorised persons* and not to such *FCA authorised persons* as are included within the provision.
- (2) Provisions made by both the *FCA* and *PRA* may be applied by both regulators to *PRA authorised persons*. Such provisions are applied by each regulator to the extent of its powers and regulatory responsibilities.

1.2 Purpose

1.2.1

FCA PRA

G

The purposes of SYSC are:

- (1) to encourage *firms' directors and senior managers* to take appropriate practical responsibility for their *firms' arrangements* on matters likely to be of interest to the *appropriate regulator* because they impinge on the *appropriate regulator's functions* under the *Act*;
- (2) to increase certainty by amplifying *Principle 3*, under which a *firm* must take reasonable care to organise and control its affairs responsibly and effectively, with adequate risk management systems;
- (3) to encourage *firms* to vest responsibility for effective and responsible organisation in specific *directors and senior managers* ; and
- (4) to create a common platform of organisational and systems and controls requirements for all *firms*.
- (5) [deleted]

1.2.2

[Deleted]



1.3 [Deleted]

1.4 Application of SYSC 11 to SYSC 21

What?

1.4.1

FCA PRA

G

The application of each of chapters ■ SYSC 11 to ■ SYSC 21 is set out in those chapters and in ■ SYSC 1.4.1A R.

1.4.1A

FCA PRA

R

■ SYSC 12, ■ SYSC 19A, ■ SYSC 20 and ■ SYSC 21 do not apply to a *firm* in relation to its carrying on of *auction regulation bidding*.

1.4.1B

FCA PRA

G

Apart from ■ SYSC 12, ■ SYSC 19A, ■ SYSC 20 and ■ SYSC 21 which are disapplied by ■ SYSC 1.4.1A R, the other chapters of ■ SYSC 11 to ■ SYSC 17 do not apply in relation to a *firm's* carrying on of *auction regulation bidding* because they only apply to an *insurer*. ■ SYSC 18 provides guidance on the Public Interest Disclosure Act.

Actions for damages

1.4.2

FCA

R

A contravention of a rule in ■ SYSC 11 to ■ SYSC 21 does not give rise to a right of action by a *private person* under section 138D of the *Act* (and each of those *rules* is specified under section 138D(3) of the *Act* as a provision giving rise to no such right of action).

Detailed application of SYSC

Part 1		Application of SYSC 2 and SYSC 3 to an insurer, a managing agent and the Society	
	Who?		
1.1	R	SYSC 2 and SYSC 3 only apply to an <i>insurer, a managing agent and the Society</i> except that:	
[FCA] [PRA]			
		(1)	for an <i>incoming EEA firm</i> or an <i>incoming Treaty firm</i> : <ul style="list-style-type: none"> (a) SYSC 2.1.1 R and SYSC 2.1.2 G do not apply; (b) SYSC 2.1.3 R to SYSC 2.2.3 G apply, but only in relation to allocation of the function in SYSC 2.1.3 R (2) and only in so far as responsibility for the matter in question is not reserved by an <i>EU instrument</i> to the <i>firm's Home State regulator</i>; and (c) SYSC 3 applies, but only in so far as responsibility for the matter in question is not reserved by an <i>EU instrument</i> to the <i>firm's Home State regulator</i>;
		(2)	for an <i>incoming EEA firm</i> which has <i>permission only for cross border services</i> and which does not carry on <i>regulated activities in the United Kingdom</i> , SYSC 2 and SYSC 3 do not apply;
		(3)	for an <i>incoming Treaty firm</i> which has <i>permission only for cross border services</i> and which does not carry on <i>regulated activities in the United Kingdom</i> , SYSC 3.2.6A R to SYSC 3.2.6J G do not apply;
		(4)	for a <i>sole trader</i> : <ul style="list-style-type: none"> (a) SYSC 2 applies but only if he employs any <i>person</i> who is required to be approved under section 59 of the <i>Act</i> (Approval for particular arrangements); (b) SYSC 3.2.6I R does not apply if he has no <i>employees</i>; and
		(5)	SYSC 2 and SYSC 3 do not apply to an <i>incoming ECA provider</i> acting as such.
1.2	G	(1)	Question 12 in SYSC 2.1.6 G contains guidance on SYSC 1 Annex 1.1.1R(1)(b) and SYSC 1 Annex 1.1.1R(1)(c).
[FCA] [PRA]			

Part 1 Application of SYSC 2 and SYSC 3 to an insurer, a managing agent and the Society

- (2) SYSC 1 Annex 1.1.8R further restricts the territorial application of SYSC 2 and SYSC 3 for an *incoming EEA firm* or an *incoming Treaty firm*.
- (3) SYSC 1 Annex 1.1.1R(3) puts an *incoming EEA firm* on an equal footing with unauthorised *overseas persons* who utilise the *overseas persons* exclusions in article 72 of the *Regulated Activities Order*.
- (4) Further *guidance* on which matters are reserved to a *firm's Home State regulator* can be found at SUP 13A Annex 2 G.

What?

1.3 R SYSC 2 and SYSC 3 apply with respect to the carrying on of:

[FCA]
[PRA]

- (1) *regulated activities*;
- (2) activities that constitute *dealing in investments as principal*, disregarding the exclusion in article 15 of the *Regulated Activities Order* (Absence of holding out etc); and
- (3) *ancillary activities* in relation to *designated investment business*, *home finance activity* and *insurance mediation activity*;

except that SYSC 3.2.6A R to SYSC 3.2.6J G do not apply as described in SYSC 1 Annex 1.1.4R.

1.4 R SYSC 3.2.6A R to SYSC 3.2.6J G do not apply:

[FCA]

- (1) with respect to the activities described in SYSC 1 Annex 1.1.3R(2) and SYSC 1 Annex 1.1.3R(3); or
- (2) in relation to the following *regulated activities*:
 - (a) *general insurance business*;
 - (b) *insurance mediation activity* in relation to a *general insurance contract* or *pure protection contract*;
 - (c) *long-term insurance business* which is outside the *Consolidated Life Directive* (unless it is otherwise one of the *regulated activities* specified in this rule);
 - (d) business relating to contracts which are within the *Regulated Activities Order* only because they fall within paragraph (e) of the definition of "contract of insurance" in article 3 of that Order;

Part 1		Application of SYSC 2 and SYSC 3 to an insurer, a managing agent and the Society
		<p>(e) (i) arranging, by the <i>Society</i>, of deals in <i>general insurance contracts</i> written at Lloyd's; and</p> <p>(ii) <i>managing the underwriting capacity of a Lloyd's syndicate as a managing agent at Lloyd's;</i></p> <p>(f) <i>home finance mediation activity and administering a home finance transaction; and</i></p> <p>(g) <i>reversion activity.</i></p>
1.5	R	<p>SYSC 2 and SYSC 3, except SYSC 3.2.6A R to SYSC 3.2.6J G, also apply with respect to the <i>communication and approval of financial promotions</i> which:</p>
[FCA]		<p>(1) if <i>communicated</i> by an <i>unauthorised person</i> without <i>approval</i> would contravene section 21(1) of the <i>Act</i> (Restrictions on financial promotion); and</p> <p>(2) may be <i>communicated</i> by a <i>firm</i> without contravening section 238(1) of the <i>Act</i> (Restrictions on promotion of collective investment schemes).</p>
1.6	R	<p>SYSC 2 and SYSC 3, except SYSC 3.2.6A R to SYSC 3.2.6J G, also:</p>
[FCA]		
[PRA]		<p>(1) apply with respect to the carrying on of <i>unregulated activities</i> in a <i>prudential context</i>; and</p> <p>(2) take into account any activity of other members of a <i>group</i> of which the <i>firm</i> is a member.</p>
1.7	G	<p>SYSC 1 Annex 1.1.6R(2) does not mean that inadequacy of a <i>group</i> member's systems and controls will automatically lead to a <i>firm</i> contravening, for example, SYSC 3.1.1 R. Rather, the potential impact of a <i>group</i> member's activities, including its systems and controls, and any systems and controls that operate on a <i>group</i> basis, will be relevant in determining the appropriateness of the <i>firm's</i> own systems and controls.</p>
		<p>Where?</p>
1.8	R	<p>SYSC 2 and SYSC 3 apply with respect to activities carried on from an establishment maintained by the <i>firm</i> (or its <i>appointed representative</i> or, where applicable, its <i>tier agent</i>) in the <i>United Kingdom</i> unless another applicable <i>rule</i> which is relevant to the activity has a wider territorial scope, in which case SYSC 2 and SYSC 3 apply with that wider scope in relation to the activity described in that <i>rule</i>.</p>
[FCA]		
[PRA]		
1.9	R	<p>SYSC 2 and SYSC 3, except SYSC 3.2.6A R to SYSC 3.2.6J G, also apply in a <i>prudential context</i> to a <i>UK domestic firm</i> with respect to activities wherever they are carried on.</p>
[PRA]		

Part 1 Application of SYSC 2 and SYSC 3 to an insurer, a managing agent and the Society

1.10	R	SYSC 3, except SYSC 3.2.6A R to SYSC 3.2.6J G, also applies in a prudential context to an overseas firm (other than an incoming EEA firm or an incoming Treaty firm) with respect to activities wherever they are carried on.
[PRA]		
1.11	G	(1) In considering whether to take regulatory action under SYSC 2 or SYSC 3 in relation to activities carried on outside the United Kingdom, the appropriate regulator will take into account the standards expected in the market in which the firm is operating.
[FCA]		
[PRA]		
		(2) Most of the rules in SYSC 3 are linked to other requirements and standards under the regulatory system which have their own territorial limitations so that those SYSC rules are similarly limited in scope.
		Actions for damages
1.12	R	A contravention of the rules in SYSC 2 and SYSC 3 does not give rise to a right of action by a private person under section 138D of the Act (and each of those rules is specified under section 138D(3) of the Act as a provision giving rise to no such right of action).
[FCA]		

Part 2 Application of the common platform requirements (SYSC 4 to 10)

Who?

2.1	R	The common platform requirements apply to every firm apart from an insurer, a managing agent and the Society unless provided otherwise in a specific rule.
[FCA]		
[PRA]		
2.2	R	For an incoming EEA firm or an incoming Treaty firm:
[FCA]		
[PRA]		
		(1) the rule on responsibility of senior personnel (SYSC 4.3) does not apply;
		(2) the common platform requirements apply only in so far as responsibility for the matter in question is not reserved by an EU instrument to the firm's Home State regulator;
		(3) for an incoming EEA firm which has permission only for cross-border services and which does not carry on regulated activities in the United Kingdom, the common platform requirements do not apply;
		(4) for an incoming Treaty firm which has permission only for cross-border services and which does not carry on regulated activities in the United Kingdom, the common platform requirements on financial crime do not apply.
2.3	R	For a sole trader:

Part 2		Application of the common platform requirements (SYSC 4 to 10)
[FCA]		<p>(1) SYSC 4.3 and 4.4 do not apply as long as he does not employ any <i>person</i> who is required to be approved under section 59 of the <i>Act</i> (Approval for particular arrangements);</p> <p>(2) SYSC 4.1.4 R and SYSC 6.3.9 R do not apply if he has no <i>employees</i>.</p>
2.4	R	For a <i>UCITS</i> <i>qualifier</i> :
[FCA]		<p>(1) the <i>rule</i> on responsibility of senior personnel (SYSC 4.3) does not apply; and</p> <p>(2) the <i>common platform requirements</i> apply in relation to the <i>communication</i> and <i>approval</i> of <i>financial promotions</i> only as set out in SYSC 1 Annex 1.2.12R.</p> <p>[Note: section 266 of the <i>Act</i>.]</p>
2.5	R	For an <i>authorised professional firm</i> when carrying on <i>non-mainstream regulated activities</i> , the <i>common platform requirements on financial crime</i> , <i>conflicts of interest</i> and <i>Chinese walls</i> do not apply.
[FCA]		
2.6	R	The <i>common platform requirements</i> do not apply to an <i>incoming ECA provider</i> acting as such.
[FCA]		
[PRA]		
2.6A	R	The <i>common platform requirements</i> do not apply to a <i>firm</i> (including an <i>incoming EEA firm</i>) in relation to its carrying on of <i>auction regulation bidding</i> , except for:
[FCA]		
[PRA]		
		<p>(1) SYSC 6.1.1 R which only applies to the extent that it relates to the obligation to establish, implement and maintain adequate policies and procedures for countering the risk that the <i>firm</i> (including its managers, employees and <i>appointed representatives</i>) might be used to further <i>financial crime</i>; and</p> <p>(2) SYSC 6.3 (Financial crime).</p>
2.7	G	<i>EEA MiFID investment firms</i> are reminded in particular that they must comply with the <i>common platform record-keeping requirements</i> in relation to a <i>branch</i> in the <i>United Kingdom</i> .
[FCA]		
2.7A	G	<i>EEA UCITS management companies</i> are also reminded that they must comply with:
[FCA]		<p>(1) the <i>common platform requirements</i> indicated in Column A+ (Application to a management company) in Part 3 of this Annex;</p> <p>(2) the <i>common platform record-keeping requirements</i>; and</p>

Part 2 Application of the common platform requirements (SYSC 4 to 10)

(3) **the common platform requirements on financial crime;**
in relation to activities carried on from a branch in the United Kingdom.
Where the common platform requirement addresses matters within the scope of article 12 of the UCITS Directive, an EEA UCITS management company should note that those matters may also be subject to the rules of its Home State regulator.

[Note: articles 12(1)(b), 14(1)(c), 14(1)(d), 17(4), 18(3) and 19(1) of the UCITS Directive and articles 4(1)(e), 10(1), 10(2) and 10(3) of the UCITS implementing Directive]

What?

2.8 R The **common platform organisational requirements** apply with respect to the carrying on of the following (unless provided otherwise within a specific rule):

[FCA]
[PRA]

- (1) **regulated activities;**
- (2) **activities that constitute dealing in investments as principal, disregarding the exclusion in article 15 of the Regulated Activities Order (Absence of holding out etc);**
- (3) **ancillary activities;**
- (4) **in relation to MiFID business, ancillary services ; and**
- (5) **collective portfolio management.**

2.9 G The application of the provisions on the conflicts of interest in SYSC 10 is set out in SYSC 10.1.1 R and SYSC 10.2.1 R

[FCA]
[PRA]

2.10 R The provisions on record-keeping in SYSC 9 apply as set out in SYSC 1 Annex 1.2.8R, except that they only apply to the carrying on of **ancillary activities** that are performed in relation to:

[FCA]

- (1) **designated investment business;**
- (2) **home finance activity; and**
- (3) **insurance mediation activity.**

2.11 R The **common platform requirements on financial crime** apply as set out in SYSC 1 Annex 1.2.8R, except that they do not apply:

[FCA]

- (1) **with respect to:**
 - (a) **activities that constitute dealing in investments as principal, disregarding the exclusion in article 15 of the Regulated Activities Order (Absence of holding out etc); and**
 - (b) **ancillary activities; or**

Part 2		Application of the common platform requirements (SYSC 4 to 10)
		<p>(2) in relation to the following <i>regulated activities</i>:</p> <p>(a) <i>general insurance business</i>;</p> <p>(b) <i>insurance mediation activity in relation to a general insurance contract or pure protection contract</i>;</p> <p>(c) <i>long-term insurance business which is outside the Consolidated Life Directive (unless it is otherwise one of the regulated activities specified in this rule)</i>;</p> <p>(d) <i>business relating to contracts which are within the Regulated Activities Order only because they fall within paragraph (e) of the definition of "contract of insurance" in article 3 of that Order</i>;</p> <p>(e) (i) <i>arranging by the Society of deals in general insurance contracts written at Lloyd's</i>; and (ii) <i>managing the underwriting capacity of a Lloyd's syndicate as a managing agent at Lloyd's</i>;</p> <p>(f) <i>home finance mediation activity and administering a home finance transaction</i>;</p> <p>(g) <i>reversion activity</i>; and</p> <p>(h) <i>meeting of repayment claims and managing dormant account funds (including the investment of such funds)</i>.</p>
2.12	R [FCA]	<p>The <i>common platform organisational requirements</i>, except the <i>common platform requirements on financial crime</i>, also apply with respect to the <i>communication and approval of financial promotions</i> which:</p> <p>(1) <i>if communicated by an unauthorised person without approval would contravene section 21(1) of the Act (Restrictions on financial promotion)</i>; and</p> <p>(2) <i>may be communicated by a firm without contravening section 238(1) of the Act (Restrictions on promotion of collective investment schemes)</i>.</p>
2.13	R [FCA] [PRA]	<p>The <i>common platform organisational requirements</i>, except the <i>common platform requirements on financial crime</i>, also:</p> <p>(1) <i>apply with respect to the carrying on of unregulated activities in a prudential context</i>; and</p> <p>(2) <i>take into account any activity of other members of a group of which the firm is a member</i>.</p>
2.14	G	<p>SYSC 1 Annex 1.2.13R(2) does not mean that inadequacy of a <i>group member's</i> systems and controls will automatically lead to a <i>firm</i> contravening any of</p>

Part 2		Application of the common platform requirements (SYSC 4 to 10)	
[FCA] [PRA]			the <i>common platform organisational requirements</i> . Rather, the potential impact of a <i>group</i> member's activities, including its systems and controls, and any systems and controls that operate on a <i>group</i> basis, will be relevant in determining the appropriateness of the <i>firm's</i> own systems and controls.
		Where?	
2.15	R		The <i>common platform requirements</i> , except the <i>common platform record-keeping requirements</i> , apply to a <i>firm</i> in relation to activities carried on by it from an establishment in the <i>United Kingdom</i> .
[FCA] [PRA]			
2.16	R		The <i>common platform requirements</i> , except the <i>common platform requirements on financial crime</i> and the <i>common platform record-keeping requirements</i> , apply to a <i>firm</i> that is not a <i>UK UCITS management company</i> in relation to <i>passport activities</i> carried on by it from a <i>branch</i> in another <i>EEA State</i> .
[FCA] [PRA]			
2.16A	R	(1)	The <i>common platform requirements</i> referred to in Column A+ of Part 3 (below) apply to a <i>UK UCITS management company</i> in relation to <i>passport activities</i> carried on by it from a <i>branch</i> in another <i>EEA State</i> .
[FCA]			
		(2)	Any other <i>common platform requirement</i> applies to a <i>UK UCITS management company</i> in relation to <i>passport activities</i> carried on by it from a <i>branch</i> in another <i>EEA State</i> to the extent that the requirement addresses matters within the scope of article 12 of the <i>UCITS Directive</i> .
2.16B	G		The matters referred to in paragraph 2.16AR of this Annex may also be subject to the rules of the <i>UK UCITS management company's Host State regulator</i> .
[FCA]			
2.17	R		The <i>common platform record-keeping requirements</i> apply to activities carried on by a <i>firm</i> from an establishment maintained in the <i>United Kingdom</i> , unless another applicable <i>rule</i> which is relevant to the activity has a wider territorial scope, in which case the <i>common platform record-keeping requirements</i> apply with that wider scope in relation to the activity described in that <i>rule</i> .
[FCA] [PRA]			
			[Note: article 13(9) of <i>MiFID</i>]
2.18	R		The <i>common platform organisational requirements</i> , except the <i>common platform requirements on financial crime</i> , also apply in a <i>prudential context</i> to a <i>UK domestic firm</i> and to an <i>overseas firm</i> (other than an <i>incoming EEA firm</i> or an <i>Incoming Treaty firm</i>) with respect to activities wherever they are carried on.
[FCA] [PRA]			
			Actions for damages
2.19	R		A contravention of a <i>rule</i> in the <i>common platform requirements</i> does not give rise to a right of action by a <i>private person</i> under section 138D of the <i>Act</i> (and each of those <i>rules</i> is specified under section 138D(3) of the <i>Act</i> as a provision giving rise to no such right of action).
[FCA]			

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 three ways (subject to the provisions in Part 2 of this Annex).
[FCA]		
[PRA]		
3.2	G	For a <i>common platform firm</i> , they apply in accordance with Column A in the table below.
[FCA]		
[PRA]		
3.2A	G	For a <i>management company</i> , they apply in accordance with Column A+ in the table below.
[FCA]		
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.
[FCA]		
[PRA]		

Provision	COLUMN A	COLUMN A+	COLUMN B
SYSC 4	Application to a common platform firm other than to a UCITS investment firm	Application to a UCITS management company	Application to all other firms apart from insurers, managing agents and the Society
SYSC 4.1.1 R	Rule but SYSC 4.1.1 R (2) applies only to a <i>BIPRU firm</i>	Rule but SYSC 4.1.1 R (2) applies only to a <i>BIPRU firm</i>	Rule but SYSC 4.1.1 R (2) applies only to a <i>third country BIPRU firm</i>
[FCA] [PRA]			
SYSC 4.1.2 R	Rule	Rule for a <i>UCITS investment firm</i> ; otherwise guidance	Guidance
[FCA] [PRA]			
SYSC 4.1.2A G	Not applicable	Guidance for a <i>UCITS firm</i> ; not applicable to a <i>UCITS investment firm</i>	Guidance
[FCA] [PRA]			
SYSC 4.1.2B R	Not applicable	Rule	Not applicable
[FCA]			
SYSC 4.1.2C R	Not applicable	Rule	Not applicable
[FCA]			

Provision	COLUMN A	COLUMN A+	COLUMN B
SYSC 4	Application to a common platform firm other than to a UCITS investment firm	Application to a UCITS management company	Application to all other firms apart from insurers, managing agents and the Society
SYSC 4.1.3 R [FCA] [PRA]	Rule applies only to a <i>BIPRU firm</i>	Rule for a <i>UCITS investment firm</i> ; otherwise not applicable	Not applicable
SYSC 4.1.4 R [FCA] [PRA]	Rule	Rule	(1) and (3) Guidance (2) Rule
SYSC 4.1.4A G [FCA] [PRA]	Not applicable	Not applicable	Guidance
SYSC 4.1.5 R [FCA] [PRA]	Rule applies only to a <i>MiFID investment firm</i>	Rule	Not applicable
SYSC 4.1.6 R [FCA] [PRA]	Rule	Rule for a <i>UCITS investment firm</i> ; otherwise guidance	Guidance
SYSC 4.1.7 R [FCA] [PRA]	Rule	Rule	Guidance
SYSC 4.1.7A G [FCA] [PRA]	Not applicable	Not applicable	Guidance
SYSC 4.1.8 G [FCA] [PRA]	Guidance	Guidance	Guidance
SYSC 4.1.9 R [FCA] [PRA]	Rule	Rule	Not applicable
SYSC 4.1.10 R [FCA] [PRA]	Rule	Rule	Guidance - except reference to SYSC 4.1.9 R which does not apply to these <i>firms</i>
SYSC 4.1.10A G [FCA] [PRA]	Not applicable	Not applicable	Guidance
SYSC 4.1.11 G [FCA] [PRA]	Guidance	Guidance	Guidance

Provision	COLUMN A	COLUMN A+	COLUMN B
SYSC 4	Application to a common platform firm other than to a UCITS investment firm	Application to a UCITS management company	Application to all other firms apart from insurers, managing agents and the Society
[FCA] [PRA] SYSC 4.1.13 G	Guidance	Guidance	Guidance
[FCA] [PRA] SYSC 4.1.14 G	Guidance	Guidance	Guidance
[FCA] [PRA] SYSC 4.2.1 R	Rule	Rule	- UK branch of <i>non-EEA bank</i> - rule applies. - Other <i>firms</i> - Guidance
[FCA] [PRA] SYSC 4.2.1A G	Not applicable	Not applicable	- Guidance
[FCA] [PRA] SYSC 4.2.2 R	Rule	Rule	- UK branch of a <i>non-EEA bank</i> - Rule applies - Other <i>firms</i> - this provision does not apply
[FCA] [PRA] SYSC 4.2.3 G - 4.2.5 G	Guidance	Guidance	- UK branch of a <i>non-EEA bank</i> - Guidance - Other <i>firms</i> - these provisions do not apply
[FCA] [PRA] SYSC 4.2.6 R	Rule	Rule for a <i>UCITS investment firm</i> ; otherwise not applicable	- UK branch of a <i>non-EEA bank</i> - Rule applies - Other <i>firms</i> - this provision does not apply
[FCA] [PRA] SYSC 4.3.1 R	Rule	Rule	Rule (but not applicable to <i>incoming EEA firms, incoming Treaty firms or UCITS qualifiers</i>)

Provision	COLUMN A	COLUMN A+	COLUMN B
SYSC 4	Application to a common platform firm other than to a UCITS investment firm	Application to a UCITS management company	Application to all other firms apart from insurers, managing agents and the Society
SYSC 4.3.2 R [FCA] [PRA]	Rule	Rule	Guidance (but not applicable to <i>incoming EEA firms, incoming Treaty firms or UCITS qualifiers</i>)
SYSC 4.3.2A G [FCA] [PRA]	Not applicable	Not applicable	Guidance (but not applicable to <i>incoming EEA firms, incoming Treaty firms or UCITS qualifiers</i>)
SYSC 4.3.3 G [FCA] [PRA]	Guidance	Guidance	Guidance (but not applicable to <i>incoming EEA firms, incoming Treaty firms or UCITS qualifiers</i>)
SYSC 4.4.1 R [FCA] [PRA]	Not applicable	Not applicable	<p>Rule applies this section only to:</p> <p>(1) an <i>authorised professional firm</i> in respect of its <i>non-mainstream regulated activities</i> unless the <i>firm</i> is also conducting other <i>regulated activities</i> and has appointed <i>approved persons</i> to perform the <i>governing functions</i> with equivalent responsibilities for the <i>firm's non-mainstream regulated activities</i> and other <i>regulated activities</i>;</p> <p>(2) activities carried on by a <i>firm</i> whose principal purpose is to carry on activities other than <i>regulated activities</i> and which is:</p>

Provision SYSC 4	COLUMN A Application to a common platform firm other than to a UCITS investment firm	COLUMN A+ Application to a UCITS management company	COLUMN B Application to all other firms apart from insurers, managing agents and the Society
			<p>(a) <i>an oil market participant</i>;</p> <p>(b) <i>a service company</i>;</p> <p>(c) <i>an energy market participant</i>;</p> <p>(d) <i>a wholly-owned subsidiary of:</i> (i) <i>a local authority</i>; (ii) <i>a registered social landlord</i>; (e) <i>a firm with permission to carry on insurance mediation activity in relation to non-investment insurance contracts but no other regulated activity</i>;</p> <p>(3) <i>an incoming Treaty firm, an incoming EEA firm and a UCITS qualifier, (but only SYSC 4.4.5 R (2) applies for these firms)</i>; and</p> <p>(4) <i>a sole trader, but only if he employs any person who is required to be approved under section 59 of the Act (Approval for particular arrangements)</i>.</p> <p>Guidance only applying to the <i>firms</i> specified in SYSC 4.4.1 R</p>
<p>SYSC 4.4.2 G [FCA] [PRA]</p>	<p>Not applicable</p>	<p>Not applicable</p>	

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Provision	COLUMN A	COLUMN A+	COLUMN B
SYSC 4	Application to a common platform firm other than to a UCITS investment firm	Application to a UCITS management company	Application to all other firms apart from insurers, managing agents and the Society
SYSC 4.4.3 R [FCA] [PRA]	Not applicable	Not applicable	Rule only applying to the <i>firms</i> specified in SYSC 4.4.1 R
SYSC 4.4.4 G [FCA] [PRA]	Not applicable	Not applicable	Guidance only applying to the <i>firms</i> specified in SYSC 4.4.1 R
SYSC 4.4.5 R [FCA] [PRA]	Not applicable	Not applicable	Rule only applying to the <i>firms</i> specified in SYSC 4.4.1 R
SYSC 4.4.6 G [FCA] [PRA]	Not applicable	Not applicable	Guidance only applying to the <i>firms</i> specified in SYSC 4.4.1 R
Provision	COLUMN A	COLUMN A+	COLUMN B
SYSC 5	Application to a common platform firm other than to a UCITS investment firm	Application to a UCITS management company	Application to all other firms apart from insurers, managing agents and the Society
SYSC 5.1.1 R [FCA] [PRA]	Rule	Rule	Rule
SYSC 5.1.2 G [FCA] [PRA]	Guidance	Guidance	Guidance
SYSC 5.1.3 G [FCA] [PRA]	Guidance	Guidance	Guidance
SYSC 5.1.4 G [FCA]	Guidance	Guidance	Guidance
SYSC 5.1.4A G [FCA] [PRA]	Guidance	Guidance	Guidance
SYSC 5.1.5 G	Guidance	Guidance	Guidance

Provision	COLUMN A	COLUMN A+	COLUMN B
SYSC 5	Application to a common platform firm other than to a UCITS investment firm	Application to a UCITS management company	Application to all other firms apart from insurers, managing agents and the Society
[FCA] [PRA] SYSC 5.1.5A G	Guidance	Guidance	Guidance
[FCA] [PRA] SYSC 5.1.6 R	Rule	Rule	Guidance
[FCA] [PRA] SYSC 5.1.7 R	Rule	Rule for a <i>UCITS investment firm</i> ; otherwise guidance	Guidance
[FCA] [PRA] SYSC 5.1.7A G	Not applicable	Not applicable to a <i>UCITS investment firm</i> ; otherwise guidance	Guidance
[FCA] [PRA] SYSC 5.1.8 G	Guidance	Guidance	Guidance
[FCA] [PRA] SYSC 5.1.9 G	Guidance	Guidance	Guidance
[FCA] [PRA] SYSC 5.1.10 G	Guidance	Guidance	Guidance
[FCA] [PRA] SYSC 5.1.11 G	Guidance	Guidance	Guidance
[FCA] [PRA] SYSC 5.1.12 R	Rule	Rule	Guidance
[FCA] [PRA] SYSC 5.1.12A G	Not applicable	Not applicable	Guidance
[FCA] [PRA] SYSC 5.1.13 R	Rule	Rule	Rule
[FCA] [PRA] SYSC 5.1.14 R	Rule	Rule	Guidance

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Provision	COLUMN A	COLUMN A+	COLUMN B
SYSC 5	Application to a common platform firm other than to a UCITS investment firm	Application to a UCITS management company	Application to all other firms apart from insurers, managing agents and the Society
[FCA] [PRA] SYSC 5.1.15 G	Not applicable	Not applicable	Guidance
[FCA] [PRA]			
Provision	COLUMN A	COLUMN A+	COLUMN B
SYSC 6	Application to a common platform firm other than to a UCITS investment firm	Application to a UCITS management company	Application to all other firms apart from insurers, managing agents and the Society
SYSC 6.1.1 R	Rule	Rule	Rule
[FCA] [PRA] SYSC 6.1.2 R	Rule	Rule	Guidance
[FCA] [PRA] SYSC 6.1.2A G	Not applicable	Not applicable	Guidance
[FCA] [PRA] SYSC 6.1.3 R	Rule	Rule	- Guidance - This provision shall be read with the following additional sentence at the start.
[FCA] [PRA]			"Depending on the nature, scale and complexity of its business, it may be appropriate for a <i>firm</i> to have a separate compliance function. Where a <i>firm</i> has a separate compliance function, the <i>firm</i> should also take into

Provision	COLUMN A	COLUMN A+	COLUMN B
SYSC 6	Application to a common platform firm other than to a UCITS investment firm	Application to a UCITS management company	Application to all other firms apart from insurers, managing agents and the Society
SYSC 6.1.3A G [FCA] [PRA]	Not applicable	Not applicable	account 6.1.3 R and 6.1.4 R as guidance." Guidance
SYSC 6.1.4 R [FCA] [PRA]	Rule	Rule	(1) (3) and (4) Guidance (2) - Rule for <i>firms</i> which carry on <i>designated investment business</i> with or for <i>retail clients</i> or <i>professional clients</i> . - Guidance for all other <i>firms</i> .
SYSC 6.1.4A G [FCA] [PRA]	Not applicable	Not applicable	Guidance
SYSC 6.1.4A R [FCA]	Not applicable	Not applicable	Rule for <i>firms</i> which carry on <i>designated investment business</i> with or for <i>retail clients</i> or <i>professional clients</i>.
SYSC 6.1.5 R [FCA] [PRA]	Rule	Rule	- Guidance - " <i>investment services and activities</i> " shall be read as " <i>financial services and activities</i> "
SYSC 6.1.6G [FCA] [PRA]	Not applicable	Not applicable	Guidance
SYSC 6.2.1 R [FCA] [PRA]	Rule	Rule	Guidance
SYSC 6.2.1A G [FCA] [PRA]	Not applicable	Not applicable	Guidance

Provision	COLUMN A	COLUMN A+	COLUMN B
SYSC 6	Application to a common platform firm other than to a UCITS investment firm	Application to a UCITS management company	Application to all other firms apart from insurers, managing agents and the Society
SYSC 6.2.2 G	Guidance	Guidance	Guidance
[FCA] [PRA]			
SYSC 6.3.1 R	Rule	Rule	Rule
[FCA]			
SYSC 6.3.2 G	Guidance	Guidance	Guidance
[FCA]			
SYSC 6.3.3 R	Rule	Rule	Rule
[FCA]			
SYSC 6.3.4 G	Guidance	Guidance	Guidance
[FCA]			
SYSC 6.3.5 G	Guidance	Guidance	Guidance
[FCA]			
SYSC 6.3.6 G	Guidance	Guidance	Guidance
[FCA]			
SYSC 6.3.7 G	Guidance	Guidance	Guidance
[FCA]			
SYSC 6.3.8 R	Rule	Rule	Rule
[FCA]			
SYSC 6.3.9 R	Rule	Rule	Rule
[FCA]			
SYSC 6.3.10 G	Guidance	Guidance	Guidance
[FCA]			

Provision	COLUMN A	COLUMN A+	COLUMN B
SYSC 7	Application to a common platform firm other than to a UCITS investment firm	Application to a UCITS management company	Application to all other firms apart from insurers, managing agents and the Society
SYSC 7.1.1 G	Guidance	Guidance	Guidance
[FCA] [PRA]			
SYSC 7.1.2 R	Rule	Rule for a <i>UCITS investment firm</i> ; otherwise guidance	Guidance
[FCA] [PRA]			
SYSC 7.1.2A G	Not applicable	Not applicable to a <i>UCITS investment firm</i> ; otherwise guidance	Guidance
[FCA] [PRA]			
SYSC 7.1.2B G	Not applicable	Guidance	Not applicable
[FCA]			
SYSC 7.1.3 R	Rule	Rule for a <i>UCITS investment firm</i> ; otherwise guidance	Guidance
[FCA] [PRA]			
SYSC 7.1.4 R	Rule	Rule for a <i>UCITS investment firm</i> ; otherwise guidance	Guidance
[FCA] [PRA]			
SYSC 7.1.4A G	Not applicable	Not applicable to a <i>UCITS investment firm</i> ; otherwise guidance	Guidance
[FCA] [PRA]			
SYSC 7.1.4B G	Not applicable	Not applicable to a <i>UCITS investment firm</i> ; otherwise guidance	Guidance
[FCA] [PRA]			
SYSC 7.1.5 R	Rule	Rule for a <i>UCITS investment firm</i> ; otherwise guidance	Guidance
[FCA] [PRA]			
SYSC 7.1.6 R	Rule	Rule for a <i>UCITS investment firm</i> ; otherwise guidance	Guidance
[FCA] [PRA]			
SYSC 7.1.7 R	Rule	Rule for a <i>UCITS investment firm</i> ; otherwise guidance	Guidance
[FCA] [PRA]			
SYSC 7.1.7A G	Not applicable	Not applicable to a <i>UCITS investment firm</i> ; otherwise guidance	Guidance
[FCA] [PRA]			

Provision	COLUMN A	COLUMN A+	COLUMN B
SYSC 7	Application to a common platform firm other than to a UCITS investment firm	Application to a UCITS management company	Application to all other firms apart from insurers, managing agents and the Society
SYSC 7.1.7B G [FCA] [PRA]	Guidance applies only to a <i>BIPRU firm</i>	Guidance for a <i>UCITS investment firm</i> ; otherwise not applicable	Guidance
SYSC 7.1.7C G [FCA] [PRA]	Guidance	Guidance	Guidance
SYSC 7.1.8 G (1), (2) [FCA] [PRA]	(1) Guidance applies to a <i>BIPRU firm</i> (2) Guidance	(1) Guidance for a <i>UCITS investment firm</i> ; otherwise not applicable (2) Guidance	(1) Not applicable (2) Guidance
SYSC 7.1.9 R [FCA] [PRA]	Rule applies to a <i>BIPRU firm</i>	Rule for a <i>UCITS investment firm</i> ; otherwise not applicable	Not applicable
SYSC 7.1.10 R [FCA] [PRA]	Rule applies to a <i>BIPRU firm</i>	Rule for a <i>UCITS investment firm</i> ; otherwise not applicable	Not applicable
SYSC 7.1.11 R [FCA] [PRA]	Rule applies to a <i>BIPRU firm</i>	Rule for a <i>UCITS investment firm</i> ; otherwise not applicable	Not applicable
SYSC 7.1.12 G [FCA] [PRA]	Guidance applies to a <i>BIPRU firm</i>	Guidance for a <i>UCITS investment firm</i> ; otherwise not applicable	Not applicable
SYSC 7.1.13 R - 7.1.16 R [FCA] [PRA]	Rule applies to a <i>BIPRU firm</i>	Rule for a <i>UCITS investment firm</i> ; otherwise not applicable	Not applicable

Provision	COLUMN A	COLUMN A+	COLUMN B
SYSC 8	Application to a common platform firm other than to a UCITS investment firm	Application to a UCITS management company	Application to all other firms apart from insurers, managing agents and the Society
SYSC 8.1.1 R [FCA] [PRA]	Rule	Rule for a <i>UCITS investment firm</i> ; otherwise guidance	Guidance
SYSC 8.1.1A G [FCA] [PRA]	Not applicable	Not applicable to a <i>UCITS investment firm</i> ; otherwise guidance	Guidance
SYSC 8.1.2 G [FCA] [PRA]	Guidance	Guidance	Guidance
SYSC 8.1.3 G [FCA] [PRA]	Guidance	Guidance	Guidance
SYSC 8.1.4 R [FCA] [PRA]	Rule	Rule for a <i>UCITS investment firm</i> ; otherwise guidance	Guidance
SYSC 8.1.5 R [FCA] [PRA]	Rule	Rule for a <i>UCITS investment firm</i> ; otherwise guidance	Guidance
SYSC 8.1.5A G [FCA] [PRA]	Not applicable	Not applicable to a <i>UCITS investment firm</i> ; otherwise guidance	Guidance
SYSC 8.1.6 R [FCA] [PRA]	Rule	Rule	Rule
SYSC 8.1.7 R [FCA] [PRA]	Rule	Rule for a <i>UCITS investment firm</i> ; otherwise guidance	Guidance
SYSC 8.1.8 R [FCA] [PRA]	Rule	Rule for a <i>UCITS investment firm</i> ; otherwise guidance	Guidance
SYSC 8.1.9 R [FCA] [PRA]	Rule	Rule for a <i>UCITS investment firm</i> ; otherwise guidance	Guidance
SYSC 8.1.10 R [FCA] [PRA]	Rule	Rule for a <i>UCITS investment firm</i> ; otherwise guidance	Guidance

Provision	COLUMN A	COLUMN A+	COLUMN B
SYSC 8	Application to a common platform firm other than to a UCITS investment firm	Application to a UCITS management company	Application to all other firms apart from insurers, managing agents and the Society
SYSC 8.1.11 R [FCA] [PRA]	Rule	Rule for a <i>UCITS investment firm</i> ; otherwise guidance	Guidance
SYSC 8.1.11A G [FCA] [PRA]	Not applicable	Not applicable to a <i>UCITS investment firm</i> ; otherwise guidance	Guidance
SYSC 8.1.12 G [FCA] [PRA]	Guidance	Guidance	Guidance
SYSC 8.1.13 R [FCA]	Not applicable	Rule	Not applicable
SYSC 8.1.14 G [FCA]	Not applicable	Guidance	Not applicable
SYSC 8.2 [FCA]	<i>MiFID investment firms only</i>	<i>UCITS investment firms only</i>	Not applicable
SYSC 8.3 [FCA]	<i>MiFID investment firms only</i>	<i>UCITS investment firms only</i>	Not applicable
Provision	COLUMN A	COLUMN A+	COLUMN B
SYSC 9	Application to a common platform firm other than to a UCITS investment firm	Application to a UCITS management company	Application to all other firms apart from insurers, managing agents and the Society
SYSC 9.1.1 R [FCA] [PRA]	Rule	Rule	Rule
SYSC 9.1.2 R [FCA] [PRA]	Rule applies only in relation to <i>MiFID business</i>	Rule applies only in relation to <i>MiFID business</i> of a <i>UCITS investment firm</i>	Not applicable

Provision	COLUMN A	COLUMN A+	COLUMN B
SYSC 9	Application to a common platform firm other than to a UCITS investment firm	Application to a UCITS management company	Application to all other firms apart from insurers, managing agents and the Society
SYSC 9.1.3 R [FCA] [PRA]	Rule applies only in relation to <i>MiFID</i> business	Rule applies only in relation to <i>MiFID</i> business of a <i>UCITS</i> investment firm	Not applicable
SYSC 9.1.4 G [FCA] [PRA]	Guidance	Guidance	Guidance
SYSC 9.1.5 G [FCA] [PRA]	Guidance	Guidance	Guidance
SYSC 9.1.6 G [FCA] [PRA]	Guidance	Guidance	Guidance
SYSC 9.1.7 G [FCA] [PRA]	Guidance applies only in relation to <i>MiFID</i> business	Guidance applies only in relation to <i>MiFID</i> business of a <i>UCITS</i> investment firm	Not applicable

Provision	Column A	COLUMN A+	Column B
SYSC 10	Application to a common platform firm other than to a UCITS investment firm	Application to a UCITS management company	Application to all other firms apart from insurers, managing agents and the Society
SYSC 10.1.1 R [FCA] [PRA]	Rule	Rule	Rule
SYSC 10.1.2 G [FCA] [PRA]	Guidance	Guidance	Guidance
SYSC 10.1.3 R [FCA] [PRA]	Rule	Rule	Rule
SYSC 10.1.4 R [FCA] [PRA]	Rule	Rule	Guidance - but applies as a <i>rule</i> in relation to the production or ar-

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Provision	Column A	COLUMN A+	Column B
SYSC 10	Application to a common platform firm other than to a UCITS investment firm	Application to a UCITS management company	Application to all other firms apart from insurers, managing agents and the Society
			management of <i>investment research</i> in accordance with COBS 12.2, or the production or dissemination of <i>non-independent research</i> in accordance with COBS 12.3
SYSC 10.1.4A G [FCA] [PRA]	Not applicable	Not applicable	Guidance
SYSC 10.1.5 G [FCA] [PRA]	Guidance	Guidance	Guidance
SYSC 10.1.6 R [FCA] [PRA]	Rule	Rule	Guidance - but applies as a <i>rule</i> in relation to the production or arrangement of <i>investment research</i> in accordance with COBS 12.2, or the production or dissemination of <i>non-independent research</i> in accordance with COBS 12.3
SYSC 10.1.6A G [FCA] [PRA]	Not applicable	Not applicable	Guidance
SYSC 10.1.7 R [FCA] [PRA]	Rule	Rule	Rule
SYSC 10.1.8 R [FCA] [PRA]	Rule	Rule	Rule
SYSC 10.1.8A R [FCA] [PRA]	Rule	Rule	Rule
SYSC 10.1.9 G [FCA] [PRA]	Guidance	Guidance	Guidance

Provision	Column A	COLUMN A+	Column B
SYSC 10	Application to a common platform firm other than to a UCITS investment firm	Application to a UCITS management company	Application to all other firms apart from insurers, managing agents and the Society
[FCA] [PRA] SYSC 10.1.10 R	Rule	Rule	Guidance - but applies as a <i>rule</i> in relation to the production or arrangement of <i>investment research</i> in accordance with COBS 12.2, or the production or dissemination of <i>non-independent research</i> in accordance with COBS 12.3
[FCA] [PRA] SYSC 10.1.11 R	Rule	Rule	Guidance - but applies as a <i>rule</i> in relation to the production or arrangement of <i>investment research</i> in accordance with COBS 12.2, or the production or dissemination of <i>non-independent research</i> in accordance with COBS 12.3
[FCA] [PRA] SYSC 10.1.11A G	Not applicable	Not applicable	Guidance
[FCA] [PRA] SYSC 10.1.12 G - SYSC 10.1.15 G	Guidance	Guidance for SYSC 10.1.12 G; not applicable for SYSC 10.1.13 G - SYSC 10.1.15 G	Guidance
[FCA] [PRA] SYSC 10.1.16 R	Not applicable	Not applicable	Rule
[FCA] SYSC 10.1.17 R	Not applicable	Rule	Not applicable
[FCA] SYSC 10.1.18 G	Not applicable	Guidance	Not applicable

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Provision	Column A	COLUMN A+	Column B
SYSC 10	Application to a common platform firm other than to a UCITS investment firm	Application to a UCITS management company	Application to all other firms apart from insurers, managing agents and the Society
[FCA]			
SYSC 10.1.19 R	Not applicable	Rule	Not applicable
[FCA]			
SYSC 10.1.20 R	Not applicable	Rule	Not applicable
[FCA]			
SYSC 10.1.21 R	Not applicable	Rule	Not applicable
[FCA]			
SYSC 10.2.1 R	Rule	Rule	Rule
[FCA]			
SYSC 10.2.2 R	Rule	Rule	Rule
[FCA]			
SYSC 10.2.3 G	Guidance	Guidance	Guidance
[FCA]			
SYSC 10.2.4 R	Rule	Rule	Rule
[FCA]			
SYSC 10.2.5 G	Guidance	Guidance	Guidance
[FCA]			

Chapter 2

Senior management arrangements



2.1 Apportionment of Responsibilities

2.1.1
FCA PRA

R

A *firm* must take reasonable care to maintain a clear and appropriate apportionment of significant responsibilities among its *directors* and *senior managers* in such a way that:

- (1) it is clear who has which of those responsibilities; and
- (2) the business and affairs of the *firm* can be adequately monitored and controlled by the *directors*, relevant *senior managers* and *governing body* of the *firm*.

2.1.1A
FCA PRA

G

Firms should also consider the additional *guidance* on risk-centric governance arrangements for effective risk management contained in ■ SYSC 21.

2.1.2
FCA PRA

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.

2.1.3
FCA PRA

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A *firm* must appropriately allocate to one or more individuals, in accordance with ■ SYSC 2.1.4 R, the functions of:

- (1) dealing with the apportionment of responsibilities under ■ SYSC 2.1.1 R; and
- (2) overseeing the establishment and maintenance of systems and controls under ■ SYSC 3.1.1 R.

2.1.4
FCA PRA

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Table Allocation of functions

This table belongs to ■ SYSC 2.1.3 R

1: Firm type	2: Allocation of both functions must be to the following individual, if any (see Note):	3: Allocation to one or more individuals selected from this column is compulsory if there is no allocation to an individual in column 2, but is otherwise optional and additional:
<p>(1) A <i>firm</i> which is a <i>body corporate</i> and is a member of a <i>group</i>, other than a <i>firm</i> in row (2)</p>	<p>(1) the <i>firm's chief executive</i> (and all of them jointly, if more than one); or</p> <p>(2) a <i>director</i> or <i>senior manager</i> responsible for the overall management of:</p> <p>(a) the <i>group</i>; or (b) a <i>group division</i> within which some or all of the <i>firm's regulated activities</i> fall</p>	<p>the <i>firm's</i> and its <i>group's</i>:</p> <p>(1) <i>directors</i>; and (2) <i>senior managers</i></p>
<p>(2) An <i>incoming EEA firm</i> or <i>incoming Treaty firm</i> (note: only the function in SYSC 2.1.3 R (2) must be allocated)</p>	<p>(not applicable)</p>	<p>the <i>firm's</i> and its <i>group's</i>:</p> <p>(1) <i>directors</i>; and (2) <i>senior managers</i></p>
<p>(3) Any other <i>firm</i></p>	<p>the <i>firm's chief executive</i> (and all of them jointly, if more than one)</p>	<p>the <i>firm's</i> and its <i>group's</i>:</p> <p>(1) <i>directors</i>; and (2) <i>senior manager's</i></p>
<p>Note: Column 2 does not require the involvement of the <i>chief executive</i> or other executive <i>director</i> or <i>senior manager</i> in an aspect of corporate governance if that would be contrary to generally accepted principles of good corporate governance.</p>		

2.1.5

FCA PRA

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■ SYSC 2.1.3 R and ■ SYSC 2.1.4 R give a *firm* some flexibility in the individuals to whom the functions may be allocated. It will be common for both the functions to be allocated solely to the *firm's chief executive*. ■ SYSC 2.1.6 G contains further *guidance* on the requirements of ■ SYSC 2.1.3 R and ■ SYSC 2.1.4 R in a question and answer form.

2.1.6

FCA PRA

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Table Frequently asked questions about allocation of functions in ■ SYSC 2.1.3 R
This table belongs to ■ SYSC 2.1.5 G

	Question	Answer
1	Does an individual to whom a function is allocated under SYSC 2.1.3 R need to be an <i>approved person</i> ?	An individual to whom a function is allocated under SYSC 2.1.3 R will be performing the <i>apportionment and oversight function</i> (CF 8, see SUP 10A.7.1 R) and an application must be made under section 59 of the <i>Act</i> for approval of the individual before the function is performed. There are exceptions from this INSUP 10A.1 (Approved persons - Application).
2	If the allocation is to more than one individual, can they perform the functions, or aspects of the functions, separately?	If the functions are allocated to joint <i>chief executives</i> under SYSC 2.1.4 R, column 2, they are expected to act jointly. If the functions are allocated to an individual under SYSC 2.1.4 R, column 2, in addition to individuals under SYSC 2.1.4 R, column 3, the former may normally be expected to perform a leading role in relation to the functions that reflects his position. Otherwise, yes.
3	What is meant by "appropriately allocate" in this context?	The allocation of functions should be compatible with delivering compliance with <i>Principle 3</i> , SYSC 2.1.1 R and SYSC 3.1.1 R. The <i>appropriate regulator</i> considers that allocation to one or two individuals is likely to be appropriate for most <i>firms</i> .
4	If a committee of management governs a <i>firm</i> or <i>group</i> , can the functions be allocated to every member of that committee?	Yes, as long as the allocation remains appropriate (see Question 3). If the <i>firm</i> also has an individual as <i>chief executive</i> , then the functions must be allocated to that individual as well under SYSC 2.1.4 R, column 2 (see Question 7).
5	Does the definition of <i>chief executive</i> include the possessor of equivalent responsibilities with another title, such as a managing <i>director</i> or managing <i>partner</i> ?	Yes.
6	Is it possible for a <i>firm</i> to have more than one individual as its <i>chief executive</i> ?	Although unusual, some <i>firm</i> may wish the responsibility of a <i>chief executive</i> to be held jointly by more than one individual. In that case, each of them will be a <i>chief executive</i> and the functions must be allocated to all of them under SYSC 2.1.4 R, column 2 (see also Questions 2 and 7).
7	If a <i>firm</i> has an individual as <i>chief executive</i> , must the functions be allocated to that individual?	Normally, yes, under SYSC 2.1.4 R, column 2. But if the <i>firm</i> is a <i>body corporate</i> and a member of a <i>group</i> , the functions may, instead of to the <i>firm's chief executive</i> , be allocated to a <i>director</i> or <i>senior manager</i> from the <i>group</i> responsible for the overall management of the <i>group</i> or of a relevant <i>group</i> division, so long as this is appropriate (see Question 3). Such individuals may neverthe-

	Question	Answer
		<p>less require approval under section 59 (see Question 1).</p> <p>If the <i>firm</i> chooses to allocate the functions to a <i>director</i> or <i>senior manager</i> responsible for the overall management of a relevant <i>group</i> division, the <i>appropriate regulator</i> would expect that individual to be of a seniority equivalent to or greater than a <i>chief executive</i> of the <i>firm</i> for the allocation to be appropriate.</p> <p>See also Question 14.</p>
8	<p>If a <i>firm</i> has a <i>chief executive</i>, can the functions be allocated to other individuals in addition to the <i>chief executive</i>?</p>	<p>Yes. SYSC 2.1.4 R, column 3, permits a <i>firm</i> to allocate the functions, additionally, to the <i>firm's</i> (or where applicable the <i>group's</i>) directors and <i>senior managers</i> as long as this is appropriate (see Question 3).</p>
9	<p>What if a <i>firm</i> does not have a <i>chief executive</i>?</p>	<p>Normally, the functions must be allocated to one or more individuals selected from the <i>firm's</i> (or where applicable the <i>group's</i>) <i>directors</i> and <i>senior managers</i> under SYSC 2.1.4 R, column 3.</p> <p>But if the <i>firm</i>:</p> <p>(1) is a <i>body corporate</i> and a member of a <i>group</i>; and</p> <p>(2) the <i>group</i> has a <i>director</i> or <i>senior manager</i> responsible for the overall management of the <i>group</i> or of a relevant <i>group</i> division;</p> <p>then the functions must be allocated to that individual (together, optionally, with individuals from column 3 if appropriate) under SYSC 2.1.4 R, column 2.</p>
10	<p>What do you mean by "<i>group</i> division within which some or all of the <i>firm's</i> regulated activities fall"?</p>	<p>A "<i>division</i>" in this context should be interpreted by reference to geographical operations, product lines or any other method by which the <i>group's</i> business is divided.</p> <p>If the <i>firm's</i> regulated activities fall within more than one division and the <i>firm</i> does not wish to allocate the functions to its <i>chief executive</i>, the allocation must, under SYSC 2.1.4 R, be to:</p> <p>(1) a <i>director</i> or <i>senior manager</i> responsible for the overall management of the <i>group</i>; or</p> <p>(2) a <i>director</i> or <i>senior manager</i> responsible for the overall management of one of those divisions;</p>

	Question	Answer
11	<p>How does the requirement to allocate the functions in SYSC 2.1.3 R apply to an <i>overseas firm</i> which is not an <i>incoming EEA firm</i>, <i>incoming Treaty firm</i> or <i>UCITS qualifier</i>?</p>	<p>together, optionally, with individuals from column 3 if appropriate. (See also Questions 7 and 9.)</p> <p>The <i>firm</i> must appropriately allocate those functions to one or more individuals, in accordance with SYSC 2.1.4 R, but:</p> <p>(1) The responsibilities that must be apportioned and the systems and controls that must be overseen are those relating to activities carried on from a <i>UK</i> establishment with certain exceptions (see SYSC 1 Annex 1.1.7 R). Note that SYSC 1 Annex 1.1.10 R does not extend the territorial scope of SYSC 2 for an <i>overseas firm</i>.</p> <p>(2) The <i>chief executive</i> of an <i>overseas firm</i> is the <i>person</i> responsible for the conduct of the <i>firm's</i> business within the <i>United Kingdom</i> (see the definition of "<i>chief executive</i>"). This might, for example, be the manager of the <i>firm's UK</i> establishment, or it might be the <i>chief executive</i> of the <i>firm</i> as a whole, if he has that responsibility.</p> <p>The <i>apportionment and oversight function</i> applies to such a <i>firm</i>, unless it falls within a particular exception from the <i>approved persons</i> regime (see Question 1).</p>
12	<p>How does the requirement to allocate the functions in SYSC 2.1.3 R apply to an <i>incoming EEA firm</i> or <i>incoming Treaty firm</i>?</p>	<p>SYSC 1 Annex 1.1.1R and SYSC 1 Annex 1.1.8 R restrict the application of SYSC 2.1.3 R for such a <i>firm</i>. Accordingly:</p> <p>(1) Such a <i>firm</i> is not required to allocate the function of dealing with apportionment in SYSC 2.1.3 R (1).</p> <p>(2) Such a <i>firm</i> is required to allocate the function of oversight in SYSC 2.1.3 R (2). However, the systems and controls that must be overseen are those relating to matters which the <i>appropriate regulator</i>, as <i>Host State regulator</i>, is entitled to regulate (there is <i>guidance</i> on this in SUP 13A Annex 2 G). Those are primarily, but not exclusively, the systems and controls relating to the conduct of the <i>firm's</i> activities carried on from its <i>UK branch</i>.</p> <p>(3) Such a <i>firm</i> need not allocate the function of oversight to its <i>chief executive</i>; it must allocate it to one or more <i>directors</i> and <i>senior</i></p>

	Question	Answer
		<p><i>managers of the firm or the firm's group</i> under SYSC 2.1.4 R, row (2).</p> <p>(4) An <i>incoming EEA firm</i> which has provision only for <i>cross border services</i> is not required to allocate either function if it does not carry on <i>regulated activities</i> in the <i>United Kingdom</i>; for example if they fall within the overseas persons exclusions in article 72 of the <i>Regulated Activities Order</i>.</p> <p>See also Questions 1 and 15.</p>
13	<p>What about a <i>firm</i> that is a <i>partnership</i> or a <i>limited liability partnership</i>?</p>	<p>The <i>appropriate regulator</i> envisages that most if not all <i>partners</i> or members will be either <i>directors</i> or <i>senior managers</i>, but this will depend on the constitution of the <i>partnership</i> (particularly in the case of a <i>limited partnership</i>) or <i>limited liability partnership</i>. A <i>partnership</i> or <i>limited liability partnership</i> may also have a <i>chief executive</i> (see Question 5). A <i>limited liability partnership</i> is a <i>body corporate</i> and, if a member of a <i>group</i>, will fall within SYSC 2.1.4 R, row (1) or (2).</p>
14	<p>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?</p>	<p>The Note to SYSC 2.1.4 R 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 <i>UK Corporate Governance Code</i> 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 under section 59 in relation to that function (see Question 1).</p>
15	<p>What about <i>electronic commerce activities</i> carried on from an <i>establishment</i> in another <i>EEA State</i> with or for a <i>person</i> in the <i>United Kingdom</i>?</p>	<p>SYSC does not apply to an <i>incoming ECA provider</i> acting as such.</p>

2.2 Recording the apportionment

2.2.1

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- (1) A *firm* must make a record of the arrangements it has made to satisfy ■ SYSC 2.1.1 R (apportionment) and ■ SYSC 2.1.3 R (allocation) and take reasonable care to keep this up to date.
- (2) This record must be retained for six years from the date on which it was superseded by a more up-to-date record.

2.2.2

FCA PRA

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- (1) A *firm* will be able to comply with ■ SYSC 2.2.1 R by means of records which it keeps for its own purposes provided these records satisfy the requirements of ■ SYSC 2.2.1 R and provided the *firm* takes reasonable care to keep them up to date. Appropriate records might, for this purpose, include organisational charts and diagrams, project management *documents*, job descriptions, committee constitutions and terms of reference provided they show a clear description of the *firm's* major functions.
- (2) *Firms* should record any material change to the arrangements described in ■ SYSC 2.2.1 R as soon as reasonably practicable after that change has been made.

2.2.3

FCA PRA

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Where responsibilities have been allocated to more than one individual, the *firm's* record should show clearly how those responsibilities are shared or divided between the individuals concerned.

Chapter 3

Systems and Controls

3.1 Systems and Controls

3.1.1 FCA PRA R A *firm* must take reasonable care to establish and maintain such systems and controls as are appropriate to its business.

3.1.1A R [deleted]

3.1.2 FCA PRA G

(1) The nature and extent of the systems and controls which a *firm* will need to maintain under ■ SYSC 3.1.1 R will depend upon a variety of factors including:

- (a) the nature, scale and complexity of its business;
- (b) the diversity of its operations, including geographical diversity;
- (c) the volume and size of its transactions; and
- (d) the degree of risk associated with each area of its operation.

(2) To enable it to comply with its obligation to maintain appropriate systems and controls, a *firm* should carry out a regular review of them.

(3) The areas typically covered by the systems and controls referred to in ■ SYSC 3.1.1 R are those identified in ■ SYSC 3.2. Detailed requirements regarding systems and controls relevant to particular business areas or particular types of *firm* are covered elsewhere in the *Handbook*.

3.1.2A FCA PRA G *Firms* should also consider the additional *guidance* on risk-centric governance arrangements for effective risk management contained in ■ SYSC 21.

3.1.3 FCA PRA G Where the *UK Corporate Governance Code* is relevant to a *firm*, the *appropriate regulator*, in considering whether the *firm's* obligations under ■ SYSC 3.1.1 R have been met, will give it due credit for following corresponding provisions in the code and related guidance.

3.1.4 FCA G A *firm* has specific responsibilities regarding its *appointed representatives* or, where applicable, its *tied agents* (see ■ SUP 12).

3.1.5 FCA PRA G ■ SYSC 2.1.3 R (2) prescribes how a *firm* must allocate the function of overseeing the establishment and maintenance of systems and controls described in ■ SYSC 3.1.1 R.

- 3.1.6** **R** A *firm* which is not a *common platform firm* must employ personnel with the skills, knowledge and expertise necessary for the discharge of the responsibilities allocated to them.
FCA **PRA**
- 3.1.7** **R** When complying with the *competent employees rules*, a *firm* must take into account the nature, scale and complexity of its business and the nature and range of financial services and activities undertaken in the course of that business.
FCA **PRA**
- 3.1.8** **G** The Training and Competence sourcebook (*TC*) contains additional *rules* and *guidance* relating to specified retail activities undertaken by a *firm*.
FCA
- 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 competence requirements in SYSC.
FCA
- 3.1.10** **G** If a *firm* requires *employees* who are not subject to a qualification requirement in *TC* to pass a relevant examination from the list of recommended examinations maintained by the Financial Skills Partnership, the *appropriate regulator* will take that into account when assessing whether the *firm* has ensured that the *employee* satisfies the knowledge component of the *competent employees rule*.
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3.2 Areas covered by systems and controls

Introduction

3.2.1

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This section covers some of the main issues which a *firm* is expected to consider in establishing and maintaining the systems and controls appropriate to its business, as required by ■ SYSC 3.1.1 R.

Organisation

3.2.2

FCA PRA

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A *firm's* reporting lines should be clear and appropriate having regard to the nature, scale and complexity of its business. These reporting lines, together with clear management responsibilities, should be communicated as appropriate within the *firm*.

3.2.3

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- (1) A *firm's governing body* is likely to delegate many functions and tasks for the purpose of carrying out its business. When functions or tasks are delegated, either to *employees* or to *appointed representatives* or, where applicable, its *tied agents*, appropriate safeguards should be put in place.
- (2) When there is delegation, a *firm* should assess whether the recipient is suitable to carry out the delegated function or task, taking into account the degree of responsibility involved.
- (3) The extent and limits of any delegation should be made clear to those concerned.
- (4) There should be arrangements to supervise delegation, and to monitor the discharge of delegates functions or tasks.
- (5) If cause for concern arises through supervision and monitoring or otherwise, there should be appropriate follow-up action at an appropriate level of seniority within the *firm*.

3.2.4

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- (1) The *guidance* relevant to delegation within the *firm* is also relevant to external delegation ('outsourcing'). A *firm* cannot contract out its regulatory obligations. So, for example, under *Principle 3* a *firm* should take reasonable care to supervise the discharge of outsourced functions by its contractor.
- (2) A *firm* should take steps to obtain sufficient information from its contractor to enable it to assess the impact of outsourcing on its systems and controls.

3.2.5 FCA PRA G Where it is made possible and appropriate by the nature, scale and complexity of its business, a *firm* should segregate the duties of individuals and departments in such a way as to reduce opportunities for *financial crime* or contravention of requirements and standards under the *regulatory system*. For example, the duties of front-office and back-office staff should be segregated so as to prevent a single individual initiating, processing and controlling transactions.

3.2.5A R [deleted]

3.2.5B G [deleted]

Systems and controls in relation to compliance, financial crime and money laundering

3.2.6 FCA R A *firm* must take reasonable care to establish and maintain effective systems and controls for compliance with applicable requirements and standards under the *regulatory system* and for countering the risk that the *firm* might be used to further *financial crime*.

3.2.6A FCA R A *firm* must ensure that these systems and controls:

- (1) enable it to identify, assess, monitor and manage *money laundering* risk; and
- (2) are comprehensive and proportionate to the nature, scale and complexity of its activities.

3.2.6B FCA G "Money laundering risk" is the risk that a *firm* may be used to further *money laundering*. Failure by a *firm* to manage this risk effectively will increase the risk to society of crime and terrorism.

3.2.6C FCA R A *firm* must carry out regular assessments of the adequacy of these systems and controls to ensure that it continues to comply with ■ SYSC 3.2.6A R.

3.2.6D FCA 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 3.2.6 R to ■ SYSC 3.2.6J G are not relevant for the purposes of regulation 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.

3.2.6E FCA G The FCA, when considering whether a breach of its *rules* on systems and controls against *money laundering* has occurred, will have regard to whether a *firm* has followed relevant provisions in the guidance for the UK financial sector issued by the Joint Money Laundering Steering Group.

3.2.6F FCA G In identifying its *money laundering* risk and in establishing the nature of these systems and controls, a *firm* should consider a range of factors, including:

- (1) its customer, product and activity profiles;

3.2.6G

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A *firm* should ensure that the systems and controls include:

- (2) its distribution channels;
- (3) the complexity and volume of its transactions;
- (4) its processes and systems; and
- (5) its operating environment.

- (1) appropriate training for its employees in relation to *money laundering*;
- (2) appropriate provision of information to its *governing body* and senior management, including a report at least annually by that *firm's money laundering reporting officer (MLRO)* on the operation and effectiveness of those systems and controls;
- (3) appropriate documentation of its risk management policies and risk profile in relation to *money laundering*, including documentation of its application of those policies (see ■ SYSC 3.2.20 R to ■ SYSC 3.2.22 G);
- (4) appropriate measures to ensure that *money laundering* risk is taken into account in its day-to-day operation, including in relation to:
 - (a) the development of new products;
 - (b) the taking-on of new customers; and
 - (c) changes in its business profile; and
- (5) appropriate measures to ensure that procedures for identification of new customers do not unreasonably deny access to its services to potential customers who cannot reasonably be expected to produce detailed evidence of identity.

3.2.6H

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A *firm* must allocate to a *director* or *senior manager* (who may also be the *money laundering reporting officer*) overall responsibility within the *firm* for the establishment and maintenance of effective anti-*money laundering* systems and controls.

The money laundering reporting officer

3.2.6I

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A *firm* must:

- (1) appoint an individual as *MLRO*, with responsibility for oversight of its compliance with the *FCA'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 out that responsibility.

3.2.6J

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The job of the *MLRO* within a *firm* is to act as the focal point for all activity within the *firm* relating to *anti-money laundering*. The *FCA* expects that a *firm's MLRO* will be based in the *United Kingdom*.

Financial crime guidance

3.2.6K

FCA

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The *FCA* provides *guidance* on steps that a *firm* can take to reduce the risk that it might be used to further *financial crime* in *FC* (Financial crime: a guide for firms).

The compliance function

3.2.7

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- (1) Depending on the nature, scale and complexity of its business, it may be appropriate for a *firm* to have a separate compliance function. The organisation and responsibilities of a compliance function should be documented. A compliance function should be staffed by an appropriate number of competent staff who are sufficiently independent to perform their duties objectively. It should be adequately resourced and should have unrestricted access to the *firm's* relevant records as well as ultimate recourse to its *governing body*.
- (2) [deleted]
- (3) [deleted]

3.2.8

FCA

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- (1) A *firm* which carries on *designated investment business* with or for *retail clients* or *professional clients* must allocate to a *director* or *senior manager* the function of:
 - (a) having responsibility for oversight of the *firm's* compliance; and
 - (b) reporting to the *governing body* in respect of that responsibility.
- (2) In (1) "compliance" means compliance with the *rules* in:
 - (a) *COBS* (Conduct of Business);
 - (b) *COLL* (Collective Investment Schemes sourcebook) ; and
 - (c) *CASS* (Client Assets)

3.2.9

FCA

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- (1) ■ SUP 10A.7.8 R uses ■ SYSC 3.2.8 R to describe the *controlled function*, known as the *compliance oversight function*, of acting in the capacity of a *director* or *senior manager* to whom this function is allocated.
- (2) The *rules* referred to in ■ SYSC 3.2.8 R (2) are the minimum area of focus for the *firm's compliance oversight function*. A *firm* is free to give additional responsibilities to a person performing this function if it wishes.

Risk assessment

3.2.10

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- (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 managers* on them.

- (2) The organisation and responsibilities of a risk assessment function should be documented. The function should be adequately resourced and staffed by an appropriate number of competent staff who are sufficiently independent to perform their duties objectively.
- (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 function* (CF28).

Management information

3.2.11 G

- (1) [deleted]
- (2) [deleted]

3.2.11A G
FCA

- (1) A *firm's* arrangements should be such as to furnish its *governing body* with the information it needs to play its part in identifying, measuring, managing and controlling risks of regulatory concern. Three factors will be the relevance, reliability and timeliness of that information.
- (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 effective competition and to the integrity of the *UK financial system*. Risks which are relevant to the integrity of the *UK financial system* include risks which relate to its soundness, stability and resilience and to the use of the system in connection with *financial crime*.

3.2.11B G
PRA

- (1) A *firm's* arrangements should be such as to furnish its *governing body* with the information it needs to play its part in identifying, measuring, managing and controlling risks of regulatory concern. Three factors will be the relevance, reliability and timeliness of that information.
- (2) Risks of regulatory concern are those risks which relate to the safety and soundness of *PRA-authorised persons*.

3.2.12 G
FCA PRA

It is the responsibility of the *firm* to decide what information is required, when, and for whom, so that it can organise and control its activities and can comply with its regulatory obligations. The detail and extent of information required will depend on the nature, scale and complexity of the business.

Employees and agents

3.2.13 G
FCA PRA

A *firm's* systems and controls should enable it to satisfy itself of the suitability of anyone who acts for it.

3.2.14 G
FCA PRA

- (1) ■ SYSC 3.2.13 G includes assessing an individual's honesty, and competence. This assessment should normally be made at the point of recruitment. An

individual's honesty need not normally be revisited unless something happens to make a fresh look appropriate.

- (2) Any assessment of an individual's suitability should take into account the level of responsibility that the individual will assume within the *firm*. The nature of this assessment will generally differ depending upon whether it takes place at the start of the individual's recruitment, at the end of the probationary period (if there is one) or subsequently.
- (3) [deleted]
- (4) The requirements on *firms* with respect to *approved persons* are in Part V of the *Act* (Performance of regulated activities) and ■ SUP 10.

Audit committee

3.2.15

FCA PRA

G

Depending on the nature, scale and complexity of its business, it may be appropriate for a *firm* to form an audit committee. An audit committee could typically examine management's process for ensuring the appropriateness and effectiveness of systems and controls, examine the arrangements made by management to ensure compliance with requirements and standards under the *regulatory system*, oversee the functioning of the internal audit function (if applicable - see ■ SYSC 3.2.16 G) and provide an interface between management and the external auditors. It should have an appropriate number of *non-executive directors* and it should have formal terms of reference.

Internal audit

3.2.16

FCA PRA

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).

Business strategy

3.2.17

FCA PRA

G

A *firm* should plan its business appropriately so that it is able to identify, measure, manage and control risks of regulatory concern (see ■ SYSC 3.2.11 G (2)). In some *firms*, depending on the nature, scale and complexity of their business, it may be appropriate to have business plans or strategy plans documented and updated on a regular basis to take account of changes in the business environment.

Remuneration policies

3.2.18

FCA PRA

G

It is possible that *firms'* remuneration policies will from time to time lead to tensions between the ability of the *firm* to meet the requirements and standards under the *regulatory*

system and the personal advantage of those who act for it. Where tensions exist, these should be appropriately managed.

Business continuity

3.2.19

FCA PRA

G

A *firm* should have in place appropriate arrangements, having regard to the nature, scale and complexity of its business, to ensure that it can continue to function and meet its regulatory obligations in the event of an unforeseen interruption. These arrangements should be regularly updated and tested to ensure their effectiveness.

Records

3.2.20

FCA PRA

R

- (1) A *firm* must take reasonable care to make and retain adequate records of matters and dealings (including accounting records) which are the subject of requirements and standards under the *regulatory system*.
- (2) Subject to (3) and to any other record-keeping *rule* in the *Handbook*, the records required by (1) or by such other *rule* must be capable of being reproduced in the English language on paper.
- (3) If a *firm's* records relate to business carried on from an establishment in a country or territory outside the *United Kingdom*, an official language of that country or territory may be used instead of the English language as required by (2).

3.2.21

FCA PRA

G

A *firm* should have appropriate systems and controls in place to fulfil the *firm's* regulatory and statutory obligations with respect to adequacy, access, periods of retention and security of records. The general principle is that records should be retained for as long as is relevant for the purposes for which they are made.

3.2.22

FCA PRA

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Detailed record-keeping requirements for different types of *firm* are to be found elsewhere in the *Handbook*. Schedule 1 to the *Handbook* is a consolidated schedule of these requirements.

3.2.23

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3.2.24

R

[deleted]

3.2.25

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3.2.26

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[deleted]

3.2.27

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3.2.28

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[deleted]

3.2.29

R

[deleted]

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- 3.2.30 **R** [deleted]
 - 3.2.31 **R** [deleted]
 - 3.2.32 **R** [deleted]
 - 3.2.33 **R** [deleted]
 - 3.2.34 **R** [deleted]
 - 3.2.35 **R** [deleted]
 - 3.2.36 **R** [deleted]

3

Chapter 3A

These provisions have
been moved to SYSC 13
[Deleted]

3A



[Chapter Deleted]

Chapter 4

General organisational requirements



4.1 General requirements

[Note: ESMA has also issued guidelines under article 16(3) of the ESMA Regulation covering certain aspects of the MiFID compliance function requirements. See <http://www.esma.europa.eu/content/Guidelines-certain-aspects-MiFID-compliance-function-requirements>.]

4.1.1 **R**
FCA PRA

(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* and article 12(1)(a) of the *UCITS Directive*]

4.1.2 **R**
FCA PRA

For a *common platform firm*, the arrangements, processes and mechanisms referred to in ■ SYSC 4.1.1 R 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 4.1.7 R, ■ SYSC 5.1.7 R, ■ SYSC 7 and (for a *BIPRU firm* and a *third country BIPRU firm*) ■ SYSC 19A.

[Note: article 22(2) of the *Banking Consolidation Directive*]

4.1.2A **G**
FCA PRA

Other *firms* should take account of the comprehensiveness and proportionality *rule* (■ SYSC 4.1.2 R) as if it were *guidance* (and as if "should" appeared in that rule instead of "must") as explained in ■ SYSC 1 Annex 1.3.3 G .

4.1.2B **R**
FCA

For a *management company*, the arrangements, processes and mechanisms referred to in ■ SYSC 4.1.1 R must also take account of the

UCITS schemes and EEA UCITS schemes managed by the management company.

[Note: article 12(1) second paragraph of the *UCITS Directive*]

Resources for management companies

4.1.2C

FCA

R

A *management company* must have, and employ effectively, the resources and procedures that are necessary for the proper performance of its business activities.

[Note: articles 12(1)(a) and 14(1)(c) of the *UCITS Directive*]

Mechanisms and procedures for a BIPRU firm

4.1.3

FCA

PRA

R

A *BIPRU firm* must 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.

[Note: article 35(1) final sentence of the *Capital Adequacy Directive*]

4.1.4

FCA

PRA

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 arrangements)) must, taking into account the nature, scale and complexity of the business of the *firm*, and the nature and range of the financial services and activities undertaken in the course of that business:

- (1) (if it is a *common platform firm* or a *management company*) establish, implement and maintain decision-making procedures and an organisational structure which clearly and in a documented manner specifies reporting lines and allocates functions and responsibilities;
- (2) establish, implement and maintain adequate internal control mechanisms designed to secure compliance with decisions and procedures at all levels of the *firm*;
- (3) (if it is a *common platform firm*) establish, implement and maintain effective internal reporting and communication of information at all relevant levels of the *firm*; and
- (4) (if it is a *management company*) establish, implement and maintain effective internal reporting and communication of information at all relevant levels of the *management company* as well as effective information flows with any third party involved.

[Note: articles 5(1) final paragraph, 5(1)(a), 5(1)(c) and 5(1)(e) of the *MiFID implementing Directive* and articles 4(1) final paragraph, 4(1)(a), 4(1)(c) and 4(1)(d) of the *UCITS implementing Directive*]

4.1.4A
FCA PRA

G

A *firm* that is not a *common platform firm* or a *management company* should take into account the decision-making procedures and effective internal reporting *rules* (■ SYSC 4.1.4R (1), ■ (3) and ■ (4)) as if they were *guidance* (and as if "should" appeared in those rules instead of "must") as explained in ■ SYSC 1 Annex 1.3.3 G.

4.1.5
FCA PRA

R

A *MiFID investment firm* and a *management company* must establish, implement and maintain systems and procedures that are adequate to safeguard the security, integrity and confidentiality of information, taking into account the nature of the information in question.

[Note: article 5(2) of the *MiFID implementing Directive* and article 4(2) of the *UCITS implementing Directive*]

Business continuity

4.1.6
FCA PRA

R

A *common platform firm* must take reasonable steps to ensure continuity and regularity in the performance of its *regulated activities*. To this end the *common platform firm* must employ appropriate and proportionate systems, resources and procedures.

[Note: article 13(4) of *MiFID*]

4.1.7
FCA PRA

R

A *common platform firm* and a *management company* must establish, implement and maintain an adequate business continuity policy aimed at ensuring, in the case of an interruption to its systems and procedures, that any losses are limited, the preservation of essential data and functions, and the maintenance of its *regulated activities*, or, in the case of a *management company*, its *collective portfolio management* activities, or, where that is not possible, the timely recovery of such data and functions and the timely resumption of those activities.

[Note: article 5(3) of the *MiFID implementing Directive* , annex V paragraph 13 of the *Banking Consolidation Directive* and article 4(3) of the *UCITS implementing Directive*]

4.1.7A
FCA PRA

G

Other *firms* should take account of the business continuity *rules* (■ SYSC 4.1.6 R and ■ 4.1.7 R) as if they were *guidance* (and as if "should" appeared in those rules instead of "must") as explained in ■ SYSC 1 Annex 1.3.3 G.

4.1.8
FCA PRA

G

The matters dealt with in a business continuity policy should include:

- (1) resource requirements such as people, systems and other assets, and arrangements for obtaining these resources;
- (2) the recovery priorities for the *firm's* operations;
- (3) communication arrangements for internal and external concerned parties (including the *appropriate regulator*, *clients* and the press);

- (4) escalation and invocation plans that outline the processes for implementing the business continuity plans, together with relevant contact information;
- (5) processes to validate the integrity of information affected by the disruption; and
- (6) regular testing of the business continuity policy in an appropriate and proportionate manner in accordance with ■ SYSC 4.1.10 R.

Accounting policies

4.1.9

FCA PRA

R

A *common platform firm* and a *management company* must establish, implement and maintain accounting policies and procedures that enable it, at the request of the *appropriate regulator*, to deliver in a timely manner to the *appropriate regulator* financial reports which reflect a true and fair view of its financial position and which comply with all applicable accounting standards and rules.

[Note: article 5(4) of the *MiFID implementing Directive* and article 4(4) of the *UCITS implementing Directive*]

Regular monitoring

4.1.10

FCA PRA

R

A *common platform firm* and a *management company* must monitor and, on a regular basis, evaluate the adequacy and effectiveness of its systems, internal control mechanisms and arrangements established in accordance with ■ SYSC 4.1.4 R to ■ SYSC 4.1.9 R and take appropriate measures to address any deficiencies.

[Note: article 5(5) of the *MiFID implementing Directive* and article 4(5) of the *UCITS implementing Directive*]

4.1.10A

FCA PRA

G

Other *firms* should take account of the regular monitoring *rule* (■ SYSC 4.1.10 R) as if it were *guidance* (and as if "should" appeared in that rule instead of "must") as explained in ■ SYSC 1 Annex 1.3.3 G, but ignoring the cross-reference to ■ SYSC 4.1.5 R and ■ 4.1.9 R.

Audit committee

4.1.11

FCA PRA

G

Depending on the nature, scale and complexity of its business, it may be appropriate for a *firm* to form an audit committee. An audit committee could typically examine management's process for ensuring the appropriateness and effectiveness of systems and controls, examine the arrangements made by management to ensure compliance with requirements and standards under the *regulatory system*, oversee the functioning of the internal audit function (if applicable) and provide an interface between management and external auditors. It should have an appropriate number of *non-executive directors* and it should have formal terms of reference.

4.1.12

G

[deleted]

4.1.13

FCA PRA

G

Risk control: additional guidance

Firms should also consider the additional *guidance* on risk-centric governance arrangements for effective risk management contained in ■ SYSC 21.

4.1.14

FCA PRA

G

Apportionment of responsibilities: the role of the non-executive director

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.



4.2 Persons who effectively direct the business

4.2.1

FCA PRA

R

The *senior personnel* of a *common platform firm*, a *management company* or of the *UK branch* of a *non-EEA bank* must be of sufficiently good repute and sufficiently experienced as to ensure the sound and prudent management of the *firm*.

[Note: article 9(1) of *MiFID*, article 7(1)(b) of the *UCITS Directive* and article 11(1) second paragraph of the *Banking Consolidation Directive*]

4.2.1A

FCA PRA

G

Other *firms* should take account of the senior personnel rule (■ SYSC 4.2.1 R) as if it were *guidance* (and as if "should" appeared in that rule instead of "must") as explained in ■ SYSC 1 Annex 1.3.3 G.

4.2.2

FCA PRA

R

A *common platform firm*, a *management company* and the *UK branch* of a *non-EEA bank* must ensure that its management is undertaken by at least two persons meeting the requirements laid down in ■ SYSC 4.2.1 R.

[Note: article 9(4) first paragraph of *MiFID*, article 7(1)(b) of the *UCITS Directive* and article 11(1) first paragraph of the *Banking Consolidation Directive*]

4.2.3

FCA PRA

G

In the case of a *body corporate*, the persons referred to in SYSC 4.2.2 R should either be executive *directors* or persons granted executive powers by, and reporting immediately to, the *governing body*. In the case of a *partnership*, they should be active *partners*.

4.2.4

FCA PRA

G

At least two independent minds should be applied to both the formulation and implementation of the policies of a *common platform firm*, a *management company* and the *UK branch* of a *non-EEA bank*. Where such a *firm* nominates just two individuals to direct its business, the *appropriate regulator* will not regard them as both effectively directing the business where one of them makes some, albeit significant, decisions relating to only a few aspects of the business. Each should play a part in the decision-making process on all significant decisions. Both should demonstrate the qualities and application to influence strategy, day-to-day policy and its implementation. This does not require their day-to-day involvement in the execution and implementation of policy. It does, however, require involvement in strategy and general direction, as well as knowledge of, and influence on, the way in which strategy is being implemented through day-to-day policy.

4.2.5
FCA PRA

G

Where there are more than two individuals directing the business of a *common platform firm*, a *management company* or the UK branch of a *non-EEA bank*, the *appropriate regulator* does not regard it as necessary for all of these individuals to be involved in all decisions relating to the determination of strategy and general direction. However, at least two individuals should be involved in all such decisions. Both individuals' judgement should be engaged so that major errors leading to difficulties for the *firm* are less likely to occur. Similarly, each individual should have sufficient experience and knowledge of the business and the necessary personal qualities and skills to detect and resist any imprudence, dishonesty or other irregularities by the other individual. Where a single individual, whether a chief executive, managing *director* or otherwise, is particularly dominant in such a *firm* this will raise doubts about whether SYSC 4.2.2 R is met.

4.2.6
FCA PRA

R

If a *common platform firm*, (other than a *credit institution*) or the UK branch of a *non-EEA bank*, is:

- (1) a natural person; or
- (2) a legal person managed by a single natural person;

it must have alternative arrangements in place which ensure sound and prudent management of the *firm*.

[Note: article 9(4) second paragraph of *MiFID*]

4.3 Responsibility of senior personnel

4.3.1

FCA PRA

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 arrangements)), when allocating functions internally, must ensure that *senior personnel* and, where appropriate, the *supervisory function*, are responsible for ensuring that the *firm* complies with its obligations under the *regulatory system*. In particular, *senior personnel* and, where appropriate, the *supervisory function* must assess and periodically review the effectiveness of the policies, arrangements and procedures put in place to comply with the *firm's* obligations under the *regulatory system* and take appropriate measures to address any deficiencies.

[Note: article 9(1) of the *MiFID implementing Directive* and articles 9(1) and 9(3) of the *UCITS implementing Directive*]

4.3.2

FCA PRA

R

A *common platform 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 arrangements)) and a *management company*, must ensure that :

- (1) its *senior personnel* receive on a frequent basis, and at least annually, written reports on the matters covered by ■ SYSC 6.1.2 R to ■ SYSC 6.1.5 R, ■ SYSC 6.2.1 R and ■ SYSC 7.1.2 R, ■ SYSC 7.1.3 R and ■ SYSC 7.1.5 R to ■ SYSC 7.1.7 R, indicating in particular whether the appropriate remedial measures have been taken in the event of any deficiencies; and
- (2) the *supervisory function*, if any, receives on a regular basis written reports on the same matters.

[Note: article 9(2) and article 9(3) of the *MiFID implementing Directive* and articles 9(4) and 9(6) of the *UCITS implementing Directive*]

4.3.2A

FCA PRA

G

Other *firms* should take account of the written reports *rule* (■ SYSC 4.3.2 R) as if it were *guidance* (and as if "should" appeared in that rule instead of "must") as explained in ■ SYSC 1 Annex 1.3.3 G.

4.3.3

FCA PRA

G

The *supervisory function* does not include a general meeting of the shareholders of a *firm* , or equivalent bodies, but could involve, for example, a separate supervisory board within a two-tier board structure or the establishment of a non-executive committee of a single-tier board structure.

4.3.4

G

[deleted]



4.4 Apportionment of responsibilities

Application

4.4.1

FCA PRA

R

This section applies to:

- (1) an *authorised professional firm* in respect of its *non-mainstream regulated activities* unless the *firm* is also conducting other *regulated activities* and has appointed *approved persons* to perform the *governing functions* with equivalent responsibilities for the *firm's non-mainstream regulated activities* and other *regulated activities*;
- (2) activities carried on by a *firm* whose principal purpose is to carry on activities other than *regulated activities* and which is:
 - (a) an *oil market participant*; or
 - (b) a *service company*; or
 - (c) an *energy market participant*; or
 - (d) a wholly-owned subsidiary of:
 - (i) a local authority; or
 - (ii) a registered social landlord; or
 - (e) a *firm* with *permission* to carry on *insurance mediation activity* in relation to *non-investment insurance contracts* but no other *regulated activity*;
- (3) [deleted]
- (4) [deleted]
- (5) [deleted]
 - (a) [deleted]
 - (b) [deleted]
- (6) [deleted]

- (7) an *incoming Treaty firm*, an *incoming EEA firm* or a *UCITS qualifier* (but only ■ SYSC 4.4.5R (2) applies for these *firms*); and
- (8) a *sole trader*, but only if he employs any *person* who is required to be approved under section 59 of the *Act* (Approval for particular arrangements).

4.4.1A **R** [deleted]

4.4.2 **G** This section does not apply to a *common platform firm*.

FCA **PRA**

Maintaining a clear and appropriate apportionment

4.4.3 **R** A *firm* must take reasonable care to maintain a clear and appropriate apportionment of significant responsibilities among its *directors* and *senior managers* in such a way that:

FCA **PRA**

- (1) it is clear who has which of those responsibilities; and
- (2) the business and affairs of the *firm* can be adequately monitored and controlled by the *directors*, relevant *senior managers* and *governing body* of the *firm*.

4.4.4 **G** [deleted]

Allocating functions of apportionment and oversight

4.4.5 **R** A *firm* must appropriately allocate to one or more individuals, in accordance with the following table, the functions of:

FCA **PRA**

- (1) dealing with the apportionment of responsibilities under ■ SYSC 4.4.3 R; and
- (2) overseeing the establishment and maintenance of systems and controls under ■ SYSC 4.1.1 R.

1: Firm type	2: Allocation of both functions must be to the following individual, if any (see Note):	3: Allocation to one or more individuals selected from this column is compulsory if there is no allocation to an individual in column 2, but is otherwise optional and additional:
<p>(1) A <i>firm</i> which is a <i>body corporate</i> and is a member of a <i>group</i>, other than a <i>firm</i> in row (2)</p>	<p>(1) the <i>firm's chief executive</i> (and all of them jointly, if more than one); or</p> <p>(2) a <i>director</i> or <i>senior manager</i> responsible for the overall management of:</p> <p>(a) the <i>group</i>; or</p> <p>(b) a <i>group</i> division within which some or all of the <i>firm's regulated activities</i> fall</p>	<p>the <i>firm's</i> and its <i>group's</i>:</p> <p>(1) <i>directors</i>; and</p> <p>(2) <i>senior managers</i></p>
<p>(2) An <i>incoming EEA firm</i> or <i>incoming Treaty firm</i> (note: only the functions in SYSC 4.4.5R (2) must be allocated)</p>	<p>(not applicable)</p>	<p>the <i>firm's</i> and its <i>group's</i>:</p> <p>(1) <i>directors</i>; and</p> <p>(2) <i>senior managers</i></p>
<p>(3) Any other <i>firm</i></p>	<p>the <i>firm's chief executive</i> (and all of them jointly, if more than one)</p>	<p>the <i>firm's</i> and its <i>group's</i>:</p> <p>(1) <i>directors</i>; and</p> <p>(2) <i>senior managers</i></p>
<p>Note: Column 2 does not require the involvement of the <i>chief executive</i> or other executive <i>director</i> or <i>senior manager</i> in an aspect of corporate governance if that would be contrary to generally accepted principles of good corporate governance.</p>		

4.4.6

FCA PRA

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Frequently asked questions about allocation of functions in ■ SYSC 4.4.5 R

Question	Answer
<p>1 Does an individual to whom a function is allocated under SYSC 4.4.5 R need to be an <i>approved person</i>?</p>	<p>An individual to whom a function is allocated under SYSC 4.4.5 R will be performing the <i>apportionment and oversight function</i> (CF 8, see SUP 10A.7.1 R) and an application must be made under section 59 of the <i>Act</i> for approval of the individual before the function is performed. There are exceptions from this in SUP 10A.1 (Approved persons - Application).</p>
<p>2 If the allocation is to more than one individual, can they perform the functions, or aspects of the functions, separately?</p>	<p>If the functions are allocated to joint <i>chief executives</i> under SYSC 4.4.5 R, column 2, they are expected to act jointly. If the functions are allocated to an individual under SYSC 4.4.5 R, column 2, in addition to individuals under SYSC 4.4.5 R, column 3, the former may normally be expected to perform a leading role in relation to the functions that reflects his position. Otherwise, yes.</p>
<p>3 What is meant by "appropriately allocate" in this context?</p>	<p>The allocation of functions should be compatible with delivering compliance with <i>Principle 3</i>, SYSC 4.4.3 R and SYSC 4.1.1 R. The <i>appropriate regulator</i> considers that allocation to one or two individuals is likely to be appropriate for most <i>firms</i>.</p>
<p>4 If a committee of management governs a <i>firm</i> or <i>group</i>, can the functions be allocated to every member of that committee?</p>	<p>Yes, as long as the allocation remains appropriate (see Question 3). If the <i>firm</i> also has an individual as <i>chief executive</i>, then the functions must be allocated to that individual as well under SYSC 4.4.5 R, column 2 (see Question 7).</p>
<p>5 Does the definition of <i>chief executive</i> include the possessor of equivalent responsibilities with another title, such as a managing <i>director</i> or managing <i>partner</i>?</p>	<p>Yes.</p>
<p>6 Is it possible for a <i>firm</i> to have more than one individual as its <i>chief executive</i>?</p>	<p>Although unusual, some <i>firms</i> may wish the responsibility of a <i>chief executive</i> to be held jointly by more than one individual. In that case, each of them will be a <i>chief executive</i> and the functions must be allocated to all of them under SYSC 4.4.5 R, column 2 (see also Questions 2 and 7).</p>
<p>7 If a <i>firm</i> has an individual as <i>chief executive</i>, must the functions be allocated to that individual?</p>	<p>Normally, yes, under SYSC 4.4.5 R, column 2.</p> <p>But if the <i>firm</i> is a <i>body corporate</i> and a member of a <i>group</i>, the functions may, instead of being allocated to the <i>firm's chief executive</i>, be allocated to a <i>director</i> or <i>senior manager</i> from the <i>group</i> responsible for the overall management of the <i>group</i></p>

Question	Answer
	<p>or of a relevant <i>group</i> division, so long as this is appropriate (see Question 3). Such individuals may nevertheless require approval under section 59 (see Question 1).</p> <p>If the <i>firm</i> chooses to allocate the functions to a <i>director</i> or <i>senior manager</i> responsible for the overall management of a relevant <i>group</i> division, the <i>FSA</i> would expect that individual to be of a seniority equivalent to or greater than a <i>chief executive</i> of the <i>firm</i> for the allocation to be appropriate.</p> <p>See also Question 14.</p>
<p>8 If a <i>firm</i> has a <i>chief executive</i>, can the functions be allocated to other individuals in addition to the <i>chief executive</i>?</p>	<p>Yes. SYSC 4.4.5 R, column 3, permits a <i>firm</i> to allocate the functions, additionally, to the <i>firm's</i> (or where applicable the <i>group's</i>) <i>directors</i> and <i>senior managers</i> as long as this is appropriate (see Question 3).</p>
<p>9 What if a <i>firm</i> does not have a <i>chief executive</i>?</p>	<p>Normally, the functions must be allocated to one or more individuals selected from the <i>firm's</i> (or where applicable the <i>group's</i>) <i>directors</i> and <i>senior managers</i> under SYSC 4.4.5 R, column 3.</p> <p>But if the <i>firm</i>:</p> <p>(1) is a <i>body corporate</i> and a member of a <i>group</i>; and</p> <p>(2) the <i>group</i> has a <i>director</i> or <i>senior manager</i> responsible for the overall management of the <i>group</i> or of a relevant <i>group</i> division;</p> <p>then the functions must be allocated to that individual (together, optionally, with individuals from column 3 if appropriate) under SYSC 4.4.5 R, column 2.</p>
<p>10 What do you mean by "<i>group</i> division within which some or all of the <i>firm's regulated activities</i> fall"?</p>	<p>A "<i>division</i>" in this context should be interpreted by reference to geographical operations, product lines or any other method by which the <i>group's</i> business is divided.</p> <p>If the <i>firm's regulated activities</i> fall within more than one division and the <i>firm</i> does not wish to allocate the functions to its <i>chief executive</i>, the allocation must, under SYSC 4.4.5 R, be to:</p> <p>(1) a <i>director</i> or <i>senior manager</i> responsible for the overall management of the <i>group</i>; or</p> <p>(2) a <i>director</i> or <i>senior manager</i> responsible</p>

Question	Answer
<p>11 How does the requirement to allocate the functions in SYSC 4.4.5 R apply to an <i>overseas firm</i> which is not an <i>incoming EEA firm</i>, <i>incoming Treaty firm</i> or <i>UCITS qualifier</i>?</p>	<p>for the overall management of one of those divisions;</p> <p>together, optionally, with individuals from column 3 if appropriate. (See also Questions 7 and 9.)</p> <p>The <i>firm</i> must appropriately allocate those functions to one or more individuals, in accordance with SYSC 4.4.5 R, but:</p> <p>(1) The responsibilities that must be apportioned and the systems and controls that must be overseen are those relating to activities carried on from a <i>UK</i> establishment with certain exceptions (see SYSC 1 Annex 1.1.8R). Note that SYSC 1 Annex 1.1.10R does not extend the territorial scope of SYSC 4.4 for an <i>overseas firm</i>.</p> <p>(2) The <i>chief executive</i> of an <i>overseas firm</i> is the <i>person</i> responsible for the conduct of the <i>firm's</i> business within the <i>United Kingdom</i> (see the definition of "<i>chief executive</i>"). This might, for example, be the manager of the <i>firm's UK</i> establishment, or it might be the <i>chief executive</i> of the <i>firm</i> as a whole, if he has that responsibility.</p> <p>The <i>apportionment and oversight function</i> applies to such a <i>firm</i>, unless it falls within a particular exception from the <i>approved persons</i> regime (see Question 1).</p>
<p>12 How does the requirement to allocate the functions in SYSC 4.4.5 R apply to an <i>incoming EEA firm</i> or <i>incoming Treaty firm</i>?</p>	<p>SYSC 1 Annex 1.1.1R(2) and SYSC 1 Annex 1.1.8R restrict the application of SYSC 4.4.5 R for such a <i>firm</i>. Accordingly:</p> <p>(1) Such a <i>firm</i> is not required to allocate the function of dealing with apportionment in SYSC 4.4.5R (1).</p> <p>(2) Such a <i>firm</i> is required to allocate the function of oversight in SYSC 4.4.5R (2). However, the systems and controls that must be overseen are those relating to matters which the <i>appropriate regulator</i>, as <i>Host State regulator</i>, is entitled to regulate (there is <i>guidance</i> on this in SUP 13A Annex 2 G). Those are primarily, but not exclusively, the systems and controls relating to the conduct of the <i>firm's</i> activities carried on from its <i>UK branch</i>.</p>

Question	Answer
	<p>(3) Such a <i>firm</i> need not allocate the function of oversight to its <i>chief executive</i>; it must allocate it to one or more <i>directors</i> and <i>senior managers</i> of the <i>firm</i> or the <i>firm's group</i> under SYSC 4.4.5 R, row (2).</p> <p>(4) An <i>incoming EEA firm</i> which has provision only for <i>cross border services</i> is not required to allocate either function if it does not carry on <i>regulated activities</i> in the <i>United Kingdom</i>; for example if they fall within the overseas persons exclusions in article 72 of the <i>Regulated Activities Order</i>.</p> <p>See also Questions 1 and 15.</p>
<p>13 What about a <i>firm</i> that is a <i>partnership</i> or a <i>limited liability partnership</i>?</p>	<p>The <i>appropriate regulator</i> envisages that most if not all <i>partners</i> or members will be either <i>directors</i> or <i>senior managers</i>, but this will depend on the constitution of the <i>partnership</i> (particularly in the case of a <i>limited partnership</i>) or <i>limited liability partnership</i>. A <i>partnership</i> or <i>limited liability partnership</i> may also have a <i>chief executive</i> (see Question 5). A <i>limited liability partnership</i> is a <i>body corporate</i> and, if a member of a <i>group</i>, will fall within SYSC 4.4.5 R, row (1) or (2).</p>
<p>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?</p>	<p>The Note to SYSC 4.4.5 R 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 <i>UK Corporate Governance Code</i> 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 under section 59 in relation to that function (see Question 1).</p>
<p>15 What about <i>incoming electronic commerce activities</i> carried on from an <i>establishment</i> in another <i>EEA State</i> with or for a <i>person</i> in the <i>United Kingdom</i>?</p>	<p>SYSC does not apply to an <i>incoming ECA provider</i> acting as such.</p>

Chapter 5

Employees, agents and other relevant persons



5.1 Skills, knowledge and expertise

[Note: ESMA has also issued guidelines under article 16(3) of the ESMA Regulation covering certain aspects of the MiFID compliance function requirements. See <http://www.esma.europa.eu/content/Guidelines-certain-aspects-MiFID-compliance-function-requirements>.]

5.1.1 FCA PRA R A *firm* must employ personnel with the skills, knowledge and expertise necessary for the discharge of the responsibilities allocated to them.

[Note: article 5(1)(d) of the *MiFID implementing Directive*, articles 12(1)(a) and 14(1)(c) of the *UCITS Directive* and article 5(1) of the *UCITS implementing Directive*]

5.1.2 FCA PRA G A *firm's* systems and controls should enable it to satisfy itself of the suitability of anyone who acts for it. This includes assessing an individual's honesty and competence. This assessment should normally be made at the point of recruitment. An individual's honesty need not normally be revisited unless something happens to make a fresh look appropriate.

5.1.3 FCA PRA G Any assessment of an individual's suitability should take into account the level of responsibility that the individual will assume within the *firm*. The nature of this assessment will generally differ depending upon whether it takes place at the start of the individual's recruitment, at the end of the probationary period (if there is one) or subsequently.

5.1.4 FCA PRA G The Training and Competence sourcebook (*TC*) contains additional *rules* and *guidance* relating to specified retail activities undertaken by a *firm*.

5.1.4A FCA PRA 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 competence requirements in SYSC.

5.1.5 FCA PRA G The requirements on *firms* with respect to *approved persons* are in Part V of the Act (Performance of regulated activities) and ■ SUP 10A and ■ SUP 10B .

5.1.5A FCA PRA G If a *firm* requires *employees* who are not subject to a qualification requirement in *TC* to pass a relevant examination from the list of recommended examinations maintained by the Financial Skills Partnership , the *appropriate regulator* will take that into account when assessing whether the *firm* has ensured that the *employee* satisfies the knowledge component of the *competent employees rule*.

Segregation of functions

5.1.6

FCA PRA

R

A *common platform firm* and a *management company* must ensure that the performance of multiple functions by its *relevant persons* does not and is not likely to prevent those persons from discharging any particular functions soundly, honestly and professionally.

[Note: article 5(1)(g) of the *MiFID implementing Directive* and article 5(3) of the *UCITS implementing Directive*]

5.1.7

FCA PRA

R

The *senior personnel* of a *common platform firm* must define arrangements concerning the segregation of duties within the *firm* and the prevention of conflicts of interest.

[Note: annex V paragraph 1 of the *Banking Consolidation Directive*]

5.1.7A

FCA PRA

G

Other *firms* should take account of the segregation of functions *rules* (■ SYSC 5.1.6 R and ■ SYSC 5.1.7 R) as if they were *guidance* (and as if should appeared in those rules instead of must) as explained in ■ SYSC 1 Annex 1.3.3 G.

5.1.8

FCA PRA

G

The effective segregation of duties is an important element in the *internal controls* of a *firm* in the *prudential context*. In particular, it helps to ensure that no one individual is completely free to commit a *firm's* assets or incur liabilities on its behalf. Segregation can also help to ensure that a *firm's governing body* receives objective and accurate information on financial performance, the risks faced by the *firm* and the adequacy of its systems.

5.1.9

FCA PRA

G

A *firm* should normally ensure that no single individual has unrestricted authority to do all of the following:

- (1) initiate a transaction;
- (2) bind the *firm*;
- (3) make payments; and
- (4) account for it.

5.1.10

FCA PRA

G

Where a *firm* is unable to ensure the complete segregation of duties (for example, because it has a limited number of staff), it should ensure that there are adequate compensating controls in place (for example, frequent review of an area by relevant *senior managers*).

5.1.11

FCA PRA

G

Where a *common platform firm* outsources its internal audit function, it should take reasonable steps to ensure that every individual involved in the performance of this service is independent from the individuals who perform its external audit. This should not prevent services from being undertaken by a *firm's* external auditors provided that:

- (1) the work is carried out under the supervision and management of the *firm's* own internal staff; and

- (2) potential conflicts of interest between the provision of external audit services and the provision of internal audit are properly managed.

Awareness of procedures

5.1.12

FCA PRA

R

A common platform firm and a management company must ensure that its relevant persons are aware of the procedures which must be followed for the proper discharge of their responsibilities.

[Note: article 5(1)(b) of the *MiFID implementing Directive* and article 4(1)(b) of the *UCITS implementing Directive*]

5.1.12A

FCA PRA

G

Other *firms* should take account of the *rule* concerning awareness of procedures (■ SYSC 5.1.12 R) as if it were *guidance* (and as if should appeared in that rule instead of must) as explained in ■ SYSC 1 Annex 1.3.3 G.

General

5.1.13

FCA PRA

R

The systems, internal control mechanisms and arrangements established by a *firm* in accordance with this chapter must take into account the nature, scale and complexity of its business and the nature and range of financial services and activities undertaken in the course of that business.

[Note: article 5(1) final paragraph of the *MiFID implementing Directive* and articles 4(1) final paragraph and 5(4) of the *UCITS implementing Directive*]

5.1.14

FCA PRA

R

A common platform firm and a management company must monitor and, on a regular basis, evaluate the adequacy and effectiveness of its systems, internal control mechanisms and arrangements established in accordance with this chapter, and take appropriate measures to address any deficiencies.

[Note: article 5(5) of the *MiFID implementing Directive* and articles 4(5) of the *UCITS implementing Directive*]

5.1.15

FCA PRA

G

Other *firms* should take account of the *rule* requiring monitoring and evaluation of the adequacy and effectiveness of systems (■ SYSC 5.1.14 R) as if it were *guidance* (and as if should appeared in that rule instead of must) as explained in ■ SYSC 1 Annex 1.3.3 G.

Chapter 6

Compliance, internal audit and financial crime



6.1 Compliance

[Note: ESMA has also issued guidelines under article 16(3) of the ESMA Regulation covering certain aspects of the MiFID compliance function requirements. See <http://www.esma.europa.eu/content/Guidelines-certain-aspects-MiFID-compliance-function-requirements>.]

6.1.1
FCA PRA

R

A *firm* must establish, implement and maintain adequate policies and procedures sufficient to ensure compliance of the *firm* including its managers, employees and *appointed representatives* (or where applicable, *tied agents*) with its obligations under the *regulatory system* and for countering the risk that the *firm* might be used to further *financial crime*.

[Note: article 13(2) of *MiFID* and article 12(1)(a) of the *UCITS Directive*]

6.1.1A
FCA

G

The *FCA* provides *guidance* on steps that a *firm* can take to reduce the risk that it might be used to further *financial crime* in *FC* (Financial crime: a guide for firms).

6.1.2
FCA PRA

R

A *common platform firm* and a *management company* must, taking into account the nature, scale and complexity of its business, and the nature and range of financial services and activities undertaken in the course of that business, establish, implement and maintain adequate policies and procedures designed to detect any risk of failure by the *firm* to comply with its obligations under the *regulatory system*, as well as associated risks, and put in place adequate measures and procedures designed to minimise such risks and to enable the *appropriate regulator* to exercise its powers effectively under the *regulatory system* and to enable any other *competent authority* to exercise its powers effectively under *MiFID* or the *UCITS Directive*.

[Note: article 6(1) of the *MiFID implementing Directive* and article 10(1) of the *UCITS implementing Directive*]

6.1.2A
FCA PRA

G

Other *firms* should take account of the adequate policies and procedures *rule* (■ SYSC 6.1.2 R) as if it were *guidance* (and as if should appeared in that rule instead of must) as explained in ■ SYSC 1 Annex 1.3.3 G .

6.1.3

FCA PRA

R

A *common platform firm* and a *management company* must maintain a permanent and effective compliance function which operates independently and which has the following responsibilities:

- (1) to monitor and, on a regular basis, to assess the adequacy and effectiveness of the measures and procedures put in place in accordance with ■ SYSC 6.1.2 R, and the actions taken to address any deficiencies in the *firm's* compliance with its obligations; and
- (2) to advise and assist the *relevant persons* responsible for carrying out *regulated activities* to comply with the *firm's* obligations under the *regulatory system*.

[Note: article 6(2) of the *MiFID implementing Directive* and article 10(2) of the *UCITS implementing Directive*]

6.1.3A

FCA PRA

G

- (1) Other *firms* should take account of the compliance function *rule* (■ SYSC 6.1.3 R) as if it were *guidance* (and as if should appeared in that rule instead of must) as explained in ■ SYSC 1 Annex 1.3.3 G .
- (2) Notwithstanding ■ SYSC 6.1.3 R, as it applies under (1), depending on the nature, scale and complexity of its business, it may be appropriate for a *firm* to have a separate compliance function. Where a *firm* has a separate compliance function the *firm* should also take into account ■ SYSC 6.1.3 R and ■ SYSC 6.1.4 R as guidance.

6.1.4

FCA PRA

R

In order to enable the compliance function to discharge its responsibilities properly and independently, a *common platform firm* and a *management company* must ensure that the following conditions are satisfied:

- (1) the compliance function must have the necessary authority, resources, expertise and access to all relevant information;
- (2) a compliance officer must be appointed and must be responsible for the compliance function and for any reporting as to compliance required by ■ SYSC 4.3.2 R;
- (3) the *relevant persons* involved in the compliance functions must not be involved in the performance of services or activities they monitor;
- (4) the method of determining the remuneration of the *relevant persons* involved in the compliance function must not compromise their objectivity and must not be likely to do so.

[Note: article 6(3) first paragraph of the *MiFID implementing Directive* and article 10(3) of the *UCITS implementing Directive*]

6.1.4-A
FCA PRA

G

In setting the method of determining the *remuneration of relevant persons* involved in the compliance function, *BIPRU firms* will also need to comply with the *Remuneration Code*.

6.1.4A
FCA

R

- (1) A *firm* which is not a *common platform firm* or *management company* and which carries on *designated investment business* with or for retail clients or professional clients must allocate to a *director* or *senior manager* the function of:
 - (a) having responsibility for oversight of the *firm's* compliance; and
 - (b) reporting to the *governing body* in respect of that responsibility.

- (2) In ■ SYSC 6.1.4A R (1) compliance means compliance with the rules in:
 - (a) *COBS* (Conduct of Business sourcebook);
 - (b) *COLL* (Collective Investment Schemes sourcebook) and *CIS* (Collective Investment Schemes sourcebook) (where appropriate);
 - (c) *CASS* (Client Assets sourcebook) ; and
 - (d) *ICOBS* (Insurance: Conduct of Business sourcebook).

6.1.5
FCA PRA

R

A *common platform firm* and a *management company* need not comply with ■ SYSC 6.1.4 R (3) or ■ SYSC 6.1.4 R (4) if it is able to demonstrate that in view of the nature, scale and complexity of its business, and the nature and range of financial services and activities, the requirements under those *rules* are not proportionate and that its compliance function continues to be effective.

[Note: article 6(3) second paragraph of the *MiFID implementing Directive* and article 10(3) second paragraph of the *UCITS implementing Directive*]

6.1.6
FCA PRA

G

Other *firms* should take account of the proportionality *rule* (■ SYSC 6.1.5 R) as if it were *guidance* (and as if should appeared in that rule instead of must) as explained in ■ SYSC 1 Annex 1.3.3 G .

6.1.7
FCA PRA

R

- (1) This *rule* applies to a *common platform firm* conducting *investment services and activities* from a *branch* in another *EEA State*.

- (2) References to the *regulatory system* in ■ SYSC 6.1.1R, ■ SYSC 6.1.2 R and ■ SYSC 6.1.3 R apply in respect of a *firm's branch* as if *regulatory system* includes a *Host State's*

requirements under *MiFID* and the *MiFID implementing Directive* which are applicable to the *investment services and activities* conducted from the *firm's branch*.

[Note: article 13(2) of *MiFID*]



6.2 Internal audit

6.2.1

FCA PRA

R

A *common platform firm* and a *management company* must, where appropriate and proportionate in view of the nature, scale and complexity of its business and the nature and range of its financial services and activities, undertaken in the course of that business, establish and maintain an internal audit function which is separate and independent from the other functions and activities of the *firm* and which has the following responsibilities:

- (1) to establish, implement and maintain an audit plan to examine and evaluate the adequacy and effectiveness of the *firm's* systems, internal control mechanisms and arrangements;
- (2) to issue recommendations based on the result of work carried out in accordance with (1);
- (3) to verify compliance with those recommendations;
- (4) to report in relation to internal audit matters in accordance with ■ SYSC 4.3.2 R.

[Note: article 8 of the *MiFID implementing Directive* and article 11 of the *UCITS implementing Directive*]

6.2.1A

FCA PRA

G

Other *firms* should take account of the internal audit *rule* (■ SYSC 6.2.1 R) as if it were *guidance* (and as if should appeared in that rule instead of must) as explained in ■ SYSC 1 Annex 1.3.3 G .

6.2.2

FCA PRA

G

The term 'internal audit function' in ■ SYSC 6.2.1 R (and ■ SYSC 4.1.11 G) 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).



6.3 Financial crime

6.3.1
FCA

R

A *firm* must ensure the policies and procedures established under ■ SYSC 6.1.1 R include systems and controls that:

- (1) enable it to identify, assess, monitor and manage *money laundering* risk; and
- (2) are comprehensive and proportionate to the nature, scale and complexity of its activities.

6.3.2
FCA

G

"*Money laundering* risk" is the risk that a *firm* may be used to further *money laundering*. Failure by a *firm* to manage this risk effectively will increase the risk to society of crime and terrorism.

6.3.3
FCA

R

A *firm* must carry out a regular assessment of the adequacy of these systems and controls to ensure that they continue to comply with ■ SYSC 6.3.1 R.

6.3.4
FCA

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 6.1.1 R and ■ SYSC 6.3.1 R to ■ SYSC 6.3.10 G are not relevant for the purposes of regulation 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.

6.3.5
FCA

G

The FCA, when considering whether a breach of its *rules* on systems and controls against *money laundering* has occurred, will have regard to whether a *firm* has followed relevant provisions in the guidance for the *United Kingdom* financial sector issued by the Joint Money Laundering Steering Group.

6.3.6
FCA

G

In identifying its *money laundering* risk and in establishing the nature of these systems and controls, a *firm* should consider a range of factors, including:

- (1) its customer, product and activity profiles;
- (2) its distribution channels;
- (3) the complexity and volume of its transactions;
- (4) its processes and systems; and

- (5) its operating environment.

6.3.7
FCA

G

A *firm* should ensure that the systems and controls include:

- (1) appropriate training for its employees in relation to *money laundering*;
- (2) appropriate provision of information to its *governing body* and senior management, including a report at least annually by that *firm's money laundering reporting officer (MLRO)* on the operation and effectiveness of those systems and controls;
- (3) appropriate documentation of its risk management policies and risk profile in relation to *money laundering*, including documentation of its application of those policies (see ■ SYSC 9);
- (4) appropriate measures to ensure that *money laundering* risk is taken into account in its day-to-day operation, including in relation to:
 - (a) the development of new products;
 - (b) the taking-on of new customers; and
 - (c) changes in its business profile; and
- (5) appropriate measures to ensure that procedures for identification of new customers do not unreasonably deny access to its services to potential customers who cannot reasonably be expected to produce detailed evidence of identity.

6.3.8
FCA

R

A *firm* must allocate to a *director* or *senior manager* (who may also be the *money laundering reporting officer*) overall responsibility within the *firm* for the establishment and maintenance of effective anti-*money laundering* systems and controls.

The money laundering reporting officer

6.3.9
FCA

R

A *firm* (with the exception of a *sole trader* who has no employees) must:

- (1) **appoint an individual as *MLRO*, with responsibility for oversight of its compliance with the *FCA'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 out that responsibility.**

6.3.10
FCA

G

The job of the *MLRO* within a *firm* is to act as the focal point for all activity within the *firm* relating to anti-*money laundering*. The *FCA* expects that a *firm's MLRO* will be based in the *United Kingdom*.

Financial crime guidance

6.3.11

FCA

G

The FCA provides *guidance* on steps that a *firm* can take to reduce the risk that it might be used to further *financial crime* in FC (Financial crime: a guide for firms).

Chapter 7

Risk control

7.1 Risk control

[Note: ESMA has also issued guidelines under article 16(3) of the ESMA Regulation covering certain aspects of the MiFID compliance function requirements. See <http://www.esma.europa.eu/content/Guidelines-certain-aspects-MiFID-compliance-function-requirements> .]

7.1.1 FCA PRA G ■ SYSC 4.1.1 R requires a *firm* to have effective processes to identify, manage, monitor and report the risks it is or might be exposed to.

7.1.2 FCA PRA R *A common platform firm* must establish, implement and maintain adequate risk management policies and procedures, including effective procedures for risk assessment, which identify the risks relating to the *firm's* activities, processes and systems, and where appropriate, set the level of risk tolerated by the *firm*.

[Note: article 7(1)(a) of the *MiFID implementing Directive*, article 13(5) second paragraph of *MiFID*]

7.1.2A FCA PRA G Other *firms* should take account of the risk management policies and procedures *rule* (■ SYSC 7.1.2 R) as if it were *guidance* (and as if should appeared in that rule instead of must) as explained in ■ SYSC 1 Annex 1.3.3 G .

7.1.2B FCA PRA G A *management company* should be aware that ■ COLL 6.11 contains requirements implementing article 12 of the *UCITS implementing Directive* in relation to risk control and internal reporting that will apply to it.

7.1.3 FCA PRA R *A common platform firm* must adopt effective arrangements, processes and mechanisms to manage the risk relating to the *firm's* activities, processes and systems, in light of that level of risk tolerance.

[Note: article 7(1)(b) of the *MiFID implementing Directive*]

7.1.4 FCA PRA R The *senior personnel* of a *common platform firm* must approve and periodically review the strategies and policies for taking up, managing, monitoring and mitigating the risks the *firm* is or might be exposed to, including those posed by the macroeconomic environment in which it operates in relation to the status of the business cycle.

[Note: annex V paragraph 2 of the *Banking Consolidation Directive*]

7.1.4A

FCA PRA

G

For a *common platform firm* included within the scope of ■ SYSC 20 (Reverse stress testing), the strategies, policies and procedures for identifying, taking up, managing, monitoring and mitigating the risks to which the *firm* is or might be exposed include conducting reverse stress testing in accordance with ■ SYSC 20. A *common platform firm* which falls outside the scope of ■ SYSC 20 should consider conducting reverse stress tests on its business plan as well. This would further *senior personnels* understanding of the *firm's* vulnerabilities and would help them design measures to prevent or mitigate the risk of business failure.

7.1.4B

FCA PRA

G

Other *firms* should take account of the risk management *rules* (■ SYSC 7.1.3 R and ■ SYSC 7.1.4 R) as if they were *guidance* (and as if "should" appeared in those rules instead of "must") as explained in ■ SYSC 1 Annex 1.3.3 G.

7.1.5

FCA PRA

R

A *common platform firm* must monitor the following:

- (1) the adequacy and effectiveness of the *firm's* risk management policies and procedures;
- (2) the level of compliance by the *firm* and its *relevant persons* with the arrangements, processes and mechanisms adopted in accordance with ■ SYSC 7.1.3 R;
- (3) the adequacy and effectiveness of measures taken to address any deficiencies in those policies, procedures, arrangements, processes and mechanisms, including failures by the *relevant persons* to comply with such arrangements or processes and mechanisms or follow such policies and procedures.

[Note: article 7(1)(c) of the *MiFID implementing Directive*]

7.1.6

FCA PRA

R

A *common platform firm* must, where appropriate and proportionate in view of the nature, scale and complexity of its business and the nature and range of the *investment services and activities* undertaken in the course of that business, establish and maintain a risk management function that operates independently and carries out the following tasks:

- (1) implementation of the policies and procedures referred to in ■ SYSC 7.1.2 R to ■ SYSC 7.1.5 R; and
- (2) provision of reports and advice to *senior personnel* in accordance with ■ SYSC 4.3.2 R.

[Note: *MiFID implementing Directive* Article 7(2) first paragraph]

7.1.7

FCA PRA

R

Where a *common platform firm* is not required under ■ SYSC 7.1.6 R to maintain a risk management function that functions independently, it must nevertheless be able to demonstrate that the policies and procedures which

it has adopted in accordance with ■ SYSC 7.1.2 R to ■ SYSC 7.1.5 R satisfy the requirements of those *rules* and are consistently effective.

[Note: article 7(2) second paragraph of the *MiFID implementing Directive*]

7.1.7A

FCA PRA

G

Other *firms* should take account of the risk management *rules* (■ SYSC 7.1.5 R to ■ SYSC 7.1.7 R) as if they were *guidance* (and as if should appeared in those rules instead of must) as explained in ■ SYSC 1 Annex 1.3.3 G .

7.1.7B

FCA PRA

G

In setting the method of determining the *remuneration* of *employees* involved in the risk management function, *BIPRU firms* will also need to comply with the *Remuneration Code*.

7.1.7C

FCA PRA

G

Firms should also consider the additional *guidance* on risk-centric governance arrangements for effective risk management contained in ■ SYSC 21.

7.1.8

FCA PRA

G

- (1) ■ SYSC 4.1.3 R 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 7.1.6 R and ■ SYSC 7.1.7 R 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).

Credit and counterparty risk

7.1.9

FCA PRA

R

A *BIPRU firm* must base credit-granting on sound and well-defined criteria and clearly establish the process for approving, amending, renewing, and re-financing credits.

[Note: annex V paragraph 3 of the *Banking Consolidation Directive*]

7.1.10

FCA PRA

R

A *BIPRU firm* must operate through effective systems the ongoing administration and monitoring of its various credit risk-bearing portfolios and exposures, including for identifying and managing problem credits and for making adequate value adjustments and provisions.

[Note: annex V paragraph 4 of the *Banking Consolidation Directive*]

7.1.11 **R** A *BIPRU firm* must adequately diversify credit portfolios given its target market and overall credit strategy.

FCA **PRA**

[Note: annex V paragraph 5 of the *Banking Consolidation Directive*]

7.1.12 **G** The documentation maintained by a *BIPRU firm* under **SYSC 4.1.3 R** should include its policy for credit risk, including its risk appetite and provisioning policy and should describe how it measures, monitors and controls that risk. This should include descriptions of the systems used to ensure that the policy is correctly implemented.

FCA **PRA**

Residual risk

7.1.13 **R** A *BIPRU firm* must address and control by means of written policies and procedures the risk that recognised credit risk mitigation techniques used by it prove less effective than expected.

FCA **PRA**

[Note: annex V paragraph 6 of the *Banking Consolidation Directive*]

Market risk

7.1.14 **R** A *BIPRU firm* must implement policies and processes for the measurement and management of all material sources and effects of market risks.

FCA **PRA**

[Note: annex V paragraph 10 of the *Banking Consolidation Directive*]

Interest rate risk

7.1.15 **R** A *BIPRU firm* must implement systems to evaluate and manage the risk arising from potential changes in interest rates as they affect a *BIPRU firm's* non-trading activities.

FCA **PRA**

[Note: annex V paragraph 11 of the *Banking Consolidation Directive*]

Operational risk

7.1.16 **R** A *BIPRU firm* must implement policies and processes to evaluate and manage the exposure to operational risk, including to low-frequency high severity events. Without prejudice to the definition of *operational risk*, *BIPRU firms* must articulate what constitutes operational risk for the purposes of those policies and procedures.

FCA **PRA**

[Note: annex V paragraph 12 of the *Banking Consolidation Directive*]

7.1.16A **G** In meeting the general standard referred to in **SYSC 7.1.16 R**, a *BIPRU firm* that undertakes market-related activities should be able to demonstrate to the *appropriate regulator*:

FCA **PRA**

- (1) in the case of a *BIPRU firm* calculating its ORCR using the *basic indicator approach* or *standardised approach*, that it has considered; or
- (2) in the case of a *BIPRU firm* with an *AMA permission*, compliance with

the Committee of European Banking Supervisors Guidelines on the management of operational risk in market-related activities, published in October 2010. These can be

found at [http://www.eba.europa.eu/documents/Publications/Standards---Guidelines/2010/Management-of-op-risk/CEBS-2010-216-\(Guidelines-on-the-management-of-op-.aspx](http://www.eba.europa.eu/documents/Publications/Standards---Guidelines/2010/Management-of-op-risk/CEBS-2010-216-(Guidelines-on-the-management-of-op-.aspx)

7.1.16B**FCA** **PRA****G**

In meeting the general standards referred to in ■ SYSC 7.1.16 R, a *firm* with AMA approval should be able to demonstrate to the *appropriate regulator* that it has considered and complies with Section III of the European Banking Authority's Guidelines on the Advanced Measurement Approach (AMA) - Extensions and Changes published in January 2012. These can be found at [http://eba.europa.eu/cebs/media/Publications/Standards%20and%20Guidelines/2012/EBA-BS-2011-209-final-\(EBA-GL-on-AMA-extensions-and-changes\).pdf](http://eba.europa.eu/cebs/media/Publications/Standards%20and%20Guidelines/2012/EBA-BS-2011-209-final-(EBA-GL-on-AMA-extensions-and-changes).pdf)

Chapter 8

Outsourcing

8.1 General outsourcing requirements

[Note: ESMA has also issued guidelines under article 16(3) of the ESMA Regulation covering certain aspects of the MiFID compliance function requirements. See <http://www.esma.europa.eu/content/Guidelines-certain-aspects-MiFID-compliance-function-requirements>.]

8.1.1

FCA PRA

R

A *common platform firm* must:

- (1) when relying on a third party for the performance of operational functions which are critical for the performance of *regulated activities, listed activities* or *ancillary services* (in this chapter "relevant services and activities") on a continuous and satisfactory basis, ensure that it takes reasonable steps to avoid undue additional operational risk;
- (2) not undertake the *outsourcing* of important operational functions in such a way as to impair materially:
 - (a) the quality of its internal control; and
 - (b) the ability of the *appropriate regulator* to monitor the *firm's* compliance with all obligations under the *regulatory system* and, if different, of a *competent authority* to monitor the *firm's* compliance with all obligations under *MiFID*.

[Note: article 13(5) first paragraph of *MiFID*]

8.1.1A

FCA PRA

G

Other *firms* should take account of the outsourcing *rule* (■ SYSC 8.1.1 R) as if it were *guidance* (and as if should appeared in that rule instead of must) as explained in ■ SYSC 1 Annex 1.3.3 G.

8.1.2

FCA PRA

G

The application of ■ SYSC 8.1 to relevant services and activities (see ■ SYSC 8.1.1 R (1)) is limited by ■ SYSC 1 Annex 1 (Part 2) (Application of the common platform requirements).

8.1.3

FCA PRA

G

■ SYSC 4.1.1 R requires a *firm* to have effective processes to identify, manage, monitor and report risks and internal control mechanisms. Except in relation to those functions described in ■ SYSC 8.1.5 R, where a *firm* relies on a third party for the performance of operational functions which are not critical or important for the performance of relevant services and activities (see ■ SYSC 8.1.1 R (1)) on a continuous and satisfactory

basis, it should take into account, in a manner that is proportionate given the nature, scale and complexity of the *outsourcing*, the *rules* in this section in complying with that requirement.

8.1.4

FCA PRA

R

For the purposes of this chapter an operational function is regarded as critical or important if a defect or failure in its performance would materially impair the continuing compliance of a *common platform firm* with the conditions and obligations of its *authorisation* or its other obligations under the *regulatory system*, or its financial performance, or the soundness or the continuity of its relevant services and activities.

[Note: article 13(1) of the *MiFID implementing Directive*]

8.1.5

FCA PRA

R

Without prejudice to the status of any other function, the following functions will not be considered as critical or important for the purposes of this chapter:

- (1) the provision to the *firm* of advisory services, and other services which do not form part of the relevant services and activities of the *firm*, including the provision of legal advice to the *firm*, the training of personnel of the *firm*, billing services and the security of the *firm's* premises and personnel;
- (2) the purchase of standardised services, including market information services and the provision of price feeds ;

[Note: article 13(2) of the *MiFID implementing Directive*]

- (3) the recording and retention of relevant telephone conversations or electronic communications subject to ■ COBS 11.8.

8.1.5A

FCA PRA

G

Other *firms* should take account of the critical functions *rules* (■ SYSC 8.1.4 R and ■ SYSC 8.1.5 R) as if they were *guidance* (and as if should appeared in those rules instead of must) as explained in ■ SYSC 1 Annex 1.3.3 G.

8.1.6

FCA PRA

R

If a *firm outsources* critical or important operational functions or any relevant services and activities, it remains fully responsible for discharging all of its obligations under the *regulatory system* and must comply, in particular, with the following conditions:

- (1) the *outsourcing* must not result in the delegation by *senior personnel* of their responsibility;
- (2) the relationship and obligations of the *firm* towards its *clients* under the *regulatory system* must not be altered;
- (3) the conditions with which the *firm* must comply in order to be *authorised*, and to remain so, must not be undermined;

- (4) none of the other conditions subject to which the *firm's authorisation* was granted must be removed or modified.

[Note: article 14(1) of the *MiFID implementing Directive*]

8.1.7

FCA PRA

R

A *common platform firm* must exercise due skill and care and diligence when entering into, managing or terminating any arrangement for the *outsourcing* to a service provider of critical or important operational functions or of any relevant services and activities.

[Note: article 14(2) first paragraph of the *MiFID implementing Directive*]

8.1.8

FCA PRA

R

A *common platform firm* must in particular take the necessary steps to ensure that the following conditions are satisfied:

- (1) the service provider must have the ability, capacity, and any *authorisation* required by law to perform the *outsourced* functions, services or activities reliably and professionally;
- (2) the service provider must carry out the *outsourced* services effectively, and to this end the *firm* must establish methods for assessing the standard of performance of the service provider;
- (3) the service provider must properly supervise the carrying out of the *outsourced* functions, and adequately manage the risks associated with the *outsourcing*;
- (4) appropriate action must be taken if it appears that the service provider may not be carrying out the functions effectively and in compliance with applicable laws and regulatory requirements;
- (5) the *firm* must retain the necessary expertise to supervise the *outsourced* functions effectively and to manage the risks associated with the *outsourcing*, and must supervise those functions and manage those risks;
- (6) the service provider must disclose to the *firm* any development that may have a material impact on its ability to carry out the *outsourced* functions effectively and in compliance with applicable laws and regulatory requirements;
- (7) the *firm* must be able to terminate the arrangement for the *outsourcing* where necessary without detriment to the continuity and quality of its provision of services to *clients*;
- (8) the service provider must co-operate with the *appropriate regulator* and any other relevant *competent authority* in connection with the *outsourced* activities;

- (9) the *firm*, its auditors, the *appropriate regulator* and any other relevant *competent authority* must have effective access to data related to the *outsourced* activities, as well as to the business premises of the service provider; and the *appropriate regulator* and any other relevant *competent authority* must be able to exercise those rights of access;
- (10) the service provider must protect any confidential information relating to the *firm* and its *clients*;
- (11) the *firm* and the service provider must establish, implement and maintain a contingency plan for disaster recovery and periodic testing of backup facilities where that is necessary having regard to the function, service or activity that has been *outsourced*.

[Note: article 14(2) second paragraph of the *MiFID implementing Directive*]

8.1.9

FCA PRA

R

A *common platform firm* must ensure that the respective rights and obligations of the *firm* and of the service provider are clearly allocated and set out in a written agreement.

[Note: article 14(3) of the *MiFID implementing Directive*]

8.1.10

FCA PRA

R

If a *common platform firm* and the service provider are members of the same *group*, the *firm* may, for the purpose of complying with ■ SYSC 8.1.7 R to ■ SYSC 8.1.11 R and ■ SYSC 8.2 and ■ SYSC 8.3, take into account the extent to which the *common platform firm controls* the service provider or has the ability to influence its actions.

[Note: article 14(4) of the *MiFID implementing Directive*]

8.1.11

FCA PRA

R

A *common platform firm* must make available on request to the *appropriate regulator* and any other relevant *competent authority* all information necessary to enable the *appropriate regulator* and any other relevant *competent authority* to supervise the compliance of the performance of the *outsourced* activities with the requirements of the *regulatory system*.

[Note: article 14(5) of the *MiFID implementing Directive*]

8.1.11A

FCA PRA

G

Other *firms* should take account of the outsourcing of important operational functions rules (■ SYSC 8.1.7 R to ■ SYSC 8.1.11 R) as if they were *guidance* (and as if should appeared in those rules instead of must) as explained in ■ SYSC 1 Annex 1.3.3 G.

PAGE
5

8.1.12

FCA PRA

G

As ■ SUP 15.3.8 G explains, a *firm* should notify the *appropriate regulator* when it intends to rely on a third party for the performance of operational functions which are critical or important for the performance of relevant services and activities on a continuous and satisfactory basis.

[Note: recital 20 of the *MiFID implementing Directive*]

Additional requirements for a management company.....

8.1.13

FCA

R

A management company must retain the necessary resources and expertise so as to monitor effectively the activities carried out by third parties on the basis of an arrangement with the *firm*, especially with regard to the management of the risk associated with those arrangements.

[Note: article 5(2) of the *UCITS implementing Directive*]

8.1.14

FCA

G

A management company should be aware that ■ SUP 15.8.6 R (Delegation by UCITS management companies) and ■ COLL 6.6.15A R (Committees and delegations) contain requirements implementing article 13 of the *UCITS Directive* in relation to delegation that will apply to it.

8.2 Outsourcing of portfolio management for retail clients to a non-EEA State

8.2.1

FCA

R

- (1) In addition to the requirements set out in the *MiFID outsourcing rules*, when a *MiFID investment firm* outsources the *investment service of portfolio management to retail clients* to a service provider located in a *non-EEA state*, it must ensure that the following conditions are satisfied:
- (a) the service provider must be authorised or registered in its home country to provide that service and must be subject to prudential supervision;
 - (b) there must be an appropriate cooperation agreement between the *FCA* and the supervisor in the *non-EEA state* ;

(in this chapter the "conditions").

[Note: article 15(1) of the *MiFID implementing Directive*]

- (2) In addition to complying with the *common platform outsourcing rules*, if one or both of the conditions are not satisfied, a *MiFID investment firm* may enter into such an *outsourcing* only if it gives prior notification in writing to the *FCA* containing adequate details of the proposed *outsourcing* and the *FCA* does not object to that arrangement within a reasonable time following receipt of that notification.

[Note: article 15(2) and (4) of the *MiFID implementing Directive*]

- (3) For the purposes of this *rule* a "reasonable time" is within one month of receipt of a notification. However, the *FCA* may seek further information from the *MiFID investment firm* in relation to the *outsourcing* proposal if this is necessary to enable the *FCA* to make a decision. Any effect this may have on the *FCA*'s response time will be notified to the *MiFID investment firm* and that revised response time will constitute a reasonable time for the purposes of this *rule*.

[intentionally blank]

8.2.2

FCA

8.2.3
FCA

G

The conditions do not apply if the *outsourcing* only concerns ancillary activities connected with *portfolio management*, for example IT processes or execution only activities.

8.2.4
FCA

G

If a *firm* has received no notice of objection or no request for further information from the *FCA* within one month of the *FCA* receiving the notification, it may *outsource* the *portfolio management* on the basis set out in the notification.

8.2.5
FCA

G

The *FCA* would use its powers under section 55J of the *Act* to vary a *firm's permission* if it objected to such a notification.

Notification requirements: timing of notification

8.2.6
FCA

G

A *firm* should only make an *outsourcing* proposal notification to the *FCA* after it has carried out due diligence on the service provider and has had regard to the guidance set out in ■ SYSC 8.3. The *FCA* will expect a *firm* to only submit an *outsourcing* proposal notification in respect of a service provider that the *firm* has determined is suitable to carry on the *outsourcing* activity.

Notification requirements: content

8.2.7
FCA

G

The *guidance* set out in ■ SYSC 8.3 includes information on what the *FCA* will expect a *firm* to check before the submission of a notification.

8.2.8
FCA

G

A notification under this section should include:

- (1) details on which of the conditions is not met;
- (2) if applicable, details and evidence of the service provider's authorisation or regulation including the regulator's contact details;
- (3) the *firm's* proposals for meeting its obligations under this chapter on an ongoing basis;
- (4) why the *firm* wishes to *outsource* to the service provider;
- (5) a draft of the *outsourcing* agreement between the service provider and the *firm*;
- (6) the proposed start date of the *outsourcing*; and
- (7) confirmation that the *firm* has had regard to the *guidance* in ■ SYSC 8.3, or if it has not, why not.

Notification requirements additional guidance

8.2.9
FCA

G

Where the *FCA* has not objected to the *outsourcing* agreement, the *firm* should have regard to its obligations under ■ SUP 15 which include making the *FCA* aware of any matters which could affect the *firm's* ability to provide adequate services to its *customers* or could result in serious detriment to its *customers* or where there has been material change in the information previously provided to the *FCA* in relation to the *outsourcing*.

8.3 Guidance on outsourcing portfolio management for retail clients to a non-EEA State

8.3.1 **FCA** **G** This *guidance* is relevant regardless of whether a *firm outsources portfolio management* directly or indirectly via a third party. However, *firms* should note that they may notify a secondary or indirect *outsourcing* in the same notification as the direct *outsourcing*.

8.3.2 **FCA** **G** This *guidance* sets out examples of the type of actions that a firm proposing to *outsource* should have undertaken when assessing the suitability of the service provider and its ability to carry on the outsourced activity.

[Note: article 15(3) of the *MiFID implementing Directive*]

8.3.3 **FCA** **G** If a *firm* can demonstrate that it has taken the following guidance into account and has satisfactorily concluded that it would be able to continue to satisfy the common platform *outsourcing* rules and provide adequate protection for consumers despite not satisfying the conditions, the *FCA* would not be likely to object to that *outsourcing*.

8.3.4 **FCA** **G** If the *outsourcing* allows the service provider to sub-contract any of the services to be provided under the *outsourcing*, any such sub-contracting shall not affect the service provider's responsibilities under the *outsourcing* agreement.

8.3.5 **FCA** **G** The *outsourcing* agreement should entitle the *firm* to terminate the *outsourcing* if the service provider undergoes a change of control or becomes insolvent, goes into liquidation or receivership (or equivalent in its home state) or is in persistent material default under the agreement.

8.3.6 **FCA** **G** The following should be taken into account where the service provider is not authorised or registered in its home country and/or not subject to prudential supervision.

- (1) The *firm* should examine, and be able to demonstrate, to what extent the service provider may be subject to any form of voluntary regulation, including self-regulation in its home state.
- (2) The *firm* should be able to satisfy the *FCA* that the service provider is committed for the term of the *outsourcing* agreement to devoting sufficient, competent resources to providing the service.
- (3) In addition to the requirement to ensure that a service provider discloses any developments that may have a material impact on its ability to carry out the

outsourcing (■ SYSC 8.1.8 R (6)), where the conditions are not met the developments to be disclosed should include, but are not limited to:

- (a) any adverse effect that any laws or regulations introduced in the service provider's home country may have on its carrying on the *outsourced* activity; and
 - (b) any changes to its capital reserve levels or its prudential risks.
- (4) The *firm* should satisfy itself that the service provider is able to meet its liabilities as they fall due and that it has positive net assets.
 - (5) The *firm* should require that the service provider prepares annual reports and accounts which:
 - (a) are in accordance with the service provider's national law which, in all material respects, is the same as or equivalent to the *international accounting standards*;
 - (b) have been independently audited and reported on in accordance with the service provider's national law which is the same as or equivalent to international auditing standards.
 - (6) The *firm* should receive copies of each set of the audited annual report and accounts of the service provider. If the service provider expects or knows its auditor will qualify his report on the audited report and accounts, or add an explanatory paragraph, the service provider should be required to notify the *firm* without delay.
 - (7) The *firm* should satisfy itself, and be able to demonstrate, that it has in place appropriate procedures to ensure that it is fully aware of the service provider's controls for protecting confidential information.
 - (8) In addition to the requirement at ■ SYSC 8.1.8 R (10) that the service provider must protect any confidential information relating to the *firm* or its *clients*, the *outsourcing* agreement should require the service provider to notify the *firm* immediately if there is a breach of confidentiality.
 - (9) The *outsourcing* agreement should be governed by the law and subject to the jurisdiction of an *EEA state*.

8.3.7 FCA

G

The following should be taken into account by a *firm* where there is no cooperation agreement between the *FCA* and the supervisory authority of the service provider or there is no supervisory authority of the service provider.

- (1) The *outsourcing* agreement should ensure the *firm* can provide the *FCA* with any information relating to the *outsourced* activity the *FCA* may require in order to carry out effective supervision. The *firm* should therefore assess the extent to which the service provider's regulator and/or local laws and regulations may restrict access to information about the *outsourced* activity. Any such restriction should be described in the notification to be sent to the *FCA*.
- (2) The *outsourcing* agreement should require the service provider to provide the *firm's* offices in the *United Kingdom* with all requested information required to meet the *firm's* regulatory obligations. The *FCA* should be given

an enforceable right under the agreement to obtain such information from the *firm* and to require the service provider to provide the information directly.

Chapter 9

Record-keeping

9.1 General rules on record-keeping

9.1.-1 **R** [deleted]

9.1.-2 **R** [deleted]

9.1.1 **R** A *firm* must arrange for orderly records to be kept of its business and internal organisation, including all services and transactions undertaken by it, which must be sufficient to enable the *appropriate regulator* or any other relevant *competent authority* under *MiFID* or the *UCITS Directive* to monitor the *firm's* compliance with the requirements under the *regulatory system*, and in particular to ascertain that the *firm* has complied with all obligations with respect to *clients*.

FCA **PRA**

[Note: article 13(6) of *MiFID*, article 5(1)(f) of the *MiFID implementing Directive*, article 12(1)(a) of the *UCITS Directive* and article 4(1)(e) of the *UCITS implementing Directive*]

9.1.2 **R** A *common platform firm* must retain all records kept by it under this chapter in relation to its *MiFID business* for a period of at least five years.

FCA **PRA**

[Note: article 51 (1) of the *MiFID implementing Directive*]

9.1.3 **R** In relation to its *MiFID business*, a *common platform firm* must retain records in a medium that allows the storage of information in a way accessible for future reference by the *appropriate regulator* or any other relevant *competent authority* under *MiFID*, and so that the following conditions are met:

FCA **PRA**

- (1) the *appropriate regulator* or any other relevant *competent authority* under *MiFID* must be able to access them readily and to reconstitute each key stage of the processing of each transaction;
- (2) it must be possible for any corrections or other amendments, and the contents of the records prior to such corrections and amendments, to be easily ascertained;

(3) it must not be possible for the records otherwise to be manipulated or altered.

[Note: article 51(2) of the *MiFID implementing Directive*]

Guidance on record-keeping

9.1.4

FCA PRA

G

Subject to any other record-keeping *rule* in the *Handbook*, the records required under the *Handbook* should be capable of being reproduced in the English language on paper. Where a *firm* is required to retain a record of a communication that was not made in the English language, it may retain it in that language. However, it should be able to provide a translation on request. If a *firm's* records relate to business carried on from an establishment in a country or territory outside the *United Kingdom*, an official language of that country or territory may be used instead of the English language.

9.1.5

FCA PRA

G

In relation to the retention of records for non-*MiFID business*, a *firm* should have appropriate systems and controls in place with respect to the adequacy of, access to, and the security of its records so that the *firm* may fulfil its regulatory and statutory obligations. With respect to retention periods, the general principle is that records should be retained for as long as is relevant for the purposes for which they are made.

9.1.6

FCA PRA

G

Schedule 1 to each module of the *Handbook* sets out a list summarising the record-keeping requirements of that module.

[Note: article 51(3) of *MiFID implementing Directive*]

9.1.7

FCA PRA

G

The Committee of European Securities Regulators ([CESR](#)) has issued recommendations on the list of minimum records under Article 51(3) of the *MiFID implementing Directive*.

Chapter 10

Conflicts of interest

10.1 Application

10.1.1

FCA PRA

R

(1) This section applies to a *firm* which provides services to its *clients* in the course of carrying on *regulated activities* or *ancillary activities* or providing *ancillary services* (but only where the *ancillary services* constitute *MiFID business*).

(2) This section also applies to a *management company*.

Requirements only apply if a service is provided

10.1.2

FCA PRA

G

The requirements in this section only apply where a service is provided by a *firm*. The status of the *client* to whom the service is provided (as a *retail client*, *professional client* or *eligible counterparty*) is irrelevant for this purpose.

[Note: recital 25 of *MiFID implementing Directive*]

Identifying conflicts

10.1.3

FCA PRA

R

A *firm* must take all reasonable steps to identify conflicts of interest between:

(1) the *firm*, including its managers, employees and *appointed representatives* (or where applicable, *tied agents*), or any *person* directly or indirectly linked to them by *control*, and a *client* of the *firm*; or

(2) one *client* of the *firm* and another *client*;

that arise or may arise in the course of the *firm* providing any service referred to in ■ SYSC 10.1.1 R.

[Note: article 18(1) of *MiFID*]

Types of conflicts

10.1.4

FCA PRA

R

For the purposes of identifying the types of conflict of interest that arise, or may arise, in the course of providing a service and whose existence may entail a material risk of damage to the interests of a *client*, a *common platform firm* and a *management company* must take into account, as a minimum, whether the *firm* or a *relevant person*, or a *person* directly or indirectly linked by *control* to the *firm*:

- (1) is likely to make a financial gain, or avoid a financial loss, at the expense of the *client*;
- (2) has an interest in the outcome of a service provided to the *client* or of a transaction carried out on behalf of the *client*, which is distinct from the *client's* interest in that outcome;
- (2A) in the case of a *management company* providing *collective portfolio management* services for a *UCITS scheme*, (2) also applies where the service is provided to, or the transaction is carried out on behalf of, a *client* other than the *UCITS scheme*;
- (3) has a financial or other incentive to favour the interest of another *client* or group of *clients* over the interests of the *client*;
- (4) carries on the same business as the *client*; or in the case of a *management company*, carries on the same activities for the *UCITS scheme* and for another *client* or *clients* which are not *UCITS schemes*; or
- (5) receives or will receive from a *person* other than the *client* an inducement in relation to a service provided to the *client*, in the form of monies, goods or services, other than the standard commission or fee for that service.

The conflict of interest may result from the *firm* or *person* providing a service referred to in ■ SYSC 10.1.1 R or engaging in any other activity or, in the case of a *management company*, whether as a result of providing *collective portfolio management* services or otherwise.

[Note: article 21 of MiFID implementing Directive and article 17(1) of the UCITS implementing Directive]

10.1.4A

FCA

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Other *firms* should take account of the *rule* on the types of conflicts (see ■ SYSC 10.1.4 R) as if it were *guidance* (and as if "should" appeared in that rule instead of "must") as explained in ■ SYSC 1 Annex 1.3.3 G, except when they produce or arrange the production of *investment research* in accordance with ■ COBS 12.2, or produce or disseminate *non-independent research* in accordance with ■ COBS 12.3 (see ■ SYSC 10.1.16 R).

10.1.4B

PRA

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Other *firms* should take account of the *rule* on the types of conflicts (see ■ SYSC 10.1.4 R) as if it were *guidance* (and as if "should" appeared in that rule instead of "must") as explained in ■ SYSC 1 Annex 1.3.3 G.

PAGE
3

10.1.5

FCA PRA

G

The circumstances which should be treated as giving rise to a conflict of interest cover cases where there is a conflict between the interests of the *firm* or certain *persons* connected to the *firm* or the *firm's group* and the duty the *firm* owes to a *client*; or between the differing interests of two or more of its *clients*, to whom the *firm* owes in each case a duty. It is not enough that the *firm* may gain a benefit if there is not also a possible disadvantage to a *client*, or that one *client* to whom the *firm* owes a duty may make a gain or avoid a loss without there being a concomitant possible loss to another such *client*.

[Note: recital 24 of *MiFID implementing Directive*]

Record of conflicts

10.1.6

FCA PRA

R

A *common platform firm* and a *management company* must keep and regularly update a record of the kinds of service or activity carried out by or on behalf of that *firm* in which a conflict of interest entailing a material risk of damage to the interests of one or more *clients* has arisen or, in the case of an ongoing service or activity, may arise.

[Note: article 23 of *MiFID implementing Directive* and article 20(1) of the *UCITS implementing Directive*]

10.1.6A

FCA

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Other *firms* should take account of the *rule* on records of conflicts (see ■ SYSC 10.1.6 R) as if it were *guidance* (and as if "should" appeared in that rule instead of "must", as explained in ■ SYSC 1 Annex 1.3.3 G), except when they produce or arrange the production of *investment research* in accordance with ■ COBS 12.2, or produce or disseminate *non-independent research* in accordance with ■ COBS 12.3 (see ■ SYSC 10.1.16 R).

10.1.6B

PRA

G

Other firms should take account of the rule on records of conflicts (see ■ SYSC 10.1.6 R) as if it were guidance (and as if "should" appeared in that rule instead of "must", as explained in ■ SYSC 1 Annex 1.3.3 G).

Managing conflicts

10.1.7

FCA PRA

R

A *firm* must maintain and operate effective organisational and administrative arrangements with a view to taking all reasonable steps to prevent conflicts of interest as defined in ■ SYSC 10.1.3 R from constituting or giving rise to a material risk of damage to the interests of its *clients*.

[Note: article 13(3) of *MiFID*]

Disclosure of conflicts

10.1.8

FCA PRA

R

- (1) If arrangements made by a *firm* under ■ SYSC 10.1.7 R to manage conflicts of interest are not sufficient to ensure, with reasonable confidence, that risks of damage to the interests of a *client* will be prevented, the *firm* must clearly disclose the general nature and/or sources of conflicts of interest to the *client* before undertaking business for the *client*.
- (2) The disclosure must:
 - (a) be made in a *durable medium*; and
 - (b) include sufficient detail, taking into account the nature of the *client*, to enable that *client* to take an informed decision with respect to the service in the context of which the conflict of interest arises.

(3) This *rule* does not apply to the extent that ■ SYSC 10.1.21 R applies.

[Note: article 18(2) of *MiFID* and Article 22(4) of *MiFID implementing Directive*]

10.1.8A

FCA PRA

R

The obligation in ■ SYSC 10.1.8 R (2)(a) does not apply to a *firm* when carrying on *insurance mediation activity*.

10.1.9

FCA PRA

G

Firms should aim to identify and manage the conflicts of interest arising in relation to their various business lines and their *group's* activities under a comprehensive *conflicts of interest policy*. In particular, the disclosure of conflicts of interest by a *firm* should not exempt it from the obligation to maintain and operate the effective organisational and administrative arrangements under ■ SYSC 10.1.7 R. While disclosure of specific conflicts of interest is required by ■ SYSC 10.1.8 R, an over-reliance on disclosure without adequate consideration as to how conflicts may appropriately be managed is not permitted.

[Note: recital 27 of *MiFID implementing Directive*]

Conflicts policy

10.1.10

FCA PRA

R

- (1) A *common platform firm* and a *management company* must establish, implement and maintain an effective conflicts of interest policy that is set out in writing and is appropriate to the size and organisation of the *firm* and the nature, scale and complexity of its business.
- (2) Where the *common platform firm* or the *management company* is a member of a *group*, the policy must also take into account any circumstances, of which the *firm* is or should be aware, which may give rise to a conflict of interest arising as a result of the structure and business activities of other members of the *group*.

[Note: article 22(1) of *MiFID implementing Directive* and article 18(1) of the *UCITS implementing Directive*]

Contents of policy

10.1.11

FCA PRA

R

- (1) The *conflicts of interest policy* must include the following content:
 - (a) it must identify in accordance with ■ SYSC 10.1.3 R and ■ SYSC 10.1.4 R, by reference to the specific services and activities carried out by or on behalf of the *common platform firm* or *management company*, the circumstances which constitute or may give rise to a conflict of interest entailing a material risk of damage to the interests of one or more *clients*; and
 - (b) it must specify procedures to be followed and measures to be adopted in order to manage such conflicts.

- (2) The procedures and measures provided for in paragraph (1)(b) must:
- (a) be designed to ensure that *relevant persons* engaged in different business activities involving a conflict of interest of the kind specified in paragraph (1)(a) carry on those activities at a level of independence appropriate to the size and activities of the *common platform firm* or the *management company* and of the *group* to which either of them respectively belongs, and to the materiality of the risk of damage to the interests of *clients*; and
 - (b) include such of the following as are necessary and appropriate for the *common platform firm* or the *management company* to ensure the requisite degree of independence:
 - (i) effective procedures to prevent or control the exchange of information between *relevant persons* engaged in activities involving a risk of a conflict of interest where the exchange of that information may harm the interests of one or more *clients*;
 - (ii) the separate supervision of *relevant persons* whose principal functions involve carrying out activities on behalf of, or providing services to, *clients* whose interests may conflict, or who otherwise represent different interests that may conflict, including those of the *firm*;
 - (iii) the removal of any direct link between the remuneration of *relevant persons* principally engaged in one activity and the remuneration of, or revenues generated by, different *relevant persons* principally engaged in another activity, where a conflict of interest may arise in relation to those activities;
 - (iv) measures to prevent or limit any *person* from exercising inappropriate influence over the way in which a *relevant person* carries out services or activities; and
 - (v) measures to prevent or control the simultaneous or sequential involvement of a *relevant person* in separate services or activities where such involvement may impair the proper management of conflicts of interest.
- (3) If the adoption or the practice of one or more of those measures and procedures does not ensure the requisite level of independence, a *common platform firm* and a *management company* must adopt such alternative or additional measures and procedures as are necessary and appropriate for the purposes of paragraph (1)(b).

[Note: article 22(2) and (3) of *MiFID implementing Directive* and articles 18(2), 19(1) and 19(2) of the *UCITS implementing Directive*]

10.1.11A

FCA

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Other *firms* should take account of the *rules* relating to *conflicts of interest policies* (see ■ SYSC 10.1.10 R and ■ SYSC 10.1.11 R) as if they were *guidance* (and as if "should" appeared in those rules instead of "must", as explained in ■ SYSC 1 Annex 1.3.3 G), except when they produce or arrange the production of *investment research* in accordance with ■ COBS 12.2, or produce or disseminate *non-independent research* in accordance with ■ COBS 12.3 (see ■ SYSC 10.1.16 R).

10.1.11B

PRA

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Other *firms* should take account of the rules relating to conflicts of interest policies (see ■ SYSC 10.1.10 R and ■ SYSC 10.1.11 R) as if they were guidance (and as if "should" appeared in those rules instead of "must", as explained in ■ SYSC 1 Annex 1.3.3 G).

10.1.12

FCA

PRA

G

In drawing up a *conflicts of interest policy* which identifies circumstances which constitute or may give rise to a conflict of interest, a *firm* should pay special attention to the activities of investment research and advice, proprietary trading, portfolio management and corporate finance business, including underwriting or selling in an offering of securities and advising on mergers and acquisitions. In particular, such special attention is appropriate where the *firm* or a *person* directly or indirectly linked by *control* to the *firm* performs a combination of two or more of those activities.

[Note: recital 26 of *MiFID implementing Directive*]

Corporate finance

10.1.13

FCA

G

This section is relevant to the management of a *securities* offering by any *firm*.

10.1.14

FCA

G

A *firm* will wish to note that when carrying on a mandate to manage an offering of *securities*, the *firm's* duty for that business is to its corporate finance *client* (in many cases, the corporate issuer or seller of the relevant *securities*), but that its responsibilities to provide services to its investment *clients* are unchanged.

10.1.15

FCA

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Measures that a *firm* might wish to consider in drawing up its *conflicts of interest policy* in relation to the management of an offering of *securities* include:

- (1) at an early stage agreeing with its corporate finance *client* relevant aspects of the offering process such as the process the *firm* proposes to follow in order to determine what recommendations it will make about allocations for the offering; how the target investor group will be identified; how recommendations on allocation and pricing will be prepared; and whether the *firm* might place *securities* with its investment *clients* or with its own proprietary book, or with an associate, and how conflicts arising might be managed; and
- (2) agreeing allocation and pricing objectives with the corporate finance *client*; inviting the corporate finance *client* to participate actively in the allocation process; making the initial recommendation for allocation to *retail clients* of the *firm* as a single block and not on a named basis; having internal arrangements under which senior personnel responsible for providing services to *retail clients* make the initial allocation recommendations for allocation to *retail clients* of the *firm*; and disclosing to the *issuer* details of the allocations actually made.

[Note: The provisions in ■ SYSC 10.1 also implement BCD Article 22 and BCD Annex V paragraph 1]

Application of conflicts of interest rules to non-common platform firms when producing investment research or non-independent research

10.1.16

FCA

R

The *rules* relating to:

- (1) types of conflict (see ■ SYSC 10.1.4 R);
- (2) records of conflicts (see ■ SYSC 10.1.6 R); and
- (3) *conflicts of interest policies* (see ■ SYSC 10.1.10 R and ■ SYSC 10.1.11 R);

also apply to a *firm* which is not a *common platform firm* when it produces, or arranges for the production of, *investment research* that is intended or likely to be subsequently disseminated to *clients* of the *firm* or to the public in accordance with ■ COBS 12.2, and when it produces or disseminates *non-independent research* in accordance with ■ COBS 12.3.

Additional requirements for a management company

10.1.17

FCA

R

A *management company*, when identifying the types of conflict of interests for the purposes of ■ SYSC 10.1.4 R, must take into account:

- (1) the interests of the *firm*, including those deriving from its belonging to a *group* or from the performance of services and activities, the interests of the *clients* and the duty of the *firm* towards the *UCITS scheme* or *EEA UCITS scheme* it manages; and
- (2) where it manages two or more *UCITS schemes* or *EEA UCITS schemes*, the interests of all of them.

[Note: article 17(2) of the *UCITS implementing Directive*]

10.1.18

FCA

G

For a *management company*, references to client in ■ SYSC 10.1.4 R and in the other *rules* in this section should be construed as referring to any *UCITS scheme* or *EEA UCITS scheme* managed by that *firm* or which it intends to manage, and with or for the benefit of which the relevant activity is to be carried on.

Structure and organisation of a management company

10.1.19

FCA

R

A *management company* must be structured and organised in such a way as to minimise the risk of a *UCITS scheme's*, *EEA UCITS scheme's* or *client's* interests being prejudiced by conflicts of interest between the *management company* and its *clients*, between two of its *clients*, between one of its *clients* and a *UCITS scheme* or an *EEA UCITS scheme*, or between two such *schemes*.

[Note: articles 12(1)(b) and 14(1)(d) of the *UCITS Directive*]

Avoidance of conflicts of interest for a management company

10.1.20

R

FCA

A *management company* must try to avoid conflicts of interest and, when they cannot be avoided, ensure that the *UCITS schemes* and *EEA UCITS schemes* it manages are fairly treated.

[Note: articles 12(1)(b) and 14(1)(d) of the *UCITS Directive*]

Disclosure of conflicts of interest for a management company

10.1.21

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FCA

- (1) Where the organisational or administrative arrangements made by a *management company* for the management of conflicts of interest are not sufficient to ensure, with reasonable confidence, that risks of damage to the interests of the *UCITS scheme* or *EEA UCITS scheme* it manages or of its *unitholders* will be prevented, the *senior personnel* or other competent internal body of the *firm* must be promptly informed in order for them to take any necessary decision to ensure that in all cases the *firm* acts in the best interests of the *scheme* and of its *unitholders*.
- (2) A *management company* must report situations referred to in (1) to the *unitholders* of the *UCITS scheme* or *EEA UCITS scheme* it manages by any appropriate *durable medium* and give reasons for its decision.

[Note: articles 20(2) and 20(3) of the *UCITS implementing Directive*]

10.2 Chinese walls

Application

10.2.1

FCA PRA

R

This section applies to any *firm*.

Control of information

10.2.2

FCA PRA

R

(1) When a *firm* establishes and maintains a *Chinese wall* (that is, an arrangement that requires information held by a *person* in the course of carrying on one part of the business to be withheld from, or not to be used for, *persons* with or for whom it acts in the course of carrying on another part of its business) it may:

- (a) withhold or not use the information held; and
- (b) for that purpose, permit *persons* employed in the first part of its business to withhold the information held from those employed in that other part of the business;

but only to the extent that the business of one of those parts involves the carrying on of *regulated activities*, *ancillary activities* or, in the case of *MiFID business*, the provision of *ancillary services*.

- (2) Information may also be withheld or not used by a *firm* when this is required by an established arrangement maintained between different parts of the business (of any kind) in the same *group*. This provision does not affect any requirement to transmit or use information that may arise apart from the *rules* in *COBS*.
- (3) For the purpose of this *rule*, "maintains" includes taking reasonable steps to ensure that the arrangements remain effective and are adequately monitored, and must be interpreted accordingly.
- (4) For the purposes of section 118A(5)(a) of the *Act*, behaviour conforming with paragraph (1) does not amount to market abuse.

10.2.3

FCA PRA

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Effect of rules

■ SYSC 10.2.2 R is made under section 137P of the *Act* (Control of information *rules*). It has the following effect:

- (1) acting in conformity with ■ SYSC 10.2.2 R (1) provides a defence against proceedings brought under section 397(2) or (3) of the *Act* (Misleading statements and practices) - see sections 397(4) and (5)(c);
- (2) behaviour in conformity with ■ SYSC 10.2.2 R (1) does not amount to *market abuse* (see ■ SYSC 10.2.2 R (4)); and
- (3) acting in conformity with ■ SYSC 10.2.2 R (1) provides a defence for a firm against *FCA* enforcement action, or an action for damages under section 138D of the *Act*, based on a breach of a relevant requirement to disclose or use this information.

10.2.4

FCA PRA

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Attribution of knowledge

When any of the *rules* of *COBS* or *CASS* apply to a *firm* that acts with knowledge, the *firm* will not be taken to act with knowledge for the purposes of that *rule* if none of the relevant individuals involved on behalf of the *firm* acts with that knowledge as a result of arrangements established under ■ SYSC 10.2.2 R .

10.2.5

FCA PRA

G

When a *firm* manages a conflict of interest using the arrangements in ■ SYSC 10.2.2 R which take the form of a *Chinese wall*, individuals on the other side of the wall will not be regarded as being in possession of knowledge denied to them as a result of the *Chinese wall*.

Chapter 11

Liquidity risk systems and controls



11.1 Application

11.1.1

PRA

R

■ SYSC 11 applies to an *insurer*, unless it is :

- (1) a *non-directive friendly society*; or
- (2) a *Swiss general insurer*; or
- (3) an *EEA-deposit insurer*; or
- (4) an *incoming EEA firm*; or
- (5) an *incoming Treaty firm*.

11.1.2

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[deleted]

11.1.3

R

[deleted]

11.1.4

R

[deleted]

11.1.5

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(1) [deleted]

(2) [deleted]

11.1.6

PRA

R

If a *firm* carries on:

- (1) *long-term insurance business*; and
- (2) *general insurance business*;

■ SYSC 11 applies separately to each type of business.

Purpose

11.1.7

PRA

G

The purpose of ■ SYSC 11 is to amplify *GENPRU* and *SYSC* in their specific application to *liquidity risk* and, in so doing, to indicate minimum standards for systems and controls in respect of that risk.

11.1.8 PRA G Appropriate systems and controls for the management of *liquidity risk* will vary with the scale, nature and complexity of the *firm's* activities. Most of the material in ■ SYSC 11 is, therefore, *guidance*. ■ SYSC 11 lays out some of the main issues that the PRA expects a *firm* to consider in relation to *liquidity risk*. A *firm* should assess the appropriateness of any particular item of *guidance* in the light of the scale, nature and complexity of its activities as well as its obligations as set out in *Principle 3* to organise and control its affairs responsibly and effectively.

11.1.9 PRA G ■ SYSC 11 addresses the need to have appropriate systems and controls to deal both with liquidity management issues under normal market conditions, and with stressed or extreme situations resulting from either general market turbulence or *firm-specific* difficulties.

11.1.10 G [deleted]

11.1.11 R [deleted]

11.1.12 R [deleted]

11.1.13 PRA G An *insurer* is also required to comply with the requirements in relation to *liquidity risk* set out in ■ INSPRU 4.1.

11.1.14 G [deleted]

11.1.15 G [deleted]

11.1.16 G [deleted]

11.1.17 PRA G High level requirements in relation to carrying out stress testing and scenario analysis are set out in GENPRU 1.2. In particular, GENPRU 1.2.42R requires a *firm* to carry out appropriate stress testing and scenario analysis. ■ SYSC 11 gives *guidance* in relation to these tests in the case of *liquidity risk*.

Stress testing and scenario analysis

11.1.18 PRA G The effect of GENPRU 1.2.30R, GENPRU 1.2.34R, GENPRU 1.2.37R(1) and GENPRU 1.2.42R is that, for the purposes of determining the adequacy of its overall financial resources, a *firm* must carry out appropriate stress testing and scenario analysis, including taking reasonable steps to identify an appropriate range of realistic adverse circumstances and events in which *liquidity risk* might occur or crystallise.

11.1.19 PRA G GENPRU 1.2.40G and GENPRU 1.2.62G to GENPRU 1.2.78G give *guidance* on stress testing and scenario analysis, including on how to choose appropriate scenarios, but the precise scenarios that a *firm* chooses to use will depend on the nature of its activities. For the purposes of testing *liquidity risk*, however, a *firm* should normally consider scenarios based on varying degrees of stress and both *firm-specific* and market-wide difficulties. In developing any scenario of extreme market-wide stress that may pose systemic risk, it may be appropriate for a *firm* to make assumptions about the likelihood and nature of central bank intervention.

11.1.20

PRA

G

A *firm* should review frequently the assumptions used in stress testing scenarios to gain assurance that they continue to be appropriate.

11.1.21

PRA

A

- (1) A scenario analysis in relation to *liquidity risk* required under GENPRU 1.2.42R should include a cash-flow projection for each scenario tested, based on reasonable estimates of the impact (both on and off balance sheet) of that scenario on the *firm's* funding needs and sources.
- (2) Contravention of (1) may be relied on as tending to establish contravention of GENPRU 1.2.42R.

11.1.22

PRA

G

In identifying the possible on and off balance sheet impact referred to in

■ SYSC 11.1.21 E (1), a *firm* may take into account:

- (1) possible changes in the market's perception of the *firm* and the effects that this might have on the *firm's* access to the markets, including:
 - (a) (where the *firm* funds its holdings of assets in one currency with liabilities in another) access to foreign exchange markets, particularly in less frequently traded currencies;
 - (b) access to secured funding, including by way of repo transactions; and
 - (c) the extent to which the *firm* may rely on committed facilities made available to it;
- (2) (if applicable) the possible effect of each scenario analysed on currencies whose exchange rates are currently pegged or fixed; and
- (3) that:
 - (a) general market turbulence may trigger a substantial increase in the extent to which *persons* exercise rights against the *firm* under off balance sheet instruments to which the *firm* is party;
 - (b) access to *OTC derivative* and foreign exchange markets are sensitive to credit-ratings;
 - (c) the scenario may involve the triggering of early amortisation in asset securitisation transactions with which the *firm* has a connection; and
 - (d) its ability to securitise assets may be reduced.

Contingency funding plans

11.1.23

PRA

G

GENPRU 1.2.26R states that a *firm* must at all times maintain overall financial resources adequate to ensure that there is no significant risk that its liabilities cannot be met as they fall due. GENPRU 1.2.42R(1)(b) provides that for the purposes of determining the adequacy of its overall financial resources, a *firm* must estimate the financial resources it would need in each of the circumstances and events considered in carrying out its stress testing and scenario analysis in order to, inter alia, meet its liabilities as they fall due.

11.1.24



PRA

- (1) A *firm* should have an adequately documented *contingency funding plan* for taking action to ensure, so far as it can, that, in each of the scenarios analysed under GENPRU 1.2.42R(1)(b), it would still have sufficient liquid financial resources to meet liabilities as they fall due.
- (2) The *contingency funding plan* should cover what events or circumstances will lead the *firm* to put into action any part of the plan.
- (3) [deleted]
- (4) A *firm's contingency funding plan* should, where relevant, take account of the impact of stressed market conditions on:
 - (a) the behaviour of any credit-sensitive liabilities it has; and
 - (b) its ability to securitise assets.
- (5) A *firm's contingency funding plan* should contain administrative policies and procedures that will enable the *firm* to manage the plan's implementation effectively, including:
 - (a) the responsibilities of senior management;
 - (b) names and contact details of members of the team responsible for implementing the *contingency funding plan*;
 - (c) where, geographically, team members will be assigned;
 - (d) who within the team is responsible for contact with head office (if appropriate), analysts, investors, external auditors, press, significant *client's*, regulators, lawyers and others; and
 - (e) mechanisms that enable senior management and the *governing body* to receive management information that is both relevant and timely.
- (6) Contravention of any of (1) to (5) may be relied upon as tending to establish contravention of GENPRU 1.2.30R(2)(c).

Documentation

11.1.25



PRA

GENPRU 1.2.60R requires a *firm* to document its assessment of the adequacy of its liquidity financial resources, how it intends to deal with those risks, and details of the stress tests and scenario analyses carried out and the resulting financial resources estimated to be required. Accordingly, a *firm* should document both its stress testing and scenario analysis (see ■ SYSC 11.1.18 G) and its *contingency funding plan* (see ■ SYSC 11.1.23 G).

11.1.26



[deleted]

11.1.27



[deleted]

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- 11.1.28 **G** [deleted]
 - 11.1.29 **G** [deleted]
 - 11.1.30 **G** [deleted]
 - 11.1.31 **G** [deleted]
 - 11.1.32 **G** [deleted]

Chapter 12

Group risk systems and controls requirements

12.1 Application

12.1.1

FCA PRA

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Subject to ■ SYSC 12.1.2 R to ■ SYSC 12.1.4 R, this section applies to each of the following which is a member of a *group*:

- (1) a *firm* that falls into any one or more of the following categories:
 - (a) a *regulated entity*;
 - (b) [deleted]
 - (c) an *insurer*;
 - (d) a *BIPRU firm*;
 - (e) a non-*BIPRU firm* that is a *parent financial holding company in a Member State* and is a member of a *UK consolidation group*; and
 - (f) a *firm* subject to the *rules* in IPRU(INV) Chapter 14.
- (2) a *UCITS firm*, but only if its *group* contains a *firm* falling into (1); and
- (3) the *Society*.

12.1.2

FCA PRA

R

Except as set out in ■ SYSC 12.1.4 R, this section applies with respect to different types of *group* as follows:

- (1) ■ SYSC 12.1.8 R and ■ SYSC 12.1.10 R apply with respect to all *groups*, including UK-regulated *EEA financial conglomerates*, other *financial conglomerates* and *groups* dealt with in ■ SYSC 12.1.13 R to ■ SYSC 12.1.16 R;
- (2) the additional requirements set out in ■ SYSC 12.1.11 R and ■ SYSC 12.1.12 R only apply with respect to UK-regulated *EEA financial conglomerates*; and
- (3) the additional requirements set out in ■ SYSC 12.1.13 R to ■ SYSC 12.1.16 R only apply with respect to *groups* of the kind dealt with by whichever of those *rules* apply.

12.1.3

FCA PRA

R

This section does not apply to:

- (1) an *incoming EEA firm*; or
- (2) an *incoming Treaty firm*; or
- (3) a *UCITS qualifier*; or
- (4) an *ICVC* ; or
- (5) an *incoming ECA provider* acting as such.

12.1.4

FCA PRA

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(1) This *rule* applies in respect of the following *rules*:

- (a) ■ SYSC 12.1.8 R (2);
- (b) ■ SYSC 12.1.10 R (1), so far as it relates to ■ SYSC 12.1.8 R (2);
- (c) ■ SYSC 12.1.10 R (2); and
- (d) ■ SYSC 12.1.11 R to ■ SYSC 12.1.15 R.

(2) The *rules* referred to in (1):

- (a) only apply with respect to a *financial conglomerate* if it is a UK-regulated *EEA financial conglomerate*;
- (b) (so far as they apply with respect to a *group* that is not a *financial conglomerate*) do not apply with respect to a *group* for which a *competent authority* in another *EEA state* is lead regulator;
- (c) (so far as they apply with respect to a *financial conglomerate*) do not apply to a *firm* with respect to a *financial conglomerate* of which it is a member if the interest of the *financial conglomerate* in that *firm* is no more than a *participation*;
- (d) (so far as they apply with respect to other *groups*) do not apply to a *firm* with respect to a *group* of which it is a member if the only relationship of the kind set out in paragraph (3) of the definition of *group* between it and the other members of the *group* is nothing more than a *participation*; and
- (e) do not apply with respect to a *third-country group*.

12.1.5

FCA PRA

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For the purpose of this section, a *group* is defined in the *Glossary*, and includes the whole of a *firm's* group, including financial and non-financial undertakings. It also covers undertakings with other links to *group* members if their omission from the scope of *group* risk systems and controls would be misleading. The scope of the *group* systems and controls requirements may therefore differ from the scope of the quantitative requirements for *groups*.

Purpose

12.1.6

FCA PRA

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The purpose of this chapter is to set out how the systems and control requirements imposed by SYSC (Senior Management Arrangements, Systems and Controls) apply where a *firm* is part of a *group*. If a *firm* is a member of a *group*, it should be able to assess the potential impact of risks arising from other parts of its *group* as well as from its own activities.

12.1.7

FCA PRA

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This section implements Articles 73(3) (Supervision on a consolidated basis of credit institutions) and 138 (Intra-group transactions with mixed activity holding companies) of the *Banking Consolidation Directive*, Article 9 of the *Financial Groups Directive* (Internal control mechanisms and risk management processes) and Article 8 of the *Insurance Groups Directive* (Intra-group transactions).

General rules

12.1.8

FCA PRA

R

A *firm* must:

- (1) **have adequate, sound and appropriate risk management processes and internal control mechanisms for the purpose of assessing and managing its own exposure to *group* risk, including sound administrative and accounting procedures; and**
- (2) **ensure that its *group* has adequate, sound and appropriate risk management processes and internal control mechanisms at the level of the *group*, including sound administrative and accounting procedures.**

12.1.9

FCA PRA

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For the purposes of ■ SYSC 12.1.8 R, the question of whether the risk management processes and internal control mechanisms are adequate, sound and appropriate should be judged in the light of the nature, scale and complexity of the *group's* business and of the risks that the *group* bears. Risk management processes must include the stress testing and scenario analysis required by ■ GENPRU 1.2.42 R and ■ GENPRU 1.2.49 R (1)(b).

12.1.10

FCA PRA

R

The internal control mechanisms referred to in ■ SYSC 12.1.8 R must include:

- (1) **mechanisms that are adequate for the purpose of producing any data and information which would be relevant for the purpose of monitoring compliance with any prudential requirements (including any reporting requirements and any requirements relating to capital adequacy, solvency, systems and controls and large exposures):**
 - (a) **to which the *firm* is subject with respect to its membership of a *group*; or**
 - (b) **that apply to or with respect to that *group* or part of it; and**
- (2) **mechanisms that are adequate to monitor funding within the *group*.**

12.1.11

FCA PRA

R

Financial conglomerates

Where this section applies with respect to a *financial conglomerate*, the risk management processes referred to in ■ SYSC 12.1.8 R (2) must include:

- (1) sound governance and management processes, which must include the approval and periodic review by the appropriate managing bodies within the *financial conglomerate* of the strategies and policies of the *financial conglomerate* in respect of all the risks assumed by the *financial conglomerate*, such review and approval being carried out at the level of the *financial conglomerate*;
- (2) adequate capital adequacy policies at the level of the *financial conglomerate*, one of the purposes of which must be to anticipate the impact of the business strategy of the *financial conglomerate* on its risk profile and on the capital adequacy requirements to which it and its members are subject;
- (3) adequate procedures for the purpose of ensuring that the risk monitoring systems of the *financial conglomerate* and its members are well integrated into their organisation;
- (4) adequate procedures for the purpose of ensuring that the systems and controls of the members of the *financial conglomerate* are consistent and that the risks can be measured, monitored and controlled at the level of the *financial conglomerate* ; and
- (5) arrangements in place to contribute to and develop, if required, adequate recovery and resolution arrangements and plans; a *firm* must update these arrangements regularly.

[Note: article 9(2) of the *Financial Groups Directive*]

12.1.12

FCA PRA

R

Where this section applies with respect to a *financial conglomerate*, the internal control mechanisms referred to in ■ SYSC 12.1.8 R (2) must include:

- (1) mechanisms that are adequate to identify and measure all material risks incurred by members of the *financial conglomerate* and appropriately relate capital in the *financial conglomerate* to risks; and
- (2) sound reporting and accounting procedures for the purpose of identifying, measuring, monitoring and controlling *intra-group transactions* and *risk concentrations*.

12.1.13

FCA PRA

R

BIPRU firms and other firms to which BIPRU 8 applies

If this *rule* applies under ■ SYSC 12.1.14 R to a *firm*, the *firm* must:

- (1) comply with ■ SYSC 12.1.8 R (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:
 - (a) ■ SYSC 4.1.1 R and ■ SYSC 4.1.2 R ;
 - (b) ■ SYSC 4.1.7 R ;
 - (c) ■ SYSC 5.1.7 R ;
 - (d) ■ SYSC 7;
 - (dA) the *Remuneration Code*;
 - (e) ■ BIPRU 12.3.4 R, ■ BIPRU 12.3.5 R, ■ BIPRU 12.3.8 R (3), ■ BIPRU 12.3.22A R, ■ BIPRU 12.3.22B R, ■ BIPRU 12.3.27 R, ■ BIPRU 12.4.-2 R, ■ BIPRU 12.4.-1 R, ■ BIPRU 12.4.5A R, ■ BIPRU 12.4.10 R and ■ BIPRU 12.4.11 R;
 - (f) ■ BIPRU 2.3.7 R (1);
 - (g) ■ BIPRU 9.1.6 R and ■ BIPRU 9.13.21 R (*Liquidity plans*);
 - (h) ■ BIPRU 10.12.3 R (*Concentration risk policies*).

[Note: article 73(3) of the *Banking Consolidation Directive*]

12.1.14

FCA PRA

R

■ SYSC 12.1.13 R applies to a *firm* that is:

- (1) [deleted]
- (2) a *BIPRU firm*; or
- (3) a non-*BIPRU firm* that is a *parent financial holding company in a Member State* and is a member of a *UK consolidation group*.

12.1.15

FCA PRA

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In the case of a *firm* that:

- (1) is a *BIPRU firm*; and
- (2) has a *mixed-activity holding company* as a *parent undertaking*;

the risk management processes and internal control mechanisms referred to in ■ SYSC 12.1.8 R must include sound reporting and accounting procedures and other mechanisms that are adequate to identify, measure, monitor and control transactions between the *firm's parent undertaking mixed-activity holding company* and any of the *mixed-activity holding company's subsidiary undertakings*.

Insurance undertakings

12.1.16

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PRA

In the case of an *insurer* that has a *mixed-activity insurance holding company* as a *parent undertaking*, the risk management processes and internal control mechanisms referred to in ■ SYSC 12.1.8 R must include sound reporting and accounting procedures and other mechanisms that are adequate to identify, measure, monitor and control transactions between the *firm's parent undertaking mixed-activity insurance holding company* and any of the *mixed-activity insurance holding company's subsidiary undertakings*.

12.1.17

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PRA

■ SYSC 12.1.16 R cannot apply to a *building society* as it cannot have a *mixed-activity holding company* as a *parent undertaking*. ■ SYSC 12.1.16 R cannot apply to a *friendly society* as it cannot have a *mixed-activity insurance holding company* as a *parent undertaking*.

Nature and extent of requirements and allocation of responsibilities within the group

12.1.18

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FCA PRA

Assessment of the adequacy of a *group's* systems and controls required by this section will form part of the *appropriate regulator's* risk management process.

12.1.19

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FCA PRA

The nature and extent of the systems and controls necessary under ■ SYSC 12.1.8 R (1) to address *group* risk will vary according to the materiality of those risks to the *firm* and the position of the *firm* within the *group*.

12.1.20

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FCA PRA

In some cases the management of the systems and controls used to address the risks described in ■ SYSC 12.1.8 R (1) may be organised on a *group-wide* basis. If the *firm* is not carrying out those functions itself, it should delegate them to the *group* members that are carrying them out. However, this does not relieve the *firm* of responsibility for complying with its obligations under ■ SYSC 12.1.8 R (1). A *firm* cannot absolve itself of such a responsibility by claiming that any breach of that *rule* is caused by the actions of another member of the *group* to whom the *firm* has delegated tasks. The risk management arrangements are still those of the *firm*, even though personnel elsewhere in the *firm's group* are carrying out these functions on its behalf.

12.1.21

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FCA PRA

■ SYSC 12.1.8 R (1) deals with the systems and controls that a *firm* should have in respect of the exposure it has to the rest of the *group*. On the other hand, the purpose of ■ SYSC 12.1.8 R (2) and the *rules* in this section that amplify it is to require *groups* to have adequate systems and controls. However a *group* is not a single legal entity on which obligations can be imposed. Therefore the obligations have to be placed on individual *firms*. The purpose of imposing the obligations on each *firm* in the *group* is to make sure that the *appropriate regulator* can take supervisory action against any *firm* in a *group*

whose systems and controls do not meet the standards in this section. Thus responsibility for compliance with the *rules for group* systems and controls is a joint one.

12.1.22

FCA PRA

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If both a *firm* and its *parent undertaking* are subject to ■ SYSC 12.1.8 R (2), the *appropriate regulator* would not expect systems and controls to be duplicated. In this case, the *firm* should assess whether and to what extent it can rely on its parent's *group* risk systems and controls.

Chapter 13

Operational risk: systems and controls for insurers



13.1 Application

13.1.1

FCA PRA

G

■ SYSC 13 applies to an *insurer* unless it is:

- (1) a *non-directive friendly society*; or
- (2) an *incoming EEA firm*; or
- (3) an *incoming Treaty firm*.

13.1.2

FCA PRA

G

■ SYSC 13 applies to:

- (1) an *EEA-deposit insurer*; and
- (2) a *Swiss general insurer*;

only in respect of the activities of the *firm* carried on from a *branch* in the *United Kingdom*.

13.1.3

FCA PRA

G

■ SYSC 13 applies to a *UK ISPV*.

13.1.4

FCA PRA

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■ SYSC 13 does not apply to an *incoming ECA provider* acting as such.



13.2 Purpose

- 13.2.1** FCA PRA G ■ SYSC 13 provides *guidance* on how to interpret ■ SYSC 3.1.1 R and ■ SYSC 3.2.6 R, which deal with the establishment and maintenance of systems and controls, in relation to the management of operational risk. Operational risk has been described by the Basel Committee on Banking Supervision as "the risk of loss, resulting from inadequate or failed internal processes, people and systems, or from external events". This chapter covers systems and controls for managing risks concerning any of a *firm's* operations, such as its IT systems and *outsourcing* arrangements. It does not cover systems and controls for managing credit, market, liquidity and insurance risk.
- 13.2.2** FCA PRA G Operational risk is a concept that can have a different application for different *firms*. A *firm* should assess the appropriateness of the *guidance* in this chapter in the light of the scale, nature and complexity of its activities as well as its obligations as set out in *Principle 3*, to organise and control its affairs responsibly and effectively.
- 13.2.3** FCA PRA G A *firm* should take steps to understand the types of operational risk that are relevant to its particular circumstances, and the operational losses to which they expose the *firm*. This should include considering the potential sources of operational risk addressed in this chapter: people; processes and systems; external events.
- 13.2.4** FCA PRA G [deleted]
- 13.2.4A** FCA PRA G Operational risk can, amongst other things, lead to unfair treatment of consumers or lead to financial crime. A *firm* should consider all operational risk events that may affect these matters in establishing and maintaining its systems and controls.
- 13.2.4B** PRA G Operational risk can affect, amongst other things, a *firm's* solvency. A *firm* should consider all operational risk events that may affect these matters in establishing and maintaining its systems and controls.



13.3 Other related Handbook sections

13.3.1 G [deleted]

13.3.1A G The following is a non-exhaustive list of *rules* and *guidance* in the *Handbook* that are relevant to a *firm's* management of operational risk:

FCA

- (1) *COBS* contains *rules* and *guidance* that can relate to the management of operational risk; for example, ■ *COBS* 2 (Conduct of business obligations), ■ *COBS* 4 (Communicating with clients, including financial promotions), ■ *COBS* 6 (Information about the firm, its services and remuneration), ■ *COBS* 7 (Insurance mediation), ■ *COBS* 9 (Suitability (including basic advice)), ■ *COBS* 11 (Dealing and managing), ■ *COBS* 12 (Investment research), ■ *COBS* 14 (Providing product information to clients) and ■ *COBS* 19 (Pensions: supplementary provisions).

13.3.1B G The following is a non-exhaustive list of *rules* and *guidance* in the *Handbook* that are relevant to a *firm's* management of operational risk:

PRA

- (1) ■ *SYSC* 14 and ■ *INSPRU* 5.1 contain specific *rules* and *guidance* for the establishment and maintenance of operational risk systems and controls.



13.4 Requirements to notify the appropriate regulator

13.4.1

FCA PRA

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Under *Principle 11* and ■ SUP 15.3.1 R, a *firm* must notify the *appropriate regulator* immediately of any operational risk matter of which the *appropriate regulator* would reasonably expect notice. ■ SUP 15.3.8 G provides *guidance* on the occurrences that this requirement covers, which include a significant failure in systems and controls and a significant operational loss.

13.4.2

FCA PRA

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Regarding operational risk, matters of which the *appropriate regulator* would expect notice under *Principle 11* include:

- (1) any significant operational exposures that a *firm* has identified;
- (2) the *firm's* invocation of a business continuity plan; and
- (3) any other significant change to a *firm's* organisation, infrastructure or business operating environment.



13.5 Risk management terms

13.5.1

FCA PRA

G

In this chapter, the following interpretations of risk management terms apply:

- (1) a *firm's* risk culture encompasses the general awareness, attitude and behaviour of its *employees* and *appointed representatives* or, where applicable, its *tied agents*, to risk and the management of risk within the organisation;
- (2) operational exposure means the degree of operational risk faced by a *firm* and is usually expressed in terms of the likelihood and impact of a particular type of operational loss occurring (for example, fraud, damage to physical assets);
- (3) a *firm's* operational risk profile describes the types of operational risks that it faces, including those operational risks within a *firm* that may have an adverse impact upon the quality of service afforded to its *clients*, and its exposure to these risks.



13.6 People

13.6.1

FCA PRA

G

A *firm* should consult ■ SYSC 3.2.2 G to ■ SYSC 3.2.5 G for *guidance* on reporting lines and delegation of functions within a *firm* and ■ SYSC 3.2.13 G to ■ SYSC 3.2.14 G for *guidance* on the suitability of *employees* and *appointed representatives* or, where applicable, its *tied agents*. This section provides additional *guidance* on management of *employees* and other human resources in the context of operational risk.

13.6.2

FCA PRA

G

A *firm* should establish and maintain appropriate systems and controls for the management of operational risks that can arise from *employees*. In doing so, a *firm* should have regard to:

- (1) its operational risk culture, and any variations in this or its human resource management practices, across its operations (including, for example, the extent to which the compliance culture is extended to in-house IT staff);
- (2) whether the way *employees* are remunerated exposes the *firm* to the risk that it will not be able to meet its regulatory obligations (see ■ SYSC 3.2.18 G). For example, a *firm* should consider how well remuneration and performance indicators reflect the *firm's* tolerance for operational risk, and the adequacy of these indicators for measuring performance;
- (3) whether inadequate or inappropriate training of *client-facing* services exposes *clients* to risk of loss or unfair treatment including by not enabling effective communication with the *firm*;
- (4) the extent of its compliance with applicable regulatory and other requirements that relate to the welfare and conduct of *employees*;
- (5) its arrangements for the continuity of operations in the event of *employee* unavailability or loss;
- (6) the relationship between indicators of 'people risk' (such as overtime, sickness, and *employee* turnover levels) and exposure to operational losses; and
- (7) the relevance of all the above to *employees* of a third party supplier who are involved in performing an *outsourcing* arrangement. As necessary, a *firm* should review and consider the adequacy of the staffing arrangements and policies of a service provider.

13.6.3

FCA PRA

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Employee responsibilities

A *firm* should ensure that all *employees* are capable of performing, and aware of, their operational risk management responsibilities, including by establishing and maintaining:

- (1) appropriate segregation of *employees'* duties and appropriate supervision of *employees* in the performance of their responsibilities (see ■ SYSC 3.2.5 G);
- (2) appropriate recruitment and subsequent processes to review the fitness and propriety of *employees* (see ■ SYSC 3.2.13 G and ■ SYSC 3.2.14 G);
- (3) clear policy statements and appropriate systems and procedures manuals that are effectively communicated to *employees* and available for *employees* to refer to as required. These should cover, for example, compliance, IT security and health and safety issues;
- (4) training processes that enable *employees* to attain and maintain appropriate competence; and
- (5) appropriate and properly enforced disciplinary and employment termination policies and procedures.

13.6.4

FCA PRA

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A *firm* should have regard to ■ SYSC 13.6.3 G in relation to *approved persons*, people occupying positions of high personal trust (for example, security administration, payment and settlement functions); and people occupying positions requiring significant technical competence (for example, *derivatives* trading and technical security administration). A *firm* should also consider the *rules* and *guidance* for *approved persons* in other parts of the *Handbook* (including *APER* and *SUP*) and the *rules* and *guidance* on *senior manager* responsibilities in ■ SYSC 2.1 (Apportionment of Responsibilities).



13.7 Processes and systems

13.7.1

FCA PRA

G

A *firm* should establish and maintain appropriate systems and controls for managing operational risks that can arise from inadequacies or failures in its processes and systems (and, as appropriate, the systems and processes of third party suppliers, agents and others). In doing so a *firm* should have regard to:

- (1) the importance and complexity of processes and systems used in the end-to-end operating cycle for products and activities (for example, the level of integration of systems);
- (2) controls that will help it to prevent system and process failures or identify them to permit prompt rectification (including pre-approval or reconciliation processes);
- (3) whether the design and use of its processes and systems allow it to comply adequately with regulatory and other requirements;
- (4) its arrangements for the continuity of operations in the event that a significant process or system becomes unavailable or is destroyed; and
- (5) the importance of monitoring indicators of process or system risk (including reconciliation exceptions, compensation payments for *client* losses and documentation errors) and experience of operational losses and exposures.

Internal documentation

13.7.2

FCA PRA

G

Internal documentation may enhance understanding and aid continuity of operations, so a *firm* should ensure the adequacy of its internal documentation of processes and systems (including how documentation is developed, maintained and distributed) in managing operational risk.

External documentation

13.7.3

FCA PRA

G

A *firm* may use external documentation (including contracts, transaction statements or advertising brochures) to define or clarify terms and conditions for its products or activities, its business strategy (for example, including through press statements), or its brand. Inappropriate or inaccurate information in external documents can lead to significant operational exposure.

13.7.4

FCA PRA

G

A *firm* should ensure the adequacy of its processes and systems to review external documentation prior to issue (including review by its compliance, legal and marketing

departments or by appropriately qualified external advisers). In doing so, a *firm* should have regard to:

- (1) compliance with applicable regulatory and other requirements ;
- (2) the extent to which its documentation uses standard terms (that are widely recognised, and have been tested in the courts) or non-standard terms (whose meaning may not yet be settled or whose effectiveness may be uncertain);
- (3) the manner in which its documentation is issued; and
- (4) the extent to which confirmation of acceptance is required (including by *customer* signature or counterparty confirmation).

IT systems

13.7.5
FCA PRA

G

IT systems include the computer systems and infrastructure required for the automation of processes, such as application and operating system software; network infrastructure; and desktop, server, and mainframe hardware. Automation may reduce a *firm's* exposure to some 'people risks' (including by reducing human errors or controlling access rights to enable segregation of duties), but will increase its dependency on the reliability of its IT systems.

13.7.6
FCA PRA

G

A *firm* should establish and maintain appropriate systems and controls for the management of its IT system risks, having regard to:

- (1) its organisation and reporting structure for technology operations (including the adequacy of senior management oversight);
- (2) the extent to which technology requirements are addressed in its business strategy;
- (3) the appropriateness of its systems acquisition, development and maintenance activities (including the allocation of responsibilities between IT development and operational areas, processes for embedding security requirements into systems); and
- (4) the appropriateness of its activities supporting the operation of IT systems (including the allocation of responsibilities between business and technology areas).

Information security

13.7.7
FCA PRA

G

Failures in processing information (whether physical, electronic or known by *employees* but not recorded) or of the security of the systems that maintain it can lead to significant operational losses. A *firm* should establish and maintain appropriate systems and controls to manage its information security risks. In doing so, a *firm* should have regard to:

- (1) confidentiality: information should be accessible only to *persons* or systems with appropriate authority, which may require firewalls within a system, as well as entry restrictions;

- (2) integrity: safeguarding the accuracy and completeness of information and its processing;
- (3) availability and authentication: ensuring that appropriately authorised *persons* or systems have access to the information when required and that their identity is verified;
- (4) non-repudiation and accountability: ensuring that the *person* or system that processed the information cannot deny their actions.

13.7.8

FCA PRA

G

A *firm* should ensure the adequacy of the systems and controls used to protect the processing and security of its information, and should have regard to established security standards such as ISO17799 (Information Security Management).

Geographic location

13.7.9

FCA PRA

G

Operating processes and systems at separate geographic locations may alter a *firm's* operational risk profile (including by allowing alternative sites for the continuity of operations). A *firm* should understand the effect of any differences in processes and systems at each of its locations, particularly if they are in different countries, having regard to:

- (1) the business operating environment of each country (for example, the likelihood and impact of political disruptions or cultural differences on the provision of services);
- (2) relevant local regulatory and other requirements regarding data protection and transfer;
- (3) the extent to which local regulatory and other requirements may restrict its ability to meet regulatory obligations in the *United Kingdom* (for example, access to information by the *appropriate regulator* and local restrictions on internal or external audit); and
- (4) the timeliness of information flows to and from its headquarters and whether the level of delegated authority and the risk management structures of the overseas operation are compatible with the *firm's* head office arrangements.

13.8 External events and other changes

13.8.1
FCA PRA

G

The exposure of a *firm* to operational risk may increase during times of significant change to its organisation, infrastructure and business operating environment (for example, following a corporate restructure or changes in regulatory requirements). Before, during, and after expected changes, a *firm* should assess and monitor their effect on its risk profile, including with regard to:

- (1) untrained or de-motivated *employees* or a significant loss of *employees* during the period of change, or subsequently;
- (2) inadequate human resources or inexperienced *employees* carrying out routine business activities owing to the prioritisation of resources to the programme or project;
- (3) process or system instability and poor management information due to failures in integration or increased demand; and
- (4) inadequate or inappropriate processes following business re-engineering.

13.8.2
FCA PRA

G

A *firm* should establish and maintain appropriate systems and controls for the management of the risks involved in expected changes, such as by ensuring:

- (1) the adequacy of its organisation and reporting structure for managing the change (including the adequacy of senior management oversight);
- (2) the adequacy of the management processes and systems for managing the change (including planning, approval, implementation and review processes); and
- (3) the adequacy of its strategy for communicating changes in systems and controls to its *employees*.

Unexpected changes and business continuity management

13.8.3
FCA PRA

G

■ SYSC 3.2.19 G provides high level *guidance* on business continuity. This section provides additional *guidance* on managing business continuity in the context of operational risk.

13.8.4
FCA PRA

G

The high level requirement for appropriate systems and controls at ■ SYSC 3.1.1 R applies at all times, including when a business continuity plan is invoked. However, the *appropriate regulator* recognises that, in an emergency, a *firm* may be unable to

comply with a particular *rule* and the conditions for relief are outlined in ■ GEN 1.3 (Emergency).

13.8.5

FCA PRA

G

A *firm* should consider the likelihood and impact of a disruption to the continuity of its operations from unexpected events. This should include assessing the disruptions to which it is particularly susceptible (and the likely timescale of those disruptions) including through:

- (1) loss or failure of internal and external resources (such as people, systems and other assets);
- (2) the loss or corruption of its information; and
- (3) external events (such as vandalism, war and "acts of God").

13.8.6

FCA PRA

G

A *firm* should implement appropriate arrangements to maintain the continuity of its operations. A *firm* should act to reduce both the likelihood of a disruption (including by succession planning, systems resilience and dual processing); and the impact of a disruption (including by contingency arrangements and insurance).

13.8.7

FCA PRA

G

A *firm* should document its strategy for maintaining continuity of its operations, and its plans for communicating and regularly testing the adequacy and effectiveness of this strategy. A *firm* should establish:

- (1) formal business continuity plans that outline arrangements to reduce the impact of a short, medium or long-term disruption, including:
 - (a) resource requirements such as people, systems and other assets, and arrangements for obtaining these resources;
 - (b) the recovery priorities for the *firm's* operations; and
 - (c) communication arrangements for internal and external concerned parties (including the *appropriate regulator, clients* and the press);
- (2) escalation and invocation plans that outline the processes for implementing the business continuity plans, together with relevant contact information;
- (3) processes to validate the integrity of information affected by the disruption;
- (4) processes to review and update (1) to (3) following changes to the *firm's* operations or risk profile (including changes identified through testing).

13.8.8

FCA PRA

G

The use of an alternative site for recovery of operations is common practice in business continuity management. A *firm* that uses an alternative site should assess the appropriateness of the site, particularly for location, speed of recovery and adequacy of resources. Where a site is shared, a *firm* should evaluate the risk of multiple calls on shared resources and adjust its plans accordingly.



13.9 Outsourcing

13.9.1
FCA PRA

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As ■ SYSC 3.2.4 G explains, a *firm* cannot contract out its regulatory obligations and should take reasonable care to supervise the discharge of outsourced functions. This section provides additional *guidance* on managing *outsourcing* arrangements (and will be relevant, to some extent, to other forms of third party dependency) in relation to operational risk. *Outsourcing* may affect a *firm's* exposure to operational risk through significant changes to, and reduced control over, people, processes and systems used in outsourced activities.

13.9.2
FCA PRA

G

Firms should take particular care to manage *material outsourcing* arrangements and, as ■ SUP 15.3.8 G (1)(e) explains, a *firm* should notify the *appropriate regulator* when it intends to enter into a *material outsourcing* arrangement.

13.9.3
FCA PRA

G

A *firm* should not assume that because a service provider is either a regulated *firm* or an intra-group entity an *outsourcing* arrangement with that provider will, in itself, necessarily imply a reduction in operational risk.

13.9.4
FCA PRA

G

Before entering into, or significantly changing, an *outsourcing* arrangement, a *firm* should:

- (1) analyse how the arrangement will fit with its organisation and reporting structure; business strategy; overall risk profile; and ability to meet its regulatory obligations;
- (2) consider whether the agreements establishing the arrangement will allow it to monitor and control its operational risk exposure relating to the *outsourcing*;
- (3) conduct appropriate due diligence of the service provider's financial stability and expertise;
- (4) consider how it will ensure a smooth transition of its operations from its current arrangements to a new or changed *outsourcing* arrangement (including what will happen on the termination of the contract); and
- (5) consider any concentration risk implications such as the business continuity implications that may arise if a single service provider is used by several *firms*.

13.9.5

FCA PRA

G

In negotiating its contract with a service provider, a *firm* should have regard to:

- (1) reporting or notification requirements it may wish to impose on the service provider;
- (2) whether sufficient access will be available to its internal auditors, external auditors or *actuaries* (see section 341 of the *Act*) and to the *appropriate regulator* (see ■ SUP 2.3.5 R (Access to premises) and ■ SUP 2.3.7 R (Suppliers under material outsourcing arrangements));
- (3) information ownership rights, confidentiality agreements and *Chinese walls* to protect *client* and other information (including arrangements at the termination of the contract);
- (4) the adequacy of any guarantees and indemnities;
- (5) the extent to which the service provider must comply with the *firm's* policies and procedures (covering, for example, information security);
- (6) the extent to which a service provider will provide business continuity for outsourced operations, and whether exclusive access to its resources is agreed;
- (7) the need for continued availability of software following difficulty at a third party supplier;
- (8) the processes for making changes to the *outsourcing* arrangement (for example, changes in processing volumes, activities and other contractual terms) and the conditions under which the *firm* or service provider can choose to change or terminate the *outsourcing* arrangement, such as where there is:
 - (a) a change of ownership or *control* (including insolvency or receivership) of the service provider or *firm*; or
 - (b) significant change in the business operations (including sub-contracting) of the service provider or *firm*; or
 - (c) inadequate provision of services that may lead to the *firm* being unable to meet its regulatory obligations.

13.9.6

FCA PRA

G

In implementing a relationship management framework, and drafting the service level agreement with the service provider, a *firm* should have regard to:

- (1) the identification of qualitative and quantitative performance targets to assess the adequacy of service provision, to both the *firm* and its *clients*, where appropriate;
- (2) the evaluation of performance through service delivery reports and periodic self certification or independent review by internal or external auditors; and
- (3) remedial action and escalation processes for dealing with inadequate performance.

13.9.7

FCA PRA

G

In some circumstances, a *firm* may find it beneficial to use externally validated reports commissioned by the service provider, to seek comfort as to the adequacy and effectiveness

of its systems and controls. The use of such reports does not absolve the *firm* of responsibility to maintain other oversight. In addition, the *firm* should not normally have to forfeit its right to access, for itself or its agents, to the service provider's premises.

13.9.8

FCA PRA

G

A *firm* should ensure that it has appropriate contingency arrangements to allow business continuity in the event of a significant loss of services from the service provider. Particular issues to consider include a significant loss of resources at, or financial failure of, the service provider, and unexpected termination of the *outsourcing* arrangement.



13.10 Insurance

13.10.1

FCA PRA

G

Whilst a *firm* may take out insurance with the aim of reducing the monetary impact of operational risk events, non-monetary impacts may remain (including impact on the *firm's* reputation). A *firm* should not assume that insurance alone can replace robust systems and controls.

13.10.2

FCA PRA

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When considering utilising insurance, a *firm* should consider:

- (1) the time taken for the *insurer* to pay claims (including the potential time taken in disputing cover) and the *firm's* funding of operations whilst awaiting payment of claims;
- (2) the financial strength of the *insurer*, which may determine its ability to pay claims, particularly where large or numerous small claims are made at the same time; and
- (3) the effect of any limiting conditions and exclusion clauses that may restrict cover to a small number of specific operational losses and may exclude larger or hard to quantify indirect losses (such as lost business or reputational costs).

Chapter 14

Risk management and associated systems and controls for insurers



14.1 Application

14.1.1
FCA PRA

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This section applies to an *insurer* unless it is:

- (1) a *non-directive friendly society*; or
- (2) an *incoming EEA firm*; or
- (3) an *incoming Treaty firm*.

14.1.2
FCA PRA

R

This section applies to:

- (1) an *EEA-deposit insurer*; and
- (2) a *Swiss general insurer*;

only in respect of the activities of the *firm* carried on from a *branch* in the *United Kingdom*.

14.1.2A
FCA PRA

R

This section does not apply to an *incoming ECA provider* acting as such.

Purpose

14.1.3
PRA

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This section sets out some *rules* and *guidance* on the establishment and maintenance of systems and controls for the management of a *firm's* prudential risks. A *firm's* prudential risks are those that can reduce the adequacy of its financial resources, and as a result may adversely affect its safety and soundness or prejudice policyholders. Some key prudential risks are credit, market, liquidity, operational, insurance and group risk.

14.1.4
PRA

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The purpose of this section is to serve the *PRA's statutory objectives* of promoting the safety and soundness of *PRA-authorized persons* and contributing to the securing of an appropriate degree of protection for those who are, or may become, policyholders. In particular, this section aims to reduce the risk that a *firm* may pose a threat to these *statutory 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.

14.1.5
PRA

G

Both adequate financial resources and adequate systems and controls are necessary for the effective management of prudential risks. A *firm* may hold financial resources

to help alleviate the financial consequences of minor weaknesses in its systems and controls (to reflect possible impairments in the accuracy or timing of its identification, measurement, monitoring and control of certain risks, for example). However, financial resources cannot adequately compensate for significant weaknesses in a *firm's* systems and controls that could fundamentally undermine its ability to control its affairs effectively.

How to interpret this section

14.1.6
PRA

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This section is designed to amplify *Principle 3* (Management and control) which requires that a *firm* take reasonable care to organise and control its affairs responsibly and effectively, with adequate risk management systems. This section is also designed to be complementary to ■ SYSC 2, ■ SYSC 3 and ■ SYSC 13 in that it contains some additional *rules* and *guidance* on senior management arrangements and associated systems and controls for *firms* that could have a significant impact on the PRA's objectives.

14.1.7
PRA

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In addition to supporting *PRIN* and ■ SYSC 2, ■ SYSC 3 and ■ SYSC 13, this section lays the foundations for the more specific *rules* and *guidance* on the management of credit, market, liquidity, operational, insurance and group risks that are in ■ SYSC 11, ■ SYSC 12, ■ SYSC 15, ■ SYSC 16 and ■ INSPRU 5.1. Many of the elements raised here in general terms are expanded upon in these sections.

14.1.8
PRA

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Appropriate systems and controls for the management of prudential risk will vary from *firm* to *firm*. Therefore, most of the material in this section is *guidance*. In interpreting this *guidance*, a *firm* should have regard to its own particular circumstances. Following from ■ SYSC 3.1.2 G, this should include considering the nature, scale and complexity of its business, which may be influenced by factors such as:

- (1) the diversity of its operations, including geographical diversity;
- (2) the volume and size of its transactions; and
- (3) the degree of risk associated with each area of its operation.

14.1.9
PRA

G

The *guidance* contained within this section is not designed to be exhaustive. When establishing and maintaining its systems and controls a *firm* should have regard not only to other parts of the *Handbook*, but also to material that is issued by other industry or regulatory bodies.

The role of systems and controls

14.1.10
PRA

G

A *firm's* systems and controls should provide its senior management with an adequate means of managing the *firm*. As such, they should be designed and maintained to ensure that senior management is able to make and implement integrated business planning and risk management decisions on the basis of accurate information about the risks that the *firm* faces and the financial resources that it has.

The prudential responsibilities of senior management and the apportionment of those responsibilities

14.1.11
PRA

G

Ultimate responsibility for the management of prudential risks rests with a *firm's governing body* and relevant *senior managers*, and in particular with those individuals that undertake

the *firm's governing functions* and the *apportionment and oversight function*. In particular, these responsibilities should include:

- (1) overseeing the establishment of an appropriate business plan and risk management strategy;
- (2) overseeing the development of appropriate systems for the management of prudential risks;
- (3) establishing adequate *internal controls*; and
- (4) ensuring that the *firm* maintains adequate financial resources.

The delegation of responsibilities within the firm

14.1.12

PRA

G

Although authority for the management of a *firm's* prudential risks is likely to be delegated, to some degree, to individuals at all levels of the organisation, overall responsibility for this activity should not be delegated from its *governing body* and relevant *senior managers*.

14.1.13

PRA

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Where delegation does occur, a *firm* should ensure that appropriate systems and controls are in place to allow its *governing body* and relevant *senior managers* to participate in and control its prudential risk management activities. The *governing body* and relevant *senior managers* should approve and periodically review these systems and controls to ensure that delegated duties are being performed correctly.

Firms subject to risk management on a group basis

14.1.14

PRA

G

Some *firms* organise the management of their prudential risks on a stand-alone basis. In some cases, however, the management of a *firm's* prudential risks may be entirely or largely subsumed within a whole *group* or *sub-group* basis.

- (1) The latter arrangement may still comply with the *PRA's* policy on systems and controls if the *firm's governing body* formally delegates the functions that are to be carried out in this way to the *persons* or bodies that are to carry them out. Before doing so, however, the *firm's governing body* should have explicitly considered the arrangement and decided that it is appropriate and that it enables the *firm* to meet the *PRA's* policy on systems and controls. The *firm* should notify the *PRA* if the management of its prudential risks is to be carried out in this way.
- (2) Where the management of a *firm's* prudential risks is largely, but not entirely, subsumed within a whole *group* or *sub-group* basis, the *firm* should ensure that any prudential issues that are specific to the *firm* are:
 - (a) identified and adequately covered by those to whom it has delegated certain prudential risk management tasks; or
 - (b) dealt with by the *firm* itself.

14.1.15

PRA

G

Any delegation of the management of prudential risks to another part of a *firm's group* does not relieve it of responsibility for complying with the *PRA's* policy on systems and controls. A *firm* cannot absolve itself of such a responsibility by claiming that any breach of the *PRA's* policy on systems and controls is effected by the actions of a third

party *firm* to whom the *firm* has delegated tasks. The risk management arrangements are still those of the *firm*, even though personnel elsewhere in the *firm's group* are carrying out these functions on its behalf. Thus any references in *GENPRU*, *INSPRU* or *SYSC* to what a *firm*, its personnel and its management should and should not do still apply, and do not need any adjustment to cover the situation in which risk management functions are carried out on a *group*-wide basis.

14.1.16

PRA

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Where it is stated in *GENPRU*, *INSPRU* or *SYSC* that a particular task in relation to a *firm's* systems and controls should be carried out by a *firm's governing body* this task should not be delegated to another part of its *group*. Furthermore, even where the management of a *firm's* prudential risks is delegated as described in ■ SYSC 14.1.14 G, responsibility for its effectiveness and for ensuring that it remains appropriate remains with the *firm's governing body*. The *firm's governing body* should therefore keep any delegation under review to ensure that delegated duties are being performed correctly.

Business planning and risk management

14.1.17

PRA

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Business planning and risk management are closely related activities. In particular, the forward-looking assessment of a *firm's* financial resources needs, and of how business plans may affect the risks that it faces, are important elements of prudential risk management. A *firm's* business planning should also involve the creation of specific risk policies which will normally outline a *firm's* strategy and objectives for, as appropriate, the management of its market, credit, liquidity, operational, insurance and group risks and the processes that it intends to adopt to achieve these objectives. ■ SYSC 14.1.18 R to ■ SYSC 14.1.25 G set out some *rules* and *guidance* relating to business planning and risk management (see also ■ SYSC 3.2.17 G, which states that a *firm* should plan its business appropriately).

14.1.18

PRA

R

A *firm* must take reasonable steps to ensure the establishment and maintenance of a business plan and appropriate systems for the management of prudential risk.

14.1.19

PRA

R

When establishing and maintaining its business plan and prudential risk management systems, a *firm* must document:

- (1) an explanation of its overall business strategy, including its business objectives;
- (2) a description of, as applicable, its policies towards market, credit (including provisioning), liquidity, operational, insurance and group risk (that is, its risk policies), including its appetite or tolerance for these risks and how it identifies, measures or assesses, monitors and controls these risks;
- (3) the systems and controls that it intends to use in order to ensure that its business plan and risk policies are implemented correctly;
- (4) a description of how the *firm* accounts for assets and liabilities, including the circumstances under which items are netted, included or excluded from the *firm's* balance sheet and the methods and assumptions for valuation;

- (5) appropriate financial *projections* and the results of its stress testing and scenario analysis (see *GENPRU 1.2 (Adequacy of financial resources)*); and
- (6) details of, and the justification for, the methods and assumptions used in financial *projections* and stress testing and scenario analysis.

14.1.20
PRA

G

The prudential risk management systems referred to in ■ SYSC 14.1.18 R and ■ SYSC 14.1.19 R are the means by which a *firm* is able to:

- (1) identify the prudential risks that are inherent in its business plan, operating environment and objectives, and determine its appetite or tolerance for these risks;
- (2) measure or assess its prudential risks;
- (3) monitor its prudential risks; and
- (4) control or mitigate its prudential risks.

■ INSPRU 4.1.63 E is an *evidential provision* relating to ■ SYSC 14.1.18 R concerning risk management systems in respect of *liquidity risk* arising from substantial exposures in foreign currencies.

14.1.21
PRA

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A *firm* should consider the relationship between its business plan, risk policies and the financial resources that it has available (or can readily access), recognising that decisions made in respect of one element may have consequences for the other two.

14.1.22
PRA

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A *firm's* business plan and risk management systems should be:

- (1) effectively communicated so that all *employees* and contractors understand and adhere to the procedures related to their own responsibilities;
- (2) regularly updated and revised, in particular when there is significant new information or when actual practice or performance differs materially from the documented strategy, policy or systems.

14.1.23
PRA

G

The level of detail in a *firm's* business plan and its approach to the design of its risk management systems should be appropriate to the scale and complexity of its operations, and the nature and degree of risk that it faces.

14.1.24
PRA

G

A *firm's* business plan and systems documentation should be accessible to the *firm's* management in line with their respective responsibilities and, upon request, to the PRA.

14.1.25
PRA

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■ SYSC 14.1.19 R (5) requires a *firm* to *document* its financial projections and the results of its stress testing and scenario analysis. Such financial projections, stress tests and scenario analysis should be used by a *firm's governing body* and relevant *senior managers* when deciding upon how much risk the *firm* is willing to accept in pursuit

of its business objectives and how risk limits should be set. Further *rules* and *guidance* on stress testing and scenario analysis are outlined in ■ GENPRU 1.2 (Adequacy of financial resources) and ■ SYSC 11 (Liquidity risk systems and controls).

Internal controls: introduction

14.1.26

PRA

G

Internal controls should provide a *firm* with reasonable assurance that it will not be hindered in achieving its objectives, or in the orderly and legitimate conduct of its business, by events that may reasonably be foreseen. More specifically, *internal controls* should be concerned with ensuring that a *firm's* business plan and risk management systems are operating as expected and are being implemented as intended. The following *rule* (■ SYSC 14.1.27 R) reflects the importance of *internal controls*.

14.1.27

FCA PRA

R

A *firm* must take reasonable steps to establish and maintain adequate *internal controls*.

14.1.28

FCA PRA

G

The precise role and organisation of *internal controls* can vary from *firm* to *firm*. However, a *firm's internal controls* should normally be concerned with assisting its *governing body* and relevant *senior managers* to participate in ensuring that it meets the following objectives:

- (1) safeguarding both the assets of the *firm* and its *customers*, as well as identifying and managing liabilities;
- (2) maintaining the efficiency and effectiveness of its operations;
- (3) ensuring the reliability and completeness of all accounting, financial and management information; and
- (4) ensuring compliance with its internal policies and procedures as well as all applicable laws and regulations.

14.1.29

PRA

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When determining the adequacy of its *internal controls*, a *firm* should consider both the potential risks that might hinder the achievement of the objectives listed in ■ SYSC 14.1.28 G, and the extent to which it needs to control these risks. More specifically, this should normally include consideration of:

- (1) the appropriateness of its reporting and communication lines (see ■ SYSC 3.2.2 G);
- (2) how the delegation or contracting of functions or activities to *employees*, *appointed representatives* or, where applicable, its *tied agents* or other third parties (for example *outsourcing*) is to be monitored and controlled (see ■ SYSC 3.2.3 G to ■ SYSC 3.2.4 G, ■ SYSC 14.1.12 G to ■ SYSC 14.1.16 G and ■ SYSC 14.1.33 G; additional guidance on the management of *outsourcing* arrangements is also provided in ■ SYSC 13.9);
- (3) the risk that a *firm's employees* or contractors might accidentally or deliberately breach a *firm's* policies and procedures (see ■ SYSC 13.6.3 G);
- (4) the need for adequate segregation of duties (see ■ SYSC 3.2.5 G and ■ SYSC 14.1.30 G to ■ SYSC 14.1.33 G);

- (5) the establishment and control of risk management committees (see ■ SYSC 14.1.34 G to ■ SYSC 14.1.37 G);
- (6) the need for risk assessment and the establishment of a risk assessment function (see ■ SYSC 3.2.10 G and ■ SYSC 14.1.38 G to ■ SYSC 14.1.41 G);
- (7) the need for internal audit and the establishment of an internal audit function and audit committee (see ■ SYSC 3.2.15 G to ■ SYSC 3.2.16 G and ■ SYSC 14.1.42 G to ■ SYSC 14.1.45 G).

14.1.29A FCA G

When determining the adequacy of its *internal controls*, a *firm* should consider both the potential risks that might hinder the achievement of the objectives listed in ■ SYSC 14.1.28 G, and the extent to which it needs to control these risks. More specifically, this should normally include consideration of:

- (1) the appropriateness of its reporting and communication lines (see ■ SYSC 3.2.2 G);
- (2) how the delegation or contracting of functions or activities to *employees*, *appointed representatives* or, where applicable, its *tied agents* or other third parties (for example *outsourcing*) is to be monitored and controlled (see ■ SYSC 3.2.3 G to ■ SYSC 3.2.4 G and the additional guidance on the management of *outsourcing* arrangements is also provided in ■ SYSC 13.9);
- (3) the risk that a *firm's employees* or contractors might accidentally or deliberately breach a *firm's* policies and procedures (see ■ SYSC 13.6.3 G);
- (4) the need for adequate segregation of duties (see ■ SYSC 3.2.5 G);
- (5) the establishment and control of risk management committees;
- (6) the need for risk assessment and the establishment of a risk assessment function (see ■ SYSC 3.2.10 G);
- (7) the need for internal audit and the establishment of an internal audit function and audit committee (see ■ SYSC 3.2.15 G to ■ SYSC 3.2.16 G).

Internal controls: segregation of duties

14.1.30 PRA G

The effective segregation of duties is an important internal control . In particular, it helps to ensure that no one individual is completely free to commit a *firm's* assets or incur liabilities on its behalf. Segregation can also help to ensure that a *firm's governing body* receives objective and accurate information on financial performance, the risks faced by the *firm* and the adequacy of its systems. In this regard, a *firm* should ensure that there is adequate segregation of duties between *employees* involved in:

- (1) taking on or controlling risk (which could involve risk mitigation);
- (2) risk assessment (which includes the identification and analysis of risk); and
- (3) internal audit.

14.1.31

PRA

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In addition, a *firm* should normally ensure that no single individual has unrestricted authority to do all of the following:

- (1) initiate a transaction;
- (2) bind the *firm*;
- (3) make payments; and
- (4) account for it.

14.1.32

PRA

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Where a *firm* is unable to ensure the complete segregation of duties (for example, because it has a limited number of staff), it should ensure that there are adequate compensating controls in place (for example, frequent review of an area by relevant *senior managers*).

14.1.33

PRA

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Where a *firm* outsources a *controlled function*, such as internal audit, it should take reasonable steps to ensure that every individual involved in the performance of this service is independent from the individuals who perform its external audit. This should not prevent services from being undertaken by a *firm's* external auditors provided that:

- (1) the work is carried out under the supervision and management of the *firm's* own internal staff; and
- (2) potential conflicts of interest between the provision of external audit services and the provision of *controlled functions* are properly managed.

Internal controls: risk management committees

14.1.34

PRA

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In many *firms*, especially if there are multiple business lines, it is common for the *governing body* to delegate some tasks related to risk control and management to committees such as asset and liability committees (ALCO), credit risk committees and market risk committees.

14.1.35

PRA

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Where a *firm* decides to create one or more risk management committee(s), adequate *internal controls* should be put in place to ensure that these committees are effective and that their actions are consistent with the objectives outlined in ■ SYSC 14.1.28 G. This should normally include consideration of the following:

- (1) setting clear terms of reference, including membership, reporting lines and responsibilities of each committee;
- (2) setting limits on their authority;
- (3) agreeing routine reporting and non-routine reporting escalation procedures;
- (4) agreeing the minimum frequency of committee meetings; and
- (5) reviewing the performance of these risk management committees.

14.1.36

PRA

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The decision to delegate risk management tasks, along with the terms of reference of the committees and their performance, should be reviewed periodically by the *firm's governing body* and revised as appropriate.

14.1.37

PRA

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The effective use of risk management committees can help to enhance a *firm's internal controls*. In establishing and maintaining its risk management committees, a *firm* should consider:

- (1) their membership, which should normally include relevant *senior managers* (such as the head of group risk, head of legal, and the heads of market, credit, liquidity and operational risk, etc.), business line managers, risk management personnel and other appropriately skilled people, for example, actuaries, lawyers, accountants, IT specialists, etc.;
- (2) using these committees to:
 - (i) inform the decisions made by a *firm's governing body* regarding its appetite or tolerance for risk taking;
 - (ii) highlight risk management issues that may require attention by the *governing body*;
 - (iii) consider risk at the firm-wide level and, within delegated limits, to determine the allocation of risk limits and financial resources across business lines; and
 - (iv) consider how exposures may be unwound, hedged, or otherwise mitigated, as appropriate.

Internal controls: risk assessment

14.1.38

PRA

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Risk assessment is the process through which a *firm* identifies and analyses (using both qualitative and quantitative methodologies) the risks that it faces. A *firm's* risk assessment activities should normally include consideration of:

- (1) its total exposure to risk at the *firm-wide* level (that is, its exposure across business lines and risk categories);
- (2) capital allocation and the need to calculate risk weighted returns for different business lines;
- (3) the potential correlations that can exist between the risks in different business lines; this should also include looking for risks to which a *firm's* business plan is particularly sensitive, such as interest rate risk, or multiple dealings with the same *counterparty*;
- (4) the use of stress tests and scenario analysis;
- (5) whether there are risks inherent in the *firm's* business that are not being addressed adequately;
- (6) the risk adjusted return that the *firm* is achieving; and
- (7) the adequacy and timeliness of management information on market, credit, insurance, liquidity, operational and group risks from the business lines, including risk limit utilisation.

14.1.39

PRA

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- (1) In accordance with ■ SYSC 3.2.10 G 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).

14.1.40

PRA

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Where a *firm* does decide that it needs a separate risk assessment function, the *employees* or contractors that carry out this function should not normally be involved in risk taking activities such as business line management (see ■ SYSC 14.1.30 G to ■ SYSC 14.1.33 G on the segregation of duties).

14.1.41

PRA

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A summary of the results of the analysis undertaken by a *firm's* risk assessment function in accordance with ■ SYSC 14.1.39 G (including, where necessary, an explanation of any assumptions that were adopted) should normally be reported to relevant *senior managers* as well as to the *firm's governing body*.

Internal audit

14.1.42

PRA

G

A *firm* should ensure that it has appropriate mechanisms in place to assess and monitor the appropriateness and effectiveness of its systems and controls. This should normally include consideration of:

- (1) adherence to and effectiveness of, as appropriate, its market, credit, liquidity, operational, insurance, and group risk policies;
- (2) whether departures and variances from its documented systems and controls and risk policies have been adequately documented and appropriately reported, including whether appropriate pre-clearance authorisation has been sought for material departures and variances;
- (3) adherence to and effectiveness of its accounting policies, and whether accounting records are complete and accurate;
- (4) adherence to and effectiveness of its management reporting arrangements, including the timeliness of reporting, and whether information is comprehensive and accurate; and
- (5) adherence to *PRA rules* and regulatory prudential standards.

14.1.43

PRA

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- (1) In accordance with ■ SYSC 3.2.15 G and ■ SYSC 3.2.16 G, 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).

14.1.44
PRA

G

Where a *firm* decides to set up an internal audit function, this function should provide independent assurance to its *governing body*, audit committee or an appropriate *senior manager* of the integrity and effectiveness of its systems and controls.

14.1.45
PRA

G

In forming its judgements, the *person* performing the internal audit function should test the practical operation of a *firm's* systems and controls as well as its accounting and risk policies. This should include examining the adequacy of supporting records.

Management information

14.1.46
PRA

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Many individuals, at various levels of a *firm*, need management information relating to their activities. However, ■ SYSC 14.1.47 G to ■ SYSC 14.1.50 G concentrates on the management information that should be available to those at the highest level of a *firm*, that is, the *firm's governing body* and relevant *senior managers*. In so doing ■ SYSC 14.1.47 G to ■ SYSC 14.1.50 G amplify ■ SYSC 3.2.11 G and ■ SYSC 3.2.12 G (which outline the *PRA's* high level policy on senior management information) by providing some additional *guidance* on the management information that should be available.

14.1.47
PRA

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The role of management information should be to help a *firm's governing body* and *senior managers* to understand risk at a firm-wide level. In so doing, it should help them to:

- (1) determine whether a *firm* is prudently managed with adequate financial resources;
- (2) make the decisions that fall within their ambit (for example, the high level business plans, strategy and risk tolerances of the *firm*); and
- (3) oversee the execution of tasks for which they are responsible.

14.1.48
PRA

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A *firm* should consider what information needs to be made available to its *governing body* and *senior managers*. Some possible examples include:

- (1) firm-wide information such as the overall profitability and value of a *firm* and its total exposure to risk;
- (2) reports from committees to which the *governing body* has delegated risk management tasks, if applicable;
- (3) reports from a *firm's* internal audit and risk assessment functions (see ■ SYSC 14.1.43 G and ■ SYSC 14.1.39 G), if applicable, including exception reports, where risk limits and policies have been breached or systems circumvented;
- (4) financial projections under expected and abnormal (that is, stressed) conditions;
- (5) reconciliation of actual profit and loss to previous financial projections and an analysis of any significant variances;

- (6) matters which require a decision from the *governing body* or *senior managers*, for example a significant variation to a business plan, amendments to risk limits, the creation of a new business line, etc;
- (7) compliance with *PRA rules* and regulatory prudential standards;
- (8) risk weighted returns; and
- (9) liquidity and funding requirements.

14.1.49

PRA

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The management information that is provided to a *firm's governing body* and *senior managers* should have the following characteristics:

- (1) it should be timely, its frequency being determined by factors such as:
 - (a) the volatility of the business in which the *firm* is engaged (that is, the speed at which its risks can change);
 - (b) any time constraints on when action needs to be taken; and
 - (c) the level of risk that the *firm* is exposed to, compared to its available financial resources and tolerance for risk;
- (2) it should be reliable, having regard to the fact that it may be necessary to sacrifice a degree of accuracy for timeliness; and
- (3) it should be presented in a manner that highlights any relevant issues on which those undertaking *governing functions* should focus particular attention.

14.1.50

PRA

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The production of management and other information may require the collation of data from a variety of separate manual and automated systems. In such cases, responsibility for the integrity of the information may be spread amongst a number of operational areas. A *firm* should ensure that it has appropriate processes to validate the integrity of its information.

Record keeping

14.1.51

PRA

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■ SYSC 3.2.20 R requires a *firm* to take reasonable care to make and retain adequate records. The following policy on record keeping supplements ■ SYSC 3.2.20 R by providing some additional *rules* and *guidance* on record keeping. The purpose of this policy is to:

- (1) facilitate the prudential supervision of a *firm* by ensuring that adequate information is available regarding its past/current financial situation and business activities (which includes the design and implementation of systems and controls); and
- (2) help the *PRA* to satisfy itself that a *firm* is operating in a prudent manner and is not prejudicing its safety and soundness or the interests of policyholders.

14.1.52

PRA

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In addition to the record keeping requirements in *GENPRU*, *INSPRU* and *SYSC*, a *firm* should remember that it may be obliged, under other applicable laws or regulations, to keep similar or additional records.

14.1.53

PRA

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(1) A *firm* must make and regularly update accounting and other records that are sufficient to enable the *firm* to demonstrate to the PRA:

- (a) that the *firm* is financially sound and has appropriate systems and controls;
- (b) the *firm's* financial position and exposure to risk (to a reasonable degree of accuracy); and
- (c) the *firm's* compliance with the *rules* in GENPRU, INSPRU and SYSC.

(2) The records in (1) must be retained for a minimum of three years, or longer as appropriate.

14.1.54

PRA

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A *firm* should be able to make available the records described in ■ SYSC 14.1.53 R within a reasonable timeframe when requested to do so by the PRA .

14.1.55

PRA

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The PRA recognises that not all records are specific to a particular point in time. As such, while it may be appropriate to update some records on a daily or continuous basis, for example expenditure and details of certain transactions, it may not be appropriate to update other records as regularly as this, for example those relating to its business plan and risk policies. A *firm* should decide how regularly it should update particular records.

14.1.56

PRA

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A *firm* should decide which records it needs to hold, noting that compliance with ■ SYSC 14.1.53 R does not require it to hold records on every single aspect of its activities. Some specific *guidance* on the types of records that a *firm* should hold is set out in each of the risk specific sections on systems and controls (see ■ SYSC 11, ■ SYSC 12, ■ SYSC 14.1.65 G, ■ SYSC 15 to ■ SYSC 17 and INSPRU 5.1).

14.1.57

PRA

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In deciding which records to hold, a *firm* should also take into account that failure to keep adequate records could make it harder for it to satisfy the PRA that it is compliant with the *rules* in GENPRU, INSPRU or SYSC, and to defend any enforcement action taken against it.

14.1.58

PRA

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A *firm* should keep the records required in GENPRU, INSPRU and SYSC in an appropriate format and language (in terms of format this could include holding them on paper or in electronic or some other form). However, whatever format or language a *firm* chooses, ■ SYSC 3.2.20 R requires that records be capable of being reproduced on paper and in English (except where they relate to business carried on from an establishment situated in a country where English is not an official language).

14.1.59

PRA

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In accordance with ■ SYSC 3.2.20 R, a *firm* should retain the records that it needs to comply with ■ SYSC 14.1.53 R for as long as they are relevant for the purposes for which they were made.

14.1.60 **R** A *firm* must keep the *records* required in ■ SYSC 14.1.53 R in the *United Kingdom*, except where:

PRA

- (1) they relate to business carried on from an establishment in a country or territory that is outside the *United Kingdom*; and
- (2) they are kept in that country or territory.

14.1.61 **R** When a *firm* keeps the records required in ■ SYSC 14.1.53 R outside the *United Kingdom*, it must periodically send an adequate summary of those records to the *United Kingdom*.

PRA

14.1.62 **G** Where a *firm* outsources the storage of some or all of its records to a third party service provider, it should ensure that these records are readily accessible and can be reproduced within a reasonable time period. The *firm* should also ensure that these records are stored in compliance with the *rules* and *guidance* on record keeping in *GENPRU*, *INSPRU* or *SYSC*. Additional *guidance* on the management of *outsourcing* agreements is provided in ■ SYSC 13.

PRA

14.1.63 **G** A *firm* may rely on records that have been produced by a third party (for example, another *group* company or an external agent, such as an outsource service provider). However where the *firm* does so it should ensure that these records are readily accessible and can be reproduced within a reasonable time period. The *firm* should also ensure that these records comply with the *rules* and *guidance* on record keeping in *GENPRU*, *INSPRU* or *SYSC*.

PRA

14.1.64 **G** In accordance with ■ SYSC 3.2.21 G, a *firm* should have adequate systems and controls for maintaining the security of its records so that they are reasonably safeguarded against loss, unauthorised access, alteration or destruction.

PRA

Operational risk

14.1.65 **G** As well as covering other types of risk, the *rules* and *guidance* set out in this chapter deal with a *firm's* approach to operational risk. In particular:

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- (1) ■ SYSC 14.1.18 R requires a *firm* to take reasonable steps to ensure that the risk management systems put in place to identify, assess, monitor and control operational risk are adequate for that purpose;
- (2) ■ SYSC 14.1.19 R (2) requires a *firm* to document its policy for operational risk, including its risk appetite and how it identifies, assesses, monitors and controls that risk; and
- (3) ■ SYSC 14.1.27 R requires a *firm* to take reasonable steps to establish and maintain adequate *internal controls* to enable it to assess and monitor the effectiveness and implementation of its business plan and prudential risk management systems.

Chapter 15

Credit risk management systems and controls for insurers



15.1 Application

15.1.1

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■ SYSC 15.1 applies to an *insurer* unless it is:

- (1) a *non-directive friendly society*; or
- (2) an *incoming EEA firm*; or
- (3) an *incoming Treaty firm*.

15.1.2

PRA

G

■ SYSC 15.1 applies to:

- (1) an *EEA-deposit insurer*; and
- (2) a *Swiss general insurer*;

only in respect of the activities of the *firm* carried on from a *branch* in the *United Kingdom*.

15.1.2A

PRA

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This section does not apply to an *incoming ECA provider* acting as such.

Purpose

15.1.3

PRA

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This section provides *guidance* on how to interpret ■ SYSC 14 insofar as it relates to the management of credit risk.

15.1.4

PRA

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Credit risk is incurred whenever a *firm* is exposed to loss if another party fails to perform its financial obligations to the *firm*, including failing to perform them in a timely manner. It arises from both on and off balance sheet items. For contracts for traded *financial instruments*, for example the purchase and sale of *securities* or *over the counter derivatives*, risks may arise if the *firm's counterparty* does not honour its side of the contract. This constitutes counterparty risk, which can be considered a subset of credit risk. Another risk is issuer risk, which could potentially result in a *firm* losing the full price of a market instrument since default by the issuer could result in the value of its bonds or stocks falling to nil. In insurance *firms*, credit risk can arise from *premium debtors*, where cover under *contracts of insurance* may either commence before premiums become due or continue after their non-payment. Credit risk can also arise if a *reinsurer* fails to fulfil its financial obligation to repay a *firm* upon submission of a *claim*.

15.1.5

PRA

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Credit risk concerns the *PRA* because inadequate systems and controls for credit risk management can create a threat to the *statutory objectives* of promoting the safety and soundness of *PRA authorised persons* and contributing to the securing of an appropriate degree of protection for those who are or may become policyholders by:

- (1) the erosion of a *firm's* capital due to excessive credit losses thereby threatening its viability as a going concern;
- (2) an inability of a *firm* to meet its own obligations to depositors, *policyholders* or other market *counterparties* due to its capital erosion.

15.1.6

PRA

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Appropriate systems and controls for the management of credit risk will vary with the scale, nature and complexity of the *firm's* activities. Therefore the material in this section is *guidance*. A *firm* should assess the appropriateness of any particular item of *guidance* in the light of the scale, nature and complexity of its activities as well as its obligations as set out in *Principle 3* to organise and control its affairs responsibly and effectively.

Requirements

15.1.7

PRA

G

High level requirements for prudential systems and controls, including those for credit risk, are set out in ■ SYSC 14. In particular:

- (1) ■ SYSC 14.1.19 R (2) requires a *firm* to document its policy for credit risk, including its risk appetite and how it identifies, measures, monitors and controls that risk;
- (2) ■ SYSC 14.1.19 R (2) requires a *firm* to document its provisioning policy. Documentation should describe the systems and controls that it intends to use to ensure that the policy is correctly implemented;
- (3) ■ SYSC 14.1.18 R requires it to establish and maintain risk management systems to identify, measure, monitor and control credit risk (in accordance with its credit risk policy), and to take reasonable steps to ensure that its systems are adequate for that purpose; or
- (4) in line with ■ SYSC 14.1.11 G, the ultimate responsibility for the management of credit risk should rest with a *firm's governing body*. Where delegation of authority occurs the *governing body* and relevant *senior managers* should approve and periodically review systems and controls to ensure that delegated duties are being performed correctly.

Credit risk policy

15.1.8

PRA

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■ SYSC 14.1.18 R requires a *firm* to establish, maintain and document a business plan and risk policies. They should provide a clear indication of the amount and nature of credit risk that the *firm* wishes to incur. In particular, they should cover for credit risk:

- (1) how, with particular reference to its activities, the *firm* defines and measures credit risk;
- (2) the *firm's* business aims in incurring credit risk including:
 - (a) identifying the types and sources of credit risk to which the *firm* wishes to be exposed (and the limits on that exposure) and those to which the *firm*

wishes not to be exposed (and how that is to be achieved, for example how exposure is to be avoided or mitigated);

- (b) specifying the level of diversification required by the *firm* and the *firm's* tolerance for risk concentrations (and the limits on those exposures and concentrations); and
 - (c) drawing the distinction between activities where credit risk is taken in order to achieve a return (for example, lending) and activities where credit exposure arises as a consequence of pursuing some other objective (for example, the purchase of a *derivative* in order to mitigate *market risk*);
- (3) how credit risk is assessed both when credit is granted or incurred and subsequently, including how the adequacy of any security and other risk mitigation techniques is assessed;
- (4) the detailed limit structure for credit risk which should:
- (a) address all key risk factors, including intra-*group* exposures and indirect exposures (for example, exposures held by *related* and *subsidiary undertakings*);
 - (b) be commensurate with the volume and complexity of activity; and
 - (c) be consistent with the *firm's* business aims, historical performance, and its risk appetite;
- (5) procedures for:
- (a) approving new or additional exposures to *counterparties*;
 - (b) approving new products and activities that give rise to credit risk;
 - (c) regular risk position and performance reporting;
 - (d) limit exception reporting and approval; and
 - (e) identifying and dealing with the problem exposures caused by the failure or downgrading of a *counterparty*;
- (6) the methods and assumptions used for the stress testing and scenario analysis required by *GENPRU 1.2* (Adequacy of financial resources), including how these methods and assumptions are selected and tested; and
- (7) the allocation of responsibilities for implementing the credit risk policy and for monitoring adherence to, and the effectiveness of, the policy.

Counterparty assessment

The *firm* should make a suitable assessment of the risk profile of the *counterparty*. The factors to be considered will vary according to both the type of credit and the *counterparty* being considered. This may include:

- (1) the purpose of the credit, the duration of the agreement and the source of repayment;

15.1.9

PRA

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PAGE
4

- (2) an assessment and continuous monitoring of the credit quality of the *counterparty*;
- (3) an assessment of the *claims* payment record where the *counterparty* is a *reinsurer*;
- (4) an assessment of the nature and amount of risk attached to the *counterparty* in the context of the industrial sector or geographical region or country in which it operates, as well as the potential impact on the *counterparty* of political, economic and market changes; and
- (5) the proposed terms and conditions attached to the granting of credit, including ongoing provision of information by the *counterparty*, covenants attached to the facility as well as the adequacy and enforceability of *collateral*, security and guarantees.

15.1.10 PRA G It is important that sound and legally enforceable documentation is in place for each agreement that gives rise to credit risk as this may be called upon in the event of a default or dispute. A *firm* should therefore consider whether it is appropriate for an independent legal opinion to be sought on documentation used by the *firm*. Documentation should normally be in place before the *firm* enters into a contractual obligation or releases funds.

15.1.11 PRA G Where *premium* payments are made via *brokers* or *intermediaries*, the *firm* should describe how it monitors and controls its exposure to those *brokers* and *intermediaries*. In particular, the policy should identify whether the risk of default by the *broker* or *intermediary* is borne by the *firm* or the *policyholder*.

15.1.12 PRA G Any variation from the usual credit policy should be documented.

15.1.13 PRA G A *firm* involved in loan syndications or consortia should not rely on other parties' assessment of the credit risks involved. It will remain responsible for forming its own judgement on the appropriateness of the credit risk thereby incurred with reference to its stated credit risk policy. Similarly a *firm* remains responsible for assessing the credit risk associated with any insurance or *reinsurance* placed on its behalf by other parties.

15.1.14 PRA G Where a credit scoring approach or other *counterparty* assessment process is used, the *firm* should periodically assess the particular approach taken in the light of past and expected future *counterparty* performance and ensure that any statistical process is adjusted accordingly to ensure that the business written complies with the *firm's* risk appetite.

15.1.15 PRA G In assessing its contingent exposure to a *counterparty*, the *firm* should identify the amount which would be due from the *counterparty* if the value, index or other factor upon which that amount depends were to change.

Credit risk measurement

15.1.16 PRA G A *firm* should measure its credit risk using a robust and consistent methodology which should be described in its credit risk policy; the appropriate method of measurement will depend upon the nature of the credit product provided. The *firm* should consider whether the measurement methodologies should be backtested and the frequency of such backtesting.

15.1.17 PRA G A *firm* should also be able to measure its credit exposure across its entire portfolio or within particular categories such as exposures to particular industries, economic sectors or geographical areas.

15.1.18 PRA G Where a *firm* is a member of a *group* that is subject to consolidated reporting, the *group* should be able to monitor credit exposures on a consolidated basis. See ■ SYSC 12, INSPRU 6.1 and GENPRU 3.

15.1.19 PRA G A *firm* should have the capability to measure its credit exposure to individual *counterparties* on at least a daily basis.

Risk monitoring

15.1.20 PRA G A *firm* should implement an effective system for monitoring its credit risk which should be described in its credit risk policy.

15.1.21 PRA G A *firm* should have a system of management reporting which provides clear, concise, timely and accurate credit risk reports to relevant functions within the *firm*. The reports could cover exceptions to the *firm's* credit risk policy, non-performing exposures and changes to the level of credit risk within the *firm's* credit portfolio. A *firm* should have procedures for taking appropriate action according to the information within the management reports, such as a review of *counterparty* limits, or of the overall credit policy.

15.1.22 PRA G Individual credit facilities and overall limits should be periodically reviewed in order to check their appropriateness for both the current circumstances of the *counterparty* and the *firm's* current internal and external economic environment. The frequency of review should be appropriate to the nature of the facility.

15.1.23 PRA G A *firm* should utilise appropriate stress testing and scenario analysis of credit exposures to examine the potential effects of economic or industry downturns, market events, changes in interest rates, changes in foreign exchange rates, changes in liquidity conditions and changes in levels of insurance losses where relevant.

Problem exposures

15.1.24 PRA G A *firm* should have systematic processes for the timely identification, management and monitoring of problem exposures. These processes should be described in the credit risk policy.

15.1.25 PRA G A *firm* should have adequate procedures for recovering exposures in arrears or that have had provisions made against them. A *firm* should allocate responsibility, either internally or externally, for its arrears management and recovery.

Provisioning

15.1.26 PRA G ■ SYSC 14.1.19 R (2) requires a *firm* to document its provisioning policy. A *firm's* provisioning policy can be maintained either as a separate document or as part of its credit risk policy.

15.1.27 PRA G At intervals that are appropriate to the nature, scale and complexity of its activities a *firm* should review and update its provisioning policy and associated systems.

15.1.28 PRA G In line with ■ SYSC 15.1.6 G, the *PRA* recognises that the frequency with which a *firm* reviews its provisioning policy once it has been established will vary from *firm* to *firm*. However, the *PRA* expects a *firm* to review at least annually whether its policy remains appropriate for the business it undertakes and the economic environment in which it operates.

15.1.29 PRA G In line with ■ SYSC 14.1.12 G, the provisioning policy referred to in ■ SYSC 15.1.26 G must be approved by the *firm's governing body* or another appropriate body to which the *firm's governing body* has delegated this responsibility.

15.1.30 PRA G In line with ■ SYSC 14.1.24 G, the *PRA* may request a *firm* to provide it with a copy of its current provisioning policy.

15.1.31 PRA G Provisions may be general (against the whole of a given portfolio), specific (against particular exposures identified as bad or doubtful) or both. The *PRA* expects contingent liabilities (for example guarantees) and anticipated losses to be recognised in accordance with accepted accounting standards at the relevant time, such as those embodied in the Financial Reporting Standards issued by the Accounting Standards Board.

Risk mitigation

15.1.32 PRA G A *firm* may choose to use various credit risk mitigation techniques including the taking of *collateral*, the use of letters of credit or guarantees, or *counterparty netting* agreements to manage and control their *counterparty* exposures. The use of such techniques does not obviate the need for thorough credit analysis and procedures. The reliance placed by a *firm* on *risk* mitigation should be described in the credit risk policy.

15.1.33 PRA G A *firm* should consider the legal and financial ability of a guarantor to fulfil the guarantee if called upon to do so.

15.1.34 PRA G A *firm* should monitor the validity and enforceability of its *collateral* arrangements.

15.1.35 PRA G The *firm* should analyse carefully the protection afforded by risk mitigants such as netting agreements or credit *derivatives*, to ensure that any residual risk is identified, measured, monitored and controlled.

Record keeping

15.1.36 PRA G Prudential records made under ■ SYSC 14.1.53 R should include appropriate records of:

- (1) credit exposures, including aggregations of credit exposures, as appropriate, by:
 - (a) groups of connected *counterparties*; or
 - (b) types of *counterparty* as defined, for example, by the nature or geographical location of the *counterparty*;

- (2) credit decisions, including details of the decision and the facts or circumstances upon which it was made; and
- (3) information relevant to assessing current *counterparty* and risk quality.

15.1.37

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Credit records should be retained as long as they are needed for the purpose described in ■ SYSC 15.1.36 G (subject to the minimum three year retention period). In particular, a *firm* should consider whether it is appropriate to retain information regarding *counterparty* history such as a record of credit events as well as a record indicating how credit decisions were taken.

Chapter 16

Market risk management systems and controls for insurers



16.1 Application

16.1.1
PRA

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■ SYSC 16.1 applies to an *insurer* unless it is:

- (1) a *non-directive friendly society*; or
- (2) an *incoming EEA firm*; or
- (3) an *incoming Treaty firm*.

16.1.2
PRA

G

■ SYSC 16.1 applies to:

- (1) an *EEA-deposit insurer*; and
- (2) a *Swiss general insurer*;

only in respect of the activities of the *firm* carried on from a *branch* in the *United Kingdom*.

16.1.2A
PRA

G

This section does not apply to an *incoming ECA provider* acting as such.

16.1.3
PRA

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Firms should also see ■ GENPRU 1.2 (GENPRU 1.2.64G to GENPRU 1.2.78G) and INSPRU 3.1.

Purpose

16.1.4
PRA

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- (1) The purpose of this section is to amplify ■ SYSC 14 insofar as it relates to *market risk*.
- (2) *Market risk* includes equity, interest rate, foreign exchange (FX), commodity risk and interest rate risk on *long-term insurance contracts*. The price of *financial instruments* may also be influenced by other risks such as *spread risk*, *basis risk*, correlation, *specific risk* and *volatility risk*.
- (3) This section does not deal with the risk management of *market risk* in a *group* context. A *firm* that is a member of a *group* should also read ■ SYSC 12 (Group risk systems and controls) which outlines the *PRA*'s requirements for the risk management of *market risk* within a *group*.

- (4) Appropriate systems and controls for the management of *market risk* will vary with the scale, nature and complexity of the *firm's* activities. Therefore the material in this section is *guidance*. A *firm* should assess the appropriateness of any particular item of *guidance* in the light of the scale, nature and complexity of its activities as well as its obligations as set out in *Principle 3* to organise and control its affairs responsibly and effectively.

Requirements

16.1.5

PRA

G

High level requirements for prudential systems and controls, including those for *market risk*, are set out in ■ SYSC 14. In particular:

- (1) ■ SYSC 14.1.19 R (2) requires a *firm* to document its policy for *market risk*, including its risk appetite and how it identifies, measures, monitors and controls that risk;
- (2) ■ SYSC 14.1.19 R (4) requires a *firm* to document its asset and liability recognition policy. Documentation should describe the systems and controls that it intends to use to comply with the policy;
- (3) ■ SYSC 14.1.19 R requires a *firm* to establish and maintain risk management systems to identify, measure, monitor and control *market risk* (in accordance with its *market risk* policy), and to take reasonable steps to establish systems adequate for that purpose; and
- (4) In line with ■ SYSC 14.1.11 G, the ultimate responsibility for the management of *market risk* should rest with a *firm's governing body*. Where delegation of authority occurs the *governing body* and relevant *senior managers* should approve and adequately review systems and controls to check that delegated duties are being performed correctly.

Market risk policy

16.1.6

PRA

G

■ SYSC 14 requires a *firm* to establish, maintain and document a business plan and risk policies. They should provide a clear indication of the amount and nature of *market risk* that the *firm* wishes to incur. In particular, they should cover for *market risk*:

- (1) how, with particular reference to its activities, the *firm* defines and measures *market risk*;
- (2) the *firm's* business aims in incurring *market risk* including:
 - (a) identifying the types and sources of *market risk* to which the *firm* wishes to be exposed (and the limits on that exposure) and those to which the *firm* wishes not to be exposed (and how that is to be achieved, for example how exposure is to be avoided or mitigated); and
 - (b) specifying the level of diversification required by the *firm* and the *firm's* tolerance for risk concentrations (and the limits on those exposures and concentrations).

16.1.7

PRA

G

The *market risk* policy of a *firm* should be endorsed by the *firm's governing body* and implemented by its senior management, who should take adequate steps to disseminate the policy and train the relevant staff such that they can effectively implement the policy.

16.1.8
PRA

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The *market risk* policy of a *firm* should enforce the risk management and control principles and include detailed information on:

- (1) the *financial instruments*, commodities, assets and liabilities (and mismatches between assets and liabilities) that a *firm* is exposed to and the limits on those exposures;
- (2) the *firm's* investment strategy as applicable between each insurance fund;
- (3) activities that are intended to hedge or mitigate *market risk* including mismatches caused by for example differences in the assets and liabilities and maturity mismatches; and
- (4) the methods and assumptions used for measuring linear, non-linear and geared *market risk* including the rationale for selection, ongoing validation and testing. Methods might include stress testing and scenario analysis, asset/liability analysis, correlation analysis, Value-at-Risk (VaR) and *options* such as delta, gamma, vega, rho and theta. Exposure to non-linear or geared *market risk* is typically through the use of *derivatives*.

Risk identification

16.1.9
PRA

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A *firm* should have in place appropriate risk reporting systems that enable it to identify the types and amount of *market risk* to which it is, and potentially could be, exposed. The information that systems should capture may include but is not limited to:

- (1) position information which may include a description of individual *financial instruments* and their cash flows; and
- (2) market data which may consist of raw time series of market rates, index levels and prices and derived time series of benchmark yield curves, spreads, implied volatilities, historical volatilities and correlations.

Risk measurement

16.1.10
PRA

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Having identified the *market risk* that the *firm* is exposed to on at least a daily basis, a *firm* should be able to measure and manage that *market risk* on a consistent basis. This may be achieved by:

- (1) regularly stress testing all or parts of the *firm's* portfolio to estimate potential economic losses in a range of market conditions including abnormal markets. Corporate level stress test results should be discussed regularly by risk monitors, senior management and risk takers, and should guide the *firm's* *market risk* appetite (for example, stress tests may lead to discussions on how best to unwind or hedge a position), and influence the internal capital allocation process;
- (2) measuring the *firm's* exposure to particular categories of *market risk* (for example, equity, interest rate, foreign exchange and commodities) as well as across its entire portfolio of *market risks*;
- (3) analysing the impact that new transactions or businesses may have on its *market risk* position on an on-going basis; and

- (4) regularly backtesting realised results against internal model generated *market risk* measures in order to evaluate and assess its accuracy. For example, a *firm* should keep a database of daily risk measures such as VaR and *options* such as delta, gamma, vega, rho and theta, and use these to back test predicted profit and loss against actual profit and loss for all trading desks and business units, and monitor the number of exceptions from agreed confidence bands.

Valuation

16.1.11

PRA

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A *firm* should take reasonable steps to establish systems and control procedures such that the *firm* complies with the requirements of GENPRU 1.3 (Valuation).

16.1.12

PRA

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The systems and controls referred to in ■ SYSC 16.1.11 G should include the following:

- (1) the department responsible for the validation of the value of assets and liabilities should be independent of the business trading area, and should be adequately resourced by suitably qualified staff. The department should report to a suitably qualified individual, independent from the business trading area, who has sufficient authority to enforce the systems and controls policies and any alterations to valuation treatments where necessary;
- (2) all valuations should be checked and validated at appropriate intervals. Where a *firm* has chosen not to validate all valuations on a daily basis this should be agreed by senior management;
- (3) a *firm* should establish a review procedure to check that the valuation procedures are followed and are producing valuations in compliance with the requirements in this section. The review should be undertaken by suitably qualified staff independent of the business trading area, on a regular and ad hoc basis. In particular, this review procedure should include:
 - (a) the quality and appropriateness of the price sources used;
 - (b) valuation reserves held; and
 - (c) the valuation methodology employed for each product and consistent adherence to that methodology;
- (4) where a valuation is disputed and the dispute cannot be resolved in a timely manner it should be reported to senior management. It should continue to be reported to senior management until agreement is reached;
- (5) where a *firm* is marking positions to market it should take reasonable steps to establish a price source that is reliable and appropriate to enable compliance with the provisions in this section on an ongoing basis;
- (6) a *firm* should document its policies and procedures relating to the entire valuation process. In particular, the following should be documented:
 - (a) the valuation methodologies employed for all product categories;
 - (b) details of the price sources used for each product;
 - (c) the procedures to be followed where a valuation is disputed;
 - (d) the valuation adjustment and reserving policies;

- (e) the level at which a difference between a valuation assigned to an asset or liability and the valuation used for validation purposes will be reported on an exceptions basis and investigated;
 - (f) where a *firm* is using its own internal estimate to produce a valuation, it should document in detail the process followed in order to produce the valuation; and
 - (g) the review procedures established by a *firm* in relation to the requirements of this section should be adequately documented and include the rationale for the policy;
- (7) a *firm* should maintain records which demonstrate:
- (a) senior management's approval of the policies and procedures established; and
 - (b) management sign-off of the reviews undertaken in accordance with ■ SYSC 16.1.11 G.

Risk monitoring

16.1.13
PRA

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Risk monitoring is the operational process by which a *firm* monitors compliance with defined policies and procedures of the *market risk* policy. The *firm's* risk monitoring system should be independent of the *employees* who are responsible for exposing the *firm* to *market risk*.

16.1.14
PRA

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The *market risk* policy of a *firm* may require the production of *market risk* reports at various levels within the *firm*. These reports should provide sufficiently accurate *market risk* data to relevant functions within the *firm*, and should be timely enough to allow any appropriate remedial action to be proposed and taken, for example:

- (1) at a *firm* wide level, a *market risk* report may include information:
 - (a) summarising and commenting on the total *market risk* that a *firm* is exposed to and *market risk* concentrations by business unit, asset class and country;
 - (b) on VaR reports against risk limits by business unit, asset class and country;
 - (c) commenting on significant risk concentrations and market developments; and
 - (d) on *market risk* in particular legal entities and geographical regions;
- (2) at the business unit level, a *market risk* report may include information summarising *market risk* by currency, trading desk, maturity or duration band, or by instrument type;
- (3) at the trading desk level, a *market risk* report may include detailed information summarising *market risk* by individual trader, instrument, position, currency, or maturity or duration band; and
- (4) all risk data should be readily reconcilable back to the prime books of entry with a fully documented audit trail.

16.1.15

PRA

G

Risk monitoring may also include information on:

- (1) the procedures for taking appropriate action in response to the information within the *market risk* reports;
- (2) ensuring that there are controls and procedures for identifying and reporting trades and positions booked at off-market rates;
- (3) the process for new product approvals;
- (4) the process for dealing with situations (authorised and unauthorised) where particular *market risk* exposures exceed predetermined risk limits and criteria; and
- (5) the periodic review of the risk monitoring process in order to check its suitability for both current market conditions and the *firm's* overall risk appetite.

16.1.16

PRA

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Risk monitoring should be subject to periodic independent review by suitably qualified staff.

Risk control

16.1.17

PRA

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Risk control is the independent monitoring, assessment and supervision of business units within the defined policies and procedures of the *market risk* policy. This may be achieved by:

- (1) setting an appropriate *market risk* limit structure to control the *firm's* exposure to *market risk*; for example, by setting out a detailed *market risk* limit structure at the corporate level, the business unit level and the trading desk level which addresses all the key *market risk* factors and is commensurate with the volume and complexity of activity that the *firm* undertakes;
- (2) setting limits on risks such as price or rate risk, as well as those factors arising from *options* such as delta, gamma, vega, rho and theta;
- (3) setting limits on net and gross positions, *market risk* concentrations, the maximum allowable loss (also called "stop-loss"), VaR, potential risks arising from stress testing and scenario analysis, gap analysis, correlation, liquidity and volatility; and
- (4) considering whether it is appropriate to set intermediate (early warning) thresholds that alert management when limits are being approached, triggering review and action where appropriate.

Record keeping

16.1.18

PRA

G

High level requirements for record keeping are set out in ■ SYSC 14 .

16.1.19

PRA

G

In relation to *market risk*, a *firm* should retain appropriate prudential records of:

- (1) off and on market trades in *financial instruments*;

- (2) the nature and amounts of off and on balance sheet exposures, including the aggregation of exposures;
- (3) trades in *financial instruments* and other assets and liabilities; and
- (4) methods and assumptions used in stress testing and scenario analysis and in VaR models.

16.1.20

PRA

G

A *firm* should keep a data history to enable it to perform back testing of methods and assumptions used for stress testing and scenario analysis and for VaR models.

Chapter 17

Insurance risk systems and controls



17.1 Application

17.1.1

PRA

G

■ SYSC 17.1 applies to an *insurer* unless it is:

- (1) a *non-directive friendly society*; or
- (2) an *incoming EEA firm*; or
- (3) an *incoming Treaty firm*.

17.1.2

PRA

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■ SYSC 17.1 applies to:

- (1) an *EEA-deposit insurer*; and
- (2) a *Swiss general insurer*;

only in respect of the activities of the *firm* carried on from a *branch* in the *United Kingdom*.

17.1.2A

PRA

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This section does not apply to an *incoming ECA provider* acting as such.

Purpose

17.1.3

PRA

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This section provides *guidance* on how to interpret ■ SYSC 14 (Risk management and associated systems and controls) in so far as it relates to the management of insurance risk. Insurance risk refers to fluctuations in the timing, frequency and severity of insured events, relative to the expectations of the *firm* at the time of underwriting. Insurance risk can also refer to fluctuations in the timing and amount of *claim* settlements. For *general insurance business* some specific examples of insurance risk include variations in the amount or frequency of *claims* or the unexpected occurrence of multiple *claims* arising from a single cause. For *long-term insurance business* examples include variations in the mortality and persistency rates of *policyholders*, or the possibility that guarantees could acquire a value that adversely affects the finances of a *firm* and its ability to treat its *policyholders* fairly consistent with the *firm's* obligations under the *FCA's Principle 6*. More generally, insurance risk includes the potential for expense overruns relative to pricing or provisioning assumptions.

17.1.4

PRA

G

Insurance risk concerns the *PRA* because inadequate systems and controls for its management can create a threat to the *statutory objectives* of promoting the safety and soundness of *PRA-authorized person* and contributing to the securing of an

appropriate degree of protection for those who are or may become policyholders. Inadequately managed insurance risk may result in:

- (1) the inability of a *firm* to meet its contractual insurance liabilities as they fall due; and
- (2) the inability of a *firm* to treat its *policyholders* fairly consistent with the *firm's* obligations under the *FCA's Principle 6* (for example, in relation to bonus payments).

17.1.5
PRA

G *Guidance* on the application of this section to a *firm* that is a member of a *group* is provided in ■ SYSC 12 (Group risk systems and controls).

17.1.6
PRA

G The *guidance* contained within this section should be read in conjunction with the rest of SYSC.

17.1.7
PRA

G Appropriate systems and controls for the management of insurance risk will vary with the scale, nature and complexity of a *firm's* activities. Therefore, the material in this section is *guidance*. A *firm* should assess the appropriateness of any particular item of *guidance* in the light of the scale, nature and complexity of its activities as well as its obligations, as set out in *Principle 3*, to organise and control its affairs responsibly and effectively.

General requirements

17.1.8
PRA

G High level *rules* and *guidance* for prudential systems and controls for insurance risk are set out in ■ SYSC 14. In particular:

- (1) ■ SYSC 14.1.18 R requires a *firm* to take reasonable steps to establish and maintain a business plan and appropriate risk management systems;
- (2) ■ SYSC 14.1.19 R (2) requires a *firm* to document its policy for insurance risk, including its risk appetite and how it identifies, measures, monitors and controls that risk; and
- (3) ■ SYSC 14.1.27 R requires a *firm* to take reasonable steps to establish and maintain adequate *internal controls* to enable it to assess and monitor the effectiveness and implementation of its business plan and prudential risk management systems.

Insurance risk policy

17.1.9
PRA

G A *firm's* insurance risk policy should outline its objectives in carrying out *insurance business*, its appetite for insurance risk and its policies for identifying, measuring, monitoring and controlling insurance risk. The insurance risk policy should cover any activities that are associated with the creation or management of insurance risk. For example, underwriting, *claims* management and settlement, assessing *technical provisions* in the balance sheet, risk mitigation and risk transfer, record keeping and management reporting. Specific matters that should normally be in a *firm's* insurance risk policy include:

- (1) a statement of the *firm's* willingness and capacity to accept insurance risk;
- (2) the classes and characteristics of *insurance business* that the *firm* is prepared to accept;

- (3) the underwriting criteria that the *firm* intends to adopt, including how these can influence its rating and pricing decisions;
- (4) its approach to limiting significant aggregations of insurance risk, for example, by setting limits on the amount of business that can be underwritten in one region or with one *policyholder*;
- (5) where relevant, the *firm's* approach to pricing *long-term insurance contracts*, including the determination of the appropriate level of any reviewable *premiums*;
- (6) the *firm's* policy for identifying, monitoring and managing risk when it has delegated underwriting authority to another party (additional *guidance* on the management of *outsourcing* arrangements is provided in ■ SYSC 13.9);
- (7) the *firm's* approach to managing its expense levels, including acquisition costs, recurring costs, and one-off costs, taking account of the margins available in both the prices for products and in the *technical provisions* in the balance sheet;
- (8) the *firm's* approach to the exercise of any discretion (e.g. on charges or the level of benefits payable) that is available in its *long-term insurance contracts*, in the context also of the legal and regulatory constraints existing on the application of this discretion;
- (9) the *firm's* approach to the inclusion of options within new *long-term insurance contracts* and to the possible exercise by *policyholders* of options on existing contracts;
- (10) the *firm's* approach to managing persistency risk;
- (11) the *firm's* approach to managing risks arising from timing differences in taxation or from changes in tax laws;
- (12) the *firm's* approach to the use of *reinsurance* or the use of some other means of risk transfer;
- (13) how the *firm* intends to assess the effectiveness of its risk transfer arrangements and manage the residual or transformed risks (for example, how it intends to handle disputes over contract wordings, potential payout delays and *counterparty* performance risks);
- (14) a summary of the data and information to be collected and reported on underwriting, *claims* and risk control (including internal accounting records), management reporting requirements and external data for risk assessment purposes;
- (15) the risk measurement and analysis techniques to be used for setting underwriting *premiums*, *technical provisions* in the balance sheet, and assessing capital requirements; and
- (16) the *firm's* approach to stress testing and scenario analysis, as required by GENPRU 1.2 (Adequacy of financial resources), including the methods adopted, any assumptions made and the use that is to be made of the results.

17.1.10

PRA

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Further, more detailed, *guidance* is given in ■ SYSC 17.1.11 G to ■ SYSC 17.1.37 G on the identification, measurement, monitoring and control (including the use of *reinsurance* and other forms of risk transfer) of insurance risk. A *firm* should consider what additional material to that set out above should be included in its insurance risk policy on each of these for its various activities.

Risk identification

17.1.11

PRA

G

A *firm* should seek to identify the causes of fluctuations in the occurrence, amount and timing of its insurance liabilities. A *firm* should also seek to identify aggregations of risk that may give rise to large single or multiple *claims*.

17.1.12

PRA

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The identification of insurance risk should normally include:

- (1) in connection with the *firm's* business plan:
 - (a) processes for identifying the types of insurance risks that may be associated with a new product and for comparing the risk types that are present in different classes of business (in order to identify possible aggregations in particular insurance risks); and
 - (b) processes for identifying business environment changes (for example landmark legal rulings) and for collecting internal and external data to test and modify business plans;
- (2) at the point of sale, processes for identifying the underwriting risks associated with a particular *policyholder* or a group of *policyholders* (for example, processes for collecting information on the *claims* histories of *policyholders*, including whether they have made any potentially false or inaccurate claims, to identify possible adverse selection or moral hazard problems);
- (3) after the point of sale, processes for identifying potential and emerging *claims* for the purposes of *claims* management and *claims* provisioning; this could include:
 - (a) identifying possible judicial rulings;
 - (b) keeping up to date with developments in market practice; and
 - (c) collecting information on industry wide initiatives and settlements.

17.1.13

PRA

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A *firm* should also identify potential pricing risks, where the liabilities or costs arising from the sale of a product may not be as expected.

Risk measurement

17.1.14

PRA

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A *firm* should have in place appropriate systems for collecting the data it needs to measure insurance risk. At a minimum this data should be capable of allowing a *firm* to evaluate the types of *claims* experienced, *claims* frequency and severity, expense levels, persistency levels and, where relevant, potential changes in the value of guarantees and options in *long-term insurance contracts*.

17.1.15

PRA

G

A *firm* should ensure that the data it collects and the measurement methodologies that it uses are sufficient to enable it to evaluate, as appropriate:

- (1) its exposure to insurance risk at all relevant levels, for example, by contract, *policyholder*, product line or insurance class;
- (2) its exposure to insurance risk across different geographical areas and time horizons;
- (3) its total, *firm-wide*, exposure to insurance risk and any other risks that may arise out of the *contracts of insurance* that it issues;
- (4) how changes in the volume of business (for example via changes in *premium* levels or the number of new contracts that are underwritten) may influence its exposure to insurance risk;
- (5) how changes in *policy* terms may influence its exposure to insurance risk; and
- (6) the effects of specific loss scenarios on the insurance liabilities of the *firm*.

17.1.16

PRA

G

A *firm* should hold data in a manner that allows for it to be used in a flexible way. For example, data should be sufficiently detailed and disaggregated so that contract details may be aggregated in different combinations to assess different risks.

17.1.17

PRA

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A *firm* should be able to justify its choice of measurement methodologies. This justification should normally be documented.

17.1.18

PRA

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A *firm* should periodically review the appropriateness of the measurement methodologies that it uses. This could, for example, include back testing (that is, by comparing actual versus expected results) and updating for changes in market practice.

17.1.19

PRA

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A *firm* should ensure that it has access to the necessary skills and resources that it needs to measure insurance risk using its chosen methodology.

17.1.20

PRA

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When measuring its insurance risks, a *firm* should consider how emerging experience could be used to update its underwriting process, in particular in relation to contract terms and pricing and also its assessment of the *technical provisions* in the balance sheet.

17.1.21

PRA

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A *firm* should have the capability to measure its exposure to insurance risk on a regular basis. In deciding on the frequency of measurement, a *firm* should consider:

- (1) the time it takes to acquire and process all necessary data;
- (2) the speed at which exposures could change; and
- (3) that it may need to measure its exposure to certain types of insurance risk on a daily basis (for example, weather catastrophes).

17.1.22

PRA

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Risk monitoring

A *firm* should provide regular and timely information on its insurance risks to the appropriate level of management. This could include providing reports on the following:

- (1) a statement of the *firm's* profits or losses for each class of business that it underwrites (with an associated analysis of how these have arisen for any *long-term insurance contracts*), including a variance analysis detailing any deviations from budget or changes in the key performance indicators that are used to assess the success of its business plan for insurance;
- (2) the *firm's* exposure to insurance risk at all relevant levels (see ■ SYSC 17.1.15 G (1)), as well as across different geographical areas and time zones (see ■ SYSC 17.1.15 G (2)), also senior management should be kept informed of the *firm's* total exposure to insurance risk (see ■ SYSC 17.1.15 G (3));
- (3) an analysis of any internal or external trends that could influence the *firm's* exposure to insurance risk in the future (e.g. new weather patterns, socio-demographic changes, expense overruns etc);
- (4) any new or emerging developments in *claims* experience (e.g. changes in the type of *claims*, average *claim* amounts or the number of similar *claims*);
- (5) the results of any stress testing or scenario analyses;
- (6) the amount and details of new business written and the amount of business that has lapsed or been cancelled;
- (7) identified fraudulent *claims*;
- (8) a watch list, detailing, for example, material/catastrophic events that could give rise to significant numbers of new *claims* or very large *claims*, contested *claims*, client complaints, legal and other developments;
- (9) the performance of any *reinsurance*/risk transfer arrangements; and
- (10) progress reports on matters that have previously been referred under escalation procedures (see ■ SYSC 17.1.23 G).

17.1.23

PRA

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A *firm* should establish and maintain procedures for the escalation of appropriate matters to the relevant level of management. Such matters may include:

- (1) any significant new exposures to insurance risk, including for example any landmark rulings in the courts;
- (2) a significant increase in the size or number of *claims*;
- (3) any breaches of the limits set out in ■ SYSC 17.1.27 G and ■ SYSC 17.1.28 G, in particular senior management should be informed where any maximum limits have been breached (see ■ SYSC 17.1.29 G); and
- (4) any unauthorised deviations from its insurance risk policy (including those by a *broker*, *appointed representative* or other delegated authority).

17.1.24
PRA

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A *firm* should regularly monitor the effectiveness of its analysis techniques for setting provisions for *claims* on *general insurance contracts*.

17.1.25
PRA

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A *firm* should have appropriate procedures in place to allow managers to monitor the application (and hence the effect) of its *reinsurance* programme. This would include, for a general *insurer*, procedures for monitoring how its *reinsurance* programme affects the gross provisions that it makes for outstanding *claims* (including *claims* that are incurred but not reported).

Risk control

17.1.26
PRA

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A *firm* should take appropriate action to ensure that it is not exposed to insurance risk in excess of its risk appetite. In so doing, the *firm* should be both reactive, responding to actual increases in exposure, and proactive, responding to potential future increases. Being proactive should involve close co-ordination between the processes of risk control, risk identification and risk measurement, as potential future exposures need to be identified and understood before effective action can be taken to control them.

17.1.27
PRA

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A *firm* should consider setting limits for its exposure to insurance risk, which trigger action to be taken to control exposure. Periodically these limits should be amended in the light of new information (e.g. on the expected number or size of *claims*). For example, limits could be set for:

- (1) the *firm's* aggregate exposure to a single source of insurance risk or for events that may be the result of a number of different sources;
- (2) the *firm's* exposure to specific geographic areas or any other groupings of risks whose outcomes may be positively correlated;
- (3) the number of fraudulent *claims*;
- (4) the number of very large *claims* that could arise;
- (5) the number of unauthorised deviations from its insurance risk policy;
- (6) the amount of insurance risk than can be transferred to a particular *reinsurer*;
- (7) the level of expenses incurred in respect of each relevant business area; and
- (8) the level of persistency by product line or distribution channel.

17.1.28
PRA

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A *firm* should also consider setting individual underwriting limits for all *employees* and agents that have the authority to underwrite insurance risk. This could include both monetary limits and limits on the types of risk that they can underwrite. Where individual underwriting limits are set, the *firm* should ensure that they are adhered to.

17.1.29
PRA

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In addition to setting some 'normal' limits for insurance risk, a *firm* should consider setting some maximum limits, beyond which immediate, emergency action should be taken. These maximum limits could be determined through stress testing and scenario analysis.

17.1.30 **G** A *firm* should pay close attention to the wording of its *policy* documentation to ensure that these wordings do not expose it to more, or higher, *claims* than it is expecting. In so doing, the *firm* should consider:

PRA

- (1) whether it has adequate in-house legal resources;
- (2) the need for periodic independent legal review of *policy* documentation;
- (3) the use of standardised documentation and referral procedures for variation of terms;
- (4) reviewing the documentation used by other insurance companies;
- (5) revising documentation for new *policies* in the light of past experience; and
- (6) the operation of law in the jurisdiction of the *policyholder*.

17.1.31 **G** A *firm* should ensure that it has appropriate systems and controls for assessing the validity of *claims*. This could involve consideration of the evidence that will be required from *policyholders* and how this evidence is to be tested as well as procedures to determine when experts such as loss adjusters, lawyers or accountants should be used.

PRA

17.1.32 **G** Particular care should be taken to ensure that a *firm* has appropriate systems and controls to deal with large *claims* or large groups of *claims* that could significantly deplete its financial resources. This should include systems to ensure that senior management (that is, the *governing body* and relevant *senior managers*) is involved in the processing of such *claims* from the outset.

PRA

17.1.33 **G** A *firm* should consider how it intends to use *reinsurance* or some other form of insurance risk transfer agreement to help to control its exposure to insurance risk. Additional *guidance* on the use of *reinsurance*/risk transfer is provided below.

PRA

Reinsurance and other forms of risk transfer

17.1.34 **G** Before entering into or significantly changing a *reinsurance* agreement, or any other form of insurance risk transfer agreement, a *firm* should:

PRA

- (1) analyse how the proposed *reinsurance*/risk transfer agreement will affect its exposure to insurance risk, its underwriting strategy and its ability to meet its regulatory obligations;
- (2) ensure there are adequate legal checking procedures in respect of the draft agreement;
- (3) conduct an appropriate due diligence of the *reinsurer's* financial stability (that is, solvency) and expertise; and
- (4) understand the nature and limits of the agreement (particular attention should be given to the wording of contracts to ensure that all of the required risks are covered, that the level of available cover is appropriate, and that all the terms, conditions and warranties are unambiguous and understood).

17.1.34A **G**
PRA

A *firm* should analyse regularly the full effect of all its *reinsurance* agreements and other risk transfer agreements (both current and proposed), including any related agreements or side-letters, on both its current and potential future financial position, and ensure that:

- (1) all significant risks related to these agreements, and the residual risks borne by the *firm*, have been identified; and
- (2) appropriate risk mitigation techniques have been applied to manage and control the risks.

17.1.35 **G**
PRA

In managing its *reinsurance* agreements, or any other form of insurance risk transfer agreement, a *firm* should have in place appropriate systems that allow it to maintain its desired level of cover. This could involve systems for:

- (1) monitoring the risks that are covered (that is, the scope of cover) by these agreements and the level of available cover;
- (2) keeping underwriting staff informed of any changes in the scope or level of cover;
- (3) properly co-ordinating all *reinsurance*/risk transfer activities so that, in aggregate, the desired level and scope of cover is maintained;
- (4) ensuring that the *firm* does not become overly reliant on any one *reinsurer* or other risk transfer provider; or
- (5) conducting regular stress testing and scenario analysis to assess the resilience of its *reinsurance* and risk transfer programmes to catastrophic events that may give rise to large and or numerous *claims*.

17.1.36 **G**
PRA

In making a claim on a *reinsurance* contract (that is, its *reinsurance* recoveries) or some other risk transfer contract a *firm* should ensure:

- (1) that it is able to identify and recover any money that it is due in a timely manner; and
- (2) that it makes adequate financial provision for the risk that it is unable to recover any money that it expected to be due, as a result of either a dispute with or a default by the *reinsurer*/risk transfer provider. Additional *guidance* on credit risk in *reinsurance*/risk transfer contracts is provided in *INSPRU* 2.1 (Credit risk in insurance).

17.1.37 **G**
PRA

Where the planned level or scope of cover from a *reinsurance*/risk transfer contract is not obtained, a *firm* should consider revising its underwriting strategy.

Record keeping

17.1.38 **G**
PRA

The *PRA*'s high level *rules* and *guidance* for record keeping are outlined in ■ SYSC 3.2.20 R (Records). Additional *rules* and *guidance* are set out in ■ SYSC 14.1.51 G to ■ SYSC 14.1.64 G. In complying with these *rules* and *guidance*, a *firm* should retain

an appropriate record of its insurance risk management activities. This may, for example, include records of:

- (1) each new risk that is underwritten (noting that these records may be held by agents or cedants, rather than directly by the *firm* provided that the *firm* has adequate access to those records);
- (2) any material aggregation of exposure to risk from a single source, or of the same kind or to the same potential catastrophe or event;
- (3) each notified *claim* including the amounts notified and paid, precautionary notices and any re-opened *claims*;
- (4) *policy* and contractual documents and any relevant representations made to *policyholders*;
- (5) other events or circumstances relevant to determining the risks and commitments that arise out of *contracts of insurance* (including discretionary benefits and charges under any *long-term insurance contracts*);
- (6) the formal wordings of *reinsurance* contracts; and
- (7) any other relevant information on the *firm's reinsurance* or other risk-transfer arrangements, including the extent to which they:
 - (a) have been exhausted by recoveries on paid *claims*; and
 - (b) will be exhausted by recoveries on reported *claims* and, to the extent known, on incurred but not reported *claims*.

17.1.39

PRA

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A *firm* should retain its underwriting and *claims* histories for as long as they may be needed to inform pricing or provisioning decisions.

Chapter 18

Guidance on Public Interest Disclosure Act: Whistleblowing



18.1 Application

18.1.1
FCA

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This chapter is relevant to every *firm* to the extent that the Public Interest Disclosure Act 1998 ("PIDA") applies to it.

Purpose

18.1.2
FCA

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- (1) The purposes of this chapter are:
 - (a) to remind *firms* of the provisions of PIDA; and
 - (b) to encourage *firms* to consider adopting and communicating to workers appropriate internal procedures for handling workers' concerns as part of an effective risk management system.

- (2) In this chapter "worker" includes, but is not limited to, an individual who has entered into a contract of employment.

18.1.3
FCA

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The *guidance* in this chapter concerns the effect of PIDA in the context of the relationship between *firms* and the *FCA*. It is not comprehensive guidance on PIDA itself.

18.2 Practical measures

Effect of Public Interest Disclosure Act 1998

18.2.1

FCA

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- (1) Under PIDA, any clause or term in an agreement between a worker and his employer is void in so far as it purports to preclude the worker from making a protected disclosure (that is, "blow the whistle").
- (2) In accordance with section 1 of PIDA:
 - (a) a protected disclosure is a qualifying disclosure which meets the relevant requirements set out in that section;
 - (b) a qualifying disclosure is a disclosure, made in good faith, of information which, in the reasonable belief of the worker making the disclosure, tends to show that one or more of the following (a "failure") has been, is being, or is likely to be, committed:
 - (i) a criminal offence; or
 - (ii) a failure to comply with any legal obligation; or
 - (iii) a miscarriage of justice; or
 - (iv) the putting of the health and safety of an individual in danger; or
 - (v) damage to the environment; or
 - (vi) deliberate concealment relating to any of (i) to (v);

it is immaterial whether the relevant failure occurred, occurs or would occur in the *United Kingdom* or elsewhere, and whether the law applying to it is that of the *United Kingdom* or of any other country or territory.

Internal procedures

18.2.2

FCA

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- (1) *Firms* are encouraged to consider adopting (and encouraged to invite their *appointed representatives* or, where applicable, their *tied agents* to consider adopting) appropriate internal procedures which will encourage workers with concerns to blow the whistle internally about matters which are relevant to the functions of the *FCA* or *PRA* .
- (2) Smaller *firms* may choose not to have as extensive procedures in place as larger *firms*. For example, smaller *firms* may not need written procedures. The following is a list of things that larger and smaller *firms* may want to do.
 - (a) For larger *firms*, appropriate internal procedures may include:

- (i) a clear statement that the *firm* takes failures seriously (see ■ SYSC 18.2.1G (2)(b));
 - (ii) an indication of what is regarded as a failure;
 - (iii) respect for the confidentiality of workers who raise concerns, if they wish this;
 - (iv) an assurance that, where a protected disclosure has been made, the *firm* will take all reasonable steps to ensure that no *person* under its control engages in victimisation;
 - (v) the opportunity to raise concerns outside the line management structure, such as with the Compliance Director, Internal Auditor or Company Secretary;
 - (vi) penalties for making false and malicious allegations;
 - (vii) an indication of the proper way in which concerns may be raised outside the *firm* if necessary (see (3));
 - (viii) providing access to an external body such as an independent charity for advice;
 - (ix) making whistleblowing procedures accessible to staff of key contractors; and
 - (x) written procedures.
- (b) For smaller *firms*, appropriate internal procedures may include:
- (i) telling workers that the *firm* takes failures seriously (see ■ SYSC 18.2.1G (2)(b)) and explaining how wrongdoing affects the organisation;
 - (ii) telling workers what conduct is regarded as failure;
 - (iii) telling workers who raise concerns that their confidentiality will be respected, if they wish this;
 - (iv) making it clear that concerned workers will be supported and protected from reprisals;
 - (v) nominating a senior officer as an alternative route to line management and telling workers how they can contact that individual in confidence;
 - (vi) making it clear that false and malicious allegations will be penalised by the *firm*;
 - (vii) telling workers how they can properly blow the whistle outside the *firm* if necessary (see (3));
 - (viii) providing access to an external body such as an independent charity for advice; and
 - (ix) encouraging managers to be open to concerns.
- (3) (a) *Firms* should also consider telling workers (through the *firm's* internal procedures, or by means of an information sheet available from the *FCA's* website, or by some other means) that they can blow the whistle to the *FCA*, as the regulator prescribed in respect of financial services and markets matters under PIDA.

(b) The *FCA* will give priority to live concerns or matters of recent history, and will emphasise that the worker's first port of call should ordinarily be the *firm* (see Frequently Asked Questions on <http://www.fca.org.uk/site-info/contact/whistleblowing/faq>).

(c) For the *FCA*'s treatment of confidential information, see ■ SUP 2.2.4 G.

Link to fitness and propriety

18.2.3

FCA

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The *FCA* would regard as a serious matter any evidence that a *firm* had acted to the detriment of a worker because he had made a protected disclosure (see ■ SYSC 18.2.1G (2)) about matters which are relevant to the functions of the *FCA* or *PRA*. Such evidence could call into question the fitness and propriety of the *firm* or relevant members of its staff, and could therefore, if relevant, affect the *firm*'s continuing satisfaction of *threshold condition 5* (Suitability) or, for an *approved person*, his status as such.

18

Chapter 19

[Deleted]



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Chapter 19A

Remuneration Code

19A.1 General application and purpose

Who? What? Where?

19A.1.1

FCA PRA

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- (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 4.1.1 R (General Requirements).

19A.1.2

FCA PRA

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Part 2 of ■ SYSC 1 Annex 1 provides for the application of ■ SYSC 4.1.1 R (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 investments 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*.

19A.1.3

FCA PRA

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When?

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

FCA PRA

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Subject to the requirements of ■ SYSC 19A.1.5 R, in the *appropriate regulator's* view ■ SYSC 19A.1.3 R 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

FCA PRA

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- (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

FCA PRA

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- (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 11.5.18 R to ■ BIPRU 11.5.21 G). Provisions of the Capital Requirements (Amendment) Regulations 2012 (SI 2012/917) together with the European Banking Authority's

Guidelines to article 22(3) and (5) of the *Banking Consolidation Directive* relating to the collection of *remuneration* benchmarking information and *high earners* information have been implemented through SUP 16 Annex 33AR and SUP 16 Annex 34AR. The Guidelines can be found at <http://www.eba.europa.eu/cebs/media/Publications/Standards%20and%20Guidelines/2012/EBA-GL-2012-04---GL-4-on-remuneration-benchmarking-exercise-.pdf> and <http://www.eba.europa.eu/cebs/media/Publications/Standards%20and%20Guidelines/2012/EBA-GL-2012-05--GL-5-on-remuneration-data-collection-exercise-.pdf>.

(3) [deleted]

Notifications to the appropriate regulator

19A.1.7

FCA PRA

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- (1) The *Remuneration Code* does not contain specific notification requirements. However, general circumstances in which the *appropriate regulator* 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 *firms* reputation; or
 - (ii) affect the *firms* 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 *firms* risk profile or resources;
 - (d) fraud, errors and other irregularities described in ■ SUP 15.3.17 R which may suggest weaknesses in, or be motivated by, the *firms 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

FCA

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The *FCA*'s policy on individual *guidance* is set out in ■ SUP 9. *Firms* should in particular note the policy on what the *FCA* considers to be a reasonable request for *guidance*

(see ■ SUP 9.2.5 G). For example, where a *firm* is seeking *guidance* on a proposed *remuneration* structure the *FCA* 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

FCA PRA

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

FCA PRA

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- (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 4.1.2 R *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 *appropriate regulator* to assess the quality of a *firm's remuneration* policies and whether they encourage excessive risk-taking by a *firm's employees*.
- (5) The *appropriate regulator* may also ask *remuneration* committees to provide the *appropriate regulator* 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 *appropriate regulator* 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

FCA PRA

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- (1) The specific *remuneration* requirements in this chapter may apply only in relation to certain categories of *employee*. But the *appropriate regulator* would expect *firms*, in complying with the *Remuneration Code general requirement*, to apply certain principles on a *firm-wide* basis.
- (2) In particular, the *appropriate regulator* considers that *firms* should apply the principle relating to guaranteed variable *remuneration* on a *firm-wide* basis (Remuneration Principle 12(c); ■ SYSC 19A.3.40 R to ■ SYSC 19A.3.43 G).
- (3) The *appropriate regulator* 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

FCA PRA

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

FCA PRA

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- (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

FCA PRA

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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

FCA PRA

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- (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 12.1.13 R (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

FCA PRA

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■ SYSC 12.1.13 R (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 *appropriate regulator's* view, the requirement to apply this section at *group*, *parent undertaking* and *subsidiary undertaking* levels (as provided for in ■ SYSC 19A.3.1 R (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 12.1.13 R).

Application: categories of staff and proportionality

19A.3.3

FCA PRA

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- (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.3.12 R).

[Note: Paragraph 23 of Annex V to the *Banking Consolidation Directive*]

[Note: In addition, the *PRA* has set out information on the division of *firms* into categories for the purpose of providing a framework for the operation of the *remuneration principles proportionality rule*. It is available at [LINK].]

[Note: In addition to the *guidance* in this section which relates to the *remuneration principles proportionality rule*, the *FSA* gave 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 www.fca.org.uk/your-fca.

19A.3.4

FCA PRA

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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

FCA PRA

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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

FCA PRA

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- (1) In the *appropriate regulator'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* gave *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 www.fca.org.uk/your-fca.]

(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's</i> risk profile	Fixed income
	Foreign exchange
	Commodities
	Securitisation
	Sales areas
	Investment banking (including mergers and acquisitions advisory)
	Commercial banking
	Equities
	Structured finance
	Lending quality
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	Trading areas
	Research
	Credit / market / operational risk
	Legal
	Treasury controls
	Human resources
	Compliance
	Internal audit

Remuneration Principle 1: Risk management and risk tolerance

19A.3.7
FCA PRA

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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

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FCA PRA

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

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FCA PRA

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

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FCA PRA

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

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FCA PRA

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

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FCA PRA

- (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*.

19A.3.13

FCA PRA

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[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.3.3 R also gives *guidance* on proportionality in relation to *remuneration* committees.]

- (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 4.3.3 G.

Remuneration Principle 5: Control functions

19A.3.14

FCA PRA

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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

FCA PRA

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- (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.3.14 R (2)).

19A.3.16

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FCA PRA

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.3.12 R, 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

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FCA PRA

- (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 *appropriate regulator* 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 6.1.4 R (4)).

Remuneration Principle 6: Remuneration and capital

19A.3.18

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FCA PRA

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

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FCA PRA

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.

19A.3.20
FCA PRA

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Remuneration Principle 7: Exceptional government intervention

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
FCA PRA

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The *appropriate regulator* 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 adjustment19A.3.22
FCA PRA

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- (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
FCA PRA

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- (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 *appropriate regulator* 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 *appropriate regulator* 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

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FCA PRA

- (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

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FCA PRA

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

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FCA PRA

- (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**
FCA PRA

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**
FCA PRA

Where a *firm* makes a loss the *appropriate regulator* 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**
FCA PRA

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.3.47 R (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.3.47 R (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**
FCA PRA

- (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**
FCA PRA

In the *appropriate regulator'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.

19A.3.32

FCA PRA

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Remuneration Principle 11: Avoidance of the Remuneration Code

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*]

19A.3.33

FCA PRA

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Remuneration Principle 12: Remuneration structures - introduction

Remuneration Principle 12 consists of a series of *rules*, *evidential provisions* and *guidance* relating to *remuneration* structures.

19A.3.34

FCA PRA

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- (1) Taking account of the *remuneration principles proportionality rule*, the *appropriate regulator* 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 Xs variable *remuneration* is no more than 33% of total *remuneration*; and
 - (b) Condition 2 is that Xs 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.3.40 R);
 - (b) retained *shares* or other instruments (■ SYSC 19A.3.47 R);
 - (c) deferral (■ SYSC 19A.3.49 R); and
 - (d) performance adjustment (■ SYSC 19A.3.51 R).

[Note: The *FSA* also gave *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 www.fca.org.uk/your-fca.]

Remuneration Principle 12(a): Remuneration structures - general requirement

19A.3.35

FCA PRA

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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

FCA PRA

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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
FCA PRA

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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
FCA PRA

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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
FCA PRA

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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
FCA PRA

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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
FCA PRA

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- (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 Xs 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.3.40 R).

19A.3.42

FCA PRA

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Guaranteed variable *remuneration* should be subject to the same deferral criteria as other forms of variable *remuneration* awarded by the *firm*.

19A.3.43

FCA PRA

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In the *appropriate regulator'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 *appropriate regulator* 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

FCA PRA

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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

FCA PRA

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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
FCA PRA

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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
FCA PRA

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- (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.3.49 R 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
FCA PRA

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- (1) The Committee of European Banking Supervisors has given guidance on the interpretation of the Directive provision transposed by ■ SYSC 19A.3.47 R (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.3.49 R (3) X is required to defer 60%. Xs upfront component is 40 and Xs deferred component is 60. At least 20 of Xs upfront component, and at least 30 of Xs deferred component, must be in instruments referred to in ■ SYSC 19A.3.47 R (1).

19A.3.49

FCA PRA

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Remuneration Principle 12(g): Remuneration structures - deferral

- (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

FCA PRA

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- (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 *appropriate regulator* 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.

PAGE
21**Remuneration Principle 12(h): Remuneration structures - performance adjustment, etc.**

19A.3.51


FCA PRA

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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 
FCA PRA

- (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.3.51 R).


19A.3.53 
FCA PRA

- (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 *appropriate regulator* 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.3.53A 
FCA PRA

■ SYSC 19A Annex 1 makes provision about voiding and recovery.

19A.3.54 
FCA PRA

- (1) Subject to (1A) to (3), the *rules* in ■ SYSC 19A Annex 1.1R to 1.4R apply in relation to the prohibitions on *Remuneration Code* staff being *remunerated* in the ways specified in:
 - (a) ■ SYSC 19A.3.40 R (guaranteed variable *remuneration*);
 - (b) ■ SYSC 19A.3.49 R (non-deferred variable *remuneration*); and
 - (c) ■ SYSC 19A Annex 1.7R (replacing payments recovered or property transferred).

- (1A) Paragraph (1) applies only to those prohibitions as they apply in relation to a *firm* that satisfies at least one of the conditions set out in (1B) and (1D).
- (1B) Condition 1 is that the *firm* is a *UK bank*, a *building society* or a relevant *BIPRU 730k firm* that has relevant total assets exceeding £50 billion.
- (1C) [deleted]
- (1D) Condition 2 is that the *firm*:
- (a) is a *full credit institution*, a relevant *BIPRU 730k firm* or a relevant *third country BIPRU 730k firm*; and
 - (b) is part of a *group* containing a *firm* that has relevant total assets exceeding £50 billion and that is a *UK bank*, a *building society* or a relevant *BIPRU 730k firm*.
- (1E) In this rule:
- (a) a "relevant *BIPRU 730k firm*" is any *BIPRU 730k firm* that is not a *limited activity firm* or a *limited licence firm*;
 - (b) a "relevant *third country BIPRU 730k firm*" is any *third country BIPRU 730k firm* that is not a *limited activity firm* or a *limited licence firm*; and
 - (c) "relevant total assets" means the arithmetic mean of the *firm's* total assets as set out in its balance sheet on its last three *accounting reference dates*.
- (2) This *rule* does not apply in relation to the prohibition on *Remuneration Code staff* being *remunerated* in the way specified in ■ SYSC 19A.3.40 R (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 Xs variable *remuneration* is no more than 33% of total *remuneration*; and
 - (b) Condition 2 is that Xs 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

FCA PRA

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- (1) Sections 137H and 137I of the *Act* enables the *appropriate regulator* 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.3.53A R and ■ SYSC 19A.3.54 R (together with ■ SYSC 19A Annex 1) are such *rules* and render 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 138E(2) of the *Act* that a contravention of a *rule* does not make any transaction void or unenforceable.
- (2) [deleted]

Detailed provisions on voiding and recovery (SYSC 19A.3.53AR and SYSC 19A.3.54R)

FCA PRA

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 *rule* applies (a "contravening provision") is void.

1A R A contravening provision does not cease to be void because:

- (1) the *firm* concerned ceases to satisfy any of the conditions set out in SYSC 19A.3.54R (1B) to (1D); or
- (2) the member of *Remuneration Code staff* concerned starts to satisfy both of the conditions set out in SYSC 19A.3.54R (3)(a) and (b).

2 R A contravening provision that, at the time a *rule* to which this *rule* 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 sections 137H and 137I 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 *appropriate regulator* but before the *rule* comes into effect. For further relevant transitional provisions, see SYSC TP 3.6A.

- 3A R**
- (1) A pre-existing provision is not rendered void by 1R.
 - (2) In this Annex a pre-existing provision is any provision of an agreement that would (but for this *rule*) be rendered void by 1R that was agreed at a time when either:
 - (a) the *firm* concerned did not satisfy any of the conditions set out in SYSC 19A.3.54R (1B) to (1D); or
 - (b) the member of *Remuneration Code staff* concerned satisfied both of the conditions set out in SYSC 19A.3.54R (3)(a) and (b).
 - (3) But an amendment to, or in relation to, a pre-existing provision is not to be treated as a pre-existing provision where the amendment is agreed at a time when both:
 - (a) the *firm* concerned satisfies at least one of the conditions set out in SYSC 19A.3.54R (1B) to (1D); and
 - (b) the member of *Remuneration Code staff* concerned does not satisfy both of the conditions set out in SYSC 19A.3.54R (3)(a) and (b).

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 other than a pre-existing 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*.

5A R Paragraph 5R continues to apply in one or both of the following cases:

- (1) the *firm* concerned ceases to satisfy any of the conditions set out in SYSC 19A.3.54R (1B) to (1D);
- (2) the member of *Remuneration Code staff* concerned starts to satisfy both of the conditions set out in SYSC 19A.3.54R (3)(a) and (b).

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* who has received *remuneration* in pursuance of a contravening provision other than a pre-existing 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.
- (4) Paragraph (1) continues to apply in one or both of the following cases:
- (a) the *firm* concerned ceases to satisfy any of the conditions set out in SYSC 19A.3.54R (1B) to (1D);
 - (b) the member of *Remuneration Code staff* concerned starts to satisfy both of the conditions set out in SYSC 19A.3.54R (3)(a) and (b).

Notification to the appropriate regulator

8 G The *appropriate regulator* considers any breach of a *rule* to which this annex applies to be a significant breach which should be notified to the *appropriate regulator* in accordance with SUP 15.3.11 R (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.

Chapter 20

Reverse stress testing

20.1 Application and purpose

Application

- (1) ■ SYSC 20 applies to:
- (a) a *BIPRU firm* 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
 - (b) an *insurer* unless it is:
 - (i) a *non-directive friendly society*; or
 - (ii) a *Swiss general insurer*; or
 - (iii) an *EEA-deposit insurer*; or
 - (iv) an *incoming EEA firm*; or
 - (v) an *incoming Treaty firm*.
- (2) Subject to (4), ■ SYSC 20 applies to a *BIPRU investment firm* if:
- (a) it has assets under management or administration of 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 at least £250 million (or the equivalent amount in foreign currency); or
 - (c) it has assets or liabilities of at least £2 billion (or the equivalent amount in foreign currency).
- (3) 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),

■ 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 included within the scope of ■ SYSC 20 in accordance with (2) 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 continues to meet the inclusion criteria in any of those subsequent years.

Purpose

20.1.2

FCA PRA

G

This chapter amplifies *Principle 2*, under which a *firm* must conduct its business with due skill, care and diligence, and *Principle 3*, under which a *firm* must take reasonable care to organise and control its affairs responsibly and effectively, with adequate risk management systems.

20.1.3

FCA PRA

G

This chapter contains *rules* on reverse stress testing, which require a *firm* to identify and assess events and circumstances that would cause its business model to become unviable. This chapter also requires the *firm's* senior management or *governing body* to review and approve the results of the reverse stress testing exercise. This should help the *firm's* senior management to identify the *firm's* vulnerabilities and design a strategy to prevent or mitigate the risk of business failure.

20.1.4

PRA

G

The reverse stress testing requirements are an integral component of a *firm's* business planning and risk management under SYSC. For *BIPRU firms* as referred to in ■ SYSC 20.1.1R (1)(a), this chapter amplifies ■ SYSC 7.1.1 G to ■ SYSC 7.1.8 G on risk control. For *insurers* as referred to in ■ SYSC 20.1.1R (1)(b), this chapter amplifies ■ SYSC 14.1.17 G to ■ SYSC 14.1.25 G on business planning and risk management.

20.1.4A

FCA

G

The reverse stress testing requirements are an integral component of a *firms* business planning and risk management under SYSC. For *BIPRU firms* as referred to in ■ SYSC 20.1.1 R (1)(a), this chapter amplifies ■ SYSC 7.1.1 G to ■ SYSC 7.1.8 G on risk control.

20.2 Reverse stress testing requirements

20.2.1

FCA PRA

R

As part of its business planning and risk management obligations under SYSC, a *firm* must reverse stress test its business plan; that is, it must carry out stress tests and scenario analyses that test its business plan to failure. To that end, the *firm* must:

- (1) identify a range of adverse circumstances which would cause its business plan to become unviable and assess the likelihood that such events could crystallise; and
- (2) where those tests reveal a risk of business failure that is unacceptably high when considered against the *firm's* risk appetite or tolerance, adopt effective arrangements, processes, systems or other measures to prevent or mitigate that risk.

20.2.2

FCA PRA

R

Where the *firm* is a member of:

- (1) an *insurance group*, in respect of which it is required to maintain group capital;
- (2) a *UK consolidation group*; or
- (3) a *non-EEA sub-group*;

it must conduct the reverse stress test on a solo basis as well as on a consolidated basis in relation to the *insurance group*, the *UK consolidation group* or the *non-EEA sub-group*, as the case may be.

20.2.3

FCA PRA

R

The design and results of a *firm's* reverse stress test must be documented and reviewed and approved at least annually by the *firm's* senior management or *governing body*. A *firm* must update its reverse stress test more frequently if it is appropriate to do so in the light of substantial changes in the market or in macroeconomic conditions.

20.2.4

FCA PRA

G

- (1) Business plan failure in the context of reverse stress testing should be understood as the point at which the market loses confidence in a *firm* and this results in the *firm* no longer being able to carry out its business activities. Examples of this would be the point at which all or a substantial portion of the *firm's* counterparties are unwilling to continue transacting with it or seek to terminate their contracts, or the point at which the *firm's* existing

shareholders are unwilling to provide new capital. Such a point may be reached well before the *firm's* financial resources are exhausted.

- (2) The *appropriate regulator* may request a *firm* to quantify the level of financial resources which, in the *firm's* view, would place it in a situation of business failure should the identified adverse circumstances crystallise.
- (3) In carrying out the stress tests and scenario analyses required by ■ SYSC 20.2.1 R, a *firm* should at least take into account each of the sources of risk identified in accordance with ■ GENPRU 1.2.30 R (2).

20.2.5

FCA PRA

G

Reverse stress testing should be appropriate to the nature, size and complexity of the *firm's* business and of the risks it bears. Where reverse stress testing reveals that a *firm's* risk of business failure is unacceptably high, the *firm* should devise realistic measures to prevent or mitigate the risk of business failure, taking into account the time that the *firm* would have to react to these events and implement those measures. As part of these measures, a *firm* should consider if changes to its business plan are appropriate. These measures, including any changes to the *firm's* business plan, should be documented as part of the results referred to in ■ SYSC 20.2.3 R .

20.2.6

FCA PRA

G

In carrying out its reverse stress testing, a *firm* should consider scenarios in which the failure of one or more of its major counterparties or a significant market disruption arising from the failure of a major market participant, whether or not combined, would cause the *firm's* business to fail.

20.2.7

FCA PRA

G

- (1) The *appropriate regulator* may request a *firm* to submit the design and results of its reverse stress tests and any subsequent updates as part of its risk assessment.
- (2) In the light of the results of a *firm's* reverse stress tests, the *appropriate regulator* may require the *firm* to implement specific measures to prevent or mitigate the risk of business failure where that risk is not sufficiently mitigated by the measures adopted by the *firm* in accordance with ■ SYSC 20.2.1 R, and the *firm's* potential failure poses an unacceptable risk to the *appropriate regulator's* statutory objectives.
- (3) The *appropriate regulator* recognises that not every business failure is driven by lack of financial resources and will take this into account when reviewing a *firm's* reverse stress test design and results.

Chapter 21

Risk control: additional guidance



21.1 Risk control: guidance on governance arrangements

Additional guidance on governance arrangements

21.1.1

FCA PRA

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 3.1.1 R (for *insurers, managing agents* and the *Society*) and ■ SYSC 4.1.1 R (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 *appropriate regulator* 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

FCA PRA

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 in particular ■ SYSC 19A.3.15 E).
- (2) *Firms* will need to seek the *appropriate regulator's* approval for a Chief Risk Officer to perform the *systems and controls function* (see ■ SUP 10 (Approved persons)).
 - (3) The *appropriate regulator* 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

FCA PRA

G

- (1) The Chief Risk Officer should be accountable to a *firm's governing body*.
- (2) The *appropriate regulator* recognises that in addition to the Chief Risk Officers 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 *appropriate regulator* 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

FCA PRA

G

- (1) *Firms* should ensure that a Chief Risk Officers *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

FCA PRA

G

- (1) The *appropriate regulator* 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

FCA PRA

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.

Appendix 1 [Deleted]

1.1 [Deleted]

Senior Management Arrangements, Systems and Controls

SYSC TP 1 Common platform firms

TP 1: Common platform firms		
Application		
1.1	R	SYSC TP 1 applies to a <i>common platform firm</i> .
Commencement and expiry of SYSC TP1		
1.2	R	SYSC TP 1 comes into force on 1 January 2007 and applies until 1 November 2007.
Purpose		
1.3	G	From 1 November 2007, a <i>firm</i> must comply with the <i>common platform requirements</i> and SYSC 3 will cease to apply to it. However, until 1 November 2007, a <i>firm</i> may choose to comply with the specific parts of the <i>common platform requirements</i> instead of SYSC 3. The purpose of SYSC TP 1 is to give a <i>firm</i> the option of complying with the <i>common platform requirements</i> sooner than 1 November 2007.
1.4	G	The ability to comply with the <i>common platform requirements</i> before 1 November 2007 does not apply to SYSC 9 (Record-keeping), SYSC 8.2 (Outsourcing of portfolio management for retail clients to a non-EEA State) or SYSC 8.3 (Guidance on outsourcing portfolio management for retail clients to a non-EEA State). All <i>firms</i> must continue to comply with the record-keeping requirements in SYSC 3.2.22 G until 1 November 2007, when SYSC 9 will enter into force.
The decision to comply with the common platform requirements		
1.5	R	SYSC 4 to SYSC 7, SYSC 8.1 and SYSC 10 do not apply to a <i>firm</i> unless it decides to comply with them sooner than 1 November 2007.
1.6	R	If a <i>firm</i> decides to comply with the <i>common platform requirements</i> in accordance with SYSC TP 1.5R:

TP 1: Common platform firms

1.7	R	<p>(1) it must make a record of the date of the decision and the date from which it is to be effective; and</p> <p>(2) subject to SYSC TP 1.7R below, from the effective date, it must comply with SYSC 4 to SYSC 7, SYSC 8.1 and SYSC 10, and SYSC 3 will not apply to it.</p>
1.8	G	<p>The following provisions in SYSC 3 will continue to apply to a <i>firm</i> that decides to comply with the <i>common platform requirements</i> before the 1 November 2007:</p> <p>(1) SYSC 3.2.23 R, SYSC 3.2.24 R, SYSC 3.2.26 R and SYSC 3.2.28 R to SYSC 3.2.35 R in so far as SYSC 12.1.13 R applies to it; and</p> <p>(2) SYSC 3.2.20 R to SYSC 3.2.22 G.</p>
1.9	G	<p>The purpose of SYSC TP 1.7R is to ensure the effective operation of the provisions on consolidated risk management processes and internal control mechanisms in relation to a <i>firm</i> that decides to comply with the <i>common platform requirements</i> before 1 November 2007.</p> <p>A decision by a <i>firm</i> to comply with the <i>common platform requirements</i> must be made in relation to all of the <i>common platform requirements</i>. The firm may not 'cherry-pick'.</p>
Definitions in SYSC TP1 and the common platform requirements		
1.10	R	<p>The terms <i>common platform firm</i> and <i>MiFID investment firm</i> have effect in SYSC TP 1 and the <i>common platform requirements</i> as if <i>MiFID</i> applied generally from 1 January 2007.</p>

Senior Management Arrangements, Systems and Controls

SYSC TP 2

Firms other than common platform firms, insurers, managing agents and the Society

FCA PRA

(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
2.1	SYSC 8.1	R	If a <i>firm</i> other than a <i>common platform firm, insurer, managing agent</i> or the <i>Society</i> has in force on 1 April 2009 <i>outsourcing</i> arrangements which would be covered by SYSC 8.1 it need not amend those contracts to comply with these provisions but should comply with the new rules and guidance in respect of any <i>outsourcing</i> contracts which are entered into, or materially amended, on or	1 April 2009 in- definitely	1 April 2009

(1)	(2)	(3)	(4)	(5)	(6)
after 1 April 2009.					

Senior Management Arrangements, Systems and Controls

SYSC TP 3 Remuneration code

1	R	[deleted]
2	R	[deleted]
3	R	[deleted]
4	G	[deleted]
5	G	[deleted]
6	R	Until 1 January 2012, SYSC 19A.3.54 R and SYSC 19A Annex 1 (on voiding and recovery) apply only in relation to a <i>firm</i> that was subject to the version of the <i>Remuneration Code</i> that applied before 1 January 2011.
6A	R	(1) Paragraph (2) applies in relation to a <i>firm</i> that was not subject to the version of the <i>Remuneration Code</i> that applied before 1 January 2011 but satisfies at least one of the conditions set out in SYSC 19A.3.54 R (1B) to SYSC 19A.3.54 R (1D).
		(2) Where this paragraph applies, a contravening provision that is contained in an agreement made before 3 November 2011 is not rendered void by SYSC 19A Annex 1.1R unless it is subsequently amended so as to contravene a rule to which SYSC 19A Annex 1.1R applies.
6B	G	The effect of 6R is to limit the provisions on voiding and recovery to <i>firms</i> which were subject to the version of the <i>Remuneration Code</i> which applied before 1 January 2011. That transitional provision comes to an end on 1 January 2012. A new limit providing for voiding to apply only in relation to certain types of firm is provided in SYSC 19A.3.54 R (1B) to SYSC 19A.3.54 R (1D). Paragraph 6AR applies to <i>firms</i> which become subject to the provisions on voiding after the transitional provision in 6R comes to an end. It prevents certain contravening provisions which predate the making of the new <i>rules</i> limiting the application of voiding from becoming void.
7	G	(1) This <i>guidance</i> applies to a <i>firm</i> to which the <i>Remuneration Code</i> applies, where both of the following conditions are satisfied: <ul style="list-style-type: none"> (a) condition 1 is that the <i>firm</i> is a non-listed <i>firm</i>; and (b) condition 2 is that any <i>parent undertaking</i> of the <i>firm</i> is a non-listed <i>undertaking</i>.
		(2) The <i>FSA</i> considers that, where each of the conditions set out below is satisfied, a <i>firm</i> to which this <i>guidance</i> applies might (but will not necessarily) be able to rely on the proportionality provisions of SYSC 4.1.2 R and the <i>remuneration principles proportionality rule</i> (of SYSC 19A.3.3 R) to justify not

complying with the requirement to pay at least 50% of variable *remuneration* in *shares* or other non-cash instruments (SYSC 19A.3.47 R).

- (a) Condition 1 is that the *firm* is taking the necessary steps to comply with the requirement as soon as reasonably possible and, in any event, by 1 July 2012.
 - (b) Condition 2 relates to the proportion of cash that would have been issued in *shares* or other non-cash instruments had SYSC 19A.3.47 R been complied with ("relevant cash"). The relevant cash should not be paid at the point in time that the *shares* or other non-cash instruments would have vested. This is because *shares* or other non-cash instruments continue to have risk-alignment features following vesting due to the requirement for the *firm* to apply an appropriate retention policy (SYSC 19A.3.47 R (2)). Instead, the *firm* should pay the relevant cash following a period of deferral, the length of which should mirror the retention policy that would have been applied had SYSC 19A.3.47 R been complied with. Where the relevant cash is already subject to deferral in accordance with SYSC 19A.3.49 R, this period of deferral should be added to the period determined under SYSC 19A.3.49 R. The relevant cash should be subject to performance adjustment in accordance with Remuneration Principle 12(h) (SYSC 19A.3.51 R to SYSC 19A.3.53 G) until it vests.
 - (c) Condition 3 is that the *firm* has adopted and is maintaining specific and effective arrangements, processes and mechanisms to manage the risks raised by its non-compliance with SYSC 19A.3.47 R.
- (3) The *guidance* in (1) to (2) ceases to have effect on 1 July 2012. As a result this *guidance* does not apply to *remuneration* which vests on or after 1 July 2012 (including *remuneration* awarded before 1 July 2012, but where deferral under SYSC 19A.3.49 R leads to it vesting on or after 1 July 2012).

Senior Management Arrangements, Systems and Controls

SYSC TP 4 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 2.1.6 G , R SYSC 3.1.3 G and SYSC 4.4.6 G		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

Senior Management Arrangements, Systems and Controls

Schedule 1 Record keeping requirements

Sch 1.1 G

FCA **PRA**

The aim of the guidance in the following table is to give the reader a quick over-all view of the relevant record keeping requirements.

It is not a complete statement of those requirements and should not be relied on as if it were.

Sch 1.2 G

FCA **PRA**

Handbook reference	Subject of record	Contents of record	When record must be made	Retention period
SYSC 2.2.1 R	Arrangements made to satisfy SYSC 2.1.1 R (apportionment) and SYSC 2.1.3 R (allocation)	Those arrangements	On making the arrangements and when they are updated	Six years from the date on which the record is superseded by a more up-to-date record
SYSC 3.2.20 R	Matters and dealings (including accounting records) which are the subject of requirements and standards under the <i>regulatory system</i>	Adequate	Adequate time	Adequate
SYSC 10.1.6 R	Conflict of interest	Kinds of service or activity carried out by or on behalf of the <i>firm</i> in which a conflict of interest entailing a material risk of damage to the interests of one or more <i>clients</i> has arisen or, in the case of an ongoing service or activity, may arise.	Not specified	5 years
SYSC 14.1.53 R	Prudential risk management and systems and controls	Accounting and other records that are sufficient to enable the <i>firm</i> to	Not specified	3 years, or longer as appropriate

Handbook reference	Subject of record	Contents of record	When record must be made	Retention period
		<p>demonstrate to the <i>PRA</i> : (1) that the <i>firm</i> is financially sound and has appropriate systems and controls; (2) the <i>firm's</i> financial position and exposure to risk (to a reasonable degree of accuracy); (3) the <i>firm's</i> compliance with the rules in <i>GENPRU</i>, <i>IN-SPRU</i> and <i>SYSC</i>.</p>		

Senior Management Arrangements, Systems and Controls

Schedule 2 Notification requirements

Sch 2.1 G

FCA **PRA**

There are no notification or reporting requirements in *SYSC*.

Senior Management Arrangements, Systems and Controls

Schedule 3 Fees and other required payments

Sch 3.1 G

FCA **PRA**

There are no requirement for fees or other payments in *SYSC*.

Senior Management Arrangements, Systems and Controls

Schedule 4 Powers exercised

Sch 4.1 G

The following powers and related provisions in the *Act* have been exercised by the *FSA* to make the *rules* in *SYSC*:

Section 138 (General rule-making power)

Section 139A (General rules about remuneration)

Section 145 (Financial promotion rules)

Section 146 (Money laundering rules)

Section 149 (Evidential provisions)

Section 150(2) (Actions for damages)

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 *SYSC*:

Section 157(1) (Guidance)

Section 158A (Guidance on outsourcing by investment firms and credit institutions)

Senior Management Arrangements, Systems and Controls

Schedule 5 Rights of action for damages

Sch 5.1 G

FCA

The table below sets out the *rules* in SYSC contravention of which by an authorised person may be actionable under section 138D of the Act (Actions for damages) by a person who suffers loss as a result of the contravention.

Sch 5.2 G

FCA

If a 'Yes' appears in the column headed 'For private person', the *rule* may be actionable by a 'private person' under section 138D (or, in certain circumstances, his fiduciary or representative; see article 6(2) and (3)(c) of the Financial Services and Markets Act 2000 (Rights of Action) Regulations 2001 (SI 2001 No 2256)). A 'Yes' in the column headed 'Removed' indicates that the *FCA* has removed the right of action under section 138D(3) of the *Act*. If so, a reference to the *rule* in which it is removed is also given.

Sch 5.3 G

FCA

The column headed 'For other person' indicates whether the rule may be actionable by a person other than a private person (or his fiduciary or representative) under article 6(2) and (3) of those Regulations. If so, an indication of the type of person by whom the *rule* may be actionable is given.

Sch 5.4 G

FCA

Chapter/Appendix	Section/Annex	Paragraph	Right of action under section 138D		
			For private person?	Removed?	For other person?
SYSC 2 and SYSC 3			No	Yes SYSC 1 Annex 1.1.12R	No
SYSC 4 to SYSC 10			No	Yes SYSC 1 Annex 1.2.19R	No
SYSC 11 to SYSC 19A			No	Yes SYSC 1.4.2 R	No

Senior Management Arrangements, Systems and Controls

Schedule 6 Rules that can be waived

Sch 6.1 G

[deleted]

Sch 6.1A G

FCA

As a result of section 138A of the *Act* (Modification or waiver of rules) the *FCA* has power to waive all its *rules*, other than *rules* made under section 137O (Threshold condition code), 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 *FCA* to grant a waiver that would be incompatible with the *United Kingdom's* responsibilities under those directives.

Sch 6.1B G

PRA

As a result of section 138A of the *Act* (Modification or waiver of rules) the *PRA* has power to waive all its *rules*, other than *rules* made under section 137O (Threshold condition code). However, if the *rules* incorporate requirements laid down in European directives, it will not be possible for the *PRA* to grant a waiver that would be incompatible with the *United Kingdom's* responsibilities under those directives.

Threshold Conditions

Threshold Conditions

COND 1 **Introduction**

- 1.1 [Deleted]
- 1.1A Application
- 1.2 Purpose
- 1.3 General
- 1 Annex 1 [Deleted]
- 1 Annex 2 [Deleted]

COND 2 **The threshold conditions**

- 2.1 Threshold condition 1: Legal status [Deleted]
- 2.2 Location of offices
- 2.2A [Deleted]
- 2.3 Effective supervision
- 2.4 Appropriate resources
- 2.5 Suitability
- 2.6 [Deleted]
- 2.7 Business model
- 2 Annex 1 [Deleted]

COND 3 **Banking Act 2009 [deleted]**

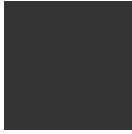
- 3.1

Transitional Provisions and Schedules

- TP 1 Transitional Provisions
- Sch 1 Record keeping requirements
- Sch 2 Notification requirements
- Sch 3 Fees and other required payments
- Sch 4 Powers exercised
- Sch 5 Rights of action for damages
- Sch 6 Rules that can be waived

Chapter 1

Introduction



1.1 [Deleted]

1.1A Application

To which threshold conditions does COND apply?

1.1A.1

FCA

G

- (1) Section 55C of the Financial Services Act 2012 (Power to amend Schedule 6) gave HM Treasury the power to amend Schedule 6 of the *Act*. HM Treasury exercised this power by making The Financial Services and Markets Act 2000 (Threshold Conditions) Order 2013 which entered into force on 1 April 2013 (the "TC Order"). The TC Order's main result is the creation of four sets of *threshold conditions*, namely:
 - (i) conditions for *firms* authorised and regulated by the *FCA* only (paragraphs 2B to 2F of Schedule 6 to the *Act*)
 - (ii) *FCA* specific conditions for *firms* authorised by the *PRA* and subject to dual regulation (paragraphs 3B to 3E of Schedule 6 to the *Act*);
 - (iii) *PRA*-specific conditions for *insurers* (paragraphs 4A to 4F of Schedule 6 to the *Act*); and
 - (iv) *PRA*-specific conditions for other *PRA-authorised persons* (paragraphs 5A to 5F of Schedule 6 to the *Act*).
- (2) The *guidance* in *COND* is only applicable to the *threshold conditions* listed in ■ COND 1.1A.1G(1)(i) and (ii), above. These are the *threshold conditions* stated in paragraphs 2A and 3A of Schedule 6 to the *Act* as being relevant to the discharge by the *FCA* of its functions under the *Act*.
- (3) In respect of a *person* which does not carry on, or seek to carry on, any *PRA-regulated activities*, the *threshold conditions* that are relevant to the discharge by the *FCA* of its functions under the *Act* are those set out in paragraphs 2B to 2F of Schedule 6 to the *Act*, subject to ■ COND 1.1A.4G (1), below.
- (4) In respect of a *firm* which does carry on, or seeks to carry on, a *PRA-regulated activity*, the *threshold conditions* that are relevant to the discharge by the *FCA* of its functions under the *Act* are those set out in paragraphs 3B to 3E of Schedule 6 to the *Act*, subject to ■ COND 1.1A.4G (2), below.
- (5) A reference to "*FCA threshold conditions*" in *COND* means a reference to the *threshold conditions* referred to in (3) and (4) that apply to a particular *firm*.

1.1A.2

FCA

G

To whom does COND apply?

- (1) COND applies to all *firms*, except where stated otherwise in this *guidance*.
- (2) In COND, '*firm*' includes an applicant for *Part 4A permission* unless the context otherwise requires.

1.1A.3

FCA

G

To what extent does COND apply to firms authorised by the PRA (PRA-authorised persons) and subject to dual regulation?

- (1) As a result of the new legal framework for *threshold conditions* described in ■ COND 1.1A.1G (1), *PRA-authorised persons* and *firms* seeking to become *PRA-authorised persons* are subject to two sets of *threshold conditions*:
 - (i) the *FCA-specific conditions* referred to in ■ COND 1.1A.1G (1)(ii) and
 - (ii) one of the two *PRA-specific conditions* referred to in ■ COND 1.1A.1G (1)(iii) or ■ (iv), depending on the *PRA-regulated activities* which the *PRA-authorised person* or *firm* carries on, or is seeking to carry on.

The *FCA threshold conditions* set out in paragraphs 3B to 3E of the *Act* seek to reflect this. In particular, these *threshold conditions* do not contain a condition relating to adequate financial resources. This is a matter that falls to be considered by the *PRA* under its *threshold conditions*.

- (2) The majority of the *guidance* in COND is intended to assist all *firms* to understand how the *FCA* will approach its assessment of the applicable *FCA threshold conditions*, regardless of whether or not a *firm* is, or is seeking to become, a *PRA-authorised person*. This is because the *FCA threshold conditions* which apply to *PRA-authorised persons* and those which apply to *firms* authorised by the *FCA* only are, for the most part, the same.
- (3) However, where *guidance* in COND refers to an assessment of a *firm's* financial position or its compliance with prudential regulatory requirements, it is not intended to assist *firms* which are, or are seeking to become, *PRA-authorised persons*. This is because these are matters that are not covered by the *FCA's threshold conditions*, but rather fall to be considered by the *PRA* under its *threshold conditions*.
- (4) Although some of the *PRA threshold conditions* and *FCA threshold conditions* that apply to *firms* which are, or are seeking to become, *PRA-authorised persons* may appear to address similar subject matter, the *FCA* will approach the assessment of its *threshold conditions* with its unique *statutory objectives* in mind and in the light of the functions which the *FCA* is required to discharge in relation to them.
- (5) For the avoidance of doubt, the *guidance* in COND is not intended to apply to the *PRA's* assessment of its own *threshold conditions* in respect of a *PRA-authorised person*. This is a matter for the *PRA* alone.

1.1A.4

FCA

G

To what extent does COND apply to incoming EEA firms and incoming Treaty firms?

COND applies to *incoming EEA firms* and *incoming Treaty firms* as set out below:

- (1) for an *incoming EEA firm* or an *incoming Treaty firm* which does not carry on any *PRA-regulated activities*, *FCA threshold conditions 2C to 2F* apply; and
- (2) for an *incoming EEA firm* or an *incoming Treaty firm* which carries on a *PRA-regulated activity*, *FCA threshold conditions 3B to 3E* apply.

FCA threshold conditions apply to *incoming EEA firms* and *incoming Treaty firms* only in as far as relevant to the discharge by the *FCA* of its relevant functions in relation to an application for, or the exercise of its *own-initiative powers* in relation to, a *top-up permission* or the functions relating to the *FCA*'s consent or consultation rights relating to the exercise by the *PRA* of its powers in relation to an application for, or use of its *own-initiative powers* relating to, a *top-up permission*.

1.1A.5

FCA

G

To what extent does COND apply to Swiss general insurance companies?

FCA threshold conditions 3B, 3C and 3E apply to *Swiss General Insurance Companies*.

1.1A.6

FCA

G

To which regulated activities does COND apply?

Subject to the limitations referred to above, *COND* applies in relation to all of the *regulated activities* for which a *firm* has, or will have, *permission*.

1.1A.7

FCA

G

Where does COND apply?

COND applies in relation to all of the *regulated activities* wherever they are carried on, except as stated in ■ COND 1.1A.4 G.

1.2 Purpose

1.2.1

FCA

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COND gives *guidance* on the *threshold conditions* . The *FCA threshold conditions* represent the minimum conditions for which the *FCA* is responsible, which a *firm* is required to satisfy, and continue to satisfy, in order to be given and to retain *Part 4A permission*. A *PRA-authorized person* or, as appropriate, a *firm* seeking to become a *PRA-authorized person* must also satisfy, and continue to satisfy, the *threshold conditions* for which the *PRA* is responsible in order to be given and to retain *Part 4A permission* (these *threshold conditions* are not the subject of the *guidance* in COND).

1.2.2

FCA

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Applications for Part 4A permission or variation of Part 4A permission

- (1) Under section 55B(3) of the *Act*, in giving or varying a *Part 4A permission*, imposing or varying any *requirement* or giving consent, the *FCA* must ensure that the *firm* concerned will satisfy, and continue to satisfy, the *FCA threshold conditions* in relation to all of the *regulated activities* for which it has or will have *permission*.
- (2) If, however, the applicant for *permission* is an *incoming firm* seeking *top-up permission*, or variation of *top-up permission*, under Part 4A of the *Act* (Permission to carry on regulated activities), then under paragraphs 6A and 7A of Schedule 6 to the *Act* (Threshold conditions) , the *FCA* will have regard only to satisfaction of the *FCA threshold conditions* specified as applicable in ■ COND 1.1A.4 G , as relevant to the *regulated activities* for which the applicant has, or will have, *Part 4A permission*.

1.2.3

FCA

G

Exercise of the FCA's own-initiative powers

- (1) If, among other things, a *firm* is failing to satisfy any of the *FCA threshold conditions*, or is likely to fail to do so, the *FCA* may exercise its *own-initiative powers* under either section 55J (Variation or cancellation on initiative of regulator) or section 55L (Imposition of requirements by FCA) of the *Act*. Use of the *FCA's own-initiative powers* is explained in ■ SUP 7 (Individual requirements), and ■ EG 8 (Variation and cancellation of permission on the *FCA's own initiative and intervention against incoming firms*) .
- (2) If, when exercising its *own-initiative powers* under section 55J or section 55L of the *Act*, the *FCA* varies a *firm's permission*, or imposes or varies a *requirement*, then, under section 55B(3) of the *Act*, the *FCA* must ensure that the *firm* concerned will satisfy, and continue to satisfy, the *FCA threshold conditions* in relation to all of the relevant *regulated activities* for which it has or will have *permission*. However, section 55B(4) of the *Act* states that the duty imposed by section 55B(3) of the *Act* does not prevent the *FCA*

taking such steps as it considers necessary in relation to a particular *firm* in order to advance any of its operational objectives.

- (3) The *FCA* can also exercise its *own-initiative powers* under section 55J or section 55L of the *Act* in relation to the *top-up permission* of an *incoming firm*. But this is only on the grounds that the *incoming firm* is failing, or likely to fail, to satisfy the *FCA threshold conditions* specified as applying to *incoming firms* under ■ COND 1.1A.4 G.

1.2.4

G

- (1) [deleted]
(2) [deleted]

Approval of acquisitions or increases of control

1.2.5

FCA

G

- (1) Under section 185 of the *Act* (Assessment: general) the *FCA* may, subject to consultation with the *PRA* where the conditions in section 187B of the *Act* are satisfied, object to an acquisition of an *FCA-authorised person* if there are reasonable grounds to do so on the basis of the matters set out in section 186 of the *Act* (Assessment: criteria) or if the information provided by the section 178 notice giver is incomplete. Section 186(d) of the *Act* (Assessment: criteria) specifies one such criteria as whether an *FCA-authorised person* will be able to comply with its prudential requirements (including the *threshold conditions* in relation to all of the *regulated activities* for which it has, or will have, *permission*.)
- (2) Under section 191A of the *Act* (Objection to control), subject to consultation with the *PRA* in the circumstances specified in that provision, the *FCA* may object to a *person's* existing control of an *FCA-authorised person* on the grounds specified under section 186 of the *Act*.

1.3 General

1.3.1

FCA

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The *guidance* in ■ COND 2 explains each *FCA threshold condition* in Schedule 6 (threshold conditions) to the *Act* and indicates how the *FCA* will interpret it in practice. This *guidance* is not, however, exhaustive and is written in very general terms. A *firm* will need to have regard to the obligation placed upon the *FCA* under section 55B (The threshold conditions) of the *Act*; that is, the *FCA* must ensure that the *firm* will satisfy, and continue to satisfy, the *FCA threshold conditions* in relation to each *regulated activity* for which it has, or will have, *permission*.

1.3.2

FCA

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- (1) The *FCA* will consider whether a *firm* satisfies, and will continue to satisfy, the *FCA threshold conditions* in the context of the size, nature, scale and complexity of the business which the *firm* carries on or will carry on if the relevant application is granted.
- (2) In relation to *threshold conditions* set out in paragraphs 2D to 2F of Schedule 6 to the *Act* in respect of *firms* which are not *PRA-authorised persons* and paragraphs 3C to 3E of Schedule 6 to the *Act* in respect of *firms* which are *PRA-authorised persons*, the *FCA* will consider whether a *firm* is ready, willing and organised to comply, on a continuing basis, with the requirements and standards under the *regulatory system* which apply to the *firm*, or will apply to the *firm*, and for which the *FCA* is responsible, if it is granted *Part 4A permission*, or a variation of its *permission*. These matters will also be considered if the *FCA* is exercising its *own-initiative powers* (see ■ COND 1.2.3 G). Guidance to *firms* on the implications of this is given under each of those *threshold conditions*.

1.3.3

FCA

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Although the *FCA* may consider that a matter is relevant to its assessment of a *firm*, the fact that a matter is disclosed to the *FCA*, for example in an application, does not necessarily mean that the *firm* will fail to satisfy the *FCA threshold conditions*. The *FCA* will consider each matter in relation to the *regulated activities* for which the *firm* has, or will have, *permission*, having regard to its *statutory objectives*. A *firm* should disclose each relevant matter but, if it is appropriate to do so, it is encouraged to discuss it with the *FCA*. This will enable the *FCA* to consider fully how material or significant the matter is and how it affects the ability of the *firm* to satisfy, and continue to satisfy, the *FCA threshold conditions*.

1.3.3A

FCA

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In determining the weight to be given to any relevant matter, the *FCA* will consider its significance in relation to the *regulated activities* for which the *firm* has, or will have, *permission*, in the context of its ability to supervise the *firm* adequately, having regard to the *FCA's statutory objectives*. In this context, a series of matters may be

significant when taken together, even though each of them in isolation might not give serious cause for concern.

1.3.3B

FCA

G

In determining whether the *firm* will satisfy, and continue to satisfy, the *FCA threshold conditions*, the *FCA* will have regard to all relevant matters, whether arising in the *United Kingdom* or elsewhere.

1.3.3C

FCA

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When assessing the *FCA threshold conditions*, the *FCA* may have regard to any *person* appearing to be, or likely to be, in a relevant relationship with the *firm*, in accordance with section 55R of the *Act* (Persons connected with an applicant). For example, a *firm's controllers*, its *directors* or *partners*, other *persons* with *close links* to the *firm* (see ■ COND 2.3), and other *persons* that exert influence on the *firm* which might pose a risk to the *firm's* satisfaction of the *FCA threshold conditions*, would be in a relevant relationship with the *firm*.

1.3.3D

FCA

G

In making its assessment, the *FCA* will consider the individual circumstances of each *firm* on a case-by-case basis.

1.3.3E

FCA

G

Notes on the contents of a business plan are given in the business plan section of the application pack for *Part 4A permission* on the *FCA's* website.

Statutory quotations

1.3.4

FCA

G

- (1) For ease of reference, the *FCA threshold conditions* in or under Schedule 6 to the *Act* have been quoted in full in ■ COND 2.
- (1A) Paragraphs 2A and 3A of Schedule 6 of the *Act* have not been quoted. These set out the application of the *FCA threshold conditions* to *firms* which do not carry on, or are not seeking to carry on, a *PRA regulated activity* and *firms* which carry on, or are seeking to carry on, a *PRA regulated activity* respectively. This application is summarised in ■ COND 1.1A.
- (2) As the *FCA threshold conditions* impose obligations, they are printed in bold type. The use of bold type is not intended to indicate that these quotations are *rules* made by the *FCA*.
- (3) [deleted]
- (4) Paragraph 1A of Schedule 6 of the *Act* sets out interpretative provisions that apply to the *threshold conditions*. These are repeated in ■ COND 1.3.5 G below for ease of reference.

1.3.5



Paragraph 1A of Schedule 6 to the Act

- (1) "assets" includes contingent assets;

"consolidated supervision" has the same meaning as in section 3M(a);

"consumer" has the meaning given by section 425A(b);

"financial crime" is to be read with section 1H(3)(c);

"functions", in relation to either the FCA or the PRA, means the functions conferred on that regulator by or under this Act;

"liabilities" includes contingent liabilities;

"relevant directives" has the same meaning as in section 3M;

"Society" means the society incorporated by Lloyd's Act 1871(d) by the name of Lloyd's;

"subsidiary undertaking" includes all the instances mentioned in Article 1(1) and (2) of the Seventh Company Law Directive in which an entity may be a subsidiary of an undertaking.

- (2) For the purposes of this Schedule, the "non-financial resources" of a person include any systems, controls, plans or policies that the person maintains and the human resources that the person has available.
- (3) In this Schedule, references to "integrity of the UK financial system" are to be read with section 1D(2)(e).
- (4) The reference to the failure of a person is to be read in accordance with section 2J(3) and (4)(f).

[Deleted]

1

[Deleted]

Chapter 2

The threshold conditions



2.1

**Threshold condition 1: Legal status
[Deleted]**

2.2 Location of offices

2.2.1 [deleted]

Paragraph 2B of Schedule 6 to the Act

2.2.1A

FCA

- (1) Unless sub-paragraph (3) or (4)(a) applies, if A is a body corporate incorporated in the United Kingdom-
- (a) A's head office, and
 - (b) if A has a registered office, that office,
- must be in the United Kingdom.
- (2) If A is not a body corporate but A's head office is in the United Kingdom, A must carry on business in the United Kingdom.
- (3) If-
- (a) A is seeking to carry on, or is carrying on, a regulated activity which is any of the investment services and activities,
 - (b) A is a body corporate with no registered office, and
 - (c) A's head office is in the United Kingdom,
- A must carry on business in the United Kingdom.
- (4) If A is seeking to carry on, or is carrying on, an insurance mediation activity-
- (a) where A is a body corporate incorporated in the United Kingdom, A's registered office, or if A has no registered office, A's head office, must be in the United Kingdom;
 - (b) where A is an individual, A is to be treated for the purposes of sub-paragraph (2), as having a head office in the United Kingdom if A's residence is resident in the United Kingdom.
- (5) "Insurance mediation activity" means any of the following activities-

- (a) dealing in rights under a contract of insurance as agent;
- (b) arranging deals in rights under a contract of insurance;
- (c) assisting in the administration and performance of a contract of insurance;
- (d) advising on buying or selling rights under a contract of insurance;
- (e) agreeing to do any of the activities specified in paragraph (a) to (d).

(6) Sub-paragraph (5) must be read with-

- (a) section 22
- (b) any relevant order under that section; and
- (c) Schedule 2.

2.2.1B

FCA

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Paragraph 2B of Schedule 6 to the *Act* sets out the location of offices *threshold condition* for *firms* carrying on, or seeking to carry on, *regulated activities* which do not include a *PRA-regulated activity*.

2.2.1C

FCA

G

The *FCA* is not responsible for the location of offices *threshold condition* for *firms* carrying on, or seeking to carry on, *regulated activities* which include a *PRA-regulated activity*.

2.2.2

FCA

G

Paragraphs 2B(1) and 2B(2) of Schedule 6 to the *Act*, implement the requirements of article 6 of the *Post BCCI Directive* and article 5(4) of *MiFID* and the *threshold condition* set out in paragraph 2B(4) of Schedule 6 to the *Act* implements article 2.9 of the *Insurance Mediation Directive*, although the *Act* extends the *threshold condition* set out in paragraph 2B of Schedule 6 of the *Act* to *firms* which are outside the scope of the *Single Market Directives* and the *UCITS Directive*.

2.2.3

FCA

G

Neither the *Post BCCI Directive*, *MiFID*, the *Insurance Mediation Directive* nor the *Act* define what is meant by a *firm's* 'head office'. This is not necessarily the *firm's* place of incorporation or the place where its business is wholly or mainly carried on. Although the *FCA* will judge each application on a case-by-case basis, the key issue in identifying the head office of a *firm* is the location of its central management and control, that is, the location of:

- (1) the *directors* and other senior management, who make decisions relating to the *firm's* central direction, and the material management decisions of the *firm* on a day-to-day basis; and
- (2) the central administrative functions of the *firm* (for example, central compliance, internal audit).



2.2A [Deleted]

2.3 Effective supervision

2.3.1 [deleted]

2.3.1A
FCA

Paragraph 2C of Schedule 6 to the Act

- (1) A must be capable of being effectively supervised by the FCA having regard to all the circumstances including-
- (a) the nature (including the complexity) of the regulated activities that A carries on or seeks to carry on;
 - (b) the complexity of any products that A provides or will provide in carrying on those activities;
 - (c) the way in which A's business is organised;
 - (d) if A is a member of a group, whether membership of the group is likely to prevent the FCA's effective supervision of A;
 - (e) whether A is subject to consolidated supervision required under any of the relevant directives;
 - (f) if A has close links with another person ("CL")-
 - (i) the nature of the relationship between A and CL;
 - (ii) whether those links are or that relationship is likely to prevent the FCA's effective supervision of A; and
 - (iii) if CL is subject to the laws, regulations or administrative provisions of a territory which is not an EEA State ("the foreign provisions"), whether those foreign provisions, or any deficiency in their enforcement, would prevent the FCA's effective supervision of A.
- (2) A has close links with CL if-
- (a) CL is a parent undertaking of A;
 - (b) CL is a subsidiary undertaking of A;
 - (c) CL is a parent undertaking of a subsidiary undertaking of A;

- (d) CL is a subsidiary undertaking of a parent undertaking of A;
- (e) CL owns or controls 20% or more of the voting rights or capital of A; or
- (f) A owns or controls 20% or more of the voting rights or capital of CL.

2.3.1B

FCA

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Paragraph 2C of Schedule 6 to the *Act* sets out the effective supervision *threshold condition* for *firms* carrying on, or seeking to carry on, *regulated activities* which do not include a *PRA-regulated activity*.

Paragraph 3B of Schedule 6 to the Act

2.3.1C

FCA

✠

- (1) B must be capable of being effectively supervised by the FCA having regard to all the circumstances including-
- (a) the nature (including the complexity) of the regulated activities that B carries on or seeks to carry on;
 - (b) the complexity of any products that B provides or will provide in carrying on those activities;
 - (c) the way in which B's business is organised;
 - (d) if B is a member of a group, whether membership of the group is likely to prevent the FCA's effective supervision of B;
 - (e) whether B is subject to consolidated supervision required under any of the relevant directives;
 - (f) if B has close links with another person ("CL")-
 - (i) the nature of the relationship between B and CL;
 - (ii) whether those links are or that relationship is likely to prevent the FCA's effective supervision of B; and
 - (iii) if CL is subject to the laws, regulations or administrative provisions of a territory which is not an EEA State ("the foreign provisions"), whether those foreign provisions, or any deficiency in their enforcement, would prevent the FCA's effective supervision of B.
- (2) B has close links with CL if-
- (a) CL is a parent undertaking of B;
 - (b) CL is a subsidiary undertaking of B;
 - (c) CL is a parent undertaking of a subsidiary undertaking of B;
 - (d) CL is a subsidiary undertaking of a parent undertaking of B;
 - (e) CL owns or controls 20% or more of the voting rights or capital of B; or

(f) **B owns or controls 20% or more of the voting rights or capital of CL.**

2.3.1D

FCA

G

Paragraph 3B of Schedule 6 to the *Act* sets out the effective supervision *threshold condition* which is relevant to the discharge by the *FCA* of its functions under the *Act* in relation to *firms* carrying on, or seeking to carry on, *regulated activities* which include a *PRA-regulated activity*.

2.3.1E

FCA

G

The guidance in ■ COND 2.3 should be read as applying to both paragraph 2C of Schedule 6 of the *Act* and, as far as relevant to the discharge by the *FCA* of its functions under the *Act* in respect of *firms* carrying on, or seeking to carry on, a *PRA-regulated activity*, paragraph 3B of Schedule 6 of the *Act*.

2.3.1F

FCA

G

Firms carrying on, or seeking to carry on, a *PRA-regulated activity*, should note that the *PRA* is also responsible for assessing effective supervision under its own *threshold conditions*. Paragraphs 4F and 5F of Schedule 6 to the *Act* set out the effective supervision *threshold conditions* which are relevant to the discharge by the *PRA* of its functions under the *Act* in relation to *firms* carrying on, or seeking to carry on, a *PRA-regulated activity*. For the avoidance of doubt, this *guidance* does not apply to the *threshold conditions* set out in paragraphs 4F and 5F of Schedule 6 to the *Act*.

2.3.2

FCA

G

Paragraphs 2C and 3B of Schedule 6 to the *Act* implements requirements of the *Post BCCI Directive*, but the *Act* extends this condition to *firms* from outside the *EEA* and other *firms* which are outside the scope of the *Single Market Directives* and the *UCITS Directive*.

2.3.3

FCA

G

In assessing the *threshold conditions* set out in paragraphs 2C and 3B of Schedule 6 to the *Act*, factors which the *FCA* will take into consideration include, among other things, whether:

- (1) it is likely that the *FCA* will receive adequate information from the *firm*, and those *persons* with whom the *firm* has *close links*, to enable it to determine whether the *firm* is complying with the requirements and standards under the *regulatory system* for which the *FCA* is responsible and to identify and assess the impact on its *statutory objectives* ; this will include consideration of whether the *firm* is ready, willing and organised to comply with *Principle 11* (Relations with regulators and the *rules* in *SUP* on the provision of information to the *FCA*;
- (2) the structure and geographical spread of the *firm*, the *group* to which it belongs and other *persons* with whom the *firm* has *close links*, might hinder the provision of adequate and reliable flows of information to the *FCA*; factors which may hinder these flows include the fact there may be branches or connected *companies* in territories which supervise *companies* to a different standard or territories with laws which restrict the free flow of information, although the *FCA* will consider the totality of information available from all sources; and
- (3) [deleted]
- (4) in respect of a *firm* not carrying on, or seeking to carry on, a *PRA-regulated activity*, it is possible to assess with confidence the overall financial position

of the *group* at any particular time; factors which may make this difficult include lack of audited consolidated accounts for a *group*, if companies in the same *group* as the *firm* have different financial years and accounting dates and if they do not share common auditors.

2.3.4 G [deleted]

2.3.5 G [deleted]

Meaning of "parent undertaking" and "subsidiary undertaking".....

2.3.6

G

FCA

- (1) Section 420(1) of the *Act* (Parent and subsidiary undertaking) states that, except in relation to an *incorporated friendly society*, '*parent undertaking*' and '*subsidiary undertaking*' have the same meaning as in the Companies Acts (see section 1162 of, and schedule 7 to, the Companies Act 2006) . These are the cases referred to in ■ COND 2.3.7 G (1)(a) to ■ (f).
- (2) Section 420(2) of the *Act* supplements these definitions in two ways; these are the cases referred to in ■ COND 2.3.7 G (1)(g) and ■ (h).
- (3) Paragraph 1A of Schedule 6 to the *Act* extends the meaning of '*subsidiary undertaking*' for the purposes of the *threshold conditions* to all the cases in articles 1(1) and (2) of the *Seventh Company Law Directive* in which one *undertaking* may be a *subsidiary* of another *undertaking* (see ■ COND 2.3.11 G).

2.3.7

G

FCA

- (1) For the purposes of the *threshold conditions* set out in paragraphs 2C and 3B of Schedule 6 to the *Act*, and except in relation to an *incorporated friendly society*, an undertaking is a *parent undertaking* of another *undertaking* (a *subsidiary undertaking*) if any of the following apply to it:
 - (a) it holds a majority of the voting rights in the *subsidiary undertaking*; or
 - (b) it is a member of the *subsidiary undertaking* and has the right to appoint or remove a majority of its board of *directors*; or
 - (c) it has the right to exercise a dominant influence over the *subsidiary undertaking* through:
 - (i) provisions contained in the *subsidiary undertaking's* memorandum or articles; or
 - (ii) a control contract; or
 - (d) it is a member of the *subsidiary undertaking* and controls alone, under an agreement with other shareholders or members, a majority of the voting rights in the *subsidiary undertaking*; or
 - (e) it has the power to exercise, or actually exercises, dominant influence or control over it, or it and the *subsidiary undertaking* are managed on a unified basis; or
 - (f) it is a *parent undertaking* of a *parent undertaking* of the *subsidiary undertaking*; or
 - (g) it is an individual and would be a *parent undertaking* if it were an *undertaking*; or

		(h) it is incorporated in or formed under the law of another <i>EEA State</i> and is a <i>parent undertaking</i> within the meaning of any rule of law in that State for purposes connected with implementation of the <i>Seventh Company Law Directive</i> .
		(2) [deleted]
2.3.8	G	(1) In relation to ■ COND 2.3.7 G (1)(b) and ■ (d), an <i>undertaking</i> is treated as a member of another <i>undertaking</i> if any of its <i>subsidiary undertaking</i> is a member of that <i>undertaking</i> , or if any shares in that other <i>undertaking</i> are held by a <i>person</i> acting on behalf of the <i>undertaking</i> or any of its <i>subsidiary undertakings</i> .
		(2) [deleted]
		(3) [deleted]
2.3.9	G	The provisions of Schedule 7 to the Companies Act 2006 (Parent and subsidiary undertakings : supplementary provisions) explain and supplement the provisions of section 1162 of the Companies Act 2006 (outlined in ■ COND 2.3.7 G (1)(a) to ■ (f)).
2.3.10	G	Section 420(3) of the <i>Act</i> (Parent and subsidiary undertaking) states that an <i>incorporated friendly society</i> is a <i>parent undertaking</i> of another <i>body corporate</i> (a <i>subsidiary undertaking</i>) if it has the following relationship to it:
		(1) it holds a majority of the voting rights in the <i>subsidiary undertaking</i> ; or
		(2) it is a member of the <i>subsidiary undertaking</i> and has the right to appoint or remove a majority of the <i>subsidiary undertaking's</i> board of <i>directors</i> ; or
		(3) it is a member of the <i>subsidiary undertaking</i> and controls alone, under an agreement with other shareholders or members, a majority of the voting rights in it.
2.3.11	G	For the purposes of the <i>threshold conditions</i> set out in paragraphs 2C and 3B of Schedule 6 to the <i>Act</i> , an <i>undertaking</i> is a <i>subsidiary undertaking</i> of another <i>undertaking</i> if:
		(1) the other undertaking (its parent) is a member of the <i>undertaking</i> ;
		(2) a majority of the <i>undertaking's</i> board of <i>directors</i> who have held office during the financial year and during the preceding financial year have been appointed solely as a result of the exercise of the parent's voting rights; and
		(3) no one else is the <i>parent undertaking</i> of the <i>undertaking</i> under ■ COND 2.3.7 G (1)(a) or ■ COND 2.3.10 G (1).
2.3.11A	G	Paragraphs 2C(2)(e) and (f) and 3B(2)(e) and (f) of Schedule 6 to the <i>Act</i> reflect legislation initially introduced in the <i>Post-BCCI Directive</i> , which defines close links, in part, by reference to participation. Recital 5 of the <i>Post-BCCI Directive</i> gives further

guidance on what is meant by 'participation' for the purposes of the directive. It states that the sole fact of having acquired a significant proportion of a company's capital does not constitute participation for the purposes of the directive if that holding has been acquired solely as a temporary investment which does not make it possible to exercise influence over the structure or financial policy of the undertaking.

2.3.12

FCA

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The *guidance* in ■ COND 2.3 is not comprehensive and is not a substitute for consulting the relevant legislation, for example the Companies Act 2006, the Friendly Societies Act 1992 and the *Seventh Company Law Directive*, or obtaining appropriate professional advice.

2

2.4 Appropriate resources

2.4.1 [UK] [deleted]

Paragraph 2D of Schedule 6 to the Act

2.4.1A

FCA



- (1) The resources of A must be appropriate in relation to the regulated activities that A carries on or seeks to carry on.
- (2) The matters which are relevant in determining whether A has appropriate resources include-
 - (a) the nature and scale of the business carried on, or to be carried on, by A;
 - (b) the risks to the continuity of the services provided by, or to be provided by, A; and
 - (c) A's membership of a group and any effect which that membership may have.
- (3) The matters which are relevant in determining whether A has appropriate financial resources include-
 - (a) the provision A makes and, if A is a member of a group, which other members of the group make, in respect of liabilities; and
 - (b) the means by which A manages and, if A is a member of a group, by which other members of the group manage, the incidence of risk in connection with A's business.
- (4) The matters which are relevant in determining whether A has appropriate non-financial resources include-
 - (a) the skills and experience of those who manage A's affairs;
 - (b) whether A's non-financial resources are sufficient to enable A to comply with -
 - (i) requirements imposed or likely to be imposed on A by the FCA in the course of the exercise of its functions;

- (ii) any other requirement in relation to whose contravention the FCA would be the appropriate regulator for the purposes of any provision of Part 14 of this Act.

2.4.1B
FCA

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Paragraph 2D of Schedule 6 to the *Act* sets out the appropriate resources *threshold condition* for *firms* carrying on, or seeking to carry on, *regulated activities* which do not include a *PRA-regulated activity*.

Paragraph 3C of Schedule 6 to the Act

2.4.1C
FCA

✠

- (1) The non-financial resources of B must be appropriate in relation to the regulated activities that B carries on or seeks to carry on, having regard to the operational objectives of the FCA.
- (2) The matters which are relevant in determining whether the condition in sub-paragraph (1) is met include-
- (a) the nature and scale of the business carried on, or to be carried on, by B;
 - (b) the risks to the continuity of the services provided by, or to be provided by, B;
 - (c) B's a member of a group and any effect which that membership may have;
 - (d) the skills and experience of those who manage B's affairs;
 - (e) whether B's non-financial resources are sufficient to enable B to comply with-
 - (i) requirements imposed or likely to be imposed on B by the FCA in the exercise of its functions; or
 - (ii) any other requirement in relation to whose contravention the FCA would be the appropriate regulator for the purpose of any provision of Part 14 of this Act.

2.4.1D
FCA

G

Paragraph 3C of Schedule 6 to the *Act* sets out the appropriate non-financial resources *threshold condition* which is relevant to the discharge by the *FCA* of its functions under the *Act* in relation to *firms* carrying on, or seeking to carry on, *regulated activities* which include a *PRA-regulated activity*.

2.4.1E
FCA

G

The guidance in ■ COND 2.4 should be read as applying to both paragraph 2D of Schedule 6 of the *Act* and, as far as relevant to the discharge by the *FCA* of its functions in respect of *firms* carrying on, or seeking to carry on, a *PRA-regulated activity* under the *Act*, paragraph 3C of Schedule 6 of the *Act*.

2.4.1F
FCA

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As the *threshold condition* set out in paragraph 3C of Schedule 6 to the *Act* does not relate to financial resources, the *guidance* in ■ COND 2.4 relating to appropriate financial

resources only applies to the *FCA's* assessment of the *threshold condition* set out in paragraph 2D of Schedule 6 of the *Act*.

2.4.1G

FCA

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Firms carrying on, or seeking to carry on, a *PRA-regulated activity*, should note that the *PRA* is responsible for assessing their financial resources. Paragraphs 4D and 5D of Schedule 6 to the *Act* contain the *threshold conditions* relating to financial resources which are relevant to the discharge by the *PRA* of its functions under the *Act* in relation to *firms* carrying on, or seeking to carry on, a *PRA-regulated activity* (in addition to additional non-financial resources *threshold conditions* which are also relevant to the discharge by the *PRA* of its functions). For the avoidance of doubt, this *guidance* does not apply to *threshold conditions* set out in paragraphs 4D and 5D of Schedule 6 to the *Act*.

2.4.2

FCA

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- (1) [deleted]
- (2) In this context, the *FCA* will interpret the term 'appropriate' as meaning sufficient in terms of quantity, quality and availability, and 'resources' as including all financial resources (though only in the case of *firms* not carrying on, or seeking to carry on, a *PRA-regulated activity*), non-financial resources and means of managing its resources; for example, capital, provisions against liabilities, holdings of or access to cash and other liquid assets, human resources and effective means by which to manage risks.
- (2A) Paragraph 1A(2) of Schedule 6 to the *Act* provides that "non-financial resources" of a *firm* for the purposes of the *threshold conditions* include any systems, controls, plans or policies that the *firm* maintains and the human resources that the *firm* has available.
- (3) High level systems and control requirements are in SYSC. The *FCA* will consider whether the *firm* is ready, willing and organised to comply with these and other applicable systems and controls requirements when assessing if it has appropriate non-financial resources for the purpose of the *threshold conditions* set out in paragraphs 2D and 3C to Schedule 6 of the *Act*.
- (4) Detailed financial resources requirements are in the relevant section of the Prudential Standards part of the *FCA Handbook*, including specific provisions for particular types of *regulated activity*. The *FCA* will consider whether *firms* (other than *firms* carrying on, or seeking to carry on, *PRA-regulated activities*) are ready, willing and organised to comply with these requirements when assessing if they have appropriate financial resources for the purposes of the *threshold condition* set out in paragraph 2D of Schedule 6 to the *Act*.

2.4.3

FCA

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- (1) [deleted]
- (2) Although it is the *firm* that is being assessed, the *FCA* may take into consideration the impact of other members of the *firm's group* on the adequacy of its resources, where relevant to the discharge of the *FCA's* functions. For example, in relation to a *firm* other than a *firm* carrying on, or seeking to carry on, a *PRA-regulated activity*, the *FCA* may assess the consolidated solvency of the *group*. The *FCA's* approach to the consolidated supervision of such a *firm*, and its *group*, is in the relevant part of the Prudential Standards part of the *FCA Handbook*.

2.4.4

FCA

G

- (1) [deleted]
- (2) Relevant matters to which the *FCA* may have regard when assessing whether a *firm* will satisfy, and continue to satisfy, this *threshold condition* may include but are not limited to:
 - (a) (in relation to a *firm* other than a *firm* carrying on, or seeking to carry on, a *PRA-regulated activity*), whether there are any indications that the *firm* may have difficulties if the application is granted, at the time of the grant or in the future, in complying with any of the *FCA*'s prudential *rules* (see the relevant part of the Prudential Standards part of the *FCA Handbook*);
 - (b) (in relation to a *firm* other than a *firm* carrying on, or seeking to carry on, a *PRA-regulated activity*, whether there are any indications that the *firm* will not be able to meet its debts as they fall due;
 - (c) whether there are any implications for the adequacy of the *firm's* resources arising from the history of the *firm*; for example, whether the *firm* has:
 - (i) been adjudged bankrupt; or
 - (ii) entered into liquidation; or
 - (iii) been the subject of a receiving or administration order; or
 - (iv) had a bankruptcy or winding-up petition served on it; or
 - (v) had its estate sequestrated; or
 - (vi) entered into a deed of arrangement or an individual voluntary agreement (or in Scotland, a trust deed) or other composition in favour of its creditors, or is doing so; or
 - (vii) within the last ten years, failed to satisfy a judgment debt under a court order, whether in the *United Kingdom* or elsewhere;
 - (d) whether the *firm* has taken reasonable steps to identify and measure any risks of regulatory concern that it may encounter in conducting its business and has installed appropriate systems and controls and appointed appropriate human resources to measure them prudently at all times ;
 - (e) whether the *firm* has conducted enquiries into the financial services sector in which it intends to conduct business that are sufficient to satisfy itself that:
 - (i) it has access to adequate capital, by reference to the *FCA*'s prudential requirements, to support the business including any losses which may be expected during its start-up period (in relation to a *firm* other than a *firm* carrying on, or seeking to carry on, a *PRA-regulated activity*); and
 - (ii) *Client money, deposits, custody assets* and *policyholders'* rights will not be placed at risk if the business fails; and
 - (f) whether the resources of the *firm* are commensurate with the likely risks it will face.
- (3) [deleted]
- (4) [deleted]

2

2.4.5

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[deleted]

2.4.6

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(1) [deleted]

FCA

(2) [deleted]

(3) [deleted]

2.5 Suitability

2.5.1 [deleted]

Paragraph 2E to Schedule 6 of the Act

2.5.1A

FCA

- (1) A must be a fit and proper person having regard to all the circumstances, including-
- (a) A's connection with any person;
 - (b) the nature (including the complexity) of any regulated activity that A carries on or seeks to carry on;
 - (c) the need to ensure that A's affairs are conducted in an appropriate manner, having regard in particular to the interests of consumers and the integrity of the UK financial system;
 - (d) whether A has complied and is complying with requirements imposed by the FCA in the exercise of its functions, or requests made by the FCA, relating to the provision of information to the FCA and, where A has so complied or is so complying, the manner of that compliance;
 - (e) whether those who manage A's affairs have adequate skills and experience and act with probity;
 - (f) whether A's business is being, or is to be, managed in such a way as to ensure that its affairs will be conducted in a sound and prudent manner; and
 - (g) the need to minimise the extent to which it is possible for the business carried on by A, or to be carried on by A, to be used for a purpose connected with financial crime.

2.5.1B

FCA

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Paragraph 2E of Schedule 6 to the Act sets out the suitability *threshold condition* for firms carrying on, or seeking to carry on, *regulated activities* which do not consist of or include a *PRA-regulated activity*.

Paragraph 3D to Schedule 6 of the Act

2.5.1C

FCA

X

- (1) B must be a fit and proper person, having regard to the operational objectives of the FCA.

- (2) The matters which are relevant in determining whether B satisfies the condition in sub-paragraph (1) include-
 - (a) B's connection with any person;
 - (b) the nature (including the complexity) of any regulated activity that B carries on or seeks to carry on;
 - (c) the need to ensure that B's affairs are conducted in an appropriate manner, having regard in particular to the interests of consumers and the integrity of the UK financial system;
 - (d) whether B has complied and is complying with requirements imposed by the FCA in the exercise its functions, or requests made by the FCA, relating to the provision of information to the FCA and, where B has so complied or is so complying, the manner of that compliance;
 - (e) whether those who manage B's affairs have adequate skills and experience and act with probity; and
 - (f) the need to minimise the extent to which it is possible for the business carried on by B, or to be carried on by B, to be used for a purpose connected with financial crime.

2.5.1D

FCA

G

Paragraph 3D of Schedule 6 to the *Act* sets out the suitability *threshold condition* which is relevant to the discharge by the *FCA* of its functions under the *Act* in relation to *firms* carrying on, or seeking to carry on, *regulated activities* which include a *PRA-regulated activity*.

2.5.1E

FCA

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The *guidance* in ■ COND 2.5 should be read as applying to both paragraph 2E of Schedule 6 to the *Act* and, as far as relevant to the discharge by the *FCA* of its functions under the *Act* in respect of *firms* carrying on, or seeking to carry on, a *PRA-regulated activity*, paragraph 3D of Schedule 6 of the *Act*.

2.5.1F

FCA

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Firms carrying on, or seeking to carry on, a *PRA-regulated activity*, should note that the *PRA* is also responsible for assessing suitability under its own *threshold conditions*. Paragraphs 4E and 5E of Schedule 6 to the *Act* set out the suitability *threshold conditions* which are relevant to the discharge by the *PRA* of its functions under the *Act* in relation to *firms* carrying on, or seeking to carry on, a *PRA-regulated activity*. For the avoidance of doubt, this *guidance* does not apply to the *threshold conditions* set out in paragraph 4E and 5E of Schedule 6 to the *Act*.

2.5.2

FCA

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- (1) [deleted]
- (2) The *FCA* will also take into consideration anything that could influence a *firm's* continuing ability to satisfy the *threshold conditions* set out in paragraphs 2E and 3D of Schedule 6 to the *Act*. Examples include the *firm's* position within a *UK* or international *group*, information provided by *overseas regulators* about the *firm*, and the *firm's* plans to seek to vary its *Part 4A permission* to carry on additional *regulated activities* once it has been granted that *permission*.

2.5.3

FCA

G

(1) The emphasis of the *threshold conditions* set out in paragraphs 2E and 3D of Schedule 6 of the *Act* is on the suitability of the *firm* itself. The suitability of each *person* who performs a *controlled function* will be assessed by the *FCA* and/or the *PRA*, as appropriate, under the *approved persons* regime (see ■ SUP 10 (Approved persons) and *FIT*). In certain circumstances, however, the *FCA* may consider that the *firm* is not suitable because of doubts over the individual or collective suitability of *persons* connected with the *firm*.

(2) [deleted]

(3) [deleted]

2.5.4

FCA

G

(1) [deleted]

(2) Examples of the kind of general considerations to which the *FCA* may have regard when assessing whether a *firm* will satisfy, and continue to satisfy, the *threshold conditions* set out in paragraphs 2E and 3D of Schedule 6 to the *Act* include, but are not limited to, whether the *firm*:

(a) conducts, or will conduct, its business with integrity and in compliance with proper standards;

(b) has, or will have, a competent and prudent management; and

(c) can demonstrate that it conducts, or will conduct, its affairs with the exercise of due skill, care and diligence.

(3) [deleted]

(4) [deleted]

2.5.5

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[deleted]

2.5.6

FCA

G

Examples of the kind of particular considerations to which the *FCA* may have regard when assessing whether a *firm* will satisfy, and continue to satisfy, this *threshold condition* include, but are not limited to, whether:

(1) the *firm* has been open and co-operative in all its dealings with the *FCA* and any other regulatory body (see *Principle 11* (Relations with regulators)) and is ready, willing and organised to comply with the requirements and standards under the *regulatory system* (such as the detailed requirements of SYSC and, in relation to a *firm* not carrying on, or seeking to carry on, a *PRA-regulated activity* only, the Prudential Standards part of the *FCA Handbook*) in addition to other legal, regulatory and professional obligations; the relevant requirements and standards will depend on the circumstances of each case, including the *regulated activities* which the *firm* has *permission*, or is seeking *permission*, to carry on;

(1A) the *firm* has made arrangements to put in place an adequate system of internal control to comply with the requirements and standards for which the *FCA* is responsible under the *regulatory system*;

(2) the *firm* has been convicted, or is connected with a *person* who has been convicted, of any criminal offence; this must include, where provided for by the *Rehabilitation Exceptions Orders* to the Rehabilitation of Offenders Act 1974

or the Rehabilitation of Offenders (Northern Ireland) Order 1978 (as applicable) , any spent convictions; particular consideration will be given to offences of dishonesty, fraud, financial crime or an offence under legislation relating to companies, building societies, industrial and provident societies, credit unions, friendly societies, banking , other financial services, insolvency, consumer credit companies, insurance, consumer protection, *money laundering*, market manipulation and *insider dealing*, whether or not in the *United Kingdom* ;

- (3) the *firm* has been the subject of, or connected to the subject of, any existing or previous investigation or enforcement proceedings by the *FCA*, the *Society of Lloyd's* or by other regulatory authorities (including the *FCA*'s predecessors), *clearing houses* or exchanges, *professional bodies* or government bodies or agencies; the *FCA* will, however, take both the nature of the *firm's* involvement in, and the outcome of, any investigation or enforcement proceedings into account in determining whether it is a relevant matter;
- (4) the *firm* has contravened, or is connected with a *person* who has contravened, any provisions of the *Act* or any preceding financial services legislation, the *regulatory system* or the rules, regulations, statements of principles or codes of practice (for example the *Society of Lloyd's* Codes) of other regulatory authorities (including the *FCA*'s predecessors), *clearing houses* or exchanges, *professional bodies*, or government bodies or agencies or relevant industry standards (such as the Non-Investment Products Code); the *FCA* will, however, take into account both the status of codes of practice or relevant industry standards and the nature of the contravention (for example, whether a *firm* has flouted or ignored a particular code);
- (5) the *firm*, or a *person* connected with the *firm*, has been refused registration, authorisation, membership or licence to carry out a trade, business or profession or has had that registration, authorisation, membership or licence revoked, withdrawn or terminated, or has been expelled by a regulatory or government body; whether the *FCA* considers such a refusal relevant will depend on the circumstances;
- (6) [deleted]
- (7) the *firm* has put in place procedures which are reasonably designed to:
 - (a) ensure that it has made its *employees* aware of, and compliant with, those requirements and standards under the *regulatory system* that apply to the *firm* for which the *FCA* is responsible and the *regulated activities* for which it has, or will have *permission*;
 - (b) ensure that its *approved persons* (whether or not employed by the *firm*) are aware of those requirements and standards under the *regulatory system* applicable to them;
 - (c) determine that its *employees* are acting in a way compatible with the *firm* adhering to those requirements and standards; and
 - (d) determine that its *approved persons* are adhering to those requirements and standards;
- (8) the *firm* or a *person* connected with the *firm* has been dismissed from employment or a position of trust, fiduciary relationship or similar or has ever been asked to resign from employment in such a position; whether the

FCA considers a resignation to be relevant will depend on the circumstances, for example if a *firm* is asked to resign in circumstance that cast doubt over its honesty or integrity;

- (9) the *firm* or a *person* connected with the *firm* has ever been disqualified from acting as a *director* ;
- (10) the *governing body* of the *firm* is made up of individuals with an appropriate range of skills and experience to understand, operate and manage the *firm's regulated activities*;
- (11) where 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;
- (12) those *persons* who perform *controlled functions* under certain *arrangements* entered into by the *firm* or its contractors (including *appointed representatives* or, where applicable, *tied agents*) act with due skill, care and diligence in carrying out their *controlled function* (see ■ APER 4.2 (Statement of Principle 2) or managing the business for which they are responsible (see ■ APER 4.7 (Statement of Principle 7));
- (13) the *firm*, or a *person* connected with the *firm*, has been a *director*, *partner* or otherwise concerned in the management of a *company*, *partnership* or other organisation or business that has gone into insolvency, liquidation or administration while having been connected with that organisation or within one year of such a connection;
- (14) the *governing body* of the *firm* is organised in a way that enables it to address and control the *regulated activities* of the *firm*, including those carried on by *managers* to whom particular functions have been delegated;
- (15) the *firm* has developed human resources policies and procedures that are reasonably designed to ensure that it employs only individuals who are honest and committed to high standards of integrity in the conduct of their activities;
- (16) the *firm* has taken reasonable care to ensure that robust information and reporting systems have been developed, tested and properly installed;
- (17) the *firm* has in place appropriate systems and controls against financial crime, including, for example, *money laundering*;
- (18) in the case of a *firm* that carries on *insurance mediation activity*:
 - (a) a reasonable proportion of the *persons* within its management structure who are responsible for the *insurance mediation activity*; and
 - (b) all other *persons* directly involved in its *insurance mediation activity*;

demonstrate the knowledge and ability necessary for the performance of their duties; and

 - (c) all the persons in the *firm's* management structure and any staff directly involved in *insurance mediation activity* are of good repute (see ■ MIPRU 2.3.1 R (Knowledge, ability and good repute); and

(19) where appropriate, the *firm* has appointed auditors and actuaries, who have sufficient experience in the areas of business to be conducted.

2.5.7

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[deleted]



2.6

[Deleted]

2

2.7 Business model

Paragraph 2F to Schedule 6 of the Act

2.7.1
FCA



- (1) A's business model (that is, A's strategy for doing business) must be suitable for a person carrying on the regulated activities that A carries on or seeks to carry on.
- (2) The matters which are relevant in determining whether A satisfies the condition in sub-paragraph (1) include-
 - (a) whether the business model is compatible with A's affairs being conducted, and continuing to be conducted, in a sound and prudent manner;
 - (b) the interests of consumers;
 - (c) the integrity of the UK financial system.

2.7.2
FCA



Paragraph 2F of Schedule 6 to the *Act* sets out the business model *threshold condition* for *firms* carrying on, or seeking to carry on, *regulated activities* which do not include a *PRA-regulated activity*.

Paragraph 3E to Schedule 6 of the Act

2.7.3
FCA



B's business model (that is, B's strategy for doing business) must be suitable for a person carrying on the regulated activities that B carries on or seeks to carry on, having regard to the FCA's operational objectives.

2.7.4
FCA



Paragraph 3E of Schedule 6 to the *Act* sets out the business model *threshold condition* which is relevant to the discharge by the *FCA* of its functions under the *Act* in relation to *firms* carrying on, or seeking to carry on, *regulated activities* which include a *PRA-regulated activity*.

2.7.5
FCA



The *guidance* in ■ COND 2.7 should be read as applying to both paragraph 2F of Schedule 6 to the *Act* and, as far as relevant to the discharge by the *FCA* of its functions under the *Act* in respect of *firms* carrying on, or seeking to carry on, a *PRA-regulated activity*, paragraph 3E of Schedule 6 of the *Act*.

- 2.7.6**
FCA **G** *Firms* carrying on, or seeking to carry on, a *PRA-regulated activity*, should note that the *PRA* states in its Approach Documents that analysis of such *firms'* business models will form an important part of the *PRA's* supervisory approach. For the avoidance of doubt, this guidance does not apply to the *PRA's* own assessment of the *firms'* business models.
- 2.7.7**
FCA **G** In assessing whether the *threshold conditions* set out in paragraphs 2F and 3E of Schedule 6 to the *Act* are satisfied, the *FCA* may consider all matters that might affect the design and execution of a *firm's* business model, taking into account the nature, scale and complexity of a *firm's* business.
- 2.7.8**
FCA **G** In deciding how they will satisfy and continue to satisfy the *threshold conditions* set out in paragraphs 2F and 3E of Schedule 6 to the *Act*, *firms* should consider matters including (but not limited to) the following:
- (1) the assumptions underlying the *firm's* business model and justification for it;
 - (2) the rationale for the business the *firm* proposes to do or continues to do, its competitive advantage, viability and the longer-term profitability of the business;
 - (3) the needs of and risks to *consumers*;
 - (4) the expectations of stakeholders, for example, shareholders and regulators;
 - (5) the products and services being offered and product strategy;
 - (6) the governance and controls of the *firm* and of any member of its *group* (if appropriate);
 - (7) the growth strategy and any risks arising from it;
 - (8) any diversification strategies; and
 - (9) the impact of the external macroeconomic and business environment.
- 2.7.9**
FCA **G** *Firms* should consider the manner in which they intend to bring their business model into operation. This plan could, for example, include matters such as procurement, outsourcing, and recruitment.
- 2.7.10**
FCA **G** *Firms* should consider scenarios which may negatively impact on the *firm's* business model with a view to ensuring the sustainability of the *firm* and, further, to consider the vulnerability of the business model to specific events and the risks and consequences that might arise. Where appropriate, this might include reverse stress-testing (see SYSC 20 'Reverse stress testing'). A *firm* should put in place a credible plan to minimise the risks that it identifies from, or in relation to, its business model and a contingency plan for dealing with risks that have crystallised.
- 2.7.11**
FCA **G** *Firms* should ensure that any adjustments to its business model:
- (1) are approved at an appropriate level in the business;

- (2) are considered in the light of any potential risks, impacts and consequences of the proposed changes; and
- (3) appropriately take into account the needs of and risks to *clients* and relevant *consumers*.

2.7.12

FCA

G

The FCA's assessment of a *firm's* satisfaction of this *threshold conditions* set out in paragraphs 2F and 3E of Schedule 6 to the *Act* will not necessarily be limited to a *firm's regulated activities* if the FCA believes the *firm's* other business activities, if any, may impact on a *firm's regulated activities*.

[Deleted]

Threshold Conditions

Chapter 3

Banking Act 2009 [deleted]



3.1

- 3.1.1 [Deleted]
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- 3.1.8 [Deleted]
- 3.1.9 [Deleted]

Threshold Conditions

COND TP 1 Transitional Provisions

1 Table:

There are no transitional provisions in *COND*.

GEN contains transitional provisions that apply throughout the *Handbook*.

Threshold Conditions

Schedule 1 Record keeping requirements

Sch 1.1 G

There are no record keeping requirements in *COND*.

Threshold Conditions

Schedule 2 Notification requirements

Sch 2.1 G

There are no notification *rules* in *COND* but guidance is given in COND 1.3.3 G on disclosure to the *FSA* in connection with applications.

Threshold Conditions

Schedule 3 Fees and other required payments

Sch 3.1 G

There are no requirements for fees or other payments in *COND*.

Threshold Conditions

Schedule 4 Powers exercised

Sch 4.1 G

The following power in the *Act* has been exercised by the *FSA* to give the *guidance* in *COND*:

Section 157(1) (Guidance).

Threshold Conditions

Schedule 5 Rights of action for damages

Sch 5.1 G

There are no *rules* in *COND*.

Threshold Conditions

Schedule 6 Rules that can be waived

Sch 6.1 G

There are no *rules* in *COND*.

Statements of Principle and Code of Practice for Approved Persons

Statements of Principle and Code of Practice for Approved Persons

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1.1A	Application
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APER 2	The Statements of Principle for Approved Persons
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APER App 1	This appendix has been removed until further notice
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	Transitional Provisions and Schedules
TP 1	Transitional Provisions
Sch 1	Record keeping requirements
Sch 2	Notification requirements

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Sch 5	Rights of action for damages
Sch 6	Rules that can be waived

Chapter 1

Application and purpose

1



1.1

[Deleted]



1.1A Application

Who?

1.1A.1

FCA

P APER applies to *FCA-approved persons* and *PRA-approved persons*.

What?

1.1A.2

FCA

- P**
- (1) APER applies to the performance by an *approved person* of:
 - (a) *FCA controlled functions* (whether or not approval has been sought and granted); and
 - (b) *PRA controlled functions* (whether or not approval has been sought and granted);

in relation to the authorised persons in relation to which that *person* is an *approved person*.
 - (2) APER also applies to the performance by an *approved person* of any other functions in relation to the carrying on of a *regulated activity* by the *authorised persons* referred to in (1).

1.1A.3

FCA

G The functions described in **■** APER 1.1A.2 **P** are called accountable functions.

1.1A.4

FCA

G The relevance of *MiFID* to the *Statements of Principle* will depend on the extent to which the corresponding requirement imposed on *firms* under *MiFID* is reserved to a *Home State regulator* or has been disapplied under *MiFID* (see **■** APER 2.1A.2 **P** and **■** FIT 1.2.4 **G**. See also **■** COBS 1 Annex 1, Part 2, 1.1R (EEA territorial scope rule: compatibility with European law)).

Where?

1.1A.5

FCA

G The territorial scope of the *approved persons* regime and its application to *incoming EEA firms* is set out in SUP 10A.1 (see SUP 10A.1.11R and SUP 10A.1.13R).

Coverage of APER

1.1A.6

FCA

G **■** APER 1.1A.7 **G** gives examples of the effect of **■** APER 1.1A.1 **P** and **■** APER 1.1A.2 **P**. The first column says whether the example involves an *FCA-approved person* and the second column says whether the example involves a *PRA-approved person*. So for example if there is a "Yes" in both columns that means that the example concerns a *person* who has

been approved both by the *FCA* and by the *PRA*. The third column explains what functions *APER* covers in the scenario set out in the first two columns. The table is divided between cases in which the *person* performs the *controlled function* for an *FCA-authorized person* and ones where the *person* does so for a *PRA-authorized person*.

1.1A.7

FCA

G

Table: Examples of what activities *APER* covers

FCA approved	PRA approved	Coverage of <i>APER</i>
FCA-authorized person		
(1) Yes, in relation to <i>firm A</i>	Not applicable	Applies to the <i>FCA controlled function</i> . Also applies to any other function performed for <i>firm A</i> in relation to the carrying on by <i>firm A</i> of a <i>regulated activity</i> even if it is not a <i>controlled function</i> .
(2) Yes, in relation to <i>firm A</i> . No, in relation to <i>firm B</i> ,	Not applicable	In relation to <i>firm A</i> , the answer is the same as for scenario (1). However, <i>APER</i> does not apply to any function that the <i>approved person</i> carries on in relation to <i>firm B</i> even if that function relates to <i>regulated activities</i> carried out by <i>firm B</i> . However, if the function that he performs in relation to <i>firm B</i> is a <i>controlled function</i> the <i>approved person</i> and <i>firm B</i> may be subject to legal sanctions (see SUP 10A.13.1 G to SUP 10A.13.2 G).
PRA-authorized person		
(3) Yes, in relation to <i>firm A</i>	No	The answer is the same as for scenario (1).
(4) No	Yes, in relation to <i>firm A</i>	Applies to <i>PRA controlled function</i> . Also applies to any other function performed for <i>firm A</i> in relation to the carrying on by <i>firm A</i> of a <i>regulated activity</i> even if it is not a <i>controlled function</i> .
(5) Yes, in relation to <i>firm A</i>	Yes, in relation to <i>firm A</i>	Applies to <i>FCA controlled function</i> and <i>PRA controlled function</i> . Also applies to any other function performed for <i>firm A</i> in relation to the carrying on by <i>firm A</i> of a <i>regulated activity</i> even if it is not a <i>controlled function</i> .
(6) Yes, in relation to <i>firm A</i> . No, in relation to <i>firm B</i> ,	Yes, in relation to <i>firm A</i> . No, in relation to <i>firm B</i> ,	In relation to <i>firm A</i> , the answer is the same as for scenario (5). However, <i>APER</i> does not apply to any function that the <i>approved person</i> carries on in relation to <i>firm B</i> even if that function relates to <i>regulated activities</i> carried out by <i>firm B</i> . However, if the function that he performs in relation to <i>firm B</i> is a <i>controlled function</i> the <i>approved person</i> and <i>firm B</i> may be subject to legal sanctions (see SUP 10A.13.1 G to SUP 10A.13.21G).

1.1A.8

FCA

G

A *person* may be an *approved person* in relation to more than one *firm*. When that is the case, *APER* applies in relation to all those *firms*.

1.1A.9

FCA

G

- (1) ■ APER 1.1A.2 P refers to the *authorised person* in relation to which a *person* is an *approved person*.
- (2) Under section 59 of the *Act* (Approval for particular arrangements) there are two kinds of *approved person*.
- (3) Section 59(1) of the *Act* describes the first. It covers a *person* who performs a *controlled function* under an arrangement entered into by an *authorised person* ("A"). In this case, ■ APER 1.1A.2 P refers to A.
- (4) Section 59(2) of the *Act* describes the second. It covers a *person* who performs a *controlled function* under an arrangement entered into by a contractor ("B") of an *authorised person* ("A"). In this case, ■ APER 1.1A.2 P refers to A (and not B).

Rule in GEN about provisions shared between the FCA and PRA

1.1A.10

FCA

A

■ GEN 2.2.23 R (Cutover: Application of provisions made by both the *FCA* and the *PRA*) does not apply to any provision of *APER* marked with an "E" in the margin.

1.1A.11

FCA

G

■ GEN 2.2.23 R does not apply to any of *APER*. It does not apply to any part of *APER* that is not shared as ■ GEN 2.2.23 R only applies to *Handbook* provisions made by both the *FCA* and the *PRA*. Hence ■ GEN 2.2.23 R does not apply to the *Statements of Principle*. ■ APER 1.1A.10 E means that ■ GEN 2.2.23 R does not apply to shared provisions marked with an "E" in the margin. ■ GEN 2.2.23 R does not apply to shared *guidance* in *APER* because the *guidance* is about material to which ■ GEN 2.2.23 R does not apply

1.1B Application

Who?

1.1B.1

PRA

P

APER applies to:

- (1) *PRA-approved persons*; and
- (2) *FCA-approved persons* in relation to whom the *FCA* has given its approval under section 59 of the *Act* in respect of the performance by them of *significant-influence functions* in relation to the carrying on by *PRA-authorized persons* of *regulated activities*.

What?

1.1B.2

PRA

P

- (1) *APER* applies to the performance by an *approved person* of:
 - (a) *PRA controlled functions* (whether or not approval has been sought and granted); and
 - (b) *FCA controlled functions* that are *significant-influence functions* (whether or not approval has been sought and granted);

in relation to the *PRA-authorized persons* in relation to which that *person* is an *approved person*.
- (2) *APER* also applies to the performance by an *approved person* of any other *significant-influence functions* in relation to the *PRA-authorized persons* referred to in (1).

1.1B.3

PRA

G

The functions described in ■ APER 1.1B.2 P are called *accountable functions*.

1.1B.4

PRA

G

The relevance of *MiFID* to the *Statements of Principle* will depend on the extent to which the corresponding requirement imposed on *firms* under *MiFID* is reserved to a *Home State regulator* or has been disapplied under *MiFID* (see ■ APER 2.1B.2 P and ■ FIT 1.2.4 G).

Where?

1.1B.5

PRA

G

The territorial scope of the *approved persons* regime and its application to *incoming EEA firms* is set out in ■ SUP 10B.1 (see ■ SUP 10B.1.11 R and ■ SUP 10B.1.12 R).

1.1B.6

PRA

G

Coverage of APER

■ APER 1.1B.7 G gives examples of the effect of ■ APER 1.1B.1 P and ■ APER 1.1B.2 P. The first column says whether the example involves an *FCA-approved person* and the second column says whether the example involves a *PRA-approved person*. So, for example, if there is a "Yes" in both columns that means that the example concerns a *person* who has been approved both by the *FCA* and by the *PRA*. The third column explains what functions *APER* covers in the scenario set out in the first two columns. The table is divided between cases in which the *person* performs the *controlled function* for an *FCA-authorised person*, and ones where the *person* does so for a *PRA-authorised person*.

1.1B.7

PRA

G

Table: Examples of what activities *APER* covers

FCA approved	PRA approved	Coverage of APER
FCA-authorised person		
(1) Yes, in relation to firm A	Not applicable	Does not apply
PRA-authorised person		
(2) No	Yes, in relation to firm A	Applies to <i>PRA controlled function</i> . Also applies to any other <i>significant-influence functions</i> performed for firm A, even if they are not <i>controlled functions</i> .
(3) Yes, in relation to firm A (for a <i>significant-influence function</i>)	No	Applies to <i>FCA controlled function</i> . Also applies to any other <i>significant-influence functions</i> performed for firm A, even if they are not <i>controlled functions</i> .
(4) Yes, in relation to firm A (for a <i>customer-dealing function</i>)	No	Does not apply. If he is also performing a <i>significant-influence function</i> that is not a <i>controlled function</i> , <i>APER</i> does not apply to that function either.
(5) Yes, in relation to firm A (for a <i>customer-dealing function</i>)	Yes, in relation to firm A	Applies to <i>PRA controlled function</i> . Does not apply to <i>customer-dealing function</i> . Also applies to any other <i>significant-influence functions</i> performed for firm A, even if they are not <i>controlled functions</i> .
(6) Yes, in relation to firm A (for a <i>significant-influence function</i>)	Yes, in relation to firm A	Applies to <i>FCA controlled function</i> and <i>PRA controlled function</i> . Also applies to any other <i>significant-influence functions</i> performed for firm A, even if they are not <i>controlled functions</i> .
(7) Yes, in relation to firm A (for a <i>significant-influence function</i> and <i>customer-dealing function</i>)	Yes, in relation to firm A	The answer is the same as for scenario (6). Does not apply to <i>customer-dealing function</i> .
(8) Yes, in relation to firm A (for a <i>significant-influence function</i>). No, in relation to firm B,	Yes, in relation to firm A. No, in relation to firm B,	In relation to firm A, the answer is the same as for scenario (6). However, <i>APER</i> does not apply to any function that the <i>approved person</i> carries on in relation to firm B, even if that function is a <i>significant-influence function</i> . However, if the function that he performs in relation to firm B is a <i>controlled function</i> , the <i>approved person</i> and firm B may be subject to legal sanctions (see SUP 10B.11.1 G and SUP 10B.11.3 G).

1.1B.8
PRA

G

A *person* may be an *approved person* in relation to more than one *PRA-authorised person*. When that is the case, *APER* applies in relation to all those *firms*.

1.1B.9
PRA

G

- (1) ■ *APER* 1.1B.2 P refers to the *PRA-authorised person* in relation to which a person is an *approved person*.
- (2) Under section 59 of the *Act* (Approval for particular arrangements) there are two kinds of *approved person*.
- (3) Section 59(1) of the *Act* describes the first. It covers a *person* who performs a *controlled function* under an *arrangement* entered into by an *authorised person* ("A"). In this case, ■ *APER* 1.1B.2 P refers to A.
- (4) Section 59(2) of the *Act* describes the second. It covers a *person* who performs a *controlled function* under an *arrangement* entered into by a contractor ("B") of an *authorised person* ("A"). In this case, ■ *APER* 1.1B.2 P refers to A (and not B).

Rule in GEN about provisions shared between the FCA and PRA

1.1B.10
PRA

A

■ GEN 2.2.23 R (Cutover: Application of provisions made by both the FCA and the PRA) does not apply to any provision of *APER* marked with an "E" in the margin.

1.1B.11
PRA

G

■ GEN 2.2.23 R does not apply to any of *APER*. It does not apply to any part of *APER* that is not shared, as ■ GEN 2.2.23 R only applies to Handbook provisions made by both the *FCA* and the *PRA*. Hence ■ GEN 2.2.23 R does not apply to the *Statements of Principle*. ■ *APER* 1.1A.10 E means that ■ GEN 2.2.23 R does not apply to shared provisions marked with an "E" in the margin. ■ GEN 2.2.23 R does not apply to shared *guidance* in *APER* because the *guidance* is about material to which ■ GEN 2.2.23 R does not apply.



1.2 Purpose

1.2.1 **G** [deleted]

1.2.1A **G** The *Statements of Principle* contained in ■ APER 2 are issued under section 64(1) of the Act (Conduct: statements and codes). The paragraphs of the application section in **FCA** ■ APER 1.1A labelled "P" also form part of the *Statements of Principle*.

1.2.1B **G** The *Statements of Principle* contained in ■ APER 2 are issued under section 64(1A) of the Act (Conduct: statements and codes). The paragraphs of the application section in **PRA** ■ APER 1.1B labelled "P" also form part of the *Statements of Principle*.

1.2.2 **G** Section 64(2) of the Act states that if an *appropriate regulator* issues *Statements of Principle* it must also issue a code of practice for the purpose of helping to determine whether or not a *person's* conduct complies with the *Statements of Principle*. The *Code of Practice for Approved Persons* in ■ APER 3 and ■ APER 4 fulfils this requirement. **FCA** **PRA**

1.2.3 **G** The *Code of Practice for Approved Persons* sets out descriptions of conduct which, in the opinion of the FCA, do not comply with a *Statement of Principle* and, in the case of *Statement of Principle* 3, conduct which tends to show compliance within that statement. The *Code of Practice for Approved Persons* also sets out, in certain cases, factors which, in the opinion of the FCA, are to be taken into account in determining whether or not an *approved person's* conduct complies with a *Statement of Principle*. The *guidance* set out in ■ APER 3 and ■ APER 4 does not form part of the *Code of Practice for Approved Persons*. **FCA**

1.2.3A **G** The *Code of Practice for Approved Persons* sets out descriptions of conduct which, in the opinion of the PRA, do not comply with a *Statement of Principle*. The *Code of Practice for Approved Persons* also sets out, in certain cases, factors which, in the opinion of the PRA, are to be taken into account in determining whether or not an *approved person's* conduct complies with a *Statement of Principle*. The *guidance* set out in ■ APER 3 and ■ APER 4 does not form part of the *Code of Practice for Approved Persons*. **PRA**

1.2.4 **G** [deleted]

1.2.5
FCA

G

As set out in ■ SUP 10A.3.1 R (Provisions related to the Act), a function is a *controlled function* only to the extent that it is performed under an *arrangement* entered into by:

(1) a *firm*; or

(2) a contractor of the *firm*;

in relation to the carrying on by the *firm* of a *regulated activity*.

1.2.6

G

[deleted]

1.2.7

G

[deleted]

1.2.8

G

[deleted]

1.2.9

G

[deleted]

Chapter 2

The Statements of Principle for Approved Persons



2.1 [Deleted]

2.1A The Statements of Principle

2.1A.1

FCA

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■ APER 2.1A.3 P sets out the *Statements of Principle* issued by the FCA to which ■ APER 1.2.1A G refers and to which the provisions of the *Code of Practice for Approved Persons* and *guidance* in ■ APER 3 and ■ APER 4 apply. The paragraphs of ■ APER 1.1A labelled "P" also form part of the *Statements of Principle*.

2.1A.2

FCA

P

An *approved person* will not be subject to a *Statement of Principle* to the extent that it would be contrary to the UK's obligations under a *Single Market Directive* or the *auction regulation*.

2.1A.3

FCA

P

Statements of Principle issued under section 64 of the Act

Statement of Principle 1

An *approved person* must act with integrity in carrying out his *accountable functions*.

Statement of Principle 2

An *approved person* must act with due skill, care and diligence in carrying out his *accountable functions*.

Statement of Principle 3

An *approved person* must observe proper standards of market conduct in carrying out his *accountable functions*.

Statement of Principle 4

An *approved person* must deal with the FCA, the PRA and other regulators in an open and cooperative way and must disclose appropriately any information of which the FCA or the PRA would reasonably expect notice.

Statement of Principle 5

An *approved person* performing an *accountable significant-influence function* must take reasonable steps to ensure that the business of the *firm* for which he is responsible in his *accountable function* is organised so that it can be controlled effectively.

Statement of Principle 6

An *approved person* performing an *accountable significant-influence function* must exercise due skill, care and diligence in managing the business of the *firm* for which he is responsible in his *accountable function*.

Statement of Principle 7

An *approved person* performing an *accountable significant-influence function* must take reasonable steps to ensure that the business of the *firm* for which he is responsible in his *accountable function* complies with the relevant requirements and standards of the *regulatory system*.

2.1B The Statements of Principle

2.1B.1

PRA

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■ APER 2.1B.3P sets out the *Statements of Principle* issued by the PRA to which ■ APER 1.2.1B G refers and to which the provisions of the *Code of Practice for Approved Persons* and *guidance* in ■ APER 3 and ■ APER 4 apply. The paragraphs of ■ APER 1.1B labelled "P" also form part of the *Statements of Principle*.

2.1B.2

PRA

P

An *approved person* will not be subject to a *Statement of Principle* to the extent that it would be contrary to the UK's obligations under a *Single Market Directive* or the *auction regulation*.

2.1B.3

PRA

P

Statements of Principle issued under section 64 of the Act

Statement of Principle 1

An approved person must act with integrity in carrying out his accountable functions.

Statement of Principle 2

An approved person must act with due skill, care and diligence in carrying out his accountable functions.

Statement of Principle 3

[Not used]

Statement of Principle 4

An approved person must deal with the FCA, the PRA and other regulators in an open and cooperative way and must disclose appropriately any information of which the FCA or the PRA would reasonably expect notice.

Statement of Principle 5

An approved person performing an accountable function must take reasonable steps to ensure that the business of the firm for which he is responsible in his accountable function is organised so that it can be controlled effectively.

Statement of Principle 6

An *approved person* performing an *accountable function* must exercise due skill, care and diligence in managing the business of the *firm* for which he is responsible in his *accountable function*.

Statement of Principle 7

An *approved person* performing an *accountable function* must take reasonable steps to ensure that the business of the *firm* for which he is responsible in his *accountable function* complies with the relevant requirements and standards of the *regulatory system*.

Chapter 3

Code of Practice for Approved Persons: general



3.1 Introduction

3.1.1 G [deleted]

3.1.1A FCA G This *Code of Practice for Approved Persons* is issued under section 64 of the *Act* (Conduct: statements and codes) for the purpose of helping to determine whether or not an *approved person's* conduct complies with a *Statement of Principle*. The code sets out descriptions of conduct which, in the *FCA's* opinion, do not comply with the relevant *Statements of Principle*. The code also sets out certain factors which, in the opinion of the *FCA*, are to be taken into account in determining whether an *approved person's* conduct complies with a particular *Statement of Principle*. The description of conduct, the factors and related provisions are identified in the text by the letter 'E' as explained in chapter 6 of the Reader's Guide.

3.1.1B PRA G This *Code of Practice for Approved Persons* is issued under section 64 of the *Act* (Conduct: statements and codes) for the purpose of helping to determine whether or not an *approved person's* conduct complies with a *Statement of Principle*. The code sets out descriptions of conduct which, in the *PRA's* opinion, do not comply with the relevant *Statements of Principle*. The code also sets out certain factors which, in the opinion of the *PRA*, are to be taken into account in determining whether an *approved person's* conduct complies with a particular *Statement of Principle*. The description of conduct, the factors and related provisions are identified in the text by the letter 'E' as explained in the Reader's Guide.

3.1.2 FCA PRA G The *Code of Practice for Approved Persons* in issue at the time when any particular conduct takes place may be relied on so far as it tends to establish whether or not that conduct complies with a *Statement of Principle*.

3.1.3 FCA PRA G The significance of conduct identified in the *Code of Practice for Approved Persons* as tending to establish compliance with or a breach of a *Statement of Principle* will be assessed only after all the circumstances of a particular case have been considered. Account will be taken of the context in which a course of conduct was undertaken, including the precise circumstances of the individual case, the characteristics of the particular *accountable function* and the behaviour to be expected in that function.

3.1.4 FCA G (1) An *approved person* will only be in breach of a *Statement of Principle* where he is personally culpable. Personal culpability arises where an *approved person's* conduct was deliberate or where the *approved person's* standard of conduct was below that which would be reasonable in all the circumstances

(see ■ DEPP 6.2.4 G (Action against approved persons under section 66 of the Act)).

(2) For the avoidance of doubt, the *Statements of Principle* do not extend the duties of *approved persons* beyond those which the *firm* owes in its dealings with *customers* or others.

3.1.4A
PRA

G

(1) An *approved person* will only be in breach of a *Statement of Principle* where he is personally culpable. Personal culpability arises where an *approved person's* conduct was deliberate or where the *approved person's* standard of conduct was below that which would be reasonable in all the circumstances.

(2) For the avoidance of doubt, the *Statements of Principle* do not extend the duties of *approved persons* beyond those which the *firm* owes in its dealings with *customers* or others.

3.1.5
FCA PRA

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In particular, in determining whether or not an *approved person's* conduct complies with a *Statement of Principle*, the *appropriate regulator* will take into account the extent to which an *approved person* has acted in a way that is stated to be in breach of a *Statement of Principle*.

3.1.6
FCA PRA

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The *Code of Practice for Approved Persons* (and in particular the specific examples of behaviour which may be in breach of a generic description of conduct in the code) is not exhaustive of the kind of conduct that may contravene the *Statements of Principle*. The purpose of the code is to help determine whether or not a *person's* conduct complies with a *Statement of Principle*. The code may be supplemented from time to time. The *appropriate regulator* will amend the code if there is a risk that unacceptable practice may become prevalent, so as to make clear what conduct falls below the standards expected of *approved persons* by the *Statements of Principle*.

3.1.7

G

[deleted]

3.1.7A
FCA

G

Statements of Principle 1 to 4 apply to all *approved persons*. A *person* performing an *accountable significant-influence function* is also subject to the additional requirements set out in *Statements of Principle* 5 to 7 in performing that *accountable function*. Those responsible under ■ SYSC 2.1.3 R or ■ SYSC 4.4.5 R (Apportionment of responsibilities) for the *firm's* apportionment obligation will be specifically subject to *Statement of Principle* 5 (and see, in particular, ■ APER 4.5.6 E). In addition, it will be the responsibility of any such *approved person* to oversee that the *firm* has appropriate systems and controls under *Statement of Principle* 7 (and see, in particular, ■ APER 4.7.3 E).

3.1.7B
PRA

G

Those responsible under ■ SYSC 2.1.3 R or ■ SYSC 4.4.5 R (Apportionment of responsibilities) for the *firm's* apportionment obligation will be specifically subject to *Statement of Principle* 5 (and see, in particular, ■ APER 4.5.6 E). In addition, it will be the responsibility of any such *approved person* to oversee that the *firm* has appropriate systems and controls under *Statement of Principle* 7 (and see, in particular, ■ APER 4.7.3 E).

3.1.8

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[deleted]

3.1.8A

FCA

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In applying *Statements of Principle 5 to 7*, the nature, scale and complexity of the business under management and the role and responsibility of the individual performing an *accountable significant-influence function* within the *firm* will be relevant in assessing whether an *approved person's* conduct was reasonable. For example, the smaller and less complex the business, the less detailed and extensive the systems of control need to be. The *FCA* will be of the opinion that an individual performing an *accountable significant-influence function* may have breached *Statements of Principle 5 to 7* only if his conduct was below the standard which would be reasonable in all the circumstances. (See also ■ APER 3.3.1 E (3) to ■ APER 3.3.1 E (5).)

3.1.8B

PRA

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In applying *Statements of Principle 5 to 7*, the nature, scale and complexity of the business under management and the role and responsibility of the individual performing an *accountable function* within the *firm* will be relevant in assessing whether an *approved person's* conduct was reasonable. For example, the smaller and less complex the business, the less detailed and extensive the systems of control need to be. The *PRA* will be of the opinion that an individual performing an *accountable function* may have breached *Statements of Principle 5 to 7* only if his conduct was below the standard which would be reasonable in all the circumstances. (See also ■ APER 3.3.1 E (3) to ■ APER 3.3.1 E (5).)

3.1.9

FCA

PRA

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UK domestic firms listed on the London Stock Exchange are subject to the *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)" issued by the Financial Reporting Council. *Firms* regulated by the *appropriate regulator* 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 *appropriate regulator* will give due credit for their following corresponding provisions in the *UK Corporate Governance Code* and related *guidance*.



3.2 Factors relating to all Statements of Principle

3.2.1

FCA PRA



In determining whether or not the particular conduct of an *approved person* within his *accountable function* complies with the *Statements of Principle*, the following are factors which, in the opinion of the *appropriate regulator*, are to be taken into account:

- (1) whether that conduct relates to activities that are subject to other provisions of the *Handbook*;
- (2) whether that conduct is consistent with the requirements and standards of the *regulatory system* relevant to his *firm*.

3.3 Factors relating to Statements of Principle 5 to 7

3.3.1 FCA



In determining whether or not the conduct of an *approved person* performing an *accountable significant-influence function* complies with *Statements of Principle 5 to 7*, the following are factors which, in the opinion of the *FCA*, are to be taken into account:

- (1) whether he exercised reasonable care when considering the information available to him;
- (2) whether he reached a reasonable conclusion which he acted on;
- (3) the nature, scale and complexity of the *firm's* business;
- (4) his role and responsibility as an *approved person* performing an *accountable significant-influence function*;
- (5) the knowledge he had, or should have had, of regulatory concerns, if any, arising in the business under his control.

3.3.2 PRA



In determining whether or not the conduct of an *approved person* performing an *accountable function* complies with *Statements of Principle 5 to 7*, the following are factors which, in the opinion of the *PRA*, are to be taken into account:

- (1) whether he exercised reasonable care when considering the information available to him;
- (2) whether he reached a reasonable conclusion which he acted on;
- (3) the nature, scale and complexity of the *firm's* business;
- (4) his role and responsibility as an *approved person* performing an *accountable function*;
- (5) the knowledge he had, or should have had, of regulatory concerns, if any, arising in the business under his control.



Chapter 4



Code of Practice for Approved Persons: specific









4.1 Statement of Principle 1




4.1.1  [deleted]

4.1.1A  The *Statement of Principle 1* (see ■ APER 2.1A.3 P) is in the following terms: "An *approved person* must act with integrity in carrying out his *accountable functions*."


4.1.1B  The *Statement of Principle 1* (see ■ APER 2.1B.3 P) is in the following terms: "An *approved person* must act with integrity in carrying out his *accountable functions*."


4.1.2  In the opinion of the *appropriate regulator*, conduct of the type described in ■ APER 4.1.3 E, ■ APER 4.1.5 E, ■ APER 4.1.6 E, ■ APER 4.1.8 E, ■ APER 4.1.10 E, ■ APER 4.1.12 E, ■ APER 4.1.13 E, ■ APER 4.1.14 E or ■ APER 4.1.15 E does not comply with *Statement of Principle 1* .
 

4.1.3  Deliberately misleading (or attempting to mislead) by act or omission:
 
 (1) a *client*; or
 (2) his *firm* (or its auditors or an *actuary* appointed by his *firm* under ■ SUP 4 (Actuaries)); or
 (3) the *FCA* or the *PRA*;
 falls within ■ APER 4.1.2 E.

4.1.4  Behaviour of the type referred to in ■ APER 4.1.3 E includes, but is not limited to, deliberately:
 
 (1) falsifying *documents*;
 (2) misleading a *client* about the risks of an *investment*;
 (3) misleading a *client* about the charges or surrender penalties of *investment* products;

- (4) misleading a *client* about the likely performance of *investment* products by providing inappropriate *projections* of future *investment* returns;
- (5) misleading a *client* by informing him that products require only a single payment when that is not the case;
- (6) mismarking the value of *investments* or trading positions;
- (7) procuring the unjustified alteration of prices on illiquid or *off-exchange* contracts, or both;
- (8) misleading others within the *firm* about the credit worthiness of a borrower;
- (9) providing false or inaccurate documentation or information, including details of training, qualifications, past employment record or experience;
- (10) providing false or inaccurate information to the *firm* (or to the *firm's* auditors or an *actuary* appointed by the *firm* under ■ SUP 4 (Actuaries));
- (11) providing false or inaccurate information to the *FCA* or the *PRA*;
- (12) destroying, or causing the destruction of, *documents* (including false documentation), or tapes or their contents, relevant to misleading (or attempting to mislead) a *client*, his *firm*, or the *FCA* or the *PRA*;
- (13) failing to disclose dealings where disclosure is required by the *firm's* personal account *dealing rules*;
- (14) misleading others in the *firm* about the nature of risks being accepted.

4.1.5

FCA PRA



Deliberately recommending an *investment* to a *customer*, or carrying out a discretionary *transaction* for a *customer* where the *approved person* knows that he is unable to justify its suitability for that *customer*, falls within ■ APER 4.1.2 E.

4.1.6

FCA PRA



Deliberately failing to inform, without reasonable cause:

- (1) a *customer*; or
- (2) his *firm* (or its auditors or an *actuary* appointed by his *firm* under ■ SUP 4 (Actuaries)); or
- (3) the *FCA* or the *PRA*;

of the fact that their understanding of a material issue is incorrect, despite being aware of their misunderstanding, falls within ■ APER 4.1.2 E.

4.1.7
FCA PRA



Behaviour of the type referred to in ■ APER 4.1.6 E includes, but is not limited to, deliberately:

- (1) failing to disclose the existence of falsified *documents*;
- (2) failing to rectify mismarked positions immediately.

4.1.8
FCA PRA



Deliberately preparing inaccurate or inappropriate records or returns in connection with an *accountable function*, falls within ■ APER 4.1.2 E.

4.1.9
FCA PRA



Behaviour of the type referred to in ■ APER 4.1.8 E includes, but is not limited to, deliberately:

- (1) preparing performance reports for transmission to *customers* which are inaccurate or inappropriate (for example, by relying on past performance without appropriate warnings);
- (2) preparing inaccurate training records or inaccurate details of qualifications, past employment record or experience;
- (3) preparing inaccurate trading confirmations, contract notes or other records of *transactions* or holdings of *securities* for a *customer*, whether or not the *customer* is aware of these inaccuracies or has requested such records.

4.1.10
FCA PRA



Deliberately misusing the assets or confidential information of a *client* or of his *firm* falls within ■ APER 4.1.2 E.

4.1.11
FCA PRA



Behaviour of the type referred to in ■ APER 4.1.10 E includes, but is not limited to, deliberately:

- (1) front running *client* orders;
- (2) carrying out unjustified trading on *client* accounts to generate a benefit (whether direct or indirect) to the *approved person* (that is, churning);
- (3) misappropriating a *client's* assets, including wrongly transferring to personal accounts cash or *securities* belonging to *clients*;
- (4) wrongly using one *client's* funds to settle margin calls or to cover trading losses on another *client's* account or on *firm* accounts;
- (5) using a *client's* funds for purposes other than those for which they were provided;

- (6) retaining a *client's* funds wrongly;
- (7) pledging the assets of a *client* as security or margin in circumstances where the *firm* is not permitted to do so.

4.1.12

FCA PRA



Deliberately designing *transactions* so as to disguise breaches of requirements and standards of the *regulatory system* falls within ■ APER 4.1.2 E.

4.1.13

FCA PRA



Deliberately failing to disclose the existence of a conflict of interest in connection with dealings with a *client* falls within ■ APER 4.1.2 E.

4.1.14

FCA PRA



Deliberately not paying due regard to the interests of a *customer* falls within ■ APER 4.1.2 E.

4.1.15

FCA PRA







Deliberate acts, omissions or business practices that could be reasonably expected to cause consumer detriment fall within ■ APER 4.1.2 E.






4.2 Statement of Principle 2




4.2.1  [deleted]

4.2.1A  The *Statement of Principle 2* (see ■ APER 2.1A.3 P) is in the following terms: "An *approved person* must act with due skill, care and diligence in carrying out his *accountable functions*."





4.2.1B  The *Statement of Principle 2* (see ■ APER 2.1B.3 P) is in the following terms: "An *approved person* must act with due skill, care and diligence in carrying out his *accountable functions*."


4.2.2  In the opinion of the *appropriate regulator*, conduct of the type described in ■ APER 4.2.3 E, ■ APER 4.2.5 E, ■ APER 4.2.6 E, ■ APER 4.2.8 E, ■ APER 4.2.10 E, ■ APER 4.2.11 E or ■ APER 4.2.14 E does not comply with *Statement of Principle 2* .
 

4.2.2A  In the opinion of the *FCA*, conduct of the type described in ■ APER 4.2.13 E does not comply with *Statement of Principle 2*.



4.2.3  Failing to inform:
 
 (1) a *customer*; or
 (2) his *firm* (or its auditors or an *actuary* appointed by his *firm* under ■ SUP 4 Actuaries));

of material information in circumstances where he was aware, or ought to have been aware, of such information, and of the fact that he should provide it, falls within ■ APER 4.2.2 E.


4.2.4  Behaviour of the type referred to in ■ APER 4.2.3 E includes, but is not limited to:
 

- (1) failing to explain the risks of an *investment* to a *customer*;
- (2) failing to disclose to a *customer* details of the charges or surrender penalties of *investment* products;


- (3) mismarking trading positions;
- (4) providing inaccurate or inadequate information to a *firm*, its auditors or an *actuary* appointed by his *firm* under ■ SUP 4 (Actuaries);
- (5) failing to disclose dealings where disclosure is required by the *firm's* personal account *dealing rules*.

4.2.5  Recommending an *investment* to a *customer*, or carrying out a discretionary *transaction* for a *customer*, where he does not have reasonable grounds to believe that it is suitable for that *customer*, falls within ■ APER 4.2.2 E.


 

4.2.6  Undertaking, recommending or providing advice on *transactions* without a reasonable understanding of the risk exposure of the *transaction* to a *customer* falls within ■ APER 4.2.2 E.


 

4.2.7  *Behaviour* of the type referred to in ■ APER 4.2.6 E includes, but is not limited to, recommending *transactions* in *investments* to a *customer* without a reasonable understanding of the liability (either potential or actual) of that *transaction*.


 

4.2.8  Undertaking *transactions* without a reasonable understanding of the risk exposure of the *transaction* to the *firm* falls within ■ APER 4.2.2 E.


 

4.2.9  *Behaviour* of the type referred to in ■ APER 4.2.8 E includes, but is not limited to, trading on the *firm's* own account without a reasonable understanding of the liability (either potential or actual) of the *transaction*.


 

4.2.10  Failing without good reason to disclose the existence of a conflict of interest in connection with dealings with a *client* falls within ■ APER 4.2.2 E.


4.2.11  Failing to provide adequate control over a *client's* assets falls within ■ APER 4.2.2 E.


4.2.12  *Behaviour* of the type referred to in ■ APER 4.2.11 E includes, but is not limited to:

- (1) failing to segregate a *client's* assets;
- (2) failing to process a *client's* payments in a timely manner.

4.2.13  Continuing to perform a *controlled function* despite having failed to meet the standards of knowledge and skill set out in the Training and Competence sourcebook (TC) for that *controlled function* falls within ■ APER 4.2.2A E.



4.2.14  Failing to pay due regard to the interests of a *customer*, without good reason, falls within ■ APER 4.2.2 E.



4.3 Statement of Principle 3

4.3.1

FCA

G

The *Statement of Principle 3* (see ■ APER 2.1A.3 P) is in the following terms: "An *approved person* must observe proper standards of market conduct in carrying out his *accountable functions*."

4.3.2

G

[deleted]

4.3.3

FCA

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A factor to be taken into account in determining whether or not an *approved person's* conduct complies with this *Statement of Principle*) is whether he, or his *firm*, has complied with the *Code of Market Conduct* (■ MAR 1) or relevant market codes and exchange rules.

4.3.4

FCA

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Compliance with the code or *rules* described in ■ APER 4.3.3 E will tend to show compliance with this *Statement of Principle* .



4.4 Statement of Principle 4

4.4.1 **G** [deleted]

4.4.1A **G** The *Statement of Principle 4* (see ■ APER 2.1A.3 P) is in the following terms: "An *approved person* must deal with the *FCA*, the *PRA* and other regulators in an open and cooperative way and must disclose appropriately any information of which the *FCA* or the *PRA* would reasonably expect notice."
FCA

4.4.1B **G** The *Statement of Principle 4* (see ■ APER 2.1B.3 P) is in the following terms: "An *approved person* must deal with the *FCA*, the *PRA* and other regulators in an open and cooperative way and must disclose appropriately any information of which the *FCA* or the *PRA* would reasonably expect notice."
PRA

4.4.2 **G** [deleted]

4.4.2A **G** For the purpose of this *Statement of Principle*, regulators in addition to the *FCA* and the *PRA* are those which have recognised jurisdiction in relation to *regulated activities* and a power to call for information from the *approved person* in connection with his *accountable function* or (in the case of an individual performing an *accountable significant-influence function*) in connection with the business for which he is responsible. This may include an exchange or an *overseas regulator*.
FCA

4.4.2B **G** For the purpose of this *Statement of Principle*, regulators in addition to the *FCA* and the *PRA* are those which have recognised jurisdiction in relation to *regulated activities* and a power to call for information from the *approved person* in connection with his *accountable function* or in connection with the business for which he is responsible. This may include an exchange or an *overseas regulator*.
PRA

4.4.3 **A** In the opinion of the *appropriate regulator*, conduct of the type described in ■ APER 4.4.4 E, ■ APER 4.4.7 E, or ■ APER 4.4.9 E does not comply with *Statement of Principle 4* .
FCA PRA

4.4.4 **A** Failing to report promptly in accordance with his *firm's* internal procedures (or if none exist direct to the regulator concerned), information which it would be reasonable to assume would be of material significance to theregulator concerned, whether in response to questions or otherwise, falls within ■ APER 4.4.3 E. The regulator concerned is:
FCA PRA

- (1) the *FCA* if it would be reasonable to assume that it would be of material significance to it;
- (2) the *PRA* if it would be reasonable to assume that it would be of material significance to it;
- (3) both the *FCA* and the *PRA* if it would be reasonable to assume that it would be of material significance to both of them.

4.4.5

FCA **PRA**



There is no duty on an *approved person* to report such information directly to the regulator concerned unless he is one of the *approved persons* responsible within the *firm* for reporting matters to the regulator concerned. However, if an *approved person* takes steps to influence the decision so as not to report to the regulator concerned or acts in a way that is intended to obstruct the reporting of the information to the regulator concerned, then the *appropriate regulator* will, in respect of that information, view him as being one of those within the *firm* who has taken on responsibility for deciding whether to report that matter to the regulator concerned.

4.4.6

FCA **PRA**



In determining whether or not an *approved person's* conduct under ■ APER 4.4.4 E complies with *Statement of Principle 4*, the following are factors which, in the opinion of the *appropriate regulator*, are to be taken into account:

- (1) the likely significance to the regulator concerned (as defined in ■ APER 4.4.4 E) of the information which it was reasonable for the individual to assume;
- (2) whether the information related to the individual himself or to his *firm*;
- (3) whether any decision not to report the matter internally was taken after reasonable enquiry and analysis of the situation.

4.4.7

FCA **PRA**



Where the *approved person* is, or is one of the *approved persons* who is, responsible within the *firm* for reporting matters to the regulator concerned (as defined in ■ APER 4.4.4 E), failing promptly to inform the regulator concerned of information of which he is aware and which it would be reasonable to assume would be of material significance to the regulator concerned, whether in response to questions or otherwise, falls within ■ APER 4.4.3 E.

4.4.8

FCA **PRA**



In determining whether or not an *approved person's* conduct under ■ APER 4.4.7 E complies with *Statement of Principle 4*, the following are factors which, in the opinion of the *appropriate regulator*, are to be taken into account:

- (1) the likely significance of the information to the regulator concerned (as defined in ■ APER 4.4.4 E) which it was reasonable for the *approved person* to assume;

4.4.9



FCA PRA

Failing without good reason to:


- (2) whether any decision not to inform the regulator concerned (as defined in ■ APER 4.4.4 E) was taken after reasonable enquiry and analysis of the situation.
- (1) inform a regulator of information of which the *approved person* was aware in response to questions from that regulator;
- (2) attend an interview or answer questions put by a regulator, despite a request or demand having been made;
- (3) supply a regulator with appropriate *documents* or information when requested or required to do so and within the time limits attaching to that request or requirement;


falls within ■ APER 4.4.3 E.





4.5 Statement of Principle 5


4.5.1  [deleted]



4.5.1A  The *Statement of Principle 5* (see ■ APER 2.1A.3 P) is in the following terms: "An *approved person* performing an *accountable significant-influence function* must take reasonable steps to ensure that the business of the *firm* for which he is responsible in his *accountable function* is organised so that it can be controlled effectively." References in ■ APER 4.5 to a *significant-influence function* are to an *accountable function* to which *Statement of Principle 5* applies.






4.5.1B  The *Statement of Principle 5* (see ■ APER 2.1B.3 P) is in the following terms: "An *approved person* performing an *accountable function* must take reasonable steps to ensure that the business of the *firm* for which he is responsible in his *accountable function* is organised so that it can be controlled effectively." References in ■ APER 4.5 to a *significant-influence function* are to an *accountable function* to which *Statement of Principle 5* applies.






4.5.2  In the opinion of the *appropriate regulator*, conduct of the type described in ■ APER 4.5.3 E, ■ APER 4.5.4 E, ■ APER 4.5.6 E or ■ APER 4.5.8 E does not comply with *Statement of Principle 5* .


 



4.5.3  Failing to take reasonable steps to apportion responsibilities for all areas of the business under the *approved person's* control falls within ■ APER 4.5.2 E (see ■ APER 4.5.11 G).

4.5.4  Failing to take reasonable steps to apportion responsibilities clearly amongst those to whom responsibilities have been delegated falls within ■ APER 4.5.2 E (see ■ APER 4.5.11 G).

4.5.5  Behaviour of the type referred to in ■ APER 4.5.4 E includes, but is not limited to:

- (1) implementing confusing or uncertain reporting lines (see ■ APER 4.5.12 G);
- (2) implementing confusing or uncertain authorisation levels (see ■ APER 4.5.13 G);

(3) implementing confusing or uncertain job descriptions and responsibilities (see ■ APER 4.5.13 G).

4.5.6

FCA PRA



In the case of an *approved person* who is responsible under ■ SYSC 2.1.3 R (1) or ■ SYSC 4.4.5 R (1) for dealing with the apportionment of responsibilities under ■ SYSC 2.1.1 R or ■ SYSC 4.4.3 R , failing to take reasonable care to maintain a clear and appropriate apportionment of significant responsibilities among the *firm's directors* and senior managers falls within ■ APER 4.5.2 E.

4.5.7

FCA PRA



Behaviour of the type referred to in ■ APER 4.5.6 E includes, but is not limited to:

- (1) failing to review regularly the significant responsibilities which the *firm* is required to apportion;
- (2) failing to act where that review shows that those significant responsibilities have not been clearly apportioned.

4.5.8

FCA PRA



Failing to take reasonable steps to ensure that suitable individuals are responsible for those aspects of the business under the control of the individual performing a *significant influence function* falls within ■ APER 4.5.2 E (see ■ APER 4.5.14 G).

4.5.9

FCA PRA



Behaviour of the type referred to in ■ APER 4.5.8 E includes, but is not limited to:

- (1) failing to review the competence, knowledge, skills and performance of staff to assess their suitability to fulfil their duties, despite evidence that their performance is unacceptable (see ■ APER 4.5.14 G);
- (2) giving undue weight to financial performance when considering the suitability or continuing suitability of an individual for a particular role (see ■ APER 4.5.14 G);
- (3) allowing managerial vacancies which put at risk compliance with the requirements and standards of the *regulatory system* to remain, without arranging suitable cover for the responsibilities (see ■ APER 4.5.15 G).

4.5.10

FCA PRA



Strategy and plans will often dictate the risk which the business is prepared to take on and high level controls will dictate how the business is to be run. If the strategy of the business is to enter high-risk areas, then the degree of control and strength of monitoring reasonably required within the business will be high. In organising the business for which he is responsible, the *approved person* performing a *significant influence function* should bear this in mind.

Apportionment of responsibilities

4.5.11

FCA PRA

G

In order to comply with the obligations of *Statement of Principle 5* (having regard to ■ APER 4.5.3 E and ■ APER 4.5.4 E), the *approved person* performing a *significant influence function* may find it helpful to review whether each area of the business for which he is responsible has been clearly assigned to a particular individual or individuals.

Reporting lines

4.5.12

FCA PRA

G

The organisation of the business and the responsibilities of those within it should be clearly defined (see ■ APER 4.5.5 E (1)). Reporting lines should be clear to staff. Where staff have dual reporting lines there is a greater need to ensure that the responsibility and accountability of each individual line manager is clearly set out and understood.

Authorisation levels and job descriptions

4.5.13

FCA PRA

G

Where members of staff have particular levels of authorisation (see ■ APER 4.5.5 E (2) and ■ APER 4.5.5 E (3)), these should be clearly set out and communicated to staff. It may be appropriate for each member of staff to have a job description of which he is aware.

Suitability of individuals

4.5.13A

FCA PRA

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.

4.5.14

FCA PRA

G

If an individual's performance is unsatisfactory, then the appropriate *approved person* (if any) performing a *significant influence function* should review carefully whether to allow that individual to continue in position. In particular, if he is aware of concerns relating to the compliance with requirements and standards of the *regulatory system* (or internal controls) of the individual concerned, or of staff reporting to that individual, the *approved person* performing a *significant influence function* should take care not to give undue weight to the financial performance of the individual or group concerned when considering whether any action should be taken. An adequate investigation of the concerns should be undertaken (including, where appropriate, adherence to internal controls). The *approved person* performing a *significant influence function* should satisfy himself, on reasonable grounds, that the investigation is appropriate, the results are accurate and that the concerns do not pose an unacceptable risk to compliance with the requirements and standards of the *regulatory system* (see in particular *Statement of Principle 6* and ■ APER 4.5.8 E and ■ APER 4.5.9 E (1) and ■ APER 4.5.9 E (2)).

Temporary vacancies

4.5.15

FCA PRA

G

In organising the business, the *approved person* performing a *significant influence function* should pay attention to any temporary vacancies which exist (see ■ APER 4.5.9 E (3)). He should take reasonable steps to ensure that suitable cover for responsibilities is arranged. This could include taking on temporary staff or external consultants. The *approved person* performing a *significant influence function* should assess the risk that is posed to compliance with the requirements and standards of the *regulatory system* as a result of the vacancy, and the higher the risk the greater the steps he should take to fill the vacancy. It may be appropriate to limit or suspend the

activity if appropriate cover for responsibilities cannot be arranged. To the extent that those vacancies are in respect of one of the *customer functions*, they may only be filled by *persons* approved for that function.



4.6 Statement of Principle 6

4.6.1 G [deleted]

4.6.1A FCA G The *Statement of Principle 6* (see ■ APER 2.1A.3 P) is in the following terms: "An *approved person* performing an *accountable significant-influence function* must exercise due skill, care and diligence in managing the business of the *firm* for which he is responsible in his *accountable function*." References in ■ APER 4.6 to a *significant-influence function* are to an *accountable significant-influence function* to which *Statement of Principle 6* applies.

4.6.1B PRA G The *Statement of Principle 6* (see ■ APER 2.1B.3 P) is in the following terms: "An *approved person* performing an *accountable function* must exercise due skill, care and diligence in managing the business of the *firm* for which he is responsible in his *accountable function*." References in ■ APER 4.6 to a *significant-influence function* are to an *accountable function* to which *Statement of Principle 6* applies.

4.6.2 FCA PRA ▲ In the opinion of the *appropriate regulator*, conduct of the type described in ■ APER 4.6.3 E, ■ APER 4.6.5 E, ■ APER 4.6.6 E or ■ APER 4.6.8 E does not comply with *Statement of Principle 6*.

4.6.3 FCA PRA ▲ Failing to take reasonable steps to adequately inform himself about the affairs of the business for which he is responsible falls within ■ APER 4.6.2 E.

4.6.4 FCA PRA ▲ Behaviour of the type referred to in ■ APER 4.6.3 E includes, but is not limited to:

- (1) permitting *transactions* without a sufficient understanding of the risks involved;
- (2) permitting expansion of the business without reasonably assessing the potential risks of that expansion;
- (3) inadequately monitoring highly profitable *transactions* or business practices or unusual *transactions* or business practices;

- (4) accepting implausible or unsatisfactory explanations from subordinates without testing the veracity of those explanations;
- (5) failing to obtain independent, expert opinion where appropriate; (see ■ APER 4.6.12 G).

4.6.5

FCA PRA



Delegating the authority for dealing with an issue or a part of the business to an individual or individuals (whether in-house or outside contractors) without reasonable grounds for believing that the delegate had the necessary capacity, competence, knowledge, seniority or skill to deal with the issue or to take authority for dealing with part of the business, falls within ■ APER 4.6.2 E (see ■ APER 4.6.13 G).

4.6.6

FCA PRA



Failing to take reasonable steps to maintain an appropriate level of understanding about an issue or part of the business that he has delegated to an individual or individuals (whether in-house or outside contractors) falls within ■ APER 4.6.2 E (see ■ APER 4.6.14 G).

4.6.7

FCA PRA



Behaviour of the type referred to in ■ APER 4.6.6 E includes but is not limited to:

- (1) disregarding an issue or part of the business once it has been delegated;
- (2) failing to require adequate reports once the resolution of an issue or management of part of the business has been delegated;
- (3) accepting implausible or unsatisfactory explanations from delegates without testing their veracity.

4.6.8

FCA PRA



Failing to supervise and monitor adequately the individual or individuals (whether in-house or outside contractors) to whom responsibility for dealing with an issue or authority for dealing with a part of the business has been delegated falls within ■ APER 4.6.2 E.

4.6.9

FCA PRA



Behaviour of the type referred to in ■ APER 4.6.8 E includes, but is not limited to:

- (1) failing to take personal action where progress is unreasonably slow, or where implausible or unsatisfactory explanations are provided;
- (2) failing to review the performance of an outside contractor in connection with the delegated issue or business.

4.6.10

FCA PRA



In determining whether or not the conduct of an *approved person* performing a *significant influence function* under ■ APER 4.6.5 E, ■ APER 4.6.6 E and ■ APER 4.6.8 E complies with *Statement of Principle 6*, the following are factors which, in the opinion of the *appropriate regulator*, are to be taken into account:

- (1) the competence, knowledge or seniority of the delegate; and
- (2) the past performance and record of the delegate.

4.6.11

FCA PRA

G

An *approved person* performing a *significant influence function* will not always manage the business on a day-to-day basis himself. The extent to which he does so will depend on a number of factors, including the nature, scale and complexity of the business and his position within it. The larger and more complex the business, the greater the need for clear and effective delegation and reporting lines. The *appropriate regulator* will look to the *approved person* performing a *significant-influence function* to take reasonable steps to ensure that systems are in place which result in issues being addressed at the appropriate level. When issues come to his attention, he should deal with them in an appropriate way.

Knowledge about the business

4.6.12

FCA PRA

G

- (1) It is important for the *approved person* performing a *significant influence function* to understand the business for which he is responsible (■ APER 4.6.4 E). An *approved person* performing a *significant influence function* is unlikely to be an expert in all aspects of a complex financial services business. However, he should understand and inform himself about the business sufficiently to understand the risks of its trading, credit or other business activities.
- (2) It is important for an *approved person* performing a *significant influence function* to understand the risks of expanding the business into new areas and, before approving the expansion, he should investigate and satisfy himself, on reasonable grounds, about the risks, if any, to the business.
- (3) Where unusually profitable business is undertaken, or where the profits are particularly volatile or the business involves funding requirements on the *firm* beyond those reasonably anticipated, he should require explanations from those who report to him. Where those explanations are implausible or unsatisfactory, he should take steps to test the veracity of those explanations.
- (4) Where the *approved person* performing a *significant influence function* is not an expert in a business area, he should consider whether he or those with whom he works have the necessary expertise to provide him with an adequate explanation of issues within that business area. If not he should seek an independent opinion from elsewhere within or outside the *firm*.

Delegation

4.6.13

FCA PRA

G

- (1) An *approved person* performing a *significant influence function* may delegate the investigation, resolution or management of an issue or authority for dealing with a part of the business to individuals who report to him or to others.
- (2) The *approved person* performing a *significant influence function* should have reasonable grounds for believing that the delegate has the competence, knowledge, skill and time to deal with the issue. For instance, if the compliance department only has sufficient resources to deal with day-to-day issues, it would be unreasonable to delegate to it the resolution of a complex or unusual issue without ensuring it had sufficient capacity to deal with the matter adequately.

- (3) If an issue raises questions of law or interpretation, the *approved person* performing a *significant influence function* may need to take legal advice. If appropriate legal expertise is not available in-house, he may need to consider appointing an appropriate external adviser.
- (4) The *FCA* and *PRA* recognise that the *approved person* performing a *significant-influence function* will have to exercise his own judgment in deciding how issues are dealt with, and that in some cases that judgment will, with the benefit of hindsight, be shown to have been wrong. He will not be in breach of *Statement of Principle 6* unless he fails to exercise due and reasonable consideration before he delegates the resolution of an issue or authority for dealing with a part of the business and fails to reach a reasonable conclusion. If he is in doubt about how to deal with an issue or the seriousness of a particular compliance problem, then, although he cannot delegate to the *appropriate regulator* the responsibility for dealing with the problem or issue, he can speak to the *appropriate regulator* to discuss his approach (see ■ APER 4.6.5 E).

Continuing responsibilities where an issue has been delegated

4.6.14

FCA PRA

G

Although an *approved person* performing a *significant influence function* may delegate the resolution of an issue, or authority for dealing with a part of the business, he cannot delegate responsibility for it. It is his responsibility to ensure that he receives reports on progress and questions those reports where appropriate. For instance, if progress appears to be slow or if the issue is not being resolved satisfactorily, then the *approved person* performing a *significant influence function* may need to challenge the explanations he receives and take action himself to resolve the problem. This may include increasing the resource applied to it, reassigning the resolution internally or obtaining external advice or assistance. Where an issue raises significant concerns, an *approved person* performing a *significant influence function* should act clearly and decisively. If appropriate, this may be by suspending members of staff or relieving them of all or part of their responsibilities (see ■ APER 4.6.6 E).



4.7 Statement of Principle 7

4.7.1 G [deleted]


































4.7.1A FCA G The *Statement of Principle 7* (see ■ APER 2.1A.3 P) is in the following terms: "An *approved person* performing an *accountable significant-influence function* must take reasonable steps to ensure that the business of the *firm* for which he is responsible in his *accountable function* complies with the relevant requirements and standards of the *regulatory system*." References in ■ APER 4.7 to a *significant-influence function* are to an *accountable significant-influence function* to which *Statement of Principle 7* applies.

4.7.1B PRA G The *Statement of Principle 7* (see ■ APER 2.1B.3 P) is in the following terms: "An *approved person* performing an *accountable function* must take reasonable steps to ensure that the business of the *firm* for which he is responsible in his *accountable function* complies with the relevant requirements and standards of the *regulatory system*." References in ■ APER 4.7 to a *significant-influence function* are to an *accountable function* to which *Statement of Principle 7* applies.

4.7.2 FCA PRA A In the opinion of the *appropriate regulator*, conduct of the type described in ■ APER 4.7.3 E, ■ APER 4.7.4 E, ■ APER 4.7.5 E or ■ APER 4.7.7 E does not comply with *Statement of Principle 7*.

4.7.2A FCA A In the opinion of the *FCA*, conduct of the type described in ■ APER 4.7.9 E, ■ APER 4.7.10 E or ■ APER 4.7.11A E does not comply with *Statement of Principle 7*.

4.7.3 FCA PRA A Failing to take reasonable steps to implement (either personally or through a compliance department or other departments) adequate and appropriate systems of control to comply with the relevant requirements and standards of the *regulatory system* in respect of the *regulated activities* of the *firm* in question (as referred to in *Statement of Principle 7*) falls within ■ APER 4.7.2 E. In the case of an *approved person* who is responsible, under ■ SYSC 2.1.3 R (2) or ■ SYSC 4.4.5 R (2), with overseeing the *firm's* obligation under ■ SYSC 3.1.1 R or ■ SYSC 4.1.1 R, failing to take reasonable care to oversee the establishment and maintenance of appropriate systems and controls falls within ■ APER 4.7.2 E.

- 4.7.4   Failing to take reasonable steps to monitor (either personally or through a compliance department or other departments) compliance with the relevant requirements and standards of the *regulatory system* in respect of the *regulated activities* of the *firm* in question (as referred to in *Statement of Principle 7*) falls within  APER 4.7.2 E (see  APER 4.7.12 G).
- 4.7.5   Failing to take reasonable steps adequately to inform himself about the reason why significant breaches (whether suspected or actual) of the relevant requirements and standards of the *regulatory system* in respect of the *regulated activities* of the *firm* in question (as referred to in *Statement of Principle 7*) may have arisen (taking account of the systems and procedures in place) falls within  APER 4.7.2 E.
- 4.7.6   Behaviour of the type referred to in  APER 4.7.5 E includes, but is not limited to, failing to investigate what systems or procedures may have failed including, where appropriate, failing to obtain expert opinion on the adequacy of the systems and procedures.
- 4.7.7   Failing to take reasonable steps to ensure that procedures and systems of control are reviewed and, if appropriate, improved, following the identification of significant breaches (whether suspected or actual) of the relevant requirements and standards of the *regulatory system* relating to the *regulated activities* of the *firm* in question (as referred to in *Statement of Principle 7*), falls within  APER 4.7.2 E (see  APER 4.7.13 G and  APER 4.7.14 G).
- 4.7.8   Behaviour of the type referred to in  APER 4.7.7 E includes, but is not limited to:
- (1) unreasonably failing to implement recommendations for improvements in systems and procedures;
 - (2) unreasonably failing to implement recommendations for improvements to systems and procedures in a timely manner.
- 4.7.9   In the case of the *money laundering reporting officer*, failing to discharge the responsibilities imposed on him by the *firm* in accordance with  SYSC 3.2.6I R or  SYSC 6.3.9 R falls within  APER 4.7.2A E.
- 4.7.10   In the case of an *approved person* performing a *significant influence function* responsible for compliance under  SYSC 3.2.8 R,  SYSC 6.1.4 R or  SYSC 6.1.4A R, failing to take reasonable steps to ensure that appropriate compliance systems and procedures are in place falls within  APER 4.7.2A E (see  APER 4.7.13 G and  APER 4.7.14 G).
- 4.7.11   The *appropriate regulator* expects an *approved person* performing a *significant influence function* to take reasonable steps both to ensure his *firm's* compliance with the relevant requirements and standards of the *regulatory system* and to ensure that all staff are aware of the need for compliance.

4.7.11A

FCA



Where the *approved person* is a *proprietary trader* under ■ SUP 10A.9.10 R, failing to maintain and comply with appropriate systems and controls in relation to that activity falls within ■ APER 4.7.2A E.

4.7.12

FCA

PRA



Systems of control

An *approved person* performing a *significant influence function* need not himself put in place the systems of control in his business (■ APER 4.7.4 E). Whether he does this depends on his role and responsibilities. He should, however, take reasonable steps to ensure that the business for which he is responsible has operating procedures and systems which include well-defined steps for complying with the detail of relevant requirements and standards of the *regulatory system* and for ensuring that the business is run prudently. 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.

4.7.13

FCA

PRA



Possible breaches of regulatory requirements

Where the *approved person* performing a *significant influence function* becomes aware of actual or suspected problems that involve possible breaches of relevant requirements and standards of the *regulatory system* falling within his area of responsibility, then he should take reasonable steps to ensure that they are dealt with in a timely and appropriate manner (■ APER 4.7.7 E). This may involve an adequate investigation to find out what systems or procedures may have failed and why. He may need to obtain expert opinion on the adequacy and efficacy of the systems and procedures.

4.7.14

FCA

PRA



Review and improvement of systems and procedures

Where independent reviews of systems and procedures have been undertaken and result in recommendations for improvement, the *approved person* performing a *significant influence function* should ensure that, unless there are good reasons not to, any reasonable recommendations are implemented in a timely manner (■ APER 4.7.10 E). What is reasonable will depend on the nature of the inadequacy and the cost of the improvement. It will be reasonable for the *approved person* performing a *significant influence function* to carry out a cost benefit analysis when assessing whether the recommendations are reasonable.

Appendix 1

This appendix has been removed until further notice

1.1 This appendix has been removed until further notice

App 1.1.1

Statements of Principle and Code of Practice for Approved Persons

APER TP 1 Transitional Provisions

FCA PRA

In addition to the transitional provision below, *GEN* contains some technical transitional provisions that apply throughout the *Handbook*.

(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.	APER 3.1.9 G	G	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

Statements of Principle and Code of Practice for Approved Persons

Schedule 1 Record keeping requirements

Sch 1.1 G

FCA **PRA**

There are no record keeping requirements in *APER*.

Statements of Principle and Code of Practice for Approved Persons

Schedule 2 Notification requirements

Sch 2.1 G

FCA **PRA**

The aim of the guidance in the following table is to give the reader a quick overall view of the relevant requirements for notification and reporting.

Sch 2.2 G

FCA **PRA**

It is not a complete statement of those requirements and should not be relied on as if it were.

Sch 2.3 G

FCA **PRA**

Handbook reference	Matter to be notified	Contents of notification	Trigger event	Time allowed
<i>Statement of Principle</i> 4 (APER 2.1A.3 P)	Any information of which the <i>FCA</i> or the <i>PRA</i> would reasonably expect notice	Appropriate disclosure	Any information of which the <i>FCA</i> or the <i>PRA</i> would reasonably expect notice	Appropriate

Sch 2.4 G

PRA

Handbook reference	Matter to be notified	Contents of notification	Trigger event	Time allowed
<i>Statement of Principle</i> 4 (APER 2.1B.3 P)	Any information of which the <i>FCA</i> or the <i>PRA</i> would reasonably expect notice	Appropriate disclosure	Any information of which the <i>FCA</i> or the <i>PRA</i> would reasonably expect notice	Appropriate

Statements of Principle and Code of Practice for Approved Persons

Schedule 3 Fees and required payments

Sch 3.1 G

FCA **PRA**

There are no requirements for fees or other payments in *APER*.

Statements of Principle and Code of Practice for Approved Persons

Schedule 4 [Deleted]

Statements of Principle and Code of Practice for Approved Persons

Schedule 5 Rights of action for damages

Sch 5.1 G

FCA

There are no *rules* in *APER*.

Statements of Principle and Code of Practice for Approved Persons

Schedule 6 Rules that can be waived

Sch 6.1 G

FCA PRA

There are no *rules* in *APER*.

The Fit and Proper test for Approved Persons

The Fit and Proper test for Approved Persons

FIT 1	General
1.1	Application and purpose
1.2	Introduction
1.3	Assessing fitness and propriety
FIT 2	Main assessment criteria
2.1	Honesty, integrity and reputation
2.2	Competence and capability
2.3	Financial soundness
	Transitional Provisions and Schedules
TP 1	Transitional provisions
Sch 1	Record keeping requirements
Sch 2	Notification requirements
Sch 3	Fees and other required payments
Sch 4	Powers exercised
Sch 5	Rights of action for damages
Sch 6	Rules that can be waived

The Fit and Proper test for Approved Persons

Chapter 1

General

1.1 Application and purpose

1.1.1

FCA PRA

G

FIT applies to:

- (1) a *firm*;
- (2) an applicant for *Part 4A permission*;
- (3) and *EEA firm*, a *Treaty firm* or a *UCITS qualifier* that wishes to establish a *branch* into the *United Kingdom* using *EEA rights*, *Treaty rights* or *UCITS directive* rights (see ■ SUP 10A.1.10 G and ■ SUP 10B.1.10 G and ■ SUP 10A.1.11 R and ■ SUP 10B.1.11 R), or apply for a *top-up permission* (see ■ SUP 10A.1.13 R and ■ SUP 10B.1.12 R);
- (4) an *approved person*; and
- (5) a *candidate*.

1.1.2

FCA PRA

G

The purpose of *FIT* is to set out and describe the criteria that the *appropriate regulator* will consider when assessing the fitness and propriety of a *candidate* for a *controlled function* (see generally ■ SUP 10A and ■ SUP 10B on *approved persons*). The criteria are also relevant in assessing the continuing fitness and propriety of *approved persons*.

1.2 Introduction

- 1.2.1** FCA PRA G Under section 61(1) of the *Act* (Determination of applications), the *appropriate regulator* may grant an application for approval made under section 60 (Applications for approval) only if it is satisfied that the *candidate* is fit and proper to perform the *controlled function* to which the application relates.
- 1.2.2** G [deleted]
- 1.2.3** G [deleted]
- 1.2.3A** FCA G Under section 63(1) of the *Act* (Withdrawal of approval), the *FCA* may withdraw an approval under section 59 given by the *FCA* or the *PRA* in relation to the performance by a person of a function if it considers that the *person* is not a fit and proper *person* to perform the function.
- 1.2.3B** PRA G Under section 63(1A) of the *Act* (Withdrawal of approval), the *PRA* may withdraw an approval under section 59 in relation to the performance by a *person* ("A") of a function if: (a) the *PRA* gave the approval, or the *FCA* gave the approval and the function is a *significant influence function* performed in relation to the carrying on by a *PRA-authorised person* of a regulated activity; and (b) the *PRA* considers that A is not a fit and proper person to perform the function.
- 1.2.4** FCA PRA G The *Act* does not prescribe the matters which the *appropriate regulator* should take into account when determining fitness and propriety. However, section 61(2) states that the *appropriate regulator* may have regard (among other things) to whether the *candidate* or *approved person* is competent to carry out a *controlled function*.
- 1.2.4A** FCA PRA 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 *appropriate regulator* 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* responsibilities (see CF11) or activities related to a *specified benchmark* (see CF 40 and CF 50), 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 *FCA* will have regard to a *candidate's* competence and capability as well as his honesty, integrity, reputation and financial soundness.

1.3 Assessing fitness and propriety

1.3.1

FCA PRA

G

The *appropriate regulator* will have regard to a number of factors when assessing the fitness and propriety of a *person* to perform a particular *controlled function*. The most important considerations will be the *person's*:

- (1) honesty, integrity and reputation;
- (2) competence and capability; and
- (3) financial soundness.

1.3.2

FCA PRA

G

In assessing fitness and propriety, the *appropriate regulator* will also take account of the activities of the *firm* for which the *controlled function* is or is to be performed, the *permission* held by that *firm* and the markets within which it operates.

1.3.3

FCA PRA

G

The criteria listed in ■ FIT 2.1 to ■ FIT 2.3 are *guidance* and will be applied in general terms when the *appropriate regulator* is determining a *person's* fitness and propriety. It would be impossible to produce a definitive list of all the matters which would be relevant to a particular determination.

1.3.4

FCA PRA

G

If a matter comes to the *appropriate regulator's* attention which suggests that the *person* might not be fit and proper, the *appropriate regulator* will take into account how relevant and how important it is.

1.3.5

FCA PRA

G

During the application process, the *appropriate regulator* may discuss the assessment of the *candidate's* fitness and propriety informally with the *firm* making the application and may retain any notes of those discussions.

Chapter 2

Main assessment criteria

2.1 Honesty, integrity and reputation

2.1.1

FCA PRA

G

In determining a *person's* honesty, integrity and reputation, the *appropriate regulator* will have regard to all relevant matters including, but not limited to, those set out in ■ FIT 2.1.3 G which may have arisen either in the *United Kingdom* or elsewhere. The *appropriate regulator* should be informed of these matters (see ■ SUP 10A.14.17 R and ■ SUP 10B.12.18), but will consider the circumstances only where relevant to the requirements and standards of the *regulatory system*. For example, under ■ FIT 2.1.3 G(1), conviction for a criminal offence will not automatically mean an application will be rejected. The *appropriate regulator* treats each candidate's application on a case-by-case basis, taking into account the seriousness of, and circumstances surrounding, the offence, the explanation offered by the convicted *person*, the relevance of the offence to the proposed role, the passage of time since the offence was committed and evidence of the individual's rehabilitation.

2.1.2

FCA PRA

G

In considering the matters in ■ FIT 2.1.1 G, the *appropriate regulator* will look at whether the *person's* reputation might have an adverse impact upon the *firm* for which the *controlled function* is or is to be performed and at the *person's* responsibilities.

2.1.3

FCA PRA

G

The matters referred to in ■ FIT 2.1.1 G to which the *appropriate regulator* will have regard include, but are not limited to:

- (1) whether the *person* has been convicted of any criminal offence; this must include, where provided for by the *Rehabilitation Exceptions Orders* to the Rehabilitation of Offenders Act 1974 or the Rehabilitation of Offenders (Northern Ireland) Order 1978 (as applicable) , any spent convictions; particular consideration will be given to offences of dishonesty, fraud, financial crime or an offence under legislation relating to companies, building societies, industrial and provident societies, credit unions, friendly societies, banking , other financial services, insolvency, consumer credit companies, insurance, consumer protection, *money laundering*, market manipulation and *insider dealing* , whether or not in the *United Kingdom* ;
- (2) whether the *person* has been the subject of any adverse finding or any settlement in civil proceedings, particularly in connection with investment or other financial business, misconduct, fraud or the formation or management of a *body corporate*;
- (3) whether the *person* has been the subject of, or interviewed in the course of, any existing or previous investigation or disciplinary proceedings, by the *appropriate regulator*, by other regulatory authorities (including a *previous*

- regulator*), *clearing houses* and exchanges, professional bodies, or government bodies or agencies;
- (4) whether the *person* is or has been the subject of any proceedings of a disciplinary or criminal nature, or has been notified of any potential proceedings or of any investigation which might lead to those proceedings;
 - (5) whether the *person* has contravened any of the requirements and standards of the *regulatory system* or the equivalent standards or requirements of other regulatory authorities (including a *previous regulator*), *clearing houses* and exchanges, professional bodies, or government bodies or agencies;
 - (6) whether the *person* has been the subject of any justified complaint relating to *regulated activities*;
 - (7) whether the *person* has been involved with a *company*, *partnership* or other organisation that has been refused registration, authorisation, membership or a licence to carry out a trade, business or profession, or has had that registration, authorisation, membership or licence revoked, withdrawn or terminated, or has been expelled by a regulatory or government body;
 - (8) whether, as a result of the removal of the relevant licence, registration or other authority, the *person* has been refused the right to carry on a trade, business or profession requiring a licence, registration or other authority;
 - (9) whether the *person* has been a *director*, *partner*, or concerned in the management, of a business that has gone into insolvency, liquidation or administration while the *person* has been connected with that organisation or within one year of that connection;
 - (10) whether the *person*, or any business with which the *person* has been involved, has been investigated, disciplined, censured or suspended or criticised by a regulatory or professional body, a court or Tribunal, whether publicly or privately;
 - (11) whether the *person* has been dismissed, or asked to resign and resigned, from employment or from a position of trust, fiduciary appointment or similar;
 - (12) whether the *person* has ever been disqualified from acting as a *director* or disqualified from acting in any managerial capacity;
 - (13) whether, in the past, the *person* has been candid and truthful in all his dealings with any *regulatory body* and whether the *person* demonstrates a readiness and willingness to comply with the requirements and standards of the *regulatory system* and with other legal, regulatory and professional requirements and standards.

2.2 Competence and capability

2.2.1

FCA

G

In determining a *person's* competence and capability, the *FCA* will have regard to all relevant matters including but not limited to:

- (1) whether the *person* satisfies the relevant *FCA* 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.

2.2.1A

PRA

G

In determining a *person's* competence and capability, the *PRA* will have regard to all relevant matters including but not limited to:

- (1) 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*;
- (2) whether the *person* has adequate time to perform the *controlled function* and meet the responsibilities associated with that function.

2.2.2

FCA PRA

G

A *person* may have been convicted of, or dismissed or suspended from employment for, drug or alcohol abuses or other abusive acts. This will be considered only in relation to a *person's* continuing ability to perform the particular *controlled function* for which the *person* is or is to be employed.

2.3 Financial soundness

2.3.1

FCA PRA

G

In determining a *person's* financial soundness, the *appropriate regulator* will have regard to any factors including, but not limited to:

- (1) whether the *person* has been the subject of any judgment debt or award, in the *United Kingdom* or elsewhere, that remains outstanding or was not satisfied within a reasonable period;
- (2) whether, in the *United Kingdom* or elsewhere, the *person* has made any arrangements with his creditors, filed for bankruptcy, had a bankruptcy petition served on him, been adjudged bankrupt, been the subject of a bankruptcy restrictions order (including an interim bankruptcy restrictions order), offered a bankruptcy restrictions undertaking, had assets sequestrated, or been involved in proceedings relating to any of these.

2.3.2

FCA PRA

G

The *appropriate regulator* will not normally require the *candidate* to supply a statement of assets or liabilities. The fact that a *person* may be of limited financial means will not, in itself, affect his suitability to perform a *controlled function*.

The Fit and Proper test for Approved Persons

FIT TP 1 Transitional provisions

There are no transitional provisions in *FIT*. However, *GEN* contains some technical transitional provisions that apply throughout the Handbook and which are designed to ensure a smooth transition at commencement.

The Fit and Proper test for Approved Persons

Schedule 1 Record keeping requirements

Sch 1.1 G

FCA PRA

There are no record keeping requirements in *FIT*.

The Fit and Proper test for Approved Persons

Schedule 2 Notification requirements

Sch 2.1 G

FCA **PRA**

There are no notification requirements in *FIT*.

The Fit and Proper test for Approved Persons

Schedule 3 Fees and other required payments

Sch 3.1 G

FCA **PRA**

There are no requirements for fees or other payments in *FIT*.

The Fit and Proper test for Approved Persons

Schedule 4 Powers exercised

Sch 4.1 G

The following power in the *Act* has been exercised by the *FSA* to give *guidance* in *FIT*:

Section 157(1) (Guidance).

The Fit and Proper test for Approved Persons

Schedule 5 Rights of action for damages

Sch 5.1 G

FCA

There are no *rules* in *FIT*.

The Fit and Proper test for Approved Persons

Schedule 6 Rules that can be waived

Sch 6.1 G

FCA PRA

There are no *rules* in *FIT*.

Financial Stability and Market Confidence Sourcebook

Financial Stability and Market Confidence Sourcebook

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1.2	Financial stability information powers
1.3	Providing notice before imposing a financial stability information requirement
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Chapter 1

Gathering financial stability information



1.1 Application, purpose and scope

Application

1.1.1
PRA

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
PRA

G

- (1) Section 165B(6) (Statement of policy) of the Act requires the PRA to prepare and publish a statement of policy on the *financial stability information power*. The purpose of ■ FINMAR 1.1 is to set out the PRA'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
PRA

G

Determining whether to impose a *financial stability information requirement* involves different considerations from the exercise of other PRA powers. The *guidance* in this chapter relates only to the imposition of *financial stability information requirements*.

Scope of the powers

1.1.4
PRA

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
PRA

UK

Table: section 165A(2) of the Act

Section 165A of the Act 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;

Section 165A of the *Act* applies to:

- (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

PRA

G

The PRA may impose a *financial stability information requirement* on a *person* within the categories set out in ■ FINMAR 1.1.5 UK 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
PRA

G

The *PRA* has a *statutory objective* of promoting the safety and soundness of *PRA-authorised persons*. That objective is to be advanced primarily by the *PRA* (1) seeking to ensure that the business of *PRA-authorised persons* is carried on in a way which avoids any adverse effect on the stability of the *UK financial system*, and (2) seeking to minimise the adverse effect that the failure of a *PRA-authorised person* could be expected to have on the stability of the *UK financial system*. Section 250 of the Banking Act 2009 imposes a duty on the *PRA* 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
PRA

G

Some information relevant to *UK* financial stability will be accessible to the *PRA*:

- (1) through *authorised persons*' regular reports to the *PRA*; or
- (2) from other *UK* or international authorities;
- (3) through information gathered by the *PRA* under other information gathering powers, such as section 165 of the *Act* or section 250(2) of the Banking Act 2009.

1.2.3
PRA

G

The *PRA* 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 *PRA*'s functions, or the *PRA* 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
PRA

G

When the *PRA* 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 *PRA* will use its statutory powers if it believes it is appropriate to do so and, in urgent cases, it may be appropriate for the *PRA* to exercise these powers without delay.

1.2.5

PRA

G

Financial stability information power

The PRA 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 PRA considers are or may be relevant to the stability of the *UK financial system*.

[Note: Section 165A of the Act]

1.2.6

PRA

G

Overseas financial stability information power

The PRA 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 PRA 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

PRA

G

If the *overseas regulator* is a *competent authority* and the request relates to an obligation of the PRA under EU law, the PRA will take into account whether it is necessary to exercise the *overseas financial stability information power* to comply with that obligation.

1.2.8

PRA

G

In deciding whether to exercise the *overseas financial stability information power*, the PRA 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

PRA

G

The PRA 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 PRA of its exercise as the PRA considers appropriate.

1.2.10

PRA

G

■ FINMAR 1.2.8 G and ■ FINMAR 1.2.9 G do not apply if the PRA considers that it must use the *overseas financial stability information power* to comply with an obligation upon the PRA under EU law.



1.3 Providing notice before imposing a financial stability information requirement

Giving notice

1.3.1
PRA

G

The PRA will give a *person* a notice in writing if it proposes to impose a *financial stability information requirement* unless the PRA is satisfied that information or documents are required without delay. The notice will include:

- (1) the reasons why the PRA proposes to impose the *financial stability information requirement*; and
- (2) the time period in which the *person* may make representations to the PRA in respect of the proposal.

Right to make representations

1.3.2
PRA

G

The notice referred to in ■ FINMAR 1.3.1 G will specify a reasonable period in which to make representations. In determining the period for representations the PRA 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
PRA

G

The PRA will generally invite the recipient of a notice to make representations in writing to the address provided in the notice. The PRA 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 PRA's understanding of the representations;
 - (b) be more convenient or less costly than written representations; and
 - (c) assist the PRA 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

PRA

G

Once the period for making representations has expired the *PRA* will determine within a reasonable period whether to impose the *financial stability information requirement*.

1.3.5

PRA

G

If the *PRA* 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
PRA

G

If the *PRA* 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 *PRA* 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
PRA

G

The *PRA* 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 *PRA*.

1.4.3
PRA

G

A *person* who receives a *financial stability information requirement* without prior notice should consider whether to contact the *PRA* concerning the requirement. The *person* should raise any proposal to make representations with the *PRA* at the earliest opportunity.



1.5 Imposing a requirement

Deciding to impose a requirement

1.5.1
PRA

G In deciding whether to impose a *financial stability information requirement* the PRA 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 PRA in fulfilling its functions, for example if the information relates to the exercise of the PRA's statutory powers.

1.5.2
PRA

G A decision to impose the *financial stability information requirement* will be taken by a member of PRA staff at the appropriate level of seniority.

Scope of the requirement

1.5.3
PRA

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
PRA

G The PRA 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 PRA's reasons for imposing the requirement.

Requiring documents to be verified or authenticated

1.5.5
PRA

G

The *PRA* 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 *PRA* in accordance with that requirement.

1.5.6
PRA

G

When deciding whether to require verification or authentication the *PRA* 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 *PRA*.

1.5.7
PRA

G

The *PRA* 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.

Chapter 2

Short selling

2.1 Application and purpose

Application

2.1.1

R

[deleted]

2.1.1A

G

This chapter is relevant to all natural and legal persons to whom the *short selling regulation* applies, whether or not they are regulated by the *FCA*.

FCA

Purpose

2.1.2

G

The purpose of this chapter is to provide *guidance* in relation to the *FCA*'s functions under the *short selling regulation*.

FCA

Note: Other parts of the *Handbook* that may also be relevant to natural and legal persons to whom the *short selling regulation* applies include:

Chapter 2 of ■ *SUP* (the *Supervision manual*) and ■ *DEPP* (the *Decision Procedure and Penalties manual*).

The following *Regulatory Guides* are also relevant:

1. the *Enforcement Guide (EG)*



2.2

[Deleted]

2



2.3 [Deleted]



2.4

[Deleted]

2

2.5 Measures to prohibit, restrict or limit transactions in short selling

Approach to imposing measures

2.5.1
FCA

G

The *FCA* is required by article 23 of the *short selling regulation* to consider whether to impose measures to prohibit or restrict short selling or otherwise limit transactions in a *financial instrument* on a *trading venue* where the price of that *financial instrument* on that *trading venue* has fallen significantly during a single *trading day* in relation to the closing price on that venue on the previous *trading day*. In fulfilling this obligation, the *FCA* will assess:

- (1) whether the price fall is or may become disorderly; and, if so in either case,
- (2) whether the imposition of measures to prohibit, restrict or limit transactions will prevent a further disorderly decline in the price of the *financial instrument*.

2.5.2
FCA

G

The *FCA* will assess whether the price fall in a *financial instrument* on a *trading venue* is or may become disorderly having regard to at least the following factors:

- (1) whether there have been violent movements in the price of the particular *financial instrument* on a particular *trading venue*, including any sudden or significant movements in price of a *financial instrument* during the *trading day*;
- (2) whether there is evidence of unusual or improper trading in the *financial instrument* on a particular *trading venue* which could indicate that there was pressure to set the price of the *financial instrument* at a level that would be considered abnormal for that *financial instrument*; and
- (3) whether there are unsubstantiated rumours or dissemination of false or misleading information regarding the *financial instrument*.

The list above is not exhaustive and the *FCA* will consider such other factors as it considers appropriate.

2.5.3
FCA

G

The *FCA* may consider that the price fall in a *financial instrument* is not disorderly, for example, if the *FCA* considers that there is legitimate cause for a price fall in trading, such as the announcement of poor financial results.

2.5.4

FCA

G

The *FCA* will consider at least the following factors when assessing whether measures to prohibit or restrict short selling or otherwise limit transactions are necessary or likely to prevent a further disorderly decline in the price of the *financial instrument*:

- (1) the volume of trading in that *financial instrument* on the *trading venue* as compared with the total trading volume in the *financial instrument* over at least that *trading day*; and
- (2) whether the price of the *financial instrument* has stabilised after the significant fall in price.

The list above is not exhaustive and the *FCA* will consider such other factors as it considers appropriate.

2.5.5

FCA

G

Where the *FCA* imposes measures under article 23 of the *short selling regulation* it will normally specify that the measures will not apply to natural or legal persons who have satisfied the criteria to use the *market maker exemption* or the *authorised primary dealer exemption* and who are included on the list maintained and published by *ESMA* pursuant to article 17(13) of the *short selling regulation*.

Exchange rate calculations

2.5.6

FCA

G

- (1) For the purposes of article 23(1)(b) of Commission Delegated Regulation (EU) No 918/2012 the *FCA* will convert the figure of EUR 0.50 into pounds sterling using the daily spot foreign exchange rate of Sterling to Euro of the Bank of England applicable at the end of the first *business day* of October 2012 rounded up to the nearest £0.01. The *FCA* will state this figure (the 'sterling figure') on its public website.
- (2) The rate will be calculated on the same basis at the end of the first *business day* of October every subsequent year, unless the situation in (3) occurs in the intervening period, in which case the *FCA* will recalculate the sterling figure.
- (3) The situation referred to in (2) is if the daily spot foreign exchange rate of the Bank of England of Sterling to Euro fluctuates for a period of 20 consecutive *business days* by more than 10% from the rate last used to calculate the sterling figure.
- (4) If the situation in (3) occurs more than once in a year, the *FCA* will convert the figure of EUR 0.50 into pounds sterling using the daily spot foreign exchange rate of Sterling to Euro of the Bank of England applicable at the end of the 20th *business day* of the period referred to in (3).

2.5.7

FCA

G

The *FCA* will treat the FTSE 100 index as the main national equity index of the Member State for the purposes of article 6(4) of Commission Implementing Regulation (EU) No 827/2012 and article 4 of Commission Delegated Regulation (EU) No 826/2012 and article 23(1) of Commission Delegated Regulation (EU) No 918/2012, all subject to approval by European Parliament and Council.

2.6 Procedures relating to the market maker exemption and the authorised primary dealer exemption

Decision on use of the market maker exemption or the authorised primary dealer exemption

[Note: The

FCA

has powers under the *short selling regulation* to prohibit a natural or legal person from using the *market maker exemption* and the *authorised primary dealer exemption* if the *FCA*

considers that that person does not satisfy the conditions of the exemption that that person has notified the

FCA

it intends to use.]

2.6.1

FCA

G

Pursuant to the Financial Services and Markets Act 2000 (Short Selling) Regulations 2012 (SI 2012/2554), the *FCA* will direct how notifications to use the *market maker exemption* or the *authorised primary dealer exemption* shall be made. Such directions will be published on the *FCA* website and listed in ■ FINMAR 2 Annex 1 G.

2.6.2

FCA

G

- (1) If the *FCA* considers that a natural or legal person ('P') who has notified the *FCA* of his intention to use either the *market maker exemption* or the *authorised primary dealer exemption* does not satisfy the criteria to use the *market maker exemption* or the *authorised primary dealer exemption*, the *FCA* will send a letter to P setting out the reasons why it is minded to prohibit P from using the *market maker exemption* or the *authorised primary dealer exemption*.
- (2) P will be given the opportunity to make written representations to the *FCA* concerning P's use of the *market maker exemption* or the *authorised primary dealer exemption*.
- (3) The *FCA* will decide whether to prohibit P's use of either the *market maker exemption* or the *authorised primary dealer exemption* having regard to P's notification and any written representations made by P. The decision whether or not to prohibit the use by P of either the *market maker exemption* or the *authorised primary dealer exemption* will be made by senior staff members of the *FCA* who were not involved in the initial consideration of P's notification.

2.6.3

FCA

G

Review of a decision to prohibit the market maker exemption or the authorised primary dealer exemption

If P is not satisfied with the FCA's decision to prohibit P's use of the *market maker exemption* or the *authorised primary dealer exemption*, P may seek a review of the decision. This will be conducted by a group of at least three senior FCA staff. None of the group conducting the review will have been connected with the earlier decision taken in respect of P's use of the *market maker exemption* or the *authorised primary dealer exemption*. The review may take place after the expiry of the 30 day period in which the notification should be made under the *short selling regulation*, but within 3 months of the decision referred to in ■ FINMAR 2.6.2 G (3).

2

List of directions on how notifications to use the market maker exemption or authorised primary dealer exemption should be made

FCA

This table belongs to ■ FINMAR 2.6.1 G

[to follow]

Chapter 3

[Deleted]



[Chapter Deleted]

Financial Stability and Market Confidence Sourcebook

Schedule 1 Record keeping requirements

Sch 1.1 G

FCA PRA

There are no record-keeping requirements in *FINMAR*.

Financial Stability and Market Confidence Sourcebook

Schedule 2 Notification requirements

Sch 2.1 G

FCA **PRA**

There are no notification requirements in *FINMAR*.

Financial Stability and Market Confidence Sourcebook

Schedule 3 Fees and other required payments

Sch 3.1 G

FCA PRA

There are no requirements for fees in *FINMAR*.

Financial Stability and Market Confidence Sourcebook

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*, statements of policy and guidance in *FINMAR*:

Section 157(1) (Guidance)

Section 165B(6) (Safeguards etc in relation to exercise of power under section 165A)

Financial Stability and Market Confidence Sourcebook

Schedule 5 Rights of action for damages

Sch 5.1 G

FCA

There are no rules in *FINMAR*.

Financial Stability and Market Confidence Sourcebook

Schedule 6 Rules that can be waived

Sch 6.1 G

PRA

As a result of regulation 10 of the Regulatory Reform (Financial Services and Markets Act 2000) Order 2007 (SI 2007/1973) the *PRA* 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 *PRA* to grant a waiver that would be incompatible with the *United Kingdom's* responsibilities under those directives.

Training and Competence

Training and Competence

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2.2B	Reporting requirements
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2.4	[Deleted]
2.5	[Deleted]
2.6	[Deleted]
2.7	[Deleted]
2.8	[Deleted]
2 Annex 1	[Deleted]
2 Annex 2	[Deleted]
2 Annex 3	[Deleted]
2 Annex 4	[Deleted]
2 Annex 5	[Deleted]
2 Annex 6	[Deleted]
2 Annex 7	[Deleted]
2 Annex 8	[Deleted]
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TP 5	Home Reversion Plans: Assessments of competence before 6 April 2007 in relation to Home Reversion Plans only
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Chapter 1

Application and Purpose



1.1 Who, what and where?

Who and what?

1.1.1
FCA

R This sourcebook applies to a *firm* where its *employee* carries on an activity in ■ TC App 1 for *retail clients, customers or consumers* (subject to the limitations set out in ■ TC App 3).

Where?

1.1.2
FCA
1.1.2A

R The territorial scope of this sourcebook is set out in ■ TC App 2 .

[Deleted]

Purpose

1.1.3
FCA

G The *competent employees rule* is the main *Handbook* requirement relating to the competence of *employees*. The purpose of this sourcebook is to support the *FCA's* supervisory function by supplementing the *competent employees rule* for retail activities.

Meaning of competence

1.1.4
FCA

G In this sourcebook, competence means having the skills, knowledge and expertise needed to discharge the responsibilities of an *employee's* role. This includes achieving a good standard of ethical behaviour.

1.1.5

[Deleted]

1.1.6

[Deleted]

1.1.7

[Deleted]

1.1.8

[Deleted]



1.2 Actions for damages

1.2.1

FCA

R

A contravention of the *rules* in *TC* does not give rise to a right of action by a *private person* under section 138D of the *Act* (and each of those rules is specified under section 138D(3) of the *Act* as a provision giving rise to no such right of action).

Training and Competence

Chapter 2

Competence

2.1 Assessing and maintaining competence

Assessment of competence and supervision

2.1.1

FCA

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) attained each module of an appropriate 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 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 qualification or equivalent in that *EEA State*.

2.1.1A

2.1.2

FCA

R

[Deleted]

A *firm* must not allow an *employee* to carry on an activity in ■ TC Appendix 1 without appropriate supervision.

2.1.2A

2.1.3

FCA

G

[Deleted]

Firms should ensure that *employees* are appropriately supervised at all times. It is expected that the level and intensity of that supervision will be significantly greater in the period before the *firm* has assessed the *employee* as competent, than after. A *firm* should therefore have clear criteria and procedures relating to the specific point at which the *employee* is assessed as competent in order to be able to demonstrate when and why a reduced level of supervision may be considered appropriate. At all stages *firms* should consider the level of relevant experience of an *employee* when determining the level of supervision required.

Supervisors

2.1.4

FCA

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 and experience 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 attain an appropriate qualification as well except where the *employee* is giving advice on *retail investment products*, see ■ TC 2.1.5 R.

2.1.5 **R** Where an *employee* is giving advice on *retail investment 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 attained an appropriate qualification.
FCA

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 a qualification requirement without first attaining the relevant regulatory module of an appropriate qualification .
FCA

2.1.7 **R** A *firm* must ensure that an *employee* does not carry on any of the following activities without first attaining each module of an appropriate qualification:
FCA

- (1) [deleted]
- (1A) advising on and dealing in *securities* which are not *stakeholder pension schemes* , *personal 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** [deleted]

2.1.8A **R** A *firm* must ensure that an *employee* who was assessed as competent as a *retail investment adviser* for the purposes of ■ TC 2.1.1 R at 30 June 2009 does not carry on the activity of a *retail investment adviser* without first attaining an appropriate qualification.
FCA

Exemption from appropriate 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 attained each module of an appropriate 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 qualification requirements in ■ TC 2.1.1 R; and
- (c) has passed the relevant regulatory module of an appropriate qualification ;

but (b) and (c) do not apply to an *employee* who is benefiting from the "30-day rule" exemption in ■ SUP 10A.10.8 R, unless the *employee* benefits from that rule because he is advising *retail clients* on *retail investment products* or is a *broker fund adviser*.

- (3) The relevant activities are:
 - (a) *advising on investments* which are *retail investment 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 qualification

2.1.10

FCA



- (1) This *rule* applies for the purposes of ■ TC 2.1.1 R, ■ TC 2.1.5 R, ■ TC 2.1.6 R, ■ TC 2.1.7 R, ■ TC 2.1.9 R, ■ TC 2.2A.1 R, ■ TC 2.2A.3 R and ■ TC 2.2A.6 R .
- (2) To ensure that a qualification is appropriate, a *firm* should select an appropriate qualification from the list of qualifications set out in ■ TC Appendix 4E .
- (3) Contravention of (2) may be relied on as tending to establish contravention of the *rules* referred to in (1).

2.1.10A

FCA



■ TC Appendix 5G sets out:

- (1) the criteria which the *FCA* may take into account when assessing a qualification provider; and
- (2) the information the *FCA* will expect the qualification provider to provide if it asks the *FCA* to add a qualification to the list of appropriate qualifications in ■ TC Appendix 4E.

2.1.10B

FCA



- (1) ■ TC Appendix 6G sets out *guidance* in relation to *accredited bodies*.
- (2) ■ TC Appendix 7G sets out *guidance* on gap-filling in relation to appropriate qualifications and the function of *accredited bodies* in that regard.

Training needs

2.1.11

FCA

G

Firms should ensure that their *employees'* training needs are assessed at the outset and at regular intervals (including if their role changes). Appropriate training and support should be provided to ensure that any relevant training needs are satisfied. *Firms* should also review at regular intervals the quality and effectiveness of such training.

Maintaining competence

2.1.12

FCA

R

A *firm* must review on a regular and frequent basis *employees'* competence and take appropriate action to ensure that they remain competent for their role.

2.1.13

FCA

G

A *firm* should ensure that maintaining competence for an *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

FCA

G

A *firm* may choose to establish, implement and maintain a training and competence scheme.

Continuing professional development

2.1.15

FCA

R

Subject to ■ TC 2.1.17 R, a *firm* must ensure that a *retail investment adviser* who has been assessed as competent for the purposes of ■ TC 2.1.1 R remains competent by completing a minimum of 35 hours of appropriate continuing professional development in each 12 *month* period.

2.1.16

FCA

G

In order to meet the requirement in ■ TC 2.1.15 R, a *retail investment adviser* should complete no less than 21 hours of structured continuing professional development activities.

2.1.17

FCA

R

A *firm* is permitted to suspend the requirements of ■ TC 2.1.15 R in respect of a *retail investment adviser* for the period of time during which the *retail investment adviser* is continuously absent from work, if that absence is due to:

- (1) maternity, paternity or adoption leave;
- (2) long-term illness or disability;
- (3) caring responsibilities for a family member who has a long-term illness or disability; or
- (4) any other absence allowed in order for the *firm* to meet its statutory duties in relation to equality and diversity.

2.1.18

FCA

G

In ■ TC 2.1.17R (3), a family member includes a partner, parent, grandparent, sibling or child.

2.1.19

FCA

G

In deciding whether to suspend the requirements of ■ TC 2.1.15 R, a *firm* should take into account:

- (1) the *retail investment adviser's* individual circumstances;
- (2) the length of time the *retail investment adviser* is likely to be absent from carrying on the activity; and
- (3) its statutory duties in relation to equality and diversity.

2.1.20

FCA

G

Examples of structured continuing professional development activities include participating in courses, seminars, lectures, conferences, workshops, web-based seminars or e-learning which require a contribution of thirty minutes or more.

2.1.21

FCA

G

Examples of unstructured continuing professional development activities include:

- (1) conducting research relevant to the individual's role;
- (2) reading industry or other relevant material;
- (3) participating in professional development coaching or mentoring sessions.

2.1.22

FCA

G

All continuing professional development should:

- (1) be relevant to the *retail investment adviser's* current role and any anticipated changes to that role;
- (2) maintain the *retail investment adviser's* knowledge by reference to current qualification standards relevant to the *retail investment adviser's* role;
- (3) contribute to the *retail investment adviser's* professional skill and knowledge;
- (4) address any identified gaps in the *retail investment adviser's* technical knowledge;
- (5) have written learning objectives based on learning needs and a documented learning outcome;
- (6) be measurable and capable of being independently verified by an *accredited body*.

2.1.23

FCA

G

Continuing professional development completed by a *retail investment adviser* in relation to activities other than acting as a *retail investment adviser* should not be taken into account for the purposes of ■ TC 2.1.15 R unless it is also relevant to the activity of acting as a *retail investment adviser*.

2.1.24

FCA

R

A *firm* must, for the purposes of ■ TC 3.1.1 R (Record keeping), make and retain records of:

- (1) the continuing professional development completed by each *retail investment adviser*; and
- (2) the dates of and reasons for any suspension of the continuing professional development requirements under ■ TC 2.1.17 R.

2.1.25

FCA

R

A *firm* must not prevent a *retail investment adviser* from obtaining a copy of the records relating to that *retail investment adviser* which are maintained by the *firm* for the purposes of ■ TC 2.1.24 R.

Annual declarations

2.1.26

FCA

R

A *firm* must ensure that a *retail investment adviser* confirms annually in writing that the *retail investment adviser* has, in the preceding 12 months:

- (1) complied with *APER*; and
- (2) if applicable, completed the continuing professional development required under ■ TC 2.1.15 R.

Independent verification

2.1.27

FCA

R

A *firm* must obtain from an *accredited body* independent verification of the *firm's* compliance with:

- (1) in respect of its *retail investment advisers* only, the requirement in ■ TC 2.1.1 R to attain each module of an appropriate qualification;
- (2) ■ TC 2.1.15 R; and
- (3) ■ TC 2.1.26 R.

2.1.28

FCA

R

The independent verification in ■ TC 2.1.27 R must be obtained by a *firm*:

- (1) in respect of a competent *retail investment adviser* who began to carry on the activity of a *retail investment adviser* on or before 31 December 2012, within 60 *days* of that date and of the anniversary of that date thereafter;
- (2) in respect of a *retail investment adviser* who began to carry on the activity of a *retail investment adviser* on or after 1 January 2013, within 60 *days* of the date on which the *retail investment adviser* was assessed as competent as a *retail investment adviser* and of the anniversary of that date thereafter.

2.1.29

FCA

G

Independent verification for the purposes of ■ TC 2.1.27 R should take the form of a statement of professional standing issued by an *accredited body*.

2.1.30

FCA

G

The *Glossary* definition of *accredited body* contains a list of bodies recognised by the FCA for the purpose of providing the independent verification required under ■ TC 2.1.27 R. Information on *accredited bodies*, including *guidance* on the process for including a body in the list is set out in ■ TC Appendix 6G and the obligation to pay the application fee is set out in ■ FEES 3.2.

Notification requirements

2.1.31

FCA

R

A *firm* must notify the FCA as soon as reasonably practicable after it becomes aware, or has information which reasonably suggests, that any of the following events has occurred or may have occurred in relation to any of its *retail investment advisers*, and the event is significant:

- (1) a *retail investment adviser*, who has been assessed as competent for the purposes of ■ TC 2.1.1 R, is no longer considered competent for those purposes;
- (2) a *retail investment adviser* has failed to attain an appropriate qualification within the time limit prescribed by ■ TC 2.2A.1R (1);
- (3) a *retail investment adviser* has failed to comply with a *Statement of Principle* in carrying out his *controlled function*; and
- (4) a *retail investment adviser* has performed an activity in ■ TC Appendix 1 before having demonstrated the necessary competence for the purposes of ■ TC 2.1.1 R and without appropriate supervision.

2.1.32

FCA

G

When considering whether an event is significant a *firm* should include the following in its considerations:

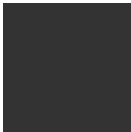
- (1) the potential risk of consumer detriment as a result of the event;
- (2) whether the event or a pattern of events indicate recurrent issues in relation to one or more *retail investment advisers*; and
- (3) its obligations under *Principle 11*.

2.1.33

FCA

G

The Retail Investment Adviser Competence Notification Form approved by the FCA for notifications under ■ TC 2.1.31 R may be found at the FCA's website <http://www.fca.org.uk/firms/about-authorisation/apply>.



2.2 [Deleted]



2.2A Time limits

Calculation of time limits for attaining an appropriate qualification.....

2.2A.1

FCA

R

(1) For the purposes of ■ TC 2.1.1 R, 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

FCA

R

For the purposes of calculating the 30 *months* referred to in ■ TC 2.2A.1 R, 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

FCA

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

FCA

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

FCA

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.

2.2A.6

FCA

R

Record-keeping

A *firm* should, for the purposes of ■ TC 3.1.1 R (Record keeping), make and retain records of the time limits within which the appropriate qualification has been attained.

2

2.2B Reporting requirements

Application

2.2B.1
FCA

R

This section applies to a *firm* with *employees* that are *retail investment advisers*.

Purpose

2.2B.2
FCA

G

- (1) The purpose of this section is to set out the requirement for *firms* which employ *retail investment advisers* to notify each individual *retail investment adviser's* professional standards data to the *FCA*.
- (2) The purpose of collecting this data is to assist the *FCA* in the ongoing supervision of *firms* which employ *retail investment advisers* and to enable the *FCA* to gain an understanding of the professional development of individual *retail investment advisers* in the interests of protecting customers.

Reporting requirement

2.2B.3
FCA

R

- (1) A *firm* must submit a report (the 'data report') to the *FCA* containing the information required by ■ TC 2.2B.4 R quarterly, within 20 *business days* of the end of the quarter, unless (3) applies.
- (2) The reporting periods are the four calendar quarters of each year beginning on 1 January.
- (3) A *firm* need not submit a data report if no changes have occurred in relation to the information submitted by the *firm* in its previous report.
- (4) A *firm* may submit a data report more frequently than quarterly if it wishes.

Content of the report

2.2B.4
FCA

R

The report must contain professional standards data as follows:

- (1) the *firm's* name and Firm Reference Number;

- (2) the names and Individual Reference Numbers of the *firm's employees* who are *retail investment advisers*, including trainees;
- (3) whether a *retail investment adviser* has attained an appropriate qualification;
- (4) if a *retail investment adviser* has not attained an appropriate qualification, the date on which the *employee* began to carry on the activity of a *retail investment adviser*; and
- (5) the name of the *accredited body* used for the purposes of
■ TC 2.1.27 R.

2.2B.5

FCA

R

The data report must comply with the provisions of ■ TC Appendix 8R.

2.2B.6

FCA

R

A *firm* must submit the data report to the *FCA* electronically in a standard format prescribed by the *FCA* .

2.2B.7

FCA

R

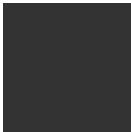
A data report will not have been submitted to the *FCA* in accordance with ■ TC 2.2B.6 R unless all mandatory data reporting fields (as set out in ■ TC Appendix 8R) have been completed correctly and the report has been accepted by the relevant *FCA* reporting system.

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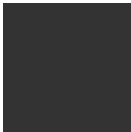
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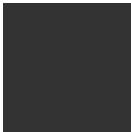
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Chapter 3

Record Keeping



3.1 Record-keeping requirements

3.1.1

FCA

R

A *firm* must make appropriate records to demonstrate compliance with the *rules* in this sourcebook and keep them for the following periods after an *employee* stops carrying on the activity:

- (1) at least 5 years for *MiFID business*;
- (2) 3 years for non-*MiFID business*; and
- (3) indefinitely for a *pension transfer specialist*.

Appendix 1

TC Appendix 1

1.1 Activities and Products/Sectors to which TC applies subject to TC Appendices 2 and 3

App 1.1.1 **R**
FCA

Activity	Products/Sectors	Is there an appropriate qualification requirement?
<i>Designated investment business carried on for a retail client</i>		
Providing basic advice	1. <i>Stakeholder products excluding a deposit-based stakeholder product</i>	No
Advising	2. <i>Securities which are not stakeholder pension schemes , personal pension schemes or broker funds</i>	Yes
	3. <i>Derivatives</i>	Yes
	4. <i>Retail investment products which are not broker funds</i>	Yes
	5. <i>Friendly Society life policies where the employee is not reasonably expected to receive a remuneration of greater than £1000 a year in respect of such sales</i>	No
	6. <i>Friendly Society tax-exempt policies (other than Holloway sickness policies where the Holloway policy special application conditions are met)</i>	Yes
	7. <i>Long-term care insurance contracts</i>	Yes
	8. <i>Investments in the course of corporate finance business</i>	Yes

Activity	Products/Sectors	Is there an appropriate qualification requirement?
	9. <i>Advising on syndicate participation at Lloyd's</i>	Yes
Undertaking the activity in column 2	10. <i>Broker fund adviser</i>	Yes
	11. <i>Pension transfer specialist</i>	Yes
Advising and dealing	12. <i>Securities which are not stakeholder pension schemes , personal pension schemes or broker funds</i>	Yes
	13. <i>Derivatives</i>	Yes
Dealing	13A. <i>Securities which are not stakeholder pension schemes , personal pension schemes or broker funds</i>	No
	13B . <i>Derivatives</i>	No
MiFID business bidding	13C. <i>Emissions auction products that are financial instruments</i>	No
Managing	14. <i>Investments</i>	Yes
Overseeing on a day-to-day basis	15. <i>Operating a collective investment scheme or undertaking the activities of a trustee or depositary of a collective investment scheme</i>	Yes
	16. <i>Safeguarding and administering investments or holding client money</i>	Yes
	17. <i>Administrative functions in relation to managing investments</i>	Yes
	18. <i>Administrative functions in relation to effecting or carrying out contracts of insurance which are life policies</i>	Yes
	19. <i>Administrative functions in relation to the operation of stakeholder pension schemes</i>	Yes
<i>Regulated mortgage activity and reversion activity carried on for a customer</i>		
Advising	20. <i>Regulated mortgage contracts for a non-business purpose</i>	Yes
	21. <i>Equity release transactions</i>	Yes
Designing scripted questions for non-advised sales	22. <i>Equity release transactions</i>	Yes

Activity	Products/Sectors	Is there an appropriate qualification requirement?
Overseeing non-advised sales on a day-to-day basis	23. <i>Equity release transactions</i> <i>Non-investment insurance business carried on for a consumer</i>	Yes
Advising	24. <i>Non-investment insurance contracts</i> <i>Regulated sale and rent back activity carried on for a customer</i>	No
Advising	25. <i>Regulated sale and rent back agreements</i>	No
Overseeing non-advised sales on a day-to-day basis	26. <i>Regulated sale and rent back agreements</i>	No
Notes:		
1.	In the Appendix the heading and types of business specified in the headings are to be read in conjunction with the paragraphs appearing beneath them.	
2.	Thus, for example, paragraph 24 consistent with the heading above it, refers only to advice on <i>non-investment insurance contracts</i> given to a consumer.	

Appendix 2 Appendix 2

2.1 TCs Territorial Scope subject to the limitation in TC Appendix 3

App 2.1.1 **R**
FCA

	<i>UK domestic firm</i>	<i>Incoming EEA firm</i>	<i>Overseas firm (other than an incoming EEA firm)</i>
<i>MiFID business and equivalent third country business</i>	<i>TC applies in respect of employees who carry on activities from an establishment maintained by the firm (or its appointed representative) in the United Kingdom</i>	<i>TC does not apply</i>	<i>TC applies in respect of employees who carry on activities from an establishment maintained by the firm (or its appointed representative) in the United Kingdom</i>
	<i>and</i>		
	<i>TC also applies insofar as an activity is carried on from an establishment maintained by the firm (or its appointed representative or, where applicable, its tied agent) in, and within the territory of, another EEA State</i>		
<i>Insurance mediation activities</i>	<i>TC applies in respect of employees who carry on activi-</i>	<i>TC does not apply</i>	<i>TC does not apply</i>

	<p>ties from an establishment maintained by the <i>firm</i> (or its <i>appointed representative</i>) in the <i>United Kingdom</i></p> <p>and</p> <p><i>TC</i> also applies in respect of <i>employees</i> who engage in or oversee activities from a branch established in another <i>EEA state</i></p>		
<p><i>Regulated mortgage activity and reversion activity</i></p>	<p><i>TC</i> applies if the customer is resident in the <i>United Kingdom</i> at the time the <i>regulated mortgage activity</i> or <i>reversion activity</i> is carried on</p> <p>and</p> <p><i>TC</i> also applies if the <i>customer</i> is resident in another <i>EEA State</i> (at the time that the activity is carried on) but only if the activity is carried on from an establishment maintained by the <i>firm</i> or its <i>appointed representative</i> in the <i>United Kingdom</i></p>	<p>Same as for <i>UK domestic firm</i></p>	<p>Same as for <i>UK domestic firm</i></p>
<p>Any other activity in Appendix 1</p>	<p><i>TC</i> applies in respect of <i>employees</i> who carry on these activities from an establishment maintained by the <i>firm</i> (or its <i>appointed representative</i>) in the <i>United Kingdom</i></p>	<p><i>TC</i> applies in respect of its <i>employees</i> who carry on activities from an establishment maintained by the <i>firm</i> (or its <i>appointed representative</i>)</p>	<p><i>TC</i> applies in respect of its <i>employees</i> who carry on activities from an establishment maintained by the <i>firm</i> (or its <i>appointed representative</i>)</p>

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dom *dom*

TC also applies in respect of employees who carry on activities with or for a client in the United Kingdom

Appendix 3

Appendix 3

3.1 Circumstances in which TC does not apply

App 3.1.1 **R**
FCA

Type of firm/activity	Application
<i>Incoming EEA firm</i>	This sourcebook does not apply where responsibility for any matter it covers is reserved by an <i>EU</i> instrument to the <i>firm's Home State regulator</i>
<i>Incoming Treaty firm</i>	This sourcebook does not apply where responsibility for any matter it covers is reserved by an <i>EU</i> instrument to the <i>firm's Home State regulator</i>
<i>UCITS qualifier</i>	This sourcebook only applies where it is relevant to the manner in which a <i>firm communicates or approves a financial promotion</i>
<i>Authorised professional firm</i>	<i>TC</i> does not apply with respect to its <i>non-mainstream regulated activities</i> (see PROF 5.2)
<i>Incoming ECA provider</i>	<i>TC</i> does not apply to an <i>incoming ECA provider acting as such</i> .

Appendix 4

Appropriate Qualification tables

4.1 Appropriate Qualification tables

App 4.1.1

FCA

Part 1: Activities

Note: The activity numbers in this table relate to the Regulated Activities in **TC App 1.1.1 R**. These tables do not cover activities 1, 5, 13A, 13B, 13C, 24, 25 or 26 as these activities do not have a qualification requirement.

Activity Number	Activity	Key - extent to which qualification meets qualification requirement
2	Advising on <i>securities</i> which are not <i>stakeholder pension schemes, personal pension schemes</i> or <i>broker funds</i>	(a) Meets full qualification requirement on and after, 31 December 2012
3	Advising on <i>derivatives</i>	
4 and 6	(4) Advising on <i>retail investment products</i> which are not <i>broker funds</i> and (6) advising on <i>friendly society tax-exempt policies</i> (other than Holloway sickness policies where the Holloway policy special application conditions are met)	(b) Meets full qualification requirement until 31 December 2012. On and after 31 December 2012 this must be combined with qualification gap-fill. This gap-fill constitutes additional structured continuing professional development, which need not be by examination, completed and verified by an <i>accredited body</i>

Activity Number	Activity	Key - extent to which qualification meets qualification requirement
12	Advising on and dealing in <i>securities</i> which are not <i>stakeholder pension schemes, personal pension schemes</i> or <i>broker funds</i>	
13	Advising on and dealing in <i>derivatives</i>	

Activity Number	Activity	Key - extent to which qualification meets qualification requirement
7	Advising on <i>long-term care insurance contracts</i>	
8	Advising on <i>investments</i> in the course of <i>corporate finance business</i>	
9	<i>Advising on syndicate participation at Lloyd's</i>	
11	Undertaking the activity of a <i>pension transfer specialist</i>	1 or
14 and 10	Managing <i>investments</i> and/or undertaking the activity of a <i>broker fund adviser</i>	(2 + 3) or (4 + 5 + 6)
15	Overseeing on a day to day basis operating a <i>collective investment scheme</i> or undertaking activities of a <i>trustee</i> or <i>depository</i> of a <i>collective investment scheme</i>	
16	Overseeing on a day to day basis <i>safeguarding and administering investments</i> or holding <i>client money</i>	

Meets full qualification requirement

Activity Number	Activity	Key - extent to which qualification meets qualification requirement
17	<p>Overseeing on a day to day basis <i>administrative functions</i> in relation to <i>managing investments</i>:</p> <p>(i) arranging settlement;</p> <p>(ii) monitoring and processing corporate actions;</p> <p>(iii) <i>client</i> account administration, liaison and reporting including valuation and performance measurement;</p> <p>(iv) <i>ISA</i> or <i>CTF</i> administration;</p> <p>(v) <i>Investment trust savings scheme</i> administration.</p>	
18	<p>Overseeing on a day to day basis <i>administrative functions</i> in relation to <i>effecting</i> or <i>carrying out contracts of insurance</i> which are <i>life policies</i>:</p> <p>(i) new business administration;</p> <p>(ii) <i>policy</i> alterations including surrenders and <i>policy</i> loans;</p> <p>(iii) preparing <i>projections</i>;</p> <p>(iv) processing claims, including pension payments;</p> <p>(v) fund switching</p>	<p>1 or</p> <p>(2 + 3) or</p> <p>(4 + 5 + 6)</p> <p>Meets full qualification requirement</p>

Activity Number	Activity	Key - extent to which qualification meets qualification requirement
19	<p>Overseeing on a day to day basis <i>administrative functions</i> in relation to the operation of <i>stakeholder pension schemes</i>:</p> <p>(i) new business administration;</p> <p>(ii) receipt of or alteration to contributions;</p> <p>(iii) preparing <i>projections</i> and annual statements;</p> <p>(iv) administration of transfers;</p> <p>(v) handling claims, including pension payments;</p> <p>(vi) fund allocation and switching.</p>	
20	Advising on a <i>regulated mortgage contract</i> for a non-business purpose	
21	Advising on <i>equity release transactions</i>	
22	Designing scripted questions for non-advised sales of <i>equity release transactions</i>	
23	Overseeing non-advised sales on a day-to-day basis of <i>equity release transactions</i>	

Part 2: Appropriate Qualifications Tables

Qualification provider	Qualification	Activity Number(s)	Key
ACI The Financial Markets Association	ACI Diploma (provided it is accompanied by appropriate qualifications in Regulation and Ethics, Investment Principles and Risk and Personal Taxation)	2, 3, 12, 13	a
	ACI Dealing Certificate when combined with Chartered Institute of Securities and Investment (CISI) Introduction to Securities and Investments and one of the Regulatory units of the Investment Operations Certificate (IOC)	15, 17	4
	ACI Operations Certificate when combined with Chartered Institute of Securities and Investment (CISI) Introduction to Securities and Investments and one of the Regulatory units of the Investment Operations Certificate (IOC)		
Association of Accounting Technicians	Member	15, 16, 17, 18, 19	4
Association of Certified International Investment Analysts (ACIIA)	CIIA qualification (provided it is accompanied by appropriate qualifications in Regulation and Ethics, Investment Principles and Risk and Personal Taxation)	2, 3, 12, 13	a
	Certified International Investment Analyst (CIIA)	14 and 10	2
Association of Chartered Certified Accountants	Member or Affiliate	8	1
	Fellow or Associate	15, 16, 17, 18, 19	4
Association of Corporate Treasurers	Fellow or Associate	15, 16, 17, 18, 19	4
Association of International Wealth Management (AIWM)	Certified International Wealth Manager Diploma (CIWM)	2, 3, 12, 13	a
		14 and 10	1
Blackburn College - University Centre	Foundation Degree Award in Financial Services	4 and 6	a
Bournemouth University	BA in Financial Services (1995 to 2001)	4 and 6	b

Qualification provider	Qualification	Activity Number(s)	Key
Calibrand / Scottish Qualifications Authority	MA in Financial Services (1995 to 2001)		
	Post Graduate in Financial Services (1995 to 2001)		
Calibrand / Scottish Qualifications Authority	Diploma in Professional Financial Advice		
	Diploma in Professional Financial Advice (NMBA - Alternative Assessment method)	4 and 6	a
CASS Business School	MSC in Banking and International Finance (provided it is accompanied by appropriate qualifications in Regulation and Ethics, Investment Principles and Risk and Personal Taxation)	2, 3, 12, 13	a
CFA Institute and the CFA Society of the UK	CFA Program (Level 1) plus Investment Management Certificate (Level 4 certificate) (post-2010 exam standards)	2, 3, 12, 13	a
	CFA Program plus Unit 1 of the Investment Management Certificate (Level 4 certificate) (post-2010 exam standards)		
CFA Institute and the CFA Society of the UK	Associate		
	CFA Program (Level 1) plus Investment Management Certificate (pre-2010 exam standards)	2, 3, 12, 13	b
CFA Institute and the CFA Society of the UK	CFA Program plus Unit 1 of the Investment Management Certificate (pre-2010 exam standards)		
	Fellow by examination		
CFA Institute and the CFA Society of the UK	CFA Program (Level 1)	14 and 10	2
	Fellow or Associate by examination	8	1
CFA Institute and the CFA Society of the UK		14 and 10	
		15, 16, 17, 18, 19	4
CFA Institute and the CFA Society of the UK	Investment Management Asset Allocation Qualification	14 and 10	2
	Investment Regulation and Practice Paper of the Associate Examination	15, 16, 17	5

Qualification provider	Qualification	Activity Number(s)	Key	
CFA Society of UK (Formerly the UK Society of Investment Professionals/ Institute of Investment Management and Research (IIMR))	Investment Management Certificate (Level 4 certificate) (post-2010 exam standards) plus other qualifications that meet specialist standards for advising on securities	2, 12		
	Investment Management Certificate (Level 4 certificate) (post-2010 exam standards) plus other qualifications that meet specialist standards for advising on packaged products	4 and 6	a	
	Investment Management Certificate (Level 4 certificate) (post-2010 exam standards) plus other qualifications that meet specialist standards for advising on derivatives	3, 13		
	Investment Management Certificate (both pre and post 2010 examination standards)		8	1
			15, 16, 17, 18, 19	4
			15, 16, 17	5
		14 and 10	1	
	Investment Practice Version of Investment Management Certificate (both pre and post 2010 Appropriate Exam standards)	14 and 10	2	
	Investment Practice version of the Investment Management Certificate	8	2	
	UK Regulation and Markets version of the Investment Management Certificate		8	3
		15, 16, 17, 19	5	
	18	6		
Unit 1 - UK Regulation and Markets	14 and 10	3		
Chartered Alternative Investment Analysis Association (CAIA)	CAIA Level 1 (provided it is accompanied by appropriate qualifications in Regulation and Ethics and Personal Taxation)	2, 12	b	
Chartered Institute of Bankers in Ireland	Fellow or Associate	15, 16, 17, 18, 19	4	

Qualification provider	Qualification	Activity Number(s)	Key
Chartered Institute of Bankers in Scotland	Diploma in Investment Planning (Existing Adviser) Post 2010 examination standards		
	Diploma in Investment Planning (New Adviser) Post 2010 examination standards		
	Diploma in Investment Planning (Retail Banking) (New Adviser) Post 2010 examination standards	4 and 6	a
	Diploma in Investment Planning (Retail Banking) (Existing Adviser) Post 2010 examination standards		
	Diploma in investment planning (work based assessment)		
	Associate (March 1992 to July 1994 syllabus (including top-up test))		
	Associate (post August 1994 syllabus)		
	Certificate in Investment Planning (Pre 17/09/2004)	4 and 6	b
	Chartered Banker (where candidates hold UK Financial Services and Investment modules)		
	Diploma in Investment Planning (current)		
	Associateship - (must include a pass in the Investment Paper)	2, 3, 12, 13	b
	Certificate in Investment Planning - Paper 1	15, 16, 18, 19	4
		15, 16, 17, 18, 19	5
	Certificate in Investment Planning	17	4
	Member or Associate	15, 16, 17, 18, 19	4
	Mortgage Advice and Practice Certificate	20	1
Certificate in Mortgage Advice and Practice (MAPC) (Pre 16/09/2004)	20, 21, 22	1	

Qualification provider	Qualification	Activity Number(s)	Key
	MAPC bridge paper plus entry requirements (Pre 31/10/2004)	20	1
	Certificate in Investment Planning - Paper 1 (Pre 16/09/2004)	20, 21, 22	3
	MAPC - Paper 1 (Pre 16/09/2004)	20	3
	Mortgage Advice and Practice Certificate - Paper 1 (Post 17/09/2004)	20, 21	3
	Equity Release Mortgage Advice and Practice Certificate (ERMAPC)		
	Lifetime Mortgage Advice and Practice Certificate	21, 22	1
	MAPC Bridge paper plus entry requirements (Pre 16/09/2004)		
	Certificate in Mortgage Advice and Practice (MAPC) (Pre 16/09/2004) - Paper 1	21, 22	3
	Equity Release Mortgage Advice and Practice Certificate (ERMAPC)	23	4
		23	5
		23	6
Chartered Institute of Management Accountants	Fellow or Associate	15, 16, 17, 18, 19	4
Chartered Institute of Public Finance and Accountancy	Fellow or Associate	15, 16, 17, 18, 19	4
Chartered Institute for Securities and Investment (CISI) - (Formerly the Securities and Investment Institute (SII); formerly The Securities Association)	Investment Advice Diploma (where candidate holds 3 modules including the private client advice module)	4 and 6	
	Investment Advice Diploma (where candidate holds 3 modules including the derivatives module)	3, 13	a
	Investment Advice Diploma (where candidate holds 3 modules including the securities module)	2, 12	
	Masters in Wealth Management (Post 2010 examination standards)	2, 3, 4 and 6, 12, 13	

Qualification provider	Qualification	Activity Number(s)	Key
	Certificate in Private Client Investment Advice and Management	2, 3, 4 and 6, 12, 13 14 and 10	b 1
	Certificate in Private Client Investment Advice and Management (attained through a CISI competency interview and presentation only)	2, 3, 4 and 6, 12, 13 14 and 10	b 1
	Diploma (where candidate holds 3 modules as recommended by the firm)		
	Investment Advice Certificate		
	Masters in Wealth Management (Pre 2010 examination standards)	2, 3, 4 and 6, 12, 13	b
	Member of the Securities Institute (MSI Dip) (where candidate holds 3 modules as recommended by the firm)		
	Certificate in Corporate Finance	8 15, 16, 17, 18, 19	1 4
	Certificate in Derivatives - Paper 2	15, 16, 17, 18, 19	4
	Certificate in Investment and Financial Advice - Paper 1	21, 22	3
	Certificate in Investment Management	8 15, 16, 17, 19 15, 16, 17 14 and 10	1 4 5 1
	Certificate in Investment Management - Paper 2	8 14 and 10	2
	Certificate in Securities	8	1
	Certificate in Securities - Paper 2	15, 16, 17, 18, 19	4
	Certificate in Securities and Derivatives - Paper 2	19	4
	Certificate in Securities and Financial Derivatives	8	1
	Certificate in Securities and Financial Derivatives - Paper 2	15, 16, 17, 18	4

Qualification provider	Qualification	Activity Number(s)	Key
	Client Services Qualification	15, 16, 17, 18, 19	4
	Diploma	15, 16, 17, 18, 19	4
	Diploma - Corporate Finance Paper	8	2
	Diploma - Global Operations Management Module	15, 16, 17, 18, 19	4
		15, 16, 17	5
			6
	Diploma - International Operations Management Module	15	4
		15, 16	5
			6
			4
		17	5
			6
	Diploma - International Operations Module	16, 18, 19	4
	Diploma - Operations Management Module	15, 16, 17, 18, 19	4
		15, 17	5
		15, 16, 17	6
	Diploma - Regulation and Compliance Module	8	3
		14 and 10	
		15, 16, 17, 18, 19	5
	Diploma (must include a pass in Regulation and Compliance Paper)	8	1
	Diploma (where candidate holds 3 modules as recommended by the firm)	14 and 10	1
	Investment Administration Qualification - Asset Servicing Module	15, 16, 17	6
	Investment Administration Qualification - Basics of CREST Module	15, 16, 17	6
	Investment Administration Qualification - Bond Settlement Module	15, 16, 17	6
	Investment Administration Qualification - Collective Investment Schemes Administration Module	15, 16, 17	6

Qualification provider	Qualification	Activity Number(s)	Key
	Investment Administration Qualification - CREST Settlement Module	15, 16, 17	6
	Investment Administration Qualification - Derivatives Operations Module	15, 16, 17	6
	Investment Administration Qualification - Exchange - Traded Derivative Administration Module	15, 16, 17	6
	Investment Administration Qualification - FSA Regulatory Environment Module	15, 16, 17	5
	Investment Administration Qualification - Global Custody Module	15, 16, 17	6
	Investment Administration Qualification - Global Securities Operations Module	16, 17	6
	Investment Administration Qualification - Global Settlement Module	15, 16, 17	6
	Investment Administration Qualification - IMRO Regulatory Environment Module	8 14 and 10 15, 16, 17, 18, 19	3 5
	Investment Administration Qualification - Introduction to Securities and Investment Module	15, 16, 17, 18, 19	4
	Investment Administration Qualification - ISA Administration Module	15, 16, 17	6
	Investment Administration Qualification - ISA and CTF Administration Module	17	6
	Investment Administration Qualification - ISA and PEP Administration Module	15, 16, 17	6
	Investment Administration Qualification - Life Policy Administration Module	18	6

Qualification provider	Qualification	Activity Number(s)	Key
	Investment Administration Qualification - OEIC Administration Module	15, 16, 17	6
	Investment Administration Qualification - Operational Risk Module	15, 16, 17	6
	Investment Administration Qualification - OTC Derivatives Administration Module	15, 16	6
	Investment Administration Qualification - Pensions Administration Module	19	6
	Investment Administration Qualification - PEP Administration Module	15, 16, 17	6
	Investment Administration Qualification - Portfolio Performance Measurement Module	15, 16	6
	Investment Administration Qualification - Private Client Administration Module	15, 16, 17	6
	Investment Administration Qualification - SFA Regulatory Environment Module	8	3
		14 and 10	5
	Investment Administration Qualification - Unit 2 FSA Regulatory Environment - (Formerly the Investment Administration Qualification - Regulatory Environment Module)	8	3
		14 and 10	5
		18, 19	3
	Investment Administration Qualification - Unit Trust Administration Module	15, 16, 17	6
	Investment Advice Certificate	14 and 10	1
	Investment Advice Certificate - Paper 1	15, 16, 17, 18, 19	4
			5
	Investment Advice Certificate - Paper 1 (No new registrations)	20, 21, 22	3
	Investment Advice Certificate - Paper 2	18, 19	6

Qualification provider	Qualification	Activity Number(s)	Key
	Investment Advice Diploma (where candidates hold technical modules as recommended by the firm)	14 and 10	1
	Investment Operations Certificate - Asset Servicing Module	15, 16, 17	6
	Investment Operations Certificate - Collective Investment Schemes Administration Module	15, 16, 17	6
	Investment Operations Certificate - CREST Settlement Module	15, 16, 17	6
	Investment Operations Certificate - Exchange - Traded Derivative Administration Module	15, 16, 17	6
	Investment Operations Certificate - FSA Financial Regulation Module	8 14 and 10	3
		15, 16, 17, 18, 19	5
	Investment Operations Certificate - Global Securities Module	17	6
	Investment Operations Certificate - Global Securities Operation Module	16	6
	Investment Operations Certificate - Introduction to Securities and Investment Module	15, 16, 17, 18, 19	4
	Investment Operations Certificate - ISA Administration Module	15, 16, 17	6
	Investment Operations Certificate - Operational Risk Module	15, 16, 17	6
	Investment Operations Certificate - OTC Derivatives Administration Module	15, 16	6
	Investment Operations Certificate - Private Client Administration Module	15, 16, 17	6
	Level 3 Certificate in Investments (Derivatives) - Unit 3	15, 16, 17, 18, 19	4
	Level 3 Certificate in Investments (Investment Management)	14 and 10 15, 16, 17, 18, 19	1 4

Qualification provider	Qualification	Activity Number(s)	Key
		15, 16, 17	5
	Level 3 Certificate in Investments (Investment Management) - Unit 5	8 14 and 10	2
	Level 3 Certificate in Investments (Securities and Financial Derivatives)	8 15, 16, 17, 18, 19	1 4
	Level 3 Certificate in Investments (Securities)	8	1
	Level 3 Certificate in Investments (Securities) - Unit 2	15, 16, 17, 18, 19	4
	Level 6 Diploma in Wealth Management	14 and 10	1
	Masters in Wealth Management	14 and 10	1
	Member of the Securities Institute by examination	15, 17, 19	4
	Principles of Financial Regulation	8 18, 19	3 5
	SFA Corporate Finance Representative Examination	8 15, 16, 17, 18, 19	1 4
	SFA Futures and Options Representative Examination	15, 16, 17, 18, 19 15, 16, 17	4 5
	SFA Registered Persons Examination - Section 1 (Regulation)	8 14 and 10	3
	SFA Securities and Financial Derivatives Representative Examination	15, 16, 17, 18, 19 15, 16, 17	5 1
	SFA Securities Representative Examination	8 15, 16, 17, 18, 19	1 4
	TSA Registered Representative Examinations	16, 17 8 15, 16, 17, 18, 19	5 1 4
	Unit 1 - Financial Regulation	15, 16 14 and 10	5 3

Qualification provider	Qualification	Activity Number(s)	Key
Chartered Insurance Institute	Unit 1 Financial Regulation (Formerly the Securities Institute Regulatory Paper)	8 15, 16, 17, 18, 19	3 5
	Unit 6 - Principles of Financial Regulation	14 and 10 15, 16, 17	3 5
	Certificate in Securities Advice and Dealing	2, 12	a
	Diploma in Regulated Financial Planning		
	Diploma in Regulated Financial Planning (attained through a CII alternative assessment day)	4 and 6	a
	Fellow or Associate (life and pensions route only)	2, 3, 12, 13	b
	Advanced Financial Planning Certificate	2, 3, 4 and 6, 12, 13	b
	Diploma in Financial Planning		
	Fellow (FCII) (where candidates hold appropriate life and pensions modules)		
	Fellow (FLIA Dip)		
	Advanced Diploma in Financial Planning	4 and 6	b
	Associate (ACII) (where candidate holds appropriate life and pension modules)		
	Associate (ALIA Dip)		
	Certificate in Financial Planning plus the Award in Long Term Care Insurance		
	G80 paper of Advanced Financial Planning Certificate (October 2004) plus appropriate exam requirements for TC 2.1.4R(1)(f)	7	1
	G70 Paper of the Advanced Financial Planning Certificate	8	1
Award in London Market Insurance	9	1	

Qualification provider	Qualification	Activity Number(s)	Key
	Fellow or Associate including three pensions-related subjects as confirmed by the examining body		
	G60 paper of Advanced Financial Planning Certificate	11	1
	Unit AF3 of the Advanced Diploma in Financial Planning		
	Certificate of Insurance Practice	18	4
	Certificate of Insurance Practice (life or pensions route)		
	FA1 - Life office administration		
	Fellow or Associate (life and pensions route only)	18	6
	Life assurance paper (735) from the Associateship		
	Certificate of Insurance Practice (Pensions route)	19	6
	Fellow or Associate (Pensions route)		
	Certificate in Mortgage Advice	20	1
	Certificate in Equity Release (Formerly known as Certificate in Financial Planning and Lifetime Mortgages)	21	1
	Certificate in Equity Release	22	1
		23	4
		23	5
		23	6
	Advanced Financial Planning Certificate (must include a pass in G70 paper)	14 and 10	1
	Certificate in Discretionary Investment Management		
	Fellow or Associate	15, 16, 17, 18, 19	4
	Financial Planning Certificate - Paper 1	15, 16, 17, 18, 19	4
		15, 16, 17, 18, 19	5
	CF1 - UK financial services, regulation and ethics	18, 19	4

Qualification provider	Qualification	Activity Number(s)	Key
		18, 19	5
	FA2 - Pensions administration paper		
	Financial Planning Certificate - Paper 2	18, 19	6
	Pensions law, taxation and administration paper (740) from the Associateship		
	Certificate in Mortgage Advice - Paper 1	20, 21	3
	Mortgage Advice Qualification (MAQ) plus entry requirements	20, 21, 22	1
Financial Planning Certificate - Paper 1 (No new registrations after 17/12/2004)		20, 21, 22	3
EFFAS Societies with accredited examinations	Certified European Financial Analyst	14 and 10	2
Faculty or Institute of Actuaries	Fellow or Associate or where the individual has passed all of the following modules CT1, CT2, CT4, CT5, CT6, CT7 and CT8	2, 3, 4 and 6, 12, 13 14 and 10	a 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)	14 and 10	1
	Associate - achieved by examination passed after 1 December 2001 (must include a pass in subject 301 - Investment and Asset Management (syllabus in force from 1998)	14 and 10	2
	Fellow or Associate	19	6
	Fellow - achieved by examination (must include a pass in subjects 301 and 401 Investment and Asset Management (syllabus in force from 1998))	14 and 10	1

Qualification provider	Qualification	Activity Number(s)	Key
	Fellow or Associate	11	1
		16, 17, 18, 19	4
		18	6
	Fellow or Associate by examination (must include Investment Paper E (Syllabus in force until 1998))	14 and 10	1
	Fellow or where the individual has passed all of the following modules CA1 and SA2	18	4
Financial Industry Regulatory Authority (FINRA) - Formerly the National Association of Securities Dealers (NASD)	Series 7 - General Securities Representatives Examination (provided it is accompanied by appropriate qualifications in Regulation and Ethics and Personal Taxation)	2, 3, 12, 13	b
Financial Skills Partnership (formerly the Financial Services Skills Council (FSSC))	FSSC Advanced Apprenticeship in Advising on Financial Products (Long Term Care Insurance Pathway)	7	1
	FSSC Advanced Apprenticeship in Retail Financial Services (Investment Administration Pathway including either Asset Servicing / CREST Settlement / Global Securities or ISA and CTF Administration)	17	6
	FSSC Advanced Apprenticeship in Retail Financial Services (Investment Administration Pathway including FSA Regulatory Environment or Principles of Financial Regulation)	17	5
	FSSC Advanced Apprenticeship in Retail Financial Services (investment Administration Pathway including the Introduction to Securities and Investment module)	17	4
	FSSC Advanced Apprenticeship in Retail Financial Services (Long	18	4

Qualification provider	Qualification	Activity Number(s)	Key
	Term Insurance Pathway including CF1)		
	FSSC Advanced Apprenticeship in Retail Financial Services (Long Term Insurance Pathway including CF1)	18	5
	FSSC Advanced Apprenticeship in Retail Financial Services (Long Term Insurance Pathway including CF1 and either FA1 or FA2)	18	6
	FSSC Advanced Apprenticeship in Retail Financial Services (Long Term Insurance Pathway including CF1 and FA2)	19	1
	FSSC Advanced Apprenticeship in Advising on Financial Products (Mortgage Advice Pathway)	20	1
ICMA Centre/ University of Reading (Formerly ISMA Centre/ University of Reading)	Diploma in Capital Markets, Regulation and Compliance	17	5
	Operations Certificate Programme (OCP)	16, 17	6
ifs School of Finance (formerly the Chartered Institute of Bankers)	Diploma for Financial Advisers (post 2010 examination standards)		
	Professional Certificate in Banking (PCertB) (where candidate has passed the Practice of Financial Advice module)	4 and 6	a
	Associateship - (must include a pass in the Investment / Investment Management Paper)	2, 3, 4 and 6, 12, 13	b
	Diploma for Financial Advisers (pre 2010 examination standards)	4 and 6	b
	Professional Investment Certificate		
	Certificate for Financial Advisers and Certificate in Long-term Care Insurance	7	1
	Pensions paper of Professional Investment Certificate	11	1
	Certificate for Financial Advisers - Paper 1	15	5

Qualification provider	Qualification	Activity Number(s)	Key
	Fellow or Associate	15, 16, 17, 18, 19	4
	Certificate for Financial Advisers - Paper 1 (Pre 31/10/2004)	15, 16, 17, 18, 19	4 5
		20, 21, 22	3
	Certificate for Financial Advisers - Paper 1 (Post 01/11/2004)	18, 19	4 5
	Certificate for Financial Advisers - Paper 2 (Pre 31/10/2004)	18, 19	6
	CeMAP Bridge paper plus entry requirements	20	1
	Certificate in Mortgage Advice and Practice (Post 01/11/2004)	20	1
	Diploma for Mortgage Advice and Practice DipMAP (plus entry requirements)	20	1
	CeMAP bridge paper plus entry requirements (Pre 31/10/2004)	21, 22	1
	Certificate in Mortgage Advice and Practice (CeMAP) (Pre 31/10/2004) - Paper 1	20, 21	3
	Certificate in Mortgage Advice and Practice (Post 01/11/2004) - Paper 1	20, 21	3
	Certificate in Mortgage Advice and Practice (CeMAP) (Pre 31/10/2004)	20, 21, 22	1
	Certificate in Regulated Equity Release (Formerly known as Certificate in Lifetime Mortgages)	21, 22 23 23 23	1 4 5 6
Institute of Chartered Accountants in England and Wales	Fellow or Associate	8 15, 16, 17, 18, 19	1 4
	Initial Test of Competence	18, 19	6
Institute of Chartered Accountants in Ireland	Fellow or Associate	8 15, 16, 17, 18, 19	1 4
	Initial Test of Competence	19	6

Qualification provider	Qualification	Activity Number(s)	Key	
Institute of Chartered Accountants in Scotland	Member	8	1	
		15, 16, 17, 18, 19	4	
	Initial Test of Competence	19	6	
Institute of Chartered Secretaries and Administrators	Certificate in Collective Investment Scheme Administration	15, 16, 17, 18	4	
		15, 16	5	
		19	6	
	Certificate in Company Secretarial Practice and Share Registration Practice (including the Regulatory module within the examination)		15, 16, 17	4
				5
Fellow or Associate	15, 16, 17, 18, 19	4		
Institute of Financial Planning	Certified Financial Planner Fellowship	4 and 6	b	
Insurance Sector Education and Training Authority	National Diploma: Financial Services Long-Term Risk Assessment	7	2	
Investment Management Association	Investment Administration Management Award	15, 16, 17	6	
Investment Property Forum	IPF Certificate in Property Investment	14 and 10	2	
Japanese Bankers Association	Registered Representative of Public Securities Examination (pre-April 1990)	8	2	
	Representative of Public Securities Qualification - Class 1			
Japanese Securities Dealers Association	Representative of Public Securities Qualification - Type 1 (provided it is accompanied by appropriate qualifications in Regulation and Ethics, Investment Principles and Risk and Personal Taxation)	2, 3, 12, 13	b	
	Representative of Public Securities Examination (pre April 1990)	8	2	
Law Society of England and Wales	Module B(ii), Securities and Portfolio Management			
		8	2	

Qualification provider	Qualification	Activity Number(s)	Key
	Module B(i), Retail Branded/ Packaged Products	18, 19	6
Law Society of Eng- land and Wales/ Law Society of Northern Ireland	Solicitor	15	4
Law Society of Eng- land and Wales/ Law Society of Scotland/ Law Soci- ety of Northern Ire- land	Solicitor	17, 18, 19	4
Lloyd's	Lloyd's and London Market Intro- ductory Test (Formerly the Lloyd's Introductory Test)	9	1
Lloyd's/ Chartered Insurance Institute	Lloyd's Market Certificate	9	1
London Stock Ex- change (records are now kept by The Chartered Institute for Securities and Investment (CISI); Formerly the Securi- ties and Investment Institute (SII); for- merly The Securities Association)	London Stock Exchange Full Membership Exams (and other re- gional stock exchanges as merged with London Stock Exchange) - where candidate holds three or four papers or holds both the Stock Exchange Practice and Techniques of Investment papers	2, 3, 4 and 6, 12, 13 14 and 10	b 1
	Stock Exchange Registered Repre- sentative Examination	8 15, 16, 17, 18, 19 15, 16	1 4 5
Manchester Metropolitan Univer- sity	BA (Hons) Financial Services, Planning and Management	2, 3, 4 and 6, 12, 13	a
N/A	In-house module (only where the firm can demonstrate that none of the listed examinations are appro- priate)	15, 16, 17, 18, 19	6
NIBE SVV the Dutch Institute for the Banking, Insur- ance and Stock- broking Industry	Examination	8	2

Qualification provider	Qualification	Activity Number(s)	Key
Pensions Management Institute	Diploma in Regulated Retirement Advice	4 and 6 11	a 1
	Fellow or Associate by examination	11	1
	Module 201: Providing for Retirement	19	4
	Fellow or Associate	15, 16, 17, 18, 19	4
	Diploma in Member-Directed Pension Scheme Administration	18	6
	Fellow or Associate by examination	18, 19	6
Sheffield Hallam University	BA in Financial Services (1995 to 2001)		
	MA in Financial Services (1995 to 2001)	4 and 6	b
	Post Graduate in Financial Services (1995 to 2001)		
Society of Investment Analysts in Ireland	Certificate in Investment Management (at least 3 papers passed by examination)	14 and 10	2
South African Institute of Financial Markets	Ordinary and Senior Certificates	8, 14 and 10	2
Swiss Finance Institute	Dual degree Executive MBA in Asset and Wealth Management	14 and 10	2
The Securities Analysts Association of Japan (SAAJ)	CMA Level 2 (for individuals advising before 30 June 2009)		
	CMA Level 2 (for individuals not advising before 30 June 2009 - provided it is accompanied by appropriate qualifications in Regulation and Ethics, Investment Principles and Risk and Personal Taxation)	2, 3, 12, 13	b
	CMA Level 2	8	2
	Secondary Examination		
University of Stirling	Chartered Member	14 and 10	2
	BA in Finance	2, 4 and 6, 12	b
	BA in Finance and Accounting	2, 3, 4 and 6, 12, 13	b

Qualification provider	Qualification	Activity Number(s)	Key
University of the West of England	MSc in Finance	2, 3, 12, 13	b
	MSc in international Accounting and Finance (where candidates hold modules as recommended by the firm)	2, 3, 12, 13	b
		8	2
		14 and 10	1
	MSc in Investment Analysis	2, 3, 12, 13	b
		14 and 10	1
	BA in Financial Services (1995 to 2001)		
MA in Financial Services (1995 to 2001)	4 and 6	b	
Post Graduate in Financial Services (1995 to 2001)			

Appendix 5

Appropriate qualification criteria

5.1

App 5.1.1 G

FCA

Introduction

1. TC Appendix 4E contains a list of appropriate qualifications for the purposes of TC 2.1.10 E.
2. This Appendix sets out:
 - (1) the criteria which the *FCA* may take into account when assessing a qualification provider; and
 - (2) the information the *FCA* will expect the qualification provider to provide if it asks the *FCA* to add a qualification to the list of appropriate qualifications in TC Appendix 4 E.

Criteria for assessing a qualification provider

3. The *FCA* will expect the qualification provider of an appropriate qualification to have, in the *FCA*'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 *FCA*

4. If a qualification provider asks the *FCA* to add a qualification to the list of appropriate qualifications in TC Appendix 4 E, the *FCA* 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 *FCA* 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 *FCA*

5. When considering whether to include or retain a qualification in the list of appropriate qualifications, the *FCA* 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.

Appendix 6

Accredited bodies

6.1 Accredited bodies

App 6.1.1 G

FCA

Introduction

1. An *accredited body* is a body appearing in the list of such bodies in the *Glossary*.
2. Information on *accredited bodies*, including *guidance* on the process for including an applicant body in the list, is set out below and the obligation to pay the application fee is set out in FEES 3.2.
3. [deleted]

Process for including a body in the list of accredited bodies

4. In considering the compatibility of a proposed addition with the *statutory objectives*, the *FCA* will determine whether the applicant will, if accredited, contribute to securing an appropriate degree of protection for *consumers* having regard in particular to:
 - (1) the matters set out in paragraphs 10 to 20; and
 - (2) the rules and practices of the applicant.
5. An application to the *FCA* to be added to the list of *accredited bodies* should set out how the applicant will satisfy the criteria in paragraphs 10 to 20. The application should be accompanied by a report from a suitable auditor which sets out its independent assessment of the applicant's ability to meet these criteria. An application form is available from the *FCA* upon request.
6. When considering an application for *accredited body* status the *FCA* may:
 - (1) carry out any enquiries and request any further information that it considers appropriate, including consulting other regulators;
 - (2) ask the applicant or its specified representative to answer questions and explain any matter the *FCA* considers relevant to the application;
 - (3) take into account any information which the *FCA* considers appropriate to the application; and
 - (4) request that any information provided by the applicant or its specified representative is verified in such a manner as the *FCA* may specify.
7. The *FCA* will confirm its decision in writing to the applicant.

8. The *FCA* will enter into an agreement with the applicant or *accredited body* which will specify the requirements that the *accredited body* must meet. These will include the matters set out in paragraphs 10 to 20. Approval as an *accredited body* becomes effective only when the name of the applicant is added to the *Glossary* definition of *accredited body*.

9. Paragraphs 10 to 20 set out the criteria which an applicant should meet to become an *accredited body* and which an *accredited body* should meet at all times.

Acting in the public interest and furthering the development of the profession

10. The *FCA* will expect an *accredited body* to act in the public interest, to contribute to raising consumer confidence and professional standards in the retail investment advice market and to promoting the profession.

Carrying out effective verification services

11. If independent verification of a *retail investment adviser's* professional standards has been carried out by an *accredited body*, the *FCA* will expect the *accredited body* to provide the *retail investment adviser* with evidence of that verification in a *durable medium* and in a form agreed by the *FCA*. This is referred to in this Appendix and TC 2.1.28 R as a 'statement of professional standing'.

12. The *FCA* will expect an *accredited body* to have in place effective procedures for carrying out its verification activities. These should include:

- (1) verifying that each *retail investment adviser* who is a member of or subscriber to the *accredited body's* verification service has made an annual declaration in writing that the *retail investment adviser* has, in the preceding 12 months, complied with *APER* and completed the continuing professional development required under TC 2.1.15 R;
- (2) verifying annually the continuing professional development records of no less than 10% of the *retail investment advisers* who have used its service in the previous 12 months to ensure that the records are accurate and the continuing professional development completed by the *retail investment advisers* is appropriate; and
- (3) verifying that, if required by *TC*, the *retail investment advisers* who use its services have attained an appropriate qualification. This should include, where relevant, checking that appropriate qualification gap-fill records have been completed by the *retail investment advisers*.

13. The *FCA* will not expect an *accredited body* to carry out the verification in paragraph 12(3) if a *retail investment adviser* provides the *accredited body* with evidence in a *durable medium* which demonstrates that another *accredited body* has previously verified the *retail investment adviser's* appropriate qualification, including, where relevant, appropriate qualification gap-fill.

14. The *FCA* will expect an *accredited body* to make it a contractual condition of membership (where a *retail investment adviser* is a member of the *accredited body*) or of using its verification service (where a *retail investment adviser* is not a member of the *accredited body*) that, as a minimum, the *accredited body* will not continue to verify a *retail investment adviser's* standards and will withdraw its statement of professional standing if the *accredited body* is provided with false information in relation to a *retail investment adviser's* qualifications or continuing professional development or a false declaration in relation to a *retail investment adviser's* compliance with *APER*. In this regard, an *accredited body* must have in place appropriate decision-making procedures with a suitable degree of independence and transparency.

Having appropriate systems and controls in place and providing evidence to the FCA of continuing effectiveness

15. The *FCA* will expect an *accredited body* to ensure that it has adequate resources and systems and controls in place in relation to its role as an *accredited body*.
16. The *FCA* will expect an *accredited body* to have effective procedures in place for the management of conflicts of interest and have a well-balanced governance structure with at least one member who is independent of the sector.
17. The *FCA* will expect an *accredited body* to have a code of ethics and to ensure that its code of ethics and verification service terms and conditions do not contain any provisions that conflict with *APER*.

Ongoing cooperation with the FCA

18. The *FCA* will expect an *accredited body* to provide the *FCA* with such documents and information as the *FCA* reasonably requires, and to cooperate with the *FCA* in an open and transparent manner.
19. The *FCA* will expect an *accredited body* to share information with the *FCA* (subject to any legal constraints) in relation to the professional standards of the *retail investment advisers* who use its service as appropriate. Examples might include conduct issues, complaints, dishonestly obtaining or falsifying qualifications or continuing professional development or a failure to complete appropriate continuing professional development. The *FCA* will expect an *accredited body* to notify the *firm* if issues such as these arise.
20. The *FCA* will expect an *accredited body* to submit to the *FCA* an annual report by a suitable independent auditor which sets out that auditor's assessment of the quality of the body's satisfaction of the criteria in paragraphs 10 to 19 in the preceding 12 *months* and whether, in the auditor's view, the body is capable of satisfying the criteria in the subsequent 12 *months*. The *FCA* will expect this annual report to be submitted to the *FCA* within three *months* of the anniversary of the date on which the *accredited body* was added to the *Glossary* definition of *accredited body*.

Withdrawal of accreditation

21. If an *accredited body* fails or, in the *FCA's* view, is likely to fail to satisfy the criteria, the *FCA* will discuss this with the *accredited body* concerned. If, following a period of discussion, the *accredited body* has failed to take appropriate corrective action to ensure that it satisfies and will continue to satisfy the criteria, the *FCA* will withdraw the *accredited body's* accreditation by removing its name from the list of *accredited bodies* published in the *Glossary*. The *FCA* will expect the body to notify each *retail investment adviser* holding a current statement of professional standing of the *FCA's* decision. A statement of professional standing issued by the *accredited body* before the withdrawal of accreditation will continue to be valid until its expiration.

Appendix 7

Guidelines for qualification gap-fill for retail investment advice

7.1 Guidelines for qualification gap-fill for retail investment advice

App 7.1.1 **G** TC Appendix 7G - Guidelines for qualification gap-fill for retail investment advice
FCA

Appendix 8

Professional Standards Data Submission Form

8.1 Professional Standards Data Submission Form

App 8.1.1 **R**
FCA

Retail Investment Adviser - Professional Standards Data Submission Form
 (all fields are mandatory)

Firm details	
Firm Name	Firm Reference Number (FRN)
Person submitting form	
Name	Individual Reference Number (IRN) (where applicable)
Position in firm	Contact telephone number
Contact email address	Date of submission

PAGE
1

Retail Investment Advisers				
Column 1	Column 2	Column 3	Column 4	Column 5

Name	Individual Reference Number (IRN)	Qualification Status (part or fully qualified)	Accredited Body	Date adviser began activity of a retail investment adviser
------	-----------------------------------	--	-----------------	--

Training and Competence

TC TP 1 Designated Investment Business: Assessments of competence before commencement

FCA

1

- 1.1 R (1) This *rule* applies in respect of an *employee* of a *firm* employed at *commencement* who had, before *commencement*, been assessed as competent by a *firm* in accordance with the applicable *rules* of its *previous regulator*.
- (2) An *employee* described in (1) is exempt from the requirements in this sourcebook to attain an appropriate qualification if the activity (or role of a supervisor) carried on by that *employee* after *commencement* is the same or substantially the same as that for which the *employee* had been assessed as competent before *commencement*.

FCA

2

- 1.2 R If an *employee* of a *firm* is exempted from a qualification requirement under TC TP 1.1R 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 *employee* carries on (or the role of the supervisor) continues to be the same, or substantially the same, as that in respect of which the *employee* 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 TC TP 1.

Training and Competence

TC TP 2 Designated Investment Business: Assessments of competence in 12 month period after commencement

FCA

- 2.1 R (1) This *rule* applies in respect of an *employee* who had, on 31 October 2007, the benefit of an exemption under transitional rule 2 in TC TP 1.1R in the form it was in on 31 October 2007.
- (2) An *employee* described in (1) is exempt from the requirements in this sourcebook to attain an appropriate qualification but only in respect of the activities in respect of which the *employee* had the benefit of that exemption as at 31 October 2007.
- 2.2 R If an *employee* of a *firm* is exempted from a qualification requirement under TC TP 2.1R 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 *employee* carries on continues to be the same, or substantially the same, as that in respect of which the *employee* 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 TC TP 2.
- 2.3 G At 31 October 2007 transitional rule 2 in TC TP 1.1R applied to a *firm* whose *employees* at *commencement* had not been subject to any specific training and competence requirements of a *previous regulator*. This rule allowed the *firm* to assess such individuals as competent in the first twelve months after *commencement* 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 *commencement* where they were the same or substantially the same.

Training and Competence

TC TP 3 Regulated Mortgage Contracts: Assessments of competence under the Mortgage Code Compliance Board Rules

FCA

- 3.1 R (1) This rule applies:
- (a) in relation to *regulated mortgage contracts*; and
 - (b) in respect of an individual employed by a *firm* at 31 October 2004.
- (2) If the individual described in (1) was assessed as competent by the *firm* 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 attain an appropriate qualification provided that:
- (a) the activity which the individual carries on continues to be the same, or substantially the same, as that immediately before 31 October 2004; and
 - (b) 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 this *rule*.
- 3.2 R If an *employee* of a *firm* is exempted from a qualification requirement under TC TP 3.1R 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 conditions in TC TP 3.1R(2)(a) and (b) are met; and
 - (2) the firm assesses the individual to be competent in accordance with TC 2.1.1 R.

Training and Competence

TC TP 4 Home Reversion Plans: Assessments of competence before 6 April 2007 in relation to lifetime mortgages

FCA

- 4.1 R (1) This *rule* applies in respect of an individual employed by a *firm* at 6 April 2007, if that individual had before that date been assessed as competent by the *firm* in relation to:
- (a) advising on *lifetime mortgages*;
 - (b) designing scripted questions for use in non-advised sales to *customers of lifetime mortgages*; or
 - (c) overseeing non-advised sales of *lifetime mortgages*.
- (2) An individual in (1) is exempt from the qualification requirements in this sourcebook in relation to activities carried on concerning *home reversion plans* that correspond to those in (1) provided that:
- (a) the individual has been assessed as competent to apply the knowledge and skills necessary to carry on the relevant home reversion activity before 6 April 2007;
 - (b) the home reversion activity which the individual carries on continues to be the same, or substantially the same as that which the individual carried on immediately before 6 April 2007; and
 - (c) 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 this *rule*.
- 4.2 R If an *employee* of a *firm* is exempted from a qualification requirement under TC TP 4.1R 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 conditions in TC TP 4.1R(2)(b) and (c) are met; and
 - (2) the firm assesses the individual to be competent in accordance with TC 2.1.1 R.
- 4.3 R TC TP 4 does not apply to an individual in TC TP 4.1R(1) after 6 April 2009 unless the individual passes an appropriate home reversions top-up examination before that date.

Training and Competence

TC TP 5 Home Reversion Plans: Assessments of competence before 6 April 2007 in relation to Home Reversion Plans only

FCA

- | | | |
|-----|---|--|
| 5.1 | R | <p>(1) This <i>rule</i> applies in respect of an individual employed by a <i>firm</i> at 6 April 2007 (other than an individual described in <i>TC TP 4.1R</i>).</p> <p>(2) The individual in (1) is exempt from the examination requirements in this sourcebook in relation to the following:</p> <ul style="list-style-type: none"> (a) advising on <i>home reversion plans</i>; (b) designing scripted questions for use in non-advised sales to customers of <i>home reversion plans</i>; or (c) overseeing non-advised sales of <i>home reversion plans</i>. <p>(3) The exemption in (2) only applies if:</p> <ul style="list-style-type: none"> (a) the individual has been assessed as competent to apply the knowledge and skills necessary to engage in or oversee the relevant home reversion activity before 6 April 2007; (b) the home reversion activity which the individual carries on continues to be the same, or substantially the same as that immediately before 6 April 2007; and (c) 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 this <i>rule</i>. |
| 5.2 | R | If the individual has not passed an appropriate examination before 6 April 2009, the individual in <i>TC TP 5.1R(1)</i> will cease to be exempt from the appropriate examination requirement. |
| 5.3 | R | If an employee of a <i>firm</i> is exempted from an examination requirement under <i>TC TP 5.1R</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:

- (1) the conditions in *TC* TP 5.1R3(b) and (c) are met; and
- (2) the *firm* assesses the individual to be competent in accordance with *TC* 2.1.1 R.

Training and Competence

TC TP 6 Transitional provisions relating to assessments of competence generally

FCA

6.1 G If appropriate, a *firm* may treat a competence assessment carried out under *TC* in the form it was in before 1 November 2007 as being sufficient to satisfy TC 2.1.1 R.

Training and Competence

TC TP 7 Transitional provisions relating to waivers from existing examination requirements

FCA

- 7.1 R (1) This provision applies to a *firm* which benefited from a waiver from an examination requirement in *TC* prior to 1 November 2007 in respect of an *employee*. If such a *firm* would otherwise find itself in breach of an examination requirement in *TC* from that date as a result of the re-categorisation of *clients* in *COBS*, the *firm* may allow that *employee* to continue carrying on the activities in respect of which the waiver was granted until 31 October 2008 though he has yet to satisfy the relevant examination requirement in *TC*.
- (2) If an *employee* of a *firm* is exempted from an examination requirement under *TC* TP 7.1(1) 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:
- (a) the activity which the *employee* carries on continues to be the same, or substantially the same, as that in respect of which the *employee* had previously enjoyed the benefit of the exemption; and
 - (b) the *employee* had not experienced any significant break in employment since the last employment in respect of which the relevant exemption was granted.

Training and Competence

TC TP 8 Transitional provisions relating to time limits for attaining qualifications

FCA

- 8.1 R An *employee* who is carrying on an activity specified in TC Appendix 1 on 1 January 2011 will, for the purposes of TC 2.2A.1 R, be regarded as starting to carry on that activity on that date.

Training and Competence

Schedule 1 Record keeping requirements

Sch - 1.1 G

FCA

TC 2.1.24 R provides:

A *firm* must, for the purposes of TC 3.1.1 R (Record keeping), make and retain records of:

- (1) the continuing professional development completed by each *retail investment adviser*; and
- (2) the dates of and reasons for any suspension of the continuing professional development requirements under TC 2.1.17 R.

Sch 1.1 G

FCA

TC 3.1.1 R provides:

A *firm* must make appropriate records to demonstrate compliance with the *rules* in this sourcebook and keep them for the following periods after an *employee* stops carrying on the activity:

- (1) at least 5 years for *MiFID business*;
- (2) 3 years for non-*MiFID business*; and
- (3) indefinitely for a *pension transfer specialist*.

Sch 1.2 G

Sch 1.3 G

Sch 1.4 G

Training and Competence

Schedule 2 Notification requirements

Sch 2.1 G

FCA

Handbook reference	Matter to be notified	Contents of notification	Trigger event	Time allowed
TC 2.1.31 R	Notifications - issues relating to the competency and behaviour of <i>retail investment advisers</i> .	<p>(1) Information about any circumstances relevant to the issue; and</p> <p>(2) information about any steps which a <i>firm</i> has taken or intends to take to rectify the position or prevent any future potential occurrence.</p>	<p>Becoming aware, or having information which reasonably suggests that any of the following has occurred or may occur, and the event is significant:</p> <p>(1) a <i>retail investment adviser</i>, who has been assessed as competent for the purposes of TC 2.1.1 R, is no longer considered competent for the purposes of TC 2.1.1 R;</p> <p>(2) a <i>retail investment adviser</i> has failed to attain an appropriate qualification within the time limit prescribed by TC 2.2A.1 R (1);</p> <p>(3) a <i>retail investment adviser</i> has failed to comply with a <i>Statement of Principle</i> in carrying out his <i>controlled function</i>; and</p> <p>(4) a <i>retail investment adviser</i> has performed</p>	As soon as reasonably practicable.

Handbook reference	Matter to be notified	Contents of notification	Trigger event	Time allowed
TC 2.2B.3 R	Notifications - professional standards data	<p>(1) The <i>firm's</i> name and Firm Reference Number;</p> <p>(2) the names and Individual Reference Numbers of the <i>firm's employees</i> who are <i>retail investment advisers</i>, including trainees;</p> <p>(3) whether a <i>retail investment adviser</i> has attained an appropriate qualification;</p> <p>(4) if a <i>retail investment adviser</i> has not attained an appropriate qualification, the date on which the <i>employee</i> began to carry on the activity of a <i>retail investment adviser</i>; and</p> <p>(5) the name of the <i>accredited body</i> used for the purposes of TC 2.1.27 R.</p>	<p>an activity in TC Appendix 1 before having demonstrated the necessary competence for the purposes of TC 2.1.1 R and without appropriate supervision.</p> <p>The end of each quarter.</p>	<p>Within 20 <i>business days</i> of the end of the quarter, unless TC 2.2B.3 R (3) applies.</p>

Training and Competence

Schedule 3 Fees and other required payments

Sch 3.1 G

FCA

There are no requirements for fees or other payments in *TC*.

Training and Competence

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 *TC*:

Section 138 (General rule-making power)

Section 149 (Evidential provisions)

Section 150(2) (Actions for damages)

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 *TC*:

Section 157(1) (Guidance)

Training and Competence

Schedule 5 Rights of action for damages

Sch 5.1 G

FCA

The table below sets out the *rules* in *TC* contravention of which by an *authorised person* may be actionable under section 138D of the *Act* (Actions for damages) by a *person* who suffers loss as a result of the contravention.

Sch 5.2 G

FCA

If a "Yes" appears in the column headed "For private person?", the *rule* may be actionable by a "*private person*" under section 138D (or, in certain circumstances, his fiduciary or representative). A "Yes" in the column headed "Removed" indicates that the *FCA* has removed the right of action under section 138D(3) of the *Act*. If so, a reference to the *rule* in which it is removed is also given.

Sch 5.3 G

FCA

The column headed "For other person?" indicates whether the rule is actionable by a *person* other than a *private person* (or his fiduciary or representative). If so, an indication of the type of *person* by whom the *rule* is actionable is given.

Sch 5.4 G

FCA

Table Table: Actions for damages: Training and Competence sourcebook

Chapter/Appendix	Section/Annex	Paragraph	Right of action under section 138D		
			For private person	Removed	For other person
<i>Rules in TC</i>			No	Yes TC 1.2.1 R	No

Training and Competence

Schedule 6 Rules that can be waived

Sch 6.1 G

FCA

As a result of section 138A of the *Act* (Modification or waiver of rules) the *FCA* has power to waive all its *rules*, other than *rules* made under section 137O (Threshold condition code), 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 *FCA* to grant a waiver that would be incompatible with the *United Kingdom's* responsibilities under those directives.

General Provisions

General Provisions

GEN 1	Appropriate regulator approval and emergencies
1.1	Application
1.2	Referring to approval by the appropriate regulator
1.3	Emergency
GEN 2	Interpreting the Handbook
2.1	Introduction
2.2	Interpreting the Handbook
2 Annex 1	Designated investment exchanges
2 Annex 2	[deleted]
GEN 3	FSA Fees: General Provisions
3.1	GEN 3 [deleted: the general provisions in relation to fees are set out in FEES 2 (General Provisions)]
3.2	GEN 3 [deleted: the general provisions in relation to fees are set out in FEES 2 (General Provisions)]
3.3	GEN 3 [deleted: the general provisions in relation to fees are set out in FEES 2 (General Provisions)]
GEN 4	Statutory status disclosure
4.1	Application
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4.4	Business for retail clients from non-UK offices
4.5	Statements about authorisation and regulation by the appropriate regulator
4 Annex 1	Statutory status disclosure
4 Annex 1A	Statutory status disclosure (PRA-authorized persons)
GEN 5	Regulators' logos and the keyfacts logo
5.1	Application and purpose
5 Annex 1	Licence for use of the FSA and keyfacts logos
GEN 6	Insurance against financial penalties

6.1 Payment of financial penalties

Transitional Provisions and Schedules

TP 1	Transitional provisions
TP 2	Transitional Provisions applying across the FCA and PRA Handbooks
Sch 1	Record keeping requirements
Sch 2	Notification requirements
Sch 3	Fees and other required payments
Sch 4	Powers exercised
Sch 5	Rights of action for damages
Sch 6	Rules that can be waived

Chapter 1

Appropriate regulator approval and emergencies



1.1 Application

[Note: ESMA has also issued guidelines under article 16(3) of the ESMA Regulation covering various topics relating to automated trading and direct electronic access.

See www.esma.europa.eu/system/files/esma_2012_122_en.pdf

1.1.1

FCA PRA

R

- I
- (1) This chapter applies to every *firm*. ■ GEN 1.3 (Emergency) also applies to an *unauthorised person* to whom a *rule* in the *Handbook* applies.
 - (2) For a *UCITS qualifier*, this chapter applies only with respect to the *communication* and *approval of financial promotions* to which ■ COBS 4 (Communicating with clients, including financial promotion) applies and to the maintenance of facilities to which ■ COLL 9.4 (Facilities in the United Kingdom) applies.

1.1.2

FCA

G

■ GEN 1.1.1 R (2) reflects section 266 of the *Act* (Disapplication of rules).



1.2 Referring to approval by the appropriate regulator

1.2.1

FCA PRA

G

The purpose of ■ GEN 1.2.2 R is to prevent *clients* being misled about the extent to which the *appropriate regulator* has approved a *firm's* affairs.

1.2.2

FCA PRA

R

- (1) Unless required to do so under the *regulatory system*, a *firm* must ensure that neither it nor anyone acting on its behalf claims, in a public statement or to a client, expressly or by implication, that its affairs, or any aspect of them, have the approval or endorsement of the *appropriate regulator* or another competent authority.
- (2) Paragraph (1) does not apply to statements that explain, in a way that is fair, clear and not misleading, that:
 - (a) the *firm* is an *authorised person*;
 - (b) the *firm* has *permission* to carry on a specific activity;
 - (c) an *authorisation order* has been made in relation to an *AUT* or *ICVC*;
 - (d) a *recognised scheme* has that status;
 - (e) the *firm's approved persons* have been approved by the *appropriate regulator* for the purposes of section 59 of the *Act* (Approval for particular arrangements);
 - (f) the *firm* has been given express written approval by the *appropriate regulator* in respect of a specific aspect of the *firm's* affairs.
- (3) Paragraph (1) applies with respect to the carrying on of both *regulated activities* and *unregulated activities*.

1.2.3

FCA PRA

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■ GEN 1.2.2 R (2)(f) is confined to written approval because of the need for clarity as to the scope of any approval given by the *appropriate regulator*.

1.3 Emergency

1.3.1

FCA PRA

G

The *appropriate regulator* recognises that there may be occasions when, because of a particular emergency, a *person* (generally a *firm*, but in certain circumstances, for example in relation to *price stabilising rules*, an *unauthorised person*) may be unable to comply with a particular *rule* in the *Handbook*. The purpose of **GEN 1.3.2 R** is to provide appropriate relief from the consequences of contravention of such a *rule* in those circumstances.

1.3.2

FCA PRA

R

- (1) If any emergency arises which:
 - (a) makes it impracticable for a *person* to comply with a particular *rule* in the *Handbook*;
 - (b) could not have been avoided by the *person* taking all reasonable steps; and
 - (c) is outside the control of the *person*, its *associates* and agents (and of its and their *employees*);

the *person* will not be in contravention of that *rule* to the extent that, in consequence of the emergency, compliance with that *rule* is impracticable.
- (2) Paragraph (1) applies only for so long as:
 - (a) the consequences of the emergency continue; and
 - (b) the *person* can demonstrate that it is taking all practicable steps to deal with those consequences, to comply with the *rule*, and to mitigate losses and potential losses to its *clients* (if any).
- (3) The *person* must notify the *appropriate regulator* as soon as practicable of the emergency and of the steps it is taking and proposes to take to deal with the consequences of the emergency.
- (4) A notification under (3) must be given to or addressed and delivered in accordance with **SUP 15.7** (Form and method of notification) (whether or not the *person* is a *firm*). If the *person* is not a *firm*, the notification must be given to or addressed for the attention of: Firm Contact Centre, The Financial Conduct

Authority, 25 The North Colonnade, Canary Wharf, London E14 5HS (tel: 0845 606 9966).

1.3.3

FCA PRA

G

A *firm* should continue to keep the *appropriate regulator* informed of the steps it is taking under ■ GEN 1.3.2 R (3), in order to comply with its obligations under *Principle 11* (Relations with regulators).

1.3.4

FCA PRA

G

In the context of ■ GEN 1.3.2 R, an action is not practicable if it involves a *person* going to unreasonable lengths.

1.3.5

FCA PRA

G

■ GEN 1.3.2 R operates on the *appropriate regulator's rules*. It does not affect the *appropriate regulator's* powers to take action against a *firm* in an emergency, based on contravention of other requirements and standards under the *regulatory system*. For example, the *appropriate regulator* may exercise its *own-initiative power* in appropriate cases to vary a *firm's Part 4A permission* based on a failure or potential failure to satisfy the *threshold conditions* (see ■ SUP 7 (Individual requirements) and ■ EG 8 (Variation and cancellation of permission and imposition of requirements on the FCA's own initiative and intervention against incoming firms)).

Chapter 2

Interpreting the Handbook



2.1 Introduction

Application

2.1.1 **G**

[deleted]

2.1.2
FCA PRA

This chapter applies to every *person* to whom any provision in the *Handbook* applies. In relation to a provision other than a *rule*, the *rules* in this chapter apply as if they were part of that provision.

2.1.3 **P**

[deleted]

2.1.4 **A**

[deleted]

2.1.5 **D**

[deleted]

2.1.6 **G**

[deleted]

2.1.7 **R**

[deleted]

2.1.8
FCA

R This chapter applies to all rules made by *FOS Ltd.*

2.1.9
FCA

G The effect of **GEN 2.1.8 R** is that this chapter applies with respect to those provisions in **DISP 2** (Jurisdiction of the Financial Ombudsman Service), **DISP 3** (Complaint handling procedures of the Financial Ombudsman Service), **DISP 4** (Standard terms) and **FEES 5** (Financial Ombudsman Service Funding) made by *FOS Ltd.*

The Reader's Guide

2.1.10
FCA PRA

G The Reader's Guide supplements this chapter. It provides an introduction to the structure and contents of the *Handbook* and its related materials, explaining how the different modules fit together and how to interpret and use the *Handbook*.



2.2 Interpreting the Handbook

Purposive interpretation

2.2.1

R

FCA PRA

Every provision in the *Handbook* must be interpreted in the light of its purpose.

2.2.2

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FCA PRA

The purpose of any provision in the *Handbook* is to be gathered first and foremost from the text of the provision in question and its context among other relevant provisions. The *guidance* given on the purpose of a provision is intended as an explanation to assist readers of the *Handbook*. As such, *guidance* may assist the reader in assessing the purpose of the provision, but it should not be taken as a complete or definitive explanation of a provision's purpose.

Evidential provisions

2.2.3

R

FCA PRA

Any *rule* in the *Handbook* which has the status letter "E" in the margin or heading:

- (1) is to be taken also to provide that contravention of the *rule* does not give rise to any of the consequences provided for by provisions of the *Act* other than section 138C (Evidential provisions); and
- (2) incorporates the status letter "E" in the margin or heading as part of the *rule*.

2.2.4

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FCA PRA

- (1) The *rules* to which section 138C of the *Act* applies ("evidential provisions") are identified in the *Handbook* by the status letter "E" in the margin or heading.
- (2) Other provisions in the *Handbook*, although also identified by the status letter "E" in the margin or heading, are actually not *rules* but provisions in codes and **■** GEN 2.2.3 R does not apply to them. These code provisions are those provisions in the *Code of Practice for Approved Persons* (**■** APER 3 and **■** APER 4) and the *Code of Market Conduct* (**■** MAR 1) with the status letter "E".

PAGE
3

2.2.5

G

FCA PRA

Chapter 6 of the Reader's Guide contains an explanation of the significance of the status letters R, E, G, D, UK, EU, P and C, and includes further information on *Handbook* provisions, including *evidential provisions*.

2.2.6
FCA PRA

G

Use of defined expressions

Expressions with defined meanings appear in italics in the *Handbook* , unless otherwise stated in individual sourcebooks or manuals .

2.2.7
FCA PRA

R

In the *Handbook* (except *IPRU* , unless otherwise indicated):

- (1) an expression in italics which is defined in the *Glossary* has the meaning given there; and
- (2) an expression in italics which relates to an expression defined in the *Glossary* must be interpreted accordingly.

2.2.8
FCA PRA

G

Examples of related expressions are:

- (1) "*advice on investments*" and "*advise on investments*", which should be interpreted by reference to "*advising on investments*";
- (2) "*closely linked*", which should be interpreted by reference to "*close links*";
- (3) "*controls*" and "*controlled*", which should be interpreted by reference to "*control*"; and
- (4) "*effect*", as for example in "*effect a life policy*", which should be interpreted by reference to "*effecting contracts of insurance*".

2.2.9
FCA PRA

G

Unless the context otherwise requires or unless otherwise stated in a particular sourcebook or manual , where italics have not been used, an expression bears its natural meaning (subject to the Interpretation Act 1978; see ■ GEN 2.2.11 R to ■ GEN 2.2.12 G).

2.2.10
FCA PRA

G

The Interim Prudential sourcebooks (*IPRU*) have individual arrangements for defined terms and each contains *rules* or *guidance* on its own arrangements. In respect of those sourcebooks, reliance should not be placed on the definitions which appear in the *Glossary* unless otherwise indicated.

Application of the Interpretation Act 1978

2.2.11
FCA PRA

R

The Interpretation Act 1978 applies to the *Handbook*.

2.2.12
FCA PRA

G

The application of the Interpretation Act 1978 to the *Handbook* has the effect, in particular, that:

- (1) expressions in the *Handbook* used in the *Act* have the meanings which they bear in the *Act*, unless the contrary intention appears;
- (2) where reference is made in the *Handbook* to an enactment, it is a reference to that enactment as amended, and includes a reference to that provision as extended or applied by or under any other enactment, unless the contrary intention appears; and

- (3) unless the contrary intention appears:
 - (a) words in the *Handbook* importing the masculine gender include the feminine and words importing the feminine gender include the masculine;
 - (b) words in the *Handbook* in the singular include the plural and words in the plural include the singular.

Civil partnership - references to stepchildren etc

2.2.12A **R**
 FCA PRA

Any reference in a provision of the *Handbook* made before 5 December 2005 to a stepchild, step-parent, stepdaughter, stepson, stepbrother or stepsister is to be interpreted in accordance with section 246 of the Civil Partnership Act 2004.

2.2.12B **G**
 FCA PRA

■ GEN 2.2.12A R and sections 246 and 247 of the Civil Partnership Act 2004 amend each reference in the *Handbook* to a stepchild, step-parent and certain related expressions to take account of civil partnerships. As a result a reference (for example) to a stepchild of a person (A) includes a reference to the child of the civil partner of A where that child is not A's child.

Cross-references in the Handbook

2.2.13 **R**
 FCA PRA

A reference in the *Handbook* to another provision in the *Handbook* is a reference to that provision as amended from time to time.

2.2.13A **R**
 FCA PRA

Unless a contrary intention appears, to the extent that a provision made by the *appropriate regulator* ('the referring provision') contains a cross-reference to another provision that is not made by that regulator ('the referred provision'), the referred provision is to be taken to have been made by the *appropriate regulator* to the extent necessary to make the referring provision function with the full effect indicated by the reference.

References to writing

2.2.14 **R**
 FCA PRA

If a provision in the *Handbook* refers to a communication, notice, agreement or other *document* "in writing" then, unless the contrary intention appears, it means in legible form and capable of being reproduced on paper, irrespective of the medium used. Expressions related to writing must be interpreted accordingly.

2.2.15 **G**
 FCA PRA

■ GEN 2.2.14 R means that, for example, electronic media may be used to make communications which are required by a provision of the *Handbook* to be "in writing", unless a contrary intention appears, or the use of electronic media would contravene some other requirement . ■ GEN 2.2.14 R does not, however, affect any other legal requirement which may apply in relation to the form or manner of executing a *document* or agreement.

PAGE 5

2.2.15A **G**
 FCA

An example of a requirement relevant to whether a communication required by a provision of the *Handbook* to be "in writing" may be made by use of electronic media is the requirement to treat *customers* fairly under *Principle 6*.

2.2.16
FCA PRA

G

"Document" is a defined term in the *Glossary*, the definition of which includes information recorded in any form, including electronic form.

Activities covered by general rules

2.2.17
FCA PRA

R

A general rule (that is a rule made by the *appropriate regulator* under the *general rule making powers*) is to be interpreted as:

- (1) applying to a *firm* with respect to the carrying on of all *regulated activities*, except to the extent that a contrary intention appears; and
- (2) not applying to a *firm* with respect to the carrying on of *unregulated activities*, unless and then only to the extent that a contrary intention appears.

Continuity of authorised partnerships and unincorporated associations

2.2.18
FCA PRA

R

- (1) If a *firm*, which is a partnership or unincorporated association, is dissolved, but its authorisation continues to have effect under section 32 of the *Act* (Partnerships and unincorporated associations) in relation to any partnership or unincorporated association which succeeds to the business of the dissolved *firm*, the successor partnership or unincorporated association is to be regarded as the same *firm* for the purposes of the *Handbook* unless the context otherwise requires .
- (2) [deleted]
- (3) [deleted]

2.2.19
FCA PRA

G

In principle, it is possible to view a change of partners in a partnership , or a change in the membership of the unincorporated association, as the formation of a new partnership or association. ■ GEN 2.2.18 R reflects section 32 of the *Act* (Partnerships and unincorporated associations), which provides for the continuing *authorisation* of partnerships and unincorporated associations following a change in partners or members if certain conditions are satisfied. ■ GEN 2.2.18 R ensures a similar effect to section 32 in relation to the status of the partnership or unincorporated associations as a "*firm*" or "*authorised person*" for the purposes of the *Handbook*.

Designated investment exchanges

2.2.20
FCA

G

In the *Glossary*, the definition of *designated investment exchange* lists certain investment exchanges. Further information on *designated investment exchanges*, including *guidance* on the addition of an investment exchange to the list, is set out in ■ GEN 2 Annex 1 G and the obligation to pay the application fee is set out in ■ FEES 3.2 .

European Economic Area (EEA)

2.2.21
FCA PRA

G

The agreement on the *European Economic Area*, signed at Oporto on 2 May 1992, extends certain *EU* legislation to those *EEA States* which are not Member States of the *EU*, namely Norway, Iceland and Liechtenstein. References in the *Handbook*

concerning the territorial scope of *EU* law should therefore be read as extending throughout the *EEA* where the context requires.

Treaty of Lisbon

2.2.22

FCA PRA

G

As a result of the Treaty of Lisbon, the European Union has replaced and succeeded the European Community. References in the *Handbook* to the European Community should therefore be interpreted as references to the European Union, where the context requires. In particular, references which are copied out directly from *EU* or *UK* legislation may contain references to the Community which should be read in conjunction with section 3 of the European Union (Amendment) Act 2008.

Application of provisions made by both the FCA and the PRA

2.2.23

FCA PRA

R

- (1) This rule applies to *Handbook* provisions made by both the *FCA* and the *PRA*. It may affect their application by the *FCA* to *PRA-authorised persons* and *PRA approved persons*, and may affect their application by the *PRA* to any *authorised person* or *approved person*.
- (2) Where a *Handbook* provision (or part of one) goes beyond the *FCA's* or *PRA's* powers or regulatory responsibilities, it is to be interpreted as applied by that regulator to the extent of that regulator's powers and regulatory responsibilities only.
- (3) The extent of a *Handbook* provision is to be interpreted as cut back under ■ GEN 2.2.23R (2) by the minimum degree necessary.

2.2.24

FCA PRA

G

The published Memorandum of Understanding between the *FCA* and the *PRA* describes their regulatory responsibilities.

2.2.25

FCA PRA

G

Examples of rules being interpreted as cut back by ■ GEN 2.2.23 R include the following:

- (1) ■ BIPRU 4 imposes capital requirements that, for a *PRA-authorised person* such as a *bank*, are the exclusive responsibility of the *PRA*; accordingly this section is not applied by the *FCA* to a *PRA-authorised person*.
- (2) ■ SYSC 6.1.1 R requires a *firm* to maintain adequate policies and procedures to ensure compliance with its obligations under the *regulatory system*; ■ SYSC 6.1.1 R should be interpreted:
 - (a) as applied by the *FCA* in respect of a *PRA-authorised person's* compliance with regulatory obligations that are the responsibility of the *FCA* (for example, in respect of a *bank* maintaining policies and procedures to ensure compliance with banking conduct requirements in *BCOBS*); and,
 - (b) as applied by the *PRA* in respect of a *PRA-authorised person's* compliance with those regulatory obligations that are the responsibility of the *PRA* (for example, in respect of a *bank* maintaining policies and procedures to ensure compliance with financial resources requirements in *BIPRU*).

- 2
- (3) ■ COMP 5.2.1 R sets out types of *protected claims* to be covered by the FSCS. The powers of the FCA and the PRA to make this type of *rule* are set out in the order made under section 213(1A) of the *Act*. The *rule* must be read as applying only to the extent of those powers. For example, the PRA has no power to make ■ COMP 5.2.1 R (3) creating *protected claims* in connection with *protected investment business*, and the FCA has no power to make ■ COMP 5.2.1 R (1) as creating *protected claims* for a *protected deposit*. As such, those provisions are to be interpreted as not applied by the PRA and FCA, respectively.

Designated investment exchanges

FCA

Introduction

1. A *designated investment exchange* is an exchange appearing in the list of such exchanges in the *Glossary*.

Benefits of designation

2. Under certain *rules*, *firms* may treat transactions effected on a *designated investment exchange* in the same way as transactions on *RIEs* (for example, see *CASS 2*).

Criteria for inclusion in the list of designated investment exchanges

3. Before adding an investment exchange to the list of *designated investment exchanges* in the *Handbook*, the *FCA* will comply with all the requirements imposed by the *Act* in relation to the exercise of its rule-making powers. This will include consulting on the proposed amendment to the list.
4. In considering compatibility of the proposed addition with the *statutory objectives*, the *FCA* will determine whether the investment exchange provides an appropriate degree of protection for *consumers* having regard in particular to:
 -)(the relevant law and practice, including the regulatory framework in which the investment exchange operates, in the country or territory in which the investment exchange's head office is situated and any other relevant country or territory; and
 -)(the rules and practices of the investment exchange.
5. Only investment exchanges which do not carry on a *regulated activity* in the *United Kingdom* and are not *regulated markets* may be added to the list. This is because an investment exchange carrying on a *regulated activity* in the *United Kingdom* will need to apply for recognition as an *RIE*, or authorisation, and because a regulated market is usually treated in the same way as an *RIE* in the *rules*.

Applications to be added to the list of designated investment exchanges

6. An application to be added to the list should be in writing and delivered to the *FCA* by:
 -)(post to:
 - The Financial Conduct Authority
 - 25 The North Colonnade
 - Canary Wharf
 - London
 - E14 5HS; or
 -)(leaving the application at that address.
7. In support of the application, an investment exchange should provide information on the questions set out in the table below.
8. An application will not be considered by the *FCA* until the application fee has been paid. See *FEES 3.2*

Designated investment exchange questionnaire

- 1 In what way are members subject to formal supervision by the exchange or another supervisory or regulatory body? Describe how capital resources of members are monitored on an ongoing basis and how this is related to business done.
- 2 What powers does the exchange or any other supervisory or regulatory body have to intervene in a member's business in the event of misconduct, financial difficulties or otherwise?
- 3 What are the clearing arrangements of the exchange? How does the exchange ensure performance of a contract between its members? If relevant, what type of contract guarantee is available?
- 4 How is price information in respect of contracts effected on the exchange disseminated to investors, particularly those investors in the *United Kingdom*?
- 5 What are the exchange's arrangements for reporting and recording of transactions effected on the exchange? Please describe.
- 6 Does the exchange, or any other supervisory or regulatory body, require members to segregate the money and assets of the member's *clients* from the money and assets of the member? If so, please describe in outline how this operates. If not, are investors protected in any other way in the event of the insolvency of a member or the exchange?
- 7 Does the exchange have procedures for the investigation of complaints? Please describe what they are.
- 8 Does the exchange classify the different contracts traded on it in terms of liquidity? Is it possible to identify certain contracts which are more liquid than others and in which a ready market might be considered to exist?

[deleted]

General Provisions

Chapter 3

FSA Fees: General Provisions



3.1

GEN 3 [deleted: the general provisions in relation to fees are set out in FEES 2 (General Provisions)]

- 3.1.1 [Deleted]
- 3.1.2 [Deleted]
- 3.1.3 [Deleted]
- 3.1.4 [Deleted]
- 3.1.5 [Deleted]
- 3.1.6 [Deleted]
- 3.1.7 [Deleted]
- 3.1.8 [Deleted]
- 3.1.9 [Deleted]
- 3.1.10 [Deleted]
- 3.1.11 [Deleted]



3.2

GEN 3 [deleted: the general provisions in relation to fees are set out in FEES 2 (General Provisions)]

- 3.2.1 [Deleted]
- 3.2.2 [Deleted]
- 3.2.3 [Deleted]
- 3.2.4 [Deleted]
- 3.2.5 [Deleted]



3.3

GEN 3 [deleted: the general provisions in relation to fees are set out in FEES 2 (General Provisions)]

- 3.3.1
- 3.3.2
- 3.3.3
- 3.3.4

[Deleted]
[Deleted]
[Deleted]
[Deleted]

Chapter 4

Statutory status disclosure

4.1 Application

Who? What?

4.1.1

FCA PRA

R

This chapter applies to every *firm* and with respect to every *regulated activity*, except that:

- (1) for an *incoming ECA provider*, this chapter does not apply when the *firm* is acting as such;
- (2) for an *incoming EEA firm* which has *permission* only for *cross-border services* and which does not carry on *regulated activities* in the *United Kingdom*, this chapter does not apply;
- (3) for an *incoming firm* not falling under (1) or (2), this chapter does not apply to the extent that the *firm* is subject to equivalent rules imposed by its *Home State*;
- (4) for a *UCITS qualifier*, this chapter does not apply ; and
- (5) only ■ GEN 4.5 (Statements about authorisation and regulation by the appropriate regulator) applies in relation to *MiFID or equivalent third country business* and only where that *MiFID or equivalent third country business* is not business falling within paragraph 2 (Transactions between an MTF operator and its users), 3 (Transactions concluded on an MTF) or 4 (Transactions concluded on a regulated market) of Part 1 of ■ COBS 1 Annex 1.

Where?

4.1.2

FCA PRA

R

■ GEN 4.3 (Letter disclosure) applies in relation to activities carried on from an establishment maintained by the *firm* (or by its *appointed representative*) in the *United Kingdom*, subject to ■ GEN 4.3.4 R (Exception: insurers).

4.1.3

FCA PRA

R

■ GEN 4.4 (Business for private customers from non-UK offices) applies in connection with a *regulated activity* carried on from an establishment of the *firm* (or its *appointed representative*) that is not in the *United Kingdom*.

4.1.4

FCA PRA

R

■ GEN 4.5 (Statements about authorisation and regulation by the *appropriate regulator*) applies in relation to activities carried on from an establishment maintained by the *firm* (or by its *appointed representative*) in the *United Kingdom*, provided that, in the case of the *MiFID business* of an *EEA MiFID investment firm* or the activities of an *EEA UCITS management company*, it only applies to business conducted within the territory of the *United Kingdom*.

4

4.2 Purpose

- 4.2.1** G 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 *appropriate regulator*.
FCA PRA
- 4.2.1A** G [deleted]
- 4.2.1B** G This chapter builds upon *Principle 7* (Communications with clients), which requires a *firm* to pay due regard to the information needs of its *clients*. This assists in the achievement of the *statutory objectives*, including the *FCA*'s strategic objective of ensuring that relevant markets function well and the consumer protection and integrity objectives.
FCA
- 4.2.1C** G This chapter assists in the achievement the *PRA*'s general objective to ensure the safety and soundness of *firms*.
PRA
- 4.2.2** G There are other pre-contract information requirements outside this chapter, including:
FCA
- (1) for *financial promotions*, in the *financial promotion rules*;
 - (2) for *designated investment business*, in ■ COBS 8 (Client agreements), ■ COBS 5 (Distance Communications), ■ COBS 6 (Information about the firm, its services and remuneration), ■ COBS 13 and ■ 14 (which relate to product information) and CASS (Client assets);
 - (3) for *non-investment insurance contracts*, distance communication requirements in ■ ICOBS 3, initial disclosure requirements in ■ ICOBS 4, disclosures relating to client needs and advice in ■ ICOBS 5 and product information requirements in ■ ICOBS 6;
 - (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;
 - (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;

- (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.



4.3 Letter disclosure

Disclosure in letters to retail clients

4.3.1

FCA PRA

R

A *firm* must take reasonable care to ensure that every letter (or electronic equivalent) which it or its *employees* send to a *retail client*, with a view to or in connection with the *firm* carrying on a *regulated activity*, includes the disclosure in ■ GEN 4 Annex 1 R (firms that are not PRA-*authorised persons*) or GEN 4 Annex 1AR (PRA-*authorised persons*) as applicable .

4.3.1A

FCA PRA

G

Where a letter covers both activities to which this section applies and activities to which this section does not apply, the *firm* should comply with the *rules* in this chapter in relation to the business to which it applies.

4.3.1B

FCA

G

An example for ■ GEN 4.3.1A G would be where a letter covers business for which the FCA is the *competent authority* under the *Insurance Mediation Directive* and under *MiFID*.

4.3.2

G

[deleted]

4.3.2A

FCA

G

For a *UK domestic firm* that is not a *PRA-*authorised person**, the required disclosure in ■ GEN 4 Annex 1 R is "Authorised and regulated by the Financial Conduct Authority".

4.3.2B

FCA PRA

G

For a *UK domestic firm* that is a *PRA-*authorised person**, the required disclosure in GEN 4 Annex 1AR is "Authorised by the Prudential Regulation Authority and regulated by the Financial Conduct Authority and Prudential Regulation Authority".

4.3.3

FCA PRA

G

- (1) ■ GEN 4.3.1 R (Disclosure in letters to retail clients) covers letters delivered by hand, sent by *post* and sent by fax and also electronic mail, but not text messages, account statements, business cards or compliment slips (used as such).
- (2) ■ GEN 4.3.1 R (Disclosure in letters to retail clients) applies in relation to letters sent by any of the *firm's employees*, which includes its *appointed representatives* and their *employees*.
- (3) *Firms* are likely to find it convenient to include the required disclosure in their letterhead.

4.3.4

FCA PRA

R

Exception: insurers

■ GEN 4.3.1 R (Disclosure in letters to retail clients) does not apply in relation to:

- (1) *general insurance business* if:
 - (a) the *State of the risk* is an *EEA State* other than the *United Kingdom*; or
 - (b) the *State of the risk* is outside the *EEA* and the *client* is not in the *United Kingdom* when the *contract of insurance* is entered into; or
- (2) *long-term insurance business* if:
 - (a) the *client* is *habitually resident* in an *EEA State* other than the *United Kingdom*; or
 - (b) the *client* is *habitually resident* outside the *EEA* and is not present in the *United Kingdom* when the *contract of insurance* is entered into.

Exception: authorised professional firms

4.3.5

FCA

R

For an *authorised professional firm*, ■ GEN 4.3.1 R (Disclosure in letters to retail clients) does not apply with respect to its *non-mainstream regulated activities*.

Exception: use of third party processors in home finance and insurance mediation activities

4.3.6

FCA

R

- (1) Where a *firm* has outsourced activities to a *third party processor* other than *advising on life policies* , ■ GEN 4.3.1 R does not apply to that *third party processor* when acting as such, so long as the outsourcing *firm* ensures that the *third party processor* and its *employees* comply with that *rule* as if it was the *firm* and they were *employees* of the *firm*.
- (2) Where an *appointed representative* has outsourced *insurance mediation activities* other than *advising on life policies* or *home finance mediation activities* to a *third party processor*, ■ GEN 4.3.1 R does not apply to that *third party processor* when acting as such, so long as the *appointed representative's principal* ensures that the *third party processor* and its *employees* comply with that *rule* as if it was the *appointed representative* and they were the *employees* of the *appointed representative*.
- (3) Where an *appointed representative* of a *firm* is carrying on:
 - (a) *insurance mediation activities* other than *advising on life policies* ; or

(b) *home finance mediation activities;*

which have been outsourced to it by the *firm*, ■ GEN 4.3.1 R does not apply to the *firm* when the *appointed representative* is carrying on the outsourced activities, so long as the *firm* ensures that the *appointed representative* and its *employees* comply with that *rule* as if it was the *firm* and they were *employees* of the *firm*.



4.4 Business for retail clients from non-UK offices

4.4.1

R

FCA PRA

- (1) If, in any communication:
- (a) made to:
 - (i) (in relation to a *non-investment insurance contract*) a *consumer*;
 - (ii) (in relation to a *home finance transaction*) a *customer*; or
 - (iii) (in all other cases) a *retail client*; and
 - (b) in connection with a *regulated activity* carried on from an establishment of the *firm* (or its *appointed representative*) that is not in the *United Kingdom*;
the *firm* indicates that it is an *authorised person*, it must also, where relevant, and with equal prominence, give the information in (2) in writing.
- (2) The information required is that in some or all respects the *regulatory system* applying will be different from that of the *United Kingdom*. The *firm* may also indicate the protections and complaints or compensation arrangements available under another relevant system of regulation.
- (3) A *firm* need not provide the information required by (1) if it has already provided it in writing to the *customer* to whom the communication is made.

4.4.2

G

[deleted]

4.5 Statements about authorisation and regulation by the appropriate regulator

Application

4.5.1

FCA PRA

R

This section applies to a *firm*:

- (1) communicating with a *customer*; or
- (2) *communicating* or *approving* a *financial promotion* other than:
 - (a) a *financial promotion* that would benefit from an exemption in the *Financial Promotion Order* if it were *communicated* by an *unauthorised person*;
 - (b) a promotion of an *unregulated collective investment scheme* that would breach section 238(1) of the *Act* if made by an *authorised person* (*firms* may not *communicate* or *approve* such promotions).

4.5.2

FCA PRA

G

■ GEN 4.5.1 R (1) does not apply to a *firm* when communicating with an *eligible counterparty*.

4.5.2A

FCA

G

However, misleading statements by a *firm* when communicated with an *eligible counterparty* may involve a breach of *Principle 7* (Communications with clients) or Part 7 (Offences relating to financial services) of the *Financial Services Act 2012*, as well as giving rise to private law actions for misrepresentation.

The duty

4.5.3

FCA

R

A *firm* must not indicate or imply that it is authorised by the *FCA* in respect of business for which it is not so authorised.

4.5.3A

FCA PRA

R

A *firm* must not indicate or imply that it is authorised by the *PRA* in respect of business for which it is not so authorised.

4.5.4

FCA

R

A *firm* must not indicate or imply that it is regulated or otherwise supervised by the *FCA* in respect of business for which it is not regulated by the *FCA*.

4.5.4A

FCA PRA

R

A *firm* must not indicate or imply that it is regulated or otherwise supervised by the *PRA* in respect of business for which it is not regulated by the *PRA*.

4.5.5

FCA PRA

G

■ SUP 13A Annex 1 provides *guidance* on the application of the *Handbook* to an *incoming EEA firm*.

4.5.6

FCA PRA

G

- (1) Neither an *incoming EEA firm* nor an *incoming Treaty firm* is *authorised* by the *FCA* or *PRA* when acting as such.
- (2) It is likely to be misleading for a *firm* that is not *authorised* by the *FCA* or *PRA* to state or imply that it is so *authorised*. It is also likely to be misleading for a *firm* to state or imply that a *client* will have recourse to the *Financial Ombudsman Service* or the *FSCS* where this is not the case.
- (3) [deleted]

4.5.6A

FCA

G

As well as potentially breaching the requirements in this section, misleading statements by a *firm* may involve a breach of *Principle 7* (Communications with clients) or section Part 7 (Offences relating to financial services) of the *Financial Services Act 2012*, as well as giving rise to private law actions for misrepresentation.

Statutory status disclosure

FCA

This rule applies to firms that are not PRA-*authorised persons*:

	Type of firm	Required disclosure (Note 5)
(1)	<i>UK domestic firm; or overseas firm (which is not an incoming firm)</i>	"Authorised and regulated by the Financial Conduct Authority" (Note 1)
(2)	<i>Incoming firm without a top-up permission</i>	(a) "Authorised by [name of <i>Home State regulator</i>] or (b) "Authorised by [name of <i>Home State regulator</i>] and subject to limited regulation by the Financial Conduct Authority. Details about the extent of our regulation by the Financial Conduct Authority are available from us on request" (Notes 1, 2, 2a and 3)
(3)	<i>Incoming firm with a top-up permission</i>	"Authorised by [name of <i>Home State regulator</i>] and authorised and subject to limited regulation by the Financial Conduct Authority. Details about the extent of our authorisation and regulation by the Financial Conduct Authority are available from us on request" (Notes 1, 2 and 3)
(4)	<i>Appointed representative of a firm</i>	"[Name of <i>appointed representative</i>] is an appointed representative of [name of <i>firm</i>] which is [then continue with the required disclosure of the <i>firm</i>]" (Note 4)

Note 1 = A firm must use the formulation "Financial Conduct Authority" and not the abbreviated formulation "FCA".

Note 2 = An incoming firm is free to translate the name of its Home State regulator into English if it wishes. In doing so, it must ensure that the State in which the regulator is based is clear.

Note 2a = An incoming firm without a top-up permission may make either disclosure (a) or disclosure (b) unless it otherwise indicates or implies to the customer that it is regulated or supervised by the FCA, in which case it must make disclosure (b).

Type of firm	Required disclosure (Note 5)
	<p>Note 3 = If a <i>firm</i> offers to make details about the extent of its authorisation or regulation by the <i>FCA</i> available on request and a <i>customer</i> requests such details, it must provide those details in a way that is clear, fair and not misleading.</p> <p>Note 4 = If the <i>appointed representative</i> has more than one <i>principal</i>, the disclosure must relate to the <i>principal</i> or <i>principals</i> responsible for the <i>regulated activity</i> or activities concerned. The required disclosure of the <i>firm</i> is that which would apply were the <i>firm</i> to make the disclosure under the <i>rules</i> applicable to it.</p> <p>Note 5 = Any <i>firm</i> listed in this table is permitted to add words to the relevant required disclosure statement but only if the <i>firm</i> has taken reasonable steps to satisfy itself that the presentation of its statutory status will, as a consequence, be fair, clear and not misleading and be likely to be understood by the average member of the group to whom it is directed or by whom it is likely to be received . For example, an <i>authorised professional firm</i> may wish to make it clear that it is also regulated by its professional body.</p>

Statutory status disclosure (PRA-authorized persons)

FCA **PRA**

This rule applies to firms that are PRA-authorized persons:

Type of firm	Required disclosure (Note 5)
(1) <i>UK domestic firm</i>	<p>"Authorized by the Prudential Regulation Authority and regulated by the Financial Conduct Authority and the Prudential Regulation Authority"</p> <p>(Note 1)</p>
(2) <i>overseas firm (which is not an incoming firm)</i>	<p>"[Authorized and regulated by [name of the overseas regulator of the overseas firm in the jurisdiction of that overseas firm's registered office (or, if it has no registered office, its head office)]. Authorized by the Prudential Regulation Authority. Subject to regulation by the Financial Conduct Authority and limited regulation by the Prudential Regulation Authority. Details about the extent of our regulation by the Prudential Regulation Authority are available from us on request."</p> <p>(Notes 1, 2, 3, and 3a)</p>
(3) <i>Incoming firm without a top-up permission</i>	<p>(a) "Authorized by [name of Home State regulator]" or</p> <p>(b) "Authorized by [name of Home State regulator] and subject to limited regulation by the Financial Conduct Authority and Prudential Regulation Authority. Details about the extent of our regulation by the Financial Conduct Authority and Prudential Regulation Authority are available from us on request"</p> <p>(Notes 1, 2, 2a, 2b and 3)</p>
(4) <i>Incoming firm with a top-up permission</i>	<p>"Authorized by [name of Home State regulator] and the Prudential Regulation Authority and subject to limited regulation by the Financial Conduct Authority and Prudential Regulation Authority. Details about the extent of our authorisation and regulation by the Prudential Regulation Authority, and regulation by the Financial Conduct Authority are available from us on request"</p> <p>(Notes 1, 2, 2b and 3)</p>

Type of firm	Required disclosure (Note 5)
(5) <i>Appointed representative of a firm</i>	"[Name of <i>appointed representative</i>] is an <i>appointed representative</i> of [name of <i>firm</i>] which is [then continue with the required disclosure of the <i>firm</i>]" (Note 4)
(6) <i>Society of Lloyd's</i>	"Authorised under the Financial Services and Markets Act 2000"

Note 1 = A *firm* must use the formulation "Financial Conduct Authority" or "Prudential Regulation Authority" and not the abbreviated formulation "FCA" or "PRA" respectively.

Note 2 = An *incoming firm* or *overseas firm* is free to translate the name of its *Home State regulator* or *overseas regulator* into English if it wishes. In doing so, it must ensure that the State in which the regulator is based is clear.

Note 2a = An *incoming firm* without a *top-up permission* may make either disclosure (a) or disclosure (b) unless it otherwise indicates or implies to the *customer* that it is regulated or supervised by the *FCA* or *PRA*, in which case it must make disclosure (b).

Note 2b = An *incoming EEA firm* exercising establishment rights in the *UK* under the *Banking Consolidation Directive*, which do not include the activity of acceptance of deposits and other repayable funds, will be subject to branch liquidity and other supervision by the *FCA*.

Note 3 = If a *firm* offers to make details about the extent of its authorisation by the *PRA* or regulation by the *FCA* or *PRA* available on request and a *customer* requests such details, it must provide those details in a way that is clear, fair and not misleading.

Note 3a = An *overseas firm* that is not an *incoming firm* is only required to disclose its authorisation and/or regulated by an *overseas regulator* if it is so authorised and/or regulated.

Note 4 = If the *appointed representative* has more than one *principal*, the disclosure must relate to the *principal* or *principals* responsible for the *regulated activity* or activities concerned. The required disclosure of the *firm* is that which would apply were the *firm* to make the disclosure under the *rules* applicable to the *firm*.

Note 5 = Any *firm* listed in this table is permitted to add words to the relevant required disclosure statement but only if the *firm* has taken reasonable steps to satisfy itself that the presentation of its statutory status will, as a consequence, be fair, clear and not misleading and be likely to be understood by the average member of the group to whom it is directed or by whom it is likely to be received.

Chapter 5

Regulators' logos and the keyfacts logo



5.1 Application and purpose

Application

5.1.1
FCA

G

This chapter contains:

- (1) *guidance for firms, authorised payment institutions and authorised electronic money institutions and their appointed representatives, agents or tied agents* on the circumstances in which the *FCA* permits them to reproduce the *FSA* and *FCA* logos;
- (2) *rules* on the use by *firms* of the keyfacts logo.

Purpose

5.1.2
FCA

G

The *FSA* logo is a registered UK service mark, with number 2150560. The *FCA* logo is a registered UK service mark, with number 2629534. The keyfacts logo is a registered Community trade mark, with the number EU3866688. All are the property of the *FCA*. They are also subject to copyright and may be used or reproduced with permission of the *FCA* only. If the *FSA*, *FCA*, or keyfacts logos are reproduced or otherwise used by any person without such permission the *FCA* may seek to enforce its rights over its property through the Courts.

5.1.3
FCA

G

■ GEN 5 Annex 1 G is a general licence, which sets out the circumstances in which the *FCA* permits a *person* to whom this chapter applies to reproduce the *FSA* and keyfacts logos. Such a *person* need not apply for an individual licence if it uses or reproduces the logos in accordance with the general licence.

5.1.3A
FCA

G

No general licence is granted by the *FCA* in respect of the *FCA* logo.

5.1.4
FCA

G

The *FCA* has no policy to allow use of the *FSA* or keyfacts logos by a *person* to whom this chapter applies other than as set out in ■ GEN 5 Annex 1 G. If, however, such a *person* wishes to use or reproduce either of the logos other than in accordance with the general licence, it may apply to the *FCA* for an individual licence, giving full reasons why it considers the *FCA* should grant the licence.

The keyfacts logo

5.1.5
FCA

R

A *firm* must not use the keyfacts logo other than as and when it is required or expressly permitted to be used by the *rules*, and in accordance with the general licence in ■ GEN 5 Annex 1 G.

5.1.6 **R** A *firm* must take all reasonable steps to ensure that its *representatives* do not use the keyfacts logo other than as and when the logo is required to be used by the *rules*.
FCA

5.1.7 **R** A *firm* must take all reasonable steps to ensure that the keyfacts logo is not reproduced on any document that the *firm*, or any *person* acting on its behalf, provides to a *customer* unless the reproduction is required by the *rules*.
FCA

The FSA logo

5.1.8 **R** A *firm* must not use the FSA logo (and must take all reasonable steps to ensure that its *representatives* do not use the FSA logo) in any communication with a *client* other than in accordance with the general licence in ■ GEN 5 Annex 1 G or any individual licence granted by the *FCA* to the *firm* or its *representatives*.
FCA

5.1.9 **G** The general licence in ■ GEN 5 Annex 1 G to use the FSA logo will continue till 1 April 2014 whereupon the general licence is revoked by ■ GEN 5 Annex 1 G, 7.1.
FCA

The FCA logo

5.1.10 **R** A *firm* must not use the FCA logo (and must take all reasonable steps to ensure that its *representatives* do not use the FCA logo) in any communication with a *client* other than in accordance with any individual licence granted by the *FCA* to the *firm* or its *representatives*.
FCA

Licence for use of the FSA and keyfacts logos

FCA

Application

1.1 The *FCA* grants this licence to *firms, authorised payment institutions, authorised electronic money institutions, appointed representatives, agents and tied agents*.

The FSA logo

2.1 The FSA logo is made up of two elements which together make up the registered UK service mark, with number 2150560:

- (1) the symbol (the scroll and globe device); and
- (2) the FSA letters.

2.2 The keyfacts logo is made up of two elements which together make up the registered Community trade mark, with number E3866688:

- (1) the symbol (the rectangular speech bubble); and
- (2) the word 'keyfacts'.

2.3 There are two versions of the FSA logo, version A and a smaller version B in which the scroll has been simplified. There are two versions of the keyfacts logo, a low resolution version and a high resolution version.

2.4 Copyright subsists in the FSA logo.

2.5 Copies of the FSA logo that are capable of being reproduced for printing can be found on the *FCA's* website at www.fca.org.uk

Permission to use the FSA logo

3.1 A *UK domestic firm, its appointed representatives and tied agents, an authorised payment institution and its agents and an authorised electronic money institution and its agents* are permitted to use the FSA logo:

- (1) as part of a statement by that *person*, in a letter or electronic equivalent, that it or, in relation to an *appointed representative, agent or tied agent*, its principal, is authorised and regulated by the *FSA*; or
- (2) if required to do so by the *FCA*.

3.1A [deleted]

3.2 The disclosure required by GEN 4.3.1 R (Disclosure in letters to *retail clients*) as continued in GEN TP 1.3(3).13 is an example of a statement within paragraph 3.1 above.

3.3 Business cards, compliment slips, text messages, account statements and other similar documents are not letters (or electronic equivalents). Therefore, the licence does not extend to documents such as these.

Permission to use the keyfacts logo

3A.1 A *firm, its appointed representatives and tied agents* are permitted to use the keyfacts logo as and when it is required or permitted to be used by the *rules*.

3A.2 The following are examples of places where the *rules* require or permit the keyfacts logo to be used:

- (1) In *COBS*, in a *services and costs disclosure document* or *combined initial disclosure document* (COBS 6.3)
- (2) In *ICOBS*:
 - (a) in an *initial disclosure document* or *combined initial disclosure document*;
 - (b) in a *policy summary*; and
 - (c) in a *key features* as an alternative to a *policy summary*.
- (3) In *MCOB*
 - (a) in an *initial disclosure document* or *combined initial disclosure document*;
 - (b) in an *illustration* (MCOB 5.6.2 R and MCOB 9.4.2 R); and
 - (c) in a risks and features statement (MCOB 4.10.11 R) and financial information statement (MCOB 5.8.7 R).

Conditions on appearance of the FSA logo

- 4.1 The permission in paragraph 3.1 is subject to the following conditions:
- (1) the regulatory mark is attached to the FSA logo;
 - (2) the FSA logo and regulatory mark appear in black type, or reversed out white on a coloured background;
 - (3) the FSA letters appear in type which is not more than three times the size of the accompanying script;
 - (4) the two elements of the FSA logo appear together in the same way, and in the same proportion, as in the registered service mark;
 - (5) the FSA logo is not redrawn in any way, or matched by a typesetter;
 - (6) version B of the FSA logo is used only at sizes below 10 mm in overall height; and
 - (7) if the FSA logo is reproduced electronically, no hyperlink is incorporated.

Conditions on appearance of the keyfacts logo

- 4A.1 The permission in paragraph 3A.1 is subject to the following conditions:
- (1) the regulatory mark (®) is attached to the keyfacts logo;
 - (2) the keyfacts logo and regulatory mark appear:
 - (a) in black type;
 - (b) reversed out white on a coloured background; or
 - (c) in colour provided that this does not diminish their prominence;
 - (3) the two elements of the keyfacts logo appear together in the same way, and in the same proportion, as in the Community trade mark;

- (4) the keyfacts logo is not redrawn in any way, or matched by a typesetter;
- (5) the low resolution version of the keyfacts logo is used only in documents intended to be read on a computer, television or other screen; and
- (6) if the keyfacts logo is reproduced electronically, no hyperlink is incorporated.

Further conditions on the use of the FSA and keyfacts logos

5.1 The permissions in paragraphs 3.1 and 3A.1 are also subject to the conditions that any material, whether produced on paper or electronically, on which the FSA or keyfacts logos are displayed does not:

- (1) in any way imply that the *FCA* is endorsing the licensee or its products, services or communications (see also GEN 1.2.2 R (1)); or
- (2) misrepresent the licensee's relationship with the *FCA* or present false information about the *FCA*; or
- (3) contain content that could be construed as distasteful, offensive or controversial; or
- (4) infringe any intellectual property or other rights of any *person* or otherwise not comply with any relevant law or regulation.

6.1 [deleted]

Commencement and duration

7.1 This licence comes into effect on 1 May 2003 except that in relation to the keyfacts logo it comes into effect on 6 November 2006. In relation to the FSA logo, this licence ceases to have effect and is revoked on 1 April 2014.

7.2 The *FCA* may alter or revoke this licence at any time, by giving at least two months' notice on the *FCA's* website.

Interpretation

8.1 This licence is to be interpreted in accordance with chapter 2 of the General provisions (Interpreting the Handbook) of the *Handbook*. In particular, expressions in italics are defined in the Handbook Glossary.

Governing law and jurisdiction

9.1 This licence is governed by and interpreted in line with English law. The courts of any jurisdiction in the United Kingdom have the exclusive jurisdiction to settle any dispute in connection with this licence.

Chapter 6

Insurance against financial penalties



6.1 Payment of financial penalties

Application

6.1.1 **R** This chapter applies to every *firm*, but only with respect to business that can be regulated under sections 137A (The FCA's general rules) and 137G (The PRA's general rules) of the *Act*.
FCA **PRA**

6.1.2 **G** For the purposes of **GEN 2.2.17 R** (Activities covered by general rules), the chapter applies to *regulated* and *unregulated activities* carried on in the *United Kingdom* or overseas.
FCA **PRA**

Purpose

6.1.3 **G** The purpose of this section is to ensure that financial penalties are paid by the *person* on whom they are imposed.
FCA **PRA**

Interpretation

6.1.4 **R** In this chapter 'financial penalty' means a financial penalty that the *appropriate regulator* has imposed, or may impose, under the *Act*. It does not include a financial penalty imposed by any other body.
FCA **PRA**

Payment of a penalty imposed on an employee

6.1.4A **R** No *firm*, except a *sole trader*, may pay a financial penalty imposed by the *appropriate regulator* on a present or former *employee*, *director* or *partner* of the *firm* or of an *affiliated company*.
FCA **PRA**

Insurance against financial penalties

6.1.5 **R** No *firm* may enter into, arrange, claim on or make a payment under a *contract of insurance* that is intended to have, or has or would have, the effect of indemnifying any *person* against all or part of a financial penalty.
FCA **PRA**

6.1.6 **R** The *Society*, *managing agents* and *members' agents* must not cause or permit any *member*, in the conduct of his *insurance business* at Lloyd's, to enter into, arrange, claim on or make a payment under a *contract of insurance* that is intended to have, or has or would have, the effect of indemnifying any *person* against all or part of a financial penalty.
FCA **PRA**

6.1.7

FCA PRA

G

■ GEN 6.1.4A R, ■ GEN 6.1.5 R and ■ GEN 6.1.6 R do not prevent a *firm* or *member* from entering into, arranging, claiming on or making any payment under a *contract of insurance* which indemnifies any *person* against all or part of the costs of defending *appropriate regulator* enforcement action or any costs they may be ordered to pay to the *appropriate regulator*.

General Provisions

GEN TP 1 Transitional provisions

FCA PRA

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) Hand-book provision: coming into force
1	GEN 2.2.7 R	R	Expired		
2	GEN 4.3.1 R	R	Expired		
3	GEN 4.3.1 R	R	Expired		
4	GEN 4.4.1 R	R	Expired		
5	GEN 6.1	R	<p>GEN 6.1 does not:</p> <p>(1) apply to an unamended <i>contract of insurance</i>, first entered into on or before 24 July 2003; or</p> <p>(2) prohibit a <i>firm</i> from claiming on, or making a payment under, a <i>contract of insurance</i>:</p> <p>(a) in connection with a financial penalty imposed by the <i>FSA</i> pursuant to a <i>warning notice</i> issued before 25 July 2003; or</p> <p>(b) first entered into between 25 July 2003 and 31 December 2003 in respect of a financial penalty imposed by the <i>FSA</i> by a <i>final notice</i> issued on or before 31 December 2003.</p>	From 1 January 2004	1 January 2004

(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
<p>(For these purposes only, a <i>contract of insurance</i> will be regarded as unamended if:</p> <p>(i) it was amended on or before 24 July 2003; or</p> <p>(ii) it was amended after 24 July 2003, but the amendments did not affect the duration or scope of any indemnity against a financial penalty imposed by the <i>FSA under the Act</i>.)</p>					
6	GEN 4.3.1 R	R	Expired		
7	GEN 4.3.1 R	G	Expired		
9	GEN 5 Annex 1 G	G	A <i>firm</i> may continue to use a keyfacts logo which is not accompanied by a regulatory mark (®).	From 6 November 2006 to 6 November 2007	6 November 2006
10	GEN 4.3.1 R	R	<p>(1) For the purpose of this <i>rule</i>, a <i>regulated activity</i> does not include a <i>home purchase activity</i> or <i>home reversion activity</i>.</p> <p>(2) If a <i>firm</i> in a letter (or electronic equivalent) which it or its <i>employees</i> send to a <i>customer</i>, with a view to or in connection with the <i>firm</i> carrying out a <i>home purchase activity</i> or a <i>reversion activity</i>, makes a statement about its statutory or regulated status under the <i>Act</i> for carrying on that <i>regulated activity</i>, the <i>firm</i> must include the disclosure in GEN 4 Annex 1 R in that letter.</p>	From 6 April 2007 for six months	6 April 2007
11	GEN 4.5	R	<p>(1) A <i>firm</i> is not required to comply with GEN 4.5.</p> <p>(2) In relation to the <i>regulated activity</i> of <i>accepting deposits</i>, an <i>incoming EEA firm</i></p>	From 31 October 2008 to 30 September 2009.	31 October 2008.

(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
			may not rely on this transitional rule and must comply with GEN 4.5.		
12	GEN 4 Annex 1 R	R	<p>(1) A <i>firm</i> may comply with GEN 4 Annex 1 R as in force on 30 October 2008.</p> <p>(2) In relation to the <i>regulated activity</i> of <i>accepting deposits</i>, an <i>incoming EEA firm</i> may not rely on this transitional rule and must comply with GEN 4.5.</p>	From 31 October 2008 to 30 September 2009.	31 October 2008.
13	GEN 4.3.1 R, GEN 4 Annex 1 R and GEN 4 Annex 1A	R	A <i>firm</i> may comply with GEN 4.3.1 R and GEN 4 Annex 1 R as in force on 31 March 2013.	From 1 April 2013 till 1 April 2014	1 April 2013
14	GEN 4.5.3 R and GEN 4.5.4 R	R	A <i>firm</i> can continue to make statements about authorisation and regulation by the <i>FSA</i> as long as such statements would not have breached GEN 4.5.3 R and GEN 4.5.4 R if made on 31 March 2013.	From 1 April 2013 till 1 April 2014	1 April 2013

General Provisions

GEN TP 2 Transitional Provisions applying across the FCA and PRA Handbooks

FCA PRA

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</i> rules.
(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.

FCA PRA

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</i> and <i>PRA Handbooks</i> , unless the context otherwise requires and subject to any more specific	R	Acts under pre-cutover provisions 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	From <i>cutover</i>	<i>Cutover</i>

(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
2	transitional provision relating to the matter Paragraph 1	G	substantially similar provision in the <i>FCA</i> and <i>PRA Handbooks</i> . 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's</i> best execution rule, for the purposes of compliance with the <i>FCA's</i> 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</i> and <i>PRA Handbooks</i> , unless the context otherwise requires and subject to any more specific transitional provision relating to the matter	R	Series of events If the application of any provision in the <i>FCA</i> or <i>PRA Handbooks</i> is dependent on 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> .	From <i>cutover</i>	<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 11.3.8 R (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</i> and <i>PRA Handbooks</i> , unless the context otherwise requires and subject to any more specific transitional provision relating to the matter	R	Deemed references to pre-cutover provisions 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>

(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
6	Paragraph 5	G	For example, SUP 11.6.4 R 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 11.4.2 R, 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 11.4.2 R as made by the <i>FSA</i> (and SUP 11.6.4 R is to be read as referring to that pre-cutover provision).	From <i>cutover</i>	<i>Cutover</i>
7	Every provision in the <i>FCA</i> and <i>PRA Handbooks</i> , unless the context otherwise requires and subject to any more specific transitional provision relating to the matter	R	<p>Time starting before cutover</p> <p>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.</p>	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 SUP 16.11.3 R as made by the <i>FSA</i> . If the quarter end 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 SUP 16.7.8 R as made by the <i>FCA</i> .	From <i>cutover</i>	<i>Cutover</i>
9	Every <i>rule</i> in the <i>FCA</i> and <i>PRA Handbooks</i> requiring a record to be made or retained (see sched-	R	<p>Record keeping</p> <p>A <i>firm</i> or other person will not contravene a <i>rule</i> in the <i>FCA</i> or <i>PRA Handbooks</i> requiring a record to be made or</p>	From <i>cutover</i>	<i>Cutover</i>

(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
	ule 1), unless the context otherwise requires and subject to any more specific transitional provision relating to the matter		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</i> and <i>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</i> and <i>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	From <i>cutover</i>	<i>Cutover</i>

(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	Every <i>notification rule</i> in the <i>FCA</i> and <i>PRA Handbooks</i> (see schedule 2), unless the context otherwise requires and subject to any more specific transitional provision relating to the matter	R	<p>clarity and overrides those general transitional provisions.</p> <p>Notification</p> <p>A <i>firm</i> (or its auditor, <i>appointed actuary</i> or <i>appropriate actuary</i>) 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:</p> <p>(1) the <i>notification rule</i>; or</p> <p>(2) a substantially similar pre-cutover provision applicable to the <i>firm</i> or other person.</p>	From <i>cutover</i>	<i>Cutover</i>
14	Paragraph 13	G	<p>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.</p>	From <i>cutover</i>	<i>Cutover</i>
15	As paragraphs 1 to 14	R	<p>Definitions</p> <p>In these transitional provisions:</p> <p>(1) "pre-cutover provision" means a provision repealed or revoked by, or under, the Financial Services Act 2012 or a rule or guidance of the <i>FSA</i>, including (where the context permits) any relevant provision which it replaced before <i>cutover</i>;</p> <p>(2) "substantially similar" means substantially similar in purpose and effect; and</p> <p>(3) a reference to a "provision" in the <i>FCA</i> or <i>PRA Handbooks</i> means every type of provision, including <i>rules</i>,</p>	From <i>cutover</i>	<i>Cutover</i>

(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	Paragraph 17	G	<p><i>guidance</i>, provisions in codes, and so on.</p> <p>Application for provisions which are not rules</p> <p>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>.</p>	From <i>cutover</i>	<i>Cutover</i>
17	<p><i>Statements of Principle</i>, the <i>Code of Practice for Approved Persons</i> and <i>Code of Market Conduct</i> and directions and requirements and guidance and other provisions in the <i>FCA Handbook</i> and <i>PRA Handbook</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>	P	<p>The provisions in paragraphs 1 to 10 apply to every <i>person</i> to whom the provisions referred to in column (2) apply as if the <i>rules</i> in those paragraphs were part of those provisions.</p>	From <i>cutover</i>	<i>Cutover</i>

General Provisions

Schedule 1 Record keeping requirements

Sch 1.1 G

FCA **PRA**

There are no record keeping requirements in *GEN*.

General Provisions

Schedule 2 Notification requirements

Sch 2.1 G

FCA PRA

The aim of the guidance in the following table is to give the reader a quick overall view of the relevant requirements for notification and reporting.

It is not a complete statement of those requirements and should not be relied on as if it were.

Sch 2.2 G

FCA PRA

Handbook reference	Matter to be notified	Contents of notification	Trigger event	Time allowed
GEN 1.3.2 R	An emergency which makes it impracticable for a <i>firm</i> to comply with a particular <i>rule</i> .	Notification of the emergency and of the steps the <i>firm</i> is taking and proposes to take to deal with its consequences	An emergency which makes it impracticable for a <i>firm</i> to comply with a particular <i>rule</i> .	Notification as soon as practicable

General Provisions

Schedule 3 Fees and other required payments

Sch 3.1 G

FCA **PRA**

There are no requirements for fees or other payments in *GEN. FEES 2* (General Provisions) contains general provisions relating to the payment of fees.

General Provisions

Schedule 4 Powers exercised

[to follow later]

Sch 4.1 G

Sch 4.2 G

Sch 4.3 G

Sch 4.4 G

Sch 4.5 G

Sch 4.6 G

Sch 4.7 G

Sch 4.7A G

Sch 4.8 G

Sch 4.9 G

Sch 4.10 G

Sch 4.11 G

General Provisions

Schedule 5 Rights of action for damages

Sch 5.1 G

FCA

The table below sets out the *rules* in *GEN* contravention of which by an *authorised person* may be actionable under section 138D of the *Act* (Actions for damages) by a person who suffers loss as a result of the contravention.

Sch 5.2 G

FCA

If a 'Yes' appears in the column headed 'For *private person*?', the *rule* may be actionable by a 'private person' under section 138D (or, in certain circumstances, his fiduciary or representative; see article 6(2) and (3)(c) of the Financial Services and Markets Act 2000 (Rights of Action) Regulations 2001 (SI 2001/2256)). A 'Yes' in the column headed 'Removed' indicates that the *FCA* has removed the right of action under section 138D(3) of the *Act*. If so, a reference to the *rule* in which it is removed is also given.

Sch 5.3 G

FCA

The column headed 'For other person?' indicates whether the *rule* may be actionable by a person other than a *private person* (or his fiduciary or representative) under article 6(2) and (3) of those Regulations. If so, an indication of the type of *person* by whom the *rule* may be actionable is given.

Sch 5.4 G

FCA

Chapter/Appendix	Section/Annex	Paragraph	Right of action under section 138D		
			For private person?	Removed	For other person?
			No	No	No
			No	No	No
			Yes	No	No

All *rules* in *GEN* with the status letter "E"

GEN 2.1.8 R

All other *rules* in *GEN*

General Provisions

Schedule 6 Rules that can be waived

Sch 6.1 G

[deleted]

Sch 6.1A G

FCA

As a result of section 138A of the *Act* (Modification or waiver of rules) the *FCA* has power to waive all its *rules*, other than *rules* made under section 137O (Threshold condition code), 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 *FCA* to grant a waiver that would be incompatible with the *United Kingdom's* responsibilities under those directives.

Sch 6.1B G

PRA

As a result of section 138A of the *Act* (Modification or waiver of rules) the *PRA* has power to waive all its *rules*, other than *rules* made under section 137O (Threshold condition code). However, if the *rules* incorporate requirements laid down in European directives, it will not be possible for the *PRA* to grant a waiver that would be incompatible with the *United Kingdom's* responsibilities under those directives.

Sch 6.2 G

FCA **PRA**

- 1 GEN 2.1.8R is made by FOS Ltd and not by the *appropriate regulator* and cannot be waived by the *appropriate regulator*.
- 2 Every other rule in *GEN* can be waived by the *appropriate regulator* if, and to the extent that, the rules elsewhere in its *Handbook* which it modifies or to which it otherwise relates can be waived by the *appropriate regulator*.

Fees Manual

Fees Manual

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2.2	Late Payments and Recovery of Unpaid Fees
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3 Annex 7	Fees where changes are made to firms transaction reporting systems and the FCA is asked to check that these systems remain compatible with FCA systems
3 Annex 8	Fees payable for authorisation as an authorised payment institution or registration as a small payment institution, including notification fees, in accordance with the Payment Services Regulations
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3 Annex 11	Guidance on fees due under FEES 3.2.7R and FEES 3.2.7AR
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4.1	Introduction
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4.4	Information on which Fees are calculated

4 Annex 1	Activity groups, tariff bases and valuation dates applicable[deleted] [Deleted]
4 Annex 1A	FCA Activity groups, tariff bases and valuation dates
4 Annex 1B	PRA activity groups, tariff bases and valuation dates
4 Annex 2	Fee tariff rates, permitted deductions and EEA/Treaty firm modifications for the period from 1 April 2012 to 31 March 2013 [Deleted]
4 Annex 2A	FCA Fee rates and EEA/Treaty firm modifications for the period from 1 April 2013 to 31 March 2014
4 Annex 2B	PRA fee rates and EEA/Treaty firm modifications for the period from 1 April 2013 to 28 February 2014
4 Annex 3	[Deleted]
4 Annex 4	Periodic fees in relation to collective investment schemes payable for the period 1 April 2012 to 31 March 2013
4 Annex 5	Periodic fees for designated professional bodies payable in relation to the period 1 April 2012 to 31 March 2013
4 Annex 6	Periodic fees for recognised investment exchanges, recognised clearing houses and recognised auction platforms payable in relation to the period 1 April 2013 to 31 March 2014
4 Annex 7	Periodic fees in relation to the Listing Rules for the period 1 April 2013 to 31 March 2014
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4 Annex 9	Periodic fees in respect of securities derivatives for the period from 1 April 2013 to 31 March 2014
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4 Annex 11A	Definition of annual income for the purposes of calculating fees in fee-blocks A.12, A.13 and A.14
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FEES 5	Financial Ombudsman Service Funding
5.1	Application and Purpose
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5.5	[Deleted]
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5 Annex 1	Annual General Levy Payable in Relation to the Compulsory Jurisdiction for 2013/14
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FEES 6 Financial Services Compensation Scheme Funding

- 6.1 Application
- 6.2 Exemption
- 6.3 The FSCS's power to impose levies
- 6.4 Management expenses
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- 6.5 Compensation costs
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- 6.6 Incoming EEA firms
- 6.7 Payment of levies
- 6 Annex 1 Financial Services Compensation Scheme - Management Expenses Levy Limit
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FEES 7 CFEB levies

- 7.1 Application and Purpose
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Transitional Provisions and Schedules

- TP 1 Transitional Provisions
- TP 2 Transitional provisions relating to changes to the FSCS levy arrangements taking effect in 2007/8 and in 2008/9

TP 3	Transitional provisions relating to changes to the FSCS levy arrangements taking effect in 2010/11
TP 4	Transitional provisions relating to information requirements following changes to FEES 4 or 5
TP 5	Transitional Provisions relating to the Special Project Fee for Restructuring
TP 6	Transitional arrangements in relation to the introduction of the Electronic Money Regulations
TP 7	Transitional provisions relating to changes to the FSCS levy arrangements taking effect in 2013/14
TP 8	Transitional provisions relating to FEES 3 Annex 9R and FEES 4.3.6R taking effect in 2013/14
Sch 1	[to follow]
Sch 2	[to follow]
Sch 3	[to follow]
Sch 4	Powers exercised
Sch 5	[to follow]
Sch 6	Rules that can be waived

Chapter 1

Fees Manual



1.1 Application and Purpose

1.1.1

FCA PRA

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 4A 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 (in ■ **FEES 5.5A**). ■ **FEES 6** (Financial Services Compensation Scheme Funding) relates to the *FSCS* levy. ■ **FEES 7** relates to the *CFEB* levy.

1.1.1A

FCA

G

■ **FEES App 1 Annex 1** applies to all persons required to pay a fee or any other amount to the *FCA* under the Unauthorised Mutuals Registration Fees Rules, as made by the Fees (Unauthorised Mutual Societies Registration) Instrument 2002 (FSA 2002/4) and amended from time to time.

Application

1.1.2

FCA PRA

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 3.2.7 R** and ■ **FEES 3.2.7A R**.
 - (a) [deleted]
 - (b) [deleted]
 - (c) [deleted]
 - (d) [deleted]
 - (e) [deleted]
 - (f) [deleted]
 - (g) [deleted]
 - (h) [deleted]
 - (i) [deleted]

- (j) [deleted]
- (k) [deleted]
- (l) [deleted]
- (m) [deleted]
- (n) [deleted]
- (o) [deleted]
- (p) [deleted]
- (q) [deleted]
- (r) [deleted]
- (s) [deleted]

(2) ■ FEES 1, ■ 2 and ■ 4 apply to:

- (a) every *firm* (except an *ICVC* or *UCITS qualifier*);
- (b) every *manager* of an *authorised* unit trust;
- (c) every *ACD* of an *ICVC*;
- (d) every *person* who, under the constitution or founding arrangements of a recognised scheme, is responsible for the management of the property held for or within the *scheme*;
- (e) every *designated professional body*;
- (f) every *recognised body*;
- (g) under the Listing Rules every *issuer* of *shares*, depositary receipts and *securitised derivatives*;
- (h) under the Listing Rules (*LR*) every *sponsor*;
- (i) under the Disclosure Rules and Transparency Rules (*DTR*) every *issuer* of *shares*, depositary receipts and securitised derivatives ;
- (j) every *fee-paying payment service provider*;
- (k) every *fee-paying electronic money issuer* ; and
- (l) every *issuer* of a *regulated covered bond*.

(3) ■ FEES 1, ■ 2 and ■ 5 apply to:

- (a) every *firm* (except to the extent it is *bidding in emissions auctions*), *fee-paying payment service provider* and *fee-paying electronic money issuer* which is subject to the *Compulsory Jurisdiction* of the *Financial Ombudsman Service*; and
- (b) every other *person* who is subject to the *Compulsory Jurisdiction* in relation to *relevant complaints*.

- (4) ■ FEES 1, ■ 2 and ■ 6 apply to:
- (a) every *participant firm* ;
 - (b) the FSCS; and
 - (c) the *Society*.
- (5) ■ FEES 1, ■ 2 and ■ 7 apply to:
- (a) every *person* having a *Part 4A permission*;
 - (b) an *incoming EEA firm*;
 - (c) an *incoming Treaty firm*;
 - (d) the *Society*;
 - (e) every *fee-paying payment service provider* except the Bank of England, government departments and local authorities;
 - (f) every *fee-paying electronic money issuer* except the Bank of England, government departments, local authorities, municipal banks and the National Savings Bank.
- (6) ■ FEES App 1 Annex 1 applies to every:
- (a) *registered society*; or
 - (b) *sponsoring body*; or
 - (c) *person* who submits a proposal for the registration of a *registered society*;

each as defined in ■ FEES Appendix 1.

■ 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*.

The application statement at ■ FEES 1.1.2 R (3) does not apply to ■ FEES 5.5A, ■ FEES 5 Annex 2R or ■ FEES 5 Annex 3R.

1.1.3

FCA

G

The application of ■ FEES 5.5A and ■ FEES 5 Annex 3R is set out in ■ FEES 5.5A.1 R. The relevant provisions of ■ FEES 5 and ■ FEES 2 are applied to *VJ participants* by the *standard terms* (see ■ DISP 4).

1.1.3A

FCA PRA

G

The *rules* in *FEES* should be read in conjunction with ■ GEN 2.2.23 R to ■ GEN 2.2.25 G. In relation to *FEES*, some *rules* are made by both the *FCA* and *PRA*. Those *rules* may contain obligations for or references to *FCA-authorised persons* (for example *payment service providers* and *electronic money issuers*) notwithstanding that they also are made by the *PRA* in order to apply them to *PRA-authorised persons*. ■ GEN 2.2.23 R limits the application of those *rules* so that the *PRA* will only apply them in respect

of *PRA-authorized persons* and not to such *FCA-authorized persons* as are specifically included within the *rule*.

Purpose

The purpose of this manual is to set out the fees applying to the *persons* set out in ■ FEES 1.

1.1.4

FCA PRA

G

Chapter 2

General Provisions



2.1 Introduction

Application

- 2.1.1
FCA
PRA
R
Except to the extent referred to in **■ FEES 2.1.1A R**, this chapter applies to every *person* who is required to pay a fee or share of a levy to the *appropriate regulator* , *FOS Ltd* or *FSCS*, as the case may be, by a provision of the *Handbook*.
- 2.1.1A
FCA
R
This chapter does not apply in relation to **■ FEES 5.5A**, **■ FEES 5 Annex 2R** or **■ FEES 5 Annex 3R**.
- 2.1.2
FCA
PRA
R
■ FEES 2.2.1R does not apply in respect of any fee payable under **■ FEES 3** (Application, notification and vetting fees).
- 2.1.3
FCA
PRA
G
The provisions for late payments in **■ FEES 2.2.1R** do not apply to fees payable under **■ FEES 3** as applications, notifications and requests for vetting are generally regarded as incomplete until the relevant fee is paid.

Purpose

- 2.1.4
FCA
PRA
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 *appropriate regulator* or a share of the *FSCS* levy.
- 2.1.5
FCA
G
Paragraph 23 of Schedule 1ZA of the *Act* , regulation 92 of the *Payment Services Regulations* and regulation 59 of the *Electronic Money Regulations* enable the *FCA* to charge fees to cover its costs and expenses in carrying out its functions. The corresponding provisions for the *FSCS* levy , *FOS* levies and *CFEB levies* are set out in **■ FEES 6.1**, **■ FEES 5.2** and **■ FEES 7.1.4 G** respectively. Case fees payable to the *FOS Ltd* are set out in **■ FEES 5.5A**. *Fee-paying payment service providers* and *fee-paying electronic money issuers* are not required to pay the *FSCS* levy but are liable for *FOS* levies.
- 2.1.5-A
PRA
G
Paragraph 31 of Schedule 1ZB of the *Act* enables the *PRA* to charge fees to cover its costs and expenses in carrying out its functions. The corresponding provisions for the *FSCS* levy are set out in **■ FEES 6.1**.

2.1.5A

FCA

G

Regulation 92 of the *Payment Services Regulations* and regulation 59 of the *Electronic Money Regulations* each provide that the functions of the *FCA* under the respective regulations are treated for the purposes of paragraph 23 of Schedule 1ZA to the *Act* as functions conferred on the *FCA* under the *Act*. Paragraphs 23(7) and 20(1)(b) however, have not been included. These are, respectively, the *FCA*'s obligation to ensure that the amount of penalties received or expected to be received are not to be taken into account in determining the amount of any fee payable and the provision that allows fees to be raised to repay borrowed monies in respect of expenses incurred, before or after the coming into force of the *Act* or the Bank of England Act 1998.

2.1.6

FCA PRA

G

The *appropriate regulator* fees payable will vary from one *fee year* to another, and will reflect the *appropriate regulator's* funding requirement for that period and the other key components, as described in ■ FEES 2.1.7G. Periodic fees, which will normally be payable on an annual basis, will provide the majority of the funding required to enable the *appropriate regulator* to undertake its statutory functions.

2.1.7

FCA PRA

G

The key components of the *appropriate regulator* fee mechanism (excluding the *FSCS* levy, the *FOS* levy and case fees, and the *CFEB levy* which are dealt with in ■ FEES 5, ■ FEES 6 and ■ FEES 7) are:

- (1) a funding requirement derived from:
 - (a) the *appropriate regulator's* financial management and reporting framework;
 - (b) the *appropriate regulator's* budget; and
 - (c) adjustments for audited variances between budgeted and actual expenditure in the previous accounting year, and reserves movements (in accordance with the *appropriate regulator's* reserves policy);
- (2) mechanisms for applying penalties received during previous financial years for the benefit of fee payers;
- (3) fee-blocks, which are broad groupings of fee payers offering similar products and services and presenting broadly similar risks to the *appropriate regulator's* regulatory objectives;
- (4) a costing system to allocate an appropriate part of the funding requirement to each fee-block; and
- (5) tariff bases, which, when combined with fee tariffs, allow the calculation of fees.

2.1.8

FCA PRA

G

The amount payable by each fee payer will depend upon the category (or categories) of regulated activity or exemption, or other relevant activity applicable to that *person* (fee-blocks). It will, in most cases, also depend on the amount of the business that *person* conducts in each category (fee tariffs).

2.1.9

FCA PRA

G

By basing fee-blocks on categories of business, the *appropriate regulator* aims to minimise cross-sector subsidies. The membership of the fee-blocks is identified in the *FEES* provisions relating to the type of fees concerned.

2

2.1.9A

FCA PRA

G

PRA-authorized persons and *persons* seeking to become *PRA-authorized persons* should note that the *FCA* and the *PRA* have agreed for the *FCA* to act as the *PRA*'s agent in relation to the collection of *PRA* fees. Where applicable, both *PRA* and *FCA* fees should be paid as a single payment to the *FCA*, which will receive the payment in its own capacity in respect of *FCA* fees and in its capacity as agent for the *PRA* in respect of the *PRA* fees. References to this arrangement will be referred to in *FEES* where applicable.

2.1.10

G

[deleted]

2.1.11

G

[deleted]



2.2 Late Payments and Recovery of Unpaid Fees

Late Payments

2.2.1

FCA PRA

R

If a *person* does not pay the total amount of a periodic fee , FOS levy , 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, ■ 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 Official Bank 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

FCA PRA

G

The FCA, (for FCA and PRA periodic fees, FOS and FSCS levies and CFEB levies), expect to issue invoices at least 30 days before the date on which the relevant amounts fall due. 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

FCA PRA

G

Paragraphs 23(8) and 27 of Schedule 1ZA and paragraphs 31(7) and 35 of Schedule 1ZB of the Act permit the FCA and PRA respectively to recover fees (including fees relating to *payment services* , the issuance of *electronic money* 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 FCA, PRA and FSCS respectively, and the FCA, PRA and FSCS, as relevant, will consider taking action for recovery (including interest) through the civil courts.

2.2.4

FCA PRA

G

In addition, the *appropriate regulator* may be entitled to take regulatory action in relation to the non-payment of fees , FOS levies and CFEB levies. The *appropriate regulator* may also take regulatory action in relation to the non-payment of a share of the FSCS levy, after reference of the matter to the *appropriate regulator* by the FSCS . What action (if any) that is taken by the *appropriate regulator* will be decided upon in the light of the particular circumstances of the case.



2.3 Relieving Provisions

Remission of Fees and levies

2.3.1

FCA PRA

R

If it appears to the *appropriate regulator* or the *FSCS* (in relation to any *FSCS* levy only) that in the exceptional circumstances of a particular case, the payment of any fee, *FSCS* levy, *FOS* levy or *CFEB* levy would be inequitable, the *appropriate regulator* or the *FSCS* as relevant, may (unless ■ FEES 2.3.2B R applies) reduce or remit all or part of the fee or levy in question which would otherwise be payable.

2.3.2

FCA PRA

R

If it appears to the *appropriate regulator* or the *FSCS* (in relation to any *FSCS* levy only) that in the exceptional circumstances of a particular case to which ■ FEES 2.3.1R does not apply, the retention by the *appropriate regulator*, the *FSCS*, or the *CFEB*, as relevant, of a fee, *FSCS* levy, *FOS* levy or *CFEB* levy which has been paid would be inequitable, the *appropriate regulator*, the *FSCS* or the *CFEB*, may (unless ■ FEES 2.3.2B R applies) refund all or part of that fee or levy.

2.3.2A

FCA PRA

G

A poor estimate or forecast by a fee or levy payer, when providing information relevant to an applicable tariff base, is unlikely, of itself, to amount to an exceptional circumstance for the purposes of ■ FEES 2.3.1 R or ■ FEES 2.3.2 R. By contrast, a mistake of fact or law by a fee or levy payer may give rise to such a claim.

2.3.2B

FCA PRA

R

The *appropriate regulator* or the *FSCS* may not consider a claim under ■ FEES 2.3.1 R and/or ■ FEES 2.3.2 R to reduce, remit or refund any overpaid amounts paid by a fee or levy payer in respect of a particular period, due to a mistake of fact or law by the fee or levy payer, if the claim is made by the fee or levy payer more than 2 years after the beginning of the period to which the overpayment relates.

2.3.3

G

[deleted]



2.4 VAT

2.4.1

FCA PRA

R

All fees payable or any stated hourly rate under ■ FEES 3 (Application, notification and vetting fees), ■ FEES 4 (Periodic fees) and ■ FEES 7 (The CFEB levy) are stated net of VAT. Where VAT is applicable this must also be included.

Chapter 3

Application, Notification and Vetting Fees



3.1 Introduction

Application

3.1.1 FCA PRA R This chapter applies to every *person* set out in column 1 of the Table of application, notification and vetting fees in ■ FEES 3.2.7 R and ■ FEES 3.2.7A R.

3.1.1A FCA R A reference to *firm* in this chapter includes a reference to a *fee-paying payment service provider* and a *fee-paying electronic money issuer*.

3.1.2 FCA PRA G This chapter does not apply to:

- (1) an *EEA firm* that wishes to exercise an *EEA right*; or
- (2) an *EEA authorised payment institution*; or
- (3) an *EEA authorised electronic money institution*.

Purpose

3.1.3 FCA PRA G The purpose of this chapter is to set out the *appropriate regulator* fee paying requirements on the persons set out in ■ FEES 1.1.2 R (1).

3.1.4 FCA PRA G Most of the detail of what fees are payable by the persons referred to in ■ FEES 3.1.3 G is set out in ■ FEES 3 Annex 1 R - ■ FEES 3 Annex 10 R.

3.1.5 FCA PRA G The rates set for authorisation fees represent an appropriate proportion of the costs of the *appropriate regulator* in processing the application or exercise of *Treaty rights*.

- (2) [deleted]
- (3) [deleted]

3.1.5A FCA G The fees for *collective investment schemes* reflect the estimated costs to the *FCA* of assessing applications and notifications. The level of fees payable in respect of an application or a notification will vary depending upon the provision of the *Act* under which it is made. This fee is adjusted when the *scheme* concerned is an *umbrella*.

- 3.1.5B** G Application fees for *recognised bodies* are calculated from a tariff structure intended to reflect the estimated cost of processing an application of that type and complexity.
FCA
- 3.1.6** G Applications for *Part 4A permission* (and exercises of *Treaty rights*) are categorised by the *appropriate regulator* for the purpose of fee raising as complex, moderately complex and straightforward as identified in ■ FEES 3 Annex 1 R. This differentiation is based on the *permitted activities* sought and does not reflect the *appropriate regulator's* risk assessment of the applicant (or *Treaty firm*).
FCA PRA
- 3.1.6A** G Application fees for authorisation or registration under the *Payment Services Regulations* are set out in ■ FEES 3 Annex 8R . The fee depends on the type of *payment services* a *firm* wishes to provide and whether it will be a *small payment institution* or an *authorised payment institution*. The fee may also depend on the number of *agents* it has.
FCA
- 3.1.6B** G Application fees for authorisation or registration under the *Electronic Money Regulations* are set out in ■ FEES 3 Annex 10 R. The fee depends on whether the firm is an *authorised electronic money institution* or a *small electronic money institution*.
FCA
- 3.1.7** G A potential applicant for *Part 4A permission* (or *Treaty firm*) has the opportunity to discuss its proposed application (or exercise of *Treaty rights*) with the *appropriate regulator* before submitting it formally. If an applicant for *Part 4A permission* (or *Treaty firm*) does so, the *appropriate regulator* will be able to use that dialogue to make an initial assessment of the fee categorisation and therefore indicate the authorisation fee that should be paid.
FCA PRA
- 3.1.8** G [Deleted]

3.2 Obligation to pay fees

General

3.2.1

FCA PRA

R

A *person* in column (1) of the table in ■ FEES 3.2.7 R and, if applicable, ■ FEES 3.2.7A R as the relevant fee payer for a particular activity must pay to the *FCA* (in its own capacity or, if the fee is payable to the *PRA*, in its capacity as collection agent for the *PRA*) a fee for each application or request for vetting, or request for support relating to compatibility of its systems with *appropriate regulator* systems, or admission approval made, or notification or notice of exercise of a *Treaty right* given, or other matter as is applicable to it, as set out or calculated in accordance with the provisions referred to in column (2) of the appropriate table:

- (1) in full and without deduction; and
- (2) on or before the date given in column (3) of that table.

3.2.2

FCA PRA

G

If an application for a *Part 4A permission* (or exercise of a *Treaty right*) falls within more than one category set out in ■ FEES 3 Annex 1 R, only one fee is payable. That fee is the one for the category to which the highest fee tariff applies.

Method of payment

3.2.3

FCA PRA

R

- (1) Unless (2) or (3) applies, the sum payable under ■ FEES 3.2.1 R must be paid by bankers draft, cheque or other payable order.
- (2) The *FCA* does not specify a method of payment for a *person* seeking to:
 - (a) become a *recognised body* or a *designated professional body*; or
 - (b) be added to the list of *designated investment exchanges* or *accredited bodies*.
- (3) The sum payable under ■ FEES 3.2.1 R by a *firm* applying for a variation of its *Part 4A permission* (■ FEES 3.2.7 R and, if applicable, ■ FEES 3.2.7A R (c)) must be paid by any of the methods described in (1) or by Maestro or credit card

(Visa/Mastercard only). Any payment by a permitted credit card must include an additional 2% of the sum paid.

3.2.4

FCA

G

The FCA expects that a *person* seeking to become a *recognised body* or a *designated professional body* or to be added to the list of *designated investment exchanges* or *accredited bodies* will generally pay their respective fees by electronic credit transfer.

3.2.5

FCA PRA

G

- (1) The appropriate authorisation or registration fee is an integral part of an application for, or an application for a variation of, a *Part 4A permission* or authorisation, registration or variation under the *Payment Services Regulations* or the *Electronic Money Regulations*. Any application received by the *appropriate regulator* without the accompanying appropriate fee, in full and without deduction (see ■ FEES 3.2.1 R), will not be treated as an application made, incomplete or otherwise, in accordance with section 55U(4), or section 55H or 55I (as the case may be), of the *Act* or regulation 5(3) or 12(3) of the *Payment Services Regulations* or regulation 5 or 12 of the *Electronic Money Regulations*. Where this is the case, the *appropriate regulator* will contact the applicant to point out that the application cannot be progressed until the appropriate fee has been received. In the event that the appropriate authorisation fee, in full and without deduction, is not forthcoming, the application will be returned to the applicant and no application will have been made.
- (2) With the exception of *persons* seeking to become a *designated professional body*, all applications, notifications, requests for vetting or admission approval will be treated as incomplete until the relevant fee is fully paid and the *appropriate regulator* will not consider an application, notification, request for vetting or admission approval until the relevant fee is fully paid. *Persons* seeking to become a *designated professional body* have 30 days after the designation order is made to pay the relevant fee.

3.2.6

FCA PRA

G

Fees paid under this chapter are not refundable.

3.2.7

FCA

R

Table Table of application, notification and vetting fees payable to the FCA

(1) Fee payer	(2) Fee payable	Due date
(a) Any applicant for <i>Part 4A permission</i> (including an <i>incoming firm</i> applying for <i>top-up permission</i>) whose fee is not payable pursuant to sub-paragraph (ga) of this table	(1) Unless (2) applies, in respect of a particular application, the highest of the tariffs set out in FEES 3 Annex 1 R part 1 which apply to that application (2) In respect of a particular application which is: (i) a straightforward or moderately complex case for the purposes of	On or before the application is made

(1) Fee payer	(2) Fee payable	Due date
	<p>FEES 3 Annex 1 R part 1, and</p> <p>(ii) only involves a simple change of legal status as set out in FEES 3 Annex 1 R part 6,</p> <p>the fee payable is 50% of the tariff that would otherwise be payable in FEES 3 Annex 1 R part 1</p>	
<p>(b) Any <i>Treaty firm</i> that wishes to exercise a <i>Treaty right</i> to qualify for <i>authorisation</i> under Schedule 4 to the <i>Act</i> (Treaty rights) in respect of <i>regulated activities</i> for which it does not have an <i>EEA right</i>, except for a firm providing <i>cross border services</i> only</p>	<p>(1) Where no certificate has been issued under paragraph 3(4) of Schedule 4 to the <i>Act</i> the fee payable is, in respect of a particular exercise, set out in FEES 3 Annex 1 R, part 4</p> <p>(2) Where a certificate in (i) has been issued no fee is payable</p>	<p>On or before the notice of exercise is given</p>
<p>(c) Any applicant for a certificate under article 54 of the Regulated Activities Order</p>	<p>2,000</p>	<p>On or before the application is made</p>
<p>(d) Applicants for an <i>authorisation order</i> for, or recognition of, a <i>collective investment scheme</i></p>	<p>FEES 3 Annex 2 R, part 1</p>	<p>On or before the application is made</p>
<p>(e) The <i>operator</i> of a scheme making a notification under section 264 or section 270 of the <i>Act</i></p>	<p>FEES 3 Annex 2 R, part 2</p>	<p>On or before the date the application is made</p>
<p>(f) Any <i>person</i> seeking an order under section 326(1) of the <i>Act</i> to become a <i>designated professional body</i>.</p>	<p>10,000</p>	<p>30 days after the order is granted</p>

(1) Fee payer	(2) Fee payable	Due date
<p>(g) Any applicant for recognition as a <i>UK recognised body</i> :</p> <p>(i) under section 287 of the <i>Act</i>; or</p> <p>(ii) under regulation 2(1) of the <i>RAP regulations</i></p>	<p>FEES 3 Annex 3 R, part 1</p>	<p>On or before the date the application is made</p>
<p>(ga) Any applicant for:</p> <p>(i) a <i>Part 4A permission</i> to carry out the regulated activity of <i>administering a specified benchmark</i>; or</p> <p>(ii) varying its <i>Part 4A permission</i> to carry out the <i>regulated activity of administering a specified benchmark</i></p>	<p>FEES 3 Annex 3 R, part 1</p>	<p>On or before the date the application is made</p>
<p>(h) Any applicant for recognition as an <i>ROIE</i> under section 287 or section 292 of the <i>Act</i></p>	<p>FEES 3 Annex 3 R, part 2</p>	<p>On or before the date the application is made</p>
<p>(i) An applicant for <i>listing</i> (under the <i>listing rules</i>)</p>	<p>FEES 3 Annex 4 R, part 1</p>	<p>On or before the date the application is made</p>
<p>(j) Applicant for approval as <i>sponsor</i> (under the <i>listing rules</i>)</p>	<p>FEES 3 Annex 4 R, part 2</p>	<p>On or before the date the application is made</p>
<p>(k) Issuers of tranches from debt issuance programmes and <i>securitised derivative</i> tranches</p>	<p>FEES 3 Annex 4 R, part 1</p>	<p>An upfront fee is required per tranche for draw downs in the following 12 months</p>
<p>(l) Under the <i>listing rules</i>, an <i>issuer</i> involved in specific events or transactions during the year where documentation is subject to a transaction vetting</p>	<p>FEES 3 Annex 5 R, part 1, unless the transaction would come within the definition of significant transaction under category (v) or super transaction under category (q) in this table, in</p>	<p>On or before the date that relevant documentation is first submitted to the <i>FCA</i></p>

(1) Fee payer	(2) Fee payable	Due date
<p>(m) Under the <i>prospectus rules</i>, an <i>issuer</i> or <i>person</i> requesting approval or vetting of the documents arising in relation to specific events or transactions that it might be involved in during the year</p>	<p>which case the fee payable under that category.</p> <p>FEES 3 Annex 5 R, part 2, unless the transaction would come within the definition of significant transaction under category (v) or super transaction under category (q) in this table, in which case the fee payable under that category.</p>	<p>On or before the date that relevant documentation is first submitted to the <i>FCA</i></p>
<p>(n) Applicants to be added to the list of <i>designated investment exchanges</i></p>	<p>50,000</p>	<p>On or before the date the application is made</p>
<p>(o) Either:</p> <p>(i) a <i>firm</i> applying to the <i>appropriate regulator</i> for permission to use one of the <i>advanced prudential calculation approaches</i> listed in FEES 3 Annex 6 R (or <i>guidance</i> on its availability), including any future proposed amendments to those approaches or (in the case of any application being made for such permission to the <i>appropriate regulator</i> as <i>EEA</i> consolidated supervisor under the <i>Capital Requirements Regulations 2006</i>) any <i>firm</i> making such an application ; or</p> <p>(ii) in the case of an application to a <i>Home State regulator</i> other than the <i>appropriate</i></p>	<p>(1) Unless (2) applies, FEES 3 Annex 6 R .</p> <p>(2) (a) Unless (b) applies a <i>firm</i> submitting a second application for the permission or <i>guidance</i> described in column (1) within 12 months of the first application (where the fee was paid in accordance with (1)) must pay 50% of the fee applicable to it under FEES 3 Annex 6 R, but only in respect of that second application</p> <p>(b) No fee is payable by a <i>firm</i> in relation to a successful application for a permission based on a minded to grant decision in respect of the same matter following a complete application for <i>guidance</i> in ac-</p>	<p>Where the firm has made an application directly to the <i>appropriate regulator</i> , on or before the date the application is made, otherwise within 30 days after the <i>appropriate regulator</i> notifies the <i>firm</i> that its <i>EEA</i> parent's <i>Home State regulator</i> has requested assistance.</p>

(1) Fee payer	(2) Fee payable	Due date
<p><i>regulator for the use of the Internal Ratings Based approach and the Home State regulator requesting the appropriate regulator's assistance in accordance with the Capital Requirements Regulations 2006 , any firm to which the appropriate regulator would have to apply any decision to permit the use of that approach.</i></p>	<p>cordance with prescribed submission requirements.</p> <p>(c) No fee is payable where the <i>Home State regulator</i> has requested the assistance described in paragraph (o)(ii) of column 1 except in the cases specified in FEES 3 Annex 6 R.</p>	
<p>(p) A <i>firm</i> applying for a variation of its <i>Part 4A permission</i> whose fee is not payable pursuant to sub-paragraph (ga) of this table</p>	<p>(1) Unless (2) or (3) applies, if the proposed new business of the <i>firm</i> would fall within one or more activity groups specified in Part 1 of FEES 4 Annex 1A R or Part 1 of FEES 4 Annex 1B R not applicable before the application , the fee is 50% of the highest of the tariffs set out in FEES 3 Annex 1 R which apply to that application</p> <p>(2) If the only change is that the A.12 activity group tariff applied to the <i>firm's</i> business before the variation and the A.13 activity group will apply after variation, no fee is payable</p> <p>(3) If the <i>firm</i> is in the A.1 fee-block at the date of the application and the variation involves adding any of the <i>regulated activities</i> of <i>meeting of repayment claims</i> or <i>managing dormant ac-</i></p>	<p>On or before the date the application is made</p>

(1) Fee payer	(2) Fee payable	Due date
	<p><i>count funds (including the investment of such funds), the fee is 50% of the fee in FEES 3 Annex 1 R that applies to that application</i></p> <p>(4) In all other cases, other than applications by <i>credit unions</i>, the fee payable is 250 for <i>firms</i> which are not, or are not seeking to become, a <i>PRA-authorised person</i>, and 125 for <i>firms</i> which are, or are seeking to become, a <i>PRA-authorised person</i>, unless the variation involves only the reduction (and no other increases) in the scope of a <i>Part 4A permission</i> in which case no fee is payable.</p>	
<p>(q) A super transaction, being one where:</p> <p>(i) the <i>issuer</i> has a market capitalisation in excess of 1.5 billion and it is a new applicant for a <i>premium listing</i> under the <i>listing rules</i>, or involved in a reverse or hostile takeover or a significant restructuring; or</p> <p>(ii) the <i>issuer</i> has a market capitalisation in excess of 5 billion and is involved in a <i>class 1 transaction</i>, a transaction requiring vetting of an equity prospectus or equivalent</p>	<p>50,000</p>	<p>On or before the date that the relevant documentation is first submitted to the <i>FCA</i>.</p>

(1) Fee payer	(2) Fee payable	Due date
<p><i>document</i> or a <i>transaction</i> requiring vetting of a <i>prospectus</i> or <i>listing particulars</i> in relation to a Depository Receipt.</p>		
<p>(r) Providers of reporting or trade matching systems applying for recognition under <i>Mi-FID</i> as an Approved Reporting Mechanism.</p>	<p>100,000</p>	<p>Having received its application, within 30 days after the <i>FCA</i> has notified the applicant that it is to commence testing of the applicants systems.</p>
<p>(s) In the case of an <i>insurance business transfer scheme</i>, a transferor.</p> <p>Note - for the purpose of this paragraph an <i>insurance business transfer scheme</i> consists of a single transferor and a single transferee. Where however such a scheme is part of a single larger scheme, that larger scheme is treated as a single <i>insurance business transfer scheme</i>. If an <i>insurance business transfer scheme</i> includes more than one transferor in accordance with this paragraph, the transferors are liable to pay the fee under column (2) jointly.</p>	<p>Either (1) or (2) as set out below:</p> <p>(1) In the case of an <i>insurance business transfer scheme</i> involving <i>long term insurance business</i>, 9,250 is payable to the <i>FCA</i>; or</p> <p>(2) in the case of an <i>insurance business transfer scheme</i> not involving <i>long term insurance business</i>, 5,000 is payable to the <i>FCA</i>.</p>	<p>On or before any application is made to the <i>PRA</i> for the appointment of a person as an <i>independent expert</i>.</p>
<p>(t) A <i>firm</i>, a third party acting on a <i>firm's</i> behalf, an operator of a <i>regulated market</i> or an operator of an <i>MTF</i> applying to the <i>FCA</i> to report <i>transaction reports</i> directly to the <i>FCA</i> .</p>	<p>100,000</p>	<p>Having received its application, within 30 days after the <i>FCA</i> has notified the applicant that it is to commence testing of the applicants systems.</p>

(1) Fee payer	(2) Fee payable	Due date
<p>(u) Any of the following:</p> <ul style="list-style-type: none"> (i) an operator of an approved reporting mechanism; (ii) a firm; (iii) a third party acting on behalf of a firm; (iv) a market operator; or (v) an MTF operator; <p>that satisfies the following conditions:</p> <ul style="list-style-type: none"> (1) it provides transaction reports directly to the FCA; and (2) having made changes to its reporting systems, it asks the FCA to support the testing of the compatibility of its systems with the FCA's systems. <p>(v) A significant transaction, being one where:</p> <ul style="list-style-type: none"> (i) the issuer has a market capitalisation in excess of 500 million and is producing an equity prospectus or equivalent document, a prospectus or listing particulars in relation to a Depository Receipt or a document in rela- 	<p>As set out in FEES 3 Annex 7.</p> <p>20,000</p>	<p>Within 30 days of the date of the invoice.</p> <p>On or before the date that the relevant documentation is first submitted to the FCA.</p>

(1) Fee payer	(2) Fee payable	Due date
<p>tion to a <i>class 1 transaction</i>; or</p> <p>(ii) the <i>issuer</i> is producing a document for vetting in relation to a <i>reverse takeover</i>, a hostile takeover or a significant restructuring.</p> <p>A significant transaction does not include a super transaction.</p>		
<p>(w) A listed <i>issuer</i> that requests or whose representative requests the <i>FCA</i> to amend the <i>Official List</i>, or any records held by the <i>FCA</i> in relation to the <i>Official List</i>, otherwise than pursuant to an application for listing.</p>	<p>FEES 3 Annex 4 part 3</p>	<p>On or before the date the request is made.</p>
<p>(x)</p> <p>(i) An <i>issuer</i> or <i>person</i> who:</p> <p>(1) is a fee payer under one or more of the categories set out in (ii); and</p> <p>(2) requests the <i>FCA</i>'s approval or vetting of a document that includes a mineral expert's report.</p> <p>(ii) The categories are (1), (m) (q), and (v) of this table.</p>	<p>5,000</p>	<p>On or before the date the relevant documentation is first submitted to the <i>FCA</i>.</p>
<p>(iii) A fee under this category is payable in addition to any fee</p>		

(1) Fee payer	(2) Fee payable	Due date
<p>payable under the categories set out in (ii).</p> <p>(y) An applicant for authorisation as an <i>authorised payment institution</i> under regulation 5 of the <i>Payment Services Regulations</i></p>	<p>The highest of the tariffs set out in FEES 3 Annex 8 R which apply to that application.</p> <p>Where an application only involves a simple change of legal status as set out in FEES 3 Annex 1 R Part 6, the fee payable is 50% of the tariff that would otherwise be payable in FEES 3 Annex 8R</p>	<p>On or before the date the application is made.</p>
<p>(z) An application by a <i>small payment institution</i> for authorisation as an <i>authorised payment institution</i> because regulation 15 of the <i>Payment Services Regulations</i> applies</p>	<p>The highest of the tariffs set out in FEES 3 Annex 8R which apply to that application.</p>	<p>On or before the date the application is made.</p>
<p>(za) An applicant for registration as a <i>small payment institution</i> under regulation 12 of the <i>Payment Services Regulations</i></p>	<p>FEES 3 Annex 8R, paragraph (1). Where an application only involves a simple change of legal status as set out in FEES 3 Annex 1 R Part 6, the fee payable is 50% of the tariff that would otherwise be payable in FEES 3 Annex 8R.</p>	<p>On or before the date the application is made.</p>
<p>(zb) An <i>authorised payment institution</i> applying to vary its authorisation under regulation 8 of the <i>Payment Services Regulations</i>.</p>	<p>(1) If the <i>payment services</i> carried on by the <i>authorised payment institution</i> prior to the variation only fall within paragraph (f) or (g) of Part 1 of Schedule 1 to the <i>Payment Services Regulations</i> and any of the <i>payment</i></p>	<p>On or before the date the application is made.</p>

(1) Fee payer	(2) Fee payable	Due date
	<p><i>services</i> in paragraphs (a) to (e) of that Schedule will apply after variation, the fee is 50% of the highest of the tariffs set out in FEES 3 Annex 8R which apply to that application.</p> <p>(2) Where the <i>authorised payment institution</i>:</p> <p>(i) already has authorisation to provide <i>payment services</i> within any one or more of paragraphs (a) to (e) of Part 1 of Schedule 1 to the <i>Payment Services Regulations</i> and wishes to add one or more other services in (a) to (g); or</p> <p>(ii) has authorisation to provide <i>payment services</i> in either paragraph (f) or (g) of Part 1 of Schedule 1 to the <i>Payment Services Regulations</i> and wishes to extend its authorisation to include the other paragraph ((f) or (g));</p> <p>the fee payable is 250 irrespective of the number of <i>agents</i> it has.</p> <p>(3) In cases where the variation involves only the reduction (and no increases) of the types of <i>payment services</i> to be carried on after the variation, no fee is payable.</p>	

(1) Fee payer	(2) Fee payable	Due date
<p>(zc) A <i>small payment institution</i> applying to vary its registration under regulation 12 of the <i>Payment Services Regulations</i></p>	<p>(1) If the <i>payment services</i> carried on by the <i>small payment institution</i> prior to the variation only fall within paragraph (f) or (g) of Part 1 of Schedule 1 to the <i>Payment Services Regulations</i> and any of the <i>payment services</i> in paragraphs (a) to (e) of that Schedule will apply after variation, the fee is 50% of the highest of the tariffs set out in FEES 3 Annex 8R which apply to that application.</p> <p>(2) Where the <i>small payment institution</i>:</p> <p>(i) is already registered to provide <i>payment services</i> within any one or more of paragraphs (a) to (e) of Part 1 of Schedule 1 to the <i>Payment Services Regulations</i> and wishes to add one or more other of the services in (a) to (g); or</p> <p>(ii) is registered to provide <i>payment services</i> in either paragraph (f) or (g) of Part 1 of Schedule 1 to the <i>Payment Services Regulations</i> and wishes to extend its registration to include the other paragraph ((f) or (g)); the fee payable is 250 irrespective of the number of <i>agents</i> it has.</p>	<p>On or before the date the application is made.</p>

(1) Fee payer	(2) Fee payable	Due date
	(3) In cases where the variation involves only the reduction (and no increases) of the types of <i>payment services</i> to be carried on after the variation, no fee is payable.	
(zd) A financial institution notifying the <i>FCA</i> in accordance with regulation 121(2)(a) of the <i>Payment Services Regulations</i> .	50% of the highest of the tariffs set out in <i>FEES 3 Annex 8R</i> , paragraphs (2) to (5) which apply to that application.	On or before the date the application is made.
(ze) Any person to which the Special Project Fee for restructuring applies under <i>FEES 3 Annex 9</i> .	Special Project Fee for restructuring in accordance with <i>FEES 3 Annex 9</i> .	30 days of the date of the invoice.
(zf) [deleted]		
(zg) An applicant for authorisation as an <i>authorised electronic money institution</i> under regulation 5 of the <i>Electronic Money Regulations</i> .	The amount set out in <i>FEES 3 Annex 10 R</i> . Where an application only involves a simple change of legal status as set out in <i>FEES 3 Annex 1 R Part 6</i> , the fee payable is 50% of the tariff that would otherwise be payable in <i>FEES 3 Annex 10 R</i> .	On or before the date the application is made.
(zh) An applicant for registration as a <i>small electronic money institution</i> under regulation 12 of the <i>Electronic Money Regulations</i> .	The amount set out in <i>FEES 3 Annex 10 R</i> . Where an application only involves a simple change of legal status as set out in <i>FEES 3 Annex 1 R Part 6</i> , the fee payable is 50% of the tariff that would otherwise be payable in <i>FEES 3 Annex 10 R</i> .	On or before the date the application is made.
(zi) An application by a <i>small electronic money institution</i> for authorisation as an <i>authorised electronic money institu-</i>	The amount set out in <i>FEES 3 Annex 10 R</i> .	On or before the date the application is made.

(1) Fee payer	(2) Fee payable	Due date
<p><i>tion</i> because regulation 16 of the <i>Electronic Money Regulations</i> applies.</p>		
<p>(zj) An <i>authorised electronic money institution</i> applying to vary its authorisation under regulation 8 of the <i>Electronic Money Regulations</i>.</p>	<p>The amount set out in FEES 3 Annex 10 R.</p>	<p>On or before the date the application is made.</p>
<p>(zk) A <i>small electronic money institution</i> applying to vary its registration under regulation 12 of the <i>Electronic Money Regulations</i>.</p>	<p>The amount set out in FEES 3 Annex 10 R.</p>	<p>On or before the date the application is made.</p>
<p>(zl) An applicant for recognition as an <i>accredited body</i>.</p>	<p>2,500</p>	<p>On or before the date the application is made.</p>
<p>(zm) An <i>issuer</i> applying for registration of a <i>regulated covered bond</i>.</p>	<p>(1) Unless (2) applies, 45,000.</p>	<p>On or before the date the application is made.</p>
	<p>(2) In the case of a proposed <i>covered bond</i> or <i>programme</i> where the <i>assets</i> in the <i>asset pool</i> will consist primarily of UK residential mortgages, 25,000.</p>	
<p>(zn) An <i>issuer</i> who proposes to make a material change to the contractual terms of a <i>regulated covered bond</i> under RCB 3.5.4 D.</p>	<p>6,500</p>	<p>On or before the date the notification under RCB 3.5.4 D is made.</p>
<p>(zo) In the case of <i>persons</i> in respect of which the <i>FCA</i> has given notice of its intention to take, or appoint a competent person to take, any steps under CONRED 2.5.12R, either:</p>	<p>An amount equal to: (1) a sum determined by the number of hours, or part of an hour, taken by the <i>FCA</i> in relation to work</p>	<p>Within 30 days of the date of the invoice.</p>

(1) Fee payer	(2) Fee payable	Due date
<p>(i) a Firm (as defined in CONRED 2.1.1R(1); or</p> <p>(ii) a <i>person</i> falling within CONRED 2.1.2R(1).</p>	<p>conducted in taking steps under CONRED 2.5.12R recorded on the <i>FCA's</i> systems, multiplied by the rate in FEES 3 Annex 9 (11)R; or</p> <p>(2) any amount invoiced to the <i>FCA</i> by a competent person in relation to any work carried out by that competent person in connection with its appointment by the <i>FCA</i> under CONRED 2.5.12R.</p>	
<p>(zp) A <i>person</i> in respect of which the <i>appropriate regulator</i> has given notice of its intention to itself appoint a <i>skilled person</i> to provide it with a report pursuant to section 166(3)(b) of the <i>Act</i> and SUP 5.2.</p>	<p>Any amount invoiced to the <i>appropriate regulator</i> by a <i>skilled person</i> in relation to any work carried out by that <i>skilled person</i> in connection with its appointment by the <i>appropriate regulator</i> pursuant to section 166(3)(b) of the <i>Act</i>.</p>	<p>Within 30 days of the date of the invoice.</p>
<p>(zq) A <i>person</i> in respect of which the <i>appropriate regulator</i> has given notice of its intention to itself appoint a <i>skilled person</i> to collect or update information pursuant to section 166A(2)(b) of the <i>Act</i>.</p>	<p>Any amount invoiced to the <i>appropriate regulator</i> by a <i>skilled person</i> in relation to any work carried out by that <i>skilled person</i> in connection with its appointment by the <i>appropriate regulator</i> pursuant to section 166A(2)(b) of the <i>Act</i>.</p>	<p>Within 30 days of the date of the invoice.</p>

[Note: *Guidance* on how a *firm* liable to pay a fee under both rows (s) and (ze) of this table for the same transaction should expect to be treated is set out in ■ FEES 3 Annex 11 G.]

3.2.7A

R

Table Table of application, notification and vetting fees payable to the PRA

(1) Fee payer	(2) Fee payable	Due date
<p>(a) Any applicant for <i>Part 4A permission</i> (including an <i>incoming</i></p>	<p>(1) Unless (2) applies, in respect of a particular application, the highest</p>	<p>On or before the application is made</p>

<p><i>firm applying for top-up permission) which includes a PRA-regulated activity</i></p>	<p>of the tariffs set out in FEES 3 Annex 1 R part 1 which apply to that application.</p>	
	<p>(2) In respect of a particular application which is:</p>	
	<p>(i) a straightforward or moderately complex case for the purposes of FEES 3 Annex 1 R part 1, and</p>	
	<p>(ii) only involves a simple change of legal status as set out in FEES 3 Annex 1 R part 6, the fee payable is 50% of the tariff that would otherwise be payable in FEES 3 Annex 1 R part 1.</p>	
<p>(b) Any <i>Treaty firm</i> that wishes to exercise a <i>Treaty right</i> to qualify for <i>authorisation</i> under Schedule 4 to the <i>Act</i> (Treaty rights) in respect of <i>regulated activities</i> for which it does not have an <i>EEA right</i>, except for a <i>firm</i> providing <i>cross border services</i> only</p>	<p>(1) Where no certificate has been issued under paragraph 3(4) of Schedule 4 to the <i>Act</i> the fee payable is, in respect of a particular exercise, set out in FEES 3 Annex 1 R, part 4. (2) Where a certificate in (1) has been issued no fee is payable.</p>	<p>On or before the notice of exercise is given</p>
<p>(c) A <i>firm</i> applying for a variation of its <i>Part 4A permission</i> or an <i>FCA-authorised person</i> applying to carry on a <i>PRA-regulated activity</i></p>	<p>(1) Unless (2) or (3) applies, if the proposed new business of the <i>firm</i> would fall within one or more activity groups specified in Part 1 of FEES 4 Annex 1A R or Part 1 of FEES 4 Annex 1B R not applicable before the application, the fee is 50% of the highest of the tariffs set out in</p>	<p>On or before the date the application is made</p>

FEES 3 Annex 1 R which apply to that application.

(2) If the only change is that the A.12 activity group tariff applied to the *firm's* business before the variation and the A.13 activity group will apply after variation, no fee is payable.

(3) If the *firm* is in the A.1 fee-block at the date of the application and the variation involves adding any of the *regulated activities of meeting of repayment claims or managing dormant account funds (including the investment of such funds)*, the fee is 50% of the fee in **FEES 3 Annex 1 R that applies to that application.**

(4) In all other cases, other than applications by *credit unions*, the fee payable is 125, unless the variation involves only the reduction (and no other increases) in the scope of a *Part 4A permission* in which case no fee is payable.

(d) Any *person* to which the Special Project Fee for restructuring applies under **FEES 3 Annex 9.** Special Project Fee for restructuring in accordance with **FEES 3 Annex 9**. 30 days of the date of the invoice.

(e) In the case of an *insurance business transfer scheme*, a transferor. Either (1) or (2) as set out below: On or before any application is made to the *PRA* for the appointment of a person as an *independent expert*.
Note - for the purpose of this paragraph an *insurance scheme* involving long

<p><i>ance business transfer scheme</i> consists of a single transferor and a single transferee.</p>	<p><i>term insurance business</i>, 9,250 is payable to the <i>PRA</i>; or</p>	
<p>Where however such a scheme is part of a single larger scheme, that larger scheme is treated as a single <i>insurance business transfer scheme</i>. If an <i>insurance business transfer scheme</i> includes more than one transferor in accordance with this paragraph, the transferors are liable to pay the fee under column (2) jointly.</p>	<p>(2) in the case of an <i>insurance business transfer scheme</i> not involving <i>long term insurance business</i>, 5,000 is payable to the <i>PRA</i>.</p>	
<p>(f) Either:</p>	<p>The amount payable to the <i>PRA</i> above is collected by the <i>FCA</i> as agent of the <i>PRA</i>.</p>	
<p>(i) a <i>firm</i> applying to the <i>appropriate regulator</i> for permission to use one of the <i>advanced prudential calculation approaches</i> listed in FEES 3 Annex 6 R (or guidance on its availability), including any future proposed amendments to those approaches or (in the case of any application being made for such permission to the <i>appropriate regulator</i> as <i>EEA</i> consolidated supervisor under the <i>Capital Requirements Regulations 2006</i>) any <i>firm</i> making such an application; or</p>	<p>(a) Unless (2) applies, FEES 3 Annex 6 R. (2) (a) Unless (b) applies a <i>firm</i> submitting a second application for the permission or <i>guidance</i> described in column (1) within 12 months of the first application (where the fee was paid in accordance with (1)) must pay 50% of the fee applicable to it under FEES 3 Annex 6 R, but only in respect of that second application.</p>	<p>Where the <i>firm</i> has made an application directly to the <i>appropriate regulator</i>, on or before the date the application is made, otherwise within 30 days after the <i>appropriate regulator</i> notifies the firm that its <i>EEA</i> parent's <i>Home State regulator</i> has requested assistance.</p>
<p>(ii) in the case of an application to a <i>Home State regulator</i> other than the <i>appropriate</i></p>	<p>(b) No fee is payable by a <i>firm</i> in relation to a successful application for a permission based on a minded to grant decision in respect of the same matter following a complete application for <i>guidance</i> in accordance with prescribed submission requirements.</p>	

<p><i>regulator</i> for the use of the Internal Ratings Based approach and the <i>Home State regulator</i> requesting the <i>appropriate regulator's</i> assistance in accordance with the <i>Capital Requirements Regulations 2006</i>, any firm to which the <i>appropriate regulator</i> would have to apply any decision to permit the use of that approach.</p>	<p>(c) No fee is payable where the <i>Home State regulator</i> has requested the assistance described in paragraph (o)(ii) of column 1 except in the cases specified in FEES 3 Annex 6 R.</p>	
<p>(g) An applicant for a <i>ceding insurer's waiver</i>.</p>	<p>20,000</p>	<p>On or before the date the application is made.</p>
<p>(h) A <i>person</i> in respect of which the <i>appropriate regulator</i> has given notice of its intention to itself appoint a <i>skilled person</i> to provide it with a report pursuant to section 166(3)(b) of the <i>Act</i> and SUP 5.2.</p>	<p>Any amount invoiced to the <i>appropriate regulator</i> by a <i>skilled person</i> in relation to any work carried out by that <i>skilled person</i> in connection with its appointment by the <i>appropriate regulator</i> pursuant to section 166(3)(b) of the <i>Act</i>.</p>	<p>Within 30 <i>days</i> of the date of the invoice.</p>
<p>(i) A <i>person</i> in respect of which the <i>appropriate regulator</i> has given notice of its intention to itself appoint a <i>skilled person</i> to collect or update information pursuant to section 166A(2)(b) of the <i>Act</i>.</p>	<p>Any amount invoiced to the <i>appropriate regulator</i> by a <i>skilled person</i> in relation to any work carried out by that <i>skilled person</i> in connection with its appointment by the <i>appropriate regulator</i> pursuant to section 166A(2)(b) of the <i>Act</i>.</p>	<p>Within 30 <i>days</i> of the date of the invoice.</p>

Authorisation fees payable

FCA PRA

Part 1 - Authorisation fees payable

For *PRA-authorized persons* and *persons* seeking to become *PRA-authorized persons*, the amount payable to the *PRA* is 50% of the amount payable under Part 1 and the amount payable to the *FCA* is 50% of the amount payable under Part 1. The amount payable to the *PRA* above is collected by the *FCA* as agent of the *PRA*.

For *FCA-authorized persons* and *persons* seeking to become *FCA-authorized persons*, the amount payable to the *FCA* is the amount payable under Part 1, No amount is payable to the *PRA*.

Application type (see Part 2)	Amount payable
(a) <i>Credit unions</i> - registration of common bond	200
(b) <i>Version 1 credit unions</i> - authorisation	300
(c) <i>Version 2 credit unions</i> - authorisation	1,800
(d) Straightforward	1,500 (unless otherwise specified in Part 2)
(e) Moderately complex	5,000 (unless otherwise specified in Part 2)
(f) Complex	25,000

Part 2 - Complexity Groupings Straightforward Cases

Straightforward cases	
Activity grouping	Description
A.3	<i>Friendly societies only</i>
A.4	<i>Friendly societies only</i>
A.10	<i>A firm to the extent it is bidding in emissions auctions</i>
A.12	<i>Advisory arrangers, dealers or brokers (holding or controlling client money and/or assets)</i>
A.13	<i>Advisory only firms and advisory arrangers, dealers or brokers (not holding or controlling client money and/or assets)</i>
A.14	<i>Corporate finance advisers</i>
A.18	<i>Home finance providers , advisers and arrangers (excluding home finance providers).</i>

3

Straightforward cases

Activity grouping

Description

A.19 **General insurance mediation**

Moderately Complex Cases

Moderately complex cases

Activity grouping

Description

[deleted]

[deleted]

A.2

Home finance providers and administrators .

A.3

UK ISPVs

[deleted]

[deleted]

A.5

Managing agents at Lloyd's

A.7

Fund managers

A.9

Operators, trustees and depositaries of collective investment schemes, operators of personal pension schemes and operators of stakeholder pension schemes

A.10

Firms dealing as principal, except to the extent the firm is bidding in emissions auctions

B.

Service companies

Complex Cases R

Complex cases

Activity grouping

Description

A.1

Deposit acceptors (excluding e-money issuers and credit unions) and dormant account fund operators

A.3

Insurers - general (excluding friendly societies and UK ISPVs)

A.4

Insurers - life (excluding friendly societies)

B

MTF operators

Part 4 - Authorisation Fees for Treaty Firms R

If the *Treaty firm* wishes to undertake the permitted activities in question through its branch in the *United Kingdom*, the fee is 50% of the fee that would be payable under **FEES 3.2.7 R** and/or **FEES 3.2.7A R** for an applicant for *Part 4A permission*.

If the *Treaty firm* wishes to undertake the permitted activities in question by providing services in the *United Kingdom*, the fee is 25% of the fee which would be payable under FEES 3.2.7 R and/or FEES 3.2.7A R for an applicant for *Part 4A permission*.

Part 5 - Activity Groupings R

The activity group definitions are set out in FEES 4 Annex 1A R and FEES 4 Annex 1B R.

Part 6 - Change of legal status

An application involving only a simple change of legal status for the purposes of FEES 3.2.7 R, FEES 3.2.7A R (a), FEES 3.2.7R (y) , FEES 3.2.7R (za), FEES 3.2.7 R (zg) and FEES 3.2.7 R (zh) is from an applicant:

(1) which is a new legal entity intending to carry on the business, using the same business plan, of an existing *firm* with no outstanding regulatory obligations cancelling its *Part 4A permission* or authorisation or registration under the *Payment Services Regulations* or the *Electronic Money Regulations*, and

(2) which is to:

- (a) have the same or narrower *permission*, scope of authorisation or registration under the *Payment Services Regulations* or *Electronic Money Regulations* and the same *branches* (if any), as the *firm*;
- (b) assume all of the rights and obligations in connection with any of the *regulated activities*, *payment services* and *electronic money* issuance carried on by the *firm*;
- (c) continue the same compliance arrangements and compliant client asset and *client money* procedures, as the *firm*, subject to any changes required only as a result of the change of legal status;
- (d) continue with a risk profile and arrangements for controlling and monitoring risk which will not be materially different from those of the *firm*; and
- (e) have the individuals within the *firm* that are responsible for *insurance mediation activity* perform the same role for the applicant.

Part 7 - Change of legal status - sponsors fees

An application involving only a simple change of legal status for the purposes of FEES 3.2.7 R(j) is from an applicant:

(1) which is a new legal entity intending to carry on the business of an existing *sponsor* (as defined in the *listing rules*) in respect of which the *FCA* does not currently require, and is not proposing to require, remedial action relating to any aspect of its provision of *sponsor services*); and

(2) which (subject to any changes required only as a result of the change in legal status) is to:

- (a) assume all of the rights and obligations in connection with any of the *sponsor activities* of the existing *sponsor* under the *listing rules*;
- (b) make no changes to the systems and controls of the existing *sponsor* which ensure that the existing *sponsor* can carry out its role as *sponsor* in accordance with LR 8 (Sponsors: Premium listing);

- (c) have the individuals within the existing *sponsor* that are engaged in the provision of *sponsor services* engaged in the same role for the applicant; and**
- (d) otherwise continue to comply in all respects with the criteria for approval as a *sponsor* set out in LR 8.6.5 R.**

Application and notification fees payable in relation to collective investment schemes

FCA

Legislative provision	Nature and purpose of fee	Payable by	Amount of fee	Umbrella factor (note 1)
Part 1 [deleted]				
[deleted]	[deleted]	[deleted]	[deleted]	[deleted]
[deleted]	[deleted]	[deleted]	[deleted]	[deleted]
[deleted]	[deleted]	[deleted]	[deleted]	[deleted]
Part 2 Application fees payable for firms to be subject to <i>COLL</i>				
Regulation 12 of the <i>OEIC Regulations</i>	On application for an order declaring a <i>scheme</i> to be an <i>ICVC</i>, where the <i>scheme</i> is:	An applicant		2
	<i>UCITS scheme</i>		1,200	
	<i>Non-UCITS retail scheme</i>		1,500	
	<i>Qualified investor scheme</i>		2,400	
Section 242 of the <i>Act</i>	On application for an order declaring a <i>scheme</i> to be an <i>AUT</i>, where the <i>scheme</i> is:	An applicant		2
	<i>UCITS scheme</i>		1,200	
	<i>Non-UCITS retail scheme</i>		1,500	
	<i>Qualified investor scheme</i>		2,400	
Section 272 of the <i>Act</i>	On application for an order declaring a <i>scheme</i> to be an individually recognised overseas <i>scheme</i>	An applicant	14,000	2
Part 3 (notifications)				
Section 264 of the <i>Act</i>	On giving notice under section 264 of the <i>Act</i>	The operator	600	2
Section 270 of the <i>Act</i>	On giving notice under section 270 of the <i>Act</i>	The operator	600	2

Notes:

.1 For an *umbrella* the fee is multiplied by the factor shown in the final column of the table.

Application fees payable in connection with Recognised Investment Exchanges, Recognised Auction Platforms, and Benchmark Administrators

FCA

Description of applicant	Amount payable	Due date
Part 1 (UK recognised bodies)		
Applicant for recognition as a <i>UK RIE</i>	100,000	Date the application is made
Applicant for recognition as an <i>RAP</i> (payable in addition to any other application fee due under this part)	35,000	Date the application is made
Any applicant for: (i) a <i>Part 4A permission</i> to carry out the <i>regulated activity of administering a specified benchmark</i> ; or (ii) varying its <i>Part 4A permission</i> to carry out the <i>regulated activity of administering a specified benchmark</i>	£25,000	Date the application is made
Additional fees for a <i>UK RIE</i> applicant who proposes to:		
- offer safeguarding and administration services	25,000	Date the application is made
- use substantially new and untested information technology systems in the performance of its relevant functions	25,000	Date the application is made
Part 2 (<i>ROIEs</i>)		
Applicant for recognition as a recognised overseas investment exchange	50,000	Date the application is made
Additional fees for applicant who proposes to:		
- offer safeguarding and administration services	25,000	Date the application is made

Application and administration fees in relation to listing rules

FCA

Part 1

Fee type	Fee amount
Application Fees	
Application for <i>listing</i>	225 plus 100 per each additional issue of securities with its own International Securities Identification Number unless the fee in Categories 6 or 8 of FEES 3 Annex 5 R Part 2 applies.

Part 2

Sponsor Application Fees	
Fee type	Fee amount
Application for approval as <i>sponsor</i>	15,000
Application for approval as <i>sponsor</i> following change of legal status in accordance with FEES 3 Annex 1, Part 7	5,000

Part 3

Fee type	Fee amount
Administration fee where the <i>FCA</i> makes amendments to the <i>Official List</i> , or any records held by the <i>FCA</i> in relation to the <i>Official List</i> , as a result of a request made by a listed <i>issuer</i> or its representative.	225 plus, if the request relates to more than one issue of securities, 100 per each additional issue of securities (with its own International Securities Identification Number).

Document vetting and approval fees in relation to listing and prospectus rules

FCA

Part 1

Fee type	Fee amount
Transaction vetting fees	
Transaction vetting fees relate to specific events or transactions that an <i>issuer</i> might be involved in during the year.	
Eligibility	New applicants for:
	<i>standard listings</i> and, in respect of <i>companies</i> which satisfy the requirements of LR 6.1.1A R , <i>premium listings</i> ;
	<i>premium listings</i> in respect of <i>companies</i> which do not meet the requirements of LR 6.1.1A R
Category 1	<i>Class 1 transactions</i> 6,270
Category 2	<i>Listing particulars for issuers of specialist securities (excluding Depository Receipts)</i> 2,750
Category 3	<i>All other vetting only transactions</i> 2,750
Category 4	<i>Supplementary listing particulars</i> 550
Note: The <i>standard listing</i> eligibility fee applies to all <i>standard listings</i> including Depository Receipts and new <i>issuers</i> of debt securities as well as <i>shares</i> .	

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 1	Equity <i>prospectus</i> or <i>listing particulars</i>	6,270
	<i>Equivalent document</i> referred to in PR 1.2.2R(2) or (3) or PR 1.2.3R(3) or (4)	
	Depository Receipt <i>prospectus</i> or <i>listing particulars</i>, or	
	<i>convertible securities</i> or <i>asset backed security prospectus</i> or <i>listing particulars</i>	
Category 2	Equity <i>registration document</i>	3,520
Category 3	Equity <i>securities note</i> and <i>summary</i>	2,750
	Summary document referred to in PR 1.2.3R(8)	
Category 4	Non-equity <i>prospectus</i> or <i>base prospectus</i>	2,750
	<i>Equivalent document</i> referred to in PR 1.2.2R(2) or (3) or PR 1.2.3R(3) or (4)	
Category 5	Non-equity <i>registration document</i>	1,925
Category 6	Non-equity <i>securities note</i> and <i>summary</i>	825
	Summary document referred to in PR 1.2.3R(8)	
Category 7	<i>Supplementary prospectus</i> and any details produced in a document in relation to LR 16.3.6 R.	550
Category 8	Final Terms	25

For the purposes of categories 1-3 of this fee schedule, equity does not include convertible securities or depository receipts. These are treated as non-equity.

Where a fee in category 6 or 8 of this fee schedule is payable, the listing application fee under ■ FEES 3 Annex 4 R Part 1 does not apply.

Fees from other fee schedules contained in other sections of the sourcebook may be applicable to a single submission.

Certain transactions may come within the category of super or significant transactions and thus attract a higher fee, as set out in ■ FEES 3.2.7 R(q) and ■ FEES 3.2.7 R(v) .

Fees payable for a permission or guidance on its availability in connection with the Basel Capital Accord

FCA PRA

Part 1

Fees payable other than in relation to the counterparty credit risk internal model method.

(1) Paragraphs (2) and (3) deal with an application made to the *appropriate regulator* rather than a request for assistance under the *Capital Requirements Regulations 2006*.

(2) For *firms* falling into a group (Group 1) in which there are five or more significant overseas entities to which the application relates and the application is for permission to use one of the *advanced prudential calculation approaches* listed in Tables 1 or 2 or *guidance* on the availability of such a permission the fees in Table 1 are applicable.

(3) For all other *firms* the fees in Table 2 are applicable.

(4) Where a request for assistance regarding an Advanced or Foundation IRB application under the *Capital Requirements Regulations 2006* has been made to the *appropriate regulator* as detailed in FEES 3.2.7 R (o) or FEES 3.2.7A R (f), the fees in Table 1 and Table 2 are applicable if any *firm* referred to in FEES 3.2.7 R (o)(ii) and FEES 3.2.7A R (f)(ii) meets the following conditions :

(i) it is a *UK domestic firm* and has permission to accept deposits; and

(ii) the *firm* does not fall within Group 4 as defined in Table 2.

(5) If however the application or request is in relation to the use of the *advanced IRB approach* and the *appropriate regulator* (in the case of (2) or (3)) or the relevant *Home State* regulator (in the case of (4)) has already granted permission for the use of the *foundation IRB approach* at the time of the application then Table 3 applies.

Table 1

Application group	Description of group	Application fee		
		Advanced IRB ('000)	Foundation IRB ('000)	AMA ('000)
Group 1	Five or more significant overseas entities as described in more detail in the definition of	268	232	181

Application group	Description of group	Application fee		
		Advanced IRB ('000)	Foundation IRB ('000)	AMA ('000)

Group 1 in the introduction to Part 1 of this Annex

Table 2

Application group	Description of group		Application fee		
	Modified eligible liabilities (m)	Number of traders as at the 31 December prior to the <i>appropriate regulator fee year</i> in which the fee is payable	Advanced IRB ('000)	Foundation IRB ('000)	AMA ('000)
Group 2	>40,000	>200	232	198	146
Group 3	>5,000 - 40,000	26 - 200	94	72	51
Group 4	0 - 5,000	0 - 25	42	30	24

(1) [Deleted]

(2) For the purposes of Table 2, a *firm's* A.1 or A10 tariff data for the relevant period will be used to provide the value of modified eligible liabilities or number of traders.

Table 3 (Advanced IRB approach where the appropriate regulator or Home State regulator has already given permission to use the foundation IRB approach)

Application group	Advanced IRB Application fee ()
Group 1	67,000
Group 2	58,000
Group 3	23,500
Group 4	10,500

The four application groups have the same meaning as they do in Tables 1 and 2.

Part 2

Fees payable in relation to the counterparty credit risk internal model method.

54,000

Fees where changes are made to firms transaction reporting systems and the FCA is asked to check that these systems remain compatible with FCA systems

FCA

Hourly rate ()	Method of calculating fee
68.09	<p>The fee is calculated as follows:</p> <p>(1) Determine the number of hours, or part of an hour, taken by the <i>FCA</i> (or any <i>person</i> acting on behalf of the <i>FCA</i>) to test the fee payers transaction reporting systems for compatibility with the relevant <i>FCA</i> systems.</p> <p>2) Then multiply the figure in the first column by the number of hours or part hours obtained under (1). The resulting figure is the fee.</p> <p>(3) The number of hours or part hours referred to in (1) shall be the number of hours or part hours as recorded on the <i>FCA</i>'s systems.</p>

Fees payable for authorisation as an authorised payment institution or registration as a small payment institution, including notification fees, in accordance with the Payment Services Regulations

FCA

Authorisation and registration fees payable

Application type for authorisation , registration and notification under Part 2 of the <i>Payment Services Regulations</i>	Amount payable
(1) <i>small payment institution</i>	500
(2) <i>authorised payment institution</i> - where the applicant is applying for authorisation to provide <i>payment services</i> in paragraph(s) (f) (money remittance) and/or (g) (consent given by electronic device) of Part 1 of Schedule 1 to the <i>Payment Services Regulations</i>	1,500
(3) <i>authorised payment institution</i> - where the applicant is applying for authorisation to provide <i>payment services</i> in any one or more of paragraph(s):	5,000
(a) (cash placed on payment account);	
(b) (cash withdrawals enabled);	
(c) (execution of direct debts, etc);	
(d) (execution of direct debits, etc where credit line available);	
(e) (issuing payments and transactions)	
of Part 1 of Schedule 1 to the <i>Payment Services Regulations</i>.	
(4) <i>authorised payment institution</i> - where, at the time the application is made, the applicant intends to use <i>agents</i>	3 for each agent registered with the <i>FCA</i> at the time of application.
	This fee is in addition to any fee due under paragraph (2) or (3) of this table.

Application type for authorisation , registration and notification under Part 2 of the *Payment Services Regulations*

Amount payable

(5) authorised payment institution - where, during the course of the FCA financial year (12 months ending 31 March), the firm notifies the FCA of any changes to the list of agents it has registered since authorisation

3 for each change notified to the FCA during the FCA financial year.

No fee is due under paragraph (5) if the total number of notifications to the FCA during the FCA financial year numbers 100 or less.

Special Project Fee for restructuring

FCA PRA

- (1) R The Special Project Fee for restructuring (the SPFR) is only payable by a *person* in one of the following categories:
- (a) if it is in any of the A fee-blocks (as defined in Part 1 of FEES 4 Annex 1A R in respect of the *FCA* and Part 1 of FEES 4 Annex 1B R in respect of the *PRA*); or
 - (b) if it is in fee-block G.3 (as defined in FEES 4 Annex 11 R); or
 - (c) if it is a *recognised investment exchange*; or
 - (d) [deleted]
 - (e) if it is in any of the B fee-blocks (as defined in Part 1 of FEES 4 Annex 1A R and FEES 4 Annex 1B R).
- (2) R 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 under (2) if 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 *appropriate regulator fee year* 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 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 *in-*

- solvency 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 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.
- (7A)R The *FCA* and the *PRA* will levy separate SPFRs. The use of the term "*appropriate regulator*" in FEES 3 Annex 9R refers to the regulator levying the SPFR.
- (8) R No SPFR is payable to an *appropriate regulator*:
- (a) if the amount calculated in accordance with (9) in relation to the regulatory work conducted by the *appropriate regulator* totals less than 50,000; or
- (b) for time spent giving *guidance* to the *person* in relation to the same matter if the *appropriate regulator* has charged that *person* for that *guidance*.
- (9) R The SPFR for the *appropriate regulator* is calculated as follows:
- (a) Determine the number of hours, or part of an hour, taken by the *appropriate regulator*, or, if applicable, both the *FCA* and *PRA* 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 *appropriate regulator* by any *person* in respect of services performed by that *person* for the *appropriate regulator* in relation to assisting the *appropriate regulator* 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 *appropriate regulator'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 *appropriate regulator* and the second column sets out the hourly rates chargeable in respect of those pay grades.
- (11) R Table of *FCA* hourly rates:
- | FCA pay grade | Hourly rate () |
|--------------------|-----------------|
| Administra-
tor | 30 |

Associate	55
Technical Specialist	100
Manager	110
Any other person employed by the <i>FCA</i>	160

(11)AR Table of *PRA* hourly rates:

PRA pay grade	Hourly rate (£)
Administrator	30
Associate	55
Technical Specialist	100
Manager	110
Any other person employed by the <i>PRA</i>	160

(12) G The obligation to pay the SPFR is ongoing. Accordingly, there is no limitation on the number of times that the *appropriate regulator* may invoice a *person* for the SPFR in relation to the same events or circumstances referred to in (2) or (6). If the *appropriate regulator* 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 *appropriate regulator* 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.

Fees payable for authorisation as an authorised electronic money institution or registration as a small electronic money institution or variation thereof , including notification fees, in accordance with the Electronic Money Regulations

FCA PRA

Authorisation, registration and variation fees payable

Application type for authorisation, registration , variation or notification under Part 2 of the <i>Electronic Money Regulations</i>	Amount payable
(1) <i>small electronic money institution</i>	1,000
(2) <i>authorised electronic money institution</i>	5,000
(3) <i>electronic money institution</i> - where, at the time the application is made, the applicant intends to use <i>agents</i>	3 for each <i>agent</i> registered with the <i>FCA</i> at the time of application. This fee is in addition to any fees due under paragraph (1) or (2) of this table.
(4) <i>electronic money institution</i> - where, during the course of the <i>FCA</i> financial year (12 months ending 31 March), the <i>firm</i> notifies the <i>FCA</i> of any changes to the list of <i>agents</i> it has registered since its authorisation	3 for each change notified to the <i>FCA</i> during the <i>FCA</i> financial year. No fee is due under paragraph (4) if the total number of notifications to the <i>FCA</i> during the <i>FCA</i> financial year numbers 100 or less.

Guidance on fees due under FEES 3.2.7R and FEES 3.2.7AR

FCA **PRA**

The following table sets out *guidance* on how a *firm* liable to pay a fee under both ■ FEES 3.2.7 R (s) and ■ FEES 3.2.7 R (ze) in respect of fees payable to the *FCA* and ■ FEES 3.2.7AR(e) and ■ FEES 3.2.7AR(d) in respect of fees payable to the *PRA* for the same transaction should expect to be treated.

Firms liable under both FEES 3.2.7R(s) and FEES 3.2.7R(ze) in respect of fees payable to the FCA and FEES 3.2.7AR(e) and FEES 3.2.7AR(d) in respect of fees payable to the PRA

- (1) The transferor in *insurance business transfer schemes* is liable to pay the fee set out in FEES 3.2.7 R (s) and/or FEES 3.2.7AR(e) . However, it may also be liable to pay the Special Project Fee for restructuring set out in FEES 3.2.7 R (ze) and/or FEES 3.2.7AR(d), calculated in accordance with FEES 3 Annex 9. It is possible then for a *firm* to have to pay two types of fees in respect of the same *insurance business transfer scheme*.
- (2) Where the situation described in (1) arises, the *appropriate regulator* will consider whether to reduce or remit a fee under FEES 2.3 (Relieving Provisions).

Chapter 4

Periodic fees

4.1 Introduction

Application

4.1.1

R

This chapter applies to every *person* set out in ■ FEES 1.1.2 R (2).

FCA PRA

4.1.1A

R

A reference to *firm* in this chapter includes a reference to a *fee-paying payment service provider* and a *fee-paying electronic money issuer*.

FCA

Purpose

4.1.2

G

The purpose of this chapter is to set out the requirements on *firms* and others to pay periodic fees and transaction reporting fees in certain circumstances.

FCA PRA

Background

4.1.3

G

Most of the detail of the periodic fees that are payable by *firms* is set out in ■ FEES 4 Annexes 1A to 11. ■ FEES 4 Annex 12 G provides guidance on the calculation of certain tariffs. Most of the provisions of the Annexes will vary from one *fee year* to another. Accordingly fresh ■ FEES 4 Annexes will come into force, following consultation, for each *fee year*.

FCA PRA

[Note: References to the fee period 1 April 2012 to 31 March 2013 have been updated to 1 April 2013 to 31 March 2014 in respect of the *FCA* and 1 April 2013 to 28 February 2014 in respect of the *PRA* to put into effect the rule changes contained in the Legal Cutover (Fees) Instrument 2013 only. The tariff rates set out in the *FEES 4* Annexes have not yet been updated for the 2013/2014 *fee year*. The rates for the 2013/2014 *fee year* will be made by the *FCA* and *PRA* boards in June, following a consultation on a separate fees rates instrument expected to be published in March 2013.]

4.1.4

G

- (1) The periodic fees for *collective investment schemes* reflect the estimated costs to the *FCA* of considering proposals to change *regulated collective investment schemes*, maintaining up to date records about them, and related policy work.
- (2) [deleted]
- (3) The periodic fees for *fee-paying payment service providers*, *fee-paying electronic money issuers* and *issuers of regulated covered bonds* are set out in ■ FEES 4 Annex 11 R. This annex sets out the activity groups, tariff base, valuation dates and, where applicable, the flat fees due for these *firms*.

FCA

4.1.5 G The *Society of Lloyd's*, which has *permission* , has its own fee block.

FCA PRA

4.1.6 G [deleted]

4.1.7 G In the case of periodic fees for *firms*, fees are calculated individually for each *firm*, but they may be paid on a *group* basis, if the *group* so wishes.

FCA PRA

4.2 Obligation to pay periodic fees

General

4.2.1

FCA PRA

R

A *person* shown in column (1) of the table in ■ FEES 4.2.11 R and, if applicable, ■ FEES 4.2.11AR as the relevant fee payer must pay each periodic fee applicable to it, calculated in accordance with the provisions referred to in column (2) of the applicable table, as adjusted by any relevant provision in this chapter:

- (1) in full and without deduction (unless permitted or required by a provision in *FEES*); and
- (2) on or before the date given in column (3) of that table, unless ■ FEES 4.2.10 R applies.

4.2.2

FCA PRA

G

- (1) A relevant fee payer will be required to pay a periodic fee for every year during which they have the status in column 1 of the table in ■ FEES 4.2.11 R and/or ■ FEES 4.2.11AR (or in relation to collective investment schemes, for every year during which it is a regulated collective investment scheme) subject to any reductions or exemptions applicable under this chapter. If a *person* is the relevant fee payer for more than one status listed in column 1 of the table in ■ FEES 4.2.11 R and/or ■ FEES 4.2.11AR (or in relation to collective investment schemes, the relevant fee payer for more than one regulated collective investment scheme) he will be required to pay a fee in relation to each.

- (2) [deleted]

4.2.2A

FCA

G

A *recognised body* may also have obligations to pay fees to the *FCA* under other *rules* arising from legislation other than the *Act*. For example a *recognised body* may have an obligation to pay a fee as an approved operator of a relevant system under the Uncertificated Securities Regulations 1995 (SI 1995/3272).

4.2.3

FCA PRA

G

The *FCA* will issue invoices in respect of the *FCA* and *PRA* to *firms* and other fee payers and expects to do so at least 30 *days* before the dates on which payments fall due under ■ FEES 4.2.1 R.

Method of payment

4.2.4

FCA PRA

R

A periodic fee must be paid using either direct debit, credit transfer (BACS/CHAPS), cheque, Maestro or by credit card (Visa/Mastercard only). Any payment by permitted credit card must include an additional 2% of the sum paid.[deleted]

4.2.4A

FCA

R

The FCA does not specify a method of payment for a *recognised body* or a *designated professional body*.

4.2.5

FCA

G

The FCA expects a *recognised body* or a *designated professional body* will generally pay their respective fees by electronic credit transfer.

Modifications for persons becoming subject to periodic fees during the course of a fee year

4.2.6

FCA PRA

R

- (1) Unless (2) applies, if the event, as described in column 4 of the table in ■ FEES 4.2.11 R and/or ■ FEES 4.2.11AR, giving rise to, or giving rise to an increase in, the fee payable in ■ FEES 4.2.1 R, occurs on or after 1 July of the relevant *fee year*, the periodic fee required under ■ FEES 4.2.1 R is modified for:
 - (a) *firms* (other than *ICVCs* and *UCITS qualifiers*) in accordance with ■ FEES 4.2.7 R and ■ FEES 4.2.8 R;
 - (b) for all other fee payers in column (1) of the table in ■ FEES 4.2.11 R or ■ FEES 4.2.11A R , in accordance with the table below.

Period in which event (in column 4 of the table in FEES 4.2.11 R or FEES 4.2.11AR) occurs	Proportion of periodic fee payable
---	------------------------------------

Fees payable to the FCA	
1 April to 30 June inclusive	100%
1 July to 30 September inclusive	75%
1 October to 31 December inclusive	50%
1 January to 31 March inclusive	25%
Fees payable to the PRA for <i>fee year</i> 2013/14	
1 April to 30 June inclusive	100%
1 July to 30 September inclusive	75%
1 October to 31 December inclusive	50%
1 January to 28 February inclusive	25%

- (2) For *recognised bodies*, if the recognition order is made during the course of the relevant *fee year* , the periodic fee required is set out in Column (4) of the table in ■ FEES 4.2.11 R.

4.2.7

FCA PRA

R

A *firm* (other than an *ICVC* or *UCITS qualifier*) which becomes authorised or registered, or whose *permission* and/or *payment service* activities are extended, during the course of the *fee year* must pay a fee which is calculated by:

- (1) identifying each of the tariffs set out in Part 1 of
 - FEES 4 Annex 2AR, Part 1 of ■ FEES 4 Annex 2BR and/or Part 1 of ■ FEES 4 Annex 11 R as appropriate for the relevant *fee year* that apply to the *firm* only after the *permission* is received or extended or *payment service* activities are authorised or registered or extended or *electronic money* issuance activities are authorised or registered under the *Electronic Money Regulations*, but ignoring:
 - (a) the A.13 activity group if, before the variation, the A.12 activity group applied to the *firm's* business; or
 - (b) the A.12 activity group if, before the variation, the A.13 activity group applied to the *firm's* business;
- (2) calculating the amount for each of the applicable tariffs which is the higher of:
 - (a) any applicable minimum fee specified in relation a particular tariff in ■ FEES 4 Annex 2AR or ■ FEES 4 Annex 2BR (but note, for the avoidance of doubt, that these are not the A.0 or PA.0 minimum fees set out under Part 2 of ■ FEES 4 Annex 2AR and Part 2 of ■ FEES 4 Annex 2BR); and
 - (b) the result of applying the tariff to the projected valuation, for its first year (as provided in the course of the *firm's* application), of the business to which the tariff relates;
- (3) adding together the amounts calculated under (2) in relation to fees payable to the *FCA* and, if applicable, separately adding together the amounts calculated under (2) in relation to the fees payable to the *PRA*;;
- (4) working out whether an A.0 or a PA.0 minimum fee is payable under Part 2 of ■ FEES 4 Annex 2AR or Part 2 of ■ FEES 4 Annex 2BR (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);
- (4A) working out whether an AP.0 *FCA* prudential fee is payable under Part 2 of ■ FEES 4 Annex 2AR and if so how much;
- (4B) working out whether a PT.1 *PRA* transitional fee is payable under Part 2 of ■ FEES 4 Annex 2BR and if so how much;

- (5) adding together the amounts calculated under (3) , (4) and (4A) that relate to fees payable to the *FCA* and then adding this sum to any applicable flat rate fee, and, if applicable, separately adding together the amounts calculated under (3), (4) and (4B) that relate to fees payable to the *PRA* and then adding this sum to any applicable flat rate fee; and
- (6) modifying the result for the *FCA* and, if applicable, the *PRA* as indicated by the table in ■ FEES 4.2.6 R(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 *fee year* and ■ FEES 4.2.6 R does not apply).

4.2.7A

FCA PRA

G

Projected valuations for a *firm's* first year will be collected for the 12 month period beginning with the date a *firm* becomes authorised or registered , or the date its *permission* and/or *payment service* activities are extended. That information will be used to calculate the periodic fee for the remainder of the *fee year* in which the *firm* was authorised or registered or its *permission* and/or *payment service* activities were extended (adjusted in accordance with ■ FEES 4.2.7 R) and to calculate the periodic fee for the following *fee year* . Projected valuations are not relevant for those fee payers that are only required to pay fixed fees.

4.2.7B

FCA PRA

R

- (1) This *rule* deals with the calculation of:
 - (a) a *firm's* fees for its second and subsequent *fee year*. These are the *fee years* years following the *fee year* in which it was given *permission* and/or was authorised or registered under the *Payment Services Regulations* or the *Electronic Money Regulations* or had its *permission* and/or *payment services* activities extended (the relevant permissions); and
 - (b) the tariff base for the fee block or fee blocks that relate to each of the relevant permissions.
- (2) The starting point for calculating the fees referred to in (1)(a) is determining whether or not the *firm's* tariff base for the relevant *fee year* can be calculated using data from a complete period (as specified in Part 5 of ■ FEES 4 Annex 1AR, Part 5 of ■ FEES 4 Annex 1BR or Part 4 of ■ FEES 4 Annex 11 R) that begins on or after the date that the *firm* obtained the relevant *permission* to which that tariff base relates.
 - (a) If it can, the *firm* must use that data for calculating its tariff base.
 - (b) If it cannot, the tariff base must be calculated using the projected valuations for its first year of the business to which the tariff relates (as provided in the course of the *firm's* application), unless (5)(b) or 5(c) applies.

- (3) This *rule* does not apply to a *firm* with a *permission* for operating a *multilateral trading facility*.
- (4) [deleted]
- (5) (a) [deleted]
- (b) If a *firm*:
- (i) receives a relevant permission between 1 April and 31 December inclusive; and
- (ii) is, but for this *rule*, required to calculate its tariff base for that relevant permission by reference to the average of its modified eligible liabilities for October, November and December;
- it must calculate that tariff base as at the December before the start of the *fee year* .
- (c) If a *firm*:
- (i) is, but for this *rule*, required to calculate its tariff base for the relevant permission by reference to the *firm's* financial year ended in the calendar year ending on the 31 December before the start of the *fee year* and, since obtaining the relevant permission, the *firm* has yet to complete a full financial year ended in the calendar year ending on the 31 December before the start of the *fee year*; or
- (ii) is, but for this *rule*, required to calculate its tariff base by reference to the twelve *months* ending on the 31 December before the start of the *fee year* and, since obtaining the relevant permission, the *firm* has yet to complete a full twelve *months* ending on the 31 December before the start of the *fee year*;
- it must calculate the tariff base under (d) below unless it is in its second *fee year* and was authorised between 1 January and 1 April (in which case it must use the projected valuations provided for in (2)(b) above).
- (d) If a *firm* satisfies either of the conditions in (c) it must calculate its tariff base as follows:
- (i) it must use actual data in relation to the business to which the tariff relates rather than projected valuations;
- (ii) in respect of firms satisfying condition (5)(c)(i), the tariff is calculated by reference to the period beginning on the date it acquired the relevant permission relating to the tariff, and ending on either the 31 December before the start of the *fee year* or, if earlier, the start date of the *firm's* financial year; and

in respect of *firms* satisfying condition (5)(c)(ii), the tariff is calculated by reference to the period beginning on the date on which it acquired the relevant permission, and ending on the 31 December before the start of the *fee year*

- (iii) the figures are annualised by increasing them by the same proportion as the period of 12 months bears to the period starting from when the *firm* received its relevant permission to to the relevant period end date specified in (ii).
- (e) Where a *firm* is required to use the method in (d) it must notify the *FCA* (in its own capacity and, if applicable, in its capacity as collection agent for the *PRA*) of this by the date specified in ■ FEES 4.4 (Information on which Fees are calculated).
- (f) Where a *firm* is required to use actual data under this *rule* ■ FEES 4 Annex 1AR Part 5, ■ FEES 4 Annex 1BR Part 5 and ■ FEES 4 Annex 11 R Part 4, are modified, where applicable, in relation to the calculation of that *firm's* valuation date in the *fee years* to which this *rule* applies.

Application of FEES 4.2.7BR

4.2.7C

FCA PRA

G

The table below sets out the period within which a *firm's* tariff base is calculated (the data period) for second year fees calculated under ■ FEES 4.2.7B R. The example is based on a *firm* that acquires *permission* on 1 November 2009 and has a financial year ending 31 March. Where valuation dates fall before the *firm* receives *permission* it should use projected valuations in calculating its fees.

References in this table to dates or months are references to the latest one occurring before the start of the *appropriate regulator's fee year* unless otherwise stated.

Type of permission acquired on 1 November	Tariff base	Valuation date but for FEES 4.2.7BR	Data period under FEES 4.2.7BR
<i>Accepting deposits</i> (monthly reporting <i>firms</i>)	Modified eligible liabilities (MELs)	Average of the MELs for October, November, December - so projected valuations will be used	MELs for December 2009.
<i>Accepting deposits</i> (quarterly reporting <i>firms</i>)	MELs	December 2009	December 2009.
<i>Entering into a home finance transaction</i>	Number of mortgages, <i>home purchase plans</i> or <i>home reversion plans</i> entered into	12 months ending 31 December 2009 - so projected valuations will be used	1 November to 31 December 2009.
<i>Effecting contracts of insurance</i> (Insurers - general)	Gross premium income and gross technical liabilities	31 March 2009 - so projected valuations will be used	1 November to 31 December 2009.

4.2.7D

FCA

R

If an *issuer of a regulated covered bond* becomes registered after 31 December its valuation date will be calculated in the manner described in ■ 1 R Part 4.

4.2.8

FCA PRA

R

In relation to an *incoming EEA firm* or an *incoming Treaty firm* the modification provisions of ■ FEES 4.2.7 R apply only in relation to the relevant *regulated activities* of the *firm*, which are *passport activities* or *Treaty activities* and which are carried on in the *United Kingdom* , and which are not provided on a *cross border services* basis. For *payment services* and *electronic money* issuance, the adjustment only applies to the business to which the calculation made in ■ FEES 4.3.12A R relates.

Fee payers ceasing to hold relevant status or reducing the scope of their permission after start of relevant period

4.2.9

FCA PRA

G

The *appropriate regulator* will not refund periodic fees if, after the start of the period to which they relate:

- (1) a fee payer ceases to have the status set out in column (1) of the table in ■ FEES 4.2.11 R or ■ FEES 4.2.11AR; or
- (2) a *firm* reduces its *permission* or *payment services* activities so that it then falls out of the fee-block previously applied to it ;

(but see ■ FEES 2.3 (Relieving Provisions) and ■ FEES 4.3.13 R (Firms Applying to Cancel or Vary Permission Before Start of Period)).

Extension of Time

4.2.10

FCA PRA

R

A *person* need not pay a periodic fee on the date on which it is due under the relevant provision in ■ FEES 4.2.1 R, if:

- (1) that date falls during a period during which circumstances of the sort set out in ■ GEN 1.3.2 R (Emergencies) exist, and that *person* has reasonable grounds to believe that those circumstances impair its ability to pay the fee, in which case he must pay it on or before the fifth *business day* after the end of that period; or
- (2) unless ■ FEES 4.3.6 R (3) , ■ FEES 4.3.6 R (4) or ■ FEES 4.3.6 R (4A) (Time and method for payment) applies, that date would otherwise fall on or before the 30th *day* after the date on which the *FCA* (in its own capacity or in its capacity as agent for the *PRA*) has sent written notification to that *person* of the fee payable on that date, in which case he must pay on or before the 30th *day* after the date on which the *FCA* sends the notification.

4.2.11

FCA

R

Table of periodic fees payable to the FCA

1 Fee payer	2 Fee payable	3 Due date	4 Events occurring during the period leading to modified periodic fee
<p>Any <i>firm</i> (except an <i>ICVC</i> or a <i>UCITS</i> <i>qualifier</i>)</p>	<p>As specified in FEES 4.3.1 R in relation to FEES 4 Annex 2AR and FEES 4 Annex 11 R</p>	<p>(1) Unless (2) or (3) apply, on or before the relevant dates specified in FEES 4.3.6 R.</p> <p>(2) Unless (3) applies, if an event specified in column 4 occurs during the course of a <i>fee year</i>, 30 days after the occurrence of that event, or if later the dates specified in FEES 4.3.6 R.</p> <p>(3) Where the <i>permission</i> is for operating a <i>multi-lateral trading facility</i>, the date specified in FEES 4 Annex 10 (Periodic fees for MTF operators).</p>	<p><i>Firm</i> receives <i>permission</i>, or becomes authorised or registered under the <i>Payment Services Regulations</i> or the <i>Electronic Money Regulations</i>; or <i>firm</i> extends <i>permission</i> or its <i>payment service</i> activities</p>
<p>Persons who hold a certificate issued by the FCA under article 54 of the <i>Regulated Activities Order</i> (Advice given in newspapers etc.)</p>	<p>£1,000</p>	<p>(1) Unless (2) applies, on or before 30 April</p> <p>(2) If an event in column 4 occurs during the course of a <i>fee year</i>, 30 days after the occurrence of that event</p>	<p>Certificate issued to <i>person</i> by FCA under Article 54 RAO</p>
<p>Any <i>manager</i> of an <i>authorised</i> unit trust;</p>	<p>In relation to each unit trust the amount specified in FEES 4 Annex 4 R</p>	<p>(1) Unless (2) applies, on or before 30 April</p> <p>(2) If an event in column 4 occurs during the course of a <i>fee year</i>, 30 days after the occurrence of that event</p>	<p><i>Authorisation order</i> is made in relation to the relevant <i>scheme</i></p>

4

1 Fee payer	2 Fee payable	3 Due date	4 Events occurring during the period leading to modified periodic fee
<p>Any <i>ACD</i> of an <i>ICVC</i>; and</p>	<p>In relation to each <i>ICVC</i> the amount specified in FEES 4 Annex 4 R</p>		
<p><i>Persons</i> who, under the constitution or founding arrangements of a <i>recognised scheme</i>, is responsible for the management of the property held for or within the <i>scheme</i>;</p>	<p>In relation to each <i>recognised scheme</i> the amount specified in FEES 4 Annex 4 R</p>		<p>The relevant <i>scheme</i> becomes a recognised collective investment scheme</p>
<p><i>Designated professional body</i></p>	<p>FEES 4 Annex 5 R</p>	<p>1 July or if payment is by instalments, by the due dates set out in FEES 4 Annex 5 R</p>	<p>Not applicable</p>
<p><i>UK recognised body</i></p>	<p>FEES 4 Annex 6 R, part 1 for a <i>UK RIE</i> ; and FEES 4 Annex 6 R, part 1A for a <i>UK RIE</i> that is also an <i>RAP</i></p>	<p>(1) Unless (2) applies, by the due dates set out in FEES 4 Annex 6 R, part 1 and (in the case of an <i>RAP</i>) part 1A (2) If the event in column 4 occurs during the course of a , 30 days after the occurrence of that event</p>	<p><i>Recognition order</i> is made. The modified periodic fee is specified in FEES 4 Annex 6 R, Part 1 and (in the case of an <i>RAP</i>) Part 1A.</p>

1 Fee payer	2 Fee payable	3 Due date	4 Events occurring during the period leading to modified periodic fee
<p>ROIE</p> <p>Listed issuers (in LR) of shares, depositary receipts and securitised derivatives (in LR), unless the conditions set out below apply.</p> <p>The first condition is that the listed issuer, or a related entity, has already paid a periodic fee in respect of the period concerned.</p> <p>The second condition is that the listed issuer is subject to listing rules as a result of a reverse takeover, or that the listed issuer is a newly formed entity, created as a result of a restructuring.</p>	<p>FEES 4 Annex 6 R, part 2</p> <p>FEES 4 Annex 7 R</p>	<p>(1), unless (2) applies, 1 July.</p> <p>(2) If the event in column 4 occurs during the course of a fee year, 30 days after the occurrence of that event.</p> <p>Within 30 days of the date of the invoice</p>	<p>Recognition order is made.</p> <p>The modified periodic fee is specified in FEES 4 Annex 6 R, Part 2.</p> <p>Listed issuer (in LR) becomes subject to listing rules</p>

1 Fee payer	2 Fee payable	3 Due date	4 Events occurring during the period leading to modified periodic fee
<i>Sponsors</i>	£20,000 per year for the period from 1 April to 31 March the following year (see Note)	Within 30 days of the date of the invoice	<p>(1) Approval of <i>sponsor</i> , unless (2) applies.</p> <p>(2) In the case of approval of a <i>sponsor</i> following a change of legal status in accordance with FEES3 Annex 1 R Part 7, the balance of the fee otherwise due from the original <i>sponsor</i>.</p> <p>Where a payment is made in accordance with (2) the original <i>sponsor's</i> obligation to pay that fee ceases.</p>
All non-listed issuers (in DTR) of shares, depositary receipts and securitised derivatives.	FEES 4 Annex 8 R	Within 30 days of the date of the invoice	Non-listed issuer (in DTR) becomes subject to disclosure rules and transparency rules
All firms reporting transactions in securities derivatives to the FCA in accordance with SUP 17, and market operators who provide facilities for trading in securities derivatives.	FEES 4 Annex 9 R	Within 30 days of the date of the invoice	Not applicable

1 Fee payer	2 Fee payable	3 Due date	4 Events occurring during the period leading to modified periodic fee
<p>Any issuer of a regulated covered bond.</p>	<p>1 R</p>	<p>(1) Unless (2) applies, on or before the relevant dates specified in FEES 4.3.6 R</p> <p>(2) If an event specified in column 4 occurs during the course of a fee year, 30 days after the occurrence of that event or, if later, the dates specified in FEES 4.3.6 R</p>	<p>A person becomes registered as an issuer of a regulated covered bond</p>

Note: *Sponsors* on the list of approved *sponsors* as at 1 April each year will be liable for the full year's annual fee unless ■ FEES 4.3.13 R applies.

4.2.11A

PRA

R

Table of periodic fees payable to the PRA

1 Fee payer	2 Fee payable	3 Due date	4 Events occurring during the period leading to modified periodic fee
<p>Any firm</p>	<p>As specified in FEES 4.3.1 R in relation to FEES 4 Annex 2BR</p>	<p>(1) Unless (2) applies, on or before the relevant dates specified in FEES 4.3.6 R.</p> <p>(2) if an event specified in column 4 occurs during the course of a fee year, 30 days after the occurrence of that event, or if later the dates specified in FEES 4.3.6 R.</p>	<p>Firm receives permission; or firm extends permission</p>

4.3 Periodic fee payable by firms (other than ICVCs and UCITS qualifiers)

4.3.1

FCA **PRA**

R

The periodic fee payable by a *firm* (except an *ICVC* or a *UCITS qualifier*) is:

- (1) each periodic fee applicable to it calculated in accordance with
 - FEES 4.3.3 R, using information obtained in accordance with
 - FEES 4.4; plus
- (1A) any periodic fee applicable to it calculated in accordance with
 - FEES 4.3.3A R using information relating to its *UK* business obtained in accordance with ■ FEES 4.4 (or by other means in the case of the Bank of England); less
- (2) any deductions from the periodic fee specified in Part 2 of
 - FEES 4 Annex 2AR, ■ FEES 4 Annex 2BR or Part 7 of
 - FEES 4 Annex 11 R.

4.3.2

FCA **PRA**

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 whether it is issuing *electronic money*, and on the amount of business it conducts in each category (tariff base). The fee-blocks and tariffs are identified in ■ FEES 4 Annex 1AR in respect of the *FCA* and ■ FEES 4 Annex 1BR in respect of the *PRA* (and guidance on calculating certain of the tariffs is at ■ FEES 4 Annex 12 G), while ■ FEES 4 Annex 2AR in respect of the *FCA* and ■ FEES 4 Annex 2BR in respect of the *PRA* set out the tariff rates for the relevant *fee year*. In the case of *firms* that provide *payment services* and/or issue *electronic money*, the relevant fee blocks, tariffs and rates are set out in ■ FEES 4 Annex 11 R.
- (2) *Incoming EEA firms, incoming Treaty firms, EEA authorised payment institutions* and *EEA authorised electronic money institutions* receive a discount to reflect the reduced scope of the *appropriate regulator's* responsibilities in respect of them. The level of the discount varies from fee-block to fee-block, according to the division of responsibilities between the *appropriate regulator* and *Home state regulators for firms* in each fee-block (see ■ FEES 4.3.11 G, ■ FEES 4.3.12 R and ■ FEES 4.3.12A R).

4.3.3

FCA PRA

R

Calculation of periodic fee (excluding fee-paying payment service providers and fee-paying electronic money issuers)

The periodic fee referred to in ■ FEES 4.3.1 R is (except in relation to the *Society*, *fee-paying payment service providers* and *fee-paying electronic money issuers*) calculated as follows:

- (1) identify each of the tariffs set out in Part 1 of ■ FEES 4 Annex 2AR and Part 1 of ■ FEES 4 Annex 2BR which apply to the business of the *firm* for the period specified in that annex;
- (2) for each of the applicable tariffs, calculate the sum payable in relation to the business of the *firm* for that period;
- (3) add together the amounts calculated under (2) in relation to fees payable to the *FCA* and, if applicable, separately add together the amounts calculated under (2) in relation to the fees payable to the *PRA*;
- (4) work out whether an A.0 or a PA.0 minimum fee is payable under Part 2 of ■ FEES 4 Annex 2AR and Part 2 of ■ FEES 4 Annex 2BR 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) ;
 - (a) work out whether an AP.0 *FCA* prudential fee is payable under Part 2 of ■ FEES 4 Annex 2AR and if so how much;
 - (b) work out whether a PT.1 *PRA* transitional fee is payable under Part 2 of ■ FEES 4 Annex 2BR and if so how much;
- (5) add together the amounts calculated under (3), (4) and (4A) that relate to fees payable to the *FCA* and, if applicable, separately adding together the amounts calculated under (3), (4) and (4B) that relate to fees payable to the *PRA*; and
- (6) apply any applicable payment charge specified in ■ FEES 4.2.4 R, provided that:
 - (a) for payment by direct debit, successful collection of the amount due is made at the first attempt by the *FCA* (in its own capacity and, if applicable, in its capacity as agent for the *PRA*); or
 - (b) for payment by credit transfer, the amount due is received by the *FCA* (in its own capacity and, if applicable, in its capacity as agent for the *PRA*) on or before the due date.

Calculation of periodic fee for fee-paying payment service providers and fee-paying electronic money issuers

4.3.3A

FCA

R

The periodic fee referred to in ■ FEES 4.3.1 R in relation to *fee-paying payment service providers* and *fee-paying electronic money issuers* is calculated in accordance with ■ 1 R .

Modification for firms with new or extended permissions

4.3.4

FCA PRA

G

- (1) A *firm* which becomes authorised or registered during the course of a fee year will be required to pay a proportion of the periodic fee which reflects the proportion of the year for which it will have a *permission* or the right to provide particular *payment services* or the right to issue *electronic money* - see ■ FEES 4.2.5 G and ■ FEES 4.2.6 R.
- (2) Similarly a *firm* which extends its *permission* or its right to provide particular *payment services* so that its business then falls within additional fee blocks will be required to pay a further periodic fee under this section for those additional fee blocks, but discounted to reflect the proportion of the year for which the *firm* has the extended permission or *payment services* activity - see ■ FEES 4.2.6 R and ■ FEES 4.2.7 R.
- (3) These provisions apply (with some changes) to *incoming EEA firms* , *incoming Treaty firms*, *EEA authorised payment institutions* and *EEA authorised electronic money institutions*.
- (4) These provisions do not apply to a *firm's* periodic fees in relation to its *permission* for *operating a multilateral trading facility* obtained from the FCA during the course of a *fee year*.

Amount payable by the Society of Lloyd's

4.3.5

FCA PRA

R

The periodic fee referred to in ■ FEES 4.3.1 R in relation to the *Society* is specified against its name in ■ FEES 4 Annex 2AR and ■ FEES 4 Annex 2BR .

Time of payment

4.3.6

FCA PRA

R

- (1) Subject to ■ FEES TP 8, if the *firm's*, *designated professional body's*, *recognised investment exchange's*, or *regulated covered bond issuer's* periodic fee for the previous *fee year* was at least £50,000, it must pay the FCA:
 - (a) an amount equal to 50% of the FCA periodic fee payable for the previous *fee year*, by 30 April or, if later, within 30 *days* of the date of the invoice, in the *fee year* to which the sum due under ■ FEES 4.2.1 R relates; and
 - (b) the balance of the FCA periodic fee due for the current *fee year* by 1 September or, if later, within 30 *days* of the date of the invoice, in the *fee year* to which that sum relates.
- (1A) Subject to ■ FEES TP 8, if the *firm* is also a *PRA-authorised person* and its periodic fee for the previous *fee year* was at least

50,000, it must pay the *PRA* (through the *FCA* acting as its collection agent):

- (a) an amount equal to 50% of the *PRA* periodic fee payable for the previous *fee year*, by 30 April in the *fee year* to which the sum due under ■ FEES 4.2.1 R relates; and
 - (b) the balance of the *PRA* periodic fee due for the current *fee year* by 1 September or, if later, within 30 *days* of the date of the invoice, in the *fee year* to which that sum relates.
- (1B) If the *firm* paid periodic fees to both the *FCA* and the *PRA* in the previous *fee year*, ■ FEES 4.3.6R (1) and (1A) only apply if the *firm's* combined *FCA* and *PRA* periodic fees for that *fee year* were at least £50,000.
- (2) If the *firm's*, *designated professional body's*, *recognised investment exchange's*, or *regulated covered bond issuer's* periodic fee for the previous *fee year* was less than £50,000, it must pay the periodic fee due in full by 1 August or, if later, within 30 *days* of the date of the invoice in the *fee year* to which that sum relates.
- (3) If a *firm* has applied to cancel its *Part 4A permission* in the way set out in ■ SUP 6.4.5 D (Cancellation of permission), or its status as a *payment institution* under regulation 10 of the *Payment Services Regulations* (Cancellation of authorisation) or as regulation 10 is applied by regulation 14 of the *Payment Services Regulations* (Supplementary provisions), or its status as an *electronic money issuer* under regulation 10 of the *Electronic Money Regulations* (Cancellation of authorisation) or as regulation 10 is applied by regulation 15 of the *Electronic Money Regulations* (Supplementary provisions), then (1) and (2) do not apply but it must pay the total amount due when the application is made.
- (4) If the *appropriate regulator* has exercised its *own-initiative powers* to cancel a *firm's Part 4A permission*, then (1) and (2) do not apply but the *firm* must pay the total amount due immediately before the cancellation becomes effective.
- (4A) If the *FCA* has cancelled a *firm's* authorisation or registration under regulation 10 of the *Payment Services Regulations* or regulation 10 of the *Electronic Money Regulations* or its registration under regulation 10 as applied by regulation 14 of the *Payment Services Regulations* or its registration under regulation 10 as applied by regulation 15 of the *Electronic Money Regulations*, then (1) and (2) do not apply but the *firm* must pay the total amount due immediately before the cancellation becomes effective.
- (5) [deleted]

- (6) Paragraphs (1) and (2) do not apply to any periodic fee in relation to a *firm's permission for operating a multilateral trading facility* and such a fee is not taken into account for the purposes of the split in (1). Instead any fee for this *permission* is payable on the date specified in ■ FEES 4 Annex 10 (Periodic fees for MTF operators).

Groups of firms

4.3.7

FCA PRA

R

A *firm* which is a member of a *group* may pay all of the amounts due from other *firms* in the same *group* under ■ FEES 4.2.1 R, if:

- (1) it notifies the *FCA* (in its own capacity and, if applicable, in its capacity as agent for the *PRA*) in writing of the name of each other *firm* within the *group* for which it will pay; and
- (2) it pays the fees, in accordance with this chapter, as a single amount as if that were the amount required from the *firm* under ■ FEES 4.2.1 R.

4.3.8

FCA PRA

G

A notification under ■ FEES 4.3.7 R (1) should be made in accordance with ■ SUP 15.7 (Form and method of notification).

4.3.9

FCA PRA

G

If the payment made does not satisfy in full the periodic fees payable by all of the members of the *group* notified to the *FCA* under ■ FEES 4.3.7 R, the *FCA* (in its own capacity and, if applicable, in its capacity as agent for the *PRA*) will apply the sum received among the *firms* which have been identified in the notification given under ■ FEES 4.3.7 R (1) in proportion to the amounts due from them. Each *firm* will remain responsible for the payment of the outstanding balance attributable to it.

4.3.10

FCA PRA

G

If a *firm* pays its fees through an agent outside the scope of ■ FEES 4.3.7 R, the *firm* is responsible for ensuring that the *FCA* (in its own capacity and, if applicable, in its capacity as agent for the *PRA*) is informed that the sum being paid is for that *firm's* periodic fees.

Incoming EEA firms, incoming Treaty firms, EEA authorised payment institutions and EEA authorised electronic money institutions

4.3.11

FCA PRA

G

The *appropriate regulator* recognises that its responsibilities in respect of an *incoming EEA firm*, an *incoming Treaty firm*, an *EEA authorised payment institution* or an *EEA authorised electronic money institution* are reduced compared with a *firm* which is incorporated in the *United Kingdom*. Accordingly the periodic fees which would otherwise be applicable to *incoming EEA firms*, *incoming Treaty firms*, *EEA authorised payment institutions* and *EEA authorised electronic money institutions* are reduced.

4.3.12

FCA PRA

R

For an *incoming EEA firm*, (excluding *MTF operators*), or an *incoming Treaty firm*, the calculation required by ■ FEES 4.3.3 R is modified as follows:

- (1) the tariffs set out in Part 1 of ■ FEES 4 Annex 2AR and, if applicable, Part 1 of ■ FEES 4 Annex 2BR are applied only to the *regulated activities* of the *firm* which are carried on in the *United Kingdom*; and
- (2) those tariffs are modified in accordance with Part 3 of ■ FEES 4 Annex 2AR and, if applicable, Part 3 of ■ FEES 4 Annex 2BR.

4.3.12A

FCA

R

For:

- (-1) (a) a *full credit institution* which is a *fee-paying payment service provider* and an *EEA firm*; or
- (b) a *full credit institution* which is a *fee-paying electronic money issuer* and an *EEA firm*; or
- (c) an *EEA authorised payment institution*; or
- (d) an *EEA authorised electronic money institution*;

the calculation required by ■ FEES 4.3.3A R is modified as follows:

- (1) the tariffs set out in Part 5 of ■ FEES 4 Annex 11 R are only applied to the *payment services* or *electronic money issuance* of the *firm* carried on from an establishment in the *United Kingdom*, including any *payment services* carried on through any of its *agents* established in the *United Kingdom*; and
- (2) those tariffs are modified in accordance with Part 7 of ■ FEES 4 Annex 11 R.

Firms Applying to Cancel or Vary Permission Before Start of Period

4.3.13

FCA PRA

R

(1) If:

- (a) a *firm* makes an application to vary its *permission* (by reducing its scope), or cancel it, in the way set out in ■ SUP 6.3.15 D (3) (Variation of permission) and ■ SUP 6.4.5 D (Cancellation of permission), or applies to vary (by reducing its scope) or cancel its authorisation or registration (regulation 8 and 10(1) of the *Payment Services Regulations* including as applied by regulation 14 of the *Payment Services Regulations*) or applies to cancel its authorisation or registration (regulation 10 and 12 of the *Electronic Money Regulations* including as applied by regulation 15 of the *Electronic Money Regulations*); an *issuer* makes an application for de-listing; or a *sponsor* notifies the *FCA* of its intention to be removed from the list of approved *sponsors*; and

- (b) the *firm*, *issuer* or *sponsor* makes the application or notification referred to in (a) before the start of the *fee year* to which the fee relates;

■ FEES 4.2.1 R applies to the *firm* as if the relevant variation or cancellation of the *firm's permission* or authorisation or registration under the *Payment Services Regulations* or the *Electronic Money Regulations*, de-listing or removal from the list of approved *sponsors*, took effect immediately before the start of the *fee year* to which the fee relates.

- (2) But (1) does not apply if, due to the continuing nature of the business, the variation, cancellation, de-listing or removal is not to take effect on or before 30 June of the *fee year* to which the fee relates .

4.3.14

FCA PRA

G

Where a *firm* has applied to cancel its *Part 4A permission*, or its authorisation or registration under the *Payment Services Regulations* or the *Electronic Money Regulations*, or the *appropriate regulator* has exercised its *own-initiative powers* to cancel a *firm's Part 4A permission* or the *appropriate regulator* has exercised its powers under regulation 10 (Cancellation of authorisation), including as applied by regulation 14 (Supplementary provisions) of the *Payment Services Regulations* to cancel a *firm's* authorisation or registration under the *Payment Services Regulations* or the *appropriate regulator* has exercised its powers under regulation 10 (Cancellation of authorisation), including as applied by regulation 15 (Supplementary provisions) of the *Electronic Money Regulations*, the due dates for payment of periodic fees are modified by

■ FEES 4.3.6 R (3), ■ FEES 4.3.6 R (4) and ■ FEES 4.3.6 R (4A) respectively.

Firms acquiring businesses from other firms

4.3.15

FCA PRA

R

- (1) This *rule* applies if:
- (a) a *firm* (A) acquires all or a part of the business of another *firm* (B), whether by merger, acquisition of goodwill or otherwise, in relation to which a periodic fee would have been payable by B, unless no periodic fee was payable by A in the financial year that the business was acquired from B; or
 - (b) A became authorised or registered as a result of B's simple change of legal status (as defined in ■ FEES 3 Annex 1 R Part 6).
- (2) If, before the date on which A acquires the business, B had paid any periodic fee payable for the period in which the acquisition occurred, ■ FEES 4.2.6 R to ■ FEES 4.2.7 R do not apply to A in relation to the business acquired from B.
- (3) If the acquisition occurs after the valuation date applicable to the business (as set out in ■ FEES 4 Annex 1AR, ■ FEES 4 Annex 1BR and ■ FEES 4 Annex 11 R) which A acquired from B, for the period following that in which the acquisition occurred, ■ FEES 4.2.1 R

applies to A, in relation to that following period, as if the acquisition had occurred immediately before the relevant valuation date.

4.3.16

R

- (1) [deleted]
- (2) [deleted]
- (3) [deleted]

4.4 Information on which Fees are calculated

- 4.4.1** **R** A *firm* (other than the *Society*) must notify to the *FCA* (in its own capacity and, if applicable, in its capacity as collection agent for the *PRA*) the value (as at the valuation date specified in Part 5 of **■ FEES 4 Annex 1AR** in relation to fees payable to the *FCA* or Part 5 of **■ FEES 4 Annex 1BR** in relation to fees payable to the *PRA*) of each element of business on which the periodic fee payable by the *firm* is to be calculated.
- 4.4.2** **R** A *firm* (other than the *Society*) must send to the *FCA* (in its own capacity and, if applicable, in its capacity as collection agent for the *PRA*) in writing the information required under **■ FEES 4.4.1 R** as soon as reasonably practicable, and in any event within two *months*, after the date specified as the valuation date in Part 5 of **■ FEES 4 Annex 1AR** in relation of fees payable to the *FCA* or Part 5 of **■ FEES 4 Annex 1B R** in relation to fees payable to the *PRA* (or **■ FEES 4.2.7B R** where applicable).
- 4.4.3** **R** To the extent that a *firm* has provided the information required by this section to the *appropriate regulator* as part of its compliance with another provision of the *Handbook*, it is deemed to have complied with the provisions of this section.
- 4.4.4** **G** In most cases a *firm* will provide the information required by this section as part of its compliance with the provisions of *SUP*. To the extent that the *FCA* (in its own capacity and, if applicable, in its capacity as collection agent for the *PRA*), does not obtain sufficient, or sufficiently detailed, information the *FCA* or the *PRA*, as appropriate, may seek this by using the general information gathering powers (see **■ SUP 2** (Information gathering by the *appropriate regulator* on its own initiative)).
- 4.4.5** **R** For an *incoming EEA firm* or an *incoming Treaty firm*, the information required under **■ FEES 4.4** is limited to the *regulated activities* of the *firm* which are carried on in the *United Kingdom*, except those provided on a *cross border services* basis.
- 4.4.6** **R** The obligations of a *firm* to supply information as set out in **■ FEES 4.4.1 R** and **■ FEES 4.4.2 R** do not apply in respect of any of its *payment services* business.

Information relating to payment services and the issuance of electronic money

4.4.7

FCA

D

A *fee-paying payment service provider* and a *fee-paying electronic money issuer* must notify to the *FCA* the value (as at the valuation date specified in Part 4 of ■ FEES 4 Annex 11 R) of each element of business on which the periodic fee (other than a flat fee) payable by the *firm* under ■ 1 R is to be calculated, including any *payment services* carried on by its *agents* from an establishment in the *United Kingdom*.

4.4.8

FCA

D

A *firm* must send to the *FCA* in writing the information required under ■ FEES 4.4.7 D as soon as reasonably practicable, and in any event within two *months*, after the date specified as the valuation date in Part 4 of ■ FEES 4 Annex 11 R.

4.4.9

FCA

PRA

D

To the extent that a *firm* has provided the information required by ■ FEES 4.4.7 D to the *FCA* as part of its compliance with another provision of the *Handbook*, it is deemed to have complied with the provisions of that direction.

Activity groups, tariff bases and valuation dates applicable[deleted] [Deleted]

FCA Activity groups, tariff bases and valuation dates

FCA

Part 1

This table shows how the *FCA* links the *regulated activities* for which a *firm* has *permission* to activity groups (fee-blocks). A *firm* can use the table to identify which fee-blocks it falls into based on its *permission*.

Activity group	Fee payer falls in the activity group if
A.1 Deposit acceptors	its <i>permission</i> includes <i>accepting deposits</i> or <i>operating a dormant account fund</i> BUT DOES NOT include either of the following: <i>effecting contracts of insurance</i> ; <i>carrying out contracts of insurance</i> .
A.2 Home finance providers and administrators	its <i>permission</i> includes a <i>regulated activity</i> within one or more of the following: <i>entering into a home finance transaction</i> ; or <i>administering a home finance transaction</i> ; or <i>agreeing to carry on a regulated activity which is within either of the above</i> .
A.3 Insurers - general	its <i>permission</i> includes one or more of the following: <i>effecting contracts of insurance</i> ; <i>carrying out contracts of insurance</i> ; in respect of <i>specified investments</i> that are: <i>general insurance contracts</i> ; or <i>long-term insurance contracts other than life policies</i> .
A.4 Insurers - life	its <i>permission</i> includes one or more of the following: <i>effecting contracts of insurance</i> ; <i>carrying out contracts of insurance</i> ; in respect of <i>specified investments</i> including <i>life policies</i> ; <i>entering as provider into a funeral plan contract</i> .

A.5 Managing agents at Lloyd's its permission includes *managing the underwriting capacity of a Lloyd's syndicate as a managing agent at Lloyd's.*

A.6 The Society of Lloyd's it is the *Society of Lloyd's*

Note for authorised professional firms:

Generally, for fee-blocks A.7 to A.19 below, only those *regulated activities* that are not limited to *non-mainstream regulated activities* should be taken into account in determining which fee-block(s) fee-payers belong to for the purpose of charging periodic fees. However, in the case that all the *regulated activity* within a *firm permission* are limited to *non-mainstream regulated activities*, then that *firms* will be allocated to fee-block A.13 alone. This does not prevent a fee being payable by an *authorised professional firm* under FEES 3.2.7 R and/or FEES 3.2.7A R(c) where it applies to vary its *Part 4A permission* such that it would normally be allocated to fee-block(s) other than A.13 if the variation was granted.

A.7 Fund managers (1) its *permission* includes *managing investments* (a *firm* falling within this category is a class (1) *firm*);

OR

(2) its *permission* includes

ONLY either one or both of:

safeguarding and administering of investments (without arranging); and

arranging safeguarding and administration of assets (a *firm* falling within this category is a class (2) *firm*);

OR

(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*).

Class (1) firms are subdivided into three classes:

- class (1)A, where the funds managed by the *firm* belong to one or more *occupational pension schemes*;

- class (1)B, where:

(a) the *firm* is not a class (1)A *firm*; and

(b) the *firm* permission includes **NEITHER** of the following:

safeguarding and administering investments (without arranging);

arranging safeguarding and administration of assets; and (c) the *firm* **EITHER**:

has a *requirement* that prohibits the *firm* from holding or controlling *client money*, or both; OR

if it does not have such a *requirement*, only holds or controls *client money* (or both), arising from an agreement under which *commission* is rebated to a *client*; and

- class (1)C, where the *firm* is not within class (1)A or class (1)B.

A.9 Opera- (1) *its permission:*
tors,

Trustees (a) includes one or more of the following:

and Depos-

itaries of *establishing, operating or winding up a regulated collective investment scheme;*

collective

investment *establishing, operating or winding up an unregulated collective investment scheme;*

schemes

and Opera- *acting as trustee of an authorised unit trust scheme; acting as the depositary or sole*

tors of per- *director of an open-ended investment company;*

sonal pen-

sion *establishing, operating or winding up a personal pension scheme or a stakeholder*

schemes or *pension scheme (but only if the firm does not fall within activity group A1 or A4);*

stakehold-

er pension AND

schemes

(b) **PROVIDED** the *firm* is NOT one of the following:

a corporate finance advisory firm;

a firm in which the above activities are limited to carrying out corporate finance business;

a venture capital firm;

OR

(2) if the fee-payer has none of the *regulated activities* above within its *permission*, but **ALL** the remaining *regulated activities* in its *permission* are limited to carrying out trustee activities.

A.10 Firms *its permission* includes:
dealing as

principal (a) *dealing in investments as principal*; and/or

(b) *bidding in emissions auctions*;

BUT NOT if one or more of the following apply:

the *firm* is acting exclusively as a matched principal broker;

the above activity is limited either to acting as an *operator* of a *collective investment scheme*, *establishing, operating or winding up a personal pension scheme* or a *stakeholder pension scheme*, or to carrying out *trustee* activities;

the *firm* is a *corporate finance advisory firm*;

the above activity is otherwise limited to carrying out *corporate finance business*;

the *firm* is subject to a *limitation* to the effect that the *firm*, in carrying on this *regulated activity*, is limited to entering into transactions in a manner which, if the *firm* was an *unauthorised person*, would come within article 16 of the *Regulated Activities Order (Dealing in contractually based investments)*;

the above activity is limited to not acting as a *market maker*;

the *firm* is an *oil market participant*, *energy market participant* or a *local* (except where the *firm* is *bidding in emissions auctions*);

its permission includes either:

- *effecting contracts of insurance*; or

- *carrying out contracts of insurance*.

A.12 Adv- its permission:

sors, ar-

rangers,

dealers or

brokers

(holding or

controlling

client mon-

ey or as-

sets, or

both)

(a) includes one or more of the following, in relation to one or more *designated invest-ments*:

dealing in investments as agent;

arranging (bringing about) deals in investments;

making arrangements with a view to transactions in investments;

dealing as principal in investments where the activity is carried on as a matched principal broker, oil market participant, energy market participant or local;

advising on investments (except pension transfers and pension opt-outs);

advising on pension transfers and pension opt-outs;

advising on syndicate participation at Lloyd's;

(b) BUT NONE of the following:

effecting contracts of insurance; or

carrying out contracts of insurance;

AND

(c) CAN HAVE one or more of the following:

safeguarding and administering of assets;

arranging safeguarding and administration of assets;

the ability to hold or control *client money*, or both:

- that is, there is no *requirement* which prohibits the *firm* from doing this; and

- provided that the *client money* in question does not only arise from an agreement under which *commission* is rebated to a *client*;

AND

(d) PROVIDED the fee-payer is NOT any of the following:

a corporate finance advisory firm;

a firm for whom all of the applicable activities above are otherwise limited to carrying out corporate finance business;

a *firm* whose activities are limited to carrying out *venture capital business*;

a *firm* whose activities are limited to acting as an operator of a *regulated collective investment scheme*;

a *firm* whose activities are limited to carrying out *trustee* activities;

a *service company*.

A.13 Advisors, arrangers, dealers or brokers (not holding or controlling client money or assets, or both)

(1) it is an *authorised professional firm* and ALL the regulated activities in its *permission* are limited to non-mainstream regulated activities (a firm falling within this category is a *class (1) firm*);

OR

(2) its *permission*:

(a) includes one or more of the following, in relation to one or more *designated investments*:

- dealing in investments as agent*;
- arranging (bringing about) deals in investments*;
- making arrangements with a view to transactions in investments*;
- dealing as principal in investments* where the activity is carried on as a matched principal broker, *oil market participant*, *energy market participant* or *local*;
- advising on investments (except pension transfers and pension opt-outs)*;
- giving basic advice on a stakeholder product*;
- advising on pension transfers and pension opt-outs*;
- advising on syndicate participation at Lloyd's*;

(b) BUT NONE of the following:

- effecting contracts of insurance*;
- carrying out contracts of insurance*;
- safeguarding and administration of assets*;
- arranging safeguarding and administration of assets*;

AND

(c) MUST EITHER, in connection with its *designated investment business*:

- have a *requirement* that prohibits the *firm* from holding or controlling *client money*, or both;

OR

- if it does not have such a *requirement*, only holds or controls *client money* (or both), arising from an agreement under which *commission* is rebated to a *client*;

AND

(d) PROVIDED the fee-payer is NOT any of the following:

a corporate finance advisory firm;

a firm for whom all of the applicable activities above are otherwise limited to carrying out corporate finance business;

a firm whose activities are limited to carrying out venture capital business;

a firm whose activities are limited to acting as an operator of a regulated collective investment scheme;

a firm whose activities are limited to carrying out trustee activities;

a service company.

A firm falling within (2) and not (1) is a class 2 firm.

A.14 Corporate finance advisers

the firm is carrying on corporate finance business PROVIDED the fee-payer is NOT a venture capital firm.

A.18 Home finance providers, advisers and arrangers

its permission includes a regulated activity within one or more of the following:

entering into a home finance transaction; or

arranging (bringing about) a home finance transaction ; or

making arrangements with a view to a home finance transaction; or

advising on a home finance transaction; or

agreeing to carry on a regulated activity which is within any of the above.

A.19 General insurance mediation

its permission includes one or more of the following in relation to a non-investment insurance contract:

dealing in investments as agent; or

arranging (bringing about) deals in investments; or

making arrangements with a view to transactions in investments; or

assisting in the administration and performance of a contract of insurance; or

advising on investments; or

agreeing to carry on a regulated activity which is within any of the above.

B. Market operators	<i>firms</i> that have been prescribed as an operator of a prescribed market under the Financial Services and Markets Act 2000 (Prescribed Markets and Qualifying Investments) Order 2001 (SI 2001/996).
B. Service companies	it is a <i>service company</i> .
B. MTF operators	its <i>permission</i> includes <i>operating a multilateral trading facility</i> .
B. Benchmark administrators	It is a <i>benchmark administrator</i>

Part 2

This table sets out the activity groups (fee blocks) in relation to (i) the minimum fee payable to the *FCA* and (ii) the prudential fee payable to the *FCA*.

Activity group	Fee payer falls into the fee-block if
A.0 FCA minimum fee	<p>(1) it is in at least one of the fee blocks under Part 1; and</p> <p>(2) it is not:</p> <p>(a) a <i>UK ISPV</i>; or</p> <p>(b) a <i>firm</i> whose only <i>permission</i> is <i>operating a dormant fund account</i>.</p>
AP.0 FCA prudential fee	<p>(1) it is in at least one of the fee blocks under Part 1; and</p> <p>(2) it is not:</p> <p>(a) a <i>PRA-authorised person</i>; and/ or</p> <p>(b) a <i>firm</i> whose only periodic fee payable to the <i>FCA</i> is the A.0 FCA minimum fee.</p>

Part 3

This table indicates the tariff base for each fee-block set out in Part 1.

Activity group	Tariff base
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A.1 MODIFIED ELIGIBLE LIABILITIES

For *banks and building societies*:

Item B of Form ELS (Note (1)):

$$(1 + 2 + 3 + 4 + 0.6*5 + 6 - 8 - 9A - 9B - 10A - 10B - 10C - 11A - 11B - 0.6*12) + (1/3)*(F1 + F2 + F3 + F4 + 0.6*F5 + F6 - F8 - F9A - F9B - F10A - F10B - F10C - F11A - F11B - 0.6*F12)$$

- 13M

Notes:

(1) All references in the above formula are to entries on Form ELS (that is, the Eligible Liabilities Return completed to provide information by *banks and building societies* to the Bank of England as required by the Bank of England Act 1998).

(2) The figures reported on the Form ELS relate to business conducted out of offices in the *United Kingdom*.

For *credit unions*:

Deposits with the *credit union* (share capital)

LESS

the *credit union's* bank deposits (investments + cash at bank)

Note:

Only *United Kingdom* business is relevant for calculating *credit unions'* MELs.

Note:

For a *dormant account fund operator* the tariff base is not relevant and the flat fee in FEES 4 Annex 2A R is payable.

A.2 NUMBER OF MORTGAGES OR OTHER HOME FINANCE TRANSACTIONS ENTERED INTO AND ADMINISTERED

The number of new mortgage contracts, *home purchase plans*, *home reversion plans* and *regulated sale and rent back agreements* entered into;

AND

The number of mortgage contracts, *home purchase plans*, *home reversion plans* and *regulated sale and rent back agreements* being administered, multiplied by 0.05 for mortgage outsourcing *firms* or other home finance outsourcing *firms* and by 0.5 for all other *firms*.

Notes:

(1) Mortgage outsourcing *firms* are *firms* with *permission* for *administering regulated mortgage contracts*, but not to enter the contract as lender.

Home finance outsourcing *firms* are *firms* with *permission* for *administering a home finance transaction*, but not *entering into a home finance transaction*.

(2) In this context a 'mortgage' means a loan secured by a first charge over residential property in the *United Kingdom*. For the measure of the number of contracts being administered, each first charge counts as one contract, irrespective of the number of loans involved.

(3) Mortgages, *home purchase plans*, *home reversion plans* and *regulated sale and rent back agreements* administered include those that the *firm* administers on behalf of other *firms*.

4

A.3 GROSS PREMIUM INCOME AND GROSS TECHNICAL LIABILITIES

For *insurers*:

The amount of *premium* receivable which must be included in the documents required to be deposited under *IPRU(INS) 9.6* in relation to the financial year to which the documents relate but disregarding for this purpose such amounts as are not included in the document by reason of a waiver or an order under section 68 of the Insurance Companies Act 1982 carried forward as an amendment to *IPRU(INS)* under transitional provisions relating to written concessions in *SUP*;

AND the amount of gross technical liabilities (*IPRU(INS) Appendix 9.1 - Form 15, line 19*) which must be included in the documents required to be deposited under *IPRU(INS) 9.6R* in relation to the financial year to which the documents relate but disregarding for this purpose such amounts as are not included in the document by reason of a *waiver* or an order under section 68 of the Insurance Companies Act 1982 carried forward as an amendment to *IPRU(INS)* under transitional provisions relating to written concessions in *SUP*.

Notes:

(1) in the case of either:

(a) a *pure reinsurer* carrying on *general insurance business* through a *branch* in the *United Kingdom*; or

(b) an *insurer* whose head office is not in an *EEA State* carrying on *general insurance business* through a *branch* in the *United Kingdom*; or

(c) an *EEA-deposit insurer*;

the amount only includes *premiums* received and gross technical liabilities held in respect of its *United Kingdom* business;

(2) for a *Swiss general insurance company*, premiums and gross technical liabilities include those relevant to the operations of the company's *United Kingdom branch*; and

(3) a *firm* need not include premiums and gross technical liabilities relating to *pure protection contracts* which it reports, and pays a fee on, in the A.4 activity group.

For *friendly societies*:

Either:

(a) the value of contributions as income under Schedule 7: Part I item 1(a) to the Friendly Societies (Accounts and Related Provisions) Regulations 1994 (SI 1994/1983) (the regulations) for a *non-directive friendly society*, included within the income and expenditure account; or

(b) the value of gross premiums written under Schedule 1: Part I items I.1(a) and II.1.(a) of the regulations for a *directive friendly society* included within the income and expenditure account.

Notes:

(1) In both (a) and (b) above only *premium* receivable in respect of *United Kingdom* business are relevant.

(2) For *UK ISPVs* the tariff base is not relevant and a flat fee set out in FEES 4 Annex 2AR is payable.

A.4 ADJUSTED GROSS PREMIUM INCOME AND MATHEMATICAL RESERVES
(see FEES 4 Annex 12 G)

Amount of new regular *premium* business (yearly *premiums* including reassurances ceded but excluding cancellations and reassurances accepted), times ten;

Plus:

amounts of new single *premium* business (total including reassurances ceded but excluding cancellations and reassurances accepted). Group protection business (life and private health insurance) must be included;

Less:

***premiums* relating to *pension fund management*;**

Less:

***premiums* relating to Trustee Investment Plans.**

For each of the above, business transacted through independent practitioners or tied agents (either single or multi-tie) will be divided by two in calculating the adjusted gross premium income;

AND

the amount of mathematical reserves (*IPRU(INS)* Appendix 9.1R - Form 14 , Line 11) which must be included in the documents required to be deposited under *IPRU(INS)* 9.6R in relation to the financial year to which the documents relate but disregarding for this purpose such amounts as are not included in the document by reason of a *waiver* or an order under section 68 of the Insurance Companies Act 1982 carried forward as an amendment to *IPRU(INS)* under transitional provisions relating to written concessions in *SUP*;

Less

mathematical reserves relating to *pension fund management*.

Less

mathematical reserves relating to Trustee Investment Plans.

Notes:

(1) Only *premiums* receivable and mathematical reserves held in respect of *United Kingdom* business are relevant.

(2) An *insurer* must include in its calculation of adjusted gross premium income (AGPI) and mathematical reserves (MR) the value of MR and AGPI relating to all risks ceded to *ISPVs*.

(3) Trustee Investment Plans are the class of *contract of insurance* specified in Class III of Part II of Schedule 1 to the *Regulated Activities Order* (Contracts of long-term insurance) and which are invested in pooled funds beneficially owned by the *insurer* and not earmarked to individual beneficiaries by that *insurer*.

A.5 ACTIVE CAPACITY

The capacity of the *syndicate(s)* under management in the year in question. This includes the capacity for *syndicate(s)* that are not writing new business, but have not been closed off in the year in question.

A.6 Not applicable.

A.7 FUNDS UNDER MANAGEMENT (FuM)

The total value, in pounds sterling, of all assets (see note (a) below) in portfolios which the *firm* manages, on a discretionary basis (see note (b) below), in accordance with its terms of business, less:

a) funds covered by the exclusion contained in article 38 (Attorneys) of the *Regulated Activities Order*;

(b) funds covered by the exclusion contained in article 66(3) (Trustees, nominees and personal representatives) of the *Regulated Activities Order*;

(c) funds covered by the exclusion contained in article 68(6) (Sale of goods or supply of services) of the *Regulated Activities Order*;

(d) funds covered by the exclusion contained in article 69(5) (Groups and joint enterprises) of the *Regulated Activities Order*; and

(e) the value of those parts of the managed portfolios in respect of which the responsibility for the discretionary management has been formally delegated to another *firm* (and which *firm* will include the value of the assets in question in its own FuM total); any such deduction should identify the *firm* to which management responsibility has been delegated.

Notes on FuM

(a) For the purposes of calculating the value of funds under management, assets means all assets that consist of or include any *investment* which is a *designated investment* or those assets in respect of which the arrangements for their management are such that the assets may consist of or include such *investments*, and either the assets have at any time since 29 April 1988 done so or the arrangements have at any time (whether before or after that date) been held out as arrangements under which the assets would do so.

(b) Assets managed by the *firm* on a discretionary basis exclude the *firm's* own assets. 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 also excluded as this activity is covered in those charged to fees in activity groups A.12 and A.13.

(c) In respect of *collective investment schemes*, assets means the total value of the assets of the scheme.

(d) For an *OPS firm*, the FuM should also be reduced by the value of the assets held as a result of a decision taken in accordance with article 4(6) of The Financial Services and Markets Act 2000 (Carrying on Regulated Activities by Way of Business) Order 2001 (investments in *collective investment scheme* or *bodies corporate* which have as their primary purpose the acquisition, directly, or indirectly, of relevant investments, as defined in that article).

(e) Only assets that are managed from an establishment maintained by the *firm* in the *United Kingdom* are relevant.

(f) If the *firm* is managing an overlay portfolio of *derivative* instruments and the underlying assets are managed by itself or a *firm* within the same *group* that has not reported them separately to the *FCA*, or by a *firm* outside its *group*, then it should calculate the value of the *derivatives* and other assets as prescribed in the *guidance* in FSA038 in SUP 16 Annex 25 G.

If the underlying assets are managed by another *firm* within the same *group* who has reported their value separately to the *FCA*, then to avoid double-counting within the *group*, the calculation must be restricted to the exposure of the overlay.

A.9 GROSS INCOME

For operators (including ACDs and managers of unit trusts but excluding operators of a personal pension scheme or a stakeholder pension scheme):

gross income from the activity relating to fee-block A.9 is defined as:

the amount of the annual charge on funds invested in regulated or *unregulated collective investment scheme* received or receivable in the latest accounting period (this is calculated as a % of funds invested, typically 1% p.a.);

PLUS

the front-end or exit charge levied on sales or redemptions of *collective investment schemes* (typically 4-5% of sales/redemptions) in that same accounting period;

PLUS

any additional initial or management charges levied through a product wrapper such as an *ISA*;

BUT EXCLUDING box management profits.

For depositaries (including trustees of collective investment schemes and ICVC depositaries):

The amount of the annual charge levied on funds in *regulated collective investment schemes* for which they act as *depository* (typically a % of the total funds for which they act as *depository*).

For operators of a personal pension scheme or a stakeholder pension scheme:

The amount of the charges levied on the *personal pension scheme* or *stakeholder pension scheme* for which they act as *operator*:

including up-front charges, fund related charges, transaction related charges and periodic charges; but

excluding charges made to an investor in respect of third party suppliers; for example, charges for stock broking, borrowing, banking services and charges for arranging third party legal services, surveys or environmental screening in connection with property.

Note:

Only the gross income corresponding to *United Kingdom* business is relevant.

A.10 NUMBER OF TRADERS

Any *employee* or agent, who:

ordinarily acts within the *United Kingdom* on behalf of an *authorised person* liable to pay fees to the *FCA* in its fee-block A.10 (firms dealing as principal); and who,

as part of their duties in relation to those activities of the *authorised person*, commits the *firm* in market dealings or in transactions in *securities* or in other *specified investments* in the course of *regulated activities*.

But not any *employees* or agents who work solely in the *firm's MTF* operation.

A *firm* may, as an option, report *employees* or agents as full-time equivalents (FTE), taking account of any part-time staff. In calculating the FTE, *firms* must take into account the total hours *employees* or agents have contracted to work for the *firm* and not the time *employees* or agents devote to the *dealing in investments as principal and bidding in emissions auctions* functions set out in fee-block A.10. Any figures using the FTE calculation to be recorded to one decimal place, rounded down to the nearest decimal place.

A.12 ANNUAL INCOME

Annual income as defined in FEES 4 Annex 11A R

A.13 ANNUAL INCOME

Annual income as defined in FEES 4 Annex 11A R

A.14 ANNUAL INCOME

Annual income as defined in FEES 4 Annex 11A R.

A.18 ANNUAL INCOME

(a) the net amount retained by the *firm* of all brokerages, fees, commissions and other related income (e.g. administration charges, overrides, profit shares) due to the *firm* in respect of or in relation to *home finance mediation activity* (or activities which would have been *mortgage mediation activity* if they had been carried out after 30 October 2004 or *home purchase mediation activity* or *home reversion mediation activity* if they had been carried out on or after 6 April 2007 or *regulated sale and rent back mediation activity* if they had been carried out on or after 1 July 2009);

PLUS

(b) for any *home finance mediation activity* carried out by the *firm* for which it receives payment from the lender or provider on a basis other than that in (a), the value of all new mortgage advances and amounts provided under other *home finance transactions* resulting from that activity multiplied by 0.004;

PLUS

(c) if the *firm* is a *home finance provider*, the value of all new mortgage advances and amounts provided under other *home finance transactions* which are or would be *regulated mortgage contracts* if they had been made after 30 October 2004 or *home purchase plans* or *home reversion plans* if they had been made on or after 6 April 2007 or *regulated sale and rent back mediation activity* if they had been carried out on or after 1 July 2009 (other than those made as a result of *home finance mediation activity* by another *firm*), multiplied by 0.004.

For mortgage outsourcing *firms* or home finance outsourcing *firms* whose permission does not include *advising on a home finance transaction* the relevant amounts are multiplied by 0.15.

Notes on annual income:

(1) For the purposes of calculating annual income, "net amount retained" means all the commission, fees, etc. in respect of *home finance mediation activity* that the *firm* has not rebated to customers or passed on to other *firms* (for example, where there is a commission chain). Items such as general business expenses (e.g. employees' salaries, overheads) should not be deducted.

(2) The *firm* must include in its income calculation, on the same basis as above, earnings from those who will become its *appointed representatives* immediately after *authorisation*.

(3) Reference to a "*firm*" above also includes reference to any *person* who carried out activities which would be *mortgage mediation activity* if they had been carried out after 30 October 2004 or *home purchase mediation activity* or *reversion mediation activity* if they had been carried out on or after 6 April 2007 or *regulated sale and rent back mediation activity* if they had been carried out on or after 1 July 2009.

(4) Mortgage outsourcing *firms* are *firms* whose *permission* includes *administering regulated mortgage contracts*, but not *entering into a regulated mortgage contract*. Home finance outsourcing *firms* are *firms* whose *permission* includes *administering a home finance transaction*, but not *entering into a home finance transaction*.

(5) The same *firm* may receive income under paragraph (a) and (c).

(6) A *firm* must include in paragraph (a) any income it receives from *home finance mediation activity* carried on by another *person* with respect to any *home finance transaction* into which the *firm* has entered as lender, plan provider or home purchase provider.

(7) In calculating the net amount retained, a *firm* may not deduct amounts that it rebates to a *person* other than another *firm*, a *person* falling within the extended definition of *firm* in Note (4) or the *firm's* customer.

(8) A *firm* may only deduct amounts under paragraph (a) in calculating its net amount retained if the amount is to be deducted from income that the *firm* must include under paragraph (a). Therefore for example:

(a) if a mortgage lender (Firm A) pays a *firm* commission for arranging a *regulated mortgage* under which Firm A is a lender, Firm A may not take that expense into account in calculating its annual income if Firm A does not receive a fee from the borrower or another person in respect of that *regulated mortgage*; and

(b) if a mortgage lender (Firm A) pays a *firm* (Firm B) commission for arranging a *regulated mortgage* under which Firm A is a lender, Firm A receives a payment from the borrower under that transaction and the amount payable to Firm B exceeds the amount payable by the borrower, Firm A may not take that excess into account in calculating its annual income and must instead net the sum payable by the borrower to zero.

(9) A *firm* must include in paragraph (a) any survey and booking fees due to it in respect of or in relation to *home finance mediation activity* or which would be *home finance mediation activity* if they had been carried on or after the dates in paragraph (a).

A.19

ANNUAL INCOME (A) the net amount retained by the *firm* of all brokerages, fees, commissions and other related income (e.g. administration charges, overrides, profit shares) due to the *firm* in respect of or in relation to *insurance mediation activity* (or activities which would have been *insurance mediation activity* if they had been carried out after 13 January 2005 or, in relation to *connected travel insurance contracts*, from 1 January 2009) in relation to *general insurance contracts* or *pure protection contracts*;

Plus (B) in relation to the activities set out in (A), for any *insurance mediation activity* carried out by the *firm* for which it receives payment from the *insurer* on a basis other than that in (A), the amount of *premiums* receivable on the *contracts of insurance* resulting from that activity multiplied by 0.07;

Plus (C) if the *firm* is an *insurer*, in relation to the activities set out in (A), the amount of *premiums* receivable on its *contracts of insurance* multiplied by 0.07, excluding those *contracts of insurance* which:

(i) result from *insurance mediation activity* by another *firm*, where a payment has been made by the *insurer* to the *firm* under (A); or

(ii) the *insurer* reports in, and pays a fee under, the A.4 activity group; or

(iii) are not *general insurance contracts* or *pure protection contracts*.

Notes on annual income:

(1) For the purposes of calculating annual income, "net amount retained" means all the commission, fees, etc. in respect of *insurance mediation activity* that the *firm* has not rebated to customers or passed on to other *firms* (for example, where there is a commission chain). Items such as general business expenses (e.g. employees' salaries, overheads) should not be deducted.

(2) The *firm* must include in its income calculation, on the same basis as above, earnings from those who will become its *appointed representatives* immediately after *authorisation*.

(3) Reference to a "*firm* " above also includes reference to any *person*, including a *connected travel insurance intermediary*, who carried out activities which would be *insurance mediation activity* (in respect of *general insurance contracts* or *pure protection contracts*) if they had been carried out after 13 January 2005 or, in relation to *connected travel insurance contracts*, from 1 January 2009.

(4) The same *firm* may receive income under (A) and (C).

(5) A *firm* must include in (A) any income it receives from *insurance mediation activity* carried on by another *person* with respect to any *general insurance contracts* or *pure protection contracts* into which the *firm* has entered as insurer.

(6) In calculating the net amount retained, a *firm* may not deduct amounts that it rebates to a *person* other than another *firm*, a *person* falling within the extended definition of *firm* in Note (4) or the *firm's* customer.

(7) A *firm* may only deduct amounts under (A) in calculating its net amount retained if the amount is to be deducted from income that the *firm* must include under (A). Therefore for example:

(a) if an insurer (Firm A) pays a *firm* commission for arranging a *general insurance contract* or *pure protection contract* under which Firm A is the *insurer*, Firm A may not take that expense into account in calculating its annual income if Firm A does not receive a fee from the insured or another *person* in respect of that contract; and

(b) if an insurer (Firm A) pays a *firm* (Firm B) commission for arranging a *general insurance contract* or *pure protection contract* under which Firm A is the *insurer*, Firm A receives a payment from the insured under that transaction and the amount payable to Firm B exceeds the amount payable by the insured, Firm A may not take that excess into account in calculating its annual income and must instead net the sum payable by the insured to zero.

B. Market operators Not applicable.

B. Service companies Not applicable.

B. MTF operators Not applicable.

B. Benchmark administrators Not applicable.

This table indicates the tariff base for each fee block set out in Part 2.

Activity Group	Tariff base
A.0	Not applicable because the minimum fee is a specified amount.
AP.0	The total periodic fees payable as a result of Part 1 of FEES 4 Annex 2A R excluding any periodic fee for <i>operating a dormant fund account</i> .

Part 5

This table indicates the valuation date for each fee-block. A *firm* can calculate its tariff data in respect of fees payable to the FCA by applying the tariff bases set out in Part 3 with reference to the valuation dates shown in this table.

Activity group	Valuation date
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IN THIS TABLE, REFERENCES TO SPECIFIC DATES OR MONTHS ARE REFERENCES TO THE LATEST ONE OCCURRING BEFORE THE START OF THE PERIOD TO WHICH THE FEE APPLIES, UNLESS OTHERWISE SPECIFIED - E.G. FOR 2013/14 FEES (1 APRIL 2013 TO 31 MARCH 2014), A REFERENCE TO DECEMBER MEANS DECEMBER 2012.

Where a *firm's* tariff data is in a currency other than sterling, it should be converted into sterling at the exchange rate prevailing on the relevant valuation date.

A.1 For *banks*:

Modified eligible liabilities (MELs), valued at:

for a *firm* which reports monthly, the average of the MELs for October, November and December;

for a *firm* which reports quarterly, the MELs for December. For *credit unions*:

For *credit unions*:

MELs, valued at December or as disclosed by the most recent annual return made prior to that date.

For *building societies*:

MELs, valued at the average of the MELs for October, November and December.

A.2 Number of mortgages, *home purchase plans*, *home reversion plans* and *regulated sale and rent back agreements* entered into in the twelve months ending 31 December.

AND

Number of mortgages, *home purchase plans*, *home reversion plans* and *regulated sale and rent back agreements* being administered on 31 December.

A.3	Annual gross <i>premium</i> income (GPI), for the financial year ended in the calendar year ending 31 December.
	AND
	Gross technical liabilities (GTL) valued at the end of the financial year ended in the calendar year ending 31 December.
A.4	Adjusted annual gross <i>premium</i> income (AGPI) for the financial year ended in the calendar year ending 31 December.
	AND
	Mathematical reserves (MR) valued at the end of the financial year ended in the calendar year ending 31 December.
A.5	Active capacity (AC), in respect of the Underwriting Year (as reported to the <i>Society of Lloyd's</i>) which is current at the beginning of the period to which the fee relates.
	[Note: this is the Underwriting Year which is already in progress at the start of the fee period - e.g. for 2013/14 fees, the fee period will begin on 1 April 2013, which is in the 2013 Underwriting Year, so the AC for that Underwriting Year is the relevant measure.]
A.6	Not applicable.
A.7	Funds under management (FuM), valued at 31 December.
A.9	Annual gross income (GI), valued at the most recent financial year ended before 31 December.
A.10	Number of traders as at 31 December.
A.12	Annual income for the financial year ended in the calendar year ending 31 December.
A.13	Annual income for the financial year ended in the calendar year ending 31 December.
A.14	Annual income for the financial year ended in the calendar year ending 31 December.
A.18	Annual income (AI) for the financial year ended in the calendar year ending 31 December.
A.19	Annual income (AI) for the financial year ended in the calendar year ending 31 December.
B. Market operators	Not applicable.
B. Service companies	Not applicable.
B. MTF operators	Not applicable.
B. <i>Benchmark administrators</i>	Not applicable

PRA activity groups, tariff bases and valuation dates

PRA

Part 1

This table shows how the *PRA* links the *PRA-regulated activities* for which a *PRA-authorised person* has *permission* to activity groups (fee-blocks). A *PRA-authorised person* can use the table to identify which fee-blocks it falls into based on its *permission*.

Activity group	Fee payer falls in the activity group if
A.1 Depositors	its <i>permission</i> includes <i>accepting deposits</i> BUT DOES NOT include either of the following: <i>effecting contracts of insurance</i> ; <i>carrying out contracts of insurance</i> .
A.3 Insurers - general	its <i>permission</i> includes one or more of the following: - <i>effecting contracts of insurance</i> ; - <i>carrying out contracts of insurance</i> ; in respect of <i>specified investments</i> that are: - <i>general insurance contracts</i> ; or - <i>long-term insurance contracts other than life policies</i> .
A.4 Insurers - life	its <i>permission</i> includes one or more of the following: - <i>effecting contracts of insurance</i> ; - <i>carrying out contracts of insurance</i> ; in respect of <i>specified investments including life policies</i> ; - <i>entering as provider into a funeral plan contract</i> .
A.5 Managing agents at Lloyd's	its <i>permission</i> includes <i>managing the underwriting capacity of a Lloyd's syndicate as a managing agent at Lloyd's</i> .

A.6 The Society of Lloyd's it is the *Society of Lloyd's*.

A.10 Firms dealing as principal its *permission* includes *dealing in investments as principal*; and the *PRA* has designated *dealing in investments as principal* a *PRA-regulated activity* in respect of the *firm*.

Part 2

This table sets out the activity groups (fee blocks) in relation to (i) the minimum fee payable to the *PRA* and (ii) the transitional fee payable to the *PRA*.

Activity group	Fee payer falls into the fee-block if
PA.0 PRA minimum fee	(1) it is in at least one of the fee blocks under Part 1; and (2) it is not a <i>UK ISPV</i> .
PT.1 PRA transition-al fee	(1) it is in at least one of the fee blocks under Part 1; and (2) it is not: (a) a <i>firm</i> whose only fee payable to the <i>PRA</i> is the <i>PA.0 PRA</i> minimum fee; and/or (b) a <i>UK ISPV</i> .

Part 3

This table indicates the tariff base for each fee-block set out in Part 1.

The tariff base in this Part is the means by which the *PRA* measures the amount of business conducted by a *PRA-authorised person* for the purposes of calculating the annual periodic fees payable to the *PRA* by that *PRA-authorised person*.

Activity Group	Tariff base
----------------	-------------

A.1 MODIFIED ELIGIBLE LIABILITIES

For *banks and building societies*:

Item B of Form ELS (Note (1)):

$$(1 + 2 + 3 + 4 + 0.6*5 + 6 - 8 - 9A - 9B - 10A - 10B - 10C - 11A - 11B - 0.6*12) + (1/3)*(F1 + F2 + F3 + F4 + 0.6*F5 + F6 - F8 - F9A - F9B - F10A - F10B - F10C - F11A - F11B - 0.6*F12)$$

- 13M

Notes:

(1) All references in the above formula are to entries on Form ELS (that is, the Eligible Liabilities Return completed to provide information by *banks and building societies* to the Bank of England as required by the Bank of England Act 1998).

(2) The figures reported on the Form ELS relate to business conducted out of offices in the *United Kingdom*

For *credit unions*:

Deposits with the *credit union* (share capital)

LESS

the *credit union's* bank deposits (investments + cash at bank)

Note:

Only *United Kingdom* business is relevant for calculating *credit unions'* MELs.

A.3 GROSS PREMIUM INCOME AND GROSS TECHNICAL LIABILITIES

For *insurers*:

The amount of *premium* receivable which must be included in the documents required to be deposited under *IPRU(INS)* 9.6 in relation to the financial year to which the documents relate but disregarding for this purpose such amounts as are not included in the document by reason of a waiver or an order under section 68 of the Insurance Companies Act 1982 carried forward as an amendment to *IPRU(INS)* under transitional provisions relating to written concessions in *SUP*;

AND the amount of gross technical liabilities (*IPRU(INS)* Appendix 9.1 - Form 15, line 19) which must be included in the documents required to be deposited under *IPRU(INS)* 9.6R in relation to the financial year to which the documents relate but disregarding for this purpose such amounts as are not included in the document by

reason of a waiver or an order under section 68 of the Insurance Companies Act 1982 carried forward as an amendment to *IPRU(INS)* under transitional provisions relating to written concessions in *SUP*.

Notes:

1) in the case of either:

(a) a *pure reinsurer* carrying on *general insurance business* through a *branch* in the *United Kingdom*; or

(b) an *insurer* whose head office is not in an *EEA State* carrying on *general insurance business* through a *branch* in the *United Kingdom*; or

(c) an *EEA-deposit insurer*;

the amount only includes premiums received and gross technical liabilities held in respect of its *United Kingdom* business;

(2) for a *Swiss general insurance company*, premiums and gross technical liabilities include those relevant to the operations of the company's *United Kingdom branch*; and

(3) a *firm* need not include premiums and gross technical liabilities relating to *pure protection contracts* which it reports, and pays a fee on, in the A.4 activity group.

For *friendly societies*:

Either:

(a) the value of contributions as income under Schedule 7: Part I item 1(a) to the Friendly Societies (Accounts and Related Provisions) Regulations 1994 (SI 1994/1983) (the regulations) for a *non-directive friendly society*, included within the income and expenditure account; or

(b) the value of gross premiums written under Schedule 1: Part I items I.1(a) and II.1.(a) of the regulations for a *directive friendly society* included within the income and expenditure account.

Notes:

(1) In both (a) and (b) above only *premium* receivable in respect of *United Kingdom* business are relevant.

(2) For *UK ISPVs* the tariff base is not relevant and a flat fee set out in FEES 4 Annex 2BR is payable.

A.4 ADJUSTED GROSS PREMIUM INCOME AND MATHEMATICAL RESERVES
(see FEES 4 Annex 12 G)

Amount of new regular *premium* business (yearly premiums including reassurances ceded but excluding cancellations and reassurances accepted), times ten;

Plus

amounts of new single *premium* business (total including reassurances ceded but excluding cancellations and reassurances accepted). Group protection business (life and private health insurance) must be included;

Less

premiums relating to *pension fund management*;

Less

premiums relating to Trustee Investment Plans.

For each of the above, business transacted through independent practitioners or tied agents (either single or multi-tie) will be divided by two in calculating the adjusted gross premium income;

AND

the amount of mathematical reserves (*IPRU(INS)* Appendix 9.1R - Form 14 , Line 11) which must be included in the documents required to be deposited under *IPRU(INS)* 9.6R in relation to the financial year to which the documents relate but disregarding for this purpose such amounts as are not included in the document by reason of a *waiver* or an order under section 68 of the Insurance Companies Act 1982 carried forward as an amendment to *IPRU(INS)* under transitional provisions relating to written concessions in *SUP*;

Less

mathematical reserves relating to *pension fund management*.

Less

mathematical reserves relating to Trustee Investment Plans.

Notes:(1) Only *premiums* receivable and mathematical reserves held in respect of United Kingdom business are relevant.

(2) An *insurer* must include in its calculation of adjusted gross premium income (AGPI) and mathematical reserves (MR) the value of MR and AGPI relating to all risks ceded to *ISPVs*.

(3) Trustee Investment Plans are the class of *contract of insurance* specified in Class III of Part II of Schedule 1 to the Regulated Activities Order (Contracts of long-term insurance) and which are invested in pooled funds beneficially owned by the *insurer* and not earmarked to individual beneficiaries by that *insurer*.

A.5 ACTIVE CAPACITY

The capacity of the *syndicate(s)* under management in the year in question. This includes the capacity for *syndicate(s)* that are not writing new business, but have not been closed off in the year in question.

A.6 Not applicable

A.10 (only NUMBER OF TRADERS

to the extent that the *PRA* has designated *dealing in investments as principal* to be a *PRA-regulated activity* in respect of the *firm*)

Any *employee* or agent, who:

ordinarily acts within the *United Kingdom* on behalf of an *authorised person* liable to pay fees to the *PRA* in its fee-block A.10 (firms dealing as principal); and who, as part of their duties in relation to those activities of the authorised person, commits the *firm* in market dealings or in transactions in *securities* or in other *specified investments* in the course of *regulated activities*.

But not any *employees* or agents who work solely in the *firm's MTF* operation.

A *firm* may, as an option, report *employees* or agents as full-time equivalents (FTE), taking account of any part-time staff. In calculating the FTE, *firms* must take into account the total hours employees or agents have contracted to work for the *firm* and not the time employees or agents devote to the *dealing in investments as principal* functions set out in fee-block A.10. Any figures using the FTE calculation to be recorded to one decimal place, rounded down to the nearest decimal place.

Part 4

This table indicates the tariff base for each fee block set out in Part 2 above

The tariff base in this Part is the means by which the *PRA* measures the amount of business conducted by a *firm* for the purposes of calculating the annual periodic fees payable to the *PRA* by that *firm*.

Activity Group	Tariff base
PA.0	Not applicable because the minimum fee is a specified amount.
PT.1	The total periodic fees payable as a result of Part 1 of FEES 4 Annex 2B R.

Part 5

This table indicates the valuation date for each fee-block. A *PRA-authorised person* can calculate its tariff data in respect of fees payable to the *PRA* by applying the tariff bases set out in Part 3 with reference to the valuation dates shown in this table.

4

IN THIS TABLE, REFERENCES TO SPECIFIC DATES OR MONTHS ARE REFERENCES TO THE LATEST ONE OCCURRING BEFORE THE START OF THE PERIOD TO WHICH THE FEE APPLIES, UNLESS OTHERWISE SPECIFIED - E.G. FOR 13/14 FEES (1 APRIL 2013 TO 31 MARCH 2014), A REFERENCE TO DECEMBER MEANS DECEMBER 2012.

Where a *firm's* tariff data is in a currency other than sterling, it should be converted into sterling at the exchange rate prevailing on the relevant valuation date.

A.1 For *banks*:

Modified eligible liabilities (MELs), valued at:

for a *firm* which reports monthly, the average of the MELs for October, November and December;

for a *firm* which reports quarterly, the MELs for December.

For *credit unions*:

MELs, valued at December or as disclosed by the most recent annual return made prior to that date.

For *building societies*:

MELs, valued at the average of the MELs for October, November and December.

A.3 Annual gross *premium* income (GPI), for the financial year ended in the calendar year ending 31 December. AND

Gross technical liabilities (GTL) valued at the end of the financial year ended in the calendar year ending 31 December.

A.4 Adjusted annual gross *premium* income (AGPI) for the financial year ended in the calendar year ending 31 December.

AND

Mathematical reserves (MR) valued at the end of the financial year ended in the calendar year ending 31 December.

A.5 Active capacity (AC), in respect of the Underwriting Year (as reported to the *Society of Lloyd's*) which is current at the beginning of the period to which the fee relates.

[Note: this is the Underwriting Year which is already in progress at the start of the fee period - e.g. for 2004/05 fees, the fee period will begin on 1 April 2004, which is in the 2004 Underwriting Year, so the AC for that Underwriting Year is the relevant measure.]

A.6 Not applicable.

A.10 Number of traders as at 31 December.

Fee tariff rates, permitted deductions and EEA/Treaty firm modifications for the period from 1 April 2012 to 31 March 2013 [Deleted]

FCA Fee rates and EEA/Treaty firm modifications for the period from 1 April 2013 to 31 March 2014

FCA

Part 1

This table shows the tariff rates applicable to each of the fee blocks set out in Part 1 of FEES 4 Annex 1A R.

- (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 *firm's* business, calculated by multiplying the value of the *firm's* tariff base by the rate applicable to each tranche of the tariff base, as indicated.
- (2) A *firm* may apply the relevant tariff bases and rates to 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 3 of FEES 4 Annex 1A R are disproportionate to the difference in fees payable; and
 - (b) it notifies the *FCA* 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.
- (3) For a *firm* which has not complied with FEES 4.2.2 G (Information on which fees are calculated) for this period:
 - (a) the fee is calculated using (where relevant) the valuation or valuations of business applicable to the previous period, multiplied by the factor of 1.10;
 - (b) an additional fee of £250 is payable, unless the *firm* is a *PRA-authorized person* in which case an additional fee of £125 is payable instead; and
 - (c) The minimum total fee (including the administrative fee in (b)) is £430, unless the *firm* is a *PRA-authorized person* in which case the total minimum total fee (including the administrative fee in (b)) is £215.

Activity group	Fee payable
A.1	Band width (million of Modified Eligible Liabilities (MELs))
	Fee (/m or part m of MELs)
	General Periodic fee
	>10 - 140 [tbc]
	>140 - 630 [tbc]

>630 - 1,580 [tbc]

>1,580 - 13,400 [tbc]

>13,400 [tbc]

The tariff rates in A.1 are not relevant for the *permissions* relating to *operating a dormant account fund*. Instead a flat fee of 6,000 is payable in respect of these *permissions*

A.2 Band width (No. of mortgages and/or home finance transactions) Fee (/mortgage)

>50 - 130 [tbc]

>130 - 320 [tbc]

>320 - 4,570 [tbc]

>4,570 - 37,500 [tbc]

>37,500 [tbc]

A.3 Gross premium income (GPI) Periodic fee

Minimum fee () Not applicable

Band Width (million of GPI) Fee (/m or part m of GPI)

>0.5 - 10.5 [tbc]

>10.5 - 30 [tbc]

>30 - 245 [tbc]

>245 - 1,900 [tbc]

>1,900 [tbc]

PLUS

Gross technical liabilities (GTL) General Periodic fee

Band Width (million of GTL) Fee (/m or part m of GTL)

>1 - 12.5 [tbc]

>12.5 - 70 [tbc]

>70 - 384 [tbc]

>384 - 3,750 [tbc]

>3,750 [tbc]

For *UK ISPV's* the tariff rates are not relevant and a flat fee of 430 is payable in respect of each *FCA* financial year (the 12 *months* ending 31 March).

A.4 Adjusted annual gross premium income (AGPI) General Periodic fee

Band Width (million of AGPI) Fee (/m or part m of AGPI)

>1 - 5 [tbc]

>5 - 40 [tbc]

>40 - 260 [tbc]

	>260 - 4,000	[tbc]
	>4,000	[tbc]
	PLUS	
	Mathematical reserves (MR)	General Periodic fee
	Band Width (million of MR)	Fee (/m or part m of MR)
	>1 - 20	[tbc]
	>20 - 270	[tbc]
	>270 - 7,000	[tbc]
	>7,000 - 45,000	[tbc]
	>45,000	[tbc]
A.5	Band Width (million of Active Capacity (AC))	Fee (/m or part m of AC)
	>50 - 150	[tbc]
	>150 - 250	[tbc]
	>250 - 500	[tbc]
	>500 - 1,000	[tbc]
	>1,000	[tbc]
A.6	Flat fee	[tbc]
A.7	For class 1(C), (2) and (3) firms:	
	Band Width (million of Funds under Management (FuM))	Fee (/m or part m of FuM)
	>10 - 150	[tbc]
	>150 - 2,800	[tbc]
	>2,800 - 17,500	[tbc]
	>17,500 - 100,000	[tbc]
	>100,000	[tbc]
	For class 1(B) firms: the fee calculated as for class 1(C) firms above, less 15%. For class 1(A) firms: the fee calculated as for class 1(C) firms above, less 50%.	
A.8	This activity group does not apply for this period.	
A.9	Band Width (million of Gross Income (GI))	Fee (/m or part m of GI)
	>1 - 4.5	[tbc]
	>4.5 - 17	[tbc]
	>17 - 145	[tbc]
	> 145 - 750	[tbc]
	>750	[tbc]
A.10	Band Width (No. of traders)	Fee (/person)
	2 - 3	[tbc]

	4 - 5	[tbc]
	6 - 30	[tbc]
	31 - 180	[tbc]
	>180	[tbc]
	<i>For firms carrying on auction regulation bidding, the fee in A.10 is calculated as above less 20% for each trader that carries on auction regulation bidding but not MiFID business bidding or dealing in investments as principal.</i>	
A.12	Band Width (£ thousands of annual income (AI))	Fee (£/£ thousand or part £ thousand of AI)
	[tbc]	[tbc]
A.13	Band Width (£ thousands of annual income (AI))	Fee (£/£ thousand or part £ thousand of AI)
	[tbc]	[tbc]
A.14	Band Width (£ thousands of annual income (AI))	Fee (£/£ thousand or part £ thousand of AI)
	[tbc]	[tbc]
A.18	Band Width (thousands of Annual Income (AI))	Fee (/ thousand or part thousand of AI)
	>100 - 180	[tbc]
	>180 - 1,000	[tbc]
	>1,000 - 12,500	[tbc]
	>12,500 - 50,000	[tbc]
	>50,000	[tbc]
A.19	Band Width (thousands of Annual Income (AI))	Fee (/ thousand or part thousand of AI)
	>100 - 325	[tbc]
	>325 - 10,000	[tbc]
	>10,000 - 50,750	[tbc]
	>50,750 - 250,000	[tbc]
	>250,000	[tbc]
B. Market operators	[tbc]	-
B. Service companies	Bloomberg LP	[tbc]
	LIFFE Services Ltd	[tbc]
	OMGEO Ltd	[tbc]
	Reuters Ltd	[tbc]
	Swapswire Ltd	[tbc]

B. Bench- £175,000
mark ad-
ministra-
tors

B. MTF As set out in FEES 4 Annex 10 (Periodic fees for
operators MTF operators).

Part 2

This table shows the tariff rates applicable to each of the fee blocks set out in Part 2 of FEES 4 Annex 1A R.

A.0	<p>(1) [tbc] unless:</p> <ul style="list-style-type: none"> (a) It is a <i>credit union</i> that meets the conditions in (2), in which case the minimum fee payable is as set out in (2); (b) 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 (3)(a), in which case the minimum fee payable is [tbc]; or (c) 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 (3)(b), in which case the minimum fee payable is [tbc]; or (d) 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 (3)(a) and (3)(b), in which case the minimum fee payable is [tbc]; (e) it is also a <i>PRA-authorised person</i>, in which case the minimum fee is 50% of any fee which would otherwise apply under (1)(a) to (1)(d) or (2). <p>(2) The conditions referred to in (1)(a) are that the <i>credit union</i> has a tariff base (Modified Eligible Liabilities) of:</p> <ul style="list-style-type: none"> (a) 0 to 0.5million, in which case a minimum fee of [tbc] is payable; or (b) greater than 0.5million but less than 20 million, in which case a minimum fee of [tbc] is payable. <p>(3) The conditions referred to in (1) are that:</p> <ul style="list-style-type: none"> (a) 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</i> income and holds gross technical liabilities of 1.0 million or less; (b) 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</i> income and holds mathematical reserves of 1.0 million or less. <p>The figures for gross <i>premium</i> income, gross technical liabilities, adjusted gross <i>premium</i> income and mathematical reserves are the same as used for Part 1 of this Annex.</p>
AP.0	Periodic fees payable under Part 1 multiplied by rate £[tbc]

Part 3

This table shows the modifications to fee tariffs that apply in respect of the *FCA* 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 <i>firm</i>
A.1	[tbc]
A.3	[tbc]
A.4	[tbc]
A.7	[tbc]
A.9	[tbc]
A.10	In relation to each trader that carries on <i>auction regulation bidding</i> but not <i>MiFID business bidding</i> or <i>dealing in investments as principal</i> , 100%. In relation to all other traders, 0%.
A.12	[tbc]
A.13	[tbc]
A.19	[tbc]
B. <i>MTF operators</i>	Not applicable
AP.0	100%
Note 1	The modifications to fee tariffs payable by an <i>incoming EEA firm</i> or an <i>incoming Treaty firm</i> which has established a branch in the UK apply only in relation to the relevant <i>regulated activities</i> of the firm which are passported activities or <i>Treaty activities</i> and which are carried on in the <i>UK</i> .
Note 2	The <i>FCA</i> minimum fee described in Part 2 of FEES 4 Annex 2A R applies in full and the modifications in this Part do not apply to it.

PRA fee rates and EEA/Treaty firm modifications for the period from 1 April 2013 to 28 February 2014

PRA

Part 1

This table shows the tariff rates applicable to each of the fee blocks set out in Part 1 of FEES 4 Annex 1B R.

- (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 *firm's* business, calculated by multiplying the value of the *firm's* tariff base by the rate applicable to each tranche of the tariff base, as indicated.
- (2) A *firm* may apply the relevant tariff bases and rates to 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 3 of FEES 4 Annex 1B R are disproportionate to the difference in fees payable; and
 - (b) it notifies the FCA (acting as the collecting agent of the PRA) 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.
- (3) For a *firm* which has not complied with FEES 4.4.2 R (Information on which fees are calculated) for this period:
 - (a) the fee is calculated using (where relevant) the valuation or valuations of business applicable to the previous period, multiplied by the factor of 1.10;
 - (b) an additional administrative fee of 125 is payable; and
 - (c) the minimum total fee (including the administrative fee in (b)) is 215.

Activity Group	Fee payable
A.1	Band width (£ million of Modified Eligible Liabilities (MELs))
	Fee (£/£m or part £m of MELs)
	General Periodic fee
	>10 - 140
	[tbc]
	>140 - 630
	[tbc]
	>630 - 1,580
	[tbc]
	>1,580 - 13,400
	[tbc]

	>13,400	[tbc]	
A.3	Gross premium income (GPI)		General periodic fee
	Minimum fee (£)	[tbc]	
	Band Width (£ million of GPI)		Fee (£/£m or part £m of GPI)
	>0.5 - 10.5	[tbc]	
	>10.5 - 30	[tbc]	
	>30 - 245	[tbc]	
	>245 - 1,900	[tbc]	
	>1,900	[tbc]	
	Plus		
	Gross technical liabilities (GTL)		General Periodic fee
	Band Width (£ million of GTL)		Fee (£/£m or part £m of GTL)
	>1 - 12.5	[tbc]	
	>12.5 - 70	[tbc]	
	>70 - 384	[tbc]	
	>384 - 3,750	[tbc]	
	>3,750	[tbc]	
	For <i>UK ISPV's</i> the tariff rates are not relevant and a flat fee of [tbc] is payable in respect of each <i>fee year</i> [tbc]		
A.4	Adjusted annual gross premium income (AGPI)		General Periodic fee
	Minimum fee (£)	[tbc]	
	Band Width (£ million of AGPI)		Fee (£/£m or part £m of AGPI)
	>1 - 5	[tbc]	
	>5 - 40	[tbc]	
	>40 - 260	[tbc]	
	>260 - 4,000	[tbc]	
	>4,000	[tbc]	
	PLUS		
	Mathematical reserves (MR)		General Periodic fee
	Minimum fee (£)	[tbc]	
	Band Width (£ million of MR)		Fee (£/£m or part £m of MR)
	>1 -20	[tbc]	
	>20 - 270	[tbc]	
	>270 - 7,000	[tbc]	
	>7,000 - 45,000	[tbc]	

	>45,000	[tbc]
A.5	Band Width (£ million of Active Capacity (AC))	Fee (£/£m or part £m of AC)
	>50 - 150	[tbc]
	>150 - 250	[tbc]
	>250 - 500	[tbc]
	>500 - 1,000	[tbc]
	>1,000	[tbc]
A.6	Flat fee	[tbc]
A.10	Band Width (No. of traders)	Fee (£/trader)
	2 - 3	[tbc]
	4 - 5	[tbc]
	6 - 30	[tbc]
	31 - 180	[tbc]
	>180	[tbc]

Part 2

This table sets out the tariff rate applicable to each of the fee blocks set out in Part 2 of FEES 4 Annex 1B R

- PA.0 (1) The minimum fee payable by any *firm* referred to in (3) is [tbc] unless:
- it is a *credit union* that meets the conditions in (2), in which case the minimum fee payable is as set out in (2); or
 - it is a *non-directive friendly society* that falls into the A.3 activity group but not the A.4 activity group and meets the conditions set out in (3)(a), in which case the minimum fee payable is [tbc]; or
 - it is a *non-directive friendly society* that falls into the A.4 activity group but not the A.3 activity group and meets the conditions in (3)(b), in which case the minimum fee payable is [tbc]; or
 - it is a *non-directive friendly society* that falls into the A.3 and A.4 activity groups and meets the conditions in (3)(a) and (3)(b), in which case the minimum fee payable is [tbc];
- (2) The conditions referred to in (1)(a) are that the *credit union* has a tariff base (Modified Eligible Liabilities) of:
- 0 to 0.5million, in which case a minimum fee of [tbc] is payable; or
 - greater than 0.5million but less than 2.0million, in which case a minimum fee of [tbc] is payable.
- (3) The conditions referred to in (1) are that:

- (a) the *non-directive friendly society* falls into the A.3 activity group and has, for that activity, 0.5 million or less in gross *premium* income and holds gross technical liabilities of 1.0 million or less;
- (b) the *non-directive friendly society* falls into the A.4 activity group and has, for that activity, written 1.0 million or less in adjusted gross *premium* income and holds mathematical reserves of 1.0 million or less.

The figures for gross *premium* income, gross technical liabilities, adjusted gross *premium* income and mathematical reserves are the same as used for Part 1 of this Annex.

PT.1 Periodic fees payable under Part 1 multiplied by rate £[tbc]

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 <i>firm</i>
A.1	50%
A.3	90%
A.4	90%
PT.1	100%
Note 1	The modifications to fee tariffs payable by an <i>incoming EEA firm</i> or an <i>incoming Treaty firm</i> which has established a branch in the UK apply only in relation to the relevant regulated activities of the firm which are <i>passported activities</i> or <i>Treaty activities</i> and which are carried on in the UK.
Note 2	The <i>PRA</i> minimum fee described in Part 2 of FEES 4 Annex 2B R applies in full and the modifications in this Part do not apply to it.

[Deleted]

Periodic fees in relation to collective investment schemes payable for the period 1 April 2012 to 31 March 2013

FCA

Part 1 - Periodic fees payable

Scheme type	Basic fee (£)	Total funds/sub-funds aggregate	Fund factor	Fee (£)
ICVC,	580	1-2	1	580
AUT,		3-6	2.5	1,450
Section 264 of the Act		7-15	5	2,900
		16-50	11	6,380
Section 270 of the Act		>50	22	12,760
Section 272 of the Act	2,360	1-2	1	2,360
		3-6	2.5	5,900
		7-15	5	11,800
		16-50	11	25,960
		>50	22	51,920

Fees are charged according to the number of funds or *sub-funds* operated by a *firm* as at 31 March 2012 . Where a new *collective investment scheme* becomes authorised during a year, fees are charged according to the number of funds or *sub-funds* operated by a *firm* as at the date of authorisation. Where more than one fund or *sub-fund* is operated, the number of funds (not including the *umbrella* or parent fund) produces a 'fund factor' in accordance with the table above, which is then applied to a basic fee to produce one total fee per *operator* . Fund factors are applied per *operator* rather than per *scheme* so that the fees relate to the number of funds rather than the number of *schemes*. This means that, for example, an *authorised fund manager* of three *schemes* pays the same as an *operator* or *authorised fund manager* of one *scheme* with three *sub-funds* (as only the *sub-funds* are counted).

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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 2010/11 fees a reference to 31 March means 31 March 2010.

Periodic fees for designated professional bodies payable in relation to the period 1 April 2012 to 31 March 2013

FCA

Table of fees payable by Designated Professional Bodies

Name of Designated Professional Body	Amount payable	Due date
The Law Society of England & Wales	£36,595	30 April 2012
	£28,235	1 September 2012
The Law Society of Scotland	£13,080	1 July 2012
The Law Society of Northern Ireland	£12,500	1 July 2012
The Institute of Actuaries	£10,090	1 July 2012
The Institute of Chartered Accountants in England and Wales	£22,340	1 July 2012
The Institute of Chartered Accountants of Scotland	£11,030	1 July 2012
The Institute of Chartered Accountants in Ireland	£10,560	1 July 2012
The Association of Chartered Certified Accountants	£15,960	1 July 2012
The Council for Licensed Conveyancers	£11,080	1 July 2012
Royal Institution of Chartered Surveyors	£13,360	1 July 2012

Notes

(1) The *Financial Services Register* includes details of *exempt professional firms* carrying out *insurance mediation activity*.

Periodic fees for recognised investment exchanges, recognised clearing houses and recognised auction platforms payable in relation to the period 1 April 2013 to 31 March 2014

FCA

In this Annex:

- the term *recognised body* includes a body which was a recognised investment exchange recognised under the Financial Services Act 1986 and which is a *recognised body* as a result of Regulation 9 of the *Recognition Requirements Regulations*;
- the term recognition order includes a recognition order made by the *FCA* under section 37 of the Financial Services Act 1986 or a recognition order made by the Treasury under section 40 of the Financial Services Act 1986 in relation to overseas investment exchanges .

Part 1 - Periodic fees for UK recognised investment exchanges

Name of UK recognised body	Amount payable	Due date
ICE Futures Europe Ltd	£250,000	30 April 2012
	£365,500	1 September 2012
LIFFE Administration and Management	£375,000	30 April 2012
	£510,500	1 September 2012
The London Metal Exchange Limited	£225,000	30 April 2012
	£319,500	1 September 2012
London Stock Exchange plc	£307,000	30 April 2012
	£427,000	1 September 2012
PLUS Markets Plc	£95,000	30 April 2012
	£127,500	1 September 2012
Any other UK recognised investment exchange recognised as such by a <i>recognition order</i> made in the period	£150,000	30 days after the date on which the <i>recognition order</i> is made

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Part 1A - Periodic fees for recognised auction platforms

Name of recognised auction platform	Amount payable	Due date
An <i>RAP</i> recognised as such by a <i>recognition order</i> made in the period	£50,000	30 days after the date on which the <i>recognition order</i> is made

Part 2 - Periodic fees for overseas recognised bodies

Name of overseas recognised body	Amount payable	Due date
The Chicago Mercantile Exchange (CME) (ROIE)	50,000	1 July 2012
Chicago Board of Trade	50,000	1 July 2012
EUREX (Zurich)	50,000	1 July 2012
National Association of Securities and Dealers Automated Quotations (NASDAQ)	£50,000	1 July 2012
New York Mercantile Exchange Inc.	50,000	1 July 2012
The Swiss Stock Exchange	50,000	1 July 2012
Sydney Futures Exchange Limited	50,000	1 July 2012
ICE Futures US Inc	50,000	1 July 2012
NYSE Liffe US	£50,000	1 July 2012
Green Exchange (ROIE)	50,000	1 July 2012
Any other <i>overseas investment exchange</i> recognised as such by a <i>recognition order</i> made in the period	£40,000	30 days after the date on which the <i>recognition order</i> is made

Periodic fees in relation to the Listing Rules for the period 1 April 2013 to 31 March 2014

FCA

Fee type	Fee amount
Annual fees for the period 1 April 2012 to 31 March 2013	
<p>Annual Issuer Fees - all <i>listed issuers</i> of <i>shares</i>, <i>depository receipts</i> 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>	<p>(1) For all <i>issuers</i> of <i>securitised derivatives</i>, 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>FCA</i> financial year in which the fee is payable, are as set out in Table 2. The fee is calculated as follows:</p> <p>(a) the relevant minimum fee; plus</p> <p>(b) the cumulative total of the sums payable for each of the bands calculated by multiplying each tranche of the <i>firm's</i> market capitalisation by the rate indicated for that tranche.</p> <p>(3) Notwithstanding (2), <i>overseas issuers</i> with a <i>listing of equity securities</i> which is not a <i>premium listing</i> will only pay 80% of the fee otherwise payable under (2).</p>
<p>No fee is due under this annex in relation to <i>regulated covered bonds</i>. 1 R sets out the fees due in relation to <i>regulated covered bonds</i>.</p>	
<p>Annual fees are charged in annual cycles beginning on 1 April of a year and ending on 31 March of the following year. For fees purposes <i>issuers</i> should take into account only equity ordinary <i>shares</i>, including those issued by suspended <i>issuers</i>.</p>	

Table 1

The annual fee for issuers of *securitised derivatives* is 4,200.

Table 2

Tiered annual fees for all other issuers

Fee payable

Minimum fee (£)	£4,200
£ million of Market Capitalisation as at the last <i>business day</i> of the November prior to the <i>FCA</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>FCA</i> financial year in which the fee is payable)
0 - 100	0
>100 - 250	26.778459
>250 - 1,000	10.710673
>1,000 - 5,000	6.592859
>5,000 - 25,000	0.160820
>25,000	0.051957

Periodic fees in relation to the disclosure rules and transparency rules for the period 1 April 2013 to 31 March 2014

FCA

Annual fees for the period 1 April 2012 to 31 March 2013	
<p>All non-listed issuers of shares, depositary receipts and securitised derivatives. Annual fees for listed issuers in respect of Disclosure Rules and Transparency Rules obligations are incorporated in the annual fee for listed issuers under the Listing Rules.</p>	<p>(1) For all non-listed issuers of securitised derivatives, depositary receipts and global depositary receipts the fees payable are set out in Table 1.</p> <p>(2) For all other non-listed issuers, fees to be determined according to market capitalisation as set out in Table 2. The fee is calculated as follows:</p> <p>(a) the relevant minimum fee; plus</p> <p>(b) the cumulative total of the sums payable for each of the bands calculated by multiplying each relevant tranche of the firm's market capitalisation by the rate indicated for that tranche.</p>
<p>Fees from other fee schedules contained in other sections of the sourcebook may be applicable to a single submission.</p>	

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>	£3,360
<i>Issuers of depositary receipts and global depositary receipts</i>	£2,688

Table 2

Fee payable	
Minimum fee (£)	3,360
£ million of Market Capitalisation as at the last business day of the November prior to the FCA financial year in which the fee is payable	Fee (£/£m or part £m of Market Capitalisation) as at the last business day of the November prior to the FCA financial year in which the fee is payable)
0 - 100	0

Fee payable

>100 - 250	21.422767
>250 - 1,000	8.568538
>1,000 - 5,000	5.274287
>5,000 - 25,000	0.128656
>25,000	0.041565

Periodic fees in respect of securities derivatives for the period from 1 April 2013 to 31 March 2014

FCA

Part 1

This table shows the fee amount applicable to *firms* and *market operators* in respect of certain *securities derivatives*.

For the purposes of this Annex, a relevant contract is any contract entered into or settled by *firms* on or through LIFFE or Eurex Clearing AG in *securities derivatives* and the relevant period is 1 January 2011 to 31 December 2011 inclusive.

Fee amount for *firms*

Number of relevant contracts entered into by the <i>firm</i> during the relevant period	Fee amount
0 - 100	£0
101 - 1,000	£595
1,001 - 100,000	£2,995
100,001 - 1,000,000	£9,000
1,000,001 - 5,000,000	£21,600
5,000,001 - 20,000,000	£38,280
>20,000,000	£58,300

Fee amount for *market operators*

Market operators providing facilities for trading **£11,150** in *securities derivatives* that do not identify those *securities derivatives* using an *International Securities Identification Number* .

Periodic fees for MTF operators payable in relation to the period 1 April 2013 to 31 March 2014

FCA

Name of MTF operator	Fee payable (£)	Due date 1 July 2012
Barclays Bank Plc	5,000	
Baltic Exchange Derivatives Trading Ltd	23,500	
BATS Trading Ltd	109,000	
BGC Brokers L.P	5,000	
Cantor Index Limited	10,000	
Chi-X Europe Limited	175,000	
EuroMTS Limited	35,500	
GFI Brokers Limited	5,000	
GFI Securities Limited	5,000	
ICAP Electronic Broking Limited	7,800	
ICAP Energy Limited	5,000	
ICAP Europe Limited	5,000	
ICAP Shipping Tanker Derivatives Limited	5,000	
ICAP Securities Limited	5,000	
ICAP WCLK Limited	5,000	
J.P.Morgan Cazenove Limited	N/A	
Liquidnet Europe Limited	83,000	
MF Global UK Limited	N/A	
My Treasury Limited	5,000	
iSWAP Euro Ltd	5,000	
Nomura International Plc	5,000	
Credit Agricole Cherveux International	5,000	
SmartPool Trading Limited	26,500	
TFS-ICAP Limited	5,000	

Name of <i>MTF</i> operator	Fee payable (£)	Due date 1 July 2012
Tradeweb Europe Limited	16,000	
Tradition (UK) Limited	5,000	
Tradition Financial Services Limited	5,000	
Tullett Prebon (Europe) Limited	5,000	
Tullett Prebon (Securities) Limited	5,000	
Turquoise Global Holdings Ltd	165,500	
Goldman Sachs International	5,000	
UBS Ltd	5,000	
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 2011 ; and (b) notifies the <i>FCA</i> of that fact by the end of March 2012 ; 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: £4,400	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 2012

Periodic fees in respect of payment services carried on by fee-paying payment service providers under the Payment Services Regulations and electronic money issuance by fee-paying electronic money issuers under the Electronic Money Regulations and issuance of regulated covered bonds by issuers in relation to the period 1 April 2013 to 31 March 2014

FCA

Part 1 - Method for calculating the fee for fee-paying payment service providers

- (1) The periodic fee for *fee-paying payment service providers* is calculated by identifying the relevant activity group under Part 2 and then adding the minimum fee to an additional fee calculated by multiplying the tariff base identified in Part 3 of FEES 4 Annex 11 R by the appropriate rates applying to each tranche of the tariff base as indicated in the table at Part 5. For *small payment institutions* and *small electronic money institutions* the tariff rates are not relevant and a flat fee is payable.
- (2) A *fee-paying payment service provider* may apply the relevant tariff bases and rates to 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 3 of FEES 4 Annex 11 R is disproportionate to the difference in fees payable; and
 - (b) it notifies the *FCA* 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.
- (3) For a *fee-paying payment service provider* which is required to comply with FEES 4.4.9 D (Information on which fees are calculated) and has not done so for this period:
 - (a) the fee is calculated using (where relevant) the valuation or valuations of business applicable to the previous period, multiplied by the factor of 1.10;
 - (b) an additional administrative fee of £250 is payable; and
 - (c) the minimum total fee (including the administrative fee in (b)) is £650.

Part 1A - Method for calculating the fee for fee-paying electronic money issuers

- (1) The periodic fee for *fee-paying electronic money issuers* is calculated by identifying the relevant activity group under Part 2A and then multiplying the tariff base identified in Part 3 of 1 R by the appropriate rates applying to each tranche of the tariff base as indicated in the table at Part 5. For *small electronic money institutions*, the tariff rates are not relevant and a flat fee is payable.
- (2) A *fee-paying electronic money issuer* may apply the relevant tariff bases and rates to 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 3 of 1 R is disproportionate to the difference in fees payable; and
 - (b) it notifies the *FCA* 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.
- (3) For a *fee-paying electronic money issuer* which is required to comply with FEES 4.4 (Information on which fees are calculated) and has not done so for this period:
- (a) the fee is calculated using (where relevant) the valuation or valuations of business applicable to the previous period, multiplied by the factor of 1.10;
 - (b) an additional administrative fee of £250 is payable; and
 - (c) the minimum total fee (including the administrative fee in (b)) is £650.

Part 1B - Method for calculating the periodic fee where the firm is both a fee-paying payment service provider and a fee-paying electronic money issuer

Add the fee calculated under Part 1 to the fee calculated under Part 1A.

Part 1C - Method for calculating the fee for an issuer of a regulated covered bond

The issuance of *regulated covered bonds* by issuers is linked to activity group G.15 in this annex. The periodic fees for *issuers of regulated covered bonds* is calculated by multiplying the tariff base relevant to G.15 in Part 3 of 1 R by the appropriate rates applying to each tranche of the tariff base as indicated in the table at Part 5.

Part 2 - Activity groups relevant to fee-paying payment service providers

This table shows how the *payment services* performed by *fee-paying payment service providers* are linked to activity groups (fee-blocks). A *fee-paying payment service provider* can use the table to identify which fee-blocks it falls into based on its authorisation or registration.

Activity group	Fee payer falls into this activity group if:
G.2 Certain deposit acceptors	it is a <i>fee-paying payment service provider</i> not falling within any of the other fee-blocks in this table
G.3 Large payment institutions	it is a <i>fee-paying payment service provider</i> that is an <i>authorised payment institution</i> , an <i>EEA authorised payment institution</i> , the Post Office Limited or a <i>fee-paying electronic money issuer</i> (except if it is a <i>small electronic money institution</i>)
G.4 Small payment institutions	it is a <i>fee-paying payment service provider</i> that is a <i>small payment institution</i> or a <i>small electronic money institution</i>
G.5 - Other institutions	it is the Bank of England or a government department or local authority that provides <i>payment services</i> other than when carrying out functions of a public nature.

Part 2A - Activity groups relevant to fee-paying electronic money issuers

This table shows how the *electronic money* issuance by *fee-paying electronic money issuers* is linked to activity groups ('fee-blocks'). A *fee-paying electronic money issuer* can use the table to identify which fee-blocks it falls into based on its authorisation, registration or *permission*, as applicable.

Activity group	Fee payer falls into this activity group if:
G.10 Large <i>electronic money institutions</i>	it is a <i>fee-paying electronic money issuer</i> (except if it is a <i>small electronic money institution</i>)
G.11 Small <i>electronic money institutions</i>	it is a <i>small electronic money institution</i>

Part 3

This table indicates the tariff base for each fee-block. The tariff base is the means by which the *FCA* measures the amount of business conducted by *fee-paying payment service providers*, *fee-paying electronic money issuers* and *issuers of regulated covered bonds*.

Activity Group	Tariff base
G.2	<p>MODIFIED ELIGIBLE LIABILITIES</p> <p>These are determined in the same manner as the tariff-base for relevant <i>firms</i> in the A.1 fee-block set out in FEES 4 Annex 1 R Part 2 R.</p>
G.3	<p>RELEVANT INCOME</p> <p>This is the sum of the following elements of the <i>firm's UK</i> business:</p> <ul style="list-style-type: none"> Interest income Interest expenses Gross commissions and fees received Gross other operating income <p>calculated in the same manner as the relevant indicator referred to in paragraph 18(3) of Schedule 3 to the <i>Payment Services Regulations</i>.</p> <p>For the Post Office Limited only, Relevant Income relates only to its <i>payment services</i> business.</p>
G.4	Not applicable.

G.5	As in G.3 and Relevant Income only relates to <i>payment services</i> business.
G.10	Average outstanding electronic money as defined under regulation 2(1) of the <i>Electronic Money Regulations</i> . This is the average total amount of financial liabilities related to <i>electronic money</i> in issue at the end of each calendar day over the preceding twelve calendar months (which is the period ending on the date set out under Part 4), calculated on the first calendar day of each calendar month and applied for that calendar month (£million).
G.11	Not applicable.
G.15	<i>Regulated covered bonds</i> issued in the 12 months ending on the valuation date and valued as at the valuation date.

Part 4 - Valuation period

This table indicates the valuation date for each fee-block. A *fee-paying payment service provider*, a *fee-paying electronic money issuer* and a *regulated covered bond issuer* can calculate tariff data by applying the tariff bases set out in Part 3 with reference to the valuation dates shown in this table.

Activity group	Valuation date
----------------	----------------

In this table, reference to specific dates or months are references to the latest one occurring before the start of the period to which the fee applies e.g. for 2010/11 fees (1 April 2010 to 31 March 2011), a reference to December means December 2009.

Where the tariff data of a *fee-paying payment service provider* or a *fee-paying electronic money issuer* is in a currency other than sterling, it must be converted into sterling at the exchange rate prevailing on the relevant valuation date.

G.2	For <i>banks and building societies</i> as in FEES 4 Annex 1 R Part 3.
G.3	Relevant income for the financial year ended in the calendar year ending 31 December.
G.4	Not relevant.
G.5	Relevant income for the twelve months ending 31 December.
G.10	31 December.
G.11	Not relevant.
G.15	(1) The last day of the financial quarter during which the <i>issuer</i> became registered as an <i>issuer</i>

in the *FCA* financial year (the 12 months ending 31 March).

(2) For subsequent *FCA* financial years, 31 December unless (3) applies.

(3) If the issuer became registered as an *issuer* between 1 January and 31 March inclusive, 31 March in respect of the *FCA* financial year immediately following the *FCA* financial year during which it became registered and 31 December in respect of all further *FCA* financial years.

A reference to a financial quarter in this box means any of the following periods: 1 April to 30 June inclusive, 1 July to 30 September inclusive, 1 October to 31 December inclusive or 1 January to 31 March inclusive.

4

Part 5 - Tariff rates

Activity group	Fee payable in relation to 2012/13	
G.2	Minimum fee (£)	400
	£ million or part £m of Modified Eligible Liabilities (MELS)	Fee (£/£m or part £m of MELS)
	> 0.1	0.29055
	> 0.25	0.29055
	> 1.0	0.29055
	> 10.0	0.29055
	> 50.0	0.29055
G.3	Minimum fee (£)	400
	£ thousands or part thousand of Relevant Income	Fee (£/£thousand or part £thousand of Relevant Income)
	> 100	0.19415
	> 250	0.19415
	> 1000	0.19415
	> 10,000	0.19415
	> 50,000	0.19415
G.4	> 500,000	0.19415
	£400	

G.5	As in G.3.	
G.10	Minimum fee (£)	1,500
	million or part m of average outstanding electronic money (AOEM)	Fee (/m or part m of AOEM)
	>5.0	180.00
G.11	£1,000	
G.15	Minimum fee for the first regis- tered <i>programme</i>	83,590
	Minimum fee for all subsequent registered <i>programmes</i>	75% of minimum fee for first registered <i>programme</i>
	million or part m of <i>regulated covered bonds</i> issued in the 12 months ending on the valuation date.	Fee (/m or part m of <i>regulated covered bonds</i> issued in the 12 months ending on the valuation date)
	>0.00	10.28

For the purposes of calculating fees, any *regulated covered bonds* denominated in a currency other than sterling must be converted into sterling at the applicable exchange rate set out below.

Where an exchange rate hedging agreement was entered into in connection with the issuance of *regulated covered bonds* denominated in a currency other than sterling, the applicable exchange rate for those *regulated cover bonds* is the exchange rate stipulated in the exchange rate hedging agreement.

An exchange rate hedging agreement is any agreement entered into to hedge the market risk relating to fluctuations in exchange rates.

In all other cases, the applicable exchange rate is the daily spot rate available on the Bank of Englands Statistical Interactive Database (the Bank of England exchange rate) applying on the valuation date. If the valuation date is not a *business day*, then the applicable exchange rate is the Bank of England exchange rate applying on the first *business day* following the valuation date.

	%
	%
	%
	%
	%

%

Part 7 - This table shows the modifications to fee tariffs that apply to *EEA authorised payment institutions, EEA authorised electronic money institutions, and full credit institutions that are EEA firms* .

Activity group	Percentage deducted from the tariff payable under Part 5 applicable to the firm	Minimum amount payable
G.2	40%	
G.3	40%	
G.10	40%	

4

Definition of annual income for the purposes of calculating fees in fee-blocks A.12, A.13 and A.14

FCA

Annual Income

"Annual income" is an amount equal to the net amount retained by the *firm* of all income due to the *firm* in respect of, or in relation to, the provision in the *UK* of the *regulated activities* specified in FEES 4 Annex 1A R Part 1 as belonging to fee-blocks A.12, A.13 and A.14.

For the purposes of calculating annual income, 'net amount retained' means:

(a) all brokerages, *commissions*, *fees*, and other related income (for example, administration charges, overrides, profit shares etc) due to the *firm* in respect of, or in relation to, the provision in the *UK* of the *regulated activities* specified in FEES 4 Annex 1A R Part 1 as belonging to fee-blocks A.12, A.13 or A.14 and which the *firm* has not rebated to *clients* or passed on to other *authorised firms* (for example, where there is a commission chain).

Plus:

(b) any ongoing *commission* from previous business received by the *firm* during the reporting year.

Plus:

(c) the 'commission-equivalent' of any relevant business. In this instance, the 'commission equivalent' is an estimate of the amount the *firm* would otherwise have received for any *regulated activity* under (a) above, but for which it has made a business decision not to charge.

Guidance on the calculation of tariffs set out in FEES 4 Annex 1AR Part 3

FCA **PRA**

The following tables set out guidance on how a *firm* should calculate relevant tariffs.

Table 1: 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 As 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 Bs tariff base as new regular *premium* business in the absence of such a transfer, this business should be included in either As or Bs 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 As business, including all new business transferred from B.

Table 2: Fee-blocks A.12, A.13 and A.14

Calculating and apportioning annual income - FEES 4 Annex 11A R

Calculating annual income

- (1) Annual income should include all amounts due to the *firm* arising out of the *regulated activities* referred to in fee-blocks A.12, A.13 and A.14 for which the *firm* holds *permission*, including regular *charges* and instalments due to the *firm* during the reporting year.

The *firm* should refer to the fee-block definitions in FEES 4 Annex 1A R, Part 1 to decide which particular income streams should be taken into account when calculating its annual income for the purposes of fee-blocks A.12, A.13 and A.14.

- (2) To avoid any doubt, the *firm* should exclude from the calculation of its annual income any *regulated activities* belonging to fee-blocks A.12, A.13 and A.14 where the performance of such *regulated activities* is entirely incidental to the carrying out by the *firm* of the *regulated activity* of *managing investments* belonging to fee-block A.7.

- (3) To avoid double-counting, amounts which have been passed on to other *firms* may be excluded from the calculation of annual income. Transfers of income to other *firms* may be especially common within *groups* where, to present a single interface to *clients*, all amounts due to the *group* may be collected by one *firm* for subsequent redistribution to other *firms* within the *group*. It is for *groups* themselves to decide the most convenient way to report such annual income - i.e. whether the *firm* which receives the full amount should declare that full amount, or whether each *firm* in the *group* should report its separate distribution.

- (4) The *firm* should include earnings from those who will become its appointed representatives immediately after authorisation.

Calculating and apportioning annual income - FEES 4 Annex 11A R

(5) If any *fee* payable by the *firm* to another party for arranging a transaction with a *client* exceeds the amount payable by the end *client*, the *firm* may not take that excess into account in calculating the net amount retained but must instead net the sum payable by the end *client* to zero.

(6) The total should include administration charges and any interest from income related to the *regulated activities*.

(7) Items such as general business expenses (e.g. employees' salaries and overheads) should not be deducted, nor any penalties or fines that have been levied against the *firm*.

(8) Rebates to *clients* should be excluded and also *fees* or *commission* passed to other authorised *firms*.

(9) *Authorised professional firms* should exclude income from *non-mainstream regulated activities*. They may estimate the proportion of their business that is derived from those activities and split the income from individual invoices accordingly.

Apportioning income

Where a *firm* cannot separate its income on the basis of activities, it may apportion the income on the basis of the proportionate split of business that the *firm* otherwise undertakes. For instance:

(1) If a *firm* receives annual income from a platform-based business it may report this in line with a wider breakdown of its activities.

(2) A *firm* providing corporate finance advice which does not maintain records of the split between *regulated activities* and non-regulated activities for individual cases may calculate that regulated business accounts for a certain proportion of its business overall and apply that as a multiplier across its income.

(3) A *firm* may allocate ongoing *commission* from previous business on the basis of the type of *firm* it receives the *commission* from. This avoids tracking back legacy business which may no longer match the provider's current business model.

(4) An *authorised professional firm* may estimate the proportion of its business that is derived from *regulated activity* and split its income for individual invoices accordingly.

(5) If a *firm* has invested income from *regulated activities*, then any interest received should be reported as income, in proportion to the volume of regulated business it undertakes to avoid tracking back old payments.

(6) *Firms'* systems ought to be able to distinguish *UK* from non-*UK* business to establish which conduct of business regime it was conducted under. If, however, they do not relate the figures back to income streams for the specific *regulated activities* in a particular fee-block then the *firm* may make a proportionate split as described above, calculating its regulated *UK* income on the basis of the overall split between *UK* and overseas income.

(7) It is for individual *firms* to determine how they should calculate the appropriate split of income. The *FCA* is not prescriptive about the methodology. It requires only that:

(a) the approach should be proportionate - the *FCA* is looking for *firms* to make their best efforts to estimate the split;

(b) the *firm* must be able on request to provide a sound and clearly expressed rationale for its approach - for example, if all invoices were analysed over a particular period, the *firm* should be able to justify the period as representative of its business across the year;

(c) the methodology should be objective - for example, based on random sampling of invoices or random stratified sampling;

Calculating and apportioning annual income - FEES 4 Annex 11A R

(d) the *firm* must on request be able to provide an audit trail which demonstrates that the choice of methodology was properly considered at an appropriate level or in the appropriate forums within the *firm*, and the decision periodically reviewed at the same level or in an equivalent forum.

Chapter 5

Financial Ombudsman Service Funding



5.1 Application and Purpose

Application

5.1.1 **R** **Rules and guidance made by the FCA in this chapter apply to every firm which is subject to the Compulsory Jurisdiction.**
FCA

5.1.1-A **G** Whilst no rule made by the FCA in this chapter applies to *licensees* subject to the *Consumer Credit Jurisdiction* or to *VJ participants*, some of the *guidance* may do. The application of rules made by the *FOS Ltd* in this chapter is set out in ■ FEES 5.5A and described in ■ FEES 5.1.2 AG.
FCA

5.1.1A **R** A reference to *firm* in this chapter includes a reference to a *fee-paying payment service provider* and *fee-paying electronic money issuer*.
FCA

5.1.1B **R** ■ FEES 5.1.1A R does not apply to ■ FEES 5.5A or ■ FEES 5 Annex 2R or ■ Annex 3R unless otherwise stated in rules made by the *FOS Ltd*.
FCA

5.1.2 **G** The rules set out in the table under ■ FEES 5.1.2 AG are made by the *FOS Ltd*. All other ■ FEES 5 rules are made by the *FCA* .
FCA

5.1.2A **G** Table of FEES 5 rules made by the FOS Ltd

FEES 5 rules made by the FOS Ltd	Description
FEES 5.5A	Rules relating to case fees
FEES 5 Annex 2R	Annual Levy Payable in Relation to the Voluntary Jurisdiction
FEES 5 Annex 3R	Case Fees Payable

5.1.3 **G** [deleted]

5.1.3A **G** [deleted]

Exemption

5.1.4 **R** A *firm* which is exempt under ■ DISP 1.1.12 R is also exempt from ■ FEES 5.1 , ■ 5.2, ■ 5.3, ■ 5.4 and ■ 5.6.
FCA

5.1.4A **R** A *firm* will only be exempt from ■ FEES 5.7 for any given *financial year* if
FCA it met the conditions in ■ DISP 1.1.12 R on 31 March of the immediately preceding *financial year*.

5.1.5 **R** A *firm* which ceases to be exempt under ■ FEES 5.1.4 R is to be treated, for
FCA the purposes of its contribution to the *general levy*, as a *firm* to which ■ FEES 5.8 applies.

5.1.6 **R** [deleted]

5.1.6A **G** *Firms* which cease to be *authorised* and therefore subject to the *Compulsory Jurisdiction*
FCA part way through the year will not receive a refund of their *general levy* except in exceptional circumstances.

Purpose

5.1.7 **G** The purpose of this chapter is to set out the requirements on *firms* to pay annual fees
FCA (through a *general levy* invoiced and collected by the *FCA* on behalf of *FOS Ltd*) and case fees (invoiced and collected directly by *FOS Ltd*) in order to fund the operation of the *Financial Ombudsman Service*. This Chapter also provides for *unauthorised persons* to pay case fees to *FOS Ltd* in respect of any *relevant complaints* which it handles.

5.1.8 **G** This chapter also explains the way that the *Consumer Credit Jurisdiction* will be funded
FCA by a combination of contributions collected by the Office of Fair Trading which are paid to *FOS Ltd* and case fees invoiced and collected directly by *FOS Ltd* from *licensees*.



5.2 Introduction

5.2.1
FCA

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Paragraph 9 of Schedule 17 to the *Act* (The Ombudsman Scheme) requires *FOS Ltd* to adopt an *annual budget* which has been approved by the *FCA*. The *annual budget* must distinguish between the costs of operating the *Compulsory Jurisdiction*, the *Consumer Credit Jurisdiction* and the *Voluntary Jurisdiction*.

5.2.2
FCA

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Section 234 of the *Act* (Industry Funding) enables the *FCA* to require the payment to it or to *FOS Ltd*, by *firms* or any class of *firm*, of specified amounts (or amounts calculated in a specified way) to cover the costs of:

- (1) the establishment of the *Financial Ombudsman Service*; and
- (2) its operation in relation to the *Compulsory Jurisdiction*.

5.2.2A
FCA

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Section 234A (1) of the *Act* (Funding by consumer credit licensees etc.) enables *FOS Ltd* from time to time and with the approval of the *FCA* to determine a sum which is to be raised by way of contributions under that section to cover the costs of:

- (1) the establishment of the *Financial Ombudsman Service* so far as it relates to the *Consumer Credit Jurisdiction*;
- (2) its operation in relation to the *Consumer Credit Jurisdiction*; and
- (3) a component to cover the costs of collection of the contributions to that sum (collection costs).

5.2.2B
FCA

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FOS Ltd must notify the Office of Fair Trading of every determination made under section 234A(1) and the Office of Fair Trading must give a general notice of every determination so notified. The Office of Fair Trading may by general notice impose requirements on

- (1) licensees under standard licences which cover to any extent the carrying on of a type of business specified in an order made under section 226A(2)(e) of the *Act*; or
- (2) persons who make applications for:
 - (a) standard licences covering to any extent business of such a type; or
 - (b) the renewal of standard licences on terms covering to any extent the carrying on of a business of such a type;

to pay contributions to the Office of Fair Trading for the purpose of raising sums determined by *FOS Ltd* in accordance with the provisions of section 234A (6) and (7) of the *Act*.

5.2.3

FCA

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Paragraph 15 of Schedule 17 to the *Act* enables *FOS Ltd* to require *firms* subject to the *Compulsory Jurisdiction* and any other respondents to a complaint to pay specified fees to it in respect of complaints closed by the *Financial Ombudsman Service*.

5.2.3A

FCA

G

Paragraph 16C of Schedule 17 to the *Act* enables *FOS Ltd* to require *licensees* subject to the *Consumer Credit Jurisdiction* and any other respondents to a complaint to pay specified fees to it in respect of complaints closed by the *Financial Ombudsman Service*.

5.2.4

FCA

G

The *Ombudsman Transitional Order* provides for *unauthorised persons* to be charged fees in respect of any *relevant complaints* against them which the *Financial Ombudsman Service* handles.

5.2.5

FCA

G

Paragraph 18 of Schedule 17 to the *Act* enables *FOS Ltd* to require *VJ participants* to pay to it such amounts at such times as it specifies in the *standard terms*.

5.2.6

FCA

G

The relevant provisions of the rules in ■ FEES 5 and ■ FEES 2 will be applied to *VJ participants* through the *standard terms* made by *FOS Ltd* under paragraph 18 of Schedule 17 to the *Act* (see ■ DISP 4).

5.2.7

FCA

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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 annexes to this chapter. New annexes will be prepared and consulted on for each *financial year*.



5.3 The general levy

5.3.1 **G** Each *financial year*, the FCA and FOS Ltd will consult on the amount of the *annual budget* of the *Financial Ombudsman Service* which is to be raised by the *general levy*.
FCA

5.3.2 **G** For the purposes of the *general levy*, a *firm* will fall into one or more of the *industry blocks* set out in **FEES 5 Annex 1 R** depending on the business activities which it conducts.
FCA

5.3.3 **G** The FCA will determine, following consultation, the amount to be raised from each *industry block*. This will be based on the budgeted costs and numbers of *Financial Ombudsman Service* staff required to deal with the volume of complaints which the *Financial Ombudsman Service* expects to receive about the *firms* in each *industry block*. Modified arrangements have been made for certain types of small *firms* (see **FEES 5.5.3 R** to **FEES 5.5.5 G**).
FCA

5.3.4 **G** **FEES 5 Annex 1 R** sets out the fee tariffs for each *industry block*.
FCA

5.3.5 **G** The FCA will specify a *minimum levy* for *firms* in each *industry block*.
FCA

5.3.6 **R** **A firm must pay to the FCA a general levy towards the costs of operating the Compulsory Jurisdiction of the Financial Ombudsman Service.**
FCA

5.3.7 **G** Under the *standard terms*, *VJ participants* will be required to pay to FOS Ltd an amount calculated on a similar basis towards the costs of operating the *Voluntary Jurisdiction* of the *Financial Ombudsman Service*, see **FEES 5 Annex 2R**. FOS Ltd will be responsible for invoicing and collecting this amount.
FCA

5.3.8 **R** **A firm's general levy under the compulsory jurisdiction is calculated as follows:**
FCA

- (1) identify each of the tariff bases set out in **FEES 5 Annex 1 R** which apply to the *relevant business* of the *firm* for the relevant year;
- (2) for each of those tariff bases, calculate the sum payable in relation to the *relevant business* of the *firm* for that year;

(3) add together the amounts calculated under (2).

5.3.9

FCA

R

For the purpose of ■ FEES 5.3.6 R and ■ FEES 5.3.8 R, a *member* of the *Society* of Lloyd's or a *managing agent* at Lloyd's will not in that capacity be treated as a *firm*. But the *Society* of Lloyd's will pay a *general levy* in respect of Lloyd's *insurance business* conducted with *eligible complainants*.

5.3.10

FCA

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 ■ FEES 5 Annex 1 R, are references to the *firm's* total amount of annual income reported in accordance with Part 2 of ■ FEES 4.

5.4.1
FCA

R

5.4 Information requirement

- (1) A *firm* must provide the *FCA* 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 *FCA*) 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 ■ FEES 5 Annex 1 R.
- (2) Paragraph (1) does not apply if the *firm* pays a *general levy* on a flat fee basis only or if it is the Bank of England.
- (3) If a *firm* cannot provide a statement of the total amount of *relevant business* as required by ■ FEES 5.4.1 R, it must provide the best estimate of the amount of *relevant business* that it conducted.
- (4) For the purpose of ■ FEES 5.4.1 R, references to *relevant business* for a *firm* which falls in *industry block* 16 or 17 and which so elects under ■ FEES 5 Annex 1 R, are references to the *firm's* total amount of annual income reported in accordance with Part 3 of ■ FEES 4 Annex 1A R.
- (5) If a *firm* does not submit a complete statement by the date on which it is due in accordance with this *rule* and any prescribed submission procedures:
 - (a) the *firm* must pay an administrative fee of 250 (but not if it is already subject to an administrative fee under ■ FEES 4 Annex 2A R, Part 1 , Part 1 or ■ FEES 6.5.16 R for the same *financial year*); and
 - (b) the *general levy* will be calculated using (where relevant) the valuation or valuations of business applicable to the previous period, multiplied by the factor of 1.10 (or, if a *firm* has become subject to the *Financial Ombudsman Service* part way through the *financial year*, on the basis

of the information provided to the *FCA* for the purposes of ■ FEES 4.4.2 R) or on any other reasonable basis, making such adjustments as seem appropriate in subsequent levies once the true figures are known.

5.4.1A

FCA

D

The information requirement set out under ■ FEES 5.4.1 R is applied under this direction to a *fee-paying payment service provider* and a *fee-paying electronic money issuer*.

5.4.2

FCA

G

Failure to submit a statement in accordance with the *rules* in this chapter may also lead to the imposition of a financial penalty and other disciplinary sanctions (see ■ DEPP 6.6.1 G to ■ DEPP 6.6.5 G).

5.4.3

FCA

G

■ SUP 16.3 (General provisions on reporting) contains further *rules* on the method of submission of reports under ■ FEES 5.4.1 R.

5.4.4

FCA

G

A *firm* should not provide a statement of *relevant business* if it deals only with *eligible complainants* who are not *consumers*. *Relevant business* is defined in the *Glossary* as business done with *consumers* only. So ■ FEES 5.4.1 R does not apply in relation to business done with other types of *eligible complainant* described in ■ DISP 2.7.3R (2), ■ DISP 2.7.6 R (12)(a) and ■ DISP 2.7.6 R (12)(a); the funding of *FOS Ltd* in relation to that business is by special case fee only (see ■ FEES 5.5.6 R).



5.5

[Deleted]



5.5A [Deleted]



5.5B Case fees

Application

- 5.5B.1** **R** ■ FEES 5.5B applies to *respondents*.
FCA
- 5.5B.2** **G** VJ participants are included as a result of ■ DISP 4.2.6 R.
FCA
- 5.5B.3** **R** Any firm falling into either *industry block 13* or *industry block 15* in ■ FEES 5 Annex 1 R is not required to pay any case fee in respect of *chargeable cases* relating to those *industry blocks*.
FCA
- 5.5B.4** **G** The firms in *industry blocks 13* and *15* are cash plan health providers and small *friendly societies*. The case fee exemption takes into account that the amount in issue is likely to be small relative to the case fee. Instead, the full unit cost of handling complaints against these firms will be recovered through the setting of the relevant *general levy*.
FCA
- 5.5B.5** **R** A credit union which is subject to the *minimum levy* in an *industry block* is not required to pay any case fee in respect of *chargeable cases* relating to that *industry block*.
FCA
- 5.5B.6** **G** Arrangements similar to those for firms in *industry blocks 13* and *15* have been made for *small credit unions* under ■ FEES 5.5B.5 R.
FCA
- 5.5B.7** **R** A firm, payment service provider or electronic money issuer which is exempt under ■ DISP 1.1.12 R is also exempt from ■ FEES 5.5B, save that it will only be exempt from ■ FEES 5.5B in any *financial year* if it met the conditions in ■ DISP 1.1.12 R on 31 March of the immediately preceding *financial year*.
FCA

Purpose

- 5.5B.8** **R** The purpose of ■ FEES 5.5B is to set out the requirements on *respondents* to pay fees in relation to cases referred to the *Financial Ombudsman Service*.
FCA
- 5.5B.9** **R** These fees are towards funding the *Financial Ombudsman Service*, and are invoiced and collected directly by the *FOS Ltd*.
FCA

5.5B.10 **G** In each of the *Financial Ombudsman Service's* jurisdictions, the *annual budget* reflects the total expected to be raised by levies plus the total expected to be raised by case fees for the relevant *financial year*.
FCA

5.5B.11 **G** The amount of the case fees will be subject to consultation each year.
FCA

Standard case fee

5.5B.12 **R** **A respondent must pay to the FOS Ltd the standard case fee specified in**
■ FEES 5 Annex 3R Part 1 in respect of each chargeable case relating to that respondent which is closed by the Financial Ombudsman Service, unless the respondent is identified as part of a charging group as defined in
■ FEES 5 Annex 3R Part 3.
FCA

5.5B.13 **G** The exclusion of *respondents* that are identified as part of a *charging group* as defined in **■ FEES 5 Annex 3R Part 3** applies only from 1 April 2013. Those *respondents* continue to be liable for the standard case fee under DISP 5.5B.12R in respect of *chargeable cases* closed by the *Financial Ombudsman Service* before 1 April 2013.
FCA

5.5B.14 **R** **But a respondent will only be liable for, and the FOS Ltd will only invoice for, the standard case fee in respect of the 26th and subsequent chargeable cases in any financial year.**
FCA

5.5B.15 **G** Until 31 March 2004 a standard case fee was payable for every *chargeable case*. From 1 April 2004 to 31 March 2005 the standard case was payable for the third and subsequent *chargeable cases*. From 1 April 2005 to 31 March 2013 the standard case fee was payable for the fourth and subsequent *chargeable cases*. **■ FEES 5.5B.12 R** does not apply retrospectively to *financial years* before 1 April 2013.
FCA

5.5B.16 **R** **A respondent must pay to the FOS Ltd any standard case fee which it is liable to pay under ■ FEES 5.5B and which is invoiced by the FOS Ltd within 30 calendar days of the date when the invoice is issued by the FOS Ltd.**
FCA

Supplementary Case fee

5.5B.17 **R** **A respondent must pay to the FOS Ltd the supplementary case fee specified in**
■ FEES 5 Annex 3R Part 2 in respect of each chargeable case (PPI) relating to that respondent which is referred to the Financial Ombudsman Service, as well as any standard case fee under ■ FEES 5.5B.12 R, unless the respondent is identified as part of a charging group as defined in ■ FEES 5 Annex 3R Part 3.
FCA

5.5B.18 **G** The exclusion of *respondents* that are identified as part of a *charging group* as defined in **■ FEES 5 Annex 3R Part 3** applies only from 1 April 2013. Those *respondents* continue to be liable for the supplementary case fee under DISP 5.5B.17R in respect of *chargeable cases (PPI)* referred to the *Financial Ombudsman Service* before 1 April 2013.
FCA

5.5B.19 **R** **Notwithstanding the above, a respondent will only be liable for, and the FOS Ltd will only invoice for the supplementary case fee in respect of the**
FCA

26th and subsequent cases relating to that *respondent* that fall within
■ FEES 5.5B.16 R in any *financial year*.

Special case fee

5.5B.20

FCA

R

If the *respondent* is identified as part of a *charging group* as defined in
■ FEES 5 Annex 3R Part 3, the *charging group* must pay the special case
fee calculated under ■ FEES 5 Annex 3R Part 4 (from 1 April 2013) instead
of the *respondent* paying the standard case fee or the supplementary
case fee.

5.5B.21

FCA

R

The *FOS Ltd*:

- (1) will invoice the special case fee as described in
■ FEES 5 Annex 3R Part 4; and
- (2) may invoice the relevant *charging group* through any of the
individual *respondents* in the relevant *charging group*.

5.5B.22

FCA

R

A *charging group* must pay to the *FOS Ltd* any special case fee (including
any year-end adjustment) as described in ■ FEES 5 Annex 3R Part 4 within
30 calendar *days* of the date when the invoice is issued by the *FOS Ltd*.

5.5B.23

FCA

R

In respect of the special case fee, individual *respondents* are jointly and
individually liable for the obligations of the *charging group* of which
they are identified as forming part in ■ FEES 5 Annex 3R Part 3.

Leaving the Financial Ombudsman Service

5.5B.24

FCA

R

Where a *respondent* ceases to be a *firm*, *payment service provider*,
electronic money issuer, *licensee* or *VJ participant* (as the case may be)
part way through a *financial year* it will remain liable to pay case fees
under ■ FEES 5.5B in respect of cases within the jurisdiction of the
Financial Ombudsman Service.

Late payment and remission of case fees

5.5B.25

FCA

R

If a *respondent* does not pay a case fee payable under ■ FEES 5.5B in full
to the *FOS Ltd* before the end of the date on which it is due, that
respondent must pay to the *FOS Ltd* in addition:

- (1) an administrative fee of £250; plus
- (2) interest on any unpaid amount at the rate of 5% per annum
above the *Official Bank Rate* from time to time, accruing on a
daily basis from the date on which the amount concerned
became due.

5.5B.26

FCA

G

The *FOS Ltd* may take steps to recover any money owed to it (including interest).

- 5.5B.27 **R** If it appears to the *FOS Ltd* that in the exceptional circumstances of a particular case the payment of any case fee under ■ FEES 5.5B would be inequitable, the *FOS Ltd* may (unless ■ FEES 5.5B.29 R applies) reduce or remit all or part of the case fee in question which would otherwise be payable.
- FCA**
- 5.5B.28 **R** If it appears to the *FOS Ltd* that in the exceptional circumstances of a particular case to which ■ FEES 5.5B.27 R does not apply the retention by the *FOS Ltd* of any case fee which has been paid would be inequitable, the *FOS Ltd* may (unless ■ FEES 5.5B.29 R applies) refund all or part of that case fee.
- FCA**
- 5.5B.29 **R** The *FOS Ltd* may not consider a claim under ■ FEES 5.5B.27 R and/or ■ FEES 5.5B.28 G in respect of any amount overpaid due to a mistake of fact or law by the payer, if the claim is made by the payer more than 2 years after the beginning of the *financial year* to which the payment relates.
- FCA**



5.6 The supplementary levy

5.6.1 **G** [deleted]

5.6.2 **G** [deleted]

5.6.3 **G** [deleted]

5.6.4 **G** [deleted]

5.6.5 **R** [deleted]

5.6.6 **R** [deleted]

5.6.7 **G** [deleted]



5.7 Payment

5.7.1 **R** A *firm* must pay annually to the *FCA* the *general levy* on or before the
FCA later of 1 April and 30 calendar *days* after the date when the invoice is
issued by the *FCA* .

5.7.2 **R** [deleted]

5.7.2A **R** [deleted]

5.7.3 **R** [deleted]

5.7.4 **R** A *firm* liable to pay fees under **■ FEES 5.7.1 R** must do so using one of the
FCA methods set out in **■ FEES 4.2.4 R** save that no additional amount or discount
is applicable.

5



5.8 Joining the Financial Ombudsman Service

5.8.1

FCA

R

A *firm* which becomes subject to the *Financial Ombudsman Service* part way through a *financial year* must pay a rateable proportion of the *general levy* as indicated in Table ■ FEES 4.2.6 R, as if that table applied to the quarter in which a *firm* becomes subject to the *Financial Ombudsman Service*.

5.8.2

FCA

R

- (1) This *rule* deals with the calculation of:
 - (a) a *firm's general levy* in the 12 months ending on the 31 March in which it obtains *permission*, or was authorised under the *Payment Services Regulations* or the *Electronic Money Regulations* or had its *permission* and/or *payment services* activities extended (relevant permissions) and the following 12 months ending on the 31 March; and
 - (b) the tariff base for the industry blocks that relate to each of the relevant permissions.
- (2) Unless this *rule* says otherwise, the tariff base is calculated using the projected valuation for its first year of the business to which the tariff relates.
- (3) The rest of this *rule* only applies to a *firm* that becomes authorised, or extends its *permission* and/or *payment services* activities , on or after 1 April 2009.
 - (a) If the tariff base is calculated using data from a period that begins on or after the date that the *firm* obtains the relevant permission to which that tariff base relates , the *firm* must use that data.
 - (b) If a *firm* satisfies the following conditions it must calculate its tariff base under (c) for the *FCA* financial year following the *FCA* financial year it obtained a relevant permission :
 - (i) the *firm* receives a relevant permission between 1 April and 31 December inclusive; and
 - (ii) the *firm's* tariff base for that relevant permission is, but for this *rule*, calculated by reference to the *firm's*

financial year ended in the calendar year ending on the 31 December before the start of the *FCA* financial year or the twelve *months* ending 31 December before the start of the *FCA* financial year.

- (c) If a *firm* satisfies the conditions in (b) it must calculate its tariff base as follows:
 - (i) it must use actual data in relation to the business to which the tariff relates rather than projected valuations;
 - (ii) the tariff is calculated by reference to the period beginning on the date it acquired the relevant permission relating to the tariff and ending on the 31 December before the start of the *FCA* financial year; and
 - (iii) the figures are annualised by increasing them by the same proportion as the period of 12 *months* bears to the period starting from when the *firm* received any relevant permissions to 31 December .
- (d) Where a *firm* is required to use the method in (c) it must notify the *FCA* of its intention to do so by the date specified in ■ FEES 5.4 (Information requirement).
- (e) Where a *firm* is required to use actual data under this *rule* ■ FEES 4 Annex 1R Part 3 is modified in relation to the calculation of that firms valuation date in its second financial year.

Application of FEES 5.8.2R

5.8.3
FCA

G

The table below sets out the period within which a *firm's* tariff base is calculated (the data period) for second year levies calculated under ■ FEES 5.8.2R. The example is based on a *firm* that acquires *permission* on 1 November 2009 and has a financial year ending 31 March. Where valuation dates fall before the *firm* receives *permission* it should use projected valuations in calculating its levies.

References in this table to dates or months are references to the latest one occurring before the start of the *FCA's* financial year unless otherwise stated.

Type of permission acquired on 1 November	Tariff base	Valuation date but for FEES 5.8.2R	Data period under FEES 5.8.2R
Insurers - general	Relevant annual gross premium income	31 March 2009 - so projected valuations will be used	1 November to 31 December 2009.
Fund managers (including those holding <i>client money/assets</i> and not holding <i>client money/assets</i>)	Relevant funds under management	Valued at 31 December	Valued at 31 December

Advisory <i>arrangers</i> , dealers or brokers holding and control- ling <i>client money</i> and/or assets	Number of relevant <i>persons</i> approved to perform the <i>customer</i> <i>function</i> with certain exclusions	Relevant <i>approved</i> <i>persons</i> as at 31 De- cember	Relevant <i>approved</i> <i>persons</i> as at 31 De- cember
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5.9 Leaving the Financial Ombudsman Service

5.9.1 **R** [deleted]

5.9.1A **R** [deleted]

5.9.2 **G** [deleted]

5.9.3 **G** [deleted]

5

Annual General Levy Payable in Relation to the Compulsory Jurisdiction for 2013/14

FCA

Introduction: annual budget

1. The *annual budget* for 2012/13 approved by the *FCA* is 191.1m .
2. The total amount expected to be raised through the *general levy* in 2012/13 will be 17.7m (net of 1.5m to be raised from consumer credit firms).

Compulsory jurisdiction - general levy

Industry block	Tariff base	General levy payable by firm
1-Deposit acceptors, <i>home finance providers</i> , <i>home finance administrators</i> (excluding <i>firms</i> in block 14) and <i>dormant account fund operators</i>	Number of accounts relevant to the activities in DISP 2.6.1 R as at 31 December In the case of <i>dormant account fund operators</i> , the tariff base is the number of eligible activated accounts (8).	0.0331 per relevant account, subject to a minimum levy of 100
2-Insurers - general (excluding <i>firms</i> in blocks 13 & 15)	Relevant annual gross premium income	0.10 per 1,000 of relevant annual gross premium income, subject to a minimum levy of 100
3-The <i>Society</i> (of Lloyd's)	Not applicable	20,000 to be allocated by the <i>Society</i>
4-Insurers - life (excluding <i>firms</i> in block 15)	Relevant adjusted annual gross premium income	0.0146 per 1,000 of relevant adjusted annual gross premium income, subject to a minimum levy of 100
5-Fund managers (including those holding <i>client money/assets</i> and not holding <i>client money/assets</i>)	Flat fee	Levy of 200
6-Operators, trustees and depositaries of collective investment schemes and operators of personal pension schemes or stakeholder pension schemes	Flat fee	Levy of 50
7-Dealers as principal	Flat fee	Levy of 50

Industry block	Tariff base	General levy payable by firm
8-Advisors, <i>arrangers</i> , dealers or brokers holding and controlling <i>client money</i> and/or assets	Annual income as defined in FEES 4 Annex 11A R relating to <i>firm's relevant business</i> .	[tbc]
9-Advisors, <i>arrangers</i> , dealers or brokers not holding and controlling <i>client money</i> and/or assets	Annual income as defined in FEES 4 Annex 11A R relating to <i>firm's relevant business</i> .	[tbc]
10-Corporate finance advisers	Flat fee	Levy of 50
11-fee-paying payment service providers (but excluding firms in any other Industry block except Industry block 18)	For <i>authorised payment institutions, electronic money issuers</i> (except for <i>small electronic money 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 FEES 4 Annex 11 R Part 3 For <i>small payment institutions</i> and <i>small electronic money institutions</i> a flat fee	0.0153 per 1,000 of relevant income subject to a minimum levy of 75 Levy of 50
12-	N/A for 2012/13	
13-Cash plan health providers	Flat fee	Levy of 50
14- <i>Credit unions</i>	Flat fee	Levy of 50
15- <i>Friendly societies</i> whose tax-exempt business represents 95% or more of their total relevant business	Flat fee	Levy of 50
16- <i>Home finance providers, advisers and arrangers</i> (excluding firms in blocks 13, 14 & 15)	Flat fee	Levy of 60
17 - General insurance mediation (excluding firms in blocks 13, 14 & 15)	<i>Annual income</i> (as defined in MIPRU 4.3) relating to <i>firm's relevant business</i>	0.362 per 1,000 of <i>annual income</i> (as defined in MIPRU 4.3) relating to <i>firm's relevant business</i> subject to a minimum levy of 85
18 - fee-paying electronic money issuers	For all <i>fee-paying electronic money issuers</i> except for <i>small electronic money institutions</i> , average outstanding <i>electronic</i>	0.0466 per 1,000 of average outstanding electronic money subject to a minimum levy of 75

Industry block	Tariff base	General levy payable by firm
	<p><i>money, as described in FEES 4 Annex 11 R Part 3.</i></p> <p><i>For small electronic money insti- 50 tutions, a flat fee</i></p>	

Notes

- 4 [not used]
- 5 The *industry blocks* in the table are based on the equivalent activity groups set out in Part 1 of FEES 4 Annex 1A R and Part 2 and Part 2A of FEES 4 Annex 11 R.
- 6 Where the tariff base in the table is defined in similar terms as that for the equivalent activity group in Part 3 of FEES 4 Annex 1A R or Part 3 of FEES 4 Annex 11 R, it must be calculated in the same way as that tariff base - taking into account only the *firm's relevant business*.
- 7 [deleted]
- 8 Eligible activated accounts are the number of *repayment claims* met by the *dormant account fund operator* as at the 31 December.

Annual Levy Payable in Relation to the Voluntary Jurisdiction for 2013/14

FCA

Voluntary jurisdiction - annual levy for VJ participants			
Industry block and business activity	Tariff basis	Tariff rate	Minimum levy
1V Deposit acceptors, mortgage lenders and mortgage administrators and debit/credit/charge card issuers and merchant acquirers	number of accounts relevant to the activities in DISP 2.5.1 R	£ 0.0278	£ 100
2V <i>VJ participants</i> undertaking general insurance activities	per £1,000 of relevant annual gross premium income	£ 0.103	£ 100
3V <i>VJ participants</i> undertaking life insurance activities	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	£ 2,000
10V Persons not covered by 1V to 9V undertaking activities which are: (a) <i>regulated activities</i> or (b) <i>payment services</i> or (c) <i>consumer credit activities</i> ; or would be if they were carried on from an establishment in the <i>United Kingdom</i>	n/a	n/a	£ 75
12V Persons undertaking the activity which is the issuance of electronic money or would be if carried on from an establishment in the <i>United Kingdom</i>	Average outstanding electronic money as described in FEES 4 Annex 11 R Part 3	£ 0.15 per £1,000	£ 75

Case Fees Payable for 2013/14

FCA

Part 1 - Standard case fees

	Standard case fee
In the:	[£550]
Compulsory jurisdiction; Consumer credit jurisdiction; and Voluntary jurisdiction	

Notes

- 1 The definition of standard case fee is in **FEES 5.5B (Case fees)**. The definition of *chargeable case* is in the Glossary to the *Handbook*.
- 2 The standard case fee will be invoiced by the *FOS Ltd* on or after the date the case is closed.
- 3 A *respondent* will only be invoiced a case fee for the 26th and subsequent *chargeable case* in each *financial year*.

Part 2 - Supplementary case fees

	Supplementary case fee
In the:	For the 26th and subsequent £ 350
	<i>chargeable cases (PPI)</i>
Compulsory jurisdiction; Consumer credit jurisdiction; and Voluntary jurisdiction	

Notes

- 1 The definition of supplementary case fee is in **FEES 5.5B (Case fees)**. The definition of *chargeable case (PPI)* is in the Glossary to the *Handbook*.
- 2 The supplementary case fee will be invoiced by the *FOS Ltd* on or after the date the case is referred to the *Financial Ombudsman Service*.
- 3 The supplementary case fee will be invoiced for the 26th and subsequent *chargeable cases (PPI)* against any *respondent* referred to the *Financial Ombudsman Service* in each *financial year*.

Part 3 - Charging groups

The four *charging groups*, and their constituent *group respondents*, are listed below. They are based on the position at 31 December immediately preceding the *financial year*. For the purposes

of calculating, charging, paying and collecting the special case fee, they are not affected by any subsequent change of ownership.

1 Barclays Group, comprising the following *firms*:

ABSA Bank Limited

Barclays Assurance (Dublin) Limited

Barclays Bank Ireland Plc

Barclays Bank Plc

Barclays Bank S.A.

Barclays Bank Trust Company Limited

Barclays Capital Securities Limited

Barclays Capital Strategic Advisers Limited

Barclays Courtag

Barclays Infrastructure Funds Management Limited

Barclays Insurance (Dublin) Limited

Barclays Insurance Services Company Limited

Barclays Mediador Operador de Banca Seguros Vinculado, S.A.

Barclays Mercantile Business Finance Limited

Barclays Patrimoine

Barclays Private Clients International Limited

Barclays Sharedealing

Barclays Stockbrokers Limited

Barclays Wealth Funds Ltd

Clydesdale Financial Services Limited

CNP Barclays Vida y Pensiones Compania de Seguros S.A.

Firstplus Financial Group Plc

Gerrard Financial Planning Ltd

Gerrard Investment Management Limited

Home Retail Group Personal Finance Ltd

Intelenet Global Services Private Limited

Solution Personal Finance Limited

Standard Life Bank Plc

Thomas Cook Personal Finance Ltd

Woolwich Plan Managers Limited

2 HSBC Group, comprising the following *firms*:

Catalina Insurance Ireland Limited

CL Residential Limited
Halbis Capital Management (UK) Limited
HFC Bank Limited
HSBC Alternative Investments Limited
HSBC Bank Malta plc
HSBC Bank plc
HSBC Bank USA NA, London Branch
HSBC de Baecque Beau
HSBC Financial Products (France)
HSBC France
HSBC General Insurance Services (UK) Limited
HSBC Global Asset Management FCP (France)
HSBC Global Asset Management (UK) Limited
HSBC Hervet
HSBC Index Tracker Investment Funds
HSBC International Financial Advisers (UK) Limited
HSBC Investment Funds
HSBC Life (Europe) Limited
HSBC Life (UK) Limited
HSBC Picardie
HSBC Private Bank (Luxembourg) S.A.
HSBC Private Bank (UK) Limited
HSBC Securities (France)
HSBC Securities SA
HSBC Securities (USA) Inc
HSBC Specialist Investment Funds Ltd
HSBC Trinkaus & Burkhardt AG
HSBC Trust Company (UK) Ltd
HSBC UBP
HSBC Van Meer James Capel NV
InfraRed Capital Partners Limited
InfraRed (Infrastructure) Capital Partners Limited
Marks and Spencer Life Assurance Limited
Marks & Spencer Financial Services plc
Marks & Spencer Savings and Investments Ltd

Marks & Spencer Unit Trust Management Limited

Sinopia Asset Management (UK) Limited

The Hongkong and Shanghai Banking Corporation Limited

3 Lloyds Banking Group, comprising the following *firms*:

AMC Bank Ltd

Bank of Scotland (Ireland) Limited

Bank of Scotland Plc

Black Horse Limited

Cheltenham & Gloucester plc

Clerical Medical Financial Services Limited

Clerical Medical Investment Fund Managers Ltd

Clerical Medical Investment Group Limited

Clerical Medical Managed Funds Limited

Clerical Medical Open Ended Investment Company

Halifax Assurance (Ireland) Limited

Halifax Financial Brokers Limited

Halifax General Insurance Services Limited

Halifax Insurance (Ireland) Limited

Halifax Insurance Ireland Ltd

Halifax Investment Services Ltd

Halifax Life Limited

Halifax Share Dealing Limited

HBOS Investment Fund Managers Limited

Insight Investment Global Investment Funds

Insight Investment Professional Funds ICVC

Invista Real Estate Investment Management Ltd

IWeb (UK) Limited

LDC (Managers) Limited

Legacy Renewal Company Limited

Lex Vehicle Leasing Ltd

Lloyds Development Capital (Holdings) Limited

Lloyds TSB Bank Plc

Lloyds TSB Financial Advisers Limited

Lloyds TSB General Insurance Limited

Lloyds TSB Insurance Services Limited

Lloyds TSB Investments Limited
Lloyds TSB Private Banking Ltd
Lloyds TSB Scotland Plc
Pensions Management (SWF) Limited
Scottish Widows Administration Services Limited
Scottish Widows Annuities Limited
Scottish Widows Bank Plc
Scottish Widows Fund Management Limited
Scottish Widows Investment Partnership Investment
Scottish Widows Investment Partnership Limited
Scottish Widows plc
Scottish Widows Tracker and Specialist Investment Funds ICVC
Scottish Widows Unit Funds Limited
Scottish Widows Unit Trust Managers Limited
St Andrew's Insurance plc
St Andrew's Life Assurance Plc
SWIP Fund Management Limited
SWIP Multi-Manager Funds Limited
The Mortgage Business Plc
Uberior Fund Manager Ltd

4 RBS/NatWest Group, comprising the following *firms*:

Adam & Company Investment Management Ltd
Adam & Company Plc
Coutts & Company
Coutts Finance Company
First Active plc
National Westminster Bank Plc
National Westminster Home Loans Limited
NatWest Stockbrokers Ltd
RBEF Limited
RBS Asset Management (ACD) Ltd
RBS Asset Management Ltd
RBS Collective Investment Funds Limited
RBS Corporate Finance Limited
RBS Equities (UK) Limited

RBS Index Tracker Funds ICVC
RBS Investment Executive Limited
Star Capital Partners Limited
The Royal Bank of Scotland (Gibraltar) Ltd
The Royal Bank of Scotland Group Independent Financial Services Limited
The Royal Bank of Scotland N.V.
The Royal Bank of Scotland Plc
Topaz Finance PLC
Ulster Bank Ireland Limited
Ulster Bank Ltd

Part 4 - Special case fees

The special case fee shall be calculated and paid as follows:

1 Proportions:

(1) In the calculations that follow in (2), (3) and (4):

new chargeable cases (PPI) for group respondents -

A = twice the number of new *chargeable cases (PPI)* that were referred to the *Financial Ombudsman Service* in respect of *group respondents* from 1 July to 31 December (both dates inclusive) in the immediately preceding *financial year*.

new chargeable cases (PPI) for all firms -

B = twice the number of new *chargeable cases (PPI)* that were referred to the *Financial Ombudsman Service* in respect of all *firms* (whether or not they are part of a *charging group*) from 1 July to 31 December (both dates inclusive) in the immediately preceding *financial year*.

open chargeable cases (PPI) for group respondents -

C = the number of *chargeable cases (PPI)* referred to the *Financial Ombudsman Service* in respect of *group respondents* before 1 January in the immediately preceding *financial year* which had not been closed before 1 January in the immediately preceding *financial year*.

open chargeable cases (PPI) for all firms -

D = the number of *chargeable cases (PPI)* referred to the *Financial Ombudsman Service* in respect of all *firms* (whether or not they are part of a *charging group*) before 1 January in the immediately preceding *financial year* which had not been closed before 1 January in the immediately preceding *financial year*.

new chargeable cases (general) for group respondents -

E = twice the number of new *chargeable cases (general)* that were referred to the *Financial Ombudsman Service* in respect of *group respondents* from 1

July to 31 December (both dates inclusive) in the immediately preceding *financial year*.

new chargeable cases (general) for all firms -

F = twice the number of *chargeable cases (general)* referred to the *Financial Ombudsman Service* in respect of all *firms* (whether or not they are part of a *charging group*) from 1 July to 31 December (both dates inclusive) in the immediately preceding *financial year*.

open chargeable cases (general) for group respondents -

G = the number of *chargeable cases (general)* that were referred to the *Financial Ombudsman Service* in respect of *group respondents* before 1 January in the immediately preceding *financial year* which had not been closed before 1 January in the immediately preceding *financial year*.

open chargeable cases (general) for all firms -

H = the number of *chargeable cases (general)* referred to the *Financial Ombudsman Service* in respect of all *firms* (whether or not they are part of a *charging group*) before 1 January in the immediately preceding *financial year* which had not been closed before 1 January in the immediately preceding *financial year*.

(2) 'Proportion X' for each *charging group* is a percentage calculated as follows -

$$A / B \times 100$$

(3) 'Proportion Y' for each *charging group* is a percentage calculated as follows -

$$\{A + C\} / \{B + D\} \times 100$$

(4) 'Proportion Z' for each *charging group* is a percentage calculated as follows -

$$\{E + G\} / \{F + H\} \times 100$$

2 The special case fee is intended to broadly reflect the budgeted workload capacity of the *Financial Ombudsman Service* and comprises elements in respect of:

- (1) *new chargeable cases (PPI)*;
- (2) *closed chargeable cases (PPI)*; and
- (3) *closed chargeable cases (general)*;

with a free-case allowance of:

- (4) 125 *new chargeable cases (PPI)*; and
- (5) 125 *closed chargeable cases (general)*.

3 The special case fee for each *charging group* is a total amount calculated as follows:

(1) in respect of *new chargeable cases (PPI)* -

$$\{£350 \times [250,000] \times \text{the 'proportion X'}\} - \{£350 \times 125\}$$

(2) in respect of closed *chargeable cases (PPI)* -

£550 x [245,000] x the 'proportion Y'

(3) In respect of closed *chargeable cases (general)* -

{£550 x [140,000] x the 'proportion Z'} - {£550 x 125}

4 The *FOS Ltd* will invoice each *charging group* for the special case fee (calculated as above) in four equal instalments, payable in advance on the following dates during the *financial year*:

(1) 1 April (or, if later, when *FOS Ltd* has sent the invoice);

(2) 1 July;

(3) 1 October; and

(4) 1 January.

5 Year-end adjustment:

(1) If the actual number of new *chargeable cases (PPI)* referred to the *Financial Ombudsman Service* in respect of *group respondents* during the *financial year* is more than 115% of {[250,000] x the 'proportion X'}:

(a) the *FOS Ltd* will invoice the *relevant charging group*; and

(b) the *relevant charging group* will pay to *FOS Ltd*;

an additional £35,000 for each block of 100 (or part thereof) new *chargeable cases (PPI)* in excess of the 115%.

(2) If the actual number of *chargeable cases (general)* closed by the *Financial Ombudsman Service* in respect of *group respondents* during the *financial year* is more than 115% of {[140,000] x the 'proportion Z'}:

(a) the *FOS Ltd* will invoice the *relevant charging group*; and

(b) the *relevant charging group* will pay to *FOS Ltd*;

an additional £55,000 for each block of 100 (or part thereof) new *chargeable cases (PPI)* over the 115%.

(3) If the actual number of *chargeable cases (general)* closed by the *Financial Ombudsman Service* in respect of *group respondents* during the *financial year* is less than 85% of {[140,000] x the 'proportion Z'}, the *FOS Ltd* will promptly repay to the *relevant charging group* £55,000 for each block of 100 (or part thereof) closed *chargeable cases (general)* under the 85%.

Chapter 6

Financial Services Compensation Scheme Funding



6.1 Application

6.1.1

FCA PRA

R

This chapter applies to:

- (1) every *participant firm* ;
- (2) the *FSCS*; and
- (3) the *Society*.

6.1.2

FCA PRA

G

- (1) *Firms* which are not *participant firms* (such as certain types of *incoming EEA firms*, service companies and *ICVCs*) are not required to contribute towards the funding of the *compensation scheme*.
- (2) Although a *member* is a *participant firm* for the purposes of most provisions of *COMP*, a *member* is excluded from the definition of *participant firm* for the purposes of ■ FEES 6 (see definition of *participant firm* in *Glossary*). This is because the fees levied in relation to the carrying on of *insurance market activities* by *members* will be imposed on *Society* rather than individually on each *member* (see ■ FEES 6.3.24 R).

Purpose

6.1.3

FCA PRA

G

The purpose of this chapter is to set out the requirements on *participant firms* to pay levies imposed by the *FSCS* to provide funding for its functions.

General structure

6.1.4

FCA PRA

G

Section 213(3)(b) of the *Act* requires the *appropriate regulator* to make *rules* to enable the *FSCS* to impose levies on *authorised persons* in order to meet its expenses. These expenses include in particular expenses incurred, or expected to be incurred, in paying compensation, borrowing or insuring risks.

6.1.4A

FCA PRA

G

Section 224F of the *Act* enables the *appropriate regulator* 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 three types of levy: a *management expenses levy* (consisting of a *base costs levy* and a *specific costs levy*), a *compensation costs levy* and a *MERS levy*. The FSCS has discretion as to the amount and timing of the levies imposed.

FCA PRA

6.1.6 G In calculating a *compensation costs levy*, the FSCS may include *compensation costs* expected in the 12-month period following the date of the levy. The total amount of all *management expenses levies* attributable to a financial year may not exceed the amount set out on an annual basis in ■ FEES 6 Annex 1 R.

FCA PRA

6.1.7 G In order to allocate a share of the amount of *specific costs* and *compensation costs* to be funded by an individual *participant firm*, the funding arrangements are split into eight *classes*: the *deposits class*; the *life and pensions provision class*; the *general insurance provision class*; the *investment provision class*; the *life and pensions intermediation class*; the *home finance intermediation class*; the *investment intermediation class* and the *general insurance intermediation class*. The *permissions* held by a *participant firm* determine into which *class*, or *classes*, it falls.

PRA

6.1.7A G In order to allocate a share of the amount of *specific costs* and *compensation costs* to be funded by an individual *participant firm*, the funding arrangements are split into twelve *classes*: the *deposits class*; the *life and pensions provision class*; the *general insurance provision class*; the *investment provision class*; the *life and pensions intermediation class*; the *home finance intermediation class*, the *investment intermediation class*; the *general insurance intermediation class*; the *deposit acceptor's contribution class*; the *insurers - life contribution class*; the *insurers - general contribution class*; and the *home finance providers and administrators' contribution class*. The *permissions* held by a *participant firm* determine into which *class*, or *classes*, it falls.

FCA

6.1.8 G The provisions on the allocation of levies to *classes* up to their *levy limits* meet a requirement of section 213(5) of the *Act* that the *appropriate regulator*, in making rules to enable the FSCS to impose levies, must take account of the desirability of ensuring that the amount of the levies imposed on a particular class of *authorised person* reflects, so far as practicable, the amount of claims made, or likely to be made, in respect of that class of person.

FCA PRA

The management expenses levy

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:

FCA PRA

- (1) expenses incurred in paying compensation;
- (2) expenses incurred as a result of the FSCS making the arrangements to secure continuity of insurance set out in ■ COMP 3.3.1 R and ■ COMP 3.3.2 R or taking the measures set out in ■ COMP 3.3.3 R and ■ COMP 3.3.4 R when a *relevant person* is an *insurer* in financial difficulties;
- (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*.

6.1.10

FCA PRA

G

A *management expenses levy* may consist of two elements. The first is a *base costs levy*, for the base costs of running the *compensation scheme* in a financial year, that is, costs which are not dependent upon the level of activity of the *compensation scheme* and which therefore are not attributable to any specific *class*. Included in this category are items such as the salary of the members of the board of the *FSCS*, the costs of the premises which the *FSCS* occupies, and its audit fees. It would also likely include the cost of any insurance cover secured by *FSCS* against the risk of it paying claims out in circumstances where the *levy limit* of the particular *class* to which the claim would otherwise be attributable has exceeded its *levy limit* for the year, as the insurance cover is likely to benefit all *classes* which may have costs allocated to them if the *levy limit* of another *class* is breached. The amount that each *participant firm* pays towards a *base costs levy* is calculated by reference to the *regulatory costs* paid by the *firm*. All *participant firms* are liable to contribute towards a *base costs levy*.

6.1.11

PRA

G

The second element of a *management expenses levy* is a *specific costs levy* for the "specific costs" of running the *compensation scheme* in a financial year. These costs are attributable to a *class*, and include the salary costs of certain staff of the *FSCS* and claims handling and legal and other professional fees. It also may include the cost of any insurance cover that *FSCS* secures against the risk of *FSCS* paying out claims above a given level in any particular *class* (but below the *levy limit* for that *class* for the year). The *specific costs* are attributed to the *class* which is responsible for those costs. When the *FSCS* imposes a *specific costs levy*, the levy is allocated to the *class* which is responsible for those costs up to the relevant *levy limits*. The *FSCS* may include in a *specific costs levy* the *specific costs* that the *FSCS* expects to incur (including in respect of defaults not yet declared at the date of the levy) during the financial year of the *compensation scheme* to which the levy relates. The amount that each *participant firm* pays towards the *specific costs levy* is calculated by reference to the amount of business conducted by the *firm* in each of the *classes* to which the *FSCS* has allocated *specific costs*. Each *class* has a separate "tariff base" for this purpose, set out in ■ FEES 6 Annex 3 R. *Participant firms* may be exempt from contributing to the *specific costs levy*.

6.1.11A

FCA

G

The second element of a *management expenses levy* is a *specific costs levy* for the "specific costs" of running the *compensation scheme* in a financial year. These costs are attributable to a *class*, and include the salary costs of certain staff of the *FSCS* and claims handling and legal and other professional fees. It also may include the cost of any insurance cover that *FSCS* secures against the risk of *FSCS* paying out claims above a given level in any particular *class* (but below the *levy limit* for that *class* for the year). The *specific costs* are attributed to the *class* which is responsible for those costs. When the *FSCS* imposes a *specific costs levy*, the levy is allocated to the *class* which is responsible for those costs up to the relevant *levy limits*. *Specific costs* attributable to certain *classes*, which exceed the *class levy limits*, may be allocated to the *retail pool*. The *FSCS* may include in a *specific costs levy* the *specific costs* that the *FSCS* expects to incur (including in respect of defaults not yet declared at the date of the levy) during the financial year of the *compensation scheme* to which the levy relates. The amount that each *participant firm* pays towards the *specific costs levy* is calculated by reference to the amount of business conducted by the *firm* in each of the *classes* to which the *FSCS* has allocated *specific costs*. Each *class* has a separate "tariff base" for this

purpose, set out in ■ FEES 6 Annex 3A. *Participant firms* may be exempt from contributing to the *specific costs levy*.

6.1.12 [G] [deleted]

6.1.13 [G] The limit on the *management expenses* attributable to the forthcoming financial year of the FSCS will be consulted on in January each year.
 [FCA] [PRA]

The compensation costs levy

6.1.14 [G] In imposing a *compensation costs levy* in each financial year of the *compensation scheme* the FSCS will take into account the *compensation costs* which the FSCS has incurred and has not yet raised through levies, any recoveries it has had made using the rights that have been assigned to it or to which it is subrogated and those *compensation costs* it expects to incur (including in respect of defaults yet to be declared) over the 12 *months* following the date of the levy.
 [FCA] [PRA]

6.1.15 [G] *Compensation costs* are principally the costs incurred in paying compensation. Costs incurred:
 [FCA] [PRA]

- (1) in securing continuity of long-term insurance; or
- (2) in safeguarding eligible claimants when insurers are in financial difficulties; or
- (3) in making payments or giving indemnities under ■ COMP 11.2.3 R; or
- (4) 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; or
- (5) in paying interest, principal and other costs from borrowing to allow the FSCS to pay claims attributable to a particular *class*;

are also treated as *compensation costs*. *Compensation costs* are attributed to the *class* which is responsible for the costs. When the FSCS imposes a *compensation costs levy* the levy is allocated to the *class* which is responsible for the costs up to relevant *levy limits*. Certain *classes* may be funded, for *compensation costs levies* beyond the *class levy limit*, by the *retail pool*.

Participant firms that are members of more than one class

6.1.16 [G] If a *participant firm* is a member of more than one *class*, the total *compensation costs levy* and *specific costs levy* for that *firm* in a particular year will be the aggregate of the individual levies calculated for the *firm* in respect of each of the *classes* for that year. Each *class* has a *levy limit* which is the maximum amount of *compensation costs* and *specific costs* which may be allocated to a particular *class* in a financial year for the purposes of a levy.
 [FCA] [PRA]

The retail pool

6.1.16A [G] The FCA has made *rules* providing that *compensation costs* and *specific costs* attributable to the intermediation *classes* and the investment provision *class*, which exceed the *class*
 [FCA]

levy limits, may be allocated to the *retail pool*. Levies allocated to the *retail pool* are then allocated amongst the other such *classes*, together with certain *classes* (known as *FCA provider contribution classes*). The *FCA provider contribution classes* may contribute to *compensation costs levies* or specific costs levies funded by the *retail pool*, but not themselves receive any such funding. The *FCA provider contribution classes* have a different tariff structure to the other *classes*, based on *regulatory costs* (see ■ FEES 6.5A.6 R).

Incoming EEA firms

6.1.17

FCA PRA

G

Incoming EEA firms which obtain cover or 'top up' under the provisions of ■ COMP 14 are *firms* whose *Home State* scheme provides no or limited compensation cover in the event that they are determined to be in default. Under ■ FEES 6.6, the FSCS is required to consider whether *incoming EEA firm's* should receive a discount on the amount that they would otherwise pay as their share of the levy, to take account of the availability of their *Home State* cover. The amount of any discount is recoverable from the other members of the *incoming EEA firm's class*.



6.2 Exemption

6.2.1

PRA

R

- (1) A *participant firm* which does not conduct business that could give rise to a *protected claim* by an *eligible claimant* and has no reasonable likelihood of doing so is exempt from a *specific costs levy*, or a *compensation costs levy*, or both, provided that:
 - (a) it has notified the *FSCS* in writing that those conditions apply; and
 - (b) the conditions in fact continue to apply.

6.2.1A

FCA

R

- (1) Except as set out in (3), a *participant firm* which does not conduct business that could give rise to a *protected claim* by an *eligible claimant* and has no reasonable likelihood of doing so is exempt from a *specific costs levy*, or a *compensation costs levy*, or both, provided that:
 - (a) it has notified the *FSCS* in writing that those conditions apply; and
 - (b) the conditions in fact continue to apply.
- (2) The exemption takes effect from the date on which the notice was received by the *FSCS*, subject to ■ FEES 6.2.6 R.
- (3) The exemption in (1) does not apply in respect of a *specific costs levy* or *compensation costs levy* arising from the *firm's* membership of an *FCA provider contribution class*.

6.2.2

FCA

R

■ FEES 6.2.1 R does not apply to a *participant firm* that may be subject to a claim under ■ COMP 3.2.4 R.

6.2.3

FCA

G

A *participant firm* to which ■ FEES 6.2.2 R applies must report *annual eligible income* in accordance with ■ FEES 6.5.13 R. Such a *participant firm* may take advantage of the option to report its annual income attributable to business conducted with or on behalf of eligible claimants.

- 6.2.4 **R** **FCA** **PRA** A *participant firm* which is exempt under ■ FEES 6.2.1 R must notify the FSCS in writing as soon as reasonably practicable if the conditions in ■ FEES 6.2.1 R no longer apply.
- 6.2.5 **G** **FCA** **PRA** A *participant firm* to which the conditions in ■ FEES 6.2.1 R no longer apply will then become subject to ■ FEES 6.3.
- 6.2.6 **R** **FCA** **PRA** If a *participant firm* ceases to conduct business that could give rise to a *protected claim* by an *eligible claimant* and notifies the FSCS of this under ■ FEES 6.2.1 R (1), it will be treated as a *participant firm* to which ■ FEES 6.7.6 R applies until the end of the financial year of the compensation scheme in which the notice was given.
- 6.2.7 **G** **FCA** **PRA** The financial year of the *compensation scheme* is the twelve months ending on 31 March. The effect of ■ FEES 6.2.6 R and ■ FEES 6.2.1 R (2) is that if a *firm* fails to notify FSCS of an exemption under ■ FEES 6.2.1 R by 31 March it will be treated as non-exempt for the whole of the next financial year.
- 6.2.8 **R** **FCA** **PRA** For the purposes of ■ FEES 6.2.1 R a *participant firm* will only be exempt from a *specific costs levy* or *compensation costs levy* for any given financial year if it met the conditions in ■ FEES 6.2.1 R on 31 March of the immediately preceding financial year.

6.3 The FSCS's power to impose levies

Imposing management expenses and compensation costs levies

6.3.1

FCA PRA

R

The FSCS may at any time impose a *management expenses levy* or a *compensation costs 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 expenditure already incurred, actual and expected recoveries and :

- (1) in the case of a *management expenses levy*, the level of the FSCS's expected expenditure in respect of those expenses in the financial year of the *compensation scheme* in relation to which the levy is imposed;
- (2) in the case of a *compensation costs levy*, the level of the FSCS's expected expenditure in respect of *compensation costs* in the 12 months immediately following the levy.

6.3.2

FCA PRA

G

The calculation of levies will also take into account previous levies, where funds raised in anticipation of meeting liabilities prove either more or less than the amount actually required.

6.3.2A

FCA PRA

G

The FSCS will usually levy once in each financial year (and in respect of *compensation costs*, for expenditure expected in the period of 12 months following 1 July in that year). However, if the *compensation costs* or *specific costs* incurred, or expected to be incurred, exceed the amounts held, or reasonably expected to be held, to meet those costs, the FSCS may, at any time during the financial year, do one or more of the following:

- (1) impose an interim *compensation costs levy* or *management expenses levy*; or
- (2) utilise other sources of funding such as commercial borrowing or other borrowing including from the National Loans Fund; or
- (3) utilise money collected from firms as set out in, and subject to, ■ FEES 6.3.17 R (Management of funds).

The FSCS will generally impose a levy rather than borrow or utilise funds as described in (3), unless the latter options appear to it to be preferable in the specific circumstances prevailing at the relevant time; for example, to address short-term liquidity issues, or in order to deal with a significant failure without having to wait for a levy to be imposed or collected.

6.3.3
FCA PRA

G

The *FSCS* has committed itself in Memorandum of Understanding with each of the *FCA* and the *PRA* to publish its policy in respect of levying .

6.3.4
FCA PRA

G

The discretion over levying in ■ FEES 6 also gives the *FSCS*, if it thinks this appropriate, the ability to use third parties as its agents in raising and collecting the levies.

Imposing a MERS levy

6.3.4A
FCA PRA

R

The *FSCS* may at any time impose 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 relevant expenses incurred or expected to be incurred in the 12 *months* following the date of the levy.

Limits on compensation costs and specific costs levies on classes

6.3.5
FCA PRA

R

The maximum aggregate amount of *compensation costs* and *specific costs* for which the *FSCS* can levy each *class* in any one financial year of the *compensation scheme* is limited to the amounts set out in the table in ■ FEES 6 Annex 2 R.

6.3.6

R

[deleted]

6.3.7

R

[deleted]

6.3.8

R

[deleted]

6.3.9

R

[deleted]

Levy for compensation costs paid in error

6.3.10
FCA PRA

R

The *FSCS* may include in a *compensation costs levy* the costs of compensation paid by the *FSCS* in error, provided that the payment was not made in bad faith.

Management of funds

6.3.11
FCA PRA

R

The *FSCS* must hold any amount collected from a *specific costs levy* or *compensation costs levy* to the credit of the *classes* in accordance with the allocation established under ■ FEES 6.4.6 R and ■ FEES 6.5.2 R.

6.3.12
FCA PRA

R

Any funds received by the *FSCS* by way of levy or otherwise for the purposes of the *compensation scheme* are to be managed as the *FSCS* considers appropriate, and in doing this the *FSCS* must act prudently.

6.3.13
FCA PRA

R

Interest earned by the *FSCS* in the management of funds held to the credit of a *class* must be credited to that *class*, and must be set off against the *management expenses* or *compensation costs* allocated to that *class*.

- 6.3.14** **R** The *FSCS* must keep accounts which include:
FCA **PRA**
- (1) the funds held to the credit of each *class* ; and
 - (2) the liabilities of that *class* .
- 6.3.15** **R** [deleted]
- 6.3.15A** **G** [deleted]
- 6.3.16** **G** [deleted]
- 6.3.17** **R**
FCA **PRA**
- (1) The *FSCS* may use any money held to the credit of one *class*(the creditor *class*) to pay *compensation costs* or *specific costs* attributable or allocated by way of levy to another *class* (the debtor *class*) if the *FSCS* has reasonable grounds to believe that this would be more economical than borrowing funds from a third party or raising a levy.
 - (2) Where the *FSCS* acts in accordance with (1), it must ensure that:
 - (a) the creditor *class* is reimbursed by the debtor *class* as soon as possible;
 - (b) the debtor *class* pays interest at a rate equivalent to the Bank of England's repo rate from time to time in force; and
 - (c) the amount lent by the creditor *class* to the debtor *class* is taken into account by the *FSCS* when considering whether to impose a *compensation costs levy* on the creditor *class* under **■ FEES 6.3.1 R**.
- 6.3.18** **G** **■ FEES 6.3.17 R** deals with how *FSCS* may use money available to it and does not affect the *rules* on levy allocation in **■ FEES 6.4**, **■ 6.5** and **■ 6.5A** .
FCA **PRA**
- 6.3.19** **R** Unless **■ FEES 6.3.20 R** applies, any recoveries made by the *FSCS* in relation to *protected claims* must be credited to the *classes* to which the related *compensation costs* was attributable .
FCA **PRA**
- 6.3.20** **R**
FCA **PRA**
- (1) Where the *FSCS* makes recoveries in relation to *protected claims* where a related *compensation costs levy* would have been allocated to a *class* (class A) had the levy limit for class A not been reached and has been allocated to another *class* or *classes* in the *retail pool*, the recoveries must be applied:
 - (a) first, to the *classes* to which the costs levied were allocated in accordance with **■ FEES 6.5A** in the same proportion as those *classes* contributed, up to the total amount of that allocation

plus interest at a rate equivalent to the Bank of England's Official Bank Rate from time to time in force; and

(b) thereafter, to class A.

(2) This *rule* applies even though the recovery is made in a subsequent financial year.

(3) [deleted]

6.3.20A **G**

FCA PRA

Recoveries under ■ FEES 6.3.20 R are net of the costs of recovery.

6.3.21 **R**

FCA PRA

If the FSCS has more funds (whether from levies, recoveries or otherwise) to the credit of a *class* than the FSCS believes will be required to meet levies on that *class* for the next 12 months, it may refund the surplus to members or former members of the *class* on any reasonable basis.

Adjustments to calculation of levy shares

6.3.22 **R**

FCA PRA

The FSCS may adjust the calculation of a *participant firm's* share of any levy to take proper account of:

- (1) any excess, not already taken into account, between previous levies of that type imposed in relation to previous periods and the relevant costs actually incurred in that period; or
- (2) *participant firms* that are exempt from the levy under ■ FEES 6.2; or
- (3) amounts that the FSCS has not been able to recover from *participant firms* as a result of ■ FEES 6.3.5 R ; or
- (4) amounts that the FSCS has not been able to recover from *participant firms* after having taken reasonable steps; or
- (5) ■ FEES 2.3 (Relieving Provisions), ■ FEES 6.4.8 R (New participant firms), ■ FEES 6.5.9 R (New participant firms), ■ FEES 6.3.23 R (Remission of levy or additional administrative fee) or ■ FEES 6.6 (Incoming EEA firms); or
- (6) anything else that the FSCS believes on reasonable grounds should be taken into account.

6.3.22A **R**

FCA PRA

The FSCS may not adjust the calculation of a *participant firm's* share of any levy under ■ FEES 6.3.22 R on the grounds that it would be inequitable for that *firm* to pay that share or part of it or on the grounds that it would be inequitable for the FSCS to retain that share or part of it.

6.3.22B

FCA PRA

G

The reason for ■ FEES 6.3.22A R is that any such claim should be dealt with under ■ FEES 2.3 (Relieving Provisions).

Firms acquiring businesses from other firms

6.3.22C

FCA PRA

R

- (1) This *rule* applies to the calculation of the levies of a *firm* (A) if:
 - (a) either:
 - (i) A acquires all or a part of the business of another *firm* (B), whether by merger, acquisition of goodwill or otherwise; or
 - (ii) A became authorised as a result of B's simple change of legal status (as defined in ■ FEES 3 Annex 1 R Part 6);
 - (b) B is no longer liable to pay a levy; and
 - (c) that acquisition or change takes place after the date to which, or as of which, A's most recent statement of business under ■ FEES 6.5.13 R is drawn up so far as concerns the *classes* covered by B's business.
- (2) A must pay an additional amount equal to the levy that would have been payable by B in relation to the relevant business and relevant *classes* if the acquisition or change in status had not taken place and B had remained liable to pay levies. The amount is based on the most recent information supplied by B under ■ FEES 6.5.13 R. A is included in the *classes* applicable to the relevant business.
- (3) This *rule* only applies with respect to those financial years of the FSCS for which A's levies are calculated on the basis of a statement of business under ■ FEES 6.5.13 R drawn up to a date, or as of a date, before the acquisition or change in legal status took place.

Remission of levy or additional administrative fee

6.3.23

FCA PRA

R

If a *participant firm's* share of a levy or an additional administrative fee under ■ FEES 6.7.4 R would be so small that, in the opinion of the FSCS, the costs of collection would be disproportionate to the amount payable, the FSCS may treat the *participant firm* as if its share of the levy or additional administrative fee amounted to zero.

Levies on the Society of Lloyd's

6.3.24

PRA

R

The FSCS may impose a levy on the *Society* to be calculated as the aggregate of the levies that would be imposed on each *member* if this chapter applied to *members*, as follows:

- (1) a proportionate share of a *base costs levy* in respect of the *compensation scheme's* costs for the period from 1 January 2004

to the end of the *compensation scheme's* financial year and a share of such levies for all subsequent financial years; and

- (2) a *specific costs levy* and a *compensation costs levy* in respect of costs arising out of a *relevant person being in default*, arrangements made under ■ COMP 3.3.1 R or measures taken under ■ COMP 3.3.3 R where:
 - (a) the default occurs or the circumstances giving rise to the arrangements being made or the measures being taken, as the case may be, occur; and
 - (b) the *protected contracts of insurance* in connection with which the costs arise were entered into;

on or after 1 January 2004.



6.4 Management expenses

Obligation on participant firm to pay

6.4.1

R

FCA PRA

A *participant firm* must pay to the FSCS a share of each *management expenses levy*.

Limit on management expenses

6.4.2

R

FCA PRA

The total of all *management expenses levies* attributable to a particular period of the *compensation scheme* may not exceed the limit applicable to that period set out in ■ FEES 6 Annex 1 R.

Participant firm's share

6.4.3

R

FCA PRA

A *participant firm's* share of a *management expenses levy* consists of one or more of: (1) a share of a *base costs levy* and (2) a share of a *specific costs levy*.

6.4.4

R

FCA PRA

The FSCS must ensure that each *participant firm's* share of a *management expenses levy* separately identifies the *firm's* share of the *base costs levy* and *specific costs levy*.

Base costs levy

6.4.5

R

FCA PRA

Subject to ■ FEES 6.3.22 R, the FSCS must calculate a *participant firm's* share of a *base costs levy* by:

- (1) identifying the *base costs* which the FSCS has incurred, or expects to incur, in the relevant financial year of the *compensation scheme*, but has not yet levied and:
 - (a) allocating 50% of those *base costs* as the sum to be levied on participants in activity groups A.1, A.3, A.4, A.5 and A.6 (as listed in ■ FEES 4 Annex 1B R); and
 - (b) allocating 50% of those *base costs* as the sum to be levied on participants in all the activity groups listed in ■ FEES 4 Annex 1A R;

- (2) calculating the amount of the *participant firm's* regulatory costs as a proportion of the total *regulatory costs* relating to all *participant firms* for the relevant financial year :
 - (a) if the *participant firm* belongs to any of the activity groups in (1)(a), imposed by the *PRA* in respect of those groups; and
 - (b) if the *participant firm* belongs to any of the activity groups in (1)(b), imposed by the *FCA* in respect of those groups; and
- (3) applying the proportion calculated in (2)(a), if any to the sum in (1)(a), and the proportion calculated in (2)(b) (if any) to the sum in (1)(b).

6.4.5A

FCA PRA

G

The effect of ■ FEES 6.4.5 R is that if a *participant firm* belongs to activity groups in both (1)(a) and (1)(b) of that *rule*, it will be required to pay a share of the *base costs levy* in respect of both sets of activity groups.

Specific costs levy

6.4.6

PRA

R

The *FSCS* must allocate any *specific costs levy* amongst the relevant *classes* in proportion to the amount of relevant costs arising from the different activities for which *firms* in those *classes* have *permission* up to the *levy limit* of each relevant *class*.

6.4.6A

FCA

R

The *FSCS* must allocate any *specific costs levy*:

- (1) first, amongst the relevant *classes* in proportion to the amount of relevant costs arising from the different activities for which *firms* in those *classes* have *permission* up to the *levy limit* of each relevant *class*. The *FCA provider contribution classes* are not relevant *classes* for this purpose; and
- (2) thereafter, where the *levy limit* has been reached (whether as a result of *compensation costs* or *specific costs* or both) for a *class* whose attributable costs may be allocated to the *retail pool* (see ■ FEES 6 Annex 5), to the retail pool, in accordance with and subject to ■ FEES 6.5A.

6.4.7

PRA

R

The *FSCS* must calculate a *participant firm's* share of a *specific costs levy* (subject to ■ FEES 6.3.22 R (Adjustments to calculation of levy shares) by:

- (1) identifying each of the relevant *classes* to which the *participant firm* belongs, using the statement of business most recently supplied under ■ FEES 6.5.13 R;

- (2) identifying the *management expenses* other than *base costs* which the *FSCS* has incurred, or expects to incur, in the relevant financial year of the *compensation scheme*, allocated to the *classes* identified in (1), but not yet levied;
- (3) calculating, in relation to each relevant *class*, the *participant firm's* tariff base as a proportion of the total tariff base of all *participant firms* in the *class*, using the statement of business most recently supplied under ■ FEES 6.5.13 R;
- (4) applying the proportion calculated in (3) to the figure in (2); and
- (5) if more than one *class* is relevant, adding together the figure in (4) for each *class*.

6.4.7A

FCA

R

The *FSCS* must calculate a *participant firm's* share of a *specific costs levy* (subject to ■ FEES 6.3.22 R (Adjustments to calculation of levy shares) by:

- (1) identifying each of the relevant *classes* to which the *participant firm* belongs, using the statement of business most recently supplied under ■ FEES 6.5.13 R;
- (2) identifying the *management expenses* other than *base costs* which the *FSCS* has incurred, or expects to incur, in the relevant financial year of the *compensation scheme*, allocated to the *classes* identified in (1), but not yet levied;
- (3) calculating, in relation to each relevant *class*, the *participant firm's* tariff base (see ■ FEES 6 Annex 3A) as a proportion of the total tariff base of all *participant firms* in the *class*, using the statement of business most recently supplied under ■ FEES 6.5.13 R (but this paragraph is modified for a *specific costs levy* allocated to an *FCA provider contribution class* in the *retail pool* by ■ FEES 6.5A.6 R);
- (4) applying the proportion calculated in (3) to the figure in (2); and
- (5) if more than one *class* is relevant, adding together the figure in (4) for each *class*.

6.4.8

FCA PRA

R

New participant firms

A *firm* which becomes a *participant firm* part way through a financial year of the *compensation scheme* will not be liable to pay a share of a *specific costs levy* made in that year.

6.4.9

G

[deleted]

6.4.10

FCA PRA

G

Since a *firm* that becomes a *participant firm* in the course of a financial year of the *compensation scheme* will already be obtaining a discount in relation to the *base costs*

levy through the modified fee provisions of ■ FEES 4.2.6 R, no *rule* is necessary in ■ FEES 6 for discounts on the *base costs levy*.

Specific costs levy for newly authorised firms

6.4.10A

FCA PRA

R

- (1) This *rule* deals with the calculation of:
 - (a) a *participant firm's specific costs levy* in the financial year of the FSCS following the FSCS financial year in which it became a *participant firm*; or
 - (b) a *participant firm's specific costs levy* in the financial year of the FSCS in which it had its *permission* extended, and the following FSCS financial year; and
 - (c) the tariff base for the *classes* that relate to the relevant *permissions* or extensions, as the case may be.
- (2) Unless this *rule* says otherwise the tariff base is calculated, where necessary, using the projected valuation of the business to which the tariff relates.
- (3) The rest of this *rule* only applies to a *firm* that becomes a *participant firm*, or extends its *permission*, on or after 1 April 2009.
 - (a) If a *participant firm's* tariff base is calculated using data from a period that begins on or after it became a *participant firm* or on or after the date that the *participant firm* receives its extension of *permission*, as the case may be, the *participant firm* must use that data.
 - (b) If a *participant firm* satisfies the following conditions it must calculate its tariff base under (c) for the FSCS financial year following the FSCS financial year it became a *participant firm*:
 - (i) it became a *participant firm* or receives its extension of *permission*, as the case may be, between 1 April and 31 December inclusive; and
 - (ii) its tariff base, but for this *rule*, is calculated by reference to the financial year ended in the calendar year ending 31 December or the twelve *months* ending 31 December before the FSCS financial year.
 - (c) If a *participant firm* satisfies the conditions in (b) it must calculate its tariff base as follows:
 - (i) it must use actual data in relation to the business to which the tariff relates rather than projected valuations;
 - (ii) the tariff is calculated by reference to the period beginning on the date it became a *participant firm* or

had its *permission* extended, and ending on the 31 December before the start of the *FSCS* financial year; and

(iii) the figures are annualised by increasing them by the same proportion as the period of 12 *months* bears to the period starting from when the *participant firm* became a *participant firm* or had its *permission* extended to the 31 December, as the case may be.

(d) Where a *participant firm* is required to use the method in (c) it must notify the *FSCS* of its intention to do so by the date specified in ■ FEES 6.5.13 R(Reporting Requirements).

(e) Where a *participant firm* is required to use actual data under this rule ■ FEES 6 Annex 3 R is disapplied, to the extent it is incompatible, in relation to the calculation of that *participant firm's* valuation date in its second financial year.

Application of FEES 6.4.10AR

6.4.10B

FCA PRA

G

The table below sets out the period within which a *participant firm's* tariff base is calculated ("the data period") for second year levies calculated under ■ FEES 6.4.10B. The example is based on a *participant firm* that extends its *permission* on 1 November 2009 and has a financial year ending 31 March.

References in this table to dates or months are references to the latest one occurring before the start of the *FSCS* financial year unless otherwise stated.

Type of permission acquired on 1 November	Tariff base	Valuation date but for FEES 6.5.13BR	Data period under FEES 6.5.13bR
<i>Accepting deposits</i>	Protected deposits	As at 31 December 2009	As at 31 December 2009
<i>Effecting contracts of insurance</i> (Insurers - general)	<i>Relevant net premium income</i>	The <i>firm's</i> tariff base calculated in the year 2009 - so projected valuation will be used.	1 November to 31 December 2009
<i>Dealing in investments as agent</i> in relation to General Insurance Intermediation	<i>Annual eligible income</i>	Financial year ended 31 March 2009 - so projected valuations will be used.	1 November to 31 December 2009

6.4.11

R

[deleted]

6.4.12

R

[deleted]



6.4A Management expenses in respect of relevant schemes

Obligation on participant firm to pay

6.4A.1

FCA PRA

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

FCA PRA

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

FCA PRA

R

The FSCS must calculate a participant firm's share of a MERS levy on a reasonable basis.



6.5 Compensation costs

6.5.1 **R** [deleted]

6.5.2 **R** The FSCS must allocate any *compensation costs levy*:

PRA

- (1) first, to the *classes* in proportion to the amount of *compensation costs* arising from, or expected to arise from, claims in respect of the different activities for which *firms* in those *classes* have *permission* up to the *levy limit* of each relevant *class* ; and
- (2) thereafter, where the *levy limit* has been reached (whether as a result of *compensation costs* or *specific costs* or both) for a *class* whose attributable costs may be allocated to the *retail pool*, to the *retail pool* in accordance with ■ FEES 6.5A .

Allocation: all classes except A, B and C

6.5.2-A **R** The FSCS must allocate any *compensation costs levy*:

FCA

- (1) first, to the relevant *classes* in proportion to the amount of *compensation costs* arising from, or expected to arise from, claims in respect of the different activities for which *firms* in those *classes* have *permission* up to the *levy limit* of each relevant *class*. The *FCA provider contribution classes* are not relevant *classes* for this purpose; and
- (2) thereafter, where the *levy limit* has been reached (whether as a result of *compensation costs* or *specific costs* or both) for a *class* whose attributable costs may be allocated to the *retail pool* (see ■ FEES 6 Annex 5), to the retail pool, in accordance with, and subject to, ■ FEES 6.5A.

6.5.2A **G** The use made by FSCS of borrowing facilities to provide liquidity until the next levy does not affect the attribution of *compensation costs*, nor the allocation of *compensation cost levies*; the allocation of a *compensation costs levy* occurs at the time that the FSCS imposes a levy.

6.5.2B **G** [deleted]

6.5.2C G [deleted]

6.5.3 R If a *participant firm* which is *in default* has carried on a *regulated activity* other than in accordance with a *permission*, the FSCS must treat any *compensation costs* or *specific costs* arising out of that activity as if the relevant *permission* were held by the *participant firm*.
FCA PRA

6.5.4 R If the relevant *person* in default is an *appointed representative*, the FSCS must treat any *compensation costs* or *specific costs* arising out of a *regulated activity* for which his *principal* has not accepted responsibility to as if the *principal* had accepted responsibility .
FCA PRA

6.5.5 R (1) A *participant firm* must pay to the FSCS a share of each *compensation costs levy* allocated to the *classes* of which it is a member unless either the *firm* is exempt under ■ FEES 6.2 (Exemption) or the FSCS has chosen to exercise its discretion under ■ FEES 6.3.23 R in respect of that *firm*.
FCA PRA

(2) [deleted]

6.5.6 R The FSCS must calculate each *participant firm's* share of a *compensation costs levy* (subject to ■ FEES 6.3.22 R (Adjustments to calculation of levy shares)) by:
PRA

(1) identifying each of the *classes* to which each *participant firm* belongs, using the statement of business most recently supplied under ■ FEES 6.5.13 R (1);

(2) identifying the *compensation costs* falling within ■ FEES 6.5.1 R allocated, in accordance with ■ FEES 6.5.2 R, to the *classes* identified in (1);

(3) calculating, in relation to each relevant *class*, the *participant firm's* tariff base as a proportion of the total tariff base of all *participant firms* in the *class*, using the statement of business most recently supplied under ■ FEES 6.5.13 R;

(4) applying the proportion calculated in (3) to the figure in (2);
and

(5) if more than one *class* is relevant, adding together the figure in (4) for each *class*.

6.5.6A

FCA

R

The FSCS must calculate each *participant firm's* share of a *compensation costs levy* (subject to ■ FEES 6.3.22 R (Adjustments to calculation of levy shares)) by:

- (1) identifying each of the relevant *classes* to which each *participant firm* belongs, using the statement of business most recently supplied under ■ FEES 6.5.13 R (1);
- (2) identifying the *compensation costs* falling within ■ FEES 6.5.1 R allocated, in accordance with ■ FEES 6.5.2 R, to the *classes* identified in (1);
- (3) calculating, in relation to each relevant *class*, the *participant firm's* tariff base (see ■ FEES 6 Annex 3A) as a proportion of the total tariff base of all *participant firms* in the *class*, using the statement of business most recently supplied under ■ FEES 6.5.13 R (but this paragraph is modified for a *compensation costs levy* allocated to an *FCA provider contribution class* in the *retail pool* by ■ FEES 6.5A.6 R);
- (4) applying the proportion calculated in (3) to the figure in (2); and
- (5) if more than one *class* is relevant, adding together the figure in (4) for each *class*.

Classes and tariff bases for compensation cost levies and specific costs levies

6.5.7

PRA

R

When calculating a *participant firm's* share of a *compensation costs levy* or *specific costs levy* allocated to each *class* the FSCS must use the *classes* and tariff bases as set out in the table in ■ FEES 6 Annex 3 R.

- (1) [deleted]
- (2) [deleted]
- (3) [deleted]
- (4) [deleted]
- (5) [deleted]

6.5.8

FCA

PRA

G

Guidance on parts of ■ FEES 6 Annex 3 R can be found in ■ FEES 6 Annex 4 G.

New participant firms

6.5.9

FCA

PRA

R

A *firm* which becomes a *participant firm* part way through a financial year of the *compensation scheme* will not be liable to pay a share of a *compensation costs levy* made in that year.

Compensation costs levy for newly authorised firms

6.5.9A **R** ■ FEES 6.4.10AR applies to the calculation of a *participant firm's compensation costs levy* and its tariff base as it applies to the calculation of its *specific costs levy*.
FCA PRA

6.5.9B **G** The example table in ■ FEES 6.4.10B G can be applied to the calculation of the tariff bases under ■ FEES 6.5.9AR.
FCA PRA

Membership of several classes

6.5.10 **R** [deleted]

6.5.11 **R** [deleted]

6.5.12 **G** A *participant firm* may belong to more than one *class*.

FCA PRA

Reporting requirements

6.5.13 **R** (1) Unless exempt under ■ FEES 6.2.1 R, a *participant firm* must provide the *FSCS* by the end of February each year (or, if it has become a *participant firm* part way through the financial year, by the date requested by the *appropriate regulator*) with a statement of:

FCA PRA

- (a) *classes* to which it belongs; and
- (b) the total amount of business (measured in accordance with the appropriate tariff base or tariff bases) which it conducted, in respect of the most recent valuation period (as specified by ■ FEES 6 Annex 3 R (Financial Services Compensation Scheme - classes)) ending before the relevant year in relation to each of those *classes*.

(2) In this *rule* the relevant year means the year in which the month of February referred to in (1) falls.

(3) [deleted]

6.5.13A **G** For example, when the tariff base for a particular *class* is based on a *firm's annual eligible income* the valuation period for that *class* is the *firm's* last financial year ending in the year to 31 December preceding the financial year of the *FSCS* for which the calculation is being made. In the case of a firm in *class* A1 (Deposits) its valuation period will be 31 December.

FCA PRA

6.5.14 **R** If the information in ■ FEES 6.5.13 R has been provided to the *appropriate regulator* under other *rule* obligations, a *participant firm* will be deemed to have complied with ■ FEES 6.5.13 R.

FCA PRA

6.5.15 **R** 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.

PRA

6.5.16 **R** If a *participant firm* does not submit a complete statement by the date on which it is due in accordance with ■ FEES 6.5.13 R and any prescribed submission procedures:

FCA PRA

- (1) the *firm* must pay an administrative fee of £250 (but not if it is already subject to an administrative fee under ■ FEES 4 Annex 2A R, Part 1 or ■ FEES 5.4.1 R for the same financial year); and
- (2) the *compensation costs levy* and any *specific costs levy* will be calculated using (where relevant) the valuation or valuations of business applicable to the previous period, multiplied by the factor of 1.10 (or, if it has become a *participant firm* part way through a financial year, on the basis of the information provided to the *appropriate regulator* for the purposes of ■ FEES 4.4.2 R) or on any other reasonable basis, making such adjustments as seem appropriate in subsequent levies once the true figures are known.

6.5.17 **R** [deleted]

6.5A The retail pool

Allocation of compensation costs levies and specific costs levies through the retail pool

6.5A.1

FCA

R

The FSCS must allocate a *compensation costs levy* or *specific costs levy*, which has been allocated to the *retail pool* (under FEES 6.5.2-A R(2)):

- (1) to *classes* whose *retail pool* levy limit has not been reached as at the date of the levy;
- (2) in proportion to the relative sizes of the *retail pool* levy limits of the *classes* in (1); and
- (3) in accordance with the table in ■ FEES 6 Annex 5.

[Note: The *retail pool* levy limits for *classes* other than *FCA provider contribution classes* are the normal *levy limits* for that *class*. See the table in ■ FEES 6 Annex 5 for the *retail pool* levy limits for all relevant *classes*.]

6.5A.2

FCA

R

- (1) An allocation in ■ FEES 6.5A.1 R to an *FCA provider contribution class* other than the home finance providers and administrators' *contribution class* may not be of an amount that, if it were added to any *compensation costs levies* or *specific costs levies* which have previously been imposed on the *PRA funding class* which corresponds to that *FCA provider contribution class* (as set out in ■ FEES 6.5A.7 R) the combined figure would be greater than the *levy limit* of the corresponding *PRA funding class*.
- (2) Where:
 - (a) an *FCA provider contribution class* has already contributed to *specific costs* or *compensation costs* (through the *retail pool*); and
 - (b) if the amount of that previous contribution by the *class* in (a) were added to a *compensation costs levy* or *specific costs levy* which is being imposed on the *PRA funding class* which corresponds to the *class* in (a) (and any previous such levies), the combined figure would be greater than the *levy limit* of the corresponding *PRA funding class*;

the *FSCS* must, so far as reasonably possible, obtain repayment of the previous contribution by the *class* in (a) from the *retail pool* (including the *FCA provider contribution classes* except the *class* in (a)) to the extent that ensures that the combined figure in (b) would no longer be greater than the *levy limit* of the corresponding *PRA funding class*, and credit the repayment to the *class* in (a).

- (3) The *FSCS* may obtain the repayment in (2) by:
- (a) a levy;
 - (b) commercial or other borrowing; or
 - (c) utilising funds as set out in, and subject to, ■ FEES 6.3.17 R.

[Note: the home finance providers and administrators' contribution *class* does not have a corresponding *PRA funding class*.]

6.5A.3

FCA

G

In considering which of the options in ■ FEES 6.5A.2 R (2) to adopt, the *FSCS* will generally impose a levy, rather than borrow or utilise funds as described in FEES 6.5A.2R(2)(c), unless the latter options appear to be preferable in the specific circumstances prevailing at the relevant time.

6.5A.4

FCA

R

The calculation of the relative sizes of the *retail pool* levy limit (for the purpose of ■ FEES 6.5A.1 R) is based on the original *retail pool* levy limits for the *classes* (as set out in ■ FEES 6 Annex 5) and not the remaining capacity in each *class*.

6.5A.5

FCA

R

When the *FSCS* allocates excess *compensation costs levies* or *specific costs levies* under ■ FEES 6.5A.1 R or any levy imposed under ■ FEES 6.5A.2 R (3)(a), a *class* to which part of the excess is allocated (a "receiving class") may, as a result of that allocation, itself reach its limit. In that case, the *FSCS* must apply ■ FEES 6.5A.1 R or ■ FEES 6.5A.2 R so that any resulting excess levy beyond the limit of the receiving class is allocated amongst the remaining *classes* whose limits have not been reached, to the exclusion of the receiving *class*. This process is repeated until the *compensation costs levy* or *specific costs levy* has been met in full or the limits of all *classes* have been exhausted.

Calculation of participant firms' shares in levies allocated to classes in the retail pool

6.5A.6

FCA

R

In relation to a *specific costs levy* or *compensation costs levy* allocated to an *FCA provider contribution class* in the *retail pool*, ■ FEES 6.4.7A R (3) and ■ FEES 6.5.6A R (3), respectively, are replaced by the following:
"calculating, in relation to each relevant *class*, the *participant firm's* most recent *regulatory costs* arising from its membership of the corresponding activity group (as listed in ■ FEES 4 Annex 1A R) set out in ■ FEES 6.5A.7 R, as a proportion of the total most recent *regulatory costs* of all *participant firms* in that activity group arising from their membership of that group;".

6.5A.7

FCA

R

The corresponding *PRA funding classes* and corresponding activity groups referred to in ■ FEES 6.5A.2 R and ■ FEES 6.5A.6 R respectively are as follows:

FCA provider contribution class	Corresponding PRA funding class	Corresponding activity group
Deposit acceptor's contribution class	Deposits	A.1: Deposit acceptors
Insurers - life contribution class	Life and pensions provision	A.4: Insurers - life
Insurers - general contribution class	General insurance provision	A.3: Insurers - general
Home finance providers and administrators' contribution class	None	A.2: Home finance providers and administrators



6.6 Incoming EEA firms

6.6.1

FCA PRA

R

If an *incoming EEA firm*, which is a *BCD credit institution*, an *IMD insurance intermediary* or *MiFID investment firm*, is a *participant firm*, the *FSCS* must give the *firm* such discount (if any) as is appropriate on the share of any levy it would otherwise be required to pay, taking account of the nature of the levy and the extent of the compensation coverage provided by the firm's *Home State* scheme.

6



6.7 Payment of levies

- 6.7.1** **R** **FCA** **PRA** A *participant firm* must pay its share of any levy made by the *FSCS*:
- (1) in one payment; or
 - (2) where the *FSCS* agrees, quarterly, at the beginning of each quarter, by direct debit agreement.
- 6.7.2** **G** **FCA** **PRA** The amount paid under a direct debit arrangement will be adjusted on a continuous basis to take account of interim levies and other adjustments made during the course of the financial year.
- 6.7.3** **R** **FCA** **PRA** A *participant firm's* share of a levy to which **■ FEES 6.7.1 R (1)** applies is due on, and payable within 30 *days* of, the date when the invoice is issued.
- 6.7.4** **R** **FCA** **PRA** If a *participant firm* does not pay its share of a levy subject to a direct debit agreement as required by **■ FEES 6.7.1 R (2)**, the entire amount of the levy becomes due and payable to the *FSCS*, and additional administrative fees are payable at the rate set out in **■ FEES 2.2.1 R**.
- 6.7.5** **R** **FCA** **PRA** A *participant firm* liable to pay its share of the levy under **■ FEES 6.7.1 R** must do so using one of the methods set out in **■ FEES 4.2.4 R** save that no additional amount or discount is applicable.
- 6.7.6** **R** **FCA** **PRA** If a *firm* ceases to be a *participant firm* or carry out activities within one or more *classes* part way through a financial year of the *compensation scheme*:
- (1) it will remain liable for any unpaid levies which the *FSCS* has already made on the *firm*; and
 - (2) the *FSCS* may make one or more levies upon it (which may be before or after the *firm* has ceased to be a *participant firm* or carry out activities within one or more *classes*, but must be before it ceases to be an *authorised person*) for the costs which it would have been liable to pay had the *FSCS* made a levy on all *participant firms* or *firms* carrying out activities within that

class in the financial year it ceased to be a *participant firm* or carry out activities within that *class*.

(3) [deleted]

(4) [deleted]

(5) [deleted]

Financial Services Compensation Scheme - Management Expenses Levy Limit

FCA **PRA**

This table belongs to FEES 6.4.2 R

Period	Limit on total of all management expenses levies attributable to that period (£)
1 December 2001 to 1 April 2002	£4,209,000
1 April 2002 to 31 March 2003	£13,228,000
1 April 2003 to 31 March 2004	£13,319,000
1 April 2004 to 31 March 2005	£17,590,000
1 April 2005 to 31 March 2006	£27,030,000
1 April 2006 to 31 March 2007	£37,060,000
1 April 2007 to 31 March 2008	£37,520,000
1 April 2008 to 31 March 2009	£1,000,000,000 provided that £600,000,000 may be recovered in respect of <i>specific costs</i> relating to the declaration by the FSA on 27 September 2008 that Bradford & Bingley plc is <i>in default</i> only.
1 April 2009 to 31 March 2010	£1,000,000,000
1 April 2010 to 31 March 2011	£1,000,000,000
1 April 2011 to 31 March 2012	£1,000,000,000
1 April 2012 to 31 March 2013	£1,000,000,000
1 April 2013 to 31 March 2014	£94,400,000

Financial Services Compensation Scheme - annual levy limits

FCA **PRA**

This table belongs to ■ FEES 6.3.5 R and ■ FEES TP 2.5.2R

Class	Levy Limit (£ million)
A: Deposits	1,500
B1: General insurance provision	600
B2: General insurance intermediation	300
C1: Life and pensions provision	690
C2: Life and pensions intermediation	100
D1: Investment provision	200
D2: Investment intermediation	150
E2: Home finance intermediation	40

[Deleted]

Financial Services Compensation Scheme - classes

FCA

This table belongs to ■ FEES 6.4.7A R and ■ FEES 6.5.6A R

Class A	Deposits
Firms with permission for:	<i>accepting deposits and/or operating a dormant account fund. BUT does not include any fee payer who either effects or carries out contracts of insurance.</i>
Tariff base	<p>(1) <i>Protected deposits and/or</i></p> <p>(2) <i>Protected dormant accounts multiplied by 0.2 as at 31 December. Except where paragraph (4) says otherwise, protected deposits must be adjusted as follows.</i></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 COMP 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 views</i> it has to be able to produce under COMP 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 COMP 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) 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 COMP 17.2.3 R(2).</p>

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PAGE
1

General Insurance

Class B1	General Insurance Provision
Firms with permission for:	<i>effecting contracts of insurance; and/or carrying out contracts of insurance;</i>

General Insurance

that are *general insurance contracts*.

Class B2

General Insurance Intermediation

Firms with permission for:

Any of the following in respect of *general insurance contracts*:

dealing in investments as agent;

arranging (bringing about) deals in investments;

making arrangements with a view to transactions in investments;

assisting in the administration and performance of a contract of insurance;

advising on investments;

agreeing to carry on a regulated activity which is within any of the above.

Tariff base

Class B1: Relevant net premium income and eligible gross technical liabilities. The levy is split into two in the ratio 75:25. The tariff base for the first portion (75%) is calculated by reference to *relevant net premium income*. The tariff base for the second portion (25%) is based on eligible gross technical liabilities.

Eligible gross technical liabilities are calculated in accordance with the method for calculating gross technical liabilities in fee block A3 in part 2 of FEES 4 Annex 1B R with the following adjustments.

(1) Eligible gross technical liabilities are calculated by reference to *protected contracts of insurance with eligible claimants*.

(2) A *firm* may choose not to apply paragraph (1) and instead include all gross technical liabilities that it would be obliged to take into account for fee block A3 as long as the amount that it would include under (1) is lower.

(3) If an *incoming EEA firm* does not report gross technical liabilities in the way contemplated by this table, the *firm's* gross technical liabilities are calculated in the same way as they would be for a *UK firm*.

(4) None of the notes for the calculation of fees in fee block A3 in part 2 of FEES 4 Annex 1B R apply except for the purposes of (2).

(5) A *directive friendly society* must also calculate eligible gross technical liabilities in accordance with this table.

(6) A *non-directive friendly society* must calculate gross technical liabilities as the amount that it is required to show in FSC 2 - Form 9 line 11 in Appendix 10 of *IPRU(FSOC)* (assets allocated towards the general insurance business required minimum margin) in relation to the most recent financial year of the *firm* (as at the applicable reporting date under FEES 6.5.13 R for which the *firm* is required to have reported that information to the *PRA* under *IPRU(FSOC)*). A *non-directive friendly society* must dis-

General Insurance

regard for this purpose such amounts as are not required to be included by reason of a *waiver* or a written concession carried forward as an amendment to the *rule* to which it relates under SUP TP.

Class B2: *annual eligible income* where *annual eligible income* means annual income adjusted in accordance with this table. Annual income is calculated as the sum of (a) and (b):

(a) the net amount retained by the *firm* of all brokerages, fees, commissions and other related income (for example, administration charges, overrides and profit shares) due to the *firm* in respect of or in relation to *class B2* activities, including any income received from an *insurer*; and

(b) if the *firm* is an *insurer*, in relation to *class B2* activities, the amount of *premiums* receivable on its *contracts of insurance* multiplied by 0.07, excluding those *contracts of insurance* which result from *class B2* activities carried out by another *firm*, where a payment has been made by the *insurer* to that other *firm* and that payment is of a type that falls under (a).

Notes relating to the calculation of the tariff base for *class B2*:

(1) Exclude annual income for *pure protection contracts*. Only include *general insurance contracts*

(2) The calculation is adjusted in accordance with the definition of *annual eligible income*.

(3) Net amount retained means all the commission, fees, etc. in respect of *class B2* activities that the *firm* has not rebated to customers or passed on to other *firms* (for example, where there is a commission chain). Items such as general business expenses (for example, employees' salaries and overheads) must not be deducted.

(4) *Class B2* activities mean activities that fall within *class B2*. They also include activities that now fall within *class B2* but that were not *regulated activities* when they were carried out.

(5) A reference to a *firm* also includes a reference to any *person* who carried out activities that would now fall into *class B2* but which were not at the time *regulated activities*.

Life and Pensions

Life and Pensions Provision

effecting contracts of insurance; and/or
carrying out contracts of insurance;
that are *long-term insurance contracts* (including *pure protection contracts*).

Class C1

Firms with permis-
sion for:

General Insurance

Class C2

Life and Pensions Intermediation

Firms with permission for:

Any of the following:

- dealing in investments as agent;*
- arranging (bringing about) deals in investments;*
- making arrangements with a view to transactions in investments;*
- assisting in the administration and performance of a contract of insurance;*
- advising on investments;*
- advising on pension transfers and pension opt-outs;*
- providing basic advice on a stakeholder product;*
- agreeing to carry on a regulated activity which is within any of the above; in relation to any of the following:*
- long-term insurance contracts (including pure protection contracts);*
- rights under a stakeholder pension scheme or a personal pension scheme.*

Tariff base

Class C1: *Relevant net premium income* and eligible mathematical reserves. The levy is split into two in the ratio 75:25. The tariff base for the first portion (75%) is calculated by reference to *relevant net premium income*. The tariff base for the second portion (25%) is based on mathematical reserves.

Eligible mathematical reserves are calculated in accordance with the method for calculating mathematical reserves in fee block A4 in part 2 of FEES 4 Annex 1B R with the following adjustments.

(1) Eligible mathematical reserves are calculated by reference to *protected contracts of insurance with eligible claimants*.

(2) A *firm* may choose not to apply paragraph (1) and instead include all mathematical reserves that it would be obliged to take into account for fee block A4 as long as the amount that it would include under (1) is lower.

(3) If an *incoming EEA firm* does not report mathematical reserves in the way contemplated by this table, the *firm's* mathematical reserves are calculated in the same way as they would be for a *UK firm*.

(4) None of the notes for the calculation of fees in fee block A4 in part 2 of FEES 4 Annex 1B R apply except for the purposes of (2).

(5) A *directive friendly society* must also calculate eligible mathematical reserves in accordance with this table.

(6) A *non-directive friendly society* must calculate mathematical reserves as the amount that it is required to show in FSC 2 - Form 9 line 23 in

General Insurance

Appendix 10 of *IPRU(FSOC)* (total mathematical reserves after distribution of surplus) in relation to the most recent financial year of the *firm* (as at the applicable reporting date under FEES 6.5.13 R for which the *firm* is required to have reported that information to the *PRA* under *IPRU(FSOC)*). A *non-directive friendly society* must disregard for this purpose such amounts as are not required to be included by reason of a *waiver* or a written concession carried forward as an amendment to the *rule* to which it relates under SUP TP.

(7) The provisions relating to pension fund management business in Part 2 of FEES 4 Annex 1B R do not apply. A *firm* undertaking such business that does not carry out any other activities within *class C1* (ignoring any activities that would have a wholly insignificant effect on the calculation of its tariff base for *class C1*) must use its Long-term insurance capital requirement instead of gross technical liabilities. The Long-term insurance capital requirement means the amount that it is required to show as its Long-term insurance capital requirement in Form 2 Line 31 (Statement of solvency - Long-term insurance business) in relation to the most recent financial year of the *firm* (as at the applicable reporting date under FEES 6.5.13 R) for which the *firm* is required to have reported that information to the *PRA*.

(8) The split in the levy between *relevant net premium income* and eligible mathematical reserves does not apply to a partnership pension society (as defined in Chapter 7 of *IPRU(FSOC)* (Definitions)). Instead the levy is only calculated by reference to *relevant net premium income*.

Class C2: *annual eligible income* where *annual eligible income* means annual income adjusted in accordance with this table. Annual income is calculated as the sum of (a) and (b):

(a) the net amount retained by the *firm* of all brokerages, fees, commissions and other related income (for example, administration charges, overrides and profit shares) due to the *firm* in respect of or in relation to *class C2* activities including any income received from an *insurer*; and

(b) if the *firm* is a life and pensions *firm*, in relation to *class C2* activities, the amount of *premiums* or commission receivable on its life and pensions contracts multiplied by 0.07, excluding those life and pensions contracts which result from *class C2* activities carried out by another *firm*, where a payment has been made by the life and pensions *firm* to that other *firm* and that payment is of a type that falls under (a).

Notes relating to the calculation of the tariff base for *class C2*:

(1) Life and pensions contracts mean *long-term insurance contracts* (including *pure protection contracts*) and rights under a *stakeholder pension scheme* or a *personal pension scheme*.

General Insurance

(2) Life and pensions *firm* means an *insurer*. It also means a *firm* that provides *stakeholder pension schemes* or *personal pension schemes* if those activities fall into *class D1*.

(3) The calculation is adjusted in accordance with the definition of *annual eligible income*.

(4) Net amount retained means all the commission, fees, etc. in respect of *class C2* activities that the *firm* has not rebated to customers or passed on to other *firms* (for example, where there is a commission chain). Items such as general business expenses (for example, employees' salaries and overheads) must not be deducted.

(5) *Class C2* activities mean activities that fall within *class C2*. They also include activities that now fall within *class C2* but that were not *regulated activities* when they were carried out.

(6) A reference to a *firm* also includes a reference to any *person* who carried out activities that would now fall into *class C2* but which were not at the time *regulated activities*.

Investment

Class D1

Firms with permission for:

Investment provision

Any of the following:

managing investments;

establishing, operating or winding up a regulated collective investment scheme;

establishing, operating or winding up an unregulated collective investment scheme;

acting as trustee of an authorised unit trust scheme;

acting as the depositary or sole director of an open-ended investment company;

establishing, operating or winding up a stakeholder pension scheme;

establishing, operating or winding up a personal pension scheme;

agreeing to carry on a regulated activity which is within any of the above.

Class D2

Firms with permission for:

Investment Intermediation

Any of the following activities in relation to *designated investment business*:

dealing in investments as principal;

dealing in investments as agent;

MiFID business bidding;

arranging (bringing about) deals in investments;

making arrangements with a view to transactions in investments;
advising on investments;
providing basic advice on a stakeholder product;
safeguarding and administering investments;
arranging safeguarding and administering of assets;
operating a multilateral trading facility;
agreeing to carry on a regulated activity which is within any of the above;

BUT excluding activities that relate to *long-term insurance contracts* or rights under a *stakeholder pension scheme* or a *personal pension scheme*.

Tariff base

Class D1: *annual eligible income* where *annual eligible income* means annual income adjusted in accordance with this table. Annual income is equal to the net amount retained by the *firm* of all income due to the *firm* in respect of or in relation to activities falling within *class D1*.

Class D2: *annual eligible income* where *annual eligible income* means annual income adjusted in accordance with this table. Annual income is equal to the net amount retained by the *firm* of all income due to the *firm* in respect of or in relation to activities falling within *class D2*.

Notes on *annual eligible income* for classes D1 and D2:

(1) For the purposes of calculating annual income, net amount retained means all the commission, fees, etc. in respect of activities falling within *class D1* or *D2*, as the case may be, that the *firm* has not rebated to customers or passed on to other *firms* (for example, where there is a commission chain). Items such as general business expenses (for example employees' salaries and overheads) must not be deducted.

(2) The calculation is adjusted in accordance with the definition of *annual eligible income*.

(3) Box management profits are excluded from the calculation of annual income.

Home Finance

Class E2

Home Finance Intermediation

Firms with permission for:

Any of the following activities:

arranging (bringing about) a home finance transaction;
making arrangements with a view to a home finance transaction;
advising on home finance transaction;

Home Finance

the activities of a *home finance provider* which would be arranging but for article 28A of the *Regulated Activities Order* (Arranging contracts or plans to which the arranger is party);
agreeing to carry on a regulated activity which is within any of the above.

Tariff base

Class: E2: *annual eligible income* where the annual income is calculated in accordance with fee-block A18 in part 2 of FEES 4 Annex 1A R.

Class F

Deposit acceptor's contribution

Firms with permission for:

accepting deposits and/or *operating a dormant account fund*. BUT does not include any fee payer who either effects or carries out *contracts of insurance*.

Class G

Insurers - life contribution

Firms with permission for:

effecting contracts of insurance; and/or
carrying out contracts of insurance;
in respect of specified investments including *life policies*; *entering as provider into a funeral plan contract*.

-

Class H

Insurers - general contribution

Firms with permission for:

effecting contracts of insurance; and/or
carrying out contracts of insurance;
in respect of *specified investments* that are:

- *general insurance contracts*; or

- *long-term insurance contracts other than life policies*.

Class I

Home finance provision

Firms with permission for:

Any of the activities below:
entering into a home finance transaction;
administering a home finance transaction;
agreeing to carry on a regulated activity which is within any of the above.

Notes

- (1) Any reference in this annex to a *specified investment* includes a reference to *rights to or interests in investments* in that *specified investment*.
- (2) In calculating *annual eligible income* a firm must apportion income between different *classes* and between income that falls within the definition of *annual eligible income* and income that does not in a reasonable and consistent way and on the basis of clear policies.

(3) The question of whether a *person* is an *eligible claimant* or not or whether a *contract of insurance* is a *protected contract* or not or whether business is compensatable business or not must be judged at whichever of the following dates the *firm* chooses:

(a) (for a *person* who has become a new *client* during the period by reference to which the *firm's* tariff base is being calculated) the date on which the *person* becomes a client;

(b) (for a *person* who has ceased to be a *client* during that period) the date on which the *person* ceases to be a *client*; or

(c) (in any other case) the date to which the most recent information supplied by the *firm* under FEES 6.5.13 R is prepared.

However this does not apply for the purpose of calculating the tariff base for *class A (Deposits)* so far as it relates to *protected deposits*.

(4) For classes G to I (inclusive) the tariff base is not set out in this Annex: see FEES 6.4.7 R (3), FEES 6.5.6 R (3) and FEES 6.5A.6 R

Guidance on the calculation of tariff bases

This table belongs to ■ FEES 6.5.8 G

Calculation of annual eligible income for firms in class D1 who carry out discretionary fund management and are in FCA fee block A7		
-1.1	G	The tariff base for <i>class</i> D1 is calculated by taking gross income falling into <i>class</i> D1 and then deducting commission, fees and similar amounts rebated to customers or passed on to other <i>firms</i> (for example, where there is a commission chain). Items such as general business expenses (for example employees' salaries and overheads) should not be deducted. The calculation should be further adjusted so as to exclude income that is not attributable to business conducted with or for the benefit of <i>eligible claimants</i> , unless the <i>firm</i> chooses to include such income.
[FCA]		
1.1	G	Gross income for the activity of <i>managing investments</i> is the sum of the following:
[FCA]		
		<ol style="list-style-type: none"> (1) the amount of the annual charge on all assets in portfolios which the <i>firm</i> manages on a discretionary basis received or receivable in the latest accounting period (this is calculated as a percentage of funds invested, typically 1% p.a.); plus (2) the front-end or exit charge levied on sales or redemptions of assets in portfolios which the <i>firm</i> manages on a discretionary basis (typically 4-5% of sales/redemptions) in that same accounting period; plus (3) the amount of performance management fees from the management of assets in portfolios which the <i>firm</i> manages on a discretionary basis received or receivable in that same accounting period; plus (4) any other income directly attributable to the management of assets in portfolios which the <i>firm</i> manages on a discretionary basis in that same accounting period, including commission and interest received.
1.2	G	<i>Annual eligible income</i> should exclude
[FCA]		income received or receivable from assets managed on a non-discretionary basis, being assets that the <i>firm</i> 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, as this activity is covered in <i>class</i> D2 (the investment intermediation <i>class</i>).
1.3	G	A <i>firm</i> should make appropriate arrangements to ensure that income is not double counted in relation to the activities it undertakes (for example, where it operates and manages a <i>personal pension scheme</i> or <i>collective investment scheme</i>).
[FCA]		Calculation of annual eligible income for firms in sub-class D1 and who carry out activities within FCA fee block A9
2.1	G	The calculation of income in respect of activities falling into <i>class</i> D1 and FCA fee block A9 should be based on the tariff base provisions for that fee block (in Part 3 of FEES 4 Annex 1A R). It should be adjusted so as to exclude income that is not attributable to business conducted with or for the benefit of <i>eligible claimants</i> , unless the <i>firm</i> chooses to include such income.
[FCA]		

Calculation of annual eligible income for firms in class D1 who carry out discretionary fund management and are in FCA fee block A7

2.2 G Although the calculation should be based on the one for fee block A9, the calculation is not the same. FCA fee block A9 is based on gross income. Class D1 is based on net income retained.

[FCA]

Calculation of annual eligible income for a firm in class B2 or class C2

3.1 G The amount of *annual eligible income* should include the amount of any trail or renewable commission due to the *firm*. Trail commission is received as a small percentage of the value of a policy on an ongoing basis. Renewable commission is received from a very small percentage of the value of a policy from ongoing premiums often received once the initial commission period is over.

[FCA]

Difficulties in calculating annual eligible income

4.1 G The purpose of Note 2 in the section of notes at the end of FEES 6 Annex 3 R (Financial Services Compensation Scheme - classes) is to deal with the practical difficulties of allocating income correctly between different *classes* and in deciding whether income falls outside FEES 6 Annex 3 R altogether. Note 2 requires a *firm* to carry out the necessary apportionment on a reasonable and consistent basis.

[FCA]

4.2 G The following provides some *guidance* as to how *firms* may approach the allocation of *annual eligible income*.

[FCA]

4.3 G Where a *firm* cannot separate its income on the basis of activities, such as a fund manager which acts on a discretionary and non-discretionary basis for the same *client* and who only sends out a single invoice, the *firm* may apportion the income in another way. For instance, a *firm* may calculate that the business it undertook for a *client* was split 90% on a discretionary basis and 10% on a non-discretionary basis calculated by reference to funds under management. The *firm* may split the income accordingly.

[FCA]

4.4 G A *firm* may allocate trail or renewable commission on the basis of the type of *firm* it receives it from. For instance, if it comes from a life provider the *firm* may consider it as life and pensions mediation income. If it comes from a fund manager the *firm* may treat it as investment mediation income.

[FCA]

4.5 G If a *firm* receives *annual eligible income* from a platform based business it may report *annual eligible income* in line with the proportionate split of business that the *firm* otherwise undertakes. For instance, if a *firm* receives 70% of its other commission from life and pensions mediation business and 30% from investment mediation business, then it may divide what it receives in relation to the platform business on the same basis.

[FCA]

4.6 G Unless a *firm* chooses to include all relevant annual income, *annual eligible income* excludes business that is not compensatable under the *compensation scheme*. This can create difficulties because, for example, a *person* may move between being and not being an *eligible claimant* over time. The purpose of Note 3 in the section of notes at the end of FEES 6 Annex 3 R is to deal with that difficulty by fixing a date for deciding this.

[FCA]

Gross technical liabilities and mathematical reserves for non-directive friendly societies

5.1 G The tariff base for a *non-directive friendly society* carrying out general insurance business is based in part on gross technical liabilities and the tariff base for a *non-directive friendly society* carrying out life insurance business is based in part on mathematical reserves. These concepts do not directly apply to *non-directive friendly societies* and so the tariff base calculation uses a corresponding concept.

[PRA]

5.2 G The figures for gross technical liabilities and mathematical reserves of a *non-directive friendly society* for the purpose of calculating its tariff base in class B1 (General Insurance Provision) and C1 (Life and Pensions Provision) are based on a valuation. This valuation only has to be made every three years. FEES 6 does not require a *non-directive friendly society* to update that information every year. Instead the figures from a *non-directive friendly society's* valuation will be used on a rolling three year basis for the purposes of the levy calculations in FEES 6. The effect of this calculation is therefore to modify the normal basis on which information is supplied under FEES 6.5.13 R.

[PRA]

Classes participating in the retail pool and applicable limits

FCA

This table belongs to ■ FEES 6.5A.1 R.

Class	Attributable costs for this class in excess of levy limit allocated to the retail pool?	Retail pool levy limit (£ million)	Retail pool compensation costs levy or specific costs levy allocated to this class?
FCA provider contribution classes			
[Note: The <i>FCA provider contribution classes</i> contribute to a <i>compensation costs levy</i> or <i>specific costs levy</i> allocated to the <i>retail pool</i> , unless the <i>compensation costs</i> or <i>specific costs</i> are attributable to the investment provision class. <i>Compensation costs</i> or <i>specific costs</i> attributable to the corresponding <i>PRA funding classes</i> are never allocated to the <i>retail pool</i>]			
Deposit acceptors contribution	No	110	Yes (except for costs attributable to the investment provision class)
Insurance - life contribution		70	
Insurance - general contribution		35	
Home finance providers and administrators' contribution		45	
Classes that both contribute to and are funded by the retail pool			
[Note: A <i>compensation costs levy</i> or <i>specific costs levy</i> , in respect of costs attributable to these classes in excess of their <i>levy limits</i> , must be allocated to the <i>retail pool</i> . A <i>compensation costs levy</i> or <i>specific costs levy</i> allocated to the <i>retail pool</i> is then allocated to all other classes contributing to the retail pool (up to each class's <i>retail pool</i> contribution limit), except as specified below for the investment provision class.]			
Investment provision	Yes, under FEES 6.5.2A R (2) (but costs attributable to the investment provision class cannot be allocated to the <i>FCA provider contribution classes</i>)	<i>Class levy limits</i>	Yes
Life and pensions intermediation			
Home finance intermediation			
Investment intermediation			
General insurance intermediation			

Chapter 7

CFEB levies

7.1 Application and Purpose

Application

7.1.1 **R** This chapter applies to every *person* listed in **■ FEES 1.1.2 R (5)**.
FCA

Purpose

7.1.2 **G** The purpose of this chapter is to set out the requirements on the persons listed in **■ FEES 7.1.1 R** to pay annual *CFEB levies* in order to establish and fund the *CFEB*.
FCA

7.1.3 **G** Section 6A(1) of the *Act* (Enhancing public understanding of financial matters etc) (as it had effect before the passing of the Financial Services Act 2012) required the *FSA* to establish the *CFEB* in order to enhance:
FCA

- (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 *FCA* to make *rules* requiring certain *authorised persons* or *payment service providers* or *electronic money issuers* to pay to the *FCA* specified amounts or amounts calculated in a specified way in order to meet a proportion of:
FCA

- (1) the expenses incurred by the *FCA* 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 7.1.3 G**.

7.1.5 **G** **■ FEES 7** sets out the *rules* referred to in **■ FEES 7.1.4 G**.
FCA

7.1.6 **G** The *FCA* must have regard to other anticipated sources of funding of the costs described in **■ FEES 7.1.4 G** when setting the *CFEB levy*.
FCA

7.1.7 **G** The amounts to be paid under the *CFEB levy* may include a component to cover the *FCA's* expenses in collecting the payments.
FCA

7.1.8 **FCA** **G** The *FCA* 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 **FCA** **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 *FCA* .

7.1.10 **FCA** **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 1 R. New details will be prepared and consulted on for each financial year.

Exemption

7.1.11 **FCA** **G** A *firm* is not liable to pay a *CFEB levy* in relation to *payment services* or *electronic money* issuance if it is the Bank of England, a government department, a local authority, a municipal bank or the National Savings Bank.

7.2 The CFEB levy

Obligation to pay CFEB levy

7.2.1
FCA

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 4.3.6 R as modified by ■ FEES 7.2.1A R.

7.2.1A
FCA

R

- (1) For the purposes of ■ FEES 7.2.1 R (2), ■ FEES 4.3.6 R (1), as applied by ■ FEES 7.2.8 R, is modified so that if a *firm's* periodic fees for the previous financial year was at least 50,000, the *firm* must pay:
 - (a) an amount equal to 50% of the *CFEB levy* payable for the previous year, by 30 April in the financial year to which the sum due under ■ FEES 7.2.1 R relates; and
 - (b) the balance of the *CFEB levy* due for the current financial year by 1 September in the financial year to which that sum relates.
- (2) For the purposes of ■ FEES 7.2.1 R (2), ■ FEES 4.3.6 R (2), as applied by ■ FEES 7.2.8 R, is modified so that if the *firm's* periodic fee for the previous financial year was less than 50,000, the *firm* must pay its *CFEB levy* in full by 1 July in the financial year to which that sum relates.

Calculation of CFEB levy

7.2.2
FCA

R

The *CFEB levy* is calculated as follows:

- (1) identify each of the activity groups set out in Part 1 of ■ FEES 7 Annex 1 R 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 1A R);

- (2) for each of those activity groups, calculate the amount payable in the way set out in ■ FEES 7.2.3 R;
- (3) add the amounts calculated under (2);
- (4) work out whether a minimum fee is payable under Part 2 of ■ FEES 7 Annex 1 R 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 4.2.6 R and ■ FEES 4.2.7 R (if applicable);
- (7) apply any applicable payment charge specified in ■ FEES 4.2.4 R 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 *FCA*; or
 - (b) for payment by credit transfer, the amount due is received by the *FCA* on or before the due date;
- (8) make the calculations using information obtained in accordance with ■ FEES 4.4.

7.2.3

FCA

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 3 of ■ FEES 4 Annex 1A R and Part 3 of ■ FEES 4 Annex 11 R and the valuation date requirements in Part 5 of ■ FEES 4 Annex 1A R and Part 3 of ■ FEES 4 Annex 11 R;
- (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 1 R 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 1 R, 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.

PAGE
5

7.2.4

FCA

R

For the purposes of ■ FEES 7.2.3 R:

- (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 3 of ■ FEES 4 Annex 1A R and Part 1 of ■ FEES 4 Annex 11 R are disproportionate to the difference in fees payable; and
 - (b) it notifies the *FCA* 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 4.4.2 R (Information on which fees are calculated) or ■ FEES 4.4.8 D (Information relating to payment services and the issuance of electronic money) 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
FCA

R The modifications in Part 3 of ■ FEES 4 Annex 2A R and Part 7 of ■ FEES 4 Annex 11 R apply.

Amount payable by the Society of Lloyds

7.2.6
FCA

R The *CFEB levy* in relation to the *Society* is specified against its activity group in Part 1 of ■ FEES 7 Annex 1 R.

FEES 4 rules incorporated into FEES 7 by cross-reference

7.2.7
FCA

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 4.3.1 R 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 7.2.9 R.

7.2.8
FCA

R The *rules* set out in the table in ■ FEES 7.2.9 R 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 4.3.1 R.

7.2.9
FCA

R Table of rules in ■ FEES 4 that also apply to ■ FEES 7 to the extent that in ■ FEES 4 they apply to fees payable to the *FCA*

FEES 4 rules incorporated into FEES 7	
FEES 4 rules incorporated into FEES 7	Description
FEES 4.2.4 R	Method of payment

FEES 4 rules incorporated into FEES 7	Description
FEES 4.2.7B R	Calculation of periodic fee and tariff base for a <i>firm's</i> second financial year
FEES 4.2.8 R	How FEES 4.2.7 R applies in relation to an <i>incoming EEA firm</i> or an <i>incoming Treaty firm</i>
FEES 4.2.10 R	Extension of time
FEES 4.2.11 R (first entry only)	Due date and changes in <i>permission</i> for periodic fees
FEES 4.3.7 R	Groups of <i>firms</i>
FEES 4.3.13 R	<i>Firms</i> applying to cancel or vary permission before start of period
FEES 4.3.15 R	<i>Firms</i> acquiring businesses from other <i>firms</i>
FEES 4.4.1 R to FEES 4.4.6 R	Information on which fees are calculated

7.2.9A
FCA

D ■ FEES 4.4.7 D to ■ FEES 4.4.9 D (Information relating to *payment services* and the issuance of *electronic money*) also apply to ■ FEES 7.

7.2.10
FCA

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 *market operators, service companies, MTF operators, investment exchanges, or, designated professional bodies* should be disregarded.

7.2.11
FCA

G In some cases, a ■ FEES 4 rule incorporated into ■ FEES 7 in the manner set out in ■ FEES 7.2.7 G 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 7.2.12 G.

7.2.12
FCA

G Table of FEES 4 rules that correspond to FEES 7 rules

FEES 4 rules	Corresponding FEES 7 rules
FEES 4.2.1 R	FEES 7.2.1 R
FEES 4.3.1 R	FEES 7.2.2 R
FEES 4.3.3 R	FEES 7.2.2 R
FEES 4.3.3A R	FEES 7.2.2 R
FEES 4.3.12 R	FEES 7.2.5 R

FEES 4 rules	Corresponding FEES 7 rules
FEES 4.3.12A R	FEES 7.2.5 R
Part 1 of FEES 4 Annex 2A R	Part 1 of FEES 7 Annex 1 R
Part 2 of FEES 4 Annex 11 R	Part 1 of FEES 7 Annex 1 R
Part 5 of FEES 4 Annex 11 R	Part 1 of FEES 7 Annex 1 R

CFEB levies for the period from 1 April 2013 to 31 March 2014

Part 1

FCAThis table shows the *CFEB levies* applicable to each activity group (fee-block)

Activity Group		CFEB levy payable			
A.1	Column 1	Column 2			
	Money advice levy	Debt advice levy			
		(Notes 3 - 6)			
	Band Width (million of Modified Eligible Liabilities (MELs))	Fixed sum (/m or part m of MELs)	Bandwidth (million of unsecured debt)	Fixed sum (/m or part m of unsecured debt)	
	>10 -140	5.30	>0	48.00	
	>140 - 630	5.30			
	>630 - 1,580	5.30			
A.2	Column 1	Column 2			
	General levy	Debt advice levy			
		(Notes 5 -6)			
	Band Width (no. of mortgages and/or home finance transactions)	Fixed sum (/mortgage)	Bandwidth (million of secured debt)	Fixed sum (/m or part m of secured debt)	
	>50 - 130	0.142	>0	24.37	
	>130 - 320	0.142			
	>320 - 4,570	0.142			
A.3	>4, 570 - 37,500	0.142			
	>37,500	0.142			
	Gross premium income (GPI)				

Band Width (million of GPI)	Fixed sum (/m or part m of GPI)
>0.5 - 10.5	57.52
>10.5 - 30	57.52
>30 - 245	57.52
>245 - 1,900	57.52
>1,900	57.52

PLUS

Gross technical liabilities (GTL)

Band Width (million of GTL)	Fixed sum (/m of part m of GTL)
>1 - 12.5	3.07
>12.5 - 70	3.07
>70 - 384	3.07
>384 - 3,750	3.07
>3,750	3.07

A.4

Adjusted annual gross premium income (AGPI)

Band Width (million of AGPI)	
>1 - 5	74.61
>5 - 40	74.61
>40 - 260	74.61
>260 - 4,000	74.61
>4,000	74.61

PLUS

Mathematical reserves (MR)

Band Width (million of MR)	Fixed sum (/m or part m of MR)
>1 - 20	1.64
>20 - 270	1.64
>270 - 7,000	1.64
>7,000 - 45,000	1.64
>45,000	1.64

A.5

Band Width (million of Active Capacity (AC))

Band Width (million of Active Capacity (AC))	Fixed sum (/m or part m of AC)
>50 - 150	5.69
>150 - 250	5.69
>250 - 500	5.69
>500 - 1,000	5.69

	>1,000	5.69
A.6	Flat levy	169,333.29
A.7	For class 1(C), (2) and (3) firms:	
	Band Width (million of Funds under Management (FuM))	Fixed sum (/m or part m of FuM)
	>10 - 150	0.84
	>150 - 2,800	0.84
	>2,800 - 17,500	0.84
	>17,500 - 100,000	0.84
	>100,000	0.84
	For class 1(B) firms: the fee calculated as for class 1(C) firms above, less 15%.	
	For class 1(A) firms: the fee calculated as for class 1(C) firms above, less 50%.	
	Class 1(A), (B) and (C) firms are defined in FEES 4 Annex 1A R	
A.9	Band Width (million of Gross Income (GI))	Fixed sum (/m of part m of GI)
	>1 - 4.5	84.56
	>4.5 - 17	84.56
	>17 - 145	84.56
	>145 - 750	84.56
	>750	84.56
A.10	Band Width (no. of traders)	Fixed sum (/trader)
	2 - 3	349.48
	4 - 5	349.48
	6 - 30	349.48
	31 - 180	349.48
	>180	349.48
A.12	Band Width (no. of persons)	Fixed sum (/person)
	2 - 5	45.59
	6 - 35	45.59
	36 - 175	45.59
	176 - 1,600	45.59
	>1,600	45.59
	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	147.11

	4 - 30	147.11
	31 - 300	147.11
	301 - 2,000	147.11
	>2,000	147.11
	<i>For a professional firm in A.13 the fee is calculated as above less 10%.</i>	
A.14	Band Width (no. of persons)	Fixed sum (/person)
	2 - 4	128.22
	5 - 25	128.22
	26 - 80	128.22
	81 - 199	128.22
	>199	128.22
A.18	Band Width (thousands of Annual Income (AI))	Fixed sum (/ thousand or part thousand of AI)
	>100 - 180	1.67
	>180 - 1,000	1.67
	>1,000 - 12,500	1.67
	>12,500 - 50,000	1.67
	>50,000	1.67
A.19	Band Width (thousands of Annual Income (AI))	Fixed sum (/ thousand or part thousand of AI)
	>100 - 325	0.249
	>325 - 10,000	0.249
	>10,000 - 50,750	0.249
	>50,750 - 250,000	0.249
	>250,000	0.249
G.3	Minimum fee ()	10
	thousands or part thousand of Relevant Income	Fee (/thousand or part thousand of Relevant Income)
	>100	0.04430
	>250	0.04430
	>1,000	0.04430
	>10,000	0.04430
	>50,000	0.04430
	>500,000	0.04430
G.4	A flat fee of 10	
G.10	Minimum fee ()	10

million or part m of average outstanding electronic money (AOEM) Fee (/m or part m of AOEM)

> 5.0 13.10

G.11 A flat fee of 10

Notes

(1) The definitions of fee-blocks G5 and G10 under Part 2 and Part 2A of FEES 4 Annex 11 R are modified, for the purposes of FEES 7, so that they exclude the Bank of England, government departments, local authorities, municipal banks and the National Savings Bank.

(2) The definitions of those fee-blocks are further amended to exclude EEA and those which hold a .

(3) The tariff base for column 2 in activity group A.1:

for *credit unions*:

the total sterling value of all loans LESS total sterling value of any residential loans.

for *banks and building societies*:

the sterling value of all outstanding loans to individuals in the UK, excluding bridging loans and loans secured on dwellings and land.

The *firm* must include:

(a) any credit card lending;

(b) any charge card lending, even if the outstanding balance has to be paid off in full at the end of each charging period;

(c) any other loans and advances to individuals that are not bridging loans or secured on dwellings or land;

provided that the *firm* only includes data that it is required to include in entries 29DB3A3 and 29DB3A4 of Form BE (that is, the Additional Sectoral Details Return that is completed to provide information by banks and building societies to the Bank of England).

(4) The valuation date for column 2 in activity group A.1 is the 31 December before the start of the period to which the fee applies or, if earlier, the date of the valuation as disclosed by the Form BE or other annual return made in the calendar year prior to the 31 December.

(5) The tariff base for column 2 in activity group A.2 is the sterling value of any residential loans to individuals being the sum of gross unsecuritised and securitised balances (applying the definitions of Unsecuritised balances and Securitised balances set out in SECTION A: BALANCE SHEET of SUP 16 Annex 19B G.

(6) The valuation date for column 2 in activity group A.2 is the 31 December before the start of the period to which the fee applies or, if earlier, the date of the valuation as disclosed by the annual return made in the calendar year prior to the 31 December.

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; A.19; G.3 and G.10.

Appendix 1

Unauthorised Mutuals Registration Fees Rules

1.1 Introduction

Application

App 1.1.1 **R**

FCA

These rules apply to every:

- (1) ■ registered society;
- (2) ■ sponsoring body;
- (3) *person* who submits a proposal for the registration of a ■ registered society.

App 1.1.2 **G**

FCA

The purpose of these rules is to set out the requirements for ■ registered societies and ■ sponsoring bodies to pay periodic and application fees which, together, will provide the funding for the *FCA*'s functions in respect of the registrant-only fee block (Category F). This set of rules is in respect of the registration functions relating to registered societies transferred to the *FCA* by Part XXI (Mutual Societies) of the Financial Services and Markets Act 2000 ('the *Act*'), other than friendly societies authorised under section 31 of the *Act*.

Background

App 1.1.3 **G**

FCA

Most of the detail of the periodic fees which will be payable by ■ registered societies is set out in ■ Annex 1R to these rules, the provisions of which will vary from one financial year to another. Accordingly, a revised ■ Annex 1R will come into force, following consultation, for each financial year. Most of the detail of the application fees which will be payable by ■ registered societies and ■ sponsoring bodies is set out in ■ FEES App 1 Annex 1A, the provisions of which may not change each year.

App 1.1.4 **G**

FCA

■ FEES App 1 Annex 2 to these rules contains further information on the fees applicable to ■ registered societies under these rules.

App 1.1.5 **G**
FCA The periodic fee set for ■ registered societies is a tiered fee, which is payable annually. The amount payable is dependent upon the ■ R declared by the ■ registered society in the most recent ■ R required to be filed with the *FCA*.

App 1.1.6 **G**
FCA The application fee payable to register a new society is a tiered fee: the amount payable for registration of a new society is dependent on whether the rules are based on a free draft or on ■ model rules. Further, where ■ model rules are used in the case of the registration of a new society other than a credit union, then the number of amendments made to the ■ model rules will affect the fee. The application fee payable by a ■ sponsoring body for a new set of ■ model rules is a flat fee.

App 1.1.7 **G**
FCA In these rules:

- (1) an "R" in the margin or heading indicates that the provision is a rule, which creates binding obligations;
- (2) a "G" in the margin or heading indicates that the provision is guidance, which is designed to throw light on a particular aspect of these rules, but which is not binding nor an exhaustive description of a *person's* obligations.

Glossary of definitions

App 1.1.8 **R**
FCA In these rules, an expression in *italics* has the meaning given in ■ Annex 4R.

1.2

Periodic Fees

General

App 1.2.1 **R**
FCA A ■ registered society must pay to the *FCA*, in full and without deduction, the periodic fee applicable to it under ■ Annex 1R for a financial year during which, or part of which, the society is registered, except as provided for in ■ 1.2.5 R and ■ 1.2.6 R.

App 1.2.2 **R** [deleted]

Methods of payment

App 1.2.3 **R**
FCA A ■ registered society must pay its periodic fee by one of the methods specified in ■ Annex 1R.

Due dates

App 1.2.4 **R**
FCA A ■ registered society must pay a periodic fee on or before the relevant due date for payment specified in ■ Annex 1R for the relevant year.

Exceptions

- App 1.2.5 R**
FCA A ■ registered society is not required to pay the periodic fee for the financial year in which it is first registered.
- App 1.2.5A R**
FCA A ■ registered society which has not been required to file an ■ R before the commencement of a given fee year must pay the lowest periodic fee for a ■ registered society specified in ■ Annex 1R for that year.
- App 1.2.5B R**
FCA If a ■ registered society fails to file an ■ R by the date it is required to be filed:
- (1) the ■ R used to determine the amount of the periodic fee payable by the ■ registered society will be that shown in the ■ R last filed with the *FCA* or its predecessor; and
 - (2) the ■ registered society must pay an administrative fee equal to the lower of the periodic fee payable by the ■ registered society under ■ Annex 1R for that year, and £250.
- App 1.2.6 R**
FCA If a ■ registered society ceases to be a ■ registered society on or after 1 April in a particular financial year, but before an invoice for the periodic fee payable under ■ 1.2.1 R for the financial year in which the society ceases to be a ■ registered society has been issued by the *FCA*, the periodic fee payable by that ■ registered society under ■ 1.2.1 R is the amount of the periodic fee under ■ Annex 1R for the immediately preceding financial year.
- App 1.2.7 R** [deleted]

Extension of time

- App 1.2.8 R**
FCA A ■ registered society need not pay a periodic fee on the date which it is due under the relevant provision in these rules, if:
- (1) that date falls during a period during which circumstances of the sort set out in ■ R(Emergencies) exist, and that ■ registered society has reasonable grounds to believe that those circumstances impair its ability to pay the fee, in which case it must pay on or before the fifth *business day* after the end of that period; or
 - (2) that date would otherwise fall on or before the 30th *day* after the date on which the *FCA* has sent written notification to that ■ registered society of the fee payable on that date, in which case it must pay on or before the 30th *day* after the date on which the *FCA* sends the notification.

Late payment

App 1.2.9 **R**
FCA

If a ■ registered society does not pay the total amount of a periodic fee or a fee payable under 1.4.2R on the date on which it is due under the relevant provisions of these rules, that ■ registered society must pay an additional amount as follows:

- (1) if the fee is not paid in full before the due date, an administrative fee of £250; plus
- (2) if the fee is not paid in full before the end of 15 days after the due date, interest on any unpaid part of the fee at the rate of 5% per annum above the Official Bank Rate from time to time in force, accruing on a daily basis from the date on which the amount concerned became due.

App 1.2.10 **G**
FCA

The FCA expects to issue invoices for periodic fees at least 30 days before the date on which they fall due. Accordingly, it will generally be the case that a ■ registered society will have at least 30 days from the issue of the invoice before an administrative fee becomes payable, and at least 45 days before any interest becomes payable.

App 1.2.11 **G**
FCA

If a ■ sponsoring body does not pay the required periodic fee for a set of by the due date, the rules will cease to be ■ model rules and applications for the registration of societies that use the rules will be charged by the FCA as if the rules were a free draft.

Amending model rules

App 1.2.12 **G**
FCA

If a ■ sponsoring body wishes to change a set of ■ model rules, it should supply a copy to the FCA indicating the proposed changes. No application fee is payable for such changes.

Refunds

App 1.2.13 **G**
FCA

The FCA will not refund periodic fees in any circumstances.

1.3 Application Fees**General**

App 1.3.1 **R**
FCA

A *person* who submits to the FCA a proposal for the registration of a society must pay to the FCA, in full and without deduction, the fee specified for the type of application under ■ Annex 1AR.

App 1.3.2 **R**
FCA

A ■ sponsoring body wishing a set of rules to become ■ model rules for the first time must pay to the FCA, in full and without deduction, the application fee specified in ■ FEES App 1 Annex 1A.

Method of payment

App 1.3.3 **R** Application fees must be paid by the method specified in ■ FEES App 1 Annex 1A.
FCA

Due dates

App 1.3.4 **R** A *person* making an application or submitting a proposal for the registration of a society must pay the application fee on, or before, making the application.
FCA

App 1.3.5 **R** A ■ sponsoring body must pay the application fee for a new set of ■ model rules on or before making the application.
FCA

App 1.3.6 **G** The *FCA* may require the fee to be paid by the *person* making the application before the *FCA* undertakes any preliminary consideration of the proposed application or rules.
FCA

Refunds

App 1.3.7 **G** The *FCA* will not refund application fees under any circumstances.
FCA

App 1.3.8 **G** Paragraph 1.3.7G applies also in the case of applications that are not proceeded with where a fee has been paid in advance.
FCA

1
ANNEX
 1

Periodic Fees payable for the period 1 April 2012 to 31 March 2013

FCA **R** Part 1 Periodic fee payable by Registered Societies (on 30 June 2012)

This fee is not payable by a *credit union*.

Transaction	Total assets (£'000s)	Amount payable (£)
Periodic fee	0 to 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.

1
ANNEX
1A

Application Fees payable

FCA

R

Part 1 Application fees payable to register a new society other than a credit union

Transaction	Amount payable (£)
Application using model rules without any amendment to the model	40
Application using model rules with between 1 and 6 amendments to the model	120
Application using model rules with between 7 and 10 amendments to the model	350
Application using model rules with 11 or more amendments to the model, or using free draft rules	950

Part 2 Application fees payable by sponsoring bodies

This fee is not payable by sponsoring bodies in respect of the model rules of credit unions.

Transaction	Amount payable (£)
Application for a new set of model rules	950

Part 3 Method of payment of application fees

Payment method	Additional amount or discount applicable
Cheque	None

1
ANNEX
2

Further information on fees

FCA

G

	Purpose
1	The purpose of this annex is to set out further information on fees applicable to registered societies which form the registrant-only fee block (Category F).
	Background
2	Paragraph 23 of Schedule 1ZA to the <i>Act</i> enables the <i>FCA</i> to charge fees to cover its expenses in carrying out its functions.

- 3 The fees payable by registered societies will vary from one financial year to another and will reflect the FCA's funding requirement for the registrant-only fee block.
- 4 For periodic fees, the key components of the fee mechanism are:
- (1) a funding requirement derived from:
 - (a) the FCA's financial management and reporting framework;
 - (b) the FCA's budget;
 - (c) adjustments, as appropriate, for audited variances between budgeted and actual expenditure in the previous accounting year and reserves movements (in accordance with FCA's reserves policy);
 - (2) fee blocks, which are broad groupings of fee payers offering similar products and services and presenting broadly similar risks to the FCA's regulatory objectives;
 - (3) a costing system to allocate an appropriate part of the funding requirement to each fee block; and
 - (4) tariff bases, which, when combined with fee tariffs, allow the calculation of fees.
- (5) The FCA defines fee blocks so that they will depend, for the most part, upon the regulated activities included in the permission held by firms, with a separate fee block for mutual societies which do not conduct regulated activities (registrants). By basing fee blocks on categories of business, the FCA aims to minimise cross-sector subsidies. The funding requirement for the registrant-only fee block will accordingly reflect only the cost of the registration function plus a share of corporate overheads. It will not include any indirect regulatory overheads.
- Recovery of fees**
- (6) Paragraph 23(8) of Schedule 1ZA to the Act permits the FCA to recover fees as a debt owed to the FCA and the FCA will consider court action for recovery through the civil courts.

1
ANNEX
3

Emergencies

FCA

R

- 1 R The FCA recognises that there may be occasions when, because of a particular emergency, a registered society may be unable to comply with a particular rule. The purpose of this annex is to provide appropriate relief from the consequences of contravention of a rule in those circumstances.
- (1) If any emergency arises which:
 - (a) could not have been avoided by the registered society taking all reasonable steps;
 - (b) makes it impracticable for a registered soci-

		<p>ety to comply with a particular rule; and</p> <p>(c) is outside the control of the registered society, its members and its employees;</p> <p>the registered society will not be in contravention of that rule to the extent that, in consequence of the emergency, compliance with that rule is impracticable.</p>
(2)	Paragraph (1) applies only for so long as:	
	(a)	the consequences of the emergency continue; and
	(b)	the registered society can demonstrate that it is taking all practicable steps to deal with those consequences, to comply with the rule.
(3)	A registered society must notify the <i>FCA</i> as soon as practicable of the emergency and of the steps it is taking or proposes to take to deal with the consequences of the emergency.	
(4)	A registered society should continue to keep the <i>FCA</i> informed of the steps it is taking under 1.2.8(a)R. In the context of 1.2.8(a)R, an action is not practicable if it involves a registered society going to unreasonable lengths.	

1
ANNEX
4

Glossary of definitions

FCA

R

In these rules, an expression in italics has the meaning given below:

Expression	Definition
<i>Act</i>	The Financial Services and Markets Act 2000.
amendment to model rules	(In Annex 1R) any number of changes to a single numbered rule and its sub-clauses (however described) represents a single amendment to model rules; the provision of information in respect of a

annual return	The annual return required to be submitted to the FCA under s.43 of the Friendly Societies Act 1974 or s.39 of the Industrial and Provident Societies Act 1965.
business day	In rule 1.2.8R, any day which is not a Saturday or a Sunday, Christmas Day, Good Friday or a bank holiday in that part of the United Kingdom in which the registered society has its registered office.
day	A period of 24 hours beginning at midnight.
FCA	The Financial Conduct Authority.
model rules	<p>A set of rules:</p> <ul style="list-style-type: none"> (a) which a sponsoring body has provided to the FCA; (b) in relation to which the sponsoring body has paid all relevant fees due under these rules; and (c) which complies with the provisions of the Industrial and Provident Societies Acts 1965 and 1967, the Friendly and Industrial and Provident Societies Act 1968 and the Friendly Societies Acts 1974 and 1992, as appropriate; or (d) the Credit Unions Act 1979; <p>(a list of model rules which satisfy (a) and (b) and, in the FCA's view, satisfy (c), is available from the Mutual Societies Registration department at the FCA).</p>
person	(In accordance with the Interpretation Act 1978) any person, natural or legal, including a body of persons corporate or unincorporated.
registered society	A society registered under the Industrial & Provident Societies Acts, the Credit Unions Act 1979, the Superannuation and Other Trust Funds (Validation) Act 1927, or the Friendly Societies Act 1974; which is not authorised for the purposes of section 31 of the Act.

sponsoring body	A body which publishes, or which proposes to publish, model rules for registered societies.
total assets	The figure shown in the annual return against the heading 'Total Assets' or, where there is no such heading, the value of the gross assets shown in the balance sheet of the firm.

Fees Manual

FEES TP 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
1.	FEES 3.2.7 R(p)	R	<p>A <i>firm</i> does not have to pay a fee if:</p> <ul style="list-style-type: none"> (1) it is seeking only to increase the scope of its <i>permission</i> to include: <ul style="list-style-type: none"> (a) <i>establishing, operating or winding up a personal pension scheme</i>; or (b) (if the <i>firm</i> is in activity group A12 or A13) the <i>designated investments</i>: <ul style="list-style-type: none"> (i) <i>personal pension scheme</i>; or (ii) rights to or interests in a <i>personal pension scheme</i>, and (2) it was, as at 1 October 2006, carrying on what would become on 6 April 2007: <ul style="list-style-type: none"> (a) the <i>regulated activity</i> in (1)(a), or (b) a <i>regulated activity</i> in relation to the <i>designated investments</i> in (1)(b). 	2 October 2006 to 5 April 2007	1 June 2006

(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
2.	FEES 4 Annex 1 R Part 3, Activity group A9 (operators, trustees and depositaries of collective investment schemes)	R	References to gross income received in connection with <i>operating a personal pension scheme</i> or a <i>stakeholder pension scheme</i> include gross income received in connection with operating a personal pension scheme or a stakeholder pension scheme before 6 April 2007, if and to the extent that, if the same activities had been carried out in relation to the same scheme on 6 April 2007 those activities would have amounted to operating a <i>personal pension scheme</i> or a <i>stakeholder pension scheme</i> .	From 6 April 2007 to 30 April 2008	6 April 2007
3.	FEES 4 Annex 1 R Part 3, Activity group A2		Any reference to the number of <i>home purchase plans</i> and/or <i>home reversion plans</i> must be read as including any home purchase plan or home reversion plan entered into or administered before 6 April 2007, as relevant, which would be a <i>home purchase plan</i> or a <i>home reversion plan</i> if entered into or administered on or after 6 April 2007.	From 6 April 2007 - 30 April 2008	6 April 2007
4.	FEES 4 Annex 1 R, Activity Group A.2		Any reference to the number of <i>regulated sale and rent back agreements</i> must be read as including any sale and rent back agreement entered into or administered before 1 July 2009, as relevant, which would be a <i>regulated sale and rent back agreement</i> if entered into or ad-	1 July 2009 to 30 June 2010	1 July 2009

(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
			ministered on or after 1 July 2009.		
5.	[deleted]				
6.	FEES 6.3.1 R	R	The <i>FSCS</i> must not impose a <i>specific costs levy</i> or a <i>compensation costs levy</i> on a <i>Northern Ireland credit union</i> if that levy relates to a <i>claim</i> against a <i>relevant person</i> that was in <i>default</i> before <i>credit unions day</i> .	From 31 March 2012 indefinitely	For <i>Northern Ireland credit unions</i> 31 March 2012
7.	FEES 7	R	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 <i>FCA</i> fee year	2010/2011 <i>FCA</i> fee year	Refer to column (5)

[FCA]

Fees Manual

FEES TP 2

Transitional provisions relating to changes to the FSCS levy arrangements taking effect in 2007/8 and in 2008/9

2.1 Treatment of balances as at 1 April 2008

2.1.1 R *FSCS* must calculate a levy balance as at 31 March 2008 attributable to each *participant firm* to which this *rule* applies (see *FEES* TP 2.1.19R), in respect of contribution groups in place as at 31 March 2008, in the following way:

[FCA]
[PRA]

- (1) identifying each of the relevant contribution groups to which a *participant firm* belongs;
- (2) identifying amounts held to the credit of each such contribution group;
- (3) identifying amounts held as a debit balance to each such contribution group;
- (4) calculating the net balance for each contribution group from (2) and (3);
- (5) calculating, in relation to each relevant contribution group, that *participant firm's* tariff base as a proportion of the total tariff base of all *participant firms* in the contribution group;
- (6) for each relevant contribution group applying the proportion in (5) to the figure in (4); and
- (7) the balance for the *participant firm* is calculated by adding together the figure in (6) for each relevant contribution group of which the *participant firm* is a member.

2.1.2 R This *rule* relates to a claim or other amount that could be the subject of a *compensation costs levy* or *specific costs levy* and is otherwise eligible for inclusion in a debit balance for a contribution group under *FEES* TP 2.1.1R(3). This *rule* deals with a case where there are insufficient funds standing to the credit of that contribution group's *FSCS* account to meet the claim. Such a claim may only be included in the debit balance in accordance with the requirements about the amounts that can be levied under *compensation costs levies* and *specific costs levies* under *FEES* 6 in the form *FEES* 6 was in force on 31 March 2008.

[FCA]
[PRA]

2.1.3 G The credit balance referred to in *FEES* TP 2.1.1R(2) includes:

[FCA]
[PRA]

- (1) funds standing to the credit of the contribution group together with any interest receivable less any tax payable;

- (2) any amounts lent to another contribution group (together with any interest payable on that amount under FEES 6); and
- (3) any amount levied on or before 31 March 2008 but not received by 31 March 2008;

(all such amounts being calculated as at 31 March 2008).

2.1.4 G (1) The debit balance referred to in FEES TP 2.1.1R(3) includes:

[FCA]

[PRA]

- (a) any amounts borrowed by FSCS for the purpose of paying amounts for which a *compensation costs levy* may be imposed on the contribution group in question together with any interest payable;
- (b) any amounts borrowed from another contribution group (together with any interest payable on that amount under FEES 6); and
- (c) amounts that could be the subject of a *compensation costs levy* or *specific costs levy* that FSCS has not yet paid;

(all such amounts being calculated as at 31 March 2008).

- (2) If FSCS has decided to pay a claim, has decided the amount it will pay and (where applicable) has agreed the payment with the claimant it is eligible for inclusion under (1)(c). So is a claim for which FSCS has sent out a compensation cheque if the cheque has not been cleared by 31 March. A claim that has been made and settled will not be included as it will have already reduced the funds standing to the credit of the relevant contribution group. Claims made but not yet accepted or agreed by 31 March will not be included.

2.1.5 G FEES TP 2.1.2R has a further limitation on what claims can be included as a debit for a contribution group under FEES TP 2.1.1R. They may be included if there are sufficient funds standing to the credit of the contribution group. Any excess can also be included but only up to the levy limit for the relevant contribution group. In calculating the amount that FSCS would have been able to levy, FSCS will take into account any levies already made in the financial year beginning on 31 March 2007 (and, if relevant, previous years). The caps for these purposes are the ones in force on 31 March 2008.

[FCA]

[PRA]

2.1.6 R (1) If a *participant firm's* levy balance calculated under FEES TP 2.1.1R(7) is a debit, it is to be added to the first *compensation costs levy* or *management expenses levy* made on or after 1 April 2008 in which the *participant firm* shares.

[FCA]

[PRA]

- (2) If a *participant firm's* levy balance calculated under FEES TP 2.1.1R(7) is a credit, it is to be refunded as follows:
 - (a) by deduction from any *compensation costs levy* or *management expenses levy* in which the *participant firm* shares included in the invoice that includes the *appropriate regulator's* periodical fee referred to in (2)(b);
 - (b) (as to any balance) by deduction from any *appropriate regulator* periodical fees payable under FEES 4.3 in respect of the financial year beginning on 1

April 2008 and the *general levy* payable in respect of the same financial year; and

(c) (as to any balance) by payment to the *participant firm*.

- 2.1.7 R Any amount that is added to a *participant firm's* levy under FEES TP 2.1.6R must not be taken into account for the purpose of calculating whether a *levy limit* of any *sub-class* has been exceeded and how much headroom there is between a *levy limit* and the amount already levied.
[FCA]
[PRA]
- 2.1.8 R If it appears to the FSCS that in the exceptional circumstances of a particular case, refunding a *participant firm's* credit balance arising under FEES TP 2.1.1R by way of a deduction in accordance with FEES TP 2.1.6R would be inequitable, the FSCS may refund any part of that amount by payment to the *participant firm*.
[FCA]
[PRA]
- 2.1.9 R FSCS may use the money collected from *participant firms* prior to 1 April 2008 in order to pay claims or *management expenses* after 31 March 2008 but only in so far as any such payments are treated as costs to be allocated to *sub-classes* in existence after 31 March 2008 and do not prejudice the calculation in FEES TP 2.1.1R.
[FCA]
[PRA]
- 2.1.10 R Subject to FEES TP 2.1.16R, FSCS must calculate any levy after 31 March 2008 on the basis that all credit balances referred to in FEES TP 2.1R have been refunded to *participant firms* and all debit balances referred to in FEES TP 2.1R have been repaid and all *management expenses levies* made before 1 April 2008 have been spent.
[FCA]
[PRA]
- 2.1.11 R For the purposes of the calculations in FEES TP 2.1R, FSCS may rely on information FSCS relied on in the 2007/8 financial year.
[FCA]
[PRA]
- 2.1.12 R Subject to FEES TP 2.1.16R, if a *participant firm* provides, or is deemed to provide, incorrect information which is used for the purposes of FEES TP 2.1, then FSCS may take account of any resulting material overpayment or underpayment made under FEES TP 2.1 notified to it. If FSCS does take into account any such overpayment or underpayment it will be dealt with as follows:
[FCA]
[PRA]
- (1) FSCS must repay any such overpayment on or before 30 calendar days after the date when it decides to take such overpayment into account; and
 - (2) the *participant firm* must repay such underpayment on or before 30 calendar days after the date when the invoice for it is issued by FSCS.
- 2.1.13 R FSCS may, in its absolute discretion, refuse requests to recalculate a *firm's* levy balance calculated under FEES TP 2.1.1R on the basis of information corrected or re-submitted after 31 March 2009.
[FCA]
[PRA]
- 2.1.14 R Any rebate or refund to a *participant firm* arising out of the recalculation of a *participant firm's* levy balance carried out in accordance with FEES TP 2.1.12R is to be allocated to the *sub-class* most closely analogous to the contribution group the *firm* belonged to before 1 April 2008 or, if applicable, in accordance with FEES TP 2.1.18R.
[FCA]
[PRA]
- 2.1.15 R Any interest, arising between 31 March 2008 and the date that a credit balance is refunded to a *participant firm* under FEES TP 2.1.6R (including any interest attributable to the use

[FCA] of the funds in accordance with *FEES* TP 2.1.9R) is to be held for the benefit of the
[PRA] *sub-class* most closely analogous to the contribution group the *firm* belonged to before
1 April 2008 or, if applicable, in accordance with *FEES* TP 2.1.18R.

2.1.16 R *FEES* TP 2.1 does not apply to the extent that it is inconsistent with the provisions of
the *compensation transitionals order*.

[FCA]
[PRA]

2.1.17 R If a *participant firm* fails to pay an amount due with respect to a debit balance under
FEES TP 2.1.6R, that default is to be allocated to the *sub-class* most closely analogous
[FCA] to the contribution group the *firm* belonged to before 1 April 2008 for which the debit
[PRA] balance arises, or if applicable, in accordance with *FEES* TP 2.1.18R.

2.1.18 R (1) *FEES* TP 2.1.18R deals with a situation in which *FEES* TP 2.1 requires that a
rebate, refund, receipt or default be allocated to the *sub-class* most closely anal-
[FCA] ogous to the contribution group a *participant firm* belonged to before 1 April
[PRA] 2008 but where it is not possible to do this because the *participant firm* belonged
to more than one relevant contribution group or because the contribution group
maps onto more than one *sub-class*.

(2) That sum will be divided between contribution groups and *sub-classes* in what-
ever way *FSCS* considers fair and consistent with the purpose of *FEES* TP 2.1.

2.1.19 R *FEES* TP 2.1.1R does not apply to a *participant firm* that was not a *participant firm*
on 1 April 2007 or that was exempt during *FSCS*'s financial year beginning on that
[FCA] date. Subject to that, *FEES* TP 2.1.1R applies to a *participant firm* as at 31 March 2008
[PRA] that has subsequently ceased to be a *participant firm*.

2.1.20 G The purpose of *FEES* TP 2.1 is to help to ensure that there is a clean break between
periods beginning on or after 1 April 2008 and periods before. The aim is to ensure
[FCA] that debit and credit balances for each contribution group as at 31 March 2008 are dis-
[PRA] charged and any credit balance in relation to a contribution group is returned to *partic-
ipant firms* in that contribution group as at that date.

2.2 Split of business between life and pensions intermediation and investment intermediation

2.2.1 R *FEES* TP 2.2 deals with the calculation of the tariff base of *participant firms* in *sub-
classes* C2 (Life and Pensions intermediation) and D2 (Investment intermediation) in
[FCA] relation to the *FSCS*'s financial years beginning on 1 April 2008 and 1 April 2009 (the
applicable financial year).

2.2.2 R If a *participant firm* would have fallen within both *sub-classes* C2 and D2 in the pre-
ceding financial year to 31 March it must provide *FSCS*, by 30 November of the year
[FCA] preceding the applicable financial year (or, if it has become a *participant firm* part way
through the financial year by the date requested by *FSCS*), with an estimated breakdown
of business carried on in its financial year ended in the calendar year ending on the 31
December preceding the applicable financial year which would have fallen within *sub-
classes* C2 and D2. However, the *firm* must shorten the period covered by that break-
down to the extent necessary to ensure that the period it covers ends no later than one
Month before the date by which the *firm* has to supply it. If the *firm* does not have a
permission covering these activities for the whole of the period covered by the break-

down, it must use the projected valuation (as provided to the *appropriate regulator* in the course of the *firm's* application) of the business to which the tariff relates.

2.2.3 R The breakdown in *FEES* TP 2.2.2R must show the ratio of business (in terms of income earned) between the two *sub-classes*, expressed as a percentage and rounded up or down to the nearest ten per cent so that the total figure is one hundred per cent. That percentage is then applied to the amount calculated for *sub-classes* C2 and D2.

[FCA]

2.2.4 R *Firms* in contribution group A10 in the financial year to 31 March 2008 will be deemed to have an estimated breakdown of business of one hundred per cent in *sub-class* D2 and zero per cent in *sub-class* C2, unless otherwise notified to the *FSCS* by the date for submission in *FEES* 6.5.13 R. The same applies in relation to the financial year beginning 1 April 2009 in the case of a *firm* in *appropriate regulator* fee block A10 in the financial year to 31 March 2009.

[FCA]

2.2.4A G The deemed allocation of one hundred per cent of business to *sub-class* D2 and zero per cent in *sub-class* C2 does not apply to *appropriate regulator* fee blocks A12, A13 or A14.

[FCA]

2.2.5 R If a *participant firm* does not provide the information required in *FEES* TP 2.2 by the date requested, the *firm* must pay the administrative fee in *FEES* 6.5.16 R (1) and *FSCS* must deem the *firm* in question to carry on one hundred per cent of its intermediation business in *sub-class* C2 and one hundred per cent in *sub-class* D2.

[FCA]

2.2.6 R Information supplied under *FEES* TP 2.2 is treated as part of the information supplied under *FEES* 6.5.13 R.

[FCA]

2.2.7 R If the split of a *firm's* business between *sub-classes* C2 and D2 was calculated under *FEES* TP 2.2 for the *FSCS's* financial year beginning on 1 April 2008 the same split applies for the financial year beginning on 1 April 2009. But this does not apply:

[FCA]

- (a) if the difference between the split for the two financial years would be equal to or greater than ten; or
- (b) to *FEES* TP 2.2.4R.

For these purposes the split for a financial year means the amount of the difference (expressed as a number) between the percentage figures for the two *sub-classes* for that year calculated under *FEES* TP 2.2.2R.

2.3 Incorrect information

2.3.1 R If a *participant firm* provides, or is deemed to provide, information under *FEES* 6.5.13 R (2) which is incorrect then *FSCS* may take account of any material overpayment or underpayment notified to it in calculating the *firm's* share of the next *FSCS* levy in accordance with *FEES* 6.3.22 R. Any overpayment or overcharge will not be refunded or reduced in the year of the levy unless it appears to *FSCS* that in the exceptional circumstances of a particular case, the payment of, or retention by *FSCS* of, any such *FSCS* levy would be inequitable.

[FCA]

[PRA]

2.3.2 R *FEES* TP 2.3 applies in relation to information supplied for the purpose of the *FSCS's* financial year beginning on 1 April 2008.

[FCA]

[PRA]

2.3.3 R *FEES* TP 2.3.1R does not apply in relation to the calculations in *FEES* TP 2.1.

[FCA]

[PRA]

2.4 Allocation of recoveries

2.4.1 R Any recoveries made by the *FSCS* after 31 March 2008 in relation to *protected claims* compensated prior to 1 April 2008, the costs of which were allocated to the relevant contribution group in place at the time, must be credited to the *sub-class* in place after 31 March 2008 to which the costs of the *protected claim* would have been allocated had it been compensated after that date, or if relevant, in accordance with FEES 6.3.20 R.

[FCA]

[PRA]

2.4.2 R *FEES* TP 2.4.1R does not apply to the extent that it is inconsistent with the *compensation transitionals order*.

[FCA]

[PRA]

2.5 Interpretation

2.5.1 R In *FEES* TP 2 'contribution group' means one of the groups of participant firms within a sub-scheme in existence prior to 1 April 2008 set out in FEES 6.5.7 R at the time, being groups that carried on business of a similar nature, to which *compensation costs* and *specific costs* were allocated in accordance with FEES 6.4 and FEES 6.5 in force at the time. Sub-scheme means one of the sub-schemes to which *FSCS* allocated liabilities for *compensation costs* prior to 1 April 2008, as described in FEES 6.5.7 R at the time.

[FCA]

[PRA]

2.5.2 R For the purpose of FEES 6.5.13 R as it applies with respect to the *FSCS*'s financial year beginning on 1 April 2008:

[FCA]

[PRA]

- (1) references in FEES 6.5.13 R to *sub-classes* must be read as references to *sub-classes* to which *firms* will belong after 31 March 2008; and
- (2) (where *FEES* TP provides for the tariff base for a *sub-class* to be calculated by reference to a contribution group prior to that date) FEES 6.5.13 R (1) must be read as also including a requirement for the supply of the necessary information in relation to that contribution group.

2.5.3 R The amendments made to FEES 6.5.16 R by the Fees Manual (FSCS Funding) Instrument 2007 only have effect before 1 April 2008 for the purpose of *FSCS*'s financial year beginning on 1 April 2008.

[FCA]

[PRA]

2.5.4 G FEES 6 Annex 2 R and FEES 6 Annex 3 R (*classes*, *sub-classes* and tariff bases) are brought into force for the purpose of *FEES* TP and FEES 6.5.13 R in November 2007. However they do not have any other effect until 1 April 2008.

[FCA]

[PRA]

2.6 Past defaults

2.6.1 G The changes made to the levy *rules* made by the Fees Manual (FSCS Funding) Instrument 2007 apply to any levy made after 31 March 2008. This is so even if:

[FCA]

[PRA]

- (1) the claim against the *firm in default* arose or relates to circumstances arising before that date;
- (2) the *firm* was *in default* before that date; or
- (3) the levy relates to arrangements or measures under COMP 3.3 made or taken before that date.

2.7 Transitional provisions for changes to relieving provisions

2.7.1 R The amendments made in Part 1 of Annex B to the Financial Services Compensation Scheme (Amendment of Tariff Measures and Other Levy Rules) Instrument 2008 to [FCA] FEES 2.3 and the addition of FEES 6.3.22A R (and consequential changes) (changes to Re- [PRA] lieving Provisions) do not apply to any request made by a levy payer before 1 November 2008.

2.8 Effect of the tariff base changes for the financial year beginning on 1 April 2009 before that date

2.8.1 R The amendments made to FEES 6 Annex 3 R (Financial Services Compensation Scheme - [FCA] classes and sub-classes) and FEES TP 2 by Part 3 of Annex B to the Financial Services [PRA] Compensation Scheme (Amendment of Tariff Measures and Other Levy Rules) Instrument 2008 have effect before 1 April 2009 for the purpose of the supply of information under FEES 6.5.13 R in relation to the FSCS's financial year beginning on 1 April 2009.

2.8.2 G In particular, a *firm* in *sub-classes* C2 and D2 should provide the FSCS by 30 November [FCA] 2008 with the estimated breakdown of business between those two *sub-classes* required by FEES TP 2.2.

Fees Manual

FEES TP 3

Transitional provisions relating to changes to the FSCS levy arrangements taking effect in 2010/11

- 3.1 Effect of the tariff base changes made in 2008 in relation to the financial year 2010/11 before that date**
- 3.1.1 R The amendments made to FEES 6 and to FEES TP by Part 4 of Annex B to the Financial Services Compensation Scheme (Amendment of Tariff Measures and Other Levy Rules) Instrument 2008 have effect before 1 April 2010 for the purpose of the supply of information under FEES 6.5.13 R in relation to the FSCS's financial year beginning on 1 April 2010.
[FCA] [PRA]
- 3.2 Transitional requirements relating to firms in run off**
- 3.2.1 R This rule adjusts the calculation of the tariff base for *sub-class* B1 (General insurance providers) and *sub-class* C1 (Life and pensions providers) for the purposes of the FSCS's financial year beginning on 1 April 2010 and for subsequent periods. It applies if the *firm* is in run-off and has been in run-off since 1 November 2008.
[PRA]
- 3.2.2 R The whole of the levy is calculated by reference to *relevant net premium income* instead of being split 75:25 between *relevant net premium income* and eligible gross technical liabilities or mathematical reserves.
[PRA]
- 3.2.3 R A *firm* is in run-off for these purposes if it has ceased to effect new *contracts of insurance*, its *permission for effecting contracts of insurance* has been cancelled, its exclusive remaining business is administering its remaining insurance liabilities and, if it is required to supply one, it has supplied a run-off plan under SUP App 2.8.1 R.
[PRA]
- 3.3 Treatment of pure protection fees in 2010/11**
- 3.3.1 R This rule adjusts the calculation of the tariff base for *sub-class* C2 (Life and pensions intermediation) for the purposes of the FSCS's financial year beginning on 1 April 2010.
[FCA]
- 3.3.2 R If the only activities that a *firm* carries out in respect of the relevant period that fall into *sub-class* C2 are in relation to *pure protection contracts* the *firm* must exclude all income relating to those activities from the calculation of its tariff base for that *sub-class*.
[FCA]
- 3.3.3 R This rule does not apply to a *firm* if its *annual eligible income* for the relevant period in relation to *pure protection contracts* equals or exceeds £75,000.
[FCA]

Fees Manual

FEES TP 4 Transitional provisions relating to information requirements following changes to FEES 4 or 5

- 4.1** **Effect of changes to FEES 4 or 5 in relation to the supply of information to the appropriate regulator**
- 4.1.1 R This *rule* applies where any *rule*, or amendment to a *rule*, in FEES 4 or FEES 5 ("a FEES rule") has been made but will only come into force in relation to a future financial year of the *appropriate regulator* or *Financial Ombudsman Service* ("the future year"), as the case may be.
- [FCA]
[PRA]
- 4.1.2 R Unless another *rule* expressly disapplies this *rule*, a FEES rule has immediate effect for the supply of information under FEES 4.4 or FEES 5.4 in relation to that future year.
- [FCA]
[PRA]
- 4.1.3 R A reference in this *rule* to an *appropriate regulator* or *Financial Ombudsman Service* financial year is a reference to the 12 *months* ending 31 March.
- [FCA]
[PRA]

Fees Manual

FEES 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 <i>rule</i> 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).
[FCA]		
[PRA]		
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 <i>appropriate regulator</i> in respect of services performed for the <i>appropriate regulator</i> in relation to assisting the appropriate regulator in performing such regulatory work are not included to the extent that the invoice relates to the period before 1 July 2010.
[FCA]		
[PRA]		
5.1.3	G	For example, say that a <i>firm</i> 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 <i>appropriate regulator</i> before 1 July 2010. The same applies even if the administration started before 1 June 2009, when the fee first came into force.
[FCA]		
[PRA]		

Fees Manual

FEES TP 6

Transitional arrangements in relation to the introduction of the Electronic Money Regulations

6.1 Introduction

6.1.1 G *FEES* TP 6 deals with transitional arrangements relating to the introduction of the *Electronic Money Regulations* in 2011.

[FCA]

6.2 Application fees

6.2.1 G Under regulation 74 of the *Electronic Money Regulations* a person who before 30th April 2011 issued electronic money in accordance with a *Part 4A permission* may notify the *FCA* that it wishes to be authorised as an *authorised electronic money institution* or to be registered as a *small electronic money institution*. This covers the category of *firm* called an ELMI. That category is abolished by the *Electronic Money Regulations*.

[FCA]

6.2.2 G No fee under *FEES* 3 is payable for that notification.

[FCA]

6.2.3 G Before it was amended by the *Electronic Money Regulations*, article 9C of the *Regulated Activities Order* allowed a small electronic money issuer to obtain a certificate from the *FCA* that allowed it to issue electronic money without being authorised. Regulation 76 of the *Electronic Money Regulations* applies to such an issuer. Such an issuer can apply under the *Electronic Money Regulations* to become an *authorised electronic money institution* or to be registered as a *small electronic money institution*. If it does, a fee is payable under *FEES* 3 in the same way as it is for any other new application.

[FCA]

6.3 Periodic fees

6.3.1 G A person subject to the transitional arrangements in regulation 74 of the *Electronic Money Regulations* will be deemed to be an *authorised electronic money institution* during the transitional period applicable to it. It will also retain its *Part 4A permission* in relation to electronic money.

[FCA]

6.3.2 G A person subject to those transitional arrangements will be liable for the periodic fees payable by an *authorised electronic money institution*.

[FCA]

6.3.3 R (1) This rule deals with periodic fees payable under *FEES* 4.3 by a person subject to the transitional regime in regulation 74 of the *Electronic Money Regulations*.

[FCA]

(2) The fees are calculated as if the person had been an *authorised electronic money institution* from the beginning of the *FCA's* financial year 2011/12.

- (3) The fees for the *FCA's* financial year 2011/12 are based on information supplied by the *person* before the periodic fee becomes payable.
- (4) If the *person* has notified the *FCA* that it wishes to be registered as a *small electronic money institution* and it is registered as a *small electronic money institution* under regulation 74 during a financial year of the *FCA* then, for the purpose of the periodic fees for that financial year, it is treated as remaining as an *authorised electronic money institution*. Therefore no periodic fee is payable for that financial year in its capacity as a *small electronic money institution*.

6.3.4 R If the transitional period under the *Electronic Money Regulations* comes to an end during a financial year of the *FCA* without the *person* being included by the *FCA* in the register as an *authorised electronic money institution* or as a *small electronic money institution*, periodic fees due at the start of that financial year must be paid immediately after the end of that transitional period.

6.3.5 R (1) This *rule* deals with periodic fees payable under FEES 4.3 by a *person* subject to the transitional regime in regulation 76 of the *Electronic Money Regulations*.

[FCA]

- (2) Such an issuer is treated as a *small electronic money institution*. However the periodic fee is the same as the periodic fee for fee block G4 not fee block G11.
- (3) If the *person* has notified the *FCA* that it wishes to be registered as a *small electronic money institution* and it is so registered during a financial year of the *FCA*, then while the transitional period under regulation 76 is still current in any part of that financial year, for the purpose of the periodic fees for that financial year, it is treated as remaining as a *small electronic money institution*.
- (4) If the *person* has notified the *FCA* that it wishes to be authorised as an *authorised electronic money institution* and it is so authorised during a financial year of the *FCA*, then while the transitional period under regulation 76 is still current in any part of that financial year then, for the purpose of the periodic fees for that financial year:
 - (a) it is treated in the same way as a newly authorised *authorised electronic money institution*; but
 - (b) any periodic fee paid or payable for that financial year under (2) is taken into account so that no additional periodic fee is paid under (2).

6.3.6 G The transitional arrangements in regulation 75 of the *Electronic Money Regulations* deal with a *person* other than a *credit institution* that issued *electronic money* in the *United Kingdom* under an *EEA* passport. It may continue until 30th October 2011 to carry on that activity.

[FCA]

6.3.7 R (1) This *rule* deals with periodic fees payable under FEES 4.3 by a *person* subject to the transitional regime in regulation 75 of the *Electronic Money Regulations*.

[FCA]

- (2) During the transitional period under the *Electronic Money Regulations* the *person* is treated as an *EEA authorised electronic money institution*. It is treated as having held this status from the beginning of the *FCA's* financial year 2011/12.

(3) The fees for the financial year 2011/12 are based on information supplied by the *person* before the periodic fee becomes payable.

6.3.8 G If the *person* becomes an *EEA authorised electronic money institution* during the transitional period under the *Electronic Money Regulations* it is treated as remaining as an *EEA authorised electronic money institution* during the *FCA's* financial year 2011/12. Therefore no additional periodic fee is payable.
[FCA]

6.3.9 R If the transitional status of a *person* under the *Electronic Money Regulations* comes to an end before it gets its final status as an *electronic money issuer* under those regulations, any periodic fees that are due at the time its transitional status ends must be paid immediately thereafter.
[FCA]

6.4 FOS general levy

6.4.1 R FEES TP 6.3 applies to the general levy described in FEES 5.3 in the same way as it does to periodic fees under FEES 4.3.

[FCA]

6.5 CFEB levy

6.5.1 R FEES TP 6.3, except FEES TP 6.3.5 , applies to the *CFEB levy* in the same way as it does to periodic fees under FEES 4.3.

[FCA]

Fees Manual

FEES TP 7 Transitional provisions relating to changes to the FSCS levy arrangements taking effect in 2013/14

FCA **PRA**

- 7.1 R As at 31 March 2013, the *FSCS* must:
- [FCA]
[PRA]
- (1) allocate any surplus or deficit in the balance of an *FSA* activity group in respect of *base costs*, to the account of the corresponding *FCA* activity group as listed in FEES 4 Annex 1A R as at 1 April 2013; and
 - (2) take that surplus or deficit (so allocated) into account when calculating the amount to be levied under FEES 6.4.5 R in respect of the financial year commencing on 1 April 2013.
- 7.2 R For the purpose of FEES 6.5A.6 R, 'FEES 4 Annex 1A R' must be read as 'FEES 4 Annex 1 R' (as it was in force immediately before 1 April 2013) until the *regulatory costs* arising from the activity group in FEES 4 Annex 1A R have been determined. The *FSCS* may recalculate the liabilities once the *regulatory costs* arising from the activity group in FEES 4 Annex 1A R have been determined and credit or debit *participant firms* as appropriate.
- [FCA]

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FEES TP 8 Transitional provisions relating to FEES 3 Annex 9R and FEES 4.3.6R taking effect in 2013/14

FCA **PRA**

(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
8.1	Special project fee transitional provisions				
8.1.1	FEES3Annex9R R		This <i>rule</i> relates to a special project fee or part of a special project fee which has the following characteristics:	From 1 April 2013 indefinitely	1 April 2013
[FCA] [PRA]			(1) one or more of the events described in FEES 3 Annex 9R (2) or (6) had occurred before 1 April 2013; and		
			(2) <i>FSA</i> employees conducted regulatory work which had been recorded on the <i>FSA's</i> systems and/or the <i>FSA</i> was invoiced fees and disbursements as a consequence of the applicable event or events referred to in FEES 3 Annex 9R (2) or (6) before 1 April 2013.		
			(3) Hours or part hours worked by <i>FSA</i> staff and any fees or disbursements invoiced to the <i>FSA</i> of the kind described in FEES 3 Annex 9R (9) which were not accounted for in an invoice issued by the <i>FSA</i> prior to 31 March 2013 shall be named "pre-LCO accrued costs" in FEES TP 8.1.		

(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
8.1.2 [FCA] [PRA]	FEES 3 Annex 9R R	R	<p>In relation to the kind of special project fee specified in FEES TP 8.1.1R,</p> <p>(a) where one of the events referred to in FEES 3 Annex 9R (6)(a) had occurred, any pre-LCO accrued costs shall be included in the calculation of any amount payable to the <i>FCA</i> under FEES 3 Annex 9R (9);</p> <p>(b) a special project fee is payable to the <i>FCA</i> regardless of whether the amount calculated according to FEES 3 Annex 9R for the <i>FCA</i> is less than £50,000; and</p> <p>(c) no special project fee is payable if the sum total of adding together (i) the amount calculated in accordance with FEES 3 Annex 9R (9) in respect of the <i>FCA</i> and (ii) the total costs invoiced by the <i>FSA</i> before 1 April 2013 results in a total amount of less than £50,000.</p>	From 1 April 2013 indefinitely	1 April 2013
8.1.3 [FCA] [PRA]	FEES 3 Annex 9R R	R	<p>In relation to the kind of special project fee specified in FEES TP 8.1.1R, where one of the events referred to in FEES 3 Annex 9R (2) or (9)(b) had occurred:</p> <p>(a) 50% of the pre-LCO accrued costs shall be included in the calculation of any amount payable to the <i>FCA</i> under FEES 3 Annex 9R(9);</p> <p>(b) 50% of the pre-LCO accrued costs shall be included in the calculation of any amount payable to the <i>PRA</i> under FEES 3 Annex 9R(9);</p> <p>(c) a special project fee is payable to the <i>appropriate regulator</i> regardless of whether the amount calculated according</p>	From 1 April 2013 indefinitely	1 April 2013

(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
			<p>to FEES 3 Annex 9R for the <i>appropriate regulator</i> is less than £50,000; and</p> <p>(d) no special project fee is payable if the sum total of adding together (i) the amount calculated in accordance with FEES 3 Annex 9R(9) in respect of the <i>FCA</i>, (ii) the amount calculated in accordance with FEES 3 Annex 9R(9) in respect of the <i>PRA</i> and (iii) the total costs invoiced by the <i>FSA</i> before 1 April 2013 results in a total amount of less than £50,000.</p>		
8.1.4	FEES 3 Annex 9	G	<p>As a result of FEES TP 8.1.3R, pre-LCO accrued costs may give rise to two separate fee payment obligations following 1 April 2013, one in respect of the <i>FCA</i> and one in respect of the <i>PRA</i> if the threshold in FEES TP 8.1.3(d) is breached.</p>	From 1 April 2013 indefinitely	1 April 2013
[FCA] [PRA]					
8.1.5	FEES 3 Annex 9	G	<p>(1) This <i>guidance</i> gives examples of how FEES TP 8.1 is intended to operate.</p> <p>(2) If an event specified in FEES 3 Annex 9 (2) occurred on 1 April 2012, the £50,000 threshold was breached on 1 November and the <i>FSA</i> invoiced for the full amount outstanding as at 1 December 2012 but issued no further invoices, any accrued hours or part hours and fees or disbursements invoiced to the <i>FSA</i> between 1 December 2012 and 1 April 2013 will be divided equally between the <i>FCA</i> and the <i>PRA</i> and an amount would be payable to the <i>FCA</i> and the <i>PRA</i> as separate fees regardless of whether the separate thresholds contained in FEES 3 Annex 9 (8) are met as long as the combined <i>FSA</i>, <i>FCA</i> and <i>PRA</i> costs incurred exceeded £50,000.</p>	From 1 April 2013 indefinitely	1 April 2013
[FCA] [PRA]					

(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
			(3) If an event specified in FEES 3 Annex 9 (6)(a) occurred on 1 February 2013, the FSA had begun the relevant regulatory work but had yet issued any invoices or breached the 50,000 floor before 1 April 2013, the accrued hours and disbursements will be allocated towards the FCA's fee calculation.		
			8.2 On account fee transitional provisions		
8.2.1 [FCA] [PRA]	FEES 4.3.6R(1) and FEES 4.3.6R(1A)	R	For the 2013/2014 <i>fee year</i> , "previous <i>fee year</i> " is replaced by "FSA financial year for 2012/2013" and "periodic fee" is replaced by "periodic fee payable to the FSA".	1 April 2013 until 31 March 2014	1 April 2013
8.2.2 [FCA] [PRA]	FEES 4.3.6R(1)(a) and FEES 4.3.6R(1A)(a)	R	For the 2013/2014 <i>fee year</i> , "FCA periodic fee" and "PRA periodic fee", as applicable, is replaced by "FSA periodic fee" and "previous <i>fee year</i> " is replaced by "FSA financial year for 2012/2013."	1 April 2013 until 31 March 2014	1 April 2013
8.2.3 [FCA] [PRA]	FEES 4.3.6R(1)(a)	R	For the 2013/2014 <i>fee year</i> , in relation to <i>PRA-authorized persons only</i> , "50%" is replaced by "23.5%".	1 April 2013 until 31 March 2014	1 April 2013
8.2.4 [FCA] [PRA]	FEES 4.3.6R(1A)(a)	R	For the 2013/2014 <i>fee year</i> , "50%" is replaced by "26.5%".	1 April 2013 until 31 March 2014	1 April 2013
8.2.5 [FCA] [PRA]	FEES 4.3.6	R	<i>Firms, regulated covered bond issuers, designated professional bodies and recognised investment exchanges</i> which, prior to 1 April 2013, paid to the FSA an amount equal to 50% of the FSA periodic fee payable in respect of the FSA financial year for 2012/2013 are not required to pay any amounts due under rules (1)(a) or (1A)(a). Rules (1)(b) and (1A)(b) will apply to these <i>firms, regulated covered bond issuers, designated professional bodies</i>	1 April 2013 until 31 March 2014	1 April 2013

(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
8.2.6	FEES 4.3.6 R	G	<p>and <i>recognised investment exchanges</i> as if they had discharged their obligations under rules (1)(a) and (1A)(a).</p> <p>For <i>fee year</i> 2013/2014, invoices containing the total amount of regulatory fees required to be paid to the <i>FCA</i> and, if applicable, the <i>PRA</i> by 30 April 2013 were issued by the <i>FSA</i> prior to 1 April 2013. The amounts contained in those invoices should be treated as the amounts owing to the <i>FCA</i> and <i>PRA</i> under FEES 4.3.6 R (1)(a) and FEES 4.3.6 R (1A)(a).</p>	1 April 2013 until 31 March 2014	1 April 2013

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Schedule 1 [to follow]

G

FCA PRA

[to follow]

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Schedule 2 [to follow]

G

FCA PRA

[to follow]

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Schedule 3 [to follow]

G

FCA PRA

[to follow]

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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 *FEES*:

Section 72 (The competent authority)

Section 74 (The official list)

Section 99(1), (1B) and (2) (Fees)

Section 101 (Part 6 rules: general provisions)

Section 138 (General rule-making power)

Section 156 (General supplementary powers)

Section 213 (The compensation scheme) (including as referred to in section 216(5) (Continuity of long-term insurance policies) and section 217(7) (Insurers in financial difficulties)

Section 214 (General)

Section 223 (Management expenses)

Section 223C (Payments in error)

Section 224F (Rules about relevant schemes)

Section 234 (Industry funding)

Paragraph 17 (Fees) of Schedule 1 (The Financial Services Authority)

Paragraph 12 of Part 2 (Funding) of Schedule 1A (Further provision about the consumer financial education body)

Paragraphs 1 (General), 4 (Rules) and 7 (Fees) of Schedule 7 (The Authority as Competent Authority for Part VI)

Sch 4.2 G

The following additional powers have been exercised by the *FSA* to make the *rules* in *FEES*:

Regulation 82 (Reporting requirements) of the *Payment Services Regulations*

Regulation 92 (Costs of supervision) of the *Payment Services Regulations*

Section 123 (Role of FSCS) of the Banking Act 2009

Regulation 59 (Costs of supervision) of the *Electronic Money Regulations*

Sch 4.3 G

The following power in the *Act* has been exercised by the *FSA* to make the *guidance* in *FEES*:

Section 157 (Guidance)

Sch 4.4 G

The following additional powers have been exercised by the *FSA* to make guidance in *FEES*:

Regulation 93 (Guidance) of the *Payment Services Regulations*

Regulation 60 (Guidance) of the *Electronic Money Regulations*

Sch 4.5 G

The following powers and related provisions in the *Act* have been exercised by the *FOS Ltd* to make the *rules* in *FEES*:

Paragraphs 15 (Fees), 16C (Fees) and 18 (Terms of reference to the scheme) of Schedule 17 (The Ombudsman Scheme)

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Schedule 5 [to follow]

G

FCA PRA

[to follow]

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Schedule 6 Rules that can be waived

G

[deleted]

Sch 6.1 G

FCA

As a result of section 138A of the *Act* (Modification or waiver of rules) the *FCA* has power to waive all its *rules*, other than *rules* made under section 137O (threshold condition code), 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 *FCA* to grant a waiver that would be incompatible with the *United Kingdom's* responsibilities under those directives.

Sch 6.2 G

PRA

As a result of section 138A of the *Act* (Modification or waiver of rules) the *PRA* has power to waive all its *rules*, other than *rules* made under section 137O of the *Act* (threshold condition code). However, if the *rules* incorporate requirements laid down in European directives, it will not be possible for the *PRA* to grant a waiver that would be incompatible with the *United Kingdom's* responsibilities under those directives.

