

SUPERVISION MANUAL (AMENDMENT) INSTRUMENT 2001

- A. The Financial Services Authority makes the rules and gives the guidance in this instrument in the exercise of the powers and related provisions in or under the Financial Services and Markets Act 2000 (the "Act") listed in Annex D to this instrument.
- B. The provisions of the Act relevant to making rules and listed in Annex D to this instrument are specified for the purpose of section 153(2) of the Act (Rule-making instruments).
- C. This instrument comes into force as follows:
- (1) Annex A: immediately;
 - (2) Annex B: at the beginning of the day on which section 19 of the Act (The general prohibition) comes into force;
 - (3) Annexes C and D and paragraphs A to E on this page: immediately.
- D. SUP is amended as follows:
- (1) in the Transitional provisions, after paragraph 6 in the table under the heading "G (1) Transitional provisions relating to the Supervision manual only" insert the paragraph in Annex A to this instrument;
 - (2) in the Transitional provisions, under the heading "G (2) Transitional provisions relating to written concessions" insert the provisions in Annex B to this instrument;
 - (3) Schedule 4 to SUP is amended in accordance with Annex C to this instrument.
- E. This instrument may be cited as the Supervision Manual (Amendment) Instrument 2001.

By order of the Board
19 July 2001

ANNEX A
Additional paragraph for the Transitional provisions
relating to the Supervision manual only

6A	SUP 9.4	G	<p><u>Individual guidance</u></p> <p>(1) If a <i>person</i> acts in accordance with individual written guidance:</p> <p style="padding-left: 40px;">(a) given to him by any <i>previous regulator</i> (or body whose functions were assumed by a <i>previous regulator</i>);</p> <p style="padding-left: 40px;">(b) relating to any pre-commencement provision; and</p> <p style="padding-left: 40px;">(c) in the circumstances contemplated by that guidance;</p> <p>then the <i>FSA</i> will proceed on the footing that the <i>person</i> has complied with the aspects of any provision in or under the <i>Act</i> (including a <i>rule</i> or <i>guidance</i> in the <i>Handbook</i>) to which the guidance relates if:</p> <p style="padding-left: 40px;">(d) that provision is substantially similar to the pre-commencement provision in relation to the matter with which the guidance is concerned;</p> <p style="padding-left: 40px;">(e) the guidance was current immediately before <i>commencement</i>; and</p> <p style="padding-left: 40px;">(f) the guidance has not been superseded.</p> <p>(2) SUP 9.4.2G to SUP 9.4.4G are relevant for individual written guidance in (1) in the same way as for individual written <i>guidance</i> given by the <i>FSA</i>.</p> <p>(3) References to "individual written guidance" in (1) and (2) include a written concession from a pre-commencement provision which is substantially similar to <i>guidance</i> in the <i>Handbook</i>.</p>	From 19 July 2001	21 June 2001
----	---------	----------	--	-------------------	--------------

ANNEX B
Transitional provisions relating to written concessions

1. The purpose of the transitional provisions in the following table is to carry forward existing written concessions relating to pre-commencement provisions – for example, formal waivers or modifications given by IMRO, PIA or SFA (“an SRO”) and the recognised professional bodies, written concessions from the standards in the FSA’s Guide to Banking Supervisory Policy, and formal written consents and determinations made by an SRO under an SRO rule.
2. An existing written concession is only carried forward if the pre-commencement provision to which it relates is substantially similar to a *rule* in the *Handbook*. The substantially similar test should be applied to the specific element of the *rule* to which the written concession relates. An existing written concession from a pre-commencement provision which is substantially similar to *guidance* in the *Handbook* is carried forward in the same way as pre-commencement individual written guidance; see transitional provision 6A (Individual guidance) in the schedule of Transitional provisions applying to the Supervision manual only.
3. An existing written concession is carried forward on a temporary basis only – for 12 months from *commencement* or, in the case of modifications relating to the Interim Prudential sourcebooks or *SUP* 16.6 (Compliance reports) or *SUP* 16.7 (Financial reports), until the relevant provisions cease to apply. A *firm* wishing to retain the benefit of a concession after that time will need to apply in good time for a *waiver* (see *SUP* 8 (Waiver and modification of rules)).
4. An existing written concession is carried forward as an amendment to the *rule* to which it relates. Any such amendment has effect for all purposes (including *FSA* enforcement action and actions for damages under section 150 of the *Act*).
5. An existing written concession is not carried forward if, and to the extent that, doing so would be inconsistent with a community obligation of the *United Kingdom*, in particular with the proper implementation of a directive.
6. These transitional provisions do not apply to *rules* which are continued by designation of pre-commencement provisions rather than made as new *rules*. Written concessions of such *rules* are carried forward, to similar effect, as *waivers* (given under section 148 of the *Act*) by article 8 of The Financial Services and Markets Act 2000 (Transitional Provision and Savings) (Rules) Order 2001 (SI 2001/1534). The relevant *rules* are:
 - (1) in *IPRU(BANK)*, 3.3.15R in chapter GN; and
 - (2) in *IPRU(INV)*, those identified as designated *rules* in the schedule to *IPRU(INV)* entitled "Powers exercised".
7. Definitions for these transitional provisions, additional to those in the *Glossary*, are provided at paragraph 4 of the table.

(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	<p>Rules in:</p> <p>COB</p> <p>IPRU</p> <p>MAR 2</p> <p>SUP</p> <p>TC</p>	R	<p>(1) A <i>rule</i> listed in column (2) (including <i>evidential provisions</i>, <i>transitional rules</i> and relevant defined expressions) is disapplied, or is modified in its application, to a <i>firm</i>:</p> <p>(a) in order to produce the same effect, including any conditions, as a written concession had on a pre-commencement provision listed in paragraph 2; and</p> <p>(b) for the same period as the written concession would have lasted, if shorter than the period in column (5);</p> <p>if:</p> <p>(c) the <i>rule</i> is substantially similar to the pre-commencement provision in relation to the matter with which the written concession is concerned;</p> <p>(d) the written concession was current as respects the <i>firm</i> immediately before <i>commencement</i>;</p> <p>(e) there is no specific transitional <i>rule</i> relating to the written concession; and</p> <p>(f) the written concession has not been superseded by a <i>waiver</i> from the <i>FSA</i>.</p> <p>(2) Paragraph (1) does not have effect if, and to the extent that, it would be inconsistent with any community obligation of the <i>United Kingdom</i>.</p>	<p>If the <i>rule</i> in column (2) appears in <i>IPRU</i> or in <i>SUP</i> 16.6 or 16.7, from <i>commencement</i> until that <i>rule</i> is revoked.</p> <p>Otherwise, from <i>commencement</i> for 12 months.</p>	<p><i>Commencement</i></p>

(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	As paragraph 1	R	<p>The pre-commencement provisions referred to in paragraph 1(1) are those contained in any of the following (including relevant defined expressions):</p> <ul style="list-style-type: none"> (1) the legislative provisions of the <i>FSA</i> as designated agency under the Financial Services Act 1986; (2) the rules of <i>IMRO</i>, <i>PIA</i>, <i>SFA</i> and the <i>recognised professional bodies</i>; (3) the Insurance Companies Act 1982 and relevant secondary legislation; (4) the Friendly Societies Act 1992 and relevant secondary legislation; (5) the Banking Act 1987, relevant secondary legislation and the <i>FSA</i>'s Guide to Banking Supervisory Policy; (6) the Building Societies Act 1986, relevant secondary legislation and the Building Societies Commission's Prudential Notes, Guidance Notes and DCE (Dear Chief Executive) letters. 	As paragraph 1	<i>Commencement</i>
3	As paragraph 1	R	<p><u>Notification of relevance etc of concession</u></p> <p>A <i>firm</i> which has the benefit of a written concession to which paragraph 1 applies must notify the <i>FSA</i> immediately if it becomes aware of any matter which is material to the relevance or appropriateness of the written concession.</p>	As paragraph 1	<i>Commencement</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
4	Paragraphs 1 to 3	R	<p><u>Definitions</u></p> <p>In these transitional provisions:</p> <p>(1) "substantially similar" means substantially similar in purpose and effect; and</p> <p>(2) "written concession" means a waiver, exemption, concession, modification, consent, approval, determination or similar exercise of discretion which:</p> <p>(a) disappplied, or tended to reduce the burden of complying with, a pre-commencement provision (with or without conditions); and</p> <p>(b) was evidenced in writing.</p>	As paragraph 1	<i>Commencement</i>

ANNEX C
Amendment to Schedule 4 to SUP

In Schedule 4 to SUP, insert the following in the list of powers and related provisions exercised by the FSA to make the rules in SUP:

- Section 118(8) (Market abuse)
- Section 139(1) and (4) (Miscellaneous ancillary matters)
- Section 141 (Insurance business rules)
- Section 144 (Price stabilising rules)
- Section 147 (Control of information rules)
- Section 150(2) (Actions for damages)
- Section 238(5) (Restrictions on promotion)
- Section 247 (Trust scheme rules)
- Section 340 (Appointment)
- Regulation 6(1) of the *OEIC Regulations* (FSA rules)

ANNEX D

Powers exercised

The following powers and related provisions in or under the Act have been exercised to make the rules in this instrument:

- Section 59 (Approval for particular arrangements)
- Section 118(8) (Market abuse)
- Section 138 (General rule-making power)
- Section 139(1) and (4) (Miscellaneous ancillary matters)
- Section 141 (Insurance business rules)
- Section 144 (Price stabilising rules)
- Section 145 (Financial promotion rules)
- Section 146 (Money laundering rules)
- Section 147 (Control of information rules)
- Section 149 (Evidential provisions)
- Section 150(2) (Actions for damages)
- Section 156 (General supplementary powers)
- Section 238(5) (Restrictions on promotion)
- Section 247 (Trust scheme rules)
- Section 340 (Appointment)
- Regulation 6(1) of the Financial Services and Markets Act 2000 (Open-ended investment company) Regulations 2001 (FSA rules)

The following power in the Act has been exercised to give the guidance in this instrument:

- Section 157(1) (Guidance)