

HANDBOOK ADMINISTRATION (NO 41) INSTRUMENT 2016**Powers exercised**

- A. The Financial Conduct Authority makes this instrument in the exercise of the powers and related provisions listed in Schedule 4 (Powers exercised) to the General Provisions of the Handbook.
- B. The rule-making powers referred to above are specified for the purpose of section 138G(2) (Rule-making instruments) of the Financial Services and Markets Act 2000.

Commencement

- C. This instrument comes into force on 1 June 2016 except as provided below:
- (1) Annex E comes into force on 30 June 2016;
 - (2) Annex H, Part 1 of Annex F and Part 2 of Annex L come into force on 3 July 2016;
 - (3) Annex F comes into force on 10 October 2016; and
 - (4) Part 2 of Annex I which comes into force on 31 October 2016.

Amendments to the Handbook

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

(1)	(2)
Glossary of definitions	Annex A
Senior Management Arrangements, systems and controls (SYSC)	Annex B
Fees manual (FEES)	Annex C
Prudential sourcebook for Investment Firms (IFPRU)	Annex D
Interim Prudential sourcebook for Investment Business (IPRU-INV)	Annex E
Conduct of Business sourcebook (COBS)	Annex F
Client Assets sourcebook (CASS)	Annex G
Market Conduct sourcebook (MAR)	Annex H
Supervision manual (SUP)	Annex I
Compensation sourcebook (COMP)	Annex J
Collective Investment Schemes sourcebook (COLL)	Annex K
Disclosure Rules and Transparency Rules (DTR)	Annex L

Amendments to material outside the Handbook

- E. The Enforcement Guide is amended in accordance with Annex M to this instrument.

Citation

- F. This instrument may be cited as the Handbook Administration (No 41) Instrument 2016.

By order of the Board
26 May 2016

Annex A

Amendments to the Glossary of definitions

Insert the following new definition. The text is not underlined.

PRA Rulebook the *PRA's* Rulebook of rules and guidance. Formerly the *PRA Handbook*. Available at the universal resource locator:
<http://www.prarulebook.co.uk/>

The following two definitions duplicate each other and one should be deleted as shown, with all Handbook cross references updated to be directed to the merged definition.

ADR Directive Directive 2013/11/EU of the European Parliament and of the Council of 21 May 2013 on alternative dispute resolution for consumer disputes and amending Regulation (EC) No 2006/2004 and Directive 2009/22/EC.

~~*ADR Directive* Alternative Dispute Resolution Directive, Directive 2013/11/EU on alternative dispute resolution for consumer disputes.~~

Make the following amendments as shown. Underlining indicates new text and striking through indicates deleted text.

accountable functions ~~(1) (in the *FCA Handbook* and~~ in relation to an *approved person*) the functions described in *APER* 1.1.A2P, which are in summary:

- (a) *FCA controlled functions*;
- (b) *PRA controlled functions*; and
- (c) any other functions in relation to the carrying on of a *regulated activity*;

in relation to the *authorised persons* in relation to which that *person* is an *approved person*.

~~(2) (in the *PRA Handbook* and in relation to an *approved person*) the functions described in *APER* 1.1B.2P, which are in summary:~~

- ~~(a) *PRA controlled functions*;~~

(b) ~~FCA controlled functions that are significant influence functions; and~~

(e) ~~any other significant influence functions;~~

~~in relation to the PRA authorised persons in relation to which that person is an approved person.~~

actuarial conduct function (third country)

the part of the function of acting in the capacity of an actuary (as appointed by a firm under rule 7.1(2) of the ~~PRA Rulebook~~ PRA Rulebook: Solvency II Firms: Third Country Branches) that relates to compliance with FCA requirements and standards under the regulatory system, described more fully in SUP 10A.7.14R.

actuarial function

~~(in the FCA Handbook)~~ PRA controlled function described more fully in SUP 4.3.13R, ~~PRA Rulebook~~ PRA Rulebook: Non Solvency II firms: Actuarial Requirements 5, and, for a Solvency II firm, ~~PRA Rulebook~~ PRA Rulebook: Solvency II firms: Conditions Governing Business 6.1.

advanced measurement approach

This term can be found in a glossary search [here](#).
has the meaning in the PRA Rulebook.

Advanced Measurement Approach

appropriate regulators

(1) in the *FCA Handbook*, the *FCA*; and in the *PRA Handbook* PRA Rulebook, the *PRA*;

...

associate

~~(A) in the PRA Handbook~~

~~(1) (in LR) (in relation to a director, substantial shareholder, or person exercising significant influence, who is an individual):~~

~~(a) that individual's spouse, civil partner or child (together the "individual's family");~~

~~(b) the trustees (acting as such) of any trust of which the individual or any of the individual's family is a beneficiary or discretionary object (other than a trust which is either an occupational pension scheme or an employees' share scheme which does not, in either case, have the effect of conferring benefits on persons all or~~

most of whom are related parties;

- (e) any *company* in whose *equity securities* the individual or any member or members (taken together) of the individual's family or the individual and any such member or members (taken together) are directly or indirectly interested (or have a conditional or contingent entitlement to become interested) so that they are (or would on the fulfilment of the condition or the occurrence of the contingency be) able:
 - (i) to exercise or control the exercise of 30% or more of the votes able to be cast at general meetings on all, or substantially all, matters; or
 - (ii) to appoint or remove *directors* holding a majority of voting rights at board meetings on all, or substantially all, matters;
- (d) any partnership whether a limited partnership or *limited liability partnership* in which the individual or any member or members (taken together) of the individual's family are directly or indirectly interested (or have a conditional or contingent entitlement to become interested) so that they hold or control or would on the fulfilment of the condition or the occurrence of the contingency be able to hold or control:
 - (i) a voting interest greater than 30% in the partnership; or
 - (ii) at least 30% of the partnership.

For the purpose of paragraph (c), if more than one *director* of the *listed company*, its *parent undertaking* or any of its *subsidiary undertakings* is interested in the *equity securities* of another *company*, then the interests of those *directors* and their *associates* will be aggregated when determining whether that *company* is an associate of the *director*.

- (2) (in *LR*) (in relation to a *substantial shareholder* or *person exercising significant influence*, which is a *company*):
 - (a) any other *company* which is its *subsidiary undertakings* or *parent undertaking* or fellow *subsidiary undertakings* of the *parent undertaking*;
 - (b) any *company* whose *directors* are accustomed to act in accordance with the *substantial shareholder's* or *person exercising significant influence's*, directions or instructions;

(e) ~~any company in the capital of which the substantial shareholder or person exercising significant influence and any other company under paragraph (1) or (2) taken together, is (or would on the fulfilment of a condition or the occurrence of a contingency be) able to exercise power of the type described in paragraph (1)(c)(i) or (ii) of this definition.~~

~~(3) (except in LR) (in relation to a person (“A”)):~~

~~(a) an affiliated company of A;~~

~~(b) an appointed representative of A, or a tied agent of A, or of any affiliated company of A;~~

~~(c) any other whose business or domestic relationship with A or his associate might reasonably be expected to give rise to a community of interest between them which may involve a conflict of interest in dealing with third parties.~~

~~(B) in the FCA Handbook:~~

~~...~~

CASS operational oversight function

~~(in the FCA Handbook) FCA controlled function CF10a in Parts 1 and 2 of the table of FCA controlled functions, described more fully in SUP 10A.7.9R.~~

chief executive function

~~(in the FCA Handbook) FCA controlled function CF3 in Part 1 and Part 2 of the table of FCA controlled functions, described more fully in SUP 10A.6.17R.~~

class

~~(A) In the FCA Handbook:~~

~~...~~

Code of Practice for Approved Persons

~~(1) (in the FCA Handbook) the guidance in APER 3 and APER 4.~~

compliance oversight function

~~(in the FCA Handbook):~~

~~...~~

consolidated situation

~~(A) (in the PRA Handbook)~~

~~the situation that results from applying the requirements of the *EU CRR* in accordance with Part One, Title II, Chapter 2 of the *EU CRR* to an *institution* as if that *institution* formed, together with one or more other *institutions*, a single *institution*.~~

~~(B) In the FCA Handbook~~

has the meaning in article 4(1)(47) of the *EU CRR*.

custody asset

~~(A) (in the FCA Handbook)~~

~~(1) ...~~

~~...~~

~~(B) (in the PRA Handbook)~~

~~(a) a *designated investment* held for or on behalf of a *client*;~~

~~(b) any other asset which is or may be held with a *designated investment* held for, or on behalf of, a *client*.~~

customer function

~~(in the FCA Handbook) FCA controlled function CF30 in Parts 1 and 2 of the table of table of FCA controlled functions, described more fully in SUP 10A.10.7R.~~

designated investment firm

~~(A) (In the PRA Handbook)~~

~~an *authorised person* that has been designated by the PRA under article 3 of the *PRA-regulated Activities Order*.~~

~~(B) (In the FCA Handbook)~~

~~an *authorised person* authorised person that has been designated by the PRA under article 3 of the *PRA-regulated Activities Order*.~~

director function

~~(1) (in the FCA Handbook) FCA controlled functions CF1 in Part 1 and, for a *Solvency II firm* (including a *large non-directive insurer*) and a *small non-directive insurer*, Part 2 of the table of FCA controlled functions, described more fully in SUP 10A.6.7R and SUP 10A.6.8R.~~

director of unincorporated association function

~~(1) (in the FCA Handbook) FCA controlled function CF5 in Part 1 of the table of FCA controlled functions, described more fully in SUP 10A.6.29R.~~

<i>FINREP firm</i>	<p>(A) (In the PRA Handbook)</p> <p>a credit institution or investment firm subject to the EU CRR that is also subject to article 4 of Regulation (EC) No 1606/2002; or</p> <p>a credit institution other than one referred to in Article 4 of Regulation (EC) No 1606/2002 that prepares its consolidated accounts in conformity with the international accounting standards adopted in accordance with the procedure laid down in article 6(2) of that Regulation.</p> <p>[Note: article 99 of the EU CRR]</p> <p>(B) in the FCA Handbook</p> <p>(a) a <i>credit institution</i> or <i>investment firm</i> subject to the <i>EU CRR</i> that is also subject to article 4 of Regulation (EC) No 1606/2002; or</p> <p>(b) a <i>credit institution</i> other than one referred to in article 4 of Regulation (EC) 1606/2002 that prepares its consolidated accounts in conformity with the international accounting standards adopted in accordance with the procedure laid down in article 6(2) of that Regulation.</p> <p>[Note: article 99 of the EU CRR]</p>
<i>firm</i>	<p>(1) in the FCA Handbook, an <i>authorised person</i>, but not a <i>professional firm</i> unless it is an <i>authorised professional firm</i> (see also <i>GEN 2.2.18R</i> for the position of an authorised partnership or unincorporated association which is dissolved).</p> <p>...</p>
<i>general rule-making powers</i>	<p>(1) (in the FCA Handbook) section 137A of the <i>Act</i>.</p>
<i>guidance</i>	<p>guidance given ÷</p> <p>(a) in the <i>FCA Handbook</i> by the <i>FCA</i> under the <i>Act</i>; or ÷</p> <p>(b) in the PRA Handbook; by the <i>PRA</i>.</p>
<i>IFPRU limited-activity firm</i>	<p>(A) (In the PRA Handbook):</p> <p>a limited activity firm that meets the following conditions:</p> <p>(a) it is a FCA authorised <i>firm</i>;</p>

- ~~(b) its head office is in the UK and-~~
- ~~(c) it is not:~~
 - ~~(i) an incoming EEA firm;~~
 - ~~(ii) an incoming Treaty firm;~~
 - ~~(iii) any other overseas firm;~~
 - ~~(iv) a designated investment firm;~~
 - ~~(v) an insurer, or~~

~~(B) (In the FCA Handbook):~~

~~a limited activity firm that meets the following conditions:~~

- ~~(a) it is a firm; and~~
- ~~(b) its head office is in the UK and it is not otherwise excluded under IFPRU 1.1.5R.~~

*large mutual
association*

~~(A) (in the PRA Handbook):~~

- ~~(1) (in COMP), an unincorporated mutual association or an unincorporated association (which is not a mutual association) with net assets of more than £1.4 million (or its equivalent in any currency at the relevant time).~~
- ~~(2) (except in COMP), a mutual association or unincorporated association with net assets of more than £1.4 million (or its equivalent in any other currency at the relevant time).~~

~~(B) (in the FCA Handbook):~~

- ~~(1) (in COMP), an unincorporated mutual association or an unincorporated association (which is not a mutual association) with net assets of more than £1.4 million (or its equivalent in any other currency at the relevant time).~~
- ~~(2) (except in COMP), a mutual association or unincorporated association with net assets of more than £1.4 million (or its equivalent in any other currency at the relevant time).~~

large partnership

~~(A) (in the PRA Handbook):~~

- ~~(1) (in COMP), a partnership with net assets of more than £1.4 million (or its equivalent in any other currency at the relevant time).~~

- (2) ~~(except in COMP), a partnership or unincorporated association with net assets of more than £1.4 million (or its equivalent in any other currency at the relevant time).~~

~~(B) (in the FCA Handbook):~~

- (1) (in COMP), a partnership with net assets of more than £1.4 million (or its equivalent in any other currency at the relevant time).
- (2) (except in COMP), a partnership or unincorporated association with net assets of more than £1.4 million (or its equivalent in any other currency at the relevant time).

lender

~~(A) in the PRA Handbook:~~

- ~~(a) the person providing credit under a credit agreement, or~~
- ~~(b) a person who exercises, or has the right to exercise, the rights and duties of a person who provided credit under such an agreement.~~

~~(B) in the FCA Handbook:~~

- (a) the person providing credit under a credit agreement, or
- (b) a person who exercises, or has the right to exercise, the rights and duties of a person who provided credit under such an agreement; or
- (c) in relation to a P2P agreement other than a credit agreement or a regulated mortgage contract:
 - (i) a person providing credit under a P2P agreement; or
 - (ii) a person who by assignment or operation of law has assumed the rights of a person who provided credit under a P2P agreement.

money laundering reporting function

~~(in the FCA Handbook):~~

- (1) ...
- ...

non-executive director function

~~(1) (in the FCA Handbook) FCA controlled function CF2 in Part 1 of the table of FCA controlled functions, described more fully in SUP~~

10A.6.12R and SUP 10A.6.13R.

~~(2) (in the PRA Handbook) PRA controlled function CF2 in the table of PRA controlled functions, described more fully in SUP 10B.6.3R to SUP 10B.6.5R.~~

partner function

~~(1) (in the FCA Handbook) FCA controlled function CF4 in Part 1 of the table of FCA controlled functions, described more fully in SUP 10A.6.23R to SUP 10A.6.27R.~~

~~(2) (in the PRA Handbook) PRA controlled function CF4 in the table of PRA controlled functions, described more fully in SUP 10B.6.12R to SUP 10B.6.14R.~~

platform service

a service which:

- (a) involves *arranging and safeguarding and administering investments*; and
- (b) distributes *retail investment products* which are offered to *retail clients* by more than one product provider;

but is neither:

- (c) solely paid for by *adviser charges*; nor
- (d) ancillary to the activity of *managing investments* for the *retail client*.

~~[Note: This definition applies only within the FCA Handbook]~~

PRA Handbook

~~the PRA's Handbook of rules and guidance.~~
means the PRA Rulebook.

reasonable assurance engagement

~~(A) In PRA Handbook:~~

~~a 'reasonable assurance engagement' as described in the Glossary of terms in the Auditing Practices Board Standards and Guidance for Auditors issued in 2010.~~

~~(B) In FCA Handbook:~~

a 'reasonable assurance engagement' as described in the Glossary of terms in Financial Reporting Council: Audit and Assurance: Standards and Guidance 2014.

<i>retail client</i>	<p>(A) in the <i>PRA Handbook</i>:</p> <p>(1) (other than in relation to the provision of basic advice on stakeholder products) in accordance with <i>COBS 3.4.1R</i>, a <i>client</i> who is neither a <i>professional client</i> or an <i>eligible counterparty</i>; or</p> <p>[Note: article 4(1)(12) of <i>MiFID</i>]</p> <p>(2) (in relation to the provision of <i>basic advice</i> on a <i>stakeholder product</i> and in accordance with article 52B of the <i>RAO</i>) any <i>person</i> who is advised by a <i>firm</i> on the merits of opening or buying a <i>stakeholder product</i> where the advice is given in the course of a business carried on by that <i>firm</i> and it is received by a <i>person</i> not acting in the course of a business carried on by him.</p> <p>(B) in the <i>FCA Handbook</i>:</p> <p>(1) (other than in relation to the provision of basic advice on stakeholder products or to <i>credit-related regulated activities</i>) in accordance with <i>COBS 3.4.1R</i>, a <i>client</i> who is neither a <i>professional client</i> or an <i>eligible counterparty</i>; or</p> <p>[Note: article 4(1)(12) of <i>MiFID</i>]</p> <p>...</p>
<i>significant management function</i>	<p>(in the <i>FCA Handbook</i>) <i>FCA controlled functions</i> CF29 in Parts 1 and 2 of the <i>table of FCA controlled functions</i>, described more fully in <i>SUP 10A.9.9R</i>.</p>
<i>small friendly society function</i>	<p>(1) (in the <i>FCA Handbook</i>) <i>FCA controlled function</i> CF6 in Part 1 and Part 2 of the <i>table of FCA controlled functions</i>, described more fully in <i>SUP 10A.6.31R</i> to <i>SUP 10A.6.32R</i>.</p> <p>(2) (in the <i>PRA Handbook</i>) <i>PRA controlled function</i> CF6 in the <i>table of PRA controlled functions</i>, described more fully in <i>SUP 10B.6.16R</i> to <i>SUP 10B.6.17R</i>.</p>
<i>sponsor</i>	<p>(A) In the <i>PRA Handbook</i>; (in <i>BIPRU</i>), in accordance with Article 4(42) of the <i>Banking Consolidation Directive</i> (Definitions) and in relation to a <i>securitisation</i> within the meaning of paragraph (2) of the definition of <i>securitisation</i>) an <i>undertaking</i> other than an <i>originator</i> that establishes and manages an <i>asset backed commercial paper programme</i> or other <i>securitisation</i> scheme that purchases <i>exposures</i> from third party entities.</p> <p>(B) In the <i>FCA Handbook</i>:</p>

(1) ...

Statement of Principle

~~(1) (in the *FCA Handbook*) one of the rules made by the FCA under section 64A(1)(a) of the Act (Rules of conduct) with respect to the conduct of *approved persons* of certain firms and set out in *APER* 2.1A.~~

~~(2) (in the *PRA Handbook*) one of the Statements of Principle issued by the PRA under section 64(1A) of the Act (Conduct: Statements and codes) with respect to the conduct of *approved persons* and set out in *APER* 2.1B. The provisions of *APER* 1.1B marked with a “P” in the margin also form part of the *Statements of Principle*.~~

systems and controls function

~~(1) (in the *FCA Handbook*) FCA controlled function CF28 in Part 1 and, for a *Solvency II firm* which is a third-country insurance or reinsurance undertaking or an *insurance special purpose vehicle*, Part 2 of the *table of FCA controlled functions*, described more fully in *SUP* 10A.8.1R and *SUP* 10A.8.1AR.~~

UCITS level 2 regulation

~~Commission delegated regulation (EU) ~~no~~ ~~...~~ ~~[to follow]~~ 2016/438 of 17 December 2015 supplementing Directive 2009/65/EC of the European Parliament and of the Council with regard to the obligations of depositaries.~~

~~(<http://eur-lex.europa.eu/legal-content/EN/TXT/?qid=1459519567928&uri=CELEX:32016R0438>)~~

Delete the following definitions.

accountable significant influence function

{deleted}

*AMA*This term can be found in a glossary search *here*.*BIPRU 125K firm*This term can be found in a glossary search *here*.*BIPRU 50K firm*This term can be found in a glossary search *here*.*BIPRU 730K firm*This term can be found in a glossary search *here*.*BIPRU investment firm*This term can be found in a glossary search *here*.*BIPRU limited*This term can be found in a glossary search *here*.

<i>activity firm</i>	
<i>BIPRU limited licence firm</i>	This term can be found in a glossary search <i>here</i> .
<i>CAD full scope firm</i>	This term can be found in a glossary search <i>here</i> .
<i>financial resource</i>	This term can be found in a glossary search <i>here</i> .
<i>financial resources requirement</i>	This term can be found in a glossary search <i>here</i> .
<i>financial return</i>	This term can be found in a glossary search <i>here</i> .
<i>full scope BIPRU investment firm</i>	This term can be found in a glossary search <i>here</i> .
<i>Lloyd's actuary function</i>	[deleted]
<i>non-core large exposures group waiver</i>	This term can be found in a glossary search <i>here</i> .
<i>ORCR</i>	This term can be found in a glossary search <i>here</i> .
<i>permitted business</i>	This term can be found in a glossary search <i>here</i> .
<i>PRA chief executive function</i>	(in the FCA Handbook) PRA controlled function CF3 in the table of PRA controlled functions.
<i>PRA director function</i>	(in the FCA Handbook) PRA controlled function CF1 in the table of PRA controlled functions.
<i>PRA governing function</i>	any of the PRA controlled functions CF1 to CF6 in the table of PRA controlled functions.
<i>PRA required functions</i>	any of the PRA controlled functions CF12 to CF12B in the table of PRA controlled functions.
<i>PRA's SCV requirements</i>	(in COMP) the PRA's requirements with respect to single customer view.
<i>qualifying undertaking</i>	This term can be found in a glossary search <i>here</i> .
<i>quarterly financial return</i>	This term can be found in a glossary search <i>here</i> .
<i>regulated consumer credit agreement</i>	This term can be found in a glossary search <i>here</i> .

<i>Regulated Information Service</i>	This term can be found in a glossary search <i>here</i> .
<i>required function</i>	this definition was revoked in 2013 by Instrument FCA 2013/19
<i>SCV implementation report</i>	(in COMP) a report in accordance with COMP 17.3.6R explaining how the relevant <i>firm</i> has satisfied the <i>PRA's SCV requirements</i>.
<i>SCV report</i>	(in COMP) a report in accordance with COMP 17.3.9R from the relevant <i>firm's</i> board of directors confirming that the <i>firm's SCV system</i> satisfies the <i>PRA's SCV requirements</i>.
<i>SCV system</i>	(in COMP) a <i>firm's</i> system for satisfying the <i>PRA's SCV requirements</i>.
<i>Single Customer View</i>	(in COMP) a single, consistent view of an <i>eligible claimant's</i> aggregate <i>protected deposits</i> with the relevant <i>firm</i> which contains the information required by COMP 17.2.4R, but excluding from that view those accounts where the <i>eligible claimant</i> is a beneficiary rather than the account holder or if the account is not active as defined in COMP 17.2.3R(2).
<i>sovereign large exposure waiver</i>	This term can be found in a glossary search <i>here</i> .
<i>third country BIPRU 730K firm</i>	This term can be found in a glossary search <i>here</i> .
<i>third country IFPRU 730K firm</i>	This term can be found in a glossary search <i>here</i> .
<i>UPRU</i>	This term can be found in a glossary search <i>here</i> .

Annex B

Amendments to Senior Management Arrangements, Systems and Controls sourcebook (SYSC)

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

13 **Operational risk: systems and controls for insurers**

...

13.8 **External events and other changes**

...

- 13.8.7 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:
 - ...
 - (c) communication arrangements for internal and external concerned parties (including the *FCA*, *clients* and the press);
 - ...
 - (3) processes to validate the integrity of information affected by the disruption; and
 - ...

...

18 **Guidance on Public Interest Disclosure Act: Whistleblowing**

...

18.4 **The whistleblowers' champion**

...

- 18.4.6 G The role of a *whistleblowers' champion*, before the introduction of his or her responsibilities under those provisions of SYSC 18 which are to come into force on ~~2 October~~ 7 September 2016, includes oversight of the *firm's* transition to its new arrangements for whistleblowing.

Annex C

Amendments to the Fees manual (FEES)

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

2.2 Late Payments and Recovery of Unpaid Fees

...

Recovery of Fees

- 2.2.3 G (1) ~~Paragraphs~~ Paragraph 23(8) of Schedule 1ZA of the *Act* permits the *FCA* to recover fees (including *fees* relating to *payment services*, the issuance of *electronic money*, fees relating to *CBTL firms*, *designated credit reference agencies* and, where relevant, *FOS levies* and *CFEB levies*).

...

...

3.2 Obligation to pay fees

...

- 3.2.7 R Table of application, notification, vetting and other fees payable to the FCA

Part 1: Application, notification and vetting fees		
(1) Fee payer	(2) Fee payable (£)	Due date
...
(zt) An applicant for registration in the <i>Financial Services Register</i> under article 8(1) of the <i>MCD Order</i>
(zv <u>zu</u>) Any <i>person</i> to which the Designated Credit Reference Agencies Fee applies under <i>FEES 3 Annex 10B</i> .	Designated Credit Reference Agencies Fee in accordance with <i>FEES 3 Annex 10B</i> .	Within 30 <i>days</i> of the date of the invoice.
...		

3 Annex 12R UKLA transaction fees

...

For the purposes of *FEES* 3 Annex 12R:

...

Category A2 includes:

...

(e) where an *issuer* is an ~~*open-ended investment fund*~~ *open-ended investment company*, applying for the approval of *listing particulars*;

Category A3 includes:

...

...

Annex D

Amendments to the Prudential sourcebook for Investment Firms (IFPRU)

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

TP 8 Countercyclical capital buffer: transitional

Application

- 8.1 R ~~IFPRU TP 8 applies to an IFPRU investment firm, unless it is an IFPRU limited licence firm or exempt IFPRU commodities firm. [expired]~~

Purpose

- 8.2 G ~~This section implements article 160(6) of CRD in relation to the countercyclical capital buffer. IFPRU TP 8 applies instead of IFPRU 10.3 and modifies IFPRU 10.4 and IFPRU 10.5 for the duration of the transitional. [expired]~~

Duration of transitional

- 8.3 R ~~IFPRU TP 8 applies until 31 December 2015. [expired]~~

Modified main requirement

- 8.4 R ~~A firm must calculate a countercyclical capital buffer of common equity tier 1 capital equal to its total risk exposure amount multiplied by the weighted average of the countercyclical buffer rates that apply in the jurisdictions where the firm's relevant credit exposures are located. [expired]~~
- 8.5 R ~~To calculate the weighted average referred to in IFPRU TP 8.4R, a firm must apply to each applicable countercyclical buffer rate its total own funds requirements for credit risk, specific risk, incremental default and migration risk that relates to the relevant credit exposures in the jurisdiction in question, divided by its total own funds requirements for credit risk that relates to all its relevant credit exposures. [expired]~~
- 8.6 R ~~For the purpose of IFPRU TP 8R, a firm must calculate its total own funds requirements for credit risk, specific risk, the incremental default and migration risk in line with Part Three, Titles II (Capital requirements for credit risk) and IV (Own funds requirements for market risk) of the EU CRR. [expired]~~

Modified calculation of countercyclical buffer rates

- 8.7 R ~~The *countercyclical buffer rate* for an exposure is the rate set by the *UK countercyclical buffer authority* for the jurisdiction in which that exposure is located. [expired]~~
- 8.8 R ~~If the *UK countercyclical buffer authority* does not set a rate for the jurisdiction in which an exposure is located, the *countercyclical buffer rate* for that exposure is zero. [expired]~~
- 8.9 R ~~If the rate for a jurisdiction is increased by the *UK countercyclical buffer authority*, that increase takes effect from the date specified by the *UK countercyclical buffer authority*. [expired]~~
- 8.10 R ~~If a rate is reduced, that reduction takes place immediately. [expired]~~

~~Modified combined buffer requirement~~

- 8.11 R ~~For the purposes of the following provisions, the expression “*combined buffer*” means the *countercyclical capital buffer*:~~
- ~~(1) *IFPRU 10.4* (Capital conservation measures); and~~
 - ~~(2) *IFPRU 10.5* (Capital conservation plan) [expired]~~

Annex E

Amendments to the Interim Prudential sourcebook for Investment Businesses (IPRU-INV)

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

Comes into force on 30 June 2016

13 Financial Resources Requirements for Personal Investment Firms

...

13.1A.1 R CAPITAL RESOURCES AND PROFESSIONAL INDEMNITY INSURANCE FOR AN EXEMPT CAD FIRM

...

13.1A.20 R The conditions referred to in *IPRU(INV)* 13.1A.19R are:

...

(2) the subordinated loan must have an original maturity of at least five years or, where there is no fixed term, the subordinated loan must be subject to not less than five years' notice of ~~repayment~~ repayment;

(3) the agreement governing the subordinated loan must only permit ~~repayment~~ repayment, prepayment or termination on:

...

...

...

13.14 CALCULATION OF ANNUAL INCOME FOR AN EXAMPT CAD FIRM AND A CATEGORY B FIRM WHOSE PERMISSION DOES NOT INCLUDE ESTABLISHING, OPERATING OR WINDING UP A PERSONAL PENSION SCHEME

...

13.14.4 R *Annual income* must include the following amounts due to the *firm* in respect of its *designated investment business*:

...

- (4) other related income (for example, ~~administration charges~~ administration charges or profit shares).

13.15 CALCULATION OF CAPITAL RESOURCES TO MEET THE CAPITAL RESOURCES REQUIREMENT FOR A CATEGORY B FIRM WHOSE PERMISSION DOES NOT INCLUDE ESTABLISHING, OPERATING OR WINDING UP A PERSONAL PENSION SCHEME

...

- 13.15.3 R A firm must calculate its capital resources in accordance with table 13.15.3(1).

Table 13.15.3(1)

This table forms part of *IPRU(INV)* 13.15.3R.

Capital Resources	
Companies	Sole traders: Partnerships
Paid-up <i>share</i> capital (excluding preference shares <u>preference shares</u> redeemable by shareholders <u>shareholders</u> within two years) <i>Eligible LLP members' capital</i> Share premium account Retained profits (see <i>IPRU(INV)</i> 13.15.4R) and interim net profits (Note 1) Revaluation reserves Subordinated loans (see <i>IPRU(INV)</i> 13.15.7R) <i>Debt capital</i>	Balances on proprietor's or partners' - capital accounts <u>capital accounts</u> - current accounts <u>current accounts</u> (see <i>IPRU(INV)</i> 13.15.4R) Revaluation reserves Subordinated loans (see <i>IPRU(INV)</i> 13.15.7R)
less - Intangible assets - <i>Material current year losses</i> - <i>Excess LLP members' drawings</i>	less - Intangible assets - <i>Material current year losses</i> - Excess of current year drawings over current year profits <u>profits</u>
...	

...

13.15.8 R The conditions referred to in *IPRU(INV)* 13.15.7R are:

...

(2) the agreement governing the subordinated loan must not permit payment of interest unless a *firm* has at least 120% of its capital resources requirement after that ~~payment~~ payment;

(3) ...

(a) maturity, or on expiration of the period of notice, if a *firm* has at least 120% of its capital resources requirement after that ~~payment~~ payment or termination; or

...

...

Annex F**Amendments to the Conduct of Business sourcebook (COBS)****Part 1: Comes into force on 3 July 2016**

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

12 Investment research

...

12.4 Investment recommendations

Application

...

12.4.1A EU [article 20 of the *Market Abuse Regulation*]

[**Note:** This section applies to a *person* that prepares or disseminates ~~research~~
investment recommendations.]

...

Part 2: Comes into force on 10 October 2016

4 Communicating with clients, including financial promotions

...

4.12 Restrictions on the promotion of non-mainstream pooled investments

...

4.12.6 R A *certified high net worth investor* is an individual who has signed, within the period of twelve months ending the day on which the communication is made, a statement in the following terms:

“ ...

- I held, throughout the financial year immediately preceding the date below, **net assets** to the value of **£250,000 or more**. Net assets for these purposes do **not** include:

- ~~• the property which is my primary residence or any money raised through a loan secured on that property;~~
- ~~• any rights of mine under a qualifying contract of insurance;~~
- ~~• any benefits (in the form of pensions or otherwise) which are payable on the termination of my service or on my death or retirement and to which I am (or my dependants are), or may be, entitled; or~~
- ~~• any withdrawals from my pension savings (except where the withdrawals are used directly for income in retirement).~~

(a) the property which is my primary residence or any money raised through a loan secured on that property; or

(b) any rights of mine under a qualifying contract of insurance; or

(c) any benefits (in the form of pensions or otherwise) which are payable on the termination of my service or on my death or retirement and to which I am (or my dependants are), or may be, entitled; or

(d) any withdrawals from my pension savings (except where the withdrawals are used directly for income in retirement).

...”

...

Annex G

Amendments to the Client Assets sourcebook (CASS)

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

12 Commodity Futures Trading Commission Part 30 exemption order

...

12.2 Treatment of client money

...

12.2.2 G The *FCA* understands that in complying with condition 2(g) of the *Part 30 exemption order*, a *firm* is representing that it will not:

- (1) make use of the opt-out arrangements in *CASS* ~~7.1.7CG~~ 7.10.9G to *CASS* ~~7.1.7GG~~ 7.10.13G; or
- (2) conduct business to which the *client money rules* do not apply because of the exemption for *CRD credit institutions* and *approved banks* in *CASS* ~~7.1.8R~~ 7.10.16R to *CASS* ~~7.1.11AR~~ 7.10.24R; or
- (3) enter into any arrangement relating to the transfer of full ownership of the *client's money* to the *firm* for the purposes set out in *CASS* ~~7.2.3R(4)~~ 7.11.1R(1);

...

Annex H

Amendments to the Market Conduct sourcebook (MAR)

Comes into force on 3 July 2016

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

1 The Code of Market Conduct

...

1.3 Insider dealing)

...

Annex I

Amendments to the Supervision manual (SUP)

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

Part 1: Comes into force on 1 June 2016

5.1 Application and purpose

...

- 5.1.3 G The purpose of this chapter is to give *guidance* on the ~~appropriate regulator's~~ FCA's use of the power in section 166 (Reports by skilled persons) and section 166A (Appointment of skilled person to collect and update information) of the *Act*. The purpose is also to make *rules* requiring a *firm* to give assistance to a *skilled person* and, where a *firm* is required to appoint a *skilled person*, to include certain provisions in its contract with a *skilled person*. These *rules* are designed to ensure that the ~~appropriate regulator~~ FCA received certain information from a *skilled person* and that a *skilled person* receives assistance from a *firm*.

5.2 The ~~appropriate regulator's~~ FCA's power

Who may be required to provide a report?

- 5.2.1 G Under section 166 of the *Act* (Reports by skilled persons), the ~~appropriate regulator~~ FCA may, by giving a written notice, itself appoint a *skilled person* to provide it with a report, or require any of the following *persons* to provide it with a report by a *skilled person*:
- (1) a *firm*; or
 - (2) any other *member* of the *firm's* group; or
 - (3) a *partnership* of which the *firm* is a *member*; or
 - (4) a *person* who has at any relevant time been a *person* falling within (1), (2) or (3);
- but only if the *person* is, or was at the relevant time, carrying on a business.
- 5.2.2 G Under section 166A of the *Act* (Appointment of skilled person to collect and update information), the ~~appropriate regulator~~ FCA may require a *firm* to appoint, or itself appoint, a *skilled person* to collect or update information.

5.3 Policy on the use of skilled persons

5.3.1 G The appointment of a *skilled person* to produce a report under section 166 of the *Act* (Reports by skilled persons is one of the ~~appropriate regulator's~~ FCA's regulatory tools. The tool may be used:

...

...

5.3.2 G The decision by the ~~appropriate regulator~~ FCA to require a report by a *skilled person* under section 166 of the ~~Act~~ Act (Reports by skilled persons) will normally be prompted by a specific requirement for information, analysis of information, assessment of a situation, expert advice or recommendations or by a decision to seek assurance in relation to a regulatory return. It may be part of the risk mitigation programme applicable to a *firm*, or the result of an event or development relating or relevant to a *firm*, prompted by a need for verification of information provided to the ~~appropriate regulator~~ FCA or part of the ~~appropriate regulator's~~ FCA's regular monitoring of a *firm*.

5.3.2A G The decision by the ~~appropriate regulator~~ FCA to require the collection or updating of information by a *skilled person* under section 166A of the *Act* (Appointment of skilled person to collect and update information) will be prompted where the ~~appropriate regulator~~ FCA considers there has been a breach of a requirement by a *firm* to collect, and keep up to date, information of a description specified in the ~~appropriate regulator's~~ FCA's *rules*.

5.3.3 G When making the decision to require a report by a *skilled person* under section 166 (Reports by skilled persons) or the collection or updating of information by a *skilled person* under section 166A (Appointment of skilled person to collect and update information) of the *Act*, the ~~appropriate regulator~~ FCA will have regard, on a case-by-case basis, to all relevant factors. Those are likely to include:

...

- (4) the objectives of the ~~appropriate regulator's~~ FCA's enquiries;
- (5) cost considerations; and
- (6) considerations relating to ~~appropriate regulator's~~ the FCA's resources.

SUP 5.3.4G to *SUP 5.3.10G* give further guidance on these listed factors.

Circumstances relating to the firm

5.3.4 G The ~~appropriate regulator~~ FCA will have regard to circumstances relating to the *firm*, for example:

...

- (3) quality of a *firm's* systems and records: whether the ~~appropriate regulator~~ FCA has confidence that the *firm* has the ability to provide the required information;
- (4) objectivity: whether the ~~appropriate regulator~~ FCA has confidence in the *firm's* willingness and ability to deliver an objective report;
- (5) conflicts of interest: whether the subject matter of the enquiries or the report involves actual or potential misconduct and it would be inappropriate for the ~~appropriate regulator~~ FCA to rely on the *firm* itself to enquire into the matter; and

...

Alternative tools available, including other statutory powers

5.3.5 G The ~~appropriate regulator~~ FCA will have regard to alternative tools that may be available, including for example:

- (1) obtaining what is required without using specific statutory powers (for example, by a visit ~~by staff~~ by staff of the ~~appropriate regulator~~ FCA or a request for information on an informal basis);

...

- (3) appointing investigators to carry out general investigations under section 167 of the *Act* (Appointment of investigator in general cases) (see *EG 3* for the ~~appropriate regulator's~~ FCA's policy on the use of this power); and
- (4) appointing investigators to carry out investigations in particular cases under section 168 of the *Act* (Appointment of investigator in specific cases) (see *EG 3* for the ~~appropriate regulator's~~ FCA's policy on the use of this power).

Legal and procedural considerations

5.3.6 G The ~~appropriate regulator~~ FCA will have regard to legal and procedural considerations including:

...

- (3) application of the *Handbook rules*: whether it is important that the relevant *rules* in the *Handbook* should apply, for example *SUP 5.5.1R* which obliges the *firm* to require and permit the *skilled person* to report specified matters to the ~~appropriate regulator~~ FCA.

The objectives of the ~~appropriate regulator's~~ FCA's enquiries

- 5.3.7 G The ~~appropriate regulator~~ FCA will have regard to the objectives of its enquiries, and the relative effectiveness of its available powers to achieve those objectives, For example:
- (1) historic information or evidence: if the objectives are limited to gathering historic information, or evidence for determining whether enforcement action may be appropriate, the ~~appropriate regulator's~~ FCA's information gathering and investigation powers under sections 165 (Power to require information), 167 (Appointment of investigator in general cases) and 168 (Appointment of investigator in specific cases) of the *Act* are likely to be more appropriate than the power in section 166 (Reports by skilled persons) or section 166A (Appointment of skilled person to collect and update information) of the *Act*; and
 - (2) expert analysis or recommendations: if the objectives include obtaining expert analysis or recommendations (or both) for diagnostic, monitoring, preventative or remedial purposes, the section 166 power (Reports by skilled persons) may be an appropriate power to use, instead of, or in conjunction with, the ~~appropriate regulator's~~ FCA's other available powers.

Cost considerations

- 5.3.8 G In accordance with its general policy the ~~appropriate regulator~~ FCA will have regard to the question of cost, which is particularly pertinent in relation to *skilled persons* because:
- (1) if the ~~appropriate regulator~~ FCA uses the section 166 power (Reports by skilled persons) or the section 166A power (Appointment of skilled person to collect and update information), either the *firm* will appoint, and will have to pay for the service of, the *skilled person*, or the ~~appropriate regulator~~ FCA will appoint, and will require under *FEES* 3.2.7R(zp) or *FEES* 3.2.7R(zq) that the relevant *firm* pays for the services of, the *skilled person*;
 - (2) if the ~~appropriate regulator~~ FCA uses its other information gathering and investigation powers, it will either authorise or appoint its own staff to undertake the information gathering or investigation (or both), or it will pay for the services of external competent persons to do so; in either case the costs will be recovered under the ~~appropriate regulator's~~ FCA's general fee scheme.
- 5.3.9 G In having regard to the cost implications of using the section 166 power (Reports by skilled persons) or the section 166A power (Appointment of skilled person to collect and update information) alternative options (such as visits) or other powers, the ~~appropriate regulator~~ FCA will take into

account relevant factors, including:

...

- (4) whether the *firm* appears to have breached requirements or standards under the *regulatory system* or otherwise put the interests of consumers at risk, and it is unable or unwilling to review and remedy the matters of concern, or the ~~appropriate regulator~~ FCA considers that it cannot rely on the *firm* to do so: and

...

Considerations relating to ~~appropriate regulator~~ FCA resources

- 5.3.10 G The ~~appropriate regulator~~ FCA will have regard to ~~appropriate regulator~~ FCA-related considerations including:
- (1) ~~appropriate regulator~~ FCA expertise: whether the ~~appropriate regulator~~ FCA has the necessary expertise; and
- (2) ~~appropriate regulator~~ FCA resources: whether the resources required to produce a report or to make enquiries or to appoint a *skilled person* itself are available within the ~~appropriate regulator~~ FCA, or whether the exercise will be the best use of the ~~appropriate regulator's~~ FCA's resources at the time.

5.4 Appointment and reporting process

Scope of report

- 5.4.1 G Where the ~~appropriate regulator~~ FCA requires a report by a *skilled person* under section 166 of the ~~Act~~ Act (Reports by skilled persons), the ~~appropriate regulator~~ FCA will send a notice in writing requiring the *person* in SUP 5.2.1G to provide a report by a *skilled person*, or notifying the *person* in SUP 5.2.1G in writing of the ~~appropriate regulator's~~ FCA's appointment of a *skilled person* to provide a report, on any matter if it is reasonably required in connection with the exercise of its functions conferred by or under the *Act*. The ~~appropriate regulator~~ FCA may require the report to be in whatever form it specifies in the notice.
- 5.4.1A G Where the ~~appropriate regulator~~ FCA requires the updating or collection of information by a *skilled person* under section 166A of the *Act* (Appointment of skilled person to collect and update information), the ~~appropriate regulator~~ FCA will send a notice in writing requiring the *firm* to appoint a *skilled person*, or notifying the *firm* of the ~~appropriate regulator's~~ FCA's appointment of a *skilled person*, to collect or update the relevant information.
- 5.4.2 G As part of the decision making process the ~~appropriate regulator~~ FCA will normally contact the *person* in SUP 5.2.1G or in SUP 5.2.2.G to discuss

its needs before finalising its decision to require a report or the updating or collection of information by a *skilled person*. This will provide an opportunity for discussion about the appointment, whether an alternative means of obtaining the information would be better, what the scope of a report should be, who should be appointed, who should appoint, and the likely cost.

- 5.4.3 G The ~~appropriate regulator~~ FCA will give written notification to the *person* in SUP 5.2.1G or SUP 5.2.2G of the purpose of the report or collection or updating of information, its scope, the timetable for completion and any other relevant matters. The ~~appropriate regulator~~ FCA will state the matters which the report is to contain, or the information which is to be collected or updated, as well as any requirements as to the report's format. For example, a report on controls may be required to address key risks, key controls and the control environment. The ~~appropriate regulator~~ FCA attaches importance to there being a timetable for each report and to the *skilled person*, with the cooperation of the *person* in SUP 5.2.1G or the *firm* in SUP 5.2.2G, as relevant, keeping to that timetable.
- 5.4.4 G The written notification in SUP 5.4.3G may be preceded or followed by a discussion of the ~~appropriate regulator's~~ FCA's requirements and the reasons for them. This may involve the ~~appropriate regulator~~ FCA, the *person* in SUP 5.2.1G or in SUP 5.2.2G and the person who has been, or is expected to be, appointed as the *skilled person*. The ~~appropriate regulator~~ FCA recognises that there will normally be value in holding discussions involving the *skilled person* at this stage. These discussions may include others if appropriate.
- 5.4.5 G The ~~appropriate regulator~~ FCA will wish to conduct the discussion with the *firm*, ~~its~~ the *skilled person* and any others within a timescale appropriate to the circumstances of the case.

Appointment process

...

- 5.4.7 G A *skilled person* must appear to the ~~appropriate regulator~~ FCA to have the skills necessary to make a report on the matter concerned or collect or update the relevant information. A *skilled person* may be an accountant, lawyer, compliance consultant, *actuary* or *person* with relevant business, technical or technological skills.
- 5.4.8 G When considering whether to nominate, approve or appoint a *skilled person* to make a report or collect or update information, the ~~appropriate regulator~~ FCA will have regard to the circumstances of the case, including whether the proposed *skilled person* appears to have:

...

- (2) the ability to complete the report or collect or update the information within the time expected by the ~~appropriate regulator~~

FCA;

...

- 5.4.9 G In appropriate circumstances, it may be cost effective for the ~~appropriate regulator~~ FCA to nominate or approve the appointment of, or appoint itself, a *skilled person* who has previously acted for, or advised, the *person* in SUP 5.2.1G or SUP 5.2.2G. For example, the ~~appropriate regulator~~ FCA may nominate or approve the appointment of, or appoint, the auditor of a *person* in SUP 5.2.1G or SUP 5.2.2G to prepare a report or collect or update the information taking into account, where relevant, the consideration set out in SUP 5.4.7G.

Reporting process

- 5.4.10 G Where the *skilled person* is appointed by the *person* in SUP 5.2.1G or SUP 5.2.2G, the ~~appropriate regulator~~ FCA will normally require the *skilled person* to be appointed to report to the ~~appropriate regulator~~ FCA through that *person*. In the normal course of events the ~~appropriate regulator~~ FCA expects that the *person* in SUP 5.2.1G or SUP 5.2.2G will be given the opportunity to provide written comments on the report or the collection of the relevant information prior to its submission to the ~~appropriate regulator~~ FCA.
- 5.4.10A G Where the *skilled person* is to be appointed by the ~~appropriate regulator~~ FCA itself, the *skilled person* will report directly to the ~~appropriate regulator~~ FCA.
- 5.4.11 G The ~~appropriate regulator~~ FCA may enter into a dialogue with the *skilled person*, and is ready to discuss matters relevant to the report or the collection or updating of the relevant information with ~~him~~ that person, during the preparation of the report or the collection or updating of the relevant information. Such discussions may involve or be through the *person* in SUP 5.2.1G or SUP 5.2.2G.
- 5.4.12 G The ~~appropriate regulator~~ FCA will normally specify a time limit within which it expects the *skilled person* to deliver the report or collect or update the relevant information. Where the *skilled person* is appointed by the *person* in SUP 5.2.1G or SUP 5.2.2G, the *skilled person* should, in complying with its contractual duty under SUP 5.5.1R, take reasonable steps to achieve delivery by that time. If the *skilled person* becomes aware that the report may not be delivered, or collection or updating of the relevant information may not be, on time, ~~he~~ the skilled person should inform the ~~appropriate regulator~~ FCA and the *person* in SUP 5.2.1G or SUP 5.2.2G as soon as possible. Where the *skilled person* is appointed by the ~~person~~ person in SUP 5.2.1G or SUP 5.2.2G, if the *skilled person* becomes aware that there may be difficulties delivering the report or collecting or updating the relevant information within cost estimates, ~~he~~ the skilled person will no doubt wish to advise the *firm*.
- 5.4.13 G The ~~appropriate regulator~~ FCA may meet with the *person* in SUP 5.2.1G

or SUP 5.2.2G and the *skilled person* together to discuss the final report. The ~~appropriate regulator~~ FCA may also wish to discuss the final report with the *skilled person* present but without the *person* in SUP 5.2.1G or SUP 5.2.2G.

5.5 Duties of firms

Contract with the skilled person

5.5.1

R ...

(1) ...

(a) to cooperate with the ~~appropriate regulator~~ FCA in the discharge of its functions under the *Act* in relation to the *firm*; and

(b) to communicate to the ~~appropriate regulator~~ FCA information on, or ~~his~~ the skilled person's opinion on, matters of which ~~he~~ the skilled person has, or had, become aware in ~~his~~ the capacity as of *skilled person* reporting on the *firm* in the following circumstances:

(i) the *skilled person* reasonably believes that, as regards the *firm* concerned (A) there is or has been, or may be or may have been, a contravention of any relevant *requirement* that applies to the *firm* concerned; and (B) that the contravention may be of material significance to the ~~appropriate regulator~~ FCA in determining whether to exercise, in relation to the *firm* concerned, any functions conferred on the ~~appropriate regulator~~ FCA by or under any provision of the *Act* other than Part VI - (Official Listing); or

(ii) the *skilled person* reasonably believes that the information on, or ~~his~~ the skilled person's opinion on, those matters may be of material significance to the ~~appropriate regulator~~ FCA in determining whether the *firm* concerned satisfies and will continue to satisfy the threshold conditions; or

...

(2) require the *skilled person* to prepare a report or collect or update information, as notified to the *firm* by the ~~appropriate regulator~~ FCA, within the time specified by the ~~appropriate regulator~~ FCA; and

(3) Waive any duty of confidentiality owed by the *skilled person* to the *firm* which might limit the provision of information or opinion by

that *skilled person* to the ~~appropriate regulator~~ FCA in accordance with (1) or (2). (See also *SUP 5.5.12G* and *SUP 5.6*)

- 5.5.2 G In complying with the contractual duty in *SUP 5.5.21R(1)* the ~~appropriate regulator~~ FCA expects that a *skilled person* appointed by a *firm* under section 166 (Reports by skilled persons) or section 166A (Appointment of skilled person to collect and update information) of the *Act* will cooperate with the ~~appropriate regulator~~ FCA by, amongst other things, providing information or documentation about the planning and progress of the report and its findings and conclusions, if requested to do so. A *firm* should therefore ensure that the contract it makes with the *skilled person* requires and permits the *skilled person* to provide the following to the ~~appropriate regulator~~ FCA if requested to do so:
- ...
- 5.5.3 G If the ~~appropriate regulator~~ FCA is considering asking for the information specified in *SUP 5.5.2G* it will take into consideration the cost of the *skilled person* complying with the request, and the benefit that the ~~appropriate regulator~~ FCA may derive from the information. For example, in most cases, the ~~appropriate regulator~~ FCA will not need to request a *skilled person* to give it source data, *documents* and working papers. However, the ~~appropriate regulator~~ FCA may do so when it reasonably believes that this information will be relevant to any investigation it may be conducting, or any action it may need to consider taking against the *firm*.
- 5.5.4 G In complying with the contractual duty in *SUP 5.5.1R*, the ~~appropriate regulator~~ FCA expects that, in the case of substantial or complex reports, the *skilled person* will give a periodic update on progress and issues to allow for a re-focusing of the report if necessary. The channel of communication would normally be directly between the *skilled person* and the ~~appropriate regulator~~ FCA. However, the ~~appropriate regulator~~ FCA would also expect *firms* normally to be informed about the passage of information, and the *skilled person* would usually be expected to keep the *firm* informed of any communication between the *skilled person* and the ~~appropriate regulator~~ FCA.
- 5.5.5 R A *firm* must ensure that the contract required by *SUP 5.5.1R*:
- (1) ...
 - (2) expressly:
 - (a) provides that the ~~appropriate regulator~~ FCA has a right to enforce the provisions included in the contract under *SUP 5.5.1R* and *SUP 5.5.5R(2)*;
 - (b) provides that, in proceedings brought by the ~~appropriate regulator~~ FCA for the enforcement of those provisions, the *skilled person* is not to have available by way of defence, set-

off or counterclaim any matter that is not relevant to those provisions;

- (c) (if the contract includes an arbitration agreement) provides that the ~~appropriate regulator~~ FCA is not, in exercising the right in (a), to be treated as a party to, or bound by, the arbitration agreement; and
- (d) provides that the provisions included in the contract under *SUP 5.5.1R* and *SUP 5.5.5R(2)* are irrevocable and may not be varied or rescinded without the ~~appropriate regulator's~~ FCA's consent; and

(3) ...

- 5.5.6 G The Contracts (Rights of Third Parties) Act 1999, or Scots common law, enables the ~~appropriate regulator~~ FCA to enforce the rights conferred on it under the contract required by *SUP 5.5.1R* against the *skilled person*.
- 5.5.7 G If the ~~appropriate regulator~~ FCA considers it appropriate, it may request the *firm* to give it a copy of the draft contract required by *SUP 5.5.1R* before it is made with the *skilled person*. The ~~appropriate regulator~~ FCA will inform the *firm* of any matters that it considers require further clarification or discussion before the contract is finalised.
- 5.5.8 G The ~~appropriate regulator~~ FCA expects the *firm*, including where applicable in complying with *Principle 11*, to give the ~~appropriate regulator~~ FCA information about the cost of the *skilled persons* report. This may include both an initial estimate of the cost as well as the cost of the completed report. This information is required to help inform the ~~appropriate regulator's~~ FCA's decision making in the choice of regulatory tools. Information about the number and cost of reports by *skilled persons* will be published by the ~~appropriate regulator~~ FCA.

...

5.6 Confidential information and privilege

- 5.6.1 G Within the legal constraints that apply, the ~~appropriate regulator~~ FCA may pass on to a *skilled person* any information which it considers relevant to the *skilled person's* function. A *skilled person*, being a primary recipient under section 348 of the *Act* (Restrictions on disclosure of confidential information by Authority etc.), is bound by the confidentiality provisions in Part XXIII of the *Act* (Public record, disclosure of information and cooperation) as regards confidential information ~~he~~ receives received from the ~~appropriate regulator~~ FCA or directly from a *firm* or other *person*. A *skilled person* may not pass on confidential information without lawful authority, for example, where an exception applies under the Financial Services and Markets Act 2000 (Disclosure of Confidential Information) Regulations 2001 (SI 2001/2188) or with the consent of the *person* from whom that information was received and (if

different) to whom the information relates. The ~~appropriate regulator~~ FCA will indicate to a *skilled person* if there is any matter which cannot be discussed with the *person* in SUP 5.2.1G.

...

5.6.3 G ...

...

(3) the ~~appropriate regulator~~ FCA has approved the making of the request or the imposition of the requirement before it is made or imposed.

...

12 Appointed representatives

...

12.2 Introduction

...

Can an appointed representative have more than one principal?

12.2.4 G The *Act* and the ~~Appointed Representative Regulations~~ Appointed Representatives Regulations do not prevent an *appointed representative* from acting for more than one *principal*. However, SUP 12.5.6AR (Prohibition of multiple principals for certain activities) prevents this for particular kinds of business.

...

12.5 Contracts: required terms

12.5.1 G The ~~Appointed Representative Regulations~~ Appointed Representatives Regulations include, among other things, the prescribed requirements applying to contracts between *firms* and *appointed representatives* for the purposes of section 39(1)(a)(ii) of the *Act*.

12.5.2 G (1) ...

(2) Under the ~~Appointed Representative Regulations~~ Appointed Representatives Regulations, an *appointed representative* is treated as representing other counterparties if, broadly, it:

...

- (3) If the scope of appointment covers, in relation to a *contract of insurance, dealing in investments as agent, arranging, assisting in the administration and performance of a contract of insurance or advising on investments*, regulation 3(4) of the *Appointed Representatives Regulations* makes it a requirement that the contract between the *firm* and the *appointed representative* contains a provision providing that the *appointed representative* is not permitted or required to carry on such business unless ~~he is~~ included in the *Financial Services Register* as carrying on *insurance mediation activities*.

12.5.2A G If a *UK MiFID investment firm* or a *third country investment firm* appoints an *appointed representative* that is a *tied agent*, regulation 3(6) of the ~~*Appointed Representative Regulations*~~ *Appointed Representatives Regulations* requires the contract between the *firm* and the *appointed representative* to contain a provision that the representative is only permitted to provide the services and carry on the activities referred to in Article 4(1)(25) of *MiFID* while ~~he is~~ entered on the Register.

12.5.3 G (Subject to *SUP 12.5.3AG*), a *firm* should satisfy itself that the terms of the contract with its *appointed representative* (including an *introducer appointed representative*):

...

- (3) require the *appointed representative* to give the *firm's* auditors the same rights as are provided by section 341 of the *Act*, ~~as described in *SUP 3.6.6G*~~.

...

12.5.9 G Under section 39A(6)(a) of the *Act* a *UK MiFID investment firm* must ensure that the contract it uses to appoint an *FCA registered tied agent* complies with the requirements that would apply under the ~~*Appointed Representative Regulations*~~ *Appointed Representatives Regulations* if it were appointing an *appointed representative*.

...

16 Reporting requirements

...

16.10 Verification of standing data

...

16.10.3 G In view of the importance attached to *standing data*, and the consequences which may result if it is wrong, this section provides the framework for a *firm* to check and correct it.

Requirement to check the accuracy of standing data and to report changes to the appropriate regulator FCA

...

16.12 Integrated Regulatory Reporting

...

16.12.28A R ...

Description of data item	Data item (note 1)	Frequency		Submission deadline
		Annual regulated business revenue up to and including £5 million	Annual regulated business revenue over £5 million	
...				
Note 2	This item only applies to <i>firms</i> that may be subject to an FSA <u>FCA</u> requirement to hold professional indemnity insurance and are not <i>exempt CAD firms</i> .			
...				

...

16.12.29C R ...

Description of data item	Data item (note 1)	Frequency		Submission deadline
		Annual revenue from <i>credit-regulated activities</i> up to and including £5 million (note 2)	Annual revenue from <i>credit-regulated activities</i> over £5 million	
...				
Note 10	This <i>data item</i> applies to a <i>firm</i> that carries on <i>credit-broking</i> where a fee or charge is or may become payable			

by a *customer* in connection with the *credit broking* activities. *Firms* are also reminded of the requirement to check the accuracy of *standing data* (including trading name(s) of the *firm* and website address) and to report changes to the ~~appropriate regulator~~ FCA under SUP 16.10.4R and the requirement to give the ~~appropriate regulator~~ FCA reasonable advance notice of a change in any business name under which the *firm* carries on a *regulated activity* or *ancillary activity* either from an establishment in the *United Kingdom* or with or for clients in the *United Kingdom* under SUP 15.5.1R.

...

...

Financial conglomerates

16.12.32 R (1) A *firm* that is a member of a *financial conglomerate* must submit financial reports to the ~~appropriate regulator~~ FCA in accordance with the table in SUP 16.12.33R if:

...

...

16.12.33 R Financial reports from a member of a financial conglomerate (see SUP 16.12.32R)

Content of report	Form (note 1)	Frequency	Due Date
...			
Note 2	In respect of <i>FCA-authorized persons</i> , if Part 1 of <i>GENPRU 3 Annex 1</i> (method 1), or Part 2 of <i>GENPRU 3 Annex 1</i> (method 2), or Part 3 of <i>GENPRU 3 Annex 1</i> (method 3) applies, there is no specific form. Adequate information must be provided, specifying the calculation method used and each <i>financial conglomerate</i> for which the appropriate regulator <u>FCA</u> is the <i>co-ordinator</i> must discuss with the appropriate regulator <u>the FCA</u> the form which this reporting will take and the extent to which verification by an auditor will be required.		
	...		
Note 3	Rather than specifying a standard format for each <i>financial conglomerate</i> to use, each <i>financial conglomerate</i> for which the appropriate regulator <u>the FCA</u> is the <i>co-ordinator</i> must discuss with the appropriate regulator <u>the FCA</u> the form of the information to be reported. This should mean that usual		

	<p>information management systems of the <i>financial conglomerate</i> can be used to the extent possible to generate and analyse the information required.</p> <p>When reviewing the <i>risk concentration</i> levels, the appropriate regulator <u>the FCA</u> will in particular monitor the possible risk of contagion in the <i>financial conglomerate</i>, the risk of a conflict of interests, the risk of circumvention of sectoral <u>sectoral rules</u>, and the level or volume of risks.</p>
Note 4	<p>...</p> <p>Rather than specifying a standard format for each <i>financial conglomerate</i> to use, each <i>financial conglomerate</i> for which the appropriate regulator <u>the FCA</u> is the <i>co-ordinator</i> must discuss with the appropriate regulator <u>the FCA</u> the form of the information to be reported. This should mean that <u>the</u> usual information management systems of the <i>financial conglomerate</i> can be used to the extent possible to generate and analyse the information required.</p> <p>When reviewing the <i>intra-group transactions</i>, the appropriate regulator <u>the FCA</u> will in particular monitor the possible risk of contagion in the <i>financial conglomerate</i>, the risk of a conflict of interest, the risk of circumvention of <i>sectoral rules</i>, and the level or volume of risks.</p>
Note 5	<p>The frequency and due date will be as follows:</p> <p>(1) <i>banking and investment services conglomerate</i>: frequency is yearly with due date 45 <i>business days</i> after period end; <u>and</u></p> <p>...</p>
...	

...

The form FSA060 Bidding in emissions auctions return at SUP 16 Annex 32R is renamed REP060 Bidding in emissions auctions return.

16 Annex Bidding in emissions auctions return
32R

...

16 Annex Data Items relating to Consumer Credit activities
38AR

Form CCR003 Consumer Credit data: Lenders

	A	B	C	D	E	F	G
Activities	Total Value in <u>of</u> Arrears (000s)			
...							
...							

Part 2: Comes into force on 31 October 2016

The form at SUP 16 Annex 41R is replaced in its entirety with the new REP010 form *List of Overseas Regulators and Organogram – SUP 16 Annex 41*

16 Annex 41R Compliance Reporting Return

REP010 List of Overseas Regulators and Organogram

Group Reporting

- 1 Does the information reported cover more than one entity?
- 2 If yes, list the firm reference numbers (FRNs) of all additional firms included in this report.

A

FRN

List of Overseas Regulators

Nil Return

- 3 Do you wish to declare a nil return?

--

Organogram

Nil Return

- 4 Do you wish to declare a nil return?

--

[upload functionality]

Annex J

Amendments to the Compensation sourcebook (COMP)

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

1.3 Claimants

- 1.3.1 G The *FSCS* also provides information to claimants and potential claimants about the way the *FSCS* works and the procedures that need to be followed when making a *claim*. The *FSCS* can be contacted at ~~7th Floor, Lloyds Chambers, 1 Portoken Street, London E1 8BN~~ Financial Services Compensation Scheme, 10th Floor, Beaufort House, 15 St Botolph Street, London EC3A 7QU, or by telephone or fax (Tel: ~~020 7892 7300~~ 0800 678 1100 or Fax: ~~020 7892 7304~~ 020 7741 4100), ~~or by e-mail (enquiries@fscs.org.uk)~~.

...

4.2 Who is eligible to benefit from the protection provided by the FSCS?

...

- 4.2.2 R Persons not eligible to claim unless COMP 4.3 applies (see COMP 4.2.1R)

This table belongs to COMP 4.2.1R

...			
(7)	<i>Directors of the relevant person in default</i> or, in respect of a <i>claim</i> against a <i>successor in default</i> , directors of any <i>successor</i> or directors of the <i>relevant person</i> . However, this exclusion does not apply if:		
	(a)	(i)	...
		(ii)	in respect of a <i>claim</i> against a <i>successor in default</i> , the <i>relevant person</i> or a <i>successor</i> , to whichever the directorship relates, is a mutual association <u>mutual association</u> which is not a <i>large mutual association</i> and the <i>directors</i> do not receive a salary or other remuneration for services performed by them for the <i>relevant person</i> or a <i>successor</i> , as applicable; or
	...		
...			

...

Annex K

Amendments to the Collective Investment Schemes sourcebook (COLL)

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

TP 1 Transitional Provisions

TP 1.1

(1)	(2) Material to which the transitional provision applies	(3)	(4) Transitional provision	(5) Transitional provision: dates in force	(6) Handbook provision: coming into force
...					
14	Amendments to <i>COLL</i> made by the Collective Investment Schemes Sourcebook (UCITS Eligible Assets Directive and Other Amendments) Instrument 2008	R	(1) The <i>authorised fund manager</i> of an <i>authorised fund</i> may elect for early compliance with the instrument, in which case <i>COLL</i> applies as if it had been amended by the instrument. <u>[expired]</u>	Expired	[deleted]
			(2) An election is irrevocable and does not take effect until the <i>authorised fund manager</i> notifies the <i>depository</i> and the <i>FCA</i> in writing of the date it takes effect. <u>[expired]</u>	Expired	
			(3) The <i>authorised fund manager</i> must make a record of the election and	From 6 March 2008 until 6 years from the date the relevant	

			retain it for a period of six years from the date it takes effect. [expired]	election took effect.	
...					
29	Amendments to each and every <i>rule</i> in <i>COLL</i> made by the Collective Investment Schemes (Accounting Amendments) (No 2) Instrument 2015	R	Amendments to the <i>rules</i> in <i>COLL</i> referred to in column (2) made by the instrument referred to in that column do not apply to any person where the current <i>annual accounting period</i> of an <i>authorised fund</i> commenced before 1 January 2015. [expired]	1 March 2015 to 31 December 2015	1 March 2015
30	Amendments to each and every <i>rule</i> in <i>COLL</i> made by the Collective Investment Schemes (Accounting Amendments) (No 2) Instrument 2015	R	(1) Where the <i>authorised fund manager</i> of an <i>authorised fund</i> , <i>ICVC</i> or any other <i>director</i> of an <i>ICVC</i> , elects for early compliance with the instrument referred to in column (2) in relation to that <i>scheme</i> , <i>COLL</i> applies as it if had been amended by that instrument and TP 29 ceases to apply. [expired]	1 March 2015 to 31 December 2015	1 March 2015
			(2) An election is irrevocable and does not take	1 March 2015 to 31 December	1 March 2015

			effect until the <i>authorised fund manager</i> notifies the <i>depository</i> and the <i>FCA</i> of the date it takes effect. <u>[expired]</u>	2015	
			...		
...					

Annex L

Amendments to the Disclosure Rules and Transparency Rules sourcebook (DTR)

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

Part 1: Comes into force on 1 June 2016

TP 1 Disclosure and transparency rules

Transitional Provisions

(1)	(2) Material to which the Transitional provision <u>Provision</u> applies	(3)	(4) Transitional provision <u>Provision</u>	(5) Transitional Provision: dates in force	(6) Handbook Provision: coming into force
...					
2	DTR 4.2	R	(1) This provision applies to an issuer of debt securities which were admitted to the official list before 1 January 2005 pursuant to Chapter 23 of the Listing Rules	From 20 January 2007 till ten years following 1 January 2005	
			(2) An issuer need not disclose its half-yearly financial report in accordance with DTR 4.2 .		
			(3) This provision has effect for 10 years following 1 January 2005 [expired]		
			[Note : article 30.4 TD]		
...					

Part 2: Comes into force on 3 July 2016

2.3 Publication of information on internet site

[**Note:** article 17(1) of the *Market Abuse Regulation*, in relation to the period for which an *issuer* must maintain on its website *inside information* which it is required to disclose publicly, article 17(9) of the *Market Abuse Regulation*, in relation to the maintenance of such information by *issuers* with *financial instruments ~~admitted to trading~~ admitted to trading* on a ~~*SME Growth Market*~~ an *SME growth market*.]

...

Annex M

Amendments to the Enforcement Guide (EG)

In this Annex, the provisions and subheadings of EG listed in column (1) are renumbered and revised as set out in Column (2) of the following tables. Cross-headings throughout EG are amended accordingly.

Handbook provision numbering per instrument 2015/33	New heading and numbering
19. Non-FSMA powers	19. Non-FSMA powers
...	
The Mortgage Credit Directive Order 2015	19.30 The Mortgage Credit Directive Order
19.170	19.30.1
19.171	19.30.2
19.172	19.30.3
19.173	19.30.4
19.174	19.30.5
Information gathering and investigation powers	Information gathering and investigation powers
19.175	19.30.6
19.176	19.30.7
Decision making under the MCDO	Decision making under the MCDO
19.177	19.30.8
19.178	19.30.9
19.179	19.30.10
Public censures, imposition of penalties and the impositions of suspensions under the MCDO	Public censures, imposition of penalties and the impositions of suspensions under the MCDO
19.180	19.30.11

19.181	19.30.12
19.182	19.30.13
19.183	19.30.14

Handbook provision numbering per instrument 2016/17	New heading and numbering
--	----------------------------------

The Small and Medium Sized Business (Credit Information Regulations)	19.31 The Small and Medium Sized Business (Credit Information) Regulations
19.29.29	19.31.1
19.29.30	19.31.2
Information gathering and investigation powers	Information gathering and investigation powers
19.29.21	19.31.3
19.29.32	19.31.4
Decision making under the Small and Medium Sized Business (Credit Information) Regulations	Decision making under the Small and Medium Sized Business (Credit Information) Regulations
19.29.33	19.31.5
19.29.34	19.31.6
Public censures, imposition of penalties and the impositions of restrictions under the Small and Medium Sized Business (Credit Information) Regulations	Public censures, imposition of penalties and the impositions of restrictions under the Small and Medium Sized Business (Credit Information) Regulations
19.29.35	19.31.7
19.29.36	19.31.8
19.29.37	19.31.9
19.29.38	19.31.10
...	

Handbook provision numbering per instrument 2016/9	Renumbered in accordance with FSA 2008/68
EG 10.1.1	EG 10.1.2
EG 10.1.2	EG 10.1.3
EG 10.1.3	EG 10.1.1