

**EXITING THE EUROPEAN UNION: HIGH LEVEL STANDARDS
(AMENDMENTS) INSTRUMENT 2019**

Powers exercised

- A. The Financial Conduct Authority (“the FCA”) makes this instrument in the exercise of:
- (1) regulation 3 of the Financial Regulators’ Powers (Technical Standards etc.) (Amendment etc.) (EU Exit) Regulations 2018; and
 - (2) section 139A (Power of the FCA to give guidance) of the Financial Services and Markets Act 2000.

Commencement

- B. Part 2 of Annex G comes into force on 1 April 2019 or on exit day as defined in the European Union (Withdrawal) Act 2018, whichever date is the later.
- C. The remainder of this instrument comes into force on exit day as defined in the European Union (Withdrawal) Act 2018.

Amendments to the Handbook

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

| (1) | (2) |
|--|---------|
| Principles for Businesses (PRIN) | Annex A |
| Senior Management Arrangements, Systems and Controls sourcebook (SYSC) | Annex B |
| Threshold Conditions (COND) | Annex C |
| Financial Stability and Market Confidence sourcebook (FINMAR) | Annex D |
| Training and Competence sourcebook (TC) | Annex E |
| General Provisions (GEN) | Annex F |
| Fees manual (FEES) | Annex G |

Notes

- E. In this instrument, notes shown as “**Note:**” are intended for the convenience of the reader but do not form part of the legislative text.

Citation

- F. This instrument may be cited as the Exiting the European Union: High Level Standards (Amendments) Instrument 2019.

By order of the Board
28 March 2019

Annex A

Principles for Businesses (PRIN)

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

1 Introduction

1.1 Application and purpose

Application

1.1.1 G The *Principles* (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*~~, ~~*UCITS qualifiers*~~ ~~*AIFM qualifiers*~~, and *Annex II benchmark administrators*. *PRIN 3* (Rules about application) specifies to whom, to what and where the *Principles* apply.

Purpose

1.1.2 G 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 *FCA*'s rule-making powers as set out in the *Act* and reflect the *statutory objectives*.

...

1.1.9 G 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 *FCA*'s other *rules* and *guidance* or *EU onshored regulations* should not be viewed as exhausting the implications of the *Principles* themselves.

...

1 Annex 1R Non-designated investment business - clients that a firm may treat as an eligible counterparty for the purposes of PRIN

| | | |
|-----|--|---|
| 1.1 | A <i>firm</i> may categorise the following types of <i>client</i> as an <i>eligible counterparty</i> for the purposes of <i>PRIN</i> : | |
| | ... | |
| | (8) | a <i>recognised investment exchange</i> , <i>regulated market</i> <u><i>EU regulated market</i></u> or <i>clearing house</i> . |

| | | | | |
|-----|--|--|--|--|
| ... | | | | |
|-----|--|--|--|--|

...

3 Rules about application

3.1 Who?

3.1.1 R ~~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 *CRD credit institution* without a *top-up permission*, *Principle 4* does not apply;~~
- (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* and *AIFM qualifier*, only *Principles 1, 2, 3, 7* and *9* apply, and only with respect to the activities in *PRIN 3.2.2R* (*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 G ~~*COBS 1 Annex 1* contains *guidance* that is relevant to the reservation of responsibility to a *Home State regulator* referred to in *PRIN 3.1.1R(1)*.
[deleted]~~

...

3.1.4 G ~~*PRIN 3.1.1R(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*. [deleted]~~

3.1.5 G ~~*PRIN 3.1.1R(4)* reflects section 266 of the *Act* (*Disapplication of rules*).
[deleted]~~

3.1.6 R A *firm* will not be subject to a *Principle* to the extent that it would be contrary to the *UK's obligations under requirements of an EU instrument measure passed or made before exit day, to the extent that those requirements continue to have effect after exit day under the EUWA.*

...

- 3.1.8 G The *Principles* will not apply to the extent that they purport to impose an obligation which is inconsistent with requirements which implemented the *Payment Services Directive*, the *Consumer Credit 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~~ derived from the *Payment Services Directive* and the *Electronic Money Directive* and applicable to credit institutions (see Parts 6 and 7 of the *Payment Services Regulations* and Part 5 of the *Electronic Money Regulations*) or ~~applied by~~ derived from the *Consumer Credit Directive* (see, for example, the information requirements in the *Consumer Credit (Disclosure of Information) Regulations 2010 (SI 2010/1013)*).

...

3.3 Where?

3.3.1 R 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> or <i>EU regulation</i> <u><i>onshored regulation</i></u> 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> or <i>EU regulation</i> <u><i>onshored regulation</i></u> . |
| ... | |
| <i>Principles 6, 7, 8, 9 and 10</i> | <i>Principle 8</i> , 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> or <i>EU regulation</i> <u><i>onshored regulation</i></u> 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> or <i>EU regulation</i> <u><i>onshored regulation</i></u> . |
| ... | |

...

4 Principles: MiFID business

4.1 Principles: MiFID business

- 4.1.1 G *PRIN 3.1.6R* gives effect to the provisions of the *EUWA* concerning the continuing application of the principle of the supremacy of *EU* law. It ensures that the *Principles* do not impose obligations upon *firms* which are inconsistent with an a relevant *EU* instrument measure. If a *Principle* does purport to impose such an obligation *PRIN 3.1.6R* disapplies that *Principle* but only to the extent necessary to ensure ~~compliance with European law~~ compatibility with the relevant *EU* measure. This disapplication has practical effect only for certain matters covered by *MiFID*, which are explained in this section.

Where?

- 4.1.2 G Under *PRIN 3.3.1R*, the territorial application of a number of *Principles* to a *UK MiFID investment firm* is extended to the extent that another applicable rule or ~~*EU regulation*~~ *onshored regulation* which is relevant to an activity has a wider territorial scope. Under ~~*PRIN 3.1.1R*~~, 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).

...

What?

- 4.1.4 G (1) Certain requirements ~~under~~ derived from *MiFID* are disapplied for:
- ...
- (2) Under *PRIN 3.1.6R*, these disapplications may affect *Principles* 1, 2, 6 and 9. *PRIN 3.1.6R* applies only to the extent that the application of a *Principle* would be contrary to the *UK's* obligations under a *Single Market Directive* relevant *EU* measure 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~~ derived from *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*.

...

Annex B

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

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

~~[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.esma.europa.eu/sites/default/files/library/2015/11/esma_2012_122_en.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/sites/default/files/library/2015/11/2012_387_en.pdf.]~~

1 Application and purpose

1.1A Application

...

1.1A.2 G The provisions in *SYSC* should be read in conjunction with *GEN* 2.2.23R to *GEN* 2.2.25G. In particular:

- (1) [deleted]
- (2) Provisions made by the *FCA*, and by the *PRA* in the *PRA* Rulebook, 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.
- (3) For *Solvency II firms*, the *FCA* considers that the requirements and guidance in Chapters 2, 3, 12 to 18, 19F.2, 21, 22 and 28 of *SYSC* are not inconsistent with:
 - (a) the parts of the *PRA* Rulebook ~~implementing~~ which implemented the governance provisions in the *Solvency II Directive* (articles 40 to 49);
 - (b) the *Solvency II Regulation* ~~(EU) 2015/35 of 10 October 2014 (articles 258 to 275)~~, or
 - (c) *EIOPA* guidelines on systems of governance dated 28 January 2015 (EIOPA-BoS-14/253 EN).

In most cases, there is no direct overlap with those provisions because the *SYSC* requirements are directed at *FCA* conduct requirements not expressly covered by or under provisions which implemented or supplemented the *Solvency II Directive*. Where there is a direct overlap

with SYSC rules and guidance, the FCA will take requirements and guidelines which implemented or supplemented the Solvency II Directive derived requirements and guidelines into account and will ~~interpret the SYSC rules and guidance in a way that avoids inconsistency.~~ The definition of *Solvency II firm* includes (for SYSC) *large non-directive insurers* because the PRA have applied certain Solvency II derived requirements to those firms. Where SYSC refers to the PRA Rulebook applicable to *Solvency II firms*, *large non-directive insurers* should read those references as if they were references to the corresponding part of the PRA Rulebook applicable to *large non-directive insurers*.

...

1 Annex Detailed application of SYSC 1

1

| | | | |
|---------------|--|--|---|
| Part 1 | Application of SYSC 2 and SYSC 3 to an insurer, a UK ISPV, a managing agent and the Society | | |
| | Who? | | |
| 1.1 | R | SYSC 2 and SYSC 3 only apply to an <i>insurer</i> , a <i>UK ISPV</i> , a <i>managing agent</i> and the <i>Society</i> except that: | |
| | | (1) | for an incoming EEA firm or an incoming Treaty firm: |
| | | (a) | SYSC 2.1.1R and SYSC 2.1.2G do not apply; |
| | | (b) | SYSC 2.1.3R to SYSC 2.2.3G apply, but only in relation to allocation of the function in SYSC 2.1.3R(2) and 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; and |
| | | (c) | SYSC 3 applies, but 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; [deleted] |
| | | (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, SYSC 2 and SYSC 3 do not apply; [deleted] |
| | | (3) | 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, SYSC 3.2.6AR to SYSC 3.2.6JG do not apply; [deleted] |
| | | (4) | ... |
| | | (5) | SYSC 2 and SYSC 3 do not apply to an incoming ECA provider acting as such. [deleted] |

| | | | |
|------|-------|--|---|
| | | ... | ... |
| ... | | | |
| 1.2 | G | (1) | Question 12 in SYSC 2.1.6G contains guidance on SYSC 1 Annex 1.1.1R(1)(b) and SYSC 1 Annex 1.1.1R(1)(c). |
| | | (2) | SYSC 1 Annex 1.1.8R further restricts the territorial application of SYSC 2 and SYSC 3 for an <i>incoming EEA firm</i> or an <i>incoming Treaty firm</i>. |
| | | (3) | SYSC 1 Annex 1.1.1R(3) puts an <i>incoming EEA firm</i> on an equal footing with unauthorised <i>overseas persons</i> who utilise the <i>overseas persons</i> exclusions in article 72 of the <i>Regulated Activities Order</i>. |
| | | (4) | Further guidance on which matters are reserved to a <i>firm's Home State regulator</i> can be found at SUP 13A Annex 2. [deleted] |
| | What? | | |
| ... | | | |
| 1.4 | R | SYSC 3.2.6AR to SYSC 3.2.6JG do not apply: | |
| | | (1) | ... |
| | | (2) | in relation to the following <i>regulated activities</i> : |
| | | | ... |
| | | (c) | <i>long-term insurance business</i> which is outside the <u>scope of the Solvency II Directive</u> (unless it is otherwise one of the <i>regulated activities</i> specified in this rule); |
| ... | | | |
| 1.10 | R | SYSC 3, except SYSC 3.2.6AR to SYSC 3.2.6JG, also applies in a <i>prudential context</i> 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. | |
| ... | | | |

...

| | | | |
|---------------|--|---|--|
| Part 2 | Application of the common platform requirements | | |
| | Who? | | |
| ... | | | |
| 2.2 | R | For an <i>incoming EEA firm</i> or an <i>incoming Treaty firm</i> : | |

| | | | |
|------|---|-----|---|
| | | (1) | the <i>rule</i> on responsibility of senior personnel (SYSC 4.3) does not apply; |
| | | (2) | the <i>common platform requirements</i> apply only in so far as responsibility for the matter in question is not reserved by an <i>EU</i> instrument to the <i>firm's Home State regulator</i> ; |
| | | (3) | for an <i>incoming EEA firm</i> which has <i>permission</i> only for <i>cross-border services</i> and which does not carry on <i>regulated activities</i> in the <i>United Kingdom</i> , the <i>common platform requirements</i> do not apply; |
| | | (4) | for an <i>incoming Treaty firm</i> which has <i>permission</i> only for <i>cross-border services</i> and which does not carry on <i>regulated activities</i> in the <i>United Kingdom</i> , the <i>common platform requirements on financial crime</i> do not apply. <u>[deleted]</u> |
| ... | | | |
| 2.6 | R | | The <i>common platform requirements</i> do not apply to an <i>incoming ECA provider</i> acting as such. <u>[deleted]</u> |
| ... | | | |
| 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: |
| | | (1) | SYSC 6.1.1R 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 |
| | | (2) | SYSC 6.3 (Financial crime). <u>[deleted]</u> |
| ... | | | |
| 2.6F | R | | The <i>common platform requirements</i> do not apply to an <i>incoming EEA AIFM branch</i> in respect of its management of a <i>UK AIF</i> , except for: |
| | | (1) | those <i>common platform requirements</i> which are <i>AIFMD host state requirements</i> ; |
| | | (2) | SYSC 6.1.1R 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 and <i>employees</i>) might be used to further <i>financial crime</i> ; and |
| | | (3) | SYSC 6.3. <u>[deleted]</u> |

| | | | |
|------|---|--|---|
| ... | | | |
| 2.7 | G | EEA MiFID investment firms are reminded in particular that they must comply with the common platform record keeping requirements in relation to a branch in the United Kingdom. [deleted] | |
| 2.7A | G | EEA UCITS management companies are also reminded that they must comply with: | |
| | | (1) | the common platform requirements indicated in Column A+ (Application to a management company) in Table A in Part 3 of this Annex; |
| | | (2) | the common platform record keeping requirements; and |
| | | (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. [deleted] | |
| | | [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? | |
| ... | | | |
| 2.8A | R | (1) | Subject to (2), (3) and (5), in SYSC 1 Annex 1 2.8R, articles 1(2), 21 to 25, 30 to 32 and 72 of the <i>MiFID Org Regulation</i> (including any relevant definitions in <i>MiFID the Glossary</i> , <i>MiFIR</i> and the <i>MiFID Org Regulation</i>) apply as if they were <i>rules or guidance</i> in accordance with Part 3 (Tables summarising the application of the common platform requirements to different types of firm) to a <i>firm's</i> carrying on of the business set out in SYSC 1 Annex 1 2.8R which is not <i>MiFID business</i> or a <i>structured deposits regulated activity</i> . |
| | | (1A) | Subject to (2), (3) and (6), articles 33 to 35 of the <i>MiFID Org Regulation</i> of the <i>MiFID Org Regulation</i> (including any relevant definitions in <i>MiFID the Glossary</i> , <i>MiFIR</i> and the <i>MiFID Org Regulation</i>) apply as if they were <i>rules or guidance</i> in accordance with Part 3 (Tables summarising the application of the common platform requirements to different types of firm) to a <i>firm's</i> carrying on of the business set out in SYSC 10.1.1R which is not <i>MiFID business</i> or a <i>structured deposits regulated activity</i> . |

| | | | |
|--|-----|---|--|
| | (2) | References in Column (1) to a word or phrase used in the <i>MiFID Org Regulation</i> for the purpose of (1) have the meaning indicated in Column (2) of the table below: | |
| | | (1) | (2) |
| | | “ancillary services” | <i>ancillary services</i> or <i>ancillary activities</i> associated with the <i>firm’s regulated activities</i> |
| | | “client” and “potential client” | <i>Client</i> |
| | | “competent authority” | <i>FCA</i> |
| | | “investment firm” and “firm” | <i>Firm</i> |
| | | “investment service” and “investment services and activities” | <i>designated investment business</i> |
| | | “portfolio management” and “portfolio management service” | <i>managing investments</i> |
| | | “Directive 2014/65/EU”; “Regulation (EU) No 600/2014”; “Directive 2014/57/EU” and “Regulation (EU) No 596/2014” and their implementing measures | <i>regulatory system</i> , except where the reference is to a specific provision of a Directive or Regulation in Column (1) in which case the reference must be read as referring to such specific provision |
| | | “shall” | Must |
| | (3) | Any references within the <i>MiFID Org Regulation</i> for the purpose of (1) to other provisions of <i>EU law</i> must be interpreted in light of this rule. [deleted] | |
| | (4) | This <i>rule</i> does not apply to a <i>collective portfolio management investment firm</i> in relation to the <i>firm’s</i> business other than its <i>MiFID business</i> . | |
| | ... | | |
| | (6) | <i>SYSC 1 Annex 1 2.8R(1A)</i> does not apply to a <i>firm</i> to the extent that articles 3 – 7 of the <i>IDD Regulation</i> are directly applicable apply to | |

| | | | |
|-------|---|-----|--|
| | | | the <i>firm</i> (see SYSC 1 Annex 1 3.1AG). |
| | | | [Note: The MiFID Org Regulation can be found at: http://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:32017R0565&from=EN.] |
| ... | | | |
| 2.16 | R | | The common platform requirements, except the common platform requirements on financial crime and the common platform record keeping requirements, apply to a firm that is not a UK UCITS management company in relation to passported activities carried on by it from a branch in another EEA State. [deleted] |
| 2.16A | R | (1) | The common platform requirements referred to in Column A+ in Table A of Part 3 (below) apply to a UK UCITS management company in relation to passported activities carried on by it from a branch in another EEA State. |
| | | (2) | Any other common platform requirement applies to a UK UCITS management company in relation to passported activities carried on by it from a branch in another EEA State to the extent that the requirement addresses matters within the scope of article 12 of the UCITS Directive. [deleted] |
| 2.16B | G | | The matters referred to in paragraph 2.16AR of this Annex may also be subject to the rules of the UK UCITS management company's Host State regulator. [deleted] |
| ... | | | |
| 2.16D | R | | The common platform requirements, except those which are AIFMD host state requirements, apply to a full scope UK AIFM in respect of its management of an EEA AIF from a branch in another EEA State. [deleted] |
| ... | | | |
| 2.16F | R | | The common platform requirements, except the common platform requirements on financial crime and the common platform record keeping requirements, apply to an AIFM investment firm in respect of its MiFID business where carried on from a branch in another EEA State. [deleted] |
| ... | | | |
| 2.17A | G | | ... |
| | | | The common platform organisational requirements, except the common platform requirements on financial crime, also apply in a prudential context to a UK domestic firm and to an overseas firm (other than an incoming EEA firm or an Incoming Treaty firm) with respect to activities wherever they are carried on. |

| | | |
|-----|--|--|
| ... | | |
|-----|--|--|

| Part 3 | | Tables summarising the application of the common platform requirements to different types of firm |
|--------|---|--|
| ... | | |
| 3.1A | G | The <i>IDD Regulation</i> is directly applicable <u>applies</u> to a firm when carrying on <i>insurance distribution</i> in relation to <i>insurance-based investment products</i> . Articles 3 to 7 of the <i>IDD Regulation</i> are reproduced in SYSC 10.1A for information for these firms. |
| ... | | |

Table A: Application of the common platform requirements in SYSC 4 to SYSC 10

...

| 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 A++ Application to a full-scope UK AIFM of an authorised AIF | COLUMN B Application to all other firms apart from insurers, UK ISPVs, managing agents, the Society, full-scope UK AIFMs of unauthorised AIFs, MiFID optional exemption firms and third country firms |
|---------------------|---|--|--|--|
| ... | | | | |
| SYSC 4.3.1R | Not applicable | Rule | Not applicable | Rule (but not applicable to incoming EEA firms, incoming Treaty firms or UCITS qualifiers) |

| | | | | |
|--------------|----------------|----------------|----------------|---|
| SYSC 4.3.2R | Not applicable | Rule | Not applicable | Guidance (but not applicable to incoming EEA firms, incoming Treaty firms or UCITS qualifiers) |
| SYSC 4.3.2AG | Not applicable | Not applicable | Not applicable | Guidance (but not applicable to incoming EEA firms, incoming Treaty firms or UCITS qualifiers) |
| SYSC 4.3.3G | Guidance | Guidance | Not applicable | Guidance (but not applicable to incoming EEA firms, incoming Treaty firms or UCITS qualifiers) |
| ... | | | | |

| Provision | COLUMN A | 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 a full-scope UK AIFM of an authorised AIF | Application to all other firms apart from insurers, UK ISPVs, managing agents, the Society, full-scope UK AIFMs of unauthorised AIFs, MiFID optional exemption firms and third country firms |
| ... | | | | |
| SYSC 5.1.5AAR | Rule | Not applicable save in relation to a <i>UCITS investment firm</i> and its | Not applicable | Rule applicable to the branch of an incoming EEA firm in relation to its MiFID business |

| | | | | |
|---------------|----------|--|---------------------------|---|
| | | <i>MiFID business</i> | | Other firms: Not applicable |
| SYSC 5.1.5ABR | Rule | Not applicable save in relation to a <i>UCITS investment firm</i> and its <i>MiFID business</i> | Not applicable | Rule applicable to the branch of an incoming EEA firm in relation to its <i>MiFID business</i> Other firms: Not applicable |
| SYSC 5.1.5ACG | Guidance | Not applicable save in relation to a <i>UCITS investment firm</i> and its <i>MiFID business</i> | Not applicable | Guidance applicable to the branch of an incoming EEA firm in relation to its <i>MiFID business</i> Other firms: Not applicable |
| SYSC 5.1.5ADG | Guidance | Not applicable save in relation to a <i>UCITS investment firm</i> and its <i>MiFID business</i> | Not applicable | Guidance applicable to the branch of an incoming EEA firm in relation to its <i>MiFID business</i> Other firms: Not applicable [deleted] |
| SYSC 5.1.5AEG | Guidance | Not applicable save in relation to a <i>UCITS investment firm</i> and its <i>MiFID business</i> | Not applicable | Guidance applicable to the branch of an incoming EEA firm in relation to its <i>MiFID business</i> Other firms: Not applicable [deleted] |
| ... | | | | |

...

| Provision | COLUMN A | 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 a full-scope UK AIFM of an authorised AIF | Application to all other firms apart from insurers, UK ISPVs, managing agents, the Society, full-scope UK AIFMs of unauthorised AIFs, MiFID optional exemption firms and third country firms |
| ... | | | | |
| SYSC 9.1.2 <u>CEU</u> <u>UK</u> | <u>EU UK</u> Directly applicable <u>Applicable to a firm carrying on insurance distribution in relation to insurance-based investment products</u> | <u>EU UK</u> Directly applicable <u>Applicable to a firm carrying on insurance distribution in relation to insurance-based investment products</u> | <u>EU UK</u> Directly applicable <u>Applicable to a firm carrying on insurance distribution in relation to insurance-based investment products</u> | <u>EU UK</u> Directly applicable <u>Applicable to a firm carrying on insurance distribution in relation to insurance-based investment products</u> |
| ... | | | | |
| SYSC 9.2 G | Not applicable | Not applicable | Not applicable | Applicable to <i>credit institutions only, not including incoming EEA firms which have permission for cross border services only and which do not carry on regulated activities in the United Kingdom.</i> |

| | | | | |
|----------------------|--|--|--|--|
| Provision SYSC 10 | COLUMN A Application to a common platform firm other than to a UCITS investment firm | COLUMN A+ Application to a UCITS management company | COLUMN A++ Application to a full-scope UK AIFM of an authorised AIF | COLUMN B Application to all other firms apart from insurers, UK ISPVs, managing agents, the Society, full-scope UK AIFMs of unauthorised AIFs, MiFID optional exemption firms and third country firms |
| ... | | | | |
| SYSC 10.1A | <u>EU UK</u> Directly applicable <u>Applicable to a firm</u> carrying on <i>insurance distribution</i> in relation to <i>insurance-based investment products</i> | <u>EU UK</u> Directly applicable <u>Applicable to a firm</u> carrying on <i>insurance distribution</i> in relation to <i>insurance-based investment products</i> | <u>EU UK</u> Directly applicable <u>Applicable to a firm</u> carrying on <i>insurance distribution</i> in relation to <i>insurance-based investment products</i> | <u>EU UK</u> Directly applicable <u>Applicable to a firm</u> carrying on <i>insurance distribution</i> in relation to <i>insurance-based investment products</i> |
| ... | | | | |

Table B: Application of the common platform requirements in SYSC 4 to 10 to MiFID optional exemption firms and third country firms

| | | |
|-----------|--|---------------------------------|
| Provision | COLUMN A MiFID optional exemption firms | COLUMN B Third country firms |
| ... | | |
| SYSC 9 | | |

| | | |
|------------------------------------|---|--|
| ... | | |
| SYSC 9.1.2C EU UK | EU UK Directly applicable Applicable to a firm carrying on insurance distribution in relation to insurance-based investment products | EU UK Directly applicable Applicable to a firm carrying on insurance distribution in relation to insurance-based investment products |
| ... | | |
| SYSC 10 | | |
| ... | | |
| SYSC 10.1A | EU UK Directly applicable Applicable to a firm carrying on insurance distribution in relation to insurance-based investment products | EU UK Directly applicable Applicable to a firm carrying on insurance distribution in relation to insurance-based investment products |
| ... | | |

Table C:

Part 1: Application of the requirements in articles 1(2), 21 to 25, 30 to 32 and 72 of the MiFID Org Regulation to MiFID optional exemption firms and third country firms

| Provision MiFID Org Regulation | Text of the MiFID Org Regulation as of: | MiFID optional exemption firm | Third country firm |
|--------------------------------|---|-------------------------------|--------------------|
|--------------------------------|---|-------------------------------|--------------------|

| | | | | |
|--|-----|-----------|---|---|
| Article 1 – Subject-matter and scope | (2) | 31/3/2017 | Not applicable | Not applicable |
| Article 21 – General organisational requirements | (1) | 31/3/2017 | Rule | (a), (b) and (g): Guidance; (c), (d), (e), (f) and final paragraph: Rule |
| | (2) | | Rule | Rule |
| | (3) | | Rule | Guidance |
| | (4) | | Rule | Guidance |
| | (5) | | Rule | Guidance |
| Article 22 – Compliance | (1) | 31/3/2017 | Guidance | Guidance |
| | (2) | | Guidance | Guidance |
| | (3) | | Guidance | (a), (c), (d) and (e): Guidance; (b): Rule |
| | (4) | | Guidance | Guidance |
| Article 23 – Risk management | | 31/3/2017 | Guidance | Guidance |
| Article 24 – Internal audit | | 31/3/2017 | Guidance | Guidance |
| Article 25 – Responsibility of senior management | | 31/3/2017 | Guidance | (1): Rule; (2), (3) and (4): Guidance |
| Article 30 – Scope of critical and important operational functions | | 31/3/2017 | Guidance | Guidance |
| Article 31 – Outsourcing critical or important operational functions | | 31/3/2017 | (1): Rule; (2), (3), (4) and (5): Guidance | (1): Rule; (2), (3), (4) and (5): Guidance |
| Article 32(1) and (2) – Service providers located in third countries | | 31/3/2017 | Rule | Guidance |
| Article 72 – Retention of records | | 31/3/2017 | Rule | Guidance |

Part 2: Articles 1(2), 21 to 25, 30 to 32 and 72 of the MiFID Org Regulation

| | | |
|------------------------|---|---|
| <u>EU</u> <u>UK</u> | Article 1 - Subject-matter and scope | |
| | 2 | References to investment firms shall encompass credit institutions and references to financial instruments shall encompass structured deposits in relation to all the requirements referred to in Article 1(3) and 1(4) of Directive 2014/65/EU and their implementing provisions as set out under this Regulation (so far as relevant) in Chapters II to IV of this Regulation. |
| <u>EU</u> <u>UK</u> | Article 21 - General organisational requirements | |
| | 1 | Investment firms shall comply with the following organisational requirements: |
| | (a) | establish, implement and maintain decision-making procedures and an organisational structure which clearly and in documented manner specifies reporting lines and allocates functions and responsibilities; |
| | (b) | ensure that their relevant persons are aware of the procedures which must be followed for the proper discharge of their responsibilities; |
| | (c) | establish, implement and maintain adequate internal control mechanisms designed to secure compliance with decisions and procedures at all levels of the investment firm; |
| | (d) | employ personnel with the skills, knowledge and expertise necessary for the discharge of the responsibilities allocated to them; |
| | (e) | establish, implement and maintain effective internal reporting and communication of information at all relevant levels of the investment firm; |
| | (f) | maintain adequate and orderly records of their business and internal organisation; |
| | (g) | ensure that the performance of multiple functions by their relevant persons does not and is not likely to prevent those persons from discharging any particular function soundly, honestly, and professionally. |

| | | |
|------------------------|--------------------------------|--|
| | | When complying with the requirements set out in this paragraph, investment firms shall take into account the nature, scale and complexity of the business of the firm, and the nature and range of investment services and activities undertaken in the course of that business. |
| | 2 | Investment firms shall 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. |
| | 3 | Investment firms shall establish, implement and maintain an adequate business continuity policy aimed at ensuring, in the case of an interruption to their systems and procedures, the preservation of essential data and functions, and the maintenance of investment services and activities, or, where that is not possible, the timely recovery of such data and functions and the timely resumption of their investment services and activities. |
| | 4 | Investment firms shall establish, implement and maintain accounting policies and procedures that enable them, at the request of the competent authority, to deliver in a timely manner to the competent authority financial reports which reflect a true and fair view of their financial position and which comply with all applicable accounting standards and rules. |
| | 5 | Investment firms shall monitor and, on a regular basis, evaluate the adequacy and effectiveness of their systems, internal control mechanisms and arrangements established in accordance with paragraphs 1 to 4, and take appropriate measures to address any deficiencies. |
| <u>EU</u> <u>UK</u> | Article 22 - Compliance | |
| | 1 | Investment firms shall establish, implement and maintain adequate policies and procedures designed to detect any risk of failure by the firm to comply with its obligations under Directive 2014/65/EU <u>UK law on markets in financial instruments</u> (“UK obligations”), as well as the associated risks, and put in place adequate measures and procedures designed to minimise such risk and to enable the competent authorities to exercise their powers effectively under that Directive <u>UK law on markets in financial instruments</u> . Investment firms shall take into account the nature, scale and complexity of the business of the firm, and the nature and range of investment services and activities undertaken in the course of that business. |
| | 2 | Investment firms shall establish and maintain a permanent and effective compliance function which operates independently and which has the following responsibilities: |

| | | | |
|--|---|---|---|
| | | (a) | to monitor on a permanent basis and to assess, on a regular basis, the adequacy and effectiveness of the measures, policies and procedures put in place in accordance with the first subparagraph of paragraph 1, and the actions taken to address any deficiencies in the firm's compliance with its obligations; |
| | | (b) | to advise and assist the relevant persons responsible for carrying out investment services and activities to comply with the firm's obligations under Directive 2014/65/EU <u>UK obligations</u> ; |
| | | (c) | to report to the management body, on at least an annual basis, on the implementation and effectiveness of the overall control environment for investment services and activities, on the risks that have been identified and on the complaints-handling reporting as well as remedies undertaken or to be undertaken; |
| | | (d) | to monitor the operations of the complaints-handling process and consider complaints as a source of relevant information in the context of its general monitoring responsibilities. |
| | | In order to comply with points (a) and (b) of this paragraph, the compliance function shall conduct an assessment on the basis of which it shall establish a risk-based monitoring programme that takes into consideration all areas of the investment firm's investment services, activities and any relevant ancillary services, including relevant information gathered in relation to the monitoring of complaints handling. The monitoring programme shall establish priorities determined by the compliance risk assessment ensuring that compliance risk is comprehensively monitored. | |
| | 3 | In order to enable the compliance function referred to in paragraph 2 to discharge its responsibilities properly and independently, investment firms shall ensure that the following conditions are satisfied: | |
| | | (a) | the compliance function has the necessary authority, resources, expertise and access to all relevant information; |
| | | (b) | a compliance officer is appointed and replaced by the management body and is responsible for the compliance function and for any reporting as to compliance required by Directive 2014/65/EU <u>in relation to its UK obligations and by Article 25(2) of this Regulation</u> ; |
| | | (c) | the compliance function reports on an ad-hoc basis directly to the management body where it detects a significant risk of failure by the firm to comply with its obligations under Directive 2014/65/EU <u>UK obligations</u> ; |

| | | | |
|------------------------|-------------------------------------|--|---|
| | | (d) | the relevant persons involved in the compliance function are not involved in the performance of services or activities they monitor; |
| | | (e) | the method of determining the remuneration of the relevant persons involved in the compliance function does not compromise their objectivity and is not likely to do so. |
| | 4 | An investment firm shall not be required to comply with point (d) or point (e) of paragraph 3 where it is able to demonstrate that in view of the nature, scale and complexity of its business, and the nature and range of investment services and activities, the requirements under point (d) or (e) are not proportionate and that its compliance function continues to be effective. In that case, the investment firm shall assess whether the effectiveness of the compliance function is compromised. The assessment shall be reviewed on a regular basis. | |
| <u>EU</u> <u>UK</u> | Article 23 - Risk management | | |
| | 1 | Investment firms shall take the following actions relating to risk management: | |
| | | (a) | establish, implement and maintain adequate risk management policies and procedures 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; |
| | | (b) | adopt effective arrangements, processes and mechanisms to manage the risks relating to the firm's activities, processes and systems, in light of that level of risk tolerance; |
| | | (c) | monitor the following: |
| | | (i) | the adequacy and effectiveness of the investment firm's risk management policies and procedures; |
| | | (ii) | the level of compliance by the investment firm and its relevant persons with the arrangements, processes and mechanisms adopted in accordance with point (b); |
| | | (iii) | 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, processes and mechanisms or follow such policies and procedures. |

| | | | |
|------------------------|--|--|--|
| | 2 | Investment firms shall, where appropriate and proportionate in view of the nature, scale and complexity of their 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: | |
| | | (a) | implementation of the policy and procedures referred to in paragraph 1; |
| | | (b) | provision of reports and advice to senior management in accordance with Article 25(2). |
| | | Where an investment firm does not establish and maintain a risk management function under the first sub-paragraph, it shall be able to demonstrate upon request that the policies and procedures which it has adopted in accordance with paragraph 1 satisfy the requirements therein. | |
| <u>EU</u> <u>UK</u> | Article 24 - Internal audit | | |
| | Investment firms shall, where appropriate and proportionate in view of the nature, scale and complexity of their business and the nature and range of investment 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 investment firm and which has the following responsibilities: | | |
| | | (a) | establish, implement and maintain an audit plan to examine and evaluate the adequacy and effectiveness of the investment firm's systems, internal control mechanisms and arrangements; |
| | | (b) | issue recommendations based on the result of work carried out in accordance with point (a) and verify compliance with those recommendations; |
| | | (c) | report in relation to internal audit matters in accordance with Article 25(2). |
| <u>EU</u> <u>UK</u> | Article 25 - Responsibility of senior management | | |
| | 1 | Investment firms shall, when allocating functions internally, ensure that senior management, and, where applicable, the supervisory function, are responsible for ensuring that the firm complies with its obligations under Directive 2014/65/EU <u>UK law on markets in financial instruments</u> (“ <u>UK</u> | |

| | | |
|------------------------|---|--|
| | | <p><u>obligations</u>”). In particular, senior management and, where applicable, the supervisory function shall be required to assess and periodically review the effectiveness of the policies, arrangements and procedures put in place to comply with the obligations under Directive 2014/65/EU <u>UK obligations</u> and to take appropriate measures to address any deficiencies.</p> <p>The allocation of significant functions among senior managers shall clearly establish who is responsible for overseeing and maintaining the firm’s organisational requirements. Records of the allocation of significant functions shall be kept up-to-date.</p> |
| | 2 | Investment firms shall ensure that their senior management receive on a frequent basis, and at least annually, written reports on the matters covered by Articles 22, 23 and 24 indicating in particular whether the appropriate remedial measures have been taken in the event of any deficiencies. |
| | 3 | Investment firms shall ensure that where there is a supervisory function, it receives written reports on the matters covered by Articles 22, 23 and 24 on a regular basis. |
| | 4 | For the purposes of this Article, the supervisory function shall be the function within an investment firm responsible for the supervision of its senior management. |
| <u>EU</u> <u>UK</u> | Article 30 - Scope of critical and important operational functions | |
| | 1 | For the purposes of the first subparagraph of Article 16(5) of Directive 2014/65/EU <u>[SYSC 8.1.1R]</u> and rule 2.1 of the <u>Outsourcing Part of the PRA Rulebook</u> , an operational function shall be regarded as critical or important where a defect or failure in its performance would materially impair the continuing compliance of an investment firm with the conditions and obligations of its authorisation or its other obligations under Directive 2014/65/EU <u>UK law on markets in financial instruments</u> , or its financial performance, or the soundness or the continuity of its investment services and activities. |
| | 2 | Without prejudice to the status of any other function, the following functions shall not be considered as critical or important for the purposes of paragraph 1: |
| | (a) | the provision to the firm of advisory services, and other services which do not form part of the investment business 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; |

| | | | |
|------------------------|---|-----|---|
| | | (b) | the purchase of standardised services, including market information services and the provision of price feeds. |
| <u>EU</u> <u>UK</u> | Article 31 - Outsourcing critical or important operational functions | | |
| | 1 | | Investment firms outsourcing critical or important operational functions shall remain fully responsible for discharging all of their obligations under Directive 2014/65/EU <u>UK law on markets in financial instruments</u> and shall comply with the following conditions: |
| | | (a) | the outsourcing does not result in the delegation by senior management of its responsibility; |
| | | (b) | the relationship and obligations of the investment firm towards its clients under the terms of Directive 2014/65/EU <u>UK law on markets in financial instruments</u> is not altered; |
| | | (c) | the conditions with which the investment firm must comply in order to be authorised in accordance with Article 5 of Directive 2014/65/EU <u>have permission under Part 4A of FSMA to carry on a regulated activity which is any of the investment services and activities (within the meaning of regulation 2(1) of the Markets in Financial Instruments Regulations 2017)</u> , and to remain so, are not undermined; |
| | | (d) | none of the other conditions subject to which the firm's authorisation was granted is removed or modified. |
| | 2 | | Investment firms shall exercise due skill, care and diligence when entering into, managing or terminating any arrangement for the outsourcing to a service provider of critical or important operational functions and shall take the necessary steps to ensure that the following conditions are satisfied: |
| | | (a) | the service provider has the ability, capacity, sufficient resources, appropriate organisational structure supporting the performance of the outsourced functions, and any authorisation required by law to perform the outsourced functions, reliably and professionally; |
| | | (b) | the service provider carries out the outsourced services effectively and in compliance with applicable law and regulatory requirements, and to this end the firm has established methods and procedures for assessing the standard of performance of the service provider and for reviewing on an ongoing basis the services provided by the service provider; |

| | | | |
|--|--|-----|--|
| | | (c) | the service provider properly supervises the carrying out of the outsourced functions, and adequately manage the risks associated with the outsourcing; |
| | | (d) | appropriate action is taken where it appears that the service provider may not be carrying out the functions effectively or in compliance with applicable laws and regulatory requirements; |
| | | (e) | the investment firm effectively supervises the outsourced functions or services and manage the risks associated with the outsourcing and to this end the firm retains the necessary expertise and resources to supervise the outsourced functions effectively and manage those risks; |
| | | (f) | the service provider has disclosed to the investment 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; |
| | | (g) | the investment firm is able to terminate the arrangement for outsourcing where necessary, with immediate effect when this is in the interests of its clients, without detriment to the continuity and quality of its provision of services to clients; |
| | | (h) | the service provider cooperates with the competent authorities of the investment firm in connection with the outsourced functions; |
| | | (i) | the investment firm, its auditors and the relevant competent authorities have effective access to data related to the outsourced functions, as well as to the relevant business premises of the service provider, where necessary for the purpose of effective oversight in accordance with this article, and the competent authorities are able to exercise those rights of access; |
| | | (j) | the service provider protects any confidential information relating to the investment firm and its clients; |
| | | (k) | the investment firm and the service provider have established, implemented and maintained 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; |
| | | (l) | the investment firm has ensured that the continuity and quality of the outsourced functions or services are maintained also in the event of termination of the outsourcing either by transferring the outsourced |

| | | | |
|------------------------|--|---|---|
| | | | functions or services to another third party or by performing them itself. |
| | 3 | The respective rights and obligations of the investment firms and of the service provider shall be clearly allocated and set out in a written agreement. In particular, the investment firm shall keep its instruction and termination rights, its rights of information, and its right to inspections and access to books and premises. The agreement shall ensure that outsourcing by the service provider only takes place with the consent, in writing, of the investment firm. | |
| | 4 | Where the investment firm and the service provider are members of the same group, the investment firm may, for the purposes of complying with this Article and Article 32, take into account the extent to which the firm controls the service provider or has the ability to influence its actions. | |
| | 5 | Investment firms shall make available on request to the competent authority all information necessary to enable the authority to supervise the compliance of the performance of the outsourced functions with the requirements of Directive 2014/65/EU and its implementing measures <u>UK law on markets in financial instruments</u> . | |
| <u>EU</u> <u>UK</u> | Article 32 - Service providers located in third countries | | |
| | 1 | In addition to the requirements set out in Article 31, where an investment firm outsources functions related to the investment service of portfolio management provided to clients to a service provider located in a third country, that investment firm ensures that the following conditions are satisfied: | |
| | | (a) | the service provider is authorised or registered in its home country to provide that service and is effectively supervised by a competent authority in that third country; |
| | | (b) | there is an appropriate cooperation agreement between the competent authority of the investment firm and the supervisory authority of the service provider. |
| | 2 | The cooperation agreement referred to in point (b) of paragraph 1 shall ensure that the competent authorities of the investment firm are able, at least, to: | |
| | | (a) | obtain on request the information necessary to carry out their supervisory tasks pursuant to Directive 2014/65/EU <u>UK law on markets in financial instruments</u> and Regulation (EU) No 600/2014; |

| | | | |
|------------------------|--|-----|--|
| | | (b) | obtain access to the documents relevant for the performance of their supervisory duties maintained in the third country; |
| | | (c) | receive information from the supervisory authority in the third country as soon as possible for the purpose of investigating apparent breaches of the requirements of Directive 2014/65/EU and its implementing measures <u>UK law on markets in financial instruments</u> and Regulation (EU) No 600/2014; |
| | | (d) | cooperate with regard to enforcement, in accordance with the national and international law applicable to the supervisory authority of the third country and the competent authorities in the Union <u>United Kingdom</u> in cases of breach of the requirements of Directive 2014/65/EU and its implementing measures and relevant national law <u>UK law on markets in financial instruments</u> . |
| | 3 | | Competent authorities shall publish on their <u>The FCA must publish on its website a list of the supervisory authorities in third countries with which they have a cooperation agreement referred to in point (b) of paragraph 1.</u> Competent authorities shall update cooperation agreements concluded before the date of entry into application of this Regulation within six months from that date. |
| <u>EU</u> <u>UK</u> | Article 72 - Retention of records | | |
| | 1 | | The records shall be retained in a medium that allows the storage of information in a way accessible for future reference by the competent authority, and in such a form and manner that the following conditions are met: |
| | | (a) | the competent authority is able to access them readily and to reconstitute each key stage of the processing of each transaction; |
| | | (b) | it is possible for any corrections or other amendments, and the contents of the records prior to such corrections or amendments, to be easily ascertained; |
| | | (c) | it is not possible for the records otherwise to be manipulated or altered; |
| | | (d) | it allows IT or any other efficient exploitation when the analysis of the data cannot be easily carried out due to the volume and the nature of the data; and |

| | | | |
|--|---|-----|--|
| | | (e) | the firm's arrangements comply with the record keeping requirements irrespective of the technology used. |
| | 2 | | Investment firms shall keep at least the records identified in Annex I to this Regulation depending upon the nature of their activities. The list of records identified in Annex I to this Regulation is without prejudice to any other record-keeping obligations arising from other legislation. |
| | 3 | | Investment firms shall also keep records of any policies and procedures they are required to maintain pursuant to Directive 2014/65/EU, Regulation (EU) No 600/2014, Directive 2014/57/EU and Regulation (EU) No 596/2014 and their respective implementing measures <u>Regulation (EU) No 600/2014, Regulation (EU) No 596/2014 and their implementing measures (as amended under the European Union (Withdrawal) Act 2018) and the law of the United Kingdom or any part of the United Kingdom which was relied on immediately before exit day to implement Directive 2014/65/EU, Directive 2014/57/EU and their implementing measures</u> in writing. Competent authorities may require investment firms to keep additional records to the list identified in Annex I to this Regulation. |

3 Systems and controls

...

3.2 Areas covered by systems and controls

...

Remuneration policies

- 3.2.18 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. See also ~~*Solvency II Regulation (EU) 2015/35 of 10 October 2014*~~ (Article 275) and *EIOPA Guidelines on system of governance* dated 28 January 2015 (EIOPA-BoS-14/253 EN) (Guidelines 9 and 10).

...

3.3 Additional requirements for insurance distribution

...

Effect of provisions marked "EU"

3.3.2 G The *IDD Regulation* ~~is applies~~ directly ~~applicable~~ to an *insurer* when carrying on *insurance distribution* in relation to *insurance-based investment products*. Some of the articles of the *IDD Regulation* (see the provisions marked with the status letters “~~EU~~” “UK”) are reproduced in this section for those *insurers* for information only.

3.3.3 R (1) To the extent that the *IDD Regulation* does not ~~directly~~ apply, provisions in this section marked with the status letters “~~EU~~” “UK” apply to the *insurer* as if they were *rules*.

(2) References in Column (1) to a word or phrase used in the *IDD Regulation* have, for the purpose of SYSC 3.3.3R(1) above, the meaning indicated in Column (2) of the table below:

| (1) | (2) |
|---------------------------------------|-------------------------------------|
| “ article 27 ” | <i>SYSC 3.3.8R and SYSC 3.3.9R</i> |
| “ article 28 ” | <i>SYSC 3.3.5R and SYSC 3.3.13R</i> |
| “ competent authority ” | <i>FCA</i> |
| “ customer ” | <i>Client</i> |
| “ Directive (EU) 2016/97 ” | <i>IDD</i> |
| ... | |

3.3.4 G The effect of SYSC 3.3.3R is that:

- (1) the provisions marked “~~EU~~” “UK” apply as *rules* to an *insurer* when carrying on *insurance distribution activities* other than *insurance distribution* in relation to *insurance-based investment products*;
- (2) where SYSC 3.3.3R applies, an *insurer* is required to read the provisions marked “~~EU~~” “UK” as though the application of those provisions (~~and articles 27 and 28 of the *IDD*~~) is not limited to the distribution of *insurance-based investment products*; and
- (3) the scope of the application of the *IDD Regulation* is extended from *insurance distribution* to *insurance distribution activities*.

Identifying conflicts

...

3.3.6 EU 3(1) For the purposes of identifying, in accordance with ~~Article 28 of~~ UK ~~Directive (EU) 2016/97~~ [*SYSC 3.3.5R, SYSC 3.3.13R, SYSC 10.1.3R and SYSC 10.1.8R*], in so far as those rules apply to the insurance-based investment products, the types of conflicts of interest that arise in the course of carrying out any *insurance distribution activities*

related to insurance-based investment products and which entail a risk of damage to the interests of a customer, insurance intermediaries and insurance undertakings shall assess whether they, a relevant person or any person directly or indirectly linked to them by control, have an interest in the outcome of the insurance distribution activities, which meets the following criteria:

...

...

Conflicts policy

3.3.10 EU 4(1) For the purposes of ~~Article 27 of Directive (EU) 2016/97~~ [SYSC 3.3.8R, SYSC 3.3.9R, SYSC 10.1.3R, SYSC 10.1.7R and SYSC 10.1.7AR], in so far as those rules apply to insurance-based investment products, insurance intermediaries and insurance undertakings shall be expected to establish, implement and maintain an effective conflicts of interest policy set out in writing and appropriate to their size and organisation and the nature, scale and complexity of their business.

UK

Where the insurance intermediary or insurance undertaking is a member of a group, the policy shall also take into account any circumstances, of which the insurance intermediary or insurance undertaking 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 4(1) of the *IDD Regulation*]

Contents of policy

3.3.11 EU ...

UK

[**Note:** article 4(2) of the *IDD Regulation*]

3.3.12 EU ...

UK

[**Note:** article 5 of the *IDD Regulation*]

Disclosure of conflicts

...

3.3.14 EU 6(1) Insurance intermediaries and insurance undertakings shall avoid over-reliance on disclosure to ensure that disclosure to customers, pursuant to ~~Article 28(2) of Directive (EU) 2016/97~~ [SYSC 3.3.13R] and [SYSC 10.1.8R], in so far as those rules apply to insurance-based investment products, is a measure of last resort that can be used only

UK

where the effective organisational and administrative arrangements established by the insurance intermediary or insurance undertaking to prevent or manage conflicts of interest in accordance with ~~Article 27 of Directive (EU) 2016/97~~ [SYSC 3.3.8R, SYSC 3.3.9R, SYSC 10.1.3R, SYSC 10.1.7R, SYSC 10.1.7AR], in so far as these rules apply to insurance-based investment products are not sufficient to ensure, with reasonable confidence, that risks of damage to the interests of the customer will be prevented.

...

[**Note:** article 6 of the *IDD Regulation*]

Review of conflicts policy

- 3.3.15 ~~EU~~
UK 7(1) For the purposes of ~~Article 27 of Directive (EU) 2016/97~~ 3.3.8, [SYSC 3.3.9R, SYSC 10.1.3R, SYSC 10.1.7R and SYSC 10.1.7AR], in so far as those rules apply to insurance-based investment products, insurance intermediaries and insurance undertakings shall assess and periodically review, on an at least annual basis, the conflicts of interest policy established in accordance with Article 4 and take all appropriate measures to address any deficiencies.

[**Note:** article 7(1) of the *IDD Regulation*]

Record keeping

- 3.3.16 ~~EU~~
UK ...

[**Note:** article 7(2) of the *IDD Regulation*]

...

- 3.3.18 G ...

(2) For the purposes of SYSC 3.3.17R, a *firm* will need to consider whether the requirement in article 19 of the *IDD Regulation* (or in ~~COBS 9A.4.3EUUK~~ or ~~10A.7.2EUUK~~ for any *firm* to whom the *IDD Regulation* ~~is not directly applicable~~ does not apply) means that a record needs to be retained for longer than five years.

- 3.3.19 ~~EU~~
UK 19(4) The records shall be retained in a medium that allows the storage of information in a way accessible for future reference by the ~~competent authority FCA~~. The ~~competent authority FCA~~ shall be able to access them readily, to reconstitute each element in a clear and accurate manner and to identify easily any changes, corrections or other amendments, and the contents of the records prior to such modifications.

[**Note:** article 19(4) of the *IDD Regulation*]

...

4 General organisational requirements

4.1 General requirements

...

4.1.1D R A UK UCITS management company must comply with the UCITS Remuneration Code if it:

- (1) manages a UCITS scheme; ~~or~~
- (2) ~~manages an EEA UCITS scheme.~~

[Note: article 14a(1) of the UCITS Directive]

4.1.1E R A UK UCITS management company must have appropriate procedures for its employees to report potential or actual breaches of ~~national provisions transposing~~ UK provisions which implemented the UCITS Directive internally through a specific, independent and autonomous channel.

[Note: article 99d(5) of the UCITS Directive]

...

4.1.2B R For a management company or a full-scope UK AIFM, the arrangements, processes and mechanisms referred to in SYSC 4.1.1R and SYSC 4.1.1AR must also take account of the UCITS schemes ~~and EEA UCITS schemes~~ managed by the management company or the AIFs managed by the full-scope UK AIFM.

[Note: article 12(1) second paragraph of the UCITS Directive and article 18(1) second paragraph of AIFMD]

Resources for management companies and AIFMs

4.1.2C R A management company, ~~and a full-scope UK AIFM and an incoming EEA AIFM branch~~ 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 and article 12(1)(c) of AIFMD]

...

Subordinate measures relating to provisions implementing article 12(1) of AIFMD

4.1.2E G Articles 16 to 29 of the AIFMD level 2 regulation provide detailed rules supplementing the ~~provisions of~~ UK provisions which implemented article 12(1) of AIFMD, ~~and~~ articles 57 to 66 of the AIFMD level 2 regulation

provide detailed rules supplementing the UK provisions which implemented articles 12 and 18 of AIFMD.

...

4.2 Persons who effectively direct the business

General requirement

- 4.2.1 R The *senior personnel* of a *common platform firm*, a *management company*, a *full-scope UK AIFM*, or of the *UK branch* of a ~~*non-EEA bank*~~ *non-UK 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)(4) of *MiFID*, article 7(1)(b) of the *UCITS Directive*, article 8(1)(c) of *AIFMD* and article 91(1) of *CRD*]

...

Composition of management

- 4.2.2 R A *common platform firm*, a *management company*, a *full-scope UK AIFM* and the *UK branch* of a ~~*non-EEA bank*~~ *non-UK bank* must ensure that its management is undertaken by at least two persons meeting the requirements laid down in SYSC 4.2.1R and:
- (a) for a *full-scope UK AIFM*, SYSC 4.2.7R; or
 - (b) for a *common platform firm*, SYSC 4.3A.3R.

[**Note:** article 9(6) first paragraph of *MiFID*, article 7(1)(b) of the *UCITS Directive*, article 8(1)(c) of *AIFMD* and article 13(1) of *CRD*]

...

4.3A Management body and nomination committee

...

- 4.3A.7 R For the purposes of SYSC 4.3A.5R and SYSC 4.3A.6R:

...

- (2) the following shall count as a single directorship:

...

- (b) executive or non-executive directorships held within:

- (i) ~~*firms that are members of the same institutional protection scheme provided that the conditions set out in article 113(7) of the EU CRR are fulfilled;*~~ or

[deleted]

- (ii) *undertakings* (including non-financial entities) in which the *firm* holds a *qualifying holding*.

[Note: article 91(4) and (5) of *CRD* and article 9(1) of *MiFID*]

...

5 Employees, agents and other relevant persons

5.1 Skills, knowledge and expertise

...

- 5.1.5AD G ~~ESMA has issued guidelines specifying~~ The ESMA “Guidelines for the assessment of knowledge and competence”, 3 January 2017 (ESMA71-1154262120-153 EN (rev)), specify the criteria for the assessment of knowledge and competence for the purposes of SYSC 5.1.5ABR. ~~The ESMA guidelines can be found at <https://www.esma.europa.eu/document/guidelines-assessment-knowledge-and-competence>.~~

...

6 Compliance, internal audit and financial crime

6.1 Compliance

...

- 6.1.2 R 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 *FCA* to exercise its powers effectively under the *regulatory system* ~~and to enable any other competent authority to exercise its powers effectively under the UCITS Directive~~.

[Note:16 article 10(1) of the *UCITS implementing Directive*]

...

- 6.1.7 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 6.1.2R and SYSC 6.1.3R apply in respect of a *firm's branch* as if *regulatory system* includes a *Host State's* requirements under *MiFID* and the *MiFID Org Regulation* which are applicable to the ~~investment services and activities conducted from the firm's~~

~~branch.~~ [deleted]

[~~Note:~~ article 16 of *MiFID*]

...

7 Risk control

7.1 Risk control

...

- 7.1.2B 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.

...

8 Outsourcing

8.1 General outsourcing requirements

...

- 8.1.11 R A *firm* (other than a *common platform firm*) must make available on request to the *FCA* ~~and any other relevant *competent authority*~~ all information necessary to enable the *FCA* ~~and any other relevant *competent authority*~~ to supervise the compliance of the performance of the *outsourced* activities with the requirements of the *regulatory system*.

...

...

9 Record-keeping

9.1 General rules on record-keeping

General requirements

- 9.1.1 R A *firm* (other than a *common platform 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 *FCA* ~~or any other relevant *competent authority* under 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*.

[~~Note:~~ article 12(1)(a) of the *UCITS Directive* and article 4(1)(e) of the *UCITS implementing Directive*]

...

9.1.2B G ...

- (2) For the purposes of SYSC 9.1.2AR, a *firm* will need to consider whether the requirement in article 19 of the *IDD Regulation* (or in *COBS* 9A.4.3~~EUUK~~ or *COBS* 10A.7.2~~EUUK~~ for any *firm* to whom the *IDD Regulation* ~~is not directly applicable~~ does not apply) means that a record needs to be retained for longer than five years.

9.1.2C ~~EU~~
~~UK~~

- 19(4) The records shall be retained in a medium that allows the storage of information in a way accessible for future reference by the ~~competent authority~~ Financial Conduct Authority. The ~~competent authority~~ Financial Conduct Authority shall be able to access them readily, to reconstitute each element in a clear and accurate manner and to identify easily any changes, corrections or other amendments, and the contents of the records prior to such modifications.

[**Note:** article 19(4) of the *IDD Regulation*]

9.1.2D R

- (1) SYSC 9.1.2C~~EUUK~~ applies as if it was a *rule* to *firms* doing *insurance distribution activities* to which the *IDD Regulation* does not apply, in relation to the records for an *insurance-based investment product* required in *COBS* 9A.4 and *COBS* 10A.7.
- (2) ~~Firms to whom (1) applies must read references in SYSC 9.1.2CEU to “the competent authority” as meaning “the FCA”. [deleted]~~

...

9.2 Credit institutions providing account information services or payment initiation services

9.2.1 R A *credit institution* must keep records of any *account information services* and *payment initiation services* it provides in the UK.

9.2.2 R ~~A UK firm must keep the records required by SYSC 9.2.1R in respect of *account information services* and *payment initiation services* provided anywhere in the *EEA*. The records must make clear in which *EEA State* those services were provided. [deleted]~~

9.2.3 R ~~An *EEA firm* must keep the records required by SYSC 9.2.1R in respect of *account information services* and *payment initiation services* provided in the *UK*. [deleted]~~

...

...

10 Conflicts of interest

10.1 Application

Application to insurance intermediaries

- 10.1.-4 G (1) Subject to SYSC 10.1.-3R, this section applies to a *firm* carrying on *insurance distribution activities* in accordance with the tables in Part 3 of SYSC 1 Annex 1. Certain *rules* are disapplied where the *firm* is subject to ~~directly applicable~~ the provisions in the *IDD Regulation* (see SYSC 10.1.-3R).

...

...

General application

- 10.1.1 R ...

- (2) This section also applies to a ~~management company~~ UK UCITS management company.

...

- 10.1.1A R This section also applies to:

- (1) a *full-scope UK AIFM* of:
- (a) a *UK AIF*; and
 - (b) ~~an EEA AIF managed or marketed from an establishment in the UK; and~~ [deleted]
 - (c) a ~~non EEA AIF~~ non-UK AIF; and
- (2) ~~an incoming EEA AIFM branch which manages or markets a UK AIF.~~ [deleted]

...

Additional requirements for a management company

- 10.1.17 R A ~~management company~~ UK UCITS management company, when identifying the types of conflict of interests for the purposes of SYSC 10.1.4R, 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.

...

- 10.1.18 G For a ~~management company~~ UK UCITS management company, references to client in SYSC 10.1.4R 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 R A ~~management company~~ UK UCITS 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~~ UK UCITS 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*.

...

Avoidance of conflicts of interest for a management company

- 10.1.20 R A ~~management company~~ UK UCITS 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.

...

Disclosure of conflicts of interest for a management company

- 10.1.21 R (1) Where the organisational or administrative arrangements made by a ~~management company~~ UK UCITS 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~~ UK UCITS 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.

...

10.1A IDD Regulation – Conflicts of interest

Application

- 10.1A.1 G The *IDD Regulation* ~~is applies~~ directly ~~applicable~~ to a firm when carrying on insurance distribution in relation to insurance-based investment products. The relevant articles relating to conflicts of interest are set out in this section for information only.

Identifying conflicts

- 10.1A.2 EU 3(1) For the purposes of identifying, in accordance with ~~Article 28 of Directive (EU) 2016/97~~ [SYSC 3.3.5R, SYSC 3.3.13R, SYSC 10.1.3R and SYSC 10.1.8R], in so far as those rules apply to the insurance-based investment products, the types of conflicts of interest that arise in the course of carrying out any insurance distribution activities related to insurance-based investment products and which entail a risk of damage to the interests of a customer, insurance intermediaries and insurance undertakings shall assess whether they, a relevant person or any person directly or indirectly linked to them by control, have an interest in the outcome of the insurance distribution activities, which meets the following criteria:
- ...
- ...

[**Note:** article 3 of the *IDD Regulation*]

Conflicts policy

- 10.1A.3 EU 4(1) For the purposes of ~~Article 27 of Directive (EU) 2016/97~~ [SYSC 3.3.8R, SYSC 3.3.9R, SYSC 10.1.3R, SYSC 10.1.7R and SYSC 10.1.7AR], in so far as those rules apply to insurance-based investment products, insurance intermediaries and insurance undertakings shall be expected to establish, implement and maintain an effective conflicts of interest policy set out in writing and appropriate to their size and organisation and the nature, scale and complexity of their business.
- Where the insurance intermediary or insurance undertaking is a member of a group, the policy shall also take into account any circumstances, of which the insurance intermediary or insurance undertaking 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 4(1) of the *IDD Regulation*]

Contents of policy

- 10.1A.4 EU ...
- UK

[**Note:** article 4(2) of the *IDD Regulation*]

10.1A.5 ~~EU~~ ...
UK

[**Note:** article 5 of the *IDD Regulation*]

Disclosure of conflicts

10.1A.6 ~~EU~~ 6(1) Insurance intermediaries and insurance undertakings shall avoid over-reliance on disclosure to ensure that disclosure to customers, pursuant to ~~Article 28(2) of Directive (EU) 2016/97~~ [SYSC 3.3.13R and SYSC 10.1.8R], in so far as those rules apply to insurance-based investment products, is a measure of last resort that can be used only where the effective organisational and administrative arrangements established by the insurance intermediary or insurance undertaking to prevent or manage conflicts of interest in accordance with ~~Article 27 of Directive (EU) 2016/97~~ [SYSC 3.3.8R, SYSC 3.3.9R, SYSC 10.1.3R, SYSC 10.1.7R and SYSC 10.1.7AR], in so far as those rules apply to insurance-based investment products are not sufficient to ensure, with reasonable confidence, that risks of damage to the interests of the customer will be prevented.
...

[**Note:** article 6 of the *IDD Regulation*]

Review of conflicts policy

10.1A.7 ~~EU~~ 7(1) For the purposes of ~~Article 27 of Directive (EU) 2016/97~~ [SYSC 3.3.8R, SYSC 3.3.9R, SYSC 10.1.3R, SYSC 10.1.7R and SYSC 10.1.7AR], in so far as those rules apply to insurance-based investment products, insurance intermediaries and insurance undertakings shall assess and periodically review, on an at least annual basis, the conflicts of interest policy established in accordance with Article 4 and take all appropriate measures to address any deficiencies.

[**Note:** article 7(1) of the *IDD Regulation*]

Record keeping

10.1A.8 ~~EU~~ ...
UK

[**Note:** article 7(2) of the *IDD Regulation*]

...

10A Recording telephone conversations and electronic communications

10A.1 Application

Application

10A.1.1 R Subject to the exemptions in SYSC 10A.1.4R, this chapter applies to a *firm*:

(1) that is a:

...

(a) ~~UK MiFID investment firm~~; or

(d) ~~incoming EEA AIFM~~; or ~~[deleted]~~

...

(g) ~~EEA MiFID investment firm~~; or ~~[deleted]~~

...

(2) ...

...

(e) *managing a UK UCITS* to the extent that this comprises the function of investment management referred to in Annex II of the *UCITS Directive*;

...

[**Note:** article 16(7) and 16(11) of *MiFID*]

10A.1.2 G Where this chapter applies to a *third country investment firm*, it applies in conjunction with GEN 2.2.22AR, to ensure that such *firms* are not treated in a more favourable way than an ~~EEA~~ UK *firm*.

10A.1.3 R For a *firm* in SYSC 10A.1.1R(1) (other than a *MiFID investment firm* or a *third country investment firm*) *MiFIR*, and any EU Regulation adopted under *MiFIR* or *MiFID* which is an onshored regulation, apply to the extent relevant to the subject matter of this chapter as if ~~it~~ the firm were a *MiFID investment firm* providing *investment services* or performing *investment activities* in accordance with article 16(7) of *MiFID*.

...

12 Group risk systems and controls requirements

12.1 Application

12.1.1 R Subject to SYSC 12.1.2R to SYSC 12.1.4R, 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* that is:
- (i) an *investment firm*, except a *designated investment firm* unless (ii) applies; or
 - (ii) a *credit institution* or *designated investment firm* that is a *subsidiary undertaking* of a UK parent institution ~~in a Member State~~ that is an *IFPRU investment firm*;
- (b) [deleted]
- (c) an *insurer*;
- (d) a *BIPRU firm*;
- (e) a *parent financial holding company* in ~~a Member State~~ the UK or a UK parent financial holding company that is a member of one of the following:
- (i) a *UK consolidation group*; or
 - (ii) an *FCA 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 R Except as set out in SYSC 12.1.4R, this section applies with respect to different types of *group* as follows:
- (1) SYSC 12.1.8R and SYSC 12.1.10R apply with respect to all *groups*, including ~~UK regulated EEA financial conglomerates, other financial conglomerates~~ and *groups* dealt with in SYSC 12.1.13R to SYSC 12.1.15R;
 - (2) the additional requirements set out in SYSC 12.1.11R and SYSC 12.1.12R only apply with respect to ~~UK regulated EEA financial conglomerates; and~~ a *financial conglomerate* of which notification has been made that it has been identified as a *financial conglomerate* as contemplated by regulation 2 of the *Financial Groups Directive Regulations*; and
 - (3) the additional requirements set out in SYSC 12.1.13R to SYSC 12.1.15R only apply with respect to *groups* of the kind dealt with by whichever of those *rules* apply.
- 12.1.3 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 R (1) This *rule* applies in respect of the following *rules*:
- (a) SYSC 12.1.8R(2);
 - (b) SYSC 12.1.10R(1), so far as it relates to SYSC 12.1.8R(2);
 - (c) SYSC 12.1.10R(2); and
 - (d) SYSC 12.1.11R to SYSC 12.1.15R.
- (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~~ *financial conglomerate* of which notification has been made that it has been identified as a *financial conglomerate* as contemplated by regulation 2 of the *Financial Groups Directive Regulations*;
 - (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; [deleted]~~
 - (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*.

...

Purpose

...

- 12.1.7 G ~~This section implements article 109(2) of the CRD and article 9 of the Financial Groups Directive (Internal control mechanisms and risk management processes).~~ [deleted]

...

CRR firms and non-CRR firms that are parent financial holding companies in a Member State the United Kingdom or UK parent financial holding companies

- 12.1.13 R If this *rule* applies under SYSC 12.1.14R to a *firm*, the *firm* must:
- (1) comply with SYSC 12.1.8R(2) in relation to any *UK consolidation group* or, if applicable, ~~non-EEA sub-group non-UK 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 *consolidation group* or, if applicable, ~~non-EEA sub-group non-UK 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 4.1.1R and SYSC 4.1.2R;
 - (b) SYSC 4.1.7R;
 - (bA) SYSC 4.3A;
 - (c) SYSC 5.1.7R;
 - (d) SYSC 7;
 - (dA) the *Remuneration Code*; or the *dual-regulated firms Remuneration Code*, whichever is applicable;
 - (e) *BIPRU 12.3.4R, BIPRU 12.3.5R, BIPRU 12.3.7AR, BIPRU 12.3.8R, BIPRU 12.3.22AR, BIPRU 12.3.22BR, BIPRU 12.3.27R, BIPRU 12.4.-2R, BIPRU 12.4.-1R, BIPRU 12.4.5AR, BIPRU 12.4.10R, BIPRU 12.4.11R and BIPRU 12.4.11AR*;
 - (f) [deleted];
 - (g) [deleted];
 - (h) [deleted];

[Note: article 109(2) of CRD]

- (3) ensure that compliance with the obligations in (2) enables the consolidation group or, if applicable, the non-EEA sub-group non-UK sub-group to have arrangements, processes and mechanisms that are consistent and well integrated and that any data relevant to the purpose of supervision can be produced.

[**Note:** article 109(2) of *CRD*]

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

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

...

13 Operational risk: systems and controls for insurers

13.1 Application

13.1.1 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 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*.

...

13.9 Outsourcing

...

13.9.9 G ...

- (4) *EIOPA* guidelines on system of governance dated 28 January 2015 ([EIOPA-BoS-14/253 EN](#)) include guidelines on, or relating to, outsourcing.

...

...

14 Risk management and associated systems and controls for insurers

14.1 Application

14.1.1 R 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 G 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*.

...

18 Whistleblowing

18.1 Application and purpose

...

Purpose

18.1.2 G (1) The purposes of this chapter are to:

...

(ca) set out the requirements which implement implemented the whistleblowing obligation under article 73(2) of *MiFID*, which require *MiFID investment firms* (except *collective portfolio management firms*) to have in place appropriate procedures for their employees to report potential or actual infringements of the *MiFID* and *MiFIR* regime (*SYSC* 18.6);

...

18.3 Internal arrangements

...

18.3.6A G For the purposes of *SYSC* 18.3.6R(1) ~~the possibility for P's employees to disclose reportable concerns to the PRA or to the FCA does not override any obligation of P or its employees to report breaches to P's Home State regulator of matters reserved by an EU instrument to that regulator. [deleted]~~

...

18.6 Whistleblowing obligations under the MiFID regime and other EU sectoral legislation

Whistleblowing obligations under the MiFID regime

18.6.1 R (1) A ~~UK~~ *MiFID investment firm* (except a *collective portfolio management investment firm*) must have appropriate procedures in place for its employees to report a potential or actual breach of:

- (a) any rule ~~implementing~~ which implemented *MiFID*; or
- (b) a requirement imposed by *MiFIR* or any onshored regulation which was previously an EU regulation adopted under

MiFID or MiFIR.

- 18.6.2 R SYSC 18.6.1R applies to a *third country investment firm* as if it were a ~~UK~~ *MiFID investment firm* (unless it is a *collective portfolio management investment firm*) when the following conditions are met:

...

- 18.6.3 G When considering what procedures may be appropriate for the purposes of SYSC 18.6.1R(1), a *MiFID investment firm* or a *third country investment firm* may wish to consider the arrangements in SYSC 18.3.1R(2).

Whistleblowing obligations under other sectoral legislation

- 18.6.4 G In addition to obligations under the MiFID regime, similar whistleblowing obligations apply to miscellaneous *persons* subject to regulation by the *FCA* under the following non-exhaustive list of ~~EU~~ legislation:

- (1) article 32(3) of the *Market Abuse Regulation*, as implemented in section 131AA of the *Act*;
- (2) the UK provisions which implemented article 71(3) of the *CRD* (see *IFPRU 2.4.1R* in respect of *IFPRU investment firms*);
- (3) the UK provisions which implemented article 99d(5) of the *UCITS Directive* (see SYSC 4.1.1ER in respect of *UK UCITS management companies*, and *COLL 6.6B.30R* in respect of *depositories*); and
- (4) article 24(3) of the *securities financing transactions regulation*.

...

19A IFPRU Remuneration Code**19A.1 General application and purpose**

Who? What? Where?

- 19A.1.1 R (1) The *Remuneration Code* applies to:

...

- (d) an *overseas firm* that:
 - (i) ~~is not an EEA firm~~;
 - (ii) ~~has its head office outside the EEA~~; and
 - (iii) ...

...

19A.1.2 G Part 2 of SYSC 1 Annex 1 provides for the application of SYSC 4.1.1R (General Requirements). In particular, and subject to the provisions on group risk systems and controls requirements in SYSC 12, this means that:

...

(2) in relation to where the *Remuneration Code* applies, it applies in relation to:

(a) a firm's UK activities; and

(b) ~~a firm's passported activities carried on from a branch in another EEA State; and~~ [deleted]

...

...

Purpose

19A.1.6 G ...

(2) The *Remuneration Code* implements the main provisions of the *CRD* which relate to *remuneration*. In applying the *Remuneration Code*, firms should comply with the EBA "Guidelines on sound remuneration policies under Articles 74(3) and 75(2) of Directive 2013/36/EU and disclosures under Article 450 of Regulation (EU) No 575/2013", 21 December 2015 (EBA/GL/2015/22). ~~Guidelines published by the EBA on 21 December 2015 on sound remuneration policies under articles 74(3) and 75(2) of the CRD and on disclosures under article 450 of the EU CRR. The Guidelines can be found at:~~

~~<http://www.eba.europa.eu/documents/10180/1314839/EBA-GL-2015-22+Guidelines+on+Sound+Remuneration+Policies.pdf/1b0f3f99-f913-461a-b3e9-fa0064b1946b>~~

(3) [deleted]

...

19A.3 Remuneration principles for IFPRU investment firms

Application: groups

19A.3.1 R (1) A firm must apply the requirements of this section at *group, parent undertaking* and *subsidiary undertaking* levels, including those *subsidiaries* established in a country or territory which is ~~not an EEA State~~ outside the United Kingdom.

(2) Paragraph (1) does not limit SYSC 12.1.13R(2)(dA) (which relates to the application of the *Remuneration Code* within UK consolidation

groups and ~~non-EEA sub-groups~~ non-UK sub-groups).

[Note: article 92(1) of CRD]

19A.3.2 G SYSC 12.1.13R(2)(dA) requires the *firm* to ensure that the risk management processes and internal control mechanisms at the level of any *UK consolidation group* or ~~*non-EEA sub-group*~~ *non-UK 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 *FCA's* view, the application of this section at *group, parent undertaking* and *subsidiary undertaking* levels in SYSC 19A.3.1R(1) is in line with ~~article 109(2) of CRD~~ on the application of systems and controls requirements to *groups* (as in SYSC 12.1.13R).

...

19A.3.4 R (1) *Remuneration Code staff* comprises:

(a) an *employee* of an *IFPRU investment firm* whose professional activities have a material impact on the *firm's* risk profile, including any *employee* who is deemed to have a material impact on the *firm's* risk profile in accordance with ~~Regulation (EU) 604/2014 of 4 March 2014 (Regulatory technical standards to identify staff who are material risk takers)~~ the *Material Risk Takers Regulation*; or

(b) subject to (2) and (3), an *employee* of an *overseas firm* in SYSC 19A1.1.1R(1)(d) (i.e., an *overseas firm* that would have been an *IFPRU investment firm* if it had been a *UK domestic firm*) whose professional activities have a material impact on the *firm's* risk profile, including any *employee* who would meet any of the criteria set out in articles 3 or 4(1) of ~~Regulation (EU) 604/2014 of 4 March 2014 (Regulatory technical standards to identify staff who are material risk takers)~~ the *Material Risk Takers Regulation* if it had applied to him.

(2) An *overseas firm* in SYSC 19A1.1.1R(1)(d) (i.e., an *overseas firm* that would have been an *IFPRU investment firm* if it had been a *UK domestic firm*) may deem an *employee* not to be *Remuneration Code staff* where:

(a) the *employee*:

(i) would meet the criteria in article 4(1) of ~~Regulation (EU) No 604/2014 of 4 March 2014~~ the *Material Risk Takers Regulation*;

(ii) would not meet any of the criteria in article 3 of ~~Regulation (EU) No 604/2014 of 4 March 2014~~ the *Material Risk Takers Regulation*; and

- (iii) was awarded total remuneration of less than €750,000 in the previous year; and
- (b) the *overseas firm* determines that the professional activities of the *employee* do not have a material impact on its risk profile on the grounds described in article 4(2) of ~~Regulation (EU) No 604/2014 of 4 March 2014~~ the *Material Risk Takers Regulation*.
- (3) Where the *overseas firm* deems an *employee* not to be *Remuneration Code staff* as set out in (2), it must notify the *FCA*, applying the approach described in article 4(4) of ~~Regulation (EU) No 604/2014 of 4 March 2014~~ the *Material Risk Takers Regulation*.

[**Note:** article 92(2) of *CRD* and articles 3 and 4 of ~~Regulation (EU) No 604/2014 of 4 March 2014~~ the *Material Risk Takers Regulation*.]

...

Remuneration Principle 11: Non-compliance with the Remuneration Code

- 19A.3.32 R A *firm* must ensure that variable *remuneration* is not paid through vehicles or methods that facilitate non-compliance with the *Remuneration Code*, the ~~*EU CRR*~~ *UK CRR* or the *UK* legislation that implemented the *CRD*.
- [**Note:** article 94(1)(q) of *CRD*]

...

- 19A.3.44 R A *firm* must ensure that any approval by the its shareholders or owners or members for the purposes of SYSC 19A.3.44AR is carried out in accordance with the following procedure:

...

- (3) the *firm* must:

...

- (b) demonstrate to the *FCA* that the proposed higher ratio does not conflict with its obligations under the *UK legislation that implemented the CRD* and the ~~*EU CRR*~~ *UK CRR*, having particular regard to the *firm's own funds* obligations;

...

...

- 19A.3.44 R A *firm* may apply a discount rate to a maximum of 25% of an *employee's* total variable remuneration provided it is paid in instruments that are deferred for a period of not less than five years.

[**Note:** article 94(1)(g)(iii) of *CRD*]

[**Note:** on 27 March 2014, the *EBA* published “Guidelines on the applicable notional discount rate for variable remuneration”, 27 March 2014 (EBA/GL/2014/01).]

19A.3.44 R In applying the discount rate in SYSC 19A.3.44DR, a *firm* must apply the
E *EBA* Guidelines on the applicable notional discount rate for variable remuneration published on 27 March 2014. [deleted]

[**Note:** the *EBA* Guidelines on the applicable notional discount rate for variable remuneration can be found at:
http://www.eba.europa.eu/documents/10180/643987/EBA_GL_2014-01-28_Final_Guidelines_on_the_discount_rate_for_remuneration%29.pdf/e8b3b3f6-6258-439d-a2d9-633e6e5de5e9]

...

19B AIFM REMUNERATION CODE

19B.1 Application

19B.1.1 R The *AIFM Remuneration Code* applies to a *full-scope UK AIFM* of:

- (1) a *UK AIF*; and
- (2) ~~an *EEA AIF*~~ a non-*UK AIF*; ~~and~~
- (3) ~~a non-*EEA AIF*~~. [deleted]

19B.1.1A G (1) *Full-scope UK AIFMs* are advised that *ESMA* published Guidelines on sound remuneration policies under the *AIFMD* on 3 July 2013 (Guidelines on sound remuneration policies under the AIFMD, 03.07.2013 [*ESMA/2013/232*]), which *full-scope UK AIFMs* should comply with in applying the *rules* in this section. ~~The Guidelines can be found at: http://www.esma.europa.eu/system/files/2013-232_aifmd_guidelines_on_remuneration__en.pdf~~

- (2) ...

...

19C BIPRU Remuneration Code

19C.1 General application and purpose

...

19C.1.2 G Part 2 of SYSC 1 Annex 1 provides for the application of SYSC 4.1.1R and SYSC 4.1.1CR (General Requirements). In particular, and subject to the provisions on group risk systems and controls requirements in SYSC 12, this means that:

...

(2) where the *BIPRU Remuneration Code* applies, it applies to:

- (a) a *firm's UK* activities; and
- (b) ~~a *firm's passported activities* carried on from a branch in another *EEA State*; and~~ [deleted]

...

...

19C.3 Remuneration principles

Application: groups

19C.3.1 R (1) A *firm* must apply the requirements of this section at *group, parent undertaking* and *subsidiary undertaking* levels, including those *subsidiaries* established in a country or territory which is ~~not an *EEA State*~~ outside the *United Kingdom*.

(2) Paragraph (1) does not limit SYSC 12.1.13R and SYSC 12.1.15R (which relate to the application of the *BIPRU Remuneration Code* within *UK consolidation groups* and ~~non-*EEA sub-groups* non-*UK sub-groups*~~ *non-UK sub-groups*).

19C.3.2 G The effect of SYSC 12.1.13R (2)(dA) and SYSC 12.1.15R is that the *firm* is required to ensure that the risk management processes and internal control mechanisms at the level of any *consolidation group* or ~~non-*EEA sub-group* non-*UK sub-group*~~ *non-UK 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.

...

19D Dual-regulated firms Remuneration Code

19D.1 Application and purpose

Who? What? Where?

19D.1.1 R (1) The *dual-regulated firms Remuneration Code* applies to:

...

- (d) an *overseas firm* that;
 - (i) ~~is not an *EEA firm*~~;
 - (ii) ~~has its head office outside the *EEA*~~; and
 - (iii) would be a *firm* in (a), (b) or (c) if it had been a *UK*

domestic firm, had carried on all of its business in the *United Kingdom* and had obtained whatever authorisations for doing so as are required under the *Act*.

- (2) For a *firm* which falls under (1)(a), (1)(b) or (1)(c), the *dual-regulated firms Remuneration Code* applies in relation to:
 - (a) its *UK activities*; and
 - (b) ~~its *passport* activities carried on from a branch in another EEA State~~; and [deleted]

...

...

...

Purpose

19D.1.6 G ...

- (2) The *dual-regulated firms Remuneration Code* implements the main provisions of the *CRD* which relate to *remuneration*. In applying the *rules* in the *dual-regulated firms Remuneration Code*, *firms* should comply with the EBA “Guidelines on sound remuneration policies under Articles 74(3) and 75(2) of Directive 2013/36/EU and disclosures under Article 450 of Regulation (EU) No 575/2013”, 21 December 2015 (EBA/GL/2015/22). Guidelines published by the EBA on 21 December 2015 on sound remuneration policies under articles 74(3) and 75(2) of the CRD and on disclosures under article 450 of the EU CRR. The Guidelines can be found at: http://www.eba.europa.eu/documents/10180/1314839/EBA_GL_2015_22+Guidelines+on+Sound+Remuneration+Policies.pdf/1b0f3f99-f913-461a-b3e9-fa0064b1946b

...

19D.3 Remuneration principles

Application: groups

- 19D.3.1 R (1) A *firm* must apply the requirements of this section at *group*, *parent undertaking* and *subsidiary undertaking* levels, including those *subsidiaries* established in a country or territory which is ~~not an EEA State~~ outside the United Kingdom.
- (2) Paragraph (1) does not limit SYSC 12.1.13R(2)(dA) (which relates to the application of the *dual-regulated firms Remuneration Code* within *UK consolidation groups* and ~~non-EEA sub-groups~~ non-UK

sub-groups).

[Note: article 92(1) of CRD]

19D.3.2 G SYSC 12.1.13R(2)(dA) requires the *firm* to ensure that the risk management processes and internal control mechanisms at the level of any *UK consolidation group* or ~~*non-EEA sub-group*~~ *non-UK sub-group* of which a *firm* is a member, comply with the obligations in this section on a consolidated basis (or sub-consolidated basis). In the *FCA's* view, the application of this section at *group, parent undertaking* and *subsidiary undertaking* levels in SYSC 19D.3.1R(1) is in line with ~~article 109(2) of the CRD~~ on the application of systems and controls requirements to *groups* (as in SYSC 12.1.13R).

...

19D.3.4 R (1) *Dual-regulated firms Remuneration Code staff* comprises:

(a) an *employee* of a *dual-regulated firm* whose professional activities have a material impact on the *firm's* risk profile, including any *employee* who is deemed to have a material impact on the *firm's* risk profile in accordance with ~~Regulation (EU) 604/2014 of 4 March 2014 (Regulatory technical standards to identify staff who are material risk takers)~~ the *Material Risk Takers Regulation*; or

(b) subject to (2) and (3), an *employee* of an *overseas firm* in SYSC 19D.1.1R(1)(d) (i.e., an *overseas firm* that would have been a *UK bank, building society* or *UK designated investment firm* if it had been a *UK domestic firm*) whose professional activities have a material impact on the *firm's* risk profile, including any *employee* who would meet any of the criteria set out in articles 3 or 4(1) of ~~Regulation (EU) 604/2014 of 4 March 2014~~ the *Material Risk Takers Regulation* if it had applied to him.

(2) An *overseas firm* in SYSC 19D.1.1R(1)(d) (i.e., an *overseas firm* that would have been a *dual-regulated firm* if it had been a *UK domestic firm*) may deem an *employee* not to be a *dual-regulated firms Remuneration Code staff* where:

(a) the *employee*:

(i) would meet the criteria in article 4(1) of ~~Regulation (EU) No 604/2014 of 4 March 2014~~ the *Material Risk Takers Regulation*;

(ii) would not meet any of the criteria in article 3 of ~~Regulation (EU) No 604/2014 of 4 March 2014~~ the *Material Risk Takers Regulation*; and

(iii) was awarded total remuneration of less than €750,000 in the previous year; and

(b) the *overseas firm* determines that the professional activities of the *employee* do not have a material impact on its risk profile on the grounds described in article 4(2) of ~~Regulation (EU) 604/2014 of 4 March 2014~~ the *Material Risk Takers Regulation*.

(3) Where the *overseas firm* deems an *employee* not to be *dual-regulated firms Remuneration Code staff* as set out in (2), it must notify the *FCA*, applying the approach described in article 4(4) of ~~Regulation (EU) 604/2014 of 4 March 2014~~ the *Material Risk Takers Regulation*.

[**Note:** article 92(2) of *CRD* and articles 3 and 4 of Regulation (EU) No 604/2014 of 4 March 2014.]

19D.3.5 G Where an *overseas firm* in SYSC 19D1.1R(1)(d) (i.e., an *overseas firm* that would have been a *dual-regulated firm* if it had been a *UK domestic firm*) wishes to deem an *employee* who earns more than €750,000 not to be *dual-regulated firms Remuneration Code staff*, the *overseas firm* may apply for a *waiver* of the requirement in SYSC 19D.3.4R in respect of that *employee*.

...

Remuneration Principle 11: Non-compliance with the dual-regulated firms Remuneration Code

19D.3.34 R A *firm* must ensure that variable *remuneration* is not paid through vehicles or methods that facilitate non-compliance with obligations arising from the *Remuneration Code*, the ~~*EU-CRR*~~ *UK CRR* or the *UK legislation that implemented the CRD*.

[**Note:** article 94(1)(q) of *CRD*]

...

19D.3.50 R A *firm* must ensure that any approval by its shareholders or owners or members, for the purposes of SYSC 19D.3.49R, is carried out in accordance with the following procedure:

...

(3) the *firm* must:

...

(b) demonstrate to the *FCA* that the proposed higher ratio does not conflict with its obligations under the *UK legislation that implemented the CRD* and the ~~*EU-CRR*~~ *UK CRR*, having

particular regard to the *firm's own funds* obligations;

...

- 19D.3.52 R A *firm* may apply a discount rate to a maximum of 25% of an *employee's* total variable remuneration provided it is paid in instruments that are deferred for a period of not less than five years.

[**Note:** article 94(1)(g)(iii) of the *CRD*]

[**Note:** on 27 March 2014, the *EBA* published “Guidelines on the applicable notional discount rate for variable remuneration”, 27 March 2014 (EBA/GL/2014/01).]

- 19D.3.53 R ~~In applying the discount rate in SYSC 19D.3.52R, a *firm* must apply the *EBA* Guidelines on the applicable notional discount rate for variable remuneration published on 27 March 2014. [deleted]~~

~~[**Note:** the *EBA* Guidelines on the applicable notional discount rate for variable remuneration can be found at:~~

~~http://www.eba.europa.eu/documents/10180/643987/EBA_GL_2014-01+%28Final+Guidelines+on+the+discount+rate+for+remuneration%29.pdf/e8b3b3f6-6258-439d-a2d9-633e6e5de5e9~~

...

19E UCITS Remuneration Code

19E.1 Application

- 19E.1.1 R (1) The *UCITS Remuneration Code* applies to a *UK UCITS management company* that:
- (a) manages a *UCITS scheme*; ~~or~~
 - (b) manages an ~~EEA UCITS scheme~~.
- (2) ~~This section does not apply to an *EEA UCITS management company* that manages a *UCITS scheme*. [deleted]~~
- (3) In this section, a *firm* under (1)(a) ~~or (1)(b)~~ above, is referred to as a *management company*.

...

19F Remuneration and performance management of sales staff

19F.1 MiFID remuneration incentives

Application

- 19F.1.1 R (1) SYSC 19F.1 applies to:

...

(b) ... ; and

(c) ... ; ~~and~~

(d) ~~a UK branch of an EEA MiFID investment firm, unless it is a UCITS investment firm or an AIFM investment firm. [deleted]~~

...

...

19F.2 IDD remuneration incentives

Application

...

19F.2.1A R This section does not apply to an *authorised professional firm* with respect to its *non-mainstream regulated activities* if:

(1) the *firm's designated professional body* has made rules which ~~implement~~ implemented article 17(3) of the *IDD*;

...

...

20 Reverse stress testing

20.1 Application and purpose

Application

20.1.1A R ...

(3) Subject to (4), where all of the *BIPRU firms* within the same *UK consolidation group* or the ~~non-EEA sub-group~~ *non-UK 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 firms* as if it individually met the criteria in (2).

...

...

20.2 Reverse stress testing requirements

...

20.2.2 R Where the *firm* is a member of:

...

(2) a *UK consolidation group*; ~~or~~

(3) a ~~*non-EEA sub-group*~~ *non-UK sub-group*;

it must conduct the reverse stress test on a solo basis as well as on a consolidated basis in relation to the *UK consolidation group* or the ~~*non-EEA sub-group*~~ *non-UK sub-group*, as the case may be.

...

28 Insurance distribution: specific knowledge, ability and good reputation requirements

...

28.2 Knowledge and ability requirements

Knowledge and ability requirements

...

28.2.3 R A *firm* must, including in relation to the relevant employee, demonstrate compliance with the following professional knowledge and competence requirements:

...

(2) for ~~insurance-based investment products~~ *insurance-based investment products* as defined at article 2(1)(17) of the *IDD* (which in summary says that it is an insurance product which offers a maturity or surrender value, and where the maturity or surrender value is wholly or partially exposed, directly or indirectly, to market fluctuations. This excludes products such as non-investment insurance and certain life insurance);

...

(3) for *long-term insurance contracts*:

...

(b) minimum necessary knowledge of organisation and benefits guaranteed by the pension system of the relevant ~~Member State~~ state;

...

...

Annex C

Amendments to the Threshold Conditions (COND)

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

1 Introduction

1.1A Application

...

To what extent does ~~COND~~ apply to incoming EEA firms and incoming Treaty firms?

1.1A.4 G ~~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*. [deleted].

...

Where does ~~COND~~ apply?

1.1A.7 G ~~COND~~ applies in relation to all of the *regulated activities* wherever they are carried on, ~~except as stated in COND 1.1A.4G.~~

1.2 Purpose

...

Applications for a Part 4A permission or variation of Part 4A permission

1.2.2 G ...

- (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.4G, as relevant to the regulated activities for which the applicant has, or will have, Part 4A permission. [deleted]~~

Exercise of the FCA’s own initiative powers

1.2.3 G ...

(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.4G. [deleted]~~

...

2 The threshold conditions

...

2.3 Effective supervision

Paragraph 2C of Schedule 6 to the Act

2.3.1A UK (1) A must be capable of being effectively supervised by the FCA having regard to all the circumstances including-

...

(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 UK (“the foreign provisions”), whether those foreign provisions, or any deficiency in their enforcement, would prevent the FCA’s effective supervision of A.

...

...

Paragraph 3B of Schedule 6 to the Act

- 2.3.1C UK (1) B must be capable of being effectively supervised by the FCA having regard to all the circumstances including-
- ...
- (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 ~~an~~ the UK (“the foreign provisions”), whether those foreign provisions, or any deficiency in their enforcement, would prevent the FCA’s effective supervision of B.
- ...

...

- 2.3.7 G (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:

...

- (g) it is an individual and would be a *parent undertaking* of the *subsidiary undertaking*; ~~or~~
- (h) ~~it is incorporated in or formed under the law of another EEA State and is a *parent undertaking* within the meaning of any rule of law in that State for purposes connected with implementation of the *Seventh Company Law Directive*.~~
[deleted]

...

Annex D

Amendments to the Financial Stability and Market Confidence sourcebook (FINMAR)

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

2 Short selling

...

2.5 Measures to prohibit, restrict or limit transactions in short selling

...

- 2.5.5 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~~ the FCA pursuant to article 17(13) of the *short selling regulation*.

Exchange rate calculations

- 2.5.6 G (1) For the purposes of article 23(1)(b) of ~~Commission Delegated Regulation (EU) No 918/2012~~ the SSR Delegated Regulation 2 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.

...

- 2.5.7 G The *FCA* will treat the FTSE 100 index as the main national equity index of the ~~Member State~~ United Kingdom for the purposes of article 6(4) of ~~Commission Implementing Regulation (EU) No 827/2012~~ the SSR Implementing Regulation and article 4 of ~~Commission Delegated Regulation (EU) No 826/2012~~ and article 23(1) of ~~Commission Delegated Regulation (EU) No 918/2012~~, the SSR Delegated Regulation 2 all subject to approval by ~~European Parliament and Council~~.

Annex E

Amendments to the Training and Competence sourcebook (TC)

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

1 Application and Purpose

1.1 Who, what and where?

Who and what?

...

- 1.1.1B G *ESMA* has issued guidelines specifying criteria for the assessment of knowledge and competence (3 January 2017 ESMA71-1154262120-153 EN (rev)). ~~The *ESMA* guidelines can be found at <https://www.esma.europa.eu/document/guidelines-assessment-knowledge-and-competence>~~

...

2 Competence

2.1 Assessing and maintaining competence

Assessment of competence and supervision

2.1.1 R ...

- (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*. [deleted]~~

...

4 Specified modified requirements

4.1 Specified requirements for MiFID investment firms and for third country investment firms

...

- 4.1.3 R References in *TC* 4.1.4R to a relevant individual’s knowledge and competence are to the knowledge and competence necessary to ensure that the *firm*, on behalf of which the relevant individual acts, is able to meet its obligations under:
- (1) those *rules* which ~~implement~~ implemented articles 24 and 25 of *MiFID* (including those *rules* which ~~implement~~ implemented related provisions under the *MiFID Delegated Directive*); and
 - (2) related provisions of the *MiFID Org Regulation*.
- 4.1.4 R Unless the context requires otherwise the *rules* in column 1 of the table are amended as set out in column 2:

| Column 1 | Column 2 |
|---------------|--|
| Relevant rule | Amendments |
| TC 2.1.1R(1) | <p>Insert the following at the end of <i>TC</i> 2.1.1R(1):</p> <p>“In addition, a <i>firm</i> must not assess a relevant individual as competent unless the <i>firm</i> has satisfied itself that the relevant individual possesses the knowledge and competence to enable the <i>firm</i> to meet its obligations under <i>SYSC</i> 5.1.5ABR. This means that the relevant individual has also:</p> <p>(a) obtained appropriate experience which means that the relevant individual has successfully demonstrated the ability to carry on the activities through previous work experience. This work must have been performed, on a full-time equivalent basis, for a minimum period of 6 <i>months</i>; and</p> <p>(b) attained an appropriate qualification which means a qualification or other test or training course that meets the criteria set out by the <i>ESMA</i> guidelines <u>referred to in <i>TC</i> 1.1.1BG</u>.</p> <p>The level of knowledge and competence needed to fulfil the <i>firm</i>’s obligations reflects the scope and degree of the activities, as described in <i>TC</i> 4.1.2R above, carried out by the relevant individual.”</p> |
| ... | ... |

...

App 1.1 Activities and Products/Sectors to which TC applies subject to TC Appendices 2 and 3

| | | | | |
|-------|---|----------|------------------|--|
| 1.1.1 | R | Activity | Products/Sectors | Is there an appropriate qualification requirement? |
|-------|---|----------|------------------|--|

| | | | |
|-------------------------------|-----|---|----|
| ... | | | |
| ... | | | |
| <i>MiFID business bidding</i> | 13C | <i>Emissions auction products that are financial instruments</i> [deleted] | No |
| ... | | | |

App 2.1 TCs Territorial Scope subject to the limitation in TC Appendix 3

2.1.1 R

| | <i>UK domestic firm</i> | <i>Incoming EEA firm</i> [deleted] | <i>Overseas firm (other than an incoming EEA firm)</i> |
|---|--|------------------------------------|--|
| <i>MiFID business and equivalent third country business</i> | <p>TC applies in respect of employees who carry on activities from an establishment maintained by the <i>firm</i> (or its <i>appointed representative</i>) in the <i>United Kingdom</i> and</p> <p>if an activity is carried on from an establishment maintained by the <i>firm</i> (or its <i>appointed representative</i> or, where applicable, its <i>tied agent</i>) in, and within the territory of, another <i>EEA State</i>, TC applies although matters which would otherwise be</p> | TC does not apply | ... |

| | | | |
|---|---|---|-----|
| | covered by SYSC 5.1.5ABR are matters reserved for the <i>Host State regulator</i> | | |
| <i>Insurance distribution activities</i> | <p><i>TC</i> applies in respect of <i>employees</i> who carry on activities 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> | <i>TC</i> does not apply | ... |
| <p>Mortgage activities and <i>reversion activities</i> numbers 20, 20A, 21, 21A, 21B, 22 and 23 in TC App 1.1.1R; and</p> <p><i>MCD credit agreement activities</i> numbers 23A to 23E in TC App 1.1.1R</p> | <p><i>TC</i> applies if the customer is resident in the <i>United Kingdom</i> at the time the activity 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</p> | <p>Same as for <i>UK domestic firm</i> except that:</p> <p>(1) if the <i>firm</i> carries on the activity from an establishment maintained by the <i>firm</i> or its <i>appointed representative</i> in the <i>United Kingdom</i> and the <i>customer</i> is resident in another <i>EEA State</i> when the activity is carried on, <i>TC</i> does not</p> | ... |

| | | | |
|----------------------------------|--|--|-----|
| | maintained by the <i>firm</i> or its appointed representative in the <i>United Kingdom</i> | apply; and (2) if the <i>firm</i> carries on the activity from an establishment maintained by the <i>firm</i> in another <i>EEA State</i> (and the customer is resident in the <i>United Kingdom</i> when the activity is carried on), the following provisions of <i>TC</i> apply: <i>TC 2.1.5AR; TC 2.1.5BR(2), (3), (5) and (6); TC 2.1.5CR; TC 2.1.5DG; TC 2.1.5ER; and TC 2.1.5FG.</i> [Note: article 9(3) of the <i>MCD</i>] | |
| Any other activity in Appendix 1 | ... | <i>TC</i> applies in respect of its employees who carry on activities from an establishment maintained by the <i>firm</i> (or its appointed representative) in the <i>United Kingdom</i> | ... |

App 3.1 Circumstances in which TC does not apply

3.1.1

| 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>Incoming ECA provider</i> | <i>TC</i> does not apply to an <i>incoming ECA provider acting as such.</i> |

...

TP 1 Designated Investment Business: Assessments of competence before commencement

TC TP 1.1

| | | | |
|------|---|--------------------------------------|--|
| ... | | | |
| 1.1A | G | Notwithstanding <i>TC</i> TP 1 1.1R: | |
| | | (1) | a <i>firm</i> is subject to <i>SYSC</i> 5.1.5ABR in respect of such an <i>employee</i> and should have regard to the guidelines <i>ESMA</i> has issued specifying the criteria for the assessment of knowledge and competence (3 January 2017 ESMA71-1154262120-153 EN (rev)). The <i>ESMA</i> guidelines can be found at: https://www.esma.europa.eu/document/guidelines-assessment-knowledge-and-competence; and |
| | | ... | |

...

Annex F

Amendments to the General Provisions (GEN)

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

1 FCA approval and emergencies

1.1 Application

...

1.1.1 R ...

- (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. [deleted]~~

...

1.2 Referring to approval by the FCA

...

1.2.2A R ...

- (1A) Paragraph (1) does not apply to a *firm* to the extent that it is incompatible with ~~the United Kingdom's~~ obligations under article 44(8) of the *MiFID Org Regulation*.

...

...

1.2.4 G A *firm* that carries on *MiFID, equivalent third country or optional exemption business* should have regard to the requirement in article 44(8) of the *MiFID Org Regulation* which is reproduced at ~~COBS 4.5A.16EU~~ COBS 4.5A.16UK.

1.3 Emergency

...

1.3.5 *GEN 1.3.2R* operates on the *FCA's rules*. It does not affect the *FCA'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 *FCA* 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)).

2 Interpreting the Handbook

...

2.2 Interpreting the Handbook

...

European Economic Area (EEA)

- 2.2.21 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. [deleted]~~

Treaty of Lisbon

- 2.2.22 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.~~

~~EU Onshored Regulations and third country firms~~

- 2.2.22A R (1) Unless exempted in (2) and subject to (3), *MiFIR*, and any ~~*EU regulation onshored regulations*~~ adopted as at 3 January 2018 under previously deriving from *MiFIR* or *MiFID*, apply to a *third country investment firm* as if it were a *UK MiFID investment firm* when the following conditions are met:
- ...
- (2) Paragraph (1) does not apply:
- (a) to the extent ~~*MiFIR* or an *EU regulation onshored regulation*~~ adopted under previously deriving from *MiFIR* or *MiFID* imposes a specific requirement in relation to a *third country investment firm*; and
- (b) to ~~*EU regulations onshored regulations*~~ *EU regulations* adopted under ~~articles~~ article 7, 34 and 35 of *MiFID*.

...

- (4) GEN 2.2.22AR(1) is subject to articles 2A to 2E of MiFIR and article 1(3) to (5) of the MiFID Org Regulation.
- (5) In relation to TP firms GEN 2.2.22AR(1) does not apply requirements imposed by and under MiFIR or by the MiFID Org Regulation in addition to those referred to in articles 2A to 2E MiFIR and article 1(3) to (5) of the MiFID Org Regulation.

2.2.22B G (1) The purpose of GEN 2.2.22AR is to ensure consistency with the principle referred to in recital 109 to MiFID that a *third country investment firm* should not be treated in a more favourable way than an *EEA firm* or a *UK firm*. A *third country investment firm* does not, however, benefit from passporting rights in the manner envisaged for *EEA firms* and its *authorisation* requires consideration of other issues, including the nature and extent of regulation provided by its *Home State regulator*.

(2) ...

...

4 Statutory status disclosure

4.1 Application

Who? What?

- 4.1.1 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; [deleted]~~
 - (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; [deleted]~~
 - (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; [deleted]~~
 - (4) ~~for a UCITS qualifier, this chapter does not apply; [deleted]~~
 - (5) only GEN 4.1 (Application) and GEN 4.5 (Statements about authorisation and regulation by the appropriate regulator) apply 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; and

- (6) only *GEN* 4.1 (Application) and *GEN* 4.5 (Statements about authorisation and regulation by the appropriate regulator) apply in relation to *administering a benchmark*.

...

- 4.1.4 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*.~~

...

4.3 Letter disclosure

...

- 4.3.1B G An example for *GEN* 4.3.1AG would be where a letter covers business for which the *FCA* is the *competent authority* under the *UK* provisions which implemented the *IDD* and under the *UK* provisions which implemented *MiFID*.

...

Exception: insurers

- 4.3.4 R *GEN* 4.3.1R (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 United Kingdom*~~ 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 United Kingdom*~~ and is not present in the *United Kingdom* when the *contract of insurance* is entered into.

...

Exception: credit firms

- 4.3.7 R *GEN 4.3.1R* (Disclosure in letters to retail clients) does not apply to a *credit firm* (other than a *firm* with a *limited permission*) with respect to the activity of *entering into a regulated credit agreement as lender* to which the *Consumer Credit Directive* applies, ~~to the extent it would be contrary to the United Kingdom's obligations under an EU instrument~~ would have applied if the activity had been carried on immediately before *exit day*.
- 4.3.8 G A *credit firm* which carries on the activity of *entering into a regulated credit agreement as lender*, in respect of an agreement to which ~~articles 5 and 6 of the *Consumer Credit Directive* apply~~ *GEN 4.3.1R* (Disclosure in letters to retail clients) does not apply as a result of *GEN 4.3.7R* is under an obligation to disclose pre-contract information in the form and to the extent required by the Consumer Credit (Disclosure of Information) Regulations 2010 (SI 2010/1013). *Firms* which carry on *credit broking* may take on the same obligation. A *credit firm* must also ensure specified information is included in *credit agreements* to which ~~the *Consumer Credit Directive* applies~~ *GEN 4.3.1R* (Disclosure in letters to retail clients) does not apply as a result of *GEN 4.3.7R* in the form and to the extent required by the Consumer Credit (Agreements) Regulations 2010 (SI 2010/1014).
- 4.3.9 G The effect of *GEN 4.3.7R* is that a *credit firm* in relation to a *regulated credit agreement* which would have been covered by the *Consumer Credit Directive* if the activity had been carried on immediately before *exit day* does not need to comply with *GEN 4.3.1R* in relation to those letters (or electronic equivalents) that accompany the information required under the Regulations referred to in *GEN 4.3.8G*.
- 4.3.10 G *GEN 4.3.7R* and the guidance related to it are not relevant to *Regulated regulated* activities covered by a *limited permission* (see the “relevant credit activities” set out in paragraph 2G of Schedule 6 to the *Act*) ~~do not fall within the scope of articles 5 and 6 of the *Consumer Credit Directive*, therefore *GEN 4.3.7R* and the guidance related to it are not relevant to those activities.~~

...

4.5 Statements about authorisation and regulation by the appropriate regulator

...

- 4.5.5 G ~~*SUP 13A Annex 1* provides guidance on the application of the *Handbook* to an *incoming EEA firm*. [deleted]~~
- 4.5.6 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.

...

4 Annex Statutory status disclosure 1R

This rule applies to firms that are not *PRA-authorized persons*:

| | Type of firm | Required disclosure (Note 5) |
|--|---|---|
| (1) | <i>UK domestic firm; or overseas firm (which is not an incoming firm)</i> | “Authorized and regulated by the Financial Conduct Authority” (Note 1) |
| (2) | <i>Incoming firm without a top-up permission [deleted]</i> | (a) “Authorized by [name of Home State regulator] or (b) “Authorized by [name of Home State regulator] 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 [deleted]</i> | “Authorized by [name of Home State regulator] and authorized 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) | ... | ... |
| <p>...</p> <p>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. [deleted]</p> <p>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</p> | | |

~~make disclosure (b).~~ [deleted]

...

4 Annex 1AR Statutory status disclosure (PRA-authorized persons)

This rule applies to firms that are PRA-authorized persons:

| | Type of firm | Required disclosure (Note 5) |
|---|---|--|
| (1) | ... | ... |
| (2) | overseas firm (which is not an incoming firm) | ... |
| (3) | Incoming firm without a top-up permission [deleted] | (a) “Authorized by [name of <i>Home State regulator</i>]” or (b) “Authorized by [name of <i>Home State regulator</i>] 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” (Notes 1, 2, 2a and 3) |
| (4) | Incoming firm with a top-up permission [deleted] | “Authorized by [name of <i>Home State regulator</i>] 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” (Notes 1, 2 and 3) |
| ... | ... | ... |
| <p>...</p> <p>Note 2 = An incoming firm or overseas firm is free to translate the name of its <i>Home State regulator</i> or <i>overseas regulator</i> into English if it wishes. In doing so, it must ensure that the State in which the regulator is based is clear.</p> <p>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</p> | | |

~~customer that it is regulated or supervised by the FCA or PRA, in which case it must make disclosure (b). [deleted]~~

...

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.

...

...

Sch 4 Powers exercised

...

4.2G Powers to make rules

| | |
|---|--|
| The following powers and related provisions in or under the <i>Act</i> have been exercised by the <i>FCA</i> to make the <i>rules</i> in <i>GEN</i> : | |
| | ... |
| | Paragraphs 19 (Establishment), 20 (Services) and 20C (Notice of intention to market an AIF) of Schedule 3 (EEA Passport Rights) |
| | ... |

...

4.6G

| | |
|---|---|
| The following additional powers and related provisions have been exercised by the <i>FCA</i> to issue the parts of the statements in <i>GEN</i> : | |
| | ... |
| | Regulation 14 (Guidance) of the <i>Cross-Border Payments in Euro Regulations</i> |
| | ... |

4.7G Powers to direct, require or specify

| | |
|--|-----|
| The following powers and related provisions in the <i>Act</i> have been exercised by the <i>FCA</i> in <i>GEN</i> to direct, require or specify: | |
| | ... |

| | |
|--|--|
| | Section 293A (Information: compliance with EU requirements) |
| | ... |
| | Paragraph 5(4) (Notice to UK Regulator) of Schedule 4 (Treaty Rights) |
| | ... |

...

4.12G

| | |
|---|---|
| The following additional powers have been exercised by the <i>FCA</i> to give the other <i>guidance</i> in <i>GEN</i> : | |
| | ... |
| | Regulation 14 (Guidance) of the <i>Cross Border Payments in Euro Regulations</i> |
| | ... |
| | Regulation 15 (Guidance) of the Payments in Euro (Credit Transfers and Direct Debits) Regulations 2012 (SI 2012/3122) |
| | ... |

After GEN TP 4 (Transitional Provision on early compliance with the Insurance Distribution Directive applying across the Handbook) insert a new TP 5. The text is not underlined.

TP 5 Transitional provisions applying across the FCA Handbook and Technical Standards relating to the UK's exit from the EU

Table 1: Transitional provisions applying across the FCA Handbook and Technical Standards

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

| | |
|-----|--|
| | <i>notification rules</i> override the general transitional provisions. Both the general and the more specific transitional provisions do not apply if the context requires otherwise and are subject to any more specific transitional provision elsewhere in the <i>FCA Handbook</i> , Technical Standards or other legislative material relating to the matter. |
| (4) | Definitions for these transitional provisions, additional to those in the <i>Glossary</i> , are provided at row 13 of Table 2. |

Table 2: Transitional provisions applying across the FCA Handbook and Technical Standards

| (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 Handbook</i> , unless the context otherwise requires and subject to any more specific transitional provision relating to the matter | R | Acts under pre-exit day provisions Anything done, or having effect as done, under or for the purposes of any pre- <i>exit day</i> provision has effect as if done under or for the purposes of any substantially similar provision in the <i>FCA Handbook</i> . | From <i>exit day</i> | <i>exit day</i> |
| 2 | Row 1 of this table | G | For example, a <i>firm</i> may continue to treat a <i>client</i> as an <i>elective eligible counterparty</i> pursuant to <i>COBS</i> 3.6.4R where prior to <i>exit day</i> it had categorised that <i>client</i> as such in deference to the status of that undertaking under the law or measures of the <i>EEA State</i> of that | From <i>exit day</i> | <i>exit day</i> |

| | | | | | |
|---|---|---|---|----------------------|-----------------|
| | | | client's <i>establishment</i> in accordance with <i>COBS 3.6.7R</i> . | | |
| 3 | Every provision in the <i>FCA Handbook</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 Handbook</i> is dependent on the occurrence of a series of events, some of which occur before, and some of which occur after, <i>exit day</i> , the provision applies with respect to the events that occur after <i>exit day</i> . | From <i>exit day</i> | <i>exit day</i> |
| 4 | Every provision in the <i>FCA Handbook</i> , unless the context otherwise requires and subject to any more specific transitional provision relating to the matter | R | Deemed references to pre-exit day provisions Any reference (express or implied) in a provision in the <i>FCA Handbook</i> to a provision of or made under the <i>Act</i> or of retained EU law 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>exit day</i> , a reference to any substantially similar pre- <i>exit day</i> provision. | From <i>exit day</i> | <i>exit day</i> |
| 5 | Row 4 of this table | G | For example, | From <i>exit day</i> | <i>exit day</i> |

| | | | | | |
|---|---|---|--|----------------------|-----------------|
| | | | <p><i>BIPRU 2.1.11R</i> requires a <i>firm</i> to notify the <i>FCA</i> immediately of any breach, or expected breach, of the <i>main BIPRU firm Pillar 1 rules (GENPRU 2.1.40R (Variable capital requirement for BIPRU firms), GENPRU 2.1.41R (Base capital resources requirement for BIPRU firms) and GENPRU 2.1.48R (Table: Base capital resources requirement for a BIPRU firm). This includes breaches of the main BIPRU firm Pillar 1 rules as they applied before exit day.</i></p> | | |
| 6 | <p>Every provision in the <i>FCA Handbook</i>, unless the context otherwise requires and subject to any more specific transitional provision relating to the matter</p> | R | <p>Time starting before exit day</p> <p>If, at <i>exit day</i>, time has begun to run for any purpose under any pre-<i>exit day</i> provision applicable to a <i>firm</i> or other person, then:</p> <p>(1) time will be regarded as having started to run, for the purposes of any substantially similar provision in the <i>FCA Handbook</i>, when it started to run for that other purpose; and</p> <p>(2) the <i>firm</i> or other</p> | From <i>exit day</i> | <i>exit day</i> |

| | | | | | |
|---|--|---|--|----------------------|-----------------|
| | | | person will be relieved of its obligation to comply with the relevant <i>pre-exit day</i> provision if and to the extent that it complies with the substantially similar provision as extended by this transitional provision. | | |
| 7 | Every <i>rule</i> in the <i>FCA Handbook</i> requiring a record to be made or retained, unless the context otherwise requires and subject to any more specific transitional provision relating to the matter | R | <p>Record keeping</p> <p>A <i>firm</i> or other person will not contravene a <i>rule</i> in the <i>FCA Handbook</i> requiring a record to be made or retained to the extent that the <i>firm</i> or other person:</p> <p>(1) made a record of the matter before <i>exit day</i> in accordance with the <i>rule</i> or with a substantially similar <i>pre-exit day</i> provision applicable to the <i>firm</i> or other person; and</p> <p>(2) retains that record as if the <i>rule</i> was in force when the record was made.</p> | From <i>exit day</i> | <i>exit day</i> |
| 8 | Every <i>rule</i> in the <i>FCA Handbook</i> requiring a record to be made or retained, unless the context otherwise requires | G | This transitional provision makes specific provision, in relation to record keeping, for the matters covered by | From <i>exit day</i> | <i>exit day</i> |

| | | | | | |
|----|--|---|--|----------------------|-----------------|
| | and subject to any more specific transitional provision relating to the matter | | row 1 of this table. It is included for clarity and overrides those general transitional provisions. | | |
| 9 | Every <i>rule</i> in the <i>FCA Handbook</i> requiring a record to be made or retained, 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 Handbook</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>exit day</i> under a substantially similar pre- <i>exit day</i> provision applicable to the <i>firm</i> or other person. | From <i>exit day</i> | <i>exit day</i> |
| 10 | Row 7 of this table | G | This transitional provision makes specific provision, in relation to records, for the matters covered by rows 4 and 6 of this table. It is included for clarity and overrides those general transitional provisions. | | |
| 11 | Every <i>notification rule</i> in the <i>FCA Handbook</i> , unless the context otherwise requires and subject to any more specific transitional provision relating to the matter | R | Notification A <i>firm</i> (or its auditor, appointed actuary or <i>appropriate actuary</i>) or other person will not contravene a <i>notification rule</i> in | From <i>exit day</i> | <i>exit day</i> |

| | | | | | |
|----|-------------------------------|---|--|----------------------|-----------------|
| | | | <p>the <i>FCA Handbook</i> to the extent that notice of the relevant matter was given to the <i>FCA</i> before <i>exit day</i> in accordance with:</p> <p>(1) the <i>notification rule</i>; or</p> <p>(2) a substantially similar pre-<i>exit day</i> provision applicable to the <i>firm</i> or other person.</p> | | |
| 12 | Row 11 of this table | G | <p>This transitional provision makes specific provision, in relation to notifications, for the matters covered by rows 1 and 3 of this table. It is included for clarity and overrides those general transitional provisions.</p> | From <i>exit day</i> | <i>exit day</i> |
| 13 | As rows 1 to 12 of this table | R | <p>Definitions</p> <p>In these transitional provisions:</p> <p>(1) “pre-<i>exit day</i> provision” means a provision in force on the day preceding <i>exit day</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 Handbook</i> means every type of provision,</p> | From <i>exit day</i> | <i>exit day</i> |

| | | | | | |
|----|--|----|--|----------------------|-----------------|
| | | | including <i>rules</i> , <i>guidance</i> , provisions in codes, and so on. | | |
| 14 | Rows 15 and 16 of this table | G | Application for provisions which are not rules The purpose of row 15 of this table is to ensure that the transitional provisions in rows 1 to 13 apply throughout the <i>FCA Handbook</i> . The purpose of row 16 is to ensure that the transitional provisions in rows 1 to 13 apply throughout Technical Standards made by the Board of the <i>FCA</i> . | From <i>exit day</i> | <i>exit day</i> |
| 15 | Directions, requirements, guidance, evidential provisions and other provisions in the <i>FCA Handbook</i> (that is, provisions with the status letter “D” or “G” or “E” in the margin or heading) unless the context otherwise requires and subject to any more specific transitional provision relating to the matter | G | The provisions in rows 1 to 13 apply to every <i>person</i> to whom the provisions referred to in column (2) apply as if the <i>rules</i> in those rows were part of those provisions. | From <i>exit day</i> | <i>exit day</i> |
| 16 | Technical Standards (that is, provisions with the status letter “TS” in the margin or heading) made by the Board of the <i>FCA</i> under The | TS | The provisions in rows 1 to 13 of this table apply to every person to whom the provisions referred to in column (2) apply as if | From <i>exit day</i> | <i>exit day</i> |

| | | | | |
|--|---|---|--|--|
| | <p>Financial Regulators' Powers (Technical Standards etc.) (Amendment etc.) (EU Exit) Regulations 2018 unless the context otherwise requires and subject to any more specific transitional provision relating to the matter</p> | <p>references to the <i>Handbook</i> were to Technical Standards made by the Board of the <i>FCA</i>. References in this table and in headings to the <i>FCA Handbook</i> should be read as referring to Technical Standards made by the Board of the <i>FCA</i>, where the context requires.</p> | | |
|--|---|---|--|--|

Annex G

Amendments to the Fees manual (FEES)

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

Part 1: Comes into force on exit day as defined in the European Union (Withdrawal) Act 2018

1 Fees Manual

1.1 Application and Purpose

...

1.1.2 R ...

(2) *FEES* 1, 2 and 4 apply to:

(a) every *firm* (except an ~~*AIFM*~~ ~~*qualifier*~~, ~~*ICVC*~~ or ~~*UCITS*~~ ~~*qualifier*~~);

...

(da) every ~~*AIFM*~~ *UK AIFM* of a ~~*UK ELTIF*~~ *an LTIF*;

...

(m) every ~~*AIFM*~~ ~~applying to become a~~ ~~*small registered UK AIFM*~~ and ~~every~~ ~~*small registered UK AIFM*~~;

(n) every *AIFM* notifying the *FCA* under regulation 57, 58 and 59 of the *AIFMD UK* regulation and every *AIFM* which has made such a notification;

(p) a *data reporting services provider* (~~*FEES 4*~~ ~~does not apply to an~~ ~~*incoming data reporting services provider*~~).

(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

...

...

(5) *FEES 1, 2, 7 and 7A (in relation to the SFGB money advice levy and SFGB debt advice levy only) apply to:*

(a) *every person having a Part 4A permission;*

(b) *an incoming EEA firm; [deleted]*

(c) *an incoming Treaty firm; [deleted]*

...

...

~~FEES 1, 2, 7 and 7A do not apply to an incoming EEA firm or an incoming Treaty firm that has not established a branch in the United Kingdom.~~

...

...

3 Application, Notification and Vetting Fees

3.1 Introduction

...

3.1.2 ~~G This chapter does not apply to:~~

~~(1) an EEA firm that wishes to exercise an EEA right unless it is:~~

~~(a) an incoming data reporting services provider connecting to the market data processor system; or~~

~~(b) an EEA firm connecting to the market data processor system; or~~

(2) a ~~EEA authorised payment institution~~; or

(3) an ~~EEA authorised electronic money institution~~. [deleted]

...

3.1.5 G (1) ~~The rates set for authorisation fees represent an appropriate proportion of the costs of the FCA in processing the application or exercise of Treaty rights.~~

(2) ~~[deleted]~~

(3) ~~[deleted]~~ [deleted]

...

3.1.6 G Applications for *Part 4A permission* (~~and exercises of Treaty rights~~) other than in respect of *credit-related regulated activities* are categorised by the *FCA* for the purpose of fee raising as straightforward, moderately complex and complex as identified in *FEES 3 Annex 1*. This differentiation is based on the permitted activities sought and does not reflect the *FCA*'s risk assessment of the applicant (~~or Treaty firm~~).

...

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 *FCA* before submitting it formally. If an applicant for *Part 4A permission* (~~or Treaty firm~~) does so, the *FCA* 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.

...

3.2 Obligation to pay fees

3.2.1 R A person in column (1) of the table in *FEES 3.2.7R* 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 *FCA* 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:

...

...

- 3.2.2 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*, other than where one of the applications is an application under the *benchmarks regulation*, only one fee is payable. That fee is the one for the category to which the highest fee tariff applies. Where applications are made under the *benchmarks regulation*, a separate fee will be payable for this application. The relevant fee is set out in *FEES 3.2.7R*.

...

- 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 (£) | (3) Due date |
| ... | ... | ... |
| (b) Any <i>Treaty firm</i> that wishes to exercise a <i>Treaty right</i> to qualify for authorisation 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 only</i> [deleted] | (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 <i>FEES 3 Annex 1</i>, part 4 (2) Where a certificate in (i) has been issued no fee is payable | On or before the notice of exercise is given |
| ... | | |
| (ea) (i) An <i>A non-UK AIFM</i> (other than a <i>UK AIFM</i> or an <i>EEA AIFM</i> with a branch in the <i>UK</i>) notifying the <i>FCA</i> of its intention to market an <i>AIF</i> in the <i>UK</i> under regulation 57 59 of the <i>AIFMD UK regulation</i> ... | <i>FEES 3 Annex 2 R</i> , part 4 | On or before the notice of exercise is given |

| | | |
|--|---|---|
| ... | | |
| <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><i>FEES</i> 3 Annex 3, part 1</p> | <p>On or before the date the application is made</p> |
| ... | | |
| <p>(o) In relation to a <i>BIPRU firm</i>, either:</p> <p>(i) a <i>firm</i> applying to the <i>FCA</i> for permission to use one of the <i>advanced prudential calculation approaches</i> listed in <i>FEES</i> 3 Annex 6R (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>FCA</i> as <i>EEA</i> consolidated supervisor under the (transposing parts of the <i>BCD</i> and <i>CAD</i>, as applicable under article 95(2) of the <i>EUCRR</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>FCA</i> for the use of the <i>Internal Ratings Based approach</i> and the <i>Home State regulator</i> requesting the <i>FCA</i>'s assistance in accordance with the <i>Capital Requirements Regulations 2006</i> (transposing parts of the <i>BCD</i> and <i>CAD</i>, as applicable</p> | <p>(1) Unless (2) applies, <i>FEES</i> 3 Annex 6.</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 <i>FEES</i> 3 Annex 6, 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 accordance 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 <i>FEES</i> 3 Annex 6.</p> | <p>Where the <i>firm</i> has made an application directly to the <i>FCA</i>, on or before the date the application is made, otherwise within 30 days after the <i>FCA</i> notifies the <i>firm</i> that its <i>EEA</i> parent's <i>Home State regulator</i> has requested assistance.</p> |

| | | |
|---|---|---|
| <p>under article 95(2) of the <i>EU CRR</i>, any firm to which the <i>FCA</i> would have to apply any decision to permit the use of that approach.</p> | | |
| <p>(oa) Either:</p> <p>(i) a <i>firm</i> applying to the <i>FCA</i> for permission to use one of the internal approaches listed in <i>FEES 3 Annex 6A</i> (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>FCA</i>) as consolidating supervisor under the <i>EU CRR</i> <u><i>UK CRR</i></u> any <i>firm</i> making such an application; or</p> <p>(ii) in the case of an application to the consolidating supervisor other than the <i>FCA</i> for the use of the IRB approach and the consolidating supervisor requesting the <i>FCA</i>'s assistance in accordance with the <i>EU CRR</i> <u><i>UK CRR</i></u>, any <i>firm</i> to which the <i>FCA</i> would have to apply any decision to permit the use of that approach.</p> | <p>...</p> | <p>...</p> |
| <p>...</p> | | |
| <p>(zy) (1) Subject to (2) and (3) below, any <i>person</i> applying to connect to the <i>market data processor system</i> to provide <i>markets data (other than transaction reports)</i> under <i>MiFID</i> and <i>MiFIR</i> <u><i>MAR 10</i></u>.</p> <p>(2) If a <i>person</i> has previously applied as stated in (zy)(1)</p> | <p>(1) Unless (2) applies, 10,000.</p> <p>(2) Any incoming data reporting services provider authorised by another EEA State will pay 80% of the fee at (1).</p> | <p>On the date the application is made.</p> |

| | | |
|--|--|--|
| <p>above and has been connected then no further fee is payable for any further such applications in relation to reporting the same data.</p> <p>(3) If a <i>person</i> has previously applied as stated in (zy)(1) above and makes a further application in relation to the provision of different data then a separate fee is payable for such application.</p> | | |
| <p>...</p> | | |

3 Annex 1R Authorisation fees payable

...

Part 2 – Complexity groupings not relating to *credit-regulated activities*

Straightforward cases

| Straightforward cases | |
|-----------------------|---|
| Activity grouping | Description |
| ... | ... |
| A.10 | A firm to the extent it is bidding in emissions auctions [deleted] |
| ... | ... |

Moderately complex cases

| Moderately complex cases | |
|--------------------------|---|
| Activity grouping | Description |
| ... | ... |
| A.10 | Firms dealing as principal, except to the extent the firm is |

| | |
|-----|--------------------------------------|
| | <i>bidding in emissions auctions</i> |
| ... | ... |

...

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 3.2.7R 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 3.2.7R for an applicant for *Part 4A permission*.~~

...

3 Annex 2R Application and notification fees payable in relation to collective investment schemes, ELTIFs, money market funds and AIFs marketed in the UK

| Legislative provision | Nature and purpose of fee | Payable by | Amount of fee (£) | Umbrella factor (note 1) |
|-------------------------------|--|--------------|-------------------|--------------------------|
| ... | | | | |
| Section 272 of the <i>Act</i> | On application for an order declaring a <i>scheme</i> to be recognised where the <i>scheme</i> is: | An applicant | | |
| | an <i>EEA AIF</i> equivalent to a <i>non-UCITS retail scheme</i> | | 1500 | 2 |
| | an <i>EEA AIF</i> equivalent to a <i>qualified investor scheme</i> | | 2400 | 2 |
| | a <i>non-EEA AIF</i> a <i>non-UK AIF</i> or <i>AIF</i> | | 8000 | 2 |

| | | | | |
|--|--|--|-----|--|
| | equivalent to a <u>UK UCITS</u> , non- <u>UCITS</u> retail scheme or a qualified investor scheme | | | |
| | Where funds of any kind set out in Part 2 exist prior to 21 July 2018, a flat fee will be payable on an application for authorisation under the <i>Money Market Funds Regulation</i> | | 300 | |
| ... | | | | |
| Part 2B Application fees payable for UK or non-EEA firms applying for authorisation under article 5 of the Money Market Funds Regulation | | | | |
| Article 5 of the <i>Money Market Funds Regulation</i> | <u>UK AIF</u> (apart from those authorised as a <u>UK UCITS</u> , a non- <u>UCITS</u> retail scheme or a qualified investor scheme) | | 500 | |
| | Non-EEA AIF <u>Non-UK AIF</u> which is marketed in the UK/EEA without a passport | | 750 | |
| | Non-EEA AIF <u>Non-UK AIF</u> which is marketed in the UK/EEA with a passport or is not marketed in | | 500 | |

| | | | | |
|-----|---|--|-----|--|
| | the UK/EEA | | | |
| | Non-EEA AIF Non-UK AIF which is not managed by an EU AIFM but is marketed in the UK/EEA with a passport | | 750 | |
| ... | | | | |

...

3 Annex 3R Application fees payable in connection with Recognised Investment Exchanges and ~~Recognised Auction Platforms~~

| Description of applicant | Amount payable | Due date |
|--|----------------|------------------------------|
| Part 1 (UK recognised bodies) | | |
| ... | ... | ... |
| Applicant for recognition as an RAP (payable in addition to any other application fee due under this part) [deleted] | 35,000 | Date the application is made |
| ... | | |

...

3 Annex 6AR Fees payable for a permission or guidance on its availability in connection with the ~~EU CRR~~ UK CRR

Part 1

Fees payable in relation to internal approaches that require permission under Part Three of the ~~EU CRR~~ UK CRR other than the internal model method for counterparty credit risk.

- (1) Subject to (3), for applications made to the *FCA* to authorise a new internal approach:
- (i) where the application relates to *IFPRU investment firms* and to five or more significant overseas entities within the same group (Group 1) and the application is

for a permission to use one of the internal approaches in Tables 1 or 2 or guidance on the availability of such a permission, the fees in Table 1 are applicable; and

(ii) for all other *IFPRU* investment firms the fees in Table 2 are applicable.

(2) [deleted]

(3) If however the application or request for assistance is in relation to the use of the Advanced IRB approach and the *FCA* (in the case of (1)) has already granted permission for the use of the Foundation IRB approach then Table 3 applies.

(4) References to the internal approaches in Tables 1, 2 and 3 are to be construed as follows:

(i) Foundation IRB means the internal approach for credit risk referred to in article 143(1) of the ~~*EU-CRR*~~ *UK CRR*;

(ii) Advanced IRB means the internal approach for credit risk referred to in article 151(4) and (9) of the ~~*EU-CRR*~~ *UK CRR*; and

(iii) AMA means the internal approach for operational risk referred to in article 312(2) of the ~~*EU-CRR*~~ *UK CRR*.

(5) All fees are shown in £.

...

4 Periodic fees

...

4.1 Introduction

...

4.1.4 G ...

- (3) The periodic fees for *fee-paying payment service providers, fee-paying electronic money issuers, CBTL firms, data reporting service providers* (other than *incoming data reporting services providers and issuers of regulated covered bonds* are set out in *FEES 4 Annex 11R*. This annex sets out the activity groups, tariff base, valuation dates and, where applicable, the flat fees due for these *firms*.

...

4.2 Obligation to pay periodic fees

- 4.2.7E R (1) (a) A *firm* (other than an ~~AIFM qualifier~~, an *ICVC*, a ~~UCITS qualifier~~, or an issuer of *regulated covered bonds*) which becomes authorised or registered, or whose *permission* and/or activities is extended, during the course of the *fee year* must pay a fee based on its projected valuation for the first twelve *months* of its new business.
- (b) This is the valuation provided by the *firm* in the course of its application or if not provided at that time, the valuation provided subsequently.
- (2) The calculation for the first year of *authorisation* or registration for:
- (a) ~~an AIFM qualifier~~, an *ICVC* and a ~~UCITS qualifier~~ is in *FEES* 4 Annex 4R Part 1; and
- ...

...

4.2.7K R ...

Table A: calculating tariff data for second and subsequent years of authorisation when full trading figures are not available

| Fee-block | Tariff base | Calculation where trading data are not available |
|--|---------------------|--|
| ... | ... | ... |
| B. Recognised auction platforms [deleted] | Flat fee | Not applicable. |
| ... | ... | ... |

4.2.8 R In relation to an *incoming EEA firm* or an *incoming Treaty firm* the modification provisions of *FEES* 4.2.7R apply only in relation to the relevant *regulated activities* of the *firm*, which are ~~passport~~ed 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* 4.3.12AR relates.

...

4.2.11 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 the modified periodic fee |
|--|--|---|---|
| Any <i>firm</i> (except an <i>AIFM</i> <i>qualifier</i> , <i>ICVC</i> or a <i>UCITS</i> <i>qualifier</i>) | ... | ... | ... |
| ... | | | |
| <i>AIFM</i> <u>UK</u> <i>AIFM</i> of a <u>UK</u> <i>ELTIF</i> an <u>LTIF</u> | In relation to each <i>ELTIF</i> <u>LTIF</u> the amount specified in part 1 of <i>FEES</i> 4 Annex 4 | ... | The <i>ELTIF</i> <u>LTIF</u> is authorised by the FCA under the <i>ELTIF</i> <i>regulation</i> <u>LTIF</u> <i>Regulation</i> |
| ... | | | |
| <i>UK</i> <i>recognised</i> <i>body</i> | <i>FEES</i> 4 Annex 6, part 1 for a <i>UK</i> <i>RIE</i> ; and <i>FEES</i> 4 Annex 6R, part 1A for a <i>UK</i> <i>RIE</i> that is also an <i>RAP</i> | (1) On or before the relevant dates specified in <i>FEES</i> 4.3.6R (2) If the event in column 4 occurs during the course of a <i>fee</i> year, 30 days after the occurrence of that event | <i>Recognition order</i> is made. The modified periodic fee is specified in <i>FEES</i> 4 Annex 6R, Part 1 and (in the case of an <i>RAP</i>) Part 1A. |
| ... | | | |
| (i) An <i>AIFM</i> <u><i>A non-UK</i></u> | ... | ... | ... |

| | | | |
|--|--|--|--|
| <p><i>AIFM</i> (other than a <i>UK AIFM</i> or an <i>EEA AIFM</i> with a branch in the <i>UK</i>) which has notified the <i>FCA</i> of its intention to market an <i>AIF</i> in the <i>UK</i> under regulation 57 59 of the <i>AIFMD UK regulation</i> and which has not ceased to market that <i>AIF</i> in the <i>UK</i> as at 1 April of the current <i>fee year</i>.</p> <p>(ii) An <i>AIFM</i> non-<i>UK AIFM</i> which has notified the <i>FCA</i> of its intention to market an <i>AIF</i> in the <i>UK</i> under regulation 58 or 59 of the <i>AIFMD UK regulation</i> and which has not ceased to market that <i>AIF</i> in the <i>UK</i> as at 1 April of the current <i>fee year</i>.</p> | | | |
|--|--|--|--|

| | | | |
|-----|--|--|--|
| ... | | | |
| | | | |

4.3 Periodic fee payable by firms (other an AIFM qualifiers, ICVCs and UCITS qualifiers)

...

4.3.2 G ...

- (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 4.3.11G, FEES 4.3.12R and FEES 4.3.12AR). [deleted]~~

...

Calculation of periodic fee for fee-paying payment service providers, CBTL firms, data reporting services providers (~~other than incoming data reporting services providers~~) and fee-paying electronic money issuers

- 4.3.3A R The periodic fee referred to in FEES 4.3.1R in relation to *fee-paying payment service providers, CBTL firms, data reporting services providers* (~~other than incoming data reporting services providers~~) and *fee-paying electronic money issuers* is calculated in accordance with FEES 4 Annex 11R.

Modification for firms with new or extended permissions

4.3.4 G ...

- (3) ~~These provisions apply (with some changes) to incoming EEA firms, incoming Treaty firms, EEA authorised payment institutions and EEA authorised electronic money institutions. [deleted]~~

...

...

~~Incoming EEA firms, incoming Treaty firms, EEA authorised payment institutions~~

and EEA authorised electronic money institutions

- 4.3.11 G (1) ~~The FCA 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*.~~
- (2) ~~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.~~
~~[deleted]~~

- 4.3.12 R ~~For an *incoming EEA firm*, (excluding *MTF* and *OTF* operators), or an *incoming Treaty firm*, the calculation required by *FEES 4.3.3R* is modified as follows:~~
- (1) ~~the tariffs set out in Part 1 of *FEES 4 Annex 2AR* 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*.~~ ~~[deleted]~~

- 4.3.12A 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 4.3.3AR* is modified as follows:~~

- (1) ~~the tariffs set out in Part 5 of *FEES 4 Annex 11* 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*.~~

[deleted]

...

4.4 Information on which fees are calculated

...

4.4.2A R If a *firm* is a UK Solvency II firm, ~~an incoming EEA firm or an incoming Treaty firm~~ in activity group A.3 or A.4 and the PRA or the FCA has either:

- (1) not received the necessary tariff data on a timely basis in line with Part 3 and 5 of FEES 4 Annex 1AR; or
- (2) deemed the tariff data received to be incomplete or insufficiently reliable, by reference to a specific *firm* or across all or part of the activity group,

the FCA may use tariff data from the previous reporting period for the periodic fees calculation.

...

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. [deleted]

...

4 Annex FCA activity groups, tariff bases and valuation dates 1AR

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.10 Firms dealing as principal | its <i>permission</i> includes: |

| | |
|--|---|
| | <p>(a) dealing in investments as principal; and/or</p> <p>(b) bidding in emissions auctions;</p> <p>BUT NOT if one or more of the following apply:</p> <p>...</p> <p>the firm is an oil market participant, energy market participant or a local (except where the firm is bidding in emissions auctions);</p> <p>...</p> |
| ... | ... |
| B. Recognised auction platforms [deleted] | it is a recognised auction platform. |
| ... | ... |

...

| | |
|---|--|
| <p>Part 3</p> <p>This table indicates the tariff base for each fee-block set out in Part 1.</p> <p>The tariff base in this Part is the means by which the <i>FCA</i> measures the amount of business conducted by a <i>firm</i> for the purposes of calculating the annual periodic fees payable to the <i>FCA</i> by that <i>firm</i>.</p> | |
| Activity group | Tariff base |
| ... | ... |
| A3 | <p>GROSS WRITTEN PREMIUM FOR FEES PURPOSES AND BEST ESTIMATE LIABILITIES FOR FEES PURPOSES</p> <p>Gross written premium for fees purposes means:</p> <p>(1) for UK Solvency II firms, a <i>firm's</i> gross written premium as reported to the <i>PRA</i>, being the total of items entered under row codes R0110, R0120 and R0130, as expressed in column code C0200 where this column is completed for those row codes of the annual quantitative reporting template S.05.01.01; <u>and</u></p> <p>(2) for incoming EEA firms or incoming Treaty firms, a firm's gross written premium as reported to their Home State regulator, being the total of</p> |

| | |
|-----|--|
| | <p>items entered under row codes R0110, R0120 and R0130, as expressed in column code C0200 where this column is completed for those row codes, of the annual quantitative reporting template S.05.01.01 but only in relation to the <i>regulated activities</i> of the <i>firm</i> which are carried on in the <i>United Kingdom</i>, (except those provided on a cross border services basis); and [deleted]</p> <p>(3) ...</p> <p>AND</p> <p>Best estimate liabilities for fees purposes means:</p> <p>(1) for UK Solvency II firms, a <i>firm's</i> best estimate liabilities as reported to the <i>PRA</i>, being the sum of items entered under row codes R0010, R0370, R0380, R0410 and R0420, column code C0180, of the annual quantitative reporting template S17.01.01; plus the sum of items entered under row codes R0010, R0030, column codes C0090, C0140 and C0190, of the annual quantitative reporting template S12.01.01; and</p> <p>(2) for incoming EEA firms or incoming Treaty firms, a <i>firm's</i> best estimate liabilities as reported to their <i>Home State regulator</i>, being the sum of items entered under row codes R0010, R0370, R0380, R0410 and R0420, column code C0180, of the annual quantitative reporting template S17.01.01; plus the sum of items entered under row codes R0010, R0030, column codes C0090, C0140 and C0190, of the annual quantitative reporting template S12.01.01 but only in relation to the <i>regulated activities</i> of the <i>firm</i> which are carried on in the <i>United Kingdom</i>, except those provided on a <i>cross border services basis</i>; and [deleted]</p> <p>(3) ...</p> |
| ... | ... |
| A4 | <p>GROSS WRITTEN PREMIUM FOR FEES PURPOSES AND BEST ESTIMATE LIABILITIES FOR FEES PURPOSES (see FEES 4 Annex 12G)</p> <p>Gross written premium for fees purposes means:</p> <p>(1) for UK Solvency II firms, a <i>firm's</i> gross written premium as reported to the <i>PRA</i>, being the item entered under row code R1410, column code C0300 of the annual quantitative reporting</p> |

| | |
|---|--|
| | <p>template S05.01.01 minus corporate pension business as reported to the <i>PRA</i> under the annual quantitative reporting template S14.01.01;; and</p> <p>(2) for incoming EEA firms or incoming Treaty firms, a firm's gross written premium as reported to their Home State regulator, being the item entered under row code R1410, column code C0300 of the annual quantitative reporting template S05.01.01 minus corporate pension business as reported to the PRA under the annual quantitative reporting template S14.01.01 but only in relation to the regulated activities of the firm which are carried on in the United Kingdom, except those provided on a cross border services basis</p> <p>AND</p> <p>Best estimate liabilities for fees purposes means:</p> <p>(1) for UK Solvency II firms, a firm's best estimate liabilities as reported to the <i>PRA</i>, being the sum of items entered under row codes R0010 and R0030, column codes C0150 and C0210 minus the sum of items entered under row codes R0010 and R0030, column codes C0090, C0140 and C0190 of the annual quantitative reporting template S12.01.01; minus corporate pension business reported under the annual quantitative reporting template S14.01.01;; and</p> <p>(2) for incoming EEA firms or incoming Treaty firms, a firm's best estimate liabilities as reported to their Home State regulator, being the sum of items entered under row codes R0010 and R0030, column codes C0150 and C0210 minus the sum of items entered under row codes R0010 and R0030, column codes C0090, C0140 and C0190 of the annual quantitative reporting template S12.01.01; minus corporate pension business reported under the annual quantitative reporting template S14.01.01 but only in relation to the regulated activities of the firm which are carried on in the United Kingdom, except those provided on a cross border services basis. [deleted]</p> <p>...</p> |
| <p>...</p> | <p>...</p> |
| <p>A.10 Firms dealing as principal</p> | <p>...</p> <p>A firm may, as an option, report <i>employees</i> or agents as full-time equivalents (FTE), taking</p> |

| | |
|--|---|
| | account of any part-time staff. In calculating the FTE, <i>firms</i> must take into account the total hours <i>employees</i> or agents have contracted to work for the <i>firm</i> and not the time employees or agents devote to the <i>dealing in investments as principal and bidding in emissions auctions</i> 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. |
| ... | ... |
| B. Recognised auction platforms [deleted] | Not applicable. |
| ... | ... |

...

4 Annex 2AR FCA Fee rates and EEA/Treaty firm modifications for the period from 1 April 2018 to 31 March 2019

Part 1

This table shows the tariff rates applicable to each of the fee blocks set out in Part 1 of FEES 4 Annex 1AR.

...

| Activity group | Fee payable |
|--|---|
| ... | ... |
| A.10 | ... For <i>firms</i> carrying on <i>auction regulation bidding</i> , the fee in A.10 is calculated as above less 20% for 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> . |
| ... | ... |
| B. Recognised auction platforms [deleted] | 55,143.00 |
| ... | ... |

...

Part 3 [deleted]

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 firm |
|--------------------------|---|
| A.1 | 10% |
| A.3 | 10% |
| A.4 | 10% |
| A.7 | 10% |
| A.9 | 10% |
| A.10 | In relation to each trader that carries on <i>auction regulation bidding</i> but not <i>MiFID business bidding or dealing in investments as principal</i> , 100%. In relation to all other traders, 10%. |
| A.13 | 10% |
| A.18 | 10% |
| A.19 | 50% |
| B. MTF and OTF operators | 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 UK. |
| Note 2 | The <i>FCA minimum fee</i> described in Part 2 of <i>FEES 4 Annex 2AR</i> applies in full and the modifications in this Part do not apply to it. |

...

4 Annex 4R Periodic fees in relation to collective investment schemes, AIFs marketed in the UK, small registered UK AIFMs and money market funds payable for the period 1 April 2018 to 31 March 2019

Part 1 - Periodic fees payable

| Scheme type | Basic fee (£) | Total funds/sub-funds aggregate | Fund factor | Fee (£) |
|---|---------------|---------------------------------|-------------|---------|
| <i>ICVC,</i> | 386 | 1-2 | 1 | 386 |
| <i>AUT,</i> | | 3-6 | 2.5 | 965 |
| <i>ACS,</i> | | 7-15 | 5 | 1,930 |
| <i><u>UK-ELTIFs</u></i> <i><u>LTIFs,</u></i> | | 16-50 | 11 | 4,246 |
| Money market funds with effect from 21 July 2018 Section 264 of the Act, schemes other than non-EEA AIFs recognised under section 272 of the Act, | | >50 | 22 | 8,492 |
| <i>Non-EEA AIFs</i> <i>non-UK AIFs</i> recognised under section 272 of the Act | 1,570 | 1-2 | 1 | 1,570 |
| | | 3-6 | 2.5 | 3,925 |
| | | 7-15 | 5 | 7,850 |
| | | 16-50 | 11 | 17,270 |
| | | >50 | 22 | 34,540 |

...

4 Annex 10R Periodic fees for MTF operators payable in relation to the period 1 April 2018 to 31 March 2019

...

| | | |
|--------------------|-----|-----|
| ... | ... | ... |
| an <i>EEA firm</i> | 0 | |
| ... | | |

...

4 Annex 11R Periodic fees in respect of payment services, electronic money issuance, regulated covered bonds, CBTL business, data reporting services and third party verifiers in relation to the period 1 April 2019 to 31 March 2020

...

| | |
|---|---|
| Part 2 - Activity groups relevant to fee-paying payment service providers | |
| ... | |
| Activity group | Fee payer falls into this activity group if: |
| ... | ... |
| G.3 Large payment institutions and registered account information service providers | 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> , a <i>registered account information service provider</i> , an <i>EEA registered account information service provider</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>) |
| ... | ... |

...

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% | |
| [deleted] | | |

...

5 Financial Ombudsman Service Funding

...

5.4 Information requirement

...

5.4.1-A R ...

- (2) If a *firm* is a UK Solvency II firm, ~~an incoming EEA firm or an incoming Treaty firm~~ in industry blocks 2 and 4 in FEES 5 Annex 1R, the FCA may use tariff data from the previous reporting period for the periodic fees calculation if the PRA or the FCA has either:

...

...

5 Annex 1R Annual General Levy Payable in Relation to the Compulsory Jurisdiction for 2019/20

...

Compulsory jurisdiction - general levy

| Industry block | Tariff base | General levy payable by firm |
|--|---|--|
| ... | | |
| 11-fee-paying payment service providers (but excluding firms in any other Industry block except Industry block 18) | For authorised payment institutions, registered account information service providers, electronic money issuers (except for small electronic money institutions), the Post Office Limited, the Bank of England, government departments and local authorities, and EEA authorised payment institutions relevant income as described in FEES 4 Annex 11 Part 3 | £0.0003 per £1,000 of relevant income subject to a minimum levy of £75 |

| | | |
|-----|---|-------------|
| | For <i>small payment institutions</i> and <i>small electronic money institutions</i> a flat fee | Levy of £35 |
| ... | | |

...

7A SFGB levies

7A.1 Application and Purpose

...

7A.1.2 R The *SFGB pensions guidance levy* applies to a *firm* that:

(1)

- (a) has a *Part 4A Permission*; ~~or~~
- (b) is an *incoming EEA firm* with a *branch* in the *United Kingdom*; ~~or~~
- (c) is an *incoming Treaty firm* with a *branch* in the *United Kingdom*; and

...

...

7A.3 The SFGB money advice levy and debt advice levy

...

7A.3.10 R Table of rules in FEES 4 that also apply to FEES 7A to the extent that in FEES 4 they apply to fees payable to the FCA

| FEES 4 rules incorporated into FEES 7A | Description |
|--|---|
| ... | ... |
| FEES 4.2.8R | How FEES 4.2.7R applies in relation to an incoming EEA firm or an incoming Treaty firm |
| ... | ... |

...

7A SFGB debt advice levy for the period from 1 April 2018 to 31 March 2019
Annex
2R

...

Part 2

...

| Activity group | Tariff base |
|--|-------------|
| ... | ... |
| <u>Notes</u> <u>Note</u> | |
| (1) ... | |
| (2) The tariff base for an <i>incoming EEA firm</i> or an <i>incoming Treaty firm</i> is the same as set out above but limited to the <i>regulated activities</i> of the firm which are carried out in the <i>United Kingdom</i> , except those provided on a <i>cross border services</i> basis, and should be reported to the <i>FCA</i> as required by <i>FEES 4.4.1R</i> and <i>FEES 4.4.2R</i> . The valuation date is in accordance with the <i>CC.3</i> valuation date in Part 3. | |

...

...

10 Pensions guidance levy

10.1 Application, purpose and background

Application

10.1.1 R This chapter applies to a *firm* that:

- (1) ~~(a)~~ has a *Part 4A Permission*; ~~or~~
- ~~(b)~~ is an *incoming EEA firm* with a *branch* in the *United Kingdom*; ~~or~~
- ~~(c)~~ is an *incoming Treaty firm* with a *branch* in the *United Kingdom*; and

...

...

10.5 Application of FEES 4 to the pensions guidance levy

...

10.5.4 R Table of *rules* in *FEES* 4 that also apply in *FEES* 10.

| FEES 4 incorporated into FEES 10 | Description | Modification |
|----------------------------------|---|--------------|
| ... | ... | ... |
| FEES 4.2.8R | How FEES 4.2.7R applies to an incoming EEA firm or an incoming Treaty firm | none |
| ... | ... | ... |

...

13 Illegal money lending levy

...

13.2 The IML levy

...

13.2.6 R ~~The modifications:~~

- ~~(1) for incoming EEA firms and incoming Treaty firms which have established branches in the UK in Part 3 of FEES 4 Annex 2AR apply; and~~
- ~~(2) for EEA authorised payment institutions, EEA authorised electronic money institutions, and full credit institutions that are EEA firms in Part 7 of FEES 4 Annex 11R apply. [deleted]~~

...

13.2.9 R Table of rules in *FEES* 4 that also apply to *FEES* 13 to the extent that in *FEES* 4 they apply to fees payable to the *FCA*.

| FEES 4 rules incorporated into | Description |
|--------------------------------|-------------|
|--------------------------------|-------------|

| | |
|------------------------|---|
| FEES 13 | |
| ... | ... |
| FEES 4.2.8R | How FEES 4.2.7R applies in relation to an incoming EEA firm or an incoming Treaty firm |
| ... | ... |

...

Part 2: Comes into force on 1 April 2019 or on exit day as defined in the European Union (Withdrawal) Act 2018, whichever date is the later

6 Financial Services Compensation Scheme Funding

6.1 Application

...

- 6.1.2 G (1) ~~Firms which are not participant firms (such as certain types of incoming EEA firms, service companies, and ICVCs and, for the purposes of FEES 6, pre-exit incoming EEA firms) are not required to contribute towards the funding of the compensation scheme.~~

...

...

~~Incoming EEA firms~~

- 6.1.17 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 firms 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. [deleted]~~

...

6.3 The FSCS’s power to impose levies

...

Adjustments to calculation of levy shares

- 6.3.22 R The FSCS may adjust the calculation of a participant firm’s share of any levy to

take proper account of:

...

- (5) ~~FEES 2.3 (Relieving Provisions), FEES 6.5.9R (New participant firms); or FEES 6.3.23R (Remission of levy or additional administrative fee) or FEES 6.6 (Incoming EEA firms); or~~

...

...

6.6 Incoming EEA firms [deleted]

- 6.6.1 R ~~If an incoming EEA firm, which is an IDD insurance intermediary, an MCD mortgage credit intermediary or a 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. [deleted]~~

...

6 Annex 3AR Financial Services Compensation Scheme – classes and categories

This table belongs to FEES 6.5.6AR

...

| | |
|-----------------------------------|---|
| ... | |
| Class 2 | Investment Intermediation Claims |
| ... | |
| Category 2.3 | Investment provision |
| Firms with permission for: | any of the following: |
| | ... |
| | <i>managing a UK UCITS;</i> |
| ... | |
| Class 3 | Investment Provision Claims |
| Firms with permission | any of the following: |
| | ... |

| | |
|------|------------------------------------|
| for: | <i>managing a <u>UK UCITS</u>;</i> |
| | ... |
| ... | |

After FEES TP 20A (Transitional provisions relating to changes to the FSCS levy arrangements taking effect in 2019/20) insert the following new TP 21. The text is not underlined.

TP 21 Transitional provisions relating to FSCS levy arrangements from 1 April 2019 or, if later, from exit day as defined in the European Union (Withdrawal) Act 2018

| (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 |
|------|--|-----|--|---|--|
| 21.1 | The changes made to <i>FEES 6</i> by the Exiting the European Union: High Level Standards (Amendments) Instrument 2019 | R | The changes in column (2) apply to any levy made after 1 April 2019. This is even if: (1) the <i>claim</i> against the <i>relevant person</i> or <i>successor in default</i> arose or relates to circumstances arising before that date; or (2) the <i>relevant person</i> or <i>successor</i> was <i>in default</i> before that date. | From 1 April 2019, or, if later, on exit day as defined in the European Union (Withdrawal) Act 2018, indefinitely | 1 April 2019 |