

## Form of Waiver: Energy Market Participant

### Power

1. This *waiver* is given by the *FCA* under section 138A of the *Act* (Modification and waiver of rules).

### Authorised person to whom this waiver applies

2. This *waiver* applies to ..... (the “firm”).

### Guidance Note

In addition to the provisions of this *waiver*, the following special application provisions in the *Handbook* will apply to the firm because it is an *energy market participant*: *COBS* 18.2 and *SUP* 3.1.2R, *SUP* 10.1.21R and *SUP* 10.1.22G.

### Term

3. (1) This *waiver* takes effect from the date of this notice.
- (2) However, if the firm is not then an *energy market participant*, this *waiver* takes effect only when the firm becomes one.
- (3) This *waiver* ends when the firm first stops being an *energy market participant*.

### Waiver: Capital and financial reporting requirements<sup>1</sup>

4. The *FCA* directs that the parts of the *Handbook* mentioned in the table do not apply to the firm, if the firm satisfies both the following conditions:
  - (1) the firm’s main business consists of the generation, production, storage, distribution, and/or transmission of *energy*; and
  - (2) the firm does not engage in *oil market activity* as a member of a *recognised investment exchange* or *designated investment exchange* which is under the rules of that exchange entitled to trade with other members.

### Table:

| Part of Handbook   | Waiver  |
|--|---|
| <i>IPRU(INV)</i> 3   | <i>IPRU(INV)</i> 3 (Financial resources for Securities and Futures Firms which are not Investment Firms) does not apply to the firm if the firm satisfies both the conditions in this clause. |
| <sup>1</sup> For whether this clause would be inserted in a particular case see <i>SUP</i> 21.1.4. |   |
| Part of Handbook   | Waiver  |
| <i>SUP</i> 16.7  | <i>SUP</i> 16.7 (Financial reports) does not apply to the firm if the firm satisfies both the conditions in this clause.  |

## Guidance Notes

An *energy market participant* to which *IPRU(INV) 3* does not apply is still subject to the requirement of *Principle 4* to have adequate financial resources.

The conditions in this clause are imposed under s. 138A(6) of the *Act*. For *guidance* on the effect of conditions attached to a *waiver*, see *SUP 8.4.1G(2)*.

## Modification: Transaction reports

5. The *FCA* directs that the part of the *Handbook* mentioned in the table apply to a firm which is not a *MiFID investment firm* or a *third country investment firm* with the modifications specified in the table.

### Table:

| Part of Handbook | Modification  |
|------------------|---|
| <i>SUP 17</i>    | <i>SUP 17</i> (Transaction reports) does not apply to the firm in relation to its <i>energy market activity</i> . |

## Interpretation

6. Unless the contrary intention appears, interpretative provisions in *GEN 2* (Interpreting the Handbook) apply to this *waiver* in the same way they apply to the *Handbook*.

### Guidance Note

Defined terms in this *waiver* (other than the term “the firm”) are italicised.