

Energy Market Participants

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Chapter 1

Special guide for energy market participants

1.1 Application and purpose

- 1.1.1 **G** This special guide is for *energy market participants*.
- 1.1.2 **G** The purpose of this special guide is to help prospective and actual *energy market participants* find their way around the *Handbook* by setting out which parts of it apply to them and by setting out a form of *waiver* that the *FCA* will be minded to grant to *energy market participants*.
- 1.1.3 **G** The reader should note that an *energy market participant* is defined to exclude a number of different categories of *firm*, including any *MiFID investment firm*.



1.2 Parts of the Handbook applicable to energy market participants

1.2.1 **G** The parts of the *Handbook* and their applicability to *energy market participants* are listed in ■ EMPS 1.2.3 G. *Energy market participants* should read applicable parts of the *Handbook* to find out what the detailed regulatory requirements for *energy market participants* are.

1.2.2 **G** ■ EMPS 1.2.3 G takes account of the availability of the *waiver* mentioned in ■ EMPS 2.

1.2.3 **G** **Applicability of parts of Handbook to energy market participants**

This table belongs to ■ EMPS 1.2.1 G

	Part of Handbook	Applicability to energy market participants
High Level Standards	Principles for Businesses (<i>PRIN</i>)	This applies.
	Senior management arrangements, Systems and Controls (<i>SYSC</i>)	This applies.
	Code of Conduct (<i>COCON</i>)	This applies.
	Threshold Conditions (<i>COND</i>)	This applies.
	Statements of Principle and Code of Practice for Approved Persons (<i>APER</i>)	If an <i>energy market participant</i> has an <i>appointed representative</i> , <i>APER</i> applies to <i>approved persons</i> in relation to that <i>appointed representative</i> .
	The Fit and Proper test for Employees and Senior Personnel (<i>FIT</i>)	This applies.
	The Financial Stability and Market Confidence sourcebook (<i>FINMAR</i>)	This is unlikely to be of relevance to the business of an <i>energy market participant</i> .
	General provisions (<i>GEN</i>)	This applies.

	Part of Handbook	Applicability to energy market participants
Prudential standards	Interim Prudential sourcebooks (<i>IPRU</i>)	Chapter 1 (Application and General) of (Interim Prudential sourcebook: Investment Businesses) applies. Chapter 3 (Financial resources for Securities and Futures Firms which are not MiFID investment firms) of <i>IPRU(INV)</i> applies, with the following qualifications: (a) <i>energy market participants</i> whose main business consists of the generation, production, storage, distribution and/or transmission of <i>energy</i> may be granted a <i>waiver</i> of Chapter 3 in the <i>FCA's</i> discretion: see SUP 21. (b) [deleted] (c) [deleted] The other parts of <i>IPRU(INV)</i> do not apply. The other sourcebooks do not apply.
	[deleted]	[deleted]
	[deleted]	[deleted]
	[deleted]	[deleted]
Business standards	[deleted]	[deleted]
	Conduct of Business sourcebook (<i>COBS</i>)	Only some parts of <i>COBS</i> apply to <i>energy market activity</i> : see <i>COBS</i> 18.2.
	Mortgages: Conduct of Business sourcebook (<i>MCOB</i>)	
	Client assets sourcebook (<i>CASS</i>)	This applies.
	Market Conduct sourcebook (<i>MAR</i>)	This applies. However <i>MAR 2</i> (Stabilisation) is likely to be of only marginal relevance to the business of an <i>energy market participant</i> . <i>MAR 5</i> (Multilateral Trading Facilities) applies to an <i>energy market participant</i> that operates an <i>MTF</i> , and <i>MAR 5A</i> (Organised trading facilities) applies to an <i>energy market participant</i> that operates an <i>OTF</i> .

	Part of Handbook	Applicability to energy market participants
	Training and Competence sourcebook (TC)	TC does not apply to <i>energy market participants</i> as they do not carry on activities for <i>retail clients</i> . But they are subject to the <i>competent employees rule</i> in SYSC.
Regulatory processes	[deleted]	[deleted]
	Supervision manual (SUP)	This applies, with the following qualifications: (a) in SUP 3 (Auditors), only some provisions apply if IPRU(INV) 3 (Financial Resources for Securities and Futures Firms) does not apply to an <i>energy market participant</i> (because it has been granted a <i>waiver</i> of that chapter): see SUP 3.1.2 R; (c) SUP 16.12 (Integrated Regulatory Reporting): <i>energy market participants</i> whose main business consists of the generation, production, storage, distribution and/or transmission of <i>energy</i> may be granted a <i>waiver</i> of this section in the FCA's discretion: see SUP 21; (d) SUP 17 A (Transaction reporting): does not apply to <i>energy market participants</i> which are not <i>third country investment firms</i> ; and (e) SUP App 2 (Insurers: Scheme of operations) does not apply.
	[deleted]	
	Decision Procedures and Penalties Manual (DEPP)	This applies.
Redress	Dispute resolution: Complaints sourcebook (DISP)	<i>Energy market participants</i> are subject to the <i>compulsory jurisdiction</i> of the <i>Financial Ombudsman Service</i> . However, a <i>firm</i> which does not, and notifies the FCA under DISP 1.1.12 R that it does not, conduct business with <i>eligible complainants</i> (persons eligible to have a complaint considered under the <i>Financial Ombudsman Service</i> , as defined in DISP 2.4) will be exempt from the <i>rules</i> on treating complainants fairly (DISP 1.2 to DISP 1.11) and from the <i>Financial Ombudsman Funding rules</i> (FEES 5.1 to FEES 5.7).

	Part of Handbook	Applicability to energy market participants
	Compensation sourcebook (<i>COMP</i>)	<i>COMP</i> applies to all <i>firms</i> . However, <i>energy market participants</i> that do not conduct business that could give rise to a <i>protected claim</i> by an <i>eligible claimant</i> as defined and have no reasonable likelihood of doing so can gain exemption under FEES 6.2 from some compensation scheme levies.
	Complaints against the FCA (<i>COAF</i>)	This applies.
Specialist sourcebooks	Collective Investment Schemes sourcebook (<i>COLL</i>)	This does not apply to an <i>energy market participant</i> .
	Investment Funds sourcebook (<i>FUND</i>)	This does not apply to an <i>energy market participant</i> .
	[deleted]	[deleted]
	Professional firms sourcebook (<i>PROF</i>)	None of the other specialist sourcebooks applies.
	Deleted	
Special guides	Recognised Investment Exchange and Recognised Clearing House sourcebook (<i>REC</i>)	
	Special guide for service companies (<i>SERV</i>)	This does not apply because an <i>energy market participant</i> is defined to exclude a <i>service company</i> .
	Special guide for energy market participants (<i>EMPS</i>)	This applies.
	Special guide for oil market participants (<i>OMPS</i>)	This does not apply because an <i>energy market participant</i> is defined to exclude an <i>oil market participant</i> .
Schedules	Summary schedules	These apply, but only to the extent that the sourcebook or manual to which they relate applies.
	1. Record keeping requirements	
	2. Notification requirements	
	3. Fees and other required payments	
	4. Powers exercised in making the Handbook	
	5. Rights of action for damages	
	6. Rules that can be waived	
7. Releases		
	Glossary of definitions	This applies.
	Index	This applies.

The following Regulatory Guides may also be relevant to *energy market participants*:

1. The Enforcement Guide (*EG*)

Chapter 2

Waiver

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2.1 These provisions have been moved to the Supervision Manual (■ SUP 21)

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