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(1) Category of firm		(2) Sections applicable to the firm	(3) Sections applicable to its auditor
(7C)	<i>UK MiFID investment firm, which has an auditor appointed under or as a result of a statutory provision other than in the Act (Notes 3B and 6)</i>	SUP 3.1 - 3.7, SUP 3.11	SUP 3.1, SUP 3.2, SUP 3.8, SUP 3.10
(7D)	<i>Sole trader or partnership that is a UK MiFID investment firm (other than an exempt CAD firm) (Notes 3C and 6)</i>	SUP 3.1 - SUP 3.7, SUP 3.11	SUP 3.1, SUP 3.2, SUP 3.8, SUP 3.10
(8)	<i>Small personal investment firm or service company which, in either case, has an auditor appointed under or as a result of a statutory provision other than in the Act</i>	SUP 3.1, SUP 3.2, SUP 3.7	SUP 3.1, SUP 3.2, SUP 3.8
(9)	<i>Home finance provider which has an auditor appointed under or as a result of a statutory provision other than in the Act</i>	SUP 3.1 - SUP 3.7	SUP 3.1, SUP 3.2, SUP 3.8
(10)	<i>Insurance intermediary (other than an exempt insurance intermediary) to which the insurance client money chapter (except for CASS 5.2 (Holding money as agent)) applies (see Note 4)</i>	SUP 3.1 - SUP 3.7, SUP 3.11	SUP 3.1, SUP 3.2, SUP 3.8, SUP 3.10
(11)	<i>Exempt insurance intermediary and insurance intermediary not subject to SUP 3.1.2 R(10) which has an auditor appointed under or as a result of a statutory provision other than in the Act</i>	SUP 3.1, SUP 3.2, SUP 3.7	SUP 3.1, SUP 3.2, SUP 3.8
(12)	<i>Home finance intermediary or home finance administrator which has an auditor appointed under or as a result of a statutory provision other than in the Act.</i>	SUP 3.1, SUP 3.2, SUP 3.7	SUP 3.1, SUP 3.2, SUP 3.8
Note 1 = This chapter applies to an <i>authorised professional firm</i> in row (1)			

(1) Category of firm	(2) Sections applicable to the firm	(3) Sections applicable to its auditor
(and its auditor) as if the <i>firm</i> were of the relevant type in the right-hand column of <i>IPRU(INV)</i> 2.1.4R.		
Note 2 [deleted]		
<p>Note 2A = For this purpose, <i>designated investment business</i> does not include either or both:</p> <p>(a) <i>dealing</i> which falls within the exclusion in article 15 of the <i>Regulated Activities Order</i> (Absence of holding out etc) (or agreeing to do so); and</p> <p>(b) <i>dealing in investments as principal</i> (or agreeing to do so):</p> <p>(i) by a <i>firm</i> whose <i>permission to deal in investments as principal</i> is subject to a <i>limitation</i> to the effect that the <i>firm</i>, in carrying on this <i>regulated activity</i>, is limited to entering into transactions in a manner which, if the <i>firm</i> was an <i>unauthorised person</i>, would come within article 16 of the <i>Regulated Activities Order</i> (Dealing in contractually based investments); and</p> <p>(ii) in a manner which comes within that <i>limitation</i>;</p> <p>having regard to article 4(4) of the <i>Regulated Activities Order</i> (Specified activities: general).</p>		
<p>Note 3 = This note applies in relation to an <i>oil market participant</i> to which <i>IPRU(INV)</i> 3 does not apply and in relation to an <i>energy market participant</i> to which <i>IPRU(INV)</i> 3 does not apply. In SUP 3:</p> <p>(a) only SUP 3.1, SUP 3.2 and SUP 3.7 are applicable to such a <i>firm</i>; and</p> <p>(b) only SUP 3.1, SUP 3.2 and SUP 3.8 are applicable to its auditor;</p> <p>and, in each case, only if it has an auditor appointed under or as a result of a statutory provision other than in the <i>Act</i>.</p>		
Note 3A [deleted]		
<p>Note 3B = UK MiFID investment firms include exempt CAD firms. An exempt CAD firm that has opted into MiFID can benefit from the audit exemption for small companies in the Companies Act legislation if it meets is an exempt investment firm as defined by article 8 of the MiFI Regulations. If a firm does so benefit then SUP 3 will not apply to it. For further details about exempt CAD firms, see PERG 13, Q58.</p>		
<p>Note 3C = A sole trader or a partnership that is a UK MiFID investment firm to which the custody chapter or client money chapter applies must have its annual accounts audited.</p>		
<p>Note 4 = The <i>client money</i> audit requirement in SUP 3.1.2 R(10) therefore applies to all <i>insurance intermediaries</i> except:</p> <ul style="list-style-type: none"> <li>• those which do not hold <i>client money</i> or other client assets in relation to <i>insurance distribution activities</i>; or</li> <li>• those which only hold up to, but not exceeding, £30,000 of <i>client money</i> under a statutory trust arising under CASS 5.3.</li> </ul> <p><i>Insurance intermediaries</i> which, in relation to <i>insurance distribution activities</i>, hold no more than that amount of <i>client money</i> only on a statutory trust are <i>exempt insurance intermediaries</i>.</p>		
<p>Note (5) = In row (6):</p> <p>(a) SUP 3.1 - SUP 3.7 applies to a <i>managing agent</i> in respect of its own business and in respect of the <i>insurance business</i> of each <i>syndicate</i> which it manages; and</p>		

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## Variation of permission application form

This annex consists only of one or more forms.

Variation of Permission Application - Insurance Business, Banking (accepting deposits), Electronic Money, Lloyd's Market and Funeral Plan Providers

Variation of Permission Application - Insurance Business, Banking (accepting deposits), Electronic Money, Lloyd's Market and Funeral Plan Providers (Notes)

Variation of Permission Application - Investment Business

Variation of Permission Application - Investment Business (Notes)

Variation of Permission Application – Home Finance Mediation and General Insurance Distribution Activities

Variation of Permission Application – Home Finance Mediation and General Insurance Distribution Activities (Notes)

Variation of Permission (VOP) Application Consumer Credit Activities

Variation of Permission (VOP) Application Consumer Credit Activities (Notes)

**SUP 6 : Applications to vary and cancel Part 4A permission and to impose, vary or cancel...**

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Annex 5

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## **Application form for a waiver or modification of rules**

This annex consists only of one or more forms. Forms are to be found through the following address:

*Waiver Application form* - [Forms/sup/SUP\\_8\\_ann\\_2D\\_w\\_form\\_20181001.pdf](Forms/sup/SUP_8_ann_2D_w_form_20181001.pdf)



**Incoming EEA firms etc with top-up permission activities from a UK branch**

- 10A.1.13 R** In relation to the activities of a *firm* for which it has a *top-up permission*, only the following *FCA controlled functions* apply:
- (1) the *FCA required functions*, other than the *apportionment and oversight function* and the *compliance oversight function*;
  - (2) the *significant management function*, in so far as it relates to:
    - (a) *designated investment business* other than *dealing in investments as principal*, disregarding article 15 of the *Regulated Activities Order*; or
    - (b) processing confirmations, payments, settlements, insurance claims, *client money* and similar matters, in so far as this relates to *designated investment business*; and
    - (c) [deleted]
  - (3) the *customer function*.

- 10A.1.14 R** A *person* does not perform the *significant management function* for a *firm* under ■ SUP 10A.1.11 R or ■ SUP 10A.1.13 R if that *person* would not have been treated as performing any *FCA controlled function* for that *firm* if that *firm* had been a *UK firm*.

**Appointed representatives**

- 10A.1.15 R** The descriptions of the following *FCA controlled functions* apply to an *appointed representative* of a *firm*, except in relation to *CBTL business* or an *introducer appointed representative*, as they apply to an *FCA-authorised person*:
- (1) the *FCA governing functions*, subject to ■ SUP 10A.1.16 R and except for a *tied agent* of an *EEA MiFID investment firm*; and
  - (2) the *customer function* other than in relation to acting in the capacity of an *investment manager* (see ■ SUP 10A.10.7R (6)).
- 10A.1.16 R**
- (1) ■ SUP 10A.1.15 R is modified in relation to an *appointed representative* meeting the conditions in (2) so that only one of the following *FCA governing functions*:
    - (a) *director function*; or
    - (b) *chief executive function*; or
    - (c) *partner function*; or
    - (d) *director of unincorporated association function*;
 applies, as appropriate, to an individual within that *appointed representative* who will be required to be an *FCA-approved person*.
  - (2) The conditions are that:
    - (a) the scope of appointment of the *appointed representative* includes *insurance distribution activity* in relation to non-

*investment insurance contracts or credit-related regulated activity, but no other regulated activity; and*

- (b) the principal purpose of the *appointed representative* is to carry on activities other than *regulated activities*.

**10A.1.16A R**

This chapter applies to an *appointed representative* that has a *limited permission* to carry on a *regulated activity* prescribed for the purposes of section 39(1E)(a) of the Act as follows:

- (1) *FCA controlled functions* apply to the *appointed representative* as set out in ■ SUP 10A.1.15 R and ■ SUP 10A.1.16 R in relation to the carrying on of the *regulated activity*, for which it does not have *permission*, comprised in the business for which its *principal* has accepted responsibility;
- (2) (a) unless it is a *not-for-profit debt advice body*, the *apportionment and oversight function* applies in relation to the carrying on of the *regulated activity* for which it has *limited permission*;
- (b) if it is a *not-for-profit debt advice body* and a *CASS large debt management firm*, the *CASS operational oversight function* applies in relation to the carrying on of *debt management activity*.

**10A.1.16B R**

■ SUP 10A.1.15R and ■ SUP 10A.1.16R apply to the *appointed representative* of a *relevant authorised person*.

**10A.1.16C G**

- (1) References in this chapter to a *firm* include a *relevant authorised person*, but only to the extent required by ■ SUP 10A.1.16BR.
- (2) References in ■ SUP 10A.1.15R and ■ SUP 10A.1.16R to *FCA governing functions* and other *controlled functions* are to *controlled functions* in this chapter, not in ■ SUP 10C (FCA senior management regime for approved persons in relevant authorised persons).

**10A.1.16D G**

- (1) Under section 59(6A) of the Act, if the FCA is satisfied that, in relation to the carrying on of a *regulated activity* by a *relevant authorised person*, a *controlled function* is a *senior management function*, the FCA must designate the function in its *rules* as a *senior management function*.
- (2) Generally, the FCA does not think that a *person* performing a function in ■ SUP 10A.1.16BR will have sufficient responsibility for managing the affairs of the *appointed representative's principal* (as opposed to managing the affairs of the *appointed representative* itself) to perform a *senior management function*.
- (3) Therefore:
  - (a) the FCA has not designated any of the functions in ■ SUP 10A.1.16BR as a *senior management function*; and



(b) none of the functions in ■ SUP 10A.1.16BR are *designated senior management functions*.

(4) ■ SUP 10C.1.8G (*Approved persons in relation to appointed representatives of relevant authorised persons*) explains that it is unlikely that ■ SUP 10C (FCA senior management regime for approved persons in relevant authorised persons) will apply to *approved persons working in appointed representatives of relevant authorised persons* in addition to this chapter.

**Members of a profession**

10A.1.17 **R**

(1) This chapter, except in respect of the *FCA required functions*, does not apply to an *authorised professional firm* in respect of its *non-mainstream regulated activities*, subject to (2).

(2) Where the *authorised professional firm* has appointed *FCA-approved persons* to perform the *FCA governing functions* with equivalent responsibilities for the *firm's non-mainstream regulated activities* and other *regulated activities*, for the *firm's non-mainstream regulated activities* this chapter applies with respect to the *FCA governing functions* and the *FCA required functions* (other than the *apportionment and oversight function*) only.

**Oil market participants, service companies, energy market participants, subsidiaries of local authorities or registered social landlords and insurance intermediaries.**

10A.1.18 **R**

The descriptions of *FCA significant-influence functions*, other than the *FCA required functions*, and, if the *firm* is a *MiFID investment firm*, the *FCA governing functions* do not extend to activities carried on by a *firm* whose principal purpose is to carry on activities other than *regulated activities* and which is:

- (1) an *oil market participant*; or
- (2) a *service company*; or
- (3) an *energy market participant*; or
- (4) a wholly owned *subsidiary* of:
  - (a) a local authority; or
  - (b) a registered social landlord; or
- (5) a *firm* with *permission* to carry on *insurance distribution activity* in relation to *non-investment insurance contracts* but no other *regulated activity* (except *advising on P2P agreements*).

10A.1.19 **G**

It will be a matter of fact in each case whether, having regard to all the circumstances, including in particular where the balance of the business lies, a *firm's* principal purpose is to carry on activities other than *regulated activities*. If a *firm* wishes to rely on ■ SUP 10A.1.18 R, it should be in a position to demonstrate that its principal purpose is to carry on activities other than *regulated activities*.

10A

### Insolvency practitioners

10A.1.20 **R**

This chapter does not apply to a function performed by:

- (1) a *person* acting as an insolvency practitioner within the meaning of section 388 of the Insolvency Act 1986; or
- (2) a *person* acting as a nominee in relation to a voluntary arrangement under Parts I (Company Voluntary Arrangements) and VIII (Individual Voluntary Arrangements) of the Insolvency Act 1986; or
- (3) a *person* acting as an insolvency practitioner within the meaning of Article 3 of the Insolvency (Northern Ireland) Order 1989; or
- (4) a *person* acting as a nominee in relation to a voluntary arrangement under Parts II (Company Voluntary Arrangements) and VIII (Individual Voluntary Arrangements) of the Insolvency (Northern Ireland) Order 1989.

### Bidders in emissions auctions

10A.1.21 **G**

For a *firm* that is exempt from *MiFID* under article 2(1)(j) and whose only *permission* is *bidding in emissions auctions*, the only *FCA controlled functions* that apply to it are:

- (1) the *FCA governing functions*;
- (2) the *money laundering reporting function*; and
- (3) the *customer function*.
- (4) [deleted]

This is because the *FCA-approved person* regime specifies a number of functions by incorporation of requirements in *SYSC*; however, a *firm* carrying on *auction regulation bidding* is only subject to *SYSC* to a limited extent in relation to that activity. This means that the *FCA required functions* do not apply to *auction regulation bidding*, except for the *money laundering reporting function*. Similarly, the *significant management function* does not apply in relation to *auction regulation bidding* because, in carrying on that activity, a *firm* is not subject to **SYSC 2.1.1 R** or **SYSC 4.1.1 R** and is not undertaking *proprietary trading*.

### Benchmark activities

10A.1.21A **G**

- (1) For a *firm* which only has a *permission* for *administering a benchmark*, the following *FCA controlled functions* do not apply:
  - (a) the *apportionment and oversight function*;
  - (b) the *compliance oversight function*;
  - (c) the *money laundering reporting function*; and
  - (d) the *systems and controls function*.
- (2) That is because:
  - (a) the *FCA controlled functions* in (a) to (c) above do not apply because those functions are specified by incorporation of

- (3) For example, the *chief executive function* does not apply to a *PRA- authorised person*. A *PRA controlled function* applies instead.
- (4) However, the *chief executive function* may apply to someone who is the chief executive of an *appointed representative* of a *PRA- authorised person*.
- (5) See ■ SUP 10A.1.15R to ■ SUP 10A.1.16BR and ■ SUP 10A.4.2R for the main rules that deal with what *controlled functions* apply to *appointed representatives*.

**What the FCA governing functions include**

10A.6.3

**R**

Each of the *FCA governing functions* includes:

- (1) (where apportioned under ■ SYSC 2.1.1 R or ■ SYSC 4.3.1 R and ■ SYSC 4.4.3 R (or, for a full-scope UK AIFM apportioned under article 60(1) of the AIFMD level 2 regulation))
  - (a) the *systems and controls function* (if it applies to the *firm*); and
  - (b) the *significant management function*;
- (2) (in respect of *bidding in emissions auctions*) that part of the *customer function* specified in ■ SUP 10A.10.7R (7) (bidder's representative).

This does not apply to the *non-executive director function* or the function described in ■ SUP 10A.6.8 R.

10A.6.4

**G**

- (1) The effect of ■ SUP 10A.6.3 R is that a *person* who is approved to perform an *FCA governing function* will not have to be specifically *FCA-approved* to perform the *systems and controls function* or the *significant management function* or the part of the *customer function* specified in ■ SUP 10A.10.7R (7). However, a *person* who is approved to perform an *FCA governing function* will have to be additionally *FCA-approved* before he can perform any of the *FCA required functions* or the *customer function* (except the part specified in ■ SUP 10A.10.7R (7)).
- (2) ■ SUP 10A.6.3 R does not apply to the *non-executive director function*. It does not apply to the *director function* if the only part of that function that the *FCA-approved person* is performing is the function described in ■ SUP 10A.6.8 R.

10A.6.5

**G**

See ■ MIPRU 2.2 for how the *FCA's approved persons* regime is adjusted for a *firm* carrying on *insurance distribution activity*.

10A.6.6

**G**

[deleted]

**Director function (CF1)**

10A.6.7

**R**

If a *firm* is a *body corporate* (other than a *limited liability partnership*), the *director function* is the function of acting in the capacity of a *director* (other than *non-executive director*) of that *firm*.

10A

- 10A.6.8** **R** (1) If a *firm* is a *body corporate* (other than a *limited liability partnership*), the *director function* is also the function of acting in the capacity of a *person*:
- (a) who is a *director*, partner, officer, member (if the *parent undertaking* or *holding company* is a *limited liability partnership*), *senior manager*, or employee of a *parent undertaking* or *holding company* of the *firm*; and
  - (b) whose decisions or actions are regularly taken into account by the *governing body* of the *firm*.
- (2) (1) does not apply if that *parent undertaking* or *holding company* has a *Part 4A permission* or is regulated by an *EEA regulator*.
- (3) (1) does not apply to the function falling into **SUP 10A.6.13 R** (*non-executive director* of the *parent undertaking* or *holding company*).
- 10A.6.9** **G** Examples of where **SUP 10A.6.8 R** might apply include (but are not limited to):
- (1) a chairman of an audit committee of a *parent undertaking* or *holding company* of a *UK firm* where that audit committee is working for that *UK firm* (that is, functioning as the audit committee for the *group*); or
  - (2) a *director* (other than a *non-executive director*) of a *parent undertaking* or *holding company* of a *UK firm* exercising significant influence by way of his involvement in taking decisions for that *UK firm*; or
  - (3) an individual (such as a *senior manager*) of a *parent undertaking* or *holding company* of a *UK firm* who is responsible for and/or has significant influence in setting the objectives for and the remuneration of executive *directors* of that *UK firm*; or
  - (4) an individual who is a *director* (other than a *non-executive director*) or a *senior manager* of a *parent undertaking* or *holding company* of a *UK firm* who is accustomed to influencing the operations of that *UK firm*, and acts in a manner in which it can reasonably be expected that an executive *director* or *senior manager* of that *UK firm* would act; or
  - (5) an individual of an *overseas firm* which maintains an establishment in the *United Kingdom* from which *regulated activities* are carried on, where that individual has responsibilities for those *regulated activities* which are likely to enable him to exercise significant influence over the *UK branch*.
- 10A.6.10** **G** A *director* can be a *body corporate* and may accordingly require approval as an *FCA-approved person* in the same way as a natural *person* may require approval.
- 10A.6.11** **G** (1) The *director function* applies in relation to a *PRA-authorized person*, as set out below.

*insurer* the function does not include acting in the capacity of a non-executive director.

- (2) If the principal purpose of the *firm* is to carry on *regulated activities*, each *person* with responsibility for directing its affairs performs the *FCA controlled function*.
- (3) If the principal purpose of the *firm* is other than to carry on *regulated activities*, a *person* performs the *small friendly society function* only to the extent that he has responsibility for a *regulated activity*.

10A.6.32 **R**

- (1) Each *person* on the *non-directive friendly society's governing body* will be taken to have responsibility for its *regulated activities*, unless the *firm* has apportioned this responsibility to one particular individual to whom it is reasonable to give this responsibility.
- (2) The individual need not be a member of the *governing body*.

10A.6.33 **G**

Typically a *non-directive friendly Society* will appoint a "committee of management" to direct its affairs. However, the governing arrangements may be informal and flexible. If this is the case, the *FCA* would expect the society to resolve to give responsibility for the carrying on of *regulated activities* to one individual who is appropriate in all the circumstances. That individual may, for example, have the title of *chief executive* or similar. The individual would have to be an *FCA-approved person* under ■ SUP 10A.6.31 R.

10A.6.34 **G**

In practice, the *FCA* expects that most *non-directive friendly societies* will be *PRA-authorised persons*. Where that is the case, the *small friendly society function* apply as set out in ■ SUP 10A.6.1G above.

**10A.7 FCA required functions**

**Apportionment and oversight function (CF8)**

- 10A.7.1** R (1) The *apportionment and oversight function* is the function of acting in the capacity of a *director or senior manager* responsible for the apportionment function and/or the oversight function set out in ■ SYSC 2.1.3R or ■ SYSC 4.4.5R.

(2) The *apportionment and oversight function* does not apply in relation to a *Solvency II firm* or a *small non-directive insurer*.
- 10A.7.2** G In requiring someone to apportion responsibility, neither a *common platform firm* nor a *Solvency II firm* or *small non-directive insurer* should apply for that *person* or *persons* to be FCA-approved to perform the *apportionment and oversight function* (see ■ SUP 10A.7.1 R, ■ SYSC 2.1.3 R and ■ SYSC 1 Annex 1).
- 10A.7.3** G The fact that there is a *person* performing the *apportionment and oversight function*, and who has responsibility for activities subject to regulation by the FCA, may have a bearing on whether a manager who is based overseas will be performing an *FCA controlled function*. It is a factor to take into account when assessing the likely influence of the overseas manager.
- 10A.7.4** G Generally, in relation to a UK establishment of an *overseas firm* or a *firm* which is part of an *overseas group*, where an overseas manager's responsibilities in relation to the *United Kingdom* are strategic only, he will not need to be an *FCA-approved person*. However, where, in accordance with ■ SYSC 3 or ■ SYSC 4 to ■ SYSC 10, he is responsible for implementing that strategy in the *United Kingdom*, and has not delegated that responsibility to a *senior manager* in the *United Kingdom*, he is likely to be performing an *FCA controlled function* for example, the *chief executive function* or a *PRA controlled function*.
- 10A.7.5** G A *firm* carrying on *insurance distribution activity*, other than a *sole trader*, must allocate to a *director or senior manager* the responsibility for the *firm's insurance distribution activity* (■ MIPRU 2.2.1 R). ■ MIPRU 2.2.2 R (2) provides that the *firm* may allocate this responsibility to the *person* performing the *apportionment and oversight function*.
- 10A.7.6** G Where the *person* performing the *apportionment and oversight function* is also responsible for the *firm's insurance distribution activity*, the words

“(insurance distribution)” will be inserted after this *FCA controlled function* (see ■ MIPRU 2.2.5 G).

- 10A.7.7 **G** As explained in ■ SUP 10A.11 (Minimising overlap with the PRA approved persons regime), the application of the *apportionment and oversight function* is sometimes disapplied for a *PRA-authorised person*.

### **Compliance oversight function (CF10)**

- 10A.7.8 **R** The *compliance oversight function* is the function of acting in the capacity of:
- (1) a *director or senior manager* who is allocated the function set out in:
    - (a) ■ SYSC 3.2.8R; or
    - (b) ■ SYSC 6.1.4R(2); or
    - (c) article 22(3) of the *MiFID Org Regulation*; or
    - (d) article 22(3) of the *MiFID Org Regulation* (as applied in accordance with ■ SYSC 1 Annex 1 2.8AR, ■ SYSC 1 Annex 1 3.2-AR, ■ SYSC 1 Annex 1 3.2-BR, ■ SYSC 1 Annex 1 3.2CR and ■ SYSC 1 Annex 1 3.3R); or
    - (e) ■ SYSC 6.1.4CR; or
  - (2) for a *full-scope UK AIFM*, a person allocated the function in article 61(3)(b) of the *AIFMD level 2 regulation*.

### **CASS operational oversight function (CF10a)**

- 10A.7.9 **R** In relation to a *CASS medium firm* and a *CASS large firm* (other than a *CASS large debt management firm*), the *CASS operational oversight function* is the function of acting in the capacity of a *person* to whom is allocated the function set out in ■ CASS 1A.3.1A R.
- 10A.7.9A **R** In relation to a *CASS large debt management firm*, the *CASS operational oversight function* is the function of acting in the capacity of a *person* to whom is allocated the function in ■ CASS 11.3.4 R.

### **Money laundering reporting function (CF11)**

- 10A.7.10 **R** The *money laundering reporting function* is the function of acting in the capacity of the *money laundering reporting officer* of a *firm*.
- 10A.7.11 **G** A *firm's* obligations in respect of its *money laundering reporting officer* are set out elsewhere in the *Handbook* (see ■ SYSC 3.2.6I R and ■ SYSC 6.3.9 R and for their scope, see the application provisions in ■ SYSC 1 Annex 1).
- 10A.7.12 **R** [deleted]
- 10A.7.13 **R** [deleted]

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**Actuarial conduct function in Solvency II third-country insurance or reinsurance undertakings**

**10A.7.14** **R** The *actuarial conduct function (third country)* is that part of the function of acting in the capacity of an actuary appointed (by a *Solvency II firm* which is a third-country insurance or reinsurance undertaking) under rule 7.1(2) of the *PRA Rulebook: Solvency II Firms: Third Country Branches* that relates to compliance with *FCA* requirements and standards under the *regulatory system*.



- (1) carries on *designated investment business* or other activities not falling within (2) to (4);
  - (2) *effects contracts of insurance* (other than *contractually based investments*);
  - (2A) carries on *credit-related regulated activity*;
  - (3) makes material decisions on the commitment of a *firm's* financial resources, its financial commitments, its assets acquisitions, its liability management and its overall cash and capital planning;
  - (4) processes confirmations, payments, settlements, insurance claims, *client money* and similar matters.
  - (5) [deleted]
- 10A.9.10** R The *significant management function* also includes the function of acting as a *proprietary trader*.
- 10A.9.11** R The *significant management function* does not include any of the activities described in any other *FCA controlled function* or *PRA controlled function* if that other *controlled function* applies to the *firm*.
- 10A.9.12** G A *senior manager* carrying on the *significant management function* under ■ SUP 10A.9.9 R with significant responsibility for a significant business unit that carries on activities other than *designated investment business* for the purposes of ■ SUP 10A.9.9R (1) could, for example, be the head of a unit carrying on the activities of: personal lending, corporate lending, salvage or loan recovery, or *proprietary trading*, or a member of a committee (that is, a *person* who, together with others, has authority to commit the *firm*) making decisions in these functions.
- 10A.9.13** G A *proprietary trader* also undertakes activities which may have a significant influence on the *firm*. Such activities may require approval for CF29 under ■ SUP 10A.9.10 R.
- 10A.9.14** G A *firm* carrying on *insurance distribution activity*, other than a *sole trader*, must allocate to a *director* or *senior manager* the responsibility for the *firm's insurance distribution activity* (■ MIPRU 2.2.1 R). ■ MIPRU 2.2.2 R (3) provides that the *firm* may allocate this responsibility to the *person* performing the *significant management function*.
- 10A.9.15** G Where the *person* performing the *significant management function* is also responsible for the *firm's insurance distribution activity*, the words "(insurance distribution)" will be inserted after this *FCA controlled function* (see ■ MIPRU 2.2.5 G).

**10A.10 Customer-dealing functions**

**Introduction**

**10A.10.1 R** ■ SUP 10A.10 applies with respect to activities carried on from an establishment maintained by the *firm* (or by its *appointed representative*) in the *United Kingdom*.

**10A.10.2 G** Without ■ SUP 10A.10.1 R, the description of the *customer function* would extend to this function wherever it was performed. The effect of ■ SUP 10A.10.1 R is that the description is limited, in relation to *regulated activities* with an overseas element, in a manner which is broadly consistent with the scope of conduct of business regulation.

**10A.10.3 G** The *customer function* has to do with giving advice on, *dealing* and arranging deals in and *managing investments*; it has no application to banking business such as deposit taking and lending, nor to *general insurance business* or *credit-related regulated activity*.

**The basic rule about the customer function**

**10A.10.4 R** The *customer function* is one which comes within the definition of a *customer-dealing function*.

**10A.10.5 R** The customer-dealing function, in relation to the carrying on of a *regulated activity* by a *firm* ("A"), means a function that will involve the *person* performing it in dealing with:

- (1) customers of A; or
- (2) property of customers of A;

**10A.10.6 G** The *FCA* interprets the phrase "dealing with" as including having contact with *customers* and extending beyond "dealing" as used in the phrase "dealing in investments". "Dealing in" is used in Schedule 2 to the *Act* to describe in general terms the *regulated activities* which are specified in Part II of the *Regulated Activities Order*.

## Form A: Application to perform controlled functions under the approved persons regime

This annex consists only of one or more forms. Note that there are separate forms for *Solvency II firms*, *large and small non-directive insurers*, *incoming EEA firms*, applicants for a *Part 4A permission* or variation of *permission* that would result in an initial authorisation under *MiFID*, applicants for a *Part 4A permission* that would result in the applicant becoming exempt under article 3 of *MiFID* and other *firms*. *Swiss general insurers* must use the forms for *large non-directive insurers* not the form for *Solvency II firms*. It also includes the scope of responsibilities form which must be included as an attachment to Form A in certain cases. An applicant applying for a *Part 4A permission* or variation of *permission* that would result in an initial authorisation under *MiFID* or in the applicant becoming exempt under article 3 of *MiFID* is only required to use the “Long Form A – UK and Overseas Firms (not Incoming EEA) for MiFID authorisation applications” in relation to members of the *management body* or persons effectively directing its business.

[**Editor's Note:** General notes for completion of Form A are located below the list of forms.]

Form A: Notes for completion for Long Form A – UK and Overseas Firms (not Incoming EEA) for MiFID authorisation applications

Long Form A - UK and Overseas Firms (not Incoming EEA)

Long Form A – UK and Overseas Firms (not Incoming EEA) for MIFID authorisation applications:

Long Form A – UK and Overseas Firms (not Incoming EEA) for MIFID authorisation applications

Long Form A for Solvency II firms (excluding incoming EEA firms and large non-directive insurers):

Long Form A - Solvency II firms only

Short Form A for Solvency II firms (excluding incoming EEA firms and large non-directive insurers):

Short Form A - Solvency II firms only

Short Form A: UK and Overseas Firms (not incoming EEA)

Short Form A: Incoming EEA firms

Long Form A for large non-directive insurers:

Long Form A - large non-directive insurers

Short Form A for large non-directive insurers:

Short Form A - large non-directive insurers

Long Form A for small non-directive insurers:

Long Form A - small non-directive insurers

Short Form A for small non-directive insurers:

Short Form A - small non-directive insurers

Scope of responsibilities form for Solvency II firms:

Solvency II Firms: Scope of responsibilities

Scope of responsibilities form for large non-directive insurers:

Scope of responsibilities form - large non-directive insurers

Scope of responsibilities form for small non-directive insurers:

Scope of responsibilities form - small non-directive insurers

Long Form A - Incoming EEA only

Long Form A - UK Firms (Relevant Authorised Persons only)

Long Form A: UK firms (March 2016)

Long Form A for firms which are not Solvency II firms (including large non-directive insurers) or small non-directive insurers

(and are not incoming EEA firms or

Relevant Authorised persons)

Short Form A for firms which are not Solvency II firms (including large non-directive insurers) or small non-directive insurers (and are not incoming EEA firms or

Relevant Authorised persons)

Long Form A for incoming EEA firms

Short Form A for incoming EEA firms

### **GUIDANCE NOTES: APPLICATION FOR AUTHORISATION**

Notes to assist with the completion of the Long and/or Short Form A for both UK and the Overseas, and Incoming EEA firms, when making an application to perform controlled function(s) under the Approved Persons regime including Senior Managers' and Senior Insurance Managers' Regime (Connect or Paper Form)

For *MiFID* authorisations applications please see guidance notes for the applicable *MiFID* Form A at ■ SUP 10A Annex 4D.

Please take time to read these notes carefully. They will help you to fill in the Long and/or Short Form A correctly.

When completing the application forms you will need to refer to:

- the *FCA Handbook*: <https://www.handbook.fca.org.uk>; and
- the *PRA Rulebook*: <http://www.prarulebook.co.uk> .

If after reading these notes you need more help please:

- check our website: [www.fca.org.uk](http://www.fca.org.uk);
- consult the *Handbook*: <https://www.handbook.fca.org.uk>;
- call the Customer Contact Centre on 0300 500 0597;
- call the PRA Firm Enquiries: 020 3461 7000;
- email the *FCA* Customer Contact Centre: [firm.queries@fca.org.uk](mailto:firm.queries@fca.org.uk); or
- email the *PRA*: [PRA.firmenquiries@bankofengland.co.uk](mailto:PRA.firmenquiries@bankofengland.co.uk)

These notes, while aiming to help you, do not replace the rules and guidance in the *FCA Handbook* or the *PRA's Rulebook* and supervisory statements.

### **Terms in these notes**

These notes use the following terms:

- 'you' refers to the candidate for whom the Form A is being completed by the Applicant;
- 'candidate' (paper forms only) refers to the individual for whom the Form A is being completed by the Applicant;
- 'the Applicant' refers to the *firm* applying for authorisation of the candidate;
- 'the *FCA*', 'we', 'us' or 'our' refers to the Financial Conduct Authority;
- 'the *PRA*', refers to the Prudential Regulation Authority; and

For more information on the specification of functions, refer to ■ SUP 10A.4, ■ SUP 10C.1 and (SMR) or the Senior Management Functions or Insurance- Senior Insurance Management Functions parts of the *PRA Rulebook*.

### Firm Specific Questions

If you select CF1, CF3, CF5, CF6, CF8 or CF 29 or;

if you select SMF1, SMF2, SMF3, SMF4, SMF5, SMF6, SMF7, SMF16, SMF17, SMF18, SMF19, SMF20, or SMF22 under SMR or;

if you select SIMF1, SIMF2, SIMF4, SIMF5, SIMF7, SIMF19, SIMF21, SIMF22, SIMF23 under SIMR;

you will be asked to select a box if the individual is responsible for insurance distribution.

This is not a *controlled function* in its own right. However, every *firm* that carries on insurance distribution activities must appoint an approved person(s) who will be responsible for insurance distribution activities at the *firm* (as detailed in ■ MIPRU 2.2).

This responsibility must be allocated to a member of the governing body of the *firm* or in certain circumstances, a senior manager (i.e. an individual that is applying for approval as CF1, 3-8 or 29).

Please note that insurance distribution is not applicable to *appointed representatives*.

If you select CF2, the role to be undertaken must be provided.

You must choose one of the available roles in the box provided.

If you select CF28 or CF28 and CF29 you will be asked to select the area of responsibility and the Job Title.

No additional notes.

If you select CF29 you will be asked to enter the Job Title

No additional notes.

### Additional Questions

#### Role Description

No additional notes.

#### Organisation Chart (showing the candidates upward and downwards reporting)

No additional notes.

#### Is the candidate a member or chairman of any sub-boards or other committees

No additional notes.

### Supporting Documents

Description or document setting out how the competency was assessed (demonstrating competence and suitability mapped to the specific role and its responsibilities)

No additional notes.

Description or copy of the candidates skill's Gap Analysis

No additional notes.

Description or copy of the candidates Learning and Development plan (including the name of the individual responsible for monitoring the candidate's progress against the development points and the time frame for completion).

No additional notes.

Description or copy of candidate's Induction Programme

No additional notes.

### SIF/SMR/SIMR

If you select a Significant Influence Function/Senior Management/Senior Insurance Management function and you are a larger firm you will be asked the following three questions:

Please provide full details of why the candidate is competent and capable to carry out the controlled function(s) applied for.

No additional notes.

Please provide full details of why the appointment complements the firm's business strategy, activity and the markets in which it operate (where applicable).

No additional notes.

Please provide full details of the process undertaken in making the appointment including details of any discussions at governing body level (if any).

No additional notes.

### Mandatory Documents

If you select a significant influence function (CF1 to CF29) or any of the Senior Management or Senior Insurance Management functions you will be asked to attach a CV.

No additional notes.

### Non MiFID Business

If the firm is an EEA authorised firm you will be asked 'Is the application in respect of any non-MiFID business?'

No additional notes.

### Fitness & Propriety

If the candidate has been previously approved by the FCA/PRA then you will be asked 'Has the candidate's fitness & propriety changed?'

If yes, you will be presented with the Fitness and Propriety section and the Employment History section to complete as part of this application.

### Effective Date

#### Effective Date of Change

You should enter the effective date of the controlled function being applied for.

#### Reason for Past Effective Date

No additional notes.

### Paper Form A users

Where the application is for the candidate to perform the controlled function(s) at a single *firm*, the *firm* should answer questions 3.02, 3.03 and 3.04. However, if the application is being made on behalf of a candidate who proposes to perform controlled functions for more than one *firm*, then the final question of section three (3.04 and 3.05 where applicable) must also be answered to describe the controlled functions and the relationships between the candidate and each *firm* for which the candidate proposes to perform the controlled function.

Question 3.02 – Guidance about the particular controlled functions can be found in ■ SUP 10C (for senior management functions) and ■ SUP 10A (for all other controlled functions). For more information on Senior Management Functions and Senior Insurance Management Functions, please refer to SS28/15 and SS35/15, which are published on the PRA website.

Question 3.03 – This box should be left blank in all cases unless there is a reason to delay the commencement of the performance of the controlled functions (subject to approval) until a date which is after the FCA and/or PRA published standard response times, details of which can be found at:

[www.fca.org.uk/your-fca](http://www.fca.org.uk/your-fca) ; and/or

[www.bankofengland.co.uk/PRA](http://www.bankofengland.co.uk/PRA)

The *FCA* and/or *PRA* will assume that the *firm* wishes an application to be determined as soon as possible unless this box is completed and the reason for the delay set out in section 6 of the Form A.

Please note that the candidate must not perform the controlled function until the *FCA* and/or *PRA* approval has been granted. To do so will mean that both the *firm* and the candidate may be in breach of *FCA* and/or *PRA* rules and principles.

Question 3.04 - If the candidate seeks approval for a significant influence function, the specific job title of the candidate must be included.

### Insurance Distribution

This is not a controlled function in its own right. However, every *firm* that carries on *insurance distribution activities* must appoint an *approved person(s)* who will be responsible for *insurance distribution activities* at the *firm* (■ MIPRU 2.2).

This responsibility must be allocated to a member of the *governing body* of the *firm* or in certain circumstances, a *senior manager* (i.e. an individual that is applying for approval as CF1, 3-8 or 29).

Please note that *insurance distribution* is not applicable to *appointed representatives*.

Where a *firm* has appointed an *appointed representative* to carry on *insurance distribution activities* on its behalf, the person responsible for the *firm's insurance distribution activities* will also be responsible for the *insurance distribution activities* carried on by an *appointed representative*.

### Mortgage Credit Directive intermediation activity

The term 'Mortgage Credit Directive (MCD) intermediation activity', as used within this application, is equivalent to the term '*MCD credit intermediation activity*' as defined with the Glossary of the *FCA Handbook*.

This is not a *controlled function* in its own right. However, every *firm* that carries on MCD credit intermediation activities must appoint an *approved person(s)* who will be responsible for MCD credit intermediation activities at the *firm* (see ■ MIPRU 2.2)).

This responsibility must be allocated to a member of the *governing body* of the *firm* or in certain circumstances, a *senior manager* (i.e. an individual that is applying for approval as CF1, 3-8 or 29).

Where a *firm* has appointed an *appointed representative* to carry on *MCD credit intermediation activity* on its behalf, the person responsible for the *firm's MCD credit intermediation activity* will also be responsible for the *MCD credit intermediation activity* carried on by an *appointed representative*.

Unless the *firm* indicates otherwise, the *FCA* and/or the *PRA* assumes that the arrangement given on the application form includes all of the activities that fall within the description of the *controlled function*. This means that a *firm* may alter a candidate's responsibilities within the broad description of a *controlled function* without needing further approval from the *FCA* and/or the *PRA*. However, they will be required to record this change on the scope/statement of responsibilities record (where applicable) that is maintained by the *firm* for each individual in a *controlled function*.

### Employment History

This section will not be displayed if you have been approved for a function within the last six *months* and your Fitness and Propriety and Employment History has not changed.

If you are using the paper forms, this section contains the notes you will need for Section 4 – Employment history in the past 5 years.

#### What is the candidate's current employment status?

If you answer Unemployed or in Full time education on Connect or you tick c or d on the Paper Form A then you will be asked the following:-

•Period: From

•Please provide details of the previous employment history

If you answer Employed or Self Employed you will be asked:

•Period: From

- Name of employer
- Nature of business
- Has this employer previously been known by a different name? if yes you will be asked for Previous / other name of employer
- Last known address of employer
- Is/Was the employer regulated by a regulatory body? If yes, you will be asked for Name of regulatory body
- Is/Was the employer an Appointed representative? If yes, you will be asked for: Of which principal firm, the Position held and the Responsibilities?
- Position held
- Responsibilities
- Reason for leaving (if more than one employment)

A full five-year employment history for the candidate must be provided including the current employment at the time of application, with all gaps explained. If the record of employment does not go back five years, all periods of education and unemployment must be indicated. Full details of any periods of self-employment must be included.

Always give the address of the actual place of employment, rather than a central head office.

State the position held by the candidate and a brief explanation of his or her duties. If the candidate's job title included the word "director" but his or her duties did not include those associated with the title of director, as defined in the *Glossary*, this should be indicated.

### Fitness and Propriety

This section will not be displayed if you have been approved for certain controlled functions within the last six *months* and your Fitness and Propriety and Employment History has not changed.

If you are using the paper forms, this section contains the notes you will need for Section 5 – Fitness and propriety.

If any disclosures are made in the fitness and propriety section of the application to perform a *controlled function*, full details should be provided in support of the application. This includes disclosures about any previous disciplinary investigation by previous regulators or employers involving the candidate.

We take non-disclosure seriously, especially where there is an apparent attempt to mislead. Non-disclosure will add to the seriousness of the undisclosed issue. If our vetting checks reveal any matters that have not been disclosed, then applications will be subject to investigation and the candidate's suitability to be approved will be called into question. A person who knowingly or recklessly provides information to the *FCA* and/or the *PRA* that is false or misleading may commit a criminal offence, and could face prosecution under section 398 of the *FSMA* (Misleading *FCA* or *PRA*: residual cases) regardless of the status of their application.

You should also be aware that, while advice may be sought from a third party (e.g. legal advice), responsibility for the accuracy of information, as well as the disclosure of relevant information, on the form is ultimately the responsibility of the *firm* and the candidate.

### Connect

Answer the question by ticking the relevant 'yes' or 'no' box. If the answer to any of the questions is 'yes', you will be prompted to provide more details.

### Paper Form A

If you answer 'yes' to any of the questions in this section, you must give complete details in section 6 of the form and attach relevant supporting documentation.

Terms used:



## Form E: Internal transfer of an approved person

This annex consists only of one or more forms. Note that there are separate forms for *Solvency II firms*, *large and small non-directive insurers* and other *firms*. *Swiss general insurers* must use the form for *large non-directive insurers* not the form for *Solvency II firms*. It also includes the scope of responsibilities form which must be included as an attachment to Form E in certain cases. Forms are to be found through the following address: *Supervision forms* - SUP 10A Annex 8

Form E for Solvency II firms:

Form E - Internal transfer of an approved person (for Solvency II firms only)

Form E for small non-directive insurers:

Form E - small non-directive insurers

Form E for large non-directive insurers:

Form E - large non-directive insurers

Scope of responsibilities form can be found at ■ SUP 10A Annex 4D.

Form E for firms which are not Solvency II firms (including large non-directive insurers) or small non-directive insurers (and are not Relevant Authorised persons):

Form E for firms which are not Solvency II firms (including large non-directive insurers) or small non-directive insurers

### **GUIDANCE NOTES: INTERNAL TRANSFER OF AN APPROVED PERSON**

PLEASE NOTE: A *CANDIDATE* MUST NOT BEGIN PERFORMING ANY *CONTROLLED FUNCTIONS* UNTIL THE *FCA* AND/OR *PRA* HAS GRANTED APPROVAL.

Full details of the *approved persons* regime including the Senior Managers Regime and the Senior Insurance Managers Regime can be found in ■ SUP 10A and ■ SUP 10C of the *FCA Handbook* and the Parts relating to the Senior Managers Regime and Senior Insurance Managers Regime in the *PRA Rulebook* (these include the Insurance – Senior Insurance Management Functions, Insurance – Fitness and Propriety, Insurance – Allocation of Responsibilities and Insurance – Conduct Standards parts of the *PRA Rulebook*). *Firms* should also refer for further information to the *PRA* supervisory statements - SS 28/15 for deposit takers, and SS 35/15 for insurers.

### **The purpose of this Form**

This is Form E referred to in:

- ■ SUP 10A and ■ SUP 10C in the *FCA Handbook*;
- the Senior Managers Regime – Applications and Notifications Part of the *PRA Rulebook*; and
- the relevant “Senior Insurance Managers Regime – Applications and Notifications” Parts in the “Solvency II firms” and “Non-Solvency II Firms” sectors of the *PRA Rulebook*.

A *firm* should use Form E when an *approved person* ceases to perform one or more *controlled functions* and the *firm* wishes to apply for approval for the individual in respect of other *controlled functions*. Form E should not be used for a qualified withdrawal (see ■ SUP 10A.14.10R and ■ SUP 10C.14.7R in the *FCA Handbook*, Chapter 5 of Senior Management Regime – Applications and Notifications and Chapter 4.2 of Solvency II firms: Senior Insurance Managers Regime – Applications and Notifications in the *PRA Rulebook*). Form E may also be used for transfers between *firms* that are part of the same *group*:

Form E should not be used in the circumstances set out in ■ SUP 10A.14.4D(2)-(3) or ■ SUP 10C.10.9D(2)-(4) of the *FCA Handbook*; or Senior Managers Regime – Applications and Notifications 2.4 & 2.5 or Senior Insurance Managers Regime - Applications and Notifications 2.4 & 2.5 of the *PRA Rulebook*.

Form C must be used if the individual is ceasing to perform a *controlled function* and the *firm* is not seeking approval in respect of another *controlled function*.

Form A must be completed in full if the *approved person* is seeking approval in respect of a *controlled function* including a *senior management function* or senior insurance management function for the first time.

### Completing this Form

If in manuscript, Form E must be completed in black ink and in BLOCK LETTERS.

All dates should be provided in numeric form (e.g. 29/02/2000 for 29 February 2000).

Indicate clearly if a question is not applicable. Tick the appropriate box where a yes/no answer is required. Further details should be given in section 5 (Supplementary Information) if there is insufficient space for a detailed answer.

Additional information can be attached to the Form. It must be securely attached to the rest of the Form and you must indicate at question 5.02 the number of additional sheets attached.

Do not assume that information is known to the *FCA* and/or *PRA* merely because it is in the public domain, or has been previously disclosed to the *FCA* and/or *PRA* or to another regulatory body. In all circumstances, disclosures should be full, frank and unambiguous. The information supplied by the *candidate* should be verified by the *firm* wherever possible. Should the *FCA* and/or *PRA* vetting checks reveal any matters that have not been disclosed, then applications will be delayed and, in some cases, possibly rejected. See ■ SUP 10A.13.12G and ■ SUP 10C.10.30G of the *FCA Handbook*.

Expressions in Form E in italics have the meaning given in the *Glossary* to the *FCA Handbook* (or, if no meaning is given there, the expressions are to be interpreted in accordance with the related expression defined in the *Glossary*).

The *firm* is responsible for the completion of Form E. If Form E is not fully and correctly completed, the *FCA* and/or *PRA* may need to return it for proper completion. This could significantly delay the *FCA* and/or *PRA*'s decision on whether to grant approval to perform the requested *controlled functions* (see ■ SUP 10A.13.12G and ■ SUP 10C.10.30G of the *FCA Handbook*).

The *FCA* and/or *PRA* may require the applicant to provide further information at any time after receiving an application and before determining whether it is to be granted or not (see ■ SUP 10A.13.14G, SUP 10B.11.13G and ■ SUP 10C.10.28G in the *FCA Handbook*).

If a *firm* has provided, or has information that reasonably suggests that it may have provided, the *FCA* and/or *PRA* with information which was or has become false, misleading, incomplete or inaccurate, in a material particular, it must notify the *FCA* and/or *PRA* immediately (see ■ SUP 15.6.4R in the *FCA Handbook*, Notification 6 in the *PRA Rulebook* and the equivalent Parts in the "Solvency II firms" and "Non-Solvency II Firms" sectors of the *PRA Rulebook*). Failure to notify the *FCA* and/or *PRA* may result in a delay in processing or rejection.

### SECTION 4 – ARRANGEMENTS AND CONTROLLED FUNCTIONS

The *firm* must tick the box in 4.01 that most accurately describes its *arrangement* with the *candidate*. For applications from a single *firm*, the *firm* should complete 4.02, 4.03 & 4.04 indicating the *controlled functions* required by selecting the appropriate box in 4.02. However, if the application is being made on behalf of a candidate who will carry out *controlled functions* for more than one *firm*, 4.05 must be used to describe the *controlled functions* and the relationships between the *candidate* and those *firms*. For *senior management functions*, *firms* should use 4.04 in the relevant Form E.

4.01 If this application relates to more than one *appointed representative*, provide details in section 5.

4.02 If the *controlled function* 28 or 29 is requested, the specific job title of the candidate should be included.

4.03 The effective date is the date on which the *firm* wishes the *candidate* to begin performing *controlled functions* (subject to approval). This should be left blank unless there is a reason for the effective date to be beyond the *FCA* and/or *PRA* published standard response times. For instance, a *firm* may wish to be sure that a candidate has been approved before they take up their post.

#### 4.04 Insurance distribution

This is not a *controlled function* in its own right. However, every *firm* that carries on *insurance distribution activities* must appoint an *approved person(s)* who will be responsible for *insurance distribution activities* at the *firm* (as detailed at ■ MIPRU 2.2).

This responsibility must be allocated to a member of the *governing body* of the *firm* or in certain circumstances, a *senior manager*. (i.e. an individual that is applying for approval as CF1, 3-8 or 29).

Where a *firm* has appointed an *appointed representative* to carry on *insurance distribution activities* on its behalf, the *person* responsible for the *firm's insurance distribution activities* will also be responsible for the *insurance distribution activities* carried on by an *appointed representative*.

Unless the *firm* indicates otherwise, the *FCA* and/or *PRA* assumes that the *arrangement* given on the application form includes all of the activities that fall within the description of the *controlled function*. This means that a *firm* may alter a *candidate's* responsibilities within the broad description of a *controlled function* without needing further approval from the *FCA* and/or *PRA*. However, they will be required to record this change on the scope/statement of responsibilities record (where applicable) that is maintained by the *firm* for each individual performing a *controlled function*.

### SECTION 5 – SUPPLEMENTARY INFORMATION

This section provides extra space for any previous answer and for additional information relevant to this application.

The *firm* must include details of any other matter which the *firm* is aware of and which in its reasonable opinion is relevant in connection with the *approved person* ceasing to perform their *controlled function*. If there is insufficient space, additional sheets may be used.

### SECTION 6 – DECLARATIONS AND SIGNATURES

This section contains declarations which must be signed by both an appropriate individual for the *firm* or applicant submitting the application and the *candidate*. The *FCA* and/or *PRA* considers that an appropriate individual would either be an individual approved [to perform a SIF, SMF or a PRA controlled function] or someone to whom the *firm* has delegated the authority to notify the *FCA* and/or *PRA*. If this authority has been delegated, the *firm* should keep records of those individuals authorised to sign on behalf of the *firm*.

N.B. Please keep these notes before returning the completed Form to the *FCA* and/or *PRA*.

If you have any questions or need additional information, please contact the *FCA* Customer Contact Centre on 0300 500 0597 or *PRA* Firm Enquiries on 020 3461 7000 or e-mail [iva@fca.org.uk](mailto:iva@fca.org.uk) or [PRA.firmenquiries@bankofengland.co.uk](mailto:PRA.firmenquiries@bankofengland.co.uk).

PLEASE RETURN THE COMPLETED FORM TO:

Financial Conduct Authority  
12 Endeavour Square  
London, E20 1JN

Prudential Regulation Authority  
20 Moorgate  
London

United Kingdom

EC2R 6DA

United Kingdom

10A

10C.5 FCA governing functions

Executive director function (SMF3)

- 10C.5.1 **R**
- (1) For a *UK relevant authorised person*, the *executive director function* is the function of acting in the capacity of a *director* (other than a *non-executive director*) of a the *firm*.
  - (2) For a *third-country relevant authorised person*, the *executive director function* is the function of acting in the capacity of a *director* (other than a *non-executive director*) in relation to its *branch* in the *United Kingdom* where the *person* performing that function has responsibility for managing one or more aspects of the *firm's* affairs so far as relating to the activities of the *branch*.
  - (3) Paragraph (2) includes a *person* who is a member (other than a non-executive member) of the *branch's governing body*.

Chairman of the nomination committee function (SMF13)

- 10C.5.2 **R** If the *firm* has a nomination committee, the *chair of the nomination committee function* is the function of acting in the capacity of the chairman of that committee.
- 10C.5.3 **G** See ■ SYSC 4.3A (Management body and nomination committee) for material about nomination committees.
- 10C.5.4 **G** Please note that the *chair of the nomination committee function* still applies if the *firm* is not a *CRR firm*.
- 10C.5.5 **G** In some *firms*, the chairman of the nomination committee is also the chairman of the *governing body*. As being chairman of the *governing body* is a *PRA controlled function*, the chairman may not need approval to perform the *chair of the nomination committee function* but instead just need *PRA* approval for being chairman of the *governing body*.  
(See ■ SUP 10C.9 (Minimising overlap with the PRA approved persons regime) for an explanation of when *PRA* approval means that *FCA* approval is not needed.)

**Non-executive directors**

10C.5.6

G

- (1) As explained in ■ SUP 10C.7.4G, the *FCA* does not expect a *non-executive director* ever to perform the *other overall responsibility function*.
- (2) Therefore, a *non-executive director* will not need to be approved to perform any *FCA-designated senior management function* unless they perform the *chair of the nomination committee function*.

**Insurance distribution**

10C.5.7

G

See ■ MIPRU 2.2 for how the *FCA's* senior management regime for *relevant authorised persons* is adjusted for a *firm* carrying on *insurance distribution activity*.

## 10C.13 Variation of conditional and time-limited approvals

### Purpose

- 10C.13.1** **G** This section deals with variation of a conditional approval at the:
- (1) request of the *firm*; and
  - (2) initiative of the *FCA*.
- 10C.13.2** **G**
- (1) In particular, this section sets out the *FCA*'s policies about varying conditional approvals at the request of a *firm*, as required by section 63ZD of the *Act* (Statement of policy relating to conditional approval and variation).
  - (2) This section does not deal with the *FCA*'s policies on varying a condition on its own initiative. ■ DEPP 8 deals with that. However this section gives a short description of the *FCA*'s powers to impose such variations.
- Variation of a conditional approval at the request of the firm: general description**
- 10C.13.3** **G** A *firm* may apply to the *FCA* to change a conditional or time-limited approval. The changes for which a *firm* may apply are:
- (1) a variation of the condition;
  - (2) removal of the condition;
  - (3) the imposition of a new condition; or
  - (4) where the approval is time-limited:
    - (a) varying the time limit; or
    - (b) removing the time limit.
- 10C.13.4** **G**
- (1) There are requirements about whether the *firm* applying for a change described in ■ SUP 10C.13.3G should apply to the *FCA* or the *PRA*. Paragraphs (2) to (3) summarise these requirements.
  - (2) If the *firm* is applying for the imposition of a new condition, the *firm* should apply to the *FCA* if the approval to which the application relates was given by the *FCA*.

- (2A) If a *firm* is applying for a change of the type described in ■ SUP 10C.13.3G(1) or ■ SUP 10C.13.3G(2), the *firm* should (subject to (2C)) apply to the *FCA* if the *FCA* imposed that condition, even if the approval was given by the *PRA*.
- (2B) If a *firm* is applying for a change of the type described in ■ SUP 10C.13.3G(4), the *firm* should (subject to (2C)) apply to the *FCA* if the *FCA* imposed that time limit, even if the approval was given by the *PRA*.
- (2C) Where the time limit or condition has been varied before and the *FCA* was the last to vary it, the *firm* should apply to the *FCA*. This applies whether the variation was made on the application of the *firm* or on the initiative of the *FCA* or the *PRA*.
- (3) In other cases, the application should be to the *PRA*.

**10C.13.5** G The right to apply for a variation does not include the right to apply for a time limitation where the current approval has effect for an unlimited period.

**10C.13.5A** G The procedures described in this section for the variation of an approval at the request of a *firm* do not apply where the condition or time limit has effect by virtue of section 66 of the *Act* (Disciplinary powers).

**Variation of a conditional approval at the request of the firm: process**

**10C.13.6** D An application by a *firm* to the *FCA* under section 63ZA of the *Act* (Variation of senior manager's approval at request of relevant authorised persons) must be made by using Form I (■ SUP 10C Annex4D).

- 10C.13.7** G
  - (1) An application under ■ SUP 10C.13.6D should be accompanied by a *statement of responsibilities* for the *approved person* concerned.
  - (2) See ■ SUP 10C.11 (Statements of responsibilities) for more details.

**10C.13.8** G ■ SUP 10C.15 (Forms and other documents and how to submit them to the *FCA*) explains how applications to vary a conditional approval should be submitted.

**10C.13.9** G The *FCA* has until the end of the period of three months from the time it receives a properly completed application to consider the application and come to a decision.

**10C.13.10** G The *FCA* must either grant the application or, if it proposes not to grant an application, issue a *warning notice* (see ■ DEPP 2).

**10C.13.11** G The *FCA* may refuse an application if it appears to the *FCA* that it is desirable to do so to advance one or more of its *operational objectives*.



**10C.13.12** **G** Before making a decision to grant the application or give a *warning notice*, the *FCA* may ask the *firm* for more information. If it does this, the three-month period in which the *FCA* must determine a completed application:

- (1) will stop on the day the *FCA* requests the information; and
- (2) will start running again on the day on which the *FCA* finally receives all the requested information.

**10C.13.13** **G** Whenever it grants an application, the *FCA* will confirm this in writing to all *interested parties*.

**10C.13.14** **G** If the *FCA* proposes to refuse an application, it must follow the procedures for issuing *warning notices* and *decision notices* to all *interested parties*. The requirements relating to warning and decision notices are in ■ DEPP 2.

**10C.13.15** **R** A *firm* notifying the *FCA* of its withdrawal of an application for variation of an approval must use Form B (■ SUP 10A Annex 5R).

**10C.13.16** **G** ■ SUP 10C.15 (Forms and other documents and how to submit them to the *FCA*) explains how notifications of withdrawal of an application should be submitted.

**10C.13.17** **G** Under section 61(5) of the *Act* (Determination of applications), as applied by section 63ZA(8) of the *Act* (Variation of senior manager's approval at request of relevant authorised person), the *firm* may withdraw an application only if it also has the consent of:

- (1) the *approved person*; and
- (2) the person by whom the *approved person* is employed if this is not the *firm* making the application.

10C

**Variation of a conditional approval at the request of the firm: policy**

**10C.13.18** **G** The *FCA*'s policy on approving or refusing a request for a variation is the same as it is for imposing conditions on approval (see ■ SUP 10C.12 (Conditional and time-limited approvals)).

**10C.13.19** **G**

- (1) An example of a situation in which the *FCA* would consider varying a condition would be a competency-related condition which required a training course to be completed (see, in particular, ■ SUP 10C.12.24G for this type of condition).
- (2) If the *firm* later concludes that a different course would be better, the *firm* may apply for a variation of the condition.

**10C.13.20** **G** Another example of a situation in which the *FCA* would consider varying a condition would be a condition relating to a remedial programme (see

■ SUP 10C.12.41G). If the remedial programme is changed, it may be appropriate to change the condition.

- 10C.13.21** **G** (1) Other examples of where the *FCA* may agree to removing a condition are where:
- (a) the *approved person's* role has changed so that the reason for the condition originally being imposed no longer applies; or
  - (b) new information has come to light that removes any doubt about the *approved person's* competence so a condition is no longer necessary.
- (2) For example, the *FCA* may agree to removing a condition about the scope of the *approved person's* role of the type described in ■ SUP 10C.12.39G.

**10C.13.22** **G** See ■ SUP 10C.12.38G for another example of a case where the *FCA* may agree to removing a condition (condition imposed pending reorganisation).

**Variation of a conditional approval: action at the initiative of the FCA**

**10C.13.23** **G** Under section 63ZB of the *Act* (Variation of senior manager's approval on initiative of regulator), the *FCA* may vary an approval given by the *FCA* or the *PRA* for the performance of a *designated senior management function* if the *FCA* considers that it is desirable to do so to advance one or more of its *operational objectives*.

- 10C.13.24** **G** The *FCA* may vary an approval by:
- imposing a condition;
  - (2) varying a condition;
  - (3) removing a condition;
  - (4) limiting the period for which the approval is to have effect; or
  - (5) removing or varying a time limit on an approval.

**10C.13.25** **G** More information about the *FCA's* powers to vary a condition on its own initiative, including its policy on using these powers, can be found in ■ DEPP 8.

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## **Form A: Application to perform senior management functions**

Long Form A - UK Relevant Authorised Persons and Third Country Relevant Authorised Persons only

Long Form A – UK Firms (Relevant Authorised Persons only)

Short Form A - UK Relevant Authorised Persons and Third Country Relevant Authorised Persons only

Short Form A – UK Firms (Relevant Authorised Persons only)

Short Form A (EEA Relevant Authorised Persons only)

Long Form A (EEA Relevant Authorised Persons only)

[**Note:** See ■ SUP 10A Annex 4D for the full Form A guidelines]



## 11.8 Changes in the circumstances of existing controllers

**11.8.1** **R** A *firm* must notify the *appropriate regulator* immediately it becomes aware of any of the following matters in respect of one or more of its *controllers*:

- (1) if a *controller*, or any entity subject to his *control*, is or has been the subject of any legal action or investigation which might put into question the integrity of the *controller*;
- (2) if there is a significant deterioration in the financial position of a *controller*;
- (3) if a corporate *controller* undergoes a substantial change or series of changes in its *governing body*;
- (4) if a *controller*, who is authorised in another *EEA State* as a *MiFID investment firm*, *CRD credit institution* or *UCITS management company* or under the *Solvency II Directive* or the *IDD*, ceases to be so authorised (registered in the case of an *IDD insurance intermediary*).

**11.8.2** **G** In assessing whether a matter should be notified to the *appropriate regulator* under ■ SUP 11.8.1 R (1), ■ SUP 11.8.1 R (2) or ■ SUP 11.8.1 R (3), a *firm* should have regard to the *guidance* on satisfying the *threshold conditions* set out in paragraphs 2E and 3D of Schedule 6 to the *Act* contained in ■ COND 2.5.

**11.8.3** **G** In respect of ■ SUP 11.8.1 R (3), the *appropriate regulator* considers that, in particular, the removal or replacement of a majority of the members of a *governing body* (in a single event or a series of connected events) is a substantial change and should be notified.

**11.8.4** **G** If a matter has already been notified to the *appropriate regulator* (for example, as part of the *firm's* application for a *Part 4A permission*), the *firm* need only inform the *appropriate regulator* of any significant developments.

**11.8.5** **G** The level of a *firm's* awareness of its *controller's* circumstances will depend on its relationship with that *controller*. The *appropriate regulator* does not expect *firms* to implement systems or procedures so as to be certain of any changes in its *controllers'* circumstances. However, the *appropriate regulator* does expect *firms* to notify it of such matters if the *firm* becomes aware of them, and it expects *firms* to make enquiries of its *controllers* if it becomes aware that one of the events in ■ SUP 11.8.1 R may occur or has occurred.

- 11.8.6** **G** The *appropriate regulator* may ask the *firm* for additional information following a notification under **■ SUP 11.8.1 R** in order to satisfy itself that the *controller* continues to be suitable (see **■ SUP 2: Information gathering by the FCA or PRA on its own initiative**).

steps to find out the reasons for the termination and the extent to which those reasons reflect on the *person* concerned.

**Good repute**

**12.4.8A** **R** Before a *firm* appoints a *person* as an appointed representative to carry on *insurance distribution activity*, it must in relation to *insurance distribution activity* ensure that the *person* will comply on appointment, and will continue to comply with, the provisions of MIPRU ■ SYSC 28.3 (Good repute) as if the *appointed representative* were a *firm*.

[Note: article 10(3) of the *IDD*]

**12.4.8AA** **R** A *firm* that has appointed an *appointed representative* to carry on *insurance distribution activity* must ensure that the *appointed representative*:

- (1) establishes, maintains and keeps appropriate records to demonstrate compliance with ■ SYSC 28.3 (Good repute); and
- (2) provides the name of the *person* responsible for the record-keeping requirement in (1) to the *firm*.

**Knowledge and ability requirements**

**12.4.8AB** **G** ■ SYSC 28.1 (Minimum knowledge and ability requirements for carrying out insurance distribution activities), ■ SYSC 28.2 (Knowledge and ability requirements) and ■ SYSC 28.4 (Record-keeping requirements) apply in relation to a *firm's* relevant employees. This includes its *appointed representatives* and their *employees*.

[Note: articles 10(1), 10(2) and last paragraph of article 10(8) of the *IDD*]

**12.4.8B** **G** [deleted]

**Close links**

**12.4.8C** **R** Before a *firm* appoints an *appointed representative* who does not already appear on the *Financial Services Register* ("A") to carry on *insurance distribution activity*, it must obtain from A the following information:

- (1) the identities of shareholders or members, whether natural or legal persons, that have a holding in A that exceeds 10% and the amount of those holdings;
- (2) the identities of *persons* who have *close links* with A; and
- (3) that those holdings or *close links* do not prevent the effective supervision of A by the *firm*.

[Note: article 3(6) of the *IDD*]

**12.4.9** **G** (1) An appointed representative must not commence an *insurance distribution activity* until they are included on the *Financial Services Register* as carrying on such activities (see ■ SUP 12.5.2 G (3)).

- (2) If an appointed representative's scope of appointment is to include an *insurance distribution activity*, the principal must notify the *FCA* of the appointment before the appointed representative commences that activity (see ■ SUP 12.7.1 R (1)).
- (3) As an exception, pre-notification is not required if the appointed representative is already included on the *Financial Services Register* as carrying on *insurance distribution activities* in another capacity (for example, as the appointed representative of another *principal*).

**12.4.10** G

- (1) The *FCA* has the power to decide not to include on the *Financial Services Register* (or to remove from the *Financial Services Register*) an appointed representative whose scope of appointment includes an *insurance distribution activity*, if it appears to the *FCA* that he is not a fit and proper *person* to carry on those activities (article 95 of the *Regulated Activities Order*).
- (2) If the *FCA* proposes to use the power in (1), it must give the appointed representative a *warning notice*. If the *FCA* decides to proceed with its proposal, it must give the appointed representative a *decision notice*. The procedures followed by the *FCA* in relation to the giving of *warning notices* and *decision notices* are set out in ■ DEPP 2.
- (3) An appointed representative may apply to the *FCA* for a determination of the kind referred to in (1) to be revoked. If the *FCA* proposes to refuse the application, it must give the appointed representative a *warning notice*, and if the *FCA* decides to proceed with the refusal, it must give the appointed representative a *decision notice*.

**Appointed representative carrying on MCD credit intermediation activity**

**12.4.10A** R

Before a *firm* appoints a *person* as an *appointed representative* to carry on an *MCD credit intermediation activity*, it must ensure that the *person* has, and will maintain on a continuing basis after appointment, professional indemnity insurance in accordance with the *rules* applicable to *MCD credit intermediaries*. A *firm* will satisfy this requirement if:

- (1) the *appointed representative* has professional indemnity insurance which satisfies the *rules* in ■ MIPRU 3.2 applicable to the activities of the *appointed representative*, as if the *appointed representative* were an *MCD credit intermediary*;
- (2) professional indemnity insurance which would satisfy the requirements of ■ SUP 12.4.10AR (1) is provided by the *firm*; or
- (3) the *appointed representative* holds a comparable guarantee (as understood by reference to ■ MIPRU 3.1.1R (3)(b)) provided by the *firm*.

[Note: article 31(2) of the *MCD*]

**12.4.10B** R

- (1) Before a *firm* appoints a *person* as an *appointed representative* to carry on *MCD credit intermediation activity* and on a continuing basis after appointment, it must, in relation to such activities, ensure that:



- (a) if the *appointed representative* is an *individual*, the *individual*:
  - (i) has not been convicted of any serious criminal offences linked to crimes against property or other crimes related to financial activities (other than spent convictions under the Rehabilitation of Offenders Act 1974 or any other national equivalent); and
  - (ii) has not been adjudged bankrupt (unless the bankruptcy has been discharged);  
under the law of any part of the *United Kingdom* or under the law of a country or territory outside the *United Kingdom*; and
  - (iii) possesses the appropriate level of knowledge and competence under the *rules* in *TC* applicable to the activities of the *appointed representative*;
- (b) if the *appointed representative* is a *body corporate*, the members of the board of the *appointed representative*, and *persons* performing equivalent tasks:
  - (i) have not been convicted of any serious criminal offences linked to crimes against property or other crimes related to financial activities (other than spent convictions under the Rehabilitation of Offenders Act 1974 or any other national equivalent); and
  - (ii) have not been adjudged bankrupt (unless the bankruptcy has been discharged);  
under the law of any part of the *United Kingdom* or under the law of a country or territory outside the *United Kingdom*; and
  - (iii) possess the appropriate level of knowledge and competence under the *rules* in *TC* applicable to the activities of the *appointed representative*.

[Note: article 31(2) of the *MCD*]

**12.4.10C** G

- (1) If an *appointed representative's* scope of appointment is to include *MCD credit intermediation activity*, the *principal* must notify the *FCA* of the appointment before the *appointed representative* commences that activity (see ■ SUP 12.7.1 R (1)).
- (2) An *appointed representative* must not commence an *MCD credit intermediation activity* until they are included on the *Financial Services Register*.
- (3) If an *appointed representative's* scope of appointment is to include *MCD credit intermediation activity*, the *Act* provides that that *appointed representative's principal* may not be a *tied MCD credit intermediary*.

**Appointment of an FCA registered tied agent**.....

**12.4.11** R

If a *UK MiFID investment firm* appoints an *FCA registered tied agent*, ■ SUP 12.4.2 R and ■ SUP 12.4.2A R apply to that *firm* as though the *FCA registered tied agent* were an *appointed representative*.

[Note: paragraphs 2 and 3 of article 29(3) of MiFID]

**Tied agents**

12.4.12

G

- (1) A *tied agent* that is an *appointed representative* may not start to act as a *tied agent* until it is included on the applicable register (section 39(1A) of the Act). If the *tied agent* is established in the UK, the register maintained by the FCA is the applicable register for these purposes. If the *tied agent* is established in another EEA State, the applicable register is that maintained by the *competent authority* in the EEA State in which the *tied agent* is established.
- (2) A UK MiFID investment firm that appoints an FCA registered tied agent who is not registered with the FCA will, subject to certain conditions, be taken to have contravened a requirement imposed on it by or under the Act (see section 39A(6)(c) and (d) of the Act).
- (3) A UK MiFID investment firm that appoints an EEA registered tied agent will be required to register that agent with the *competent authority* of the EEA State in which it is established. This requirement will be imposed by the rules of that EEA State.
- (4) If the *tied agent* is not established in the UK and is appointed by an EEA MiFID investment firm, it cannot commence acting as a *tied agent* until it is included on the public register of *tied agents* in the EEA State in which it is established.
- (5) If an *appointed representative's* scope of appointment is to include acting as a *tied agent*, the principal must notify the FCA of the appointment before the *appointed representative* starts acting as such (see ■ SUP 12.7.7 R (1A)).
- (6) A *tied agent* can only act as such for one MiFID investment firm or third country investment firm (see ■ SUP 12.5.6A R (1A)).

**MiFID optional exemption appointed representatives and structured deposit appointed representatives**

12.4.13

G

- (1) A MiFID optional exemption appointed representative or a structured deposit appointed representative may not start to act as such until it is included on the Financial Services Register (sections 39(1A) and 39(1AA) of the Act).
- (2) A firm must notify the FCA of the appointment of a MiFID optional exemption appointed representative or a structured deposit appointed representative before such appointed representative starts acting in that capacity (■ SUP 12.7.1R).

- (B) choosing between options governing the parameters of the terms of the agreement presented by a *P2P platform operator*; or
- (C) specifying the parameters of the terms of the agreement by other means; or
- (iii) a *person* enforcing or exercising the *lender's* rights under a 'relevant article 36H agreement'; or
- (iv) a *person* assigning rights under a 'relevant article 36H agreement';  
on behalf of other counterparties;
- (k) takes steps (within article 39D (Debt adjusting) of the *Regulated Activities Order*) on behalf of other counterparties;
- (l) gives advice to a *borrower* (within article 39E (Debt-counselling) of the *Regulated Activities Order*) on behalf of other counterparties;
- (m) takes steps (within article 39F (Debt-collecting) of the *Regulated Activities Order*) to procure the payment of debts on behalf of other counterparties;
- (n) performs duties (within article 39G (Debt administration) of the *Regulated Activities Order*) under, or exercises or enforces rights under, an agreement on behalf of other counterparties;
- (o) enters into *regulated credit agreement* or exercises or has the right to exercise the *lender's* rights and duties under such agreements (within article 60B (Regulated credit agreements) of the *Regulated Activities Order*) on behalf of other counterparties;
- (p) enters into *regulated consumer hire agreements* or exercises, or has the right to exercise, the *owner's* rights and duties under such agreements (within article 60N (Regulated consumer hire agreements) of the *Regulated Activities Order*) on behalf of other counterparties;
- (q) takes steps on behalf of, or gives advice to, an *individual* in relation to the taking of any steps (in circumstances constituting the carrying on of *providing credit information services*) on behalf of other counterparties.

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

12.5.2A G If:

- (1) a *UK MiFID investment firm* or a *third country investment firm* appoints an *appointed representative* that is a *tied agent* or a *MiFID optional exemption appointed representative*, regulation 3(6) of the *Appointed Representatives Regulations* requires the contract between

the *firm* and the *appointed representative* to contain a provision that the representative is only permitted to provide the services and carry on the activities referred to in article 4(1)(29) of *MiFID* while entered on the Register.

- (2) a *firm* appoints an *appointed representative* that is a *structured deposit appointed representative*, regulation 3(6) of the *Appointed Representatives Regulations* requires the contract between the *firm* and the *appointed representative* to contain a provision that the representative is only permitted to sell, or advise *clients* on, *structured deposits* while entered on the Register.

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

- (1) are designed to enable the *firm* to comply properly with any *limitations* or *requirements* on its own *permission*;
- (2) require the *appointed representative* to cooperate with the *FCA* as described in **■ SUP 2.3.4 G** (Information gathering by the *FCA* on its own initiative: cooperation by firms) and give access to its premises, as described in **■ SUP 2.3.5 R (2)**; and
- (3) require the *appointed representative* to give the *firm's* auditors the same rights as are provided by section 341 of the *Act*.

12.5.3A **G** To the extent that the appointment of the *appointed representative* includes *CBTL business*, a *firm* should satisfy itself that the terms of the contract with its *appointed representative*:

- (1) are designed to enable the *firm* to comply properly with any direction issued or imposed under article 19 of the *MCD Order*; and
- (2) require the *appointed representative* to deal with the *FCA* in an open and co-operative manner and give access to its premises, as set out in **■ SUP 2.3.4G** and **■ SUP 2.3.5R(2)**, as applied by **■ SUP 2.1.2AG**.

12.5.4 **G** A *firm* should have the ability to terminate the contract with its *appointed representative* in the circumstances in **■ SUP 12.6.1 R (2)**. However, such a termination provision should not be automatic (see **■ SUP 12.8.3 R (1)**).

12.5.5 **R** A *firm* must ensure that its written contract with each of its *appointed representatives*:

- (1) complies with the requirements prescribed in regulation 3 of the *Appointed Representatives Regulations* (see **■ SUP 12.5.2 G**);
- (2) requires the *appointed representative* to comply, and to ensure that any *persons* who provide services to the *appointed representative* under a contract of services or a contract for service comply, with the relevant requirements in or under the *Act* (including the *rules*) that apply to the activities which it carries on as *appointed representative* of the *firm*;

(2) distributing *non-real time financial promotions* which relate to products or services available from or through the *firm* or other members of the *firm's group*.

**Required contract terms for EEA tied agents**

12.5.8 **R** If a *UK MiFID investment firm* appoints an *EEA tied agent*, ■ SUP 12.5.6A R (1A) applies to that *firm* as though the *EEA tied agent* were an *appointed representative*.

[Note: articles 4(1)(29) and 29(1) of *MiFID*]

**Required contract terms for FCA registered tied agents**

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

**Required contract terms for appointed representatives of MCD credit intermediaries**

12.5.10 **R** A *firm* must ensure that, if appointing an *appointed representative* to carry on *MCD credit intermediation activity*, its written contract requires the *appointed representative* to provide such evidence to the *FCA* as to the knowledge and competence of the staff of the *appointed representative*, as the *FCA* may require from time to time.

[Note: article 9(4) of the *MCD*]

**Required contract terms for appointed representatives carrying on insurance distribution activity**

12.5.11 **R** A *firm* must ensure that, if appointing an *appointed representative* to carry on *insurance distribution activity*, its written contract requires the *appointed representative* to inform the *firm* of any change to the information obtained by the *firm* from the *appointed representative* in accordance with ■ SUP 12.4.8CR.

[Note: second paragraph of article 3(6) of the *IDD*]

**12.6 Continuing obligations of firms with appointed representatives or EEA tied agents**

**Suitability etc. of appointed representatives**

- 12.6.1 **R** If at any time a *firm* has reasonable grounds to believe that the conditions in **■ SUP 12.4.2 R**, **■ SUP 12.4.6 R** or **■ SUP 12.4.8A R** (as applicable) are not satisfied, or are likely not to be satisfied, in relation to any of its *appointed representatives*, the *firm* must:

  - (1) take immediate steps to rectify the matter; or
  - (2) terminate its contract with the *appointed representative*.
  
- 12.6.1A **R** A *firm* that is a *principal* of a *tied agent* that is an *appointed representative* must monitor the activities of that *tied agent* so as to ensure the *firm* complies with obligations imposed under *MiFID* (or equivalent obligations relating to the *equivalent business of a third country investment firm*) when acting through that *tied agent*.

[Note: paragraph 3 of article 29(2) of *MiFID*]
  
- 12.6.1B **R** A *firm* that is a *principal* of an *appointed representative* that carries on *MCD credit intermediation activity* must monitor the activities of that *appointed representative* to ensure compliance with obligations imposed under the *MCD* (including those in *MCOB* and *TC*).

[Note: article 31(3) of the *MCD*]
  
- 12.6.1C **G** **■ SUP 12.6.1B R** requires a *firm* to which that *rule* applies to monitor the knowledge and competence of the *appointed representative* that carries on *MCD credit intermediation activity* and its staff.
  
- 12.6.2 **G** The *FCA* would normally expect a *firm* to carry out a check on its *appointed representative's* financial position every year (more often, if necessary) and to review critically the information obtained. An appropriately experienced *person* (for example, a financial accountant) should carry out these checks.
  
- 12.6.3 **G** Consideration should be given, among other things, to the impact on the *appointed representative's* financial position of any debts owed to, or by, the *appointed representative*. Indicators that an *appointed representative* is experiencing financial problems may include failure to adhere to repayment

schedules for any debts, failure to meet any other financial commitments or requests for advances of *commission*.

- 12.6.4 **G** A *firm* should look into any concerns that may arise at any time about an *appointed representative's* financial standing and take the necessary action. The necessary action may include, for example, increased monitoring or, if appropriate, suspension or termination of the appointment.

**Appointed representatives not to hold client money**

- 12.6.5 **R**
- (1) A *firm* must not permit an *appointed representative* to hold *client money* unless the *firm* is an *insurance intermediary* acting in accordance with ■ CASS 5.5.18 R to ■ CASS 5.5.23 R (which include provision for periodic segregation and reconciliation).
  - (2) The *firm* must take reasonable steps to ensure that if *client money* is received by the *appointed representative*, it is paid into a *client bank account* of the *firm*, or forwarded to the *firm*, in accordance with :
    - (a) ■ CASS 4.3.15 R to ■ CASS 4.3.17 R; or
    - (b) ■ CASS 5.5.18 R to ■ CASS 5.5.21 R unless acting in accordance with ■ CASS 5.5.23 R (Periodic segregation and reconciliation); or
    - (c) the *MiFID client money segregation requirements*.

- 12.6.5A **G** When complying with the *MiFID client money segregation requirements*, *firms'* attention is drawn to ■ CASS 7.13.34 R and ■ CASS 7.13.35 G.

**Regulated activities and investment services outside the scope of appointment**

- 12.6.6 **R** A *firm* must take reasonable steps to ensure that each of its *appointed representatives*:
- (1) does not carry on *regulated activities* in breach of the *general prohibition* in section 19 of the *Act* or (if the *appointed representative* is a *firm* with a *limited permission*) in breach of section 20(1) or (1A) of the *Act*; and
  - (2) carries on the *regulated activities* for which the *firm* has accepted responsibility in a way which is, and is held out as being, clearly distinct from any of the *appointed representative's* other business:
    - (a) which is performed as an *appointed representative* of another *firm* or in accordance with a *limited permission*; or
    - (b) which:
      - (i) is, or is held out as being, primarily for the purposes of investment or obtaining credit, or obtaining insurance cover; and
      - (ii) is not a *regulated activity*.

**Senior management responsibility for appointed representatives**

- 12.6.7 **G** The senior management of a *firm* should be aware that the activities of *appointed representatives* are an integral part of the business that they manage. The responsibility for the control and monitoring of the activities of *appointed representatives* rests with the senior management of the *firm*.

**Obligations of firms under the approved persons regime**

- 12.6.8 **G**
- (1) Some of the *controlled functions*, as set out in ■ SUP 10A.4.1 R, apply to an *appointed representative* of a *firm*, other than an *introducer appointed representative*, just as they apply to a *firm* (see ■ SUP 10A.1.15 R). These are the *governing functions* and the *customer function*. In the case of an *appointed representative* that also has a *limited permission*, an *FCA required function* may apply to it. As explained in ■ SUP 10A.1.16 R and ■ SUP 10A.3.2 G respectively:
- (a) the effect of ■ SUP 10A.1.15 R is that the *directors* (or their equivalent) and *senior managers* (or their equivalent) of an *appointed representative*, other than an *introducer appointed representative*, must also be approved under section 59 of the *Act* for the performance of certain *controlled functions*;
  - (b) although the *customer function* applies to an appointed representative, the descriptions of the functions themselves do not extend to *home finance mediation activity*, *insurance distribution activity* or *credit-related regulated activity*;
  - (ba) if an *appointed representative* also has a *limited permission*:
    - (i) the *apportionment and oversight function* applies to it in relation to the carrying on of the *regulated activity* for which it has *limited permission*, unless it is a *not-for-profit debt advice body*;
    - (ii) if it is a *not-for-profit debt advice body* and a *CASS large debt management firm*, the *CASS operational oversight function* applies in relation to the carrying on of *debt management activity*; and
  - (c) sections 59(1) and 59(2) of the *Act* (Approval for particular arrangements) provide that approval is necessary in respect of a *controlled function* which is performed under an *arrangement* entered into by a *firm*, or its contractors (typically an *appointed representative*), in relation to a *regulated activity*.
- (2) The *approved persons* regime applies differently to an appointed representative whose scope of appointment includes *insurance distribution activity* in relation to *non-investment insurance contracts* or *credit-related regulated activity* but no other *regulated activity* and whose principal purpose is to carry on activities other than *regulated activities*. These appointed representatives need only one *person* performing one of the *governing functions*. This means that only one *director* (or equivalent) of these appointed representatives must be approved under section 59 of the *Act* for the performance of the *director function*, the *chief executive function*, the *partner function* or the *director of unincorporated association function*, whichever is the most appropriate (see ■ SUP 10A.1.16 R).



- (3) The *approved persons* regime does not apply in relation to *CBTL business* carried on by *CBTL firms*.
- (4) The *approved persons* regime for *relevant authorised persons* is in ■ SUP 10C (FCA senior management regime for approved persons in relevant authorised persons), rather than ■ SUP 10A. However, ■ SUP 10A still applies to *approved persons of appointed representatives of relevant authorised persons* (see ■ SUP 10A.1.16BR to ■ SUP 10A.1.16DG and ■ SUP 10C.1.8G for more about this).

12.6.9

G

Firms should be aware that, under the *approved persons* regime, the *firm* is responsible for submitting applications to the *FCA* for the approval as an *approved person* of:

- (1) any individual who performs a *controlled function* and who is an *appointed representative*; and
- (2) any *person* who performs a *controlled function* under an *arrangement* entered into by any of the *firm's appointed representatives*.

Applications for approval should be submitted as early as possible since a *person* may not perform a *controlled function* if he has not been approved by the *FCA* (see ■ SUP 10A.13.1 G).

#### **Obligations of firms under the training and competence rules**

12.6.10

G

- (1) The *rules* and *guidance* relating to training and competence in ■ SYSC 3 and ■ SYSC 5 and in *TC* for a *firm* carrying on retail business extend to any *employee* of the *firm* in respect of whom the relevant *rules* apply.
- (2) The specific knowledge and ability requirements in ■ SYSC 28.2 and ■ TC 4.2 for a *firm* with *Part 4A permission* to carry on *insurance distribution activities* apply to a relevant *employee* (as defined in ■ SYSC 28.1.2R and ■ TC 4.2.3R) of the *firm*.
- (3) For the purposes of (1) and (2), an *employee* or a relevant *employee* of a *firm* includes an individual who is:
  - (a) an *appointed representative* of a *firm*; and
  - (b) employed or appointed by an *appointed representative* of a *firm* (whether under a contract of service or for services) in connection with the business of the *appointed representative* for which the *firm* has accepted responsibility.

12

12.6.10A

G

A *firm* that is a *principal* of a *tied agent* should also refer to the guidelines for *MiFID investment firms* issued by *ESMA* specifying criteria for the assessment of knowledge and competence (see ■ SYSC 5.1.5ADG).

12.6.11

G

A *firm* should take reasonable care to ensure that:

- (1) it has satisfied:
  - (a) ■ SYSC 3 or ■ SYSC 4 to 9 and where applicable, ■ SYSC 28.2; and

(b) TC,

(2) its *appointed representative* has adequate arrangements in respect of training and competence, which meet the requirements in SYSC and TC.

12.6.11-A R A *CBTL firm* must take reasonable care to ensure that:

- (1) individuals who are its *appointed representatives*; and
- (2) individuals who are employed or appointed by *appointed representatives* (whether under a contract of service or for services);

who act in connection with the *CBTL business* of the *appointed representative* for which the *CBTL firm* has accepted responsibility satisfy the knowledge and competence requirements set out in paragraph 3 of Schedule 2 to the *MCD Order*.

**Compliance by an appointed representative with the contract .....**

12.6.11A R A *firm* must take reasonable steps to establish and maintain effective systems and controls for ensuring that each of its *appointed representatives* complies with those terms of its contract which are imposed under the requirements contained or referred to in ■ SUP 12.5 (Contracts: required times).

12.6.12 R [Deleted]

**Continuing obligations of firms with tied agents .....**

12.6.13 R A *firm* must ensure that its *tied agent* discloses the capacity in which he is acting and the *firm* he is representing when contacting a *client* or potential *client* or before dealing with a *client* or potential *client*.  
 [Note: paragraph 1 of article 29(2) of *MiFID*]

12.6.14 R A *firm* must take adequate measures in order to avoid any negative impact of the activities of its *tied agent* not covered by the scope of *MiFID* (or relating to the *equivalent business of a third country investment firm*) could have on the activities carried out by the *tied agent* on behalf of the *firm*.  
 [Note: paragraph 1 of article 29(4) of *MiFID*]

**Continuing obligations of firms with EEA tied agents .....**

12.6.15 R If a *UK MiFID investment firm* appoints an *EEA tied agent*, ■ SUP 12.6.1 R, ■ SUP 12.6.1A R, ■ SUP 12.6.5 R and ■ SUP 12.6.11A R apply to that *firm* as though the *EEA tied agent* were an *appointed representative*.

**Continuing obligations of firms with MiFID optional exemption appointed representatives or structured deposit appointed representatives .....**

12.6.15A R If a *firm* appoints a *MiFID optional exemption appointed representative* or a *structured deposit appointed representative*, that *firm* must:

- (1) monitor the activities of the *appointed representative* to ensure that the *firm* complies with those obligations which implement provisions of *MiFID* and to which it is subject when acting through its *appointed representative*;

- (2) ensure that its *appointed representative* discloses the capacity in which it is acting and the *firm* it is representing when contacting a *client* or potential *client* or before dealing with a *client* or potential *client*; and
- (3) take adequate measures to avoid any negative impact that the activities of its *appointed representative* not covered by the scope of *MiFID* could have on the activities carried out by the *appointed representative* on behalf of the *firm*.

**12.6.15B** G In ■ SUP 12.6.15AR(1), the obligations which implement relevant provisions of *MiFID* to which a *firm* is subject include:

- (1) in the case of a *MiFID optional exemption firm* appointing a *MiFID optional exemption appointed representative*, those conduct requirements which are imposed pursuant to article 3(2) of *MiFID*; and
- (2) in the case of a *firm* appointing a *structured deposit appointed representative*, those requirements which are imposed pursuant to article 1(4) of *MiFID*.

**The certification regime**  
.....

**12.6.16** G ■ SYSC 5.2.22G explains the application of the certification regime in ■ SYSC 5.2 to *appointed representatives of relevant authorised persons*. The certification regime does not apply to *firms* that are not *relevant authorised persons*.

## 12.7 Notification requirements

### Notification of appointment of an appointed representative

12.7.1

**R**

- (1) This rule applies to a *firm* which intends to appoint:
  - (a) an *appointed representative* to carry on *insurance distribution activities*; or
  - (b) a *tied agent*; or
  - (c) an *appointed representative* to carry on *MCD credit intermediation activity*; or
  - (d) a *MiFID optional exemption appointed representative*; or
  - (e) a *structured deposit appointed representative*.
- (2) This rule also applies to a *firm* which has appointed an *appointed representative*.
- (3) A *firm* in (1) must complete and submit the form in ■ SUP 12 Annex 3 before the appointment.
- (4) A *firm* in (2) must complete and submit the form in ■ SUP 12 Annex 3 within ten *business days* after the commencement of activities.

12.7.1A

**R**

- (1) A *firm* other than:
  - (a) a *credit union*; or
  - (b) a *firm* which intends to appoint, or has appointed, an *appointed representative* to carry on only *credit-related regulated activity*;
 

must submit the form in ■ SUP 12 Annex 3 via online submission at the FCA's website at <http://www.fca.org.uk> or any of the methods set out in ■ SUP 15.7.4R to ■ SUP 15.7.5AR (Method of notification).
- (2) A *credit union* or a *firm* which intends to appoint, or has appointed, an *appointed representative* to carry on only *credit-related regulated activity* must submit the form in ■ SUP 12 Annex 3 R in the way set out in ■ SUP 15.7.4R to ■ SUP 15.7.9G (Form and method of notification).
- (3) Where a *firm* is obliged to submit an application online under (1), if the FCA's information technology systems fail and online submission is unavailable for 24 hours or more, until such time as facilities for online submission are restored, a *firm* must submit the form in ■ SUP 12 Annex 3 R in the way set out in ■ SUP 15.7.4R to ■ SUP 15.7.9G (Form and method of notification).

[Note: See ■ SUP 12.7.10 G to ■ SUP 12.7.11 G regarding notification in the event of online failure.]

- 12.7.2** G A firm's notice under ■ SUP 12.7.1 R should give details of the *appointed representative* and the *regulated activities* which the *firm* is, or intends to, carry on through the *appointed representative*, including:
- (1) the name of the *firm's* new *appointed representative* (if the *appointed representative* is a *body corporate*, this is its registered name);
  - (2) any trading name under which the *firm's* new *appointed representative* carries on a *regulated activity* in that capacity;
  - (3) a description of the *regulated activities* which the *appointed representative* is permitted or required to carry on and for which the *firm* has accepted responsibility;
  - (4) any restrictions imposed on the *regulated activities* for which the *firm* has accepted responsibility; and
  - (5) where the appointed representative is not an individual, the name of the individuals who are responsible for the management of the business carried on by the appointed representative so far as it relates to *insurance distribution activity*.
- 12.7.3** G A firm need not notify the *FCA* of any restrictions imposed on the *regulated activities* for which the *firm* has accepted responsibility (under ■ SUP 12.7.2 G (4)) if the *firm* accepts responsibility for the unrestricted scope of the *regulated activities*.
- 12.7.3A** G Where a notification is linked to an application for approval under section 59 of the *Act* (Approval for particular arrangements), see ■ SUP 10A.13.7 G.
- 12.7.4** G
- (1) [deleted]
  - (2) [deleted]
- 12.7.5** G To contact the *FCA's* Contact Centre with *appointed representatives* enquiries:
- (1) telephone 0300 500 0597; fax 020 7066 0017; or
  - (2) write to: Customer Contact Centre, The Financial Conduct Authority, 12 Endeavour Square, London, E20 1JN; or
  - (3) email firm.queries@fca.org.uk.
- 12.7.6** G [deleted]

12.7.7

**R**

**Notification of changes in information given to the FCA**

(1) If:

- (a) (i) the scope of appointment of an appointed representative is extended to cover *insurance distribution activities* for the first time; and
- (ii) the appointed representative is not included on the Financial Services Register as carrying on *insurance distribution activities* in another capacity; or
- (b) the scope of appointment of an appointed representative ceases to include *insurance distribution activity*;

the appointed representative's principal must give written notice to the FCA of that change before the appointed representative begins to carry on *insurance distribution activities* under the contract (see ■ SUP 12.4) or as soon as the scope of appointment of the appointed representative ceases to include *insurance distribution activities*.

(1A) If:

- (a) (i) the scope of appointment changes such that the *appointed representative acts as a tied agent, MiFID optional exemption appointed representative or structured deposit appointed representative* for the first time; and
- (ii) the *appointed representative* is not included on the *Financial Services Register*; or
- (b) the *appointed representative* ceases to act as a *tied agent, MiFID optional exemption appointed representative or structured deposit appointed representative*;

the *appointed representative's principal* must give written notice to the FCA of that change before the *appointed representative* begins to act as a *tied agent, MiFID optional exemption appointed representative or structured deposit appointed representative* (see ■ SUP 12.4) or as soon as the *appointed representative* ceases to act as a *tied agent, MiFID optional exemption appointed representative or structured deposit appointed representative*.

(1B) If:

- (a) (i) the scope of appointment of an *appointed representative* is extended to cover *MCD credit intermediation activity* for the first time; and
- (ii) the *appointed representative* is not included on the *Financial Services Register*; or
- (b) the scope of appointment of an *appointed representative* ceases to include *MCD credit intermediation activity*;

the *appointed representative's principal* must give written notice to the FCA of that change before the *appointed representative* begins to carry on *MCD credit intermediation activity* under the contract (see ■ SUP 12.4), or as soon as the scope of appointment of the *appointed representative* ceases to include *MCD credit intermediation activity*.

[Note: article 31(4) of the MCD]



**12.8 Termination of a relationship with an appointed representative or EEA tied agent**

**Notification of termination or prohibited amendment of the contract**

12.8.1

**R**

If either the *firm* or the *appointed representative* notifies the other that it proposes to terminate the contract of appointment or to amend it so that it no longer meets the requirements contained or referred to in ■ SUP 12.5 (Contracts: required terms), the *firm* must:

- (1) complete and submit to the *FCA* the form in ■ SUP 12 Annex 5 R (Appointed representative termination form) in accordance with the instructions on the form and no more than ten *business days* after the date of the decision to terminate or so amend the contract or, if later, as soon as it becomes aware that the contract is to be or has been terminated or amended.
- (2) [deleted]
- (3) [deleted]
- (4) [deleted]

12.8.1A

**R**

- (1) Subject to (2A), a *firm* other than a *credit union* must submit any notification under ■ SUP 12.8.1 R (1) in the form set out in ■ SUP 12 Annex 5 R, online at [www.fca.org.uk](http://www.fca.org.uk) using the *FCA's online notification and application system*.
- (2) A *credit union* must submit any notification under ■ SUP 12.8.1 R (1) in the form set out in ■ SUP 12 Annex 5 R and in the way set out in ■ SUP 15.7.4 R to ■ SUP 15.7.9 G (Form and method of notification).
- (2A) A *firm* must submit any notification under ■ SUP 12.8.1 R (1) that relates to an *appointed representative* whose scope of appointment covers only *credit-related regulated activity* in the form set out in ■ SUP 12 Annex 5 and in the way set out in ■ SUP 15.7.4 R to ■ SUP 15.7.9 G (Form and method of notification).
- (3) Where a *firm* is obliged to submit a notification online under (1), if the *FCA's* information technology systems fail and online submission is unavailable for 24 hours or more, until such time as facilities for online submission are restored, a *firm* must submit any notification in the form set out in ■ SUP 12 Annex 5 R and in the way set out in ■ SUP 15.7.4 R to ■ SUP 15.7.9 G (Form and method of notification).

**12.8.1B** **G** If the *FCA's* information technology systems fail and online submission is unavailable for 24 hours or more, the *FCA* will endeavour to publish a notice on its website confirming that online submission is unavailable and that the alternative methods of submission set out in **■ SUP 12.8.1AR(3)** and **■ SUP 15.7.4 R** to **■ SUP 15.7.9 G** (Form and method of notification) should be used.

**12.8.1C** **G** Where **■ SUP 12.8.1AR (3)** applies to a *firm*, **■ GEN 1.3.2 R** (Emergency) does not apply.

**12.8.2** **G** In assessing whether to terminate a relationship with an *appointed representative*, a *firm* should be aware that the *notification rules* in **■ SUP 15** require notification to be made immediately to the *FCA* if certain events occur. Examples include a matter having a serious regulatory impact or involving an offence or a breach of any requirement imposed by the *Act* or by regulations or orders made under the *Act* by the Treasury.

**Steps to be taken on termination or prohibited amendment of the contract**

**12.8.3** **R** If a contract with an *appointed representative* is terminated, or if it is amended in a way which gives rise to a requirement to notify under **■ SUP 12.8.1 R**, a *firm* must take all reasonable steps to ensure that:

- (1) if the termination is by the *firm*, the *appointed representative* is notified in writing before, or if not possible, immediately on, the termination of the contract and informed that it will no longer be an *exempt person* for the purpose of the *Act* because of the contract with the *firm*;
- (2) outstanding *regulated activities* and obligations to *customers* are properly completed and fulfilled either by itself or another of its *appointed representatives*;
- (3) where appropriate, *clients* are informed of any relevant changes; and
- (4) all the other *principals* of the *appointed representative* of which the *firm* is aware are notified.

**Notification of approved persons on termination**

**12.8.4** **G** The *firm* is responsible for notifying the *FCA* of any *approved person* who no longer performs a *controlled function* under an *arrangement* entered into by a *firm* or its *appointed representative* (see **■ SUP 10A.3** and **■ SUP 10C.3**).

**Removal of an appointed representative from the Register**

**12.8.5** **G** The *FCA* has the power to remove from the Financial Services Register an appointed representative, whose scope of appointment covers *insurance distribution activities* (see **■ SUP 12.4.9 G** and **■ SUP 12.4.10 G**).



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## **Appointed representative appointment form**

This annex consists of only one form. Forms can be completed online now by visiting: [www.fca.org.uk/firms/authorisation](http://www.fca.org.uk/firms/authorisation)

The form can also be found through the following address: -

Add an appointed representative or tied agent form - SUP 12 Annex 3



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## **Appointed representative or tied agent – change details**

This annex consists of only one or more form. Forms can be completed online now by visiting:  
[www.fca.org.uk/firms/authorisation](http://www.fca.org.uk/firms/authorisation)

The form can also to be found through the following address:

Appointed representative or tied agent – change details - SUP 12 Annex 4



## 13.3 Establishing a branch in another EEA State

### What constitutes a branch

13.3.1

G

- (1) *Guidance* on what constitutes a *branch* is given in ■ SUP App 3.
  - (2) (a) Where a *UK MiFID investment firm* is seeking to use a *tied agent* established in another *EEA State* in which a *branch* is already established, the *tied agent* will be assimilated into the *branch*.
  - (b) If a *UK MiFID investment firm* is seeking to use a *tied agent* established in another *EEA State* in which no *branch* is already established, the rules in ■ SUP 13 will apply as if that *firm* were seeking to establish a *branch* in that *EEA State* (paragraph 20A of Schedule 3 to the *Act*).
  - (c) In any event, the appointment of a *tied agent* established in another *EEA State* leads to the application of conduct requirements to the *tied agent's* business, as if it were a *branch* of a *UK MiFID investment firm*.
  - (d) See ■ SUP 13.3.9G for details of the *MiFID branch* forms.
- [Note: article 35(2) of *MiFID*]

### The conditions for establishing a branch

13.3.2

G

A *UK firm* cannot establish a *branch* in another *EEA State* for the first time under an *EEA right* unless the relevant conditions in paragraphs 19(2), (4) and (5) of Part III of Schedule 3 to the *Act* are satisfied. It is an offence for a *UK firm* which is not an *authorised person* to contravene this prohibition (paragraph 21 of Part III of Schedule 3 to the *Act*). These conditions are that:

- (1) the *UK firm* has given the *appropriate UK regulator*, in accordance with the *appropriate UK regulator's rules* (see ■ SUP 13.5.1 R) or the directly applicable regulations made under the *CRD* (see ■ SUP 13.5.1 R), notice of its intention to establish a *branch* (known as a *notice of intention*) which:
  - (a) identifies the activities which it seeks to carry on through the *branch*; and
  - (b) includes such other information as may be specified by the *appropriate UK regulator* (see ■ SUP 13.5.1 R) or by the directly applicable regulations made under the *CRD* (see ■ SUP 13.5.1 R);
- (2) the *appropriate UK regulator* has given notice (known as a *consent notice*) to the *Host State regulator*;

- (2A) if the *UK firm's EEA right* relates to providing *collective portfolio management services* under the *UCITS Directive*, the *FCA* has provided to the *Host State regulator*:
  - (a) confirmation that the *firm* has been *authorised as a management company* under the provisions of the *UCITS Directive*;
  - (b) a description of the scope of the *firm's authorisation*; and
  - (c) details of any restriction on the types of *EEA UCITS scheme* that the *firm* is *authorised* to manage; and
  
- (3) (a) if the *UK firm's EEA right* derives from the *MCD*, one month has elapsed beginning on the date on which the *UK firm* received notice that the *appropriate UK regulator* had given a *consent notice* as described in ■ SUP 13.3.6 G (1);
  - (aa) if the *UK firm's EEA right* derives from the *IDD*, either:
    - (i) the *Host State regulator* has notified the *appropriate UK regulator* of the *applicable provisions*; or
    - (ii) one month has elapsed beginning with the date on which the *appropriate UK regulator* gave the *consent notice* as described in ■ SUP 13.3.5G(2);
  - (b) in any other case (except for a *firm* passporting under *AIFMD*):
    - (i) the *Host State regulator* has notified the *UK firm* of the *applicable provisions* or, in the case of a *UK firm* passporting under *MiFID* or the *UCITS Directive*, that the *branch* may be established; or
    - (ii) two months have elapsed beginning with the date on which the *appropriate UK regulator* gave the *consent notice*.

13.3.2A G [deleted]

13.3.2B G An *appointed representative* appointed by a *firm* to carry on *insurance distribution activity* on its behalf may establish a *branch* in another *EEA State* under the *IDD*. In this case, the *notice of intention* in ■ SUP 13.3.2 G (1) should be given to the *appropriate UK regulator* by the *firm* on behalf of the *appointed representative*.

13.3.2C G An *exempt professional firm* which is included in the record of *unauthorised persons* carrying on *insurance distribution activity* maintained by the *FCA* under article 93 of the *Regulated Activities Order* may establish a *branch* in another *EEA State* under the *IDD* (see ■ PROF 7.2).

13.3.2D G A *tied agent* appointed by a *MiFID investment firm* to carry on *investment services and activities* (and *ancillary services* where relevant) does not have its own passporting right to establish a *branch* in another *EEA State*. However, a

*MiFID investment firm* remains free to appoint a *tied agent* to do business in another *EEA State* and where it does so, the *tied agent* will benefit from its passport.

13.3.4 **G** [deleted]

13.3.4-A **G** If a *UK firm* is passporting under *AIFMD*, it may establish a *branch* in another *EEA State* as soon as the conditions in ■ SUP 13.3.2 G (1) and ■ SUP 13.3.2 G (2) are met.

13.3.4A **G** [deleted]

**Issue of a consent notice to the Host State regulator**

13.3.5 **G** (1) If the *UK firm's EEA right* derives from the *CRD* or *MiFID*, the *appropriate UK regulator* will give the *Host State regulator* a *consent notice* within three *months* unless it has reason to doubt the adequacy of a *UK firm's* resources or its administrative structure. The *Host State regulator* then has a further two *months* to notify the *applicable provisions* (if any) and prepare for the supervision, as appropriate, of the *UK firm*, or in the case of a *MiFID investment firm*, to inform the *UK firm* that a *branch* can be established.

(1A) If the *UK firm's EEA right* derives from the *UCITS Directive*, the *FCA* will give the *Host State regulator* a *consent notice* within two *months* unless it has reason to doubt the adequacy of the *UK firm's* resources or its administrative structure. The *Host State regulator* then has a further two *months* to prepare for the supervision of the *UK firm*.

(1B) Where the *UK firm's EEA right* derives from *AIFMD*, the *FCA* will give the *Host State regulator* a *consent notice* within two *months* of having received the *notice of intention* and immediately inform the *UK firm* pursuant to ■ SUP 13.3.6 G (1) if the *FCA* is satisfied that the *firm* complies, and continues to comply with:

- (a) the provisions implementing the *AIFMD*; and
- (b) any directly applicable EU regulation made under that directive.

(2) If the *UK firm's EEA right* derives from the *IDD*, the *appropriate UK regulator* will give the *Host State regulator* a *consent notice* within one *month* of the date on which it received the *UK firm's notice of intention* unless it has reason to doubt the adequacy of the *UK firm's* resources or its administrative structure. The *Host State regulator* then has a further one *month* to notify the *applicable provisions*.

(3) If the *UK firm's EEA right* derives from the *MCD*, the *FCA* will give the *Host State regulator* a *consent notice* within one *month* of the date on which it received the *UK firm's notice of intention*. The *Host State regulator* then has a further two *months* to prepare for the supervision of the *UK firm*.

13.3.5A **G** Where the *PRA* is the *appropriate UK regulator*, it will consult the *FCA* before deciding whether to give a consent notice, except where paragraph

13.3.6

G

19(7A) of Part III of Schedule 3 to the Act applies. Where the FCA is the *appropriate UK regulator*, it will consult the PRA before deciding whether to give a consent notice in relation to a UK firm whose immediate group includes a PRA-*authorised person*.

- (1) Save where (1A) applies, if the *appropriate UK regulator* gives a *consent notice*, it will inform the UK firm in writing that it has done so.
- (1A) If the UK firm's EEA right derives from the IDD, where the *appropriate UK regulator* has given a *consent notice* and the *Host State regulator* has acknowledged receipt of that notice, the *appropriate UK regulator* must give written notice to the UK firm concerned that the *Host State regulator* has received the *consent notice*.
- (2) The *consent notice* will contain, among other matters, the *requisite details* (see ■ SUP 13 Annex 1) provided by the UK firm in its *notice of intention* (see ■ SUP 13.5 (Notices of intention)).
- (3) Where a *consent notice* is given under the UCITS Directive, the FCA will at the same time:
  - (a) communicate to the *Host State regulator* details of the *compensation scheme* intended to protect investors; and
  - (b) enclose the information described at ■ SUP 13.3.2 G (2A).
- (4) Where a *consent notice* is given under the AIFMD it must include confirmation that the UK firm has been *authorised* by the FCA under AIFMD.
- (5) Where a *consent notice* is given under the MCD in relation to a *tiered MCD credit intermediary*, it will include details of:
  - (a) any *MCD creditor* or *group* to which it is tied; and
  - (b) whether the *MCD creditor* or *group* take full and unconditional responsibility for the *tiered MCD credit intermediary's* activities.
- (6) Where a *consent notice* is given under the IDD, it will include the following information:
  - (a) the name, address and, where applicable, the registration number of the *insurance intermediary*;
  - (b) the EEA State within the territory of which the *insurance intermediary* plans to establish a *branch*;
  - (c) the category of *insurance intermediary* and, if applicable, the name of the *insurer* represented;
  - (d) the relevant classes of insurance, if applicable;
  - (e) the address within the *Host State* from which *documents* may be obtained; and
  - (f) the name of any person responsible for the management of the *branch*.



- 13.3.7** G
- (1) If the *appropriate UK regulator* proposes to refuse to give a *consent notice*, then paragraph 19(8) of Part III of Schedule 3 to the *Act* requires the *appropriate UK regulator* to give the *UK firm* a *warning notice*.
  - (2) If the *appropriate UK regulator* decides to refuse to give a *consent notice*, then paragraph 19(12) of Part III of Schedule 3 to the *Act* requires the *appropriate UK regulator* to give the *UK firm* a *decision notice* within three *months* of the date on which it received the *UK firm's notice of intention* (two *months* in the case of a *UK firm* which is a *UCITS management company* or an *AIFM* and one *month* in the case of a *UK firm* which is an *insurance intermediary*). The *UK firm* may refer the matter to the *Tribunal*.
  - (3) [deleted]

**13.3.7A** G For details of the *FCA's* procedures for the giving of *warning notices* or *decision notices* see ■ **DEPP 2** (Statutory notices and the allocation of decision making).

**UCITS management companies: other information to be provided to the Host State**

**13.3.8** G A *UK firm* seeking to provide *collective portfolio management* services from a *branch* in another *EEA State*, is advised that it will need to refer to the rules of the *competent authority* of the *UCITS Home State* implementing article 20 of the *UCITS Directive* which will require it to submit to that *competent authority* information relating to its depositary agreement and certain delegation arrangements.

**MiFID branch forms**

- 13.3.9** G
- (1) (a) A *UK MiFID investment firm* wishing to use a *tiered agent* established in another *EEA State* is required to complete the form in Annex VII of *MiFID ITS 4A* and send it to the *FCA*.  
[Note: article 14(1) of *MiFID ITS 4A*]
  - (b) A *UK MiFID investment firm* which intends to establish a *branch* in another *EEA State* is required to complete the form in Annex VI of *MiFID ITS 4A* and send it to the *FCA*.  
[Note: article 13(1) of *MiFID ITS 4A*]
  - (c) A *UK MiFID investment firm* that intends to establish a *branch* which in turn intends to use *tiered agents* is required to complete the forms in Annex VI and Annex VII of *MiFID ITS 4A* and send them to the *FCA*.  
[Note: article 13(2) of *MiFID ITS 4A*]
  - (2) (a) Each of the forms in *MiFID ITS 4A* referred to in ■ **SUP 13.3.9G(1)(a)** to (c) is replicated in ■ **SUP 13 Annex 1AR**.  
(b) These versions should be used for the purposes of notifications to the *FCA*.  
(c) The forms should be submitted in accordance with ■ **SUP 13.5.3R**.

**13.4 Providing cross border services into another EEA State**

**Where is the service provided?**

13.4.1 **G** Guidance on where a *cross border service* is provided is given in ■ SUP App 3.

**The conditions for providing cross border services into another EEA State**

13.4.2 **G** A *UK firm* or an *AIFM* exercising an *EEA right* to market an *AIF* under *AIFMD*, cannot start providing *cross border services* into another *EEA State* under an *EEA right* unless it satisfies the conditions in paragraphs 20(1) of Part III of Schedule 3 to the Act and, if it derives its *EEA right* from *AIFMD*, *MiFID* or the *UCITS Directive*, paragraph 20(4B) of Part III of Schedule 3 to the Act. If a *UK firm* derives its *EEA right* from the *MCD*, it cannot start providing *cross border services* into another *EEA State* under an *EEA right* unless it satisfies the conditions in paragraphs 20(1) of Part III of Schedule 3 to the Act and paragraph 20(4BB) of Part III of Schedule 3 to the Act. It is an offence for a *UK firm* which is not an *authorised person* to breach this prohibition (paragraph 21 of Part III of Schedule 3 to the Act). The conditions are that:

- (1) the *UK firm* has given the *appropriate UK regulator*, in the way specified by *appropriate UK regulator's rules* (see ■ SUP 13.5.2 R), notice of its intention to provide *cross border services* (known as a *notice of intention*) which:
  - (a) identifies the activities which it seeks to carry on by way of provision of *cross border services*; and
  - (b) includes such other information as may be specified by the *appropriate UK regulator* (see ■ SUP 13.5.2 R); and
- (2) [deleted]
- (3) if the *UK firm* is passporting under the *IDD*, the *UK firm* has received written notice from the *appropriate UK regulator* as described in ■ SUP 13.4.5AG (paragraph 20 (3B)(b) of Schedule 3 to the Act); or
- (4) if the *UK firm* is passporting under *AIFMD*, the *firm* has received written notice from the *FCA* as described in ■ SUP 13.4.4-AG (1)(c).

		(5) if the <i>UK firm</i> is passporting under the <i>MCD</i> , one <i>month</i> has elapsed, beginning with the date on which the <i>firm</i> receives the notice, as described in ■ SUP 13.4.5 G.
13.4.2A	G	An <i>appointed representative</i> appointed by a <i>firm</i> to carry on <i>insurance distribution activity</i> on its behalf may provide <i>cross border services</i> in another <i>EEA State</i> under the <i>IDD</i> . In this case, the <i>notice of intention</i> in ■ SUP 13.4.2 G (1) should be given to the <i>appropriate UK regulator</i> by the <i>firm</i> on behalf of the <i>appointed representative</i> .
13.4.2B	G	An <i>exempt professional firm</i> which is included in the record of <i>unauthorised persons carrying on insurance distribution activity</i> maintained by the <i>FCA</i> under article 93 of the <i>Regulated Activities Order</i> may provide <i>cross border services</i> in another <i>EEA State</i> under the <i>IDD</i> (see ■ PROF 7.2).
13.4.2C	G	A <i>tied agent</i> appointed by a <i>MiFID investment firm</i> to carry on <i>investment services and activities</i> (and <i>ancillary services</i> where relevant) does not have its own passporting right to provide <i>cross border services</i> in another <i>EEA State</i> . However, a <i>MiFID investment firm</i> remains free to appoint a <i>tied agent</i> to do business in another <i>EEA State</i> and where it does so, the <i>tied agent</i> will benefit from its passport.
13.4.2D	G	<p>(1) A <i>MiFID investment firm</i> that wishes to obtain a passport for the activity of operating a <i>multilateral trading facility</i> or <i>operating an organised trading facility</i> should follow the procedures described in this chapter.</p> <p>(2) A <i>UK market operator</i> that operates a <i>recognised investment exchange</i>, a <i>recognised auction platform</i> (pursuant to the <i>RAP regulations</i>, the definition of <i>regulated market</i> in the <i>Act</i> is read for these purposes as including a <i>recognised auction platform</i>), an <i>MTF</i> or an <i>OTF</i> and wishes to provide <i>cross border services</i> into another <i>EEA State</i> should follow the procedure described in ■ REC 4.2B.</p>
13.4.2F	G	<p>A <i>UK firm</i> that is an <i>AIFM</i> may exercise an <i>EEA right to market</i> a <i>UK AIF</i> or <i>EEA AIF</i> managed by it under <i>AIFMD</i> when the following conditions are satisfied:</p> <p>(1) the <i>UK firm</i> has given the <i>FCA</i> a <i>notice of intention</i> ■ SUP 13.5.2 R; and</p> <p>(2) the <i>FCA</i> has sent a copy of the <i>notice of intention</i> to the <i>Host State regulator</i> where the <i>AIF</i> will be <i>marketed</i> and has given the <i>UK firm</i> written notice that it has done so.</p>
13.4.3	G	[deleted]
13.4.3A	G	[deleted]

**Issuing a consent notice or notifying the Host State regulator .....**

13.4.4

**G**

(2) [deleted]

(2A) If the *UK firm's EEA right* derives from the *IDD*, paragraph 20(3B)(a) of Part III of Schedule 3 to the *Act* requires the *appropriate UK regulator* to send a copy of the *notice of intention* to the *Host State regulator* within one *month* of receipt.

(2B) Where a *consent notice* is given under the *UCITS Directive*, the *FCA* will at the same time:

- (a) communicate to the *Host State regulator* details of the *compensation scheme* intended to protect investors; and

**13.4.4-A** G

- (b) provide to the *Host State regulator*:
  - (i) confirmation that the *firm* has been *authorised* as a *management company* under the provisions of the *UCITS Directive*;
  - (ii) a description of the scope of the *firm's authorisation*; and
  - (iii) details of any restriction on the types of *EEA UCITS scheme* that the *firm* is *authorised* to manage.
- (3) If the *UK firm's EEA right* derives from the *MCD*, the *FCA* will give the *Host State regulator* a *consent notice* within one month of the date on which it received the *UK firm's notice of intention*.
- (4) Where a *consent notice* is given under the *MCD* in relation to a *tied MCD credit intermediary*, the *consent notice* will include details of:
  - (a) any *MCD creditor or group* to which the *firm* is tied; and
  - (b) whether the *MCD creditor or group* take full and unconditional responsibility for the *tied MCD credit intermediary's* activities.
- (1) If the *UK firm's EEA right* derives from *AIFMD* (other than the *EEA right to market an AIF* (referred to in (3)) and the condition in (2) is met, paragraph 20(3D) of Part III of Schedule 3 to the *Act* requires the *FCA* to:
  - (a) send a copy of the *notice of intention* to the *Host State regulator* within one month of receipt;
  - (b) include confirmation that the *UK firm* has been *authorised* by the *FCA* under *AIFMD*; and
  - (c) immediately inform the *UK firm* that the *notice of intention* and confirmation have been sent to the *Host State regulator*;
- (2) The condition referred to in (1) is that the *FCA* is satisfied that the *firm* complies and will continue to comply with:
  - (a) the provisions implementing *AIFMD*, and
  - (b) any directly applicable EU regulation made under *AIFMD*.
- (3) If the *UK firm's EEA right* derives from *AIFMD* and relates to the *EEA right to market an AIF* and both the conditions in (4) are met, paragraph 20C of Part III of Schedule 3 to the *Act* requires the *FCA* to:
  - (a) send a copy of the *notice of intention* to the *Host State regulator* within 20 working days of receipt;
  - (b) include confirmation that the *UK firm* has been authorised by the *FCA* to manage *AIFs* with a particular investment strategy; and
  - (c) where the *notice of intention* relates to an *EEA AIF*, inform the *competent authority* of the *EEA AIF* that the *UK firm* may start *marketing* the *AIF* in the *EEA States* covered by the *notice of intention*.
- (4) The conditions referred to in (3) are that:
  - (a) the *FCA* is satisfied that the *UK firm* complies, and will continue to comply with, *AIFMD* and any directly applicable EU regulation made under *AIFMD*; and

(b) where the *AIF* is a *feeder AIF*, its *master AIF* is a *UK AIF* or *EEA AIF* that is managed by a *full-scope UK AIFM* or a *full-scope EEA AIFM*.

(5) If the *FCA* refuses to send a copy of the *notice of intention* to the *Host State regulator* it must notify the *AIFM* in writing and include the reasons for such refusal. In such case, the *AIFM* may refer the matter to the *Tribunal*.

**13.4.4A** **G** Where the *PRA* is the *appropriate UK regulator*, it will consult the *FCA* before deciding whether to give a consent notice and where the *FCA* is the *appropriate UK regulator*, it will consult the *PRA* before deciding whether to give a consent notice in relation to a *UK firm* whose immediate group includes a *PRA-authorized person*.

**13.4.5** **G** Save where **■** SUP 13.4.5AG applies, when the *appropriate UK regulator* sends a copy of a *notice of intention*, or if it gives a *consent notice* to the *Host State regulator*, it must inform the *UK firm* in writing that it has done so (paragraphs 20(3D)(a)(iii) and (4) and 20C(9) of Schedule 3 to the Act).

**13.4.5A** **G** If a *UK firm's EEA right* derives from the *IDD*, when the *Host State regulator* has acknowledged receipt of the copy of the *notice of intention*, the *appropriate UK regulator* must:

(a) inform the *UK firm* in writing that the *Host State regulator* has received the *notice of intention* and that the *firm* may begin providing the services to which the notice of intention relates; and

(b) notify the *firm* of the *applicable provisions* (if any).

[Note: paragraph 20 (3B)(b) of Schedule 3 to the Act]

**Applicable provisions for cross border services**

**13.4.6A** **G** If a *UK firm* is passporting under the *MCD*, then the *Host State regulator* will notify the *UK firm* if there are any *applicable provisions* within two months of receiving a *consent notice*.

**UCITS management companies: other information to be provided to the Host State**

**13.4.7** **G** A *UK firm* seeking to provide *collective portfolio management services* in another *EEA State* under the freedom to provide *cross border services*, is advised that it will need to refer to the rules of the *competent authority* of the *UCITS Home State* implementing article 20 of the *UCITS Directive* which will require it to submit to that *competent authority* information relating to its depositary agreement and certain delegation arrangements.

**MiFID services forms**

**13.4.8** **G** (1) A *UK MiFID investment firm* is required to submit an *investment services and activities passport notification* to the *FCA* by completing

the form in Annex I of *MiFID ITS 4A*. The *firm* should complete a separate form for each *EEA State* it wishes to provide services into.

[Note: article 4(1) of *MiFID ITS 4A*]

- (2) A UK *MiFID investment firm* wishing to provide *investment services or activities* through a *tied agent* established in the UK is required to send an *investment services and activities passport notification* to the FCA by completing the parts of the form in Annex I of *MiFID ITS 4A* that are relevant to a *tied agent*. The *firm* should complete a separate form for each *EEA State* into which it wishes to provide services through a *tied agent*.

[Note: article 4(3) of *MiFID ITS 4A*]

- (3) A UK *MiFID investment firm operating a multilateral trading facility or operating an organised trading facility* that intends to provide appropriate arrangements to facilitate access to and trading on those systems by remote users, members or participants in another *EEA State*, is required to send the details of the *Host State* in which it intends to provide such arrangements to the FCA by completing the form in Annex IV of *MiFID ITS 4A*. If the *firm* is notifying in respect of more than one *MTF* or *OTF*, it should complete a separate form for each *MTF* or *OTF*.

[Note: article 9 of *MiFID ITS 4A*]

- (4) (a) Each of the forms in *MiFID ITS 4A* referred to in ■ SUP 13.4.8G(1) to (3) is replicated in ■ SUP 13 Annex 2R.
- (b) These versions should be used for the purposes of notifications to the FCA.
- (c) The forms should be submitted in accordance with ■ SUP 13.5.3R.

**13.5 Notices of intention**

**Specified contents: notice of intention to establish a branch**

**13.5.1** **R** A UK firm, other than a CRD credit institution, wishing to establish a branch in a particular EEA State for the first time under an EEA right other than under the auction regulation must submit a notice of intention in the form set out in:

- (1) ■ SUP 13 Annex 1R; or
- (2) if the firm is a UK MiFID investment firm, ■ SUP 13 Annex 1AR.

**13.5.1AA** **R** A UK firm establishing a branch in a particular EEA state for the first time under the auction regulation must submit a notice of intention in the form set out in ■ SUP 13 Annex 7R prior to its establishment of that branch or whenever possible thereafter.

**Specified contents: notice of intention to provide cross border services**

**13.5.2** **R** A UK firm wishing to provide cross border services into a particular EEA State for the first time under an EEA right other than under the auction regulation must submit a notice in the form set out in:

- (1) ■ SUP 13 Annex 2 R if the UK firm is passporting under MiFID; or
- (2) ■ SUP 13 Annex 4 R if the UK firm is passporting under the CRD; or
- (3) ■ SUP 13 Annex 5 R if the UK firm is passporting under the IDD
- (4) ■ SUP 13 Annex 6 R, if the UK firm is a management company passporting under the UCITS Directive.
- (5) ■ SUP 13 Annex 8AR, if the UK firm is providing cross-border services under AIFMD to manage an AIF in another EEA State.
- (6) ■ SUP 13 Annex 8BR, if the UK firm is providing cross-border services under AIFMD to market an AIF in another EEA State.
- (7) ■ SUP 13 Annex 9 R, if the UK firm is passporting under the MCD





## 13.6 Changes to branches

- 13.6.1** G (1) Where a *UK firm* is exercising an *EEA right*, other than under the *CRD*, and has established a *branch* in another *EEA State*, any changes to the details of the branch are governed by the *EEA Passport Rights Regulations*.
- (2) References to regulations in this section are to the *EEA Passport Rights Regulations*.
- (3) (a) A *UK firm* which is not an *authorised person* should note that, under regulation 18, contravention of the prohibition imposed by regulation 11(1), 13(1) or 15(1) is an offence.
- (b) It is a defence, however, for the *UK firm* to show that it took all reasonable precautions and exercised due diligence to avoid committing the offence.
- (4) Where a *UK MiFID investment firm* exercises an *EEA right* under *MiFID* and has established a *branch* in another *EEA State*, any changes to the details of the *branch* are also governed by *MiFID RTS 3A* and *MiFID ITS 4A*.

**13.6.2** G *UK firms* should note that if a *branch* in another *EEA State* ceases to provide services, this may represent a change in *requisite details* or, if the *firm* is passporting under the *Solvency II Directive*, the *relevant EEA details* or *relevant UK details*.

**13.6.3** G *UK firms* should also note that changes to the details of *branches* may lead to changes to the *applicable provisions* to which the *UK firm* is subject. These changes should be communicated to the *UK firm* by the *Host State regulator*.

### Firms passporting under CRD and the UCITS Directive.

**13.6.4** G If a *UK firm* has exercised an *EEA right*, under the *CRD* or the *UCITS Directive*, and established a *branch* in another *EEA State*, regulation 11(1) states that the *UK firm* must not make a change in the *requisite details* of the *branch* (see ■ SUP 13 Annex 1), unless it has satisfied the requirements of regulation 11(2), or, where the change arises from circumstances beyond the *UK firm's* control, regulation 11(3) (see ■ SUP 13.6.10 G).

**13.6.5** G Where the change arises from circumstances within the control of the *UK firm*, the requirements in regulation 11(2) are that:

- (1) the *UK firm* has given notice to the *appropriate UK regulator* and to the *Host State regulator* stating the details of the proposed change;
- (2) the *appropriate UK regulator* has given the *Host State regulator* a notice informing it of the details of the change; and
- (3) either the *Host State regulator* has informed the *UK firm* that it may make the change, or the period of one *month* beginning with the day on which the *UK firm* gave the *Host State regulator* the notice in (1) has elapsed.

**Firms passporting under MiFID**

- 13.6.5A** G If a *UK firm* has exercised an *EEA right* to establish a *branch* under *MiFID*, it must not make a change in the *requisite details* of the *branch* (see ■ SUP 13 Annex 1AR), use, for the first time, a *tied agent* established in the *EEA State* in which the *branch* is established, or cease to use a *tied agent* established in the *EEA State* in which the *branch* is established, unless it has satisfied the requirements of regulation 11A(2) (see ■ SUP 13.6.5B G).
- 13.6.5B** G The requirements of regulation 11A(2) are that:
- (1) the *UK firm* has given a notice to the *appropriate UK regulator* stating the details of the proposed change; and
  - (2) the period of one *month* beginning with the day on which the *UK firm* gave the notice has elapsed.
- 13.6.5C** G A *UK MiFID investment firm* is also required to notify the *FCA* of changes to a *branch* or *tied agent* in accordance with:
- (1) article 7 (Information to be notified concerning the change of branch or tied agent particulars) of *MiFID RTS 3A*;
  - (2) article 18 (submission of the change of branch particulars notification) of *MiFID ITS 4A*; and
  - (3) article 19 (submission of the change of the tied agent particulars notification) of *MiFID ITS 4A*.
- 13.6.5D** G If any of the details in a *branch passport notification* change, a *UK MiFID investment firm* is required to notify the *FCA* by completing the form in Annex VI of *MiFID ITS 4A*.  
[Note: article 18(1) of *MiFID ITS 4A*]
- 13.6.5E** G If any of the details in a *tied agent passport notification* change, a *UK MiFID investment firm* is required to notify the *FCA*, by completing the form in Annex VII of *MiFID ITS 4A*.  
[Note: article 19(1) of *MiFID ITS 4A*]

**13.6.5F** G If a *UK MiFID investment firm* closes a *branch* or stops using a *tied agent*, it is required to notify the *FCA* using the form in Annex X of *MiFID ITS 4A*.

[Note: articles 18(4) and 19(4) of *MiFID ITS 4A*]

- 13.6.5G** G
- (1) Each of the forms in *MiFID ITS 4A* referred to in ■ SUP 13.6.5DG to ■ SUP 13.6.5FG is replicated in ■ SUP 13 Annex 1AR.
  - (2) These versions should be used for the purposes of notifications to the *FCA*.
  - (3) The forms should be submitted in accordance with ■ SUP 13.8.1R.

#### **Firms passporting under the IDD**

- 13.6.9A** G
- (1) If a *UK firm* has exercised an *EEA right* under the *IDD* and established a *branch* in another *EEA State*, the *UK firm* must not make any material change to the *relevant details* of the *branch* (see ■ SUP 13 Annex 1R), unless it has satisfied the requirements in regulation 17(C)(2).
  - (2) The requirements in regulation 17(C)(2) are that:
    - (a) the *UK firm* has given a notice to the *appropriate UK regulator* stating the details of the proposed change; and
    - (b) the period of one *month*, beginning with the date on which the *UK firm* gave the notice, has elapsed.

#### **Firms passporting under AIFMD**

- 13.6.9C** G
- (1) If a *UK firm* has exercised an *EEA right* under *AIFMD* and established a *branch* in another *EEA State*, the *UK firm* must not make a material change in the *requisite details* of the *branch* or the identity of the *AIFs* it manages in the *EEA State* in which it has established a *branch* (see ■ SUP 13 Annex 1), unless:
    - (a) it has complied with regulation 17A(4) for a planned change; or
    - (b) it has complied with regulation 17A(5) for an unplanned change.
  - (2) The requirements in regulation 17A(4) for a planned change are that:
    - (a) the *UK firm* has given notice to the *FCA* stating the details of the proposed change; and
    - (b) either the *FCA*:
      - (i) has consented to the change; or
      - (ii) has not objected to the change in the period of one month beginning on the day on which the *UK firm* gave notice.
  - (3) The requirements in regulation 17A(5) for an unplanned change are that:
    - (a) the *UK firm* has given notice to the *FCA* immediately after an unplanned change has occurred; and
    - (b) the *FCA* has consented to the change.

**Firms passporting under the MCD**

- 13.6.9D **G** (1) A *UK firm* which has exercised an *EEA right* deriving from the *MCD* to establish a *branch*, must not make any material changes to the *requisite details* of the *branch* unless it has complied with the requirements in regulation 17(B)(2).
- (2) The requirements in regulation 17(B)(2) are that
- (a) the *UK firm* has given notice to the *FCA* stating the details of the proposed change; and
  - (b) the period of one *month* beginning with the day on which the *UK firm* gave notice has elapsed.
- (3) Paragraph (1) does not apply to changes occasioned by circumstances beyond the control of the *UK firm*.

**Changes arising from circumstances beyond the control of a UK firm**

- 13.6.10 **G** (1) If the change arises from circumstances beyond the *UK firm's* control, the *UK firm* is required by regulation 11(3) or regulation 13(3) to give a notice to the *appropriate UK regulator* and to the *Host State regulator* stating the details of the change as soon as reasonably practicable;
- (2) The *appropriate UK regulator* believes that for a change to arise from circumstances beyond the control of a *UK firm*, the circumstances should be outside the control of the *firm* as a whole and not just the *branch* in the *EEA State*.
- (3) This *guidance* is not applicable to *MiFID investment firms*, *firms* passporting under the *MCD* or *IDD* or *AIFMs*.

**The process**

13.6.11 **G** When the *appropriate UK regulator* receives a notice from a *UK firm* other than a *MiFID investment firm* (see ■ SUP 13.6.5 G (1) and ■ SUP 13.6.7 G (1)), a *UK firm* exercising an *EEA right* under the *MCD* (see ■ SUP 13.6.9D G), a *UK firm* exercising an *EEA right* under the *IDD* (see ■ SUP 13.6.9AG) or an *AIFM* (see ■ SUP 13.6.9C G) it is required by regulations 11(4) and 13(4) to either refuse, or consent to the change within a period of one *month* from the day on which it received the notice.

- 13.6.12 **G** If the *appropriate UK regulator* consents to the change, then under regulations 11(5) and 13(5) it will:
- (1) give a notice to the *Host State regulator* informing it of the details of the change; and
  - (2) inform the *UK firm* that it has given the notice, stating the date on which it did so.

13.6.12A **G** Where the *PRA* is the *appropriate UK regulator*, it will consult the *FCA* before deciding whether to give consent to a change (or proposed change)

and where the *FCA* is the *appropriate UK regulator*, it will consult the *PRA* before deciding whether to give consent in relation to a *UK firm* whose immediate group includes a *PRA-authorised person*.

- 13.6.15** G If the *appropriate UK regulator* refuses to consent to a change, then under regulations 11(6) and 13(6):
- (1) the *appropriate UK regulator* will give notice of the refusal to the *UK firm*, stating its reasons and giving an indication of the *UK firm's* right to refer the matter to the *Tribunal* and the procedures on such a reference; and
  - (2) the *UK firm* may refer the matter to the *Tribunal*.

- 13.6.16** G Standard forms are available from the *FCA* and *PRA* authorisations teams (see ■ SUP 13.12 (Sources of further information)) to give the notices to the *appropriate UK regulator* described in ■ SUP 13.6.5 G (1), ■ SUP 13.6.5B G, ■ SUP 13.6.7 G (1), ■ SUP 13.6.8 G and ■ SUP 13.6.10 G (1).

**The process: MiFID investment firms**

- 13.6.17** G
- (1) When the *FCA* receives a notice from a *UK MiFID investment firm* (see ■ SUP 13.6.5BG (1)), it is required by regulation 11A(3) to inform the relevant *Host State regulator* of the proposed change as soon as reasonably practicable.
  - (2) The *FCA* is required to use the forms in Annex XI, Annex XII or Annex XIII of *MiFID ITS 4A*, as applicable.
  - (3) The *firm* in question may make the change once the period of one *month* beginning with the day on which it gave notice has elapsed.

**The process: AIFMs**

- 13.6.18** G
- (1) When the *FCA* receives a notice from an *AIFM* (see ■ SUP 13.6.9C G) for a planned change and such change means the *AIFM* no longer complies with *AIFMD*, the *FCA* must inform the *AIFM* without undue delay that:
    - (a) the *FCA* objects to the change, including reasons for its decision; and
    - (b) the *AIFM* must not implement the change.

In these circumstances the *AIFM* may refer the matter to the *Tribunal*.
  - (2) If a planned change is implemented or an unplanned change takes place and results in the *AIFM* no longer complying with an implementing provision of *AIFMD*, the *FCA* must:
    - (a) take steps to ensure that the *AIFM* complies with that provision or ceases to exercise the *EEA right*; and
    - (b) give notice to the *AIFM* with reasons for taking such steps.

In these circumstances, the *AIFM* may refer the matter to the *Tribunal*.

- (3) If a planned change is implemented or an unplanned change takes place and results in no change to the *AIFM's* compliance with an implementing provision, the *FCA* must:
  - (a) give a notice to the *Host State regulator* informing it of the change; and
  - (b) inform the *firm* that it has given the notice, stating the date on which it did so.

**The process: MCD**

13.6.19

G

When the *FCA* receives a notice from a *UK firm* exercising an *EEA right* under the *MCD* it will, under regulation 17(B)(3), inform the relevant *Host State regulator* of the proposed change as soon as reasonably practicable. The *UK firm* in question may make the change once a period of one *month* has elapsed beginning with the day on which it gave notice.

**The process: the IDD**

13.6.20

G

- (1) When the *appropriate UK regulator* receives a notice from a *UK firm* exercising an *EEA right* under the *IDD* it will, under regulation 17(C)(3), inform the *Host State regulator* of the proposed change as soon as reasonably practicable, and in any event, within one *month* of receiving the notice from the *UK firm*.
- (2) The *UK firm* may make the change once a period of one *month* has elapsed beginning with the *day* on which it gave notice.



## 13.7 Changes to cross border services

- 13.7.1** G (1) Where a *UK firm* is exercising an *EEA right* under the *UCITS Directive*, *MiFID*, the *Insurance Directives*, *AIFMD* or the *IDD* and is providing *cross border services* into another *EEA State*, any changes to the details of the services are governed by the *EEA Passport Rights Regulations*.
- (2) References to regulations in this section are to the *EEA Passport Rights Regulations*.
- (3) (a) A *UK firm* which is not an *authorised person* should note that contravention of the prohibition imposed by regulation 12(1), 12A(1) or 16(1) is an offence.
- (b) It is a defence, however, for the *UK firm* to show that it took all reasonable precautions and exercised due diligence to avoid committing the offence.
- (4) Where a *UK MiFID investment firm* exercises an *EEA right* under *MiFID* to provide *cross border services*, any changes to the details of the services are also governed by *MiFID RTS 3A* and *MiFID ITS 4A*.

- 13.7.2** G *UK firms* should also note that changes to the details of *cross border services* may lead to changes to the *applicable provisions* to which the *UK firm* is subject.

- 13.7.3** G **Firms passporting under the UCITS Directive**.....
- If a *UK firm* is passporting under the *UCITS Directive*, regulation 12(1) states that the *UK firm* must not make a change in its programme of operations, or the activities to be carried on under its *EEA right*, unless the relevant requirements in regulation 12(2) have been complied with. These requirements are:
- (1) the *UK firm* has given a notice to the *FCA* and to the *Host State regulator* stating the details of the proposed change; or
- (2) if the change arises as a result of circumstances beyond the *UK firm's* control, the *UK firm* has as soon as practicable (whether before or after the change) given a notice to the *FCA* and to the *Host State regulator*, stating the details of the change.

Standard forms are available from the *FCA* authorisations team (see ■ SUP 13.12 (Sources of further information)) to give the notices to the *FCA* referred to in ■ SUP 13.7.3 G (1) and ■ SUP 13.7.3A G.

**Firms passporting under MiFID**

- 13.7.3A G If a *UK firm* is providing *cross border services* in a particular *EEA State* in exercise of an *EEA right* deriving from *MiFID*, the *UK firm* must comply with the requirements of regulation 12A(2) before it makes a change to its programme of operations, including:

  - (1) changing the activities to be carried on in exercise of that *EEA right*;
  - (2) using, for the first time, any *tied agent* to provide services in the territory of that *EEA State*; or
  - (3) ceasing to use any *tied agent* to provide services in the territory of that *EEA State*.
- 13.7.3B G The requirements of regulation 12A(2) are that:

  - (1) the *UK firm* has given notice to the *appropriate UK regulator* stating the details of the proposed change; and
  - (2) the period of one *month* beginning with the day on which the *UK firm* gave the notice mentioned in (1) has elapsed.
- 13.7.3C G A *UK MiFID investment firm* is also required to notify the *FCA* of any changes to the information in its *investment services and activities passport notification*, including changes relating to a *UK tied agent*, in accordance with:

  - (1) article 4 (Information to be notified concerning the change of investment services and activities particulars) of *MiFID RTS 3A*; and
  - (2) article 7 (Submission of the change of investment services and activities particulars notification) of *MiFID ITS 4A*.
- 13.7.3D G (1) If any of the details in an *investment services and activities passport notification* change, a *UK MiFID investment firm* is required to notify the *FCA* by completing the form in Annex I of *MiFID ITS 4A*.  
[Note: article 7(1) of *MiFID ITS 4A*]

(2) When communicating a change to *investment services and/or activities, ancillary services or financial instruments*, the *firm* is required to list all:

  - (a) the *investment services and/or activities* and *ancillary services* that it currently provides or intends to provide in the future; and
  - (b) the *financial instruments* that are relevant to those activities and services.
- 13.7.3E G If any of the details in the notification for the provision of arrangements to facilitate access to an *MTF* or an *OTF* change, the investment firm operating the *MTF* or the *OTF* is required to notify the *FCA* by completing the form in Annex IV of *MiFID ITS 4A*.  
[Note: article 11(1) of *MiFID ITS 4A*]



- 13.7.3F** G
- (1) Each of the forms in *MiFID ITS 4A* referred to in ■ SUP 13.7.3DG and ■ SUP 13.7.3EG is replicated in ■ SUP 13 Annex 2R.
  - (2) These versions should be used for the purposes of notifications to the *FCA*.
  - (3) The forms should be submitted in accordance with ■ SUP 13.8.1R.

**Termination of an investment services and activities passport**

- 13.7.3G** G
- A *UK MiFID investment firm* should use the relevant form in ■ SUP 13 Annex 2AR to notify the *FCA* that it intends to:
- (1) change its programme of operations by ceasing to provide *cross border services*; or
  - (2) change its programme of operations by ceasing to provide *cross border services* through a *tied agent* established in the *UK*; or
  - (3) terminate in the territory of an *EEA State*, the provision of arrangements to facilitate access to, and trading on, an *MTF* or *OTF* by remote users, members or participants established in that *EEA State*.

**Standard electronic forms**

- 13.7.6A** G
- For further details on giving the notices to the *appropriate UK regulator*, as described in ■ SUP 13.7.3 G (1), ■ SUP 13.7.3AG and ■ SUP 13.7.3BG, *UK firms* may wish to use the standard electronic form available from the *FCA* and *PRA* authorisation teams (see ■ SUP 13.12 (Sources of further information)).

- 13.7.7A** G [deleted]

**Firms passporting under the CRD**

- 13.7.11** G
- A *UK firm* providing *cross border services* under the *CRD* is not required to supply a change to the details of *cross border services* notice.

**Firms passporting under the IDD**

- 13.7.11A** G
- (1) A *UK firm* which has exercised an *EEA right* under the *IDD* to provide a *cross border service* must not make any material change to the *relevant details* unless it has satisfied the requirements in regulation 17(C)(2).
  - (2) The requirements in regulation 17(C)(2) are that:
    - (a) the *UK firm* has given a notice to the *appropriate UK regulator* stating the details of the proposed change; and
    - (b) the period of one *month*, beginning with the date on which the *UK firm* gave the notice, has elapsed.

**Liaison between regulators**

13.7.13A **G** Where the *PRA* is the *appropriate UK regulator*, it will consult the *FCA* before deciding whether to give consent to a change (or proposed change) and where the *FCA* is the *appropriate UK regulator*, it will consult the *PRA* before deciding whether to give consent in relation to a *UK firm* whose immediate group includes a *PRA-authorised person*.

**Firms passporting under AIFMD**

13.7.13B **G** If a *UK firm* has exercised an *EEA right* under *AIFMD* to provide *cross-border services* to manage an *AIF*, regulation 17A(2) states that the *UK firm* must not make a material change to:

- (1) the programme of operations, or the *EEA* activities, to be carried out in exercise of that right; or
- (2) the *EEA States* in which it manages *AIFs*; or
- (3) the identity of the *AIFs* it manages in those *EEA States*;

unless the *UK firm* complies with the relevant requirements in regulation 17A(4) for a planned change or regulation 17A(5) for an unplanned change (see ■ SUP 13.6.9CG (2) and ■ SUP 13.6.9CG (3)).

13.7.14 **G** If a *UK firm* has exercised an *EEA right* deriving from *AIFMD* to provide *cross-border services* to market an *AIF*, regulation 17A(3) states that it must not make a material change to any of the following:

- (1) the programme of operations identifying the *AIF* the *AIFM* intends to market and information on where the *AIF* is established;
- (2) the *AIF* rules or instruments of incorporation;
- (3) the *depository* of the *AIF*;
- (4) the description of, or information on, the *AIF* available to investors;
- (5) if the *AIF* is a *feeder AIF*, the jurisdiction where the *master AIF* is established;
- (6) any additional information referred to in ■ FUND 3.2.2 R (Prior disclosure of information to investors), for each *AIF* the *AIFM* intends to market;
- (7) the *EEA States* in which the *AIFM* intends to market the *units* or *shares* of the *AIF* to an investor that is a *professional client*; and
- (8) information about arrangements made for the marketing of the *AIF* and, where relevant, arrangements to prevent the *AIF* from being marketed to an investor that is a *retail client*, including where the *AIFM* relies on the activities of independent entities to provide investment services for the *AIF*;

unless the *UK firm* complies with regulation 17A(4) for a planned change or regulation 17A(5) for an unplanned change (see ■ SUP 13.6.9CG (2) and ■ SUP 13.6.9CG (3)).

**Firms passporting under the MCD**

13.7.15

G

- (1) A *UK firm* which has exercised an *EEA right* deriving from the *MCD* to provide a *cross border service*, must not make any material changes to the service unless it has complied with the requirements in regulation 17(B)(2).
- (2) The requirements in regulation 17(B)(2) are that;
  - (a) the *UK firm* has given notice to the *FCA* stating the details of the proposed change; and
  - (b) the period of one *month* has elapsed, beginning with the day on which the *UK firm* gave notice.
- (3) Paragraph (1) does not apply to a changes occasioned by circumstances beyond the control of the *UK firm*.

## 13.8 Changes of details: provision of notices to the appropriate UK regulator

### 13.8.1 R

(1) A *firm* must complete and submit the following notices in accordance with the procedures in ■ SUP 13.5 for notifying the establishment of a *branch* or the provision of *cross border services*:

- (a) a notice of a change to a *branch* or a *tied agent* referred to in ■ SUP 13.6.5G(1), ■ SUP 13.6.5BG(1), ■ SUP 13.6.5DG, ■ SUP 13.6.5EG, ■ SUP 13.6.5FG, ■ SUP 13.6.7G(1), ■ SUP 13.6.8G, ■ SUP 13.6.9AG, ■ SUP 13.6.9BR, ■ SUP 13.6.9CG, ■ 13.6.9DG and ■ SUP 13.6.10G(1); or
- (b) a notice of change to *cross border services* referred to in ■ SUP 13.7.3G(1), ■ SUP 13.7.3AG(1), ■ SUP 13.7.3DG, ■ SUP 13.7.3EG, ■ SUP 13.7.3GR, ■ SUP 13.7.5G(1), ■ SUP 13.7.6G, ■ SUP 13.7.11AG, ■ SUP 13.7.13BG, ■ SUP 13.7.14G and ■ SUP 13.7.15G.

(2) [deleted]

- (a) [deleted]
- (b) [deleted]
- (c) [deleted]
- (d) [deleted]
- (e) [deleted]
- (f) [deleted]

(3) [deleted]

(4) [deleted]

### 13.8.1A G

The effect of ■ SUP 13.8.1 R (1) is that a *firm* should submit any form, notice or application under ■ SUP 13.8.1 R (1) in the following ways:

- (1) A *UK firm*, other than a *credit union*, should submit it online at [www.fca.org.uk](http://www.fca.org.uk) using the *online notification and application system*.
- (2) If the information technology systems fail and online submission is unavailable for 24 hours or more, until such time as facilities for online submission are restored, a *firm* should submit it in the way set out in ■ SUP 13.5.3 R (3) and ■ SUP 15.7.4 R to ■ SUP 15.7.9 G (Form and method of notification). ■ GEN 1.3.2 R (Emergency) does not apply in these circumstances.

**13.11 Record keeping**

- 13.11.1** **R** (1) A *UK firm* which is exercising an *EEA right* must make and retain a record of:
- (a) the services or activities it carries on from a *branch* in, or provides cross-border into, another *EEA State* under that *EEA right*; and
  - (b) the details relating to those services or activities (as set out in ■ SUP 13.6 and ■ SUP 13.7).
- (2) The record in (1) must be kept for five years (for *firms* passporting under *MiFID*) or three years (for other *firms*) from the earlier of the date on which:
- (a) it was superseded by a more up-to-date record; or
  - (b) the *UK firm* ceased to have a *branch* in, or carry on *cross border services* into, any *EEA State* under an *EEA right*.
- 13.11.2** **G** The record in ■ SUP 13.11.1 R need not relate to the level of business carried on. A *UK firm* may comply with ■ SUP 13.11.1 R by, for example, keeping copies of all notices of intention and change to details notices.
- 13.11.3** **G** A *UK firm* should monitor the business carried on under an *EEA right* to ensure that any changes to details are notified as required by ■ SUP 13.6 (Changes to branches) and ■ SUP 13.7 (Changes to cross border services).

**13.11A** **Enhanced supervision of UK firms exercising rights under the IDD**

**13.11A.1** **G**

- (1) Under article 7(2) of the *IDD*, ensuring compliance with the obligations in Chapter V (Information requirements and conduct of business rules) and Chapter VI (Additional requirements in relation to insurance-based investment products) of the *IDD* by a *UK firm* exercising an *EEA right* under the *IDD* to establish a *branch* is the responsibility of the *Host State*. Ensuring compliance with all other obligations is the responsibility of the *UK*. Ensuring compliance with the obligations in the *IDD* by *UK firms* providing *cross border services* is the responsibility of the *UK*.
- (2) However, article 7(1) of the *IDD* provides that responsibility for compliance can be altered in a particular situation. That is where an *IDD insurance intermediary's primary place of business* is located in a *Host State*. In that case, the *Home State* and *Host State regulators* may agree that the *Host State regulator* will act as the *Home State regulator* in relation to certain provisions. Those provisions are Chapters IV (Organisational requirements), V (Information requirements and conduct of business rules), VI (Additional requirements in relation to insurance-based investment products) and VII (Sanctions and other measures) of the *IDD*.

**13.11A.2** **G**

If a *UK firm* is exercising an *EEA right* derived from the *IDD* in a *Host State* which is its *primary place of business*, the *FCA* can enter into a special agreement with the *Host State regulator*. The agreement can subject the *UK firm* to enhanced supervision by the *Host State regulator*. Section 203B of the Act enables the *FCA's* ability to enter into this sort of agreement (an "Article 7(1) Agreement").

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## Passporting: Notification of intention to establish a branch in another EEA state

This annex consists of only one or more forms. Forms can be completed online now by visiting: <http://www.bankofengland.co.uk/prs/Pages/authorisations/passporting/notifying.aspx> for a *PRA-authorised person* or [www.fca.org.uk/firms/passporting](http://www.fca.org.uk/firms/passporting) for an *FCA-authorised person*.

The forms are also to be found through the following address:

*Passporting: Notification of intention to establish a branch in another EEA state -SUP 13 Annex 1*

[**Note:** For CRR Firms, from 16th September 2014, forms found in Annex I of the Commission Implementing Regulation (EU) No 926/2014 replace the PDF form linked to in SUP 13 Annex 1R. CRR firms should no longer use this form from this date. Further information can be found on the PRA's website via the link above. SUP 13 Annex 1R will be updated in due course.]





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## **Passporting: Insurance Distribution Directive**

This annex consists of only the Passporting Notification of intention to provide cross border services in another EEA State Insurance Distribution Directive (SUP 13 Annex 5R - Notification under SUP 13.5.2R) form



www.fca.org.uk/firms/authorisation/apply-authorisation for the *FCA* and www.bankofengland.co.uk/pru/Pages/authorisations/newfirm/default.aspx for the *PRA*); or

- (2) [deleted]
- (3) a *Treaty firm* that wishes to provide *electronic commerce activities* into the *United Kingdom*; or
- (4) a *market operator* that operates a *regulated market* or an *MTF* in an *EEA State* other than the *UK* and wishes to make appropriate arrangements so as to facilitate access to and use of its system by remote users or participants in the *UK*. See ■ SUP App 3.6.25 G for *guidance*.

**13A.1.3** G

- (1) Under the *Gibraltar Order* made under section 409 of the *Act*, a *Gibraltar firm* is treated as an *EEA firm* under Schedule 3 to the *Act* if it is:
  - (a) [deleted]
  - (aA) [deleted]
  - (b) authorised in *Gibraltar* under the *CRD*; or
  - (c) authorised in *Gibraltar* under the *IDD*; or
  - (d) authorised in *Gibraltar* under the *MiFID*; or
  - (e) authorised in *Gibraltar* under the *UCITS Directive*; or
  - (f) authorised in *Gibraltar* under *AIFMD*.
  - (g) authorised in *Gibraltar* under the *MCD*

- (1A) Similarly, an *EEA firm* which:
  - (a) has satisfied the *Gibraltar establishment conditions* and has established a *branch* in the *UK*; or
  - (b) has satisfied the *Gibraltar service conditions* and is providing *cross border services* into the *UK*;

is treated as having satisfied the *establishment conditions* or *service conditions* (as appropriate) under Schedule 3 to the *Act*. Regulations 4 to 7 of the *EEA Passport Rights Regulations* will apply to the establishment of the *branch* or the provision of *cross border services*.

- (2) *Credit institutions, insurance intermediaries, investment firms, management companies, AIFMs* and *MCD credit intermediaries* are allowed to passport their services into the *United Kingdom* if they comply with the relevant notification procedures. So, any references in this chapter to *EEA State* or *EEA right* include references to *Gibraltar* and the entitlement under the *Gibraltar Order* where appropriate.
- (3) [deleted]

**Purpose**

13A.1.4

G

- (1) This chapter explains how an *EEA firm* and a *Treaty firm* can qualify for *authorisation* under Schedules 3 and 4 to the *Act* and how a *UCITS qualifier* is *authorised* under Schedule 5 to the *Act*.
- (2) This chapter also provides *guidance* on Schedule 3 to the *Act* for an *incoming EEA firm* that wishes to establish a *branch* in the *United Kingdom* instead of, or in addition to, providing *cross border services* into the *United Kingdom* or vice versa.

13A.1.5

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- (1) *EEA firms* should note that this chapter only addresses the procedures which the *appropriate UK regulator* will follow under the *Act*. So, an *EEA firm* should consider this *guidance* in conjunction with the requirements with which it will have to comply in its *Home State*.
- (2) The *guidance* in this chapter represents the *appropriate UK regulator's* interpretation of the *Single Market Directives*, the *auction regulation*, the *Act* and the secondary legislation made under the *Act*. The *guidance* is not exhaustive and should not be seen as a substitute for a *person* consulting the legislation or taking legal advice.

**UCITS qualifiers**

- 13A.3.12** **G** Under Schedule 5 to the Act (Persons concerned in collective investment schemes), a *person* who for the time being is an *operator, trustee or depositary* of a *scheme* which is a *recognised scheme* under section 264 of the Act is an *authorised person*. Such a *person* is referred to in the *Handbook* as a *UCITS qualifier*.
- 13A.3.13** **G** A *UCITS qualifier* has *permission* under paragraph 2 of Schedule 5 to the Act, to carry on, as far as is appropriate to the capacity in which it acts in relation to the *scheme*:
- (1) the *regulated activity of establishing, operating or winding up a collective investment scheme*; and
  - (2) any activity in connection with, or for the purposes of, the *scheme* (including the *regulated activity of managing a UCITS*).
- 13A.3.14** **G** A *UCITS qualifier* should refer to *COLLG* or to the following sections of *COLL* for requirements for *recognised schemes*:
- (1) ■ *COLL 9.2.1 G* for *guidance* on notifications;
  - (2) ■ *COLL 9.2.1 G* for *guidance* on information and documentation requirements; and
  - (3) ■ *COLL 9.4* which includes *rules* on what facilities need to be maintained.

**13A.4 EEA firms establishing a branch in the United Kingdom**

**The conditions for establishing a branch**

- 13A.4.1 G (1) Before an *EEA firm* (other than an *EEA pure reinsurer* or an *EEA firm* that has received authorisation under article 18 of the *auction regulation*) exercises an *EEA right* to establish a *branch* in the *United Kingdom*, the *Act* requires it to satisfy the *establishment conditions*, as set out in paragraph 13(1) of Part II of Schedule 3 to the *Act*.
- (2) For the purposes of paragraph 13(1)(b)(iii) of Part II of Schedule 3 to the *Act*, the information to be included in the consent notice has been prescribed under regulation 2 of the *EEA Passport Rights Regulations*.

13A.4.1A G An *EEA UCITS management company* may not exercise an *EEA right* to provide *collective portfolio management services* for a *UCITS scheme* from a *branch* in the *United Kingdom* until approved by the *FCA* to do so (see ■ SUP 13A.3.1C G).

13A.4.2 G [deleted]

13A.4.3 G For the purposes of paragraph 13(2)(b) of Part II of Schedule 3 to the *Act*, the *applicable provisions* may include the *appropriate UK regulator's rules*. The *EEA firm* is required to comply with relevant *rules* when carrying on a *passported activity* through a *branch* in the *United Kingdom* as well as with relevant *UK legislation*.

13A.4.3A G *Guidance* on the matters that are reserved to a *firm's Home State regulator* is located in ■ SUP 13A Annex 2.

**The notification procedure**

- 13A.4.4 G (1) When the *appropriate regulator* receives a consent notice from the *EEA firm's Home State regulator*, it will, under paragraphs 13(2)(b), (c) and 13(3) of Part II of Schedule 3 to the *Act*, notify the *applicable provisions* (if any)

within two *months* of the notice date.

- (1A) The notice date is:
  - (a) for a *MiFID investment firm*, the date on which the *Home State* gave the consent notice; and
  - (b) in any other case, the date on which the *appropriate UK regulator* received the consent notice.
- (2) Although the *appropriate UK regulator* is not required to notify the *applicable provisions* to an *EEA firm* passporting under *MIFID* or *AIFMD*, these provisions are set out in ■ SUP 13A Annex 1 (Application of the Handbook to Incoming EEA Firms).

**13A.4.4-A** G When the *FCA* receives a consent notice from the *EEA firm's Home State regulator* in respect of a *EEA firm* within paragraph 5(i) of Part I of Schedule 3 to the *Act*, it will, under paragraph 13(3A);

- (1) notify the *firm* of the *applicable provisions* (if any); and
- (2) use the information received from the *EEA firm's Home State regulator* to enter the necessary information into the *Financial Services Register*.

**13A.4.4-B** G When the *appropriate UK regulator* receives a consent notice from the *EEA firm's Home State regulator* in respect of an *EEA firm* within paragraph 5(e) of Part I of Schedule 3 to the *Act*, it will, under paragraph 13(3C):

- (1) acknowledge receipt; and
- (2) notify the *EEA firm's Home State regulator* of the *applicable provisions* (if any),

before the end of the period of one *month* beginning with the *day* on which the *appropriate UK regulator* received the consent notice.

**13A.4.4A** G

- (1) Where the *PRA* receives a consent notice, it will give a copy to the *FCA* without delay, and where the *FCA* receives a consent notice it will give a copy to the *PRA*, where relevant, without delay.
- (2) In a case where the *FCA* is the *appropriate UK regulator*, the consent of the *PRA* is required for any notification by the *FCA* which relates to:
  - (a) a *PRA-regulated activity*;
  - (b) a *PRA-authorized person*; or
  - (c) a *person* whose immediate group includes a *PRA-authorized person*.

**Auction regulation bidding: notification rule and applicable provisions**

**13A.4.5** R An *incoming EEA firm* that is exercising an *EEA right* under the *auction regulation* to establish a branch in the *United Kingdom* must submit the

form in ■ SUP 13A Annex 4 R prior to its establishment of that branch or whenever possible thereafter.

- 13A.4.6** **G** The sole purpose of the notification in ■ SUP 13A.4.5 R is to enable the *FSA* to supervise the *UK* branch of the *incoming EEA firm's* compliance with the *applicable provisions* on an ongoing basis. The *applicable provisions* that apply to that branch are set out in ■ SUP 13A Annex 1 G (Application of the Handbook to Incoming EEA Firms).





**13A.5 EEA firms providing cross border services into the United Kingdom**

**Is the service provided within the United Kingdom?**

- 13A.5.1** **G** There is *guidance* for *UK firms* in ■ SUP Appendix 3.6 on when a service is provided cross border. *EEA firms* may find this of interest although they should follow the guidance of their *Home State regulators*.
- 13A.5.2** **G** An *EEA firm* (other than an *EEA firm* that received authorisation under article 18 of the *auction regulation*) should note that the requirement under the *Single Market Directives* to give a notice of intention to provide *cross border services* applies whether or not:
- (1) it has established a *branch* in the *United Kingdom*; or
  - (2) those *cross border services* are *regulated activities*.

**The conditions for providing cross border services into the United Kingdom**

- 13A.5.3** **G**
- (1) Before an *EEA firm* (other than an *EEA firm* that has received authorisation under article 18 of the *auction regulation*) exercises an *EEA right* to provide *cross border services* into the *United Kingdom*, the *Act* requires it to satisfy the *service conditions*, as set out in paragraph 14 of Part II of Schedule 3 to the *Act*.
  - (2) For the purposes of paragraph 14(1)(b) of Part II of Schedule 3 to the *Act*, the information to be contained in the regulator's notice has been prescribed under regulation 3 of the *EEA Passport Rights Regulations* and in the case of *CRD*, the information has been prescribed in the technical standards issued pursuant to and under Article 39 of the *CRD*.
  - (3) An *EEA UCITS management company* may not exercise an *EEA right* to provide *collective portfolio management services* for a *UCITS scheme* on a *cross border services* basis until approved by the *FCA* to do so (see ■ SUP 13A.3.1C G).
  - (4) An *EEA firm* that has received authorisation under article 18 of the *auction regulation* is not subject to the *service conditions* in its exercise of an *EEA right* under the *auction regulation* to provide services in the *United Kingdom*. The notification procedure in ■ SUP 13A.5.4 G does not apply to it and it does not need to notify the *FCA* prior to providing services into the *United Kingdom* because there are presently no *applicable provisions* that apply in these

circumstances. Instead, its provision of these services is supervised by its *Home State regulator*.

**The notification procedure**

- 13A.5.4 **G** (1) Unless the *EEA firm* (other than an *EEA firm* that received authorisation under article 18 of the *auction regulation*) is passporting under the *IDD*, if the *appropriate UK regulator* receives a regulator's notice or, where no notice is required, is informed of the *EEA firm's* intention to provide *cross border services* into the *United Kingdom*, the *appropriate UK regulator* will, under paragraphs 14(2) and 14(3) of Part II of Schedule 3 to the Act, notify the *EEA firm* of the *applicable provisions* (if any) within two *months* of the *day* on which the *appropriate UK regulator* received the regulator's notice or was informed of the *EEA firm's* intention.
- (1A) When the *FCA* receives a regulator's notice from the *EEA firm's Home State regulator* that the *EEA firm* intends to exercise its *EEA right* to provide *cross border services* under the *IDD*, it will, under paragraph 14(3AZA) of Part II to Schedule 3 to the Act:
  - (a) acknowledge receipt; and
  - (b) notify the *EEA firm's Home State regulator* of the *applicable provisions* (if any).
- (2) Although the *appropriate UK regulator* is not required to notify the *applicable provisions* to an *EEA Firm* passporting under *MIFID* or *AIFMD* these provisions are set out in ■ SUP 13A Annex 1 (Application of the Handbook to Incoming EEA Firms).
- 13A.5.4-A **G** When the *FCA* receives a consent notice from the *EEA firm's Home State regulator* in respect of a *firm* within paragraph 5(i) of Part I of Schedule 3 to the Act, it will, under paragraph 14(3ZA), use the information received from the *EEA firm's Home State regulator* to enter the necessary information into the *Financial Services Register*.
- 13A.5.4A **G** Where the *PRA* receives a notice, it will give a copy to the *FCA* without delay and where the *FCA* receives a notice, it will give a copy to the *PRA* without delay, where relevant.
- 13A.5.5 **G** An *EEA firm* (other than an *EEA UCITS management company*) that has satisfied the *service conditions* in paragraph 14 of Part II of Schedule 3 to the Act is entitled to start providing *cross border services* into the *United Kingdom*. In the case of an *EEA UCITS management company*, *FCA* approval must first be obtained, as explained in ■ SUP 13A.5.3 G (see also ■ SUP 13A.3.1C G). However, an *EEA firm* that wishes to start providing *cross border services* but has not yet received notification of the *applicable provisions* may wish to contact the authorisations team in the *FCA* or *PRA*, as appropriate (see ■ SUP 13A.8.1G (2)).



**13A.6 Which rules will an incoming EEA firm be subject to?**

- 13A.6.1** G (1) ■ SUP 13A Annex 1 summarises how the *Handbook* applies to *incoming EEA firms*.
- (2) ■ SUP 13A Annex 2 summarises the matters that are reserved to a *firm's Home State regulator*.

**13A.6.2** G An *incoming EEA firm* (other than an *EEA pure reinsurer* or an *EEA firm* that has received authorisation under article 18 of the *auction regulation* and only provides services in the *United Kingdom*) or *incoming Treaty firm* carrying on business in the *United Kingdom* must comply with the *applicable provisions* (see ■ SUP 13A.4.4 G, ■ SUP 13A.4.4-BG, ■ SUP 13A.4.6 G, and ■ SUP 13A.5.4 G) and other relevant *UK* legislation. For example where the business includes:

- (1) business covered by the Consumer Credit Act 1974, then an *incoming EEA firm* or *incoming Treaty firm* must comply with the provisions of that Act; or
- (2) effecting or carrying out contracts covering motor vehicle third party liability risks as part of direct *insurance business*, then an *incoming EEA firm* or *incoming Treaty firm* is required to become a member of the Motor Insurers' Bureau.

- 13A.6.3** G (1) In particular, an *EEA firm* (other than an *EEA pure re-insurer*) or *Treaty firm* must comply with the *applicable provisions* in ■ SUP 10A and 10C (Approved persons). An *EEA firm* or *Treaty firm* should also refer to ■ SUP 10A.1 and 10C.1 (Application) which sets out the territorial provisions of the *approved persons* regime.
- (2) An *EEA firm* or *Treaty firm* which is an *EEA relevant authorised person* should also refer to ■ SUP 10C (FCA senior management regime for approved persons in relevant authorised persons).

- 13A.6.4** G Under the *EEA Passport Rights Regulations*, references in section 60 of the *Act* (applications for approval for persons to perform controlled functions) to "the authorised person concerned" include:
- (1) an *EEA MiFID investment firm* whose *Home State regulator* has given a consent notice under paragraph 13 of Schedule 3 to the *Act* (see ■ SUP 13A.4.1G (1) and ■ SUP 13A.4.2 G) or a regulator's notice under paragraph 14 of that Schedule (see ■ SUP 13A.5.3G (1)), and which will

be the *authorised person* concerned if the *EEA firm* qualifies for *authorisation* under that Schedule; and

- (2) any other *EEA firm* with respect to which the *appropriate UK regulator* has received a consent notice or regulator's notice under paragraph 13 of Schedule 3 to the *Act* (see ■ SUP 13A.4.1G (1) and ■ SUP 13A.4.2 G) or a regulator's notice under paragraph 14 of that Schedule (see ■ SUP 13A.5.3G (1)), and which will be the *authorised person* concerned if the *EEA firm* qualifies for *authorisation* under that Schedule.

**13A.6.5** G ■ SUP 13A Annex 1 does not apply to *incoming ECA providers* acting as such.

**13A.6A**      **Enhanced supervision of EEA  
firms passporting under the  
IDD**

**13A.6A.1**   **G**

- (1) The split of responsibility (between *Home* and *Host States*) for ensuring compliance with *IDD* requirements is as follows.
- (a) For incoming EEA *branches*:
- (i) the *Host State* is responsible in relation to the obligations in Chapter V (Information requirements and conduct of business rules) and Chapter VI (Additional requirements in relation to insurance-based investment products) (see article 7(2) of the *IDD*); and
  - (ii) the *Home State* is responsible in relation to all other obligations.
- (b) For *EEA firms* providing *cross border services*, the *Home State* is responsible in relation to all *IDD* obligations.
- (2) However, under article 7(1) of the *IDD*, if an *IDD insurance intermediary's primary place of business* is in a *Host State*, the *Host* and *Home State regulators* may agree that the *Host State regulator* will act as if it were the *Home State regulator* with regard to certain provisions. Those provisions are Chapters IV (Organisational requirements), V (Information requirements and conduct of business rules), VI (Additional requirements in relation to insurance-based investment products) and VII (Sanctions and other measures) of the *IDD*. This sort of *Home* and *Host State regulator* agreement is referred to as an Article 7(1) *IDD Agreement*.

**13A.6A.2**   **G**

Where the *FCA* is a *Host State regulator* it may enter into an article 7(1) *IDD Agreement* in respect of an *incoming EEA firm*. The *FCA* is given this power by section 203A of the *Act* subject to the conditions set out in that section. If the *FCA* enters into such an agreement, the *EEA firm* will be subject to enhanced supervision by the *FCA* to the extent specified in the agreement.

**13A.7 Top-up permission**

- 13A.7.1** **G** If a *person* established in the *EEA*:

  - (1) does not have an *EEA right*;
  - (2) does not have *permission* as a *UCITS qualifier*; and
  - (3) does not have, or does not wish to exercise, a *Treaty right* (see ■ SUP 13A.3.4 G to ■ SUP 13A.3.11 G);

to carry on a particular *regulated activity* in the *United Kingdom*, it must seek *Part 4A permission* from the *appropriate UK regulator* to do so (see the *appropriate UK regulator's website*: [www.fca.org.uk/firms/authorisation/apply-authorisation](http://www.fca.org.uk/firms/authorisation/apply-authorisation) for the *FCA* and [www.bankofengland.co.uk/prd/Pages/authorisations/newfirm/default.aspx](http://www.bankofengland.co.uk/prd/Pages/authorisations/newfirm/default.aspx) for the *PRA*). This might arise if the activity itself is outside the scope of the *Single Market Directives*, or where the activity is included in the scope of a *Single Market Directive* but is not covered by the *EEA firm's Home State authorisation*. If a *person* also qualifies for *authorisation* under Schedules 3, 4 or 5 to the *Act* as a result of its other activities, the *Part 4A permission* is referred to in the *Handbook* as a *top-up permission*.
- 13A.7.2** **G** Where the *appropriate UK regulator* grants a *top-up permission* to an *incoming EEA firm* to carry on *regulated activities* for which it has neither an *EEA right* nor a *Treaty right*, the *appropriate UK regulator* is responsible for the prudential supervision of the *incoming EEA firm*, to the extent that the responsibility is not reserved to the *incoming EEA firm's Home State regulator*.
- 13A.7.3** **G** [deleted]
- 13A.7.4** **G** For *guidance* on how to apply for *Part 4A permission* under the *Act*, see the *appropriate UK regulator's website*: <http://www.fca.org.uk/firms/about-authorisation/getting-authorised> for the *FCA* and [www.bankofengland.co.uk/prd/Pages/authorisations/newfirm/default.aspx](http://www.bankofengland.co.uk/prd/Pages/authorisations/newfirm/default.aspx) for the *PRA*. If an *EEA firm* or *Treaty firm* wishes to make any subsequent changes to its *top-up permission*, it can make an application for variation of that *permission* (see ■ SUP 6 (Applications to vary and cancel *Part 4A permission*)).



## **13A.8 Sources of further information**

- 13A.8.1** G For further information on *UK* regulation, an *EEA firm*, a *Treaty firm* or a *UCITS qualifier* should contact the authorisations team in the *FCA* or *PRA*, if and when appropriate. To contact the *FCA* and/or *PRA* authorisations teams, please see the details provided on that regulator's website.





## Application of the Handbook to Incoming EEA Firms

1. The table below summarises the application of the *Handbook* to an *incoming EEA firm*. Where the table indicates that a particular module of the *Handbook* may apply, its application in relation to any particular activity is dependent on the detailed application provisions in that module. The table does not apply to *incoming ECA providers*. These should refer to COBS 1 Annex 1 Part 3 section 7 for guidance on how COBS applies to them. The table does not apply to *EEA pure reinsurers* or to an *EEA firm* in relation to its exercise of an *EEA right* under the *auction regulation* to provide services in the *United Kingdom*.

2. In some cases, the application of the *Handbook* depends on whether responsibility for a matter is reserved under an *EU instrument* to the *incoming EEA firm's Home State regulator*. Guidance on the reservation of responsibility is contained in SUP 13A Annex 2 (Matters reserved to a Home State regulator). Guidance on the territorial application of MiFID is contained in PERG 13.6 and PERG 13.7 and SUP 13A Annex 2.

3. For an *incoming EEA firm* which has *permission for cross-border services only*, many parts of the *Handbook* apply only if the *firm* carries on *regulated activities* in the *United Kingdom*. Those parts of the *Handbook* will therefore not apply if the *firm* confines its activities to those within the *overseas persons* exclusions in article 72 of the *Regulated Activities Order*, or which would not be regarded as carried on in the *United Kingdom*. Further guidance may be found in PERG 2.4 (Link between activities and the *United Kingdom*) and PERG 2.9.15 G to PERG 2.9.17 G (Overseas persons).

4. An *EEA firm* that exercises an *EEA right* under the *auction regulation* to establish a branch in the *United Kingdom* to provide *auction regulation bidding* is subject to a limited set of requirements in the *Handbook* that apply to that activity. These are the *rules* listed in paragraph 2.6A of SYSC 1 Annex 1, GEN 4 and SUP (in particular, the *money laundering reporting function* in SUP 10A and requirements to notify the *FCA*). Aside from this note, the table does not apply to those firms.

5. An *EEA firm* that exercises an *EEA right* under MiFID to carry on *MiFID business bidding* is subject to the *applicable provisions* relating to its carrying on of *MiFID business* and any applicable *EU regulations*.

(1) Module of Handbook	(2) Potential application to an incoming EEA firm with respect to activities carried on from an establishment of the firm (or its appointed representative) in the United Kingdom	(3) Potential application to an incoming EEA firm with respect to activities carried on other than from an establishment of the firm (or its appointed representative) in the United Kingdom
PRIN	<p>The <i>Principles</i> apply only in so far as responsibility for the matter in question is not reserved by an <i>EU instrument</i> to the <i>firm's Home State regulator</i> (PRIN 3.1.1 R (1)).</p> <p>For an <i>incoming EEA firm</i> which is a <i>CRD credit institution</i> without a <i>top-up permission</i>, <i>Principle 4</i> does not apply.</p>	<p>The <i>Principles</i> do not apply if the <i>firm</i> has <i>permission only for cross-border services</i> and does not carry on <i>regulated activities</i> in the <i>United Kingdom</i> (PRIN 3.1.1 R (2)).</p> <p>The <i>Principles</i> have limited application for activities which are not carried on from a <i>UK establishment</i> (see PRIN 3.1.1 R).</p> <p>Otherwise, see column (2).</p>
SYSC	<p>SYSC 1 and SYSC 1 Annex 1 (Application of SYSC 2 and SYSC 3) contain application provisions only. SYSC 2 and SYSC 3 apply only to an <i>insurer</i>, a <i>managing agent</i> and the <i>Societas</i> set out in SYSC 1 Annex 1.1R, which include the following exceptions:</p>	<p>SYSC 2 and SYSC 3 do not apply if the <i>firm</i> has <i>permission only for cross-border services</i> and does not carry on <i>regulated activities</i> in the <i>United Kingdom</i> (SYSC 1 Annex 1.1.1 R). SYSC 2 and SYSC 3 have limited application for activities which are not carried on from a <i>UK es-</i></p>

(1) SYSC 2.1.1 R (1) and SYSC 2.1.2 G do not apply;

(2) SYSC 2.1.3 R to SYSC 2.2.3 G apply, but only in relation to allocation of the function in SYSC 2.1.3 R (2) and SYSC 2.1.3AR(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

(3) 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*. SYSC 1 Annex 1, Part 1, 1.8 R(Where?) further restricts the territorial application of SYSC 1 to SYSC 3 for an *incoming EEA firm*. Further guidance is contained in SYSC 2.1.6 G, Question 12. SYSC 18 applies to the extent that the Public Interest Disclosure Act 1998 applies to the *firm*.

The *common platform requirements* in SYSC 4 - 10 apply as set out in Part 2 of SYSC 1 Annex 1 (Application of the common platform requirement).

SYSC 1 Annex 1 row 2.6F provides that the *common platform requirements* do not apply to an *incoming EEA AIFM branch*, except the *AIFMD Host State requirements* and certain requirements regarding *financial crime*.

SYSC 1 Annex 1.2.7G reminds *EEA MiFID investment firms* that they must comply with the *common platform record-keeping requirements* in relation to a *branch* in the *United Kingdom*.

SYSC 1 Annex 1, Part 2, 2.7AG provides guidance on the application of the *common platform requirements* to the *UK branch* of an *EEA UCITS management company*.

SYSC 9 applies to activities carried on from an establishment in the *United Kingdom*, unless another applicable *rule* which is relevant to the activity has a wider territorial scope, in which case the *common platform record-keeping requirements* apply with that wider scope in relation to the activity described in that *rule* (SYSC 1 Annex 1.2.17R).

SYSC 10A applies to an *incoming EEA AIFM* and an *EEA MiFID investment firm*.

establishment (see SYSC 1 Annex 1.1.1 R (2A)).

Otherwise, see column (2).

The *common platform requirements* in SYSC 4 - SYSC 10 apply as set out in SYSC 1 Annex 1.2.2R.

SYSC 10A - SYSC 17 do not apply.

SYSC 18 applies.

SYSC 19A, 19B, 19C, 19D, 19E and 19F do not apply.

SYSC 28 does not apply.

	<p>SYSC 12 does not apply (SYSC 12.1.3 R).</p> <p>SYSC 13 does not apply (SYSC 13.1.1 G).</p> <p>SYSC 14 does not apply (SYSC 14.1.1 R).</p> <p>SYSC 15 does not apply (SYSC 15.1.1 G).</p> <p>SYSC 16 does not apply (SYSC 16.1.1 G).</p> <p>SYSC 17 does not apply (SYSC 17.1.1 G).</p> <p>SYSC 18 applies.</p> <p>SYSC 19A, 19B , 19C and 19D do not apply.</p> <p>SYSC 19F applies to a <i>MiFID investment firm</i> unless it is a <i>UCITS investment firm</i> or an <i>AIFM investment firm</i>.</p> <p>SYSC 19F.2 applies to <i>insurance distribution activities</i> carried on from an establishment in the <i>United Kingdom</i>.</p> <p>SYSC 28 does not apply.</p>	
COCON	<p>COCON applies to <i>employees of firms</i> which are <i>relevant authorised persons</i>. See COCON 1.1 for detailed rules on the application of COCON.</p>	Does not apply.
COND	<p>COND does not apply if the <i>firm</i> does not have, or apply for, a <i>top-up permission</i>.</p> <p>Otherwise, the threshold conditions apply in a limited way</p> <p>(1) in the case of a <i>top-up permission</i> under Part 4A of the <i>Act</i> (that is, a <i>permission</i> to carry on <i>regulated activities</i> in addition to those permitted through its <i>authorisation</i> under Schedule 3 to the <i>Act</i> (EEA Passport Rights)); and</p> <p>(2) the exercise of the <i>FCA's</i> powers under sections 55J and 55L of the <i>Act</i> in relation to the <i>top-up permission</i>. (COND 1.2.4 G)</p>	As column (2).
APER	<p>APER applies to <i>approved persons</i> other than <i>relevant authorised persons</i> (APER 1.1A.1G). See below under SUP 10 as to whether <i>controlled functions</i> are performed, and approval therefore required.</p>	Not relevant because SUP 10A does not apply.
FIT	<p>FIT applies to a <i>firm</i> wishing to establish a <i>branch</i> in the <i>United Kingdom</i> or to apply for a <i>top-up permission</i> in respect of any application that it makes for the approval of a <i>person</i> to perform a <i>controlled function</i> (FIT 1.1). See SUP 10A and SUP 10C below as to whether such approval is required.</p>	Does not apply.

GEN	<p><i>FIT</i> applies in a limited way in relation to an incoming <i>MiFID investment firm</i> (see <i>FIT 1.2.4A G</i>).</p> <p><i>GEN</i> applies (<i>GEN 1.1</i>, <i>GEN 1.2</i>, <i>GEN 2.1</i>, <i>GEN 4.1</i>, <i>GEN 5.1</i> and <i>GEN 6.1</i>). However, (a) <i>GEN 4</i> does not apply to the extent that the <i>firm</i> is subject to equivalent <i>rules</i> imposed by its <i>Home State</i> (<i>GEN 4.1.1 R (3)</i>), and (b) <i>GEN 6</i> only applies to business that can be regulated under sections 137A and 137G of the <i>Act</i> (The <i>FCA's</i> General rules) and (The <i>PRA's</i> General rules), respectively. It does not therefore apply if, or to the extent that, responsibility has been reserved to an <i>incoming firm's Home State regulator</i> by an <i>EU instrument</i>. Only <i>GEN 4.5</i> applies in relation to <i>MiFID</i> or equivalent <i>third country business</i> (see <i>GEN 4.1.1 R</i>). The <i>FCA</i> has supervisory responsibility in respect of a <i>branch</i> of a <i>MiFID investment firm</i> under article 44(8) of the <i>MiFID Org Regulation</i> relating to the prohibition on using the name of a <i>competent authority</i> to suggest its endorsement of the <i>firm's</i> products or services.</p>	<p><i>GEN 4</i> does not apply if the <i>firm</i> has <i>permission</i> only for <i>cross-border services</i> and does not carry on <i>regulated activities</i> in the <i>United Kingdom</i> (see <i>GEN 4.1.1 R</i>).</p> <p>Otherwise, as column (2) except in relation to article 44(8) of the <i>MiFID Org Regulation</i>.</p>
FEES	<p>Applies to the extent a <i>firm</i> is required to pay a fee in regards to carrying out any <i>regulated activity</i> in the <i>UK</i>. <i>FEES 3.2.7R</i> applies in relation to <i>incoming data reporting services providers</i>.</p>	<p>Does not apply in relation to <i>regulated activity</i> in the <i>UK</i> <i>FEES 3.2.7R</i> applies in relation to <i>incoming data reporting services providers</i></p>
GENPRU	<p>Does not apply.</p>	<p>Does not apply if the <i>firm</i> has <i>permission</i> only for <i>cross border services</i> and does not carry on <i>regulated activities</i> in the <i>United Kingdom</i>.</p>
BIPRU	<p><i>EEA firms</i> that are <i>CAD investment firms</i> are subject to the prudential standards of their home state regulator (<i>BIPRU 1.1.7 R</i>). However, <i>BIPRU 12</i> applies to an <i>EEA firm</i> that is an <i>IFPRU investment firm</i> or <i>BIPRU firm</i> as respects the activities of its <i>UK branch</i>, but in relation to <i>liquidity risk</i> only.</p>	<p>Does not apply if the has only for and does not carry on in the .</p>
IFPRU	<p><i>EEA firms</i> that are <i>investment firms</i> (as defined in the <i>EU CRR</i>) are subject to the <i>EU CRR</i> as implemented by their home state regulator (<i>IFPRU 1.1.5 R</i>).</p>	<p>Does not apply if the <i>firm</i> has <i>permission</i> only for <i>cross border services</i> and does not carry on <i>regulated activities</i> in the <i>United Kingdom</i>.</p>
MIPRU	<p><i>MIPRU 1</i> (Application and general provisions) does not apply unless the <i>firm</i> has a <i>top-up permission</i>.</p> <p><i>MIPRU 2</i> (Responsibility for insurance distribution and MCD credit intermediation) does not apply unless the <i>firm</i> has a <i>top-up permission</i>.</p>	<p>As column (2)</p>

	<p>MIPRU 3 (Requirement to hold professional indemnity insurance) does not apply unless the <i>firm</i> has a <i>top-up permission</i>.</p> <p>MIPRU 4 (Requirement to hold capital resources) does not apply unless the <i>firm</i> has a <i>top-up permission</i>.</p> <p>See MIPRU 4.1.2 G for more detailed <i>guidance</i>.</p> <p>MIPRU 5 (Insurance distributors and home finance providers using insurance distribution or home finance mediation services) does not apply unless the <i>firm</i> has a <i>top-up permission</i>.</p>	
INSPRU	INSPRU does not apply.	INSPRU does not apply.
IPRU(FSOC)	Does not apply because an <i>incoming EEA firm</i> cannot be a <i>friendly society</i> (IPRU(FSOC) 1.1).	Does not apply because an <i>incoming EEA firm</i> cannot be a <i>friendly society</i> (IPRU(FSOC) 1.1).
IPRU(INV)	<p>IPRU(INV) does not apply unless the <i>firm</i>:</p> <p>(1) has a <i>top-up permission</i>;</p> <p>(2) is an <i>authorised professional firm, investment management firm, members' adviser, personal investment firm, securities and futures firm, service company or underwriting agent</i>; and</p> <p>(3) is not a <i>lead regulated firm, a media firm or a BIPRU investment firm</i>. (IPRU(INV) 1.1.1R and 1.2R)</p>	As column (2).
COBS	<i>Guidance</i> on the territorial application of COBS is contained in COBS 1 Annex 1 Part 3.	<i>Guidance</i> on the territorial application of COBS is contained in COBS 1 Annex 1 Part 3.
ICOBS	ICOBS applies except to the extent necessary to be compatible with European law. <i>Guidance</i> on the territorial application of ICOBS is contained in ICOBS 1 Annex 1 Part 4.	ICOBS 8.4 and parts of ICOBS 8.2 apply except to the extent necessary to be compatible with European law. Other chapters of ICOBS do not apply, except to the extent necessary to be compatible with European law. <i>Guidance</i> on the territorial application of ICOBS is contained in ICOBS 1 Annex 1 Part 4.
MCOB	Applies where the activity is carried on with or for a <i>customer</i> resident in the <i>United Kingdom</i> or another <i>EEA State</i> at the time that the activity is carried on, but see the territorial scope in MCOB 1.3.1AR and MCOB 1 Annex 5.	Applies where the activity is carried on with or for a <i>customer</i> resident in the <i>United Kingdom</i> at the time that the activity is carried on but see MCOB 1.3.4 R (Distance contracts entered into from an establishment in another <i>EEA State</i> ), MCOB 1.3.1AR and MCOB 1 Annex 5.
CASS	CASS does not apply with respect to the <i>firm's passported activities</i> unless the <i>firm</i> is an <i>insurer</i> (CASS 1.2.3 R (2)).	As column (2).

<p>MAR</p> <p>[deleted] [deleted] [deleted]</p> <p><b>MAR 4 (Endorsement of the Take-over Code)</b></p> <p>Applies to <i>firms</i> whose <i>permission</i> includes, or ought to include, any <i>designated investment business</i>, except as set out in MAR 4.4.1 R.</p> <p>MAR 5 (Multilateral Trading Facilities)</p> <p>Does not apply (MAR 5.1.1 R).</p> <p><b>MAR 8 (Benchmarks)</b></p> <p>Applies only to <i>firms</i> whose <i>top-up permission</i> includes <i>providing information in relation to a regulated benchmark</i>.</p> <p><b>MAR 10 (Commodity derivative position limits and controls, and position reporting)</b></p> <p>Position limits apply in relation to position limits set by the <i>FCA</i> in accordance with MAR 10.2.2D. Position reporting applies to a member, participant or a <i>client</i> of a <i>UK trading venue</i> in accordance with MAR 10.4.10D.</p>	<p>[deleted] [deleted] [deleted]</p> <p><b>MAR 4 (Endorsement of the Take-over Code)</b></p> <p>Does not apply (MAR 4.4.1 R (4)(b)).</p> <p><b>MAR 5 (Multilateral Trading Facilities)</b></p> <p>Does not apply (MAR 5.1.1 R).</p> <p><b>MAR 8 (Benchmarks)</b></p> <p>As column (2)</p> <p>As column (1)</p>	<p>[deleted] [deleted] [deleted]</p> <p><b>MAR 4 (Endorsement of the Take-over Code)</b></p> <p>Does not apply (MAR 4.4.1 R (4)(b)).</p> <p><b>MAR 5 (Multilateral Trading Facilities)</b></p> <p>Does not apply (MAR 5.1.1 R).</p> <p><b>MAR 8 (Benchmarks)</b></p> <p>As column (2)</p> <p>As column (1)</p>
<p>TC</p>	<p>TC applies, but only in so far as responsibility for any matter it covers is not reserved by an <i>EU instrument</i> to the <i>firm's Home State regulator</i>.</p>	<p>TC Appendix 1 sets out the activities to which TC applies.</p> <p>TC Appendix 2 sets out the sourcebook's territorial scope.</p> <p>TC Appendix 3 sets out the limitations on TC App 2.</p>
<p>SUP</p>	<p><b>SUP 1A (The FCA's approach to supervision)</b></p> <p>Applies, but contains only <i>guidance</i>.</p> <p><b>SUP 2 (Information gathering by the FCA or PRA on its own initiative)</b></p> <p>The application of this chapter is the same as for <i>Principle 11</i> (see under <i>PRIN</i> above).</p> <p><b>SUP 3 (Auditors)</b></p> <p>Applies to the <i>firm</i> (and its auditor) only if the <i>firm</i> has a <i>top-up permission</i>.</p> <p><b>SUP 4 (Actuaries)</b></p> <p>Does not apply.</p> <p><b>SUP 5 (Skilled persons)</b></p> <p>Applies only if the <i>firm</i> is required by the <i>FCA</i> or <i>PRA</i> to provide a report under section 166 of the Act (Reports by skilled persons).</p>	<p><b>SUP 1A (The FCA's approach to supervision)</b></p> <p>As column (2).</p> <p><b>SUP 2 (Information gathering by the FCA or PRA on its own initiative).</b></p> <p>As column (2)</p> <p><b>SUP 3 (Auditors)</b></p> <p>As column (2)</p> <p><b>SUP 4 (Actuaries)</b></p> <p>Does not apply.</p> <p><b>SUP 5 (Skilled persons)</b></p> <p>As column (2).</p>

<p><b>SUP 6 (Applications to vary and cancel Part 4A permission)</b></p> <p>Applies only if the <i>firm</i> has a <i>top-up permission</i></p>	<p><b>SUP 6 (Applications to vary and cancel Part 4A permission)</b></p> <p>As column (2).</p>
<p><b>SUP 7 (Individual requirements)</b></p> <p>Applies only if the <i>firm</i> has a <i>top-up permission</i>. It contains only <i>guidance</i> on the exercise of the <i>FCA's</i> powers under sections 55J and 55L of the <i>Act</i>. The <i>FCA</i> has similar, but more limited, powers of intervention under Part 13 of the <i>Act</i> in relation to the <i>permission</i> of the <i>firm</i> under Schedule 3 to the <i>Act</i> (see EG 8).</p>	<p><b>SUP 7 (Individual requirements)</b></p> <p>As column (2).</p>
<p><b>SUP 8 (Waiver and modification of rules)</b></p> <p>Applies only if the <i>firm</i> wishes to apply for, or consent to, or has been given, a <i>waiver</i> of the <i>appropriate regulator's</i> rules (SUP 8.1.1 R).</p>	<p><b>SUP 8 (Waiver and modification of rules)</b></p> <p>As column (2).</p>
<p><b>SUP 9 (Individual guidance)</b></p> <p>Applies only if the <i>firm</i> wishes to obtain individual <i>guidance</i> from the <i>FCA</i> or if the <i>FCA</i> gives the <i>firm</i> individual <i>guidance</i> on its own initiative (SUP 9.1.1 G).</p>	<p><b>SUP 9 (Individual guidance)</b></p> <p>As column (2).</p>
<p><b>SUP 10A (Approved persons)</b></p> <p>Applies, but the applicable <i>controlled functions</i> are limited. See SUP 10A.1 (Application) for more detailed <i>guidance</i>. SUP 10A applies in a limited way in relation to an <i>incoming EEA firm</i> that is a <i>Solvency II firm</i> (see SUP 10A.1.8 G).</p>	<p><b>SUP 10A (Approved persons)</b></p> <p>Does not apply (SUP 10A.1.6 R).</p>
<p><b>SUP 10B (Approved Persons)</b></p> <p>Does not apply</p>	<p><b>SUP 10B (Approved Persons)</b></p> <p>As column (2)</p>
<p><b>SUP 10C (FCA senior management regime for approved persons in relevant authorised persons)</b></p>	<p>Applies to <i>EEA incoming firms</i> which are <i>EEA relevant authorised persons</i>, but the applicable <i>controlled functions</i> are limited. See SUP 10C.1 (Application) for more detailed <i>guidance</i>.</p>
<p><b>SUP 11 (Controllers and close links)</b></p> <p>Does not apply (SUP 11.1.1 R (2)).</p>	<p><b>SUP 11 (Controllers and close links)</b></p> <p>Does not apply (SUP 11.1.1 R (2)).</p>
<p><b>SUP 12 (Appointed representatives)</b></p> <p>Applies only if the <i>firm</i> has <i>permission</i> to carry on <i>designated investment business</i>, <i>insurance distribution activity</i> or <i>mortgage mediation activity</i> and wishes to appoint, or has appointed, an <i>appointed representative</i> (SUP 12.1.1 R (1)).</p>	<p><b>SUP 12 (Appointed representatives)</b></p> <p>As column (2).</p>
<p><b>SUP 13 (Exercise of passport rights by UK firms)</b></p>	<p><b>SUP 13 (Exercise of passport rights by UK firms)</b></p>

<p>Does not apply.</p> <p><b>SUP 13A (Qualifying for authorisation under the Act)</b></p> <p>SUP 13A applies to the <i>firm</i> if it:</p> <p>(1) is considering carrying on activities in the <i>United Kingdom</i> which may fall within the scope of the <i>Act</i> and is seeking <i>guidance</i> on whether it needs a <i>top-up permission</i>; or</p> <p>(2) is, or is considering, applying to the <i>appropriate regulator</i> to carry on <i>regulated activities</i> in the <i>United Kingdom</i> under a <i>top-up permission</i>; or</p> <p>(3) is, or is considering, establishing a <i>branch</i> or providing <i>cross-border services</i> into the <i>United Kingdom</i> using <i>EEA rights</i>.</p> <p><b>SUP 14 (Incoming EEA Firms: Changing detail and cancelling qualifications for authorisation)</b></p> <p>Applies.</p> <p><b>SUP 15 (Notifications to the FCA or PRA)</b></p> <p>Applies in full if the <i>firm</i> has a <i>top-up permission</i>. Otherwise, the application is modified as set out in SUP 15 Annex 1.</p> <p><b>SUP 16 (Reporting requirements)</b></p> <p>Parts of this chapter may apply if the <i>firm</i> has a <i>top-up permission</i> or if the <i>firm</i> is:</p> <p>(a) a <i>bank</i>; or</p> <p>(c) an <i>OPS firm</i>; or</p> <p>(e) an <i>insurer</i> with <i>permission</i> to effect or carry out <i>life policies</i>; or</p> <p>(f) a <i>firm</i> with <i>permission</i> to <i>establish, operate or wind up a personal pension scheme</i> or a <i>stakeholder pension scheme</i>; or</p> <p>(g) a <i>firm</i> with <i>permission</i> to carry on <i>MiFID business</i>, <i>advise on investments</i>, <i>arrange (bring about) deals in investments</i>, <i>make arrangements with a view to transactions in investments</i>, or <i>arrange safeguarding and administration of assets</i>.</p> <p>(SUP 16.1)</p> <p><b>SUP 17 (Transaction reporting)</b></p>	<p>Does not apply.</p> <p><b>SUP 13A (Qualifying for authorisation under the Act)</b></p> <p>As column (2).</p> <p><b>SUP 14 (Incoming EEA Firms: Changing detail and cancelling qualifications for authorisation)</b></p> <p>Applies.</p> <p><b>SUP 15 (Notifications to the FCA or PRA)</b></p> <p>Does not apply if the <i>firm</i> has <i>permission</i> only for <i>cross border services</i> and does not carry on <i>regulated activities</i> in the <i>United Kingdom</i> (SUP 15 Annex 1). Otherwise, as column (2).</p> <p><b>SUP 16 (Reporting requirements)</b></p> <p>Parts of this chapter may apply if the <i>firm</i> has a <i>top-up permission</i> or if the <i>firm</i> is:</p> <p>(b) an <i>OPS firm</i>; or</p> <p>(d) an <i>insurer</i> with <i>permission</i> to effect or carry out <i>life policies</i>; or</p> <p>(e) a <i>firm</i> with <i>permission</i> to <i>establish, operate or wind up a personal pension scheme</i> or a <i>stakeholder pension scheme</i>; or</p> <p>(f) a <i>firm</i> with <i>permission</i> to <i>advise on investments</i>, <i>arrange (bring about) deals in investments</i>, <i>make arrangements with a view to transactions in investments</i>, or <i>arrange safeguarding and administration of assets</i>.</p> <p>(SUP 16.1)</p> <p><b>SUP 17 (Transaction reporting)</b></p>
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	<p>A <i>MiFID investment firm</i> (other than a <i>collective portfolio management investment firm</i>) reports transactions executed wholly or partly through its <i>branch</i> to the <i>competent authority</i> of its <i>Home State</i> unless otherwise agreed by that <i>competent authority</i> and the <i>FCA</i>, in which case it will report to the <i>FCA</i>.</p>	Does not apply.
	<p><b>SUP 18 (Transfers of business)</b></p> <p>SUP 18.4 does not apply. SUP 18.1, SUP 18.2 and SUP 18.3 may be relevant if the <i>firm</i> proposes to transfer the whole or part of its business by an <i>insurance business transfer scheme</i> or to accept such a transfer or proposes to accept certain transfers of <i>insurance business</i> taking place outside the <i>United Kingdom</i>.</p>	<p><b>SUP 18 (Transfers of business)</b></p> <p>As column (2).</p>
<p><b>SUP App 2 (Insurers: Scheme of operations)</b></p> <p>Does not apply (SUP App 2.1.1 R).</p>	<p><b>SUP App 2 (Insurers: Scheme of operations)</b></p> <p>Does not apply (SUP App 2.1.1 R).</p>	
<p><i>PROD</i></p>	<p>Applies in respect of the <i>rules</i> which implement article 24(2) <i>MiFID</i> and articles 9 and 10 of the <i>MiFID Delegated Directive</i> in relation to the activities of a <i>branch</i> within the territory of the <i>UK</i>.</p>	Does not apply.
<p><i>DEPP</i></p>	<p><i>DEPP</i> applies and contains a description of the <i>FCA</i>'s procedures for taking statutory notice decisions, the <i>FCA</i>'s policy on the imposition and amount of penalties and the conduct of interviews to which a direction under section 169(7) of the <i>Act</i> has been given or the <i>FCA</i> is considering giving.</p>	<p><i>DEPP</i> applies and contains a description of the <i>FCA</i>'s procedures for taking statutory notice decisions, the <i>FCA</i>'s policy on the imposition and amount of penalties and the conduct of interviews to which a direction under section 169(7) of the <i>Act</i> has been given or the <i>FCA</i> is considering giving.</p>
<p><i>DISP</i></p>	<p>Generally applies (DISP 1.1.1 G) .</p> <p>In relation to <i>MiFID business</i> carried on from the <i>branch</i> of an <i>EEA firm</i>, the provisions in <i>DISP</i> relating to <i>MiFID complaints</i> generally apply (subject to some limitations, see DISP 1.1A.7R), as do the directly applicable provisions of the <i>MiFID Org Regulation</i> relating to complaints handling.</p> <p>For an <i>incoming EEA AIFM branch</i> <i>DISP</i> applies (subject to some limitations, see DISP 1.1.3 R), except for an <i>incoming EEA AIFM branch</i> of an <i>AIF</i> that is a <i>body corporate</i> (and not a <i>collective investment scheme</i>), including where the <i>body corporate</i> is an <i>ELTIF</i> when <i>DISP</i> does not apply.</p>	<p>Generally does not apply (DISP 1.1.1 G).</p> <p>However, <i>DISP</i> applies (subject to some limitations, see DISP 1.1.3R and DISP 1.1.5R) to:</p> <p>(a) an <i>incoming EEA firm</i> which is a <i>UCITS management company</i> managing a <i>UCITS scheme</i>; or</p> <p>(b) an <i>AIFM</i> managing an <i>authorised AIF</i> or a <i>UK ELTIF</i> other than a <i>body corporate</i> that is not a <i>collective investment scheme</i>.</p>

COMP	<p>Applies, except in relation to the <i>passport activities</i> of a <i>MiFID investment firm</i>, an <i>IDD insurance intermediary</i>, a <i>UCITS management company</i> carrying on non-core services under article 6.3 of the <i>UCITS Directive</i>, an <i>MCD mortgage credit intermediary</i> and an incoming <i>AIFM</i> carrying on either <i>AIFM management functions</i> for an <i>unauthorised AIF</i> or non-core services under article 6.4 of <i>AIFMD</i> (see the definition of "<i>participant firm</i>"). However, a <i>firm</i> specified above may be able to apply for <i>top-up cover</i> in relation to its <i>passport activities</i> (see <a href="#">COMP 14</a> (Participation by EEA Firms)).</p>	<p>Does not apply in relation to the <i>passport activities</i> of a <i>MiFID investment firm</i>, an <i>IDD insurance intermediary</i>, an <i>MCD mortgage credit intermediary</i> or a <i>UCITS management company</i> carrying on non-core services under article 6.3 of the <i>UCITS Directive</i> or an <i>incoming EEA AIFM</i> regarding <i>AIFM management functions</i> carried on for an <i>unauthorised AIF</i> or non-core services under article 6.4. Applies in relation to the <i>passport activities</i> of a <i>UCITS management company</i> in relation to the management of a <i>UCITS scheme</i> and of an <i>AIFM</i> in relation to the management of an <i>authorised AIF</i>. Otherwise, <i>COMP</i> may apply, but the coverage of the <i>compensation scheme</i> is limited for non-UK activities (see <a href="#">COMP 5</a>).</p>
COLL	<p>A. The following provisions of <i>COLL</i> apply to an <i>EEA UCITS management company</i> providing <i>collective portfolio management services</i> for a <i>UCITS scheme</i>:</p> <ul style="list-style-type: none"> <li>(a) <a href="#">COLL 6.6A.2 R</a> (Duties of AFMs of UCITS schemes and EEA UCITS schemes to act in the best interests of the scheme and its Unitholders);</li> <li>(b) <a href="#">COLL 6.6A.4 R</a> (Due diligence requirements of AFMs of UCITS schemes and EEA UCITS schemes);</li> <li>(c) <a href="#">COLL 6.6A.5 R</a> (Compliance with the regulatory requirements applicable to the conduct of business activities of a UCITS management company);</li> <li>(d) <a href="#">COLL 12.3.4 R</a> (Provision of documentation to the FSA: EEA UCITS management companies);</li> <li>(e) the <i>fund application rules</i> (see <a href="#">COLL 12.3.5 R</a> (COLL fund rules under the management company passport: the fund application rules);</li> <li>(f) <a href="#">COLL 12.3.6 R</a> (Requirement to make information available to the public or the FSA);</li> <li>(g) <a href="#">COLL 12.3.7 G</a> (EEA UCITS management companies: compliance with FSA rules); and</li> <li>(h) <a href="#">COLL 12.3.8 G</a> (EEA UCITS management companies: conduct of business rules).</li> </ul> <p>An <i>EEA UCITS management company</i> providing <i>collective portfolio man</i></p>	<p>For an <i>EEA UCITS management company</i> providing <i>collective portfolio management services</i> for a <i>UCITS scheme</i>, as column (2)A.(d), (e), (f) and (g) and the other parts of <i>COLL</i> specified.</p> <p>For an <i>incoming EEA AIFM</i>, as column (2) B.</p>

## Matters reserved to a Home State regulator

### Introduction

1. The application of certain provisions in the *Handbook* to an *incoming EEA firm* or *incoming Treaty firm* depends on whether responsibility for the matter in question is reserved to the *firm's Home State regulator*. This annex contains *guidance* designed to assist such *firms* in understanding the application of those provisions. This annex is not concerned with the *FCA* or the *PRA's* rights to take enforcement action against an *incoming EEA firm* or an *incoming Treaty firm*, which, in the case of the *FCA*, are covered in the *Enforcement Guide (EG)*, or with the position of a *firm* with a *top-up permission*.

### Requirements in the interest of the general good

2. The *Single Market Directives*, and the *Treaty* (as interpreted by the European Court of Justice) adopt broadly similar approaches to reserving responsibility to the *Home State regulator*. To summarise, the *FCA* or *PRA*, as *Host State regulator*, is entitled to impose requirements with respect to activities carried on within the *United Kingdom* if these can be justified in the interests of the "general good" and are imposed in a non-discriminatory way. This general proposition is subject to the following in relation to activities passported under the *Single Market Directives*:
  - (1) the *Single Market Directives* expressly reserve responsibility for the prudential supervision of a *MiFID investment firm*, *CRD credit institution*, *UCITS management company* *AIFM* or passporting *Solvency II firm* to the *Firm's Home State regulator* in respect of prudential matters within the scope of the respective *Single Market Directives*. The *IDD* and the *MCD* reach the same position without expressly referring to the concept of prudential supervision. Accordingly, the *FCA*, as *Host State regulator*, is entitled to regulate only the conduct of the firm's business (in the case of the *IDD*, business conducted through a *branch*) within the *United Kingdom*;
  - (2) there is no explicit "general good" provision in *MiFID* or *AIFMD*. Rather, the responsibilities for a *Host State regulator* under *MiFID* are contained in paragraphs 8 to 10 and under *AIFMD* are contained in paragraphs 11G to 11J;
  - (3) [deleted]
  - (4) for a *MiFID investment firm* including a *CRD credit institution* which is a *MiFID investment firm*), the protection of *clients' money* and *clients' assets* is reserved to the *Home State regulator* under *MiFID*; and
  - (5) responsibility for participation in compensation schemes for *CRD credit institutions* and *MiFID investment firm* is reserved in most cases to the *Home State regulator* under the *Deposit Guarantee Directive* and the *Investor Compensation Directive*.
3. It is necessary to refer to the case law of the European Court of Justice to interpret the concept of the "general good". To summarise, to satisfy the general good test, *Host State* rules must come within a field which has not been harmonised at *EU* level, satisfy the general requirements that they pursue an objective of the general good, be non-discriminatory, be objectively necessary, be proportionate to the objective pursued and not already be safeguarded by rules to which the *firm* is subject in its *Home State*.

### Application of SYSC 2 and SYSC 3

4. *SYSC 2* and *SYSC 3* only apply to an *insurer*, a *managing agent* and the *Society*. See paragraph 8 below for a discussion of how the *common platform requirements* apply. *SYSC 2.1.1 R* and *SYSC 2.1.2 G* do not apply for a relevant *incoming Treaty firm*. The *FCA* considers that it is entitled, in the interests of the general good, to impose the requirements in *SYSC 2.1.3 R* to *SYSC 2.2.3 G* (in relation to the allocation of the function in *SYSC 2.1.3 R (2)*) and

SYSC 3 on an *incoming EEA firm* and an *incoming Treaty firm*; but only in so far as they relate to those categories of matter responsibility for which is not reserved to the *firm's Home State regulator*.

5. Should the *FCA* or *PRA* become aware of anything relating to an *incoming EEA firm* or *incoming Treaty firm* (whether or not relevant to a matter for which responsibility is reserved to the *Home State regulator*), the *PRA* or *FCA* may disclose it to the *Home State regulator* in accordance with any directive and the applicable restrictions in Part 23 of the Act (Public Record, Disclosure of Information and Co-operation).
6. This Annex represents the *FCA's* views, but a *firm* is also advised to consult the relevant *EU* instrument and, where necessary, seek legal advice. The views of the European Commission in the banking and insurance sectors are contained in two Commission Interpretative Communications (Nos. 97/C209/04 and C(1999)5046).

7. [deleted]

Application of the common platform requirements in SYSC to *EEA MiFID investment firms*

8. Whilst the *common platform requirements* (located in SYSC 4 - SYSC 10) do not generally apply to *incoming EEA firms* (but for *EEA UCITS management companies*, see 8A below), *EEA MiFID investment firms* must comply with the *common platform record-keeping requirements* in relation to a *branch* in the *United Kingdom* and SYSC 10A (Recording telephone communications and electronic communications).

Application of SYSC to *EEA UCITS management companies*

- 8A. SYSC 1 Annex 1 (Detailed application of SYSC), Part 2, 2.7AG provides guidance on the application of the *common platform requirements* to the *UK branch* of an *EEA UCITS management company*.

Requirements under MiFID

9. Article 34(1) of *MiFID* prohibits Member States from imposing additional requirements on a *MiFID investment firm* in relation to matters covered by *MiFID* if the *firm* is providing services on a cross-border basis. Such firms will be supervised by their *Home State regulator*.
10. Article 35(8) of *MiFID* requires the *FCA* as the *Host State regulator* to apply certain obligations to an *incoming EEA firm* with an establishment in the *UK*. In summary, these are articles:
  - (1) 24 of *MiFID* (General principles and information to clients);
  - (1A) 25 of *MiFID* (Assessment of suitability and appropriateness and reporting to clients);
  - (2) 27 of *MiFID* (execution of orders on terms most favourable to the client);
  - (3) 28 of *MiFID* (client order handling rules);

; and

In addition, the *FCA* assumes responsibility for supervision of articles 14 to 26 of *MiFIR* although article 14 of *RTS 22* permits a *firm* to report transactions executed wholly or partly through its *branch* to the *competent authority* of its *Home State* unless otherwise agreed by that *competent authority* and the *FCA*. The remaining obligations under *MiFID* and *MiFIR* are reserved to the *Home State regulator* other than requirements in *MAR 10.2* in relation to *commodity derivative* position limits.

11. *MiFID* is more highly harmonising than other *Single Market Directives*. Article 4 of Directive 2006/73 permitted Member States to impose additional requirements only where certain tests were met. The *FSA* made certain requirements that fell within the scope of Article 4, some of which have been retained by the *FCA*, for example in *COBS*. *MiFID* retains an ability for Member States to impose additional requirements in the areas of client assets and investor protection. The *FCA* has made some further requirements which fall within the scope of these provisions. These requirements apply to an *EEA MiFID investment firm* with an establishment in the *United Kingdom* as they apply to a *UK MiFID investment firm*, in the circumstances contemplated by article 35(8) *MiFID*.

[FCA/  
PRA]

Requirements under the UCITS Directive

- 11A Article 19(8) of the *UCITS Directive* prohibits an *EEA State* from imposing additional re

[FCA]	quirements on a <i>management company</i> providing <i>collective portfolio management services</i> for a <i>UCITS</i> in its territory on a cross-border basis by establishing a <i>branch</i> or under the freedom to provide <i>cross border services</i> in respect of the subject matter of the <i>UCITS Directive</i> , except in the cases expressly permitted (see 11C below).
11B [FCA]	<p>A <i>management company</i> which provides <i>collective portfolio management services</i> on a cross-border basis by establishing a <i>branch</i> in another <i>EEA State</i> or under the freedom to provide services must comply with the <i>rules</i> of the <i>UCITS Home State</i> which relate to the constitution and functioning of the <i>UCITS</i>. Where the <i>UCITS Home State</i> is the <i>United Kingdom</i>, the applicable <i>rules</i> that the <i>EEA UCITS management company</i> must comply with are as follows:</p> <ol style="list-style-type: none"> <li>(1) <a href="#">COLL 12.3.4 R</a> (Provision of documentation to the FCA:EEA UCITS management companies);</li> <li>(2) the <i>fund application rules</i> (see <a href="#">COLL 12.3.5 R</a> (COLL fund rules under the management company passport: the fund application rules)); and</li> <li>(3) <a href="#">COLL 12.3.6 R</a> (Requirement to make information available to the public or the FCA).</li> </ol>
11C [FCA]	<p>A <i>management company</i>, however, which provides <i>collective portfolio management services</i> from a <i>branch</i> in another <i>EEA State</i>, is obliged under article 17(4) to comply with the applicable rules of the <i>Host State regulator</i> drawn up under article 14(1) that require a <i>management company</i> to:</p> <ol style="list-style-type: none"> <li>(1) act honestly and fairly in conducting its business activities in the best interests of the <i>UCITS</i> it manages and the integrity of the market;</li> <li>(2) act with due skill, care and diligence, in the best interests of the <i>UCITS</i> it manages and the integrity of the market;</li> <li>(3) have and employ effectively the resources and procedures that are necessary for the proper performance of its business activities;</li> <li>(4) try to avoid conflicts of interests and, when they cannot be avoided, to ensure that the <i>UCITS</i> it manages is fairly treated; and</li> <li>(5) comply with all regulatory requirements applicable to the conduct of its business activities so as to promote the best interests of its investors and the integrity of the market.</li> </ol>
11D [FCA]	<p>The <i>rules</i> implementing the requirements set out in paragraph 11C (1) to (5) are as follows:</p> <ol style="list-style-type: none"> <li>(1) <a href="#">SYSC</a>, to the extent indicated in column A+ (Application to management company) of Part 3 of <a href="#">SYSC 1 Annex 1</a> (Detailed application of SYSC); and</li> <li>(2) <a href="#">COBS</a>, to the extent indicated at paragraph 9.1 of Part 3 of <a href="#">COBS 1 Annex 1</a> (Application).</li> <li>(3) <a href="#">COLL 6.6A.2 R</a> (Duties of AFMs of UCITS schemes and EEA UCITS schemes to act in the best interests of the scheme and its Unitholders) (<i>branch</i> only);</li> <li>(4) <a href="#">COLL 6.6A.4 R</a> (Due diligence requirements of AFMs of UCITS schemes and EEA UCITS schemes) (<i>branch</i> only); and</li> <li>(5) <a href="#">COLL 6.6A.5 R</a> (Compliance with the regulatory requirements applicable to the conduct of business activities of a UCITS management company) (<i>branch</i> only).</li> </ol> <p>Territorial application of the <i>Handbook</i></p> <p>The auction regulation</p>
11E[FCA/ PRA]	<p>Where an <i>incoming EEA firm</i> exercises an <i>EEA right</i> under the <i>auction regulation</i> to provide services or establish a <i>branch</i> in the <i>United Kingdom</i>, it is carrying on <i>auction regulation bidding</i>. Authorisation and supervision of a <i>firm</i> under the <i>auction regulation</i> are almost exclusively matters reserved to the <i>Home State regulator</i>. The only requirements which the <i>FCA</i> has applied as <i>Host State regulator</i> under the <i>auction regulation</i> in respect of <i>auction regulation bidding</i> is on a <i>UK branch</i> in relation to safeguards against money laundering and financial crime as well as a statutory status disclosure obligation and requirements to notify the <i>FCA</i> (see Note 4 of SUP 13A Annex 1 G).</p>

11F [FCA] An *incoming EEA firm* that carries on *MiFID business bidding* is exercising an *EEA right* under *MiFID* and is subject to the *applicable provisions* relating to its carrying on of *MiFID business*. The respective responsibilities of the *Home State regulator* and *Host State regulator* are the same as under *MiFID*.

Requirements under *AIFMD*

11G [FCA] Article 33(5) of *AIFMD* prohibits *Host States* from imposing additional requirements on an *AIFM* to matters covered by *AIFMD* if the *firm* is managing an *AIF* on a cross-border basis by establishing a *branch* or providing *cross-border services* to manage an *AIF* in that *EEA State*, except as expressly permitted (see 11H below).

11H [FCA] Under article 45(2) (Responsibility of competent authorities in Member States) of *AIFMD* the supervision of an *AIFM's* compliance with articles 12 (General principles) and 14 (Conflicts of interest) are the responsibility of the *Host State* of the *AIFM* where the *AIFM* manages and/or markets an *AIF* through a *branch* in that *EEA State*.

11I [FCA] As a result, an *incoming EEA AIFM branch* is required to comply with the *AIFMD Host State requirements* (as set out below):

- (a) FUND 3.8;
- (b) SYSC 4.1.2C R;
- (c) SYSC 10.1.22 R to SYSC 10.1.26 R; and
- (d) COBS 2.1.4 R.

11J [FCA] Under article 32(5) of *AIFMD*, arrangements in point (h) of Annex IV of *AIFMD* for the *marketing* of *AIFs* is subject to the laws and supervision of the *Host State* of the *AIFM*.

11K [FCA] A *full-scope EEA AIFM* that is *marketing* an *AIF* in the *UK* using the *marketing passport* should have regard to the *financial promotions* regime, as explained in PERG 8.37.5G (2) (Communications with investors in relation to draft documentation).

Requirements under the *MCD*

11L Under article 34(2) of the *MCD*, ensuring compliance with the obligations in articles 7(1), 8, 9, 10, 11, 13, 14, 15, 16, 17, 20, 22 and 39 of the *MCD* by incoming *EEA branches* is the responsibility of the *Host State*. Responsibilities for ensuring compliance with all other obligations are the responsibility of the *Home State*.

11M Ensuring compliance with the obligations in the *MCD* by *EEA firms* providing *cross border services* is the responsibility of the *Home State*.

Requirements under the *IDD*

11N Under article 7(2) of the *IDD*, ensuring compliance with the obligations in Chapter V (articles 17 – 25) and Chapter VI (articles 27 – 30) of the *IDD* by incoming *EEA branches* is the responsibility of the *Host State*. Subject to article 7(1) (see 11P below), ensuring compliance with all other obligations is the responsibility of the *Home State*.

11O Subject to article 7(1) (see 11P below), ensuring compliance with the obligations in the *IDD* by *EEA firms* providing *cross border services* is the responsibility of the *Home State*.

11P Under article 7(1) of the *IDD*, if an *IDD insurance intermediary's primary place of business* is in a *Host State*, the *Home* and *Host State regulators* may agree that the *Host State regulator* will act as if it were the *Home State regulator*. This is only with regard to the provisions of Chapters IV, V, VI and VII of the *IDD* (see guidance in SUP 13A.6A).

12. [deleted]

13. Examples of how SYSC 3 and/or the common platform provisions apply in practice.

- (1) The Prudential Standards part of the *Handbook* do not apply to an *insurer* which is an *incoming EEA firm*. Similarly, SYSC 3 does not require such a *firm*:
  - (a) to establish systems and controls in relation to financial resources (SYSC 3.1.1 R); or
  - (b) to establish systems and controls for compliance with that Prudential Standards part of the *Handbook* (SYSC 3.2.6 R); or

- (c) to make and retain records in relation to financial resources (SYSC 3.2.20 R and SYSC 9.1.1 R to 9.1.4 G).
- (2) The Conduct of Business sourcebook (*COBS*) applies to an *incoming EEA firm*. Similarly, SYSC 3 and SYSC 4-10 do require such a *firm*, to the extent provided by SYSC 1 Annex 1:
  - (a) to establish systems and controls in relation to those aspects of the conduct of its business covered by applicable sections of *COBS* (SYSC 3.1.1 R and SYSC 4.1.1 R);
  - (b) to establish systems and controls for compliance with the applicable sections of *COBS* (SYSC 3.2.6 R and SYSC 6.1.1 R); and
  - (c) to make and retain records in relation to those aspects of the conduct of its business (SYSC 3.2.20 R and SYSC 9.1.1 R to 9.1.4 G).

See also Question 12 in SYSC 2.1.6 G for guidance on the application of SYSC 2.1.3 R (2)





## Chapter 14

# Incoming EEA firms changing details, and cancelling qualification for authorisation

**14.1 Application and purpose**

**Application**

- 14.1.1** G This chapter applies to an *incoming EEA firm* which has established a *branch* in, or is providing *cross border services* into, the *United Kingdom* under one of the *Single Market Directives* or the *auction regulation* and, therefore, qualifies for *authorisation* under Schedule 3 to the *Act*. The chapter does not apply to an *EEA firm* that is a *Solvency II firm* or to Gibraltar firms treated as such *Solvency II firms*. *Solvency II firms* and such Gibraltar firms should consult the relevant parts of the *PRA Rulebook* and the *PRA* website at: <http://www.bankofengland.co.uk/pr/Pages/authorisations/passporting/notifying.aspx> as the *PRA* is the *appropriate UK regulator*.
- 14.1.1A** G The *guidance* in ■ SUP 14.2 and ■ SUP 14.3 covers the *EEA Passport Rights Regulations*. It is not, however, relevant to an *EEA firm* exercising an *EEA right* under the *auction regulation*, except for ■ SUP 14.2.14 R which applies a separate notification requirement. Additionally, where an *EEA firm* is carrying on *MiFID business bidding*, that *firm* is exercising an *EEA right* under *MiFID* and so this chapter applies to that activity because it is *MiFID business*.
- 14.1.2** G ■ SUP 14.6 (Cancelling qualification for authorisation), which sets out how to cancel qualification for *authorisation* under the *Act*, also applies to:

  - (1) an *incoming Treaty firm* that qualifies for *authorisation* under Schedule 4 to the *Act*; and
  - (2) a *UCITS qualifier* that is an *authorised person* under Schedule 5 to the *Act*; a *UCITS qualifier* should, however, refer to ■ COLLG 3.1.11 G for full details of applicable *rules* and *guidance*.
- 14.1.3** G

  - (1) Under the *Gibraltar Order* made under section 409 of the *Act*, a Gibraltar firm is treated as an *EEA firm* under Schedule 3 to the *Act* if it is:
    - (a) [deleted]
    - (aa) [deleted]
    - (b) authorised in Gibraltar under the *CRD*; or;
    - (c) authorised in Gibraltar under the *IDD*; or
    - (d) authorised in Gibraltar under *MiFID*; or
    - (e) authorised in Gibraltar under the *UCITS Directive*; or

- (f) authorised in Gibraltar under *AIFMD*.
- (g) authorised in Gibraltar under the *MCD*

(1A) Similarly, an *EEA firm* which:

- (a) has satisfied the Gibraltar establishment conditions and has established a *branch* in the *UK*; or
- (b) has satisfied the Gibraltar service conditions and is providing *cross border services* into the *UK*;

is treated as having satisfied the *establishment conditions* or *service conditions* (as appropriate) under Schedule 3 to the *Act*.

(2) *Credit institutions, insurance intermediaries, investment firms, management companies, AIFMs and MCD credit intermediaries* are allowed to passport their services into the *United Kingdom* if they comply with the relevant notification procedures. So, any references in ■ SUP 14 to *EEA State* or *EEA right* include references to Gibraltar and the entitlement under the *Gibraltar Order* where appropriate.

### Purpose

- 14.1.4 G This chapter gives *guidance* on the *Act* and the *EEA Passport Rights Regulations* made under the *Act*, for an *incoming EEA firm* which has established a *branch* in, or is providing *cross border services* into, the *United Kingdom* and wishes to change the details of the *branch* or *cross border services*.  
  
[**Note:** An *EEA bank* is required to comply with the requirements set out in the directly applicable regulations adopted under Articles 35, 36 and 39 *CRD*.]
- 14.1.5 G This chapter also explains how an *incoming EEA firm*, an *incoming Treaty firm* or a *UCITS qualifier* may cancel its qualification for *authorisation* under the *Act*.
- 14.1.6 G This chapter does not, however, give *guidance* on the procedures for the establishment of a *branch* in, or the providing of *cross border services* into, the *United Kingdom* for the first time. So, an *incoming EEA firm* that wishes to change or supplement the nature of its operations in the *United Kingdom* from the providing of *cross border services* to the establishment of a *branch* (or vice versa) should refer to ■ SUP 13A (Qualifying for authorisation under the *Act*).
- 14.1.7 G In addition, the chapter does not give *guidance* on the procedures for making an application for *top-up permission*, to carry on *regulated activities* in the *United Kingdom* which are outside the scope of the *Single Market Directives* and for which the firm cannot exercise *Treaty rights*. *Incoming EEA firms* seeking a *top-up permission* should refer to ■ SUP 13A.
- 14.1.8 G The *FCA* and *PRA* will share with each other relevant information received, as necessary, in order to perform their respective functions.

## 14.2 Changes to branch details

- 14.2.1 **G** Where an *incoming EEA firm* is exercising an *EEA right* and has established a *branch* in the United Kingdom, the *EEA Passport Rights Regulations* govern any changes to the details of that *branch*. Where an *incoming EEA firm* has complied with the relevant requirements in the *EEA Passport Rights Regulations*, then the *firm's permission* given under Schedule 3 to the *Act* is to be treated as varied accordingly. All references to regulations in ■ SUP 14 are to the *EEA Passport Rights Regulations*.

### Firms passporting under the CRD and the UCITS Directive

- 14.2.2 **G**
- (1) Where an *incoming EEA firm* passporting under the *CRD* or the *UCITS Directive* has established a *branch* in the *United Kingdom*, regulation 4 states that it must not make a change in the *requisite details* of the *branch* unless it has complied with the relevant requirements.
  - (2) The relevant requirements are set out in regulation 4(4) or, where the change arises from circumstances beyond the *incoming EEA firm's* control, in regulation 4(5) (see ■ SUP 14.2.8 G).

- 14.2.3 **G** Where the change arises from circumstances within the control of the *incoming EEA firm*, the requirements in regulation 4(4) are that:
- (1) the *incoming EEA firm* has given notice to the *appropriate UK regulator* (see ■ SUP 14.4.1 G) and to its *Home State regulator* stating the details of the proposed change;
  - (2) the *appropriate UK regulator* has received a notice stating those details; and
  - (3) either:
    - (a) the *appropriate UK regulator* has informed the firm that it may make the change; or
    - (b) the period of one month beginning with the date on which the *incoming EEA firm* gave the *appropriate UK regulator* the notice mentioned in (1) has elapsed.

- 14.2.4 **G** Changes to the *requisite details* may lead to changes to the *applicable provisions* to which the *incoming EEA firm* is subject. The *appropriate UK regulator* will, as soon as practicable after receiving a notice in ■ SUP 14.2.3 G

- 14.2.21 **G** The *FCA* believes that, for a change to arise from circumstances beyond the control of an *incoming EEA firm*, the circumstances should be outside the control of the *incoming EEA firm* as a whole and not just its *UK branch*. For example, the *FCA* considers that this provision would be unlikely to apply to circumstances in which lack of planning at the *incoming EEA firm's* head office resulted in a problem arising in a *UK branch*. In practice, therefore, use of this provision is likely to be rare.

**Firms passporting under the IDD**.....

- 14.2.22 **G** As required by regulation 7C(1), where an *incoming EEA firm* passporting under the *IDD* has established a *branch* in the *UK*, it must not make a material change to any of the matters referred to regulation 2(9) unless it has complied with the relevant requirements in regulation 7C(4).

- 14.2.23 **G** The relevant requirements in regulation 7C(4) are that:
- (1) the *incoming EEA firm* has given notice to its *Home State regulator* stating the details of the proposed change; and
  - (2) the period of one month, beginning the day on which the *incoming EEA firm* gave the notice under (1), has elapsed.

**14.3 Changes to cross border services**

**14.3.1** **G** Where an *incoming EEA firm* passporting under the *MiFID, UCITS Directive, MCD, AIFMD or IDD* is exercising an *EEA right* and is providing *cross border services* into the *United Kingdom*, the *EEA Passport Rights Regulations* govern any changes to the details of those services. Where an *incoming EEA firm* has complied with the *EEA Passport Rights Regulations*, then the *firm's permission* under Schedule 3 to the Act is to be treated as varied.

**Firms passporting under the UCITS Directive**

**14.3.2** **G** Where an *incoming EEA firm* passporting under the *UCITS Directive* is providing *cross border services* into the *United Kingdom*, it must not make a change in the details referred to in regulation 5(1A) unless it has complied with the relevant requirements in regulation 5(3).

**14.3.3** **G** The relevant requirements in regulation 5(3) are that:

- (1) the *incoming EEA firm* has given a notice to the *FCA* (see **SUP 14.4.1 G**) and to its *Home State regulator* stating the details of the proposed change;
- (2) if the change arises from circumstances beyond the *incoming EEA firm's* control, that firm has, as soon as practicable, given to the *appropriate UK regulator* and to its *Home State regulator* the notice in (1).

**14.3.3A** **G** [deleted]

**14.3.4** **G** Under regulation 5(4), the *FCA* is required, as soon as practicable after receiving the notice in **SUP 14.3.3 G**, to inform the *incoming EEA firm* of any consequential changes in the *applicable provisions*.

**Firms passporting under MiFID**

**14.3.4A** **G** Where an *incoming EEA firm* passporting under *MiFID* is providing *cross border services* into the *United Kingdom*, it must not:

- (1) make a change in the details referred to in regulation 5A(1)(a); or

(2) use, for the first time, any *tier agent* to provide services in the *United Kingdom*; or

(3) cease to use *tier agents* to provide services in the *United Kingdom*;

unless it has complied with the relevant requirements in regulation 5A(3).

**14.3.4B** G The relevant requirements in regulation 5A(3) are that:

- (1) the incoming *EEA firm* has given notice to its *Home State regulator* stating the details of the proposed change; and
- (2) the period of one *month* beginning with the day on which the *incoming EEA firm* gave that notice has elapsed.

**14.3.4C** G Under regulation 5(4), the *FCA* is required, as soon as practicable after receiving the notice in ■ SUP 14.3.4B G, to inform the *incoming EEA firm* of any consequential changes in the applicable provisions.

**14.3.4D** G ■ SUP 14.3.4A G does not apply to a change occasioned by circumstances beyond the *incoming EEA firm's* control.

**Firms passporting under AIFMD**

**14.3.8** G Where an *EEA AIFM* is providing *cross-border services* to manage an *AIF* in the *UK*, it must not make a material change to:

- (1) the particulars of the programme of operations to be carried out in the *UK*, including the description of the particular *EEA* activities; or
- (2) the identity of the *AIFs* that the *EEA AIFM* intends to manage;

unless it has complied with the relevant requirement in regulation 7A(3).

**14.3.9** G Where an *EEA AIFM* is providing *cross-border services* to market an *AIF* in the *UK*, it must not make a material change to:

- (1) the documents and information referred to in Annex IV to *AIFMD*; or
- (2) the statement that the *EEA AIFM* is authorised to manage *AIFs* with a particular management strategy;

unless it has complied with the relevant requirement in regulation 7A(3).

**14.3.10** G The relevant requirement in regulation 7A(3) is that the *Home State regulator* has informed the *FCA* that it has approved the proposed change.

**Firms passporting under the MCD**

**14.3.11** G As required by regulation 7B(1), where an *incoming EEA firm* is providing *cross border services* under the *MCD* in the *UK*, it must not make a material change to any of the matters referred to in regulation 2(8)(b) to (e) or

regulation 3(6)(b) to (e), unless it has complied with the relevant requirements.

**14.3.12** **G** The relevant requirements are set out in regulation 7B(4) or, where the change arises from circumstances beyond the *incoming EEA firm's* control, regulation 7B(5).

**14.3.13** **G** Where the change arises from circumstances within the control of the *incoming EEA firm*, the relevant requirements in regulation 7B(4) are that:

(1) the *incoming EEA firm* has given a notice to the *FCA* and its *Home State regulator* stating the details of the proposed changes; and

(2) either:

(a) the *FCA* has informed the *incoming EEA firm* that it may make the change; or

(b) a period of one *month* has elapsed beginning with the day on which the *incoming EEA firm* gave the notice under (1).

**14.3.14** **G** Where the change arises from circumstances beyond the *incoming EEA firm's* control, the *incoming EEA firm* is required by regulation 7B(5) to give a notice to the *FCA* and to its *Home State regulator* stating the details of the change as soon as reasonably practicable.

#### **Firms passporting under the IDD**

**14.3.15** **G** As required by regulation 7C(1), where an *incoming EEA firm* is providing *cross border services* under the *IDD* in the *UK*, it must not make a material change to any of the matters referred to regulation 3(4) unless it has complied with the relevant requirements in regulation 7C(4).

**14.3.16** **G** The relevant requirements in regulation 7C(4) are that:

(1) the *incoming EEA firm* has given notice to its *Home State regulator* stating the details of the proposed change; and

(2) the period of one month, beginning the day on which the *incoming EEA firm* gave the notice under (1), has elapsed.



- (h) a breach of any directly applicable EU regulation made under *AIFMD*; or
  - (ha) a breach of the *benchmarks regulation* (apart from Annex II to that regulation) or of any directly applicable regulations or requirements made or imposed under the *benchmarks regulation*; or
  - (i) a breach of a directly applicable EU regulation made under the *IDD*;
- by (or as regards (c) against) the *firm* or any of its *directors, officers, employees, approved persons, or appointed representatives*, where applicable, *tied agents*.
- (2) A *firm* must make the notification in (1) immediately it becomes aware, or has information which reasonably suggests, that any of the matters in (1) has occurred, may have occurred or may occur in the foreseeable future.

**15.3.11A** G ■ SUP 15.3.11 R (1)(e) relates to the standard requirement in the *permission* of those *firms* which fall outside *MiFID* because of the Treasury's implementation of Article 3 of *MiFID*. *Guidance* on how the Treasury has exercised the Article 3 exemption for the *United Kingdom* is given in Q48 and the following questions and answers in ■ PERG 13.5 (Exemptions from MiFID).

**15.3.12** G In ■ SUP 15.3.11 R(1)(a) or (1)(aa), significance should be determined having regard to potential financial losses to *customers* or to the *firm*, frequency of the breach, implications for the *firm's* systems and controls and if there were delays in identifying or rectifying the breach.

**15.3.13** G In assessing whether an event that may occur in the foreseeable future should be notified to the *FCA* a *firm* should consider the *guidance* in ■ SUP 15.3.3 G.

**15.3.14** G A notification under ■ SUP 15.3.11 R should include:

- (1) information about any circumstances relevant to the breach or offence;
- (2) identification of the *rule* or requirement or offence; and
- (3) information about any steps which a *firm* or other *person* has taken or intends to take to rectify or remedy the breach or prevent any future potential occurrence.

**15.3.14A** G

- (1) Some matters that need to be notified under ■ SUP 15.3.11R may also have to be notified under ■ SUP 10A.14 (Changes to an FCA-approved person's details).
- (2) However, there is no need to make the same notification twice.

- (3) Any notification required under both ■ SUP 10C.14 and ■ SUP 15.3.11R should be made in accordance with ■ SUP 10C.14, which requires notification using Forms C or D.
- (4) ■ SUP 10C.14 only applies to relevant authorised persons. ■ SUP 10A.14 applies similar, but less extensive, obligations to firms that are not relevant authorised persons. Paragraphs (2) and (3) apply to those notifications as well. Such notifications should however be made under ■ SUP 10A.14.

15.3.14B G

- (1) Some matters that need to be notified under ■ SUP 15.3.11R may also have to be notified under ■ SUP 15.11 (Notification of COCON breaches and disciplinary action).
- (2) If the same thing has to be notified under ■ SUP 15.11 and ■ SUP 15.3.11R, a *firm* should make separate notifications under both. This is because:
  - (a) notification under ■ SUP 15.11 is annual and notification under ■ SUP 15.3.11R is immediate; and
  - (b) the details of what has to be notified under those requirements are different.

**Civil, criminal or disciplinary proceedings against a firm**

15.3.15 R

A *firm* must notify the FCA immediately if:

- (1) civil proceedings are brought against the *firm* and the amount of the claim is significant in relation to the *firm's* financial resources or its reputation; or
- (2) any action is brought against the *firm* under section 71 of the Act (Actions for damages) or section 138D (Actions for damages); or
- (3) disciplinary measures or sanctions have been imposed on the *firm* by any statutory or regulatory authority, competition authority, professional organisation or trade body (other than the FCA or the *firm* becomes aware that one of those bodies has started an investigation into its affairs; or
- (4) the *firm* is prosecuted for, or convicted of, any offence involving fraud or dishonesty, or any penalties are imposed on it for tax evasion; or
- (5) it is an *OPS firm*, which is a trustee, and is removed as trustee by a court order.

15.3.16 G

A notification under ■ SUP 15.3.15 R should include details of the matter and an estimate of the likely financial consequences, if any.

**Fraud, errors and other irregularities**

15.3.17 R

A *firm* must notify the FCA immediately if one of the following events arises and the event is significant:

- (1) it becomes aware that an *employee* may have committed a fraud against one of its *customers*; or
- (2) it becomes aware that a *person*, whether or not employed by it, may have committed a fraud against it; or

## Chapter 16

# Reporting requirements

**16.1 Application**

- 16.1.1 **R** This chapter applies to every *firm* and *qualifying parent undertaking* within a category listed in column (2) of the table in **■ SUP 16.1.3 R** and in accordance with column (3) of that table.
- 16.1.1A **D** The directions and *guidance* in **■ SUP 16.13** apply to a *payment service provider* as set out in that section.
- 16.1.1AA **G** *Credit institutions* and *electronic money institutions* should note that some of the directions in **■ SUP 16.13** apply to them as well as to *payment institutions* and *registered account information service providers*.
- 16.1.1B **D** The directions and *guidance* in **■ SUP 16.15** apply to *electronic money issuers* that are not *credit institutions*.
- 16.1.1C **G** The directions and *guidance* in **■ SUP 16.18** apply for the following types of *AIFM*:
  - (1) a *small registered UK AIFM*;
  - (2) an *above-threshold non-EEA AIFM marketing in the UK*; and
  - (3) a *small non-EEA AIFM marketing in the UK*.
- 16.1.1D **D** **■ SUP 16.21** applies to a *CBTL firm*.
- 16.1.1E **D** The *rules*, directions and *guidance* in **■ SUP 16.22** apply to a *payment service provider* located in the *UK* other than:
  - (1) a *credit union*;
  - (2) National Savings and Investments; and
  - (3) the Bank of England.
- 16.1.2 **G** The only categories of *firm* to which no section of this chapter applies are:
  - (1) an *ICVC*;
  - (2) an *incoming EEA firm* or *incoming Treaty firm*, unless it is:
    - (a) a *firm* of a type listed in **■ SUP 16.1.3 R** as a type of *firm* to which **■ SUP 16.6**, **■ SUP 16.7A**, **■ SUP 16.9**, **■ SUP 16.12**, **■ SUP 16.14**, or **■ SUP 16.23A** applies; or

(1) Section(s)	(2) Categories of firm to which section applies		(3) Applicable rules and guidance
		<i>scheme or an investment trust savings scheme; or</i>	
	(d)	a person who issues or manages the relevant assets of the issuer of a <i>structured capital-at-risk product</i> ; or	Entire section
	(e)	a firm with permission to enter into a regulated credit agreement as lender in respect of <i>high-cost short-term credit or home credit loan agreements</i> ; or	Entire section
	(2)	a firm in whom the rights and obligations of the lender under a <i>regulated mortgage contract</i> are vested.	The provisions governing performance data reports in SUP 16.11 and SUP 16 Annex 21
SUP 16.12	A firm undertaking the <i>regulated activities</i> as listed in SUP 16.12.4 R, unless exempted in SUP 16.12.1 G		Sections as relevant to <i>regulated activities</i> as listed in SUP 16.12.4 R
SUP 16.14	A <i>CASS large firm</i> and a <i>CASS medium firm</i>		Entire section
SUP 16.18	A <i>full-scope UK AIFM</i> and a <i>small authorised UK AIFM</i>		SUP 16.8.3 R
SUP 16.20	An <i>IFPRU 730k firm</i> and a <i>qualifying parent undertaking</i> that is required to send a <i>recovery plan</i> , a <i>group recovery plan</i> or information for a resolution plan to the <i>FCA</i>		Entire Section
SUP 16.23	A firm subject to the <i>Money Laundering Regulations</i> and within the scope of SUP 16.23.1R		Entire Section
SUP 16.23A	A firm undertaking the <i>regulated activities</i> in SUP 16.23A.1R, including all <i>incoming EEA firms</i> or <i>incoming Treaty firms</i> (including those providing <i>cross border services</i> and undertaking the same activities)		Entire section
SUP 16.24	A firm with permission to effect or carry out <i>contracts of insurance</i> in relation to <i>life and annuity contracts of insurance</i> to the extent that the firm and its business falls within the scope of SUP 16.24.1R.		Entire Section
Note 1 [deleted]			
Note 2 : = The application of SUP 16.13 is set out under SUP 16.13.1 G; the application of SUP 16.15 is set out under SUP 16.15.1 G; the application of SUP 16.16 is set out SUP 16.16.1 R and SUP 16.16.2 R and the application of SUP 16.17 is set out in SUP 16.17.3 R and SUP 16.17.4 R.			
Note 3 : = The application of SUP 16.18 for the types of <i>AIFMs</i> specified in SUP 16.1.1C G is set out in SUP 16.18.2 G.			

16.1.4 G

(1) This chapter contains requirements to report to the *FCA* on a regular basis. These requirements include reports relating to a firm's financial condition, and to its compliance with other *rules* and requirements

which apply to the *firm*. Where the relevant requirements are set out in another section of the *Handbook*, this chapter contains cross references. An example of this is financial reporting for *insurers* and *friendly societies*.

- (2) Where such requirements already apply to a *firm* under legislation other than the *Act*, they are not referred to in this chapter. An example of this is reporting to the *FCA* by *building societies* under those parts of the Building Societies Act 1986 which have not been repealed.
- (3) Requirements for individual *firms* reflect:
  - (a) the category of *firm*;
  - (b) the nature of business carried on;
  - (c) whether a *firm* has its registered office (or if it does not have a registered office, its head office) in the *United Kingdom*;
  - (d) whether a *firm* is an *incoming EEA firm* or *incoming Treaty firm*; and
  - (e) the regulated activities the *firm* undertakes.

16.1.5 G [deleted]

16.1.6 G [deleted]

16.1.7 G Where a *PRA-authorized person* is required to notify or provide any information to (a) the *FCA* by a *PRA Handbook* provision and (b) the *FCA* by the equivalent provision in the *FCA Handbook*, the *PRA-authorized person* is expected to comply with both provisions.

- (14) remuneration reporting (■ SUP 16.17);
- (15) AIFMD reporting (■ SUP 16.18);
- (16) reporting under the MCD Order for CBTL firms (SUP 16.21).
- (17) reporting under the Payment Accounts Regulations (■ SUP 16.22);
- (18) annual financial crime reporting (■ SUP 16.23); and
- (18A) employers' liability register compliance reporting (■ SUP 16.23A).
- (19) retirement income data reporting (■ SUP 16.24).

**16.3.3** **G** The annual controllers, annual close links, persistency and annual appointed representatives reports sections are the same for all categories of *firm* to which they apply.

**16.3.4** **G** The compliance section is set out by category of *firm*, with detailed requirements set out in tables giving:

- (1) a brief description of each report;
- (2) the frequency with which the report is required; and
- (3) the due date for submission of the report.

**16.3.5** **G** Further requirements about the reports, such as form and content, are set out in the sections for each category of *firm*, where this is appropriate. In many cases, however, it is more appropriate to provide this information by means of a separate annex; in these cases the relevant section refers to the annex.

**How to submit reports**

**16.3.6** **R** A periodic report required to be submitted under this chapter, or under any other *rule*, must be submitted in writing in accordance with ■ SUP 16.3.7 R to ■ SUP 16.3.10 G, unless:

- (1) a contrary intention appears; or
- (2) the report is required under the *listing rules*.

**16.3.7** **R** A report or *data item* must:

- (1) give the firm reference number (or all the firm reference numbers in those cases where a report is submitted on behalf of a number of *firms*, as set out in ■ SUP 16.3.25 G); and
- (2) if submitted in paper form, be submitted with the cover sheet contained in ■ SUP 16 Annex 13 R fully completed.

**16.3.8** **R** A written report must be delivered to the *FCA* by one of the methods listed in **■ SUP 16.3.9 R**.

**16.3.9** **R** **Method of submission of reports (see **■ SUP 16.3.8 R**)**

Method of delivery	
1.	Post or hand deliver to the published address of the <i>FCA</i> for submission of reports. If hand delivering mark the report for the attention of 'Central Reporting' and obtain a dated receipt.
2.	[deleted]
3.	Electronic mail to the published e-mail address of the <i>FCA</i> 's Central Reporting team.
4.	Online submission via the appropriate systems accessible from the <i>FCA</i> website

**16.3.10** **G** (1) The published address of the *FCA* for postal submission of reports is:

Central Reporting  
The Financial Conduct Authority  
PO BOX 35747  
London E14 5WP

(2) The published address of the *FCA* for hand delivery of reports is:

(a) Central Reporting  
The Financial Conduct Authority  
12 Endeavour Square  
London, E20 1JN

if the *firm's* usual supervisory contact at the *FCA* is based in London, or:

(b) Central Reporting  
The Financial Conduct Authority  
Quayside House  
127 Fountainbridge  
Edinburgh EH3 8DJ

if the *firm's* usual supervisory contact at the *FCA* is based in Edinburgh.

(3) The current published email address for the *FCA*'s Central Reporting team is regulatory.reports@fca.org.uk . Please note that the Central Reporting team does not handle general correspondence between *firms* and the *FCA*, and will not respond to queries. Accordingly, firms should not make submissions to the Central Reporting team's email address other than as directed in **■ SUP 16.3.8R**.

**Complete reporting**

**16.3.11** **R** A *firm* must submit reports required under this chapter to the *FCA* containing all the information required.



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**Method for submitting the Annual Financial Crime Report**  
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- 16.23.6** **R** A *firm* must submit the Annual Financial Crime Report in the form specified in ■ SUP 16 Annex 42AR using the appropriate online systems accessible from the *FCA's* website.

**Time period for firms submitting their Annual Financial Crime Report**  
.....

- 16.23.7** **R** A *firm* must submit the Annual Financial Crime Report within 60 *business days* of the *firm's* accounting reference date.

**16.23A Employers' Liability Register compliance reporting**

**Application**

16.23A.1 **R**

This section applies to any *firm* required to produce an employers' liability register in compliance with the requirements in ■ ICOPS 8.4.4R, which is:

- (a) a *firm carrying out contracts of insurance, or a managing agent managing insurance business*, including in either case business accepted under *reinsurance to close*, which includes *United Kingdom commercial lines employers' liability insurance*; and
- (b) an *incoming EEA firm or incoming Treaty firm* falling within (a), including those providing *cross border services*.

(2) In this section:

- (a) a "*director's certificate*" refers to a statement complying with the requirements in ■ SUP 16.23A.5R(1);
- (b) "*employers' liability insurance*" includes business accepted under *reinsurance to close covering employers' liability insurance* (including business that is only included as *employers' liability insurance* for the purposes of this section);
- (c) a "*qualified director's certificate*" refers to the statement complying with the requirements in ■ SUP 16.23A.5R(1)(b);
- (d) "*materially compliant*" has the meaning in ■ SUP 16.23A.5R;
- (e) the "*register*" is the employers' liability register complying with the requirements in ■ ICOPS 8.4.4R and ■ ICOPS 8 Annex 1;
- (f) the "*return*" is the employers' liability register compliance return at ■ SUP 16 Annex 44AR; and
- (g) "*supporting documents*" are the *director's certificate* and auditor's report specified in ■ SUP 16.23A.5R and ■ SUP 16.23A.6R.

**Purpose**

16.23A.2 **G**

■ ICOPS 8.4.4R requires a *firm* to produce the register. The register must be produced in compliance with the updating requirements in ■ ICOPS 8.4.11R(2). ■ SUP 16.23A sets out further requirements on the *firm* to obtain and submit to the *FCA* a statement that the *firm's* production of the register complies with the requirements in ■ ICOPS 8.4.4R, including supporting documents from a *director* and an auditor. It specifies the time, form and method of providing that information.

**Reporting requirement**

16.23A.3 **R**

- (1) A *firm* must submit the return annually to the *FCA*.
- (2) The return must be in relation to the register as at 31 March, covering the period of production of the register from 1 April to 31 March.
- (3) The return must be submitted online through the appropriate systems made available by the *FCA*:
  - (a) between the 1 and 31 August each year;
  - (b) in the format set out in ■ SUP 16 Annex 44AR; and
  - (c) any supporting documents must be provided in pdf format.

**Content of return and supporting documents**

16.23A.4 **R**

The return consists of the information required in the form at ■ SUP 16 Annex 44AR and the supporting documents specified in ■ SUP 16.23A.5R and ■ SUP 16.23A.6R.

**Director's certificate**

16.23A.5 **R**

- (1) A *firm* must obtain and submit to the *FCA* a written statement, by a *director* of the *firm* responsible for the production of the register, that, to the best of the *director's* knowledge, during the reporting period the *firm* in its production of the register is either:
  - (a) materially compliant with the requirements of ■ ICOBS 8.4.4R(2) and ■ ICOBS 8 Annex 1, including (where necessary) how the firm has used and continues to use its best endeavours in accordance with ■ ICOBS 8 Annex 1.1.1CR; or
  - (b) not materially compliant with the provisions referred to in ■ SUP 16.23A.5R(1)(a), in which case the statement must also set out, to the best of the *director's* knowledge, the information required by ■ SUP 16.23A.5R(3).
- (2) For the purposes of ■ SUP 16.23A.5R and ■ SUP 16.23A.6R, "materially compliant" means that in relation to at least ninety-nine percent of *policies* for which information is required to be included, the information in the register does not contain any inaccuracy or lack faithful reproduction (as relevant) that would affect the outcome of a search when compared to a search carried out with fully accurate and/or faithfully reproduced information.
- (3) The information referred to in ■ SUP 16.23A.5R(1)(b) is:
  - (a) a description of the ways in which the *firm*, in its production of the register, is not materially compliant;
  - (b) the number of *policies*, in relation to which, either:
    - (i) the *firm* is not able to include any information in the register; and/or
    - (ii) information is included in the register but information may be incorrect or incomplete,
 in each case as a proportion of the total number of *policies* required to be included in the register;

**16.23A.5A** G

- (c) where the *firm* is only practicably able to provide an estimate of the numbers in ■ SUP 16.23A.5R(3)(b), the basis of each estimate; and
  - (d) a description of the systems and controls used in the production of the register and of the steps, together with relevant timescales, that the *firm* is taking to ensure that it will be materially compliant as soon as practicable.
- (4) The *firm* must ensure that the *director's* certificate includes the description of "materially compliant" referred to in ■ SUP 16.23A.5R(2).
- (1) In relation to the written statement referred to in ■ SUP 16.23A.5R(1):
- (a) ■ SUP 16.23A.5R(1) does not preclude the relevant *director* from, in addition, including in the *director's* statement any of the following as relevant:
    - (i) if a *firm's* employers' liability register is more than materially compliant, a statement to this effect, and/or a statement of the extent to which the *director* considers, to the best of their knowledge, the *firm* to be compliant in its production of the register;
    - (ii) reasons for the level of any non-compliance; and/or
    - (iii) information relating to policies which are not required to be included in the register;
  - (b) the statement regarding the *firm's* level of compliance with the requirements in ■ ICOBS 8.4.4R(2) and ■ ICOBS 8 Annex 1, and, in relevant cases, the steps the *firm* is undertaking to ensure material compliance as soon as practicable, does not alter the underlying requirement that the *firm* has to comply fully with the relevant requirements in ■ ICOBS 8.4.4R(2) and ■ ICOBS 8 Annex 1 (that is, not just to a material extent). So, it is possible that a *firm* will be able to comply with ■ SUP 16.23A.5R(1) but continue to not fully comply with the underlying requirements, for example in respect of the *policies* falling outside the ninety-nine percent threshold. In relation to these *policies*, as well as those identified in any qualified *director's* certificate, the *firm* will need to remedy errors or omissions as soon as practicable, and have systems and controls in place to give effect to these on an ongoing basis.

**Auditor's report**

**16.23A.6** R

- (1) A *firm* must obtain and submit to the FCA a report satisfying the requirements of ■ SUP 16.23A.6R(2), prepared by an auditor satisfying the requirements of ■ SUP 3.4 and ■ SUP 3.8.5R to ■ 3.8.6R, and addressed to the directors of the *firm*.
- (2) The report referred to in ■ SUP 16.23A.6R(1) must:
  - (a) be prepared on the basis of providing an opinion under a *limited assurance engagement* confirming whether the auditor has found no reason to believe that the *firm*, solely in relation to the *firm's* extraction of information from its underlying records, has not materially complied with the requirements in ■ ICOBS 8.4.4R(2) and ■ ICOBS 8 Annex 1 in the production of its employer's liability

register during the reporting period, having regard in particular to the possible errors and omissions referred to in

■ SUP 16.23A.6R(2)(c) below;

- (b) use the description of "material compliance" as referred to in ■ SUP 16.23A.5R(2), adapted as necessary to apply solely to the *firm's* extraction of information from its underlying records;
- (c) address, in particular, the following risks:
  - (i) information relating to certain *policies* issued or renewed on or after 1 April 2011 is entirely omitted from the register even though some relevant policy details are included in the *firm's* underlying records;
  - (ii) information relating to certain *policies* in respect of which claims were made on or after 1 April 2011 is entirely omitted from the register even though some relevant policy details are included in the *firm's* underlying records;
  - (iii) relevant information required to be included in the register, and which is included in the *firm's* underlying records, is omitted from, or is inaccurately entered on to, the register; and
  - (iv) information relating to *policies* which do not provide *employers' liability insurance* are included in the register.

**16.23A.7** **R** For the purposes of ■ SUP 16.23A.5R(1) and ■ SUP 16.23A.6R(1) the *director's* certificate and report prepared by an auditor must be obtained and submitted to the FCA within the timeframe set out in ■ SUP 16.23A.3R(3)(a) and in the format set out in ■ SUP 16 Annex 44AR.

## 16.24 Retirement income data reporting

### Application

16.24.1

R

This section applies to:

- (1) (a) a firm with permission to establish, operate or wind up a personal pension scheme or a stakeholder pension scheme; and  
(b) a firm with permission to effect or carry out contracts of insurance in relation to life and annuity contracts of insurance.
- (2) This rule does not apply to an incoming firm:
  - (a) in respect of that part of its business that was carried on as an electronic commerce activity; or
  - (b) if the customer is habitually resident in (and, if applicable, the State of the risk is) an EEA State other than the United Kingdom, to the extent that the EEA State in question imposes measures of like effect.

### Purpose

16.24.2

G

- (1) The purpose of this section is to set out the requirements for the firms specified in ■ SUP 16.24.1R to report retirement income data.
- (2) The purpose of collecting this data is to assist the FCA in the ongoing supervision of firms providing certain retirement income products and to enable the FCA to gain a wider understanding of market trends in the interests of protecting consumers.

### Reporting requirement

16.24.3

R

- (1) A firm must submit:
  - (a) a retirement income flow data return half-yearly; and
  - (b) a retirement income stock data and withdrawals flow data return annually;  
within 45 business days of the end of the relevant reporting period.
- (2) The relevant reporting periods are as follows:
  - (a) for retirement income flow data returns, the six month periods ending on 31 March and 30 September in each calendar year;

for retirement income stock data and withdrawals flow data returns, the twelve month period ending on 31 March in each calendar year.

(3) A *firm* must submit a nil return if there is no relevant data to report.

(4) A *firm* must submit its completed returns to the *FCA* online through the appropriate systems accessible from the *FCA*'s website using the forms set out in ■ SUP 16 Annex 43AR.

16.24.4 **G** Guidance for completion of the returns in ■ SUP 16.24.3R(1) is set out in ■ SUP 16 Annex 43BG.

16.24.5 **G** *Firms'* attention is drawn to ■ SUP 16.3.25G regarding reports from a group.





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## **Annual questionnaire for authorised professional firms**

This annex consists only of the Annual Questionnaire for Authorised Professional Firms

[Forms/sup/SUP\\_16\\_ann\\_09\\_20181001.pdf](#)



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**Guidance notes for completion of annual questionnaire for authorised  
professional firms in SUP 16 Annex 9R**

This annex consists only of one or more forms. Forms are to be found through the following address:

SUP Chapter 16 Annex 9A G



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## **Retail Mediation Activities Return ('RMAR')**

This annex consists only of one or more forms. Forms are to be found through the following address:

*Retail Mediation Activities Return ('RMAR')* - SUP Chapter 16 Annex 18A R



## Notes for Completion of the Retail Mediation Activities Return ('RMAR')

### Introduction: General notes on the RMAR

1. These notes aim to assist *firms* in completing and submitting the relevant sections of the **Retail Mediation Activities Return ('RMAR')**.
2. The purpose of the *RMAR* is to provide a framework for the collection of information required by the *FCA* as a basis for its supervision activities. It also has the purpose set out in *paragraph 16.12.2G* of the Supervision Manual, i.e. to help the *FCA* to monitor *firms'* capital adequacy and financial soundness.

### Defined terms

3. *Handbook* terms are italicised in these notes.
4. Terms referred to in the *RMAR* and these notes, where defined by the Companies Acts 1985 or 2006, as appropriate, or other relevant accounting provisions, bear that meaning for these purposes. The descriptions indicated in these notes are designed simply to repeat, summarise or amplify the relevant statutory or other definitions and terminology without departing from their full meaning or effect.

### Key abbreviations

5. The following table summarises the key abbreviations that are used in these notes:

APF	<i>Authorised professional firm</i>
AR	<i>Appointed representative</i>
CAD	The <i>Capital Adequacy Directive</i>
CASS	The Client Assets sourcebook, part of the <i>Handbook</i>
COBS	The Conduct of Business sourcebook, part of the <i>Handbook</i>
CREDS	The Credit unions sourcebook, part of the <i>Handbook</i>
DISP	Dispute resolution: Complaints sourcebook, part of the <i>Handbook</i>
EEA	The <i>European Economic Area</i>
ICOB	The Insurance: Conduct of Business sourcebook, part of the <i>Handbook</i>
IDD	The <i>Insurance Distribution Directive</i>
IMD	The <i>Insurance Mediation Directive</i>
IPRU(INV)	The Interim Prudential sourcebook for investment businesses, part of the <i>Handbook</i>
ISD	The <i>Investment Services Directive</i>
LTCI	Long term care insurance
MCOB	The Mortgages and Home Finance: Conduct of Business sourcebook, part of the <i>Handbook</i>
MiFID	The <i>Markets in Financial Instruments Directive</i>
MIPRU	The Prudential sourcebook for Mortgage and Home Finance Firms, and Insurance Intermediaries
PII	Professional indemnity insurance

RMAR	Retail Mediation Activities Return, i.e. the information requirements to which these notes refer.
SUP	The Supervision manual, part of the <i>Handbook</i>
TC	Training and Competence, part of the <i>Handbook</i>

## Scope

6. The following *firms* are required to complete the sections of the *RMAR* applicable to the activities they undertake as set out in ■ SUP 16.12:

(a) *firms* with permission to carry on insurance distribution activity in relation to non-investment insurance contracts.

By way of example, this would include a broker advising on private motor insurance, household insurance or critical illness cover. It would not though include *advice* on a *life policy*;

(b) *firms* with permission to carry on home finance mediation activity;

(d) *firms* (defined as *retail investment firms*) that have *retail clients*, and have permission to carry on the following activities in relation to *retail investment products*:

(i) *advising on investments*;

(ii) *arranging (bringing about) deals in investments*;

(iii) *making arrangements with a view to transactions in investments*;

*Retail investment products* are defined as:

(i) a *life policy*; or

(ii) a *unit*; or

(iii) a *stakeholder pensions scheme*; or

(iv) a *personal pension scheme*; or

(v) an *interest in an investment trust savings scheme*; or

(vi) a *security in an investment trust*; or

(vii) any other *designated investment* which offers exposure to underlying financial assets, in a packaged form which modifies that exposure when compared with a direct holding in the financial asset; or

(viii) a *structured capital-at-risk product*;

whether or not any of (i) to (vii) are held within an *ISA* or a *CTF*; and

(c) *personal investment firms*;

(e) other investment *firms* that have permission to *advise on P2P agreements* and do not carry on that activity exclusively with or for *professional clients*.

16

For the purposes of completing the *RMAR* in relation to the activity of *advising on P2P agreements* only, 'retail investments' and '*retail investment products*' should be understood as including *P2P agreements*, and references to retail investment advising and retail investment activity should be understood as including *advice on P2P agreements*.

The practical effect of the *retail client* limitation in the definition of *retail investment firms* is to exclude from the requirements *firms* that carry on *retail investment activities* exclusively with or for *professional clients* or *eligible counterparties*.

[Note: all *long-term care insurance contracts* are defined as *life policies*, and as such are included as *retail investment products*]

7. [deleted]

8. [deleted]



EEA firms

9. In accordance with the relevant directives, *incoming EEA firms* are not subject to all reporting requirements. In broad terms, this means that *incoming EEA firms* carrying on *regulated activities* by way of *cross border services* only are not required to complete the *RMAR*.

10. In broad terms, *incoming EEA firms* carrying on *regulated activities* through a branch in the *United Kingdom* are not required to complete the sections of the *RMAR* in the following table.

Prudential reporting requirements	Section A (balance sheet)
	Section B (profit & loss)
	Section C ( <i>client money</i> )
	Section D (capital requirements)
Threshold conditions	Section E (professional indemnity insurance)
	Section F (save in relation to questions about <i>approved persons</i> )
Training and Competence	Section G
<i>Adviser charges</i>	Section K

11. *Firms* that only carry on reinsurance distribution are not required to complete sections C or K.

Authorised professional firms

12. *Authorised professional firms* ('APFs') that are subject to ■ IPRU-INV 2.1.3R (for their *investment activity*) or ■ MIPRU 4.1.10R (for *insurance distribution activity* or *home finance mediation activity*) are not required to complete sections A, B2 or D. APFs that are members of the Law Society of England and Wales, the Law Society of Scotland or the Law Society of Northern Ireland are also not required to complete section C (see below).

13. The application of the capital requirements to APFs is set out in ■ IPRU-INV 2.1.2R (for *retail investment activity*) and ■ MIPRU 4.1.10R (for *home finance mediation activity* and *insurance distribution activity*).

14. Where APFs are required to submit financial information (i.e. sections A to E), they should do so in relation to all of their *regulated activities*. Sections F and K should also be completed in relation to all *regulated activities*. Other sections (G to I) need not include information in relation to *non-mainstream regulated activities*. However, APFs may complete all sections on the basis of all of their *regulated activities* if this approach is more cost effective.

Accounting principles

15. Subject to paragraph 15A below, which is in respect of section K only, the following principles should be adhered to by *firms* in the submission of financial information (sections A to E and section K).

(a) Unless a rule requires otherwise, amounts to be reported within the *firm's* balance sheet and profit and loss account should be determined in accordance with:

- (i) the requirements of all relevant statutory provisions (e.g. Companies Act 2006, and secondary legislation made under this Act) as appropriate;
- (ii) UK generally accepted accounting practice (UK GAAP) or, where applicable, *international accounting standards*;
- (iii) the provisions of (c) and (d) below.

(b) If the *firm* is a body corporate with one or more *subsidiaries*, its financial statements should be unconsolidated.

(c)

- (i) With the exception of section J, and sections K from 31 December 2012, all amounts should be shown in one of the reporting currencies accepted by the GABRIEL system, unless otherwise specified in the *Handbook* (e.g. in ■ MIPRU 3.2.7R). Section J, and sections K from 31 December 2012, must be completed in pounds sterling.

(ii) A *firm* should translate assets and liabilities denominated in other currencies into the chosen reporting currency using the closing mid-market rate of exchange.

(iii) Taxation, when reported at a quarter or half year end, should be based on an estimate of the likely effective tax rate for the year applied to the interim.

(iv) Balances on *client bank accounts* and related client accounts must not form part of the *firm's* own balance sheet.

(d) No netting is permitted (that is, amounts in respect of items representing assets or income may not be offset against amounts in respect of items representing liabilities or expenditure, as the case may be, or vice versa).

15A. For the completion of section K, all figures should be provided on an accruals basis in line with UK Generally Accepted Accounting Practice (UK GAAP) or International Accounting Standards (IAS), unless a *firm* elects to complete section K on a cash basis. A *firm* may elect to complete section K, and only section K, on a cash basis by selecting this as the accounting basis for section K on GABRIEL.

Other

16. You will note that some questions in the *RMAR* refer to the "last reporting date". If the *RMAR* is being completed for the first time, you should treat the date the *firm* became authorised to carry on any of the relevant *regulated activities* as the "last reporting date", except where otherwise indicated (e.g. in sections E & H).

Where questions in the *RMAR* refer to "as at the end of the reporting period", you should treat the last day of the reporting period specified on GABRIEL as "as at the end of the reporting period".

17. Unless otherwise indicated, the information submitted should cover all of the *firm's* transactions in the relevant products, and all of its customers and *market counterparties* (where relevant).

### NOTES FOR COMPLETION OF THE RMAR

#### Section A: Balance sheet

The balance sheet data should be compiled in accordance with generally accepted accounting practice. Incorporated *firms* will already be submitting this information to Companies House under Companies Act requirements, and it would normally be expected that non-incorporated *firms* would compile this data for management purposes.

*Insurance intermediaries* subject to *MIPRU* should, where debtors include amounts owed by their directors, group undertakings or undertakings in which the firm has a participating interest, enter the total amount falling due to the firm within one year in the data entry field entitled:

"Memo (1):

Total amount falling due within one year from directors, fellow group undertakings or undertakings in which the firm has a participating interest where included in Debtors."

*Insurance intermediaries* subject to *MIPRU* should, where they include *shares* in *group undertakings* as part of their investments, where such investments are held as current assets, enter the total value to the *firm* in the data entry field entitled:

"Memo (2):

Value of shares in group undertakings where such investments are held as current assets."

If further assistance is required in completing the balance sheet, professional guidance should be sought.

This information will be used by the *FCA* to monitor the *firm's* financial position and satisfy itself as to the *firm's* ongoing solvency. Aggregated data may also be used to inform our supervision activities.

The frequency of reporting for this section is determined by ■ SUP 16.12.

Firms that have *appointed representatives* ('ARs') should note that balance sheet data should be submitted for the *firm* only, not its ARs.

**Section B: Profit & loss account**

Profit & loss ('P&L') should be reported on a cumulative basis throughout the *firm's* financial year.

**B1 – regulated business revenue:** covers the data required on the *firm's* revenue from its *regulated activities* within the scope of the *RMAR*.

**B2 – other P&L:** incorporates the remainder of the profit & loss data requirements.

*Firms* that receive combined income in relation to both regulated and non-regulated activities may have difficulties in separately identifying their regulated income from their non-regulated income. If this is the case, *firms* should, (a) in the first instance, ask the provider of the income for an indication of the regulated/non-regulated split; and (b) if this is not available, make an estimate of the income derived from each activity.

In sub-section B1, a *firm* that has *appointed representatives* ('ARs'), including a *network*, should ensure that the figures submitted for income are calculated before deducting any commissions shared with its ARs in respect of the *regulated activities* for which the *firm* has accepted responsibility as *principal*.

[**Note:** *Home purchase, reversion and regulated sale and rent back activity* should be included under the existing mortgage headings in this section of the *RMAR*]

Guide for completion of individual fields

Commissions (gross)	<p>This should include all commission income in respect of the relevant regulated business:</p> <ul style="list-style-type: none"> <li>• for <i>home finance transactions</i>, this includes commissions received for <i>advising on home finance transactions</i> and <i>arranging</i>, but not, providing and administration;</li> <li>• for <i>non-investment insurance contracts</i>, it should include commissions received for advising, arranging and dealing activities;</li> <li>• for <i>retail investments</i>, only commission received in relation to the relevant activities should be recorded here.</li> </ul> <p>Gross commissions will include commission that is received and passed on to another <i>person</i>.</p> <p>Where commission is shared between two or more <i>firms</i>, the gross commission should not be double counted, i.e. each <i>firm</i> should report only the commission it has received.</p>
Commissions (net)	<p>This should be the amount of the gross commission figure that is retained by the <i>firm</i> and, where applicable, its <i>appointed representatives</i>, (i.e. not passed on to another <i>person</i>) in respect of each type of business.</p>
Fees/ Adviser charges / Consultancy charges	<p>You should record here <i>adviser charges</i> and <i>consultancy charges</i>, and net income received from <i>customers</i> or other sources on a fixed fee rather than commission basis, but only in respect of the relevant <i>regulated activities</i>.</p>
Other income from regulated activities	<p>You should record here any income that has derived from the relevant <i>regulated activities</i> during the reporting period, which has not been recorded under commissions or fees, <i>adviser charges</i> or <i>consultancy charges</i>.</p> <p>Such income may include interest on <i>client money</i>, where the <i>firm</i> is permitted to retain this, or payments made by product providers on a basis other than fees or commissions.</p>

Regulated business revenue	<p>This is the total of the <i>firm's</i> income during the reporting period in relation to its relevant <i>regulated activities</i>.</p> <p>For an <i>insurance intermediary</i> or a <i>home finance intermediary</i>, this should be calculated in the same way as 'annual income', as specified in MIPRU 4.3.3R (although in this context the period is not generally annual).</p> <p>This rule states: "For a firm which carries on <i>insurance distribution activity</i> or <i>home finance mediation activity</i>, annual income... is the amount of all brokerage, fees, <i>commissions</i> and other related income (for example, administration charges, overrides, profit shares) due to the <i>firm</i> in respect of or in relation to those activities".</p>
Income from other regulated activities	You should record here any income from other <i>regulated activities</i> outside the scope of the <i>RMAR</i> .
Other revenue (income from non-regulated activities)	You should record here any income from other <i>regulated activities</i> outside the scope of the <i>RMAR</i> .

**Section C Client money and assets**

'Client money' is defined in the *Glossary*. In broad terms, *client money* includes *money* that belongs to a *client*, and is held by a *firm* in the course of carrying on *regulated activities*, for which the *firm* has responsibility for its protection. It does not include *deposits* (where the *firm* acts as deposit-taker).

The *client money rules* define further what is and is not *client money*, and set out requirements on *firms* for the proper handling of and accounting for *client money*. If a *firm* holding *client money* fails there is a greater direct risk to consumers and a greater adverse impact on market confidence compared (for example) to a *firm* that only holds *money* under risk transfer arrangements.

**Note 1:** a *firm* should complete section C of the *RMAR* for the *money* it receives or holds in the course of, or in connection with, its *insurance mediation activity* (see ■ CASS 5).

**Note 2:** [deleted]

**Note 3:** a *firm* that receives or holds *money* for its *MiFID business* or *designated investment business* that is not *MiFID business* and holds *money* to which ■ CASS 5 applies, may make an election under ■ CASS 7.10.3R(1) or (2) to comply with ■ CASS 7 for *money* it receives in the course of, or in connection with, its *insurance distribution activities*. Where a *firm* has made such an election, it should not complete section C of the *RMAR*, except to confirm that it holds *money* in connection with *insurance distribution activities* and has elected to comply with ■ CASS 7.

**Note 4:** a *firm* (e.g., a property management *firm*) that complies with the Royal Institute of Chartered Surveyors (RICS) Members' Accounts rules or, in relation to a service charge, the requirement to segregate such *money* in accordance with section 42 of the Landlord and Tenant Act (LTA) 1987 is deemed to comply with ■ CASS 5.3 to ■ CASS 5.6, provided that it satisfies the requirements of ■ CASS 5.5.49R to the extent that the *firm* will hold *money* as trustee or otherwise on behalf of its clients. Such a *firm* should only complete the questions in section C of the *RMAR* indicated in the guide for completion of individual fields below.

**Note 5:** an *authorised professional firm* regulated by The Law Society (of England and Wales), The Law Society of Scotland or The Law Society of Northern Ireland must comply with the rules of its *designated professional body* as specified in ■ CASS 5.1.4R, and if it does so, it will be deemed to comply with ■ CASS 5.2 to ■ CASS 5.6. These *firms* are not therefore required to complete section C of the *RMAR*.

**Note 6:** this *data item* does not apply to *firms* who only carry on *home finance mediation activities* exclusively in relation to *second charge regulated mortgage contracts* or *legacy CCA mortgage contracts*

(or both) and who are not otherwise expected to complete it by virtue of carrying out other *regulated activities*: see ■ SUP 16.12.28AR, Note 3.

**Note 7:** *firms* should complete all applicable fields.

Guide for completion of individual fields

Question	Guidance notes
Does your <i>firm</i> receive or hold <i>money</i> in the course of, or in connection with, its <i>insurance distribution activity</i> ?	<i>Firms</i> should answer 'yes' here if they hold <i>money</i> such that CASS 5.1 to CASS 5.6 applies (see CASS 5.1.1R).  <i>Firms</i> to which note 4 applies should also answer 'yes'.
Has your <i>firm</i> elected under CASS 7.10.3R(1) or (2) to comply with CASS 7?	See note 3.
How does your <i>firm</i> hold <i>money</i> received in the course of, or in connection with, its <i>insurance distribution activity</i> ?	You should answer 'yes' or 'no' under each of the headings, as appropriate.  CASS 5 <i>Client money</i> : see CASS 5.1  As agent of insurer: see CASS 5.1.5R and CASS 5.2 – holding <i>money</i> as agent of insurance undertaking under a written risk transfer agreement and not as <i>client money</i> .  <i>Firms</i> to which note 4 applies should select 'no' under each heading, unless they hold <i>money</i> when acting both in the capacity of an insurance broker and of a property management company.  A <i>firm</i> may answer 'yes' under both headings.
Is your <i>firm's</i> CASS 5 <i>client money</i> held under the CASS 5.3 statutory trust or under one or more CASS 5.4 non-statutory trusts?	You should indicate here the type of trust under which <i>client money</i> is held: Statutory trust – see CASS 5.3 Non-statutory trust – see CASS 5.4  A <i>firm</i> may answer 'yes' under both headings.
If non-statutory, has an auditor's confirmation of systems and controls been obtained?	This refers to the requirement in CASS 5.4.4R(2) that the <i>firm</i> must obtain and keep current, written confirmation from its auditor that the <i>firm</i> has adequate systems and controls in place to meet the requirements under CASS 5.4.4R(1).  This requirement is separate to the annual audit requirement in SUP 3.10.
Is <i>client money</i> invested or placed in anything other than a <i>client bank account</i> ?	You should indicate 'yes' here if the <i>firm</i> has invested any <i>client money</i> other than in a <i>client bank account</i> .  See CASS 5.5.14R which states that a <i>firm</i> may satisfy the requirement to segregate <i>client money</i> by segregating or arranging for the segregation of <i>designated investments</i> with a value at least equivalent to such <i>money</i> as would otherwise be segregated.  This means of segregation is only permitted for <i>client money</i> held under a non-statutory trust.
Highest <i>client money</i> requirement (for money	See CASS 5.5.63R and CASS 5.5.66R to CASS 5.5.67R

Question	Guidance notes
held as <i>client money</i> , taken from the <i>firm's client money</i> calculations)	<p>A <i>firm</i> should enter the highest <i>client money</i> requirement calculated during the period. This would be taken from the <i>firm's client money</i> calculations performed during the period.</p> <p>Only the single highest <i>client money</i> requirement figure should be entered, not the aggregate of the client money requirements calculated during the period.</p>
Highest account balance (for <i>money held as client money</i> , taken from the <i>firm's records</i> )	<p>This refers to <i>money held as CASS 5 client money</i> under a statutory trust or non-statutory trust(s). The amount should be taken from the <i>firm's</i> own records and should include <i>client money</i> held as agent of insurer which is co-mingled with other <i>client money</i> in a <i>client money</i> account (see CASS 5.1.5AR).</p> <p>If your <i>firm</i> segregates <i>designated investments</i> under a non-statutory trust (see CASS 5.5.14R), you should also include the value of these investments.</p> <p>If your <i>firm</i> operates both statutory and non-statutory trust accounts, you should enter two balances: one for the highest balance in statutory trust accounts and one for the highest balance in non-statutory trust accounts.</p>
Highest account balance for money held purely as agent of insurer (and not co-mingled with <i>client money</i> )	<p>This refers to money held purely as agent of insurer under risk transfer agreements (see CASS 5.2) and held separate to any CASS 5 <i>client money</i>. The amount should be taken from the <i>firm's</i> own records.</p> <p>If <i>money held as agent of insurer</i> is co-mingled with CASS 5 <i>client money</i> in a <i>client bank account</i> (see CASS 5.1.5AR), it should be reported in the previous field and therefore should not be reported in this field.</p> <p>The data reported in questions 20 to 23 should be taken from the <i>firm's client money</i> calculation performed closest, and prior, to the end of the reporting period.</p>
<i>Client money</i> requirement as at end of the reporting period	See CASS 5.5.63R and CASS 5.5.66R to CASS 5.5.68R
<i>Client money</i> resource as at end of the reporting period	See CASS 5.5.63R and CASS 5.5.65R
Surplus (+) or deficit (-) of <i>client money</i> resource against <i>client money</i> requirement	See CASS 5.5.63R This should be the difference between the <i>client money</i> requirement and the <i>client money</i> resource.
Adjustments made to withdraw an excess or rectify a deficit	<p>See CASS 5.5.63R</p> <p>This should be the amount of money paid into or withdrawn from the <i>client bank account</i> following the <i>client money</i> calculation performed closest, and prior, to the end of the reporting period.</p>
Is your <i>firm</i> exempt from the client asset audit requirement?	<p>See SUP 3.1.2R note 4</p> <p>If the <i>firm</i> does not hold <i>client money</i> or other client assets in relation to <i>insurance intermedi</i></p>

Question	Guidance notes
<p>If not exempt, have you obtained a client assets audit in the last 12 months?</p>	<p><i>ation activities</i> or only holds up to, but not exceeding, £30,000 of <i>client money</i> under a statutory trust arising under CASS 5.3 state 'yes' here.</p> <p><i>Firms</i> to which note 4 applies should answer this question.</p> <p>See SUP 3.1 to SUP 3.7 and SUP 3.11.</p>
<p>What is the name of your <i>firm's</i> client assets auditor?</p>	<p>If the <i>firm</i> has obtained a client assets audit in the last 12 months enter 'yes'. If it has not, enter 'no'.</p> <p><i>Firms</i> to which note 4 applies should answer this question.</p>
<p>According to your last client assets audit report, what was the auditor's opinion on your <i>firm's</i> compliance with the <i>client money rules</i> as at the period end date?</p>	<p>Enter the name of the <i>firm's</i> auditor as it appears on the Financial Reporting Council's register of statutory auditors.</p> <p><i>Firms</i> to which note 4 applies should answer this question.</p> <p>This refers to the opinion at the end of the audit period.</p> <p>The <i>firm</i> should select from 'clean', 'qualified' or 'adverse', as appropriate.</p>
<p>Have any notifiable <i>client money</i> issues been raised, either in the <i>firm's</i> last client assets audit report or elsewhere, that have not been notified to the <i>FCA</i> since the last reporting period for this return?</p>	<p>In this question, the period end date refers to the period covered by the audit report and will therefore refer to a different period to the reporting period for this return.</p> <p><i>Firms</i> to which note 4 applies should answer this question.</p> <p>Answer yes if the <i>firm</i> has not, since the last reporting period for this return, notified the <i>FCA</i> of any breaches in relation to the following notification requirements:</p> <p>CASS 5.5.61R: failure of a bank, broker or <i>settlement agent</i>.</p> <p>CASS 5.5.76R: failure to perform calculations or reconciliation.</p> <p>CASS 5.5.77R: failure to make good a <i>shortfall</i> by the close of business on the day the calculation is performed.</p>
<p>Does your <i>firm</i> hold any client documents or other assets (other than <i>client money</i>) in accordance with CASS 5.8?</p>	<p>If the <i>firm</i> is subject to the requirements of CASS 5.8, state 'yes' here.</p>

**Section D Regulatory Capital**

[**Note:** *Home purchase, reversion and regulated sale and rent back activity* should be included under the heading of home finance in this section of the *RMAR*]

'Higher of' requirements

In this section there are separate calculations of regulatory capital and capital resources requirements for the different types of business covered by the data requirements. The calculations are the same, however, for both *home finance mediation activity* and *insurance distribution activity* relating to *non-investment insurance contracts*.

(i) The left column of the form covers the appropriate capital resources and connected requirements in ■ MIPRU 4 for *firms* carrying on *home finance mediation activity* (save for *firms* carrying on *home finance mediation activities* exclusively in relation to *second charge regulated mortgage contracts* or *legacy CCA mortgage contracts*, or both) or *insurance distribution activity* relating to *non-investment insurance contracts* (the requirements have to be completed for all applicable categories), or both.

(ii) For such a *firm* that is also subject to *IFPRU* or *GENPRU* and *BIPRU*, the requirement is the higher of the two capital resources requirements that apply (see ■ MIPRU 4.2.5R) and is compared with the higher of the two capital resources calculations (see ■ MIPRU 4.4.1R).

(iii) For such a *firm* that is also subject to *IPRU(INV)*, the requirement is as computed in ■ IPRU-INV 13.13.3R and is compared with the higher of the two capital resources calculations (see ■ MIPRU 4.4.1R).

(iv) *Firms* that carry on *designated investment business* and are subject to the *RMAR*, but do not meet the definition of *personal investment firm* are not subject to the requirements of ■ IPRU-INV 13. Such *firms*, e.g., stockbrokers that advise on *retail investments* as an incidental part of their business, remain subject to the financial resources requirements associated with their principal *regulated activities*.

Guide for completion of individual fields

<p>Is the <i>firm</i> exempt from these capital resources requirements in relation to any of its retail or distribution mediation activities?</p>	<p>The <i>firm</i> should indicate here if any <i>Handbook</i> exemptions apply in relation to the capital resources requirements in <i>MIPRU</i> or <i>IPRU-INV 13</i>. Examples of <i>firms</i> that may be subject to exemptions include:</p> <ul style="list-style-type: none"> <li>• Lloyd’s <i>managing agents</i> (MIPRU 4.1.11R);</li> <li>• solo consolidated <i>subsidiaries of banks</i> or <i>building societies</i>;</li> <li>• small <i>credit unions</i> (as defined in MIPRU 4.1.8R); and</li> <li>• <i>investment firms</i> not subject to <i>IPRU-INV 13</i> (unless they additionally carry on <i>home finance mediation activity</i> or <i>insurance distribution activity</i> relating to <i>non-investment insurance contracts</i>).</li> </ul>
<p><b>Home finance mediation and non-investment insurance distribution</b></p>	
<p>Base requirement</p>	<p>The minimum capital requirements for <i>firms</i> carrying on <i>home finance mediation activity</i> and for <i>insurance distribution activity</i> relating to <i>non-investment insurance contracts</i> are set out in MIPRU 4.2.11R.</p>
<p>5% of annual income (firms holding client money)</p>	<p>For <i>firms</i> that hold <i>client money</i> or other <i>client assets</i> in relation to <i>insurance distribution activity</i> or <i>home finance mediation activity</i>, this should be calculated as 5% of the annual income (see MIPRU 4.2.11R(2)) from the <i>firm’s insurance distribution activity</i>, <i>home finance mediation activity</i>, or both.</p>
<p>2.5% of annual income (firms not holding client money)</p>	<p>For <i>firms</i> that do not hold <i>client money</i> or other <i>client assets</i> in relation to <i>insurance distribution activity</i> or <i>home finance mediation activity</i>, this should be calculated as 2.5% of the annual income (see MIPRU 4.2.11R(1)) from the <i>firm’s insurance distribution activity</i>, <i>home finance mediation activity</i>, or both.</p>



Capital requirements (higher of above)	The higher of the base requirement and 5% of annual income ( <i>firms</i> that hold <i>client money</i> or other <i>client</i> assets), or the higher of the base requirement and 2.5% of annual income ( <i>firms</i> that do not hold <i>client money</i> or other <i>client</i> assets)
Other FCA capital resources requirements (if applicable)	The FCA may from time to time impose additional requirements on individual <i>firms</i> . If this is the case for your <i>firm</i> , you should enter the relevant amount here. This excludes capital resources requirements in relation to PII, which are recorded below.  If the <i>firm</i> carries on <i>designated investment business</i> as well as <i>home finance mediation activity</i> , <i>insurance distribution activity</i> or both, requirements under IPRU(INV), IFPRU, GENPRU or BIPRU and MIPRU must be considered to determine the appropriate requirement (see general notes (i) to (iii) above). If the resulting requirement for a <i>firm</i> is higher than the base MIPRU requirement then you should include the difference here.
Additional capital resources requirements for PII (if applicable)	If the <i>firm</i> has any increased excesses on its PII policies, the total of the additional capital requirements required by the table in MIPRU 3.2.14R should be recorded here. See also section E of the RMAR.
Total capital resources requirement	Totals of lines 5, 6 and 7
Capital resources	This should be the capital resources calculated in accordance with MIPRU 4 for incorporated or unincorporated <i>firms</i> as applicable.  For <i>firms</i> that are additionally subject to IPRU(-INV), IFPRU, GENPRU or CREDS, this should be the higher of the capital resources per MIPRU 4 and the financial resources determined by IPRU(-INV), IFPRU, GENPRU or CREDS. See MIPRU 4.4.1R.
Capital resources excess/deficit	This should show the difference between the capital resources that the <i>firm</i> has and its capital resources requirement.
<b>Personal investment firm (retail investment activities only) – IPRU(INV) 13</b>	
Note: <i>Firms</i> that carry on <i>retail investment activities</i> , but no other <i>designated investment</i> business, are subject to this section.	
Category of personal investment firm	If the <i>firm</i> is subject to IPRU-INV 13, it should enter here its category as defined in the <i>Glossary</i> , i.e., <i>category B1 firm</i> etc.
Capital resources requirement	The capital resources requirement should be calculated in accordance with IPRU-INV 13.13.2R to IPRU-INV 13.13.4G.
Additional capital resources requirement for PII (if applicable)	If the <i>firm</i> has increased excesses or exclusions on its PII policies, the total of the additional capital resources requirements required by IPRU-INV 13.1 should be recorded here. See also Section E of the RMAR.
Other FCA capital resources requirements (if applicable)	The FCA may from time to time impose additional requirements on individual <i>firms</i> . If this is the case for your <i>firm</i> , you should enter the relevant amount here. This excludes capital resources

	requirements in relation to PII, which are recorded above.
	A <i>firm</i> that has a permission to operate a personal pension will be subject to an additional capital requirement under IPRU-INV 5; this should be included here.
Total capital resources requirement	The total of lines 12, 13 and 14.
Capital resources	Capital resources should be calculated in accordance with IPRU-INV 13.15.3R.
Surplus/deficit of capital resources	This is the difference between the capital resources (line 16) and the total capital resources requirement (line 15).
<b>Capital resources per MIPRU 4 (home finance mediation activity and non-investment insurance distribution activity)</b>	
<b>Incorporated firms</b>	
Share capital	Share capital in section A which is eligible for inclusion as regulatory capital.
Reserves	These are the audited accumulated profits retained by the <i>firm</i> (after deduction of tax and dividends) and other reserves created by appropriations of share premiums and similar realised appropriations. Reserves also include gifts of capital, for example, from a <i>parent undertaking</i> .
	Any reserves that have not been audited should not be included in this field unless the <i>firm</i> is eligible to do so under MIPRU 4.4.2R(3).
Interim net profits	Interim net profits should be verified by the <i>firm's</i> external auditor, net of tax or anticipated dividends and other appropriations.
	Any interim net profits that have not been verified should not be included in this field unless the <i>firm</i> is eligible to do so under MIPRU 4.4.2R(3).
Revaluation reserves	Revaluation reserves (unrealised reserves arising from revaluation of fixed assets) can only be included here if audited.
Eligible subordinated loans	Subordinated loans should be included in capital resources on the basis of the provisions in MIPRU 4.4.7R and MIPRU 4.4.8R.
Less investments in own shares	Amounts recorded in the balance sheet as investments which are invested in the <i>firm's</i> own shares should be entered here for deduction.
Less intangible assets	Any amounts recorded as intangible assets in section A above should be entered here for deduction.
<b>Unincorporated firms and limited liability partnerships</b>	
Capital of a sole trader or partnership or LLP members' capital	See MIPRU 4.4.2R
Eligible subordinated loans	Subordinated loans should be included in capital resources on the basis of the provisions in MIPRU 4.4.7R and MIPRU 4.4.8R.

Personal assets not needed to meet non-business liabilities	<p>MIPRU 4.4.5R and 4.4.6G allow a sole trader or partner to use personal assets to cover liabilities incurred in the <i>firm's</i> business unless:</p> <p>(1) those assets are needed to meet other liabilities arising from:</p> <p>(a) personal activities; or</p> <p>(b) another business activity not regulated by the FCA; or</p> <p>(2) the <i>firm</i> holds <i>client money</i> or other <i>client</i> assets.</p> <p>This field may be left blank if the <i>firm</i> satisfies the capital resources requirements without relying on personal assets.</p>
Less intangible assets	Any amounts recorded as intangible assets in Section A above should be entered here for deduction.
Less interim net losses	Interim net losses should be reported where they have not already been incorporated. The figures do not have to be audited to be included.
Less excess of drawings over profits for a sole trader or partnership or LLP	Any excess of drawings over profits should be calculated in relation to the period following the date as at which the capital resources are being calculated. The figures do not have to be audited to be included.
<p><b>Capital resources per IPRU(INV) 13.15.3R</b></p> <p><i>IPRU(INV)</i> requires that all <i>personal investment firms</i> have financial resources of at least £20,000 at all times. This section is designed to evaluate <i>firms'</i> adherence to this requirement.</p> <p>The amounts entered here should be in accordance with <i>IPRU-INV 13.15.3R</i>.</p>	

**Section E Professional indemnity insurance**

[**Note:** *Home purchase, reversion and sale and rent back activity* should be included under the existing mortgage headings in this section of the *RMAR*]

This section requires *firms* to confirm that they are in compliance with the prudential requirements in relation to professional indemnity insurance (PII).

Data is required in relation to all PII policies that a *firm* has in place, up to a limit of ten (the system will prompt you to submit data on all applicable policies). If a *firm* has more than ten policies, it should report only on the ten largest policies by premium.

**Note on the scope of Section E:** *retail investment firms* that fall within the scope of these data requirements, but do not meet the definition of *personal investment firm*, i.e. are not subject to ■ *IPRU-INV 13*, will **not** be subject to this section.

The PII requirements for *authorised professional firms* ('APFs') that carry on *retail investment activities* are set out in ■ *IPRU-INV 2.3*. APFs that carry on *home finance mediation activity* or *insurance distribution activity* are subject to the full requirements of ■ *MIPRU 3*.

*Firms* which are subject to the requirements in both *IPRU(INV)* and *MIPRU* must apply the PII rules outlined in ■ *IPRU-INV 13*, not ■ *MIPRU 3*.

Guide for completion of individual fields

Part 1

Does your firm hold a comparable guarantee or	This question will establish whether a <i>firm</i> is ex-
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equivalent cover in lieu of PII, or is it otherwise exempt from holding PII in respect of any regulated activities (tick as appropriate)?

empt from the requirements and so is not required to hold PII.

The conditions for comparable guarantees and exemptions from the PII requirements for *firms* carrying on **insurance distribution** or **home finance mediation** are set out in MIPRU 3.1.1R paragraphs (3) to (6).

*Personal investment firms* can only be exempted by individual waiver granted by the FCA (unless IPRU-INV 13.1.7R applies in respect of comparable guarantees).

If the *firm* is required to hold PII – i.e. is not exempt from holding PII – you should enter 'no' in the data field.

A *firm* is NOT exempt from holding PII if:

- the *firm* has a group policy with an insurer; or
- the *firm* has permission for the regulated business that requires PII, but does not currently carry it out; or

it is a *personal investment firm* meeting the exemption requirements for *mortgage intermediaries* and *insurance intermediaries* in MIPRU 3.

*Retail investment firms* that do not meet the definition of *personal investment firm* are not required to complete this section of the RMAR.

*Firms* are required to take out and maintain PII at all times.

You should only enter 'n/a' if the *firm* is exempt from the PII requirements for all the *regulated activities* forming part of the RMAR.

This question will ensure that a *firm* does not fill in Part 2 of the PII section of the RMAR each time it reports, if the information only changes annually.

If the *firm* is reporting for the first time, you should enter 'yes' here and complete the data fields.

You should only enter 'n/a' if the *firm* is exempt from the PII requirements for all the *regulated activities* forming part of the RMAR.

If the firm does not hold a comparable guarantee or equivalent cover and is not exempt, does the firm currently hold PII?

Has the firm renewed its PII cover since the last reporting date?

Part 2

16

What activities are covered by the policy(ies)?

You should indicate which *regulated activities* are covered by the *firm's* PII policy or policies.

If your policy excludes all business activities carried on prior to a particular date (i.e. a retroactive start date), then insert the date here, if not please insert 'n/a'

Required terms of PII are set out for *personal investment firms* in IPRU-INV 13.1.5R and for *home finance intermediaries* and *insurance intermediaries* in MIPRU 3.2.4R.

Examples of a retroactive start date:

(1) A *firm* has a retroactive start date of 01/01/2005 on its policy if:

- A client is advised by the *firm* to purchase an XYZ policy on 01/03/2004 (i.e. before the retroactive start date).

	<ul style="list-style-type: none"> <li>• The client makes a formal complaint about the sale of XYZ policy to the <i>firm</i> on 01/04/2006 (i.e. while this PII cover is still in place).</li> <li>• The complaint is upheld, but the <i>firm's</i> current PII Insurer will not pay out any redress for this claim as the transaction took place before 01/01/2005, the retroactive start date in the policy.</li> </ul> <p>Insert '01/01/05' for this question on the <i>RMAR</i>.</p> <p>(2) A <i>firm</i> does not have a retroactive start date if:</p> <p>A client is advised by the <i>firm</i> to purchase an XYZ policy on 01/03/2006.</p> <p>The client makes a formal complaint about the sale of XYZ policy to the <i>firm</i> on 01/04/2006 (i.e. while this PII cover is still in place).</p> <p>The complaint is upheld, but the <i>firm's</i> current PII Insurer will pay out any redress owed by the <i>firm</i> to the client over any prescribed excess, and to the limit of indemnity provided for. There is no date in the policy before which any business transacted may not give rise to a valid claim.</p> <p>Insert 'n/a' for this question on the <i>RMAR</i>.</p>
Annual premium	<p>This should be the annual premium that is paid by the <i>firm</i>, net of tax and any other add-ons.</p>
Limit of indemnity	<p>You should record here the indemnity limits on the <i>firm's</i> PII policy or policies, both in relation to single claims and in aggregate.</p> <p>Those firms subject to the <i>Mortgage Credit Directive (MCD)</i> (see MIPRU 3.2.9AR) or the <i>Insurance Distribution Directive (IDD)</i> requirements should state their limit in Euros; those that are not subject to the <i>MCD</i> or <i>IDD</i> should select 'Sterling' from the drop- down list.</p> <p><i>Insurance intermediaries</i>, see MIPRU 3.2.7R and select either 'Euros' or 'Sterling' as applicable. <i>Home finance intermediaries</i> that are not <i>MCD credit intermediaries</i> should state their limit in Sterling (see MIPRU 3.2.9R).</p> <p>For <i>personal investment firms</i>, see IPRU-INV 13.1.9R and 13.1.13R and select either 'Euros' or 'Sterling' as applicable.</p> <p>If the <i>firm</i> is subject to more than one of the above limits (because of the scope of its <i>regulated activities</i>) and has one PII policy for all of its <i>regulated activities</i>, the different limits should be reflected in the policy documentation. If there is more than one limit, only the highest needs to be recorded in this field.</p>
Policy excess	<p>For <i>insurance intermediaries</i> and <i>home finance intermediaries</i>, see MIPRU 3.2.10-14R</p> <p>For <i>personal investment firms</i>, see IPRU-INV 13.1.25R.</p>
Increased excess(es) for specific business types (only in relation to business you have under-	<p>If the prescribed excess limit is exceeded for a type or types of business, the type(s) of business</p>

<p>taken in the past or will undertake during the period covered by the policy)</p>	<p>to which the increased excess applies and the amount(s) of the increased excess should be stated here.</p>
<p>Policy exclusion(s) (only in relation to exclusions you have had in the or will have during the period covered by the policy)</p>	<p>(Some typical business types include pensions, endowments, FCAVCs, splits/zeroes, precipice bonds, income drawdown, <i>lifetime mortgages</i>, discretionary management.)</p> <p>If there are any exclusions in the <i>firm's</i> PII policy which relate to any types of businesses or activities that the <i>firm</i> has carried out either in the past or during the lifetime of the policy, enter the business type(s) to which the exclusions relate here.</p>
<p>Start Date</p>	<p>(Some typical business types include pensions, endowments, FCAVCs, splits/zeroes, precipice bonds, income drawdown, <i>lifetime mortgages</i>, discretionary management.)</p> <p>The date the current cover began.</p>
<p>End Date</p>	<p>The date the current cover expires.</p>
<p>Insurer name (please select from the drop-down list)</p>	<p>The <i>firm</i> should select the name of the <i>insurance undertaking</i> or Lloyd's syndicate providing cover. If the PII provider is not listed you should select 'other' and enter the name of the <i>insurance undertaking</i> or Lloyd's syndicate providing cover in the free-text box.</p>
<p>Annual income as stated on the most recent proposal form</p>	<p>If a policy is underwritten by more than one <i>insurance undertaking</i> or Lloyd's syndicate, you should select 'multiple' and state the names of all the <i>insurance undertakings</i> or Lloyd's syndicates in the free-text box.</p>
<p>Amount of additional capital required for increased excess(es) (where applicable, total amount for all PII policies)</p>	<p>This should be the income as stated on the <i>firm's</i> most recent PII proposal form. For a <i>personal investment firm</i>, this is relevant income arising from all of the <i>firm's</i> activities for the last accounting year before the policy began or was renewed (IPRU-INV 13.1.8R). For <i>insurance intermediaries</i> and <i>home finance intermediaries</i> this is the annual income given in the <i>firm's</i> most recent annual financial statement from the relevant <i>regulated activity</i> or activities (MIPRU 4.3.1R to MIPRU 4.3.3R).</p>
<p>Amount of additional own funds required for policy exclusion(s)</p>	<p>This should be calculated using the tables in IPRU-INV 13.1.19R or MIPRU 3.2.14R as applicable. The total of additional capital (i.e. in relation to all of the <i>firm's</i> PII policies) should have been reported under 'additional capital requirements for PII' and/or 'additional own funds for PII' in Section D.</p> <p><i>Personal investment firms</i> only – this should be calculated in line with IPRU-INV 13.1.23R. The total of additional capital resources (i.e. in relation to all of the <i>firm's</i> PII policies) should have been reported under 'additional capital requirements for PII' and/or 'additional capital resources for PII' in section D.</p>
<p>Total of additional own funds required</p>	<p><i>Personal investment firms</i> only – this is the same figure as in section D, representing the total of additional capital resources required under IPRU-</p>

INV 13.1.23R to 13.1.27R for all of the *firm's* PII policies.

### Section F Threshold conditions

#### Close links

This section relates to *threshold condition 3*. *Firms* should consult ■ COND 2.3, as well as Chapter 11 of the Supervision Manual ('SUP').

*Sole traders, firms* which have *permission* to carry on *retail investment activities* only, *firms* with *permission* only to *advise on P2P agreements* (unless that activity is carried on exclusively with or for *professional clients*) or *firms* which have *permission* to carry on only one, or only both of:

- (a) *insurance distribution activity*; or
- (b) *home finance activity*;

and are not subject to the requirements of ■ SUP 16.4 or ■ SUP 16.5 (requirement to submit annual controllers report; or annual close links reports), will submit these reports in *RMAR* section F instead.

#### Controllers

In very broad terms, so far as those required to fill in this part of the return are concerned, the *Handbook* requires notification of changes in a *firm's controllers* as follows.

A *UK domestic firm* other than a *UK insurance intermediary* must notify the *FCA* of any of the following events concerning the *firm*:

- (1) a *person* acquiring *control* or ceasing to have *control*;
- (2) an existing *controller* acquiring an additional *kind of control* or ceasing to have a *kind of control*;
- (3) an existing *controller* increasing or decreasing a *kind of control* which he already has so that the percentage of shares or *voting power* concerned becomes or ceases to be equal to or greater than 20%, 30% or 50%;
- (4) an existing *controller* becoming or ceasing to be a *parent undertaking*.

An *overseas firm* must notify the *FCA* of any of the following events concerning the *firm*:

- (1) a *person* acquiring *control* or ceasing to have *control*;
- (2) an existing *controller* becoming or ceasing to be a *parent undertaking*.

A *UK insurance intermediary* must notify the *FCA* of any of the following events concerning the *firm*:

- (1) a *person* acquiring *control*;
- (2) a *controller*:
  - (a) decreasing the percentage of shares held in the *firm* from 20% or more to less than 20%; or
  - (b) decreasing the percentage of shares held in a *parent undertaking* of the *firm* from 20% or more to less than 20%; or
  - (c) decreasing the percentage of *voting power* which it is entitled to exercise, or control the exercise of, in the *firm* from 20% or more to less than 20%; or
  - (d) decreasing the percentage of *voting power* which it is entitled to exercise, or control the exercise of, in a *parent undertaking* of the *firm* from 20% or more to less than 20%;

(3) an existing *controller* becoming or ceasing to be a *parent undertaking*.

A summary of these notification requirements is provided in Annex 1G of ■ SUP 11.

This section of the return replaces the annual *controllers* reporting requirement in ■ SUP 16.4.5R, which does not now apply to those *firms* subject only to the *RMAR* for the purposes of regulatory reporting. Moreover, the exemptions for certain other *firms* from the existing reporting requirement in ■ SUP 16.4.1G are retained.

Guide for completion of individual fields

**Close links**

Has there been a notifiable change to the firm's close links?

See SUP 11.9. All *firms* should have notified the *FCA* immediately if they have become aware that they have become or ceased to be closely linked with *another person*. If there have been any changes in *close links* that have not been notified to the *FCA*, you should do this now. For detailed *guidance* on what constitutes a *close link*, see COND 2.3.

If yes, has the *FCA* been notified of it?

See SUP 11.9. All *firms* should have notified the *FCA* immediately if they have become aware that they have become or ceased to be closely linked with *another person*. If there have been any changes in *close links* that have not been notified to the *FCA*, you should do this now. For detailed *guidance* on what constitutes a *close link*, see COND 2.3.

**Controllers**

Has there been a notifiable change to the firm's controllers including changes to the percentage of shares or voting power they hold in your firm?

See SUP 11.4. If there have been any changes in *controllers* that have not been notified to the *FCA*, you should do this by means of your usual supervisory channels.

If yes, has the *FCA* been notified of it?

See SUP 11.4. If there have been any changes in *controllers* that have not been notified to the *FCA*, you should do this by means of your usual supervisory channels.

**Section G Training and competence**

[**Note:** *Home purchase, reversion and regulated sale and rent back activity* should be included under the 'advising on mortgages' heading in this section of the *RMAR*]

Principle 3 of the *Principles for Businesses* requires *firms* to take reasonable care to organise and control their affairs responsibly and effectively, with adequate risk management systems. This includes making proper arrangements for individuals associated with a *regulated activity* carried on by a *firm* to achieve and maintain competence.

We will use the data we collect in this section to assess the nature of *firms'* compliance with training and competence requirements. It will also establish the extent and nature of *firms'* business, and thereby assess the potential risks posed by *firms'* business activities.

*Firms* that have *appointed representatives* ('ARs') should note that the information submitted in this section should include its ARs as well as the *firm* itself.

**Section G: guide for completion of individual fields**

**General information**

17 Did the *firm* do any of the following activities during the reporting period?

Indicate whether the *firm* undertook any of the stated activities by selecting "Y" or "N" for each of the columns.



1	Total number of <i>employees</i> at the <i>firm</i> as at the end of the reporting period	This should be the total number of <i>employees</i> that worked for the firm as at the end of the reporting period.  Therefore, <i>employees</i> that may have worked for the <i>firm</i> during the period but were not employed as at the end date should <b>not</b> be included.
	Of which:	
2	Number of <i>employees</i> that give advice in each area	'Advice' is given where the sale of a product is based on a recommendation given to the <i>customer</i> on the merits of a particular product.  If <i>employees</i> advise in relation to more than one business type advising on mortgages, advising on non-investment insurance, advising on <i>retail investment products</i> or advising on second (and subsequent) charge mortgages), they should be counted in each applicable field.  Note: in relation to advising on non-investment insurance, this total should not include employees that do <b>not</b> advise <i>retail customers</i> .  Each area should be considered to refer to the four business types in the form.
26	Number of individual advisers employed by the <i>firm</i>	The total should be the actual number of individual advisers employed by the <i>firm</i> , regardless of whether they advise in one or more areas.
3	Number of <i>employees</i> that give advice (FTE)	This should be the same data as above, but expressed in 'full time equivalent' terms.  E.g. if the firm has 20 part time <i>employees</i> that work 50% of normal hours, the figure would be 10.
4	Number of <i>employees</i> that supervise others to give advice in each area	Note the requirements in the Training & Competence Sourcebook (TC 2.1.2R, TC 2.1.3G, TC 2.1.4G and TC 2.1.5R) for <i>employees</i> to be appropriately supervised, and also the competencies that are required for those who supervise others.  If any of these <i>employees</i> carries out supervisory activities in relation to more than one business type, they should be counted in each applicable field.  Each area should be considered to refer to the four business types in the form.
27	Number of individual <i>employees</i> with supervisory responsibilities	The total should be the actual number of individual supervisors at the <i>firm</i> , regardless of whether they supervise in one or more areas.
5	Number of advisers assessed as competent by the <i>firm</i> in each area	This is a subset of the 'number of <i>employees</i> that give advice in each area' above.  See TC Appendix 1.1R for the detailed training & competence requirements relating to individual activities.  If <i>employees</i> are competent in relation to more than one business type, they should be counted in each applicable field.  Each area should be considered to refer to the four business types in the form.
30	Number of advisers assessed as competent in one or more areas	The total should be the actual number of individuals assessed by the <i>firm</i> as competent in one or more of the four business types specified in columns A-C and E.

18	Number of fully qualified advisers	The total number of advisers holding appropriate qualifications to carry on activities 2, 3, 4, 6, 12 and 13 in TC Appendix 1.1.1 R (other than in relation to a <i>Holloway sickness policy</i> where the <i>Holloway policy special application conditions</i> are met).
19	Number of advisers holding a valid Statement of Professional Standing (SPS)	The total number of <i>retail investment advisers</i> holding a valid SPS from an <i>accredited body</i> .
6	Number of advisers that hold an appropriate qualification in each area	<p>This is a subset of the 'number of <i>employees</i> that give advice in each area' above.</p> <p>In the case of certain activities, TC 2 imposes requirements on firms in relation to their <i>employees</i> and passing examinations.</p> <p>The relevant activities to which TC applies and require <i>employees</i> to obtain appropriate qualifications can be found in TC Appendix 1. Then appropriate qualifications for these activities can be found in TC Appendix 4E.</p> <p>If advisers have appropriate qualifications in relation to more than one business type, they should be counted in each applicable field.</p> <p>Each area should be considered to refer to the four business types in the form.</p>
29	Number of individual advisers holding at least one appropriate qualification	The total should be the actual number of individuals holding at least one appropriate qualification for advising on mortgages, acting as a <i>retail investment adviser</i> , or advising on second (and subsequent) charge mortgages.
25	Number of <i>employees</i> that left the <i>firm</i> during the reporting period	The total should be the actual number of <i>employees</i> whose last day of employment fell within the reporting period.
7	Number of advisers that left the <i>firm</i> during the reporting period	<p>This is the total number of advisory <i>employees</i> whose last day of employment fell within the reporting period.</p> <p>If any of these advisers used to carry out advisory activities in relation to more than one business type, they should be counted in each applicable field.</p>
28	Number of individual advisers that left the <i>firm</i> during the reporting period.	The total should be the actual number of individual advisers whose last day of employment fell within the reporting period.
Non-investment insurance (retail customers)		
20	Which types of non-investment insurance advice were provided by the firm in the reporting period?	<p>For each type of advice, the <i>firm</i> should indicate whether or not advice has been provided on that basis / business type.</p> <p><b>Fair Analysis of the Market</b></p> <p>If an <i>insurance intermediary</i> informs a <i>customer</i> that it gives (including a <i>personal recommendation</i>) advice on the basis of a fair analysis of the market, it must give that advice (including a <i>personal recommendation</i>) on the basis of an analysis of a sufficiently large number of <i>contracts of insurance</i> available on the market to enable it to make a recommendation, in accordance with professional criteria, regarding which <i>contract of insurance</i> would be adequate to meet the <i>customer's</i> needs. (See ICBS 5.3.3R, ICBS 4.1.6R, ICBS 4.1.7R and ICBS 4.1.8G).</p>

		<p><b>Restricted – Multi-tie</b></p> <p>A <i>firm</i> provides advice on products selected from a limited number of provider firms.</p> <p><b>Restricted – Single-tie</b></p> <p>A <i>firm</i> provides advice on products selected from one provider firm only.</p>
Mortgages (and second and subsequent charge mortgages)		
21 and 22	<p>Which types of mortgage advice were provided by the <i>firm</i> in the reporting period?</p> <p>What types of second (and subsequent) charge mortgage advice were provided by the <i>firm</i> in the reporting period?</p>	<p>For each type of advice, the <i>firm</i> should indicate whether or not advice has been provided on that basis / business type.</p> <p><i>Firms</i> should refer to MCOB 4.4A when answering these questions.</p>
Retail Investment Advice		
23	Which types of retail investment advice were provided by the <i>firm</i> in the reporting period?	<p><b>Independent</b></p> <p>For a <i>retail investment firm</i> to provide <i>independent advice</i> it must assess a sufficient range of relevant products available on the market which must (1) be sufficiently diverse with regard to their type and issuers or product providers, to ensure that the <i>client's</i> investment objectives can be suitably met; and (2) not be limited to relevant products issued or provided by: (a) the <i>firm</i> itself or by entities having close links with the <i>firm</i>; or (b) other entities with which the <i>firm</i> has such close legal or economic relationships, including contractual relationships, as to present a risk of impairing the independent basis of the advice provided (COBS 6.2B.11R).</p> <p><b>Restricted</b></p> <p>A <i>retail investment firm</i> provides <i>restricted advice</i> if:</p> <p>(a) it makes <i>personal recommendations</i> to <i>retail clients</i> in relation to <i>retail investment products</i> which are not <i>independent advice</i>; or</p> <p>(b) it provides <i>basic advice</i>.</p>

Clawed back commission (retail investment firms only)

Commission is typically paid to advisers in two main ways:

- (1) non-indemnity commission – this is where payments from providers/lenders to advisers are non-refundable should the policy lapse, cancel or be surrendered.
- (2) indemnity commission – this is colloquially known as 'up-front' commission and describes the situation where a provider would pay an adviser an amount of money based on a percentage of the first year's premiums for a regular premium contract. This sum is paid immediately on commencement, on the assumption that the policy will stay in force for a number of months/years ('the earnings period'). Should the customer stop paying premiums within the 'earnings period' (generally between 24 and 48 months), then the provider would ask the adviser to repay the 'unearned' commission. This is known as 'clawback'.

Clawed back commission (retail investment firms only)

13	Clawed back commission by number:	Number of policies where cancellations have led to commissions being clawed back during the reporting period.
14	Clawed back commission by value:	Total value of clawed back commission during the period.

Sub heading: Professional standards data

**Professional Standards Data**

24	Please provide the following information for each of the <i>retail investment advisers</i> employed by the <i>firm</i> as at the end of the reporting period:	<p><b>Adviser ID</b></p> <p><b>Surname</b></p> <p><b>Forename</b></p> <p><b>Individual Reference Number (IRN)</b></p> <p>Please enter the adviser’s IRN if they have one. If the adviser has an IRN, no further ID details are required and the <i>firm</i> should move on to complete the ‘adviser qualification’ questions.</p> <p><b>NI Number, Date of Birth, Passport Number, Nationality</b></p> <p>If an adviser does not have an IRN, the <i>firm</i> should enter both a National Insurance (NI) number and Date of Birth for unique identification or, if they do not have an NI number, Date of Birth, current Passport Number and Nationality. Nationality refers to the country issuing the passport from which the number is provided. For example, the nationality of a person in possession of a British passport issued by HM Passport Office is “British”.</p> <p>This information should only be provided in the appropriate combinations; completing only NI number and Nationality, for instance, would not be acceptable.</p> <p><b>Adviser Qualification</b></p> <p><b>Part Qualified, Fully Qualified</b></p> <p>For each <i>retail investment adviser</i>, the <i>firm</i> should indicate whether the adviser is part or fully qualified by selecting “Y” or “N” from the dropdown menu.</p> <p><b>Accredited Body</b></p> <p>The <i>firm</i> should, in respect of each competent <i>retail investment adviser</i>, indicate the <i>accredited body</i> from which the Statement of Professional Standing (SPS) was obtained. Where the <i>retail investment adviser</i> has attained each module of an appropriate qualification (fully qualified for reporting purposes), but has not yet been assessed as competent to carry on the activities of a <i>retail investment adviser</i>, then ‘No SPS’ should be selected from the dropdown menu.</p> <p><b>Activity Start Date</b></p> <p>For each <i>retail investment adviser</i>, other than those who have attained each module of an appropriate qualification, the <i>firm</i> should provide</p>
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the date at which the *employee* first began to carry on the activity of a *retail investment adviser*, even if this was for a different *firm*.

**SPS Start Date**

For each competent *retail investment adviser*, provide the date of issue for their current SPS. Where the *retail investment adviser* has attained each module of an appropriate qualification but has not yet been assessed competent to carry on the activities of a *retail investment adviser*, this field is not required.

**Section H Conduct of Business ('COBS') Data**

In this section we are seeking data from *firms* in relation to general conduct of business and monitoring of appointed representatives.

We will use the data collected in this section to establish the extent and nature of *firms'* business, and thereby assess the potential risks posed by *firms'* business activities.

*Firms* that have *appointed representatives* ('ARs') should note that the information submitted in this section should take account of the business generated by its ARs as well as the *firm* itself.

General COBS data

In this sub-section we are requesting general information on the *firm's* conduct of business.

Monitoring of appointed representatives

An appointed representative ('AR') is a *person* (other than an *authorised person*) who:

- (1) is a party to a contract with an *authorised person* who:
  - (a) permits or requires him to carry on business of a description prescribed in the *Appointed Representatives Regulations*; and
  - (b) complies with such requirements as are prescribed in those Regulations; and
- (2) is someone for whose activities in carrying on the whole or part of that business his *principal* has accepted responsibility in writing; and who is therefore an *exempt person* in relation to any *regulated activity* comprised in the carrying on of that business for which his *principal* has accepted responsibility.

A *firm* has significant responsibilities in relation to an AR that it has appointed, which are set out in detail in ■ SUP 12. In summary, the *firm* is responsible, to the same extent as if it had expressly permitted it, for anything the *appointed representative* does or omits to do, in carrying on the business for which the *firm* has accepted responsibility.

Before a *firm* appoints a *person* as an *appointed representative*, and afterwards on a continuing basis, it should take reasonable care to ensure that:

- (1) the appointment does not prevent the *firm* from satisfying and continuing to satisfy the *threshold conditions*;
- (2) the *person*:
  - (a) is solvent;
  - (b) is suitable to act for the *firm* in that capacity; and
  - (c) has no *close links* which would be likely to prevent the effective supervision of the *person* by the *firm*; and
- (3) the *firm* has adequate:

(a) controls over the *person's regulated activities* for which the *firm* has responsibility (see ■ SYSC 3.1); and

(b) resources to monitor and enforce compliance by the *person* with the relevant requirements applying to the *regulated activities* for which the *firm* is responsible and with which the *person* is required to comply under its contract with the *firm*. Accordingly, *firms* are required to monitor and oversee the activities of their ARs. It is the *firm's* responsibility to be able to demonstrate that it has adequate procedures and resources in place to monitor these activities.

By collecting the high level data required in this sub-section, we will be able to gain an understanding of the methods that *firms* are employing to remain in compliance with the monitoring requirements. This will be used to inform thematic and/or *firm*- specific work in this area.

Guide for completion of individual fields

General COBS data	
Do regulated activities form the core business of the firm?	<p>'Core business' for these purposes is the activity from which the largest percentage of the <i>firm's</i> gross income is derived.</p> <p>Note for an <i>authorised professional firm</i> ('APF') specifying that its core business is 'professional services': if the <i>firm's</i> income from <i>regulated activities</i> is 50% or more of its total income (disregarding a temporary variation of not more than 5% over the preceding year's figure), then it should have regard to IPRU-INV 2.1.2R (4) and give notification to the <i>FCA</i>.</p>
If not, specify type of core business	<p>The <i>firm</i> should specify its core business from the drop-down list.</p> <p>You should select <b>Other</b> if none of the categories is applicable to the <i>firm's</i> business, e.g. loss assessor, professional services provided by an APF.</p>
Monitoring of Appointed Representatives ('ARs')	
Number of ARs registered with the firm as at the end of the reporting period	Total number of ARs for which the <i>firm</i> has regulatory responsibility, as at the end of the reporting period.
Of which, number of 'secondary' ARs as at the end of the reporting period	<p>An AR is a secondary AR if:</p> <ul style="list-style-type: none"> <li>• the activities for which it is exempt are limited to <i>insurance distribution activities</i> only; and</li> <li>• its principal purpose is to carry on activities other than <i>insurance distribution activities</i>.</li> </ul>
Of which, number of introducer ARs as at the end of the reporting period	See <i>Glossary</i> definition
Number of advisers within ARs as at the end of the reporting period	<p>This should be the total of advisory staff across all of the <i>firm's appointed representatives</i>. Advisory staff are those that advise <i>customers</i> on the merits of purchasing a particular product.</p> <p>By definition this total will not include staff at introducer ARs.</p>
Does the firm have appropriate systems and procedures in place to ensure that the activities of its ARs are effectively monitored and controlled?	<p>A summary of the <i>firm's</i> responsibilities under SUP 12 is set out under the sub-heading "monitoring of appointed representatives" above.</p> <p>The <i>firm</i> should be able to demonstrate that it has been in compliance with the requirements in SUP 12 throughout the reporting period.</p>

Number of ARs that have been subject to monitoring visits by the firm during the reporting period.	This is one of the ways in which <i>firms</i> with ARs may fulfil their responsibilities under SUP 12.
Number of ARs that have been subject to file reviews by the firm during the reporting period.	This is one of the ways in which <i>firms</i> with ARs may fulfil their responsibilities under SUP 12.
Number of ARs that have been subject to financial checks by the firm during the reporting period.	This is one of the ways in which <i>firms</i> with ARs may fulfil their responsibilities under SUP 12.
Has any other monitoring of ARs by the <i>firm</i> taken place?	If the <i>firm</i> uses other methods to fulfil its monitoring responsibilities under SUP 12, you should state 'yes' here.

**Section I Supplementary product sales data**

Most of the product sales data ('PSD') required by the *FCA* is collected quarterly from product providers. However, this process does not include all types of *non-investment insurance contract*, and also leaves other gaps in data on sales, which we aim to fill by means of the data collected in this section.

We use this data in conjunction with PSD to identify market trends and thus inform our thematic supervision work. In addition to this, we may use the combined sales data to form a view about the state of affairs of individual *firms*, which may inform supervisory or other action.

*Firms* that have appointed representatives ('ARs') should note that the information submitted in this section should also take account of the business of its ARs as well as the *firm* itself.

**(i) Non-investment insurance product information**

In this section *firms* are asked for aggregate data on their advising and arranging activities (for *non-investment insurance contracts with retail customers*). The information required is an indication of the product types in which the *firm* has been active during the reporting period, and a further indication of how significant this activity is (i.e. whether it forms more than 40% by premium of all of the *firm's* retail non-investment insurance activities).

This information enables us to ascertain the importance of each product type to the *firm* and to target thematic work in this area.

Total non-investment insurance premium derived from retail customers (annualised)	Regular policy premiums received for a policy should be reported only once as an annualised figure in the return for the period that covers the date of the sale. There is then no need to report in subsequent returns. An annualised figure is also required if a policy premium is paid in one single payment.
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**(ii) non-investment insurance chains**

It is common practice in the non-investment insurance market for some *firms* to pass their business to another intermediary rather than directly to the product provider, forming a 'chain'. Product Sales Data only identifies the *firm* that has submitted the business to the product provider, although this may not necessarily be the intermediary that originated the sale. This section captures data on sales that form part of chains. Collecting information on gross and net brokerage (as outlined in Sub-section B1 above) gives us some information about the extent to which a *firm* is part of a chain, and to supplement this, we are requesting the following data in this section:

- (1) whether transactions in the listed product types have been passed up a chain;
- (2) whether this business is significant. 'Significant', in this context, is where the premium collected in relation to business forming part of a chain amounts to (a) more than 40% of premium collected for all non-investment insurance business, or (b) more than 40% of premium collected for all retail business in a particular product; and
- (3) whether, in relation to this business, the *firm* has dealt directly with the *customer* during the reporting period (i.e. has been the first intermediary in the chain).

[Note: Lloyd’s brokers are exempt from the reporting requirement in this section]

Guide for completion of individual fields

<b>(i) non-investment insurance contracts – product information</b>	
Please indicate in column A each product type where the firm has advised or arranged transactions for retail customers during the reporting period	You should indicate in column A for each relevant product.
Please indicate in column B where the firm’s business for retail customers in the product type formed more than 40% by premium of all of its non-investment insurance activities.	You should indicate in column B for each relevant product, based on an estimate of the percentage of business. If you think the product might account for more than 40% of business but are not sure, you should indicate that it does.
<b>(ii) non-investment insurance chains</b>	
Total non-investment insurance premium derived from retail customers	You should state here the total of premiums payable by <i>Retail customers</i> during the reporting period in relation to non- investment insurance products.
Of this business, please indicate in column D where this business is significant (see notes above)	If this business is significant (see definition above) for one or more product types, this should be indicated in column D.
Product types:	The product types in this table are defined in the Interim Prudential sourcebook for insurers ( <i>IPRU(INS)</i> ).

**Section J: Data required for calculation of fees**

Part 1

[Note: *Home purchase, reversion and regulated sale and rent back activity* should be included under the home finance headings in this section of the *RMAR*]

This information is required so that we can calculate the fees payable by *firms* in respect of the *FCA*, *FOS* and the *FSCS*.

Data for fees calculations	
FCA	<i>Firms</i> will need to report data for the purpose of calculating <i>FCA</i> , <i>FOS</i> and <i>FSCS</i> levies. The relevant information required is the tariff data set out in <i>FEES 4 Annex 1AR</i> Part 3 under fee-blocks A.13, A.18 and A.19. Note that <i>firms</i> are required to report tariff data information relating to all business falling within fee blocks A.13/A.18/A.19 and not simply that relating to retail investments.
FOS	The relevant information required is the tariff data set out in <i>FEES 5 Annex 1R</i> industry blocks 8, 9, 16 and 17. Note that <i>firms</i> are required to report tariff data information relating to all business falling within industry blocks 8/9, 16 and 17.
FSCS	The relevant information required is the tariff data set out in classes B2, C2, D2, and E2, <i>FEES 6 Annex 3AR</i> . Note that <i>firms</i> are required to report tariff data information relating to all business falling within classes B2, C2, D2 and E2, <i>FEES 6 Annex 3AR</i> .

*Personal investment firms* and *firms* whose regulated activities are limited to one or more of: *insurance distribution activity*, *home finance mediation activity*, or *retail investment activity*, are required to complete Part 1, section J of the *RMAR*.

Part 2



Firms submitting section J are required to identify in Part 2 how much of the annual income reported in 3A (life distribution and pensions intermediation) or 4A (investment intermediation) in Part 1 is earned from carrying on *regulated activities* relating to the offer or sale to or purchase by or on behalf of *clients* of *enhanced reporting investments*, broken down by category of *enhanced reporting investments* and by number of *clients*. A category of *enhanced reporting investment* is a type of *investment* listed in ■ COBS 9.3.5G(1).

For example, say a *firm* has earned £5,000 from *arranging deals in units* in *qualified investor schemes* on behalf of 26 investors. It has also earned £400 from advising two *clients* to purchase unlisted *shares*. *Units* in *qualified investor schemes* are a type of *non-mainstream pooled investment*, while the unlisted *shares* in this example are *non-readily realisable securities*. Accordingly, the *firm* would report:

Enhanced reporting investment	Annual income (per single unit of currency)	No. of clients
Non-mainstream pooled investment	£5000	26
Non-readily realisable securities	£400	2

Both Parts 1 and 2

Firms which do not yet have data for a full 12 months ending on their *accounting reference date* (for example if they have not traded for a complete *financial year* by the time of the *accounting reference date*) should complete Section J with an 'annualised' figure based on the actual income up to their *accounting reference date*. That is, such *firms* should pro-rate the actual figure as if the *firm* had been trading for 12 months up to the *accounting reference date*. So for a *firm* with 2 months of actual income of £5000 as at its *accounting reference date*, the 'annualised' figure that the *firm* should report is £30,000.

The *guidance* in the following table sets out the *rules* which related to the data required in Section J of ■ SUP 16 Annex 18AR.

	FCA Annual Income (£s)	FOS Relevant Annual Income (£s)	FSCS Annual Eligible Income (£s)
Home finance intermediation	FEES 4 Annex 11AR, 13G	FEES 5 Annex 1R industry block 16	FEES 6 Annex 3AR class E2
General insurance distribution	FEES 4 Annex 11AR, 13G	FEES 5 Annex 1R industry block 17	FEES 6 Annex 3AR class B2
Life distribution and pensions intermediation	FEES 4 Annex 11AR, 13G	FEES 5 Annex 1R industry block 8, 9	FEES 6 Annex 3AR class C2
Investment intermediation	FEES 4 Annex 11AR, 13G	FEES 5 Annex 1R industry block 8, 9	FEES 6 Annex 3AR class D2

**Section K Adviser charges**

In this section we are seeking data from *firms* about *adviser charges* in respect of a *firm* providing a *personal recommendation* to a *retail client* on a *retail investment product* (■ COBS 6.1A and ■ COBS 6.1B). We will use the data we collect to monitor and analyse the way these *firms* comply with the *rules* on *adviser charges*.

For the purposes of this *guidance* on section K and the field labels used on the data collection form, it has been assumed that the form will be completed on the default accruals basis set out in paragraph 15 in the accounting principles section of this Annex. Where a *firm* elects to report on a cash basis, in accordance with paragraph 15A in the accounting principles section of this Annex, references to the amount due within the reporting period should be read to mean the amount received within the reporting period.

The data in this section should only relate to the provision of a *personal recommendation* by the *firm* to a *retail client* for a *retail investment product* (or any related service provided by the *firm*).

Firms that have *appointed representatives* ('ARs') should include data from their ARs in the information submitted in this section.

Where *firms* are required to report data to two decimal places, *firms* should round the data to two decimal places (using a 5 in the third decimal place to round up) rather than report the data on a truncated basis. For example, two-thirds (2/3) should be reported as 0.67.

If a *firm* exclusively provides *independent advice* or *restricted advice*, the sections of the form not relevant to the *firm* should be left blank. This is illustrated in example 1.

**Example 1 – Completing the form where the firm only provides either independent advice or restricted advice**

A *firm* that exclusively provides *independent advice* would need to complete sections 1, 3 and 4 (columns A, B and E), leaving section 2 and columns C and D of section 4 blank.

A *firm* that exclusively provides *restricted advice* would need to complete sections 2, 3 and 4 (columns C, D and E), leaving section 1 and columns A and B of section 4 blank.

A *firm* providing both *independent* and *restricted advice* would need to complete sections 1 to 4 as appropriate.

Any revenue reported should be exclusive of VAT levied on the *retail client* (if applicable).

**The way retail clients pay an adviser charge (columns A and B for rows 2 to 5 and 7 to 10)**

*Firms* are required to provide a breakdown of the data provided in rows 2 to 5 and 7 to 10 based on the way in which a *retail client* pays their *adviser charge*.

Column A should include data on the *adviser charges* that are paid directly by the *retail client*. This would include, for example, where the *retail client* paid the *firm* directly through a cheque or bank transfer or where a payment was made on behalf of the *retail client* by the *retail client's* lawyer.

Where the *adviser charge* is facilitated by a *retail investment product* provider or *platform service provider*, this should be reported in column B.

**Guide for completion of individual fields**

In row 1, *firms* should select one of 'Independent/Restricted/Both/Did not provide advice' to indicate the type(s) of advice provided by the *firm*. *Firms* providing *independent advice* only should then complete sections 1, 3 and 4. *Firms* providing *restricted advice* only should then complete sections 2, 3 and 4. *Firms* providing both *independent advice* and *restricted advice* should complete all four sections. *Firms* that did not provide advice during the reporting period should select 'Did not provide advice' and complete the accounting basis question. Other sections should be left blank.

**Retail investment product revenue from adviser charges (rows 2, 3, 7 and 8)**

<p>Revenue from all initial <i>adviser charges</i> including initial, one-off and ad hoc <i>adviser charges</i> (rows 2 and 7)</p>	<p><i>Firms</i> should report the total revenue from distinct one-off advice services, being those services that are not covered by an ongoing <i>adviser charge</i>, as at the end of the reporting period. This would include, for example, revenue from initial, one-off and ad hoc <i>adviser charges</i>, irrespective of whether the charge is paid as a single payment or through regular instalments.</p> <p>Where an initial <i>adviser charge</i> is paid through regular instalments, which is only permitted in limited cases (as set out in COBS 6.1A.22R), only the amounts due within the reporting period should be reported. This is illustrated in example 2.</p> <p><b>Example 2 - Reporting revenue from initial adviser charges payable in instalments</b></p> <p>A <i>firm</i> giving <i>independent advice</i> provides advice to a <i>retail client</i> about a <i>retail investment product</i> where regular contributions are being made and there is a £600 initial <i>adviser charge</i> payable in two equal amounts – now and in 12 months' time. <i>Firms</i> should report £300 in row 2,</p>
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Revenue from ongoing *adviser charges* (rows 3 and 8)

as this is the amount due from that *retail client* within the reporting period. The remaining £300 of the total *adviser charge* payable would be reported for a future reporting period when it is due from the *retail client*.

*Firms* should report the total revenue due within the reporting period for *adviser charges* for ongoing services which are not initial charges.

Where a *firm* has an agreement to provide both initial and ongoing advice, the revenue for the initial and ongoing advice services should be reported separately in rows 2 and 3 respectively for *independent advice*, and 7 and 8 for *restricted advice*.

Where a *firm* charges a *retail client* a fee for advice on a *retail investment product* and a *pure protection contract* or mortgage, *firms* should only report the *adviser charge* that relates to the *retail investment product*. This is illustrated in example 3.

**Example 3 – Advice in relation to a retail investment product and non-investment product**

A *firm* giving *independent advice* charges a *retail client* £1,000 for initial advice in relation to both a *retail investment product* and a *pure protection contract*. *Firms* should only report the *adviser charge* for the investment advice. In this case, the *firm's* charging structure quotes the cost of this investment advice as £600; therefore, £600 should be reported in row 2.

If a *firm* makes a management charge which covers *adviser charges* and charges for services that do not relate to a *personal recommendation* on *retail investment products*, then it should report the full amount of the management charge received. *Firms* should not differentiate between the amounts relevant to the different services. For example, if a *firm* makes a management charge for a non-discretionary management service that predominantly relates to advice on stocks and shares, but provides *personal recommendations* on *retail investment products* as part of this service, then it should report the whole of this charge.

If the *adviser charge* is partially paid directly by the *retail client* and partially facilitated by a *retail investment product* provider, the proportion of the *adviser charge* paid through each method should be reported separately on the form in the relevant columns. This is illustrated in example 4.

**Example 4 – Reporting adviser charges that are paid by retail clients from more than one source**

A *retail client* agrees to pay £1,000 for initial advice provided by a *firm* giving *independent advice* for a single contribution investment. The *retail client* pays £600 directly from their bank account, with £400 facilitated by a *platform service provider*. The form would be completed as follows:

Types of advice provided		A	
1 Indicate the type(s) of advice provided by the <i>firm</i>		Independent	
Section 1 – Independent advice			
		A	B
		<i>Adviser charges</i> paid directly by <i>retail clients</i>	<i>Adviser charges</i> facilitated by product providers or <i>platform service providers</i>
Retail investment products revenue from adviser charges (monetary amount)			
2	Revenue from all initial <i>adviser charges</i> including initial, one-off and ad hoc <i>adviser charges</i>	£600	£400
3	Revenue from ongoing <i>adviser charges</i>		
Payments of initial adviser charges (number)			
4	Aggregate number of initial <i>adviser charges</i> payable as lump-sum payments due from <i>retail</i>	0.60	0.40

*clients* within the reporting period

- 5 Aggregate sum of the proportion of initial *adviser charges*, payable through regular instalments, due from *retail clients* within the reporting period

Please note: for the purpose of this example, rows 4 to 5 are also completed.

If a *firm* offsets the *adviser charge* due from the *retail client* with trail commission received from an investment *product provider* for investments held by that *retail client* before 31 December 2012, *firms* should report the total *adviser charge* that is agreed with the *retail client*. This is illustrated in example 5. The conditions under which a *firm* may receive such commission are set out in ■ COBS 6.1A.4AR and there is further guidance at ■ COBS 6.1A.4AAG.

**Example 5 – Commission offset against an adviser charge**

A *firm* giving *independent advice* enters into an agreement to provide a *retail client* with ongoing advice. The *firm* charges the *retail client* £500 for this ongoing advice, but receives £200 in trail commission for existing investments held by the *retail client*. This trail commission is used to reduce the actual amount due from the *retail client* to £300. *Firms* should report the full £500 *adviser charge* in row 3, as this is the total *adviser charge* agreed with the *retail client*.

**Payments of initial adviser charges (rows 4, 5, 9 and 10)**

The data reported in this section of the form relates to the number of initial advice services provided within the reporting period, as at the end of the reporting period. This would include the number of services for which there are initial, one-off and ad hoc *adviser charges*. The data provided should be reported to two decimal places.

Aggregate number of initial *adviser charges* payable as lump sum payments due from *retail clients* within the reporting period (rows 4 and 9)

*Firms* should report the total number of initial adviser services provided where the *adviser charge* is payable as a single payment and due from *retail clients* in the reporting period, i.e. the *retail client* pays the entire initial *adviser charge* in one payment. Data reported in this section should be broken down by the way the *adviser charge* is paid. Where an individual *retail client* pays the initial *adviser charge* through more than one source, the proportion of the total payment made by that individual *retail client* should be identified and reported as a fraction to two decimal places in the applicable columns, as in example 4 above.

If an initial *adviser charge* is not paid in full, it should be recorded under row 5 where *independent advice* is provided or row 10 where *restricted advice* is given.

Aggregate sum of the proportion of initial *adviser charges*, payable through regular instalments, due from *retail clients* within the reporting period (rows 5 and 10)

An initial *adviser charge* may be structured to be payable over a period of time when it relates to a *retail investment product* for which an instruction from the *retail client* for regular payments is in place and the *firm* has disclosed that no ongoing *personal recommendations* or service will be provided (COBS 6.1A.22R(2)).

*Firms* should calculate the proportion of initial *adviser charges*, payable through regular instalments, that were due from each *retail client* within the reporting period. Each instalment due within the reporting period should be captured by the *firm* as a fraction expressed as a decimal, to two decimal places, representing the amount paid off as a proportion of the amount owed. The sum of these proportions should be reported in the appropriate data field (row 5 for *independent advice* and row 10 for *restricted advice*) to two decimal places.

Data reported in this section should be broken down by the way the *adviser charge* is paid. Where the *retail client* pays an initial *adviser charge* through more than one source, the proportion of the charge paid through each source should be identified and reported in the applicable column.

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## Data items for SUP 16.12

This annex consists only of one or more forms. Forms are to be found through the following address:

*Data items for SUP 16.12* SUP Chapter 16 Annex 24R



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**Guidance notes for data items in SUP 16 Annex 24R**

This annex consists only of one or more forms. Forms are to be found through the following address:  
Guidance notes for data items in SUP 16 Annex 24R - SUP Chapter 16 Annex 25G





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**Guidance notes for the data item in SUP 16 Annex 29R**

This annex consists only of Guidance notes for the data item in SUP 16 Annex 29R.

*Guidance notes for the data item in SUP 16 Annex 29R - SUP 16 Annex 29A*



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**Forms REP015 and REP016**

SUP\_16\_ann\_43A\_REP015\_20180930.pdf

SUP\_16\_ann\_43A\_REP016\_20180930.pdf



## Guidance notes for completion of the Retirement income flow data return ('REP015') and the Retirement income stock and withdrawals flow data return ('REP016')

This annex consists only of guidance notes for form REP015 and form REP016.

### Introduction

1. These notes aim to assist *firms* in completing and submitting the Retirement income flow data return ('REP015') and the Retirement income stock and withdrawals flow data return ('REP016').

### Defined terms

2. *Handbook Glossary* terms are italicised in these notes.

### Key abbreviations

3. The following table summarises the key abbreviations used in these notes::

AUA	assets under administration
DB	defined benefit
DC	defined contribution
EBC	<i>employee benefit consultant</i>
HMRC	HM Revenue & Customs
LTA	lifetime allowance
PCLS	pension commencement lump sum
PIPs	pension investment plans
REP015	Retirement income flow data return
REP016	Retirement income stock and withdrawals flow data return
SIPP	self-invested personal pension
TIPs	trustee investment plans
UFPLS	<i>uncrystallised funds pension lump sum</i>

### Data requested

4. We are asking for data on all UK defined contribution (DC) pension plans held in a *personal pension scheme* or *stakeholder pension scheme*, or in a *defined contribution occupational pension scheme* (including *small self-administered schemes* (SSASs) and Executive Pension Plans (EPPs)), where the firm is the scheme's pension provider and/or the retirement income provider. We are also asking for data on *pension annuities*.

5. This includes DC and money purchase plans that provide a guaranteed income benefit – whether this is in the form of a deferred annuity or *guaranteed annuity rate*. Plans with guaranteed income benefits that are covered by this return include (but are not limited to):

- (a) plans that are a result of an individual or bulk transfer from a defined benefit (DB) scheme;
- and

(b) plans with guaranteed benefits as a result of contracting out (i.e. plans with guaranteed minimum pension or equivalent pension benefits). Examples of such contracts include 'section 32 buyout plans', *retirement annuity* contracts (often known as a 'section 226 pension' or 'section 620 pension'), executive pension plans and bulk purchase annuities.

6.DB pensions and pension assets that are managed on behalf of third parties (such as trustee investment plans (TIPs) that are managed on behalf of DB or DC schemes, and pension investment plans (PIPs) that are managed on behalf of SIPPs) should not be included.

Group level data

7.Where *firms* are part of a group, requests should be completed at group level, giving information for all FCA regulated *firms* who have provided *pension annuities* within the relevant reporting period and/or pension scheme operators. This will involve aggregating various sources of management information in to a single group-level figure; however, we believe this is the best method to provide a basis for trend analysis across the market.

Identifying the 'retirement income provider'

8.Data on retirement income plans should be submitted by the retirement income product provider. In the case of drawdown plans opened by existing plan holders, the originating pension provider is the retirement income provider, and therefore should submit the data. This includes the scenario where the transition to drawdown happened within the same *pension scheme*. In the case of annuities, it is only the annuity provider who should submit data on plans being used to purchase annuities.

9.Where white labelling or other third party arrangements exist between a *firm* such as a pension provider (or other third party) that does not itself provide retirement products and another *firm*, it is the *firm* providing retirement income products on its behalf that is considered to be the retirement income provider, and who should therefore report data in respect of all plan holder actions including entering drawdown, taking an *uncrystallised funds pension lump sum* (UFPLS) and purchasing an annuity.

10.Where outsourcing arrangements exist between a retirement income provider and a third party administrator, the retirement income provider should report the requested data.

11.Where a third party arrangement (see examples below) exists between a retirement income provider and a pension provider, the retirement income provider should report all of the plan holder actions, i.e. entrants to drawdown and annuity purchases.

Example 1 – single tie arrangements

12.A mutual society (pension provider) has pension plan holders but does not provide annuities itself. Instead, it has a single firm arrangement with a life company which provides annuities. Under this arrangement, plan holders of the pension provider who want to purchase an annuity are referred to the life company. In this scenario, the life company providing annuities is considered to be the retirement income provider, and should report this data.

Example 2 – panel arrangements

13.A trust-based pension scheme uses an *employee benefit consultant* (EBC) to advise on their scheme retirement options. The trust-based scheme does not provide drawdown or annuities to its members, and the EBC offers a panel of life companies or other annuity providers which provide drawdown and annuities. The relevant life company or annuity provider should report the data as the retirement income provider.

Example 3 – white labelling

14.A pension provider offers annuities to its plan holders which it does not provide itself: the annuities are in fact provided by a third party life company through a white labelling arrangement. Plan holders wishing to purchase an annuity are referred to the life company, as part of a single-firm third party arrangement. In this scenario, the third party life company is considered to be the retirement income provider, and should report the data in respect of these annuities.

Example 4 – white labelling

15.A SIPP operator white labels their SIPP plan, which includes drawdown facilities, to a third party. The SIPP operator, rather than the third party, is the retirement income provider, and so should report all sales under such white labelling as 'single-provider third party arrangement'.

Format of responses

16.All figures in REP015 and REP016 should be entered in single units; these returns do not ask for any data to be reported in units of thousands or millions. Figures required in pounds sterling should be reported to two decimal places.

17.REP015 and REP016 both have one optional question at the end where the *firm* can enter a text-based response. *Firms* should use this question to provide any additional information that might help explain any of the answers provided in the return.

18.While for ease of explanation this *guidance* sometimes refers to plan holders, *firms* should respond on the basis of each individual policy or plan. We do not want *firms* to submit data at a plan holder level where a plan holder holds more than one plan. However, where a number of arrangements have been set up for one individual within a scheme, these arrangements should be reported as one plan. Plans should be reported regardless of whether they are held by the original plan holder or by a beneficiary.

**NOTES FOR COMPLETION OF THE RETIREMENT INCOME FLOW DATA RETURN ('REP015') AND THE RETIREMENT INCOME STOCK AND WITHDRAWALS FLOW DATA RETURN ('REP016')**

**Section A Notes for completion of REP015**

The following notes do not cover all questions in REP015, but only those questions where we considered *guidance* would assist *firms* in completing the return.

**Part 1 – activity during the reporting period (questions 4 to 11)**

*Firms* should answer all questions in this part.

Q4: How many plans were transferred away to another provider by plan holders aged 55 and over who had not yet accessed their benefits?

Include all plans that were transferred away to another provider during the reporting period (i.e. exits) by plan holders aged 55 and over, who had not yet accessed any benefits (i.e. not taken any UFPLS payments or crystallised any of their plan). Include plans where the Open Market Option is being exercised (i.e. a PCLS is being paid and an annuity is being purchased from another provider). Deaths of plan holders meeting these criteria should be excluded.

We understand that where a plan has in the past been transferred in from a previous provider, the current provider may not always be aware if a UFPLS had been taken prior to that transfer. Such plans should be reported here unless the current provider is aware that the plan was previously accessed.

Q5: How many plans were transferred away to another provider by plan holders aged 55 and over who had already accessed their benefits (by crystallising some or all of their assets or taking an *uncrystallised funds pension lump sum* (UFPLS))?

Include all plans that were transferred to other providers during the reporting period by plan holders aged 55 and over who had already accessed their benefits by crystallising some or all of the assets (entering drawdown), by using some assets to purchase an annuity, or by taking one or more UFPLS from their plan at any time (i.e. whether or not such access took place during the reporting period or prior to it). Deaths of plan holders meeting these criteria should be excluded.

We understand that where a plan has in the past been transferred in from a previous provider, the current provider may not always be aware if a

Q6: How many defined benefit (DB) to defined contribution (DC) transfers have you completed?

UFPLS had been taken prior to that transfer. Plans should not be reported here unless the current provider has been made aware that the plan was previously accessed.

Report the number of DB to DC transfers in that have taken place during the reporting period. This should be DB to DC transfers only, and *pension transfers* with other safeguarded benefits should not be included. Section 32 buyout policies should also be excluded.

The data required here is different to the data required under the Product Sales Data Return on pension transfers.

Q7: What was the total value withdrawn via Pension Commencement Lump Sum (PCLS) for all plans? (£)

Report the total value of all PCLS (tax free cash) taken by plan holders who have, during the reporting period, taken a PCLS. Report all plans that have taken any PCLS, including those that have also taken an income via drawdown, purchased an annuity, or transferred away. Only include the value of the PCLS, and not any of the taxable income withdrawn.

This should be reported in pounds sterling and single units.

Q8: What was the total number of plans that were fully encashed via small pot lump sums, UFPLS or drawdown?

Report the number of plans that have had all funds withdrawn during the reporting period (i.e. where plans close with nil value), regardless of when the plan was first set up or when the plan holder first accessed their plan.

Include all plans that have been fully withdrawn (extinguished) by a small pot lump sum, UFPLS or drawdown, and plans that were fully withdrawn in one payment or in multiple payments during the period.

Note: we do not expect any plans with an amount remaining at the end of the reporting period to be captured here, unless it is a de minimis amount (e.g. £1) that has been left in order to avoid paying an account closure fee.

Q9: What was the total amount withdrawn this period from the fully encashed plans reported in question 8? (£)

Report the total amount withdrawn during this reporting period from those fully encashed plans reported in question 8; by either small pot lump sums, UFPLS or drawdown. Include all withdrawals made from these plans in the reporting period. This figure should be reported in pounds sterling and single units.

**Part 2 – Breakdown of activity by plan holders accessing their pension plans during the reporting period**  
**Value of assets under administration in plans accessed during the reporting period (questions 10 to 13)**

Questions 10 to 13 should be completed by all *firms*.

Please note that the reporting requirements vary between questions:

- For questions 10 and 11, *firms* should include data relating to all plan holders who enter drawdown or purchase an annuity for the first time, regardless of whether the plan has previously been accessed in other ways.
- For questions 12 and 13, *firms* should only include data relating to plan holders who have not accessed their plans prior to this reporting period.



The figures should be reported in pounds sterling and single units.

Q10: What was the total value for assets under administration (AUA) of plans that entered drawdown? Value should be after any PCLS but before any income withdrawn (£).

Drawdown assets should only be reported by the provider of the drawdown plan.

Report the total value of assets in plans of all plan holders who enter drawdown for the first time in the reporting period and who do not withdraw all their assets. Include instances where the transition to drawdown happened within the same *pension scheme*. Include both the value of the crystallised assets and any remaining uncrystallised assets in the plans. The value should be after any PCLS but before any income withdrawn.

It should INCLUDE plans held by plan holders who:

- enter drawdown for the first time, crystallise 100% of their plan, and withdraw part (but not all) of their crystallised assets; or
- enter drawdown for the first time and crystallise only a part of their pension plan, leaving at least some crystallised and/or uncrystallised funds invested; or
- enter drawdown for the first time, crystallise 100% of their plan, taking their PCLS but taking no income; and/or
- enter drawdown for the first time, but have previously accessed their plan by using part of it to take a UFPLS or purchase an annuity.

It should EXCLUDE plan holders who:

- at the start of the relevant reporting period already have part uncrystallised and part crystallised plans which are in drawdown, but crystallise a new portion of their assets in the relevant reporting period, as they are not new entrants to drawdown;
- at the start of the relevant reporting period are already in drawdown and, although not drawing an income, partially crystallise additional assets and therefore may get a new 'slice' of tax free cash, as they are not new entrants to drawdown; and/or
- access their plan for the first time and take all of their benefits during the period. (These plan holders should be reported in question 15.)

If the answer to this question is £0, then questions 14 – 29 can be left blank.

This question should be completed by the annuity provider only.

Report the total value of the assets in plans where the plan holder purchased an annuity during the reporting period. The value should be after any PCLS but before annuity purchase.

*Firms* should not include the value of any plans used to purchase products that are reported to

Q11: For annuity providers only, what was the total value of AUA for plans that were used to purchase annuities? Value should be after any PCLS but before annuity purchase (£).

Q12: What was the total value of AUA for plans that were accessed for the first time by taking a partial UFPLS? Value should be before any partial UFPLS withdrawals (£).

Q13: What was the total value withdrawn from plans that were accessed for the first time and fully encashed via small pot lump sums, UFPLS or drawdown? Value should be gross, i.e. include both tax free and taxable portions (£).

HM Revenue & Customs (HMRC) under draw-down rules (e.g. products that are marketed as annuities but which are actually crystallised assets in drawdown). The value of plans used to purchase these products should be reported in question 10.

Do not include values where a plan holder starts receiving annuity payments in place of a DB pension that was already in payment (e.g. DB pensions transferred to an annuity as a result of a scheme buyout).

However, *firms* should include values where DB scheme benefits that were not in payment were transferred to your *firm* and a plan holder then chose to take up an annuity (e.g. a section 32 plan holder who bought a lifetime annuity).

If the answer to this question is £0, then questions 30 – 53 can be left blank.

Report the total value of assets in plans held by plan holders who accessed their plan for the first time by taking a partial UFPLS payment during the reporting period.

The total value should include the value of all uncrystallised assets before the first UFPLS withdrawal.

Do not include plans that have already been accessed by the plan holder prior to the start of the reporting period (e.g. by partially crystallising the plan or by taking an earlier UFPLS payment).

We understand that where a plan has in the past been transferred in from a previous provider, the current provider may not be aware if a UFPLS had been taken prior to that transfer. Only exclude such plans if you have been made aware that the plan was previously accessed.

If the answer to this question is £0, then questions 54 – 60 can be left blank.

Report the gross amount of all the withdrawals made during this reporting period by plan holders who accessed their plan for the first time and fully encashed it by the end of the period.

It should include both tax free and taxable portions. It should include plan holders who fully withdraw their plan in one payment, or in multiple payments, as long as all payments were made in the same reporting period.

Do not include plans that have already been accessed by the plan holder prior to the start of the reporting period (e.g. by partially crystallising the plan or by taking an earlier UFPLS payment).

We understand that where a plan has in the past been transferred in from a previous provider, the current provider may not be aware if a UFPLS

had been taken prior to that transfer. Only exclude such plans if you have been made aware that the plan was previously accessed.

[Note: we do not expect any plans with an amount remaining at the end of the period to be captured here, unless it is a minimal amount (e.g. £1) that has been left in order to avoid paying an account closure fee.]

If the answer to this question is £0, then questions 61 – 68 can be left blank.

The remainder of Part 2 of REP015 is separated into four sections: on entering drawdown, purchasing annuities, taking UFPLS, and taking full encashments. Only those firms that responded in questions 10 to 13 confirming these activities took place during the reporting period should complete the subsequent relevant questions.

**Plan holders that entered drawdown during the reporting period but did not fully exhaust their plan (questions 14-29)**

This captures all new entrants to drawdown in the reporting period who did not withdraw all their assets. If firms report any value of drawdown sales greater than zero under question 10 they should complete questions 14 to 29; other firms may leave these questions blank.

When completing the return, *firms* should report plans in the appropriate column for the pot size band that reflects the amount of AUA in the plan after any PCLS but before any income withdrawal.

Q14: What was the total number of plans that entered drawdown during the reporting period by crystallised pot size?

The notes to question 10 provide more information about which plans should be included for this question.

Plans should be reported under the pot size band that reflects the amount of AUA in the plan after any PCLS but before any income withdrawal (i.e. the pot size when the plan holder entered drawdown).

Q15 – Q19: Number of plans by plan holder age band and crystallised pot size

Questions 15 to 19 ask for the figures reported in question 14 to be broken down into age bands.

Firms may report plans according to either the age of the plan holder at the end of the reporting period, or the age of the plan holder at the point the plan entered drawdown.

Q20 – Q23: Number of plans by distribution channel and crystallised pot size

Distribution should be reported under the following categories:

- ‘Existing plan holders’, i.e. existing accumulation pension/internal vesting plan holders.
- ‘New plan holders via single firm third party arrangement’, i.e. plan holders whose accumulation pension is with a third party pension provider for whom the reporting *firm* is a sole provider for a retirement income product.
- ‘New plan holders via multi-firm third party arrangements’, i.e. panel arrangements where the reporting *firm* receives business from a third party pension provider as a result of a restricted retirement income product panel.
- ‘New plan holders’, i.e. transfers in not from third party arrangements and which do not re-

Q24: Number of plans by use of advice and crystallised pot size: number that were advised

Q25: Number of plans by use of advice and crystallised pot size: number that were not advised but took up *pensions guidance* (e.g. Pension Wise)

Q26 – Q28: Number of plans by packaged product options and crystallised pot size

late to any third party arrangement. Benefits may be purchased by an Open Market Option or transfer (including immediate vesting).

Distribution figures should be reported by the retirement income product provider. In the case of arrangements for drawdown to existing plan holders this means the originating pension provider should report the sales as the 'retirement income provider'. This includes a situation where the transition to drawdown happened within the same pension scheme.

Where third party arrangements exist between a retirement income provider and a pension provider, the retirement income provider should report all of the plan holder actions, i.e. entrants to drawdown and annuity purchases.

All new plan holders received through panels and bureaux should be reported as through multi-firm third party arrangements. This includes panels that are part of intermediary *firms*.

Where third party arrangements exist between a retirement income provider and a pension provider, the retirement income provider should report all of the plan holder actions, i.e. entrants to drawdown and annuity purchases.

The examples in the Introduction to these *guidance* notes help clarify which *firms* should be reporting third party sales.

Of the plans reported as entering drawdown in question 14, report how many of the plan holders were advised at the point of entering drawdown.

COBS 19.7.19 requires *firms* to record whether the *retail client* has received regulated advice and risk warnings when they contact the *firm* about accessing their pension. Report the number of plan holders who informed your *firm* they received advice at this point.

Of the plans reported as entering drawdown in question 14, report how many of the plan holders who were not advised at the point of entering drawdown stated that they used Pension Wise.

COBS 19.7.8R and COBS 19.7.19R require *firms* to ask whether the *retail client* has received *pensions guidance* when they contact the *firm* about accessing their pension, and for *firms* to keep a record of the response. *Firms* should report plan holders who informed the *firm* they received guidance (but not advice) at this point.

Of the plans reported as entering drawdown in question 14, report how many have the relevant packaged product attributes stated in questions 26 to 28.

Fixed term annuities, variable annuities and 'retirement account' products (e.g. where guaran

Q29: What was the total number of plans where only a PCLS was taken by crystallised pot size?

tees on investments or funds structured through TIPs pay income back into the drawdown account) should be reported in these questions.

Question 26 'Capital guarantee for part or all of assets' captures all fixed term annuity products. These products may pay out an income that is set at the outset, but this income will not rise over the term.

Fixed term annuities should not be reported under question 27 'Income guarantee for all or part of assets'. Question 27 is intended to capture unit-linked income guarantees in drawdown that have the potential to increase over the term, e.g. variable annuities and some of the new retirement account TIPs.

Of the plans reported as entering drawdown in question 14, report the number of 'zero income' plans where funds were crystallised and PCLS taken, but no taxable drawdown income has been taken.

#### Pension annuities purchased during the reporting period (questions 30 to 53)

Please do not report new products marketed as annuities but which are actually crystallised assets in drawdown and therefore reported to HMRC under drawdown rules.

Please do not include cases where a plan holder starts receiving annuity payments in place of a DB pension that was already in payment (e.g. DB pension benefits transferred to an annuity as a result of a scheme buyout).

However, please do include cases where DB pension benefits that were not in payment were transferred to your *firm* and a plan holder then chose to take up an annuity (e.g. a section 32 plan holder who bought a lifetime annuity).

When completing the return, *firms* should report annuity sales under the pot size band that reflects the amount of AUA in the plan after any PCLS but before annuity purchase.

Q30: What was the total number of pension annuities purchased during the reporting period by pot size?

The *guidance* to question 11 provides more information about which plan holders should be included for this question.

Annuity purchases should be reported under the pot size band that reflects the amount of AUA in the plan after any PCLS but before annuity purchase.

Q31 – Q35: Number of pension annuities by plan holder age band and pot size

Questions 31 to 35 ask for all the annuity purchases reported in question 30 to be broken down into age bands of the plan holder.

*Firms* may report plans according to either the age of the plan holder at the end of the reporting period, or the age of the plan holder at the point the annuity was purchased.

Q36 – Q39: Number of pension annuities purchased by distribution channel and pot size

Questions 36 to 39 ask for all the annuity purchases reported in question 30 to be broken down into the distribution channel, (such as via a single firm third party arrangement or multi-firm third party arrangements) used to sell the product.

Q40: Number of pension annuities by use of advice and pot size: number that were advised

The *guidance* to questions 20 to 23 provides more information about how this data should be reported.

Of the annuity purchases reported in question 30, report how many plan holders were advised at the point of purchasing the annuity.

COBS 19.7.19 requires *firms* to record whether the *retail client* has received regulated advice and risk warnings when they contact the *firm* about accessing their pension. *Firms* should report plan holders who informed your *firm* they received advice at this point.

Q41: Number of pension annuities by use of advice and pot size: number that were not advised but took up *pensions guidance* (e.g. Pension Wise)

Of the annuity purchases reported in question 30, report how many of the plan holders who did not receive advice stated that they used Pension Wise.

COBS 19.7.8R and COBS 19.7.19R require *firms* to ask whether the *retail client* has received pensions guidance when they contact the *firm* about accessing their pension, and for *firms* to keep a record of the response. *Firms* should report plan holders who informed the *firm* they received guidance (but not advice) at this point.

Q42 – Q53: Number of pension annuities by product types/options and pot size

Questions 42 to 53 ask for data on the product features of the annuity purchases reported in question 30.

The annuity features and options in these questions are not mutually exclusive and one annuity sale could therefore be reported under more than one of these questions (e.g. a single-life escalating annuity would be reported under both questions 49 and 52).

In this return, we mean 'enhanced annuities' (question 42) to be only those underwritten on impaired life or lifestyle factors, e.g. smoking. This should not include annuities solely underwritten on other factors, e.g. occupation or post-code details.

We mean 'flexible annuities' (question 53) to be those that change shape (e.g. 'U', 'J' or 'L' shaped annuities) and which have only become available since 6 April 2015. These flexible annuities may include features such as:

- provision to take a lump sum in future;
- a taxed lump sum at outset;
- reduced income after a specified period, or at a particular age, such as at State Pension Age, or provision for this; and/or
- increased income after a specified period, or at a particular age or event, such as on identification of a care need, or provision for this.

Only report investment-linked annuities as flexible annuities (in question 53) if they follow a

structure that only became allowable since the April 2015 changes.

**Plan holders who accessed their plan for the first time by taking a partial UFPLS payment (questions 54 to 60)**

Plans which are accessed for the first time by taking a first UFPLS payment in the reporting period should be reported, but only where they have assets remaining at the end of the period, i.e. they have taken partial UFPLS with the first payment during the reporting period.

Do not include plans that have already been accessed by the plan holder prior to the start of the reporting period (e.g. by partially crystallising the plan or by taking an earlier UFPLS payment).

These questions capture the numbers of those plan holders that have taken an UFPLS withdrawal and not the numbers with access to UFPLS.

Plans should be reported under the pot size band that reflects the amount of uncrystallised AUA in that plan prior to the first UFPLS withdrawal.

<p>Q54: What was the total number of plans where plan holders accessed their plan for the first time by taking partial UFPLS payments during the reporting period by uncrystallised pot size?</p>	<p>The <i>guidance</i> to question 12 provides more information about which plans should be reported for this question.</p> <p>Plans should be reported under the pot size band that reflects the amount of uncrystallised AUA in the plan prior to the first UFPLS withdrawal.</p>
<p>Q55 – Q58: Number of plans by plan holder age band and uncrystallised pot size</p>	<p>Questions 55 to 58 ask for the plans reported in question 54 to be broken down by the age band of the plan holder.</p> <p><i>Firms</i> may report plans according to either the age of the plan holder at the end of the reporting period, or the age of the plan holder at the point the UFPLS was paid from the plan.</p>
<p>Q59: Number of plans by use of advice and uncrystallised pot size: number that were advised</p>	<p>Of the plans reported in question 54, report how many plan holders were advised at the point of accessing their benefits.</p> <p>COBS 19.7.19 requires <i>firms</i> to record whether the <i>retail client</i> has received regulated advice and risk warnings when they contact the <i>firm</i> about accessing their pension. <i>Firms</i> should report plan holders who informed the <i>firm</i> they received advice at this point.</p>
<p>Q60: Number of plans by use of advice and uncrystallised pot size: number that were not advised but took up <i>pensions guidance</i> (e.g. Pension Wise)</p>	<p>Of the plans reported in question 54, report how many of the plan holders who did not receive advice stated that they used Pension Wise.</p> <p>COBS 19.7.8R and COBS 19.7.19R require <i>firms</i> to ask whether the <i>retail client</i> has received pensions guidance when they contact the <i>firm</i> about accessing their pension, and for <i>firms</i> to keep a record of the response. <i>Firms</i> should report plan holders who informed the <i>firm</i> they received guidance (but not advice) at this point.</p>

**Full encashments made by plan holders who accessed their plans for the first time (questions 61 to 68)**

*Firms* should report plans where the plan holder withdrew all their funds in the reporting period, but had not previously accessed their plan. This includes plan holders who fully withdrew their funds in one or more payments (as long as all payments were made in the same reporting period).

Do not include plans that have already been accessed by the plan holder prior to the start of the reporting period (e.g. by partially crystallising the funds or by taking an earlier UFPLS payment).

Do not report any plans with an amount remaining at the end of the reporting period here, unless it is a minimal amount (e.g. £1) that has been left in order to avoid paying an account closure fee.

Plans should be reported under the pot size band that reflects the amount of uncrystallised AUA in the plan prior to the first withdrawal in the reporting period.

<p>Q61: What was the total number of full encashments by plan holders who accessed their plan for first time (via small pot lump sums, UFPLS or drawdown) by pot size?</p>	<p>The notes to question 13 provide more information about which plan holders should be included for this question.</p> <p>Plans should be reported under the pot size band that reflects the amount of uncrystallised AUA in the plan prior to the first withdrawal in the reporting period.</p>
<p>Q62 – Q66: Number of full encashments by plan holder age band and uncrystallised pot size</p>	<p>Questions 62 to 66 ask for the full encashments reported in question 61 to be broken down into age bands.</p> <p><i>Firms</i> may report plans according to either the age of the plan holder at the end of the reporting period, or the age of the plan holder at the point the plan was fully encashed.</p>
<p>Q67: Number of full encashments by use of advice and pot size: number that were advised</p>	<p>Of the full encashments reported in question 61, report how many were made by plan holders who were advised at the point of accessing their benefits.</p> <p>COBS 19.7.19 requires <i>firms</i> to record whether the <i>retail client</i> has received regulated advice and risk warnings when they contact the <i>firm</i> about accessing their pension and receive the risk warnings. <i>Firms</i> should report plan holders who informed the <i>firm</i> they received advice at this point.</p>
<p>Q68: Number of full encashments by use of advice and pot size: number that were not advised but took up <i>pensions guidance</i> (e.g. Pension Wise)</p>	<p>Of the full encashments reported in question 61, report how many of the plan holders who did not receive advice stated that they used Pension Wise.</p> <p>COBS 19.7.8R and COBS 19.7.19R require <i>firms</i> to ask whether the <i>retail client</i> has received pensions guidance when they contact the <i>firm</i> about accessing their pension, and for <i>firms</i> to keep a record of the response. <i>Firms</i> should report plan holders who informed the <i>firm</i> they received guidance (but not advice) at this point.</p>

**Section BNotes for completion of REP016**

The following notes do not cover all questions in REP016, only those questions where we considered guidance would assist firms in completing the return.

**Part 1 – Retirement income stock data (questions 4 to 16)**

This section captures the group’s pension and retirement income books in aggregate as at the end of the period being reported. Where questions ask for plans or assets to be reported by the age of the plan holder, it is the age at the end of the reporting period that is relevant.

Questions 4 to 12 are split so that firms provide separate figures depending on whether the figure reported relates to a trust-based scheme or a contract-based scheme:



- *Firms* should report all personal and stakeholder pensions as contract-based schemes, including SIPPs written under trust.

- Only DC occupational money purchase schemes should be reported as trust-based schemes. For unitised with-profits business, firms should report the policy fund value.

For traditional or conventional with-profits business, firms should report the asset share or other appropriate available value.

Providers should report asset values for all single arrangement SIPPs where individual investments are not allocated between uncrystallised or crystallised investments. All such assets should be split across the uncrystallised and crystallised questions (4 to 12) using either unitised holdings split between plan members or percentage lifetime allowance (LTA) calculations that exist for the single arrangement SIPP.

### Uncrystallised stock data (questions 4 to 8)

This section captures plans with uncrystallised assets only. Firms should not include crystallised plans in schemes with retirement ages below 55.

Do not include plans that are partially crystallised in this section (they are captured in the next section). Plans that are in phased drawdown should not be included in this section.

<p>Q4: How many defined contribution (DC) pension plans do you have in accumulation where the plan holder is aged 55 or over and has not accessed their pension?</p>	<p>This captures plans where the plan holder is aged 55 and over and has never accessed their benefits (i.e. taken no PCLS, UFPLS or drawdown income) and which remain completely uncrystallised.</p>
<p>Q5: How many DC pension plans do you have with only uncrystallised assets where the plan holder is aged 55 or over and has at any time taken a lump sum payment via uncrystallised funds pension lump sum (UFPLS)?</p>	<p>Report the number of plans where the plan holder is aged 55 or over and has only uncrystallised assets (but has at any time accessed their pensions via UFPLS and so has assets remaining).</p> <p><i>Firms</i> should not include plans where the plan holder takes an UFPLS payment from uncrystallised funds, but part of the plan is already crystallised and in drawdown.</p>
<p>Q6: How many DC pension plans do you have in accumulation where the plan holder is aged under 55 years old?</p>	<p>Report the number of plans where the plan holder is aged under 55 years old and has never accessed their plan and so has only uncrystallised assets.</p>
<p>Q7: How many DC pension plans do you have which are still solely in accumulation (uncrystallised) and have a guaranteed income benefit such as a guaranteed annuity rate (GAR), deferred annuity option, or guaranteed minimum pension (GMP)?</p>	<p>Report any DC and money purchase plans that include guaranteed income benefit (whether this is in the form of a deferred annuity or <i>guaranteed annuity rate</i>). This would include, but is not limited to, plans that are created as a result of an individual or bulk transfer from a <i>defined benefit occupational pension scheme</i> and contracts with guaranteed benefits as a result of contracting out (i.e. plans with guaranteed minimum pension or equivalent pension benefits). Examples of such contracts include section 32 buyout plans, <i>retirement annuity</i> contracts (often known as a 'section 226 pension' or 'section 620 pension'), executive pension plans and bulk purchase annuities.</p> <p>[Note: see 'Identifying the retirement income provider' at paragraphs 8–11 of these notes.]</p> <p>Do not report any plans which have been accessed in any way (e.g. where PCLS or UFPLS have been taken).</p>

Q8: What is your total value of uncrystallised assets under administration (AUA) in DC pension plans? (£)

Report all uncrystallised pension assets here, regardless of the age of the plan holders or whether they also have crystallised assets. Include the uncrystallised assets of any partially crystallised plans.

For unitised with-profits business, *firms* should report the policy fund value. For traditional or conventional with-profits business, *firms* should report the asset share or other appropriate available value.

Where SIPP providers are unable to provide a valuation for the date required (31 March) they should use the most recent valuation.

The figure should be reported in pounds sterling and single units.

**Partially crystallised stock data (question 9)**

All plans where the plan holder has both uncrystallised and crystallised funds should be reported in this question. This includes all plans in 'phased' or 'drip feed' drawdown. Plan holders who have part of their funds crystallised in drawdown and are also taking UFPLS from uncrystallised funds should be included.

**Crystallised stock data (questions 10 to 12)**

This section is intended to capture the *firm's* crystallised book of pension business, i.e. assets in drawdown. All products marketed as annuities but written within drawdown tax rules (e.g. fixed term and variable annuities) should be included here even if funds are domiciled outside the UK.

Q10: How many drawdown (capped and flexi) plans do you have where 100% of the funds are crystallised?

Report all plans where all the assets are crystallised.

Q11: How many drawdown plans do you have where a PCLS has been paid but no income has ever been taken?

Report all plans where a PCLS has been taken but no income has been paid. Include plans which are 100% crystallised and those which are partially crystallised.

Q12: What is the total value of crystallised assets under administration (AUA) in DC pension plans? (£)

Report all crystallised (in drawdown) pension assets here, regardless of the age of the plan holders or whether they also have uncrystallised assets. Include the crystallised assets of any partially crystallised plans.

For unitised with-profits business, *firms* should report the policy fund value. For traditional or conventional with-profits business, *firms* should report the asset share or other appropriate available value.

Where SIPP providers are unable to provide a valuation for the relevant date (31 March), they should use the most recent valuation.

The figure should be reported in pounds sterling and single units.

**Report all plans where all the assets are crystallised.**

Q13: In total how many annuities do you currently have in payment?

Report how many annuities were in payment at the end of the reporting period. *Firms* should report all annuities in payment regardless of whether the annuitant has an individual contract (i.e. bulk annuities in payment should be re

Q14: What was the total income paid on all your annuities in payment during the reporting period? (£)

ported for each individual recipient not as one single contract in payment).

Annuities in payment to dependents, spouses and civil partners of the original annuitant should be included.

Report the total amount of all annuity payments made during the period.

The figure should be reported in pounds sterling and single units.

Q15: What is the total number of plans where the plan holder made regular withdrawals by drawdown or UFPLS?

Report the total number of plans where the plan holder gave instructions for regular withdrawals at any point previously (by drawdown or by UFPLS) and where the plan remains invested at the end of the reporting period.

Include plans with regular withdrawals of any frequency (e.g. annual, quarterly, monthly or other frequency) so long as at least one withdrawal was made during the reporting period.

Include plans where the plan holder has chosen to take additional ad hoc payments in addition to their regular income or has chosen to vary the level of their regular payments during the period.

Include all plans with regular withdrawals regardless of whether the plan holder accessed their plan prior to this reporting period or not.

Plans with both capped and flexi-access drawdown should be captured.

Plans where the plan holder remained invested but did not take an income in the period can be excluded.

If this figure is lower than 750, questions 17 – 31 can be left blank.

Q16: What is the total number of plans where the plan holder made ad hoc partial withdrawals by drawdown or UFPLS?

Report the total number of plans where the plan holder has received ad hoc payments (by drawdown or by UFPLS) and where the plan remains invested at the end of the reporting period. Do not include any plans where the plan holder has given instructions for regular withdrawals as these should be reported separately at question 15. Plans with both capped and flexi-access drawdown should be captured. Plans where the plan holder remained invested but did not take an income in the period can be excluded. If this figure is 0, questions 32 and 33 can be left blank

**Part 2 - Withdrawals flow data (questions 17 to 34)**

This section captures more information about the plans reported in questions 15 and 16 where plan holders made one or more withdrawals in the relevant period and remain invested at the period end, and includes plan holders regardless of when they began accessing their plan. The *guidance* for questions 15 and 16 provides more information on which plans should be included.

Plans where the plan holder remained invested but did not take an income in the period can be excluded.

Plans where the plan holder gave instructions for regular withdrawals should be reported under questions 17 to 31.

Note that *firms* should only complete questions 17 to 31 where 750 or more plans with regular withdrawals are reported in question 15. If this is not the case, these questions can be left blank.

Include plans with regular withdrawals of any frequency (e.g. annual, quarterly, monthly or other frequency) providing that at least one withdrawal was made during the reporting period. Plans where the plan holder has given no instructions for regular withdrawals and instead has made withdrawals by one or more ad hoc requests should be reported under questions 32 and 33.

Where plan holders have set up a regular payment and also taken one or more ad hoc withdrawals during the reporting period, *firms* should include their plans in the answers on regular withdrawals (questions 17 to 31) and not ad hoc withdrawals (questions 32 and 33).

In questions 17–24 plans should be reported in the age band column that reflects the age of the plan holder at the end of the reporting period.

In questions 25–33 plans should be reported in the pot size band column that reflects the pot size at the start of the reporting period, or when the plan entered drawdown (if later).

Note that questions 32 and 33 should only be completed where one or more plans with ad hoc partial withdrawals are reported in question 16. If this is not the case, these questions can be left blank.

To answer questions 17 to 31, *firms* should calculate annual withdrawal rates for all the plans with regular withdrawals set up and which were reported in question 15.

*Firms* should not calculate withdrawal rates for each withdrawal; it is a rate of withdrawal for each plan holder over the year that should be calculated.

*Firms* should use one of two methods set out below for calculating annual withdrawal rates.

### Method 1 – Electronic valuations (where possible)

Where *firms* can extract an up to date valuation electronically, *firms* should use the following method:

- Step 1: the member's plan value (in pounds sterling) at the beginning of the period being reported is extracted (including both crystallised and uncrystallised funds);
- Step 2: any contributions and transfers in to the plan over the period are added to the value at step 1;
- Step 3: any transfers out of the plan and/or PCLS over the period are deducted from the value at step 2; and
- Step 4: all income payment withdrawals over the period (regular and ad hoc drawdown and UFPLS) should then be totalled and divided by the value after step 3 to calculate the annual withdrawal rate.

### Method 2 – Latest annual valuations (where method 1 is not possible)

Where electronic valuations at specific dates cannot be extracted, *firms* should use the following alternative method:

- Step 1: extract the member's plan value (in pounds sterling) at the last annual valuation date prior to the start of the period being reported;
- Step 2: any contributions and transfers in over the 12-month period starting with the annual valuation identified in step 1 and ending with the following annual valuation (which will have taken place during this reporting period) are added to the value at step 1;
- Step 3: any transfers out of the plan and/or PCLS over the 12-month period between valuations are deducted from the value at step 2; and
- Step 4: all income payment withdrawals over the period between valuations (regular and ad hoc drawdown and UFPLS) should then be totalled and divided by the plan value after step 3 to calculate the annual withdrawal rate.

Both methods ignore investment growth as it will be carried over to the starting valuation of the next year's calculation and be reflected in the withdrawal rate reported then.

Where a plan holder enters a drawdown arrangement for the first time within the year being reported and starts regular withdrawals, *firms* should use the starting value when the plan entered drawdown.

Plans where plan holders make both regular and ad hoc withdrawals should be reported as one plan only and both the regular and ad hoc withdrawals should be included together in the rate of withdrawal calculation.

### Example 1 – using method 1

A SIPP plan has an opening valuation of £200,000 at the start of the reporting period (i.e. 1 April). The plan holder has regular withdrawals set up and withdraws £100,000 from the SIPP during the reporting period. A *firm* able to extract the value of the plan at the beginning of the period (method 1) should calculate this as a 50% annual withdrawal rate, i.e. £100,000/£200,000.

### Example 2 – using method 2

A SIPP provider does not have electronic valuation information available and instead undertakes manual annual valuations (method 2) on 1 October each year. Under method 2 the SIPP provider calculates the withdrawal rate for the 12 months between the last two annual valuations (i.e. October to September). To do this it should total all the withdrawals made in the 12 months between valuations and divides this against the starting valuation for the period.

The SIPP's value at the start of the period was £250,000, and the plan holder made regular and ad hoc withdrawals totalling £100,000 during the following 12 months. The *firm* should therefore calculate the withdrawal rate for this reporting period as 40%, i.e. £100,000/£250,000.

### Example 3 – making contributions during the year

A plan holder starts the reporting period (year 1) with a £50,000 pot of crystallised assets and during the period makes use of their money purchase annual allowance and pays in £10,000 as uncrystallised assets. They have regular withdrawals set up and during the reporting period withdraw £12,000.

To calculate the withdrawal rate the provider divides the withdrawals of £12,000 by the total of the starting pot plus contributions (£50,000 + £10,000 = £60,000), which results in a rate of 20%.

At the start of the next reporting period (year 2) the starting valuation should include both the crystallised assets and the new uncrystallised assets resulting from the £10,000 contribution last period, even if the uncrystallised assets are in a separate arrangement and remain untouched throughout year 2.

### Example 4 – entering drawdown within the reporting period

A plan holder transfers into the pension scheme in January, entering drawdown with a starting value (after PCLS) of £100,000. They set up regular withdrawals and receive £5,000 in February and £5,000 in March. The withdrawal rate should be 10%, i.e. £10,000/£100,000.



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**Employers' Liability Register compliance return**

*SUP 16 Annex 44A*





## Guidance notes for the completion of Employers' Liability Register compliance return in SUP 16 Annex 44AR

Firm details

### 1FRN

Enter the *firm* reference number.

### 2Firm name

Enter the *firm* name as it appears on the Financial Services Register.

Director's certificate

### 3Is the firm materially compliant with ICOBS 8.4.4R(2) and ICOBS 8 Annex 1 in the production of the firm's employers' liability registers in the reporting period?

If the *firm* is materially compliant, select 'Yes' and move on to question 4.

If the *firm* is not materially compliant, select 'No' and proceed to answer questions 3.1 to 3.3.

**3.1** Please confirm that the director's certificate contains a description of the ways in which the firm, in its production of the register, is not materially compliant and of the steps, together with relevant timescales, that the firm is taking to ensure that the firm will be materially compliant as soon as practicable. This question relates to the requirement in SUP 16.23A.5R(1)(b).

If an explanation is provided in the *director's* certificate or auditor's report select 'Yes'.

**3.2** How many policies are omitted from the register? (as a proportion of the total number of policies required to be included in the register.)

Enter the percentage of the total number of *policies* omitted from the register.

If this percentage is an estimate, the basis for estimation should be included in the supporting documents.

**3.3** How many policies in the register contain incorrect or incomplete information? (as a proportion of the total number of policies required to be included in the register.)

Enter the percentage of the total number of *policies* where there is incorrect or incomplete information on the register.

If this percentage is an estimate, the basis for estimation should be included in the supporting documents.

Director's Certificate upload

**4** Please upload a copy of the director's certificate here in PDF format

[upload functionality]

Auditor's report

**5** Does the auditor's report confirm the firm is materially compliant with ICOBS 8.4.4R(2) and ICOBS 8 Annex 1 in the production of its employers' liability registers in the reporting period?

Indicate if the auditor's report confirms the *firm* is materially compliant by selecting 'Yes'.

Where the auditor's report states the *firm* is not materially compliant select 'No'.

Auditor's report upload

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**6**Please upload a copy of the auditor's report here in PDF format.

[upload functionality]

# Appendix 3

## Guidance on passporting issues

### 3.1 Application

**App3.1.1** **G** This appendix applies to all *firms* when carrying on a *passporting activity*, except for a *firm* which is only carrying on a *passporting activity* under the *auction regulation*.

### 3.2 Purpose

**App3.2.1** **G** The purpose of this appendix is to give *guidance*:

- (1) to *UK firms* on some of the issues that arise when carrying on *passporting activities* (see ■ SUP App 3.5 and ■ SUP App 3.6);
- (2) to all *firms* on the relationship between *regulated activities* and activities passported under the *Single Market Directives* (see ■ SUP App 3.9 and ■ SUP App 3.10).

### 3.3 Background

#### **The Treaty on the Functioning of the European Union**

**App3.3.1** **G** (1) The *Treaty* establishes in *EU law* the rights of freedom of establishment and freedom to provide services in the *EU*.

(2) The *Treaty* lays down central principles governing the legal framework for freedom of establishment and the free movement of services in the *EU*. There are, however, a number of areas where the legal position is not clear. This includes, for example, identifying whether a service is provided through an establishment, where the issues involved are complex. Therefore, this Appendix is intended to provide *guidance* but cannot be regarded as comprehensive. Ultimately, the construction of the *Treaty* and relevant Directive provisions is a matter for the European Court of Justice.

**App3.3.2** **G** The *Treaty* provides the framework for the provision of banking, insurance business, investment business, UCITS management services and insurance mediation, while the *Single Market Directives* clarify the rights and freedoms within that framework.

**EU and EEA**

**App3.3.3** **G** The agreement on the *European Economic Area*, signed at Oporto on 2 May 1992, extends certain *EU* legislation to those *EEA States* that are not Member States of the *EU*.

**Interpretative communications**

**App3.3.4** **G** In 1997, the European Commission published an interpretative communication (Freedom to provide services and the interests of the general good in the Second Banking Directive (97/C 209/04)) (the text of this directive and the First Banking Directive is now consolidated in the *Banking Consolidation Directive*). The European Commission's objective in publishing this communication was to explain and clarify the *EU* rules. The European Commission deemed it desirable "to restate in a Communication the principles laid down by the Court of Justice and to set out its position regarding the application of these Principles to the specific problems raised by the Second Banking Directive".

**App3.3.5** **G** In 2000, the European Commission published a further interpretative communication (Freedom to provide services and the general good in the insurance sector (2000/C43/03)). This allowed the European Commission to publicise its own interpretation of the rules on the freedom to provide services.

**App3.3.6** **G** (1) The European Commission has not produced an interpretative communication on *MiFID*. It is arguable, however, that the principles in the communication on the Second Banking Directive can be applied to *investment services and activities*. This is because Chapter II of Title II of *MiFID* (containing provisions relating to operating conditions for investment firms) also applies to the *investment services and activities* of *firms* operating under the *Banking Consolidation Directive*, which is repealed and replaced by the *CRD*.

(2) The European Commission has not produced an interpretative communication on the *IDD*, *AIFMD*, the *MCD* or the *UCITS Directive*.

**App3.3.7** **G** In giving its views, communications made by the European Commission have the status of guidance and are not binding on the national courts of *EEA States*. This is because it is the European Court of Justice that has ultimate responsibility for

App3.6.23 **G** [deleted]

App3.6.24 **G** [deleted]

### Membership of trading venues

App3.6.25 **G** (1) The FCA is of the opinion that where a UK firm becomes a member of:

- (a) a regulated market that has its registered office or, if it has no registered office, its head office, in another EEA State; or
- (b) an MTF or OTF operated by a MiFID investment firm or a market operator in another EEA State,

the same principles as in the 'characteristic performance' test should apply. Under this test, the fact that a UK firm has a screen displaying the regulated market's or the MTF's or the OTF's prices in its UK office does not mean that it is dealing within the territory of the Home State of the regulated market or of the MTF or OTF.

(2) In such a case, the FCA would consider that:

- (a) the market operator operating the regulated market or the MTF or the OTF is providing a cross-border service into the UK and so, provided it has given notice to its Home State regulator in accordance with articles 53(6) or 34(6) of MiFID, it will be exempt from the general prohibition in respect of any regulated activity carried on as part of the business of the regulated market, of operating a multilateral trading facility or of operating an organised trading facility (see section 312A of the Act);
- (b) the MiFID investment firm operating the MTF or OTF is providing a cross-border service into the UK and so needs to comply with ■ SUP 13A.

App3.6.26 **G** Firms are reminded of their rights, under article 36 of MiFID, to become members of, or have access to, the regulated markets in other Member States.

App3.6.27 **G** Firms should note that, in circumstances where the FCA take the view that a notification would not be required, other EEA States may take a different view.

App3.6.28 **G** [deleted]

App3.6.29 **G** [deleted]

App3.6.30 **G** [deleted]

App3.6.31 **G** [deleted]

## 3.9 Mapping of MiFID, CRD, AIFMD, UCITS Directive, MCD and IDD to the Regulated Activities Order

**App3.9.1** **G** The following Tables 1, 2, 2ZA, 2A and 2B provide an outline of the *regulated activities* and *specified investments* that may be of relevance to *firms* considering undertaking *passporting activities* under the *CRD, MiFID, AIFMD*, the *UCITS Directive*, the *MCD* and the *IDD*. The tables may be of assistance to *UK firms* that are thinking of offering financial services in another *EEA State* and to *EEA firms* that may offer those services in the *United Kingdom*.

**App3.9.2** **G** The tables provide a general indication of the *investments* and activities specified in the *Regulated Activities Order* that may correspond to categories provided for in the *CRD, MiFID, AIFMD*, the *UCITS Directive*, the *MCD* or the *IDD*. The tables do not provide definitive *guidance* as to whether a *firm* is carrying on an activity that is capable of being passported, nor do the tables take account of exceptions that remove the effect of articles. Whether a *firm* is carrying on a *passporting activity* will depend on the particular circumstances of the *firm*. If a *firm's* activities give rise to potential passporting issues, it should obtain specialist advice on the relevant issues.

**App3.9.3** **G** In considering the issues raised in the tables, *firms* should note that:

- (1) article 64 of the *Regulated Activities Order* (Agreeing to carry on specific kinds of activity) may apply in respect of agreeing to undertake the specified activity (see ■ PERG 2.7.21G); and
- (2) article 89 of the *Regulated Activities Order* (Rights to or interests in investments) applies in respect of rights to and interests in the types of *investments* to which the category applies.

**Activities set out in Annex 1 of the CRD**

**App3.9.4** **G**

Table 1: CRD activities		Part II RAO Activities	Part III RAO Investments
1.	Taking deposits and other repayable funds from the public	Article 5	Article 74
2.	Lending	Article 61, 64	Article 88
3.	Financial leasing		
4.	Money transmission services		
5.	Issuing and administering means of payment (eg credit cards, travellers' cheques and bankers' drafts)		
6.	Guarantees and commitments		
7.	Trading for own account or for account of customers in:		
	(a) money market instruments	Article 14, 21, 25 (see Note 1), 64	Article 77, 78, 80, 83-85, 89
	(b) foreign exchange	Article 14, 21, 25, 64	Article 83-85, 89

Table 2A: UCITS Directive activities	Part II RAO Activities	Part III RAO Investments
f.	distribution of income;	
g.	unit issues and redemptions;	
h.	contract settlements (including certificate dispatch);	
i.	record keeping.	
3. Marketing.		
<p>Note 3. The <i>regulated activity of managing a UCITS</i> may be carried on for property of any kind (article 4(2) of the <i>regulated activities order</i>). However, the <i>scheme property</i> of a <i>UCITS scheme</i> is limited to certain types of property, in line with COLL 5 (Investment and borrowing powers).</p>		

**Activities set out in articles 2.1(1) and 2.1(2) of the IDD**

App3.9.7 G

Table 2B: Insurance Distribution Directive Activities/Examples		Part II RAO Activities	Part III RAO Investments
1.	Proposing or carrying out other work preparatory to the conclusion of contracts of insurance or reinsurance.	Articles 25, 53(1) and 64	Articles 75, 89 (see Note 1)
1A.	Advising on contracts of insurance or reinsurance	Articles 53(1) and 64	Articles 75, 89
2.	Concluding contracts of insurance or reinsurance	Articles 21, 25, 53(1) and 64	Articles 75, 89
3.	Assisting in the administration and performance of contracts of insurance or reinsurance, in particular in the event of a claim.	Articles 39A, 64	Articles 75, 89
4	Provision of information concerning one or more insurance contracts in accordance with criteria selected by customers through a website or other media and the compilation of an insurance product ranking list, including price and product comparison, or a discount on the price of an insurance contract, when the customer is able to directly or indirectly conclude an insurance contract using a website or other media.	Articles 21, 25, (where this involves the provision of advice) 53(1), and 64.	Articles 75, 89

Note 1. Rights to or interests in *life policies* are *specified investments* under Article 89 of the *Regulated Activities Order*, but rights to or interests in *general insurance contracts* are not.

Note 2. Row 4 in Table 2B includes text that appears in article 2.1(1) of the *IDD*. These activities are not considered to be separate, discrete activities under the *IDD* but rather are included by way of an example of what constitutes *insurance distribution*. They have been included in this table for completeness, together with an indication of the Part II RAO activities and Part III RAO investments that may be relevant. This is to indicate, including for *firms* considering undertaking passport activities under the *IDD*, how these examples may relate to *regulated activities* and *specified investments*.

**Activities set out in article 4 of the MCD**

App3.9.8 **G**

	Table 3: MCD activities	Part II RAO specified activities	Part III RAO Investments
1	Acting as credit intermediary	Articles 25A(1), 25A(2A), 53A, 36A(1)(d), (e), (f) and 53DA	Articles 88 and 88D

**3.10 Mapping of the Solvency II Directive to the Regulated Activities Order**

**Introduction**

App3.10.1 **G**

The *guidance* in Table 3 describes in broad outline the relationship between:

- (1) the insurance-related *regulated activities* specified in the *Regulated Activities Order*; and
- (2) the activities within the scope of the *Solvency II Directive*

App3.10.2 **G**

**This is a guide only and should not be used as a substitute for legal advice** in individual cases.

Table 3: Solvency II Directive activities		Part II RAO Activities	Part III RAO Investments
<b>1. Non-life insurance activities</b>			
1.	Taking up and carrying on direct non-life insurance business	Article 10	Article 75
2.	Classes 1 to 18 of non-life insurance business in Point A of Annex I to the Solvency II Directive		Corresponding paragraphs 1 to 18 of Schedule 1, Part I
<b>2. Life insurance activities</b>			
1.	Taking up and carrying on direct life insurance business	Article 10	Article 75
2.	Classes I to IX of direct life insurance business in Annex II to the Solvency II Directive		Corresponding paragraphs I to IX of Schedule 1, Part II

**Meaning of contract of insurance**

App3.10.3 **G**

The meaning of *contract of insurance* is set out in article 3(1) of the *Regulated Activities Order* (Interpretation). It does not include benefit-in-kind funeral plans, which are specified in article 60 of the *Regulated Activities Order* (plans covered by insurance or trust arrangements). Such funeral plans (to the extent that they are insurance) are also excluded from the *Solvency II Directive*. It covers some contracts



which might not otherwise be viewed as insurance in the *United Kingdom* (for example, contracts of guarantee). These contracts are also governed by the *Solvency II Directive*. For the purpose of the *Regulated Activities Order*, a *contract of insurance* includes a contract of reinsurance as well as a contract of direct insurance.

### The Solvency II Directive

**App3.10.4** **G** Article 1 of the *Solvency II Directive* provides that the Directive "lays down rules concerning... the taking up and pursuit, within the Community, of the self-employed activities of direct insurance and reinsurance". Article 10 of the *Regulated Activities Order* (Effecting and carrying out contracts of insurance) also covers reinsurance.

**App3.10.5** **G** Articles 3 to 12 of the *Solvency II Directive* set out certain exclusions by reference to:

- (1) types of insurance;
- (2) types of insurer;
- (3) particular conditions under which insurance activities are carried out.
- (4) annual income; and
- (5) particular identified institutions.

**App3.10.6** **G** Some of the exclusions referred to in the *Solvency II Directive* mirror exclusions in the *Regulated Activities Order*. So, the exclusion for breakdown insurance in article 6 of the *Solvency II Directive* is matched by a slightly narrower exclusion in article 12 of the *Regulated Activities Order* (Breakdown insurance). The separate treatment of benefit-in-kind funeral plans under the *Regulated Activities Order* (see ■ SUP App 3.10.4 G) is matched by their exclusion on a slightly wider basis in article 10 of the *Solvency II Directive*. Other requirements from the *Solvency II Directive* are also excluded from regulation by the *Exemption Order*.

**App3.10.7** **G** Most of the exclusions under the Directives, however, are not excluded from being *regulated activities*. For example, the activities of "*non-directive friendly societies*" are regulated under the *Act*, on a "lighter basis" than the activities of other insurers.

### Territorial scope of the Regulated Activities Order and the Directive

**App3.10.8** **G** Under the *Act* and the *Regulated Activities Order*, the activities of *effecting and carrying out contracts of insurance* are treated as being carried on in the *United Kingdom* on the basis of legal tests under which the location of the risk is only one factor. If the risk is located in the *United Kingdom*, then (other relevant factors being taken into account) the activity will, in the vast majority of cases, also be viewed as carried on in the *United Kingdom*. There are exceptions, however, and overseas insurers may insure risks in the *United Kingdom* without carrying on business here and so without requiring to be regulated (although the *financial promotion* regime may apply). By contrast, under the *Solvency II Directive*, the responsibility, as between *EEA States*, for regulating the conduct of passported

insurance services is determined by reference to the location of the risk or commitment, as defined in article 13(13) and (14) of the *Solvency II Directive*.

**App3.10.9** G So, the effect of App 3.12.1 is that an insurer may be carrying on *insurance business* in the *United Kingdom* which is to be treated as a *regulated activity* under article 10 to the *Regulated Activities Order* (Effecting and carrying out contracts of insurance) in circumstances where the risks covered are treated as located in another *EEA State*. In that event, the *insurer* is required by Schedule 3 to the *Act* to passport into the State concerned and may be subject to conduct of business requirements in that State (see ■ SUP 13.10 (Applicable provisions)).

**App3.10.10** G An *insurer* authorised in another *EEA State* who is insuring *UK risks* and so passports on a services basis under the *Solvency II Directive* into the *United Kingdom* may not be carrying on a *regulated activity* in the *United Kingdom*. But, if it passports into the *United Kingdom*, it will qualify for *authorisation* under paragraph 12 of Schedule 3 to the *Act* (Firms qualifying for authorisation). Where this is the case, the *insurer* will be subject to conduct of business requirements in the *United Kingdom* (see ■ SUP 13A.6 (Which rules will an incoming EEA firm be subject to?)).

**Activities carried on by incoming EEA firms in connection with insurance business.**

**App3.10.11** G Although the *Solvency II Directive* is concerned with the *regulated activities* of effecting and carrying out contracts of insurance, an *incoming EEA firm* passported under the *Solvency II Directive* will be entitled to carry on certain other *regulated activities* without the need for *top-up permission*. This is where the *regulated activities* are carried on for the purposes of or in connection with the *incoming EEA Firm's insurance business*. These *regulated activities* may include:

- (1) *dealing in investments as principal;*
- (2) *dealing in investments as agent;*
- (3) *arranging (bringing about) deals in investments;*
- (4) *making arrangements with a view to transactions in investments;*
- (5) *managing investments;*
- (6) *safeguarding and administering investments;*
- (7) *advising on investments;*
- (8) agreeing to carry on a regulated activity of the above kind.

**Financial promotion**

**App3.10.12** G The *financial promotion* regime under section 21 of the *Act* (Restrictions on financial promotion) may also apply to EEA insurance undertakings regardless of whether they carry on a *regulated activity* in the *United Kingdom* or passport into the *United Kingdom*.

(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
5	SUP 16.13.4D and SUP 16.15.8D	D	<p>tween 13 January 2018 and 30 March 2018 (inclusive).</p> <p>The effect of (3) is also that an authorised <i>electronic money institution</i> or <i>small electronic money institution</i> should submit the return FIN060 by 11 May 2018 if the return relates to a reporting period that ends between 13 January 2018 and 30 March 2018 (inclusive).</p> <p>An <i>authorised payment institution, registered account information service provider, authorised electronic money institution, or small electronic money institution</i> required to submit a return covering a reporting period beginning before and ending after 13 January 2018 is required to answer the 'new return questions' only in respect of the period beginning on the 13 January 2018 and ending on its <i>accounting reference date</i>.</p> <p>'New return questions' means:</p> <p>(a) for an <i>authorised payment institution</i>, questions 68, 76,-80 and 84-86 in FSA056 (Authorised Payment Institution Capital Adequacy Return);</p> <p>(b) for a <i>registered account information service provider</i>, question 68 in FSA056 (Authorised Payment Institution Capital Adequacy Return);</p> <p>(c) for an <i>authorised electronic money insti-</i></p>	13 January 2018 to 1 April 2019	13 January 2018

(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
6	SUP 16.13.4D and SUP 16.15.8D	G	<p><i>tution</i>, questions 2–3, 10–11, 75–76 and 80–82, in FIN060 (Authorised Electronic Money Institution Questionnaire); and</p> <p>(d) for a <i>small electronic money institution</i>, questions 2–3 and questions 10–12 in FIN060 (Small E-Money Institution Questionnaire).</p> <p>The effect of (5) is that, even if part of the reporting period to be covered by a return falls earlier than 13 January 2018, the <i>authorised payment institution, registered account information service provider, authorised electronic money institution or small electronic money institution</i> is nonetheless required to submit the return in the new form set out in the Payment Services Instrument 2017, but is only required to answer the new questions added by the Payment Services Instrument 2017 in relation to the part of the reporting period that falls on or after 13 January 2018.</p>	13 January 2018 to 1 April 2019	13 January 2018
7	SUP 16.15.8D	G	<p><i>Electronic money institutions</i> are reminded that the return FIN060 is to be completed in respect of a reporting period of 12 <i>months</i>. This means that <i>electronic money institutions</i> using FIN060 for the first time should include in that report data from the preceding 12 <i>months</i>, irrespective of whether some of that data has already been reported to the <i>FCA</i> as a result of the previous half ye</p>	13 January 2018 to 1 April 2019	13 January 2018

(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
			arly reporting frequency.		
(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	SUP 16.23A.3R(2)	R	If, at the time SUP 16.23A.3R comes into force, the latest <i>director's</i> certificate and auditor's report a <i>firm</i> submitted under the <i>rules</i> replaced by SUP 16.23A.3R related to a version of the register dated 31 March 2018 or earlier, the 'period of production of the register' to be covered by the first return that <i>firms</i> must submit under SUP 16.23A.3R(1) is from that date to 31 March 2019.	From 28 September 2018 to 31 August 2019	28 September 2018
2	SUP16.23A.3R (2)	R	If, at the time SUP 16.23A.3R comes into force, the latest <i>director's</i> certificate and auditor's report a <i>firm</i> submitted under the <i>rules</i> replaced by SUP 16.23A.3R related to a version of the register dated 1 April 2018 or later, the 'period of production of the register' to be covered by the first return that <i>firms</i> must submit under SUP 16.23A.3R(1) is from that date to 31 March 2019.	From 28 September 2018 to 31 August 2019	28 September 2018



## Supervision

### SUP TP 11

#### Bank of England and Financial Services Act 2016: Approved persons in insurers

SUP TP		Application and purpose
SUP TP 11.1		
SUP TP 11.1.1	R	(1) SUP TP 11 applies to <b>SMCR insurance firms</b> .
		(2) SUP TP 11.15 applies to every <i>firm</i> .
SUP TP 11.1.2	G	(1) SUP TP 11 has transitional provisions relating to the changes to the <i>approved persons</i> regime made by Part 2 of the Bank of England and Financial Services Act 2016 and the Individual Accountability (Dual-Regulated Firms) Instrument 2018.
		(2) In particular, it has procedures for converting existing approvals for the performance of <i>controlled functions</i> into approvals for the corresponding <i>designated senior management functions</i> .
SUP TP 11.1.3	G	(1) The main time period for which SUP TP 11 operates is 2018.
		(2) There are transitional provisions that can apply beyond that period. They are based on events occurring during that period.
SUP TP 11.1.4	G	Most of SUP TP 11 relates SUP 10C.
SUP TP 11.1.5	G	SUP TP 11.22 has a glossary of terms used in SUP TP 11 which have meanings that only apply in SUP TP 11. These terms appear in bold type in SUP TP 11.

SUP TP		Conversion of existing approvals
SUP TP 11.2		
SUP TP 11.2.1	R	If the conditions set out in SUP TP 11.2.2R are met, a <b>pre-implementation approval</b> in relation to a particular <i>approved person</i> (AP) and a particular <b>SMCR insurance firm</b> (F) has effect on and after the <b>commencement date</b> as if it had been given in relation to the <i>FCA-designated senior management function</i> or <i>FCA-designated senior management functions</i> specified in SUP TP 11.2.2R(2) and (3).
SUP TP 11.2.2	R	Those conditions are:
		(1) the <b>pre-implementation approval</b> is in effect in relation to F:
		(a) (in the case of a <b>notifying firm</b> ) at the <b>firm specific date</b> ; and
		(b) immediately before the <b>commencement date</b> ;
		(2) AP is performing an <i>FCA-designated senior management function</i> in relation to F on the <b>commencement date</b> ;
		(3) the <b>pre-implementation approval</b> in (1) is <b>potentially convertible</b> into approval for the <i>FCA-designated senior management function</i> in (2); and
		(4) (in the case of a <b>notifying firm</b> ) F has notified the FCA:
		(a) before the <b>commencement date</b> ;

			(b)	that it considers that the <b>pre-implementation approval</b> will be converted into approval for the <i>FCA-designated senior management function</i> in (2) under SUP TP 11.2.
SUP TP 11.2.3	R	(1)		A <b>pre-implementation approval</b> is <b>potentially convertible</b> into approval for an <i>FCA-designated senior management function</i> if a single row within the applicable part of the mapping table in SUP TP 11.2.5R contains both:
			(a)	the <b>pre-implementation controlled function</b> for which that <b>pre-implementation approval</b> was given; and
			(b)	that <i>FCA-designated senior management function</i> .
		(2)		An approval for a <b>pre-implementation controlled function</b> excluded from SUP TP 11 by SUP TP 11.4.2R is not <b>potentially convertible</b> into approval for any <i>FCA-designated senior management function</i> .
		(3)		An approval for a <b>pre-implementation controlled function</b> is not <b>potentially convertible</b> into approval for an <i>FCA-designated senior management function</i> in relation to a <i>firm</i> if either that <b>pre-implementation controlled function</b> or that <i>FCA-designated senior management function</i> does not apply to the <i>firm</i> .
SUP TP 11.2.4	R	(1)		Part One of the table in SUP TP 11.2.5R applies to a <b>non-notifying firm</b> .
		(2)		Part Two of the table in SUP TP 11.2.5R applies to a <b>notifying firm</b> .
SUP TP 11.2.5	R			Mapping table: Potential conversion of approval for existing controlled functions into approval for designated senior management functions
<b>Part One (non-notifying firms)</b>				
		(1)	(2)	
		<b>Pre-Implementation Controlled Function</b>	<b>New FCA-designated senior management function</b>	
			Executive functions	
		Director function	Executive director function	
		Chief executive function	Executive director function	
		Director of unincorporated association function	Executive director function	
		Small friendly society function	Executive director function	
			Required functions	
		Compliance oversight function	Compliance oversight function	
		Money laundering reporting function	Money laundering reporting function	
<b>Part Two (notifying firms)</b>				
		(1)	(2)	
		<b>Pre-Implementation Controlled Function</b>	<b>New FCA-designated senior management function</b>	
			Executive functions	
		Director function	(a) Executive director function	
			(b) Conduct risk oversight (Lloyd's) function	
		Director of unincorporated association function	Executive director function	
		Small friendly society function	Executive director function	
			Oversight functions	



		Chair of the nomination committee function	Chair of the nomination committee function
		Chair of the with-profits committee function	Chair of the with-profits committee function
			Systems and controls
		Systems and controls function	Other local responsibility function
			Required functions
		Compliance oversight function	Compliance oversight function
		Money laundering reporting function	Money laundering reporting function
		CASS operational oversight function	(a) Other overall responsibility function
			(b) Other local responsibility function
			Significant management function
		Significant management function	(a) Other overall responsibility function
			(b) Other local responsibility function
			(c) EEA branch senior manager function
<p>Note for Parts One and Two of this table</p> <p>All references to a new FCA-designated senior management function are to <i>FCA-designated senior management functions</i> brought into force for the <i>firm</i> concerned by the Individual Accountability (Dual-Regulated Firms) Instrument 2018.</p>			
SUP TP 11.2.6	G		If a <b>pre-implementation controlled function</b> does not apply to a <i>firm</i> immediately before the <b>commencement date</b> , the applicable row of the table in SUP TP 11.2.5R does not apply to it either.
SUP TP 11.2.7	G	(1)	The general principle is that a <b>pre-implementation approval</b> cannot be converted to approval for an <i>FCA-designated senior management function</i> if that <i>FCA-designated senior management function</i> will not apply to the <i>firm</i> or to the particular <i>approved person</i> on the <b>commencement date</b> .
		(2)	For example, if none of the <i>FCA-designated senior management functions</i> in a row of the table in SUP TP 11.2.5R apply to a <i>firm</i> on the <b>commencement date</b> , that row does not apply to the <i>firm</i> .
SUP TP 11.2.8	G		Another example of the principle in SUP TP 11.2.7G is that if:
		(1)	the result of SUP TP 11.2 would otherwise be that an <i>approved person</i> is deemed to be approved to perform the <i>other overall responsibility function</i> or the <i>other local responsibility function</i> ; and
		(2)	either that <i>approved person</i> :
		(a)	is deemed by SUP TP 11.2 to be approved to perform any other <i>FCA-designated senior management function</i> for the same <i>firm</i> ; or
		(b)	has approval to perform a <i>PRA controlled function</i> for the same <i>firm</i> ;
			that <i>approved person's pre-implementation approval</i> will not be converted into approval for the <i>other overall responsibility function</i> or the <i>other local responsibility function</i> (whichever is applicable).
SUP TP 11.2.9	R	(1)	A notification to the <i>FCA</i> is not to be taken into account for the purposes of SUP TP 11.2.2R(4) so far as it concerns a particular <i>approved person</i> if the <i>firm</i> does not include a <b>statement of responsibilities</b> about that <i>approved person</i> with the notification when required to do so by SUP TP 11.11.

		(2)	A notification to the <i>FCA</i> is not to be taken into account for the purposes of SUP TP 11.2.2R(4) if the <i>firm</i> does not include a <b>management responsibilities map</b> with the notification when required to do so by SUP TP 11.12.
SUP TP 11.2.10	G		SUP TP 11.2.2R(4)(a) (together with SUP TP 11.5 and SUP TP 11.6) means that:
		(1)	a failure to submit a Form K before the <b>final notification date</b> is a breach of the requirements of SUP TP 11; but
		(2)	despite that breach, the <b>pre-implementation approval</b> can still be converted into an approval for the applicable <i>FCA-designated senior management function</i> as long as it is received before the <b>commencement date</b> .
SUP TP 11.2.11	R	(1)	This <i>rule</i> applies to a <i>firm</i> (referred to as 'B' in this <i>rule</i> ) in relation to an <i>approved person</i> (referred to as 'AP' in this <i>rule</i> ) if: <ul style="list-style-type: none"> <li>(a) immediately before the <b>commencement date</b>, AP is treated under SUP 10A.11.12R (The main rule) as not performing an <i>FCA governing function</i> for B;</li> <li>(b) approval for that <i>FCA governing function</i> is <b>potentially convertible</b> into approval for an <i>FCA-designated senior management function</i>;</li> <li>(c) that <i>FCA-designated senior management function</i> is an <i>FCA governing function</i>; and</li> <li>(d) AP would be performing that <i>FCA-designated senior management function</i> in relation to B on the <b>commencement date</b> but for this <i>rule</i>.</li> </ul>
		(2)	SUP 10C.9.8R (The main rule) applies in relation to AP, B and the <i>FCA-designated senior management function</i> in (1) from the <b>commencement date</b> so that: <ul style="list-style-type: none"> <li>(a) that <i>FCA-designated senior management function</i> is treated as a 'particular' <i>FCA governing function</i> in SUP 10C.9.8R; and</li> <li>(b) the functions included in what would have been that <i>FCA governing function</i> are treated as a potential <i>FCA governing function</i> in SUP 10C.9.8R that: <ul style="list-style-type: none"> <li>(i) meets the conditions in SUP 10C.9.8R(4); and</li> <li>(ii) has met the conditions in SUP 10C.9.8R(5) up to the <b>commencement date</b>.</li> </ul> </li> </ul>
SUP TP 11.2.12	G	(1)	SUP 10A.11.12R and SUP 10C.9.8R say that a <i>person</i> performing a <i>PRA controlled function</i> does not need approval for carrying on an <i>FCA governing function</i> if certain conditions are met.
		(2)	The effect of SUP TP 11.2.11R is that if immediately before the <b>commencement date</b> , an <i>approved person</i> is taking advantage of SUP 10A.11.12R they will be able to rely on the corresponding arrangement in SUP 10C.9.8R for as long as they have approval for performing a <i>PRA controlled function</i> .
SUP TP 11.3	Effect of conversion		
SUP TP 11.3.1	R	(1)	Where, immediately before the <b>commencement date</b> , a <b>pre-implementation approval</b> is subject to a suspension, condition or limitation imposed under section 66(3) of the Act (Disciplinary powers), that suspension, condition or limitation is to be treated as if it were imposed in respect of the <b>converted approval</b> from the beginning of the <b>commencement date</b> .

		(2)	This <i>rule</i> applies whether or not the <i>FCA</i> or the <i>PRA</i> has given a <i>warning notice</i> or a <i>decision notice</i> under:
		(a)	section 63 of the <i>Act</i> (Withdrawal of approval); or
		(b)	section 63B of the <i>Act</i> (Procedure and right to refer to tribunal); or
		(c)	section 67 of the <i>Act</i> (Disciplinary measures: procedure and right to refer to Tribunal).
SUP TP 11.3.2	R		Anything done under section 63 of the <i>Act</i> (Withdrawal of approval) in respect of a <b>pre-implementation approval</b> before the <b>commencement date</b> continues to have effect on and after that day in respect of the <b>converted approval</b> .
<b>SUP TP 11.4</b>	<b>Lapse of existing approvals and special provisions about appointed representatives</b>		
SUP TP 11.4.1	R		Subject to SUP TP 11.4.2R, any <b>pre-implementation approval</b> that is in effect immediately before the <b>commencement date</b> that is not converted under SUP TP 11.2 ceases to have effect as from the beginning of the <b>commencement date</b> in relation to the <i>controlled function</i> concerned.
SUP TP 11.4.2	R		SUP TP 11 does not apply to a <b>pre-implementation approval</b> that has effect under SUP 10A.1.15R to SUP 10A.1.16AR (appointed representatives).
SUP TP 11.4.3	G		An approval excluded from SUP TP 11 by SUP TP 11.4.2R continues in force and is not affected by SUP TP 11.
<b>SUP TP 11.5</b>	<b>Notification to the FCA: Initial notification</b>		
SUP TP 11.5.1	R	(1)	A <b>notifying firm</b> must notify the <i>FCA</i> of:
		(a)	each <b>pre-implementation approval</b> that it considers will be converted into approval for an <i>FCA-designated senior management function</i> under SUP TP 11.2 (assuming that the <i>firm</i> complies with the applicable notification requirements in SUP TP 11);
		(b)	the <i>approved person</i> in respect of whom that <b>pre-implementation approval</b> was given; and
		(c)	the <i>FCA-designated senior management function</i> referred to in (a).
		(2)	A <i>firm</i> must make the notification in (1) before the <b>final notification date</b> .
SUP TP 11.5.2	G		SUP TP 11.10 explains how the <i>firm</i> should make the notification.
SUP TP 11.5.3	G	(1)	This paragraph (SUP TP 11.5.3G) gives examples of things that a <i>firm</i> should not include in a notification under SUP TP 11.5.1R.
		(2)	A <i>firm</i> should not include a <b>pre-implementation approval</b> for the <i>customer function</i> . This is because there is no need to notify a <b>pre-implementation approval</b> if it is not <b>potentially convertible</b> into any <i>FCA-designated senior management function</i> .
		(3)	A <i>firm</i> should not include a <b>pre-implementation approval</b> if:
		(a)	it is <b>potentially convertible</b> into an <i>FCA-designated senior management function</i> ; but
		(b)	the <i>firm</i> considers that the <i>approved person</i> will not be performing that <i>FCA-designated senior management function</i> on the <b>commencement date</b> .
		(4)	Therefore, a <i>firm</i> should not include an <i>approved person</i> who plans to resign before the <b>commencement date</b> if it is intended that they will have left the <i>firm</i> before then.

SUP TP 11.5.4	G	(5)	A <i>firm</i> should not include a <b>pre-implementation approval</b> if SUP TP 11.4.2R says that SUP TP 11 does not apply to it.
			If the <i>firm</i> considers that some of an <i>approved person's</i> <b>pre-implementation approvals</b> will be converted and some will not be, the <i>firm's</i> notification should:
		(1)	include the <i>approved person</i> ; but
		(2)	exclude the approvals that will not be converted.
SUP TP 11.6			<b>Notification to the FCA: Revision of initial notice</b>
SUP TP 11.6.1	R	(1)	This <i>rule</i> applies if, before the <b>commencement date</b> :
		(a)	there is a change relating to information given in or accompanying a notification that the <i>firm</i> has previously made under SUP TP 11.5 (or a notification given under SUP TP 11.6); or
		(b)	the <i>firm</i> giving the notice discovers that any part of that information is inaccurate.
		(2)	Where circumstances described in (1) occur before the <b>final notification date</b> , the <i>firm</i> must submit a revision of the notice referred to in (1) to the <i>FCA</i> before the <b>final notification date</b> .
		(3)	Where circumstances described in (1) occur between the <b>final notification date</b> and the commencement date, the <i>firm</i> must submit a revision of the notice referred to in (1) to the <i>FCA</i> before the <b>commencement date</b> .
SUP TP 11.6.2	G		SUP TP 11.10 explains how the <i>firm</i> should make the revised notification.
SUP TP 11.6.3	G	(1)	This paragraph SUP TP 11.6.3G gives examples of when a <i>firm</i> should revise its SUP TP 11.5 notice under SUP TP 11.6.
		(2)	A <i>firm</i> need not include in a notification under SUP TP 11.5 an <i>approved person</i> who plans to leave the <i>firm</i> before the <b>commencement date</b> . However that plan may change and as a result the <i>firm</i> may later conclude that the <i>approved person</i> will carry on with their job after the <b>commencement date</b> . If so, the <i>firm</i> should revise the notice.
		(3)	If, after the notice to the <i>FCA</i> , the <i>FCA</i> grants an approval under section 59 of the <i>Act</i> (Approval for particular arrangements) to someone who did not have any such approval for the <i>firm</i> at the time of the notice, the <i>firm</i> should revise its notice by including that new <i>approved person</i> and that new <b>pre-implementation approval</b> .
		(4)	If, after a <i>firm</i> has given the notice to the <i>FCA</i> , the <i>FCA</i> grants a new approval under section 59 of the <i>Act</i> to someone who already was an <i>approved person</i> for the <i>firm</i> when the <i>firm</i> gave the notice to the <i>FCA</i> , the <i>firm</i> should revise its notice by including that new <b>pre-implementation approval</b> .
		(5)	If a <i>firm</i> includes an <i>approved person</i> in a notification under SUP TP 11.5 and the <i>firm</i> later concludes that that <i>person's</i> <b>pre-implementation approval</b> will no longer qualify for conversion because that <i>person</i> will not be performing the relevant <i>FCA-designated senior management function</i> for the <i>firm</i> on the <b>commencement date</b> , the <i>firm</i> should revise its notice. Possible reasons for this include:
		(a)	the <i>approved person</i> leaves the <i>firm</i> ;
		(b)	the <i>approved person</i> tells the <i>firm</i> they are going to leave the <i>firm</i> before the <b>commencement date</b> ; or
		(c)	the <i>approved person's</i> job changes so that it will no longer involve performing an <i>FCA-designated senior management function</i> on the <b>commencement date</b> .

		(6)	There is no need to include information about the matters set out in SUP TP 11.5.3G.
SUP TP 11.6.4	G		If a <i>firm</i> gives a notification to the <i>FCA</i> under SUP TP 11.5 about an <i>approved person</i> and that <i>approved person</i> later leaves the <i>firm</i> or gives up performing some of their <b>pre-implementation controlled functions</b> before the <b>commencement date</b> , the <i>firm</i> should notify the <i>FCA</i> using Form C or Form E under SUP 10A as well as a Form K under SUP TP 11.10.
<b>SUP TP 11.7 In-flight applications: Conversion</b>			
SUP TP 11.7.1	R	(1)	A <b>pre-implementation application</b> by a <i>firm</i> that has not been determined or withdrawn by the <b>commencement date</b> is to be treated, on and after the <b>commencement date</b> , as if it had been made for the <b>corresponding FCA-designated senior management function</b> or <i>FCA-designated senior management functions</i> (if there are any).
		(2)	If a <i>firm</i> is required to notify a <b>pre-implementation application</b> to the <i>FCA</i> under SUP TP 11.8R, (1) only applies to a <b>corresponding FCA-designated senior management function</b> if the <i>firm</i> has included in that notification:
		(a)	that <b>pre-implementation application</b> ; and
		(b)	that <i>FCA-designated senior management function</i> .
SUP TP 11.7.2	R		An <i>FCA-designated senior management function</i> " <b>corresponds</b> " to a <b>pre-implementation controlled function</b> if approval for the latter is <b>potentially convertible</b> into approval for the former and " <b>corresponding</b> " must be interpreted accordingly.
SUP TP 11.7.3	R		SUP TP 11.7.1R is subject to any amendment the <i>firm</i> may make to the application before the <b>commencement date</b> to specify that on the <b>commencement date</b> :
		(1)	the <b>pre-implementation application</b> is to lapse; or
		(2)	the <b>pre-implementation application</b> is to be treated as only being for some of the <i>FCA-designated senior management functions</i> .
SUP TP 11.7.4	G		SUP TP 11.8.3G explains what <i>FCA-designated senior management functions</i> are covered by SUP TP 11.7.1R(2).
SUP TP 11.7.5	G	(1)	SUP TP 11.7.3R is not the only way a <i>firm</i> may change the effect of SUP TP 11.7.
		(2)	After the <b>commencement date</b> a <i>firm</i> is free to amend its application in accordance with the <i>Act</i> and the <i>FCA Handbook</i> .
		(3)	Before the <b>commencement date</b> , a <i>firm</i> is free to amend its application in accordance with the <i>Act</i> and the <i>FCA Handbook</i> by changing the <b>pre-implementation controlled function</b> for which it is applying. That will affect the <b>corresponding FCA-designated senior management function</b> . If the <i>firm</i> amends its application in this way it should notify the <i>FCA</i> under SUP TP 11.8 as well as under SUP 10A.
SUP TP 11.7.6	R		Subject to SUP TP 11.7.7R, a <b>pre-implementation application</b> lapses on the <b>commencement date</b> unless it is continued in force by SUP TP 11.7.
SUP TP 11.7.7	R		SUP TP 11 does not apply to a <b>pre-implementation application</b> if the <b>pre-implementation approval</b> that would result if it was granted would be excluded from SUP TP 11 by SUP TP 11.4.2R.
<b>SUP TP 11.8 In-flight applications: Notification requirements</b>			
SUP TP 11.8.1	R		A <b>notifying firm</b> must, before the <b>final notification date</b> , notify the <i>FCA</i> of every <b>pre-implementation application</b> if:
		(1)	it has not been determined or withdrawn at the time of the notification;
		(2)	it is not excluded under SUP TP 11.7.7R; and

SUP TP R 11.8.2	<p>(3) the <i>firm</i> would be required to notify the <i>FCA</i> under SUP TP 11.5 if that application had been granted and the approval was in effect immediately before the date of the notification in SUP TP 11.8.1R.</p> <p>The information about a <b>pre-implementation application</b> that the notification must contain is the information that the <i>firm</i> would be required to give the <i>FCA</i> in a notification under SUP TP 11.5 if:</p> <p>(1) that <b>pre-implementation application</b> had been granted; and</p> <p>(2) the resulting approval was in effect immediately before the date of the notification in SUP TP 11.8.1R.</p>
SUP TP G 11.8.3	<p>SUP TP 11.8.1R and SUP TP 11.8.2R mean:</p> <p>(1) Only a <b>notifying firm</b> needs to make the notification.</p> <p>(2) The information to be notified to the <i>FCA</i> about a particular <b>pre-implementation application</b> includes each <i>FCA-designated senior management function</i> that meets the following conditions:</p> <p>(a) approval for the <b>pre-implementation controlled function</b> for which the <b>pre-implementation application</b> is being made is <b>potentially convertible</b> into approval for that <i>FCA-designated senior management function</i>; and</p> <p>(b) the <i>firm</i> considers that the <i>approved person</i> concerned will be performing that <i>FCA-designated senior management function</i> on the <b>commencement date</b> if the <b>pre-implementation application</b> is approved before then.</p> <p>(3) A <i>firm</i> should not notify the <i>FCA</i> about a particular <b>pre-implementation application</b> if the <i>firm</i> considers that even if the application were approved before the <b>commencement date</b>, the <i>approved person</i> will not be performing on the <b>commencement date</b> any of the <i>FCA-designated senior management functions</i> into which the applicable <b>pre-implementation approval</b> would be <b>potentially convertible</b>. This might be because the <i>firm</i> intends that the <i>candidate</i> will only be in post for a short time.</p>
SUP TP R 11.8.4	<p>(1) This <i>rule</i> applies if, before the <b>commencement date</b>:</p> <p>(a) a <i>firm</i> makes a <b>pre-implementation application</b> after the initial notice under SUP TP 11.8.1R; and</p> <p>(b) the <i>firm</i> would have been required to notify the <i>FCA</i> under SUP TP 11.8.1R if that application had been made before the date of the notification under SUP TP 11.8.1R.</p> <p>(2) This <i>rule</i> also applies if, before the <b>commencement date</b>:</p> <p>(a) there is any other change relating to information given in or accompanying the initial notice under SUP TP 11.8.1R (or a notification given under SUP TP 11.8.4R); or</p> <p>(b) the <i>firm</i> discovers that any part of that information is inaccurate.</p> <p>(3) Where circumstances described in (1) or (2) occur before the <b>final notification date</b>, the <i>firm</i> must submit a revision of the notice referred to in (1) or (2) to the <i>FCA</i> before the <b>final notification date</b>.</p> <p>(4) Where circumstances described in (1) or (2) occur between the <b>final notification date</b> and the <b>commencement date</b>, the <i>firm</i> must submit a revision of the notice referred to in (1) or (2) to the <i>FCA</i> before the <b>commencement date</b>.</p>
SUP TP G 11.8.5	<p>SUP TP 11.10 explains how the <i>firm</i> should make the notification.</p>

SUP TP G  
11.8.6 If a *firm* notifies the *FCA* under SUP TP 11.8 of a **pre-implementation application** and that application is granted or refused before the **commencement date**, the *firm* should revise its notification under SUP TP 11.8.4R and, if applicable, SUP TP 11.6.

**SUP TP 11.9 In-flight applications: Supplemental material**

SUP TP R  
11.9.1 (1) This *rule* applies if, in relation to a **pre-implementation application** continued in effect after the **commencement date** under SUP TP 11.7, the *FCA* has before the **commencement date**:

- (a) imposed a requirement under section 60 of the *Act* (Application for approval);
- (b) given a *warning notice* under section 62(2) of the *Act* (Applications for approval: procedure and right to refer to tribunal) or a *decision notice* under section 62(3) of the *Act* to the interested parties referred to in section 62(5); or
- (c) taken any step in connection with giving a *warning notice* or *decision notice* under section 62.

(2) The requirement, notice or step in (1) is to be treated, on and after the **commencement date**, as having been imposed, given or taken in relation to the application as affected by SUP TP 11.7.

**SUP TP 11.10 Procedure for notification**

SUP TP R  
11.10.1 A *firm* must only make a single notification under SUP TP 11.5 and SUP TP 11.8.1R and must do so on the same notification form.

SUP TP R  
11.10.2 A *firm* must make a notification under SUP TP 11.5, SUP TP 11.6 or SUP TP 11.8 by completing Form K (SUP TP 11.23.1R).

SUP TP R  
11.10.3 A *firm* must make a notification or submit a *document* to the *FCA* under SUP TP 11 in accordance with SUP 10C.15.11R(1) and (3) (Method of submission: electronic submission).

SUP TP R  
11.10.4 (1) A *firm* making a notification under SUP TP 11.10.3R in accordance with SUP 10C.15.11R(1) must use the version of Form K made available on the electronic system referred to in SUP 10C.15.11R, which is based on the version in SUP TP 11.23.1R.

(2) A *firm* making a notification under SUP TP 11.10.3R in accordance with SUP 10C.15.11R(3) and SUP 10C.15.14R must use the version of Form K in SUP TP 11.23.1R.

SUP TP G  
11.10.5 If a *firm* discovers after the **commencement date** that any information it has given under SUP TP 11 is inaccurate it should notify the *FCA* as described in SUP 15.6 (Inaccurate, false or misleading information). If SUP TP 11.17.6R applies, the *firm* should notify the *FCA* under that *rule* instead.

**SUP TP 11.11 Statements of responsibilities**

SUP TP G  
11.11.1 The table in SUP TP 11.11.2G explains when a *firm* is required to prepare a **statement of responsibilities** as part of the transitional arrangements in SUP TP 11 and whether it is required to send it to the *FCA*.

SUP TP G  
11.11.2 Table: Preparing statements of responsibilities and sending them to the *FCA*

Scenario	Non-notifying firm	Notifying firm
Is a <i>firm</i> required to prepare a <b>statement of re-</b>	Yes. The <b>insurance firms commencement SI</b> requires this.	Yes. The <b>insurance firms commencement SI</b> requires this.

		<b>sponsibilities for their transitioned SMF managers?</b>	A <i>firm</i> should have prepared it by or soon after the <b>commencement date</b> .	
		Is a <i>firm</i> required to send it to the <i>FCA</i> ?	No	Yes. See SUP TP 11.11.3R.
		Is a <i>firm</i> required to prepare a <b>statement of responsibilities</b> for a <b>pre-implementation application</b> by the <i>firm</i> that has been converted into an application for approval for the performance of an <i>FCA-designated senior management function</i> under SUP TP 11.7?	Yes. The <i>Act</i> requires this.	Yes. The <i>Act</i> and SUP TP 11.11.3R require this.
		Is a <i>firm</i> required to send it to the <i>FCA</i> ?	Yes. See SUP TP 11.11.4R.	Yes. See SUP TP 11.11.3R.
		Is a <i>firm</i> required to prepare a <b>statement of responsibilities</b> for an application under SUP TP 11.15?	Yes. The <i>Act</i> and SUP TP 11.15 require this.	Yes. The <i>Act</i> and SUP TP 11.15 require this.
		Is a <i>firm</i> required to send it to the <i>FCA</i> ?	Yes. The details are in SUP TP 11.15.	Yes. The details are in SUP TP 11.15.
SUP TP 11.11.3	R		A notification to the <i>FCA</i> under SUP TP 11.5, SUP TP 11.6 or SUP TP 11.8 about an <i>approved person</i> or <i>candidate</i> must be accompanied by a <b>statement of responsibilities</b> about that <i>person</i> .	
SUP TP 11.11.4	R		A <b>non-notifying firm</b> must, within five <i>business days</i> after the <b>commencement date</b> , give the <i>FCA</i> a <b>statement of responsibilities</b> for each <i>candidate</i> who is the subject of a <b>pre-implementation application</b> by the <i>firm</i> that has been converted into an application for approval for the performance of an <i>FCA-designated senior management function</i> under SUP TP 11.7.	
SUP TP 11.11.5	G		A <b>statement of responsibilities</b> should comply with all the <i>rules</i> and directions in the <i>FCA Handbook</i> that will apply to <i>statements of responsibilities</i> prepared by the <i>firm</i> (see SUP TP 11.16).	
SUP TP 11.11.6	G		(1)	Before the <b>commencement date</b> , SYSC 2.2 required many <i>firms</i> to have a scope of responsibilities document for its senior <i>approved persons</i> .



	(2)	That document may also satisfy the requirements for a <b>statement of responsibilities</b> and the ongoing requirements after the <b>commencement date</b> for <i>statements of responsibilities</i> . If so, there is no need to create a new <b>statement of responsibilities</b> . To the extent that the scope of responsibilities document does not satisfy those requirements, a <i>firm</i> should amend or replace it.
<b>SUP TP 11.12</b>	<b>Management responsibilities maps</b>	
SUP TP 11.12.1	R	SUP TP 11.12 applies to a <i>firm</i> that will be required under SYSC 25 (Senior managers and certification regime: Management responsibilities maps and handover procedures and material) to have a <i>management responsibilities map</i> when that chapter comes into force on the <b>commencement date</b> .
SUP TP 11.12.2	R	A notification to the <i>FCA</i> under SUP TP 11.10.1R must be accompanied by a <b>management responsibilities map</b> .
SUP TP 11.12.3	G	A <b>management responsibilities map</b> should comply with all the <i>rules</i> and directions in the <i>FCA Handbook</i> that will apply to a <i>management responsibilities map</i> prepared by the <i>firm</i> (see SUP TP 11.16).
SUP TP 11.12.4	G	(1) Before the <b>commencement date</b> , SYSC 2.2 required many <i>firms</i> to have a governance map.  (2) That document may also satisfy the requirements for a <b>management responsibilities map</b> and the ongoing requirements after the <b>commencement date</b> for <i>management responsibilities maps</i> . If so, there is no need to create a new <b>management responsibilities map</b> . To the extent that the governance map does not satisfy those requirements, a <i>firm</i> should amend or replace it.
<b>SUP TP 11.13</b>	<b>Supplemental material about statements of responsibilities and management responsibilities maps</b>	
SUP TP 11.13.1	R	A <b>statement of responsibilities</b> and a <b>management responsibilities map</b> must be prepared as of the <b>commencement date</b> .
SUP TP 11.13.2	D	SUP TP 11.13.1R also applies to a <b>management responsibilities map</b> or <b>statement of responsibilities</b> prepared under a direction.
SUP TP 11.13.3	G	(1) If there has been a change relating to a <b>statement of responsibilities</b> or a <b>management responsibilities map</b> submitted to the <i>FCA</i> under SUP TP 11, the <i>firm</i> should submit a revised version.  (2) This is the effect of SUP TP 11.6 and SUP TP 11.8.4R.
SUP TP 11.13.4	G	A <i>firm</i> should not assume that the <i>FCA</i> has reviewed a <b>statement of responsibilities</b> or a <b>management responsibilities map</b> submitted to it for completeness, quality or accuracy. It is the <i>firm's</i> responsibility to ensure that they have been prepared in accordance with the <i>FCA's rules</i> and the <i>Act</i> .
<b>SUP TP 11.14</b>	<b>Criminal record checks and employment references</b>	
SUP TP 11.14.1	R	SUP 10C.10.16R (Criminal record checks) does not apply to any <b>pre-implementation application</b> continued in effect by SUP TP 11.7.1R after the <b>commencement date</b> .
SUP TP 11.14.2	G	SUP 10C.10.16R (Criminal record checks) applies to any application for approval made under SUP TP 11.15.
SUP TP 11.14.3	G	SYSC TP 7.4.2R (Transitional provisions about regulatory references) has transitional provisions about regulatory references in relation to a <b>pre-implementation application</b> continued in effect by SUP TP 11.7.1R and applications for approval made under SUP TP 11.15.
<b>SUP TP 11.15</b>	<b>Applications of approved persons to take effect from the commencement date</b>	

SUP TP 11.15.1	D	(1)	A <i>firm</i> may, before the <b>commencement date</b> , apply under section 60 of the <i>Act</i> (Applications for approval) for the <i>FCA's</i> approval under section 59 of the <i>Act</i> (Approval for particular arrangements) for the performance of an <i>FCA-designated senior management function</i> which comes into effect (as respects the <i>firm</i> ) on the <b>commencement date</b> .
		(2)	Any such application is made on the basis that it is treated as being made on the <b>commencement date</b> .
		(3)	The application must be made using the version of Form A or Form E applicable from the <b>commencement date</b> and in accordance with the other requirements to be in effect on that date.
SUP TP 11.15.2	G		The rest of SUP TP 11 will not apply to an application under SUP TP 11.15. In particular, it is not a <b>pre-implementation application</b> and the application should not be included in the <i>firm's</i> Form K.
SUP TP 11.15.3	G		Any such application should be accompanied by a <i>statement of responsibilities</i> and, if SYSC 25 (Senior managers and certification regime: Management responsibilities maps and handover procedures and material) will apply, a <i>management responsibilities map</i> .
SUP TP 11.15.4	G		A <i>firm</i> does not have to make an application under SUP TP 11.15. It can make an application for an existing <i>controlled function</i> before the <b>commencement date</b> under the <i>rules</i> and directions in force at the time of the application. SUP TP 11 will apply to such applications.

SUP TP 11.16	<b>Application of ongoing requirements to converted approvals and conversion documents</b>		
SUP TP 11.16.1	R	(1)	The <i>rules</i> of the <i>FCA Handbook</i> apply to a <b>converted approval</b> , as they do to approvals granted after the <b>commencement date</b> .
		(2)	The <i>rules</i> of the <i>FCA Handbook</i> apply to a <b>pre-implementation application</b> that is continued in force under SUP TP 11 after the <b>commencement date</b> as they do to applications made after the <b>commencement date</b> .
		(3)	This paragraph is subject to the other provisions of SUP TP 11.
SUP TP 11.16.2	R	(1)	A <b>statement of responsibilities</b> (including one revised under SUP TP 11.16.4R) must comply with all the <i>rules</i> and directions in the <i>FCA Handbook</i> that will apply to <i>statement of responsibilities</i> as from the <b>commencement date</b> .
		(2)	(2) applies even if the <i>firm</i> is not required to submit the <b>statement of responsibilities</b> to the <i>FCA</i> under SUP TP 11.12.
SUP TP 11.16.3	R		A <b>management responsibilities map</b> submitted to the <i>FCA</i> under SUP TP 11.12 must comply with all the <i>rules</i> and directions in the <i>FCA Handbook</i> that will apply to the <i>firm's management responsibilities map</i> as from the <b>commencement date</b> .
SUP TP 11.16.4	D		SUP TP 11.16.1R to SUP TP 11.16.3R apply to directions in SUP 10C in the same way as they do to rules.
SUP TP 11.16.5	G		The table in SUP TP 11.16.6G gives examples of how SUP 10C and other parts of the <i>FCA Handbook</i> apply to <b>converted approvals</b> .
SUP TP 11.16.6	G		Table: Examples of how ongoing requirements apply to converted approvals

Requirement in Handbook	Summary of the requirement in column (1)	How SUP 10C applies
SUP 10C.11.7D	Revised statements of responsibilities Submission of revised <i>statement of responsibilities</i>	The effect of the Act and of the <b>insurance firms commencement SI</b> is that section 62A of the Act (Changes in responsibilities of senior managers) applies to a <b>statement of responsibilities</b> . This means that if after the <b>commencement date</b> there has been a significant change in a <b>transitioned SMF manager's</b> responsibilities in relation to their <b>converted designated senior management functions</b> , the <i>firm</i> should submit a revised <i>statement of responsibilities</i> . It should also submit a Form J unless SUP 10C.11 says that it is not required.
SUP 10C.11.10D	Varying an approval <i>Statements of responsibilities</i>	The powers and requirements in the Act and in SUP 10C about variation of approvals at the request of a <i>firm</i> and at the initiative of the FCA apply to <b>converted approvals</b> .
SUP 10C.11.12R	Ceasing to carry on some functions	
SUP 10C.13	Other material about variations	
SUP 10C.11.13D	Single statement of responsibilities document One <i>statement of responsibilities</i> for each <i>SMF manager</i> for each <i>firm</i>	If a <b>transitioned SMF manager</b> ceases to perform a <i>designated senior management function</i> but continues to perform a <b>converted designated senior management function</b> , the <i>firm</i> should submit a revised <i>statement of responsibilities document</i> under SUP 10C.11.12R.  Applies to <b>statements of responsibilities</b> in the same way as it applies to <i>statements of responsibilities</i> . For example:  (1) If on the <b>commencement date</b> a <b>transitioned SMF manager</b> is already approved by the <i>PRA</i> to perform a <i>PRA-designated senior management function</i> for that <i>firm</i> , the <b>statement of responsibilities</b> should cover both the <b>converted designated senior management function</b> and the <i>PRA-designated senior management function</i> . That single <i>document</i> should be treated as a <i>statement of responsibilities</i> prepared under the Act.  (2) If after the <b>commencement date</b> a <i>firm</i> applies for the <i>FCA's</i> approval for a <b>transitioned SMF manager</b> to perform another <i>FCA-designated senior management function</i> , the <i>statement of responsibilities</i> prepared for that application should be combined with the <b>statement of responsibilities</b> required by SUP TP 11 and the

		<p><b>insurance firms commencement SI</b> into a single <i>document</i>.</p> <p>(3) If:</p> <p>(a) after the <b>commencement date</b> a <b>transitioned SMF manager</b> is approved by the <i>FCA</i> to perform another <i>FCA-designated senior management function</i>; and</p> <p>(b) later there is a significant change in the <b>transitioned SMF manager's</b> responsibilities;</p> <p>the <i>firm</i> should notify the <i>FCA</i> and submit a single revised <i>statement of responsibilities document</i>, whether the change relates to the <b>converted designated senior management function</b> or to the additional <i>FCA-designated senior management function</i>.</p>
	Complete set of statements of responsibilities	
SUP 10C.11.20R	Complete set of current <i>statements of responsibilities</i>	Applies to <b>statements of responsibilities</b> in the same way as it does to <i>statements of responsibilities</i> .
	Ceasing to carry on functions	
SUP 10C.11.12R	<i>Statements of responsibilities</i> to be included in notification	Applies to ceasing to carry on a <b>converted designated senior management function</b> after the <b>commencement date</b> .
SUP 10C.14.5R	Notification of ceasing to perform the function	
SUP 10C.14.7R	Qualified Form C	
	Form D	
SUP 10C.14.13R	Changes to details	Applies to a <b>transitioned SMF manager</b> and to changes of any details relating to the <b>converted designated senior management function</b> .
SUP 10C.14.15R	Changes to arrangements	
SUP 10C.14.18R	Fitness	<p>The Form D requirements also apply to a <i>candidate</i> whose application is continued in force by SUP TP 11.</p> <p>Before the <b>commencement date</b>, the existing requirements of SUP 10A apply to changes in a <i>candidate's</i> fitness.</p>
	Notifications under the Act	
SUP 10C.14.22R	Notifications under the Act	Applies to notification about a <b>transitioned SMF manager</b> .
	General	
	Requirements referring to a <i>current approved person approval</i>	Apply to a <b>converted approval</b> .
	Requirements referring to a <i>current approved person ap</i>	These requirements apply to an approval for a <i>controlled function</i> abolished after the <b>commencement date</b>

<i>proval</i> held within the last six <i>months</i>		and to an approval that ceased to have effect under SUP TP 11 for some other reason.  These requirements also apply to an approval given up within the last six <i>months</i> before the <b>commencement date</b> even though the <i>controlled function</i> ceases to exist after the <b>commencement date</b> .
<i>FCA-prescribed senior management responsibility</i> (a)	Responsibility for a <i>firm's</i> performance of its obligations under the senior managers regime	Includes compliance with the requirements about <b>statements of responsibilities</b>
SYSC 25	Preparation of <i>management responsibilities maps</i>	A <i>management responsibilities map</i> should include a <b>transitioned SMF manager</b> and their <b>converted designated senior management functions</b>

<b>SUP TP 11.17 Making sure that the Financial Services Register is accurate</b>			
Existing notification requirements			
SUP TP 11.17.1	R	(1)	If before the <b>commencement date</b> a <i>firm</i> is required to notify the <i>FCA</i> using Form C or Form D or under SUP 10A.14.10R, that obligation continues to apply after the <b>commencement date</b> if the <i>firm</i> has not complied with that obligation before then.
		(2)	(1) applies whether the deadline for reporting expires before or after the <b>commencement date</b> .
		(3)	(1) applies to a <b>notifying firm</b> even if it is obliged to report the same facts under a Form K.
		(4)	(1) does not apply to the <i>customer function</i> (unless the <i>customer function</i> continues to apply after the <b>commencement date</b> under SUP TP 11.4.2R) if the deadline for reporting expires after the <b>commencement date</b> . Instead, the obligation to report ends on the <b>commencement date</b> .
Notification required from non-notifying firms in certain cases			
SUP TP 11.17.2	R	(1)	This <i>rule</i> applies to a <b>non-notifying firm</b> (F) in relation to a particular <i>approved person</i> (AP) if:
		(a)	F has <b>pre-implementation approval</b> for the performance by AP of a <b>pre-implementation controlled function</b> ;
		(b)	that <b>pre-implementation approval</b> is <b>potentially convertible</b> into an <i>FCA-designated senior management function</i> ; and
		(c)	F believes that that <b>pre-implementation approval</b> will not be converted into approval for the performance of that <i>FCA-designated senior management function</i> .
		(2)	If F is not already required to notify the <i>FCA</i> of the facts giving rise to this, it must notify the <i>FCA</i> of the matters in (1) using Form C in accordance with SUP 10A before:
		(a)	the <b>final notification date</b> ; or
		(b)	(if the situation in (1) first arises after the <b>final notification date</b> ) the <b>commencement date</b> .
SUP TP 11.17.3	G	(1)	The most likely reason for the situation in SUP TP 11.17.2R to arise is that, before the <b>commencement date</b> , AP resigns or gives up their <i>controlled function</i> or plans to do so.

		(2)	In most cases F will already be required to notify the FCA. If so, SUP TP 11.17.2R will not apply, even if the reporting deadline is after the <b>commencement date</b> .
		(3)	An example of circumstances in which SUP TP 11.17.2R will apply is if: <ul style="list-style-type: none"> <li>(a) AP is going to remain in post after the <b>commencement date</b>; but</li> <li>(b) their job does not come within the definition of the <i>FCA-designated senior management function</i> in SUP TP 11.17.2R even though their job comes within the <b>pre-implementation controlled function</b>.</li> </ul>
SUP TP 11.17.4	G		SUP TP 11.17.2R does not apply to a <b>notifying firm</b> . The FCA will rely on its Form K instead.
			Checking the Register
SUP TP 11.17.5	R		A <i>firm</i> must, in the <i>month</i> beginning five <i>business days</i> after the <b>commencement date</b> , check whether the <i>Financial Services Register</i> : <ul style="list-style-type: none"> <li>(1) correctly records all the <i>firm's SMF managers</i>;</li> <li>(2) correctly records each <i>FCA-designated senior management function</i> for the performance of which by the <i>SMF manager</i> the <i>firm</i> has approval;</li> <li>(3) includes everyone performing an <i>FCA-designated senior management function</i> for the performance of which the <i>firm</i> should have obtained approval; and</li> <li>(4) includes all the <i>FCA-designated senior management functions</i> for which the <i>firm</i> should have obtained approval in relation to <i>persons</i> in (3).</li> </ul>
SUP TP 11.17.6	R	(1)	If: <ul style="list-style-type: none"> <li>(a) the <i>Financial Services Register</i> does not correctly do all the things in SUP TP 11.17.5R; and</li> <li>(b) the <i>firm</i> is not already required to notify the FCA of the facts giving rise to (1)(a) or to apply for the necessary approvals under section 59 of the Act (Approval for particular arrangements);</li> </ul> <p>the <i>firm</i> must (by the end of the one <i>month</i> period in SUP TP 11.17.5R) notify the FCA of that fact using the applicable form in SUP 10C.</p>
		(2)	The applicable form in (1) is, in relation to a particular <i>person</i> (AP) and <i>firm</i> , whichever one or more of the following forms in SUP 10C applies: <ul style="list-style-type: none"> <li>(a) Form A (short form) where AP is not, but should be, included in the <i>Financial Services Register</i> or where the <i>Financial Services Register</i> omits some of AP's <i>FCA-designated senior management functions</i> for which the <i>firm</i> has approval; or</li> <li>(b) Form C where AP is, but should not be, included in the <i>Financial Services Register</i> or where the <i>Financial Services Register</i> shows an approval for AP to perform an <i>FCA-designated senior management function</i> that the <i>firm</i> does not have; or</li> <li>(c) Form E where both (1) and (2) apply; or</li> <li>(d) Form D in any other case.</li> </ul>
SUP TP 11.17.7	G		The requirement to check the <i>Financial Services Register</i> is particularly important in a case of a <b>non-notifying firm</b> because:

		(1)	the <i>FCA</i> will update the <i>Financial Services Register</i> based on the information it has; but
		(2)	the <i>FCA</i> may not have sufficient information to tell whether all the conversion conditions in SUP TP 11.2.2R have been met.
SUP TP 11.17.8	G	(1)	In practice it is unlikely that SUP TP 11.17.6R will normally apply because the <i>firm</i> will already be required to notify the <i>FCA</i> of the matter or apply for approval. For example: <ul style="list-style-type: none"> <li>(a) if the <i>Financial Services Register</i> does not include a <i>person</i> performing an <i>FCA-designated senior management function</i> because the <i>firm</i> has not yet applied for approval, the <i>firm</i> should apply for approval using Form A (long or short) or Form E as soon as possible;</li> <li>(b) if the <i>Financial Services Register</i> includes a <i>person</i> who left the <i>firm</i> before the <b>commencement date</b> or who stopped performing their <b>pre-implementation controlled function</b> before then, the <i>firm</i> should report that using Form C (see SUP TP 11.17.1R);</li> <li>(c) if the <b>pre-implementation controlled function</b> and the corresponding <i>designated senior management function</i> are so different that approval for the former is not converted into approval for the latter, a <b>non-notifying firm</b> should report that under SUP TP 11.17.2R.</li> </ul>
		(2)	SUP TP 11.17.6R may apply for example if the <i>firm</i> has made all the notifications (if any) required by SUP TP 11 and other parts of the <i>Handbook</i> but: <ul style="list-style-type: none"> <li>(a) the <i>Financial Services Register</i> does not include one of the <i>firm's approved persons</i> even though their <b>pre-implementation controlled function</b> was converted under SUP TP 11; or</li> <li>(b) the <i>Financial Services Register</i> includes one of the <i>firm's approved persons</i> even though none of their <b>pre-implementation controlled functions</b> were converted under SUP TP 11.</li> </ul>
		Abolition of the customer function	
SUP TP 11.17.9	G		A <i>firm</i> does not have to submit a Form C for an <i>approved person</i> who had a <b>pre-implementation approval</b> to perform the <i>customer function</i> but ceases to perform that function because the <i>customer function</i> is (except in relation to <i>appointed representatives</i> ) abolished after the <b>commencement date</b> .
<b>SUP TP 11.18</b>	<b>The 12-week rule</b>		
SUP TP 11.18.1	G	(1)	SUP 10C.3.13R (The 12-week rule) allows a <i>firm</i> to appoint someone (P) to perform a function which would normally be an <i>FCA-designated senior management function</i> without needing to apply for the <i>FCA's</i> approval under section 59 of the Act (Approval for particular arrangements) where P is filling in for someone who is absent unexpectedly or temporarily. There is a maximum period for which P's appointment can last.
		(2)	When calculating the maximum time period in (1), the <i>firm</i> need not take into account any time spent by P before the <b>commencement date</b> performing what will become the <i>FCA-designated senior management function</i> in (1).
SUP TP 11.18.2	G	(1)	SUP 10C.3.13R only applies where P (as referred to in SUP TP 11.18.1G) is providing cover for an <i>SMF manager</i> whose absence is temporary or reasonably unforeseen.

SUP TP 11.18.3	G	(2)	SUP 10C.3.13R may still apply if the absence referred to in (1) began before the <b>commencement date</b> .
			SUP TP 11.18.1G and SUP TP 11.18.2G may apply even if:
		(1)	before the <b>commencement date</b> P was taking advantage of SUP 10A.5.6R (the equivalent of SUP 10C.3.13R under SUP 10A); and
		(2)	approval for the <i>controlled function</i> disapplied by SUP 10A.5.6R is <b>potentially convertible</b> into approval for the <i>FCA-designated senior management function</i> in SUP TP 11.18.1G and SUP TP 11.18.2G.
<b>SUP TP 11.19</b>	<b>Application for permission</b>		
SUP TP 11.19.1	D	(1)	This direction applies to a <b>pre-implementation application</b> that is made by an <b>authorisation applicant</b> before the <b>commencement date</b> .
		(2)	A <b>pre-implementation application</b> in (1) must comply with (or, as the case may be, must be revised so that it complies with) the requirements (if any) of SUP TP 11 that apply to a <b>pre-implementation application</b> by a <i>firm</i> :
		(a)	of the type that the <b>authorisation applicant</b> will be if the <b>authorisation application</b> is granted or otherwise succeeds; and
		(b)	for an approval by the <i>FCA</i> for the performance of the same <b>pre-implementation controlled function</b> .
SUP TP 11.19.2	R		SUP TP 11.7 and SUP TP 11.9 apply to a <b>pre-implementation application</b> in SUP TP 11.19.1D.
SUP TP 11.19.3	D		SUP TP 11.15 applies to an <b>authorisation applicant</b> .
<b>SUP TP 11.20</b>	<b>Prohibition orders</b>		
SUP TP 11.20.1	R		The changes to the <i>FCA Handbook</i> made by the Individual Accountability (Dual-Regulated Firms) Instrument 2018 do not affect:
		(1)	a <i>warning notice</i> or a <i>decision notice</i> under section 57 of the <i>Act</i> (Prohibition orders: procedure and right to refer to tribunal); or
		(2)	a <i>prohibition order</i> ;
			which is given or made before the <b>commencement date</b> .
<b>SUP TP 11.21</b>	<b>Reporting under SUP 15.11</b>		
SUP TP 11.21.1	R		The first notification period under SUP 15.11.13R (Timing and form of notifications: conduct rules staff other than SMF managers):
		(1)	starts on the <b>commencement date</b> ; and
		(2)	ends on the last day of the following August.
<b>SUP TP 11.22</b>	<b>Terms used in SUP TP 11</b>		
SUP TP 11.22.1	R		The terms in the first column of the table in SUP TP 11.22.2R, where they appear in bold in SUP TP 11, have the meanings in the corresponding entry in column 2 for the purposes of SUP TP 11.
SUP TP 11.22.2	R		Table: glossary of bespoke terms used in SUP TP 11

## Part One: General



Defined term	Meaning
<b>authorisation applicant</b>	an applicant for <i>Part 4A permission</i> , or another person seeking to carry on <i>regulated activities</i> as an <i>authorised person</i> .
<b>authorisation application</b>	the application or other process referred to in the definition of <b>authorisation applicant</b> .
<b>converted approval</b>	(in relation to a <b>pre-implementation approval</b> ) the approval for an <i>FCA-designated senior management function</i> which that <b>pre-implementation approval</b> becomes under SUP TP 11.2.1R.
<b>converted designated senior management function</b>	(in relation to a <b>transitioned SMF manager</b> ) the <i>FCA-designated senior management function</i> for which they are treated as having approval under SUP TP 11.2.1R
<b>corresponding firm specific date</b>	(in relation to an <i>FCA-designated senior management function</i> and a <b>pre-implementation controlled function</b> ) has the meaning in SUP TP 11.7.2R. the later of the following: <ul style="list-style-type: none"> <li>(1) the date (if any) on which a <i>firm</i> makes the notification in SUP TP 11.10.1R; or</li> <li>(2) (if the <i>firm</i> has updated a notification in (1) under SUP TP 11.6 or SUP TP 11.8.4R) the date that the most recent such updated notification was made to the <i>FCA</i>.</li> </ul>
<b>insurance firms commencement SI</b>	The Bank of England and Financial Services Act 2016 (Commencement No. 5 and Transitional Provisions) Regulations 2018 (SI 2018/990).
<b>management responsibilities map</b>	the <i>document</i> required to be produced under SUP TP 11.12, including under SUP TP 11.12 as applied by SUP TP 11.19.
<b>non-notifying firm</b>	each of the following types of <b>SMCR insurance firm</b> : <ul style="list-style-type: none"> <li>(1) a <i>small non-directive insurer</i>;</li> <li>(2) a <i>firm</i> in SYSC 23 Annex 1 5.2R (firms in run-off) as set out in the Individual Accountability (Dual-Regulated Firms) Instrument 2018;</li> <li>(3) an <i>insurance special purpose vehicle</i>;</li> </ul> (taking account of amendments to be made to the <i>Glossary</i> by the Individual Accountability (Dual-Regulated Firms) Instrument 2018).
<b>notifying firm</b>	an <b>SMCR insurance firm</b> that is not a <b>non-notifying firm</b> .
<b>potentially convertible</b>	has the meaning in SUP TP 11.2.3R.
<b>pre-implementation application</b>	an application made under section 60 of the <i>Act</i> (Applications for approval) if the application is: <ul style="list-style-type: none"> <li>(1) for approval for the performance of a <b>pre-implementation controlled function</b>; and</li> <li>(2) received by the <i>FCA</i> before the <b>commencement date</b>.</li> </ul>

<b>pre-implementation approval</b>	<p>a <i>current FCA approved person approval</i> that is given by the <i>FCA</i> before the <b>commencement date</b> in relation to a <b>pre-implementation controlled function</b>.</p> <p>If a <i>person</i> is approved to perform more than one <b>pre-implementation controlled function</b> for a <i>firm</i>, there is a separate <b>pre-implementation approval</b> in relation to each.</p>
<b>pre-implementation controlled function</b>	<p>(in relation to a <i>firm</i>) an <i>FCA controlled function</i> that, before the <b>commencement date</b>:</p> <p>(a) the <i>FCA</i> has specified for the purposes of section 59 of the <i>Act</i> (approval for particular arrangements); and</p> <p>(b) applies to the <i>firm</i> (even if the <i>firm</i> has no one approved to perform that function for the time being).</p>
<b>statement of responsibilities</b>	<p>any of the following:</p> <p>(a) the <i>document</i> corresponding to a <i>statement of responsibilities</i> that a <i>firm</i> must produce under regulation 4 of the <b>insurance firms commencement SI</b>; or</p> <p>(b) a <i>statement of responsibilities</i> that a <i>firm</i> must produce in relation to:</p> <ul style="list-style-type: none"> <li>(i) a <b>pre-implementation application</b> that has been converted into an application for approval for the performance of an <i>FCA-designated senior management function</i> under SUP TP 11.7;</li> <li>(ii) an application under SUP TP 11.15; or</li> <li>(iii) an application under (b)(i) or (ii) as they apply in relation to SUP TP 11.19.</li> </ul>
<b>SMCR banking firm, SMCR firm and SMCR insurance firm</b>	<p>has the meaning set out in the amendments to the <i>Glossary</i> to be made by the Individual Accountability (Dual-Regulated Firms) Instrument 2018).</p> <p>This is subject to SUP TP 11.22.3R.</p>
<b>transitional SMF manager</b>	<p>AP as defined in SUP TP 11.2.1R</p>

**Part Two: Fixed dates**

Defined term	Meaning
<b>final notification date</b>	3 December 2018
<b>commencement date</b>	10 December 2018

Note: If a *firm* becomes an **SMCR insurance firm** or a **notifying firm** between the **final notification date** and the **commencement date**, the **final notification date** for it is the date it becomes an **SMCR insurance firm** or **notifying firm**.

SUP TP 11.22.3	R	(1)	<p>Before the <b>commencement date</b>, the question of:</p> <p>(a) whether a <i>firm</i> is an <b>SMCR insurance firm</b> for the purposes of SUP TP 11; and</p> <p>(b) (if it is) into which category it falls;</p> <p>is determined in accordance with SYSC 23 (as set out in the Indi</p>
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		vidual Accountability (Dual-Regulated Firms) Instrument 2018) even though that chapter is not in force for other purposes.
SUP TP 11.22.4	G	(2) (1) does not apply to an <b>SMCR banking firm</b> . An <b>SMCR banking firm</b> cannot be an <b>SMCR insurance firm</b> for the purposes of SUP TP 11.  (1) The effect of SUP TP 11.22.3R is that if an <b>SMCR banking firm</b> changes its <i>permission</i> in a way that would turn it into an <b>SMCR insurance firm</b> , the conversion arrangements in SUP TP 11 will not apply to it.  (2) SUP TP 11.15 will however apply and the <i>firm</i> can use this to apply for the approvals it needs because of its change of category.
SUP TP 11.22.5	G	If a <i>firm</i> becomes a <b>non-notifying firm</b> after it has sent the <i>FCA</i> its Form K, it should notify the <i>FCA</i> as described in SUP 15.6 (Inaccurate, false or misleading information).
SUP TP 11.23	Forms	
SUP TP 11.23.1	R	Conversion Notification Form (Form K)  Conversion Notification Form (Form K) Solvency II and large non-directive firms

