Chapter 3

Auditors
3.1 Application

3.1.1 (1) Except as provided for in (2), this chapter applies to:

   every firm within a category listed in column (1) of the table in SUP 3.1.2 R; and

   the external auditor of such a firm (if appointed under SUP 3.3 or appointed under or as a result of a statutory provision other than in the Act);

(2) This chapter does not apply in relation to a firm’s benchmark activities.

3.1.1A For the avoidance of doubt, this chapter does not apply to the following firms if they do not hold client money or client assets and do not appoint an auditor under or as a result of a statutory provision other than in the Act:

   (1) authorised professional firms;

   (2) energy market participants, including oil market participants to whom IPRU(INV) 3 does not apply;

   (3) exempt insurance intermediaries;

   (4) insurance intermediaries not subject to SUP 3.1.2 R(10);

   (5) investment management firms;

   (6) home finance administrators;

   (7) home finance intermediaries;

   (8) home finance providers;

   (9) personal investment firms, including small personal investment firms;

   (10) securities and futures firms; and

   (11) service companies.

3.1.2 Applicable sections (see SUP 3.1.1 R)

This table and the provisions in SUP 3 should be read in conjunction with GEN 2.2.23 R to GEN 2.2.25 G. In particular, the PRA does not apply any of the
provisions in SUP 3 in respect of *FCA-authorised persons*. SUP 3.10 and SUP 3.11 are applied by the *FCA only.*

<table>
<thead>
<tr>
<th>(1) Category of firm</th>
<th>(2) Sections applicable to the firm</th>
<th>(3) Sections applicable to its auditor</th>
</tr>
</thead>
<tbody>
<tr>
<td>(1) <strong>Authorised professional firm</strong> which is required by <em>IPRU(INV)</em> 2.1.2R to comply with chapters 3, 5 or 13 of <em>IPRU(INV)</em> and which has an auditor appointed under or as a result of a statutory provision other than in the Act (Notes 1 and 6)</td>
<td>SUP 3.1 - SUP 3.7, SUP 3.11</td>
<td>SUP 3.1, SUP 3.2, SUP 3.8, SUP 3.10</td>
</tr>
<tr>
<td>(2) <strong>Authorised professional firm</strong> not within (1) to which the <em>custody chapter or client money chapter</em> applies</td>
<td>SUP 3.1 - SUP 3.7, SUP 3.11</td>
<td>SUP 3.1, SUP 3.2, SUP 3.8, SUP 3.10</td>
</tr>
<tr>
<td>(3) <strong>Authorised professional firm</strong> not within (1) or (2) which has an auditor appointed under or as a result of a statutory provision other than in the Act</td>
<td>SUP 3.1, SUP 3.2, SUP 3.7</td>
<td>SUP 3.1, SUP 3.2, SUP 3.8</td>
</tr>
<tr>
<td>(4) <strong>Bank, building society or dormant account fund operator</strong> which in each case carries on designated investment business (Notes 2A and 6)</td>
<td>SUP 3.1-SUP 3.7, SUP 3.11</td>
<td>SUP 3.1, SUP 3.2, SUP 3.8, SUP 3.10</td>
</tr>
<tr>
<td>(5) <strong>Bank, building society or a dormant account fund operator</strong> which in each case does not carry on designated investment business (Note 2A)</td>
<td>SUP 3.1 - SUP 3.7</td>
<td>SUP 3.1, SUP 3.2, SUP 3.8</td>
</tr>
<tr>
<td>(5A) <strong>Credit union</strong></td>
<td>SUP 3.1 - SUP 3.7</td>
<td>SUP 3.1, SUP 3.2, SUP 3.8</td>
</tr>
<tr>
<td>(5B) <strong>CASS debt management firm</strong> unless subject to a requirement imposed under section 55L of the Act stating that it must not hold client money or such a requirement to the same effect</td>
<td>SUP 3.1, SUP 3.10, SUP 3.11</td>
<td>SUP 3.1, SUP 3.2, SUP 3.8, SUP 3.10</td>
</tr>
<tr>
<td>(5C) <strong>CASS 7 loan-based crowdfunding firm</strong></td>
<td>SUP 3.1-3.7, SUP 3.11</td>
<td>SUP 3.1, SUP 3.2, SUP 3.8, SUP 3.10</td>
</tr>
<tr>
<td>(5D) <strong>A CASS 13 claims management firm</strong></td>
<td>SUP 3.1-3.7, 3.11</td>
<td>SUP 3.1, SUP 3.2, SUP 3.8, SUP 3.10</td>
</tr>
<tr>
<td>(1) Category of firm</td>
<td>(2) Sections applicable to the firm</td>
<td>(3) Sections applicable to its auditor</td>
</tr>
<tr>
<td>----------------------</td>
<td>-------------------------------------</td>
<td>-------------------------------------</td>
</tr>
<tr>
<td>(6) Insurer, the Society of Lloyd's, underwriting agent or members' adviser, UK ISPV (Note 5)</td>
<td>SUP 3.1 - SUP 3.7</td>
<td>SUP 3.1, SUP 3.2, SUP 3.8</td>
</tr>
<tr>
<td>(7) Investment management firm, (other than an exempt CAD firm), personal investment firm (other than a small personal investment firm or exempt CAD firm), securities and futures firm (other than an exempt CAD firm or an exempt BIPRU commodities firm) or collective portfolio management firm that is an external AIFM which, in each case, has an auditor appointed under or as a result of a statutory provision other than in the Act (Notes 3 and 6)</td>
<td>SUP 3.1 - SUP 3.7, SUP 3.11</td>
<td>SUP 3.1, SUP 3.2, SUP 3.8, SUP 3.10</td>
</tr>
<tr>
<td>(7A) Investment management firm (other than an exempt CAD firm), personal investment firm (other than a small personal investment firm or exempt CAD firm), securities and futures firm (other than an exempt CAD firm or an exempt BIPRU commodities firm) or collective portfolio management firm that is an external AIFM not within (7) to which the custody chapter or client money chapter applies</td>
<td>SUP 3.1 - SUP 3.7, SUP 3.11</td>
<td>SUP 3.1, SUP 3.2, SUP 3.8, SUP 3.10</td>
</tr>
<tr>
<td>(7B) Collective portfolio management firm that is a UCITS firm or an internally managed AIF (Note 6)</td>
<td>SUP 3.1 - SUP 3.7, SUP 3.11</td>
<td>SUP 3.1, SUP 3.2, SUP 3.8, SUP 3.10</td>
</tr>
<tr>
<td>(1) Category of firm</td>
<td>(2) Sections applicable to the firm</td>
<td>(3) Sections applicable to its auditor</td>
</tr>
<tr>
<td>------------------------------------------------------------------------------------</td>
<td>------------------------------------</td>
<td>---------------------------------------</td>
</tr>
<tr>
<td>(7C)  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)</td>
<td>SUP 3.1, SUP 3.7, SUP 3.11</td>
<td>SUP 3.1, SUP 3.2, SUP 3.8, SUP 3.10</td>
</tr>
<tr>
<td>(7D)  Sole trader or partnership that is a UK MiFID investment firm (other than an exempt CAD firm) (Notes 3C and 6)</td>
<td>SUP 3.1, SUP 3.7, SUP 3.11</td>
<td>SUP 3.1, SUP 3.2, SUP 3.8, SUP 3.10</td>
</tr>
<tr>
<td>(8)    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</td>
<td>SUP 3.1, SUP 3.7</td>
<td>SUP 3.1, SUP 3.2, SUP 3.8</td>
</tr>
<tr>
<td>(9)    Home finance provider which has an auditor appointed under or as a result of a statutory provision other than in the Act</td>
<td>SUP 3.1, SUP 3.7</td>
<td>SUP 3.1, SUP 3.2, SUP 3.8</td>
</tr>
<tr>
<td>(10)   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)</td>
<td>SUP 3.1, SUP 3.7, SUP 3.11</td>
<td>SUP 3.1, SUP 3.2, SUP 3.8, SUP 3.10</td>
</tr>
<tr>
<td>(11)   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</td>
<td>SUP 3.1, SUP 3.7</td>
<td>SUP 3.1, SUP 3.2, SUP 3.8</td>
</tr>
<tr>
<td>(12)   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.</td>
<td>SUP 3.1, SUP 3.7</td>
<td>SUP 3.1, SUP 3.2, SUP 3.8</td>
</tr>
</tbody>
</table>

Note 1 = This chapter applies to an *authorised professional firm* in row (1)
### Category of firm

(1) Category of firm

<table>
<thead>
<tr>
<th>(1) Category of firm</th>
<th>(2) Sections applicable to the firm</th>
<th>(3) Sections applicable to its auditor</th>
</tr>
</thead>
<tbody>
<tr>
<td>(and its auditor) as if the firm were of the relevant type in the right-hand column of IPRU(INV) 2.1.4R.</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

Note 2 [deleted]

Note 2A = For this purpose, designated investment business does not include either or both:

(a) dealing which falls within the exclusion in article 15 of the Regulated Activities Order (Absence of holding out etc) or agreeing to do so; and

(b) dealing in investments as principal (or agreeing to do so):

(i) by a firm whose permission to deal in investments as principal is subject to a limitation to the effect that the firm, in carrying on this regulated activity, is limited to entering into transactions in a manner which, if the firm was an unauthorised person, would come within article 16 of the Regulated Activities Order (Dealing in contractually based investments); and

(ii) in a manner which comes within that limitation;

having regard to article 4(4) of the Regulated Activities Order (Specified activities: general).

Note 3 = This note applies in relation to an oil market participant to which IPRU(INV) 3 does not apply and in relation to an energy market participant to which IPRU(INV) 3 does not apply. In SUP 3:

(a) only SUP 3.1, SUP 3.2 and SUP 3.7 are applicable to such a firm; and

(b) only SUP 3.1, SUP 3.2 and SUP 3.8 are applicable to its auditor;

and, in each case, only if it has an auditor appointed under or as a result of a statutory provision other than in the Act.

Note 3A [deleted]

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 MiFID 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.

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.

Note 4 = The client money audit requirement in SUP 3.1.2 R(10) therefore applies to all insurance intermediaries except:

• those which do not hold client money or other client assets in relation to insurance distribution activities; or

• those which only hold up to, but not exceeding, £30,000 of client money under a statutory trust arising under CASS 5.3.

Insurance intermediaries which, in relation to insurance distribution activities, hold no more than that amount of client money only on a statutory trust are exempt insurance intermediaries.

Note (5) = In row (6):

(a) SUP 3.1 - SUP 3.7 applies to a managing agent in respect of its own business and in respect of the insurance business of each syndicate which it manages; and
<table>
<thead>
<tr>
<th>(1) Category of firm</th>
<th>(2) Sections applicable to the firm</th>
<th>(3) Sections applicable to its auditor</th>
</tr>
</thead>
<tbody>
<tr>
<td>SUP 3.1, SUP 3.2 and SUP 3.8</td>
<td>apply to the auditors of a managing agent and the auditors of the insurance business of each syndicate which the managing agent manages.</td>
<td></td>
</tr>
</tbody>
</table>

Note 6 = Where SUP 3.11 applies to a firm, and SUP 3.10 applies to the auditor of that firm, those sections apply whether or not that firm’s permission prevents it from holding client money or custody assets and whether or not it holds client money or custody assets. A collective portfolio management firm that is an internally managed AIF is required to appoint an auditor under FUND 3.3.6R (2) (Annual report of an AIF) because the AIFM is also an AIF.

3.1.2A G If a firm falls within more than one row in column (1) of the table in SUP 3.1.2 R, SUP 3.1.1 R requires the firm and its external auditor to comply with all the sections referred to in column (2) or (3).

Incoming firms

3.1.3 R This chapter applies to an incoming EEA firm (and the auditor of such a firm) only if it has a top-up permission.

3.1.4 G The application of SUP 3.10 to the auditor of an incoming EEA firm with a top-up permission is qualified in SUP 3.10.3 R.

3.1.5 R This chapter does not apply to an incoming Treaty firm, which:

1. does not have a top-up permission; and
2. is not required to comply with the client asset rules.

3.1.6 G The application of SUP 3.7 to an incoming Treaty firm or an auditor of such a firm is further qualified in SUP 3.7.1 G.

Auditors of lead regulated firms

3.1.7 G The application of SUP 3.10 to the auditor of a lead regulated firm is qualified in SUP 3.10.3 R.

3.1.8 G [deleted]

Material elsewhere in the Handbook

3.1.9 G A firm which is mentioned in SUP 3.1.10 G should see the Prudential Standards part of the Handbook for further provisions on auditors as set out in SUP 3.1.10 G.
### 3.1.10 | Other relevant sections of the Handbook (see SUP 3.1.9 G)

<table>
<thead>
<tr>
<th>Friendly society</th>
<th>IPRU(FSOC)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Insurer (other than a Solvency II firm or a friendly society)</td>
<td>IPRU(INS)</td>
</tr>
<tr>
<td>Investment management firm, personal investment firm, securities and futures firm and collective portfolio management firm (other than IFPRU investment firms and BI-PRU firms)</td>
<td>IPRU(INV)</td>
</tr>
<tr>
<td>Society of Lloyd's and Lloyd's managing agents</td>
<td>IPRU(INS)</td>
</tr>
</tbody>
</table>
3.2 Purpose

Purpose: general

3.2.1 This chapter sets out rules and guidance on the role auditors play in the appropriate regulator's monitoring of firms' compliance with the requirements and standards under the regulatory system. In determining whether a firm satisfies the threshold conditions, the appropriate regulator has regard to whether the firm has appointed auditors with sufficient experience in the areas of business to be conducted by the firm. Auditors act as a source of information for the appropriate regulator in its supervision. They report, where required, on the financial resources of the firm, the accuracy of its reports to the appropriate regulator and its compliance with particular rules, such as the Client asset rules.

3.2.2 The Act, together with other legislation such as the Companies Acts 1985, 1989 and 2006, the Building Societies Act 1986 and the Friendly Societies Act 1992, provides the statutory framework for firms' and auditors' obligations.

3.2.3 [deleted]

3.2.4 [deleted]

Insurance intermediaries and their auditors

3.2.5 It is the responsibility of an insurance intermediary's senior management to determine, on a continuing basis, whether the insurance intermediary is an exempt insurance intermediary and to appoint an auditor if management determines the firm is no longer exempt. SUP 3.7 (amplified by SUP 15) sets out what a firm should consider when deciding whether it should notify the FCA of matters raised by its auditor.

Rights and duties of auditors

3.2.6 The rights and duties of auditors are set out in SUP 3.8 (Rights and duties of all auditors) and SUP 3.10 (Duties of auditors: notification and report on client assets). SUP 3.8.10 G includes the auditor's statutory duty to report certain matters to the FCA imposed by regulations made by the Treasury under sections 342(5) and 343(5) of the Act (information given by auditor or actuary to a regulator). An auditor should bear these rights and duties in mind when carrying out client asset report work, including whether anything should be notified to the FCA immediately.
3.3 Appointment of auditors

Purpose

3.3.1 This section requires a firm to appoint an auditor and supply the appropriate regulator with information about its auditor. The appropriate regulator requires such information to ensure that the firm has an auditor.

Appointment by firms

3.3.2 A firm to which this section applies (see SUP 3.1) must:

(1) appoint an auditor;

(2) notify the appropriate regulator, without delay, on the form in SUP 15 Ann 3 (Notification to amend firm details form), in accordance with the instructions on the form, when it is aware that a vacancy in the office of auditor will arise or has arisen, giving the reason for the vacancy;

(3) appoint an auditor to fill any vacancy in the office of auditor which has arisen;

(4) ensure that the replacement auditor can take up office at the time the vacancy arises or as soon as reasonably practicable after that; and

(5) notify the appropriate regulator of the appointment of an auditor, on the form in SUP 15 Ann 3 (Notification to amend firm details form), in accordance with the instructions on the form, advising the appropriate regulator of the name and business address of the auditor appointed and the date from which the appointment has effect.

3.3.3A SUP 3.3.2 R applies to every firm to which this section applies. That includes a firm which is under an obligation to appoint an auditor under an enactment other than the Act, such as the Companies Act 1985 or the Companies Act 2006, as appropriate. Such a firm is expected to wish to have a single auditor who is appointed to fulfil both obligations. SUP 3.3.2 R is made under section 137A of the Act (The FCA’s general rules), in relation to such firms, and under section 340(1) (Appointment) in relation to other firms.

3.3.4 [deleted]
Appointment by the appropriate regulator

(1) Paragraph (2) applies to a firm which is not under an obligation to appoint an auditor imposed by an enactment other than the Act.

(2) If a firm fails to appoint an auditor within 28 days of a vacancy arising, the appropriate regulator may appoint an auditor for it on the following terms:

(a) the auditor to be remunerated by the firm on the basis agreed between the auditor and firm or, in the absence of agreement, on a reasonable basis; and

(b) the auditor to hold office until he resigns or the firm appoints another auditor.

SUP 3.3.7 R allows but does not require the appropriate regulator to appoint an auditor if the firm has failed to do so within the 28 day period. When it considers whether to use this power, the appropriate regulator will take into account the likely delay until the firm can make an appointment and the urgency of any pending duties of the appointed auditor.

A firm must comply with and is bound by the terms on which an auditor has been appointed by the appropriate regulator, whether under SUP 3.3.7 R, the Building Societies Act 1986 or the Friendly Societies Act 1992.
3.4 Auditors' qualifications

Purpose

3.4.1 The appropriate regulator is concerned to ensure that the auditor of a firm has the necessary skill and experience to audit the business of the firm to which he has been appointed. This section sets out the appropriate regulator's rules and guidance aimed at achieving this.

Qualifications

3.4.2 Before a firm, to which § SUP 3.3.2 R applies, appoints an auditor, it must take reasonable steps to ensure that the auditor has the required skill, resources and experience to perform his functions under the regulatory system and that the auditor:

(1) is eligible for appointment as an auditor under Part II of the Companies Act 1989 or Part III of the Companies (Northern Ireland) Order 1990 (Eligibility for appointment) where applicable, otherwise Chapters 1, 2 and 6 of Part 42 of the Companies Act 2006; or

(2) if appointed under an obligation in another enactment, is eligible for appointment as an auditor under that enactment; or

(3) in the case of an overseas firm, is eligible for appointment as an auditor under any applicable equivalent laws of that country or territory.

3.4.4 An auditor which a firm proposes to appoint should have skills, resources and experience commensurate with the nature, scale and complexity of the firm's business and the requirements and standards under the regulatory system to which it is subject. A firm should have regard to whether its proposed auditor has expertise in the relevant requirements and standards (which may involve access to UK expertise) and possesses or has access to appropriate specialist skill, for example actuarial expertise in carrying out audits of insurance companies or friendly societies where appropriate. The firm should seek confirmation of this from the auditor concerned as appropriate.

Disqualified auditors

3.4.5 A firm must not appoint as auditor a person who is disqualified under Part XXII of the Act (Auditors and Actuaries) from acting as an auditor either for that firm or for a relevant class of firm.
3.4.6  
If it appears to the *appropriate regulator* that an auditor of a *firm* has failed to comply with a duty imposed on him under the *Act*, it may have the power to and may disqualify him under section 345 or 345A, respectively, of the *Act*. A list of persons who are disqualified may be found on the FCA’s website (www.fca.org.uk).

**Requests for information on qualifications by the appropriate regulator**

3.4.7  
A *firm* must take reasonable steps to ensure that an auditor, which it is planning to appoint or has appointed, provides information to the *appropriate regulator* about the auditor’s qualifications, skills, experience and independence in accordance with the reasonable requests of the *appropriate regulator*.

3.4.8  
To enable it to assess the ability of an auditor to audit a *firm*, the *appropriate regulator* may seek information about the auditor’s relevant experience and skill. The appropriate regulator will normally seek information by letter from an auditor who has not previously audited any *firm*. The *firm* should instruct the auditor to reply fully to the letter (and should not appoint an auditor who does not reply to the *appropriate regulator*). The *appropriate regulator* may also seek further information on a continuing basis from the auditor of a *firm* (see also the auditor’s duty to cooperate under ■ SUP 3.8.2 R).
### 3.5 Auditors' independence

#### Purpose

**3.5.1** If an auditor is to carry out his duties properly, he needs to be independent of the *firm* he is auditing, so that he is not subject to conflicts of interest. Many *firms* are also subject to requirements under the Companies Act 1989, or the Companies Act 2006, the Building Societies Act 1986 or the Friendly Societies Act 1992 on auditor’s independence.

#### Independence

**3.5.2** A *firm* must take reasonable steps to ensure that the auditor which it appoints is independent of the *firm*.

**3.5.3** If a *firm* becomes aware at any time that its auditor is not independent of the *firm*, it must take reasonable steps to ensure that it has an auditor independent of the *firm*. The *firm* must notify the FCA and the PRA (if it is a PRA-authorised firm) or the FCA (in all other cases) if independence is not achieved within a reasonable time.

**3.5.4** The *appropriate regulator* will regard an auditor as independent if his appointment or retention does not breach the ethical guidance in current issue from the auditor’s recognised supervisory body on the appointment of an auditor in circumstances which could give rise to conflicts of interest.
3.6 Firms’ cooperation with their auditors

3.6.1 A firm must cooperate with its auditor in the discharge of his duties under this chapter.

Auditor’s access to accounting records

3.6.2 In complying with SUP 3.6.1 R, a firm should give a right of access at all times to the firm’s accounting and other records, in whatever form they are held, and documents relating to its business. A firm should allow its auditor to copy documents or other material on the premises of the firm and to remove copies or hold them elsewhere, or give him such copies on request.

Section 341 of the Act (Access to books etc.) provides that an auditor of a firm appointed under SUP 3.3.2 R:

(1) has a right of access at all times to the firm’s books, accounts and vouchers; and

(2) is entitled to require from the firm’s officers such information and explanations as he reasonably considers necessary for the performance of his duties as auditor.

Section 389A of the Companies Act 1985 where applicable, otherwise sections 499 and 500 of the Companies Act 2006, section 79 of the Building Societies Act 1986 and section 75 of the Friendly Societies Act 1992 give similar rights to auditors of companies, building societies and friendly societies respectively.

3.6.5 Section 413 (Protected items), under which no person may be required under the Act to produce, disclose or permit the inspection of protected items, is relevant to SUP 3.6.1 R and SUP 3.6.3 G.

Access and cooperation: appointed representatives, material outsourcing, employees

3.6.6 In complying with SUP 3.6.1 R, a firm should take reasonable steps to ensure that each of its appointed representatives or, where applicable, tied agents gives the firm’s auditor the same rights of access to the books, accounts and vouchers of the appointed representative or tied agent and entitlement to information and explanations from the appointed representative’s or tied
agent's officers as are given in respect of the firm by section 341 of the Act (see also Section 12.5.5 R (3)).

In complying with Section 3.6.1 R, a firm should take reasonable steps to ensure that each of its suppliers under a material outsourcing arrangement gives the firm's auditor the same rights of access to the books, accounts and vouchers of the firm held by the supplier, and entitlement to information and explanations from the supplier's officers as are given in respect of the firm by section 341 of the Act.

In complying with Section 3.6.1 R, a firm should take reasonable steps to ensure that all its employees cooperate with its auditor in the discharge of his duties under this chapter.

Provision of false or misleading information to auditors

Firms and their officers, managers and controllers are reminded that, under section 346 of the Act (Provision of false or misleading information to auditor or actuary), knowingly or recklessly giving false information to an auditor appointed under Section 3.3.2 R constitutes an offence in certain circumstances, which could render them liable to prosecution. This applies even when an auditor is also appointed under an obligation in another enactment.
### 3.7 Notification of matters raised by auditor

**Application**

3.7.1 **SUP 3.7** does not apply to an *incoming Treaty firm* which does not have a top-up permission.

**Notification**

3.7.2 A firm should consider whether it should notify the FCA and the PRA (if it is a *PRA-authorised firm*) or the FCA (in all other cases) under Principle 11 if:

1. the firm expects or knows its auditor will qualify his report on the audited annual financial statements or add an explanatory paragraph; or

2. the firm receives a written communication from its auditor commenting on *internal controls* (see also **SUP 15.3**).

3.7.3 [deleted]
3.8 Rights and duties of auditors

Purpose

3.8.1 G The auditor of a firm has various rights and duties to obtain information from the firm and both to enable and to require him to pass information to the appropriate regulator in specified circumstances. This section imposes or gives guidance on those rights and duties.

Cooperation with the appropriate regulator

3.8.2 R An auditor of a firm must cooperate with the appropriate regulator in the discharge of its functions under the Act.

3.8.3 G The appropriate regulator may ask the auditor to attend meetings and to supply it with information about the firm. In complying with SUP 3.8.2 R, the auditor should attend such meetings as the appropriate regulator requests and supply it with any information the appropriate regulator may reasonably request about the firm to enable the appropriate regulator to discharge its functions under the Act.

3.8.4 R An auditor of a firm must give any skilled person appointed by the firm or appointed by the appropriate regulator all assistance that person reasonably requires (see SUP 5 and section 166(5) of the Act (Reports by skilled persons)).

Auditor's independence

3.8.5 R An auditor of a firm must be independent of the firm in performing his duties in respect of that firm.

3.8.6 R An auditor of a firm must take reasonable steps to satisfy himself that he is free from any conflict of interest in respect of that firm from which bias may reasonably be inferred. He must take appropriate action where this is not the case.

3.8.7 G SUP 3.8.4 G explains that an auditor whose appointment does not breach the ethical guidance in current issue from the auditor's recognised supervisory body will be regarded as independent by the appropriate regulator.
Auditors' rights to information

3.8.8  G

SUP 3.6.1 R requires a firm to cooperate with its auditor. SUP 3.6.3 G refers to the rights to information which an auditor is granted by the Act.

SUP 3.6.4 G refers to similar rights granted by the Companies Act 1985 or, where applicable, the Companies Act 2006, the Building Societies Act 1986 and the Friendly Societies Act 1992.

Communication between the appropriate regulator, the firm and the auditor

3.8.9  G

Within the legal constraints that apply, the appropriate regulator may pass on to an auditor any information which it considers relevant to his function. An auditor is bound by the confidentiality provisions set out in Part XXIII of the Act (Public record, disclosure of information and cooperation) in respect of confidential information he receives from the appropriate regulator. An auditor may not pass on such confidential information without lawful authority, for example if an exception applies under the Financial Services and Markets Act 2000 (Disclosure of Confidential Information) Regulations 2001 (SI 2001/2188) or with the consent of the person from whom that information was received and (if different) to whom the information relates.

Auditors' statutory duty to report

3.8.10  G

(1) Auditors are subject to regulations made by the Treasury under sections 342(5) and 343(5) of the Act (Information given by auditor or actuary to a regulator). Section 343 and the regulations also apply to an auditor of an authorised person in his capacity as an auditor of a person who has close links with the authorised person.

(2) These regulations oblige auditors to report certain matters to the appropriate regulator. Sections 342(3) and 343(3) of the Act provide that an auditor does not contravene any duty by giving information or expressing an opinion to the appropriate regulator, if he is acting in good faith and he reasonably believes that the information or opinion is relevant to any functions of the appropriate regulator. These provisions continue to have effect after the end of the auditor's term of appointment.

In relation to Lloyd's, an effect of the insurance market direction set out at SUP 3.1.13 D is that sections 342(5) and 343(5) of the Act (Information given by an auditor or actuary to a regulator) apply also to auditors appointed to report on the insurance business of members.

Termination of term of office, disqualification

3.8.11  R

An auditor must notify the appropriate regulator without delay if he:

(1) is removed from office by a firm; or

(2) resigns before his term of office expires; or

(3) is not re-appointed by a firm.
If an auditor ceases to be, or is formally notified that he will cease to be, the auditor of a firm, he must notify the appropriate regulator without delay:

(1) of any matter connected with his so ceasing which he thinks ought to be drawn to the appropriate regulator’s attention; or

(2) that there is no such matter.

[deleted]

[deleted]
3.10 Duties of auditors: notification and report on client assets

Application

3.10.1 [deleted]

3.10.2 An auditor of an authorised professional firm need not report under this section in relation to that firm’s compliance with the client money rules in the client money chapter or the debt management client money rules if:

(1) that firm is regulated by:
   (a) the Law Society (England and Wales); or
   (b) the Law Society of Scotland; or
   (c) the Law Society of Northern Ireland; and

(2) that firm is subject to the rules of its designated professional body as specified in CASS 7.10.28R (2) or CASS 11.1.6 R (2) with respect to its regulated activities.

3.10.3 SUP 3.10.5 R(3) does not apply to an auditor of a lead regulated firm or an incoming EEA firm.

Client assets report: content

3.10.4 An auditor of a firm must submit a client assets report addressed to the FCA which:

(1) (a) states the matters set out in SUP 3.10.5 R; and
   (b) specifies the matters to which SUP 3.10.9 R and SUP 3.10.9A R refer; or

(2) if the firm claims not to hold client money or custody assets, states whether anything has come to the auditor’s attention that causes him to believe that the firm held client money or custody assets during the period covered by the report.

3.10.4A (1) For the purpose of SUP 3.10.4 R (1), an auditor must ensure that the report is prepared in accordance with the terms of a reasonable assurance engagement.

(2) For the purpose of SUP 3.10.4 R (2), an auditor must ensure that the report is prepared in accordance with the terms of a limited assurance engagement.
### 3.10.5 Client assets report

**Whether in the auditor’s opinion**

1. The firm has maintained systems adequate to enable it to comply with the custody rules (except CASS 6.7), the collateral rules, the client money rules (except CASS 5.2), the debt management client money rules, the claims management client money rules and the mandate rules throughout the period;

2. The firm was in compliance with the custody rules (except CASS 6.7), the collateral rules, the client money rules (except CASS 5.2), the debt management client money rules, the claims management client money rules and the mandate rules, at the date as at which the report has been made;

3. In the case of an investment management firm, personal investment firm, a UCITS firm, securities and futures firm, firm acting as trustee or depositary of an AIF, firm acting as trustee or depositary of a UCITS or FPRU investment firm or BIPRU firm, when a subsidiary of the firm is during the period a nominee company in whose name custody assets of the firm are registered during the period, that nominee company has maintained throughout the period systems for the custody, identification and control of custody assets which:
   - were adequate; and
   - included reconciliations at appropriate intervals between the records maintained (whether by the firm or the nominee company) and statements or confirmations from custodians or from the person who maintained the record of legal entitlement; and

4. If there has been a secondary pooling event during the period, the firm has complied with the rules in CASS 5.6 and CASS 7A (Client money distribution), CASS 11.13 (debt management client money distribution rules) and CASS 13.11 (claims management client money distribution rules) in relation to that pooling event.

### 3.10.5A

In relation to a client assets report provided in accordance with § SUP 3.10.4 R, an auditor must ensure that it:

1. Is submitted in the form prescribed by § SUP 3 Annex 1 R; and

2. Is signed on behalf of the audit firm by the individual with primary responsibility for a firm’s client assets report and in that individual’s own name.

### 3.10.5B

§ SUP 3.10.4 R provides that an auditor must ensure that a client assets report is prepared in accordance with the terms of, as the case may be, a reasonable assurance engagement or a limited assurance engagement. However, the FCA also expects an auditor to have regard, where relevant, to material published by the Financial Reporting Council that deals specifically with the client assets report which the auditor is required to submit to the
FCA. In the FCA’s view, a client assets report that is prepared in accordance with that material is likely to comply with SUP 3.10.4 R and SUP 3.10.5 R where that report is prepared for a firm within the scope of the material in question.

3.10.5C R
(1) An auditor must ensure that the information provided to it by a firm in accordance with SUP 3.11.1 G is included in the client assets report.

(2) If by the date at which the report is due for submission in accordance with SUP 3.10.7 R or SUP 3.10.8A R an auditor has not received the information prescribed in SUP 3.11.1 G it must submit the report without that information, together with an explanation for its absence.

Client assets report: period covered

3.10.6 R
The period covered by a report under SUP 3.10.4 R must end not more than 53 weeks after the period covered by the previous report on such matters, or, if none, after the firm is authorised or becomes subject to SUP 3.11 and its auditor becomes subject to SUP 3.10.

Client assets report: timing of submission

3.10.7 R
An auditor must deliver a client assets report under SUP 3.10.4 R to the FCA within four months from the end of each period covered, unless it is the auditor of a firm falling within category (10) of SUP 3.1.2 R.

[Note: article 8 of the MiFID Delegated Directive]

3.10.7A G [deleted]

3.10.8 R
(1) If an auditor expects that it will fail to comply with SUP 3.10.7 R, it must no later than the end of the four month period in question:

(a) notify the FCA that it expects that it will be unable to deliver a client assets report by the end of that period; and

(b) ensure that the notification in (a) is accompanied by a full account of the reasons for its expected failure to comply with SUP 3.10.7 R.

(2) If an auditor fails to comply with SUP 3.10.7 R, it must promptly:

(a) notify the FCA of that failure; and

(b) ensure that the notification in (a) is accompanied by a full account of the reasons for its failure to comply with SUP 3.10.7 R.

3.10.8A R
The auditor of a firm falling within category (10) of SUP 3.1.2 R must deliver a report under SUP 3.10.4 R:

(1) to the firm so as to be received within four months of the end of each period covered; and
(2) to the FCA upon request within six years of the end of the period covered.

3.10B The rights and duties of auditors are set out in SUP 3.8 (Rights and duties of all auditors) and SUP 3.10 (Duties of auditors: notification and report on client assets). SUP 3.8.10 G also refers to the auditor’s statutory duty to report certain matters to the FCA imposed by regulations made by the Treasury under sections 342(5) and 343(5) of the Act (information given by auditor or actuary to a regulator). An auditor should bear these rights and duties in mind when carrying out client asset report work, including whether anything should be notified to the FCA immediately.

3.10C It is the responsibility of an insurance intermediary’s senior management to determine, on a continuing basis, whether the firm is an exempt insurance intermediary for the purposes of this requirement and to appoint an auditor if management determines the firm is no longer exempt. SUP 3.7 (amplified by SUP 15) sets out what a firm should consider when deciding whether it should notify the FCA of matters raised by its auditor.

3.10D An auditor must:

1. deliver to a firm a draft of its client assets report such that the firm has an adequate period of time to consider the auditor’s findings and to provide the auditor with comments of the kind to which SUP 3.11.1 G refers; and

2. unless it is the auditor of a firm falling within category (10) of SUP 3.1.2 R, deliver to the firm a copy of the final report at the same time as it delivers that report to the FCA in accordance with SUP 3.10.7 R.

Client assets report: requirements not met or inability to form opinion

3.10 If the client assets report under SUP 3.10.4 R states that one or more of the applicable requirements described in SUP 3.10.5 R(1) to (4) has or have not been met, the auditor must specify in the report each of those requirements and the respects in which it has or they have not been met.

3.10A (1) Whether or not an auditor concludes that one or more of the requirements specified in SUP 3.10.5 R (1) to (4) has or have been met, the auditor must ensure that the client assets report identifies each individual rule in respect of which a breach has been identified.

(2) If an auditor does not identify a breach of any individual rule, it must include a statement to that effect in the client assets report.

3.10B For the purpose of SUP 3.10.9 R and SUP 3.10.9A R, an auditor must ensure that the information prescribed under those rules is submitted using,
respectively, Part 1 (Auditor’s Opinion) and Part 2 (Breaches Schedule) of SUP 3 Annex 1 R.

3.10.9C  The FCA expects that the list of breaches will include every breach of a rule in CASS insofar as that rule is within the scope of the client assets report and is identified in the course of the auditor’s review of the period covered by the report, whether identified by the auditor or disclosed to it by the firm, or by any third party.

(2) For the purpose of determining whether to qualify its opinion or express an adverse opinion, the FCA would expect an auditor to exercise its professional judgment as to the significance of a rule breach, as well as to its context, duration and incidence of repetition. The FCA would expect an auditor to consider the aggregate effect of any breaches when judging whether a firm had failed to comply with the requirements described in SUP 3.10.5 R (1) to (4).

3.10.10 If an auditor is unable to form an opinion as to whether one or more of the applicable requirements described in SUP 3.10.5 R have been met, the auditor must specify in the report under SUP 3.10.4 R those requirements and the reasons why the auditor has been unable to form an opinion.

3.10.11 [deleted]

Method of submission of reports

3.10.12 An auditor of a firm must submit a report under SUP 3.10.4 R in accordance with the rules in SUP 16.3.6 R to SUP 16.3.13 R as if those rules applied directly to the auditor.

Service of Notice Regulations

3.10.13 The Financial Services and Markets Act 2000 (Service of Notices) Regulations 2001 (SI 2001/1420) contain provisions relating to the service of documents on the FCA. They do not apply to reports required by SUP 3.10 because of the specific provisions in SUP 3.10.12 R.
3.11 Review of auditor’s client assets report

3.11.1 A firm should ensure that:

(1) it considers the draft client assets report provided to the firm by its auditor in accordance with [SUP 3.10.8DR (1)] in order to provide an explanation of:
   (a) the circumstances that gave rise to each of the breaches identified in the draft report; and
   (b) any remedial actions that it has undertaken or plans to undertake to correct those breaches; and

(2) the explanation provided in accordance with (1):
   (a) is submitted to its auditor in a timely fashion and in any event before the auditor is required to deliver a report to the FCA in accordance with [SUP 3.10.7 R] or to the firm in accordance with [SUP 3.10.8A R] as the case may be; and
   (b) is recorded in the relevant field in the draft report submitted to it by its auditor.

3.11.2 A firm must ensure that the final client assets report delivered to it in accordance with [SUP 3.10.8A R] or [SUP 3.10.8DR (2)] is reported to that firm’s governing body.

3.11.3 The FCA expects a firm to use the client assets report as a tool to evaluate the effectiveness of the systems that it has in place for the purpose of complying with requirements to which [SUP 3.10.5 R] refers. Accordingly, a firm should ensure that the report is integrated into its risk management framework and decision-making.

3.11.4 [SUP 3.4.2 R] provides that a firm must take reasonable steps to ensure that its auditor has the required skill, resources and experience to perform its functions. The FCA expects a firm to keep under review the adequacy of the skill, resources and experience of its auditor and should critically assess the content of the client assets report as part of that ongoing review.
SUP 3 Annex 1

Auditor’s client assets report - SUP 3 Annex 1