

Supervision

SUP TP 8 Financial Services (Banking Reform) Act 2013: Approved persons in small non-directive insurers

8.1		Purpose of SUP TP 8
8.1.1	G	<p>SUP TP 8 has transitional and grandfathering provisions relating to the changes to the <i>approved persons</i> regime made by Part 4 of the Financial Services (Banking Reform) Act 2013. The Financial Services (Banking Reform) Act 2013 Transitional and Savings Provisions Order 2015 (as amended):</p> <ol style="list-style-type: none"> (1) requires <i>small non-directive insurers</i> before 8 February 2016 to give a notice to the <i>appropriate regulator</i> in respect of each <i>person</i> for whom that regulator has granted a pre-implementation approval in relation to the <i>firm</i>. The notice must specify the post-implementation functions that the <i>person</i> will perform on and after 7 March 2016, and each of these notified functions must be an equivalent function to a pre-implementation function which the person has approval to perform; (2) allows the <i>FCA</i> to specify classes of persons in respect of whom a notice is not required and in SUP TP 8.2.1R, for <i>small non-directive insurers</i>, the <i>FCA</i> specifies that class of persons; (3) allows the <i>FCA</i> to make rules specifying the post-implementation <i>controlled functions</i> which are to be treated as equivalent to a pre-implementation <i>controlled function</i> for the purposes of that Order. In SUP TP 8.2.2R, for <i>small non-directive insurers</i>, the <i>FCA</i> specifies the post-implementation <i>FCA</i> functions which are equivalent to <i>PRA</i> functions pre-implementation. The <i>PRA</i> has separately, in <i>PRA</i> Rulebook: Non-Solvency II firms: Non-Solvency II firms - Senior Insurance Managers Regime: Transitional Provisions 6, specified equivalent post-implementation <i>PRA</i> functions; (4) provides that the pre-implementation approval has effect after 7 March 2016, without the need for re-application, if the notice in (1) is given before 7 March 2016 (whether or not that notice was given before 8 February 2016) and certain conditions in article 3 of the Order are met; and (5) applies to <i>large non-directive insurers</i>. <i>Large non-directive insurers</i> are included in the definition of <i>Solvency II firms</i> for the purposes of grandfathering. Therefore, SUP TP 7 applies to <i>large non-directive insurers</i> instead of SUP TP 8.
8.1.2	R	<p>SUP TP 8 applies to:</p> <ol style="list-style-type: none"> (1) <i>small non-directive insurers</i>; and (2) <i>approved persons</i> of <i>firms</i> in (1).
8.1.3	G	There is a glossary of terms in SUP TP 8.6.1. Those terms are not defined in the Glossary.
8.2		Grandfathering of approved persons: requirement to give notice and equivalence of old and new functions
8.2.1	R	<p>A <i>firm</i> is not required to give notice to the <i>FCA</i> for the purposes of article 2(1) of the Financial Services (Banking Reform) Act 2013 Transitional and Savings Provisions Order 2015 in relation to any <i>approved person</i> for whom the <i>FCA</i> granted a pre-implementation approval in relation to that <i>firm</i>.</p> <p>[Note: see article 2(2) of the Financial Services (Banking Reform) Act 2013 Transitional and Savings Provisions Order 2015]</p>

8.2.2	R	Each pre-implementation controlled function in the first column of the table in SUP TP 8.2.3R is specified as an equivalent function to the <i>FCA controlled functions</i> listed in column two of the same row of that table. [Note: see article 17(1)(a) of the Financial Services (Banking Reform) Act 2013 Transitional and Savings Provisions Order 2015]
8.2.3	R	Table: Old PRA controlled functions mapped on to new FCA ones

Current controlled function	New FCA controlled function
PRA Director function (CF1)	FCA Director function (CF1)
PRA Chief Executive Function (CF3)	FCA Chief Executive Function (CF3)
PRA Director of unincorporated association function (CF5)	FCA Director of unincorporated association function (CF5) (executive only)
PRA Small friendly society function (CF6)	FCA Small friendly society function (CF6) (executive only)

Note: FCA controlled functions in column 2 above apply only where the person is not otherwise grandfathered to perform any post-implementation PRA function, as set out in the Table of Equivalent Functions for Grandfathering in the PRA Rulebook: Non-Solvency II firms: Non-Solvency II firms - Senior Insurance Managers Regime Transitional Provisions, rule 6.

8.2.4	G	In SUP TP 8.2.3R, where a <i>person</i> is grandfathered to perform a post-implementation <i>PRA controlled function</i> , as set out in the Table of Equivalent Functions for Grandfathering in PRA Rulebook: Non-Solvency II firms: Non-Solvency II firms - Senior Insurance Managers Regime Transitional Provisions, rule 6, then, if they would also be performing an <i>FCA</i> function referred to in column 2 of the Table in TP 8.2.3R, the <i>FCA</i> function is disapplied and instead absorbed into that <i>PRA</i> function. This absorption happens by virtue of its inclusion in <i>PRA</i> Rulebook: Non-Solvency II firms: Non-Solvency II firms - Senior Insurance Managers Regime - Transitional Provisions 6, and the firm is required to identify the absorbed function on the person's scope of responsibilities document described in SYSC 2.2.6R when that record is produced.
8.2.5	G	Grandfathering is not relevant to the <i>FCA</i> functions described in SUP TP 8.2.1R as they are not changing, and therefore notification is not required under article 2(1) of the Financial Services (Banking Reform) Act 2013 Transitional and Savings Provisions Order 2015.
8.3		Grandfathering of approved persons: forms
8.3.1	D	This section (SUP TP 8.3) applies to a notification by a <i>firm</i> under the articles of the Financial Services (Banking Reform) Act 2013 Transitional and Savings Provisions Order 2015 listed in the table in SUP TP 8.3.2D.
8.3.2	D	Table: Grandfathering notifications

	Purpose of notification	Article of Order
	(1) Notification of pre-implementation approval	Article 2(1), 5
	(2) Amendments to grandfathering notification in (1)	Article 6
	(3) Notification of applications for approval	Article 11
	(4) Amendment to grandfathering notification in (1) to add a new <i>candidate</i>	Article 14
	(5) Any other amendment to grandfathering notification in (1)	Article 14

8.3.3	D	(1) A <i>firm</i> must make any notification in row (1) to (5) of the table in SUP TP 8.3.2D by email to PRA-ApprovedPersons@bankofengland.co.uk. (2) A <i>firm</i> must use the version of the grandfathering notification form found in SUP TP 8.7.1D and submit it by email to PRA-ApprovedPersons@bankofengland.co.uk.
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8.3.4	G	If a <i>firm</i> notifies an application for approval and that application is refused before the commencement date, the <i>firm</i> should update the notification under row (5) of the table in SUP TP 8.3.2D.
8.3.5	G	If a <i>firm</i> gives a grandfathering notification for an <i>approved person</i> and that <i>approved person</i> leaves the <i>firm</i> or gives up performing some of their <i>controlled functions</i> , the <i>firm</i> should notify the <i>appropriate regulator</i> using Form C in addition to SUP TP 8.
8.4	Applications of approved persons to take effect from 7 March 2016	
8.4.1	D	<p>(1) A <i>firm</i> may apply for the FCA's approval under section 59 of the Act (Approval for particular arrangements) for the performance of a <i>controlled function</i> which comes into force on 7 March 2016.</p> <p>(2) Any application must be made between the 1 January 2016 and the day before 7 March 2016.</p> <p>(3) Any such application is made on the basis that it is treated as being made on 7 March 2016.</p> <p>(4) The application must be made using the version of Form A or Form E applicable from 7 March 2016 and in accordance with the other requirements to be in effect on that date.</p>
8.4.2	G	The Financial Services (Banking Reform) Act 2013 Transitional and Savings Provisions Order 2015 will not apply to an application under SUP TP 8.4.1D.
8.4.3	G	A <i>firm</i> does not have to make an application under SUP TP 8.4.1D. It can make an application between the rule-making date and 7 March 2016 under the <i>rules</i> and directions in force at the time of the application. The Financial Services (Banking Reform) Act 2013 Transitional and Savings Provisions Order 2015 will apply to those applications.
8.5	Application of ongoing requirements to documents submitted as part of grandfathering	
8.5.1	R	<p>(1) The requirements of SUP 10A apply to approvals that are continued in force by the Financial Services (Banking Reform) Act 2013 Transitional and Savings Provisions Order 2015, as they do to applications made after the commencement date.</p> <p>(2) The requirements of SUP 10A apply to an application for approval that is grandfathered under the Financial Services (Banking Reform) Act 2013 Transitional and Savings Provisions Order 2015 and has not been finally determined before 7 March 2016, as they do to applications made after the commencement date.</p> <p>(3) This paragraph is subject to the other provisions of SUP TP 8.</p>
8.6.1	R	Glossary of terms used in SUP TP 8

pre-implementation controlled functions	an <i>FCA controlled function</i> or a <i>PRA controlled function</i> in force immediately before 7 March 2016.
rule-making date	in accordance with The Financial Services (Banking Reform) Act 2013 Transitional and Savings Provisions Order 2015, the date the <i>FCA</i> and the <i>PRA</i> make rules under article 17 of the Order or, if made on different days, the last day on which the rules are made.
<i>Solvency II firm</i>	has the same meaning as in SUP TP 7.6.1R.
[Note: References to <i>rules</i> in SYSC and SUP 10A are to those <i>rules</i> as they will be in force on 7 March 2016.]	

8.7.1	D	Form K: Grandfathering notification
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