

SUPERVISION MANUAL (AMENDMENT NO 3) INSTRUMENT 2001

Powers exercised

- A. The Financial Services Authority amends the Supervision manual in the exercise of the following powers and related provisions in the Financial Services and Markets Act 2000 (the "Act"):
- (1) section 59 (Approval for particular arrangements);
 - (2) section 60 (Applications for approval);
 - (3) section 138 (General rule-making power);
 - (4) section 156 (General supplementary powers);
 - (5) section 157(1) (Guidance);
 - (6) section 182 (Notification);
 - (7) section 340 (Appointment).
- B. The provisions of the Act relevant to rules and listed above are specified for the purpose of section 153(2) of the Act (Rule-making instruments).

Commencement

- C. This instrument comes into force immediately.

Amendments to the Supervision manual

- D. The Supervision manual is amended in accordance with the Annex to this instrument.

Citation

- E. This instrument may be cited as the Supervision Manual (Amendment No 3) Instrument 2001.

By order of the Board
18 October 2001

Annex
Amendments to text already made

SUP Transitional provisions

Transitional provision 7 Delete this provision

Transitional provision 8 At the top of column (4), add the heading "Approved persons"

SUP 3 Auditors

In the amendments to this chapter, underlining indicates new text and striking through indicates deleted text.

SUP 3.1.1R Amend as shown below:

This chapter applies to:

- (1) every *firm* within a category listed in column (1) of the table in *SUP 3.1.2R*; and
- (2) 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*);

in accordance with column (2) or (3) of that table, except as described in the remainder of this section.

SUP 3.1.2R Amend the following parts of the table as shown below

(1) Category of firm	(2) Sections applicable to the firm	(3) Sections applicable to its auditor
(5) <i>Small personal investment firm, service company or authorised professional firm</i> <u>which, in each case, has an auditor appointed under or as a result of a statutory provision other than in the <i>Act</i></u> (Note 2)	<i>SUP 3.1, SUP 3.2, SUP 3.7</i>	<i>SUP 3.1, SUP 3.2, SUP 3.8</i>

(1) Category of firm	(2) Sections applicable to the firm	(3) Sections applicable to its auditor
<p>Note 1 = This note applies in relation to an <i>oil market participant</i> to which <i>IPRU(INV) 3</i> does not apply and in relation to an <i>energy market participant</i> to which <i>IPRU(INV) 3</i> does not apply. In <i>SUP 3</i>:</p> <p>(a) only <i>SUP 3.1</i>, <i>SUP 3.2</i> and <i>SUP 3.7</i> are applicable to such a <i>firm</i>; and</p> <p>(b) only <i>SUP 3.1</i>, <i>SUP 3.2</i> and <i>SUP 3.8</i> are applicable to its auditor;</p> <p>and, in each case, only if it has an auditor <u>appointed under or as a result of a statutory provision other than in the <i>Act</i></u>.</p>		

SUP 3.2.4G Amend as shown below:

SUP 3.1.1R and *SUP 3.1.2R* limit the application of this chapter in relation to:

- (1) *authorised professional firms*;
- (2) ~~and certain~~ *oil market participants*, and ~~certain~~ *energy market participants*, to whom *IPRU(INV) 3* does not apply;
- (3) *small personal investment firms*; and
- (4) *service companies*.

Such a *firm* is not required, under this chapter, to appoint an auditor because *SUP 3.3 (Appointment of auditors)* does not apply. If such a *firm* appoints an auditor under or as a result of a statutory provision other than in the *Act*, for example, under the Companies Act 1985, *SUP 3.7 (Notification of matters raised by auditor)* and *SUP 3.8 (Rights and duties of all auditors)* nevertheless apply to help the *FSA* discharge its functions under the *Act*.

SUP 3.3.2R Amend the following parts of this rule as shown below:

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

- (1) appoint an auditor ~~to undertake the duties and responsibilities set out in *SUP 3.8* to *SUP 3.10* (as applicable)~~;

SUP 3.3.3G Amend the following sentence in this guidance as shown below:

Such a *firm* is expected to wish to ~~free to~~ have a single auditor who is appointed to fulfil both obligations.

SUP 6 Applications to vary and cancel Part IV permission

SUP 6 Ann 4G In the section entitled ‘Dealing with Residual Deposits: General’, delete provision 7.

SUP 10 Approved persons

- SUP 10.1.16R Add a comma between ‘*appointed representative*’ and ‘as they apply to a *firm*’
- SUP 10.1.23R(1) Remove italics from ‘*regulatory functions*’
- SUP 10.6.14G Before ‘*regulatory system*’, italicise ‘UK’
Italicise ‘person’
- SUP 10.6.22G Remove italics from ‘*Limited Liability Partnerships Act*’
- SUP 10.6.26R(1) Replace the upper case ‘S’ in ‘*Society*’ with a lower case ‘s’
- SUP 10.7.4G After ‘in relation to the’, italicise ‘United Kingdom’
Delete ‘change’
Italicise ‘SYSC’
- SUP 10.7.7G Remove italics from ‘*approved*’
After ‘the concern of the’, italicise ‘FSA’
- SUP 10.7.11G Before ‘head of compliance’, italicise ‘group’
- SUP 10.9.14R(2) Italicise ‘controlled function’
- SUP 10.10.4R Remove italics from ‘*dealing*’ in both places
- SUP 10.10.9G Change ‘TC 2.4.4.R’ and ‘TC 2.4.2R’ to ‘TC 2.4.5R’
- SUP 10.10.12G Delete the last sentence in brackets and replace with ‘A Form E (SUP 10 Ann 8G) may be used for this purpose.’
- SUP 10.10.15R Change ‘*Lloyds*’ to ‘*Lloyd’s*’
- SUP 10.10.18G Italicise ‘firm’s’;
Remove italics from ‘*approved*’
- SUP 10.10.19G Italicise ‘customer’ and ‘customer’s’
- SUP 10.11.2G Italicise the five instances of ‘SUP’ in the middle column
- SUP 10.12.1G Italicise ‘FSA’
- SUP 10.12.4G Italicise the following terms when they appear: firm, FSA, controlled functions, United Kingdom, UK, branch, group, authorised person, undertaking, subsidiary, overseas firm, outsourcing, outsourced, SUP, SYSC, approved persons, significant

influence functions, arrangement

In the third column, change 'SUP 15.7.7' to 'SUP 15.7.8G'

Insert two horizontal lines across all three columns, one above 'Outsourcing by A to B...' and the other above '(i) A to B, where B is a...'

SUP 10.13.3G After 'within the same *firm*', add 'or *group*'

SUP
10.13.7R(2)(b) Italicise 'regulatory body'

SUP 10 Ann 2G Under 'Circumstance', replace the text in the second box with the following:

Candidate is either an *approved person* or was the subject of a Form C submitted within the previous six *months* and is not seeking approval for a *significant influence function* for the first time.

Under 'Circumstance', replace the text in the third box with the following:

Candidate ceased to be an *approved person* more than six *months* ago is seeking to perform a *significant influence function* for the first time.

SUP 10 Ann 4D (Form A) On page ii, under 'Purpose of this Form', change 'AUTH 3.1D' to 'AUTH 6.3.1D'

In the Notes on page iii, under 'SHORTENED APPLICATION FORM', at the end of the second '(1)', delete 'or', at the end of the second '(2)', replace '.' with '; or' and after the second (2), add the following:

(3) there have been any significant changes to the answers provided in section 5 of the application form.

In the Notes on page iii, after paragraph 3.03 add the following:

3.06 & 3.07: The *firm* must complete question 3.06 and, if applicable, question 3.07. The *firm* must note that although *TC 2* may not apply, the commitments contained in *TC 1* apply to all *employees*.

In question 3.01e, replace 'Appointed rep – employee' with 'Appointed representative – customer function'

In question 3.01f, replace 'Appointed rep – principal' with 'Appointed representative – governing function'

In question 3.06, change 'TC 2.3.5R' to 'TC 2.4.5R' and change 'TC 2.1.3R' to 'TC 2.1.4R'

In question 3.07, delete 'each module' and replace with 'the

relevant module(s)' and change 'TC 2.4.5R' to 'TC 2.5.5R'

SUP 10 Ann 6R
(Form C)

In question 3.01, column A, move 'Internal movement of staff' to the top of the list

SUP 10 Ann 8G
(Form E)

On page ii, under 'The purpose of this Form', at the end of the first paragraph, add 'This form may also be used for transfers between *firms* that are part of the same *group*.'

On page ii, under 'The purpose of this Form', in the second paragraph, replace 'Form B' with 'Form C'.

On page ii, under 'The purpose of this Form', add a new paragraph at the end as follows:

A Form A must be completed in full if the *approved person* is seeking approval in respect of a *significant influence function* for the first time.

In the Notes on page iii, after paragraph 4.03 add the following:

4.06 & 4.07: The *firm* must complete question 4.06 and, if applicable, question 4.07. The *firm* must note that although *TC2* may not apply, the commitments contained in *TC1* apply to all *employees*.

In question 4.06, change 'TC 2.3.5R' to 'TC 2.4.5R' and change 'TC 2.1.3R' to 'TC 2.1.4R'

In question 4.07, delete 'each module' and replace with 'the relevant module(s)' and change 'TC 2.4.5R' to 'TC 2.5.5R'

SUP 11 Controllers and close links

SUP 11 Ann 4D
(Controllers
Form A)

In question 1.05, replace the question with the following:

Are all three conditions in either or both (a) or (b) satisfied?

Yes [] No []

(a) The conditions are:

(i) the *firm* is an *ISD investment firm*;

(ii) the *controller* is either an *ISD investment firm* or the *parent undertaking* of an *ISD investment firm*;
and

(iii) as a result of the proposed change in *control*, the *controller* would become a *parent undertaking* of the *firm*.

(b) The conditions are:

- (i) the *firm* is a *BCD credit institution*;
- (ii) the *controller* is either a *BCD credit institution* or the *parent undertaking* of a *BCD credit institution*; and
- (iii) as a result of the proposed change in *control*, the *controller* would become a *parent undertaking* of the *firm*.

If so, give details

SUP 13 Exercise of passport rights by UK firms

- SUP 13.1.2G In the second sentence, replace 'markets' with 'Markets'
- SUP 13.3.2G(1) Delete both references to '(i)'
- SUP 13.4.1G For 'SUP 13 Ann 3G' substitute 'SUP 13 Ann XG'
- SUP 13.4.4G(2)(b) In the first sentence, after ' refusal of a *consent notice*' insert 'under paragraph 20(3A) of Part III of Schedule 3 to the *Act*'

In the first sentence, in 'and the *consent notice*', change 'the' to 'this'

In the first sentence, after 'in this *consent notice*', insert '(unlike the *consent notice* for establishment of a *branch*)'

In the third sentence, italicise 'consent notice'
- SUP 13.5.3R(2)(e) Italicise 'FSA'
- SUP 13.5.5G In the last sentence, italicise 'authorised'
- SUP 13.5.6G(1) Replace 'Notification' with 'Notifications'
- SUP 13.6.10G(1)(b) Italicise 'UK'
- SUP 13.8.1R(1) Replace 'SUP 13.6.8G(1)' with 'SUP 13.6.10G(1)'
- SUP 13.8.1R(2)(c) Replace 'Notification' with 'Notifications'
- SUP 13.8.1R(2)(d) Replace '*Permission*' with '*permission*'
- SUP 13.8.1R(2)(e) Replace '*Permission*' with '*permission*'
- SUP 13.12.1G(2) Remove italics from '*notice of intention*'
- SUP 13 Ann 3G Change the status description of this Annex to Annex 3R

SUP 14 Incoming EEA firms: changing authorisation and cancelling qualification for authorisation

Title	Change the title of this chapter to 'Incoming EEA firms changing details, and cancelling qualification for authorisation'.
SUP 14.2.4G	Replace 'SUP 14.2.2G or SUP 14.2.3G' with 'SUP 14.2.3G or SUP 14.2.8G'
SUP 14.2.5G(2)	At end of the sentence, insert '(see SUP 14.2.8G)'
SUP 14.2.9G	In the first sentence, italicise 'firm'
SUP 14.4.1G(1)	Replace 'markets' with 'Markets'
SUP 14.4.1G(2)	Before 'The Financial Services Authority', insert 'The Passport Notifications Unit,'
SUP 14.5.1G	Replace the second instance of 'that' with 'the'