

**GENERAL PROVISIONS AND GLOSSARY (AMENDMENT NO 2)  
INSTRUMENT 2001**

**Powers exercised**

- A. The Financial Services Authority makes the provisions in this instrument in the exercise of the powers and related provisions:
- (1) listed in Schedule 4 to the General provisions (Powers exercised); and
  - (2) in article 3 of the Financial Services and Markets Act 2000 (Variation of Threshold Conditions) Order 2001 (SI 2001/2507).
- B. The provisions of or under the Financial Services and Markets Act 2000 (the "Act") relevant to making rules and referred to above are specified for the purpose of section 153(2) of the Act (Rule-making instruments).

**Commencement**

- C. This instrument comes into force as follows:
- (1) Annex A comes into force on 1 January 2002;
  - (2) the remainder of this instrument comes into force immediately.

**Amendment of the General provisions and Glossary**

- D. The Glossary is amended in accordance with Annexes A, B, C, D, E, F and G to this instrument.
- E. The General provisions are amended in accordance with Annex H to this instrument.
- F. Both the General provisions (other than GEN 2.1.8R) and the Glossary are made, additionally, under the power listed at A(2).

**Citation**

- G. This instrument may be cited as the General Provisions and Glossary (Amendment No 2) Instrument 2001.

By order of the Board  
15 November 2001

## Annex A

### Amendments to the Glossary to take into account funeral plan contracts

Amend the following definitions as shown below (underlining indicates new text, striking through indicates deleted text):

<i>advising on investments</i>	<p>the <i>regulated activity</i>, specified in article 53 of the <i>Regulated Activities Order</i> (Advising on investments), which is in summary: advising a <i>person</i> if the advice is:</p> <p>(a) given to the <i>person</i> in his capacity as an investor or potential investor, or in his capacity as agent for an investor or a potential investor; and</p> <p>(b) advice on the merits of his doing any of the following (whether as principal or agent):</p> <p>(i) <i>buying, selling</i>, subscribing for or underwriting a particular <i>investment</i> which is a <u><i>security or contractually based investment</i></u> (that is, <u><i>any designated investment, funeral plan contract or right to or interest in a funeral plan contract</i></u>) <del><i>designated investment</i></del>; or</p> <p>(ii) exercising any right conferred by such an <i>investment</i> to <i>buy, sell</i>, subscribe for or underwrite such an <i>investment</i>.</p>
<i>arranging (bringing about) deals in investments</i>	<p>the <i>regulated activity</i>, specified in article 25(1) of the <i>Regulated Activities Order</i>, which is in summary: making arrangements for another <i>person</i> (whether as <i>principal</i> or agent) to <i>buy, sell</i>, subscribe for or underwrite a particular <i>investment</i> which is:</p> <p>(a) a <i>designated investment</i>; or</p> <p><u>(b) a funeral plan contract; or</u></p> <p><del>(c)</del> the <i>underwriting capacity of a Lloyd's syndicate</i>; or</p> <p><del>(d)</del> <i>membership of a Lloyd's syndicate</i>; or</p> <p><del>(e)</del> <i>rights to or interests in investments</i> in <u>(b), (c) or (d)</u> <del>(b) or (e)</del>.</p>
<i>contract of insurance</i>	<p>....</p> <p>(2) (in relation to a contract) (in accordance with article 3(1) of the <i>Regulated Activities Order</i> (Interpretation)) any contract of insurance which is a <i>long-term insurance contract</i> or a <i>general insurance contract</i>, including:</p> <p>(a) .....</p> <p>.....</p> <p>(f) contracts of a kind referred to in article 1(3) of the <i>First Life Directive</i> (Social insurance);</p>

but not including a funeral plan contract (or a contract which would be a funeral plan contract but for the exclusion in article 60 of the Regulated Activities Order (Plans covered by insurance or trust arrangements));

....

*contractually based investment* (in accordance with article 3(1) of the *Regulated Activities Order* (Interpretation)):

- (a) a *life policy*;
- (b) an *option, future, or contract for differences or funeral plan contract*;
- (c) *rights to or interests in an investment* falling within (a) or (b).

*designated investment* a *security* or a *contractually based investment* (other than a *funeral plan contract* and a *right to or interest in a funeral plan contract*), that is, any of the following *investments*, specified in Part III of the *Regulated Activities Order* (Specified Investments):

...

*designated investment business* any of the following activities, specified in Part II of the *Regulated Activities Order* (Specified Activities), which is carried on by way of business:

- (a) *dealing in investments as principal* (article 14), but disregarding the exclusion in article 15 (Absence of holding out etc);
- (b) *dealing in investments as agent* (article 21);
- (c) *arranging (bringing about) deals in investments* (article 25(1)), but only in relation to *designated investments*;
- (d) *making arrangements with a view to transactions in investments* (article 25(2)), but only in relation to *designated investments*;
- (e) *managing investments* (article 37), but only if the assets consist of or include (or may consist of or include) designated investments;
- (f) *safeguarding and administering investments* (article 40), but only if the assets consist of or include (or may consist of or include) designated investments; for the purposes of the *permission* regime, this is sub-divided into:
  - (i) *safeguarding and administration of assets (without arranging)*;
  - (ii) *arranging safeguarding and administration of assets*;

...

	<p>(m) <i>advising on investments</i> (article 53), <u>but only in relation to designated investments</u>; for the purposes of the <i>permission regime</i>, this is sub-divided into:</p> <p>(i) <i>advising on investments (except pension transfers and pension opt-outs)</i>;</p> <p>(ii) <i>advising on pension transfers and pension opt-outs</i>;</p> <p>(n) <i>agreeing to carry on a regulated activity</i> in (a) to (h) and (m) (article 64).</p>
<i>making arrangements with a view to transactions in investments</i>	<p>the <i>regulated activity</i>, specified in article 25(2) of the <i>Regulated Activities Order</i> (Arranging deals in investments), which is in summary: making arrangements with a view to a <i>person</i> who participates in the arrangements <i>buying, selling</i>, subscribing for or underwriting any of the following <i>investments</i> (whether as <i>principal</i> or agent):</p> <p>(a) a <i>designated investment</i>;</p> <p><u>(b) a funeral plan contract</u>;</p> <p><del>(bc)</del> the <i>underwriting capacity of a Lloyd's syndicate</i>;</p> <p><del>(ed)</del> <i>membership of a Lloyd's syndicate</i>;</p> <p><del>(de)</del> <i>rights to or interests in investments</i> in <u>(b), (c) or (d)</u><del>(b) or (e)</del>.</p>
<i>managing investments</i>	<p>the <i>regulated activity</i>, specified in article 37 of the <i>Regulated Activities Order</i> (Managing investments), which is in summary: managing assets belonging to another <i>person</i> in circumstances which involve the exercise of discretion, if:</p> <p>(a) the assets consist of or include any <u><i>security or contractually based investment (that is, any designated investment, funeral plan contract or right to or interest in a funeral plan contract)</i></u>; or</p> <p>....</p>
<i>regulated activity</i>	<p>...</p> <p>(s) <i>arranging deals in contracts of insurance written at Lloyd's</i> (article 58);</p> <p><u>(t) entering as provider into a funeral plan contract</u> (article 59);</p> <p><del>(tu)</del> <i>agreeing to carry on a regulated activity</i> (article 64);</p> <p>...</p>
<i>safeguarding and administering investments</i>	<p>the <i>regulated activity</i>, specified in article 40 of the <i>Regulated Activities Order</i> (Safeguarding and administering investments), which is in summary: the safeguarding of assets belonging to another and the administration of those assets, or arranging for one or more other <i>persons</i> to carry on that activity, where:</p>

(a) the assets consist of or include any security or contractually based investment (that is, any designated investment, funeral plan contract or right to or interest in a funeral plan contract); or

*specified investment* ...

(n) *membership of a Lloyd's syndicate* (article 86(2));

(o) *funeral plan contract* (article 87);

(~~op~~) *rights to or interests in investments* (article 89).

**ANNEX B**  
**Technical amendments to the Glossary**

Delete the definition of "50% controller"

Amend the following definitions as shown below (underlining indicates new text, striking through indicates deleted text):

- business day* (1) (in relation to anything done or to be done in (including to be submitted to a place in) any part of the *United Kingdom*):
- (a) (except in *REC*) any *day* which is not a Saturday or Sunday, Christmas Day, Good Friday or a bank holiday in that part of the *United Kingdom*;
- (b) (in *REC*) (as defined in section 167 of the Companies Act 1989) any *day* which is not a Saturday or Sunday, Christmas Day, Good Friday or a bank holiday in any part of the *United Kingdom*.
- (2) (in relation to anything done or to be done by reference to a market outside the *United Kingdom*) any *day* on which that market is normally open for business.
- controller* .....
- ~~(see also 50%controller.)~~
- EEA firm* ...
- (d) an ~~undertaking~~ undertaking pursuing the activity of direct insurance (within the meaning of article 1 of the *First Life Directive* or of the *First Non-Life Directive*) which has received authorisation under article 6 from its *Home State regulator*.
- group* (1) (except in relation to an ICVC) (as defined in section 421 of the *Act* (Group)) (in relation to a *person* ("A")) A and any *person* who is:
- .....
- (2) (in relation to an ICVC) a group as in (1) but (in ML and SYSC) including also the ICVC's authorised corporate director (if any).
- operator* (1) (except in *ENF*):
- (a) (in relation to an *AUT*) the *manager*;
- (b) (in relation to an *ICVC*) that *company* or, if applicable, the *authorised corporate director*;
- (c) (in relation to any other *collective investment scheme* that is a *unit trust scheme* with a separate *trustee*) any *person* who, under the *trust deed* establishing the *scheme*, is responsible for the management of the property held for

or within the *scheme*;

(d) (in relation to any other *collective investment scheme* that is an *open-ended investment company*) that *company* or, if applicable, any *person* who, under the constitution or founding arrangements of the *scheme*, is responsible for the management of the property held for or within the *scheme*;

(e) (in relation to any other *collective investment scheme*) any *person* who, under the constitution or founding arrangements of the *scheme*, is responsible for the management of the property held for or within the *scheme*;

~~(f)~~ (in relation to an *investment trust savings scheme*) any *person* appointed, by those responsible for managing the property of the *investment trust*, to manage the *investment trust savings scheme*.

(2) (in *ENF*) (in accordance with section 237(2) of the *Act* (Other definitions)):

(a) (in relation to a *unit trust scheme* with a separate *trustee*) the manager; and

(b) (in relation to an *open-ended investment company*) that company.

*permission*

...

(b) the permission that an *incoming EEA firm* has, under paragraph 15(1) 4(4) of Schedule 3 to the *Act* (EEA Passport Rights), on qualifying for *authorisation* under paragraph 12 of that Schedule;

(c) the permission that an *incoming Treaty firm* has, under paragraph 4(1) 15(4) of Schedule 4 to the *Act* (Treaty Rights), on qualifying for *authorisation* under paragraph 2 of that Schedule;

.....

*personal investment firm*

a *firm* whose *permitted activities* include *designated investment business*, which is not an *authorised professional firm*, *bank*, *building society*, *credit union*, *energy market participant*, *friendly society*, *ICVC*, *insurer*, *media firm*, *oil market participant*, *service company*, *incoming EEA firm* (without a *top-up permission*), *incoming Treaty firm* (without a *top-up permission*) or *UCITS qualifier* (without a *top-up permission*), whose *permission* does not include a *requirement* that it comply with *IPRU(INV)* 3 (Securities and futures firms), 5 (Investment management firms) or 10 (Securities and futures firms), and which is within (a), (b) or (c):

	.....
<i>regulated activity</i>	... <p>(p) <i>advising on investments</i> (article <del>53</del>57); for the purposes of the <i>permission</i> regime, this is sub-divided into:</p> <p>(i) <i>advising on investments (except pension transfers and pension opt-outs)</i>;</p> <p>(ii) <i>advising on pension transfers and pension opt-outs</i>;</p> <p>(q) <i>advising on syndicate participation at Lloyd's</i> (article 56);</p> <p>(r) <i>managing the underwriting capacity of a Lloyd's syndicate as a managing agent at Lloyd's</i> (article <del>57</del>53);</p> <p>...</p>
<i>soft commission agreement</i>	an agreement in any form, <del>the terms of which permit under which a firm to</del> receives <u>certain</u> goods or services <del>from another person</del> in return for <del>transacting</del> <u>designated investment business with or put through that or in the way of another person.</u>
<i>takeover or related operation</i>	(a) any transaction falling within paragraph 4(b) (Companies and Transactions to which the Code applies) of the introduction to the <i>Takeover Code</i> <u>and, for this purpose, an offer for non-voting, non-equity share capital is to be regarded as falling within the <i>Takeover Code</i> even if not required by rule 15 of that Code;</u>
	(b) any transaction subject to the <i>SARs</i> ;
	(c) any transaction which would have fallen within (a) were it not for the fact that the company which is the subject of the transaction does not satisfy the tests set out in paragraph 4(a) (Companies and Transactions to which the Code applies) of the introduction to the <i>Takeover Code</i> <del>and, for this purpose, an offer for non-voting, non-equity share capital is to be regarded as falling within the <i>Takeover Code</i> even if not required by rule 15 of that Code;</del>
	.....

## Annex C

### Amendment to the Glossary to refer to a new Special guide

Insert the following new definition in the appropriate alphabetical position:

*FREN* the Special guide for small Friendly societies, forming part of the *Handbook*.

## Annex D

### Amendments to the Glossary resulting from the making of COMP

#### Amendments resulting from the making of COMP transitional rules

Insert the following new definitions in the appropriate alphabetical position:

- article 9 default* (as defined in article 2(2) of the *compensation transitionals order*) any of the following:
- (a) the passing of a resolution for the voluntary winding up of an authorised insurance company within the meaning of section 3 of the Policyholders Protection Act 1975 in circumstances falling within section 5(1)(a) of that Act;
  - (b) the making by the court of an order for the winding up of such a company in accordance with section 5(1)(b) of that Act;
  - (c) the appointment of a provisional liquidator in the circumstances falling within section 15 of that Act in respect of such a company;
  - (d) such a company becoming a company in financial difficulties within the meaning of section 16 of that Act;
  - (e) a *participating deposit-taker* becoming insolvent for the purposes of Part II of the Banking Act 1987;
  - (f) a *participating institution* becoming insolvent within the meaning of section 25A of the Building Societies Act 1986;
  - (f) the beginning of a dissolution or transfer of engagements of a *member society* in accordance with rule 9(2) of the Rules of the Friendly Societies Protection Scheme.
- compensation transitionals order* the Financial Services and Markets Act 2000 (Transitional Provisions, Repeals and Savings) (Financial Services Compensation Scheme) Order 2001 (SI 2001/2967).

<i>investment business compensation scheme</i>	<p>(as defined in article 2(2) of the <i>compensation transitionals order</i>) any of the following:</p> <ul style="list-style-type: none"> <li>(a) the scheme established under section 54 of the Financial Services Act 1986 and known as the Investors Compensation Scheme;</li> <li>(b) the scheme established under section 22j of the Grey Paper published by the <i>FSA</i> on 26 September 1998 and known as the Section 43 Compensation Scheme;</li> <li>(c) the scheme established by chapter II of part L:VIII of the <i>PIA</i> rule book and known as the PIA Indemnity Scheme;</li> <li>(d) the scheme resulting from an agreement dated 1 February 1999 between the Association of British Insurers and the Investors Compensation Scheme Limited for the making of payments by way of compensation to widows, widowers and dependants of persons (since deceased), in connection with advice given to such persons in relation to pensions, or the arranging of pensions for such persons, and known as the ABI/ICS scheme.</li> </ul>
<i>member society</i>	<p>(as defined in article 2(2) of the <i>compensation transitionals order</i>) a person who at any time before <i>commencement</i> was a member society within the rules of the Friendly Societies Protection Scheme established in accordance with section 141 of the Financial Services Act 1986.</p>
<i>participating deposit-taker</i>	<p>(as defined in article 2(2) of the <i>compensation transitionals order</i>) a <i>person</i> who was at any time before <i>commencement</i>:</p> <ul style="list-style-type: none"> <li>(a) a UK institution, participating institution, former UK institution or former participating institution as defined in section 52(6) of the Banking Act 1987; or</li> <li>(b) a former authorised institution (as defined in section 106(1) of the Banking Act 1987 (other than a former UK institution or former participating institution as defined in section 52(6) of that Act), which was not a recognised bank or licensed institution excluded by an order under section 23(2) of the Banking Act 1979.</li> </ul>
<i>participating institution</i>	<p>(as defined in article 2(2) of the <i>compensation transitionals order</i>) a <i>person</i> who was at any time before <i>commencement</i> a participating institution within the meaning of section 24(4) of the Building Societies Act 1986.</p>

<i>pending application</i>	(as defined in article 3(1) of the <i>compensation transitionals order</i> ): <ul style="list-style-type: none"> <li>(a) an application for compensation made under an <i>investment business compensation scheme</i> before <i>commencement</i> in relation to which a <i>terminating event</i> did not occur before <i>commencement</i>; and</li> <li>(b) an application made to the <i>FSCS</i> after <i>commencement</i> under an <i>investment business compensation scheme</i>, even if at the time of application that scheme had otherwise ceased to exist.</li> </ul>
<i>relevant former scheme</i>	(as defined in article 2(2) of the <i>compensation transitionals order</i> ): <ul style="list-style-type: none"> <li>(a) in relation to a <i>pending application</i>, the <i>investment business compensation scheme</i> under which the application was made;</li> <li>(b) in relation to an <i>article 9 default</i>, one of the following that applied to the default before <i>commencement</i>: <ul style="list-style-type: none"> <li>(i) the Policyholders Protection Scheme established by the Policyholders Protection Act 1975;</li> <li>(ii) the Deposit Protection Scheme established by Part II of the Banking Act 1987;</li> <li>(ii) the Building Societies Investor Protection Scheme established by Part IV of the Building Societies Act 1986;</li> <li>(iv) the Friendly Societies Protection Scheme established in accordance with section 141 of the Financial Services Act 1986.</li> </ul> </li> </ul>
<i>terminating event</i>	(as defined in article 2(1) of the <i>compensation transitionals order</i> ) in relation to applications made under an <i>investment business compensation scheme</i> , the withdrawal, discontinuance or rejection of the application, or its determination by a final payment of compensation to the applicant.

### **Amendments resulting from the making of COMP 13 (Funding)**

Insert the following new definitions in the appropriate alphabetical position:

<i>base costs</i>	<i>management expenses</i> , other than <i>establishment costs</i> , which are not dependent on the level of <i>claims</i> made on the <i>FSCS</i> .
<i>base costs levy</i>	a levy, forming part of the <i>management expenses levy</i> , to meet the <i>base costs</i> in the financial year of the <i>compensation scheme</i> to which the levy relates, each <i>participant firm's</i> share being calculated in accordance with <i>COMP 13.5.5R</i> .

<i>compensation costs</i>	the costs incurred in paying compensation or as a result of making the arrangements set out in <i>COMP</i> 3.3.2R or taking the measures set out in <i>COMP</i> 3.3.3R.
<i>compensation costs levy</i>	a levy imposed by the <i>FSCS</i> on <i>participant firms</i> to meet <i>compensation costs</i> , each <i>participant firm's</i> share being calculated in accordance with <i>COMP</i> 13.6.
<i>employers' liability insurance</i>	a <i>contract of insurance</i> against risks of the <i>persons</i> insured incurring liabilities to their employees.
<i>establishment costs levy</i>	a levy, forming part of the <i>management expenses levy</i> , to meet the <i>establishment costs</i> , each <i>participant firm's</i> share being calculated in accordance with <i>COMP</i> 13.5.10G.
<i>management expenses</i>	(in accordance with section 223 of the <i>Act</i> (Management expenses)) expenses incurred or expected to be incurred by the <i>FSCS</i> in connection with its function under <i>COMP</i> , other than <i>compensation costs</i> ; for the purposes of <i>COMP</i> these are subdivided into <i>base costs</i> , <i>specific costs</i> and <i>establishment costs</i> .
<i>management expenses levy</i>	a levy imposed by the <i>FSCS</i> on <i>participant firms</i> to meet the <i>management expenses</i> and which is made up of one or more of a <i>base cost levy</i> , a <i>specific costs levy</i> and an <i>establishment costs levy</i> , each <i>participant firm's</i> share being calculated in accordance with <i>COMP</i> 13.5.
<i>relevant net premium income</i>	the premium income in respect of <i>protected contracts of insurance</i> of the <i>firm</i> in the year preceding that in which the date for submission of the information under <i>COMP</i> 13.6.9R falls, net of any relevant rebates or refunds.
<i>specific costs</i>	<i>management expenses</i> other than <i>base costs</i> and <i>establishment costs</i> .
<i>specific costs levy</i>	a levy, forming part of the <i>management expenses levy</i> , to meet the <i>specific costs</i> in the financial year of the <i>compensation scheme</i> to which the levy relates, each <i>participant firm's</i> share being calculated in accordance with <i>COMP</i> 13.5.7R.
<i>sub-scheme</i>	one of the three sub-schemes to which the <i>FSCS</i> allocates liabilities for <i>compensation costs</i> , as described in <i>COMP</i> 13.6.7R.

Amend the following definitions as shown below (underlining indicates new text, striking through indicates deleted text):

- contribution group      one of the groups of participant firms within a sub-scheme set out listed in COMP 13.6.7R, which are being groups of participant firms which share the costs of funding compensation from claims arising from firms in default which carry on similar business that carry on business of a similar nature, to which compensation costs and specific costs are allocated in accordance with COMP 13.5 and COMP 13.6.
- establishment costs      (1) (in COMP) the costs of establishing the compensation scheme.  
(2) (in DISP) the costs of establishing the Financial Ombudsman Service.

### **Amendments resulting from the making of COMP 14 (Participation by EEA firms)**

Insert the following new definition in the appropriate alphabetical position:

- Electing Participants Regulations*      the Financial Services and Markets Act 2000 (Compensation Scheme: Electing Participants) Regulations 2001 (SI 2001/1783).

Amend the following definitions as shown below (underlining indicates new text, striking through indicates deleted text):

- participant firm*      a firm other than:
- (a) (in accordance with section 213(10) of the Act (The compensation scheme) and regulation 2 of the *Electing Participants Regulations* (Persons not to be regarded as relevant persons)) an *incoming EEA firm* which is:
    - (i) a *credit institution*; or
    - (ii) an *ISD investment firm*; or
    - (iii) both (i) and (ii);in relation to its *passport activities*, unless it has *top-up cover*;
  - ~~(a) an *incoming EEA firm* which is a *BCD credit institution* or *ISD investment firm* and whose *permission* is confined to *cross border services*;~~
  - ~~(b) an *incoming EEA firm* without *top up cover* which is:
    - ~~(i) a *BCD credit institution* whose *permission* to carry on *regulated activities* from a *UK branch* is confined to *accepting deposits*; or~~
    - ~~(ii) an *ISD investment firm* (including a *credit institution*~~~~

~~which is an ISD investment firm) whose permission to carry on regulated activities from a UK branch is confined to passported activities;~~

~~(be)~~ a service company ;

~~(cd)~~ the Society, in respect of activities included in its *permission* under section 315(2) of the *Act* (The Society: authorisation and permission);

~~(de)~~ a member, in respect of *effecting* or *carrying out Lloyd's policies*;

~~(ef)~~ an *underwriting agent*, or *members' adviser*, in respect of *advising on syndicate participation at Lloyd's* or *managing the underwriting capacity of a Lloyd's syndicate as a managing agent at Lloyd's*;

~~(fg)~~ an *authorised professional firm* that is subject to the rules of the Law Society (England and Wales) or the Law Society of Scotland;

~~(gh)~~ an *ICVC*;

~~(hi)~~ a *UCITS qualifier*.

*top-up cover*

cover provided by the *compensation scheme* for *claims* against an *incoming EEA firm* (which is a *credit institution* or an *ISD investment firm*):-

~~(a) in relation to *protected deposits* ;or~~

~~(b) in relation to *protected investment business* ;or~~

~~(c) in relation to both *protected deposits* and *protected investment*~~

~~*business* ;~~ in relation to the *firm's passported activities* and in addition to the cover provided by the *firm's Home State compensation scheme* (see *COMP 14 (Participation by EEA firms)*).

## Annex E

### Amendments to the Glossary resulting from amendments to COND and AUTH

Insert the following new definition in the appropriate alphabetical position:

*Gibraltar Order*            the Financial Services and Markets Act 2000 (Gibraltar) Order 2001 (SI 2001/3084).

Amend the following definitions as shown below (underlining indicates new text, striking through indicates deleted text):

*Swiss general insurance company*            (in accordance with article 1(2) of the Financial Services and Markets Act 2000 (Variation of Threshold Conditions) Order 2001 (SI 2001/2507)) a person:

- (a) whose head office is in Switzerland;
- (b) who is authorised by the supervisory authority in Switzerland as mentioned in article 7.1 of the *Swiss Treaty Agreement*; and
- (c) who is seeking to carry on, or is carrying on, from a branch in the *United Kingdom*, a regulated activity consisting of the *effecting or carrying out of contracts of insurance* of a kind which is subject to that agreement.

~~a company:~~

- ~~(a) whose head office is in Switzerland;~~
- ~~(b) which has permission in Switzerland (not restricted to reinsurance business) to carry on general insurance business; and~~
- ~~(c) which proposes to establish a branch or agency in the *United Kingdom* to carry out *insurance business* which is confined to the classes referred to in article 2 of the *Swiss Treaty Agreement* and not subject to any of the exceptions referred to in article 3 of the *Swiss Treaty Agreement*.~~

*threshold condition*            (in relation to a *regulated activity*) any of the conditions set out in or under Schedule 6 to the *Act* (Threshold conditions)<sub>2</sub> including the additional conditions in the Financial Services and Markets Act 2000 (Variation of Threshold Conditions) Order 2001 (SI 2001/2507) (see *COND*).

## Annex F

### Amendments to the Glossary resulting from making SUP 18

Insert the following new definitions in the appropriate alphabetical position:

<i>independent expert</i>	(in SUP 18) the person approved or nominated by the FSA to make the <i>scheme report</i> for an <i>insurance business transfer scheme</i> .
<i>insurance business transfer</i>	a transfer in accordance with an <i>insurance business transfer scheme</i> .
<i>insurance business transfer scheme</i>	(a) a scheme, defined in section 105 of the <i>Act</i> , which is in summary: a scheme to transfer the whole or part of the business of an <i>insurer</i> (other than a <i>friendly society</i> ) to another body;  (b) a similar scheme to transfer the whole or part of the business carried on by one or more <i>members</i> of the <i>Society</i> or former underwriting <i>members</i> that meets the conditions of article 4 of the Financial Services and Markets Act 2000 (Control of Transfers of Business Done at Lloyd's) Order 2001 (SI 2001/[number to be inserted later]).
<i>scheme report</i>	(in SUP 18) the report on the terms of an <i>insurance business transfer scheme</i> required by section 109 of the <i>Act</i> (Scheme reports).
<i>state of the commitment</i>	(in SUP 18) (in accordance with paragraph 6(1) of Schedule 12 to the <i>Act</i> (Transfer schemes: certificates)) (in relation to a commitment entered into at any date):  (a) if the <i>policyholder</i> is an individual, the State in which he had his habitual residence at that date;  (b) if the <i>policyholder</i> is not an individual, the State in which the establishment of the <i>policyholder</i> to which the commitment relates was established at that date;  in this definition, "commitment" means (in accordance with article 2 of the Financial Services and Markets Act 2000 (Control of Business Transfers) (Requirements on Applicants) Regulations 2001 (SI 2001/[number to be inserted later]) any contract of insurance of a kind referred to in article 1 of the <i>First Life Directive</i> .
<i>state of the risk</i>	(in SUP 18) (in accordance with paragraph 6(3) of Schedule 12 to the <i>Act</i> (Transfer schemes: certificates)) (in relation to the <i>EEA State</i> in which a risk is situated):  (a) if the insurance relates to a building or to a building and its contents (so far as the contents are covered by the same

- policy), the *EEA State* in which the building is situated;
- (b) if the insurance relates to a vehicle of any type, the *EEA State* of registration;
- (c) in the case of *policies* of a duration of four months or less covering travel or holiday risks (whatever the class concerned), the *EEA State* in which the *policyholder* took out the *policy*;
- (d) in a case not covered by (a) to (c):
- (i) if the *policyholder* is an individual, the *EEA State* in which he has his habitual residence at the date when the contract is entered into; and
- (ii) otherwise, the *EEA State* in which the establishment of the *policyholder* to which the *policy* relates is situated at that date.

*UK-deposit insurer* a UK-deposit insurer, as defined in *IPRU(INS)*, which is in summary: a non-EEA insurer which has made a deposit in the United Kingdom in accordance with *IPRU(INS)* 8.1.

*UK insurer* a UK insurer, as defined in *IPRU(INS)*, which is in summary: an insurer, other than a pure reinsurer or a non-directive insurer, whose head office is in the United Kingdom.

## Annex G

### Amendment to the Glossary resulting from CP 88 (Wholesale only deposit-takers)

Insert the following new definition in the appropriate alphabetical position:

- wholesale depositor* a person who is:
- (a) a *credit institution*; or
  - (b) a *large company*; or
  - (c) a *large mutual association* which is:
    - (i) a *firm*; or
    - (ii) an *overseas financial services institution*; or
    - (iii) a *collective investment scheme* or an operator or trustee of a *collective investment scheme*; or
    - (iv) a pension or retirement fund, or a trustee of such a fund (except a trustee of a small self-administered scheme or an occupational scheme of an employer which is not a *large company* or a *large partnership*); or
  - (d) a supranational institution, government or central administrative authority; or
  - (e) a provincial, regional, local or municipal authority; or
  - (f) a *body corporate* in the same *group* as the *person* with whom the *deposit* is made.

**Annex H**  
**Amendments to the General provisions**

In paragraph 1 of Schedule 4 to GEN, add the following additional power at the end of the list of rule-making powers:

"Article 3 of the Financial Services and Markets Act 2000 (Variation of Threshold  
Conditions) Order 2001 (SI 2001/2507)"