

**GENERAL PROVISIONS AND GLOSSARY (AMENDMENT NO 3)
INSTRUMENT 2001**

Powers exercised

- A. The Financial Services Authority amends the General provisions and the Glossary in the exercise of the powers and related provisions listed in Schedule 4 to the General provisions (Powers exercised).
- 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 immediately.

Amendment of the General provisions and the Glossary

- D. The General provisions are amended in accordance with Annex A to this instrument.
- E. The Glossary is amended in accordance with Annex B to this instrument.

Citation

- F. This instrument may be cited as the General Provisions and Glossary (Amendment No 3) Instrument 2001.

By order of the Board
20 December 2001

Annex A
Amendment of the General provisions

Insert, in the table of transitional provisions under the heading “Transitional provisions applying across the Handbook”, the following additional rows numbered 23 and 24:

(1)	(2)	(3)	(4)	(5)	(6)
	Material to which the transitional provision applies		Transitional provision	Transitional provision: dates in force	Handbook provision: coming into force
23	Every <i>rule</i> in the <i>Handbook</i> made by the <i>FSA</i>	R	<p><u>Dealing as principal by certain grandfathered firms</u></p> <p>(1) This paragraph applies to a <i>firm</i> which has <i>permission to deal in investments as principal</i> which:</p> <p style="padding-left: 40px;">(a) is subject to a <i>limitation</i> to the effect that the <i>firm</i>, in carrying on this <i>regulated activity</i>, is limited to entering into transactions in a manner which, if the <i>firm</i> was an <i>unauthorised person</i>, would come within article 16 of the <i>Regulated Activities Order (Dealing in contractually based investments)</i>; and</p> <p style="padding-left: 40px;">(b) it was treated as having, at <i>commencement</i>, as a result of article 6, 7, 8 or 9 of the <i>Financial Services and Markets Act 2000 (Miscellaneous Provisions) Order 2001 (SI 2001/3650)</i>;</p> <p style="padding-left: 40px;">unless the <i>firm</i> is an <i>ISD investment firm</i>.</p> <p>(2) The <i>rules</i> in the <i>Handbook</i> apply to, and in relation to, a <i>firm</i> in (1) as if:</p> <p style="padding-left: 40px;">(a) the <i>firm</i> does not have, and does not require, <i>permission to deal in investments as principal</i> or to <i>agree to carry on that regulated activity</i>;</p>	From 20 December 2001 until 19 December 2002	Various dates

(1)	(2) Material to which the transitional provision applies	(3)	(4) Transitional provision	(5) Transitional provision: dates in force	(6) Handbook provision: coming into force
			<p>(b) dealing as principal in a manner which is excluded under article 15 of the <i>Regulated Activities Order</i> (Absence of holding out etc) (and agreeing to do so) is not <i>designated investment business</i>;</p> <p>(c) dealing in investments as principal in a manner described in (1)(a) (and agreeing to do so) is an <i>unregulated activity</i> (and hence also not <i>designated investment business</i>);</p> <p>(d) <i>PRIN 3.2.1R(2)</i> does not apply; and</p> <p>(e) <i>SYSC 1.1.3R(2)</i> does not apply in relation to <i>SYSC 3</i>.</p>		
24	<p>Paragraph 23 and <i>guidance</i> in the <i>Handbook</i> other than in:</p> <ul style="list-style-type: none"> • <i>COND</i>; • <i>APER</i>; • <i>FIT</i>; • <i>AUTH</i>; • <i>PROF</i>; • <i>MAR 1</i> 	G	<p>(1) Paragraph 23 applies to banks, building societies, insurance companies and friendly societies which were not authorised under the Financial Services Act 1986 but which were grandfathered into <i>authorisation</i> under the <i>Act</i> with a limited <i>permission to deal in investments as principal</i>. These <i>firms</i> were able to carry on limited dealing as principal in both securities and contractually based investments without authorisation under paragraph 17 of Schedule 1 to the 1986 Act (Dealings as principal), and were not subject to conduct of business rules for such activities. <i>Firms</i> used the exemptions mainly for the purposes of treasury management.</p> <p>(2) Under the <i>Act</i>, the exemption for <i>contractually based investments</i> (article 16 of the <i>Regulated Activities Order</i> (Dealing in contractually based investments)) is not available to these <i>firms</i>, as they are <i>authorised persons</i>. Further, the <i>Handbook</i> treats <i>dealing in investments as principal</i> in relation to <i>securities</i> as <i>designated investment business</i>, even if it falls within the exemption in article 15 of that Order (Absence of holding out etc).</p> <p>(3) The transitional <i>rule</i> in paragraph 23 results in the <i>FSA's rules</i> applying to these <i>firms</i> as if their article 15 and 16 dealing as principal was not <i>designated investment business</i> nor a <i>regulated activity</i>, pending <i>FSA</i> consultation on the treatment of this activity under the <i>Handbook</i>. This transitional provision does not, for example, affect the application of:</p>	From 20 December 2001 until 19 December 2002	Various dates

(1)	(2) Material to which the transitional provision applies	(3)	(4) Transitional provision	(5) Transitional provision: dates in force	(6) Handbook provision: coming into force
			<p>(a) <i>rules</i>, such as most prudential <i>rules</i>, whose application is not dependent on the regulated status of this activity;</p> <p>(b) <i>Principle 3</i> (Management and control) and <i>SYSC 3</i> (Systems and controls) in a <i>prudential context</i> (<i>PRIN 3.2.3R</i> and <i>SYSC 1.1.5R</i>);</p> <p>(c) <i>Principle 4</i> (Financial prudence) and <i>Principal 11</i> (Relations with regulators) (<i>PRIN 3.2.3R</i>);</p> <p>(d) <i>SYSC 2</i> (Senior management arrangements), which continues to apply for dealing as principal within article 15 and 16 (<i>SYSC 1.1.3R(2)</i>);</p> <p>(e) the rules of <i>FOS Ltd</i> in <i>DISP</i>.</p> <p>(4) <i>Firms</i> to which paragraph 23 applies may also regard the <i>guidance</i> referred to in column (2) as being modified in the same way as the <i>rules</i> are modified under paragraph 23.</p>		

Annex B Amendment of the Glossary

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

- industrial assurance policy* ~~a policy of industrial assurance, as defined in the Industrial Assurance Act 1923.~~
a contract of insurance on human life, premiums in respect of which are received by means of collectors, but excluding:
- (a) a contract of insurance, the premiums in respect of which are payable at intervals of two months or more;
 - (b) a contract of insurance, effected whether before or after the passing of the Industrial Assurance Act 1923 by a society or company established before the date of the passing of that Act which at that date had no contracts of insurance outstanding the premiums on which were payable at intervals of less than one month so long as the society or company continues not to effect any such contracts;
 - (c) a contract of insurance effected before the passing of the Industrial Assurance Act 1923, premiums in respect of which are payable at intervals of one month or more, and which have up to the passing of that Act been treated as part of the business transacted by a branch other than the industrial branch of the society or company; and
 - (d) a contract of insurance for £25 or more effected after the passing of the Industrial Assurance Act 1923, premiums in respect of which are payable at intervals of one month or more, and which are treated as part of the business transacted by a branch other than the industrial branch of the society or company, in cases where the relevant authority certified prior to 1 December 2001 under section 1(2)(d) of that Act that the terms and conditions of the contract is on the whole not less favourable to the assured than those imposed by that Act;
- in this definition:
- (i) “collector” includes every person, however remunerated, who, by himself or by any deputy or substitute, makes house to house visits for the purpose of receiving premiums payable on policies of insurance on human life, or holds any interest in a collecting book, and includes such a deputy or substitute;
 - (ii) “collecting book” includes any book or document held by a collector in which payments of premiums are recorded.
- insurance business transfer scheme* (a) a scheme, defined in section 105 of the Act, which is in summary: a scheme to transfer the whole or part of the business of an insurer (other than a friendly society) to another body;
- (b) a similar scheme to transfer the whole or part of the business carried on by one or more members of the Society or ~~former underwriting~~ former underwriting members 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 2001/3626[~~number to be inserted later~~]).

regulated activity

...

which is carried on by way of business and relates to a *specified investment applicable to that activity* or, in the case of (l), (m), (n) and (o), is carried on in relation to property of any kind.

state of the commitment

(in SUP 18) (in accordance with paragraph 6(1) of Schedule 12 to the Act (Transfer schemes: certificates)) (in relation to a commitment entered into at any date):

- (a) if the *policyholder* is an individual, the State in which he had his habitual residence at that date;
- (b) if the *policyholder* is not an individual, the State in which the establishment of the *policyholder* 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 2001/3625~~[number to be inserted later]~~) any contract of insurance of a kind referred to in article 1 of the *First Life Directive*.