

**ELECTRONIC MONEY SOURCEBOOK  
(CONSEQUENTIAL AMENDMENTS TO HANDBOOK) INSTRUMENT 2002**

**Powers exercised**

- A. The Financial Services Authority (the “FSA”) amends the Handbook as set out in the Annexes to this instrument in the exercise of the following powers and related provisions in the Financial Services and Markets Act 2000 (the “Act”):
- (1) section 138 (General rule-making powers);
  - (2) section 156 (General supplementary powers);
  - (3) section 157(1) (Guidance);
  - (4) section 340 (Appointment);
  - (5) section 395(5) (The Authority’s procedures);
  - (6) article 9D(a) (Applications for certificates) of the Financial Services and Markets Act 2000 (Regulated Activities) Order 2001 (SI 2001/544) (the “Regulated Activities Order”);
  - (7) article 9F(2) (Revocation of the certificate on request) of the Regulated Activities Order;
  - (8) article 9(G)(1) (Obtaining information from certified persons) of the Regulated Activities Order; and
  - (9) article 9H(1) (Rules prohibiting the issue of electronic money at a discount) of the Regulated Activities Order.
- B. The rule-making powers listed above are specified for the purpose of section 153(2) of the Act (Rule-making instruments).

**Commencement**

- C. This instrument comes into force on 27 April 2002.

**Amendments to the Handbook**

- D.
- (1) AUTH is amended by inserting, after Appendix 2, the provisions in Annex A to this instrument.
  - (2) SUP is amended by inserting, into SUP16 Annex 1R, the provisions in Annex B to this instrument.
  - (3) The Glossary is amended in accordance with Annex C to this instrument.
  - (4) The Reader’s Guide, PRIN, COND, GEN, IPRU (BANK), IPRU (BSOC), IPRU (INV), AUTH, SUP, ENF, DEC and PROF are amended in accordance with Annex D to this instrument.

## **Remaking of the General provisions and the Glossary**

- E. GEN 1.3.1R (Emergency), the rules and directions in GEN 2 (other than GEN 2.1.8R) and the Glossary are made under the following powers in the Regulated Activities Order (in addition to the powers under which they are already made):
- (1) article 9D(a) (Applications for certificates);
  - (2) article 9F(2) (Revocation of the certificate on request);
  - (3) article 9G(1) (Obtaining information from certified persons); and
  - (4) article 9H(1) (Rules prohibiting the issue of electronic money at a discount).

## **Citation**

- F. This instrument may be cited as the Electronic Money Sourcebook (Consequential Amendments to Handbook) Instrument 2002.

By order of the Board  
18 April 2002

## **Annex A**

# Appendices



# Appendix 3

## Guidance on the scope of the regulatory activity of issuing e-money

### 3.1 Application and purpose

#### Application

- 3.1.1** **G**<sub>/1</sub> This appendix applies to a *person* who needs to know whether a particular electronic payment product is *e-money* and whether the *person* issuing it needs to be authorised under the *Act*.
- 3.1.2** **G**<sub>/1</sub> This appendix also applies to a *person* who needs to know the extent to which section 21 of the *Act* (Restrictions on financial promotion) and **COB 3** (Financial promotion) apply to *e-money*.

#### Purpose

- 3.1.3** **G**<sub>/1</sub> There are two main purposes of this *guidance* on the definition of *e-money*. These are:
- (1) to outline the main features of the *regulated activity of issuing e-money*;
  - (2) to explain the application of the restriction on *financial promotion* under section 21 of the *Act* so far as it concerns *issuing e-money*.
- 3.1.4** **G**<sub>/1</sub> This *guidance* is issued under section 157 of the *Act*. It represents the *FSA*'s views and does not bind the courts. For example, it would not bind the courts in an action for damages brought by a *private person* for breach of a *rule* (see section 150 of the *Act* (Action for damages)), or in relation to the enforceability of a contract where there has been a breach of section 19 (The general prohibition) or 21 (Restriction on financial promotion) of the *Act* (see sections 26 to 30 of the *Act* (Enforceability of agreements)).
- 3.1.5** **G**<sub>/1</sub> Although the *guidance* does not bind the courts, it may be of persuasive effect for a court considering whether it would be just and equitable to allow a contract to be enforced (see sections 28(3) and 30(4) of the *Act*). Anyone reading this *guidance* should refer to the Financial Services and Markets Act 2000 (Regulated Activities) Order 2001 (SI 2001/544) (as amended) (the *Regulated Activities Order*), the Financial Services and Markets Act 2000 (Regulated Activities) (Amendment) Order 2002 (SI 2002/682) and to the Financial Services and Markets Act 2000 (Financial

Promotion) Order 2001 (SI 2001/1335) (as amended) (the *Financial Promotion Order*). These should be used to find out the precise scope and effect of any particular provision referred to in this *guidance*, and any reader should consider seeking legal advice if doubt remains. If a *person* acts in line with the *guidance* in the circumstances mentioned by it, then the *FSA* will proceed on the footing that the *person* has complied with the aspects of the requirement to which the *guidance* relates.

## 3.2 The regulated activity of issuing e-money

### The Regulated Activities Order

- 3.2.1** **G**<sub>/1</sub> Under section 19 of the *Act* (The general prohibition), no person may carry on a *regulated activity* in the *United Kingdom*, or purport to do so, unless he is *authorised* or exempt under the *Act*.
- 3.2.2** **G**<sub>/1</sub> A *regulated activity* means an activity of a kind specified in the *Regulated Activities Order* which is carried on by way of business and which (generally) relates to an *investment* of a kind specified in the *Regulated Activities Order*.
- 3.2.3** **G**<sub>/1</sub> Further *guidance* on section 19 and *regulated activities* can be found in ■ AUTH 2.
- 3.2.4** **G**<sub>/1</sub> Article 9B of the *Regulated Activities Order* says that *issuing e-money* is a specified activity of the kind described in ■ AUTH App 3.2.2 G. Article 74A of the *Regulated Activities Order* says that *e-money* is a *specified investment* for that purpose.
- 3.2.5** **G**<sub>/1</sub> *E-money* is defined in Article 3(1) of the *Regulated Activities Order*. It says that *e-money* means monetary value, as represented by a claim on the issuer, which is:
- (1) stored on an electronic device;
  - (2) issued on receipt of funds; and
  - (3) accepted as a means of payment by *persons* other than the issuer.

### The E-Money Directive

- 3.2.6** **G**<sub>/1</sub> The *E-Money Directive* introduces a framework for the regulation of *e-money* at a European level.
- 3.2.7** **G**<sub>/1</sub> The *Regulated Activities Order* copies out the definition of *electronic money* in the *E-Money Directive*, with one exception.
- 3.2.8** **G**<sub>/1</sub> The exception is that the words “of an amount not less in value than the monetary value issued” in article 1(3)(b)(ii) of the *E-Money Directive* are not reproduced in the *Regulated Activities Order*.

**3.2.9** <sup>/1</sup> **G** The words in article 1(3)(b)(ii) omitted from the definition in the *Regulated Activities Order* are aimed at stopping *e-money issuers* from *issuing e-money* at a discount. They were omitted from the *Regulated Activities Order* to make it clear that issuing electronic monetary value at a discount is not an *unregulated activity*. Instead, the prohibition on *issuing e-money* at a discount is left to *FSA rules*. The *FSA rules* on this are in ■ ELM 4 (Limitations on activities).

**3.2.10** <sup>/1</sup> **G** On this basis, the *FSA* believes that the definition of *e-money* in the *Regulated Activities Order* should be interpreted consistently with the *E-Money Directive*.

### Exclusions

**3.2.11** <sup>/1</sup> **G** Article 9C of the *Regulated Activities Order* says that the issuing of *e-money* by a person to whom the *FSA* has given a certificate under that article is not a *regulated activity* provided that the certificate has not been revoked. The *FSA* may only issue such certificates to small or local *e-money* schemes. Further *guidance* on this topic can be found in ■ ELM 8 (Small e-money issuers).

### The issuer of e-money

**3.2.12** <sup>/1</sup> **G** As explained in ■ AUTH App 3.2.4 G, the *regulated activity* relating to *e-money* is *issuing e-money*.

**3.2.13** <sup>/1</sup> **G** In some *e-money* schemes an originator creates *e-money* and then sells it to *banks* and other distributors. The latter then sell the *e-money* to the public. In the *FSA's* view, references to the issuer of *e-money* in the *Regulated Activities Order* are to the originator and not the distributors.

**3.2.14** <sup>/1</sup> **G** The issuer is the issuer of the *e-money* rather than the issuer of the electronic device on which it is stored, if they are different.

### Exclusion from the definition of deposit

**3.2.15** <sup>/1</sup> **G** Article 9A of the *Regulated Activities Order* says that a sum is not a *deposit* if it is immediately exchanged for *e-money*.

**3.2.16** <sup>/1</sup> **G** Thus if a customer pays for *e-money* but the *e-money* is not issued until later, that initial payment will be a *deposit*, as long as the payment comes within the definition of *deposit* in the *Regulated Activities Order*.

**3.2.17** <sup>/1</sup> **G** ■ AUTH 2.6.2 G to ■ AUTH 2.6.4 G has *guidance* on the meaning of *deposit*.

**3.2.18** <sup>/1</sup> **G** Some *e-money* products may be charged up by means of scratch cards that can be purchased from shops. The price paid for the card is the monetary value of the *e-money*. The card contains a number. The purchaser then enters the number on a web site to activate the *e-money* account. There is thus a delay between the payment for the *e-money* and its use by the holder. Such a delay does not make the payment for the *e-money* a *deposit*. This is because the means of spending the *e-money* is put into the hands of the purchaser when he purchases the card.

**3.2.19** <sup>/1</sup> **G** A person may also pay for *e-money* by cheque. The *e-money issuer* will not receive the value until the cheque has cleared. This delay does not make the payment for

the *e-money* into a *deposit*. The purchaser has paid for the *e-money*, even though his payment obligation has only been satisfied conditionally.

### Transitionals

- 3.2.20** **G**<sub>/1</sub> Article 9 of The Financial Services and Markets Act 2000 (Regulated Activities) (Amendment) Order 2002 has transitional provisions relating to those who were issuing *e-money* on 27 April 2002.
- 3.2.21** **G**<sub>/1</sub> Where, immediately before 27 April 2002, a *full credit institution* with *Part IV permission to accept deposits* was carrying on by way of business in the *United Kingdom* the activity of *issuing e-money*, its *permission* is to be treated as including, for a period of six months beginning at 27 April 2002, *permission* to carry on the activity of *issuing e-money*.
- 3.2.22** **G**<sub>/1</sub> Where, immediately before 27 April 2002:
- a) an *EEA firm* of the kind mentioned in paragraph 5(b) or (c) of Schedule 3 to the *Act* qualified for *authorisation* under that Schedule; and
  - b) the activities which were treated as *permitted activities* for the purposes of paragraph 13 or 14 of that Schedule as it applied to that *person* included issuing *e-money*;
- the *firm's permission* under paragraph 15 of that Schedule is to be treated as including *permission* to carry on that activity.
- 3.2.23** **G**<sub>/1</sub> The transitional provisions also apply to a *body corporate* or *partnership* which, immediately before 27 April 2002:
- (1) has its head office in the *United Kingdom*, and is carrying on by way of business in the *United Kingdom* the activity of *issuing e-money*; or
  - (2) has its head office in an *EEA State* other than the *United Kingdom*, and is carrying on such an activity by way of business in the *United Kingdom* without contravening the law of that other *EEA State*.
- 3.2.24** **G**<sub>/1</sub> ■ AUTH App 3.2.23 G does not include a *person* within ■ AUTH App 3.2.21 G or ■ AUTH App 3.2.22 G.
- 3.2.25** **G**<sub>/1</sub> A *person* described in ■ AUTH App 3.2.23 G is not to be treated as carrying on the *regulated activity* of *issuing e-money* until the beginning of 27 October 2002, unless it receives *permission* to carry on that activity before then.
- 3.2.26** **G**<sub>/1</sub> On and after 27 October 2002, an *e-money issuer* with its head office in the *United Kingdom* will not be able to continue *issuing e-money* in the *UK* (or other *EEA States*) unless it has been granted *permission* under Part IV of the *Act* (or its existing *permission* has been varied to include the activity of *issuing e-money*). Similarly, an *e-money issuer* whose head office is in another *EEA State* will not have *permission* to carry on that activity on or after 27 October unless it has been duly authorised in its *Home State*.
- 3.2.27** **G**<sub>/1</sub> However, if an *e-money issuer* falling under ■ AUTH App 3.2.23 G(1) that was issuing *e-money* as at 27 April 2002 continues to issue *e-money* after the beginning of 27th October 2002, its carrying on that activity after that date will continue to be excluded from the *regulated activity* of *issuing e-money*, provided that he has made



an application before 27th June 2002 under section 40 of the Act (Application for permission) for *permission* to carry on that activity, and has not withdrawn it. That exclusion ends when the application has been finally determined.

- 3.2.28** G For these purposes an application is to be treated as finally determined:  
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- (1) In a case where the FSA gives *permission* to carry on the activity and does not exercise its power under section 42(7)(a) or (b) (Permission) or section 43(1) (Imposition of requirements) of the Act, on the date on which the *permission* takes effect;
  - (2) In a case where the FSA refuses *permission*, or gives *permission* but exercises its power under section 42(7)(a) or (b) or section 43 of the Act, at the time when the matter ceases to be open to review (within the meaning of section 391(8) of the Act) (Publication).
- 3.2.29** G The transitional exclusions described in ■ AUTH App 3.2.23 G to ■ AUTH App 3.2.28 G do not cover an *e-money issuer* whose head office is outside the EEA.  
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### 3.3 Elements of the definition of e-money

#### Monetary value

- 3.3.1** G The definition of *e-money* says that for a product to be *e-money*, it must be monetary value as represented by a claim on the issuer. Guidance on the meaning of issuer can be found at ■ AUTH App 3.2.12 G to ■ AUTH App 3.2.14 G  
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#### Storage on an electronic device

- 3.3.2** G The definition of *e-money* says that for a product to be *e-money*, it must be stored on an electronic device.  
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- 3.3.3** G *E-money* is an electronic payment product. The value is held electronically and payments using the value are made electronically.  
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- 3.3.4** G The fact that the device may be magnetic does not stop it being an electronic device for the purpose of the definition of *e-money*. Thus for example value stored on a personal computer does not fall outside the definition merely because it is stored on the computer's magnetic hard disk. Similarly, value stored on a *plastic card* that uses magnetic stripe technology may also fall within the definition if the value is transferred for spending using electronic technology.  
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#### Prepayment

- 3.3.5** G The definition of *e-money* says that for a product to be *e-money*, it must be issued on receipt of funds.  
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- 3.3.6** G<sub>/1</sub> This part of the definition means that *e-money* is a prepaid product. That is, unlike credit provided through a credit card, the customer pays for the spending power in advance. This is why credit cards are excluded from the definition of *e-money*.
- 3.3.7** G<sub>/1</sub> This does not mean that *e-money* paid for with a credit card falls outside the definition. The purchase of the *e-money* represents the purchase of monetary value. The fact that the purchaser is lent the funds to buy the *e-money* does not affect this. There are two contracts, one for the sale of *e-money* and one for credit.
- 3.3.8** G<sub>/1</sub> Value on a debit card may be *e-money* or a *deposit*. *Guidance* on this is given in ■ AUTH App 3.3.14 G to ■ AUTH App 3.3.20 G.
- 3.3.9** G<sub>/1</sub> The fact that the device on which monetary value is stored is made available on a *plastic card* that also functions as a debit or credit card does not stop that monetary value from being *e-money*.

### Multipurpose

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- 3.3.10** G<sub>/1</sub> For a product to be *e-money*, *persons* other than the issuer must accept it as a means of payment.
- 3.3.11** G<sub>/1</sub> ■ AUTH App 3.3.10 G means that the *e-money* holder must be able to use it to buy goods and services from *persons* other than the issuer.
- 3.3.12** G<sub>/1</sub> Thus, for example, electronic value issued by an employer to its employees that can only be used to buy food and drink from the employer in its canteen is not *e-money*.
- 3.3.13** G<sub>/1</sub> If monetary value can be spent with third parties, it does not stop being *e-money* just because the *e-money* can also be spent with the issuer.

### Accounted e-money schemes

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- 3.3.14** G<sub>/1</sub> An electronic payment scheme that involves prepaid monetary value that can be spent without the involvement of the issuer is likely to be *e-money*. However, a product does not cease to be *e-money* merely because the scheme is account based.
- 3.3.15** G<sub>/1</sub> The document published by HM Treasury in March 2002 called "Implementation of the *Electronic Money Directive: A Response to Consultation*" says:

"An important issue that respondents [to HM Treasury's consultation on the implementation of the *E-Money Directive*] requested clarification on was whether the Directive's definition should catch account-based schemes (i.e. *e-money* held remote from the owner and spent at the owner's direction) as well as, for example, card-based schemes (i.e. *e-money* in the possession of the owner, whether stored on a personal computer or a smart card, and directly spent by them). The Treasury believes that the Directive's definition does allow for the possibility of account-based schemes being *e-money*. Not allowing account-based *e-money* schemes would effectively create a regulatory gap between the *e-money* and deposit-taking regimes – and a difference of treatment between schemes that pose similar regulatory risks. Rather than attempting to amend the definition in the Order (which is already expressed suitably widely), the Treasury has clarified in the accompanying Explanatory Memorandum that the definition of *e-money* is to be interpreted as covering account-based schemes (so long as they remain distinct from deposit-taking)."

- 3.3.16** **G** That explanatory memorandum says:  
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"The Treasury believes the Directive's definition includes both e-money schemes in which value is stored on a card that is used by the bearer to make purchases, and account-based e-money schemes where value is stored in an electronic account that the user can access remotely."
- 3.3.17** **G** Thus monetary value issued under an account-based scheme can be *e-money*. On the other hand, not all monetary value recorded electronically on an account will be *e-money*. If all such monetary value were *e-money*, any *deposit* recorded in records maintained electronically could be *e-money*, thereby turning most conventional bank accounts into *e-money*. Thus it is necessary to distinguish between an account-based *e-money* scheme and a conventional bank deposit.
- 3.3.18** **G** Recital (3) to the *E-Money Directive* says that "electronic money can be considered an electronic surrogate for coins and banknotes, which is stored on an electronic device such as a chip card or computer memory and which is generally intended for the purpose of effecting electronic payments of limited amounts."
- 3.3.19** **G** The European Commission published an explanatory memorandum along with its proposal for a Directive about *e-money*. It said that it is appropriate to emphasise that *e-money* does not represent a *deposit*. Unlike a depositor, a user does not advance funds to an issuer in order to ensure their safe keeping and handling. Neither the issuer nor the customer pursues this objective. The Commission said that the underlying contract between the customer and the issuer is that the user will get value for the *e-money* from those merchants that accept it and that the issuer will honour his commitment to give value.
- 3.3.20** **G** In distinguishing *e-money* and *deposits*, relevant factors include the following.  
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- (1) As explained in ■ AUTH App 3.3.3 G, *e-money* is a purely electronic product. If the monetary value is kept on an account that can be used by non-electronic means, that points towards it being a *deposit*. For example, an account on which cheques can be drawn is unlikely to be *e-money*.
  - (2) If a product is designed in such a way that it is only likely to be used for making payments of limited amounts and not as a means of saving, that feature points towards it being *e-money*. Relevant features might include how long value is allowed to remain on the account, disincentives to keeping value on the account and the payment of interest on it.
  - (3) If an account has features on it in addition to those necessary for a pure payment facility, such as an overdraft or direct debit facility, that points towards it not being *e-money*.
  - (4) One should have regard to whether the product is sold as *e-money* or as a *deposit*.
- 3.3.21** **G** In other words, a *deposit* involves the creation of a debtor-creditor relationship under which the *person* who accepts the *deposit* stores value for eventual return. *E-money*, in contrast, involves the purchase of a means of payment.

## 3.4 Financial promotion

- 3.4.1** **G**<sub>/1</sub> *Guidance* on the restrictions on financial promotion under section 21 of the *Act* (Restrictions on financial promotion) can be found in AUTH App [to be added to the Handbook at a later date]. ■ AUTH App 3.4 gives further *guidance* on its application to *e-money*.
- 3.4.2** **G**<sub>/1</sub> As explained in AUTH App [ ], section 21 of the *Act* applies to the *communication* of an invitation or inducement to *engage in investment activity*. Section 21(8) defines *engaging in investment activity* as:
- (1) entering or offering to enter into an agreement the making or performance of which by either party constitutes a *controlled activity*; or
  - (2) exercising any rights conferred by a *controlled investment* to acquire, dispose of, underwrite or convert a *controlled investment*.
- 3.4.3** **G**<sub>/1</sub> *Controlled activity* and *controlled investment* are both defined by reference to Schedule 1 to the *Financial Promotion Order*. *Issuing e-money* is not included as a *controlled activity* and *e-money* is not included as a *controlled investment*.
- 3.4.4** **G**<sub>/1</sub> *Accepting deposits* is however a *controlled activity* and a *deposit* is a *controlled investment*. As explained in ■ AUTH App 3.2.15 G, the definition of *deposit* under the *Regulated Activities Order* says that a sum is not a *deposit* for the purposes of the *Regulated Activities Order* if it is immediately exchanged for *e-money*.
- 3.4.5** **G**<sub>/1</sub> The definition of *deposit* in the *Financial Promotion Order* follows the definition of *deposit* in the *Regulated Activities Order*. Therefore the purchase price paid for *e-money* is not a *deposit* for the purposes of the *Financial Promotion Order*.
- 3.4.6** **G**<sub>/1</sub> Hence the provisions in the *Act* and the *Handbook* about *financial promotions* do not apply to *e-money*.
- 3.4.7** **G**<sub>/1</sub> However, if the purchase price for *e-money* is not immediately exchanged for *e-money*, the purchase price may be a *deposit* if the payment comes within the definition of *deposit* in the *Regulated Activities Order*. ■ AUTH 2.6.2 G to ■ AUTH 2.6.4 G has *guidance* on the meaning of *deposit*. In such a case, the provisions in the *Act* and the *Handbook* about *financial promotions* relating to *deposits* apply.

## **Annex B**



## FORM ELM-CA/LE – Half-Yearly Financial Return

Reporting firm \_\_\_\_\_

as at 

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(eg 31 12 2001)

FSA number\* 

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Unconsolidated/consolidated - tick as appropriate

Unconsolidated

Consolidated

Knowingly or recklessly giving the *FSA* information, which is false or misleading in a material particular may be a criminal offence (sections 398 and 400 of the Financial Services and Markets Act 2000). *SUP* 15.6.1R and *SUP* 15.6.4R require an *authorised person* to take reasonable steps to ensure the accuracy and completeness of information given to the *FSA* and to notify the *FSA* immediately if materially inaccurate information has been provided. *SUP* 16.3.11R requires an *authorised person* to submit reports containing all the information required. *APER* 4.4.6E provides that, where an *approved person* is responsible for reporting matters to the *FSA*, failure to inform the *FSA* of materially significant information of which he is aware is a breach of *Statement of Principle* 4. Contravention of these requirements may lead to disciplinary sanctions or other enforcement action by the *FSA*. It should not be assumed that information is known to the *FSA* merely because it is in the public domain or has previously been disclosed to the *FSA* or another regulatory body. Any additional information of relevance should be provided by letter direct to the *FSA*. If there is any doubt about the relevance of information, it should be included.

I confirm the information in this form is accurate and complete to the best of my knowledge and belief.

Signature of authorised signatory: \_\_\_\_\_ Date: \_\_\_\_\_

Name: \_\_\_\_\_ Position held: \_\_\_\_\_

In the event of a query, the *FSA* may, in the first instance, contact (block letters please)

Name: \_\_\_\_\_ Tel No: \_\_\_\_\_

\_\_\_\_\_ Ext: \_\_\_\_\_

\*For unconsolidated reports, this must be the *FSA* firm reference number. For consolidated reports, this must be the *FSA* firm reference number of the *firm* on whom the requirement to report has been placed.

**Notes on Completion**

- 1 If you have any difficulty in completing this return, please telephone your normal supervisory contact at the *FSA* for *guidance*.
- 2 Complete the return half-yearly on an unconsolidated and, where required, on a consolidated basis as at end of June and December. Institutions wishing to report at dates, which coincide with the financial year-end, should apply to the *FSA* for a *waiver* (see *SUP 8*).
- 3 Enter amounts to the nearest thousand omitting £000s.
- 4 To assist with the scanning process, please enter all data neatly within the relevant boxes and do not enter the % symbol in any boxes on this return.
- 5 This form must be submitted the *FSA* within 20 *business days*. For methods of submission, see *SUP 16.3*.
- 6 An expression in this form in italics has the meaning given in the Glossary to the *FSA's Handbook* of rules and guidance.

FSA use only	Logged in	Data entered

**SEMI-ANNUAL PROFIT AND LOSS**

**ELM-CA/LE**

Item No	Item	Amount (£000)
A10	Revenue	<input type="text"/>
A20	Expenditure	<input type="text"/>
A30	Profit or (loss) before taxation	<input type="text"/>
A40	Taxation	<input type="text"/>
A50	Profit or (loss) after taxation	<input type="text"/>

**BALANCE SHEET**

**ELM-CA/LE**

Item No	Item	Amount (£000)	Amount (£000)
	<b>Assets</b>		
B10	Fixed assets		<input type="text"/>
B20	Current assets		<input type="text"/>
B30	Total assets		<input type="text"/>
	<b>Liabilities</b>		
B40	<i>E-money outstandings</i>	<input type="text"/>	
B50	Other current liabilities	<input type="text"/>	
B60	Non current liabilities	<input type="text"/>	
B70	Capital and reserves		<input type="text"/>
B80	Provisions		<input type="text"/>
B90	Unaudited current year's profit		<input type="text"/>



**OWN FUNDS STATEMENT****ELM-CA/LE**

Item No	Item	Amount (£000)	Amount (£000)
	Tier 1 capital		
C10A	Paid-up share capital (excluding preference shares)	<input type="text"/>	
C10B	Share premium account	<input type="text"/>	
C10C	Audited reserves excluding revaluation reserves	<input type="text"/>	
C10D	Externally verified interim net profits	<input type="text"/>	
C10E	Partnership capital	<input type="text"/>	
	Less		
C10F	Interim net losses	<input type="text"/>	
C20	Initial capital (C10A + C10B + C10C + C10D + C10E./C10F) (C20 must be ≥ 1 million euro (or its equivalent in sterling))	<input type="text"/>	
	Less		
C30A	Deduction according to <i>ELM</i> 4.4.3R (which relates to a <i>firm</i> paying up <i>electronic money</i> it issues)	<input type="text"/>	
C30B	Investment in own shares	<input type="text"/>	
C30C	Intangible assets	<input type="text"/>	
C40	Sub-total of deductions from initial capital (C30A + C30B + C30C)	<input type="text"/>	
C50	Total tier 1 capital (C20./C40)		<input type="text"/>
	Tier 2 capital		
	Upper Tier 2 capital		
C60A	Upper tier 2 subordinated debt	<input type="text"/>	
C60B	Revaluation reserves	<input type="text"/>	
C70	Sub-total of upper tier 2 capital (C60A + C60B)	<input type="text"/>	
C80	Lower tier 2 subordinated debt capital (as amortised according to <i>ELM</i> 2.4.13R over the final five years to maturity) (must be < C50 * 50%)	<input type="text"/>	
C90	Sub-total of tier 2 capital (C70 + C80) (must be < C50)		<input type="text"/>
	Less		
C100	<i>Material holdings in financial institutions</i>		<input type="text"/>
C110	<i>Own funds</i> (C50 + C70./C100)		<input type="text"/>

**ASSET-LIABILITY MANAGEMENT**

**ELM-CA/LE**

Item No	Item	Amount (£000)	Amount (£000)
	<i>Qualifying liquid assets</i>		
	<i>Zero weighted assets</i>		
D10	Cash	<input type="text"/>	
	Securities issued by and representing a claim on, or fully guaranteed by		
D20A	A central government or central bank of a <i>Zone A country</i>	<input type="text"/>	
D20B	The European Central Bank	<input type="text"/>	
D20C	The European Communities	<input type="text"/>	
D30	Sub-total of <i>zero weighted assets</i> (D10 + D20A + D20B + D20C)		<input type="text"/>
D60	Sight deposits held with <i>Zone A credit institutions</i>		<input type="text"/>
D70	<i>Qualifying debt securities</i> <sup>1</sup>		<input type="text"/>
D80	Total of <i>qualifying liquid assets</i> (D50 + D60 + D70)		<input type="text"/>
Less			
D90	<i>E-money outstandings</i> (= B40)		<input type="text"/>
D100	Total of <i>qualifying liquid assets</i> / <i>E-money outstandings</i> (must be ≥ 0)		<input type="text"/>

<sup>1</sup>

As defined in *ELM* 3.3.9R

**ASSET-LIABILITY MANAGEMENT**

**ELM-CA/LE**

Item No

D110 List derivative instruments held to hedge market risks associated with assets that form part of the *e-money float*. Indicate type, maturity, nominal value, market value (if available) and the hedged asset(s) in the table below

	Type <sup>2</sup>	Residual Maturity (months)	Nominal Value (Amount £000)	Market Value (Amount £000)	Hedged Asset(s)
A					
B					
C					
D					
E					
F					
G					
H					
J					

**OWN FUNDS REQUIREMENTS**

**ELM-CA/LE**

Item No	Item	Amount (£000)
E10	Total <i>own funds</i> (= C110)	
E20	<i>E-money outstandings</i> at period end (= B40)	
E30	Average <i>e-money outstandings</i> for each <i>day</i> of the preceding six month period <sup>3</sup>	
E40	Proportion of total <i>own funds</i> (E10) to the higher of E20 or E30 (must be ≥ 2%)	

**FOREIGN EXCHANGE RISK**

**ELM-CA/LE**

<sup>2</sup> Indicate  
 1 = OTC foreign exchange related derivative instrument;  
 2 = exchange traded foreign exchange related derivative instrument  
 3 = interest rate risk related derivative instrument

<sup>3</sup> If the *firm* has not been an *e-money firm* for the whole of the preceding 6 months it must calculate the amount from the projected amounts of its daily *e-money outstandings* for the first six month of trading contained in the business plan supplied by the *firm* to the *FSA* as part of its application for the granting of an *e-money permission*.

Item No

F10 Indicate base currency

F20 List all FX net open positions, long and short, converted to £, in the table below

	Currency	Long (Amount 000)	Short (Amount 000)
A	Canadian Dollars	<input type="text"/>	<input type="text"/>
B	Euro	<input type="text"/>	<input type="text"/>
C	Japanese Yen	<input type="text"/>	<input type="text"/>
D	Sterling	<input type="text"/>	<input type="text"/>
E	Swiss Francs	<input type="text"/>	<input type="text"/>
F	US Dollars	<input type="text"/>	<input type="text"/>
G	<input type="text"/>	<input type="text"/>	<input type="text"/>
H	<input type="text"/>	<input type="text"/>	<input type="text"/>
J	<input type="text"/>	<input type="text"/>	<input type="text"/>
K	<input type="text"/>	<input type="text"/>	<input type="text"/>

F30 Total long

F40 Total short

Item No

Item

Amount (000)

F50 *Net FX open currency position (the greater of F30 and F40)*

F60 *FX exposure (8% \* F50)*

F70 *Absolute FX exposure limit (amount by which the firm's own funds exceed 2.5% of its e-money outstandings)*

F80 *FX exposure limit (amount by which the firm's own funds exceed 3% of its e-money outstandings)*

F90 Unused portion of the *absolute FX exposure limit* (F70 ./. F60 must be ≥ 0)

F100 Unused portion of the *FX exposure limit* (F80 ./. F60 must be ≥ 0)

**FOREIGN EXCHANGE RISK**

**ELM-CA/LE**

Item No

F110 Indicate dates of breaches of the *absolute FX exposure limit* or the *FX exposure limit* for the preceding 6 months and the amount by which the relevant limit has been exceeded in each case in the table below

	Date of breach of <i>absolute FX exposure limit</i>	Date of breach of <i>FX exposure limit</i>	Amount by which the limit has been exceeded (Amount £000)
A	<input type="text"/> dd mm yyyy	<input type="text"/>	<input type="text"/>
B	<input type="text"/>	<input type="text"/>	<input type="text"/>
C	<input type="text"/>	<input type="text"/>	<input type="text"/>
D	<input type="text"/>	<input type="text"/>	<input type="text"/>
E	<input type="text"/>	<input type="text"/>	<input type="text"/>
F	<input type="text"/>	<input type="text"/>	<input type="text"/>
G	<input type="text"/>	<input type="text"/>	<input type="text"/>
H	<input type="text"/>	<input type="text"/>	<input type="text"/>
J	<input type="text"/>	<input type="text"/>	<input type="text"/>
K	<input type="text"/>	<input type="text"/>	<input type="text"/>
L	<input type="text"/>	<input type="text"/>	<input type="text"/>
M	<input type="text"/>	<input type="text"/>	<input type="text"/>
H	<input type="text"/>	<input type="text"/>	<input type="text"/>
J	<input type="text"/>	<input type="text"/>	<input type="text"/>
K	<input type="text"/>	<input type="text"/>	<input type="text"/>
L	<input type="text"/>	<input type="text"/>	<input type="text"/>
M	<input type="text"/>	<input type="text"/>	<input type="text"/>

**LARGE EXPOSURES**

**ELM-CA/LE**

Item No	Item	Amount (£000)
G10	Total <i>own funds</i> (= C110)	<input type="text"/>
G20	Total of <i>qualifying liquid assets</i> that form part of the <i>e-money float</i> in the form of sight deposits held with <i>Zone A credit institutions</i> and <i>qualifying debt securities</i> (D60 + D70)	<input type="text"/>
G30	Proportion of total <i>own funds</i> (G10) to G20 (must be $\geq 5\%$ )	<input type="text"/>

Item No	Item			
G40	List all <i>large exposures</i> (exposures $\geq 10\%$ total <i>own funds</i> ) included in G20 (must be $\leq 25\%$ total <i>own funds</i> ) and indicate total of large exposures (must be $\leq 800\%$ total <i>own funds</i> ) in the table below			
		<i>Counterparty or group of closely related counterparties</i>	<i>Large exposure</i> (Amount £000)	<i>% total own funds</i> (up to one decimal place)
A		<input type="text"/>	<input type="text"/>	<input type="text"/>
B		<input type="text"/>	<input type="text"/>	<input type="text"/>
C		<input type="text"/>	<input type="text"/>	<input type="text"/>
D		<input type="text"/>	<input type="text"/>	<input type="text"/>
E		<input type="text"/>	<input type="text"/>	<input type="text"/>
F		<input type="text"/>	<input type="text"/>	<input type="text"/>
G		<input type="text"/>	<input type="text"/>	<input type="text"/>
H		<input type="text"/>	<input type="text"/>	<input type="text"/>
J		<input type="text"/>	<input type="text"/>	<input type="text"/>
K		<input type="text"/>	<input type="text"/>	<input type="text"/>
L		<input type="text"/>	<input type="text"/>	<input type="text"/>
G50	Total		<input type="text"/>	<input type="text"/>

**QUESTIONS****ELM-CA/LE**

Item No		
H10	Have the <i>firm's</i> total <i>own funds</i> been equal to or greater than its <i>own funds requirement</i> throughout the reporting period? (If no, please explain in accompanying letter)	YES/NO
H20	Have the <i>firm's</i> total <i>own funds</i> been equal to or greater than 5% of its <i>qualifying liquid assets</i> that form part of the <i>e-money float</i> and are in the form of sight deposits held with <i>Zone A credit institutions</i> and <i>qualifying debt securities</i> throughout the reporting period? (If no, please explain in accompanying letter)	YES/NO
H30	Have the <i>firm's large exposures</i> been within the large exposure limits throughout the reporting period? (If no, please explain in accompanying letter)	YES/NO
H40	Has the amount of the <i>firm's qualifying liquid assets</i> been no less than the amount of its <i>e-money outstandings</i> throughout the reporting period? (If no, please explain in accompanying letter)	YES/NO
H50	Has the <i>firm</i> complied with the base capital requirements throughout the reporting period? (If no, please explain in accompanying letter)	YES/NO

## ANNEX C

### Amendments to the Glossary

#### Part 1

Insert the following new definitions in the appropriate alphabetical position:

<i>absolute FX exposure limit</i>	(in <i>ELM</i> ) the amount by which an <i>ELMI's own funds</i> exceed 2.5% of its <i>e-money outstandings</i> , calculated in accordance with <i>ELM 3.4.6R</i> (FX exposure limits).
<i>ancillary banking services undertaking</i>	(in <i>ELM</i> ) (as defined in article 1.23 of the <i>Banking Consolidation Directive</i> (Definitions)) an <i>undertaking</i> the principal activity of which consists in owning or managing property, managing data-processing services, or any other similar activity which is ancillary to the principal activity of one or more <i>credit institutions</i> .
<i>bank consolidation rule</i>	the <i>FSA consolidation rule</i> in <i>IPRU(BANK)</i> .
<i>consolidated sub-group</i>	(in <i>ELM</i> ) (in relation to a <i>person</i> ):  (a) that <i>person</i> ; and  (b) any <i>financial services undertaking</i> that is a member of its <i>sub-group</i> .
<i>consumer e-money card</i>	any <i>consumer e-money device</i> in the form of a <i>plastic card</i> , other portable device or device intended to be included in another portable device (or a function on a <i>plastic card</i> or on such a device) that is intended to be used by a <i>consumer e-money holder</i> .
<i>consumer e-money device</i>	any <i>e-money electronic device</i> intended to be used by and in the presence of a <i>consumer e-money holder</i> .
<i>consumer e-money holder</i>	(in relation to <i>e-money</i> ) a <i>person</i> who holds that <i>e-money</i> otherwise than in the course of a business or profession.
<i>daily e-money outstandings amount</i>	(in <i>ELM</i> ) (in relation to a particular <i>day</i> or time and <i>ELMI</i> ) the highest amount that that <i>ELMI's e-money outstandings</i> reached on that <i>day</i> or, as the case may be, on the <i>day</i> in question prior to that time.
<i>EEA consolidated group</i>	(in <i>ELM</i> ) (in relation to an <i>ELMI</i> ) the <i>consolidated sub-group</i> of the <i>ELMI's EEA financial parent undertaking</i> , as established in accordance with <i>ELM 7</i> (Consolidated financial supervision).
<i>EEA financial parent undertaking</i>	(in <i>ELM</i> ) (in relation to an <i>ELMI</i> ) the highest <i>undertaking</i> in the <i>ELMI's group</i> that:  (a) is a <i>relevant financial services company</i> or a <i>financial holding</i>



*company;*

- (b) is formed under the law of another *EEA State*; and
- (c) is a *parent undertaking* of the *ELMI*;

as established in accordance with *ELM 7* (Consolidated financial supervision).

*EEA group large exposure* (in *ELM*) (in relation to an *ELMI*) *e-money float exposures* of members of the *ELMI's EEA consolidated group* calculated and identified in accordance with *ELM 7.6.2R* (EEA group large exposures).

*EEA group risk own funds* (in *ELM*) (in relation to an *ELMI*) are identified and calculated by applying the definition of *own funds* to the *ELMI's EEA consolidated group* in accordance with *ELM 7.5.1R* (EEA group risk own funds).

*EEA group risk own funds requirement* (in *ELM*) (in relation to an *ELMI*) is calculated by applying the definition of *own funds requirement* to the *ELMI's EEA consolidated group* in accordance with *ELM 7.5.2R* (EEA group risk own funds requirement).

*electronic money* the *investment*, specified in article 74A of the *Regulated Activities Order* (Electronic money), which is monetary value, as represented by a claim on the issuer, which is:

- (a) stored on an electronic device;
- (b) issued on receipt of funds; and
- (c) accepted as a means of payment by *persons* other than the issuer.

*ELM* the Electronic Money sourcebook.

*ELM financial rules* the *rules* in *ELM 2* (Initial and continuing own funds requirement), *ELM 3* (Management of the e-money float) and *ELM 7* (Consolidated financial supervision).

*ELMI* an *e-money firm* which is not a *bank, building society, incoming Treaty firm* or *incoming EEA firm*.

*e-money* *electronic money*.

*E-Money Directive* the Council Directive of 18 September 2000 relating to the taking up, pursuit of and prudential supervision of the business of electronic money institutions (No 2000/46/EC).

*e-money electronic device* an electronic device referred to in paragraph (a) of the definition of *electronic money* and any other device that a holder of *electronic money* uses to hold or to spend or otherwise use his *electronic money*.

<i>e-money firm</i>	a <i>firm</i> whose <i>permitted activities</i> include <i>issuing e-money</i> .
<i>e-money float</i>	(in <i>ELM</i> ) (in relation to an <i>ELMI</i> ) <i>qualifying liquid assets</i> owned by an <i>ELMI</i> except those that, taking into account <i>ELM</i> 3.3.13R (Establishment of the e-money float), the <i>ELMI</i> does not need in order to comply with <i>ELM</i> 3.3.1R (Asset-liability management).
<i>e-money float exposure</i>	(in <i>ELM</i> ) the risks of loss set out in <i>ELM</i> 3.5.3 (Large exposure risk).
<i>e-money issue price</i>	(in respect of <i>e-money</i> issued by an <i>e-money firm</i> ) the amount paid to the <i>e-money firm</i> for the issue of that <i>e-money</i> before or on the issue of that <i>e-money</i> .
<i>e-money issuer</i>	(in accordance with the definition of an “electronic money institution” in article 1.3 of the <i>E-Money Directive</i> ) an <i>undertaking</i> or any other legal <i>person</i> , other than a <i>full credit institution</i> , which issues means of payment in the form of <i>e-money</i> .
<i>e-money outstandings</i>	(in <i>ELM</i> ) (in relation to an <i>ELMI</i> and at any time) the total amount (actual or contingent) of the <i>ELMI</i> 's financial liabilities related to outstanding <i>e-money</i> at that time, including the total amount that would be payable by the <i>ELMI</i> if all the <i>e-money</i> in respect of which <i>persons</i> have, against the <i>ELMI</i> , a <i>redemption right</i> or any other right to require <i>e-money</i> to be redeemed were then due for redemption.
<i>e-money scheme rules</i>	(in <i>ELM</i> ) (in relation to a scheme under which a <i>firm</i> issues <i>e-money</i> ) the contracts between the participants in that scheme relating to the issue, circulation and redemption of <i>e-money</i> , including the contracts referred to in <i>ELM</i> 6.7.2R (Terms of redemption).
<i>financial holding company</i>	(in <i>ELM</i> ) a <i>financial institution</i> , the <i>subsidiary undertakings</i> of which are either exclusively or mainly <i>relevant financial services companies</i> or <i>financial institutions</i> , one of which at least is a <i>relevant financial services company</i> .
<i>financial services undertaking</i>	(in <i>ELM</i> ) a <i>financial institution</i> , <i>ancillary banking services undertaking</i> , <i>financial holding company</i> or <i>relevant financial services company</i> .
<i>foreign currency</i>	(in <i>ELM</i> ) (in relation to an <i>ELMI</i> ) any currency other than its <i>base currency</i> .
<i>FSA consolidation rule</i>	(in <i>ELM</i> ) the following <i>rules</i> in <i>IPRU</i> : <ul style="list-style-type: none"> <li>(a) 3.3.13R in chapter GN of <i>IPRU(BANK)</i> (except as it applies to a <i>bank</i> purely on a solo basis);</li> <li>(b) <i>IPRU(BSOC)</i> 1.2.1R (except as it applies to a <i>building society</i> purely on a solo basis);</li> </ul>

	(c) <i>IPRU(INV)</i> 5.7.1R;
	(d) <i>IPRU(INV)</i> 10.200R(1) to 10.204R;
	(e) <i>IPRU(INV)</i> 13.7.2AR and 13.2.7BR.
<i>full BCD credit institution</i>	a <i>BCD credit institution</i> that falls within paragraph (1) of the definition of <i>credit institution</i> .
<i>full credit institution</i>	a <i>credit institution</i> that falls within paragraph (1) of the definition of <i>credit institution</i> .
<i>FX exposure</i>	(in <i>ELM</i> ) (in relation to an <i>ELMI</i> ) its <i>net FX open position</i> multiplied by 8%, calculated in accordance with <i>ELM</i> 3.4 (Foreign exchange risk).
<i>FX exposure limit</i>	(in <i>ELM</i> ) (in relation to an <i>ELMI</i> ) the amount by which the <i>ELMI's own funds</i> exceed 3% of its <i>e-money outstandings</i> , calculated in accordance with <i>ELM</i> 3.4 (Foreign exchange risk).
<i>granting an e-money permission</i>	(a) (in the case of a <i>firm</i> that previously had not had a <i>Part IV permission</i> ) giving the <i>firm</i> a <i>Part IV permission</i> that includes <i>issuing e-money</i> ;
	(b) (in the case of a <i>firm</i> that does have a <i>Part IV permission</i> ) a variation of a <i>Part IV permission</i> so that it includes <i>issuing e-money</i> .
<i>group of closely related counterparties</i>	(in <i>ELM</i> ) a group of <i>persons</i> who fall within <i>ELM</i> 3.5.8R (Calculation of large exposure).
<i>initial capital</i>	(in <i>ELM</i> ) items coming into stage A of the calculation in <i>ELM</i> 2.4.2R (Calculation of initial capital and own funds).
<i>issuing e-money</i>	the activity specified in article 9B of the <i>Regulated Activities Order</i> (Issuing electronic money), which is <i>issuing e-money</i> .
<i>large e-money float exposure</i>	(in <i>ELM</i> ) an <i>e-money float exposure</i> or <i>e-money float exposures</i> that exceeds or together exceed 10% of an <i>ELMI's own funds</i> as specified in more detail in <i>ELM</i> 3.5.7R (Calculation of large exposure).
<i>lower tier two capital</i>	(in <i>ELM</i> ) the lower tier two capital of an <i>ELMI</i> calculated in accordance with <i>ELM</i> 2.4 (Calculation of initial capital and own funds).
<i>material holdings</i>	(in <i>ELM</i> ) the holdings and positions set out in <i>ELM</i> 2.4.17R (Material holdings).
<i>multilateral</i>	(in <i>ELM</i> ) any of the following:

*development bank*

African Development Bank (AfDB)  
Asian Development Bank (ASB)  
Caribbean Development Bank (CDB)  
Council of Europe Development Bank  
European Bank for Reconstruction & Development (EBRD)  
European Investment Bank (EIB)  
European Investment Fund (EIF)  
Inter-American Development Bank (IADB)  
Inter-American Investment Corporation (IAIC)  
International Bank for Reconstruction & Development (IBRD)  
including International Finance Corporation (IFC)  
Nordic Investment Bank (NIB).

*net FX open  
currency position*

(in *ELM*) (in relation to an *ELMI*) the *ELMI*'s net open foreign currency position as calculated in accordance with *ELM* 3.4.4R (Calculation of FX exposure).

*own funds  
requirement*

(in *ELM*) (in relation to an *ELMI*) 2% of the higher of the following amounts:

- (a) the *ELMI*'s *e-money outstandings* at that time; and
- (b) the average of the *ELMI*'s *daily e-money outstandings amount* for the six *month* period ending at that time;

calculated in accordance with *ELM* 2.5 (Continuing capital requirement).

*ownership share*

(in *ELM*) in accordance with the definition of a "share" in section 422(6) of the *Act* (Controller):

- (a) (in relation to an *undertaking* with a share capital) an allotted share;
- (b) (in relation to an *undertaking* with capital but no share capital) a right to share in the capital of the *undertaking*;
- (c) (in relation to an *undertaking* without capital) an interest:
  - (i) conferring any right to share in the profits, or liability to contribute to the losses, of the *undertaking*; or
  - (ii) giving rise to an obligation to contribute to the debts or expenses of the *undertaking* in the event of a winding up.

*qualifying debt  
security*

(in *ELM*) a *security* falling into *ELM* 3.3.9R (Liquid assets).

*qualifying liquid*

(in *ELM*) an *investment* falling into *ELM* 3.3.5R (Liquid assets).

*asset*

*recognised third country investment firm*

(in *ELM*) an *investment firm* that:

- (a) is subject to the prudential rules of one of the *regulatory bodies* in Appendix C in section 10 of chapter CS of *IPRU(BANK)*; and
- (b) has its registered office (or, if it has no registered office, its head office) in the state in which that *regulatory body* is established.

*redemption right*

(in relation to an *e-money firm*) the right of a holder of *e-money* to require the *e-money firm* to redeem that *e-money* that corresponds to the duty of the *e-money firm* in *ELM* 6.3.1R (Duty to redeem) to redeem *e-money* issued by it.

*regulatory capital resources*

(in *ELM*) (in relation to a *full credit institution*) those parts of its capital that:

- (a) are treated as capital for the purpose of the laws and regulations about the maintenance of adequate capital that apply to it (including those imposed by or under the *regulatory system* or by a *regulatory body*); and
- (b) fall within the definition of own funds in the *Banking Consolidation Directive* or that the *Banking Consolidation Directive* allows *EEA States* to treat as own funds.

*relevant financial services company*

(in *ELM*) an *investment firm* or *credit institution*.

*reportable large exposure*

the same thing as *large e-money float exposure* with the following adjustments:

- (a) the figure of 10% in *ELM* 3.5.7R is replaced by 25%; and
- (b) *ELM* 3.5.6R does not apply.

*small e-money issuer*

(as defined by article 9C(10) of the *Regulated Activities Order* (Persons certified as small issuers etc)) a *person* to whom a certificate has been given by the *FSA* under that article (and whose certificate has not been revoked).

*small e-money issuer certificate*

a certificate given by the *FSA* under article 9C of the *Regulated Activities Order* (Persons certified as small issuers etc.).

*sub-group*

(in *ELM*) (in relation to a *person*):

- (a) that *person*; and
- (b) any *person* that is either:

	(i) a <i>subsidiary undertaking</i> of that person; or
	(ii) an <i>undertaking</i> in which that person or a <i>subsidiary undertaking</i> of that person holds a <i>participation</i> .
<i>sufficiently liquid</i>	(in <i>ELM</i> ) (in relation to an <i>investment</i> ) complying with the requirements about liquidity in <i>ELM</i> 3.3.11R (Test for liquidity).
<i>tier one capital</i>	(in <i>ELM</i> ) the tier one capital of an <i>ELMI</i> calculated in accordance with <i>ELM</i> 2.4 (Calculation of initial capital and own funds).
<i>tier two capital</i>	(in <i>ELM</i> ) the tier two capital of an <i>ELMI</i> calculated in accordance with <i>ELM</i> 2.4 (Calculation of initial capital and own funds).
<i>UK consolidated group</i>	(in <i>ELM</i> ) (in relation to an <i>ELMI</i> ) the <i>consolidated sub-group</i> of: <ul style="list-style-type: none"> <li>(a) the <i>ELMI's UK financial parent undertaking</i>; or</li> <li>(b) (if the <i>ELMI</i> has no <i>UK financial parent undertaking</i> and the <i>ELMI</i> is a <i>UK domestic firm</i>) the <i>ELMI</i>;</li> </ul> as established in accordance with <i>ELM</i> 7 (Consolidated financial supervision).
<i>UK financial parent undertaking</i>	(in <i>ELM</i> ) the same thing as <i>EEA financial parent undertaking</i> except that references to another <i>EEA State</i> are replaced with ones to the <i>United Kingdom</i> .
<i>UK group large exposure</i>	(in <i>ELM</i> ) (in relation to an <i>ELMI</i> ) the same thing as the <i>ELMI's EEA group large exposure</i> except that references to its <i>EEA consolidated group</i> are replaced with references to its <i>UK consolidated group</i> , as established in accordance with <i>ELM</i> 7 (Consolidated financial supervision).
<i>UK group risk own funds</i>	(in <i>ELM</i> ) the same thing as <i>EEA group risk own funds</i> , subject to the adjustments required by <i>ELM</i> 7.5.5R (UK group risk own funds and UK group risk own funds requirement).
<i>UK group risk own funds requirement</i>	(in <i>ELM</i> ) means the same thing as <i>EEA group risk own funds requirement</i> , subject to the adjustments required by <i>ELM</i> 7.5.5R (UK group risk own funds and UK group risk own funds requirement).
<i>upper tier two capital</i>	(in <i>ELM</i> ) the upper tier two capital of an <i>ELMI</i> calculated in accordance with <i>ELM</i> 2.4 (Calculation of initial capital and own funds).
<i>zero weighted asset</i>	(in <i>ELM</i> ) an <i>investment</i> falling into <i>ELM</i> 3.3.8R (Liquid assets).
<i>Zone A credit institution</i>	(in <i>ELM</i> ) a <i>full BCD credit institution</i> or a <i>full credit institution</i> that has its registered office (or, if it has no registered office, its head office) in a

*Zone A country that is not an EEA State.*

## Part 2

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

agreeing to carry on a regulated activity      the *regulated activity*, specified in article 64 of the *Regulated Activities Order* (Agreeing to carry on specified kinds of activity), of agreeing to carry on an activity specified in Part II of that Order other than:

(a) *accepting deposits*;

(aa) *issuing electronic money*;

(b) *effecting contracts of insurance*; ...

*bank*

(a) a *firm* with a *Part IV permission* which includes *accepting deposits*, and:

(i) which is a *full credit institution*; or

(ii) whose *Part IV permission* includes a *requirement* that it comply with *IPRU(BANK)*;

but which is not a *building society*, a *friendly society* or a *credit union*;

(b) an *EEA bank* which is a *full credit institution*.

*base currency*

(1) (in *CIS*) the currency specified:

(a) in the *instrument of incorporation* of an *ICVC* as the currency in which its accounts are to be prepared; or

(b) in the *trust deed* of an *AUT* as the base currency of the *AUT*;

(2) (in *ELM*) (in relation to an *ELMI*) the currency in which that *ELMI*'s books of account are drawn up.

*BCD credit institution*

...article 2(3) of the *BCD*. (see also *full BCD credit institution*.)

*credit institution*

(as defined in article 1(1) of the *BCD*)

(1) an undertaking whose business is to receive deposits or other repayable funds from the public and to grant credits for its own account; or

(2) an electronic money institution within the meaning of the *E-Money Directive*;

but excluding an institution within (2) that does not have the right to benefit from the mutual recognition arrangements under *BCD*.

(see also *BCD credit institution*, *full credit institution*, *full BCD credit institution* and *Zone A credit institution*.)

*financial institution*

(1) (in accordance with paragraph 5(c) ...*BCD*.)

(2) (in *ELM*) an undertaking other than a credit institution, the principal activity of which is to acquire holdings or to carry on one or more of the activities listed in points 2 to 12 of Annex 1 of the *Banking Consolidation Directive*.

*immediate group*

(1) (in relation to ...

(e) a parent undertaking of a subsidiary undertaking of the authorised person.

(2) (in *ELM* 7) has the same meaning as in paragraph (1), with the omission of (1)(e).

*investment firm*

any legal person ... (see also *ISD investment firm* and *recognised third country investment firm*).

*investment management firm*

a firm whose permitted activities include *designated investment business*, which is not an authorised professional firm, bank, *ELMI*, building society, ...

*own funds*

(1) own funds as described in articles 34 to 39 of the *Banking Consolidation Directive*.

(2) (in *ELM*) the own funds of an *ELMI* calculated in accordance with *ELM* 2.4 (Calculation of initial capital and own funds).

*personal investment firm*

a firm whose permitted activities include *designated investment business*, which is not an authorised professional firm, bank, *ELMI*, building society, ...

*regulated activity*

(a) *accepting deposits* (article 5);

(aa) *issuing electronic money* (article 9B);



*securities and futures firm* a firm whose permitted activities include designated investment business, which is not an authorised professional firm, bank, ELMI, building society, ...

*participant firm* a firm other than:

...

(h) a UCITS qualifier;

(i) an ELMI in relation to issuing e-money.

*specified investment* (a) deposit (article 74);

(aa) electronic money (article 74A);

## ANNEX D

### Consequential changes to the Handbook (other than to the Glossary)

In this Annex, underlining indicates new text and striking through indicates deleted text. Where an entire new provision is inserted into the Handbook, the place that it goes is indicated but the text is not underlined.

#### READERS GUIDE

Contents of the Handbook In the section “Specialist sourcebooks”, after the row “(Later: United Kingdom Listing Authority)” insert a new row:

Electronic Money	ELM
------------------	-----

#### PRIN

1.1.3G The *Principles* apply with respect to *regulated activities* generally, but, in applying the *Principles* with respect to *accepting deposits*, *issuing electronic money*, *general insurance business* and *long-term insurance business* involving *pure protection contracts* or reinsurance contracts, the *FSA* will proceed only in a *prudential context*.

#### COND

COND 1: Introduction Annex 1G In the first (top) box of the right hand column of the flow chart, insert after “applied for accepting deposits”:

“or *issuing electronic money*”

2.1.1G **(1) If the regulated activity concerned is the effecting or carrying out of contracts of insurance the authorised person must be a body corporate (other than a limited liability partnership), a registered friendly society or a member of Lloyd’s.**

**(2) If the person concerned appears to the [FSA] to be seeking to carry on, or to be carrying on, a regulated activity constituting accepting deposits or issuing electronic money, it must be–**

**(a) a body corporate; or**

**(b) a partnership.**

2.1 After 2.1.2G, insert :

“2.1.3G The words “or *issuing electronic money*” in paragraph 1(2) of Schedule 6 to the *Act* were added by the Financial Services and Markets Act 2000 (Regulated Activities) (Amendment) Order 2002 with effect from 27 April 2002.”

## **GEN**

Schedule 4 The following powers and related provisions in or under the *Act* have been exercised by the *FSA* in *GEN* to direct, require or specify:

...

Regulation 12 of the OIEC Regulations (Authorisation)-

article 9D of the Regulated Activities Order (Applications for certificates)

article 9F of the Regulated Activities Order (Revocation of the certificate on request).

Schedule 4 In the list of rule-making powers, after “Article 15 of the Financial Services and Markets Act 2000 (Variation of Threshold Conditions) Order 2001 (SI 2001/2507)”, insert:

"The following articles of the *Regulated Activities Order*:

article 9G(1) (Obtaining information from certified persons);

article 9H(1) (Rules prohibiting the issue of electronic money at a discount)."

## **IPRU (BANK)**

GN 3.5.1R

Definition of credit institution:

“An undertaking whose business is to receive deposits or other repayable funds from the public and to grant credits for its own account or an electronic money institution within the meaning of article 1(3)(a) of Directive 2000/46/EC (the E-Money Directive) that has the right to benefit from the mutual recognition arrangements under Directive 2000/12/EC (the Banking Consolidation Directive).”

CO 1.2.3, fourth paragraph

These requirements reflect the requirements of the EU directives applying to deposit-taking credit institutions (that is, a “full credit institution” within the meaning of the Glossary).

CA 3.1.1

for authorised deposit-taking credit institutions (that is, a “full credit institutions” within the meaning of the Glossary) on an unconsolidated basis be Euro 5mn.

- CA 3.1.1(a) Insert after "... to grant credits for its own account.":
- “A credit institution that is an electronic money institution within the meaning of article 1(3)(a) of the E-Money Directive that has the right to benefit from the mutual recognition arrangements under the Banking Consolidation Directive is subject to the lower minimum initial capital requirements specified in the E-Money Directive.”
- CA 10.2.2(c)(b) The definition of *credit institution* is given in ~~the section on minimum capital requirements~~ rule 3.5.1R.
- TE 2.1.3(c) Insert after “to grant credit for its own account” :
- “or an electronic money institution within the meaning of article 1(3)(a) of the E-Money Directive that has the right to benefit from the mutual recognition arrangements under the Banking Consolidation Directive”
- LE 1.1.2 The Banking Consolidation Directive (formerly The Large Exposures Directive, ‘LED’ – 92/121/EEC), applying to deposit-taking credit institutions (that is, “full credit institutions” within the meaning of the Glossary) ...

### **IPRU (BSOC): VOLUME 1**

- X.7.1G After the definition for “the BCD”, insert a new definition for a “credit institution”:
- “An undertaking whose business is to receive deposits or other repayable funds from the public and to grant credits for its own account or an electronic money institution within the meaning of article 1(3)(a) of Directive 2000/46/EC (the E-Money Directive) that has the right to benefit from the mutual recognition arrangements under the BCD).”
- Annex  
1B.4.1(2) Deposits with or securities issued, guaranteed, or (in the case of bills of exchange) accepted by, or other claims on, any Zone A credit institution (see Annex 1G).
- Annex  
1B.4.1(3) Deposits with, or securities issued, or (in the case of bills of exchange) accepted by, or other claims on, any Zone B credit institution (see Annex 1G), with a maturity of one year or less.

Annex 1D.1.2 Credit Institution: ~~An undertaking whose business is to receive deposits or other repayable funds from the public and to grant credits for its own account~~ see paragraph X.7.1G

Annex 5A Prudential Liquidity: In Table 5A.1G, row 1.1: “Bank notes or coinage of any country or territory or electronic money issued by a credit institution”

## **IPRU (INV)**

Ch 3 Appendix 1: Glossary of terms for IPRU(INV) 3, *credit institution*:

“means an undertaking whose business is to receive deposits or other repayable funds from the public and to grant credits for its own account or an electronic money institution within the meaning of article 1(3)(a) of Directive 2000/46/EC (the E-Money Directive) that has the right to benefit from the mutual recognition arrangements under Directive 2000/12/EC (the Banking Consolidation Directive).”

Ch 5 Appendix 1: Glossary of terms for chapter 5 (former IMRO firms), *credit institution*:

“(as defined in article 1 (1) of the Banking Consolidation Directive No. 2000/12/EC) means an undertaking whose business is to receive deposits or other repayable funds from the public and to grant credits for its own account or an electronic money institution within the meaning of article 1(3)(a) of Directive 2000/46/EC (the E-Money Directive) that has the right to benefit from the mutual recognition arrangements under the Banking Consolidation Directive.”

Ch 10 Appendix 1: Glossary of terms for IPRU(INV) 10, *credit institution*:

“means an undertaking whose business is to receive deposits or other repayable funds from the public and to grant credits for its own account or an electronic money institution within the meaning of article 1(3)(a) of Directive 2000/46/EC (the E-Money Directive) that has the right to benefit from the mutual recognition arrangements under Directive 2000/12/EC (the Banking Consolidation Directive).”

Ch 13 Appendix 13 (1): Defined terms for Chapter 13, *credit institution*:

“(as defined in article 1 (1) of the BCD) an undertaking whose business is to receive deposits or other repayable funds from the public and to grant credits for its own account or an electronic money institution within the meaning of article 1(3)(a) of Directive 2000/46/EC (the E-Money Directive) that has the right to benefit from the mutual recognition arrangements under Directive 2000/12/EC (the Banking Consolidation Directive). (See also BCD credit institution.)”

**AUTH**

2.6 After 2.6.4G, insert:

**“Electronic Money**

2.6.4A G *Electronic money* is specified as an *investment* in article 74A of the *Regulated Activities Order* (as amended by the Financial Services and Markets Act 2000 (Regulated Activities) (Amendment) Order 2002). It is defined, in article 2 of that order, as monetary value, as represented by a claim on the issuer, which is stored on an electronic device, issued on receipt of funds and accepted as a means of payment by *persons* other than the issuer. Further *guidance* is given in *AUTH 2 App 3*.”

2.7 After 2.7.2G, insert:

**“Issuing e-money**

2.7.2A G *Guidance* on the *regulated activity* of *issuing e-money* is given in *AUTH 2 App 3*.”

2.8 After 2.8.2G, insert:

**“Issuing e-money**

2.8.2A G Certain 'small issuers' of *e-money* may apply to the *FSA* for a certificate to be excluded from the *regulated activity* of *issuing e-money*. To be eligible, the issuer must be a *body corporate* or a *partnership* (other than a *full credit institution*) with its head office in the *United Kingdom* and it must meet certain conditions. The *FSA* must give that issuer a certificate if it appears to the *FSA* that the issuer meets those conditions. Further *guidance* on those conditions and how the application is made is given in *ELM 8.4* (The conditions for giving a small e-money issuer certificate).”

Ch 2, Annex 2G In Table 1: Regulated Activities, after the row “(a) accepting deposits ...”, insert a new row:

(aa) <i>issuing electronic money</i> (article 9B)	<i>electronic money</i> (article 74A)
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In Notes to Table 1 Note 1, after the row “accepting deposits (article 5)”, insert a new row:

• <i>issuing electronic money</i> (article 9B)
--

3.8.4G(2) The *Single Market Directives*, ~~and~~ the *Capital Adequacy Directive* and the *E-Money Directive* set out minimum financial requirements for all *firms* which carry on banking, issuing e-money, insurance or investment services within the scope of the *Single Market Directives* and the *E-Money Directive*, that is, most *firms* that are *credit institutions*, *financial institutions*, *insurance undertakings* or *investment firms* as defined in these Directives.

3.8.5G(2) ... under the scope of a *Single Market Directive* or the *E-Money Directive* ...

3.8.5G(3) ... outside the *Single Market Directives* or the *E-Money Directive* ...

3.13 Heading:

“Specific obligations: applicants seeking to carry on the regulated activities of accepting deposits or issuing electronic money”

3.13.1G Under threshold condition 1 (Legal status), an applicant who seeks to carry on the *regulated activities* of *accepting deposits* or issuing electronic money must be either a *body corporate* or a *partnership* (see *COND*).

Ch 3 Annex 2: in the flow chart headed “Determination of an applicant's prudential category”, in the fourth box down of the left hand column, line 1, after “*building society*” add “*ELMP*”

Ch 5 Annex 1: Establishment of a branch: Contents of Consent Notice

1 Table

	<b>Para No.</b>	
<i>Credit institution</i> or	(d)	“the solvency ratio of the <i>firm</i> (calculated in accordance with the <i>Banking Consolidation Directive</i> ) <u>or, for a credit institution in the form of an electronic money institution within the meaning of article 1(3)(a) of the <i>E-Money Directive</i> that has the right to benefit from the mutual recognition arrangements under the <i>Banking Consolidation Directive</i>, its own funds ratio as calculated in accordance with article 4 (2) of the <i>E-Money Directive</i> and the amount of its investments and financial liabilities related to outstanding electronic money in accordance with article 5 (1) of the <i>E-Money Directive</i>.</u> ”
<i>Financial institution</i>	(d)	“the solvency ratio of the <i>firm's parent undertaking</i> (calculated in accordance with the <i>Banking Consolidation Directive</i> ) <u>or, if the <i>firm's parent undertaking</i> is a credit institution in the form of an electronic</u>

money institution within the meaning of article 1(3)(a) of the E-Money Directive that has the right to benefit from the mutual recognition arrangements under the Banking Consolidation Directive, its own funds ratio as calculated in accordance with article 4 (2) of the E-Money Directive and the amount of its investments and financial liabilities related to outstanding electronic money in accordance with article 5 (1) of the E-Money Directive.”

### Annex 3: Application of the Handbook to Incoming EEA Firms

The rows are to be amended as indicated. The heading to the table is shown for convenience.

#### 2 Table

(1) Module of Handbook	(2) Potential application to an incoming EEA firm with respect to activities carried on from an establishment of the firm (or its appointed representative) in the United Kingdom	(3) Potential application to an incoming EEA firm with respect to activities carried on other than from an establishment of the firm (or its appointed representative) in the United Kingdom
IPRU (BANK)	“Only the following apply, and only if the <i>firm</i> is a <i>credit institution other than an electronic money institution within the meaning of article 1(3)(a) of the E-Money Directive</i> that has the right to benefit from the mutual recognition arrangements under the <i>Banking Consolidation Directive</i> (IPRU(BANK) 3.2.1R): (a) ...”	[no change]
COMP	“... a <i>BCD credit institution</i> (see the definition of a “ <i>participant firm</i> ”) <u>other than an electronic money institution within the meaning of article 1(3)(a) of the E-Money Directive</u> that has the right to benefit from the mutual recognition arrangements under the <i>Banking Consolidation Directive</i> . However, ... ”	[no change]



After the row for 'REC' add:

"*ELM* Only *ELM* 6 and (insofar as it applies to the rules in *ELM* 6) *ELM* 5.6.1R apply. Does not apply."

**SUP**

3.1.2R In the "Table Applicable sections" after row (5), insert a new row. The heading to the table is shown for convenience.

(1) Category of firm	(2) Sections applicable to the firm	(3) Sections applicable to its auditor
(5A) <i>ELMI</i>	<i>SUP</i> 3.1 - <i>SUP</i> 3.7	<i>SUP</i> 3.1, <i>SUP</i> 3.2, <i>SUP</i> 3.8

8.2.7G Amend the Table "Rules which can be made" as indicated.

Rules	Section of the Act or other provision regulation of the OEIC Regulations under which rules are made	Chapters of the Handbook where such rules appear (Note 1)
<i>Investment company with variable capital rules</i>	Regulation 6 of the <i>OEIC Regulations</i>	<i>CIS</i>
<u>Information from small e-money issuers rules</u>	Article 9G(1) of the <i>Regulated Activities Order</i>	<i>ELM</i> 8.7
<u>Rules prohibiting the issue of e-money at a discount</u>	Article 9H(1) of the <i>Regulated Activities Order</i>	<i>ELM</i> 4.4

15.4.1R(1) for a *bank* or an *ELMI*: the two or more persons who effectively direct its business in accordance with *IPRU (BANK)* GN 3.3.1R and *ELM* 5.3.1R, respectively;

Ch 15 *SUP* 15 Annex 2R Form F Changes in notified persons - for question 3.01(c) (Notified positions), insert:

c For a <i>bank</i> or an <i>ELMI</i> : the two or more persons who effectively direct its business in accordance with <i>IPRU (BANK)</i> GN 3.3.1R and <i>ELM</i> 5.3.1R, respectively	<input type="checkbox"/>
---	--------------------------

16.1.3R In the "Table Application of different sections of *SUP* 16", amend one row and, after the row "*Members' adviser*", insert a new row. The heading to the table is shown for convenience.

(1) Section(s)	(2) Categories of firm to which section applies	(3) Applicable rules and guidance
SUP 16.6	Bank, <u>ELMI</u>	SUP 16.6.4R to SUP 16.6.5R
	<u>ELMI</u>	<u>SUP 16.7.62R to SUP 16.7.64R</u>

16.6.2G In the “Table Applicable provisions of this section”, amend as indicated:

Category of firm	Applicable provisions
Bank, <u>ELMI</u>	SUP 16.6.4R – SUP 16.6.5R

16.6.4R A bank and an ELMI ...

16.6.5R Table Compliance reports from bank and an ELMI ...

16.7.5G In the Table “Applicable rules and guidance on financial reports”, after the row “*Members’ adviser*”, insert a new row. The heading to the table is shown for convenience.

Firm category	Applicable rules and guidance
<u>ELMI</u>	SUP 16.7.62R - SUP 16.7.64R

16.7 After 16.7.61R, insert three new rules:

**“Electronic money institutions**

16.7.62 R (1) SUP 16.7.63 R and SUP 16.7.64R do not apply to a *lead regulated firm*.

(2) A *lead regulated firm* must submit a copy of its audited annual financial statements to the *FSA* within six *months* of the date at which they were prepared.

16.7.63 R An *ELMI* must submit reports in accordance with SUP 16.7.64R.

16.7.64 R Table Financial reports from an *ELMI* (see SUP 16.7.63R)

<b>Content of Report</b>	<b>Form (Note 1)</b>	<b>Frequency</b>	<b>Due date</b>
Annual report and audited accounts	N/A	Annually	3 months after the firm's accounting reference date
Unconsolidated reporting statement on capital adequacy	ELM-CA/LE	Half-yearly	20 business days after period end (22 business days if submitted electronically)
Consolidated reporting statement on capital adequacy	ELM-CA/LE	Half-yearly	20 business days after period end (22 business days if submitted electronically)
Consolidated reporting statement on capital adequacy in the case of <i>ELM 7.3.2R</i>	BSD3	Half-yearly	20 business days after period end (22 business days if submitted electronically)
Unconsolidated large exposures reporting statement	ELM-CA/LE	Half-yearly	20 business days after period end (22 business days if submitted electronically)
Consolidated large exposures reporting statement	ELM-CA/LE	Half-yearly	20 business days after period end (22 business days if submitted electronically)
List of <i>companies</i> included in the <i>ELMI's</i> consolidated large exposure reporting	N/A	Annually	6 months after the firm's accounting reference date
Note 1 = When giving the report required, an <i>ELMI</i> must use the form indicated (if any). A copy of Forms BSD3 and ELM-CA/LE are set out in <i>SUP 16 Annex 1R</i> .			

Ch 16

SUP 16 Ann 1R:

“Banks and ELMIs reporting forms

...

7 Form ELM-CA/LE”

Appendix 1 In 1.3.1G Table “Prudential categories and sub-categories used in the Interim Prudential sourcebooks and the Supervision manual”, insert new row after [Building Society]. The heading to the table is shown for convenience.

Prudential categories (Note 1)	Applicable prudential requirements (Note 2)	Prudential sub-categories
<i>ELMI</i>	<i>ELM</i>	

In 1.7 Figure 1: “Determination of a firm's prudential category - general”, in the fourth box down of the left hand column, line 1, after “*building society*” add “*ELMP*”

## ENF

2.2.1G (3)(a) to gather information from *firms* and to conduct investigations of *firms*, *approved persons*, individuals involved in *firms*, ~~and~~ *appointed representatives*, and *small e-money issuers*, including issuing preliminary findings letters;

2.3.11G After the final sentence, insert:

As a result of article 9G of the *Regulated Activities Order*, the *FSA* has certain powers to require specified information and *documents* from a *small e-money issuer* and a power under section 166 to require a *small e-money issuer* to provide a report by a *skilled person*. These powers are described in *ELM* 8.7.

2.3.14G Insert a new paragraph:

(4) As a result of article 9G(8) of the *Regulated Activities Order*, sections 168(4) and (5) also have effect if it appears to the *FSA* that there are circumstances suggesting that a *small e-money issuer* may not meet, or may not have met, the conditions for the giving of a *small e-money issuer certificate* given under article 9C and referred to in *ELM* 8.4.

2.3.15G The *FSA* may use these powers to investigate *firms*, *approved persons*, ~~and~~ individuals employed by *firms*, and *small e-money issuers* as well as cases of market misconduct and breaches of the *general prohibition*. The *FSA*'s policies on the use of this power are therefore set out in three different sections of this chapter:

(1) *ENF* 2.5 deals with the use of this power and other powers in relation to *firms*, *approved persons*, individuals employed by *firms*, ~~and~~ *appointed representatives* and *small e-money issuers*;

2.5.1G They also set out the *FSA's* policy on using its powers to carry out investigations into the affairs of *firms, approved persons*, individuals involved in *firms, ~~and~~ appointed representatives, and small e-money issuers*.

2.5.4G If the information available to the *FSA* raises a regulatory concern about a *firm, ~~or~~ an approved person's* conduct or fitness and propriety, or a *small e-money issuer*, the *FSA* may need to make further enquiries by using its powers to require reports by *skilled persons* or to appoint investigators. The nature of the *FSA's* enquiries will depend on the nature and seriousness of its concerns and on the attitude of the *firm or small e-money issuer* concerned.

2.5.8G(1) This will include cases where an effective and thorough investigation by the *FSA* is likely to call for the exercise of powers to require the *firm or connected persons or small e-money issuer* to answer questions and/or produce *documents*. In those cases, the *FSA* will appoint an investigator under section 167 or 168 of the *Act*; if appropriate, the *FSA* may also require the *firm or small e-money issuer* to provide a *skilled person's* report under section 166.

2.5.12G Unless it is not practicable to do so (such as in cases of urgency), *FSA* staff (or the investigator appointed by the *FSA*) will generally send a preliminary findings letter to a *firm, approved person*, individual involved in a *firm, ~~or~~ appointed representative or small e-money issuer* under investigation (as the case may be) before considering whether to recommend that enforcement action be initiated.

## DEC

Ch 2 Annex 1G: in the “Table List of warning notices and decision notices under the Act (other than Part VI) ”, after:

- the third row (beginning “52(7)/9(c) ” the first time it occurs in the first column), and
- the fifth row (beginning “52(7)/9(c) ” the third time it occurs in the first column),

insert the following rows respectively. The heading to the table is shown for convenience.

Note: Third party rights and access to *FSA* material apply to the powers listed in this table where indicated by an asterisk \* (see *DEC* 2.4)

Section of the Act	Description	Handbook reference	Decision maker
--------------------	-------------	--------------------	----------------

52(7)/9(c) as applied by article 9D of the <i>Regulated Activities Order</i>	when the <i>FSA</i> is proposing/deciding to refuse an application for a <i>small e-money issuer certificate</i>	<i>ELM 8</i>	<i>RDC</i>
54 as applied by article 9E of the <i>Regulated Activities Order</i>	when the <i>FSA</i> is proposing to revoke a <i>small e-money issuer certificate*</i>	<i>ELM 8</i>	<i>RDC</i>

Ch 4 In 4.1.4G after (4), insert:

“(4A) to refuse an application for, or to revoke, a *small e-money issuer certificate* (see *ELM 8* (Small e-money issuers));”

**PROF**

Ch 2 Amend Annex 2G (Status of exempt professional firm) as shown:

As at 21 ~~June 2001~~ March 2002 the Treasury had made the following order under section 327(6):

The Financial Services and Markets Act 2000 (Professions) (Non-Exempt Activities) Order 2001 (SI 2001/1227), as amended by article 7 of the Financial Services and Markets Act 2000 (Regulated activities) (Amendment) Order 2002 (SI 2002/682))