

**SUPERVISION MANUAL (AMENDMENT NO 9) INSTRUMENT 2002**

**Powers exercised**

- A. The Financial Services Authority makes this instrument in the exercise of the following powers in the Financial Services and Markets Act 2000 (the “Act”):
- (1) section 138 (General rule-making power);
  - (2) section 156 (General supplementary powers);
  - (3) section 182 (Notification); and
  - (4) section 157(1) (Guidance).
- 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 as follows:
- (1) the amendments in Annex A come into force on 1 January 2003;
  - (2) the remainder of this instrument comes into force on 1 October 2002.

**Amendment of the Supervision manual**

- D. The Supervision manual is amended in accordance with Annexes A and B to this instrument.

**Citation**

- E. This instrument may be cited as the Supervision Manual (Amendment No 9) Instrument 2002.

By order of the Board  
19 September 2002

**Annex A**  
**Amendments to SUP**  
**coming into force on 1 January 2003**

In this Annex, underlining indicates new text and striking through indicates deleted text.

11.1.1 R This chapter applies to every firm except:

...  
 (4) ~~a firm which is a partnership;~~ [deleted]  
 ...

11 Ann 4 D Controllers Form A  
 Notification of a change in control

...

**Declaration and Signature**

...

<b>Capacity in which control to be held</b>	<b>Signatory</b>
---	------------------

...

<u>As a partner in a partnership or as a partnership</u>	a partner <u>(and one partner only need sign, even if the form is submitted by several partners)</u> (if Controllers Form B is submitted in relation to <del>partners-partners</del> , one of those partners should sign)
--	--

16.1.3 R Table Application of different sections of SUP 16

(1) Section(s)	(2) Categories of firm to which section applies	(3) Applicable rules and guidance
...	...	...
SUP 16.4 and 16.5	All categories of firm except: ... (e) <del>a partnership;</del> <u>[deleted]</u>	

16.4.1 G The effect of SUP 16.1.1R is that this section applies to every firm except:

...

(5) ~~a partnership~~; [deleted]

...

16.5.1 G

The effect of SUP 16.1.1R is that this section applies to every *firm* except:

...

(5) ~~a partnership~~; [deleted]

...

**Annex B**  
**Amendments to SUP**  
**coming into force on 1 October 2002**

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

8.3.1A      G      Even if the conditions in section 148(4) of the *Act* are satisfied, the *FSA* will consider other relevant factors before giving a *waiver*, such as whether the *waiver* would be compatible with European law, including relevant EC Directives.

**Waiver of an evidential provision**

8.3.11      G      An application for a *waiver* of an *evidential provision* will normally be granted only if a breach of the underlying binding *rule* is actionable under section 150 of the *Act*. Individual *guidance* would normally be a more appropriate response (see *SUP* 9 (Individual Guidance)) if there is no right of action.

8.3.12      G      An application for a *waiver* of the presumption of compliance created by an *evidential provision* would not normally be granted.

8.3.13      G      For an application for a *waiver* of the presumption of contravention of a binding *rule*, which is actionable under section 150 of the *Act*, the *FSA* would normally wish to be satisfied that the *evidential rule* is itself unduly burdensome or does not achieve the purpose of the *rule*.

**Waiver of a two-way evidential provision**

8.3.14      G      In the case of an application for a *waiver* of a two-way *evidential provision* relating to an actionable binding *rule*, the policy in *SUP* 8.3.12G would apply to the presumption of compliance and the policy in *SUP* 8.3.13G would apply to the presumption of contravention. In other words, any modification is likely to be in relation to the second presumption only.

11.1.2 R Table Applicable sections (see SUP 11.1.1R)

Category of firm		Applicable sections
(1)	A <i>UK domestic firm</i> other than a <i>building society</i> or a <i>non-directive friendly society</i>	All except <i>SUP 11.3</i> and <i>SUP 11.4.4R</i>
(1A)	A <i>building society</i>	(a) In the case of an exempt change in <i>control</i> (see Note), <i>SUP 11.1</i> , <i>SUP 11.2</i> and <i>SUP 11.9</i>  (b) In any other case, all except <i>SUP 11.3</i> and <i>SUP 11.4.4R</i>
(2)	A <i>non-directive friendly society</i>	<i>SUP 11.1</i> , <i>SUP 11.2</i> , and <i>SUP 11.9</i>
(3)	An <i>overseas firm</i>	All except <i>SUP 11.3</i> , <i>SUP 11.4.2R</i> , <i>SUP 11.4.3G</i> , <i>SUP 11.4.9G</i> , <i>SUP 11.5.8G</i> to <i>SUP 11.5.10G</i> , <i>SUP 11.6.2R</i> , <i>SUP 11.6.3R</i> , <i>SUP 11.6.6.G</i> , <i>SUP 11.7</i>
Note	In row (1A), a change in <i>control</i> is exempt if the <i>controller</i> or proposed <i>controller</i> is exempt from any obligation to notify the <i>FSA</i> under Part XII of the <i>Act</i> (Control over Authorised Persons) because of The Financial Services and Markets Act 2000 (Controllers) (Exemption) (No 2) Order 2001 (SI 2001/3338). (See <i>SUP 11.3.2AG(2)</i> .)	

11.3.2A G The Treasury have made the following exemptions:

- (1) *controllers* and potential *controllers* of *non-directive friendly societies* are exempt from the obligation to notify a change in *control* (The Financial Services and Markets Act 2000 (Controllers) (Exemption) Order 2001 (SI 2001/2638));
- (2) *controllers* and potential *controllers* of *building societies* are exempt from the obligation to notify a change in *control* unless the change involves the acquisition of a holding of a specified percentage of a society's capital or the increase or reduction by a specified percentage of a holding of a society's capital (The Financial Services and Markets Act 2000 (Controllers) (Exemption) (No.2) Order 2001 (SI 2001/3338.). The "capital" of a society for these purposes consists of:

(a) any shares of a class defined as deferred shares for the purposes of section 119 of the Building Societies Act 1986 which have been issued by the society (in practice, likely to be permanent interest bearing shares (PIBS)); and

(b) the general reserves of the society.

**Exceptions: Building societies and friendly societies**

16.4.10R

...

16.4.11R

In SUP 16.4.5R and SUP 16.4.10R, a *building society* may regard a *person* as not being a *controller* if that *person* is exempt from the obligation to notify a change in *control* under The Financial Services and Markets Act 2000 (Controllers) (Exemption) (No.2) Order 2001 (SI 2001/3338) (see SUP 11.3.2AG (2)).

## Amendments to SUP 16

16.7.17R Table Financial reports from a building society. (see SUP 16.7.16R)

	Content of Report	Form (Note 1)	Frequency	Due date
... (row 8)	Adequate information on balance sheet, income and expenditure....	AFS1	Annually	2 months after society's <del>accounting reference date</del> <u>accounting reference date</u> .

16.7.29R Table Financial reports from a securities and futures firm which is an adviser, local or a traded options market maker (see SUP 16.7.29R)

	Report	Frequency	Due date
... (row 2)	Audited annual financial statements ( <del>partnerships</del> <u>partnerships</u> and <i>bodies corporate</i> only)	Annually	3 months after the firm's <i>accounting reference date</i>

16.7.33R (2) An authorised signatory must be:

- (a) for a ~~body corporate~~ body corporate, a *director*;
  - (b) for a ~~partnership~~ partnership, a *partner* who is an *approved person* of the *firm*;
- ...

16.7.36R Table Financial reports from an investment management firm (see SUP 16.7.35R)

	Report	Frequency	Due date
... (row 4)	Quarterly Financial Return (only for <del>firms</del> <u>firms</u> subject to a Liquid Capital Requirement as set out in IPRU(INV) 5.2.3 (1)(a) or (b)	1. Quarterly	1 month after quarter end

...  
Note 3: The definition of ~~ISD~~ ISD firm for this purpose is provided in the glossary located in IPRU(INV) 5.

16.7.45R Table Financial reports from a personal investment firm (except a small personal investment firm) (see SUP 16.7.44R)

Note 5

...

For any other *firm* to which SUP 16.7.465R applies, frequency will be quarterly, and the due date will be 4 months after year end.

16.7.56R Table Financial reports from the Society of Lloyd's (see SUP 16.7.55R)

2. Report	Frequency	Due date
-----------	-----------	----------

...

(row 2) Annual Lloyd's Return Annually 6 months after the ~~Society's~~ Society's accounting reference date

16.8.13R (6) ... a *life policy* purchased by the trustees of an *occupational pension scheme* which is a *defined benefits pension scheme*;