DEALING AS PRINCIPAL INSTRUMENT 2002

Powers exercised

A. The Financial Services Authority makes this instrument in the exercise of the powers listed in Schedule 4 to the General provisions.

B. The rule-making powers listed in that Schedule are specified for the purpose of section 153(2) of the Financial Services and Markets Act 2000 (Rule-making instruments).

Commencement

C. This instrument comes into force as follows:

(1) the amendments in Annex B come into force on 1 May 2003;

(2) the remainder of this instrument comes into force on 1 December 2002.

Amendments coming into force on 1 December 2002

D. SYSC, GEN and SUP are amended in accordance with Annex A to this instrument.

Amendments coming into force on 1 May 2003

E. MAR, SUP and the Glossary are amended in accordance with Annex B to this instrument.

Citation

F. This instrument may be cited as the Dealing as Principal Instrument 2002.

By order of the Board
21 November 2002
Annex A

Amendments to SYSC, GEN and SUP

coming into force on 1 December 2002

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

Amendments to Senior management arrangements, systems and controls

SYSC 3.2.8 R (1) A firm which carries on designated investment business with or for customers must allocate to a director or senior manager the function of:

(a) having responsibility for oversight of the firm’s compliance; and

(b) reporting to the governing body in respect of that responsibility.

Amendments to the General provisions

General Provisions

Transitional provisions

2 Table

<table>
<thead>
<tr>
<th>(1)</th>
<th>(2)</th>
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<th>(6)</th>
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<td>Material to which the transitional provision applies</td>
<td>Transitional provision</td>
<td>Transitional provision: dates in force</td>
<td>Handbook provision: coming into force</td>
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<td>23</td>
<td>Every rule in the Handbook made by the FSA</td>
<td>R</td>
<td>Dealing as principal by certain grandfathered firms ...</td>
<td>From 20 December 2001 until 19 December 2002 30 April 2003</td>
<td>Various dates</td>
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</table>
Amendments to the Supervision manual

SUP 3.1.2R Table Applicable sections (see SUP 3.1.1R)

<table>
<thead>
<tr>
<th>(1) Category of firm</th>
<th>(2) Sections applicable to the firm</th>
<th>(3) Sections applicable to its auditor</th>
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<td>SUP 3.1 – SUP 3.7</td>
<td>SUP 3.1, SUP 3.2, SUP 3.8</td>
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<td>(4) Bank or building society which in either case carries on designated investment business (Note 2A)</td>
<td>SUP 3.1 – SUP 3.7</td>
<td>SUP 3.1, SUP 3.2, SUP 3.8, SUP 3.10</td>
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<tr>
<td>(5) Bank or building society which in either case does not carry on designated investment business (Note 2A)</td>
<td>SUP 3.1 – SUP 3.7</td>
<td>SUP 3.1, SUP 3.2, SUP 3.8</td>
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<td>…</td>
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</table>

Note 2A = For this purpose, designated investment business does not include either or both:
(a) dealing which falls within the exclusion in article 15 of the Regulated Activities Order (Absence of holding out etc) (or agreeing to do so); and
(b) dealing in investments as principal (or agreeing to do so):
   (i) by a firm whose permission to deal in investments as principal is subject to a limitation to the effect that the firm, in carrying on this regulated activity, is limited to entering into transactions in a manner which, if the firm was an unauthorised person, would come within article 16 of the Regulated Activities Order (Dealing in contractually based investments); and
   (ii) in a manner which comes within that limitation:
        having regard to article 4(4) of the Regulated Activities Order (Specified activities: general: core investment services by investment firms).

SUP 10.7.9G SYSC 3.2.8R provides that a firm which carries on designated investment business with or for customers must allocate to a director or senior manager the function of having responsibility for oversight of
the firm’s compliance and reporting to the governing body in respect of that responsibility.
Annex B

Amendments to MAR, SUP and the Glossary

coming into force on 1 May 2003

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

Amendments to the Market conduct sourcebook

MAR 3.1.2A R  In MAR 3.1.2R, the exclusion in article 15 of the Regulated Activities Order (Absence of holding out etc) is to be disregarded in determining whether dealing in investments as principal (or agreeing to do so) is a regulated activity.

Amendments to the Supervision manual

SUP 10.9.10R (1) The significant management (designated investment business) function is the function of acting as a senior manager with significant responsibility for a significant business unit which carries on designated investment business other than dealing in investments as principal, disregarding article 15 of the Regulated Activities Order (Absence of holding out etc), (and agreeing to do so).

…

…

SUP 10.9.12R (1) The significant management (other business operations) function is the function of acting as a senior manager with significant responsibility for a significant business unit which carries on:

(a) dealing in investments as principal, disregarding article 15 of the Regulated Activities Order (Absence of holding out etc), (or agreeing to do so); or

(b) an activity which is not designated investment business.

…
Amendments to the Glossary

Amend the following definition as shown:

inter-
professional business the business of a firm:

(a) when it carries on:

(i) regulated activities; or
(ii) related ancillary activities;

(b) but excluding the carrying on of the following activities:

(i) the approval by a firm of a financial promotion;
(ii) activities carried on between operators, or between operators and depositaries, of the same collective investment scheme (when acting in that capacity);
(iii) corporate finance business;
(iv) safeguarding and administering investments and agreeing to carry on that regulated activity;

in this definition, the exclusion in article 15 of the Regulated Activities Order (Absence of holding out etc) is to be disregarded in determining whether dealing in investments as principal or agreeing to do so is a regulated activity.