PASSPORTING INSTRUMENT 2005

Powers exercised
A. The Financial Services Authority makes this instrument in the exercise of the following powers and related provisions in the Financial Services and Markets Act 2000:

(1) section 138 (General rule-making power);
(2) section 156 (General supplementary powers);
(3) section 157(1) (Guidance); and
(4) paragraph 5(4) of Schedule 4 (Treaty Rights: Notice to Authority) (and sections 51(1), (3) and (6) (Applications under this Part)).

Commencement
B. This instrument comes into force on 1 February 2006.

Amendments to the Handbook
C. The modules of the FSA's Handbook of rules and guidance listed in column (1) below are amended in accordance with the Annexes to this instrument listed in column (2).

<table>
<thead>
<tr>
<th>(1)</th>
<th>(2)</th>
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</thead>
<tbody>
<tr>
<td>Glossary of definitions</td>
<td>Annex A</td>
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<td>Senior Management Arrangements, Systems and Controls sourcebook (SYSC)</td>
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<td>Electronic Commerce Directive sourcebook (ECO)</td>
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<td>Perimeter Guidance manual (PERG)</td>
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</tr>
</tbody>
</table>

Citation
D. This instrument may be cited as the Passorting Instrument 2005.

By order of the Board
15 December 2005
Annex A

Amendments to the Glossary of definitions

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

<table>
<thead>
<tr>
<th>permitted activity</th>
<th>(1) except in <strong>AUTHS SUP 13A</strong> and <strong>SUP 14</strong> a regulated activity which a firm has permission to carry on.</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>(2) (in <strong>AUTHS SUP 13A</strong> and <strong>SUP 14</strong>) an activity identified in a consent notice, a regulator's notice or, where none is required, a notice of intention.</td>
</tr>
</tbody>
</table>
Annex B

Amendments to the Senior Management Arrangements, Systems and Controls sourcebook

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

Appendix 1 Matters reserved to a Home State regulator (see SYSC 1.1.1R(1)(b) and SYSC 1.1.1R(1)(c))

…

1.1.7 G AUTH SUP 13A Annex 1G summarises the application of the Handbook to an incoming EEA firm. That annex indicates in broad terms, and in relation to such firms, those categories of matter which are reserved to a Home State regulator and those which the FSA, as Host State regulator, is entitled to regulate when carried on within the United Kingdom.
Annex C

Amendments to the Integrated Prudential sourcebook

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

9.3.2 G …An incoming EEA firm includes a firm which is passporting into the United Kingdom under the IMD (see AUTH 5A.2G SUP 13A.4.2G, in relation to branches, and AUTH 5A.5.3G SUP 13A.5.3G, in relation to cross border services).
Annex D

Amendments to the Authorisation manual

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

1.1.3  G The purpose of this manual is to give guidance about:

…

(2) the procedures by which a person can apply for, or obtain, permission under the Act to carry on these regulated activities and become an authorised person and any fees payable; see AUTH 3 (Applications for Part IV permission); and FEES 3 (Application, Notification and Vetting Fees) and AUTH 5 (Qualifying for authorisation under the Act).

…

1.2.5  G …

(1) A person from another EEA State which is authorised in its Home State may be entitled to establish a branch in, or provide cross border services into, the United Kingdom under the Single Market Directives, the Treaty or the UCITS Directive (this is often known as passporting). The process by which that person can qualify for authorisation under Schedules 3, 4 and 5 to the Act is described in AUTH 5 SUP 13A.

…

Summary of AUTH and parts of PERG

1.3.9  G This table belongs to AUTH 1.3.7G.

<table>
<thead>
<tr>
<th>Chapter:</th>
<th>Applicable to:</th>
</tr>
</thead>
<tbody>
<tr>
<td>…</td>
<td>…</td>
</tr>
<tr>
<td><strong>AUTH 5:</strong> Qualifying for authorisation under the Act</td>
<td>1—an EEA firm wishing to exercise its EEA right and establish a branch in, or provide cross border services into, the United Kingdom; 2—a Treaty firm</td>
</tr>
</tbody>
</table>
wishing to exercise its Treaty rights;
3. a prospective UCITS qualifier.

…

4.1.9 G See AUTH 3.9 in relation to the procedures for making applications for Part IV permission and AUTH 5 SUP 13A for procedures for the exercise of Treaty rights by Treaty firms.

…

AUTH Chapter 5 is deleted in its entirety.

AUTH 5 Qualifying for authorisation under the Act
[deleted: material moved to SUP13A]

…

Schedule G
2

<table>
<thead>
<tr>
<th>Handbook reference</th>
<th>Matter to be notified</th>
<th>Contents of notification</th>
<th>Trigger event</th>
<th>Time allowed</th>
</tr>
</thead>
<tbody>
<tr>
<td>…</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>AUTH 5.3.9D</td>
<td>Intention of incoming Treaty firm to carry on a regulated activity in the United Kingdom.</td>
<td>Matters relevant to the notice as indicated in the application pack.</td>
<td>Intention to carry on a regulated activity.</td>
<td>At least seven days in advance.</td>
</tr>
<tr>
<td>…</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

Schedule G
4

…

Paragraph 5(4) of Schedule 4 (Treaty Rights: Notice to Authority).

…
Annex E

Amendments to the Supervision manual

In Parts 1 and 3 of this Annex, underlining indicates new text and striking through indicates deleted text. Part 2 of this Annex is new text and is not underlined. Part 2 is closely based on the text which previously appeared as AUTH Chapter 5; it is to be inserted as Chapter 13A of the Supervision manual.

Part 1

13.1.3  G This chapter does not apply to:

(1) a firm established in an EEA State other than the United Kingdom; passporting by such a firm in or into the United Kingdom is a matter for its Home State regulator although guidance is given in AUTH § SUP 13A (Qualifying for authorisation under the Act);

... 

Part 2

13A  Qualifying for authorisation under the Act

13A.1 Application and purpose

Application

13A.1.1 G (1) This chapter applies to an EEA firm that wishes to exercise an entitlement to establish a branch in, or provide cross border services into, the United Kingdom under a Single Market Directive. (The Act refers to such an entitlement as an EEA right and its exercise is referred to in the Handbook as "passporting"). (See SUP App 3 (Guidance on passporting issues) for further guidance on passporting.)

(2) This chapter also applies to:

(a) a Treaty firm that wishes to exercise rights under the Treaty in respect of regulated activities not covered by the Single Market Directives and qualify for authorisation under Schedule 4 to the Act (Treaty Rights); and

(b) a UCITS qualifier, that is, an operator, trustee or
depositary of a recognised collective investment scheme, constituted in another EEA State, and which qualifies for authorisation under Schedule 5 to the Act (Persons concerned in collective investment schemes).

(3) The provisions implementing the Single Market Directives are within the coordinated field (see PERG 2.9.18G(1)). So, where an incoming ECA provider intends to provide electronic commerce activity that consists of activities that fall within one of the Single Market Directives, the passporting requirements on exercising an EEA right in this chapter will apply.

13A.1.2 G This chapter does not apply to:

(1) an EEA firm that wishes to carry on in the United Kingdom activities which are outside the scope of its EEA right and the scope of a permission granted under Schedule 4 to the Act; in this case the EEA firm requires a "top-up permission" under Part IV of the Act and should refer to AUTH 3 (Applications for Part IV permission); or

(2) an EEA firm that carries on any insurance activity:

(a) by the provision of services; and

(b) pursuant to a community co-insurance operation in which the firm is participating otherwise than as leading insurer (see Article 11 of the Regulated Activities Order); or

(3) a Treaty firm that wishes to provide electronic commerce activities into the United Kingdom.

13A.1.3 G (1) Under the Gibraltar Order made under section 409 of the Act (Gibraltar Order), a Gibraltar firm is treated as an EEA firm under Schedule 3 to the Act if it is:

(a) authorised in Gibraltar under the Insurance Directives; or

(b) authorised in Gibraltar under the Banking Consolidation Directives.

(2) A Gibraltar insurance company is allowed to passport its services into the United Kingdom if it complies with the relevant notification procedures. Similarly, a Gibraltar credit institution is allowed to passport into the United Kingdom to provide banking services provided those services fall within items 1 to 6 in Annex 1 to the Banking Consolidation Directive. So, any references in this chapter to EEA State or EEA right include references to Gibraltar and the entitlement
under the Gibraltar Order where appropriate.

(3) The entitlement in the Gibraltar Order does not, however, extend to *investment services* as Gibraltar investment firms have not been granted the right to passport into the *United Kingdom*.

**Purpose**

13A.1.4  G  (1) This chapter explains how an *EEA firm* and a *Treaty firm* can qualify for *authorisation* under Schedules 3 and 4 to the *Act* and how a *UCITS qualifier* is *authorised* under Schedule 5 to the *Act*.

(2) This chapter also provides *guidance* on Schedule 3 to the *Act* for an *incoming EEA firm* that wishes to establish a *branch* in the *United Kingdom* instead of, or in addition to, providing *cross border services* into the *United Kingdom* or vice versa.

13A.1.5  G  (1) *EEA firms* should note that this chapter only addresses the procedures which the *FSA* will follow under the *Act* after it has received a *consent notice* or has been *notified* of an *EEA firm*'s *intentions* by its *Home State regulator*. So, an *EEA firm* should consider this *guidance* in conjunction with the requirements with which it will have to comply in its *Home State*.

(2) The *guidance* in this chapter represents the *FSA*'s interpretation of the *Single Market Directives*, the *Act* and the secondary legislation made under the *Act*. The *guidance* is not exhaustive and should not be seen as a substitute for a *person* consulting the legislation or taking legal advice.

13A.2  EEA firms and Treaty firms

13A.2.1  G  A *person* will only be an *EEA firm* or a *Treaty firm* if it has its *head office* in an *EEA State* other than the *United Kingdom*. *EEA firms* and *Treaty firms* are entitled to exercise both the right of establishment and the freedom to provide services under the *Treaty*. The difference, however, is that an *EEA firm* has a right to passport under a *Single Market Directive*, whereas a *Treaty firm* carries on activities which do not fall within the scope of a *Single Market Directive*. An *EEA firm* may also be a *Treaty firm* if it carries on such activities. A *person* may be a *Treaty firm*, where, for example, it carries on business that:

(1) comprises *regulated activities*, such as reinsurance, which are not covered by any *Single Market Directive*; or

(2) includes *regulated activities* which do not fall within the scope of the *Single Market Directive* under which it is
entitled to exercise an EEA right.

13A.2.2 G An EEA firm may passport those activities which fall within the scope of the relevant Single Market Directive as long as they are included in its Home State authorisation.

13A.3 Qualification for authorisation under the Act

EEA firms

13A.3.1 G Section 31 of the Act (Authorised persons) states that an EEA firm is authorised for the purposes of the Act if it qualifies for authorisation under Schedule 3 to the Act (EEA Passport Rights). Under paragraph 12 of Part II of that Schedule, an EEA firm qualifies for authorisation if:

(1) it is seeking to establish a branch in the United Kingdom in exercise of an EEA right and satisfies the establishment conditions (see SUP 13A.4.1G and SUP 13A.4.2G); or

(2) it is seeking to provide cross border services into the United Kingdom in exercise of an EEA right and satisfies the service conditions (see SUP 13A.5.3G).

13A.3.2 G (1) On qualifying for authorisation, subject to SUP 13A.3.2G (2), an EEA firm will have permission to carry on each permitted activity (see (3) below) which is a regulated activity.

(2) (a) Paragraph (1) does not apply to the activity of dealing in units in a collective investment scheme in the United Kingdom where:

(i) the firm is an EEA UCITS management company;

(ii) the firm satisfies the establishment conditions in SUP 13A.4.1G; and

(iii) the FSA notifies the EEA firm and the EEA firm's Home State regulator that the way in which it intends to market a relevant scheme in the United Kingdom does not comply with the law in force in the United Kingdom.

(b) The FSA’s notice under (2)(a)(iii) has to be given to the EEA firm within two months of receiving the consent notice (see paragraph 13(1) of Part II of Schedule 3 to the Act) and will be similar to a warning notice.
(c) For details of the FSA's procedures for the giving of warning notices and references to the Tribunal, see DEC 2.2 (Statutory notice procedure: Warning notice and decision notice procedure) and DEC 5 (References to the Tribunal, publication and services of notices).

(3) The permitted activities of an EEA firm are those activities identified in the consent notice, regulator's notice or notice of intention. Permitted activities may include activities that are within the scope of a Single Market Directive but which are unregulated activities in the United Kingdom.

(4) The permission will be treated as being on terms equivalent to those appearing in the consent notice, regulator's notice or notice of intention. For example, it will reflect any limitations or requirements which are included in the firm's Home State authorisation.

13A.3.3 G An EEA firm which has qualified for authorisation is referred to in the Handbook as an incoming EEA firm.

Treaty firms

13A.3.4 G Under section 31 of the Act, a Treaty firm is authorised for the purposes of the Act if it qualifies for authorisation under Schedule 4 (Treaty Rights), that is:

(1) the Treaty firm is seeking to carry on a regulated activity; and

(2) the conditions set out in paragraph 3(1) of Schedule 4 to the Act are satisfied.

13A.3.5 G On qualifying for authorisation a Treaty firm will have permission to carry on each permitted activity which is a regulated activity. This permission will be treated on the same terms as those which apply to the Treaty firm's Home State authorisation. For example, it will reflect any limitations or requirements which are included in the firm's Home State authorisation.

13A.3.6 G The effect of paragraph 5(1) and 5(2) of Schedule 4 to the Act is that a Treaty firm which qualifies for authorisation under that Schedule must, at least seven days before it carries on any of the regulated activities covered by its permission, give the FSA written notice of its intention to do so. Failure to do so is a criminal offence under paragraph 6(1) of that Schedule.

13A.3.7 D (1) A written notice from a Treaty firm under paragraph 5(2) of Schedule 4 to the Act must be:
(a) given to a member of, or addressed for the attention of, the Authorisation Department; and

(b) delivered to the FSA by one of the methods in (2).

(2) The written notice may be delivered by:

(a) post to the address in SUP 13A.3.9G below; or

(b) leaving the application at the address in SUP 13A.3.9G below and obtaining a time-stamped receipt; or

(c) hand delivery to a member of the Authorisation Department.

13A.3.8 G The written notice required by paragraph 5(2) of Schedule 4 to the Act should be accompanied by confirmation of the Treaty firm's authorisation from the Home State regulator, as referred to in paragraph 3(2) of Schedule 4 to the Act.

13A.3.9 G (1) For further information, a Treaty firm may contact the Authorisation Department:

(a) telephone on +4420 7066 3954; or

(b) write to: Authorisation Department, The Financial Services Authority, 25 The North Colonnade, Canary Wharf, London, E14 5HS; or

(c) email corporate.authorisation@fsa.gov.uk.

13A.3.10 G (1) The guidance in PERG 2 is relevant to Treaty firms to help them determine if they require authorisation under the Act.

(2) A Treaty firm which qualifies for authorisation is referred to in the Handbook as an incoming Treaty firm.

13A.3.11 G (1) An EEA firm that is carrying on both direct insurance and reinsurance business will be entitled to passport under Schedule 3 to the Act in relation to the direct insurance business. It will also have a Treaty right under Schedule 4 to the Act. Such EEA firms are advised to discuss their particular circumstances with the Authorisation Department before sending in their notification under paragraph 5(2) of Schedule 4 to the Act (see SUP 13A.3.6G).

(2) An insurance company with its head office in an EEA State other than the United Kingdom that is carrying on pure reinsurance business in that State, and which wishes to carry on such business in the United Kingdom, is advised to discuss its particular requirements with the Authorisation Department.
Department. It may be entitled to exercise a Treaty right provided it satisfies the conditions in paragraph 3(1) of Schedule 4 to the Act (see SUP 13A.3.4G). Otherwise, it will have to seek a Part IV permission (see AUTH 3 (Applications for Part IV Permission)).

UCITS qualifiers

13A.3.12 G Under Schedule 5 to the Act (Persons concerned in collective investment schemes), a person who for the time being is an operator, trustee or depository of a scheme which is a recognised scheme under section 264 of the Act is an authorised person. Such a person is referred to in the Handbook as a UCITS qualifier.

13A.3.13 G A UCITS qualifier has permission under paragraph 2 of Schedule 5 to the Act, to carry on, as far as is appropriate to the capacity in which it acts in relation to the scheme:

(1) the regulated activity of establishing, operating or winding up a collective investment scheme; and

(2) any activity in connection with, or for the purposes of, the scheme.

13A.3.14 G A UCITS qualifier should refer to COLLG or to the following sections of COLL and CIS for requirements for recognised schemes:

(1) COLL 9.2.1G and CIS 16.1.8G for guidance on notifications;

(2) COLL 9.2.1G and CIS 17.2 for guidance on information and documentation requirements; and

(3) COLL 9.4 and CIS 17.4 which includes guidance on what facilities need to be maintained.

13A.4 EEA firms establishing a branch in the United Kingdom

The conditions for establishing a branch

13A.4.1 G (1) Before an EEA firm exercises an EEA right to establish a branch in the United Kingdom other than under the Insurance Mediation Directive, the Act requires it to satisfy the establishment conditions, as set out in paragraph 13(1) of Part II of Schedule 3 to the Act.

(2) For the purposes of paragraph 13(1)(b)(iii) of Part II of Schedule 3 to the Act, the information to be included in the consent notice has been prescribed under regulation 2 of the EEA Passport Rights Regulations.
13A.4.2 G Where an *EEA firm* exercises its *EEA right* to establish a *branch* in the *United Kingdom* under the *Insurance Mediation Directive*, the *Act* requires it to satisfy the *establishment conditions*, as set out in paragraph 13(1A) of Part II of Schedule 3 to the *Act*.

13A.4.3 G For the purposes of paragraph 13(2)(b) of Part II of Schedule 3 to the *Act*, the *applicable provisions* may include *FSA rules*. The *EEA firm* is required to comply with relevant *rules* when carrying on a *passported activity* through a *branch* in the *United Kingdom* as well as with relevant *UK legislation*.

**The notification procedure**

13A.4.4 G (1) When the *FSA* receives a consent notice from the *EEA firm's Home State regulator*, it will, under paragraphs 13(2)(b), (c) and 13(3) of Part II of Schedule 3 to the *Act*, notify the *applicable provisions* (if any) to:

(a) the *EEA firm*; and

(b) in the case of an *EEA firm* passporting under the *Insurance Directives*, the *Home State regulator*;

within two *months* of the date on which the *FSA* received the consent notice.

(2) Although the *FSA* is not required to notify the *applicable provisions* to an *EEA firm* passporting under the *Insurance Mediation Directive*, these provisions are set out in *SUP 13A Annex 1G (Application of the Handbook to Incoming EEA Firms)*.

13A.5 EEA firms providing cross border services into the United Kingdom

Is the service provided within the United Kingdom?

13A.5.1 G There is *guidance* for *UK firms* in *SUP Appendix 3.6* on when a service is provided cross border. *EEA firms* may find this of interest although they should follow the guidance of their *Home State regulators*.

13A.5.2 G An *EEA firm* should note that the requirement under the *Single Market Directives* to give a notice of intention to provide *cross border services* applies whether or not:

(1) it has established a *branch* in the *United Kingdom*; or

(2) those *cross border services* are *regulated activities*. 

14
The conditions for providing cross border services into the United Kingdom

13A.5.3 G (1) Before an EEA firm exercises an EEA right to provide cross border services into the United Kingdom, the Act requires it to satisfy the service conditions, as set out in paragraph 14 of Part II of Schedule 3 to the Act.

(2) For the purposes of paragraph 14(1)(b) of Part II of Schedule 3 to the Act, the information to be contained in the regulator's notice has been prescribed under regulation 3 of the EEA Passport Rights Regulations.

The notification procedure

13A.5.4 G (1) Unless the EEA firm is passporting under the Insurance Mediation Directive, if the FSA receives a regulator's notice or, where no notice is required (in the case of an EEA firm passporting under the Banking Consolidation Directive), is informed of the EEA firm's intention to provide cross border services into the United Kingdom, the FSA will, under paragraphs 14(2)(b) and 14(3) of Part II of Schedule 3 to the Act, notify the EEA firm of the applicable provisions (if any) within two months of the day on which the FSA received the regulator’s notice or was informed of the EEA firm's intention.

(2) Although the FSA is not required to notify the applicable provisions to an EEA Firm passporting under the Insurance Mediation Directive, these provisions are set out in SUP 13A Annex 1G (Application of the Handbook to Incoming EEA Firms).

13A.5.5 G An EEA firm that has satisfied the service conditions in paragraph 14 of Part II of Schedule 3 to the Act is entitled to start providing cross border services into the United Kingdom. However, an EEA firm that wishes to start providing cross border services but has not yet received notification of the applicable provisions may wish to contact the FSA’s Passport Notifications Unit (see SUP 13A.8.1G(2)).

13A.6 Which rules will an incoming EEA firm be subject to?


13A.6.2 G An incoming EEA firm or incoming Treaty firm carrying on business in the United Kingdom must comply with the applicable provisions (see SUP 13A.4.4G and SUP 13A.5.4G) and other relevant UK legislation. For example where the business includes:
(1) business covered by the Consumer Credit Act 1974, then an incoming EEA firm or incoming Treaty firm must comply with the provisions of that Act, as modified by paragraph 15(3) of Schedule 3 to the Act; or

(2) effecting or carrying out contracts covering motor vehicle third party liability risks as part of direct insurance business, then an incoming EEA firm or incoming Treaty firm is required to become a member of the Motor Insurers' Bureau.

13A.6.3 G In particular, an EEA firm or Treaty firm must comply with the applicable provisions in SUP 10 (Approved persons). An EEA firm or Treaty firm should read AUTH 6 (Approved persons) but also refer to SUP 10.1 (Application) which sets out the territorial provisions of the approved persons regime.

13A.6.4 G Under the EEA Passport Rights Regulations, references in section 60 of the Act (applications for approval for persons to perform controlled functions) to "the authorised person concerned" include an EEA firm with respect to which the FSA has received a consent notice or regulator's notice under paragraph 13 of Schedule 3 to the Act (see SUP 13A.4.1G(1)) and SUP 13A.4.2G) or a regulator's notice under paragraph 14 of that Schedule (see SUP 13A.5.3G (1)), and which will be the authorised person concerned if the EEA firm qualifies for authorisation under that Schedule.

13A.6.5 G SUP 13A Annex 1G does not apply to incoming ECA providers. Such persons should refer to ECO for information on how the Handbook applies to them.

13A.7 Top-up permission

13A.7.1 G If a person established in the EEA:

(1) does not have an EEA right;

(2) does not have permission as a UCITS qualifier; and

(3) does not have, or does not wish to exercise, a Treaty right (see SUP 13A.3.4G to SUP 13A.3.11G);

to carry on a particular regulated activity in the United Kingdom, it must seek Part IV permission from the FSA to do so (see AUTH 3). This might arise if the activity itself is outside the scope of the Single Market Directives, or where the activity is included in the scope of a Single Market Directive but is not covered by the EEA firm's Home State authorisation. If a person also qualifies for authorisation under Schedules 3, 4 or 5 of the Act as a result of its other activities, the Part IV permission is referred to in the Handbook as a top-up permission.
13A.7.2 G  Where the FSA grants a top-up permission to an incoming EEA firm to carry on regulated activities for which it has neither an EEA right nor a Treaty right, the FSA is responsible for the prudential supervision of the incoming EEA firm, to the extent that the responsibility is not reserved to the incoming EEA firm’s Home State regulator.

13A.7.3 G  Top-up permission will be required, for example, for designated investment business activities carried on in relation to commodity derivatives.

13A.7.4 G  For guidance on how to apply for Part IV permission under the Act, see AUTH 3 (Applications for Part IV permission). If an EEA firm or Treaty firm wishes to make any subsequent changes to its top-up permission, it can make an application for variation of that permission (see SUP 6 (Applications to vary and cancel Part IV permission)).

13A.8 Sources of further information

13A.8.1 G  For further information on UK regulation, an EEA firm, a Treaty firm or a UCITS qualifier should contact the Perimeter Guidance team at the FSA. Questions about the passporting notification procedures can be addressed to the Passport Notifications Unit.

(1) To contact the Perimeter Guidance team:

(a) telephone on +44 20 7066 0082 or fax on +44 20 7066 9719;

(b) write to: Perimeter Guidance team, The Financial Services Authority, 25 The North Colonnade, Canary Wharf, London E14 5HS.

(2) To contact the Passport Notifications Unit:

(a) telephone on +44 20 7066 1000 or fax on +44 20 7066 9798;

(b) write to: Passport Notifications Unit, The Financial Services Authority, 25 The North Colonnade, Canary Wharf, London E14 5HS;

(c) email: passport.notifications@fsa.gov.uk.
1. The table below summarises the application of the Handbook to an incoming EEA firm. Where the table indicates that a particular module of the Handbook may apply, its application in relation to any particular activity is dependent on the detailed application provisions in that module. The table does not apply to incoming ECA providers. These should refer to ECO 1 for guidance on how the Handbook applies to them.

2. In some cases, the application of the Handbook depends on whether responsibility for a matter is reserved under a European Community instrument to the incoming EEA firm's Home State regulator. Guidance on the reservation of responsibility is contained in SYSC App 1 (Matters reserved to a Home State regulator).

3. For an incoming EEA firm which has permission for cross-border services only, many parts of the Handbook apply only if the firm carries on regulated activities in the United Kingdom. Those parts of the Handbook will therefore not apply if the firm confines its activities to those within the overseas persons exclusions in article 72 of the Regulated Activities Order, or which would not be regarded as carried on in the United Kingdom. Further guidance may be found in PERG 2.4 (Link between activities and the United Kingdom) and PERG 2.9.15G to PERG 2.9.17G (Overseas persons).

<table>
<thead>
<tr>
<th>(1) Module of Handbook</th>
<th>(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</th>
<th>(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</th>
</tr>
</thead>
<tbody>
<tr>
<td>PRIN</td>
<td>The Principles apply only in so far as responsibility for the matter in question is not reserved by a European Community instrument to the firm's Home State regulator (PRIN 3.1.1R(1)). For an incoming EEA firm which is a BCD credit institution without a top-up permission,</td>
<td>The Principles do not apply if the firm has permission only for cross-border services and does not carry on regulated activities in the United Kingdom (PRIN 3.1.1R(2)). The Principles have limited application for activities which are not carried on from a UK</td>
</tr>
<tr>
<td>(1) Module of Handbook</td>
<td>(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</td>
<td>(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</td>
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</tr>
<tr>
<td><strong>Principle 4</strong> applies only in relation to the liquidity of a <em>branch</em> established in the <em>United Kingdom</em> (<em>PRIN 3.1.1R(2)).</em></td>
<td>establishment (see <em>PRIN 3.3.1R</em>). Otherwise, see column (2).</td>
<td></td>
</tr>
</tbody>
</table>

**SYSC**

*SYSC 1* contains application provisions only. *SYSC 2* and *SYSC 3* apply as set out in *SYSC 1.1.1R(1):*

1. *SYSC 2.1.1R* and *SYSC 2.1.2G* do not apply;
2. *SYSC 2.1.3R* to *SYSC 2.2.3G* apply, but only in relation to allocation of the function in *SYSC 2.1.3R(2)* and only in so far as responsibility for the matter in question is not reserved by a European Community instrument to the *firm's Home State regulator;* and
3. *SYSC 3* applies, but only in so far as responsibility for the matter in question is not reserved by a European Community instrument to the *firm's Home State regulator.*

*SYSC 1.1.7R* (Where?) further restricts the territorial application of *SYSC 1* to *SYSC 3* for an *incoming EEA firm*. Further *guidance* is contained in *SYSC 2.1.6G, Question 12.*

*SYSC 4* applies to the extent that the Public Interest Disclosure Act 1998 applies to the *firm.*

**COND**

*COND does not apply if the *firm* does not have, or apply for, a *top-up permission.*

As column (2).
<table>
<thead>
<tr>
<th>(1) Module of Handbook</th>
<th>(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</th>
<th>(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</th>
</tr>
</thead>
<tbody>
<tr>
<td>Otherwise, only threshold conditions 1, 3, 4 and 5 apply and only in so far as relevant to:</td>
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<tr>
<td>(1) an application for a top-up permission under Part IV of the Act (that is, a permission to carry on regulated activities in addition to those permitted through its authorisation under Schedule 3 to the Act (EEA Passport Rights)); and</td>
<td></td>
<td></td>
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<tr>
<td>(2) the exercise of the FSA's own-initiative power in relation to the top-up permission. (COND 1.1.1G.)</td>
<td></td>
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</tr>
<tr>
<td>APER</td>
<td>APER applies to approved persons (APER 1.1.1G). See below under SUP 10 as to whether controlled functions are performed, and approval therefore required.</td>
<td>Not relevant because SUP 10 does not apply.</td>
</tr>
<tr>
<td>FIT</td>
<td>FIT applies to a firm wishing to establish a branch in the United Kingdom or to apply for a top-up permission in respect of any application that it makes for the approval of a person to perform a controlled function (FIT 1.1). See under SUP 10 below as to whether such approval is required.</td>
<td>Does not apply.</td>
</tr>
<tr>
<td>GEN</td>
<td>GEN applies (GEN 1.1, GEN 2.1, GEN 3.1, GEN 4.1, GEN 5.1 and GEN 6.1). However, (a) GEN 4 does not apply to the extent that the firm is subject to equivalent</td>
<td>GEN 4 does not apply if the firm has permission only for cross-border services and does not carry on regulated activities in the United Kingdom.</td>
</tr>
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<td>(1) Module of Handbook</td>
<td>(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</td>
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<tr>
<td>rules imposed by its Home State (GEN 4.1.1R(3)), and (b) GEN 6 only applies to business that can be regulated under section 138 of the Act (General rule-making power). It does not therefore apply if, or to the extent that, responsibility has been reserved to an incoming firm's Home State regulator by a European Community instrument.</td>
<td>Otherwise, as column (2).</td>
<td></td>
</tr>
</tbody>
</table>
| PRU                    | PRU 9.1 (Responsibility for insurance mediation activity) does not apply unless the firm has a top-up permission.  
PRU 9.2 (Professional indemnity insurance requirements for insurance and mortgage mediation activity and mortgage lending and administration) does not apply unless the firm has a top-up permission.  
PRU 9.3 (Capital resources for insurance and mortgage mediation activity and mortgage lending and administration) does not apply unless the firm has a top-up permission. See PRU 9.3.2G for more detailed guidance.  
PRU 9.4 (Insurance undertakings and mortgage lenders using insurance or mortgage mediation services) does not apply unless the firm has a top-up permission. Otherwise, PRU does not apply unless the firm is an insurer to which PRU 7.6.33R applies. | As column (2) |
<table>
<thead>
<tr>
<th>(1) Module of Handbook</th>
<th>(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</th>
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</tr>
</thead>
<tbody>
<tr>
<td><strong>IPRU(BANK)</strong></td>
<td>Only the following apply, and only if the firm is a credit institution other than 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 (IPRU(BANK) 3.2.1R): (1) IPRU(BANK) 3.3.15R, IPRU(BANK) 3.3.16G and IPRU(BANK) 3.5.1R; and (2) chapter CO (which provides an overview of the underlying policy) and the more detailed guidance in chapters CB, CA, BC, BO, FX, CM, DU, TI, TE, TC, TL, TU, TS and TV. Does not apply. But if the firm is a credit institution whose notification to the FSA of its intention to provide services in the United Kingdom covers services provided through a branch, see column (2).</td>
<td></td>
</tr>
<tr>
<td><strong>IPRU(BSOC)</strong></td>
<td>Does not apply because an incoming EEA firm cannot be a building society (IPRU(BSOC) X.2.1R). Does not apply because an incoming EEA firm cannot be a building society (IPRU(BSOC) X.2.1R).</td>
<td></td>
</tr>
<tr>
<td><strong>IPRU(FSOC)</strong></td>
<td>Does not apply because an incoming EEA firm cannot be a friendly society (IPRU(FSOC) 1.1). Does not apply because an incoming EEA firm cannot be a friendly society (IPRU(FSOC) 1.1).</td>
<td></td>
</tr>
<tr>
<td><strong>IPRU(INS)</strong></td>
<td>Only IPRU(INS) 3.6 and 3.7 (Linked long-term contracts) apply, and only if the firm is an insurer (IPRU(INS) 1.1(b)). As column (2).</td>
<td></td>
</tr>
<tr>
<td><strong>IPRU(INV)</strong></td>
<td>IPRU(INV) does not apply unless the firm: (1) has a top-up permission; (2) is an authorised As column (2).</td>
<td></td>
</tr>
<tr>
<td>(1) Module of Handbook</td>
<td>(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</td>
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<tr>
<td><strong>professional firm, investment management firm, members' adviser, personal investment firm, securities and futures firm, service company or underwriting agent; and</strong>&lt;br&gt; <strong>(3) is not a lead regulated firm or a media firm.</strong>&lt;br&gt; <em>(IPRU(INV) 1.1.1R and 1.2R)</em></td>
<td><strong>COB applies.</strong></td>
<td><strong>Where the activity:</strong>&lt;br&gt; (1)(a) would fall within the <em>overseas persons</em> exclusions in article 72 of the <em>Regulated Activities Order</em>; or&lt;br&gt; (b) would not be regarded as carried on in the <em>United Kingdom</em>; or&lt;br&gt; (c) is not carried on with or for a <em>client</em> in the <em>United Kingdom</em>; then only the following apply:&lt;br&gt; (d) <em>COB 3</em> (Financial promotion), but see the territorial scope in <em>COB 3.3 (Where?)</em>;&lt;br&gt; (e) <em>COB 5.5.7R</em> and <em>COB 5.5.8R</em> (Overseas business);&lt;br&gt; (f) certain parts of <em>COB 6</em> (Product disclosure and the customer's right to cancel or withdraw) but only in relation to <em>long-term insurance business</em> carried on with a <em>customer</em> habitually resident in the <em>United Kingdom</em> or if the <em>State of the risk</em> is the <em>United Kingdom</em> (see <em>COB 1.4.7R</em> and <em>COB 1.4.8R</em>); and&lt;br&gt; (g) (i) <em>COB 4.3.19R</em> to <em>COB</em></td>
</tr>
<tr>
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<tr>
<td>4.3.25R save that the firm must also comply with those rules as if they also applied to a firm carrying out the activities in COB 4.3.19R(1) with or on behalf of all private customers; (ii) COB 5.2.12R to COB 5.2.14R; and (iii) COB 5.3.18R(1) and COB 5.3.18AR to COB 5.3.18CR; but only in relation to activities passported under the IMD (see COB 1.4.12R (3)); (2) concerns a distance contract and is carried on with retail customers in the United Kingdom from an establishment maintained by the firm in an EEA State which: (a) has implemented the DMD; or (b) has obligations in its domestic law corresponding to those provided for by the DMD; COB 4.2, COB 5, and COB 6 do not apply. Otherwise, as column (2), (COB 1.4.3R).</td>
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<tr>
<td>ICOB applies.</td>
<td>Only the following provisions of ICOB apply: (a) ICOB 3 (Financial promotion), but see the territorial scope in ICOB 3.4 (Application: where?); (b) ICOB 5.5.20R(1) to (3), but only in relation to general insurance contracts if the state of</td>
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</tr>
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<td>the risk is the United Kingdom; (c) ICOB 5.5.20R(4) to (15) and (22), but only in respect of non-investment insurance contracts which are pure protection contracts where the habitual residence of the customer, other than an EEA ECA recipient, is in the United Kingdom; (d) ICOB 6 (Cancellation), but only in respect of non-investment insurance contracts which are pure protection contracts where the habitual residence of the customer, other than an EEA ECA recipient, is in the United Kingdom.</td>
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<tr>
<td>MCOB</td>
<td>Applies where the activity is carried on with or for a customer resident in the United Kingdom or another EEA State at the time that the activity is carried on, but see the territorial scope in MCOB 3.3 (Application: where?).</td>
<td>Applies where the activity is carried on with or for a customer resident in the United Kingdom at the time that the activity is carried on but see MCOB 1.3.4R (Distance contracts entered into from an establishment in another EEA State) and MCOB 3.3 (Application: where?).</td>
</tr>
<tr>
<td>CASS</td>
<td>CASS does not apply with respect to the firm's passported activities unless the firm is an insurer (CASS 1.2.3R (2)).</td>
<td>As column (2).</td>
</tr>
<tr>
<td><strong>MAR</strong></td>
<td><strong>MAR 1 (Code of market conduct)</strong></td>
<td><strong>MAR 1 (Code of market conduct)</strong></td>
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<td>Applies if the <em>firm</em> is seeking <em>guidance</em> as to whether or not <em>behaviour</em> amounts to <em>market abuse</em> (<em>MAR 1.1.1G</em>).</td>
<td>As column (2).</td>
</tr>
<tr>
<td></td>
<td><strong>MAR 2 (Price stabilising rules)</strong></td>
<td><strong>MAR 2 (Price stabilising rules)</strong></td>
</tr>
<tr>
<td></td>
<td>Applies if the <em>firm</em> undertakes <em>stabilising action</em> and wishes to show that it has acted in conformity with <em>price stabilising rules</em>, or that its <em>behaviour</em> conforms with <em>rules</em> in accordance with section 118A(5)(a) of the <em>Act</em> (Market abuse) (<em>MAR 2.1 Application</em>).</td>
<td>Only applies in so far as the <em>firm</em> undertakes <em>stabilising action</em> and wishes to rely on a defence that it has acted in conformity with <em>price stabilising rules</em>, or that its <em>behaviour</em> conforms with <em>rules</em> in accordance with section 118A(5)(a) of the <em>Act</em> (Market abuse) (<em>MAR 2.1 and in particular MAR 2.1.3R</em>).</td>
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<td></td>
<td><strong>MAR 3 (Inter-professional conduct)</strong></td>
<td><strong>MAR 3 (Inter-professional conduct)</strong></td>
</tr>
<tr>
<td></td>
<td>Applies (<em>MAR 3.1.4R</em>).</td>
<td>Does not apply (<em>MAR 3.1.4R</em>).</td>
</tr>
<tr>
<td></td>
<td><strong>MAR 4 (Endorsement of the Take-over Code)</strong></td>
<td><strong>MAR 4 (Endorsement of the Take-over Code)</strong></td>
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<td></td>
<td>Applies to <em>firms</em> whose <em>permission</em> includes, or ought to include, any <em>designated investment business</em>, except as set out in <em>MAR 4.4.1R</em>.</td>
<td>Does not apply (<em>MAR 4.4.1R(4)(b)</em>).</td>
</tr>
<tr>
<td></td>
<td>Does not apply (<em>MAR 5.1.1G</em>).</td>
<td>Does not apply (<em>MAR 5.1.1G</em>).</td>
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<tr>
<td><strong>TC</strong></td>
<td><strong>TC</strong> applies, but only in so far as responsibility for any matter it covers is not reserved by a European Community instrument to the <em>firm's Home State regulator</em>.</td>
<td><strong>TC 1 (Commitments):</strong> (1) contains <em>guidance</em> relevant to compliance with <em>Principle 3</em>, satisfaction of <em>threshold condition 5</em> and the fit and proper test for <em>approved persons</em>; it is therefore relevant only if they apply to the <em>firm</em> (see the <em>guidance</em> on application of <em>PRIN</em>, <em>COND</em> and <em>FIT</em> above);</td>
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</tbody>
</table>
(2) in particular, does not therefore apply if the firm has permission only for cross-border services and does not carry on regulated activities in the United Kingdom.

TC 2 (Rules and guidance) does not apply (TC 2.1.2R (2)).

<table>
<thead>
<tr>
<th>ML</th>
<th>Applies (ML 1.1.2R).</th>
<th>Does not apply (ML 1.1.2R).</th>
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</thead>
</table>

**SUP**

**SUP 1 (The FSA's approach to supervision)**
Applies, but contains only guidance.

**SUP 2 (Information gathering by the FSA on its own initiative)**
The application of this chapter is the same as for Principle 11 (see under PRIN above).

**SUP 3 (Auditors)**
Applies to the firm (and its auditor) only if the firm has a top-up permission.

**SUP 4 (Actuaries)**
Does not apply.

**SUP 5 (Skilled persons)**
Applies only if the firm is required by the FSA to provide a report under section 166 of the Act (Reports by skilled persons).

**SUP 6 (Applications to vary and cancel Part IV permission)**
Applies only if the firm has a top-up permission.

**SUP 7 (Individual requirements)**
Applies only if the firm has a top-up permission. It contains only guidance on the exercise of the FSA's own initiative power to
vary that permission. The FSA has similar, but more limited, powers of intervention under Part XIII of the Act in relation to the permission of the firm under Schedule 3 to the Act (see ENF 4).

**SUP 8 (Waiver and modification of rules)**
Applies only if the firm wishes to apply for, or consent to, or has been given, a waiver of the FSA's rules (SUP 8.1.1R).

**SUP 9 (Individual guidance)**
Applies only if the firm wishes to obtain individual guidance from the FSA or if the FSA gives the firm individual guidance on its own initiative (SUP 9.1.1G).

**SUP 10 (Approved persons)**
Applies, but the applicable controlled functions are limited. See SUP 10.1 (Application) for more detailed guidance.

**SUP 11 (Controllers and close links)**
Does not apply (SUP 11.1.1R (2)).

**SUP 12 (Appointed representatives)**
Applies only if the firm has permission to carry on designated investment business, insurance mediation activity or mortgage mediation activity and wishes to appoint, or has appointed, an appointed representative (SUP 12.1.1R (1)).

**SUP 13 (Exercise of passport rights by UK firms)**
Does not apply.

**SUP 8 (Waiver and modification of rules)**  
As column (2).

**SUP 9 (Individual guidance)**  
As column (2).

**SUP 10 (Approved persons)**  
Does not apply (SUP 10.1.6R).

**SUP 11 (Controllers and close links)**  
Does not apply (SUP 11.1.1R (2)).

**SUP 12 (Appointed representatives)**  
As column (2).

**SUP 13 (Exercise of passport rights by UK firms)**  
Does not apply.
SUP 13A (Qualifying for authorisation under the Act)

SUP 13A applies to the firm if it:

(1) is considering carrying on activities in the United Kingdom which may fall within the scope of the Act and is seeking guidance on whether it needs a top-up permission; or

(2) is, or is considering, applying to the FSA to carry on regulated activities in the United Kingdom under a top-up permission; or

(3) is, or is considering, establishing a branch or providing cross-border services into the United Kingdom using EEA rights.

SUP 14 (Incoming EEA Firms: Changing detail and cancelling qualifications for authorisation)

Applies.

SUP 15 (Notifications to the FSA)

Applies in full if the firm has a top-up permission. Otherwise, the application is modified as set out in SUP 15 Ann 1R.

SUP 16 (Reporting requirements)

Parts of this chapter may apply if the firm has a top-up permission or if the firm is:

(a) a bank; or
(b) a depositary of an ICVC; or
(c) an OPS firm; or
(d) a trustee of an AUT; or

SUP 16 (Reporting requirements)

Parts of this chapter may apply if the firm has a top-up permission or if the firm is:

(a) a depositary of an ICVC; or
(b) an OPS firm; or
(c) a trustee of an AUT; or
(d) an insurer with permission to
(e) an insurer with permission to

effect or carry out life policies;
or

(f) a firm with permission to

establish, operate or wind up a

stakeholder pension scheme;
or

(g) a firm with permission to

advise on investments, arrange

(bring about) deals in

investments, make

arrangements with a view to

transactions in investments, or

arrange safeguarding and

administration of assets.

(SUP 16.1)

**SUP 17 (Transaction reporting)**

Does not apply in relation to the

firm's passported activities.

Otherwise, this chapter applies

only if the firm is a securities and

futures firm, a personal

investment firm or an ISD

investment firm (SUP 17.1.1R).

**SUP 18 (Transfers of business)**

SUP 18.4 does not apply. SUP

18.1, SUP 18.2 and SUP 18.3

may be relevant if the firm

proposes to transfer the whole or

part of its business by an

insurance business transfer

scheme or to accept such a

transfer or proposes to accept

certain transfers of insurance

business taking place outside the

United Kingdom.

**SUP 20 (Fees Rules)**

Applies (SUP 20.1.1R) but

modified (SUP 20.4.7G to SUP

20.4.10R).

**SUP App 1 (Prudential
categories)**

Applies and provides guidance

on the prudential categories used

effect or carry out life policies;
or

(e) a firm with permission to

establish, operate or wind up a

stakeholder pension scheme;
or

(g) a firm with permission to

advise on investments, arrange

(bring about) deals in

investments, make

arrangements with a view to

transactions in investments, or

arrange safeguarding and

administration of assets

(SUP 16.1)

**SUP 17 (Transaction reporting)**

Does not apply (SUP 17.1.1R

(2)(a)).

**SUP 18 (Transfers of business)**

As column (2).

**SUP 20 (Fees Rules)**

As column (2).

**SUP App 1 (Prudential
categories)**

As column (2).
<table>
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<tr>
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<th>in the <em>Handbook</em>.</th>
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<tbody>
<tr>
<td><strong>SUP App 2 (Insurers: Scheme of operations)</strong></td>
<td>Does not apply (<em>SUP App 2.1.1R).</em></td>
<td>Does not apply (<em>SUP App 2.1.1R).</em></td>
</tr>
<tr>
<td><strong>ENF</strong></td>
<td><em>ENF</em> applies and contains guidance on the use of the FSA's enforcement powers (<em>ENF 1).</em></td>
<td><em>ENF</em> applies and contains guidance on the use of the FSA's enforcement powers (<em>ENF 1).</em></td>
</tr>
<tr>
<td><strong>DEC</strong></td>
<td><em>DEC</em> applies and contains guidance on the FSA's decision making procedures (<em>DEC 1).</em></td>
<td><em>DEC</em> applies and contains guidance on the FSA's decision making procedures (<em>DEC 1).</em></td>
</tr>
<tr>
<td><strong>DISP</strong></td>
<td>Applies (<em>DISP 1.1.1R).</em></td>
<td>Does not apply (<em>DISP 1.1.1R).</em></td>
</tr>
<tr>
<td><strong>COMP</strong></td>
<td>Applies, except in relation to the passported activities of an ISD investment firm or a BCD credit institution (see the definition of &quot;participant firm&quot;) other than 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. However, an ISD investment firm or BCD credit institution may be able to apply for top-up cover in relation to its passported activities (see COMP 14 (Participation by EEA Firms)).</td>
<td>Does not apply in relation to the passported activities of an ISD investment firm or a BCD credit institution (see the definition of &quot;participant firm&quot;). Otherwise, COMP may apply, but the coverage of the compensation scheme is limited for non-UK activities (see COMP 5).</td>
</tr>
<tr>
<td><strong>COAF</strong></td>
<td>Applies if the firm wishes to bring a complaint under the complaints scheme, provided the complaint meets the requirements of the complaints scheme (<em>COAF 1.2).</em></td>
<td>As column (2).*</td>
</tr>
<tr>
<td><strong>COLL and CIS</strong></td>
<td><em>COLL and CIS</em> apply if the firm: <em>(a)</em> is the operator or depositary of an AUT or ICVC; or <em>(b)</em> wishes to apply for an authorisation order to establish an AUT or ICVC; or</td>
<td>As column (2).*</td>
</tr>
<tr>
<td>CRED</td>
<td>Does not apply.</td>
<td>Does not apply.</td>
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</tr>
<tr>
<td>ECO</td>
<td>ECO 2 applies if the firm is an outgoing ECA provider. ECO 3 applies if the firm is a domestic ECA provider. ECO 1 does not apply.</td>
<td>ECO 1 applies if the firm is an incoming ECA provider except for ECO 1.2.1R which does not apply if: (a) the electronic commerce activity is not insurance business which: (i) satisfies the conditions in ECO 1.2.3R; and (ii) is carried on by an insurer; and (b) the EEA State from which the activity is provided has implemented the DMD with the result that the obligations provided for by the DMD are applied when the incoming ECA provider is carrying on the activity from an establishment in that State with a UK ECA recipient in the United Kingdom. ECO 2 and ECO 3 do not apply.</td>
</tr>
<tr>
<td>ELM</td>
<td>ELM 6 applies.-</td>
<td>Does not apply.</td>
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<tr>
<td>LLD</td>
<td>Does not apply.</td>
<td>Does not apply.</td>
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<tr>
<td>PROF</td>
<td>PROF applies only if the firm is an authorised professional firm.</td>
<td>As column (2).</td>
</tr>
<tr>
<td>REC</td>
<td>Does not apply.</td>
<td>Does not apply.</td>
</tr>
<tr>
<td>LR</td>
<td>LR (Listing Rules) May apply if the firm is applying for listing in the United Kingdom, is a listed issuer in the United Kingdom, is a sponsor or is applying for approval as a</td>
<td>LR (Listing Rules) As column (2).</td>
</tr>
<tr>
<td></td>
<td>PR</td>
<td>DR</td>
</tr>
<tr>
<td>---</td>
<td>------</td>
<td>-----</td>
</tr>
<tr>
<td><strong>PR</strong></td>
<td>PR (Prospectus Rules)</td>
<td>PR (Prospectus Rules)</td>
</tr>
<tr>
<td></td>
<td>May apply if the <strong>firm</strong> makes an offer of transferable securities to the <strong>public</strong> in the United Kingdom or is seeking the admission to trading of transferable securities on a regulated market situated or operating in the United Kingdom.</td>
<td>As column (2).</td>
</tr>
<tr>
<td><strong>DR</strong></td>
<td>DR (Disclosure Rules)</td>
<td>DR (Disclosure Rules)</td>
</tr>
<tr>
<td></td>
<td>May apply if the <strong>firm</strong> is an <strong>issuer</strong>, any class of whose financial instruments have been admitted to trading on a regulated market, or are the subject of an application for admission to trading on a regulated market, other than issuers who have not requested or approved admission of their financial instruments to trading on a regulated market.</td>
<td>As column (2).</td>
</tr>
</tbody>
</table>

**Part 3**

...  

14.1.6 G  …So, an incoming EEA firm that wishes to change or supplement the nature of its operations in the United Kingdom from the providing of cross border services to the establishment of a branch (or vice versa) should refer to AUTH.S SUP 13A (Qualifying for authorisation under the Act).  

14.1.7 G  …Incoming EEA firms seeking a top-up permission should refer to AUTH.S SUP 13A.  

...  

14.2.2 G (1) Where an incoming EEA firm, passporting under the Investment Services Directive, Banking Consolidation Directive or the UCITS Directive, has established a branch in the United Kingdom, regulation 4 states that it must not make a change in the requisite details of the branch (see AUTH.S Annex 1G) unless it has complied with the relevant requirements.  

...
14.2.5 G (1) Where an incoming EEA firm passporting under the Insurance Directives has established a branch in the United Kingdom, regulation 6 states that it must not make a change to the information referred to in regulation 2(5)(a) to (c) (see AUTH 5 Annex 1G) unless it has complied with the relevant requirements.

...

14.3.2 G Where an incoming EEA firm passporting under the Investment Services Directive or UCITS Directive is providing cross border services into the United Kingdom, it must not make a change in the details referred to in regulation 5(1) (see AUTH 5 Annex 2G) unless it has complied with the relevant requirements in regulation 5(3).

...

14.3.5 G If an incoming EEA firm passporting under the Insurance Directives is providing cross border services unto into the United Kingdom, it must not make a change to the details referred to in regulation 7(1) (see AUTH 5 Annex 2G) unless it has complied with the relevant provisions.

...

Appendix 1.5 Determining the prudential categories of a firm

...

1.5.3 G For a firm with automatic authorisation by passporting under the Single Market Directives, exercising rights under the Treaty or as a UCITS qualifier, the FSA will have notified the firm of its prudential category at the same time as the FSA notified it of the applicable provisions to which it is subject (see AUTH 5 SUP 13A for further details on inward passporting). If it has a top-up permission, then SUP App 1.5.2G may also apply.

...

Appendix 3.10 Mapping of Insurance Directives to the Regulated Activities Order

...

3.10.10 G …Where this is the case, the insurer will be subject to conduct of business requirements in the United Kingdom (see AUTH 5.6 SUP 13A.6 (Which rules will an incoming EEA firm be subject to?)).

...

3.10.13 G …The insurance undertaking will, therefore, generally be able to qualify for permission permission as a Treaty firm Treaty firm for its reinsurance business if it follows the procedure provided for by Schedule 4 (see AUTH
5.3.4G SUP 13A.3.4G to AUTH 5.3.13G SUP 13A.3.11G (Treaty Firms) and also AUTH 3.21 (Treaty firms applying for Part IV Permission)

Schedule G

2.2

<table>
<thead>
<tr>
<th>Handbook reference</th>
<th>Matter to be notified</th>
<th>Contents of notification</th>
<th>Trigger event</th>
<th>Time allowed</th>
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<tbody>
<tr>
<td>…</td>
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<td>…</td>
</tr>
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<td>SUP 13.7.4G</td>
<td>…</td>
<td>…</td>
<td>…</td>
<td>…</td>
</tr>
<tr>
<td>SUP 13A.3.6G-SUP 13A.3.8G</td>
<td>Intention of incoming Treaty firm to carry on a regulated activity in the United Kingdom.</td>
<td>Matters relevant to the notice as indicated in SUP 13A.3.6G.</td>
<td>Intention to carry on a regulated activity.</td>
<td>At least seven days in advance.</td>
</tr>
<tr>
<td>SUP 14.2.3G</td>
<td>…</td>
<td>…</td>
<td>…</td>
<td>…</td>
</tr>
</tbody>
</table>

Schedule G

4.3

The following powers and related provisions in or under the Act have been exercised by the FSA in SUP to direct or require:

…

(8) Paragraph 5(4) of Schedule 4 (Treaty Rights: Notice to Authority).
Annex F

Amendments to the Decision Making manual

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

2

Annex 1  G  Statutory notice procedure: Warning notice and decision notice procedure

<table>
<thead>
<tr>
<th>…</th>
<th>…</th>
<th>AUTH 5 SUP 13A</th>
<th>Executive procedures</th>
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<tbody>
<tr>
<td>Paragraph 15A(5)(6)(e) of Schedule 3 (Note 3)</td>
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</tr>
</tbody>
</table>
Annex G

Amendments to the Collective Investment Schemes sourcebook

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

17.1.3 G …If the manager of such a scheme wishes to undertake the passportable activities of managing investment investments (other than of a collective investment schemes), investment advice or safekeeping and administration of investments, as provided by article 5(3) of the UCITS Directive, as well as scheme management, it will need to do so in accordance with an authorisation conferred by Schedule 3 to the Act and should refer to the procedures in AUTH SUP 13A and SUP 14 accordingly.
Annex H

Amendments to the Electronic Commerce Directive sourcebook

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

1.1.10 R Table: Handbook provisions applicable to, or relevant for, incoming ECA providers

<table>
<thead>
<tr>
<th>Provision</th>
<th>Description</th>
</tr>
</thead>
<tbody>
<tr>
<td>...</td>
<td></td>
</tr>
<tr>
<td>AUTH 1.2.6 G, AUTH 2.4.3 G, AUTH 2.4.7 G, AUTH 2.8.2 G - 2.8.15 G, AUTH 2.9.1 G, AUTH 2.9.18 G, AUTH 5.1.1 G - 5.1.2 G, AUTH 5.6.5 G, AUTH 5 Annex 3G</td>
<td>Authorisation guidance</td>
</tr>
<tr>
<td>...</td>
<td></td>
</tr>
<tr>
<td>...</td>
<td></td>
</tr>
</tbody>
</table>
Annex I

Amendments to the Perimeter Guidance manual

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

2.9.18  G …

(3) *Incoming ECA providers* should note that notification requirements under the *Single Market Directives* still apply (see *AUTH SUP 13A*).

…

4.2.1  G …

(2) qualify for *authorisation* (see *AUTH SUP 13A* (Qualifying for authorisation under the Act)), for example if the *person* is an *EEA firm* or a *Treaty firm*.

…

5.2.2  G …

(2) qualify for *authorisation* (see *AUTH SUP 13A* (Qualifying for Authorisation under the Act)); for example, if the *person* is an *EEA firm* or a *Treaty firm*.

…

5.12.13  G …

… *AUTH SUP 13A* (Qualifying for authorisation under the Act) has general *guidance* on the exercise of passporting rights by *EEA firms*.

…