

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).

(1)	(2)
Glossary of definitions	Annex A
Senior Management Arrangements, Systems and Controls sourcebook (SYSC)	Annex B
Integrated Prudential sourcebook (PRU)	Annex C
Authorisation manual (AUTH)	Annex D
Supervision manual (SUP)	Annex E
Decision Making manual (DEC)	Annex F
Collective Investment Schemes sourcebook (CIS)	Annex G
Electronic Commerce Directive sourcebook (ECO)	Annex H
Perimeter Guidance manual (PERG)	Annex I

Citation

- D. This instrument may be cited as the Passporting 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.

- permitted activity*
- (1) (except in ~~AUTH 5~~ SUP 13A and SUP 14) a *regulated activity* which a *firm* has *permission* to carry on.
 - (2) (in ~~AUTH 5~~ SUP 13A and SUP 14) an activity identified in a consent notice, a regulator's notice or, where none is required, a notice of intention.

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))

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1.1.7 G ~~AUTH 5 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 5.4.2G~~ SUP 13A.4.2G, in relation to *branches*, and ~~AUTH 5.5.3G~~ 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*~~.

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...

Summary of AUTH and parts of PERG

1.3.9 G This table belongs to *AUTH 1.3.7G*.

Chapter:	Applicable to:	On:
...		
<i>AUTH 5: Qualifying for authorisation under the Act</i>	1. an <i>EEA firm</i> wishing to exercise its <i>EEA right</i> and establish a <i>branch</i> in, or provide <i>cross border services</i> into, the <i>United Kingdom</i>; <u>2. a <i>Treaty firm</i></u>	How an <i>EEA firm</i> , a <i>Treaty firm</i> or a <i>UCITS qualifier</i> can qualify for <i>authorisation</i> under the <i>Act</i> .

	wishing to exercise its <i>Treaty rights</i> ; 3. a prospective <i>UCITS</i> <i>qualifier</i> .	
...		

...

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 *SUP*13A]

...

Schedule G
2

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

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 5~~ 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

depository 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 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. 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*.

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.6.1 G *SUP 13A Annex 1G* summarises how the *Handbook* applies to *incoming EEA firms*.
- 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.

Annex G Application of the Handbook to Incoming EEA Firms G

1

1 G

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*).

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(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
<i>PRIN</i>	<p>The <i>Principles</i> apply only in so far as responsibility for the matter in question is not reserved by a European Community instrument to the <i>firm's Home State regulator</i> (<i>PRIN 3.1.1R(1)</i>).</p> <p>For an <i>incoming EEA firm</i> which is a <i>BCD credit institution</i> without a <i>top-up permission</i>,</p>	<p>The <i>Principles</i> do not apply if the <i>firm</i> has <i>permission</i> only for <i>cross-border services</i> and does not carry on <i>regulated activities</i> in the <i>United Kingdom</i> (<i>PRIN 3.1.1R(2)</i>).</p> <p>The <i>Principles</i> have limited application for activities which are not carried on from a <i>UK</i></p>

(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
	<i>Principle 4</i> applies only in relation to the liquidity of a <i>branch</i> established in the <i>United Kingdom</i> (<i>PRIN 3.1.1R(2)</i>).	establishment (see <i>PRIN 3.3.1R</i>). Otherwise, see column (2).
SYSC	<p>SYSC 1 contains application provisions only. SYSC 2 and SYSC 3 apply as set out in SYSC 1.1.1R(1):</p> <p>(1) SYSC 2.1.1R and SYSC 2.1.2G do not apply;</p> <p>(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 <i>firm's Home State regulator</i>; and</p> <p>(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 <i>firm's Home State regulator</i>.</p> <p>SYSC 1.1.7R (Where?) further restricts the territorial application of SYSC 1 to SYSC 3 for an <i>incoming EEA firm</i>. Further <i>guidance</i> is contained in SYSC 2.1.6G, Question 12.</p> <p>SYSC 4 applies to the extent that the Public Interest Disclosure Act 1998 applies to the <i>firm</i>.</p>	<p>SYSC 1 to SYSC 3 do not apply if the <i>firm</i> has <i>permission</i> only for <i>cross-border services</i> and does not carry on <i>regulated activities</i> in the <i>United Kingdom</i> (SYSC 1.1.1R(2)).</p> <p>SYSC 1 to SYSC 3 have limited application for activities which are not carried on from a <i>UK</i> establishment (see SYSC 1.1.7R).</p> <p>Otherwise, see column (2).</p>
COND	COND does not apply if the <i>firm</i> does not have, or apply for, a <i>top-up permission</i> .	As column (2).

(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
	<p>Otherwise, only <i>threshold conditions</i> 1, 3, 4 and 5 apply and only in so far as relevant to:</p> <p>(1) an application for a <i>top-up permission</i> under Part IV of the <i>Act</i> (that is, a <i>permission</i> to carry on <i>regulated activities</i> in addition to those permitted through its <i>authorisation</i> under Schedule 3 to the <i>Act</i> (EEA Passport Rights)); and</p> <p>(2) the exercise of the <i>FSA's own-initiative power</i> in relation to the <i>top-up permission</i>.</p> <p>(COND 1.1.1G.)</p>	
<i>APER</i>	<i>APER</i> applies to <i>approved persons</i> (<i>APER</i> 1.1.1G). See below under <i>SUP</i> 10 as to whether <i>controlled functions</i> are performed, and approval therefore required.	Not relevant because <i>SUP</i> 10 does not apply.
<i>FIT</i>	<i>FIT</i> applies to a <i>firm</i> wishing to establish a <i>branch</i> in the <i>United Kingdom</i> or to apply for a <i>top-up permission</i> in respect of any application that it makes for the approval of a <i>person</i> to perform a <i>controlled function</i> (<i>FIT</i> 1.1). See under <i>SUP</i> 10 below as to whether such approval is required.	Does not apply.
<i>GEN</i>	<i>GEN</i> applies (<i>GEN</i> 1.1, <i>GEN</i> 2.1, <i>GEN</i> 3.1, <i>GEN</i> 4.1, <i>GEN</i> 5.1 and <i>GEN</i> 6.1). However, (a) <i>GEN</i> 4 does not apply to the extent that the <i>firm</i> is subject to equivalent	<i>GEN</i> 4 does not apply if the <i>firm</i> has <i>permission</i> only for <i>cross-border services</i> and does not carry on <i>regulated activities</i> in the <i>United Kingdom</i> .

(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
	<p><i>rules</i> imposed by its <i>Home State</i> (<i>GEN</i> 4.1.1R(3)), and (b) <i>GEN</i> 6 only applies to business that can be regulated under section 138 of the <i>Act</i> (General rule-making power). It does not therefore apply if, or to the extent that, responsibility has been reserved to an <i>incoming firm's Home State regulator</i> by a European Community instrument.</p>	<p>Otherwise, as column (2).</p>
<p><i>PRU</i></p>	<p><i>PRU</i> 9.1 (Responsibility for insurance mediation activity) does not apply unless the <i>firm</i> has a <i>top-up permission</i>.</p> <p><i>PRU</i> 9.2 (Professional indemnity insurance requirements for insurance and mortgage mediation activity and mortgage lending and administration) does not apply unless the <i>firm</i> has a <i>top-up permission</i>.</p> <p><i>PRU</i> 9.3 (Capital resources for insurance and mortgage mediation activity and mortgage lending and administration) does not apply unless the <i>firm</i> has a <i>top-up permission</i>. See <i>PRU</i> 9.3.2G for more detailed <i>guidance</i>.</p> <p><i>PRU</i> 9.4 (Insurance undertakings and mortgage lenders using insurance or mortgage mediation services) does not apply unless the <i>firm</i> has a <i>top-up permission</i>.</p> <p>Otherwise, <i>PRU</i> does not apply unless the firm is an <i>insurer</i> to which <i>PRU</i> 7.6.33R applies.</p>	<p>As column (2)</p>

(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
<i>IPRU(BANK)</i>	<p>Only the following apply, and only if the <i>firm</i> is a <i>credit institution</i> other than 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> (<i>IPRU(BANK)</i> 3.2.1R):</p> <p>(1) <i>IPRU(BANK)</i> 3.3.15R, <i>IPRU(BANK)</i> 3.3.16G and <i>IPRU(BANK)</i> 3.5.1R; and</p> <p>(2) chapter CO (which provides an overview of the underlying policy) and the more detailed <i>guidance</i> in chapters CB, CA, BC, BO, FX, CM, DU, TI, TE, TC, TL, TU, TS and TV.</p>	<p>Does not apply. But if the <i>firm</i> is a <i>credit institution</i> whose notification to the <i>FSA</i> of its intention to provide services in the <i>United Kingdom</i> covers services provided through a <i>branch</i>, see column (2).</p>
<i>IPRU(BSOC)</i>	<p>Does not apply because an <i>incoming EEA firm</i> cannot be a <i>building society</i> (<i>IPRU(BSOC)</i> X.2.1R).</p>	<p>Does not apply because an <i>incoming EEA firm</i> cannot be a <i>building society</i> (<i>IPRU(BSOC)</i> X.2.1R).</p>
<i>IPRU(FSOC)</i>	<p>Does not apply because an <i>incoming EEA firm</i> cannot be a <i>friendly society</i> (<i>IPRU(FSOC)</i> 1.1).</p>	<p>Does not apply because an <i>incoming EEA firm</i> cannot be a <i>friendly society</i> (<i>IPRU(FSOC)</i> 1.1).</p>
<i>IPRU(INS)</i>	<p>Only <i>IPRU(INS)</i> 3.6 and 3.7 (Linked long-term contracts) apply, and only if the <i>firm</i> is an <i>insurer</i> (<i>IPRU(INS)</i> 1.1(b)).</p>	<p>As column (2).</p>
<i>IPRU(INV)</i>	<p><i>IPRU(INV)</i> does not apply unless the <i>firm</i>:</p> <p>(1) has a <i>top-up permission</i>;</p> <p>(2) is an <i>authorised</i></p>	<p>As column (2).</p>

(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
	<p><i>professional firm, investment management firm, members' adviser, personal investment firm, securities and futures firm, service company or underwriting agent; and</i></p> <p>(3) is not a <i>lead regulated firm</i> or a <i>media firm</i>.</p> <p>(IPRU(INV) 1.1.1R and 1.2R)</p>	
COB	COB applies.	<p>Where the activity:</p> <p>(1)(a) would fall within the <i>overseas persons</i> exclusions in article 72 of the <i>Regulated Activities Order</i>; or</p> <p>(b) would not be regarded as carried on in the <i>United Kingdom</i>; or</p> <p>(c) is not carried on with or for a <i>client</i> in the <i>United Kingdom</i>;</p> <p>then only the following apply:</p> <p>(d) COB 3 (Financial promotion), but see the territorial scope in COB 3.3 (Where?);</p> <p>(e) COB 5.5.7R and COB 5.5.8R (Overseas business);</p> <p>(f) certain parts of COB 6 (Product disclosure and the customer's right to cancel or withdraw) but only in relation to <i>long-term insurance business</i> carried on with a <i>customer</i> habitually resident in the <i>United Kingdom</i> or if the <i>State of the risk</i> is the <i>United Kingdom</i> (see COB 1.4.7R and COB 1.4.8R); and</p> <p>(g) (i) COB 4.3.19R to COB</p>

(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
		<p>4.3.25R save that the <i>firm</i> must also comply with those <i>rules</i> as if they also applied to a <i>firm</i> carrying out the activities in COB 4.3.19R(1) with or on behalf of all <i>private customers</i>;</p> <p>(ii) COB 5.2.12R to COB 5.2.14R; and</p> <p>(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 <i>IMD</i> (see COB 1.4.12R (3));</p> <p>(2) concerns a <i>distance contract</i> and is carried on with <i>retail customers</i> in the <i>United Kingdom</i> from an establishment maintained by the <i>firm</i> in an <i>EEA State</i> which:</p> <p>(a) has implemented the <i>DMD</i>; or</p> <p>(b) has obligations in its domestic law corresponding to those provided for by the <i>DMD</i>;</p> <p>COB 4.2, COB 5, and COB 6 do not apply.</p> <p>Otherwise, as column (2), (COB 1.4.3R).</p>
ICOB	ICOB applies.	<p>Only the following provisions of <i>ICOB</i> apply:</p> <p>(a) <i>ICOB</i> 3 (Financial promotion), but see the territorial scope in <i>ICOB</i> 3.4 (Application: where?);</p> <p>(b) <i>ICOB</i> 5.5.20R(1) to (3), but only in relation to <i>general insurance contracts</i> if the <i>state of</i></p>

(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
		<p><i>the risk is the United Kingdom;</i></p> <p>(c) <i>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;</i></p> <p>(d) <i>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.</i></p>
<i>MCOB</i>	Applies where the activity is carried on with or for a <i>customer</i> resident in the <i>United Kingdom</i> or another <i>EEA State</i> at the time that the activity is carried on, but see the territorial scope in <i>MCOB 3.3</i> (Application: where?).	Applies where the activity is carried on with or for a <i>customer</i> resident in the <i>United Kingdom</i> at the time that the activity is carried on but see <i>MCOB 1.3.4R</i> (Distance contracts entered into from an establishment in another EEA State) and <i>MCOB 3.3</i> (Application: where?).
<i>CASS</i>	<i>CASS</i> does not apply with respect to the <i>firm's passported activities</i> unless the <i>firm</i> is an <i>insurer</i> (<i>CASS 1.2.3R (2)</i>).	As column (2).

<p>MAR</p>	<p>MAR 1 (Code of market conduct)</p> <p>Applies if the <i>firm</i> is seeking <i>guidance</i> as to whether or not <i>behaviour</i> amounts to <i>market abuse</i> (MAR 1.1.1G).</p> <p>MAR 2 (Price stabilising rules)</p> <p>Applies if the <i>firm</i> undertakes <i>stabilising action</i> and wishes to show that it has acted in conformity with <i>price stabilising rules</i>, or that its <i>behaviour</i> conforms with <i>rules</i> in accordance with section 118A(5)(a) of the <i>Act</i> (Market abuse) (MAR 2.1 Application).</p> <p>MAR 3 (Inter-professional conduct)</p> <p>Applies (MAR 3.1.4R).</p> <p>MAR 4 (Endorsement of the Take-over Code)</p> <p>Applies to <i>firms</i> whose <i>permission</i> includes, or ought to include, any <i>designated investment business</i>, except as set out in MAR 4.4.1R.</p> <p>MAR 5 (Alternative Trading Systems)</p> <p>Does not apply (MAR 5.1.1G).</p>	<p>MAR 1 (Code of market conduct)</p> <p>As column (2).</p> <p>MAR 2 (Price stabilising rules)</p> <p>Only applies in so far as the <i>firm</i> undertakes <i>stabilising action</i> and wishes to rely on a defence that it has acted in conformity with <i>price stabilising rules</i>, or that its <i>behaviour</i> conforms with <i>rules</i> in accordance with section 118A(5)(a) of the <i>Act</i> (Market abuse) (MAR 2.1 and in particular MAR 2.1.3R).</p> <p>MAR 3 (Inter-professional conduct)</p> <p>Does not apply (MAR 3.1.4R).</p> <p>MAR 4 (Endorsement of the Take-over Code)</p> <p>Does not apply (MAR 4.4.1R(4)(b)).</p> <p>MAR 5 (Alternative Trading Systems)</p> <p>Does not apply (MAR 5.1.1G).</p>
<p>TC</p>	<p>TC applies, but only in so far as responsibility for any matter it covers is not reserved by a European Community instrument to the <i>firm's Home State regulator</i>.</p>	<p>TC 1 (Commitments):</p> <p>(1) contains <i>guidance</i> relevant to compliance with <i>Principle 3</i>, satisfaction of <i>threshold condition 5</i> and the fit and proper test for <i>approved persons</i>; it is therefore relevant only if they apply to the <i>firm</i> (see the <i>guidance</i> on application of <i>PRIN</i>, <i>COND</i> and <i>FIT</i> above);</p>

		(2) in particular, does not therefore apply if the <i>firm</i> has <i>permission</i> only for <i>cross-border services</i> and does not carry on <i>regulated activities</i> in the <i>United Kingdom</i> . <i>TC 2</i> (Rules and guidance) does not apply (<i>TC 2.1.2R (2)</i>).
<i>ML</i>	Applies (<i>ML 1.1.2R</i>).	Does not apply (<i>ML 1.1.2R</i>).
<i>SUP</i>	<p><i>SUP 1 (The FSA's approach to supervision)</i> Applies, but contains only <i>guidance</i>.</p> <p><i>SUP 2 (Information gathering by the FSA on its own initiative)</i> The application of this chapter is the same as for <i>Principle 11</i> (see under <i>PRIN</i> above).</p> <p><i>SUP 3 (Auditors)</i> Applies to the <i>firm</i> (and its auditor) only if the <i>firm</i> has a <i>top-up permission</i>.</p> <p><i>SUP 4 (Actuaries)</i> Does not apply.</p> <p><i>SUP 5 (Skilled persons)</i> Applies only if the <i>firm</i> is required by the <i>FSA</i> to provide a report under section 166 of the <i>Act</i> (Reports by skilled persons).</p> <p><i>SUP 6 (Applications to vary and cancel Part IV permission)</i> Applies only if the <i>firm</i> has a <i>top-up permission</i>.</p> <p><i>SUP 7 (Individual requirements)</i> Applies only if the <i>firm</i> has a <i>top-up permission</i>. It contains only <i>guidance</i> on the exercise of the <i>FSA's own initiative power</i> to</p>	<p><i>SUP 1 (The FSA's approach to supervision)</i> As column (2).</p> <p><i>SUP 2 (Information gathering by the FSA on its own initiative)</i> As column (2).</p> <p><i>SUP 3 (Auditors)</i> As column (2).</p> <p><i>SUP 4 (Actuaries)</i> Does not apply</p> <p><i>SUP 5 (Skilled persons)</i> As column (2).</p> <p><i>SUP 6 (Applications to vary and cancel Part IV permission)</i> As column (2).</p> <p><i>SUP 7 (Individual requirements)</i> As column (2).</p>

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 *depository* of an *ICVC*; or
- (c) an *OPS firm*; or
- (d) a *trustee* of an *AUT*; or

SUP 13A (Qualifying for authorisation under the Act)

As column (2).

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

Applies.

SUP 15 (Notifications to the FSA)

Does not apply if the *firm* has *permission* only for *cross border services* and does not carry on *regulated activities* in the *United Kingdom* (SUP 15 Ann 1R).

Otherwise, as column (2).

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 *depository* 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).

	in the <i>Handbook</i> . SUP App 2 (Insurers: Scheme of operations) Does not apply (<i>SUP App 2.1.1R</i>).	SUP App 2 (Insurers: Scheme of operations) Does not apply (<i>SUP App 2.1.1R</i>).
<i>ENF</i>	<i>ENF</i> applies and contains <i>guidance</i> on the use of the <i>FSA's</i> enforcement powers (<i>ENF 1</i>).	<i>ENF</i> applies and contains <i>guidance</i> on the use of the <i>FSA's</i> enforcement powers (<i>ENF 1</i>).
<i>DEC</i>	<i>DEC</i> applies and contains <i>guidance</i> on the <i>FSA's</i> decision making procedures (<i>DEC 1</i>).	<i>DEC</i> applies and contains <i>guidance</i> on the <i>FSA's</i> decision making procedures (<i>DEC 1</i>).
<i>DISP</i>	Applies (<i>DISP 1.1.1R</i>).	Does not apply (<i>DISP 1.1.1R</i>).
<i>COMP</i>	Applies, except in relation to the <i>passported activities</i> of an <i>ISD investment firm</i> or a <i>BCD credit institution</i> (see the definition of " <i>participant firm</i> ") other than 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> . However, an <i>ISD investment firm</i> or <i>BCD credit institution</i> may be able to apply for <i>top-up cover</i> in relation to its <i>passported activities</i> (see <i>COMP 14</i> (Participation by EEA Firms)).	Does not apply in relation to the <i>passported activities</i> of an <i>ISD investment firm</i> or a <i>BCD credit institution</i> (see the definition of " <i>participant firm</i> "). Otherwise, <i>COMP</i> may apply, but the coverage of the <i>compensation scheme</i> is limited for non-UK activities (see <i>COMP 5</i>).
<i>COAF</i>	Applies if the <i>firm</i> wishes to bring a <i>complaint</i> under the <i>complaints scheme</i> , provided the <i>complaint</i> meets the requirements of the <i>complaints scheme</i> (<i>COAF 1.2</i>).	As column (2).
<i>COLL</i> and <i>CIS</i>	<i>COLL</i> and <i>CIS</i> apply if the <i>firm</i> : (a) is the <i>operator</i> or <i>depository</i> of an <i>AUT</i> or <i>ICVC</i> ; or (b) wishes to apply for an <i>authorisation order</i> to establish an <i>AUT</i> or <i>ICVC</i> ; or	As column (2).

	(c) is the <i>operator</i> of a <i>recognised scheme</i> ; or (d) wishes to apply for recognition of a <i>recognised scheme</i> .	
<i>CRED</i>	Does not apply.	Does not apply.
<i>ECO</i>	<i>ECO 2</i> applies if the <i>firm</i> is an <i>outgoing ECA provider</i> . <i>ECO 3</i> applies if the <i>firm</i> is a <i>domestic ECA provider</i> . <i>ECO 1</i> does not apply.	<i>ECO 1</i> applies if the <i>firm</i> is an <i>incoming ECA provider</i> except for <i>ECO 1.2.1R</i> which does not apply if: (a) the <i>electronic commerce activity</i> is not <i>insurance business</i> which: (i) satisfies the conditions in <i>ECO 1.2.3R</i> ; and (ii) is carried on by an <i>insurer</i> ; and (b) the <i>EEA State</i> from which the activity is provided has implemented the <i>DMD</i> with the result that the obligations provided for by the <i>DMD</i> are applied when the <i>incoming ECA provider</i> is carrying on the activity from an <i>establishment</i> in that State with a <i>UK ECA recipient</i> in the <i>United Kingdom</i> . <i>ECO 2</i> and <i>ECO 3</i> do not apply.
<i>ELM</i>	<i>ELM 6</i> applies.-	Does not apply.
<i>LLD</i>	Does not apply.	Does not apply.
<i>PROF</i>	<i>PROF</i> applies only if the <i>firm</i> is an <i>authorised professional firm</i> .	As column (2).
<i>REC</i>	Does not apply.	Does not apply.
<i>LR</i>	<i>LR</i> (Listing Rules) May apply if the <i>firm</i> is applying for <i>listing</i> in the <i>United Kingdom</i> , is a <i>listed issuer</i> in the <i>United Kingdom</i> , is a <i>sponsor</i> or is applying for approval as a	<i>LR</i> (Listing Rules) As column (2).

	<i>sponsor.</i>	
<i>PR</i>	<p><i>PR</i> (Prospectus Rules)</p> <p>May apply if the <i>firm</i> makes an <i>offer of transferable securities to the public</i> in the <i>United Kingdom</i> or is seeking the <i>admission to trading of transferable securities</i> on a <i>regulated market</i> situated or operating in the <i>United Kingdom</i>.</p>	<p><i>PR</i> (Prospectus Rules)</p> <p>As column (2).</p>
<i>DR</i>	<p><i>DR</i> (Disclosure Rules)</p> <p>May apply if the <i>firm</i> is an <i>issuer</i>, any class of whose <i>financial instruments</i> have been <i>admitted to trading</i> on a <i>regulated market</i>, or are the subject of an application for <i>admission to trading</i> on a <i>regulated market</i>, other than <i>issuers</i> who have not requested or approved admission of their <i>financial instruments</i> to trading on a <i>regulated market</i>.</p>	<p><i>DR</i> (Disclosure Rules)</p> <p>As column (2).</p>

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 5 SUP 13A* (Qualifying for authorisation under the Act).

14.1.7 G ...*Incoming EEA firms* seeking a *top-up permission* should refer to ~~*AUTH 5 SUP 13A*~~.

...

14.2.2 G (1) Where an *incoming EEA firm*,⁷ passporting under the *Investment Services Directive*, *Banking Consolidation Directive* or the *UCITS Directive*,⁷ 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 5 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* ~~into~~ 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~~ 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

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

Schedule G
4.3

The following powers and related provisions in or under the <i>Act</i> have been exercised by the <i>FSA</i> in <i>SUP</i> to direct or require:	
...	
(8)	<u>Paragraph 5(4) of Schedule 4 (Treaty Rights: Notice to Authority).</u>

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

...			
Paragraph <u>15A(5)(e)</u> of Schedule 3 (Note 3)	...	AUTH 5 <u>SUP 13A</u>	<i>Executive procedures</i>
...			

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-5*~~ *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

Provision	Description
...	
<i>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</i>	Authorisation guidance
...	
<u><i>SUP 13A.1.1G – 13A.1.2G, SUP 13A.6.5G, SUP 13A Annex 1G</i></u>	<u>Authorisation guidance</u>
...	

...

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-5~~ SUP 13A).

...

4.2.1 G ...

- (2) qualify for *authorisation* (see ~~AUTH-5~~ 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-5~~ 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-5~~ SUP 13A (Qualifying for authorisation under the Act) has general *guidance* on the exercise of passporting rights by *EEA firms*.

...