

HANDBOOK ADMINISTRATION (NO 6) INSTRUMENT 2007**Powers exercised**

- A. The Financial Services Authority makes this instrument in the exercise of the powers and related provisions listed in Schedule 4 (Powers exercised) to the General Provisions of the Handbook.
- B. The rule-making powers referred to above are specified for the purpose of section 153(2) (Rule-making instruments) of the Financial Services and Markets Act 2000.

Commencement

- C. This instrument comes into force as follows:
- (1) Annex D comes into force on 29 June 2007;
 - (2) Annex C, Part 1 of Annex E and Annex G come into force on 6 July 2007;
 - (3) Part 1 of Annex A and Annex B come into force on 6 August 2007;
 - (4) Part 2 of Annex A comes into force on 1 October 2007; and
 - (5) the rest of this instrument comes into force on 1 November 2007.

Amendments to the Handbook

- D. The modules of the FSA 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
Principles for Businesses (PRIN)	Annex B
Prudential sourcebook for Banks, Building Societies and Investment Firms (BIPRU)	Annex C
Interim Prudential sourcebook for Insurers (IPRU(INS))	Annex D
Interim Prudential sourcebook for Investment Businesses (IPRU(INV))	Annex E
New Conduct of Business sourcebook (COBS)	Annex F
Supervision manual (SUP)	Annex G

Notes

- E. In the Annexes to this instrument, the “notes” (indicated by “**Note:**”) are included for the convenience of readers but do not form part of the legislative text.

Citation

- F. This instrument may be cited as the Handbook Administration (No 6) Instrument 2007.

By order of the Board
28 June 2007

Annex A

Amendments to the Glossary of definitions

In this Annex, underlining indicates new text and striking through indicates deleted text. In Part 1, where a new definition is being inserted, the text is not underlined.

Part 1 (in force 6 August 2007)

RPPD the Regulatory Guide which contains a statement of the responsibilities of providers and distributors for the fair treatment of *customers*.

Part 2 (in force 1 October 2007)

multilateral development bank ~~(1)~~(a) any of the following:

- (i) African Development Bank;
- (ii) Asian Development Bank;
- (iii) Caribbean Development Bank;
- (iv) Council of Europe Development Bank;
- (v) European Bank for Reconstruction & Development;
- (vi) European Investment Bank;
- (vii) European Investment Fund;
- (viii) Inter-American Development Bank;
- (ix) International Bank for Reconstruction & ~~&~~ and Development;
- (x) International ~~Financial~~ Finance Corporation;
- (xa) International Finance Facility for Immunisation;
- (xb) Islamic Development Bank;
- (xi) Multilateral Investment Guarantee Agency; and
- (xii) Nordic Investment Bank;

~~(2)~~(b) ...

Part 3 (in force 1 November 2007)

The changes made to the definition of “*controlled activity*” by the *Glossary (MiFID) Instrument 2007* (FSA 2007/1) and the *Glossary (Conduct of Business and Other Sourcebooks) Instrument 2007* (FSA 2007/32) are revoked. This definition is amended as follows:

controlled activity (in accordance with section 21(9) of the *Act* (The classes of activity and investment) any of the following activities specified in Part 1 of Schedule 1 to the Financial Promotions Order (Controlled Activities):

...

(fa) operating a multilateral trading facility (paragraph 4A);

...

(u) agreeing to carry on specified kinds of activity (paragraph 11) which are specified in paragraphs 3 to 10H (other than paragraph 4A) of Part 1 of Schedule 1 to the *Financial Promotion Order*.

Amend the following definitions as shown:

excess surplus a *firm* will have an excess surplus in a *with-profits fund* if, and to the extent that:

(a) the *regulatory surplus* (or, in the case of a *realistic basis life firm*, the excess of *realistic value of assets* over *realistic value of liabilities*) in that *with-profits fund*; and

(b) ...

...

regulatory system the arrangements for regulating a *firm* or other *person* in or under the *Act*, including the *threshold conditions*, the *Principles* and other *rules*, the *Statements of Principle*, codes and *guidance* and including any relevant directly applicable provisions of a Directive or Regulation such as those contained in the *MiFID implementing Directive* and the *MiFID implementing Regulation*.

Annex B

Amendments to the Principles for Businesses (PRIN)

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

Responsibilities of product providers and distributors under the Principles

- 1.1.10 G *RPPD* contains *guidance* on the responsibilities of providers and distributors for the fair treatment of *customers* under the *Principles*.

Annex C

Amendments to the Prudential sourcebook for Banks, Building Societies and Investment Firms (BIPRU)

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

3.4 Risk weights under the standardised approach to credit risk

...

Exposures secured by mortgages on residential property

...

3.4.64 R The requirements about legal certainty referred to in *BIPRU* 3.4.60R(4)(a) are as follows:

- (1) the mortgage or ~~charge~~ charge must be enforceable in all relevant jurisdictions which are relevant at the time of conclusion of the credit agreement, and the mortgage or ~~charge~~ charge must be properly filed on a timely basis;

...

3.4.84 R For the purposes of *BIPRU* 3.4.56R or *BIPRU* 3.4.58R, a *firm* may only treat an *exposure* as fully and completely secured by residential property situated in the territory of a *third-country competent authority* that is listed as equivalent for credit risk in *BIPRU* 8 Annex ~~36R~~ if it would be treated as fully and completely secured under the applicable requirements of that *third-country competent authority* (including any applicable loan-to-value ceiling).

4.3 The IRB approach: Provisions common to different exposure classes

...

4.3.33 R A *firm* must regularly compare realised *default* rates with estimated *PDs* for each grade and where realised *default* rates are outside the expected range for that grade a *firm* must specifically analyse the reasons for the deviation. A ~~firm~~ firm using its own estimates of *LGDs* and/or *conversion factors* must also perform analogous analysis for own estimates of *LGDs* and *conversion factors*. Such comparisons must make use of historical data that cover as long a period as possible. A *firm* must document the methods and data used in such comparisons. This analysis and documentation must be updated at least annually.

[**Note:** *BCD* Annex VII Part 4 point 111]

Annex D

Amendments to the Interim Prudential sourcebook for Insurers (IPRU(INS))

In this Annex, where a new version of a form or instructions to a form is substituted for the current version, the new text is not underlined.

...

Appendix 9.11 Reporting Forms

...

Replace Form 60 with the following:

Lloyd's Return

Long term insurance capital requirement

Form 60

The Society of Lloyd's
Financial year ended
Units

				L60	Global	Financial year ended	Units
				Net reserves / capital at risk	Reinsurance factor	31/12/xx	£000
				3	4	LTICR Financial year	LTICR Previous year
				1	2	5	6
Insurance death risk capital component							
Life protection reinsurance	11	0.0%					
Classes I (other), II and IX	12	0.1%					
Classes I (other), II and IX	13	0.15%					
Classes I (other), II and IX	14	0.3%					
Classes III, VII and VIII	15	0.3%					
Total	16						
Insurance health risk and life protection reinsurance capital component							
Class IV, supplementary classes 1 and 2 and life protection reinsurance	21						
Insurance expense risk capital component							
Life protection and permanent health reinsurance	31	0%					
Classes I (other), II and IX	32	1%					
Classes III, VII and VIII (investment risk)	33	1%					
Classes III, VII and VIII (expenses fixed 5 yrs +)	34	1%					
Classes III, VII and VIII (other)	35	25%					
Class IV (other)	36	1%					
Class V	37	1%					
Class VI	38	1%					
Total	39						
Insurance market risk capital component							
Life protection and permanent health reinsurance	41	0%					
Classes I (other), II and IX	42	3%					
Classes III, VII and VIII (investment risk)	43	3%					
Classes III, VII and VIII (expenses fixed 5 yrs +)	44	0%					
Classes III, VII and VIII (other)	45	0%					
Class IV (other)	46	3%					
Class V	47	0%					
Class VI	48	3%					
Total	49						
Long term insurance capital requirement	51						

Replace the instructions to Form 60 as follows:

Instructions for completion of Form 60

1. The *insurance death risk capital component* in lines 11-15 column 5 is based on capital at risk for those contracts where it is not negative. Capital at risk is the benefit payable as a result of death less the *mathematical reserves* after distribution of surplus. *Life protection reinsurance business* written by a *pure reinsurer* or a *mixed insurer* is reported in line 11. Other business in classes I, II and IX must be split between lines 12, 13 and 14 in accordance with *INSPRU* 1.1.82R. Line 12 is for temporary insurance on death where the original term of the contract is 3 years or less. Line 13 is for temporary insurance where the original term is 5 years or less but more than 3 years. Line 14 is for other *class I, II* or *IX* business. For a *pure reinsurer* the factor of 0.3% in column 1 of line 15 must be replaced by 0.1%.
2. In lines 11-15 columns 2 and 3 are the gross and net capital at risk in accordance with *INSPRU* 1.1.83R. For lines 12-14 the reinsurance factor is calculated in aggregate, so column 4 is the sum of lines 12-14 column 3 divided by the sum of lines 12-14 column 2, subject to a minimum of 0.5 in accordance with *INSPRU* 1.1.81R. For line 15 column 4 is column 3 divided by column 2, subject to a minimum of 0.5 in accordance with *INSPRU* 1.1.81R. Column 5 is column 1 x column 2 x column 4.
3. The *insurance health risk and life protection reinsurance capital component* in line 21 column 5 must be equal to the entry at line 43 in Form 12 for *long-term insurance business*, unless an estimate has been made in accordance with instruction 2 to Forms 11 and 12. In this case a supplementary note (code 6001) is required as described in that instruction.
4. For the purpose of calculating the *insurance expense risk capital component* and the *insurance market risk capital component* linked contracts must be allocated to:
 - lines 33 and 43 where the *firm* bears an investment risk,
 - lines 34 and 44 where the *firm* does not bear an investment risk but where the allocation to cover *management expenses* is fixed for a period exceeding 5 years from the commencement of the contract, and
 - lines 35 and 45, otherwise.*Life protection reinsurance business* and *permanent health reinsurance business* written by a *pure reinsurer* or a *mixed insurer* must be allocated to lines 31 and 41.
5. The *insurance expense risk capital component* for linked contracts where the *firm* bears no investment risk and the allocation to cover *management expenses* does not have a fixed upper limit for a period exceeding 5 years from the commencement of the contract in line 35 is 25% of net *administrative expenses* in accordance with *INSPRU* 1.1.88R(1).
6. The *insurance expense risk capital component* for *class V* in line 37 column 5 is 1% of the assets of the tontine in accordance with *INSPRU* 1.1.88R(2).
7. The *insurance expense risk capital component* for other business in lines 32, 33, 34, 36 and 38 column 5 is 1% of adjusted *mathematical reserves* after distribution of surplus in accordance with *INSPRU* 1.1.88R(3). Column 4 is column 3 divided by column 2, subject to a minimum of 85% (50% for a pure reinsurer) in accordance with *INSPRU* 1.1.90R. Column 5 is column 1 x column 2 x column 4.
8. The *insurance market risk capital component* in lines 44 and 45 column 5 for class III, VII and VIII contracts where the *firm* does not bear any investment risk and in line 46 for class V contracts is nil in accordance with *INSPRU* 1.1.89R.
9. The *insurance market risk capital component* in line 42, 43, 46 and 48 column 5 is 3% of adjusted *mathematical reserves* after distribution of surplus in accordance with *INSPRU* 1.1.89R. Column 4 is column 3 divided by column 2 subject to a minimum of 85% (50% for a pure reinsurer) in accordance with *INSPRU* 1.1.90R. Column 5 is column 1 x column 2 x column 4. The amount in line 49 column 3 must equal the amount in Form 14 line 11.
10. The *long term insurance capital requirement* in line 51 column 5 is the sum of column 5 in lines 16, 21, 39 and 49.

11. The ratios in column 4 must be shown to 2 decimal places, but the unrounded ratios must be used for the purposes of calculating column 5.
12. Where the previous financial year ends before 31 December 2006, column 6 must be completed using the corresponding figures from the previous return, e.g. line 12 column 6 contains the amount previously shown in line 11 column 5.

Annex E

Amendments to the Interim Prudential sourcebook for Investment Businesses (IPRU(INV))

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

Part 1 (in force 6 July 2007)

Annex A: LIMITED LIABILITY PARTNERSHIPS: ELIGIBLE MEMBERS' CAPITAL

...

Specific conditions for eligibility

2.2 R The specific conditions are that:

(1) ...

(2) the members' capital account is an account:

(a) ...

(b) from which under the terms of the *limited liability partnership* agreement an amount representing capital may be withdrawn by a member only if:

(i) he ceases to be a member and an equal amount is transferred to another such account by his former fellow members or any person replacing him as a member; or

(ii) the *limited liability partnership* is wound up or otherwise dissolved; or ~~wound up and either the firm has ceased to be authorised or no longer has a Part IV permission.~~

(iii) the firm has ceased to be authorised or no longer has a Part IV permission.

Part 2 (in force 1 November 2007)

...

APPENDIX 13(1): Defined terms for Chapter 13

Delete the following definition from Appendix 13(1); the text is not shown struck through:

Category A firm

Annex D [Required Forms]

...

9.8 Guidance Notes on Completion of Agreements

...

15 Repayment clauses have given rise to confusion in the past. The wording of such clauses will differ depending on ~~whether an ISD long term, an ISD short term or a non-ISD~~ which form is being used. Sample wordings for each of these forms of agreement are set out below.

Annex F

Amendments to the new Conduct of Business sourcebook (COBS)

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

These amendments are to the text of COBS as published in the *Conduct of Business Sourcebook Instrument 2007* (FSA 2007/33).

1 Ann 1 ...

Part 1: What?

...

1	Eligible counterparty business	
1.1	R	The <i>COBS</i> provisions shown below do not apply to <i>eligible counterparty business</i> that is <i>MiFID</i> or <i>equivalent third country business</i> .
		COBS provision
		Description
		...
		<i>COBS</i> 4 (other than <i>COBS</i> 4.2.5R <u>4.4.1R</u> and <i>COBS</i> 4.2.6G <u>4.4.2G</u>)
		Communicating with clients including financial promotions
		...
...		
5.2	G	... The exclusion also does not apply in relation to the sale of a <i>financial instrument</i> for the purpose of enabling a <i>client</i> to invest money to repay his obligations under a loan, mortgage <u>mortgage</u> or home reversion <u>home reversion</u> .
...		

...

Part 3: Guidance

...		
5.1	G	... The rules in this sourcebook within the Directive's scope are the cancellation rules <u>cancellation rules (COBS 15)</u> and those rules requiring the provision of pre-contract information ...

...		
6.1	G	... The <i>rules</i> in this sourcebook within the Directive's scope are those requiring the provision of pre-contract information, the <i>cancellation rules</i> <u>cancellation rules (COBS 15)</u> and the other ...
...		
6.5	G	In the <i>FSA's</i> view:
		...
		(2) ...; in other words, the <i>rules</i> requiring pre-contract information and <i>cancellation rules</i> <u>cancellation rules (COBS 15)</u> derived from the <i>Consolidated Life Directive</i> ...
		(3) ... (The basis for this is that the <i>IMD Insurance Mediation Directive</i> was adopted after the <i>DMD Distance Marketing Directive</i> and is not expressed to be subject to it.)
...		

2.4.3 R ...

(2) Paragraph (1) does not apply if:

...

(b) C1 is neither a *firm* nor an *overseas financial services institution* and the main purpose of the arrangements between the parties is the avoidance of duties that F would otherwise owe to C2.

...

3.1.2 G ... For example, a separate approach to *client* categorisation is set out in the definition of a *retail client* for a *firm* that ~~is providing basic advice on a stakeholder product~~ gives basic advice.

4.11.1 R ...

(3) A *firm* must retain the record in relation to a *financial promotion* relating to:

...

(b) a *life policy*, ~~*OPS occupational pension scheme*~~, *SSAS*, *personal pension scheme* or *stakeholder pension scheme*, for six years;

- ...
- ...
- 6.1.11 R ...
- (2) A *firm* may instead provide that information immediately after starting to provide *designated investment business* or *ancillary services* if:
- (a) the *firm* was unable to comply with (1) because, at the request of the *client*, the agreement was concluded using a ~~*means of distance communication*~~ means of distance communication which prevented the *firm* from doing so; and
- (b) in any case where the ~~*rule on voice telephony communications*~~ rule on voice telephony communications (COBS 5.1.12R) does not otherwise apply, the *firm* complies with that *rule* in relation to the *retail client*, as if that *client* were a *consumer*.
- ...
- 9.5.2 R The A *firm* must retain its records relating to suitability for a minimum ...
- 11.7.2A G The requirements of this section are without prejudice
- 14.3.11 R If a *firm* provides ...
- ...
- (2) costs and associated charges (~~COBS 2.2.2R(1)(d)~~ 2.2.1R(1)(d) and ~~COBS 7.1.8R~~ 6.1.9R);
- ...
- 15.2.5 R ...
- (2) This *rule* applies only where a *consumer* would not otherwise receive similar information under a *rule* in this sourcebook from the *firm* or another *authorised person* (such as under the ~~*distance marketing disclosure rules*~~ distance marketing disclosure rules (COBS 5.1.1R to 5.1.4R) or the COBS 14 ('Providing product information' ~~chapter~~)).
- 15.4.2 R ...
- (3) The *firm* may not require the *consumer* to pay any amount on the basis of this *rule* unless it can prove that the *consumer* was duly informed about the amount payable, in conformity with the ~~*distance marketing disclosure rules*~~ distance marketing disclosure rules.

However, ...

...

16 Annex 1R Trade confirmation and periodic information

This annex forms part of *COBS* 16.2.1R

...

20.4.5 R A *firm* must:

...

(3) provide its *CFPPFM* free of charge with any:

...

(c) ~~key facts disclosure~~ features document ~~for~~ for a with-profits policy; and

...

...

TP 1

(1)	(2)	(3)	(4)	(5)	(6)
	Material to which the transitional provision applies		Transitional Pprovision	Transitional provision: dates in force	Handbook Pprovisions: coming into force
...					
1.4	<i>COBS</i> 3	G	... The requirement to obtain confirmation under <i>COBS</i> 3.6.3R(2) <u>3.6.4R(2)</u> only applies in relation to prospective counterparties.
...					

TP 2

(1)	(2)	(3)	(4)	(5)	(6)
-----	-----	-----	-----	-----	-----

	Material to which the transitional provision applies		Transitional Provision	Transitional Provision: dates in force	Handbook provisions: coming into force
...					
2.6	COBS 14.1 and COBS 14.2	R	<p>A <i>firm</i> is not required to provide a <i>key features document</i> ... if:</p> <p>(1) the rules would have required the <i>firm</i> to provide a <i>key features document</i> for that product if they were still in force;</p> <p>(2) the <i>firm</i> is satisfied, on reasonable grounds, that providing a <i>key features document</i> in accordance with the rules, as if they were still in force, will not cause:</p> <ul style="list-style-type: none"> (a) a <i>client</i> to suffer any prejudice; or (b) the <i>firm</i> to breach its obligations under one or more of the <i>Principles</i>; and <p>(3) the <i>firm</i> provides a <i>key features document</i> for the product in accordance with the rules as if they were still in force.</p> <p>...</p>
...					
2.8	COBS 16.3 (Periodic statements)	G	<p>...</p> <p>A <i>firm</i> may choose to comply with either COBS 16.3 or COB 8.2 in providing any <i>periodic report statement</i> in</p>

			relation to which this <i>rule</i> applies.		
--	--	--	---	--	--

Annex G

Amendments to the Supervision manual (SUP)

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

SUP 16 Annex 9R Annual Questionnaire for Authorised Professional Firms

...

2.02 Income from mainstream regulated activities

a ...

b During the period, please indicate the proportion of this income generated from: i) ...

(An estimate to the nearest 10% is sufficient)

...

iv) *Mortgage
Home Finance
mediation activities*

...

c Did the *firm* during the period:

...

(i) Handle *client money*?
(i.e. money held in the course of *designated investment business, ~~mortgage~~ home finance mediation activity or insurance mediation activity*)

...

...

...

[The following list was inserted into Section E of the Retail Mediation Activities Return (RMAR), in SUP 16 Annex 18AR, by the *Supervision Manual (Retail Mediation Activities Return) Instrument 2006* (FSA 2006/14). Although the list was set out in full in the instrument, it does not of itself need to form part of the return. Rather, it was intended to act as a convenience to firms filling in this return. Whilst the list will remain as a drop-down menu within the RMAR, future amendments to it will no longer be made by instrument.]

SUP 16 Annex 18AR

Delete the following from the face of the form:

~~Drop down list~~

~~[Please Select]~~

- ~~1 Abacus Syndicate (Lloyds Syndicate)~~
- ~~2 Aee~~
- ~~3 ALEA London Ltd~~
- ~~4 American International Group~~
- ~~5 American Insurance Company~~
- ~~6 Amlin Insurance Services~~
- ~~7 Aon Professional Risks~~
- ~~8 Beazley (Lloyds Syndicate or Limited Company)~~
- ~~9 Brit (Lloyds Syndicate or Limited Company)~~
- ~~10 Canopus Managing Agents (previously Trenwick)~~
- ~~11 Catlin Insurance Company Ltd~~
- ~~12 CBC UK Ltd~~
- ~~13 Chaucer Syndicates Ltd (Lloyds Syndicate)~~
- ~~14 China~~
- ~~15 Chubb Insurance Company of Europe SA~~
- ~~16 CNA Insurance~~
- ~~17 Collegiate~~
- ~~18 D A Constable (Lloyds Syndicate)~~
- ~~19 Griffen~~
- ~~20 HCC (Lloyds syndicate)~~
- ~~21 Hiscox (Lloyds Syndicate or Limited Company)~~
- ~~22 Interpolis (SimplyBiz)~~
- ~~23 Magian Underwriting~~
- ~~24 Markel (Lloyds Syndicate)~~
- ~~25 Mitsui Sumitomo (Lloyds Syndicate)~~
- ~~26 Newline Underwriting (Lloyds Syndicate)~~
- ~~27 PI Direct~~
- ~~28 QBE International Insurance Limited~~
- ~~29 Royal & Sun Alliance~~
- ~~30 St Paul International Insurance Co Ltd~~
- ~~31 SVB (Lloyds Syndicate)~~
- ~~32 Towergate Lifestyle Underwriting~~
- ~~33 Trilley~~
- ~~34 W R Berkley~~
- ~~35 Other (please state)~~
- ~~36 Multiple (please state all the insurance undertakings)~~