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 (‘the Act’):

   (1) section 138 (General rule-making power);
   (2) section 156 (General supplementary powers);
   (3) section 157(1) (Guidance);
   (4) section 178 (Obligation to notify the Authority: acquisitions of control); and
   (5) section 191D (Obligation to notify the Authority: dispositions of control).

B. The rule-making powers listed above are specified for the purpose of section 153(2) (Rule-making instruments) of the Act.

Commencement

C. This instrument comes into force on 28 March 2009.

Amendments to the Handbook

D. 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>
</tr>
</thead>
<tbody>
<tr>
<td>Glossary of definitions</td>
<td>Annex A</td>
</tr>
<tr>
<td>Supervision manual (SUP)</td>
<td>Annex B</td>
</tr>
<tr>
<td>Decision Procedure and Penalties manual (DEPP)</td>
<td>Annex C</td>
</tr>
<tr>
<td>Recognised Investment Exchanges and Recognised Clearing Houses sourcebook (REC)</td>
<td>Annex D</td>
</tr>
</tbody>
</table>

Citation

E. This instrument may be cited as the Supervision Manual (Controllers) (Amendment) Instrument 2009

By order of the Board
26 March 2009
Annex A

Amendments to the Glossary of definitions

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

section 178 notice
(in accordance with section 178(3) of the Act) a notice given to the FSA under section 178 of the Act.

control
…

(3) (except in (2)) (in accordance with section 182 of the Act) a controller (“A”) (whether acting alone or in concert) increases control over a firm (“B”) when:

(a) the percentage of shares A holds in B or a parent undertaking (“P”) of B increases by any of the following steps:

   (i) from less than 20% to 20% or more;
   (ii) from less than 30% to 30% or more;
   (iii) from less than 50% to 50% or more;

(b) the percentage of voting power A holds in B or P increases by any of the steps mentioned above; or

(c) A becomes a parent undertaking of B.

(4) (except in (2)) (in accordance with section 183 of the Act) a controller (“A”) (whether alone or acting in concert) reduces control over a firm (“B”) whenever:

(a) the percentage of shares which A holds in B or a parent undertaking (“P”) of B decreases by any of the following steps:

   (i) from 50% or more to less than 50%;
   (ii) from 30% or more to less than 30%;
   (iii) from 20% or more to less than 20%;

(b) the percentage of voting power which A holds in B or P decreases by any of the steps mentioned above; or

(c) A ceases to be a parent undertaking of B.

(5) (except in (2)) (in accordance with section 183 of the Act) a controller (“A”) (whether acting alone or in concert) ceases to have control over a firm (“B”) if A ceases to hold any of the following:

(a) 10% or more of the shares in B or a parent undertaking (“P”) of B:
(b) 10% or more of the voting power in B or P;

(c) shares or voting power in B or in P as a result of which A is able to exercise significant influence over the management of B.

(6) (for the purposes of the calculations in (3) to (5)) the holding of shares or voting power by a person (“A1”) includes any shares or voting power held by another (“A2”) if A1 and A2 are acting in concert.

controller

(1) (in relation to a firm or other undertaking (“A”)) other than an UK insurance intermediary) (in accordance with section 422 of the Act (Controller)) a person who falls within any of the following cases; the cases are where the person:

(a) holds 10% or more of the shares in A; or

(b) is able to exercise significant influence over the management of A through his shareholding in A; or

(c) holds 10% or more of the shares in a parent undertaking (“P”) of A; or

(d) is able to exercise significant influence over the management of P through his shareholding in P; or

(e) is entitled to exercise, or control the exercise of, 10% or more of the voting power in A; or

(f) is able to exercise significant influence over the management of A through his voting power in A; or

(g) is entitled to exercise, or control the exercise of, 10% or more of the voting power in P; or

(h) is able to exercise significant influence over the management of P through his voting power in P;

(2) (in relation to an UK insurance intermediary) (in accordance with article 17 of the Insurance Intermediaries Order) a person who would fall within (1) if 20% were substituted for 10%; in (1) and (2) of this definition:

(i) "the person" means:

(A) the person; or

(B) any of the person’s associates; or

(C) the person and any of his associates;

(ii) "associate", in relation to a person (“H”) holding shares in an undertaking (“C”) or entitled to exercise or control the exercise of
voting power in relation to another undertaking ("D"), means:

(A) the spouse or civil partner of H;
(B) a child or stepchild of H (if under 18);
(C) the trustee of any settlement under which H has a life interest in possession (or in Scotland a life interest);
(D) an undertaking of which H is a director;
(E) a person who is an employee or partner of H;
(F) if H is an undertaking:
   (I) a director of H;
   (II) a subsidiary undertaking of H;
   (III) a director or employee of such a subsidiary undertaking; and
(G) if H has with any other person an agreement or arrangement with respect to the acquisition, holding or disposal of shares or other interests in C or D or under which they undertake to act together in exercising their voting power in relation to C or D, that other person;

(iii) "settlement" includes any disposition or arrangement under which property is held on trust (or subject to a comparable obligation);

(iv) "shares" means:

(A) in relation to an undertaking with a share capital, allotted shares;
(B) in relation to an undertaking with capital but no share capital, rights to share in the capital of the undertaking;
(C) in relation to an undertaking without capital, interests:
   (I) conferring any right to share in the profits, or liability to contribute to the losses, of the undertaking, or
   (II) giving rise to any obligation to contribute to the debts or expenses of the undertaking in the event of a winding up.

(1) (in relation to a firm or other undertaking ("B"), other than a non-directive firm), a person ("A") who (whether acting alone or in concert):

   (a) holds 10% or more of the shares in B or in a parent
undertaking (“P”) of B;
(b) holds 10% or more of the voting power in B or in P; or
(c) holds shares or voting power in B or P as a result of which A is able to exercise significant influence over the management of B.

(2) (in relation to a non-directive firm (“B’’)) a person (“A”) who (whether acting alone or in concert):
(a) holds 20% or more of the shares in B or in a parent undertaking (“P”) of B;
(b) holds 20% or more of the voting power in B or in P; or
(c) holds shares or voting power in B or P as a result of which A is able to exercise significant influence over the management of B.

(3) for the purposes of calculations relating to (1) and (2), the holding of shares or voting power by a person (“A1”) includes any shares or voting power held by another (“A2”) if A1 and A2 are acting in concert.

(4) shares and voting power that a person holds in a firm (“B”) or in a parent undertaking of B (“P”) are disregarded for the purposes of determining control in the following circumstances:
(a) shares held for the sole purposes of clearing and settling within a short settlement cycle;
(b) shares held by a custodian or its nominee in its custodian capacity are disregarded, provided that the custodian or nominee is only able to exercise voting power attached to the shares in accordance with instructions given in writing;
(c) shares representing no more than 5% of the total voting power in B or P held by an investment firm, provided that:
   (i) it holds the shares in the capacity of a market maker (as defined in article 4.1(8) of MIFID);
   (ii) it is authorised by its Home State regulator under MIFID; and
   (ii) it does not intervene in the management of B or P nor exerts any influence on B or P to buy the shares or back the share price;
(d) shares held by a credit institution or investment firm in its trading book are disregarded, provided that:
   (i) the shares represent no more than 5% of the total
voting power in B or P; and

(ii) the credit institution or investment firm ensures that the voting power is not used to intervene in the management of B or P;

(e) shares held by a credit institution or an investment firm are disregarded, provided that:

(i) the shares are held as a result of performing the investment services and activities of:

(A) underwriting share issues; or

(B) placing shares on a firm commitment basis in accordance with Annex I, section A.6 of MIFID; and

(ii) the credit institution or investment firm:

(A) does not exercise voting power represented by the shares or otherwise intervene in the management of the issuer; and

(B) retains the holding for a period of less than one year;

(f) where a management company and its parent undertaking both hold shares or voting power, each may disregard holdings of the other, provided that each exercises its voting power independently of the other;

(g) but (f) does not apply if the management company:

(i) manages holdings for its parent undertaking or an undertaking in respect of which the parent undertaking is a controller;

(ii) has no discretion to exercise the voting power attached to such holdings; and

(iii) may only exercise the voting power in relation to such holdings under direct or indirect instruction from:

(A) its parent undertaking; or

(B) an undertaking in respect of which of the parent undertaking is a controller;

(h) where an investment firm and its parent undertaking both hold shares or voting power, the parent undertaking may disregard holdings managed by the investment firm on a client by client basis and the investment firm may disregard holdings of the parent undertaking, provided that the investment firm:
(i) has permission to provide *portfolio management*;

(ii) exercises its *voting power* independently from the *parent undertaking*; and

(iii) may only exercise the *voting power* under instructions given in writing, or has appropriate mechanisms in place for ensuring that individual portfolio management services are conducted independently of any other services.

credit institution

(2) (in REC and in SUP 11 (Controllers and close links) and SUP 16 (Reporting requirements)):

(a) a credit institution authorised under the *Banking Consolidation Directive*; or

(b) an institution which would satisfy the requirements for authorisation as a credit institution under the *Banking Consolidation Directive* if it had its registered office (or if it does not have a registered office, its head office) in an EEA state.

non-directive firm

(in SUP 11 (Controllers and close links) and SUP 16 (Reporting requirements)) (in accordance with the Financial Services and Markets Act 2000 (Controllers) (Exemption) Order 2009 (SI 2009/774)) a *UK domestic firm* other than:

(a) a credit institution authorised under the *Banking Consolidation Directive*;

(b) an *investment firm* authorised under *MIFID*;

(c) a *management company* as defined in article 1a.2 of the *UCITS Directive*, authorised under that directive;

(d) an *undertaking* pursuing the activity of direct insurance within the meaning of:

   (i) article 2 of the *Consolidated Life Directive*, authorised under that directive; or

   (ii) article 1 of the *First Non-Life Directive*, authorised under that directive;

   (d) an *undertaking* pursuing the activity of *reinsurance* within the meaning of article 2.1 (a) of the *Reinsurance Directive*, authorised under that directive.

restriction notice

a notice served under section 191B of the *Act*.
shares

(1) (except in COLL, LR, DTR and REC, SUP 11 (Controllers and close links) and SUP 16 (Reporting requirements)) the investment, specified in article 76 of the Regulated Activities Order (Shares etc), which is in summary: a share or stock in the share capital of:

(a) any body corporate (wherever incorporated);

(b) any unincorporated body constituted under the law of a country or territory outside the United Kingdom.

...

(5) (in SUP 11 (Controllers and close links) and SUP 16 (Reporting requirements)) (in accordance with section 422 of the Act):

(a) in relation to an undertaking with share capital, allotted shares;

(b) in relation to an undertaking with capital but no share capital, rights to share in the capital of the undertaking;

(c) in relation to an undertaking without capital, interests:

(i) conferring any right to share in the profits, or liability to contribute to the losses, of the undertaking; or

(ii) giving rise to an obligation to contribute to the debts or expenses of the undertaking in the event of a winding up.

voting power

(in relation to an undertaking) (in accordance with section 422(7) of the Act (Controller)) voting power exercisable at a general meeting of the undertaking or, if the undertaking does not have general meetings at which matters are decided by the exercise of voting rights, the right under the constitution of the undertaking to direct the overall policy of the undertaking or to alter the terms of its constitution.

(in SUP 11 (Controllers and close links) and SUP 16 (Reporting requirements) (in accordance with section 422 of the Act):

(a) includes, in relation to a person (“H”):

(i) voting power held by a third party with whom H has concluded an agreement, which obliges H and the third party to adopt, by concerted exercise of the voting power they hold, a lasting common policy towards the management of the undertaking in question;

(ii) voting power held by a third party under an
agreement concluded with H providing for the temporary transfer for consideration of the voting power in question;

(iii) voting power attaching to shares which are lodged as collateral with H, provided that H controls the voting power and declares an intention to exercise it;

(iv) voting power attaching to shares in which H has a life interest;

(v) voting power which is held, or may be exercised within the meaning of subparagraphs (i) to (iv), by a subsidiary undertaking of H;

(vi) voting power attaching to shares deposited with H which H has discretion to exercise in the absence of specific instructions from the shareholders;

(vii) voting power held in the name of a third party on behalf of H;

(viii) voting power which H may exercise as a proxy where H has discretion about the exercise of the voting power in the absence of specific instructions from the shareholders; and

(b) in relation to an undertaking which does not have general meetings at which matters are decided by the exercise of voting rights, the right under the constitution of the undertaking to direct the overall policy of the undertaking or alter the terms of its constitution.
Annex B

Amendments to the Supervision manual (SUP)

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

Controllers and close links

11.1 Application

... 

11.1.2 R Applicable sections (see SUP 11.1.1R)

<table>
<thead>
<tr>
<th>Category of firm</th>
<th>Applicable sections</th>
</tr>
</thead>
<tbody>
<tr>
<td>(1) A UK domestic firm other than a building society, a non-directive friendly society or a UK insurance intermediary non-directive firm</td>
<td>All except SUP 11.3, SUP 11.4.2AR and SUP 11.4.4 R</td>
</tr>
</tbody>
</table>
| (1A) A building society | (a) In the case of an exempt change in control (see Note), SUP 11.1, SUP 11.2 and SUP 11.9  
(b) In any other case, all except SUP 11.3, SUP 11.4.2AR and SUP 11.4.4R |
| (2) A non-directive friendly society | SUP 11.1, SUP 11.2, and SUP 11.9 |
| (2A) A UK insurance intermediary non-directive firm | all except SUP 11.3, SUP 11.4.2R SUP 11.4.3G and SUP 11.4.4R |
| (3) An overseas firm | All except SUP 11.3, SUP 11.4.2R, SUP 11.4.2AR, SUP 11.4.3G, SUP 11.4.9G, SUP 11.5.8G to SUP 11.5.10G, SUP 11.6.2R, SUP 11.6.3R, SUP 11.6.6G, SUP 11.7 |

Note: In row (1A), a change in control is exempt if the controller or proposed controller is exempt from any obligation to notify the FSA under Part XII of the Act (Control Notices of acquisitions of control over Authorised Persons UK authorised persons) because of The Financial Services and Markets Act 2000 (Controllers) (Exemption) (No.2) Order 2001 2009 (SI 2001/3338 2009/774). (See SUP...
Application to controllers

11.4 SUP 11.1, SUP 11.2.1G, SUP 11.3 and SUP 11.7 apply to a controller or a proposed controller of a UK domestic firm not listed in SUP 11.1.1R(1) to SUP 11.1.1R(6).

11.2 Purpose

11.2.1 Part XII of the Act (Control Notices of acquisitions of control over UK authorised persons) places an obligation on the controllers and proposed controllers of those UK domestic firms not listed in SUP 11.1.1R(1) to SUP 11.1.1R(6) to notify the FSA of changes in control, including acquiring, increasing or reducing control or ceasing to have control over a firm. Furthermore, those persons are required to obtain the FSA's approval before becoming a controller or increasing the level of control held (in certain circumstances) increasing their control over a firm. SUP 11.3 is intended to assist those persons in complying with their obligations under Part XII of the Act and also sets out the information which a controller or proposed controller must provide to the FSA before becoming a controller or increasing the level of control held.

11.2.2 The rules in SUP 11.4 to SUP 11.6 are aimed at ensuring that the FSA receives information it needs from firms to assist the FSA with its responsibility to monitor and, in some cases, give prior approval to firms' controllers.

11.2.2A Part XII of the Act does not place an obligation on a controller of a UK insurance intermediary to notify the FSA where it becomes or ceases to be a parent undertaking. Nevertheless, the rule in SUP 11.4.2R(2) requires the UK insurance intermediary notify the FSA of parent undertakings so that the FSA can monitor the firm's continuing satisfaction of the threshold conditions, which includes consideration of its controllers and parent undertakings (see COND).

11.2.8 An event described in SUP 11.4.2R(1) to SUP 11.4.2 R(4) and SUP 11.4.2AR(1) and SUP 11.4.2AR(2) is referred to in this chapter as a "change in control".

11.3 Requirements on controllers or proposed controllers under the Act

11.3.1 The notification requirements are set out in sections 178, 179, 191D and 191E of the Act and holdings which may be disregarded are set out in section 184 of
the Act. A summary of the notification requirements described in this section is given in SUP 11 Annex 1.

Requirement to notify a proposed change in control

11.3.2 G Sections 178(1) and 190(4), 191D(1) of the Act require a person (whether or not he is an authorised person) to notify the FSA in writing if he proposes to take a step which would result in his acquiring control or increasing or reducing his control in a UK domestic firm in a way described in SUP 11.4.2 R (1) to SUP 11.4.2 R (4), or acquiring or reducing his control in a way described in SUP 11.4.2 R (1) and (2). Failure to notify is an offence under section 191F(1) of the Act (Offences under this Part).

11.3.2A G The Treasury have made the following exemptions from the obligations under section 178 of the Act:

(1) controllers and potential controllers of non-directive friendly societies are exempt from the obligation to notify a change in control (The Financial Services and Markets Act 2000 (Controllers) (Exemption) Order 2001 2009 (SI 2001/3338 2009/774));

(2) controllers and potential controllers of building societies are exempt from the obligation to notify a change in control unless the change involves the acquisition of a holding of a specified percentage of a building society's capital or the increase or reduction by a specified percentage of a holding of a building society's capital (The Financial Services and Markets Act 2000 (Controllers) (Exemption) (No 2) Order 2004 2009 (SI 2001/3338 2009/774)). The "capital" of a building society for these purposes consists of:

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

(b) the general reserves of the building society;

(3) potential controllers of non-directive firms ("A") are exempt from the obligation to notify a change in control unless the change results in the potential controller holding:

(a) 20% or more of the shares in A or in a parent undertaking of A ("P");

(b) 20% or more of the voting power in A or P; or

(c) shares or voting power in A or P as a result of which the controller is able to exercise significant influence over the management of A;
or where the change in control over A would lead to the controller ceasing to fall into any of the cases (a), (b) or (c) above (The Financial Services and Markets Act 2000 (Controllers) (Exemption) Order 2009 (SI 2009/774)).

11.3.3 G [deleted]

Approval required before acquiring or increasing control

11.3.4 G If a person proposes to acquire control or increase his control over a UK domestic firm in a way described in SUP 11.4.2R (1) to (4) or acquire control in a way described in SUP 11.4.2AR(1), he must obtain the FSA's approval before doing so. Failure to obtain approval before the FSA has approved of it is an offence under section 191F(3) of the Act (Offences under this Part). The FSA has up to three months to consider whether to approve such a change in control; see SUP 11.7 for guidance on the approval procedures.

11.3.5 G The FSA's approval is not required before a controller reduces his control or ceases to have control over a UK domestic firm.

Pre-notification and approval for fund managers

11.3.5A G The FSA recognises that firms acting as investment managers may have difficulties in complying with the prior notification requirements in sections 178(1) and 191D of the Act as a result of acquiring or disposing of listed shares in the course of that fund management activity. To ameliorate these difficulties, the FSA may accept pre-notification of proposed changes in control, made in accordance with SUP 11.3.5BD, and may grant approval of such changes for a period lasting up to a year.

11.3.5B D The FSA may treat as notice given in accordance with sections 178(1) and 191D of the Act a written notification from a firm which contains the following statements:

1. that the firm proposes to acquire and/or dispose of control, on one or more occasions, of any UK domestic firm whose shares or those of its ultimate parent undertaking are, at the time of the acquisition or disposal of control, listed or which are admitted to listing on a designated investment exchange;

2. that any such acquisitions and/or disposals of control will occur only in the course of the firm's business as an investment manager; and

3. that the level of control the firm so acquires in the pre-approval period will at all times remain less than 20%; and

4. that the firm will not exercise any influence over the UK domestic firm in which the shares are held, other than by exercising its voting rights as a shareholder or by exercising influence intended to promote generally accepted principles of good corporate governance.
11.3.5C G Where the FSA approves changes in control proposed in a notice given under SUP 11.3.5BD:

(1) the controller remains subject to the requirement to notify the FSA when a change in control actually occurs; and

(2) the notification of change in control should be made no later than five business days after the end of each month and set out all changes in the controller's control position for each UK domestic firm for the month in question.

At that stage, the FSA may seek from the controller further information, including that which would have been supplied under SUP 11.3.7D(2).

Change in control without taking any step

11.3.6 G If a change in control occurs without the person himself having taken any step, he must notify the FSA within 14 days of becoming aware of the change (sections 178(2) and 190(2) of the Act). Failure to notify is an offence under section 191(2) of the Act. [deleted]

Custodians obtaining control

11.3.6A G The FSA considers that a custodian or its wholly-owned subsidiary nominee company, acting only in that capacity, does not itself take any step for the purposes of sections 178(2) and 190(2) of the Act when it becomes the controller of a UK domestic firm, its control of a UK domestic firm changes or it ceases to be the controller of a UK domestic firm as a result of acquiring or disposing of custody assets in the form of shares in accordance with its client's instructions. [deleted]

11.3.6B G For the purposes of sections 178(2) and 190(2) of the Act and where there has been more than one change in control for each UK domestic firm in a fortnightly period, a custodian or its wholly-owned subsidiary nominee company to which SUP 11.3.6A G applies need only notify the FSA of its final control position for each UK domestic firm for that fortnight, so long as it also supplies the highest control position for each UK domestic firm it obtained during that period. [deleted]

11.3.6C G Reporting by a custodian or its wholly-owned subsidiary nominee company does not relieve any other person with an interest in any custody assets from its control notification responsibilities under Part XII of the Act. [deleted]

Form Forms of notification notifications when acquiring or increasing control

11.3.7 D A notification ("notice of control") section 178 notice given to the FSA by a person who is acquiring control or increasing control over a UK domestic firm, in a way described in SUP 11.4.2R, or acquiring control in a way described in SUP 11.4.2AR(1), must contain the information and be accompanied by such documents as are required by the controllers form approved by the FSA for the relevant application.
(1) where the controller or a proposed controller is not an authorised person, contain the information required in the relevant controllers form.

(1A) where the controller is a custodian or a nominee company notifying under SUP 11.3.6A, comply with that direction;

(2) where the controller or proposed controller is any other authorised person, contain the information required in the relevant controllers form; and

(3) if a notification is not submitted on the relevant form specified in (1) or (2), provide reasons why that form was not used.

11.3.7A G The controllers forms approved by the FSA may be found at the FSA’s website (http://www.fsa.gov.uk/Pages/Doing/Regulated/Notify/Control/index.shtml).

11.3.8 D [deleted]

11.3.9 D If a relevant controllers form, or an Application to perform controlled functions under the approved persons regime (the relevant Form A in SUP 10 Annex 4) in respect of a governing function, has already been submitted to the FSA in relation to a relevant individual, then the information in that form need not be submitted to the FSA as long as details of any changes in the information previously submitted, or confirmation that there are none, is submitted. [deleted]

11.3.10 D (1) A person who has submitted a notification a section 178 notice under SUP 11.3.7D must notify the FSA immediately if he becomes aware, or has information that reasonably suggests, that he has or may have provided the FSA with information which was or may have been false, misleading, incomplete or inaccurate, or has or may have changed, in a material particular. The notification must include:

(a) details of the information which is or may be false, misleading, incomplete or inaccurate, or has or may have changed;

(b) an explanation why such information was or may have been provided; and

(c) the correct information.

(2) If the information in (1)(c) cannot be submitted with the notification section 178 notice (because it is not immediately available), it must instead be submitted as soon as possible afterwards.

(3) The requirement in (1) ceases if the change in control occurs or will not take place.

11.3.11 G The FSA, for administrative reasons, expects notifications within SUP 11.3.7D to be given on the relevant controllers form as appropriate. If notifications are
not made on these forms the applicant must inform the FSA of the reasons for not using them. The FSA will inform a section 178 notice giver as soon as reasonably practicable if it considers the section 178 notice to be incomplete.

11.3.12 G If a controller or proposed controller considers that the requirements in SUP 11.3.7 D to SUP 11.3.9 D are not appropriate to his circumstances (for example, if control is temporary), he should consult the FSA. The FSA has power, under section 182(2) 179(3) of the Act (Notification Requirements for section 178 notices), to amend vary or waive these requirements in relation to a section 178 notice in particular cases if it considers it appropriate to do so.

11.3.13 G The Act provides that the FSA may request any additional information or documentation from the controller or proposed controller that it reasonably requires in order to determine what action it is to take in response to the notification. A controller or proposed controller which is an authorised person is required to submit less information under SUP 11.3.7D than other persons and consequently the FSA may ask for confirmation of details already held or any additional information required under SUP 11.5.1R which it considers appropriate.

11.3.14 G Pursuant to section 188 of the Act (Assessment: consultation with EC competent authorities), the FSA is obliged to consult regulatory authorities in other EEA States—any appropriate Home State regulator before approving the change in control or giving a warning notice where the Financial and Services Markets Act 2000 (Consultation with Competent Authorities) Regulations 2001 (SI 2001/2509, as amended) apply. In summary, these regulations require the FSA to consult with the home state regulator of an MiFID investment firm, a BCD credit institution, an EEA insure, an EAUCITS management company or the parent undertaking of any of these, where that firm has acquired or proposes to acquire control of certain UK domestic firms such that the acquiring firm would become the parent undertaking of the relevant UK domestic firm. These regulations also impose certain consultation obligations on the FSA in respect of financial conglomerates, making a determination under section 185 of the Act (Assessment: general).

Form of notification Notification when reducing control

11.3.15 G A notification given to the FSA by a person who is reducing his control over a UK domestic firm, in a way described SUP 11.4.2R (1) to (4), must, in accordance with section 190(4) of the Act (Notification): (1) be in writing; and

(2) provide details of the extent of control (if any) which the controller will have following the change in control. [deleted]

11.3.15A D A notice given to the FSA by a person who is reducing or ceasing to have control over a UK domestic firm, as set out in SUP 11.4.2R or SUP 11.4.2AR must:
(1) be in writing; and
(2) provide details of the extent of control (if any) which the controller will have following the change in control.

Notification when change in control occurs

11.3.16 G A person who is under a duty to notify the FSA of a proposed change in control is also required to notify the FSA when the relevant change in control has occurred (sections 178(3) and 190(3) of the Act). [deleted]

Joint and shared notifications

11.3.17 G Notifications to the FSA by proposed controllers and controllers under Part XII of the Act may be made on a joint or shared basis outlined in SUP 11.5.8G to SUP 11.5.10G.

11.4 Requirements on firms

... Requirement to notify a change in control

11.4.2 R A UK domestic firm, other than a UK insurance intermediary non-directive firm, must notify the FSA of any of the following events concerning the firm:

(1) a person acquiring control or ceasing to have control;
(2) an existing controller increasing acquiring an additional kind of control or ceasing to have a kind of control;
(3) an existing controller reducing increasing or decreasing a kind of control which he already has so that the percentage of shares or voting power concerned becomes or ceases to be equal to or greater than 20, 33 or 50;
(4) an existing controller becoming or ceasing to be a parent undertaking have control.

11.4.2A R A UK insurance intermediary non-directive firm must notify the FSA of any of the following events concerning the firm:

(1) a person acquiring control becoming controller of the firm; or
(2) in relation to an existing controllers ceasing to be controller of the firm

(a) the percentage of shares held in the firm decreasing from 20% or more to less than 20%; or
(b) the percentage of shares held in a parent undertaking of the firm decreasing from 20% or more to less than 20%; or

(c) percentage of voting power which it is entitled to exercise, or control the exercise of, in the firm decreasing from 20% or more to less than 20%; or

(d) the percentage of voting power which it is entitled to exercise, or control the exercise of, in a parent undertaking of the firm decreasing from 20% or more to less than 20%.

(3) an existing controller becoming or ceasing to be a parent undertaking.

11.4.3 G SUP 11 Annex 2 gives examples of the circumstances in which a notification in accordance with SUP 11.4.2R is required. [deleted]

11.4.4 R An overseas firm must notify the FSA if a person becomes a controller of the firm, increases or reduces control over the firm or ceases to have control over the firm of any of the following events concerning the firm:

(1) a person acquiring control or ceasing to have control;

(2) an existing controller becoming or ceasing to be a parent undertaking.

11.4.5 G If there is uncertainty whether a particular relationship constitutes control, it may be appropriate for the firm or controller or proposed controller to ask the FSA for individual guidance (see SUP 9) and to obtain its own legal advice. For example, if the control is to be held through a trust, then certain trustees, beneficiaries and other parties may qualify as controllers for the purposes of the Act and this chapter. Furthermore, a person may qualify as a controller if he is able to exercise 10%. (20% if the firm is a UK insurance intermediary) or more of the voting power at a firm's general meeting as a result of the ability to exercise proxy votes. [deleted]

Content and timing of the notification

11.4.7 R The notification by a firm under SUP 11.4.2R, SUP 11.4.2AR or SUP 11.4.4R must:

...  

(3) be made:

(a) as soon as the firm becomes aware that a person is proposing to take a step that would result in the event concerned, whether alone or acting in concert, has decided to acquire control or to increase or reduce control; or

(b) if the event change in control takes place without the knowledge of the firm, within 14 days of the firm becoming aware of the
change in control concerned.

11.4.8 G Principle 11 requires firms to be open and cooperative with the FSA. A firm should discuss with the FSA, at the earliest opportunity, any prospective changes of which it is aware, in controller’s or proposed controller’s shareholdings or voting power (if the change is material). These discussions may take place before the formal notification requirement in SUP 11.4.2R, SUP 11.4.2AR or SUP 11.4.4R arises. (See also SUP 11.3.2G). As a minimum, the FSA considers that such discussions should take place before a person:

1. enters into any formal agreement in respect of the purchase of shares or a proposed acquisition or merger which would result in a change in control (whether or not the agreement is conditional upon any matter, including the FSA’s approval); or

2. purchases any share options, warrants or other financial instruments, the exercise of which would result in the person acquiring control or any other change in control.

11.4.9 G The obligations in SUP 11.4.2R and SUP 11.4.2AR(1) and SUP 11.4.2AR(2) apply whether or not the controller himself has given or intends to give a notification, in accordance with his obligations under the Act.

...
(1) whether the controller intends to make any significant changes to the firm’s or firms’ regulated activities, business plan or strategy as a result of the change in control;

(2) whether the controller intends any restructuring either in terms of the legal form of the firm(s) or in its or their borrowings, capital restructuring or financing arrangements;

(3) whether the FSA is obliged to consult with regulatory authorities in other EEA States (see SUP 11.3.14G);

(4) in the case of a share acquisition or similar, how it is to be financed;

(5) whether the controller has any interests which may conflict with its role as controller of the UK domestic firm. 

Firms are also reminded of the circumstances set out in SUP 15.3.8G (Communication with the FSA in accordance with Principle 11) which may arise on a change in control and which should also be notified. [deleted]

11.5.5 G If a controller proposes any significant changes to the firm, for instance to its regulated activities, business plan or strategy, the firm may be requested to provide a business plan (see SUP 2: Information gathering by the FSA on its own initiative). If an insurer comes under the control of a new parent undertaking, such a business plan would be a scheme of operations in accordance with SUP App 2. [deleted]

11.5.6 G The FSA may request the firm to provide additional information (see SUP 2 (Information gathering by the FSA on its own initiative)). In determining any additional information requirements, the FSA will have regard to the supervision being exercised over the firm by any overseas regulators. [deleted]

Joint and shared notifications

11.5.8 G A firm and its controller or proposed controller may discharge an obligation to notify the FSA by submitting a single joint notification section 178 notice containing the information required from the firm and the controller or proposed controller. In this case, the relevant controllers form section 178 notice may be used to submit a notification on behalf of both the firm and the controller or proposed controller.

11.5.9 G If a person is proposing a change in control over more than one firm within a group, then the controller or proposed controller may submit a single notification section 178 notice in respect of all those firms. The notification section 178 notice should contain all the required information as if separate notifications had been made, but information and documentation need not be duplicated.
11.5.10 G When an event occurs (for example, a group restructuring or a merger) as a result of which:

(1) more than one firm in a group would undergo a change in control; or
(2) a single firm would experience more than one change in control;

then, to avoid duplication of documentation, all the firms and their controllers or proposed controllers may discharge their respective obligations to notify the FSA by submitting a single notification section 178 notice containing one set of information.

11.6 Subsequent notification requirements by firms

Changes in the information provided to the FSA

11.6.2 R After submitting a notification a section 178 notice under SUP 11.4.2R or SUP 11.4.2AR(1) and SUP 11.4.2AR(2) SUP 11.4.2AR and until the change in control occurs (or is no longer to take place), SUP 15.6.4R and SUP 15.6.5R apply to a UK domestic firm in relation to any information its controller or proposed controller provided to the FSA under SUP 11.5.1R or SUP 11.3.7D.

11.6.6 G A notification under SUP 11.6.4R may be given jointly with the notification of the controller under SUP 11.3.16G. [deleted]

11.7 Acquisition or increase of control: assessment approval procedures process and criteria

11.7.1 G The assessment approval procedures are summarised in SUP 11 Annex 3 process and the assessment criteria are set out in sections 185 to 191 of the Act.

Approval with or without conditions

11.7.2 G If the FSA decides to approve a proposed acquisition or increase of control unconditionally, it must give an 'approval notice' without delay (section 184(1) of the Act). Section 191A deals with the procedure the FSA must follow where there has been a failure to notify or a default.

11.7.3 G Alternatively, the FSA may decide to approve the proposed acquisition or increase of control subject to such conditions as it considers appropriate, having regard to the FSA's duty to ensure that the firm concerned will satisfy, and continue to satisfy, the threshold conditions (section 185 of the Act). The FSA may serve restriction notices in certain circumstances in accordance with
section 191B of the Act.

(1) If the FSA proposes to approve subject to conditions, it must give a warning notice.

(2) If the FSA decides to proceed to approve subject to conditions, it must give a decision notice.

11.7.4 G A notice which approves a change of control (with or without conditions) is effective only for a limited period as set out in the notice (or, if no such period is specified, for one year) (section 184(3) of the Act). An approved change in control may not therefore take place after the end of this period. The FSA may apply to the court for an order for the sale of shares in accordance with section 191C of the Act.

Approval requirements and objection

11.7.5 G The FSA may object to a proposed acquisition or increase of control unless it is satisfied that the approval requirements are met (section 186 of the Act). These are that:

(1) the acquirer is a fit and proper person to have the control over the firm that he has or would have if he acquired the control in question; and

(2) the interests of consumers would not be threatened by the acquirer's control or by his acquiring that control. [deleted]

11.7.6 G In deciding whether the approval requirements are met, the FSA must have regard, in relation to the control that the acquirer:

(1) has over the firm; or

(2) will have over the firm if the proposal to which the notification relates is carried out;

... to the FSA's duty to ensure that the firm will satisfy, and continue to satisfy, the threshold conditions (section 186(3) of the Act). [deleted]

11.7.7 G (1) If the FSA proposes to object, it must issue a warning notice.

(2) If the FSA decides to proceed with its proposed objection, it must issue a decision notice.

(3) If the FSA considers that the approval requirements would be met if a particular step were taken or not taken, the decision notice must identify that step (section 186(4) of the Act). [deleted]

11.7.8 G The FSA may also object if it has not received sufficient information from either the controller or the firm to satisfy itself that the approval requirements are met. [deleted]

Warning notices and decision notices
11.7.9 G The procedure followed by the FSA in relation to the giving of warning notices and decision notices is set out in DEPP 2. [deleted]

The FSA’s timeframe for responding to a notification

11.7.10 G If the FSA receives a valid notification from a controller or proposed controller, the FSA must respond within three months (section 183(1) of the Act). The response from the FSA will be either an approval notice or a warning notice. [deleted]

11.7.11 G (1) Where the FSA becomes aware of a possible breach by the controller or proposed controller of his obligations under section 178(1) or (2) of the Act (Obligation to notify the Authority), it may require the person concerned to provide additional information or documents (section 188(4) of the Act).

(2) If the FSA is satisfied that a breach has occurred, but is not satisfied that the approval requirements are met, the FSA may give a warning notice to the controller or proposed controller (section 187(1) and 188(1) of the Act).

(3) Alternatively, the FSA may retrospectively approve the change in control as if a notification had been received from the controller or proposed controller (section 187(2) of the Act). [deleted]

11.7.12 G If the FSA does not receive a notification from the controller or proposed controller and proposes to give a warning notice, it must do so within three months of the date on which it became aware that the controller or proposed controller had failed to comply with his duty to notify (section 188(3) of the Act). [deleted]

11.7.13 G Before making a determination under section 185 or giving an approval notice or a warning notice under section 191A, the FSA must comply with the certain requirements as to consultation with EC competent authorities set out in section 188 of the Act, outside the United Kingdom (sections 183(2) and 188(2) of the Act and the Financial Services and Markets Act 2000 (Consultation with Competent Authorities) Regulations 2001). The Financial Groups Directive Regulations make special provision in relation to (the change in control over a UK authorised person (within the meaning of section 178(4) of the Act) which is a member of a third-country group.

The FSA’s right to object to existing controllers

11.7.14 G If a controller fails to give a notification under section 178 of the Act on acquiring or increasing control, and the FSA is not satisfied that the approval requirements are met, the FSA may propose to object to the controller by giving him a warning notice (sections 187(1) and 188(1) of the Act). [deleted]

11.7.15 G The FSA may propose to object to a controller by giving him a warning notice at any time if it becomes aware of matters as a result of which it is satisfied
that:

(1) the approval requirements are not met with respect to the controller; or

(2) a condition attached to an approval required the controller to do (or refrain from doing) a particular thing and that condition has been breached by the controller (sections 187(3) and 188(1) of the Act).

[deleted]

11.7.16 G If the FSA gives a warning notice as described in SUP 11.7.14 G or SUP 11.7.15 G, section 188 of the Act sets out various requirements as to timetable, consultation and provision of information. [deleted]

11.7.17 G Following a warning notice as described in SUP 11.7.14 G or SUP 11.7.15 G, the FSA may decide to object to the controller and give him a decision notice. If the FSA does so, or if a conditional approval has been contravened, it may impose restrictions on some or all of the controller’s shares by notice in writing or apply to the court for an order that the controller dispose of them (section 189 of the Act). [deleted]

11.7.18 G If it appears to the FSA that the likely effect of an acquisition of control on a firm, or on any of its activities, is uncertain, the FSA may, in accordance with section 46 of the Act (Variation of permission on acquisition of control), vary the firm’s Part IV permission by:

(1) imposing a requirement (see SUP 7: Individual requirements); or

(2) varying an existing requirement.

The warning notice and decision notice procedure does not apply to action taken under section 46 of the Act, but the FSA will operate a procedure that is fair in the circumstances. [deleted]
### 11 Annex 1G: Summary of notifications required in this chapter

<table>
<thead>
<tr>
<th>Event triggering a notification</th>
<th>Requirement</th>
<th>reference</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Notifications from a controller or proposed controller of a UK domestic firm other than a UK insurance intermediary non-directive firm</strong></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>
| 1. A person proposing to become a controller when a person proposing decides to become a controller or an existing controller proposing to increase his level of control decides to increase control | SUP 11.3.2G  
SUP 11.3.2AG(3) | SUP 11.3.7D  
SUP 11.3.14G |
| 2. An existing controller proposing to reduce his control decides to reduce control or to cease to have control | SUP 11.3.2G  
SUP 11.3.6G | SUP 11.3.15G  
SUP 11.3.15AD |
| 3. When a change in control actually takes place | SUP 11.3.16G | SUP 11.3.16G |
| **Notifications from a controller or proposed potential controller of a UK insurance intermediary non-directive firm** | | |
| 1. A person proposing to become a controller when a potential controller of a non-directive firm (“A”) decides to acquire (a) 20% or more of the shares in A or in a parent undertaking of A (“P”); (b) 20% or more of the voting power in A or P; or (c) shares or voting power in A or P as a result of which the potential controller will be able to exercise significant influence over the management of A | SUP 11.3.2G | SUP 11.3.7D  
SUP 11.3.14G |
| 2. An existing controller proposing to reduce his control over A in a manner which will result in the controller failing to fall in any of the cases described in 1 above | SUP 11.3.2G  
SUP 11.3.6G  
SUP 11.3.2AG(3) | SUP 11.3.15G  
SUP 11.3.15AD |
| 3. When a change in control actually takes place | SUP 11.3.16G | SUP 11.3.16G |
| **Notifications from a UK domestic firm other than a UK insurance intermediary non-directive firm relating to a change in control** | | |
| 1. When a firm becomes aware of a person proposing to become a controller or an existing controller proposing to increase his level of control increase his control over the firm | SUP 11.4.2R  
SUP 11.4.7R  
SUP 11.4.8G | SUP 11.5.1R  
SUP 11.5.1AG  
SUP 11.5.2R  
SUP 15.7 |
| 2. When a firm becomes aware that an existing controller is proposing to reduce his level of control over the firm or is proposing to cease to be a controller of the firm | SUP 11.4.2R  
SUP 11.4.7R  
SUP 11.4.8G | SUP 15.7 |
| 3. When a firm becomes aware of any material inaccuracies, omissions or changes in information previously provided to the FSA either by the firm or by the controller | SUP 11.6.1G  
SUP 11.6.2R | SUP 15.7 |
4. When a change in control actually takes place or, although a notification has been submitted, is not, after all, going to take place  

**Notification from a UK insurance intermediary non-directive firm relating to a change in control**

1. When a firm becomes aware that a person ("A") is becoming or ceasing to be a controller or parent undertaking acquiring (a) 20% or more of the shares in the firm ("B") or in a parent undertaking of B ("P"); (b) 20% or more of the voting power in B or P; or (c) shares or voting power in B or P as a result of which the controller is able to exercise significant influence over the management of B

   - SUP 11.4.2AR
   - SUP 11.4.7R
   - SUP 11.4.8G

   - SUP 11.5.1R
   - SUP 11.5.2R
   - SUP 11.5.3G

2. When a firm becomes aware of any material inaccuracies, omissions or changes in information previously provided to the FSA either by the firm or by the controller When a firm becomes aware that A is ceasing to fall in any of the cases described in 1 above

   - SUP 11.4.2R
   - SUP 11.4.7R
   - SUP 11.4.8G

3. When a change in control actually takes place or, although a notification has been submitted, is not, after all, going to take place When a firm becomes aware of any material inaccuracies, omissions or changes in information previously provided to the FSA either by the firm or by the controller

   - SUP 11.6.1G
   - SUP 11.6.2R
   - SUP 11.6.5R

4. When a change in control actually takes place or, although a notification has been submitted, is not, after all, going to take place

**Notifications from an overseas firm relating to a change in control**

1. When a firm becomes aware that a person is becoming or ceasing to become becomes a controller or parent undertaking of the firm, increases or reduces his control over the firm or ceases to have control over the firm

   - SUP 11.4.4R
   - SUP 11.4.7R
   - SUP 11.4.8G

   - SUP 11.5.1R
   - SUP 11.5.2R
   - SUP 11.5.3G

   - SUP 15.7

2. When a firm becomes aware of any material inaccuracies, omissions or changes in information previously provided to the FSA by the firm

   - SUP 11.6.1G
   - SUP 11.6.5R
   - SUP 15.7

3. When a change in control actually takes place or, although a notification has been submitted, is not, after all, going to take place

   - SUP 11.6.4R
   - SUP 11.6.5GR
   - SUP 15.7

**Other ongoing notifications from a firm (UK domestic or overseas)**

1. When a firm becomes aware of a change in the circumstances of an existing controller

   - SUP 11.8.1R
   - SUP 11.8.4G
   - SUP 15.7

2. When a firm becomes aware that it has become or ceased to be closely linked with any person

   - SUP 11.9.1R
   - SUP 15.7
11 Annex 2G: Guidance on events requiring approval

Delete Annex 2 of SUP 11. The deleted text is not shown.

11 Annex 3G: Summary of procedures on a notification of a change in control

Delete Annex 3 of SUP 11. The deleted text is not shown.

16.4 Annual controllers report

Application

... 

16.4.2 G This section may be of relevance to a directive friendly society:

... 

(3) …; or

where a member or delegate, whether alone or with any associate acting in concert, is entitled to exercise, or control the exercise of, 10% or more of the total voting power.

16.4.2A G This section may be of relevance to non-directive firms.

... 

Purpose

16.4.4 G A firm and its controllers are required to notify certain changes in control (See SUP 11 (Controllers and close links)). The purpose of the rules and guidance in this section is:

(1) to ensure that, in addition to such notifications, the FSA receives regular and comprehensive information about the identities of all of the controllers of a firm, which is relevant to a firm's continuing to satisfy the threshold conditions (see COND 2.3) and to the protection of consumers;

(2) …

(3) to support the FSA's functions under Part XII of the Act (Notices of acquisitions of control over UK authorised persons) (see SUP 11 (Controllers and close links)).

Reporting requirement

16.4.5 R …
(3) If a firm is not aware:

(a) …

(b) …

(c) of any changes in the percentage of shares or voting power in the firm held by any controllers (alone or with any associate acting in concert) since the submission of its previous report; then the report in (1) must confirm this.

(4) Unless (3) applies, the report in (1) must contain a list of all the controllers as at the firm's accounting reference date of which it is aware and, for each such controller, state:

(a) …

(b) the percentage of voting power in the firm, or in the firm's parent undertaking, which it is entitled to exercise or control the exercise of, whether alone or with any associate acting in concert;

(c) the percentage of shares in the firm, or in the firm's parent undertaking, which it holds, whether alone or with any associate acting in concert;

...

(5) In this section, 'associate' and 'shares' have the meanings given in the definition of controller. [deleted]

...

Exceptions: friendly societies and building societies

...

16.4.11 R In SUP 16.4.5R and SUP 16.4.10R, a building society may regard a person as not being a controller if that person is exempt from the obligation to notify a change in control under The Financial Services and Markets Act 2000 (Controllers) (Exemption) (No.2) Order 2001 2009 (SI 2001/3338 2009/774) (see SUP 11.3.2AG(2)).
Annex C

Amendments to the Decisions Procedure and Penalties Manual (DEPP)

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

2 Annex 1G Statutory notices and the allocation of decision making

Warning notices and decision notices under the Act and certain other enactments

<table>
<thead>
<tr>
<th>Section of the Act</th>
<th>Description</th>
<th>Handbook reference</th>
<th>Decision maker</th>
</tr>
</thead>
<tbody>
<tr>
<td>...</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>183(3)/186(1) 189(4)/(7)</td>
<td>when the FSA is proposing or deciding to object to a change in control following receipt of a notice of control</td>
<td>SUP 11</td>
<td>Executive procedures</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>185(3)/(4) 189(4)/(7)</td>
<td>when the FSA is proposing or deciding to approve a change in control following receipt of a notice of control but subject to conditions approve a change in control with conditions, following receipt of a section 178 notice</td>
<td>SUP 11</td>
<td>Executive procedures</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>187(1)/(3) and 188(1) 191A(4)/(6)</td>
<td>when the FSA is proposing or deciding to object to a person who has failed to submit a notice of control or a notice on acquiring, or increasing, control, or to object to an existing controller acquired or increased control without giving a section 178 notice</td>
<td>SUP 11</td>
<td>Executive procedures</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>191A(4)/(6)</td>
<td>when the FSA is proposing or deciding to object to a person’s control on the basis of the matters in section 186</td>
<td>SUP 11</td>
<td>Executive procedures</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>191A(4)/(6)</td>
<td>when the FSA is proposing or</td>
<td>SUP 11</td>
<td>Executive</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>
deciding to object to a person’s control on the grounds that he is in breach of a condition imposed under section 187

<table>
<thead>
<tr>
<th>Procedure</th>
<th>Description</th>
</tr>
</thead>
<tbody>
<tr>
<td>301C(5)/(7) 301G(3)(b)/(5)</td>
<td>when the FSA is proposing or deciding to object to a change in control proposed acquisition of a UK RIE following receipt of a section 301A notice of control.</td>
</tr>
<tr>
<td>301D(1)/(4) 301I(3)/(4)</td>
<td>when the FSA is not satisfied that the approval requirement is met, it may give a decision notice (which must be preceded by a warning notice) to a person who has failed to comply with a duty to notify imposed by section 301A proposing or deciding to object to a person who has acquired or increased control in a UK RIE without giving a section 301 notice.</td>
</tr>
<tr>
<td>301D(3)/(4) 301I(3)/(4)</td>
<td>when the FSA becomes aware of matters as a result of which it is satisfied that the approval requirement is not met with respect to a person who is a controller of a recognised investment exchange, it may give a decision notice (which must be preceded by a warning notice) to the controller is proposing or deciding to object to a person’s control in a UK RIE on the basis of the approval requirement in section 301F(4).</td>
</tr>
</tbody>
</table>
In this Annex, underlining indicates new text and striking through indicates deleted text.

4 Supervision

4.2C Control over a UK RIE

4.2C.1 Under Section 301A(1) of chapter 1A of Part XVIII of the Act, places an obligation on controllers and proposed controllers of UK RIEs to notify the FSA, before making the acquisition of or increases in control. Furthermore, those persons are required to obtain the FSA’s approval before becoming a controller acquiring control or increasing the level of control held (in certain circumstances).

4.2C.2 The FSA will approve an acquisition of or an increase in control if it is satisfied that the acquisition of control by the person seeking approval does not pose a threat to the sound and prudent management of any financial market operated by the UK RIE (see section 301F(4) of the Act).

4.2C.3 If a proposed controller has complied with the obligation to notify, the procedure the FSA will follow if it approves or does not approve of that person becoming a controller acquiring or increasing the level of control held is set out in sections 301C-301F and 301G of the Act.

4.2C.4 If a controller or proposed controller has not complied with the duty to notify, the procedure the FSA will follow if it approves or does not approve of that person becoming a controller or increasing the level of control held is set out in section 301D of the Act.

4.2C.5 If the FSA becomes aware of matters as a result of which it is satisfied that the criterion set out in REC 4.2C.2 G is not met, the procedure it will follow is set out in criterion 301D of the Act.

4.2C.6 The FSA’s internal arrangements provide for any decisions to refuse to approve an acquisition or object to an existing control to be taken at an appropriately senior level.

4.2C.7 If the FSA refuses to approve an acquisition or objects to an existing control, the person concerned may refer the matter to the Tribunal (see EG 2.39).
4.2C.8 G The powers the FSA can exercise in the event that a person acquires or continues to exercise control notwithstanding the FSA’s refusal to approve the acquisition of control or the FSA’s objection to the exercise of control are set out in sections 301E, 301J and 301K of the Act.

4.2C.9 G The offences for which a person who fails to comply with the obligations set out in Chapter 1A of Part XVIII of the Act is liable are set out in section 301F, 301L of the Act.