

**TREATY OF LISBON (CONSEQUENTIAL HANDBOOK AMENDMENTS)
INSTRUMENT 2009**

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 on 1 December 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).

(1)	(2)
Glossary of definitions	Annex A
Principles for Businesses (PRIN)	
Senior Management Arrangements, Systems and Controls sourcebook (SYSC)	
General Prudential sourcebook (GENPRU)	
Prudential sourcebook for Banks, Building Societies and Investment Firms (BIPRU)	
Prudential sourcebook for Insurers (INSPRU)	
Interim Prudential sourcebook for Friendly Societies (IPRU(FSOC))	
Interim Prudential sourcebook for Investment Businesses (IPRU(INV))	
Conduct of Business sourcebook (COBS)	
Insurance: Conduct of Business sourcebook (ICOBS)	
Mortgages and Home Finance: Conduct of Business sourcebook (MCOB)	
Banking: Conduct of Business sourcebook (BCOBS)	
Market Conduct sourcebook (MAR)	
Training and Competence sourcebook (TC)	
Supervision manual (SUP)	
Decision Procedure and Penalties manual (DEPP)	
Dispute Resolution: Complaints sourcebook (DISP)	
Collective Investment Schemes sourcebook (COLL)	
Electronic Money sourcebook (ELM)	
Recognised Investment Exchanges and Recognised Clearing Houses sourcebook (REC)	
Prospectus Rules sourcebook (PR)	
Disclosure Rules and Transparency Rules sourcebook (DTR)	

Glossary of definitions	Annex B
General Provisions (GEN)	Annex C
Interim Prudential sourcebook for Investment Businesses (IPRU(INV))	Annex D
Supervision manual (SUP)	Annex E
Listing Rules sourcebook (LR)	Annex F

Amendments to material outside the Handbook

- E. The Unfair Contract Terms Regulatory Guide (UNFCOG) is also amended in accordance with Annex A to this instrument.

Notes

- F. In Annexes A and B 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

- G. This instrument may be cited as the Treaty of Lisbon (Consequential Handbook Amendments) Instrument 2009.

By order of the Board
27 November 2009

Annex A
Amendments to the Handbook and the Regulatory Guides

In this Annex, the word or phrase in column (1) is replaced by the word or phrase in column (2) where indicated in column (3) & (4). Column (5) identifies further explanation to the amendment where this is needed.

(1)	(2)	(3)	(4)	(5) Note:
Community/ community	EU	Glossary	<i>breach</i>	
			<i>relevant articles</i>	
			<i>trading venue</i>	
		BIPRU	3.4.121R(1)(b)(i)	
		ICOB	1 Annex 1 Part 3 3.1R: Where?	
		SUP	App 3.3.4G	
		COLL	5.2.10BR(1)(c)	both occurrences
			5.2.10BR(2)	
			5.2.10EG(3)	both occurrences
			6.9.6G(3)(a)(iii)	both occurrences
		REC	3.26.4R(1)	
			6A.2.2G (1), (2) and (3)	
		PR	1.2.2R(2) and (3)	
			1.2.3R(3) and (4)	
			5.2.1R	

Community/ community	<i>EU law</i>	Glossary	<i>corporate governance rules</i>	both occurrences
		GENPRU	TP 2.4R	
			TP 11.6R	
		INSPRU	TP 1.6R	
			TP 3.6R	
		SUP	TP 1.4 1R(2)	
COLL	1.1.2G(2)			
Community/ community	<i>EEA</i>	MAR	1 Annex 2. Table: Part 1 – General. 2G(5)	
			1 Annex 2. Table: Part 1 – General. 2G(6)	
		DTR	5.4.9R	
a Community	an <i>EU</i>	SUP	13A Annex 2G 3	
			App 3.10.13G	
European Community	<i>EU</i>	Glossary	<i>approved financial institution</i> at (l)	
		BIPRU	3.4.30R(1)	
			3.5.5G, table, at row headed: “European Community, the International Monetary Fund and the Bank for International	

			Settlements”	
		INSPRU	1.3.87R(4)(a)	
		IPRU(INV)	3. Appendix 1 Glossary of Terms... <i>regulated financial institution at (a)</i>	
		COBS	3.6.2R(6)	
			1Annex 1 Part 1 5.1R	
		SUP	App 3.3.1G(2)	
		UNFCOG	1.3.1G(2)(b)	
a European Community	an <i>EU</i>	PRIN	3.1.1R(1)	
			3.1.6R	
			4.1.1G	
		SYSC	1 Annex 1 1.1R(1)(b) and(c)	
			1 Annex 1 2.2R(2)	
		COBS	20.1.3R(1)	
		BCOBS	1.1.4R(3)	
		TC	Appendix 3.1.1R at <i>Incoming EEA firm</i>	
			Appendix 3.1.1R at <i>Incoming Treaty firm</i>	
		SUP	13A Annex 1G, paragraph 2	
			13A Annex 1G, at row marked: <i>PRIN</i>	
			13A Annex 1G, at row marked: <i>SYSC</i> ,	

			(2) and (3)	
			13A Annex 1G, at row marked: <i>GEN</i>	
			13A Annex 1G, at row marked: <i>TC</i>	
			13A Annex 2G (6)	
			15 Annex 1R Table, at row marked: SUP 15.3.7G to SUP 15.3.10G	
			15 Annex 1R Table, row marked: SUP 15.3.1R to SUP 15.3.16G	
			15 Annex 1R Table, row marked: SUP 15.3.1R to SUP 15.3.20G	
			15 Annex 1R Table, row marked: SUP 15.3.2G	
			15 Annex 1R Table, row marked: SUP 15.5.7R and SUP 15.5.8G	
		DISP	1 Annex 2G 2	
a Community	an <i>EU</i> law	DEPP	7.2.17G	
European Communities	<i>EU</i> or Euratom (the European Atomic Energy Community)	ELM	3.3.8R(2)(b)	
		IPRU(INV)	3. Appendix 47 Table 1, Row 1	
			3. Appendix 47 Table 2, Row 1	
			3. Appendix 1 –	

			Glossary of Terms... <i>acceptable collateral</i> at 2(e)	
			5. Appendix 1 – Glossary of Terms... <i>category a body</i> at (b)	
European Communities	European Union	IPRU(FSOC)	4.7(7)	
EC	EU	GENPRU	1.2.10G	
			2.1.2G	
			2.1.27G	4 occurrences
		INSPRU	1.4.2G	
			1.4.8G	
			1.5.3G	
			1.5.17G(3)	
			2.1.3G	
			2.2.2G	
		3.2.2G		
SUP	11.3.14G			
article 48	article 54	Glossary	<i>incoming ECA provider</i>	
			<i>outgoing ECA provider</i>	
		MCOB	1.3.4R(1)(c)	
			3.3.5R(2)(d)	

Annex B

Amendments to the Glossary of definitions

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

Insert the following new definition in the appropriate alphabetical position. The text is not underlined.

EU the European Union, being the Union established by the Treaty on European Union signed at Maastricht on 7 February 1992 (as amended).

Amend the following definitions as shown.

Home State ...

(5) (in relation to an *IMD insurance intermediary* or an *IMD reinsurance intermediary*):

(a) where the *insurance intermediary* is a natural person, the ~~Member State~~ EEA State in which his residence is situated and in which he carries on business;

(b) where the *insurance intermediary* is a legal person, the ~~Member State~~ EEA State in which its registered office is situated or, if under its national law it has no registered office, the ~~Member State~~ EEA State in which its head office is situated.

...

(9) (in *DTR*)

(a) in the case of an *issuer* of debt securities the denomination per unit of which is less than EUR 1 000 or an issuer of *shares*:

(i) where the *issuer* is incorporated in the ~~Community~~ EEA, the ~~Member State~~ EEA State in which it has its registered office;

(ii) where the *issuer* is incorporated in a third country, the ~~Member State~~ EEA State in which it is required to file the annual information with the competent authority in accordance with Article 10 of

Directive 2003/71/EC.

The definition of *Home State* shall be applicable to debt securities in a currency other than Euro, provided that the value of such denomination per unit is, at the date of the issue, less than EUR 1 000, unless it is nearly equivalent to EUR 1 000;

- (b) for an *issuer* not covered by (a), the ~~Member State~~ EEA State chosen by the *issuer* from among the ~~Member State~~ EEA State in which the *issuer* has its registered office and those ~~Member State~~ EEA States which have admitted its securities to trading on a *regulated market* on their territory. The issuer may choose only one ~~Member State~~ EEA State as its ~~home~~ Home Member State. Its choice shall remain valid for at least three years unless its securities are no longer admitted to trading on any *regulated market* in the ~~Community~~ EEA;

...

*public international
body*

...

- (2) (in *LR* and *DTR*) the African Development Bank, the Asian Development Bank, the Caribbean Development Bank, the Council of Europe Development Bank, the European Atomic Energy Community, the European Bank for Reconstruction and Development, ~~the European Coal and Steel Community~~, the European Company for the Financing of Railroad Stock, ~~the European Economic Community~~ EU, the European Investment Bank, the Inter-American Development Bank, the International Bank for Reconstruction and Development, the International Finance Corporation, the International Monetary Fund and the Nordic Investment Bank.

third country issuer

an issuer which ~~is not a community issuer~~ does not have its registered office in the EEA.

[**Note:** article 2(4) of the *MiFID Regulation*]

Treaty

The Treaty ~~establishing the European Community~~ on the Functioning of the European Union.

Delete the following definition.

community issuer

~~an issuer which has its registered office in the Community.~~
[**Note:** article 2(3) of the *MiFID Regulation*]

Annex C

Amendments to the General Provisions (GEN)

In this Annex, the text is all new and is not underlined

European Economic Area (EEA)

- 2.2.21 G The agreement on the *European Economic Area*, signed at Oporto on 2 May 1992, extends certain *EU* legislation to those *EEA States* which are not Member States of the *EU*, namely Norway, Iceland and Liechtenstein. References in the *Handbook* concerning the territorial scope of *EU* law should therefore be read as extending throughout the *EEA* where the context requires.

Treaty of Lisbon

- 2.2.22 G As a result of the Treaty of Lisbon, the European Union has replaced and succeeded the European Community. References in the *Handbook* to the European Community should therefore be interpreted as references to the European Union, where the context requires. In particular, references which are copied out directly from *EU* or *UK* legislation may contain references to the Community which should be read in conjunction with section 3 of the European Union (Amendment) Act 2008.

Annex D

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

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

3 Securities and Futures Firms which are not Investment Firms

...

Appendices

Appendix 1 - GLOSSARY OF TERMS FOR IPRU(INV) 3

European Communities means ~~Euratom (European Atomic Energy Community), the European Coal and Steel Community and the European Economic Community;~~ [deleted]

...

Appendix 35 (“*regulated financial institution*” and “*supranational organisation*”)

LIST OF REGULATED FINANCIAL INSTITUTIONS AND SUPRANATIONAL ORGANISATIONS

Part 1...

Part 2

List Of Supranational Organisations

a multilateral development bank;
The Bank for International Settlements;
The Council of Europe;
Euratom (The European Atomic Energy Community);
Eurofina (The European Company for Financing of Railroad Rolling Stock);
~~The European Coal and Steel Community;~~
~~The European Economic Community EU;~~
The International Monetary Fund;

...

Annex E

Amendments to the Supervision manual (SUP)

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

SUP 13A Annex 2 G

Matters reserved to a Home State regulator

Introduction

...

9. Article 31(1) of *MiFID* prohibits ~~Member States~~ Member States from imposing additional requirements on a *MiFID investment firm* in relation to matters covered by *MiFID* if the *firm* is providing services on a cross-border basis. Such firms will be supervised by their Home State regulator.

...

Appendix 3

Guidance on passporting issues

3.3 Background

The Treaty establishing the European Community on the Functioning of the European Union

- App 3.3.1 G (1) The ~~European Community Treaty (the “Treaty”)~~, as amended by later ~~Treaties~~, Treaty establishes in ~~EC~~ EU law the rights of freedom of establishment and freedom to provide services in the ~~European Community~~ EU.

- (2) ...

...

EC EU and EEA

- App 3.3.3 G The agreement on the *European Economic Area*, signed at Oporto on 2 May 1992, extends ~~EC~~ certain EU legislation to ~~any those EEA State States~~ that ~~is~~ are not part Member States of the ~~European Community~~ EU. Any references ~~to an EC Member State in this appendix, therefore, should be read as referring to an EEA State.~~

...

- App 3.3.7 G In giving its views, communications made by the European Commission have the status of guidance and are not binding on the national courts of *EEA States*. This is because it is the European Court of Justice that has ultimate responsibility for interpreting the *Treaty* and secondary legislation. Accordingly, the communications "do not prejudice the interpretation that the Court of Justice of the European Communities...., which is responsible in the final instance for interpreting the *Treaty* and secondary legislation, might place on the matter at issue." (European Commission interpretative communication: Freedom to provide services and the general good in the insurance sector (C (99) 5046). However, the Courts may take account of European Commission communications when interpreting the *Treaty* and secondary legislation.

...

3.6 Freedom to provide services

- App 3.6.1 G Article ~~49~~ 56 (Services) (~~formerly article 59~~) of the *Treaty* grants to ~~EC~~ *EEA* nationals established in one *EEA State* the freedom to provide *cross border services* to ~~the nationals of~~ other *EEA States*.

...

- App 3.6.6 G An *insurance undertaking* that effects *contracts of insurance* covering risks or commitments situated in another *EEA State* should comply with the notification procedures for the provision of services within that *EEA State*. The location of risks and commitments is found by reference to the rules set out in paragraph 6 of schedule 12 to the *Act*, which derive from article 1 of the *Consolidated Life Directive* and article 2 of the *Second Non-Life Directive*. It may be appropriate for *insurers* to take legal advice as to how these rules are interpreted and applied in other *EEA States*. The need to passport may arise because of only one of the risks covered by an insurance policy. This includes, for example, where a policy covers a number of property risks and one of those properties is in another ~~Member State~~ *EEA State*.

...

- App 3.6.11 G The key distinction in relation to temporary activities is whether a *firm* should make its notification under the freedom of establishment in a *Host State*, or whether it should notify under the freedom to provide services into a *Host State*. It would be inappropriate to discuss such a complex issue in *guidance* of this nature. It is recommended that, where a *firm* is unclear on the distinction, it should seek appropriate advice. In either case, where a *firm* is carrying on activities in another ~~Member State~~ *EEA State* under a *Single*

Market Directive, it should make a notification.

...

App 3.6.26 G *Firms* are reminded of their rights, under article 33 of *MiFID*, to become members of, or have access to, the *regulated markets* in other ~~*Member States*~~ Member States.

...

SUP TP 1

Transitional provisions

...

SUP TP 1.3 Transitional provisions relating to written concessions

...	
5.	An existing written concession is not carried forward if, and to the extent that, doing so would be inconsistent with a community <u>any EU law</u> obligation of the <i>United Kingdom</i> , in particular with the proper implementation of a directive.
...	

Annex F

Amendments to the Listing Rules sourcebook (LR)

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

LR App 1.1 Relevant definitions

Note: The following definitions relevant to the *listing rules* are extracted from the *Glossary*.

...

public international body the African Development bank, the Asian Development Bank, the Caribbean Development Bank, the Council of Europe Development Bank, the European Atomic Energy Community, the European Bank for Reconstruction and Development, ~~the European Coal and Steel Community~~, the European Company for the Financing of Railroad Stock, the ~~European Economic Community~~ EU, the European Investment Bank, the Inter-American Development bank, the International Bank for Reconstruction and Development, the International Finance Corporation, the International Monetary Fund, the Nordic Investment bank.

...