

HANDBOOK ADMINISTRATION (NO 24) INSTRUMENT 2011**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 Act.

Commencement

- C. (1) Part 2 of Annex D (SUP) of this instrument comes into force on 31 December 2013.
- (2) The remainder of this instrument comes into force on 1 January 2012.

Amendments to Instruments

- D. The amendments to Notes 15 to SUP 16.12.11R and SUP 16.12.15R made by the Supervision Manual (Retail Mediation Activities Return) (Amendment No 3) Instrument 2010 (FSA 2010/70) are revoked.

Amendments to the Handbook

- E. The modules 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
Prudential sourcebook for Insurers (INSPRU)	Annex B
Market Conduct sourcebook (MAR)	Annex C
Supervision manual (SUP)	Annex D

Citation

- F. This instrument may be cited as the Handbook Administration (No 24) Instrument 2011.

By order of the Board
8 December 2011

Annex A

Amendments to the Glossary of definitions

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

<i>EEA firm</i>	<p>(in accordance with paragraph 5 of Schedule 3 to the <i>Act</i> (EEA Passport Rights)) any of the following, if it does not have its relevant office in the <i>United Kingdom</i>:</p> <p>(a) an investment firm (as defined in article 1(2) <u>4(1)</u> of the <i>Investment Services Directive</i> <u><i>MiFID</i></u>) which is authorised (within the meaning of article 3 <u>5</u>) by its <i>Home State regulator</i>, which is authorised (within the meaning of article 1) by its <i>Home State regulator</i>;</p> <p>...</p>
<i>TD implementing Directive</i>	<p>Commission Directive implementing Directive 2004/109/EC of the European Parliament and of the Council laying down rules for the harmonisation of transparency requirements in relation to information about issuers whose securities are admitted to trading on a regulated market (No. 2006/xx/EC <u>2007/14/EC</u>);²</p>

Annex B**Amendments to the Prudential sourcebook for Insurers (INSPRU)**

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

- 6.1.29 R In *INSPRU* 6.1.28R, the relevant proportion is either:
- (1) the proportion of the total number of issued *shares* in the *regulated related undertaking* held, directly or indirectly, by the *undertaking* in ~~*PRU* 8.3.17R~~ *INSPRU* 6.1.17R; or
- ...

Annex C

Amendments to the Market Conduct sourcebook (MAR)

In this Annex, striking through indicates deleted text.

Schedule 1 Record keeping requirements

1.1 G	Handbook reference	Subject of record	Contents of record	When record must be made	Retention period
	...				
	MAR 3.5.4	Non Market Price Transactions	Details of steps taken in consideration of NMPTs	On considering the transaction	3 years

Annex D

Amendments to the Supervision manual (SUP)

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

Part 1: Comes into force on 1 January 2012

10 Annex 1G Frequently asked questions

	Question	Answer
...		
30	For how long are individuals accountable to the FSA after ceasing to be an <i>approved person</i> ?	A <i>person</i> is guilty of misconduct if, while an <i>approved person</i> , he fails to comply with a <i>Statement of Principle</i> or is knowingly concerned in the contravention by a <i>firm</i> of a requirement in the <i>Act</i> or the <i>Handbook</i> . But the FSA may not bring proceedings after two <u>three</u> years from when it first knew of the misconduct.

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14.2 Changes to branch details

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Firms passporting under MiFID

14.2.10 G Where an *EEA MiFID investment firm* has established a *branch* in the UK, regulation 4A states that it must not:

- (1) make a change in the requisite details of the *branch*; or
- (2) use, for the first time, any *tier agent* established in the *United Kingdom*; or
- (3) cease to use *tier agents* established in the *United Kingdom*;

unless it has complied with the relevant requirements in regulation 4A(3).

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14.2.13 G SUP 14.2.10G does not apply to a change occasioned by circumstances beyond the *incoming EEA firm's* control.

14.3 Changes to cross border services

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Firms passporting under the UCITS Directive

- 14.3.2 G Where an *incoming EEA firm* passporting under the *UCITS Directive* is providing *cross border services* into the *United Kingdom*, it must not make a change in the details referred to in regulation ~~5(4)(1A)~~ unless it has complied with the relevant requirements in regulation 5(3).

...

~~Firms passporting under MiFID~~

- 14.3.3A G ~~The requirement in regulation 5(3A) is that the *incoming EEA firm* has:~~
~~[deleted]~~

...

Firms passporting under MiFID

- 14.3.4A G Where an *incoming EEA firm* passporting under *MiFID* is providing *cross border services* into the *United Kingdom*, it must not:
- (1) make a change in the details referred to in regulation ~~5(4)~~ 5A(1)(a);
or
 - (2) use, for the first time, any *tiered agent* to provide services in the *United Kingdom*; or
 - (3) cease to use *tiered agents* to provide services in the *United Kingdom*;
- unless it has ~~given at least one month's notice to its *Home State regulator* stating the details of the proposed change~~ complied with the relevant requirements in regulation 5A(3).
- 14.3.4B G The relevant requirements in regulation 5A(3) are that:
- (1) the *incoming EEA firm* has given notice to its *Home State regulator* stating the details of the proposed change; and
 - (2) the period of one *month* beginning with the day on which the *incoming EEA firm* gave that notice has elapsed.
- 14.3.4C G Under regulation 5(4), the *FSA* is required, as soon as practicable after receiving the notice in *SUP* 14.3.4BG, to inform the *incoming EEA firm* of any consequential changes in the applicable provisions.
- 14.3.4D G *SUP* 14.3.4AG does not apply to a change occasioned by circumstances beyond the *incoming EEA firm's* control.

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Appendix 3 Guidance on passporting issues

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3.9 Mapping of MiFID, Banking Consolidation Directive, UCITS Directive and Insurance Mediation Directive to the Regulated Activities Order

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3.9.5 G Services set out in Annex I to MiFID

Table 2: <i>MiFID investment services and activities</i>		Part II RAO Investments	Part III RAO Investments
...			
8.	Operation of Multilateral Trading Facilities	Article 25B <u>25D</u> (see Note 2)	...
...			
7.	Investment services ...	Article 14, 21, 25, 25B <u>25D</u> , 37, 53, 64	...
...			
Note 2. A <i>firm</i> operating an <i>MTF</i> under article 25B <u>25D</u> does not need to have a <i>permission</i> covering other <i>regulated activities</i> , unless it performs other <i>regulated activities</i> in addition to <i>operating an MTF</i> .			

Part 2: Comes in to force on 31 December 2013

Editor's Note: The changes made to Notes 15 to SUP 16.12.11R and 16.12.15R replace those made by the Supervision Manual (Retail Mediation Activities Return) (Amendment No 3) Instrument 2010 (FSA 2010/70). The changes below are shown against the text of the Integrated Regulatory Reporting (Amendment No 12) Instrument 2011 (FSA 2011/59).

16.12.11 R The applicable *data items* referred to in SUP 16.12.4R are set out according to *firm* type in the table below:

Description of data item	Firms prudential category and applicable data items (note 1)							
	BIPRU firms (note 17)			Firms other than BIPRU firms				
	730K	125K and UCITS investment firms	50K	IPRU (INV) Chapter 3	IPRU (INV) Chapter 5	IPRU (INV) Chapter 9	IPRU (INV) Chapter 13	UPRU
...								
...								
Note 15	FSA029, FSA030, FSA032 and FSA039 only apply to a firm subject to IPRU(INV) Chapter 13 which is an exempt CAD firm. Sections A, B, C, D1, D2 D6 and F RMAR only apply to a firm subject to IPRU(INV) Chapter 13 which is not an exempt CAD firm. <u>Where a firm submits data items for both RAG 3 and RAG 9, the firm must complete both Sections D1 and D6 RMAR.</u>							
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16.12.15 R The applicable data items referred to in SUP 16.12.4R according to type of firm are set out in the table below:

Description of data item	Firms prudential category and applicable data items (note 1)							
	BIPRU firms			Firms other than BIPRU firms				
	730K	125K and UCITS investment firms	50K	IPRU (INV) Chapter 3	IPRU (INV) Chapter 5	IPRU (INV) Chapter 9	IPRU (INV) Chapter 13	UPRU
...								
...								
Note 15	FSA029, FSA030, FSA032 and FSA039 only apply to a firm subject to IPRU(INV) Chapter 13 which is an exempt CAD firm. Sections A, B, C, D1, D2 D6 and F RMAR only apply to a firm subject to IPRU(INV) Chapter 13 which is not an exempt CAD firm.							
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