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).

<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>Prudential sourcebook for Insurers (INSPRU)</td>
<td>Annex B</td>
</tr>
<tr>
<td>Market Conduct sourcebook (MAR)</td>
<td>Annex C</td>
</tr>
<tr>
<td>Supervision manual (SUP)</td>
<td>Annex D</td>
</tr>
</tbody>
</table>

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.

**EEA firm** (in accordance with paragraph 5 of Schedule 3 to the Act (EEA Passport Rights)) any of the following, if it does not have its relevant office in the United Kingdom:

(a) an investment firm (as defined in article 4(2) 4(1) of the Investment Services Directive MiFID) which is authorised (within the meaning of article 3 5) by its Home State regulator, which is authorised (within the meaning of article 1) by its Home State regulator;

...  

**TD implementing Directive**

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 thorough indicates deleted text.

### Schedule 1: Record keeping requirements

<table>
<thead>
<tr>
<th>Handbook reference</th>
<th>Subject of record</th>
<th>Contents of record</th>
<th>When record must be made</th>
<th>Retention period</th>
</tr>
</thead>
<tbody>
<tr>
<td>...</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>MAR 3.5.4</td>
<td>Non-Market Price Transactions</td>
<td>Details of steps taken in consideration of NMPTs</td>
<td>On considering the transaction</td>
<td>3 years</td>
</tr>
</tbody>
</table>

...
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

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

14.2 Changes to branch details

…

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 tied agent established in the United Kingdom; or

3 cease to use tied agents established in the United Kingdom;

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

…

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

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(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(1) 5A(1)(a); or
(2) use, for the first time, any *tied agent* to provide services in the *United Kingdom*; or
(3) cease to use *tied 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.
Appendix 3   Guidance on passporting issues


3.9.5 G Services set out in Annex I to MiFID

<table>
<thead>
<tr>
<th>Table 2: MiFID investment services and activities</th>
<th>Part II RAO Investments</th>
<th>Part III RAO Investments</th>
</tr>
</thead>
<tbody>
<tr>
<td>...</td>
<td></td>
<td></td>
</tr>
<tr>
<td>8. Operation of Multilateral Trading Facilities</td>
<td>Article 25B, 25D (see Note 2)</td>
<td>...</td>
</tr>
<tr>
<td>...</td>
<td></td>
<td></td>
</tr>
<tr>
<td>7. Investment services ...</td>
<td>Article 14, 21, 25, 25B, 25D, 37, 53, 64</td>
<td>...</td>
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<tr>
<td>...</td>
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</tbody>
</table>

Note 2. A firm operating an MTF under article 25B, 25D does not need to have a permission covering other regulated activities, unless it performs other regulated activities in addition to operating an MTF.

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

<table>
<thead>
<tr>
<th>Description of data item</th>
<th>Firms prudential category and applicable data items (note 1)</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>BIPRU firms (note 17)</td>
</tr>
<tr>
<td></td>
<td>730K</td>
</tr>
</tbody>
</table>

...  

**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*. Where a *firm* submits data items for both RAG 3 and RAG 9, the *firm* must complete both Sections D1 and D6 RMAR.

...  

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:

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