

PROFESSIONAL FIRMS (AMENDMENT) INSTRUMENT 2011**Powers exercised**

- A. The Financial Services Authority makes this instrument in the exercise of:
- (1) the powers and related provisions in the following sections of the Financial Services and Markets Act 2000 (“the Act”):
 - (a) section 138 (General rule-making power);
 - (b) section 156 (General supplementary powers);
 - (c) section 157(1) (Guidance);
 - (d) section 213(The compensation scheme); and
 - (e) section 214 (General); and
 - (2) the other 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. This instrument comes into force on 9 December 2011.

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
Client Assets sourcebook (CASS)	Annex B
Supervision manual (SUP)	Annex C
Compensation sourcebook (COMP)	Annex D
Professional Firms sourcebook (PROF)	Annex E

Citation

- E. This instrument may be cited as the Professional Firms (Amendment) 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 through indicates deleted text.

- participant firm* (1) (except in *FEES* 1 and, *FEES* 6) a *firm* or a *member* other than:
- ...
- (f) an *authorised professional firm* that is subject to the rules of the Law Society (England and Wales) or the Law Society of Scotland and with respect to its regulated activities participates in the relevant society's compensation scheme;
- ...
- professional firm* a *person* which is:
- (a) an individual who is entitled to practise a profession regulated by a *designated professional body* and, in practising it, is subject to its rules, whether or not he is a member of that body; or
- (b) a *person* (not being an individual) which is controlled ~~and~~ or managed by one or more such individuals.

Annex B**Amendments to the Client Assets sourcebook (CASS)**

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

5.1.3 R An *authorised professional firm* regulated by The Law Society (of England and Wales), The Law Society of Scotland or The Law Society of Northern Ireland ~~must comply with that, with respect to its *regulated activities*, is~~ subject to the rules of its *designated professional body* as specified in CASS 5.1.4R, in force on 14 January 2005, must comply with those rules and if it does so, it will be deemed to comply with CASS 5.2 to CASS 5.6.

...

7.1.15 R (1) An *authorised professional firm* regulated by the Law Society (of England and Wales), the Law Society of Scotland or the Law Society of Northern Ireland ~~must comply with that, with respect to its *regulated activities*, is~~ subject to the following rules of its *designated professional body*, must comply with those rules and, where relevant paragraph (3), and if it does so, it will be deemed to comply with the *client money rules*.

...

Annex C**Amendments to the Supervision manual (SUP)**

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

- 3.10.2 R An auditor of an *authorised professional firm* need not report under this section in relation to that *firm's* compliance with the *client money rules* in the *client money chapter* if:
- (1) that *firm* is regulated by:
 - ~~(1)~~ (a) the Law Society (England and Wales); or
 - ~~(2)~~ (b) the Law Society of Scotland; or
 - ~~(3)~~ (c) the Law Society of Northern Ireland; and
 - (2) that *firm* is subject to the rules of its *designated professional body* as specified in CASS 7.1.15R(2), with respect to its *regulated activities*.

Annex D**Amendments to the Compensation sourcebook (COMP)**

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

- 5.2.3 R Notwithstanding COMP 5.2.1R, where the *relevant person in default*:
- (1) is an *authorised professional firm* that is subject to the rules of the Law Society (England and Wales) or the Law Society of Scotland; and
 - (2) with respect to its *regulated activities*, does not participate in the relevant society's compensation scheme;
- a *claim* with respect to that *person* is only a *protected claim* if, when the basis for the *claim* arose, that *person* did not participate in the relevant society's compensation scheme with respect to its *regulated activities*.

Annex E

Amendments to the Professional Firms sourcebook (PROF)

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

2.1.5 G Section 327(2) provides that an *exempt professional firm* must be a *member* of a profession or be controlled or managed by one or more *members*. The FSA considers that “managed” here should be read with its natural meaning. However, it may not be sufficient for a compliance manager to fulfil the role of manager, unless that individual is also able to exercise significant management functions involving overall oversight of the operation/business of the relevant person.

...

5.1.4 G A “*non-mainstream regulated activity*” is defined in the *Glossary* as “a *regulated activity* of an *authorised professional firm* in relation to which the conditions in *PROF 5.2.1R* are satisfied”. Conditions (1) to ~~(5)~~(6) of *PROF 5.2.1R* replicate section 327(1)(b)(i), (3), (4), (5) and (6) of the *Act*, as if those conditions applied to an *authorised professional firm*.

...

5.2.1 R A “*non-mainstream regulated activity*” is a *regulated activity* of an *authorised professional firm* in relation to which the following conditions are satisfied:

... ..

(4) there must not be in force any direction under section 328 of the *Act* (Directions in relation to the general prohibition) in relation to:

(a) a class of *person* which would have included the *firm* were it not an *authorised firm*; or

(b) a description of *regulated activity* which includes the *regulated activity* the *firm* proposes to carry on; ~~and~~

(5) the *regulated activity* must be an activity which *exempt professional firms* which are *members* of the same *designated professional body* as the *authorised professional firm* are permitted to carry on under rules made by that body as required by section 332(3) of the *Act*; and

(6) the *authorised professional firm* is subject to the rules referred to in (5).

5.2.1A R The condition at *PROF 5.2.1R(6)* does not apply if the *designated professional body* of the *authorised professional firm* is any of:

- (1) the Institute of Chartered Accountants in England and Wales;
- (2) the Institute of Chartered Accountants of Scotland;
- (3) the Institute of Chartered Accountants in Ireland;
- (4) the Association of Chartered Certified Accountants; and
- (5) the Law Society of Scotland.