

**HANDBOOK ADMINISTRATION (NO 42) INSTRUMENT 2016****Powers exercised**

- A. The Financial Conduct 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 138G(2) (Rule-making instruments) of the Financial Services and Markets Act 2000.

**Commencement**

- C. This instrument comes into force on 1 August 2016.

**Amendments to the Handbook**

- D. The modules of the 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
Senior Management Arrangements, Systems and Controls (SYSC)	Annex B
Fees manual (FEES)	Annex C
Prudential sourcebook for Banks, Building Societies and Investment Firms (BIPRU)	Annex D
Prudential sourcebook for Mortgage and Home Finance Firms, and Insurance Intermediaries (MIPRU)	Annex E
Conduct of Business sourcebook (COBS)	Annex F
Mortgages and Home Finance: Conduct of Business sourcebook (MCOB)	Annex G
Market Conduct sourcebook (MAR)	Annex H
Supervision manual (SUP)	Annex I
Decision Procedure and Penalties manual (DEPP)	Annex J
Dispute Resolution: Complaints (DISP)	Annex K
Collective Investment Schemes sourcebook (COLL)	Annex L
Investment Funds sourcebook (FUND)	Annex M

**Citation**

- E. This instrument may be cited as the Handbook Administration (No 42) Instrument 2016.

By order of the Board  
28 July 2016

## Annex A

## Amendments to the Glossary of definitions

Insert the following new definition. The text is not underlined.

*Buy-back and  
Stabilisation  
Regulation*

Commission Delegated Regulation (EU) 2016/1052 of 8 March 2016 supplementing Regulation (EU) No 596/2014 of the European Parliament and of the Council with regard to regulatory technical standards for the conditions applicable to buy-back programmes and stabilisation measures.

See: <http://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX%3A32016R1052>

Amend the following definitions as shown. Underlining indicates new text and striking through indicates deleted text.

*breach*

in *DEPP*:

(1) misconduct in respect of which the *FCA* is empowered to take action pursuant to section 66 (Disciplinary powers) of the *Act*; or

(1A) conduct in respect of which the *FCA* is empowered to take action pursuant to section 63A (Power to impose penalties) of the *Act*; or

...

*CESR's guidelines on a common definition of European money market funds*

the Committee of European Securities Regulators' guidelines on a common definition of European money market funds: 19 May 2010 (CESR/10-049). These are available at [www.esma.europa.eu](http://www.esma.europa.eu)  
[https://www.esma.europa.eu/sites/default/files/library/2015/11/10-049\\_cesr\\_guidelines\\_mmfs\\_with\\_disclaimer.pdf](https://www.esma.europa.eu/sites/default/files/library/2015/11/10-049_cesr_guidelines_mmfs_with_disclaimer.pdf)

*CESR's UCITS eligible assets guidelines*

~~The~~ the Committee of European Securities Regulators' guidelines concerning eligible assets for investment by undertakings for collective investment in transferable securities (CESR/07-044). These are available at  
[http://www.fsa.gov.uk/pages/Library/Other\\_publications/EU/eu\\_docs/index.shtml](http://www.fsa.gov.uk/pages/Library/Other_publications/EU/eu_docs/index.shtml)  
[https://www.esma.europa.eu/sites/default/files/library/2015/11/07\\_044.pdf](https://www.esma.europa.eu/sites/default/files/library/2015/11/07_044.pdf)

*ESMA AIFMD key  
concepts guidelines*

*ESMA's guidelines on key concepts of the AIFMD (ESMA  
2013/611). These are available at*

*([http://www.esma.europa.eu/system/files/2013-611\\_guidelines\\_on\\_key\\_concepts\\_of\\_the\\_aifmd\\_\\_en.pdf](http://www.esma.europa.eu/system/files/2013-611_guidelines_on_key_concepts_of_the_aifmd__en.pdf))*

*[https://www.esma.europa.eu/sites/default/files/library/2015/11/2013-611\\_guidelines\\_on\\_key\\_concepts\\_of\\_the\\_aifmd\\_-\\_en.pdf](https://www.esma.europa.eu/sites/default/files/library/2015/11/2013-611_guidelines_on_key_concepts_of_the_aifmd_-_en.pdf)*

*Lloyd's complaint  
rules*

*DISP 4.7. 1.11*

## Annex B

### Amendments to the Senior Management Systems and Controls sourcebook (SYSC)

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

#### 1.1A Application

...

- 1.1A.1A G The application of this sourcebook to *firms* that are not *PRA-authorised persons* is summarised at a high level in the following table. The detailed application is cut back in SYSC 1 Annex 1 and in the text of each chapter.

Type of firm	Applicable chapters
...	
<i>BIPRU firm</i> (including a <i>third-country BIPRU firm</i> )	Chapters 4 to 10, 12, 18, 19C, <u>20</u> , 21
<i>IFPRU investment firm</i> (including an <i>overseas firm</i> that would have been an <i>IFPRU investment firm</i> if it had been a <i>UK domestic firm</i> )	Chapters 4 to 10, 12, 18, 19A, <u>20</u> , 21

...

#### 1 Annex Detailed application of SYSC

1

Part 1	Application of SYSC 2 and SYSC 3 to an insurer, a managing agent and the Society	
	Who?	
1.1 <del>[FCA]</del> <del>[PRA]</del>	R	...
1.2 <del>[FCA]</del> <del>[PRA]</del>	G	...

	What?	
1.3 [FCA] [PRA]	R	...
...		
1.5 [FCA]	R	...
1.6 [FCA] [PRA]	R	...
1.7 [FCA] [PRA]	G	...
	Where?	
1.8 [FCA] [PRA]	R	...
...		
1.9 [PRA]	R	...
1.10 [PRA]	R	...
1.11 [FCA] [PRA]	G	...
	Actions for damages	
1.12 [FCA]	R	...

Part 2	Application of the common platform requirements (SYSC 4 to 10)	
	Who?	
2.1 [FCA] [PRA]	R	...
2.2 [FCA] [PRA]	R	...
2.3 [FCA]	R	...
2.4 [FCA]	R	...
		...
2.4A [FCA]	R	...
2.5 [FCA]	R	...
2.5A [FCA]	R	...
2.6 [FCA] [PRA]	R	...
2.6A [FCA] [PRA]	R	...
2.6B [FCA]	R	...
2.6C [FCA]	R	...

2.6D [FCA]	R	...
2.6E [FCA]	G	...
2.6F [FCA]	R	...
2.7 [FCA]	G	...
2.7A [FCA]	G	...
	What?	
2.8 [FCA] [PRA]	R	...
2.9 [FCA] [PRA]	G	...
2.10 [FCA]	R	...
2.11 [FCA]	R	...
2.12 [FCA]	R	...
2.13 [FCA] [PRA]	R	...
2.13A [FCA]	R	...
2.13B [FCA]	R	...

2.13C [FCA]	G	...
...		
2.14 [FCA] [PRA]	G	...
	Where?	
2.15 [FCA] [PRA]	R	...
2.16 [FCA] [PRA]	R	...
2.16A [FCA]	R	...
2.16B [FCA]	G	...
2.16C [FCA]	R	...
2.16D [FCA]	R	...
2.16E [FCA]	R	...
2.16F [FCA]	R	...
2.17 [FCA] [PRA]	R	...
		...
2.18	R	...



{FCA} {PRA}		
	Actions for damages	
2.19 {FCA}	R	...
<b>Part 3</b>	<b>Tables summarising the application of the common platform requirements to different types of firm</b>	
3.1 {FCA} {PRA}	G	...
3.2 {FCA} {PRA}	G	...
3.2A {FCA}	G	...
3.2B {FCA} {PRA}	R	...
3.3 {FCA} {PRA}	G	...

...

Provision SYSC 4	COLUMN A Application to a common platform firm other than to a UCITS investment firm	COLUMN A+ Application to a UCITS management company	COLUMN A++ Application to a full-scope UK AIFM of an authorised AIF	COLUMN B Application to all other firms apart from insurers, managing agents the Society, and full-scope UK AIFMS of unauthorised AIFs
SYSC 4.1.1R {FCA} {PRA}	...	...	...	...

SYSC 4.1.1AR [FCA] [PRA]	...	...	...	...
SYSC 4.1.1BR [FCA]	...	...	...	...
SYSC 4.1.1CR [FCA]	...	...	...	...
...				
SYSC 4.1.2R [FCA] [PRA]	...	...	...	...
SYSC 4.1.2AG [FCA] [PRA]	...	...	...	...
SYSC 4.1.2AA R [FCA]	...	...	...	...
SYSC 4.1.2BR [FCA]	...	...	...	...
SYSC 4.1.2CR [FCA]	...	...	...	...
SYSC 4.1.2DR [FCA] [PRA]	...	...	....	...
SYSC	...	...	...	...

4.1.3R {FCA} {PRA}				
SYSC 4.1.4R {FCA} {PRA}	...	...	...	...
SYSC 4.1.4AG {FCA} {PRA}	...	...	...	...
SYSC 4.1.5R {FCA} {PRA}	...	...	...	...
SYSC 4.1.6R {FCA} {PRA}	...	....	...	...
SYSC 4.1.7R {FCA} {PRA}	...	...	...	...
SYSC 4.1.7AG {FCA} {PRA}	...	...	...	...
SYSC 4.1.8G {FCA} {PRA}	...	...	...	...
SYSC 4.1.9R {FCA}	...	...	...	...

[PRA]				
SYSC 4.1.10R [FCA] [PRA]	...	...	...	...
SYSC 4.1.10AG [FCA] [PRA]	...	...	...	...
SYSC 4.1.11G [FCA] [PRA]	...	...	...	...
SYSC 4.1.13G [FCA] [PRA]	...	...	...	...
SYSC 4.1.14G [FCA] [PRA]	...	...	...	...
SYSC 4.2.1R [FCA] [PRA]	...	...	...	...
SYSC 4.2.1AG [FCA] [PRA]	...	...	...	...
SYSC 4.2.2R [FCA] [PRA]	...	...	...	...
SYSC 4.2.3G –	...	...	...	...

4.2.5G {FCA} {PRA}				
SYSC 4.2.6R {FCA} {PRA}	...	...	...	...
SYSC 4.2.7R {FCA} {PRA}	...	...	...	...
SYSC 4.2.8G {FCA} {PRA}	...	...	...	...
SYSC 4.2.9G {FCA} {PRA}	Not applicable [deleted]	Not applicable [deleted]	Guidance [deleted]	Not applicable [deleted]
SYSC 4.3.1R {FCA} {PRA}	...	...	...	...
SYSC 4.3.2R {FCA} {PRA}	...	...	...	...
SYSC 4.3.2R {FCA} {PRA}	...	...	...	...
SYSC 4.3.2AG {FCA}	...	...	...	...

[PRA]				
SYSC 4.3.3G [FCA] [PRA]	...	...	...	...
SYSC 4.3A-1R [FCA]	...	...	...	...
SYSC 4.3A.1R [FCA] [PRA]	...	...	...	...
SYSC 4.3A.2R [FCA] [PRA]	...	...	...	...
SYSC 4.3A.3R [FCA] [PRA]	...	...	...	...
SYSC 4.3A.4R [FCA] [PRA]	...	...	...	...
SYSC 4.3A.5R [FCA] [PRA]	...	...	...	...
SYSC 4.3A.6R [FCA] [PRA]	...	...	...	...
SYSC 4.3A.7R	...	...	...	...

[FCA] [PRA]				
SYSC 4.3A.8R [FCA] [PRA]	...	...	...	...
SYSC 4.3A.9R [FCA] [PRA]	...	...	...	...
SYSC 4.3A.10R [FCA] [PRA]	...	...	...	...
SYSC 4.3A.11R [FCA] [PRA]	...	...	...	...
SYSC 4.4.1R [PRA]	Not applicable [deleted]	Not applicable [deleted]	Not applicable [deleted]	<p>Rule applies this section only to:</p> <p>(1) an <i>authorised professional firm</i> in respect of its <i>non-mainstream regulated activities</i> unless the firm is also conducting other <i>regulated activities</i> and has appointed <i>approved persons</i> to perform the <i>governing functions</i> with equivalent responsibilities for the <i>firm's non-mainstream regulated activities</i> and other <i>regulated activities</i>;</p> <p>2) activities carried on by a <i>firm</i> whose principal purpose is to carry on activities other than <i>regulated activities</i></p>

				<p>and which is:</p> <p><del>(a) an oil market participant;</del></p> <p><del>(b) a service company;</del></p> <p><del>(c) an energy market participant;</del></p> <p><del>(d) a wholly owned subsidiary of:</del></p> <p><del>(i) a local authority;</del></p> <p><del>(ii) a registered social landlord;</del></p> <p><del>(e) a firm with permission to carry on insurance mediation activity in relation to non investment insurance contracts but no other regulated activity (except advising on P2P agreements);</del></p> <p><del>3) an incoming Treaty firm, an incoming EEA firm and a UCITS qualifier, (but only SYSC 4.4.5R(2) applies for these firms); and</del></p> <p><del>(4) a sole trader, but only if he employs any person who is required to be approved under section 59 of the Act (Approval for particular arrangements). [deleted]</del></p>
SYSC 4.4.1AR {FCA}	...	...	...	...
SYSC 4.4.2G {FCA} {PRA}	Not applicable	Not applicable	Not applicable	Guidance only applying to the <i>firms</i> specified in SYSC 4.4.1R or SYSC 4.4.1AR
SYSC 4.4.3R	Not applicable	Not applicable	Not applicable	Rule only applying to the <i>firms</i> specified in



[FCA PRA]				SYSC 4.4.1R or SYSC 4.4.1AR
SYSC 4.4.4G [FCA PRA]	Not applicable	Not applicable	Not applicable	Guidance only applying to the <i>firms</i> specified in <del>SYSC 4.4.1R or SYSC</del> 4.4.1AR
SYSC 4.4.5R [FCA PRA]	Not applicable	Not applicable	Not applicable	Rule only applying to the <i>firms</i> specified in <del>SYSC 4.4.1R or SYSC</del> 4.4.1AR
SYSC 4.4.6G [FCA PRA]	Not applicable	Not applicable	Not applicable	Guidance only applying to the <i>firms</i> specified in <del>SYSC 4.4.1R or SYSC</del> 4.4.1AR
...				

In the remainder of SYSC 1 Annex 1 in the tables relating to SYSC 5 to SYSC 10, in the first column of each table delete all references to [FCA] and [PRA] so that only the provision number remains.

## 7 Risk control

...

### 7.1 Risk control

...

7.1.16A G ~~In meeting the general standard referred to in SYSC 6.1.16R, a BIPRU firm that undertakes market related activities should be able to demonstrate to the appropriate regulator:~~

- (1) ~~in the case of a BIPRU firm calculating its ORCR using the basic indicator approach or standardised approach, that it has considered;~~  
or
- (2) ~~in the case of a BIPRU firm with an AMA permission, compliance with~~

~~the Committee of European Banking Supervision Guidelines on the management of operational risk in market related activities, published in October 2010. These can be found at [Page 17 of 40](http://www.eba.europa.eu/documents/Publications/Standards-Guidelines/2010/Management-of-op-risk/CEBS-2010-216-(Guidelines-on-</del></p>
</div>
<div data-bbox=)~~

~~the management of op .aspx [deleted]~~

- 7.1.16B G ~~In meeting the general standards referred to in SYSC 6.1.16R, a firm with AMA approval should be able to demonstrate to the appropriate regulator that it has considered and complies with Section III of the European Banking Authority's Guidelines on the Advanced Measurement Approach (AMA) – Extensions and Changes published in January 2012. These can be found at [http://eba.europa.eu/cpbs/media/Publications/Standards%20and%20Guidelines/2012/EBA\\_BS\\_2011\\_209\\_final\\_\(EBA\\_GL\\_on\\_AMA\\_extensions\\_and\\_changes\).pdf](http://eba.europa.eu/cpbs/media/Publications/Standards%20and%20Guidelines/2012/EBA_BS_2011_209_final_(EBA_GL_on_AMA_extensions_and_changes).pdf) [deleted]~~

...

## 10 Conflicts of interest

...

### 10.1 Application

...

- 10.1.1A R This section applies to:

- (1) a *full-scope UK AIFM* of:

(i) (a) a *UK AIF*;

(ii) (b) an *EEA AIF* managed or *marketed* from an establishment in the *UK*; and

(iii) (c) a *non-EEA AIF*; and

- (2) ...

...

- 10.1.10 R (1) ~~A common platform firm and a management company must establish, implement and maintain an effective conflicts of interest policy~~ *conflicts of interest policy* that is set out in writing and is appropriate to the size and organisation of the *firm* and the nature, scale and complexity of its business.

...

**Annex C**  
**Amendments to the Fees manual (FEES)**

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

<b>9 Annex 1R</b>	PSR fees for the period 1 April 2016 to 31 March 2017
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...

**Table A**

Regulated payment system (column 1)	Payment system allocation for 2016/17 (£) (column 2)	Calculation methodology for PSR fee payable by direct payment service providers, acquirers and card issuers of regulated payment systems (column 3)	Relevant time period (column 4)	Relevant transaction volumes or shareholdings, as applicable (column 5)	Payment system denominator (column 6) (rounded to the nearest 500)
...					
MasterCard	...	...	...	All transactions by acquirers operating in the United Kingdom <del>and</del> and all transactions by card issuers operating in the United Kingdom under the MasterCard regulated payment system, including point of sale transactions, merchant sales volumes, and cash purchase transactions on cards, but excluding cash-only withdrawals. All MasterCard-branded transactions are included irrespective of the processing entity (MasterCard itself, a third party processing entity or 'on us' transactions). Both issuing and acquiring transactions are taken into account.	...

<p>Visa</p>	<p>...</p>		<p>...</p>	<p>All transactions by acquirers operating in the United Kingdom <del>and</del> and all transactions by card issuers operating in the United Kingdom under the Visa regulated payment system, including point of sale transactions, merchant sales volumes, and cash purchase transactions on cards, but excluding cash-only withdrawals. All Visa-branded transactions are included irrespective of the processing entity (Visa itself, a third party processing entity or 'on us' transactions). Both issuing and acquiring transactions are taken into account.</p>	<p>...</p>
<p>...</p>					

## Annex D

## Amendments to the Prudential sourcebook for Banks, Building Societies and Investment Firms (BIPRU)

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

**9            Securitisation**

...

**9.1         Application and purpose**

...

9.1.9       G    *BIPRU 9* deals with:

...

- (3) the requirements that investors, *originators* and *sponsors* of *securitisations* in the *trading book* will have to meet (*BIPRU 9.3.1AR*, *BIPRU 9.3.15R* to *BIPRU 9.3.20R*; and *BIPRU 9.6.1AR* and ~~*BIPRU 9.15R*~~).

...

## Annex E

### Amendments to the Prudential sourcebook for Mortgage and Home Finance Firms, and Insurance Intermediaries (MIPRU)

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

### 3 Professional indemnity insurance

#### 3.1 Application and purpose

##### 3.1.1 R Application

...

- (4) In relation to *home finance mediation* activity, this chapter does not apply to:

...

- (b) a *firm* ~~which is not an MCD mortgage credit intermediary~~ that is subject to MIPRU 3.2.9R; if:

- (i) it has net tangible assets of more than £1 million; or
- (ii) the comparable guarantee provisions of (3) apply (as if the *firm* was carrying on *insurance mediation activity*) but substituting £1 million for £10 million in (3)(a) and (b); or

...

...

#### 3.2 Professional indemnity insurance requirements

...

Minimum limits of indemnity: MCD credit intermediaries

##### 3.2.9A R If the *firm* is:

- (1) an *MCD article 3(1)(b) credit intermediary* who is not also an MCD article 3(1)(b) creditor carrying out direct sales only; or

- (2) a *home finance intermediary* that is :

- (a) an *MCD mortgage adviser*; or
- (b) an *MCD mortgage arranger*;

who is not also an *MCD mortgage lender* carrying out direct sales only;

then the minimum *limit of indemnity* is the amount set out in article 1 of the Commission Delegated Regulation (EU) No 1125/2014 which is reproduced in *MIPRU* 3.2.9BEU.

[**Note:** article 29(2) of the *MCD*]

## Annex F

## Amendments to the Conduct of Business sourcebook (COBS)

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

**22 Restrictions on the distribution of certain regulatory capital instruments**

**22.1 Temporary restrictions on contingent convertible instruments**

- 22.1.1 R (1) ~~A firm must not~~
- (a) ~~sell a contingent convertible instrument to a retail client in the EEA; or~~
  - (b) ~~do anything that would or might result in the buying of a contingent convertible instrument or of a beneficial interest in a contingent convertible instrument by a retail client in the EEA.~~
- (2) ~~The prohibition in (1) does not apply if the firm has taken reasonable steps to ensure that one or more of the exemptions in COBS 22.1.2R applies.~~
- (3) ~~In this section a retail client of the firm includes a person who would be a retail client if he were receiving services from the firm in the course of carrying on a regulated activity.~~
- (4) ~~The rules in this section cease to have effect on 1 October 2015.~~  
[expired]

...

**22.2 Requirements Restrictions on the retail distribution of mutual society shares**



## Annex G

### Amendments to the Mortgages and Home Finance: Conduct of Business sourcebook (MCOB)

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

#### 4A Additional MCD advising and selling standards

##### 4A.1 Additional disclosure by MCD mortgage credit intermediaries

- 4A.1.1 R An *MCD mortgage arranger* who is not also an *MCD mortgage lender* carrying out direct sales only must, in good time before carrying out any *MCD mortgage credit intermediation activity*, provide the *consumer* with at least the following information in a *durable medium*:
- (1) the identity and the geographical address of the *MCD mortgage ~~credit intermediary~~ arranger*;
  - (2) the *Financial Services Register* or other registers in which the *MCD mortgage ~~credit intermediary~~ arranger* has been included, the registration numbers, where applicable, and the means for verifying such registrations;
  - (3) whether the *MCD mortgage ~~credit intermediary~~ arranger* is an *MCD mortgage adviser*; and
  - (4) the procedures allowing *consumers* or other interested parties to complain to the *MCD mortgage ~~credit intermediary~~ arranger*, whether complaints may subsequently be referred to the *Financial Ombudsman Service* and, if so, the methods of having access to it.

...

## Annex H

### Amendments to the Market Conduct sourcebook (MAR)

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

## **2            Stabilisation**

### **2.1           Application and Purpose [deleted]**

2.1.1       R     ~~{deleted}~~

2.1.2       G     ~~{deleted}~~

2.1.3       R     ~~{deleted}~~

2.1.4       G     ~~{deleted}~~

2.1.5       G     ~~{deleted}~~

2.1.6       G     ~~{deleted}~~

### **2.2           Stabilisation: general [deleted]**

2.2.1       R     ~~{deleted}~~

2.2.2       G     ~~{deleted}~~

2.2.3       R     ~~{deleted}~~

2.2.4       G     ~~{deleted}~~

2.2.5       G     ~~{deleted}~~

2.2.6       G     ~~{deleted}~~

2.2.7       G     ~~{deleted}~~

2.2.8       G     ~~{deleted}~~

2.2.9       R     ~~{deleted}~~

### **2.3           Stabilisation under the Buy-back and Stabilisation Regulation [deleted]**

...

2.3.9 G [deleted]

2.3.10 EU [deleted]

Conditions for ancillary stabilisation

...

**2.4 Stabilisation when the Buy-back and Stabilisation Regulation does not apply**  
[deleted]

2.4.1 R [deleted]

2.4.2 R [deleted]

2.4.3 R [deleted]

2.4.4 R [deleted]

2.4.5 R [deleted]

2.4.6 R [deleted]

2.4.7 R [deleted]

...

**2 Annex 1 List of specified exchanges (This is the list of other specified exchanges referred to in MAR 2.2.1R(2))** [deleted]

MAR 2 Annex 1R [deleted]

...

**Sch 5 Rights of action for damages**

...

Sch 5.2G	Chapter / Appendix	Section / Annex	Paragraph	For Private Person?	Removed	For other person?
	...					
	MAR 3.5.7E			No		No
	...					

## Annex I

### Amendments to the Supervision manual (SUP)

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

At SUP 15 Annex 3 (Standing data form), please amend the Standing Data form ([https://www.handbook.fca.org.uk/form/sup/Sup15\\_Ann3\\_20130401.pdf](https://www.handbook.fca.org.uk/form/sup/Sup15_Ann3_20130401.pdf)) as indicated.

#### 13 Exercise of passport rights by UK firms

...

#### 13.5 Notices of intention

Specified contents: notice of intention to establish a branch

- 13.5.1 R A *UK firm*, other than a *CRD credit institution* <sup>2</sup> wishing to establish a *branch* in a particular *EEA State* for the first time under an *EEA right* other than under the *auction regulation* must submit a *notice of intention* in the form set out in *SUP 13 Annex 1R*.

...

#### 13.8 Changes of details: provision of notices to the appropriate UK regulator

- 13.8.1 R (1) Where a *firm* is required to submit a notice of change to a *branch* referred to in *SUP 13.6.5G(1)*, *SUP 13.6.5BG(1)*, *SUP 13.6.7G(1)*, *SUP 13.6.8G*, *SUP 13.6.9BR*, ~~*SUP 13.6.10G(1)*~~, *SUP 13.6.9CG* ~~and~~ <sup>2</sup> *SUP 13.6.9DG* ~~and~~ *SUP 13.6.10G(1)*, or a notice of a change to *cross border services* referred to in *SUP 13.7.3G(1)*, *SUP 13.7.3AG(1)*, *SUP 13.7.5G(1)* <sup>2</sup> *SUP 13.7.6G*, *SUP 13.7.13BG*, *SUP 13.7.14G* and *SUP 13.7.15G*, it must complete and submit that notice in accordance with the procedures set out in *SUP 13.5* for notifying the establishing of a *branch* or the provision of *cross border services*.

...

#### 15 Standing data form

Annex  
3R

...

#### Standing Data

...

**Please return the form, marked for the attention of the ~~Customer Contact Centre~~ Static Data team to:**

Financial Conduct Authority

25 The North Colonnade  
 Canary Wharf  
 London E14 5HS  
 United Kingdom

...

...

## 16.12 Integrated Regulatory Reporting

...

- 16.12.4 R Table of applicable rules containing *data items*, frequency and submission periods

(1)		(2)	(3)	(4)
<i>RAG number</i>	<i>Regulated Activities</i>	<b>Provisions containing:</b>		
		<b>applicable data items</b>	<b>reporting frequency/period</b>	<b>due date</b>
...				
RAG 2.1	<ul style="list-style-type: none"> <li>▪ effecting contracts of insurance</li> <li>▪ carrying out contracts of insurance</li> <li>▪ entering as provider into a funeral plan contract</li> </ul>	<i>SUP</i> 16.12.8R	<i>SUP</i> 16.12.8R	<i>SUP</i> 16.12.8R
...				
RAG 12 [FCA]	...			

...

## 16.20 Submission of recovery plans and information for resolution plans

...

- 16.20.5 R Where an *RRD institution* is authorised or an *RRD group* is created after the first reporting reference date that would have applied to that *firm* or *qualifying parent undertaking* in line with *SUP* 16.20.2R and *SUP* 16.20.4R, the *firm* or

*qualifying parent undertaking* must:

- (1) ...
- (2) send its ongoing *recovery plan* or *group recovery plan*:
  - (a) ...
  - (b) every two years within three *months* of the same date as the first reporting reference date for a *firm* that is not a *significant IFPRU firm* or a *group* that does not ~~includes~~ include a *significant IFPRU firm*.

...

## 16 Guidance notes for data items in SUP 16 Annex 34AR

### Annex 34B

...

- (4) Information to be collected
  - (a) *High earners* should be classified under the *EEA State*, function or business area and responsibility where they carry out the predominant part of their business activities. The full amount of *remuneration* awarded to the relevant *high earner* within the group or *firm* should be reported under this *EEA ~~state~~ State*, function or business area and responsibility.
  - (b) If the predominant areas for one *high earner* have the same weight, the *firm* should allocate the *high earner* and his *remuneration* taking into account the allocation of other *high earners*, so that the report best reflects the distribution of *high earners* within the *firm*.
  - (c) For each *high earner*, figures should only be reported once and the full amounts should be assigned to one *EEA ~~state~~ State*, one function or business area and responsibility only.
  - (d) *High earners* who carry out professional activities both within and outside the *EEA* should be classified under an *EEA ~~state~~ State* only if they carry out the predominant part of their professional activities within the *EEA*. Otherwise, figures should not be reported.

## Annex J

### Amendments to the Decision Procedures and Penalties manual (DEPP)

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

#### 6 Penalties

...

#### 6.2 Deciding whether to take action

...

6.2.26 G Where the behaviour of a *person* which amounts to *market abuse* is behaviour to which the *Takeover Code* is relevant, the use of the *Takeover Panel's* powers will often be sufficient to address the relevant concerns. In cases where this is not so, the *FCA* will need to consider whether it is appropriate to use any of its own powers under the *market abuse regime*. The principal circumstances in which the *FCA* is likely to consider such exercise are:

...

- (3) where the ~~*behaviour*~~ behaviour extends to *securities* or a class of *securities* which may be outside the *Takeover Panel's* jurisdiction;
- (4) where the ~~*behaviour*~~ behaviour threatens or has threatened the stability of the *financial system*; and

...

## Annex K

### Amendments to Dispute Resolution: Complaints (DISP)

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

#### 1 Treating complainants fairly

...

#### 1.3 Complaints handling rules

##### Complaints handling procedures for respondents

1.3.1 R ...

...

##### Call charges

1.3.1A R ...

...

##### ~~Procedures~~ Particular procedures for UCITS management companies

1.3.1B R ...

...

##### Further requirements for all respondents

1.3.2 G ...

...

1.3.3B G The processes that a *firm* or *CBTL firm* should have in place in order to comply with *DISP* 1.3.3R may include, taking into account the nature, scale and complexity of the *firm's* or *CBTL firm's* business including, in particular, the number of *complaints* the *firm* or *CBTL firm* receives:

- (1) the collection of management information on the causes of *complaints* and the products and services *complaints* relate to, including information about *complaints* that are resolved by the *firm* by close of business ~~on the *business day* following its receipt~~ on the third *business day* following the day on which it is received;

...



...

## 1.4 Complaints resolution rules

### Investigating, assessing and resolving complaints

1.4.1 R ...

...

### Co-operating with the Financial Ombudsman Service

1.4.4 R ...

### Mortgage endowment complaints

1.4.5 G ...

### Payment protection insurance complaints

1.4.6 R ...

...

## 1.7 Complaints forwarding rules

### Forwarding a complaint

1.7.1 R ...

...

## 2 Jurisdiction of the Financial Ombudsman Service

...

### 2.8 Was the complaint referred to the Financial Ombudsman Service in time?

#### General time limits

2.8.1 R ...

...

#### Reviews of past business Pensions review and FSAVC review

2.8.5 R The six-year and the three-year time limits do not apply where:

...

## Annex L

### Amendments to the Collective Investments sourcebook (COLL)

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

#### 4 Investor relations

...

#### 4.2 Pre-sale notifications

...

Guidance on contents of the prospectus

##### 4.2.6 G ...

- (6) The *authorised fund manager* of a *UCITS scheme* should consider the appropriateness of including additional matters in its *prospectus* as a result of the *ESMA* Guidelines on ETFs and other UCITS issues, which can be found at

~~[http://www.esma.europa.eu/system/files/2012-832en\\_guidelines\\_on\\_etfs\\_and\\_other\\_ucits\\_issues.pdf](http://www.esma.europa.eu/system/files/2012-832en_guidelines_on_etfs_and_other_ucits_issues.pdf)~~

[https://www.esma.europa.eu/sites/default/files/library/2015/11/2012-832en\\_guidelines\\_on\\_etfs\\_and\\_other\\_ucits\\_issues.pdf](https://www.esma.europa.eu/sites/default/files/library/2015/11/2012-832en_guidelines_on_etfs_and_other_ucits_issues.pdf)

...

#### 4.5 Reports and accounts

...

Additional information that may need to be included in the annual and half-yearly long report of a UCITS scheme

- 4.5.8- G A The annual and half-yearly long reports of a *UCITS scheme* may be required to contain additional matters not referred to in *COLL* 4.5.7R and *COLL* 4.5.8R, such as those required by the *ESMA* Guidelines on ETFs and other UCITS issues, which can be found at

~~[http://www.esma.europa.eu/system/files/2012-832en\\_guidelines\\_on\\_etfs\\_and\\_other\\_ucits\\_issues.pdf](http://www.esma.europa.eu/system/files/2012-832en_guidelines_on_etfs_and_other_ucits_issues.pdf)~~

[https://www.esma.europa.eu/sites/default/files/library/2015/11/2012-832en\\_guidelines\\_on\\_etfs\\_and\\_other\\_ucits\\_issues.pdf](https://www.esma.europa.eu/sites/default/files/library/2015/11/2012-832en_guidelines_on_etfs_and_other_ucits_issues.pdf)

...

## 4.7 Key investor information and marketing communications

...

Key investor information

4.7.2 R ...

(4) *Key investor information* must provide information on the following essential elements in respect of the *UCITS scheme*:

(a) identification of the ~~scheme~~ *scheme* and that the *FCA* is the *competent authority* of the *scheme*;

...

...

Synthetic risk and reward indicators and ongoing charges disclosures in the KII

4.7.8 G ...

(2) In line with the *KII Regulation*, firms in producing their *key investor information documents* should take account of CESR's methodologies in calculating the figures for the *synthetic risk and reward indicators* and for ongoing charges to be disclosed in those documents. For ease of reference links to these guidelines are shown below, as follows:

Methodology for the calculation for the synthetic risk and reward indicator in the KII (CESR/10-673)

<http://www.esma.europa.eu/node/49058>

[https://www.esma.europa.eu/sites/default/files/library/2015/11/10\\_673.pdf](https://www.esma.europa.eu/sites/default/files/library/2015/11/10_673.pdf)

Methodology for the calculation of the ongoing charges figure in the KII (CESR/10-674)

<http://www.esma.europa.eu/node/49059>

[https://www.esma.europa.eu/sites/default/files/library/2015/11/10\\_674.pdf](https://www.esma.europa.eu/sites/default/files/library/2015/11/10_674.pdf)

...

4.7.9 G *Authorised fund managers* of a *UCITS scheme* are further advised that CESR, and its successor body, *ESMA*, have issued guidelines in relation to several other matters concerning *key investor information*. These are:

CESR's guidelines on a common definition of European money market funds, which refer to matters that should be included in the key investor information for money market funds and short-term money market funds

(CESR/10-049)

~~<https://www.esma.europa.eu/content/Guidelines-Common-definition-European-money-market-funds>~~

~~[https://www.esma.europa.eu/sites/default/files/library/2015/11/10-049\\_cesr\\_guidelines\\_mmfs\\_with\\_disclaimer.pdf](https://www.esma.europa.eu/sites/default/files/library/2015/11/10-049_cesr_guidelines_mmfs_with_disclaimer.pdf)~~

that apply to all *authorised funds* in the UK.

For *UCITS* only, *ESMA*'s guidelines on ETFs and other UCITS issues, which refer to matters that should be included in the key investor information for certain types of UCITS (ESMA 2012/832)

~~[http://www.esma.europa.eu/system/files/2012-832en\\_guidelines\\_on\\_etfs\\_and\\_other\\_ucits\\_issues.pdf](http://www.esma.europa.eu/system/files/2012-832en_guidelines_on_etfs_and_other_ucits_issues.pdf)~~

~~[https://www.esma.europa.eu/sites/default/files/library/2015/11/2012-832en\\_guidelines\\_on\\_etfs\\_and\\_other\\_ucits\\_issues.pdf](https://www.esma.europa.eu/sites/default/files/library/2015/11/2012-832en_guidelines_on_etfs_and_other_ucits_issues.pdf)~~

...

## 5.2 General investment powers and limits for UCITS schemes

...

Table of application

...

- 5.2.2A G In addition to the parts of *CESR's UCITS eligible assets guidelines* specifically referred to in this section, the *authorised fund manager* of a *UCITS scheme* should have regard to the other parts of those guidelines when applying the *rules* in this section. *CESR's UCITS eligible assets guidelines* are available at [www.fca.org.uk/your-fea](http://www.fca.org.uk/your-fea)  
~~[https://www.esma.europa.eu/sites/default/files/library/2015/11/07\\_044.pdf](https://www.esma.europa.eu/sites/default/files/library/2015/11/07_044.pdf)~~

...

Guidance on financial indices underlying derivatives

- 5.2.20 G ...  
B

- (3A) *Authorised fund managers* of *UCITS schemes* are advised that *UCITS schemes* should not be invested in commodity indices that do not consist of different commodities, as provided by paragraph 50 of *ESMA's* guidelines on ETFs and other UCITS issues (ESMA 2012/832)

~~[http://www.esma.europa.eu/system/files/2012-832en\\_guidelines\\_on\\_etfs\\_and\\_other\\_ucits\\_issues.pdf](http://www.esma.europa.eu/system/files/2012-832en_guidelines_on_etfs_and_other_ucits_issues.pdf)~~

~~[https://www.esma.europa.eu/sites/default/files/library/2015/11/2012-832en\\_guidelines\\_on\\_etfs\\_and\\_other\\_ucits\\_issues.pdf](https://www.esma.europa.eu/sites/default/files/library/2015/11/2012-832en_guidelines_on_etfs_and_other_ucits_issues.pdf)~~

...

...

ESMA guidelines

- 5.2.36 G *Authorised fund managers of UCITS schemes* are advised that *ESMA* has issued guidelines which, in accordance with the *UCITS implementing Directive*, *authorised fund managers* should comply with in applying the *rules* in this section in relation to *UCITS schemes*:

Guidelines concerning eligible assets for investment by UCITS: The classification of hedge fund indices as financial indices (CESR/07-434)

[http://www.esma.europa.eu/system/files/07\\_434.pdf](http://www.esma.europa.eu/system/files/07_434.pdf)

[https://www.esma.europa.eu/sites/default/files/library/2015/11/07\\_434.pdf](https://www.esma.europa.eu/sites/default/files/library/2015/11/07_434.pdf)

Guidelines to competent authorities and UCITS management companies on ETFs and other UCITS issues (~~ESMA/2012/832~~) (ESMA 2012/832)

[http://www.esma.europa.eu/system/files/2012-832en\\_guidelines\\_on\\_etfs\\_and\\_other\\_ucits\\_issues.pdf](http://www.esma.europa.eu/system/files/2012-832en_guidelines_on_etfs_and_other_ucits_issues.pdf)

[https://www.esma.europa.eu/sites/default/files/library/2015/11/2012-832en\\_guidelines\\_on\\_etfs\\_and\\_other\\_ucits\\_issues.pdf](https://www.esma.europa.eu/sites/default/files/library/2015/11/2012-832en_guidelines_on_etfs_and_other_ucits_issues.pdf)

Revision of the provisions on diversification of collateral in ESMA's Guidelines on ETFs and other UCITS issues (ESMA 2014/294).

[http://www.esma.europa.eu/system/files/2014\\_294-final\\_report\\_revision\\_of\\_guidelines\\_etfs\\_and\\_other\\_ucits\\_issues.pdf](http://www.esma.europa.eu/system/files/2014_294-final_report_revision_of_guidelines_etfs_and_other_ucits_issues.pdf)

[https://www.esma.europa.eu/sites/default/files/library/2015/11/2014-294\\_final\\_report\\_revision\\_of\\_guidelines\\_etfs\\_and\\_other\\_ucits\\_issues.pdf](https://www.esma.europa.eu/sites/default/files/library/2015/11/2014-294_final_report_revision_of_guidelines_etfs_and_other_ucits_issues.pdf)

### 5.3 Derivative exposure

...

ESMA guidelines

- 5.3.11 G *Authorised fund managers of UCITS schemes* are advised that *ESMA* has ~~have~~ issued guidelines which, in accordance with the *UCITS implementing Directive*, *authorised fund managers* should comply with in applying the *rules* in this section in relation to *UCITS schemes*:

Guidelines: Risk Measurement and the Calculation of Global Exposure and Counterparty Risk for UCITS (CESR/10-788)

~~<http://www.esma.europa.eu/content/Guidelines-Risk-Measurement-and-Calculation-Global-Exposure-and-Counterparty-Risk-UCITS>~~

[https://www.esma.europa.eu/sites/default/files/library/2015/11/10\\_788.pdf](https://www.esma.europa.eu/sites/default/files/library/2015/11/10_788.pdf)

Guidelines to competent authorities and UCITS management companies on risk measurement and the calculation of global exposure for certain types of structured UCITS (~~ESMA/2012/197~~) (ESMA 2012/197)

<http://www.esma.europa.eu/system/files/2012-197.pdf>

<https://www.esma.europa.eu/sites/default/files/library/2015/11/2012-197.pdf>

Guidelines to competent authorities and UCITS management companies on ETFs and other UCITS issues (~~ESMA/2012/832~~) (ESMA 2012/832)

[http://www.esma.europa.eu/system/files/2012-832en\\_guidelines\\_on\\_etfs\\_and\\_other\\_ucits\\_issues.pdf](http://www.esma.europa.eu/system/files/2012-832en_guidelines_on_etfs_and_other_ucits_issues.pdf)

[https://www.esma.europa.eu/sites/default/files/library/2015/11/2012-832en\\_guidelines\\_on\\_etfs\\_and\\_other\\_ucits\\_issues.pdf](https://www.esma.europa.eu/sites/default/files/library/2015/11/2012-832en_guidelines_on_etfs_and_other_ucits_issues.pdf)

## 5.4 Stock lending

...

Treatment of collateral

...

- 5.4.6A G As regards the *collateral* adequacy of a *UCITS scheme* and restrictions on *collateral* that take the form of cash for a *UCITS scheme*, *authorised fund managers* are referred to paragraph 43 of the *ESMA* guidelines to competent authorities and UCITS management companies on ETFs and other UCITS issues (~~ESMA/2012/832~~), (ESMA 2012/832)

[http://www.esma.europa.eu/system/files/2012-832en\\_guidelines\\_on\\_etfs\\_and\\_other\\_ucits\\_issues.pdf](http://www.esma.europa.eu/system/files/2012-832en_guidelines_on_etfs_and_other_ucits_issues.pdf)

[https://www.esma.europa.eu/sites/default/files/library/2015/11/2012-832en\\_guidelines\\_on\\_etfs\\_and\\_other\\_ucits\\_issues.pdf](https://www.esma.europa.eu/sites/default/files/library/2015/11/2012-832en_guidelines_on_etfs_and_other_ucits_issues.pdf)

Revision of the provisions on diversification of collateral in ESMA's Guidelines on ETFs and other UCITS issues - (ESMA 2014/294)

[http://www.esma.europa.eu/system/files/2014-294-final\\_report\\_revision\\_of\\_guidelines\\_etfs\\_and\\_other\\_ucits\\_issues.pdf](http://www.esma.europa.eu/system/files/2014-294-final_report_revision_of_guidelines_etfs_and_other_ucits_issues.pdf)

[https://www.esma.europa.eu/sites/default/files/library/2015/11/2014-294\\_final\\_report\\_revision\\_of\\_guidelines\\_etfs\\_and\\_other\\_ucits\\_issues.pdf](https://www.esma.europa.eu/sites/default/files/library/2015/11/2014-294_final_report_revision_of_guidelines_etfs_and_other_ucits_issues.pdf)

...

Guidance relating to the use of cash collateral

...

- 5.4.10 G *Authorised fund managers of UCITS schemes* are advised that *ESMA* has issued guidelines which, in accordance with the *UCITS implementing Directive*, *authorised fund managers* should comply with in applying the rules in this section in relation to *UCITS schemes*:

Guidelines to competent authorities and UCITS management companies on ETFs and other UCITS issues (~~ESMA/2012/832~~) (ESMA 2012/832)

~~[http://www.esma.europa.eu/system/files/2012-832en\\_guidelines\\_on\\_etfs\\_and\\_other\\_ucits\\_issues.pdf](http://www.esma.europa.eu/system/files/2012-832en_guidelines_on_etfs_and_other_ucits_issues.pdf)~~

~~[https://www.esma.europa.eu/sites/default/files/library/2015/11/2012-832en\\_guidelines\\_on\\_etfs\\_and\\_other\\_ucits\\_issues.pdf](https://www.esma.europa.eu/sites/default/files/library/2015/11/2012-832en_guidelines_on_etfs_and_other_ucits_issues.pdf)~~

Revision of the provisions on diversification of collateral in *ESMA's* Guidelines on ETFs and other UCITS issues - (ESMA 2014/294)

~~[http://www.esma.europa.eu/system/files/2014-294\\_final\\_report\\_revision\\_of\\_guidelines\\_etfs\\_and\\_other\\_ucits\\_issues.pdf](http://www.esma.europa.eu/system/files/2014-294_final_report_revision_of_guidelines_etfs_and_other_ucits_issues.pdf)~~

~~[https://www.esma.europa.eu/sites/default/files/library/2015/11/2014-294\\_final\\_report\\_revision\\_of\\_guidelines\\_etfs\\_and\\_other\\_ucits\\_issues.pdf](https://www.esma.europa.eu/sites/default/files/library/2015/11/2014-294_final_report_revision_of_guidelines_etfs_and_other_ucits_issues.pdf)~~

...

## 6.12 Risk management policy and risk measurement

...

CESR guidelines: Risk management principles for UCITS

- 6.12.1 G *Authorised fund managers* are advised the *CESR* issued guidelines prior to the revision of the *UCITS Directive* in 2009 which, to the extent they remain compatible with the *rules* and other *guidance* in *COLL*, should be complied with in applying the *rules* in this section. These guidelines are available at:

Guidelines – Risk management principles for UCITS (CESR/09-178)

~~<http://www.esma.europa.eu/content/Guidelines-Risk-management-principles-UCITS>~~

~~[https://www.esma.europa.eu/sites/default/files/library/2015/11/09\\_178.pdf](https://www.esma.europa.eu/sites/default/files/library/2015/11/09_178.pdf)~~

## Annex M

### Amendments to the Investment Funds sourcebook (FUND)

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

#### 3 Requirements for alternative investment fund managers

...

#### 3.4 Reporting obligations to the FCA

...

Additional information

...

- 3.4.6B G Further details in relation to the additional reporting requirements in *FUND* 3.4.6AR can be found in *ESMA*'s opinion on the "Collection of information for the effective monitoring of systemic risk under article 24(5), first subparagraph, of the AIFMD" (ESMA 2013/1340)

(~~[http://www.esma.europa.eu/system/files/2013-esma-1340\\_opinion\\_on\\_collection\\_of\\_information\\_under\\_aifmd\\_for\\_publication.pdf](http://www.esma.europa.eu/system/files/2013-esma-1340_opinion_on_collection_of_information_under_aifmd_for_publication.pdf)~~)

([https://www.esma.europa.eu/sites/default/files/library/2015/11/2013-esma-1340\\_opinion\\_on\\_collection\\_of\\_information\\_under\\_aifmd\\_for\\_publication.pdf](https://www.esma.europa.eu/sites/default/files/library/2015/11/2013-esma-1340_opinion_on_collection_of_information_under_aifmd_for_publication.pdf)) dated 1 October 2013.

...

Guidelines

- 3.4.8 G *ESMA*'s guidelines on reporting obligations under articles 3(3)(d) and 24(1), (2) and (4) of the *AIFMD* (ESMA 2013/1339)

(~~[http://www.esma.europa.eu/system/files/2013\\_1339\\_final\\_report\\_on\\_esma\\_guidelines\\_on\\_aifmd\\_reporting\\_for\\_publication\\_revised.pdf](http://www.esma.europa.eu/system/files/2013_1339_final_report_on_esma_guidelines_on_aifmd_reporting_for_publication_revised.pdf)~~)

([https://www.esma.europa.eu/sites/default/files/library/2015/11/2013-1339\\_final\\_report\\_on\\_esma\\_guidelines\\_on\\_aifmd\\_reporting\\_for\\_publication\\_revised.pdf](https://www.esma.europa.eu/sites/default/files/library/2015/11/2013-1339_final_report_on_esma_guidelines_on_aifmd_reporting_for_publication_revised.pdf))

provide further details in relation to the requirements in this section.

...