

**EXITING THE EUROPEAN UNION: TEMPORARY PERMISSION AND FINANCIAL SERVICES CONTRACTS INSTRUMENT 2019****Powers exercised**

- A. The Financial Conduct Authority (“the FCA”) makes this instrument in the exercise of the powers and related provisions in or under:
- (1) the following sections of the Financial Services and Markets Act 2000 (“the Act”):
    - (a) section 137A (The FCA’s general rules);
    - (b) section 137B (FCA General rules: clients’ money, right to rescind etc);
    - (c) section 137R (Financial promotion rules);
    - (d) section 137SA (Rules to recover expenses - single financial guidance body);
    - (e) section 137SB (Rules to recover debt advice expenses incurred by the devolved authorities);
    - (f) section 137T (General supplementary powers);
    - (g) section 139A (Power of the FCA to give guidance);
    - (h) section 213 (The compensation scheme);
    - (i) section 214 (General);
    - (j) section 266 (Disapplication of rules);
    - (k) section 333T (Funding of action against illegal money lending);
    - (l) paragraph 23 (Fees) in Part 3 (Penalties and Fees) of Schedule 1ZA (The Financial Conduct Authority); and
  - (2) the following provisions of the Payment Services Regulations 2017 as amended by the Electronic Money, Payment Services and Payment Systems (Amendment and Transitional Provisions) (EU Exit) Regulations 2018:
    - (a) regulation 120 (Guidance); and
    - (b) regulation 35 of part 3 of schedule 3 (Power to charge fees); and
  - (3) the following provisions of the Electronic Money Regulations 2011 as amended by the Electronic Money, Payment Services and Payment Systems (Amendment and Transitional Provisions) (EU Exit) Regulations 2018:
    - (a) regulation 60 (Guidance); and
    - (b) regulation 12K of part 1A of Schedule 3 (Power to charge fees);
  - (4) regulations 206 and 208 of the Financial Services and Markets Act 2000 (Amendment) (EU Exit) Regulations 2019;
  - (5) regulation 63 of the EEA Passport Rights (Amendment, etc. and Transitional Provisions) (EU Exit) Regulations 2018 (power to charge fees); and

- (6) the relevant powers and related provisions referred to in schedule 4 to the General Provisions of the FCA Handbook.

- B. The rule-making provisions referred to above are specified for the purposes of section 138G(2) (Rule-making instruments) of the Act.

### Commencement

- C. Part 2 of Annex C comes into force on 1 April 2019 or on exit day as defined in the European Union (Withdrawal) Act 2018, whichever date is the later.
- D. The remainder of the instrument comes into force on exit day as defined in the European Union (Withdrawal) Act 2018 and immediately after the coming into force of the changes made by:
- (1) the Exiting the European Union: Glossary (Amendments) Instrument 2019 (FCA 2019/19);
  - (2) the Exiting the European Union: High Level Standards (Amendments) Instrument 2019 (FCA 2019/20);
  - (3) the Exiting the European Union: Redress Sourcebooks (Amendments) Instrument 2019 (FCA 2019/28);
  - (4) the FCA instruments containing changes applicable to MiFID investment firms, trading venues and other persons to whom MiFID applies or applied;
  - (5) any other FCA instruments containing changes which are applicable to *TP firms*, *TP AIFM qualifiers* or *TP UCITS qualifiers*, or which would be applicable to any of them by virtue of this instrument.

### Amendments to the Handbook

- E. The modules of the FCA'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) below:

| (1)                              | (2)     |
|----------------------------------|---------|
| Principles for Businesses (PRIN) | Annex A |
| General Provisions (GEN)         | Annex B |
| Fees manual (FEES)               | Annex C |
| Client Assets sourcebook (CASS)  | Annex D |
| Compensation sourcebook (COMP)   | Annex E |
| Credit Unions sourcebook (CREDS) | Annex F |

### Amendments to material outside the Handbook

- F. The non-Handbook guidance at Annex G to this instrument is issued.

### Notes

- G. In this instrument, notes shown as "*Editor's note*:" or as "**Note:**" are intended for the convenience of the reader but do not form part of the legislative text.

**Citation**

- H. This instrument may be cited as the Exiting the European Union: Temporary Permission and Financial Services Contracts Instrument 2019.

By order of the Board  
28 March 2019

## Annex A

### Amendments to the Principles for Businesses (PRIN)

In this Annex underlining indicates new text.

#### 3 Rules about application

##### 3.1 Who?

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3.1.9 R *PRIN applies to a TP firm, except that Principle 4 only applies to the extent that a TP firm is subject to rules relating to capital adequacy.*

3.1.10 R *Only Principles 1, 2, 3, 7, 9 and 11 apply to a TP UCITS qualifier and a TP AIFM qualifier, and only with respect to the activities in PRIN 3.2.2R (Communication and approval of financial promotions).*

3.1.11 G *For the purposes of PRIN 3.1.9R, a TP firm should refer to GEN 2.2.30R and GEN 2.2.31G to determine which rules relating to capital adequacy apply to it.*

...

##### 3.3 Where?

...

3.3.4 R *Notwithstanding PRIN 3.3.1R, PRIN applies to:*

- (1) *a TP firm with respect to activities carried on from an establishment maintained by the firm (or its appointed representative) in the United Kingdom;*
- (2) *a TP firm with respect to services provided into the United Kingdom by the firm (or its appointed representative) from an establishment in an EEA State; and*
- (3) *a TP AIFM qualifier or a TP UCITS qualifier with respect to the firm's activities in relation to the AIF or scheme in question, in the United Kingdom.*

...

## Annex B

### Amendments to the General Provisions (GEN)

#### Part 1

In this Part, the text is new and is not underlined.

Rules applying while a firm has temporary permission: the General Rules

- 2.2.26 R Unless the contrary intention appears, a *rule* does not apply to a *TP firm* except that:
- (1) A *rule* which imposed an obligation on a *person* immediately before *exit day* who becomes a *TP firm* continues to apply to the *TP firm* to the same extent and to the same activities to which the *rule* applied at that time.
  - (2) In addition, a *rule* which deals with a matter (in relation to an activity of a *TP firm* in either (3) or (4)) which immediately before *exit day* was reserved to the:
    - (a) *Home State* of the *firm* under an *EU* directive; or
    - (b) where applicable, *EEA state* where the *firm* has the establishment from which the service is provided, under an *EU* directive,

also applies to a *TP firm* if and to the extent that that *rule*:

    - (i) applies to a *UK firm* (or other cognate expression) that carries on the same *regulated activity* as the *TP firm*; and
    - (ii) immediately before *exit day*, implemented a provision of an *EU* directive (disregarding any provision of a directive which allocates responsibility between different member states).
  - (3) A *TP firm* which carries on an activity from its *UK branch* or establishment (or that of its *appointed representative*) does not contravene a *rule* applied by (2) to the extent that:
    - (a) at the time the *firm* was required to comply with the *rule* (“the relevant time”), the *firm* (or its *appointed representative*) complied with or applied a provision which implements the same provision of the relevant directive reserved to its *Home State* and imposed by that state’s law; and

- (b) the *firm's* compliance with or application of the provision covers the *firm's* activities provided from its *UK branch* or establishment (or that of its *appointed representative*).
- (4) A *TP firm* which carries on an activity other than from its *UK branch* or establishment (or that of its *appointed representative*) into the *United Kingdom* does not contravene a *rule* applied by (2) to the extent that:
- (a) at the time the *firm* was required to comply with the *rule* (“the relevant time”), the *firm* complied with or applied a provision which implements the same provision of the relevant directive reserved to its *Home State* (or, where (2)(b) applies, to the *EEA state* where it has the establishment from which the service is provided) and imposed by that state’s law; and
  - (b) the *firm's* compliance with or application of the provision covers the *firm's* activities into the *UK* (or that of its *appointed representative*).
- (5) Paragraph (3) or (4) does not apply unless a *TP firm* can demonstrate to the *FCA* that, at the relevant time, it complied with or applied a provision in (3) or (4) to the extent referred to there.
- (6) Where a *TP firm's Home State* (or, where applicable, the *EEA state* where it has the establishment from which the service is provided) exercises a national discretion expressly permitted by an *EU* directive not to apply a provision which would implement a provision of an *EU* directive referred to in (2) which the *FCA* has chosen to apply as a *rule*, the *TP firm* has no need to comply with or apply the *rule* in question.
- (7) A provision referred to in paragraph (3) or (4) includes a provision where an *EU* directive sets out a number of options, and the state referred to in paragraph (3) or (4) has chosen one or more such options different from those chosen by the *FCA* in order to implement the same provision.

#### Amendments to rules applied by the General Rules

- 2.2.27 R (1) A *rule* applied by *GEN 2.2.26R(1)* or *GEN 2.2.26R(2)*:
- (a) applies with any amendment made to the *rule* in question which comes into force on *exit day* to address an issue resulting from the *UK's* withdrawal from the *European Union*;
  - (b) applies until it is deleted after *exit day*, or where a *rule* is amended or replaced after *exit day* it continues to apply as

amended or replaced unless the *rule* states that it does not apply; and

- (c) only applies to the *firm's* activities carried on from a *UK branch* or establishment (maintained by the *firm* or by its *appointed representative*) or carried on other than from a *UK branch* or establishment into the *UK* (by the *firm* or its *appointed representative*).
- (2) Apart from in *COMP* and *FEES* 6, where a *rule* (or paragraph of a *rule*) applied by *GEN 2.2.26R(1)* or *GEN 2.2.26R(2)*:
- (a) only applied to a *person* which passported into the *United Kingdom* under Schedule 3 or 4 to the *Act*; and
  - (b) is deleted on *exit day*;

deletion is disregarded and it continues to apply to the *TP firm*; and references in the *rule* (or paragraph of the *rule*) to the *EU* or to an *EU* matter or thing are deemed to be references to the *UK* or a *UK* matter or thing, as the case may be.

- (3) Except where paragraph (4) applies, a *TP firm* does not have to comply with paragraph (1)(a) while and to the extent that the *FCA* directs that where the same *rule*:
- (a) begins to apply to a *firm* other than a *TP firm* (A) as a result of an exit instrument, the *rule* is not to apply to A; or
  - (b) applies to A differently from how it would but for an exit instrument, the obligation is modified so that A does not breach it if A complies with the *rule* as it applied immediately before *exit day*.
- (4) In relation to a matter subject to the *FCA's* prudential transitional direction, paragraph (1)(a) does not apply while and to the extent that the *FCA* directs that where the same *rule*:
- (a) begins to apply to a *firm* other than a *TP firm* (A) as a result of an exit instrument, the *rule* is not to apply to A; or
  - (b) applies to A differently from how it would but for an exit instrument, the *rule* shall apply to A as it would have applied immediately before *exit day*.
- (5) In this *rule*:
- (a) the reference to the “*FCA directs*” refers to a direction made by the *FCA* under Part 7 of the Financial Services and Markets Act 2000 (Amendment) (EU Exit) Regulations 2019;

- (b) the expressions “exit instrument” and “relevant obligation” have the meanings in Part 7 of those regulations;
- (c) the reference to the “FCA’s prudential transitional direction” is to a direction made under Part 7 of those regulations covering prudential matters set out in the direction.

#### Modification of rules applied by the General Rules in cases of conflict

- 2.2.28 R (1) Where a *rule* in *GEN 2.2.26R(1)* applies and:
- (a) as a result of an amendment which comes into force on *exit day* which removes a reference to a matter in relation to the *EEA*; and
  - (b) it is no longer practicable for the *TP firm* to comply with the *rule* because of the amendment,
- the *firm* may treat the *rule*, to the extent necessary, as if it continued to refer to a matter in relation to the *EEA*.
- (2) Where a *rule* applied by *GEN 2.2.26R(1)* contradicts a *rule* applied by *GEN 2.2.26R(2)*, to the extent necessary the *rule* in *GEN 2.2.26R(2)* does not apply.
- (3) Where as a result of the *UK’s* withdrawal from the *EU* different provisions (than those which applied to the *person* immediately before *exit day*) apply in an *EEA State* to a *TP firm* and if as a result of complying with a *rule* applied by *GEN 2.2.26R(2)* the *firm* would contravene a provision in that *EEA State*, the *rule* in *GEN 2.2.26R(2)*, to the extent necessary, does not apply.

#### MiFID technical standards

- 2.2.29 R (1) The provisions, as amended on or after *exit day*, in (2) apply to a *TP firm* which is an *EEA MiFID investment firm* as if it were a *MiFID investment firm* when the following conditions are met:
- (a) where it carries on *MiFID or equivalent third country business*; and
  - (b) that business is carried on from a *UK branch* (maintained by the *firm* or its *appointed representative*) or, where it is carried on other than from a *UK branch*, that business is provided into the *United Kingdom* (by the *firm* or its *appointed representative*).
- (2) The provisions referred to in (1) are technical standards deriving from previously adopted *EU regulations* under *MiFID* which are retained EU law, except:



- (a) those deriving from previously adopted *EU regulations* under article 7 of *MiFID*;
  - (b) those deriving from previously adopted *EU regulations* under article 32(2) and (3) of *MiFID* where they apply to a *firm* other than a *TP firm operating an organised trading facility* or acting as a *systematic internaliser* from a *branch* in the *United Kingdom*; or
  - (c) to the extent that their application to a *TP firm* would be inconsistent with the application to that *firm* of Chapter 5 of the *MiFID Org Regulation* or *MAR 10.4*.
- (3) A *TP firm* which carries on business from a *UK branch* (maintained by the *firm* or its *appointed representative*) does not contravene a *rule* applied by (1) to the extent that:
- (a) at the time the *firm* was required to comply with the *rule* (“the relevant time”), the *firm* complied with or applied the same provision of the relevant measure referred to in (2) applied by its *Home State*; and
  - (b) the *firm’s* compliance with or application of the provision covers the *firm’s* activities provided from the *UK branch* (maintained by the *firm* or its *appointed representative*).
- (4) A *TP firm* which carries on business other than from a *UK branch* into the *United Kingdom* (by the *firm* or its *appointed representative*) does not contravene a *rule* applied by (1) to the extent that:
- (a) at the time the *firm* was required to comply with the *rule* (“the relevant time”), the *firm* complied with or applied the same provision of the relevant measure referred to in (2) applied by its *Home State*; and
  - (b) the *firm’s* compliance with or application of the provision covers the *firm’s* or its *appointed representative’s* activities in the *UK*.
- (5) A *rule* in (3) or (4) does not apply unless a *TP firm* can demonstrate to the *FCA* that, at the relevant time, it complied with or applied a provision in (3) or (4) to the extent referred to there.
- (6) Neither of paragraphs (3) and (5) apply to *rules* applied by (1) which are provisions deriving from previously adopted *EU regulations* under article 27 of *MiFID*.

Rules and guidance applying while a firm has temporary permission – capital adequacy requirements

- 2.2.30 R (1) Nothing in *GENPRU*, *BIPRU*, *IFPRU*, *INSPRU*, *MIPRU*, *IPRU(FSOC)*, *IPRU(INS)* or *IPRU(INV)* applies to a *TP firm*, except for the provisions in (2).
- (2) To the extent a *TP firm* carries on the relevant *regulated activity*, the following apply by virtue of *GEN 2.2.26R*:
- (a) *INSPRU 1.5.33R*;
- (b) *MIPRU*;
- (c) *IPRU(FSOC)*; and
- (d) *IPRU(INV) 5, 6, 9, 12 and 13*, except that *rules* relating to capital adequacy in these chapters, which would apply to a *TP firm* through the operation of *GEN 2.2.26R(2)*, do not apply to that *TP firm*. Specifically, the financial resources requirements for *depositories* of *UCITS schemes* and *depositories* of certain *AIFs* in *IPRU(INV) 5*, and requirements involving the holding of professional indemnity insurance which relate to capital adequacy in *IPRU(INV) 9 and 13*.
- 2.2.31 G (1) *GEN 2.2.30R* operates by excluding the application of the sourcebooks contained in the Prudential Standards part of the *FCA Handbook*, except for the sourcebooks or parts of sourcebooks referred to in *GEN 2.2.30R(2)*.
- (2) The sourcebooks referred to in *GEN 2.2.30R(2)* contain *rules* that may apply to a *TP firm* either by virtue of *GEN 2.2.26R(1)* if they applied to that *firm* immediately before *exit day*, or *rules* that may apply to a *TP firm* by virtue of *GEN 2.2.26R(2)* if the conditions in that provision are met, and the *rule* does not relate to capital adequacy.
- (3) The approach in *GEN 2.2.30R* to applying *rules* relating to capital adequacy to a *TP firm* is generally to ensure that the *firm* is only subject to those *rules* that applied to it immediately before *exit day*. Therefore, a *TP firm* will not be subject to additional capital adequacy requirements to those that applied to the *firm* immediately before *exit day*.
- (4) The sourcebooks referred to in *GEN 2.2.30R(2)* contain some *rules* which do not relate to capital adequacy. Such *rules* may apply to *TP firms* by virtue of *GEN 2.2.26R*. Certain of these *rules* may apply to *TP firms* by virtue of *GEN 2.2.26R(2)*, as follows:
- (a) *rules* in *MIPRU 2.2* (Allocation of the responsibility for insurance distribution activity or MCD credit intermediation activity);

- (b) certain of the *rules* in *MIPRU* 3.2 (Professional indemnity insurance requirements);
  - (c) *rules* in *MIPRU* 5.2 (Use of intermediaries); and
  - (d) certain of the *rules* in *IPRU(INV)* 13.1 (Application, general requirements and professional indemnity insurance requirements).
- (5) The sourcebooks contained in the Prudential Standards part of the *FCA Handbook* are not the only sourcebooks which include *rules* relating to capital adequacy. For example, see the *rules* in *CONC* 10 and *MAR* 8. The capital adequacy requirements in such other sourcebooks may apply to a *TP firm* by virtue of *GEN* 2.2.26R, to the extent the *firm* carries on the relevant *regulated activity*. However, a *TP firm* will not be subject to additional capital adequacy requirements to those that applied to the *firm* immediately before *exit day*.
- (6) For the purpose of this *guidance*, *rules* relating to capital adequacy comprise *rules* relating to the adequacy of a *firm's* financial resources, including both capital resources and liquidity resources. However, *rules* relating to capital adequacy do not include *rules* involving the holding of professional indemnity insurance, except where such *rules* are tied to capital adequacy requirements by a form of optionality (for examples of such *rules*, see *IPRU(INV)* 9.2.4R and *IPRU(INV)* 13.1A.3R). Therefore, *rules* involving the holding of professional indemnity insurance may apply to a *TP firm* by virtue of *GEN* 2.2.26R, but if such *rules* are tied to capital adequacy requirements, they cannot apply by virtue of *GEN* 2.2.26R(2).

Rules applying while a firm has temporary recognition – general – TP UCITS qualifiers and TP AIFM qualifiers

- 2.2.32 R (1) Unless the contrary intention appears, a *rule* does not apply to a *TP UCITS qualifier* or a *TP AIFM qualifier*, except that in relation to a *scheme* or a *sub-fund* a *rule* which imposed an obligation on a *person* immediately before *exit day* who becomes a *TP UCITS qualifier* or a *TP AIFM qualifier* continues to apply to that *person* to the same extent and to the same activities to which the *rule* applied at that time.
- (2) (a) If after *exit day* a *person* becomes a *TP UCITS qualifier* in relation to a *new sub-fund* then, unless the contrary intention appears, a *rule* which would have imposed an obligation on that *person* immediately before *exit day* had that *new sub-fund* been recognised under section 264 of the *Act* at that time applies to the *TP UCITS qualifier*.
- (b) A *rule* in (a) applies in relation to the *new sub-fund* to the same extent and to the same activities to which the *rule* would

have applied had that *new sub-fund* been recognised under section 264 of the *Act*. immediately before exit day.

Amendments to rules applied to TP AIFM qualifiers and TP UCITS qualifiers

- 2.2.33 R (1) A rule applied by GEN 2.2.32R:
- (a) applies with any amendment made to the *rule* in question which comes into force on *exit day* arising from the *United Kingdom's* exit from the *European Union*;
  - (b) applies until it is deleted after *exit day*, or, where a *rule* is amended or replaced after *exit day*, it continues to apply as amended or replaced unless the *rule* states that it does not apply; and
  - (c) only applies to the *firm's* activities in relation to the *AIF* or the *scheme* in the *United Kingdom*.
- (2) Where a *rule* (or paragraph of a *rule*) applied by GEN 2.2.32R:
- (a) only applied to a *person* who was an authorised person by virtue of paragraph 1(1) of Schedule 5 to the *Act*; and
  - (b) is deleted on *exit day*;
- deletion is disregarded and it continues to apply to the *TP UCITS qualifier* or *TP AIFM qualifier*; and references in the *rule* (or paragraph of the *rule*) to the *EU* or to an *EU* matter or thing are deemed to be references to the *UK* or a *UK* matter or thing, as the case may be.
- (3) A *TP UCITS qualifier* or a *TP AIFM qualifier* does not have to comply with paragraph (1)(a) while and to the extent that the *FCA* directs that where the same *rule*:
- (a) begins to apply to a *firm* other than a *TP firm*, *TP UCITS qualifier* or a *TP AIFM qualifier* (A) as a result of an exit instrument, it is not to apply to A; or
  - (b) applies to A differently from how it would have but for an exit instrument, the obligation is modified so that A does not breach it if it complies with the *rule* as it applied immediately before *exit day*.
- (4) In paragraph (3):
- (a) the reference to the “FCA directs” is to a direction made by *FCA* under Part 7 of the Financial Services and Markets Act 2000 (Amendment) (EU Exit) Regulations 2019;

- (b) the expressions “exit instrument” and “relevant obligation” have the meanings in Part 7 of those regulations.

Modification of rules applied to TP AIFM qualifiers and TP UCITS qualifiers

- 2.2.34 R (1) Where a *rule* in *GEN 2.2.32R* applies and:
- (a) as a result of an amendment which comes into force on *exit day* which removes a reference to a matter in relation to the *EEA*; and
- (b) it is no longer practicable for the *TP UCITS qualifier* or the *TP AIFM qualifier* to comply with the *rule* because of the amendment,

the *TP UCITS qualifier* or the *TP AIFM qualifier* may treat the *rule*, to the extent necessary, as if it continued to refer to a matter in relation to the *EEA*.

- (2) If as a result of:
- (a) the *UK’s* withdrawal from the *EU*; and
- (b) complying with a *rule* applied by *GEN 2.2.32R*,

a *TP UCITS qualifier* or a *TP AIFM qualifier* would contravene a provision in its *Home State*, the *rule* applied by *GEN 2.2.32R* which caused the contravention, to the extent necessary, does not apply.

Guidance applying while a firm has temporary permission

- 2.2.35 R Unless the contrary intention appears, *guidance* does not apply to a *TP firm*, a *TP UCITS qualifier* or a *TP AIFM qualifier* except that:
- (1) *guidance* on or in connection with a *rule* applied by *GEN 2.2.26R(1)* applies to a *TP firm* to the same extent as that *rule*;
- (2) *guidance* on or in connection with a *rule* applied by *GEN 2.2.26R(2)* applies to a *TP firm* to the same extent as that *rule*;
- (3) *guidance* on or in connection with a *rule* applied by *GEN 2.2.32R* applies to a *TP UCITS qualifier* and a *TP AIFM qualifier* to the same extent as that *rule*; and
- (4) to the extent that an enactment, other than a *rule*, applies to both a *TP firm* and a *firm* with a *Part 4A permission* granted by the *FCA* or *PRA*, *guidance* on, or in connection with, that enactment (or relevant part of that enactment) applies to a *TP firm* to the same extent as it applies to a *firm* with *Part 4A permission* granted by the *FCA* or *PRA*. To the extent an enactment is modified for the purposes of the *EU Exit Passport Regulations*, *guidance* on, or in connection with,

that enactment must be read subject to those modifications. This provision applies *mutatis mutandis* to *guidance* which applies to a *TP UCITS qualifier* or a *TP AIFM qualifier*.

Purpose

- 2.2.36 G (1) The approach to what *rules* apply to *TP firms* is broadly to apply *rules* to *TP firms* which applied to them immediately prior to the *UK's* exit from the *EU*, whether those *rules* applied in the *United Kingdom* (as was the case for host state *rules*) or, where rules are directive-based, in the *firm's Home State* or, where relevant under an *EU* measure in relation to which the law of the country of origin applies, the state where the establishment is located and from which the *firm's* service is provided.
- (2) The Glossary definitions of *TP firm* and *temporary permission* each include both *firms* that enter the temporary permission or temporary variation regime set out in Part 3 of the *EU Exit Passport Regulations* and *firms* that enter the financial services contracts regime set out in Part 6 of the *EU Exit Passport Regulations* on or after *exit day*.
- (3) *GEN 2.2.26R* (1) and *GEN 2.2.33R* refer to “a *rule* which imposed an obligation on a *person*”. This is to distinguish a *rule* which imposes substantive obligations from a *rule* which sets out the application of *rules*.
- (4) *GEN 2.2.26R* to *GEN 2.2.35R* apply *rules* and *guidance* to *firms* which before *exit day* had passporting rights by virtue of the Treaty on the Functioning of the European Union, or of that Treaty as applied by the Agreement on the European Economic Area signed at Oporto on 2 May 1992 whose parties consist of the EEA States.
- (5) The application of *rules* and *guidance* to *TP firms* under Part 3 of the *EU Exit Passport Regulations* must be read in the light of the purpose of *temporary permission* under Part 3 of those Regulations, which is to allow *TP firms* to continue to carry on *regulated activities* in the *United Kingdom*, or of the purpose of the temporary recognition regime for *TP UCITS qualifiers* or for *TP AIFM qualifiers* to continue to market funds in the *United Kingdom*. In each case that purpose takes into account that the legal framework underpinning cross border financial services has changed because the *Treaty*, EU regulations and EU directives no longer apply in the *United Kingdom* by virtue of EU law.
- (6) For a *TP firm* under Part 3 of the *EU Exit Passport Regulations* the scope of authorisation of an *EEA-based firm* which qualified for authorisation under Schedule 3 or 4 to the *Act* is preserved. Those Regulations do not extend the means by which a *TP firm* can carry on *regulated activities* in the *United Kingdom*, which remain limited (leaving aside top-up permission) to those which were available

under the Treaty on the Functioning of the European Union, for example, a *firm* carrying on *regulated activities* in the *United Kingdom* from an establishment outside of the *EEA* cannot rely upon this means to do so. For a *TP firm* under Part 6 of the *EU Exit Passport Regulations*, the scope of the *firm's permission* is further limited by what is permitted under regulation 33 or 40 of those *Regulations*.

- (7) The General Rules also apply where *regulated activities* have been amended on *exit day*, because the purpose of *temporary permission* is to enable *TP firms* to continue to carry on such *regulated activities* in the *United Kingdom*.
- (8) Part 6 of the Collective Investment Schemes (Amendment etc.) (EU Exit) Regulations 2019 enables a *new sub-fund* to be a recognised scheme for the purposes of Part 17 of the *Act* in certain circumstances. Therefore, the purpose of *GEN 2.2.32R(2)* is to ensure that a *rule* applies to a *TP UCITS qualifier* in relation to a *new sub-fund* if that *rule* would have applied to the *sub-fund* had it been a scheme recognised under section 264 of the *Act* immediately before *exit day* (unless the contrary intention appears).
- (9) In relation to persons with *temporary EMI authorisation*, *temporary PI authorisation* and *temporary RAISP authorisation*, the specified directions, *rules* and *guidance* in *FEES 4A*, *7C* and *13A* apply to them. In addition, in relation to those *persons*, *rules* and *guidance* in *DISP* and *SUP* apply to them as they apply to *persons* that are authorised or registered in the *UK*.
- (10) A *person* with *temporary EMI authorisation* is deemed to be an *authorised electronic money institution* in accordance with regulation 2(a) of Part 1 of Schedule 3 of the *E-money and Payments Transitional Provisions Regulations*. As such, the provisions of the *Electronic Money Regulations* as amended by the *E-money and Payments Transitional Provisions Regulations* and subject to the exclusions set out in regulation 7 of the *E-money and Payments Transitional Provisions Regulations* apply to such *persons*.
- (11) This paragraph applies to *persons* with *temporary PI authorisation* and *temporary RAISP authorisation*:
  - (a) a *person* with *temporary PI authorisation* is deemed to be an *authorised payment institution* in accordance with regulation 14(2)(a)(i) of Part 2 of Schedule 3 of the *E-money and Payments Transitional Provisions Regulations*.
  - (b) a *person* with *temporary RAISP authorisation* is deemed to be a *Registered Account Information Service Provider* in accordance with regulation 2(2)(a)(ii) of Part 2 of Schedule 3

of the *E-money and Payments Transitional Provisions Regulations*.

- (12) As such, the provisions of the *Payment Services Regulations* as amended by the *E-money and Payments Transitional Provisions Regulations* and subject to the exclusions set out in regulation 19 of the *E-money and Payments Transitional Provisions Regulations* apply to *persons* to whom paragraph (11) applies.
- (13) The Glossary definitions of *temporary EMI authorisation*, *temporary PI authorisation* and *temporary RAISP authorisation* each include both *persons* that enter the temporary permission regime set out in Parts 1 and 2 of Schedule 3 of the *E-money and Payments Transitional Provisions Regulations* and *persons* that enter the financial services contracts regime in accordance with regulation 12B and 26 of Parts 1A and 3 of Schedule 3 of the *E-money and Payments Transitional Provisions Regulations*.

The effect of the General Rules

- 2.2.37 G (1) The approach in these *rules* is a general one and does not apply where a *rule* states explicitly that a different provision applies to such a *firm* or that position is stated in relation to the *rule*.
- (2) The *FCA* has decided in certain cases specifically to apply rules to *TP firms*, for example:
- (a) in relation to the application of our Principles for Businesses (*PRIN*);
  - (b) in chapters 4A, 6, 7C, 7D and 13A, and at *rule* 5.1.1CR, of the Fees Manual (*FEES*);
  - (c) in the General Provisions (*GEN*) which relate to status disclosure;
  - (d) in the Client Assets sourcebook (*CASS*) at chapter 14;
  - (e) in the Compensation sourcebook (*COMP*);
  - (f) in chapters 1, 2 and 3 of the Dispute Resolution: Complaints sourcebook (*DISP*);
  - (g) in relation to the approved persons regime, such specific applications are largely to be found in the Supervision Manual (*SUP*) 10A; and
  - (h) in relation to the senior managers and certification regime, the main provisions so applied are listed in the Senior Management Arrangements, Systems and Controls sourcebook (*SYSC*) at *SYSC* 23.3.3G.



- (3) The effect of *GEN 2.2.26R(1)* and *GEN 2.2.32R* also includes a *rule* which applied immediately before *exit day* to a *firm's* activity beyond the activity that was its permitted activity under Schedule 3 (or its permitted activity under Schedule 4 to the *Act* or beyond the activity that was permitted under paragraph 2(1) of Schedule 5 to the *Act*). For example, where such a *firm* had a *Part 4A permission* for that other activity before *exit day* (i.e. it had a top-up permission).
- (4) None of *GEN 2.2.26R(1)*, *GEN 2.2.26R(2)* and *GEN 2.2.32R* prevent changes being made to the *rules* that apply to such *firms* on and after *exit day*.
- (5) *GEN 2.2.26R(2)* refers to a *rule* which deals with a matter which immediately before *exit day* was reserved to the *Home State* of the *firm*. These *rules* include both *rules* that under an *EU* directive are always the responsibility of that state, such as *rules* concerning the safeguarding of client assets, and also *rules* the responsibility for which depends on whether the service or activity takes place at a *branch* or establishment in a state other than the *Home State* of the *firm* or is provided cross border from a *branch* or establishment in the *Home State*. For example, it would cover all of the *rules* which implement the provisions which are the responsibility of the *Home State* under, as the case may be, article 34 or article 35 of *MIFID*. *GEN 2.2.26R(2)(b)* and the words in (4) and (6) concerning the *EEA State* where the *TP firm* has its establishment will be applicable in a situation where an *EU* directive includes a country of origin provision (one which generally requires compliance with the law of the state where the establishment from which the service is provided), such as the *E-Commerce Directive* or the *Distance Marketing Directive*. In that case *GEN 2.2.26R(2)(b)* and the related words in (4) and (6) would apply to an *FCA rule* which deals with a matter reserved, under such a directive, to the law of the state where the *TP firm* has its establishment from which the service is provided, an example of which is the *rules* in *COBS 5.2*.
- (6) The effect of *GEN 2.2.26R(2)* is to apply a *rule* to the extent that the *rule* implemented an *EU* directive, notwithstanding that before *exit day* the matter was reserved to the *Home State* or to the state where the establishment from which the service is provided is situated. A *rule* which the *FCA* imposes by virtue of a national discretion set out in a directive is to be taken as a *rule* which implements a directive. Where a *TP firm's* home state or, where relevant, the country of origin of the *firm's* establishment exercises a national discretion expressly permitted by a directive not to apply a provision, which the *FCA* has chosen to apply through a *rule*, the *firm* has no need to comply with or apply the *rule* in question. To the extent a *rule* goes beyond what is necessary to implement a directive, it does not apply as a result of *GEN 2.2.26R(2)*. Therefore a more stringent *rule*

applied by the *FCA* in relation to a minimum harmonisation EU directive would not be applied by *GEN 2.2.26R(2)*.

- (7) The General Rules set out in *GEN 2.2.26R* to *2.2.31G* do not address EEA fund managers which only market funds in the *UK* without carrying on any *regulated activity* here (e.g. without managing any funds). The definition of *TP firm* does not include a *person* which was a recognised scheme under section 264 of the *Act* and a *person* which exercised its right only to market an *AIF* in the *UK* in accordance with Schedule 3 to the *Act*. *Persons* when only marketing are defined for these *rules* and *guidance* as *TP UCITS qualifiers* and *TP AIFM qualifiers*, and are covered by *GEN 2.2.32R*, *2.2.33R*, *2.2.34R* and *2.2.35R*.
- (8) An example of a matter falling within *GEN 2.2.28R(1)* or *GEN 2.2.34R(1)* may be a *rule* which on *exit day* (as a result of an amendment made under the European Union (Withdrawal) Act 2018) then only refers to membership of a UK professional body. Where *GEN 2.2.28R(1)* or *GEN 2.2.34R(1)* applies, the *firm* may treat the *rule* in question as if it continued to refer to an EEA professional body.
- (9) In determining the *rules* that apply to them by virtue of *GEN 2.2.26R(1)*, *TP firms* may as a starting point find it helpful to refer to the table in *SUP 13A Annex 1* (Rules that apply to incoming EEA firms) as it applied immediately before *exit day*. However, the table will not apply in its entirety to each *TP firm*, for example, because a *TP firm* with top-up permission (see paragraph (3)) needs to continue to comply with *rules* that apply in relation to that activity, and specified *rules* referred to in the table were deleted on *exit day* and are not applied by the General Rules as set out in *GEN 2.2.27R(2)*), namely those in *COMP* and *FEES 6*.
- (10) In determining the *rules* that apply to them by virtue of *GEN 2.2.26R(2)*, *TP firms* may as a starting point find it helpful to refer to the table in *SUP 13A Annex 2G* (Matters reserved to the home state) as it applied immediately before *exit day*.
- (11) *GEN 2.2.27R(3)* concerns the use of the *FCA's* standstill direction to disapply or modify certain obligations as a result of the operation of exit instruments. That direction does not apply to *rules* applied to *TP firms* by the general approach *rules*. *GEN 2.2.27R(3)* therefore achieves a similar result to the direction by disapplying the requirement in *GEN 2.2.27R(1)(a)* to comply with changes made to a *rule* in question which comes into force on *exit day* to address an issue resulting from the *UK's* withdrawal from the *European Union*. Since *GEN 2.2.27R(3)* states that, where it applies, a *TP firm* does not have to comply with a *rule* as amended referred to in *GEN 2.2.27R(1)(a)*, it is open to the *TP firm* to comply with such a *rule* while the *FCA's* standstill direction is in force. *GEN 2.2.33R(3)* has the same effect in relation to *TP UCITS qualifiers* and *TP AIFM*

*qualifiers*. In contrast, *GEN 2.2.27R(4)*, where it applies, has the effect that a *TP firm* has to comply with a prudential *rule* which applies to it as the *rule* was immediately before *exit day*.

#### Rules and guidance applying while a firm has temporary permission – tied agents

- 2.2.38 G (1) A *tied agent* that is an *appointed representative* may not start to act as a *tied agent* until it is included on the *Financial Services Register* (see section 39(1A) of the *Act*).
- (2) To ensure that a *tied agent* is included on the *Financial Services Register*, a *TP firm* should complete the Appointed representative appointment form in *SUP 12 Annex 3R* when appointing a *tied agent* to carry on *MiFID business* on its behalf in the *United Kingdom*.
- (3) A *TP firm* that terminates its relationship with a *tied agent* that was required to be notified to the *FCA* should complete the Appointed representative termination form in *SUP 12 Annex 5R* to have that *tied agent* removed from the *Financial Services Register*.

#### TP firms that enter the financial services contracts regime under Part 6 of the EU Exit Passport Regulations

- 2.2.39 G (1) As the definitions of *TP firm* and *temporary permission* also include *TP firms* under Part 6 of the *EU Exit Passport Regulations*, the *rules* and *guidance* in *GEN 2.2.26R* to 2.2.35G also apply to *firms* which enter the financial services contracts regime set out in Part 6 of those *Regulations* after *exit day* having been in *temporary permission* under Part 3 of those *Regulations*, or which become *TP firms* under regulation 32 of those *Regulations*.
- (2) The application of *rules* and *guidance* to *TP firms* under Part 6 of the *EU Exit Passport Regulations* must be read in the light of the purpose of *temporary permission* under Part 6 of those *Regulations*, which is to enable such a *TP firm* to run down its regulated business in the *United Kingdom*. Regulation 33 or 40 of the *EU Exit Passport Regulations* sets out the scope of permitted activities, which is generally those *regulated activities* previously within the scope of the *firm's* passport, necessary to perform a pre-existing contract (as defined in regulation 46 of the *EU Exit Passport Regulations*).
- (3) Accordingly, the *rules* and *guidance* in *GEN 2.2.26R* to 2.2.31G, and 2.2.35R to 2.2.37G continue to apply where a *TP firm* leaves *temporary permission* under Part 3 of the *EU Exit Passport Regulations* and then enters *temporary permission* under Part 6 of the *EU Exit Passport Regulations*, namely, where the *person* falls within regulation 31, 37 or 38 of the *EU Exit Passport Regulations*. The same is true for a *TP firm* which leaves *temporary permission* under regulation 28 of the *EU Exit Passport Regulations* and then enters *temporary permission* under regulation 39 of those *Regulations*.

- (4) In those cases, *GEN 2.2.27R* has the effect that any changes referred to in that *rule*, which happen between *exit day* and when the *person* enters *temporary permission* (notwithstanding that they were previously in *temporary permission*) under the regulation in question, apply to the *TP firm*. This also applies to a *TP firm* which enters *temporary permission* for the first time under regulation 32 of the *EU Exit Passport Regulations*.
- (5) Where a *TP firm* enters *temporary permission* under regulation 32 of the *EU Exit Passport Regulations*, a *rule* referred to in *GEN 2.2.26R(1)* once again applies to that *person*, together with any changes referred to in paragraph (3). The *rules* applied by *GEN 2.2.26R(2)* to such a *TP firm* apply together with any changes referred to in paragraph (3).

## Part 2

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

### 4.1 Application

...

#### Where?

4.1.2 R *GEN 4.3* (Letter disclosure) applies in relation to activities carried on from an establishment maintained by the *firm* (or by its *appointed representative*) in the *United Kingdom*, subject to *GEN 4.3.4R* (Exception: insurers).

4.1.2A R *GEN 4.3* (Letter disclosure) applies to a *TP firm* in relation to activities carried on from an establishment maintained by the *TP firm* (or by its *appointed representative*) in the *United Kingdom*, or carried on by the *TP firm* (or its *appointed representative*) into the *United Kingdom* from an establishment that is not in the *United Kingdom*, subject to *GEN 4.3.4R* (Exception: insurers).

...

4.1.4A R *GEN 4.5* (Statements about authorisation and regulation by the *appropriate regulator*) applies in relation to activities carried on from an establishment maintained by the *TP firm* (or by its *appointed representative*) in the *United Kingdom* or carried on by the *TP firm* (or its *appointed representative*) into the *United Kingdom* from an establishment that is not in the *United Kingdom*.

...

### 4.3 Letter disclosure

**Disclosure in letters to retail clients**

...

**4.3.1-A R** A TP firm must take reasonable care to ensure that every letter (or electronic equivalent) which it or its employees send to a retail client, with a view to or in connection with the TP firm carrying on a regulated activity, includes the disclosure in, as the case may be:

- (1) for a TP firm under Part 3 of the EU Exit Passport Regulations, GEN 4 Annex 1B 1.1R or 1.2R (firms that are not PRA-authorized persons) or, GEN 4 Annex 1B 2.1R or 2.2R (PRA-authorized persons); or
- (2) for a TP firm under Part 6 of the EU Exit Passport Regulations, GEN 4 Annex 1C 1.1R or 1.2R (firms that are not PRA-authorized persons) or GEN 4 Annex 1C 2.1R or 2.2R (PRA-authorized persons).

...

**GEN 4 Annex 1B Statutory status disclosure (TP firms)****1 TP firms under Part 3 of the EU Exit Passport Regulations that are not PRA-authorized persons**

**1.1 R** This rule applies to TP firms under Part 3 of the EU Exit Passport Regulations that are not PRA-authorized persons in relation to activities carried on by them or their appointed representatives from establishments in the United Kingdom:

|     | <u>Type of firm</u>                                                                           | <u>Required disclosure (Note 2)</u>                                                                                                                                                                                                                                                                                                                                         |
|-----|-----------------------------------------------------------------------------------------------|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| (1) | <u>A TP firm under Part 3 of the EU Exit Passport Regulations without a top-up permission</u> | <u>“Deemed authorised and regulated by the Financial Conduct Authority. Details of the Temporary Permissions Regime, which allows EEA-based firms to operate in the UK for a limited period while seeking full authorisation, are available on the Financial Conduct Authority’s website.”</u><br><br>(Notes 1, 3 and 4)                                                    |
| (2) | <u>A TP firm under Part 3 of the EU Exit Passport Regulations with a top-up permission</u>    | <u>“Authorised by the Financial Conduct Authority and with deemed variation of permission. Subject to regulation by the Financial Conduct Authority. Details of the Temporary Permissions Regime, which allows EEA-based firms to operate in the UK for a limited period while seeking full authorisation, are available on the Financial Conduct Authority’s website.”</u> |

|  |  |                    |
|--|--|--------------------|
|  |  | (Notes 1, 3 and 4) |
|--|--|--------------------|

- 1.2 R This rule applies to TP firms under Part 3 of the EU Exit Passport Regulations that are not PRA-*authorised persons* in relation to activities carried on by them or their *appointed representative* into the United Kingdom from an establishment that is not in the United Kingdom:

|     | <u>Type of firm</u>                                                                           | <u>Required disclosure (Note 2)</u>                                                                                                                                                                                                                                                                                                                                                                                                                                                                  |
|-----|-----------------------------------------------------------------------------------------------|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| (1) | <u>A TP firm under Part 3 of the EU Exit Passport Regulations without a top-up permission</u> | <p>“Deemed authorised and regulated by the Financial Conduct Authority. The nature and extent of consumer protections may differ from those for firms based in the UK. Details of the Temporary Permissions Regime, which allows EEA-based firms to operate in the UK for a limited period while seeking full authorisation, are available on the Financial Conduct Authority’s website.”</p> <p>(Notes 1, 3 and 4)</p>                                                                              |
| (2) | <u>A TP firm under Part 3 of the EU Exit Passport Regulations with a top-up permission</u>    | <p>“Authorised by the Financial Conduct Authority and with deemed variation of permission. Subject to regulation by the Financial Conduct Authority. The nature and extent of consumer protections may differ from those for firms based in the UK. Details of the Temporary Permissions Regime, which allows EEA-based firms to operate in the UK for a limited period while seeking full authorisation, are available on the Financial Conduct Authority’s website.”</p> <p>(Notes 1, 3 and 4)</p> |

## 2 TP firms under Part 3 of the EU Exit Passport Regulations that are PRA-*authorised persons*

- 2.1 R This rule applies to TP firms under Part 3 of the EU Exit Passport Regulations that are PRA-*authorised persons* in relation to activities carried on by them or their *appointed representatives* from establishments in the United Kingdom:

|     | <u>Type of firm</u>                                                                           | <u>Required disclosure (Note 2)</u>                                                                                                                                                                                                                                                                                                           |
|-----|-----------------------------------------------------------------------------------------------|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| (1) | <u>A TP firm under Part 3 of the EU Exit Passport Regulations without a top-up permission</u> | <p>“Authorised and regulated by [name of the overseas regulator of the overseas firm in the jurisdiction of that overseas firm’s registered office (or, if it has no registered office, its head office)]. Deemed authorised by the Prudential Regulation Authority. Subject to regulation by the Financial Conduct Authority and limited</p> |

|     |                                                                                                   |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                       |
|-----|---------------------------------------------------------------------------------------------------|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
|     |                                                                                                   | <p>regulation by the Prudential Regulation Authority. <u>Details of the Temporary Permissions Regime, which allows EEA-based firms to operate in the UK for a limited period while seeking full authorisation, are available on the Financial Conduct Authority’s website.”</u></p> <p>(Notes 1, 3 and 4)</p>                                                                                                                                                                                                                                                                                                                                                                         |
| (2) | <p><u>A TP firm under Part 3 of the EU Exit Passport Regulations with a top-up permission</u></p> | <p>“<u>Authorised and regulated by [name of the overseas regulator of the overseas firm in the jurisdiction of that overseas firm’s registered office (or, if it has no registered office, its head office)]. Authorised by the Prudential Regulation Authority and with deemed variation of permission. Subject to regulation by the Financial Conduct Authority and limited regulation by the Prudential Regulation Authority. Details of the Temporary Permissions Regime, which allows EEA-based firms to operate in the UK for a limited period while seeking full authorisation, are available on the Financial Conduct Authority’s website.”</u></p> <p>(Notes 1, 3 and 4)</p> |

- 2.2 R This rule applies to TP firms under Part 3 of the EU Exit Passport Regulations that are PRA-authorized persons in relation to activities carried on by them or their appointed representative into the United Kingdom from an establishment that is not in the United Kingdom:

|     | <u>Type of firm</u>                                                                                  | <u>Required disclosure (Note 2)</u>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                 |
|-----|------------------------------------------------------------------------------------------------------|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| (1) | <p><u>A TP firm under Part 3 of the EU Exit Passport Regulations without a top-up permission</u></p> | <p>“<u>Authorised and regulated by [name of the overseas regulator of the overseas firm in the jurisdiction of that overseas firm’s registered office (or, if it has no registered office, its head office)]. Deemed authorised by the Prudential Regulation Authority. Subject to regulation by the Financial Conduct Authority and limited regulation by the Prudential Regulation Authority. The nature and extent of consumer protections may differ from those for firms based in the UK. Details of the Temporary Permissions Regime, which allows EEA-based firms to operate in the UK for a limited period while seeking full authorisation, are available on the Financial Conduct Authority’s website.”</u></p> <p>(Notes 1, 3 and 4)</p> |

|     |                                                                                            |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                             |
|-----|--------------------------------------------------------------------------------------------|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| (2) | <u>A TP firm under Part 3 of the EU Exit Passport Regulations with a top-up permission</u> | <p><u>“Authorised and regulated by [name of the overseas regulator of the overseas firm in the jurisdiction of that overseas firm’s registered office (or, if it has no registered office, its head office)]. Authorised by the Prudential Regulation Authority and with deemed variation of permission. Subject to regulation by the Financial Conduct Authority and limited regulation by the Prudential Regulation Authority. The nature and extent of consumer protections may differ from those for firms based in the UK. Details of the Temporary Permissions Regime, which allows EEA-based firms to operate in the UK for a limited period while seeking full authorisation, are available on the Financial Conduct Authority’s website.”</u></p> <p><u>(Notes 1, 3 and 4)</u></p> |
|-----|--------------------------------------------------------------------------------------------|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|

Note 1 = A firm must use the formulation "Financial Conduct Authority" or "Prudential Regulation Authority" and not the abbreviated formulation "FCA" or "PRA" respectively.

Note 2 = Any firm listed in this table is permitted to add words to the relevant required disclosure statement but only if the firm has taken reasonable steps to satisfy itself that the presentation of its statutory status will, as a consequence, be fair, clear and not misleading and be likely to be understood by the average member of the group to whom it is directed or by whom it is likely to be received.

Note 3 = A “top-up permission” is a Part 4A permission granted to a firm which exercised passporting rights, but which activity was outside of the scope of its passport, i.e. where the regulated activity in question is not an activity which could be passported.

Note 4 = A firm is free to translate the name of its Home State regulator into English if it wishes. In doing so, it must ensure that the State in which the regulator is based is clear.

#### **GEN 4 Annex 1C Statutory status disclosure (TP firms under Part 6 of the EU Exit Passport Regulations)**

##### **1 TP firms under Part 6 of the EU Exit Passport Regulations that are not PRA-authorized persons**

1.1 R This rule applies to TP firms under Part 6 of the EU Exit Passport Regulations that are not PRA-authorized persons in relation to activities carried on by them or their appointed representatives from establishments in the United Kingdom:

|     | <u>Type of firm</u>                                   | <u>Required disclosure (Note 2)</u>                                                                                                   |
|-----|-------------------------------------------------------|---------------------------------------------------------------------------------------------------------------------------------------|
| (1) | <u>A TP firm under Part 6 of the EU Exit Passport</u> | <u>“Deemed authorised and regulated by the Financial Conduct Authority. Details of the Financial Services Contracts Regime, which</u> |



|     |                                                                                            |                                                                                                                                                                                                                                                                                                                                                                                                                                                               |
|-----|--------------------------------------------------------------------------------------------|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
|     | <u>Regulations without a top-up permission</u>                                             | allows EEA-based firms to operate in the UK for a limited period to carry on activities which are necessary for the performance of pre-existing contracts, are available on the Financial Conduct Authority’s website.”<br><br>(Notes 1, 3 and 4)                                                                                                                                                                                                             |
| (2) | <u>A TP firm under Part 6 of the EU Exit Passport Regulations with a top-up permission</u> | “Authorised by the Financial Conduct Authority and with deemed variation of permission. Subject to regulation by the Financial Conduct Authority. Details of the Financial Services Contracts Regime, which allows EEA-based firms to operate in the UK for a limited period to carry on activities which are necessary for the performance of pre-existing contracts, are available on the Financial Conduct Authority’s website.”<br><br>(Notes 1, 3 and 4) |

1.2 R This rule applies to TP firms under Part 6 of the EU Exit Passport Regulations that are not PRA-authorized persons in relation to activities carried on by them or their appointed representative into the United Kingdom from an establishment that is not in the United Kingdom:

|     | <u>Type of firm</u>                                                                           | <u>Required disclosure (Note 2)</u>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                |
|-----|-----------------------------------------------------------------------------------------------|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| (1) | <u>A TP firm under Part 6 of the EU Exit Passport Regulations without a top-up permission</u> | “Deemed authorised and regulated by the Financial Conduct Authority. The nature and extent of consumer protections may differ from those for firms based in the UK. Details of the Financial Services Contracts Regime, which allows EEA-based firms to operate in the UK for a limited period to carry on activities which are necessary for the performance of pre-existing contracts, are available on the Financial Conduct Authority’s website.”<br><br>(Notes 1, 3 and 4)                                                    |
| (2) | <u>A TP firm under Part 6 of the EU Exit Passport Regulations with a top-up permission</u>    | “Authorised by the Financial Conduct Authority and with deemed variation of permission. Subject to regulation by the Financial Conduct Authority. The nature and extent of consumer protections may differ from those for firms based in the UK. Details of the Financial Services Contracts Regime, which allows EEA-based firms to operate in the UK for a limited period to carry on activities which are necessary for the performance of pre-existing contracts, are available on the Financial Conduct Authority’s website.” |

|  |  |                    |
|--|--|--------------------|
|  |  | (Notes 1, 3 and 4) |
|--|--|--------------------|

## 2 **TP firms that are PRA-authorized persons**

2.1 **R** This rule applies to TP firms under Part 6 of the EU Exit Passport Regulations that are PRA-authorized persons, in relation to activities carried on by them or their appointed representatives from establishments in the United Kingdom:

|            | <u>Type of firm</u>                                                                           | <u>Required disclosure (Note 2)</u>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                         |
|------------|-----------------------------------------------------------------------------------------------|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <u>(1)</u> | <u>A TP firm under Part 6 of the EU Exit Passport Regulations without a top-up permission</u> | <p><u>“Authorized and regulated by [name of the overseas regulator of the overseas firm in the jurisdiction of that overseas firm’s registered office (or, if it has no registered office, its head office)]. Deemed authorized by the Prudential Regulation Authority. Subject to regulation by the Financial Conduct Authority and limited regulation by the Prudential Regulation Authority. Details of the Financial Services Contracts Regime, which allows EEA-based firms to operate in the UK for a limited period to carry on activities which are necessary for the performance of pre-existing contracts, are available on the Financial Conduct Authority’s website.”</u></p> <p><u>(Notes 1, 3 and 4)</u></p>                                  |
| <u>(2)</u> | <u>A TP firm under Part 6 of the EU Exit Passport Regulations with a top-up permission</u>    | <p><u>“Authorized and regulated by [name of the overseas regulator of the overseas firm in the jurisdiction of that overseas firm’s registered office (or, if it has no registered office, its head office)]. Authorized by the Prudential Regulation Authority and with deemed variation of permission. Subject to regulation by the Financial Conduct Authority and limited regulation by the Prudential Regulation Authority. Details of the Financial Services Contracts Regime, which allows EEA-based firms to operate in the UK for a limited period to carry on activities which are necessary for the performance of pre-existing contracts, are available on the Financial Conduct Authority’s website.”</u></p> <p><u>(Notes 1, 3 and 4)</u></p> |

2.2 **R** This rule applies to TP firms under Part 6 of the EU Exit Passport Regulations that are PRA-authorized persons in relation to activities carried

on by them or their *appointed representative* into the *United Kingdom* from an establishment that is not in the *United Kingdom*:

|     | Type of firm                                                                                  | Required disclosure (Note 2)                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                        |
|-----|-----------------------------------------------------------------------------------------------|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| (1) | <u>A TP firm under Part 6 of the EU Exit Passport Regulations without a top-up permission</u> | <p><u>“Authorised and regulated by [name of the overseas regulator of the overseas firm in the jurisdiction of that overseas firm’s registered office (or, if it has no registered office, its head office)]. Deemed authorised by the Prudential Regulation Authority. Subject to regulation by the Financial Conduct Authority and limited regulation by the Prudential Regulation Authority. The nature and extent of consumer protections may differ from those for firms based in the UK. Details of the Financial Services Contracts Regime, which allows EEA-based firms to operate in the UK for a limited period to carry on activities which are necessary for the performance of pre-existing contracts, are available on the Financial Conduct Authority’s website.”</u></p> <p>(Notes 1, 3 and 4)</p>                                  |
| (2) | <u>A TP firm under Part 6 of the EU Exit Passport Regulations with a top-up permission</u>    | <p><u>“Authorised and regulated by [name of the overseas regulator of the overseas firm in the jurisdiction of that overseas firm’s registered office (or, if it has no registered office, its head office)]. Authorised by the Prudential Regulation Authority and with deemed variation of permission. Subject to regulation by the Financial Conduct Authority and limited regulation by the Prudential Regulation Authority. The nature and extent of consumer protections may differ from those for firms based in the UK. Details of the Financial Services Contracts Regime, which allows EEA-based firms to operate in the UK for a limited period to carry on activities which are necessary for the performance of pre-existing contracts, are available on the Financial Conduct Authority’s website.”</u></p> <p>(Notes 1, 3 and 4)</p> |

Note 1 = A firm must use the formulation “Financial Conduct Authority” or “Prudential Regulation Authority” and not the abbreviated formulation “FCA” or “PRA” respectively.

Note 2 = Any firm listed in this table is permitted to add words to the relevant required disclosure statement but only if the firm has taken reasonable steps to satisfy itself that the presentation of its statutory status will, as a consequence, be fair, clear and not misleading and be likely to be understood by the average member of the group to whom it is directed or by whom it is likely to be received.

Note 3 = A “top-up permission” is a *Part 4A permission* granted to a *firm* which exercised passporting rights, but which activity was outside of the scope of its passport, i.e. where the regulated activity in question is not an activity which could be passported.

Note 4 = A *firm* is free to translate the name of its *Home State regulator* into English if it wishes. In doing so, it must ensure that the State in which the regulator is based is clear.

Insert the following new TP 6 after GEN TP 5. The text is not underlined.

**TP 6 Transitional provisions applying to GEN only - status disclosure for temporary permission firms**

| (1) | (2) Material to which the transitional provision applies                                                                                                       | (3) | (4) Transitional provision                                                                                                                                                                                                          | (5) Transitional provision: dates in force                                                                    | (6) Handbook provision: coming into force                                 |
|-----|----------------------------------------------------------------------------------------------------------------------------------------------------------------|-----|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|---------------------------------------------------------------------------------------------------------------|---------------------------------------------------------------------------|
| 1   | TP 6 2R and TP 6 3R.                                                                                                                                           | G   | The purpose of this transitional provision is to provide a period during which a <i>TP firm</i> can make arrangements to ensure it can comply with the status disclosure rules in <i>GEN 4</i> that will apply to <i>TP firms</i> . | From <i>exit day</i> as defined in the European Union (Withdrawal) Act 2018 up to and including 30 June 2019. | On <i>exit day</i> as defined in the European Union (Withdrawal) Act 2018 |
| 2   | The statutory status disclosures, as the case may be, in <i>GEN 4</i> Annex 1B or Annex 1C that a <i>TP firm</i> has to comply with under <i>GEN 4.3.1-A</i> . | R   | Subject to TP6 3R, a <i>TP firm</i> that is a <i>PRA-authorized person</i> or a <i>TP firm</i> that is an <i>FCA-authorized person</i> does not have to comply with the disclosures referred to in (2) during the period in (5).    | From <i>exit day</i> as defined in the European Union (Withdrawal) Act 2018 up to and including 30 June 2019. | On <i>exit day</i> as defined in the European Union (Withdrawal) Act 2018 |
| 3   | <i>GEN 4.3.1</i> and the statutory status disclosures in <i>GEN 4</i> Annex 1 and 1A that applied to incoming                                                  | R   | While TP 6 2R applies, a <i>TP firm</i> that is a <i>PRA-authorized person</i> or a <i>TP firm</i> that is an <i>FCA-</i>                                                                                                           | From <i>exit day</i> as defined in the European Union                                                         | On <i>exit day</i> as defined in the European Union                       |

|  |                                                  |  |                                                                                                                                                                                                                                                                                                                       |                                                                |                              |
|--|--------------------------------------------------|--|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|----------------------------------------------------------------|------------------------------|
|  | <p>firms immediately before <i>exit day</i>.</p> |  | <p><i>authorised person</i> which does not comply with the statutory status disclosure rules referred to in TP 6 2R (2) must continue to comply with <i>GEN</i> 4.3.1 and, as the case may be, the status disclosure set out in <i>GEN</i> 4 Annex 1 or 1A that applied to it immediately before <i>exit day</i>.</p> | <p>(Withdrawal) Act 2018 up to and including 30 June 2019.</p> | <p>(Withdrawal) Act 2018</p> |
|--|--------------------------------------------------|--|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|----------------------------------------------------------------|------------------------------|

[*Editor's note:* the amendments in this Annex are dependent on legislative provisions set out in regulations 206 and 208 of the draft Financial Services and Markets Act 2000 (Amendment) (EU Exit) Regulations 2019 which are presently before Parliament being made and will only be made once the amending legislation has been made.]

## Annex C

### Amendments to the Fees manual (FEES)

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

#### Part 1: Comes into force on 29 March 2019 at 11 p.m.

#### 1 Fees Manual

##### 1.1 Application and Purpose

##### 1.1.1 G ...

(4A) FEES 4A relates to periodic fees for a TP person (including a supervised run-off firm) and special project fees for a CRO firm.

...

(10) FEES 7C relates to the TPR SFGB levy.

(11) FEES 7D relates to the TPR DA levy.

...

Application

##### 1.1.2 R ...

(8) FEES 7C (in relation to the TPR SFGB money advice levy and TPR SFGB debt advice levy only) and 7D apply to:

(a) TP firms;

(b) TA EMI firms;

(c) TA PI firms; and

(d) TA RAISP firms.

(9) FEES 7C (in relation to the TPR SFGB pensions guidance levy only) applies to firms referred to in FEES 7C.1.2R.

...

...

## 2 General Provisions

### 2.2 Late Payments and Recovery of Unpaid Fees

2.2.1 R If a *person* does not pay the total amount of any periodic fee, *FOS* levy, or share of the *FSCS* levy, *CFEB* levy or *SFGB* levy, *TPR SFGB* levy or *TPR DA* levy, before the end of the date on which it is due, under the relevant provision in *FEES* 4, 4A, 5, 6, 7, ~~7A~~, 7C or 7D that person must pay an additional amount as follows:

...

2.2.2 R The *FCA*, (for *FCA* and *PRA* periodic fees, *FOS* and *FSCS* levies, *CFEB* levies, ~~and~~ *SFGB* levies, *TPR SFGB* levies and a *TPR DA* levy), expects to issue invoices at least 30 *days* before the date on which the relevant amounts fall due. Accordingly it will generally be the case that a *person* will have at least 30 *days* from the issue of the invoice before an administrative fee becomes payable.

#### Recovery of Fees

2.2.3 G

(1) Paragraph 23(8) of Schedule 1ZA of the *Act* permits the *FCA* to recover fees (including fees relating to *payment services*, the issuance of *electronic money*, *CBTL* firms, *data reporting services providers*, *designated credit reference agencies*, *designated finance platforms* and, where relevant, *FOS* levies, *CFEB* levies, ~~and~~ *SFGB* levies, *TPR SFGB* levies and a *TPR DA* levy).

...

2.2.4 R In addition, the *FCA* may be entitled to take regulatory action in relation to the non-payment of fees, *FOS* levies, *CFEB* levies, ~~and~~ *SFGB* levies, *TPR SFGB* levies and a *TPR DA* levy. The *FCA* may also take regulatory action in relation to the non-payment of a share of the *FSCS* levy, after reference of the matter to the *FCA* by the *FSCS*. What action (if any) that is taken by the *FCA* will be decided upon in the light of the particular circumstances of the case.

### 2.3 Relieving Provisions

#### Remission of Fees and levies

2.3.1 R If it appears to the *FCA* or the *FSCS* (in relation to any *FSCS* levy only) that in the exceptional circumstances of a particular case, the payment of any fee, *FSCS* levy, *FOS* levy, *CFEB* levy ~~or~~ *SFGB* levy, *TPR SFGB* levy or *TPR DA* levy would be inequitable, the *FCA* or the *FSCS* as relevant, may

(unless *FEES 2.3.2BR* applies) reduce or remit all or part of the fee or levy in question which would otherwise be payable.

- 2.3.2 R If it appears to the *FCA* or the *FSCS* (in relation to any *FSCS* levy only) that in the exceptional circumstances of a particular case to which *FEES 2.3.1R* does not apply, the retention by the *FCA*, the *FSCS*, or the *CFEB*, as relevant, of a fee, *FSCS* levy, *FOS* levy, *CFEB* levy, ~~or~~ *SFGB* levy, *TPR SFGB* levy or *TPR DA* levy which has been paid would be inequitable, the *FCA*, the *FSCS* or the *CFEB*, may (unless *FEES 2.3.2BR* applies) refund all or part of that fee or levy.

...

- 2.3.2C R For *FEES 7A*, *FEES 7C* and *FEES 7D*, the *FCA* is entitled not to consider a claim under *FEES 2.3.1R* or *FEES 2.3.2R* to refund any overpaid amounts due to a mistake of fact or law by the fee-paying *firm* if the claim is made more than two years after the beginning of the period to which the *SFGB* levy, *TPR SFGB* levy or *TPR DA* levy subject to the claim relates.

## 2.4 VAT

- 2.4.1 R All fees payable or any stated hourly rate under *FEES 3* (Application, notification and vetting fees), *FEES 4* (Periodic fees), *FEES 4A* (Periodic fees for *TP* persons, supervised run-off firms and *CRO* firms), *FEES 7* (The *CFEB* levy), ~~and~~ *FEES 7A* (The *SFGB* levy), *FEES 7C* (*SFGB* levy for *TP* persons and supervised run-off firms) and *FEES 7D* (*DA* levy for *TP* persons and supervised run-off firms) are stated net of VAT. Where VAT is applicable this must also be included.

Insert the following new chapter *FEES 4A* after *FEES 4* (Periodic fees). The text is not underlined.

### 4A Temporary Permissions Regime (TPR) and Financial Service Contracts Regime (FSCR) – periodic fees

#### 4A.1 Introduction

##### Application

- 4A.1.1 R This chapter applies to *TP* persons.

##### Purpose

- 4A.1.2 G The purpose of this chapter is to set out the requirements on *TP* persons to pay periodic fees. For the avoidance of doubt, the definition of *TP* persons includes supervised run-off firms but not *CRO* firms. Only *FEES 4A.2.1R* and *FEES 4A Annex 4R* apply to *CRO* firms.



- 4A.1.3 G The detail of the special project fees payable by certain *TP persons* and *CRO firms* is set out in *FEES 4A Annex 3R* and *FEES 4A Annex 4R* respectively.

#### 4A.2 Obligation to pay periodic fees

- 4A.2.1 R A *TP person* must pay periodic fees applicable to it:
- (1) in full and without deduction by 1 August or, if later, within 30 days of the *fee year* to which the sum relates, unless modified by *FEES 4A.2.2R*; and
  - (2) in accordance with the *rules* in this chapter.
- A *TP person* or a *CRO firm* must pay any special project fees applicable to it under *FEES 4A Annex 3R* or *FEES 4A Annex 4R* respectively.
- 4A.2.2 R If a *TP firm's* periodic fee for the previous financial year was at least £50,000, the *TP firm* must pay:
- (1) an amount equal to 50% of the periodic fee payable for the previous year, by 1 April (or if later, within 30 days of the date of the invoice) in the *financial year* to which the sum due under *FEES 4A.2.1R* relates; and
  - (2) the balance of the periodic fee due for the current *financial year* by 1 September (or if later, within 30 days of the date of the invoice) in the *financial year* to which that sum relates.

#### Calculation of periodic fees for TP persons, excluding TPR funds

- 4A.2.3 R Periodic fees for *TP persons*, excluding *TPR funds*, are calculated as follows:
- (1) identify each of the activity groups set out in Parts 1, 3 and 4 of *FEES 4A Annex 1R* that apply to the business of the *TP person* (excluding *TPR funds*) for the relevant period (for this purpose, the activity groups under *FEES 4A Annex 1R* are defined in accordance with Part 1 of *FEES 4 Annex 1AR* and Part 2 of *FEES 4 Annex 11R*);
  - (2) calculate the size of the *TP person's* tariff base for the activity groups identified under (1) using:
    - (a) the tariff base calculations in Part 3 of *FEES 4 Annex 1AR* and Part 3 of *FEES 4 Annex 11R* (including only business undertaken from a *branch* in the *UK*); and
    - (b) the valuation date requirements in Part 5 of *FEES 4 Annex 1AR* and Part 4 of *FEES 4 Annex 11R*;

- (3) multiply the value of the *TP person's* tariff base by the rate applicable to each band of tariff base under *FEES* 4A Annex 1R;
- (4) work out whether a minimum fee is payable under Part 2 of *FEES* 4A Annex 1R and if so how much;
- (5) add together the fixed sums, as set out in the tables in Parts 1, 3 and 4 of *FEES* 4A Annex 1R, applicable to each band identified under (1);
- (6) add together the amounts in (3), (4), and (5); and
- (7) the amount in (6) is the amount of periodic fees payable by the *TP person*.

4A.2.4 R For the purposes of *FEES* 4A.2.3R:

- (1) a *TP person* may apply the relevant tariff bases and rates to its non-UK business, as well as to its UK business, if:
  - (a) it has reasonable grounds for believing that the costs of identifying the *TP person's* UK business separately from its non-UK business in the way described in Part 3 of *FEES* 4 Annex 1AR and Part 3 of *FEES* 4 Annex 11R are disproportionate to the difference in fees payable; and
  - (b) it notifies the *FCA* in writing at the same time as it provides the information concerned under *FEES* 4A.2.5R, or, if earlier, at the time it pays the fees concerned.
- (2) for a *TP person* which has not complied with *FEES* 4A.2.5R for this period, the periodic fee is calculated using (where relevant) the valuation or valuations of business applicable to the previous period, multiplied by the factor of 1.10.

Information on which *TP person's* periodic fees are calculated

4A.2.5 R A *TP person*, excluding *TPR funds*, must notify to the *FCA* (in its own capacity and, if applicable, in its capacity as collection agent for the *PRA*) the value (as at the valuation date specified in Part 5 of *FEES* 4 Annex 1AR and Part 4 of *FEES* 4 Annex 11R) of each element of business on which the periodic fee payable by the *TP person* is to be calculated.

4A.2.6 R A *TP person* must send to the *FCA* (in its own capacity and, if applicable, in its capacity as collection agent for the *PRA*) in writing the information required under *FEES* 4A.2.3R as soon as reasonably practicable, and in any event within two *months*, after the date specified as the valuation date in Part 5 of *FEES* 4 Annex 1AR and Part 4 of *FEES* 4 Annex 11R in relation to fees payable to the *FCA*.

- 4A.2.7 R For a *TP person* which has not complied with *FEES* 4A.2.6R for the period covered by *FEES* 4A Annex 1R:
- (1) the fee is calculated using (where relevant) the valuation or valuations of business applicable to the previous period, multiplied by the factor of 1.10; and
  - (2) an additional fee of £250 is payable, unless the *TP person* also pays periodic fees under the *PRA Rulebook* in which case an additional fee of £125 is payable instead.
- 4A.2.8 R If a *TP person*, other than a *TPR fund*, is subject to *Solvency II Directive* in activity group A.3 or A.4 and the *PRA* or the *FCA* has either:
- (1) not received the necessary tariff data on a timely basis in line with Part 3 and 5 of *FEES* 4 Annex 1AR; or
  - (2) deemed the tariff data received to be incomplete or insufficiently reliable, by reference to a specific *TP person* or across all or part of the activity group, the *FCA* may use tariff data from the previous reporting period for the periodic fees calculation.

#### Periodic fees commencement

- 4A.2.9 R Periodic fees payable by *TP persons* under *FEES* 4A.2.1R relate to the whole of any fee year and are due for payment from the commencement of the fee year unless the modification in *FEES* 4A.2.9AR applies. Any payment made under *FEES* 4A.2.1R is not refundable.
- 4A.2.9A R Where a *CRO firm* becomes a *supervised run-off firm*, the periodic fee payable under *FEES* 4A.2.1R will be pro-rated over the remaining number of calendar *months* of the *fee year* that it is a *supervised run-off firm*.

#### Periodic fees for TPR funds

- 4A.2.10 R Periodic fees for *TPR funds* are set out in *FEES* 4A Annex 2R.

#### FEES 4 rules incorporated into FEES 4A by cross-reference

- 4A.2.11 G The *FCA Handbook* provisions relating to the periodic fees for *TP persons* including *supervised run-off firms* in *FEES* 4A are meant to follow closely the provisions relating to the general provisions under *FEES* 4. For brevity, not all of the provisions in *FEES* 4 are set out again in *FEES* 4A. In some cases, certain *FEES* 4 rules are applied to the payment of the periodic fees for *TP persons* by individual rules in *FEES* 4A. The rest are set out in the table in *FEES* 4A.2.13R.
- 4A.2.12 R The *FEES* 2 and *FEES* 4 rules set out in the table in *FEES* 4A.2.13R and any other rules in *FEES* 4 included in *FEES* 4A by cross-reference apply

to the periodic fees for *TP persons* in the same way as they apply to periodic fees payable under *FEES 4*.

- 4A.2.13 R Table of rules in *FEES 4* that also apply to *FEES 4A* to the extent that in *FEES 4* they apply to *fees* payable to the *FCA*

| <i>FEES 4</i> rules incorporated into <i>FEES 4A</i> | Description                                             | Applicable to <i>TP persons</i> other than <i>TPR funds</i> | Applicable to <i>TPR funds</i> |
|------------------------------------------------------|---------------------------------------------------------|-------------------------------------------------------------|--------------------------------|
| <i>FEES 4.2.4R</i>                                   | Method of payment                                       | Yes                                                         | Yes                            |
| <i>FEES 4.2.10R</i>                                  | Extension of time                                       | Yes                                                         | Yes                            |
| <i>FEES 4.3.7R</i>                                   | Groups of <i>firms</i>                                  | Yes                                                         | No                             |
| <i>FEES 4.3.17R</i>                                  | <i>Firms</i> acquiring business from other <i>firms</i> | Yes                                                         | No                             |

**4A Annex 1R TP persons periodic fees for the period from 1 April 2019 to 31 March 2020**

**Part 1**

| Activity group | Fee payable                                                            |                               |
|----------------|------------------------------------------------------------------------|-------------------------------|
| A.1            | Band Width (£ million of Modified Eligible Liabilities (MELs))         | Fee (£/£m or part £m of MELs) |
|                |                                                                        | General Periodic fee          |
|                | >10 - 140                                                              | [tbc]                         |
|                | >140 - 630                                                             | [tbc]                         |
|                | >630 – 1,580                                                           | [tbc]                         |
|                | >1,580 – 13,400                                                        | [tbc]                         |
|                | >13,400                                                                | [tbc]                         |
| A.2            | Band Width (no. of mortgages and/or <i>home finance transactions</i> ) | Fee (£/mortgage)              |

|     |                                                         |                              |
|-----|---------------------------------------------------------|------------------------------|
|     | >50                                                     | [tbc]                        |
| A.3 | Gross written premium for fees purposes (GWP)           | Periodic fee                 |
|     | Band Width (£ million of GPI)                           | Fee (£/£m or part £m of GWP) |
|     | >0.5                                                    | [tbc]                        |
|     | PLUS                                                    |                              |
|     | Best estimate liabilities for fees purposes (BEL)       | General Periodic fee         |
|     | Band Width (£ million of BEL)                           | Fee (£/£m of part £m of BEL) |
|     | >1                                                      | [tbc]                        |
| A.4 | Gross written premium for fees purposes (GWP)           | General Periodic fee         |
|     | Band Width (£ million of GWP)                           | Fee (£/£m or part £m of GWP) |
|     | >1                                                      | [tbc]                        |
|     | PLUS                                                    |                              |
|     | Best estimate liabilities for fees purposes             | General Periodic fee         |
|     | Band Width (£ million of BEL)                           | Fee (£/£m or part £m of BEL) |
|     | >1                                                      | [tbc]                        |
| A.7 | For class 1(C), (2), (3) and (4) <i>firms</i> :         |                              |
|     | Band Width (£ million of Funds under Management (FuM))  | Fee (£/£m of part £m of FuM) |
|     | >10                                                     | [tbc]                        |
|     | Class 1 (C) firms are defined in <i>FEES</i> 4 Annex 1A |                              |
| A.9 | Band Width (£ million of Gross Income (GI))             | Fee (£/£m of part £m of GI)  |
|     | >1                                                      | [tbc]                        |

|      |                                                                                 |                                             |
|------|---------------------------------------------------------------------------------|---------------------------------------------|
| A.10 | Band Width (no. of traders)                                                     | Fee (£/trader)                              |
|      | >1                                                                              | [tbc]                                       |
| A.13 | For class (2) firms                                                             |                                             |
|      | Band Width (£ thousands of annual income (AI))                                  | Fee (£/£ thousand or part £ thousand of AI) |
|      | >100                                                                            | [tbc]                                       |
|      | For a <i>professional firm</i> in A.13 the fee is calculated as above less 10%. |                                             |
| A.14 | Band Width (£ thousands of annual income (AI))                                  | Fee (£/£ thousand or part £ thousand of AI) |
|      | > 100                                                                           | [tbc]                                       |
| A.18 | Band Width (£ thousands of Annual Income (AI))                                  | Fee (£/£ thousand or part £ thousand of AI) |
|      | >100                                                                            | [tbc]                                       |
| A.19 | Band Width (£ thousands of Annual Income (AI))                                  | Fee (£/£ thousand or part £ thousand of AI) |
|      | >100                                                                            | [tbc]                                       |
|      | more than £100 billion                                                          | [tbc]                                       |
| CC.2 | Band Width (£ thousands of annual income (AI))                                  | Fee (£)                                     |
|      | 0 - 50                                                                          | [tbc]                                       |
|      | >50 - 100                                                                       | [tbc]                                       |
|      | >100                                                                            | [tbc]                                       |
|      | <b>PLUS:</b>                                                                    |                                             |
|      |                                                                                 | Fee (£/£ thousand or part £ thousand of AI) |
|      | >250                                                                            | [tbc]                                       |

**Part 2**

The table below shows the tariff rates (minimum fees) applicable to each of the fee blocks set out in Part 1 of FEES 4A Annex 1R other than fee-block CC2.

| Activity group | Fee payable                                                                                                              |
|----------------|--------------------------------------------------------------------------------------------------------------------------|
| A.0            | £[tbc] unless it is a <i>TP firm</i> that also pays minimum fees set out in the PRA Rulebook in which case it is £[tbc]. |

**Part 3**

*TA PI firm* or *TA RAISP firm*

| Activity group | Fee payable                                                         |                                                         |
|----------------|---------------------------------------------------------------------|---------------------------------------------------------|
| G.2            | Minimum fee (£)                                                     | [tbc]                                                   |
|                | £ million or part £ million of Modified Eligible Liabilities (MELs) | Fee (£/£m or part £m of MELs)                           |
|                | >0.1                                                                | [tbc]                                                   |
|                | >10 -140                                                            | [tbc]                                                   |
| G.3            | Minimum fee (£)                                                     | [tbc]                                                   |
|                | £ thousands or part £ thousand of Relevant Income                   | Fee (£/£thousand or part £ thousand of Relevant Income) |
|                | >100                                                                | [tbc]                                                   |

**Part 4**

*TA EMI firm*

| Activity group | Fee payable     |       |
|----------------|-----------------|-------|
| G.10           | Minimum fee (£) | [tbc] |

|  |                                                                            |                               |
|--|----------------------------------------------------------------------------|-------------------------------|
|  | £ million or part £ million of average outstanding electronic money (AOEM) | Fee (£/£m or part £m of AOEM) |
|  | >5.0                                                                       | [tbc]                         |

#### 4A TPR funds periodic fees for the period from 1 April 2019 to 31 March 2020

##### Annex

##### 2R

##### Part 1

| Scheme type                                                                                                                                                                                                                                                                                               | Basic fee (£) | Total funds/sub-funds aggregate | Fee (£) |
|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|---------------|---------------------------------|---------|
| <i>EEA UCITS scheme</i> recognised under Part 6 of The Collective Investment Schemes (Amendment etc.) (EU Exit) Regulations 2018                                                                                                                                                                          | [tbc]         | 1-2                             | [tbc]   |
|                                                                                                                                                                                                                                                                                                           |               | 3-6                             | [tbc]   |
|                                                                                                                                                                                                                                                                                                           |               | 7-15                            | [tbc]   |
|                                                                                                                                                                                                                                                                                                           |               | 16-50                           | [tbc]   |
|                                                                                                                                                                                                                                                                                                           |               | >50                             | [tbc]   |
| <p>Note:</p> <p>Schemes are charged according to the number of funds or sub-funds which a TP firm is operating and marketing in the UK as at 31 March immediately before the start of the period to which the fee applies. For example, for 2019/20 fees a reference to 31 March means 31 March 2019.</p> |               |                                 |         |

##### Part 2

| Scheme type                                                                                                                                                                  | Fee (£) |
|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|---------|
| <i>EEA AIF, EuVECA, EuSEF, or EEA ELTIF</i> which may be marketed in the UK under Part 9A of The Alternative Investment Fund Managers (Amendment) (EU Exit) Regulations 2018 | 0       |

#### 4A Annex Special Project Fee for restructuring

##### 3

|   |     |  |                                                                                                                                            |
|---|-----|--|--------------------------------------------------------------------------------------------------------------------------------------------|
| R | (1) |  | The Special Project Fee for restructuring (the SPFR) is only payable by a <i>TP firm or TA PI firm</i> in one of the following categories: |
|---|-----|--|--------------------------------------------------------------------------------------------------------------------------------------------|



|   |     |     |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                |
|---|-----|-----|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
|   |     | (a) | if it is in any of the A fee-blocks (as defined in Part 1 of <i>FEES</i> 4 Annex 1AR); or                                                                                                                                                                                                                                                                                                                                                                                                                                                                                      |
|   |     | (b) | if it is in fee-block G.3 (as defined in <i>FEES</i> 4 Annex 11R).                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                             |
| R | (2) |     | The SPFR becomes payable by a <i>TP firm</i> or <i>TA PI firm</i> falling into (1)(a) or (b) if it engages in, or prepares to engage in, activity which involves it undertaking or making arrangements with a view to any of the following:                                                                                                                                                                                                                                                                                                                                    |
|   |     | (a) | raising additional capital; or                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                 |
|   |     | (b) | a significant restructuring of the <i>TP firm</i> or <i>TA PI firm</i> or the <i>group</i> to which it belongs, including:                                                                                                                                                                                                                                                                                                                                                                                                                                                     |
|   |     |     | (i) mergers or acquisitions;                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                   |
|   |     |     | (ii) reorganising the <i>TP firm's</i> or <i>TA PI firm's group</i> structure;                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                 |
|   |     |     | (iv) a significant change to the <i>TP firm's</i> or <i>TA PI firm's</i> business model; and                                                                                                                                                                                                                                                                                                                                                                                                                                                                                   |
|   |     |     | (v) a significant internal change programme.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                   |
| R | (3) |     | No SPFR is payable under (2) if the transaction only involves the <i>TP firm</i> or <i>TA PI firm</i> seeking to raise capital within the <i>group</i> to which it belongs.                                                                                                                                                                                                                                                                                                                                                                                                    |
| R | (4) |     | Where the transaction in (2) involves raising capital outside the <i>TP firm</i> or <i>TA PI firm</i> to which the <i>TP firm</i> or <i>TA PI firm</i> belongs, any SPFR in relation to that transaction is only payable by the largest <i>TP firm</i> or <i>TA PI firm</i> in that <i>group</i> . The largest <i>firm</i> is the one that pays the highest periodic fee in the <i>fee year</i> in which the bill is raised. For the purpose of the calculation in (9), all time spent and fees and disbursements incurred in relation to the <i>group</i> are added together. |
| R | (5) |     | The definition of <i>group</i> is limited for the purposes of calculating the SPFR to <i>parent undertakings</i> and their <i>subsidiary undertakings</i> .                                                                                                                                                                                                                                                                                                                                                                                                                    |

|   |      |                                   |                                                                                                                                                                                                                                                                                          |
|---|------|-----------------------------------|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| R | (6)  |                                   | The <i>FCA</i> will levy its own SPFR separate to any levy issued by the <i>PRA</i> , and this may be in relation to the same event or circumstance.                                                                                                                                     |
| R | (7)  |                                   | No SPFR is payable to the <i>FCA</i> :                                                                                                                                                                                                                                                   |
|   |      | (a)                               | if the amount calculated in accordance with (8) in relation to the regulatory work conducted by the <i>FCA</i> totals less than £25,000 in the case of a <i>TP firm</i> in fee-blocks A.1 or A.3 or A.4, or £50,000 in the case of a <i>TP firm</i> in any of the other A fee-blocks; or |
|   |      | (b)                               | for time spent giving <i>guidance</i> to the <i>TP firm</i> or <i>TA PI firm</i> in relation to the same matter if the <i>FCA</i> has charged that <i>TP firm</i> or <i>TA PI firm</i> for that <i>guidance</i> .                                                                        |
| R | (8)  |                                   | The SPFR for the <i>FCA</i> is calculated as follows:                                                                                                                                                                                                                                    |
|   |      | (a)                               | Determine the number of hours, or part of an hour, taken by the <i>FCA</i> in relation to regulatory work conducted as a consequence of the activities referred to in (2).                                                                                                               |
|   |      | (b)                               | Next, multiply the applicable rate in the table at (11) by the number of hours or part hours obtained under (a).                                                                                                                                                                         |
|   |      | (c)                               | Then add any fees and disbursements invoiced to the <i>FCA</i> by any <i>person</i> in respect of services performed by that <i>person</i> for the <i>FCA</i> in relation to assisting the <i>FCA</i> in performing the regulatory work referred to in (a).                              |
|   |      | (d)                               | The resulting figure is the fee.                                                                                                                                                                                                                                                         |
|   |      | (e)                               | The number of hours or part hours referred to in (a) are the number of hours or part hours as recorded on the <i>FCA</i> 's systems in relation to the regulatory work referred to in (a).                                                                                               |
| R | (9)  |                                   | The first column in the table at (10) sets out the relevant pay grades of those employed by the <i>FCA</i> and the second column sets out the hourly rates chargeable in respect of those pay grades.                                                                                    |
| R | (10) | Table of <i>FCA</i> hourly rates: |                                                                                                                                                                                                                                                                                          |

|   |      | FCA pay grade                                                                                                                                                                                                                                                                                                                                                            | Hourly rate (£) |
|---|------|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-----------------|
|   |      | Administrator                                                                                                                                                                                                                                                                                                                                                            | 45              |
|   |      | Associate                                                                                                                                                                                                                                                                                                                                                                | 75              |
|   |      | Technical Specialist                                                                                                                                                                                                                                                                                                                                                     | 130             |
|   |      | Manager                                                                                                                                                                                                                                                                                                                                                                  | 145             |
|   |      | Any other person employed by the <i>FCA</i>                                                                                                                                                                                                                                                                                                                              | 255             |
| G | (11) | The obligation to pay the SPFR is ongoing. Accordingly, there is no limitation on the number of times that the <i>FCA</i> may invoice a <i>TP firm</i> or <i>TA PI firm</i> for the SPFR in relation to the same events or circumstances referred to in (2). If the <i>FCA</i> does so, there is a single floor under (7)(a) and not a separate one for each instalment. |                 |
| G | (12) | If the SPFR is payable, the full amount calculated under (8) is payable, and not just the excess over £50,000 or £25,000.                                                                                                                                                                                                                                                |                 |

#### 4A Annex 4 Special Project Fee for contractual run-off firms

|   |     |  |                                                                                                                                                                                   |
|---|-----|--|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| R | (1) |  | The Special Project Fee for contractual run-off firms (the SPFCRO) is only payable by a <i>CRO firm</i> .                                                                         |
| R | (2) |  | The SPFCRO is payable to recover the cost of the activities the <i>FCA</i> undertakes to carry out its functions under regulation 47 of the <i>EU Exit Passport Regulations</i> . |
| R | (3) |  | The <i>FCA</i> will levy its own SPFCRO separate to any levy issued by the <i>PRA</i> , and this may be in relation to the same event or circumstance.                            |
| R | (4) |  | No SPFCRO is payable to the <i>FCA</i> if the amount calculated in accordance with (5) in relation to the activities carried out by the <i>FCA</i> totals less than £5,000.       |

|   |     |                                                                                                                                                                                                                                                     |                                                                                                                                                                                                                                                        |
|---|-----|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| R | (5) |                                                                                                                                                                                                                                                     | The SPFCRO for the <i>FCA</i> is calculated as follows:                                                                                                                                                                                                |
|   |     | (a)                                                                                                                                                                                                                                                 | Determine the number of hours, or part of an hour, taken by the <i>FCA</i> in relation to the activities undertaken as a consequence of carrying out its functions referred to in (2).                                                                 |
|   |     | (b)                                                                                                                                                                                                                                                 | Next, multiply the applicable rate in the table at (7) by the number of hours or part hours obtained under (a).                                                                                                                                        |
|   |     | (c)                                                                                                                                                                                                                                                 | Then add any fees and disbursements invoiced to the <i>FCA</i> by any <i>person</i> in respect of services performed by that <i>person</i> for the <i>FCA</i> in relation to assisting the <i>FCA</i> in performing the activities referred to in (a). |
|   |     | (d)                                                                                                                                                                                                                                                 | The resulting figure is the fee.                                                                                                                                                                                                                       |
|   |     | (e)                                                                                                                                                                                                                                                 | The number of hours or part hours referred to in (a) are the number of hours or part hours as recorded on the <i>FCA</i> 's systems in relation to the activities referred to in (a).                                                                  |
| R | (6) |                                                                                                                                                                                                                                                     | The first column in the table at (7) sets out the relevant pay grades of those employed by the <i>FCA</i> and the second column sets out the hourly rates chargeable in respect of those pay grades.                                                   |
| R | (7) | Table of <i>FCA</i> hourly rates:                                                                                                                                                                                                                   |                                                                                                                                                                                                                                                        |
|   |     | FCA pay grade                                                                                                                                                                                                                                       | Hourly rate (£)                                                                                                                                                                                                                                        |
|   |     | Administrator                                                                                                                                                                                                                                       | 45                                                                                                                                                                                                                                                     |
|   |     | Associate                                                                                                                                                                                                                                           | 75                                                                                                                                                                                                                                                     |
|   |     | Technical Specialist                                                                                                                                                                                                                                | 130                                                                                                                                                                                                                                                    |
|   |     | Manager                                                                                                                                                                                                                                             | 145                                                                                                                                                                                                                                                    |
|   |     | Any other person employed by the <i>FCA</i>                                                                                                                                                                                                         | 255                                                                                                                                                                                                                                                    |
| G | (8) | The obligation to pay the SPFCRO is ongoing. Accordingly, there is no limitation on the number of times that the <i>FCA</i> may invoice a <i>CRO firm</i> for the SPFCRO in relation to the same activities or circumstances referred to in (2). If |                                                                                                                                                                                                                                                        |

|   |     |                                                                                                                 |
|---|-----|-----------------------------------------------------------------------------------------------------------------|
|   |     | the <i>FCA</i> does so, there is a single floor under (4) and not a separate one for each instalment.           |
| G | (9) | If the SPFCRO is payable, the full amount calculated under (5) is payable, and not just the excess over £5,000. |

Insert the following new chapter FEES 7C after FEES 7B (DA levies). The text is not underlined.

## **7C Temporary Permissions Regime (TPR) and Financial Service Contracts Regime (FSCR) - Single Financial Guidance Body levy**

### **7C.1 Application and purpose**

#### Application

- 7C.1.1 R This chapter applies to the *persons* listed in:
- (1) *FEES 1.1.2R(8)* in relation to the *TPR SFGB money advice levy* and *TPR SFGB debt advice levy*; and
  - (2) *FEES 7C.1.2R* in relation to the *TPR SFGB pensions guidance levy*.

- 7C.1.2 R The *TPR SFGB pensions guidance levy* applies to a *TP firm* that falls within one or more of the following activity groups listed in Part 1 of *FEES 4 Annex 1AR*:
- (1) A.1 Deposit acceptors;
  - (2) A.4 Insurers - life;
  - (3) A.7 Portfolio managers except Class (1)A firms;
  - (4) A.9 Managers and depositaries of investment funds, and operators of collective investment schemes or pension schemes; and
  - (5) A.13 Advisors, arrangers, dealers or brokers.

#### Purpose

- 7C.1.3 G The purpose of this chapter is to set out the requirements on the *persons* listed in *FEES CB.1.1R* to fund the Secretary of State costs relating to the *SFGB*, and the related *FCA* collection costs. For the avoidance of doubt, such *persons* also include *supervised run-off firms*.

## Background

7C.1.4 G Under section 137SA(1) (Rules to recover expenses relating to the single financial guidance body) of the *Act*, the Secretary of State may, from time to time, notify the *FCA* of the expenses incurred, or expected to be incurred, in connection with the operation of the *SFGB* or under section 11 of the Financial Guidance and Claims Act 2018. Expenses arise under section 11 when the Secretary of State:

- (1) pays grants or makes loans, or gives any other form of financial assistance, to meet expenditure in connection with the establishment of the *SFGB*; and
- (2) pays grants or makes loans, or gives any other form of financial assistance, to the *SFGB* for the purpose of enabling the *SFGB* to carry out its functions.

7C.1.5 G When the Secretary of State has notified the *FCA* under section 137SA(1), under subsections (2) and (3) the *FCA* must make rules requiring *authorised persons*, *electronic money issuers* or *payment service providers* (or any specified class of the same) to pay specified sums, or sums calculated in a specified way to the *FCA* with a view to recovering:

- (1) the amount notified by the Secretary of State; and
- (2) expenses incurred by the *FCA* in connection with its functions under section 137SA of the *Act*.

Regulations 28 and 34 of the *EU Exit Passport Regulations* provide that *supervised run-off firms* are treated as having *Part 4A permission* or a *variation* to that *permission*.

7C.1.6 G This chapter contains the *rules* referred to in *FEES* 7C.1.4G(2).

7C.1.7 G Under section 137SA(8) of the *Act*, the *FCA* must pay to the Secretary of State the amounts that it receives pursuant to the *rules* in this chapter, apart from amounts covering its collection costs (which the *FCA* may keep).

7C.1.8 G The total amount raised by the *TPR SFGB levy* may vary from year to year depending on the amount notified to the *FCA* by the Secretary of State.

## 7C.2 The TPR SFGB levy

7C.2.1 R The *TPR SFGB levy* is made up of:

- (1) The *TPR SFGB money advice levy*, as set out in *FEES* 7C.3;
- (2) The *TPR SFGB debt advice levy*, as set out in *FEES* 7C.3; and

- (3) The *TPR SFGB pensions guidance levy*, as set out in *FEES 7C.4*.

### 7C.3 The TPR SFGB money advice levy and debt advice levy

Obligation to pay TPR SFGB money advice levy or debt advice levy

- 7C.3.1 R A *firm* must pay the *TPR SFGB money advice levy* or *TPR SFGB debt advice levy* applicable to it:
- (1) in full and without deduction by 1 August (or, if later, within 30 days of the date of the invoice) in the *financial year* to which the sum relates, unless modified by *FEES 7C.3.2R*; and
  - (2) in accordance with the *rules* in this chapter.
- 7C.3.2 R If a *firm's TPR SFGB money advice levy* or *TPR SFGB debt advice levy* for the previous *financial year* was at least £50,000, the *firm* must pay:
- (1) an amount equal to 50% of the *TPR SFGB money advice levy* or *TPR SFGB debt advice levy* payable for the previous year, by 1 April (or if later, within 30 days of the date of the invoice) in the *financial year* to which the sum due under *FEES 7C.3.1R* relates; and
  - (2) the balance of the *TPR SFGB money advice levy* or *TPR SFGB debt advice levy* due for the current *financial year* by 1 September (or if later, within 30 days of the date of the invoice) in the *financial year* to which that sum relates.

Calculation of the TPR SFGB money advice levy and debt advice levy

- 7C.3.3 R The *TPR SFGB money advice levy* and *TPR SFGB debt advice levy* are each calculated as follows:
- (1) identify each of the activity groups set out in Parts 1 to 3 of *FEES 7C Annex 1R* and Part 1 of *FEES 7C Annex 2R* that apply to the business of the *firm* for the relevant period (for this purpose, the activity groups under *FEES 7C Annex 1R* are defined in accordance with Part 1 of *FEES 4 Annex 1AR* and Parts 2 and 2A of *FEES 4 Annex 11R*, and the activity groups under *FEES 7C Annex 2R* are defined in accordance with Part 1 of that Annex);
  - (2) calculate, for each of those activity groups identified in (1), the amount payable in the way set out in *FEES 7C.3.4R*;
  - (3) add each of the amounts calculated under (2);
  - (4) work out whether a minimum fee is payable under Parts 2 to 4 of *FEES 7C Annex 1R* and if so how much; and

- (5) add together the amounts calculated under (3) and (4).

7C.3.4 R The amount payable by a *firm* with respect to a particular activity group is calculated as follows:

- (1) calculate the size of the *firm*'s tariff base for that activity group using:
  - (a) the tariff base calculations in Part 3 of *FEES 4 Annex 1AR*, Part 3 of *FEES 4 Annex 11R* and Part 2 of *FEES 7C Annex 2R* (including only business undertaken from a *branch* in the *UK*); and
  - (b) the valuation date requirements in Part 5 of *FEES 4 Annex 1AR*, Part 4 of *FEES 4 Annex 11R* and Part 3 of *FEES 7C Annex 2R*;
- (2) use the figure in (1) to calculate which of the bands set out in the tables in Parts 1 to 3 of *FEES 7C Annex 1R* and Part 4 of *FEES 7C Annex 2R* the *firm* falls into;
- (3) add together the fixed sums, as set out in the tables in Parts 1 to 3 of *FEES 7C Annex 1R* and Part 4 of *FEES 7C Annex 2R*, applicable to each band identified under (2);
- (4) the amount in (3) is the amount payable by the *firm* with respect to that activity group.

7C.3.5 R For the purposes of *FEES 7C.3.4R*:

- (1) a *firm* may apply the relevant tariff bases and rates to its non-*UK* business, as well as to its *UK* business, if:
  - (a) it has reasonable grounds for believing that the costs of identifying its *UK* business separately from its non-*UK* business in the way described in Part 3 of *FEES 4 Annex 1AR*, Part 3 of *FEES 4 Annex 11R* and Part 2 of *FEES 7C Annex 2R* are disproportionate to the difference in fees payable; and
  - (b) it notifies the *FCA* in writing at the same time as it provides the information concerned under *FEES 7C.3.4R(1)*, or, if earlier, at the time it pays the *TPR SFGB money advice levy* or *TPR SFGB debt advice levy* applicable to it.
- (2) for a *firm* which has not complied with *FEES 4A.2.6R* for this period, the *TPR SFGB money advice levy* and *TPR SFGB debt advice levy* are calculated using (where relevant) the valuation or valuations of business applicable to the previous period, multiplied by the factor of 1.10.



TPR SFGB money advice levy and TPR SFGB debt advice levy commencement

- 7C.3.6 R The *TPR SFGB money advice levy* and *TPR SFGB debt advice levy* under *FEES 7C* relate to the whole of any *fee year* and are due for payment from the commencement of the fee year. Any payment made under *FEES 7C.3.1R* is not refundable.

#### 7C.4 The TPR SFGB pensions guidance advice levy

Obligation to pay TPR SFGB pensions guidance levy

- 7C.4.1 R A firm must pay the *TPR SFGB pensions guidance levy* applicable to it:
- (1) in full and without deduction by 1 August (or, if later, within 30 days of the date of the invoice) in the *financial year* to which the sum relates; and
  - (2) in accordance with the *rules* in this section.

Calculation of TPR SFGB pensions guidance levy

- 7C.4.2 R The *TPR SFGB pensions guidance levy* applicable to a particular *firm* is calculated as follows:
- (1) identify each of the activity groups in *FEES 7C.1.2R(2)* that apply to the business of the *firm* for the relevant period;
  - (2) calculate the amount payable under *FEES 7C.4.3R* for each of those activity groups;
  - (3) add together each of the amounts calculated under (2).
- 7C.4.3 R The amount payable for a particular activity group is calculated as follows:
- (1) (a) calculate the size of the *firm's* tariff base for the activity group using:
    - (i) the tariff base calculations in Part 3 of *FEES 4 Annex 1R* (including only business undertaken from a *branch* in the *UK*); and
    - (ii) the valuation date requirements in Part 5 of *FEES 4 Annex 1AR*;
  - (b) exclude best estimate liabilities for fees purposes in the calculation for fee-block A4;
  - (2) use the figure in (1) to calculate the levy applicable for each band in *FEES 7C Annex 3R*;

- (3) add together the sums for each applicable band under (2);
- (4) the amount in (3) is the amount payable by the *firm* for that activity group.

7C.4.4 R For the purposes of *FEES* 7C.4.3R:

- (1) a *firm* may apply the relevant tariff bases and rates to its non-*UK* business, as well as to its *UK* business, if:
  - (a) it has reasonable grounds for believing that the costs of identifying its *UK* business separately from its non-*UK* business in the way described in Part 3 of *FEES* 4 Annex 1AR are disproportionate to the difference in fees payable; and
  - (b) it notifies the *FCA* in writing at the same time as it provides the information concerned under *FEES* 7C.4.4R(1), or, if earlier, at the time it pays the *TPR SFGB pensions guidance levy* applicable to it.
- (2) for a *firm* which has not complied with *FEES* 7C.4.3R(1) for this period, the *TPR SFGB pensions guidance levy* is calculated using (where relevant) the valuation or valuations of business applicable to the previous period, multiplied by the factor of 1.10.

7C.4.5 R The *TPR SFGB pensions guidance levy* is calculated using the same information that is used to calculate a *firm's* periodic fee under *FEES* 4.

*TPR SFGB pensions guidance levy commencement*

7C.4.6 R The *TPR SFGB pensions guidance levy* under *FEES* 7C relates to the whole of any fee year and is due for payment from the commencement of the fee year. Any payment made under *FEES* 7C.4.1R is not refundable.

## 7C.5 **FEES 4 rules incorporated into FEES 7C by cross-reference**

7C.5.1 R The *Handbook* provisions relating to *FEES* 7C are meant to follow closely the provisions relating to the payment of the periodic fees in *FEES* 4. In the interests of brevity, not all of these provisions are set out again in *FEES* 7C. In some cases, certain *FEES* 4 rules are applied to the payment of the *TPR SFGB money advice levy*, *TPR SFGB debt advice levy* and *TPR SFGB pensions guidance levy* by individual rules in *FEES* 7C. The rest are set out in the table in *FEES* 7C.5.3R.

7C.5.2 R The rules set out in the table in *FEES* 7C.5.3R and any other rules in *FEES* 4 included in *FEES* 7C by cross-reference apply to the *TPR SFGB money advice levy*, *TPR SFGB debt advice levy* and *TPR*

*SFGB pensions guidance levy* in the same way as they apply to periodic fees payable under *FEES 4*.

7C.5.3 R Table of rules in *FEES 4* that also apply to *FEES 7C* to the extent that in *FEES 4* they apply to fees payable to the *FCA*

| <b>FEES 4 rules incorporated into FEES 7C</b> | <b>Description</b>                          |
|-----------------------------------------------|---------------------------------------------|
| <i>FEES 4.2.4R</i>                            | Method of payment                           |
| <i>FEES 4.2.10R</i>                           | Extension of time                           |
| <i>FEES 4.3.7R</i>                            | Groups of firms                             |
| <i>FEES 4.3.17R</i>                           | Firms acquiring businesses from other firms |

**7C Annex 1R** **TPR SFGB money advice levy for the period from 1 April 2019 to 31 March 2020**

This table shows the *TPR SFGB money advice levy* applicable to each activity group (fee-block).

| Activity group         | TPR SFGB money advice levy payable                                     |                               |
|------------------------|------------------------------------------------------------------------|-------------------------------|
| Part 1 <i>TP firms</i> |                                                                        |                               |
| A.1                    | Band Width (£ million of Modified Eligible Liabilities (MELs))         | Fee (£/£m or part £m of MELs) |
|                        | >10                                                                    | [tbc]                         |
| A.2                    | Band Width (no. of mortgages and/or <i>home finance transactions</i> ) | Fee (£/mortgage)              |
|                        | >50                                                                    | [tbc]                         |
| A.3                    | Gross written premium for fees purposes (GWP)                          |                               |
|                        | Band Width (£ million of GWP)                                          | Fee (£/£m or part £m of GWP)  |

|     |                                                           |                              |
|-----|-----------------------------------------------------------|------------------------------|
|     | >0.5                                                      | [tbc]                        |
|     | <b>PLUS</b>                                               |                              |
|     | Best estimate liabilities for fees purposes (BEL)         |                              |
|     | Band Width (£ million of BEL)                             | Fee (£/£m of part £m of BEL) |
|     | >1                                                        | [tbc]                        |
| A.4 | Gross written premium for fees purposes (GWP)             |                              |
|     | Band Width (£ million of GWP)                             | Fee (£/£m or part £m of GWP) |
|     | >1                                                        | [tbc]                        |
|     | <b>PLUS</b>                                               |                              |
|     | Best estimate liabilities for fees purposes (BEL)         |                              |
|     | Band Width (£ million of BEL)                             | Fee (£/£m or part £m of BEL) |
|     | >1                                                        | [tbc]                        |
| A.7 | For class 1(C), (2), (3) and (4) <i>firms</i> :           |                              |
|     | Band Width (£ million of Funds under Management (FuM))    | Fee (£/£m of part £m of FuM) |
|     | >10                                                       | [tbc]                        |
|     | Class 1(C) firms are defined in <i>FEES 4 Annex 1AR</i> . |                              |
| A.9 | Band Width (£ million of Gross Income (GI))               | Fee (£/£m of part £m of GI)  |

|      |                                                                                 |                                              |
|------|---------------------------------------------------------------------------------|----------------------------------------------|
|      | >1                                                                              | [tbc]                                        |
| A.10 | Band Width (no. of traders)                                                     | Fee (£/trader)                               |
|      | >1                                                                              | [tbc]                                        |
| A.13 | For class (2) firms                                                             |                                              |
|      | Band Width (£ thousands of annual income (AI))                                  | Fee (£/£ thousand or part £ thousand of AI)  |
|      | >100                                                                            | [tbc]                                        |
|      | For a <i>professional firm</i> in A.13 the fee is calculated as above less 10%. |                                              |
| A.14 | Band Width (£ thousands of annual income (AI))                                  | Fee (£/£ thousand or part £ thousand of AI)  |
|      | >100                                                                            | [tbc]                                        |
| A.18 | Band Width (£ thousands of Annual Income (AI))                                  | Fee ((£/£ thousand or part £ thousand of AI) |
|      | >100                                                                            | [tbc]                                        |
| A.19 | Band Width (£ thousands of Annual Income (AI))                                  | Fee (£/£ thousand or part £ thousand of AI)  |
|      | >100                                                                            | [tbc]                                        |
| CC.2 | Minimum fee (£)                                                                 | [tbc]                                        |
|      | £ thousands of annual income (AI)                                               | Fee (£/£ thousand or part £ thousand of AI)  |
|      | >250                                                                            | [tbc]                                        |

| Part 2 TA PI firms and TA RAISP firms |                                                                                                                                                                     |                                                         |
|---------------------------------------|---------------------------------------------------------------------------------------------------------------------------------------------------------------------|---------------------------------------------------------|
| G.3                                   | Minimum fee (£)                                                                                                                                                     | [tbc]                                                   |
|                                       | £ thousands or part £ thousand of Relevant Income                                                                                                                   | Fee (£/£thousand or part £ thousand of Relevant Income) |
|                                       | >100                                                                                                                                                                | [tbc]                                                   |
| Part 3 TA EMI firms                   |                                                                                                                                                                     |                                                         |
| G.10                                  | Minimum fee (£)                                                                                                                                                     | [tbc]                                                   |
|                                       | £ million or part £m of average outstanding electronic money (AOEM)                                                                                                 | Fee (£/£m or part £m of AOEM)                           |
|                                       | >5.0                                                                                                                                                                | [tbc]                                                   |
|                                       | £ thousands of annual income (AI)                                                                                                                                   | Fee (£/£ thousand or part £ thousand of AI)             |
|                                       | >250                                                                                                                                                                | [tbc]                                                   |
| Part 4                                |                                                                                                                                                                     |                                                         |
| (1)                                   | This Part sets out the minimum <i>TPR SFGB money advice levy</i> applicable to the <i>TPR firms</i> specified in (3) below.                                         |                                                         |
| (2)                                   | The minimum <i>TPR SFGB money advice levy</i> payable by any <i>firm</i> referred to in (3) is £[tbc].                                                              |                                                         |
| (3)                                   | A <i>TP firm</i> is referred to in this paragraph if it falls within the following activity groups: A.1; A.2; A.3; A.4; A.7; A.9; A.10; A.13; A.14; A.18; and A.19. |                                                         |

This table shows the *TPR SFGB debt advice levy* applicable to each activity group (feeblock).

### Part 1

| Activity group                                | A TP firm falls in the activity group if:                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                            |
|-----------------------------------------------|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| A.2 Home finance providers and administrators | It falls under activity group A.2 as defined in Part 1 of <i>FEES 4 Annex IAR</i> .                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                  |
| CC.3 Consumer credit lending                  | <p>Its permission is in relation to the following regulated activities:</p> <ul style="list-style-type: none"> <li>- <i>entering into a regulated credit agreement as lender</i> (article 60B(1) of the <i>Regulated Activities Order</i>);</li> <li>- <i>exercising, or having the right to exercise, the lender's rights and duties under a regulated credit agreement</i> (article 60B(2) of the <i>Regulated Activities Order</i>);</li> </ul> <p>which is carried on by way of business and relates to the following <i>specified investments</i>:</p> <ul style="list-style-type: none"> <li>(a) a regulated credit agreement (excluding <i>high-cost short-term credit, a home credit loan agreement and a bill of sale loan agreement</i>);</li> <li>(b) <i>high-cost short-term credit</i>;</li> <li>(c) a <i>home credit loan agreement</i>;</li> <li>(d) a <i>bill of sale loan agreement</i>.</li> </ul> |

### Part 2

| Activity group                                | Tariff base                                                                                                                                                                                                                                                                                                                                                                                        |
|-----------------------------------------------|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| A.2 Home finance providers and administrators | The sterling value of any residential loans to individuals being the sum of gross unsecuritised and securitised balances (applying the definitions of Unsecuritised balances and Securitised balances set out in Section A: Balance Sheet of <i>SUP 16 Annex 19BG</i> .)                                                                                                                           |
| CC.3 Consumer credit lending                  | <p>Value of lending in column A of <i>data item CCR003</i> reported by <i>firms</i> under <i>SUP 16 Annex 38AR</i>, being the sum of <i>data elements</i> entered in rows:</p> <ul style="list-style-type: none"> <li>- 1 Debt purchasing;</li> <li>- 2 Hire purchase/conditional sale agreements;</li> <li>- 3 Home credit loan agreements;</li> <li>- 4 Bill of sale loan agreements;</li> </ul> |

|  |                                                                                                                                                                                                                    |
|--|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
|  | <ul style="list-style-type: none"> <li>- 5 Pawnbroking;</li> <li>- 6 High-cost short-term credit;</li> <li>- 11 Overdrafts;</li> <li>- 12 Other running-account credit; and</li> <li>- 8 Other lending.</li> </ul> |
|--|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|

### Part 3

This table indicates the valuation date for each fee-block. A *firm* can calculate its tariff data in respect of the *TPR SFB debt advice levy* payable to the *FCA* by that *firm*.

| Activity group                                | Valuation date                                                                                                                                                                                                              |
|-----------------------------------------------|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| A.2 Home finance providers and administrators | The 31 December before the start of the period to which the fee applies or, if earlier, the date of the valuation as disclosed by the annual return made in the calendar year prior to the 31 December.                     |
| CC.3 Consumer credit lending                  | Value of lending under Part 2 valued at the <i>firm's accounting reference date</i> in the calendar year ending 31 December occurring before the start of the period to which the <i>TPR SFGB debt advice levy</i> applies. |

### Part 4

This table shows the tariff rates applicable to each of the fee-blocks set out in Part 1.

| Activity group                                                                                                                                                   | TPR SFGB debt advice levy payable                         |                                                    |
|------------------------------------------------------------------------------------------------------------------------------------------------------------------|-----------------------------------------------------------|----------------------------------------------------|
| A.2 Home finance providers and administrators                                                                                                                    | Band width (£ million of secured debt)<br>>0              | Fee (£/£m or part £m of secured debt)<br>[tbc]     |
| CC.3 Consumer credit lending                                                                                                                                     | Band width (£ million of value of lending)<br>>0 (Note 1) | Fee (£/£m or part £m of value of lending)<br>[tbc] |
| Note                                                                                                                                                             |                                                           |                                                    |
| (1) <i>Credit unions</i> and <i>community finance organisations</i> do not pay any <i>TPR SFGB debt advice levy</i> on the first £2,000,000 of value of lending. |                                                           |                                                    |



**7C Annex 3R TPR SFGB pensions guidance levy for the period 1 April 2019 to 31 March 2020**

This table shows the *TPR SFGB pensions guidance levy* applicable to each activity group (fee-block).

| Activity group  | SFGB pensions guidance levy payable                                                                       |                                                         |
|-----------------|-----------------------------------------------------------------------------------------------------------|---------------------------------------------------------|
| <i>TP firms</i> |                                                                                                           |                                                         |
| A.1             | Band width (£ million of modified eligible liabilities (MELs)) >10                                        | Fee (£/£m or part £m of MELS)<br>[tbc]                  |
| A.4             | Gross written premium for fees purposes (GWP)                                                             |                                                         |
|                 | Band Width (£ million of GWP)                                                                             | Fee (£/£m or part £m of GWP)                            |
|                 | >1                                                                                                        | [tbc]                                                   |
| A.7             | For class 1(B), 1(C), (2) and (3) firms:<br>Band width (£ million of funds under management (FuM))<br>>10 | Fee (£/£m or part £m of FuM)<br>[tbc]                   |
| A.9             | Band width (£ million of gross income (GI))<br>>1                                                         | Fee (£/£m or part £m of GI)<br>[tbc]                    |
| A.13            | Band width (£ thousands of annual income (AI))<br>>100                                                    | Fee (£/£ thousand or part of £ thousand of AI)<br>[tbc] |

Insert the following new chapter FEES 7D after FEES 7C (Temporary Permissions Regime (TPR) and Financial Service Contracts Regime (FSCR) – Single Financial Guidance Body levy). The text is not underlined.

**7D Temporary Permissions Regime (TPR) – Devolved Authorities levy**

**7D.1 Application and purpose**

Application

7D.1.1 R This chapter applies to every *person* listed in *FEES* 1.1.2R(8).

Purpose

7D.1.2 G The purpose of this chapter is to set out the requirements on the *persons* listed in *FEES* 7D.1.1R to fund the Treasury’s costs relating to the provision of debt advice by the *Devolved Authorities*, and the related *FCA* collection costs. For the avoidance of doubt, such *persons* also include *supervised run-off firms*.

Background

7D.1.3 G The Treasury’s debt advice costs are defined in subsection 1 of section 137SB (Rules to recover debt advice expenses incurred by the devolved authorities) of the *Act* as the expenses incurred, or expected to be incurred, by the *Devolved Authorities* in connection with the provision of information and advice on debt to members of the public in Scotland, Wales and Northern Ireland.

7D.1.4 G (1) Section 137SB(1) of the *Act* requires the Treasury to notify the *FCA* of the amount of the debt advice costs.

(2) Section 137SB(2 and 3) of the *Act* requires the *FCA* to make rules requiring *authorised persons*, *electronic money issuers* or *payment service providers* to pay specified sums, or sums calculated in a specified way to the *FCA* with a view to recovering:

(a) the amount notified by the Treasury; and

(b) expenses incurred by the *FCA* in connection with its functions under section 137SB of the *Act*.

Regulations 28 and 34 of the EEA Passport Rights (Amendment, etc., and Transitional Provisions) (EU Exit) Regulations 2018 provide that *supervised run-off firms* are treated as having *Part 4A permission* or a *variation* to the *permission*.

7D.1.5 G This chapter contains the *rules* referred to in *FEES* 7D.1.4G(2).

- 7D.1.6 G Under section 137SB(8) of the *Act*, the *FCA* must pay to the Treasury the amounts that it receives under these *rules*, apart from amounts covering its collection costs (which it may keep).
- 7D.1.7 G The total amount raised by the *TPR DA levy* may vary from year to year depending on the amount notified to the *FCA* by the Treasury.
- 7D.1.8 G These rules were made with the consent of the Treasury pursuant to section 137SB(5) of the *Act*.

## 7D.2 The TPR DA levy

### Obligation to pay TPR DA levy

- 7D.2.1 R A *firm* must pay the *TPR DA levy* applicable to it:
- (1) in full and without deduction by 1 August (or, if later, within 30 days of the date of the invoice) in the *financial year* to which the sum relates; and
  - (2) in accordance with the *rules* in this chapter.

### Calculation of TPR DA levy

- 7D.2.2 R The *TPR DA levy* is calculated as follows:
- (1) identify each of the activity groups set out in Part 1 of *FEES 7D Annex 1R* that apply to the business of the *firm* for the relevant period (for this purpose, the activity groups under *FEES 7D Annex 1R* are defined in that Annex or in accordance with Part 1 of *FEES 4 Annex 1AR*);
  - (2) calculate, for each of those activity groups identified in (1), the amount payable in the way set out in *FEES 7D.2.3R*; and
  - (3) add each of the amounts calculated under (2).
- 7D.2.3 R The amount payable by a *firm* with respect to a particular activity group is calculated as follows:
- (1) calculate the size of the *firm's* tariff base for that activity group using:
    - (a) the tariff base calculations in Part 2 of *FEES 7D Annex 1R* (including only business undertaken from a *branch* in the *UK*); and
    - (b) the valuation date requirements in Part 3 of *FEES 7D Annex 1R*;

- (2) the amount payable in (1) is the amount payable by the *firm* with respect to that activity group.

7D.2.4 R For the purposes of *FEES* 7D.2.3R:

- (1) a *firm* may apply the relevant tariff bases and rates to its non-*UK* business, as well as to its *UK* business, if:
- (a) it has reasonable grounds for believing that the costs of identifying its *UK* business separately from its non-*UK* business in the way described in Part 2 of *FEES* 7D Annex 1R are disproportionate to the difference in fees payable; and
- (b) it notifies the *FCA* in writing at the same time as it provides the information concerned under *FEES* 7D.2.3R(1), or, if earlier, at the time it pays the *TPR DA* levy applicable to it.
- (2) for a *firm* which has not complied with *FEES* 4A.2.6R for this period, the *TPR DA* levy is calculated using (where relevant) the valuation or valuations of business applicable to the previous period, multiplied by the factor of 1.10.

TPR DA levy commencement

7D.2.5 R The *TPR DA* levy under *FEES* 7D relates to the whole of any *fee year* and is due for payment from the commencement of the *fee year*. Any payment made under *FEES* 7D.2.1R is not refundable.

### 7D.3 FEES 4 rules incorporated into FEES 7D by cross-reference

7D.3.1 R The *FCA Handbook* provisions relating to *FEES* 7D are meant to follow closely the provisions relating to the payment of the periodic fees in *FEES* 4. In the interests of brevity, not all of these provisions are set out again in *FEES* 7D. In some cases, certain *FEES* 4 rules are applied to the payment of the *TPR DA* levy by individual rules in *FEES* 7D. The rest are set out in the table in *FEES* 7D.3.3R.

7D.3.2 R The rules set out in the table in *FEES* 7D.3.3R and any other rules in *FEES* 4 included in *FEES* 7D by cross-reference apply to the *TPR DA* levy in the same way as they apply to periodic fees payable under *FEES* 4.

7D.3.3 R Table of rules in *FEES* 4 that also apply to *FEES* 7D to the extent that in *FEES* 4 they apply to fees payable to the *FCA*

| FEES 4 rules incorporated into FEES 7D | Description       |
|----------------------------------------|-------------------|
| <i>FEES</i> 4.2.4R                     | Method of payment |
| <i>FEES</i> 4.2.10R                    | Extension of time |

|                     |                                             |
|---------------------|---------------------------------------------|
| <i>FEES 4.3.7R</i>  | Groups of firms                             |
| <i>FEES 4.3.17R</i> | Firms acquiring businesses from other firms |

**7D            TPR DA levy for the period from 1 April 2019 to 31 March 2020**  
**Annex**  
**1R**

This table shows the *TPR DA* levy applicable to each activity group (fee-block).

Part 1

| Activity group                                | A <i>TP</i> firm falls in the activity group if:                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                   |
|-----------------------------------------------|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| A.2 Home finance providers and administrators | It falls under activity group A.2 as defined in Part 1 of <i>FEES 4 Annex 1AR</i> .                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                |
| CC.3 Consumer credit lending                  | <p>Its permission is in relation to the following regulated activities:</p> <ul style="list-style-type: none"> <li>- <i>entering into a regulated credit agreement as lender</i> (article 60B(1) of the <i>Regulated Activities Order</i>);</li> <li>- <i>exercising, or having the right to exercise, the lender's rights and duties under a regulated credit agreement</i> (article 60B(2) of the <i>Regulated Activities Order</i>);</li> </ul> <p>which is carried on by way of business and relates to the following <i>specified investments</i>:</p> <ul style="list-style-type: none"> <li>(a) a regulated credit agreement (excluding <i>high-cost short-term credit</i>, a <i>home credit loan agreement</i> and a <i>bill of sale loan agreement</i>);</li> <li>(b) <i>high-cost short-term credit</i>;</li> <li>(c) a <i>home credit loan agreement</i>;</li> <li>(d) a <i>bill of sale loan agreement</i>.</li> </ul> |

Part 2

| Activity group                                | Tariff base                                                                                                                                                                                                                                                                  |
|-----------------------------------------------|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| A.2 Home finance providers and administrators | The sterling value of any residential loans to individuals being the sum of gross unsecuritised and securitised balances (applying the definitions of 'unsecuritised balances' and 'securitised balances' set out in Section A: Balance Sheet of <i>SUP 16 Annex 19BG</i> ). |

|                              |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                       |
|------------------------------|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| CC.3 Consumer credit lending | <p>Value of lending in column A of <i>data item</i> CCR003 reported by <i>firms</i> under SUP 16 Annex 38AR, being the sum of <i>data elements</i> entered in rows:</p> <ul style="list-style-type: none"> <li>- 1 Debt purchasing;</li> <li>- 2 Hire purchase/conditional sale agreements;</li> <li>- 3 Home credit loan agreements;</li> <li>- 4 Bill of sale loan agreements;</li> <li>- 5 Pawnbroking;</li> <li>- 6 High-cost short-term credit;</li> <li>- 11 Overdrafts;</li> <li>- 12 Other running-account credit; and</li> <li>- 8 Other lending.</li> </ul> |
|------------------------------|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|

## Part 3

This table indicates the valuation date for each fee-block. A *firm* can calculate its tariff data in respect of the *TPR DA levy* payable to the *FCA* by that *firm*.

| Activity group                                | Valuation date                                                                                                                                                                                                |
|-----------------------------------------------|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| A.2 Home finance providers and administrators | The 31 December before the start of the period to which the fee applies or, if earlier, the date of the valuation as disclosed by the annual return made in the calendar year prior to the 31 December.       |
| CC.3 Consumer credit lending                  | Value of lending under Part 2 valued at the <i>firm's accounting reference date</i> in the calendar year ending 31 December occurring before the start of the period to which the <i>TPR DA levy</i> applies. |

## Part 4

This table shows the tariff rates applicable to each of the fee-blocks set out in Part 1.

| Activity group                                | TPR DA levy payable                         |                                                |
|-----------------------------------------------|---------------------------------------------|------------------------------------------------|
| A.2 Home finance providers and administrators | Band width (£million of secured debt)<br>>0 | Fee (£/£m or part £m of secured debt)<br>[tbc] |
| CC.3 Consumer credit lending                  | Band width (£million of value of lending)   | Fee (£/£m or part £m of value of lending)      |

&gt;0 (Note 1)

[tbc]

**Note:** *Credit unions and community finance organisations* do not pay any *TPR DA levy* on the first £2,000,000 of value of lending.

Insert the following new chapter FEES 13A after FEES 13 (Illegal money lending levy). The text is not underlined.

## **13A Temporary Permissions Regime (TPR) and Financial Service Contracts Regime (FSCR) – Illegal money lending levy**

### **13A.1 Application and purpose**

#### Application

13A.1.1 R This chapter applies to every *TP person* carrying on an activity which would fall within activity group CC2 (Credit-related regulated activities).

#### Purpose

13A.1.2 R The purpose of this chapter is to set out the requirements on the *persons* listed in *FEES* 13A.1.1R to fund the costs of taking action against illegal money lending. For the avoidance of doubt, such *persons* also include *supervised run-off firms*.

13A.1.3 G Section 333S of the *Act* (Financial assistance for action against illegal money lending) provides that the Treasury may make grants or loans, or give other forms of financial assistance, to *persons* for the purpose of taking action against illegal money lending.

13A.1.4 G Section 333T of the *Act* (Funding of action against illegal money lending) requires the Treasury to notify the *FCA* of the amount of the Treasury's illegal money lending costs. The *FCA* must make *rules* requiring *authorised persons*, or any specified class of authorised persons, to pay to the *FCA* the specified amounts or amounts calculated in a specified way, with a view to recovering the amounts notified to it by the Treasury.

Regulations 28 and 34 of the *EU Exit Passport Regulations* provide that *supervised run-off firms* are treated as having *Part 4A permission* or a *variation* to the *permission*.

13A.1.5 G FEES 13A sets out the rules referred to in *FEES* 13A.1.4G.

### **13A.2 Obligation to pay the IML levy**

13A.2.1 R A *TP person* must pay the *TPR IML levy* applicable to it:

- (1) in full and without deduction by 1 August (or, if later, within 30 *days* of the date of the invoice) in the *financial year* to which the sum relates; and
- (2) in accordance with the *rules* in this chapter.

#### Calculation of the TPR IML levy

13A.2.2 R The *TPR IML levy* is calculated as follows:

- (1) identify whether activity group CC2 applies to the business of the *TP person* for the relevant period (for this purpose, the activity group is defined in accordance with Part 1 of *FEES 4 Annex 1AR*);
- (2) calculate the amount payable in accordance with *FEES 13A Annex 1R*;
- (3) a *TP person* in activity group CC2 must calculate its tariff base using the annual income calculation in Part 3 of *FEES 4 Annex 1AR* and *FEES 4 Annex 11BR* (including only business undertaken from a *branch* in the *UK*) and the valuation date requirements in Part 5 of *FEES 4 Annex 1AR*.

13A.2.3 R For the purposes of *FEES 13A.2.2R*:

- (1) a *TP person* may apply the relevant tariff bases and rates to its non-*UK* business, as well as to its *UK* business, if:
  - (a) it has reasonable grounds for believing that the costs of identifying the *TP person's UK* business separately from its non-*UK* business in the way described in Part 3 of *FEES 4 Annex 1AR* and Part 3 of *FEES 4 Annex 11R* are disproportionate to the difference in fees payable; and
  - (b) it notifies the *FCA* in writing at the same time as it provides the information concerned under *FEES 13A.2.2R(3)*, or, if earlier, at the time it pays the *TPR IML levy* concerned.
- (2) for a *TP person* which has not complied with *FEES 13A.2.2R(3)* for this period, the *TPR IML levy* is calculated using (where relevant) the valuation or valuations of business applicable to the previous period, multiplied by the factor of 1.10.

#### TPR IML levy commencement

13A.2.4 R The *TPR IML levy* under *FEES 13A* relate to the whole of any fee year and are due for payment from the commencement of the fee year. Any payment made under *FEES 13A.2.1R* is not refundable.

FEES 4 rules incorporated into FEES 13A by cross-reference



13A.2.5 G The Handbook provisions relating to the *TPR IML levy* in *FEES 13A* are meant to follow closely the provisions relating to the payment of the periodic fees in *FEES 4*. In the interests of brevity, not all of the provisions in *FEES 4* are set out again in *FEES 13A*. In some cases, certain *FEES 4* rules are applied to the payment of the *TPR IML levy* by individual rules in *FEES 13A*. The rest are set out in the table in *FEES 13A.2.7R*.

13A.2.6 R The *rules* set out in the table in *FEES 13A.2.7R* and any other *rules* in *FEES 4* included in *FEES 13A* by cross-reference apply to the *TPR IML levy* in the same way as they apply to periodic fees payable under *FEES 4*.

13A.2.7 R Table of rules in *FEES 4* that also apply to *FEES 13A* to the extent that in *FEES 4* they apply to fees payable to the *FCA*

| <b>FEES 4 rules incorporated into FEES 13A</b> | <b>Description</b>                          |
|------------------------------------------------|---------------------------------------------|
| <i>FEES 4.2.4R</i>                             | Method of payment                           |
| <i>FEES 4.2.10R</i>                            | Extension of time                           |
| <i>FEES 4.3.7R</i>                             | Groups of firms                             |
| <i>FEES 4.3.17R</i>                            | Firms acquiring businesses from other firms |

### 13A Annex Annex 1R TPR Illegal money lending (IML) levy for 2019/20 1R

| <b>Activity group</b>                                           | <b>Description</b>                     | <b>Fee (£)</b>          |
|-----------------------------------------------------------------|----------------------------------------|-------------------------|
| <b>Activity group CC2. Credit-related regulated activities:</b> | Up to £250,000 consumer credit income: | [tbc]                   |
|                                                                 | Over £250,000 consumer credit income:  | [tbc] + £tbc per £1,000 |

### Part 2: Comes into force on 1 April 2019 or, if later, exit day

In this Part, underlining indicates new text.

## 6.5 Compensation costs

### Allocation

...

6.5.6C **R** When identifying the relevant *classes* to which a *TP firm* belongs, the *FSCS* must identify the activity (or activities) in *FEES 6 Annex 3AR* that most closely matches that for which the *TP firm* is treated as having *Part 4A permission*.

...

### **TP 22 Transitional provisions relating to FSCS levy arrangements for TP firms from 1 April 2019 or, if later, exit day**

| <u>(1)</u>  | <u>(2)</u>                                                                                   | <u>(3)</u> | <u>(4)</u>                                                                                                                                                                                                                                                                      | <u>(5)</u>                                                            | <u>(6)</u>                                          |
|-------------|----------------------------------------------------------------------------------------------|------------|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-----------------------------------------------------------------------|-----------------------------------------------------|
|             | <b><u>Material to which the transitional provision applies</u></b>                           |            | <b><u>Transitional provision</u></b>                                                                                                                                                                                                                                            | <b><u>Transitional provision: dates in force</u></b>                  | <b><u>Handbook provisions coming into force</u></b> |
| <u>22.1</u> | <u>FEES 6.5.9R</u>                                                                           | <b>R</b>   | <u>The <i>rule</i> referred to in column (2) does not apply to <i>TP firms</i>.</u>                                                                                                                                                                                             | <u>From 1 April 2019, or, if later, <i>exit day</i>, indefinitely</u> | <u>1 April 2019 or, if later, <i>exit day</i></u>   |
| <u>22.2</u> | <u>FEES TP 22.1R</u>                                                                         | <b>G</b>   | <u><i>FEES TP 22.1R</i> means that a <i>TP firm</i> that becomes a <i>participant firm</i> part way through a <i>financial year</i> of the <i>compensation scheme</i> will be required to pay a share of a <i>compensation costs levy</i> and a <i>specific costs levy</i>.</u> |                                                                       |                                                     |
| <u>22.3</u> | <u>The changes made to <i>FEES 6</i> by the Exiting the European Union: <u>Temporary</u></u> | <b>R</b>   | <u>The changes in (2) apply to any levy made after 1 April 2019 or, if later, <i>exit day</i>. This is so even if:</u>                                                                                                                                                          | <u>From 1 April 2019, or, if later, <i>exit day</i>, indefinitely</u> | <u>1 April 2019 or, if later, <i>exit day</i></u>   |

|  |                                                                                    |  |                                                                                                                                                                                                                                                                                                              |  |  |
|--|------------------------------------------------------------------------------------|--|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|--|--|
|  | <u>Permission and<br/>Financial<br/>Services<br/>Contracts<br/>Instrument 2019</u> |  | <u>(1) the <i>claim</i> against<br/>the <i>relevant person</i> or<br/><i>successor in default</i><br/>arose or relates to<br/>circumstances arising<br/>before that date; or</u><br><br><u>(2) the <i>relevant</i><br/><i>person</i> or <i>successor</i><br/>was <i>in default</i> before<br/>that date.</u> |  |  |
|--|------------------------------------------------------------------------------------|--|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|--|--|

## Annex D

### Amendments to the Client Assets sourcebook (CASS)

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

#### 1 Application and general provisions

...

#### 1.3 General application: Where?

1.3.1 G The *rules* in CASS 1.3 set out the maximum territorial scope of this sourcebook. Particular ~~rules~~ rules may have express territorial limitations.

UK establishments: general

1.3.2 R ~~Except as provided for in CASS 1.2.3R(2), CASS 1 to CASS 13 applies~~ apply to every *firm*, in relation to *regulated activities* carried on by it from an *establishment* in the *United Kingdom*.

1.3.2A G The territorial scope of CASS 14 is set out at CASS 14.1.6R.

...

Insert the following new chapter CASS 14 after CASS 13 (Claims management: client money). The text is not underlined.

#### 14 Temporary permissions regime – client assets rules

##### 14.1 General application

Who?

14.1.1 R This chapter only applies to a *TP firm* that has not *failed*.

What?

14.1.2 R Unless otherwise stated, the *rules* in CASS 14 apply:

- (1) in relation to:
- (a) a *TP firm's* activities to which *CASS 7* applies as a result of *GEN 2.2.26R*, but subject to *CASS 14.1.3R*; and
  - (b) a *TP firm's* activities to which *CASS 5* or *CASS 6* applies as a result of *GEN 2.2.26R*; and
- (2) where those activities are carried on in reliance on the *TP firm's temporary permission*.
- 14.1.3 R *CASS 14* does not apply in relation to a *TP firm's* activities to which *CASS 7* applies if, during the period for which it has a *temporary permission*, the *TP firm* does not hold any *client money* for the purposes of the *rules* in *CASS 7* that apply as a result of *GEN 2.2.26R*.
- 14.1.4 G *CASS 14.1.3R* may, for example, be relevant to a *TP firm* that can apply the exclusion from the definition of *client money* at *CASS 7.10.16R(1)* (credit institutions) or at *CASS 7.11.1R(4)* (title transfer collateral arrangements) throughout the period.
- 14.1.5 G (1) *CASS 14* does not apply in relation to a *TP firm's* activities which are carried on other than in reliance on its *temporary permission*. It only applies in relation to the part of its *Part 4A permission* that the *TP firm* is treated as having under regulation 8, 11, 28 or 34 of the *EU Exit Passport Regulations*.
- (2) For example, where a *TP firm* had *Part 4A permission* immediately before *exit day* to *act as trustee or depositary of an AIF* or to *act as trustee or depositary of a UCITS*, and continues to hold that *permission*, the *rules* applying to activities under that part of its *Part 4A permission* are not affected by its *temporary permission* because of *GEN 2.2.26R(1)* (see also the guidance at *GEN 2.2.37G(3)*). In relation to those activities, it should continue to comply with the applicable *rules* in *CASS*. It may also consider making the election at *CASS 14.3.6R* in relation to its activities that are carried on in reliance on the *TP firm's temporary permission*.

Where?

- 14.1.6 R The *rules* in *CASS 14* apply in relation to a *TP firm's* activities described at *CASS 14.1.2R* wherever they are carried on.
- 14.1.7 G *CASS 14.1.6R* means that the *rules* in *CASS 14* apply both to activities carried on from a *UK branch* and activities carried on other than from a *UK branch* into the *UK*.

## 14.2 Temporary permission CASS firm classification

- 14.2.1 R (1) Subject to paragraphs (2) to (5), this section applies only to a *TP firm* to which either or both of *CASS 6* and *CASS 7* apply as a result of *GEN 2.2.26R*.
- (2) In relation to a *TP firm* to which both *CASS 5* and *CASS 7* (*Client money rules*) apply as a result of *GEN 2.2.26R*, this section does not apply in relation to *client money* that the *TP firm* holds in accordance with *CASS 5* as a result of *GEN 2.2.26R*.
- (3) The *rules* in this section apply to a *TP firm* even if at the date of the determination or, as the case may be, the notification required under them, either or both of *CASS 6* and *CASS 7* do not apply to it, provided that:
- (a) either or both of those chapters applied to it as a result of *GEN 2.2.26R* during part or all of the previous calendar year; or
- (b) it projects that either or both will apply to it as a result of *GEN 2.2.26R* in the current calendar year.
- (4) The *rules* in this section do not apply to a *TP firm* to which, as a result of *GEN 2.2.26R*, only *CASS 6* applies, applied or is projected to apply, merely because it is, was, or is projected to be a *firm* which *arranges safeguarding and administration of assets*.
- (5) The *rules* in this section do not apply to a *TP firm* that has notified the *FCA* of an election made under *CASS 14.3.6R*.
- 14.2.2 G This section does not apply to a *TP firm* to which, as a result of *GEN 2.2.26R*, *CASS 5* applies but neither *CASS 6* nor *CASS 7* applies.
- 14.2.3 G The frequency of a *TP firm's* reporting obligations under *CASS 14.3* depends on the 'CASS firm type' within which a *TP firm* falls. The 'CASS firm types' are defined in accordance with *CASS 14.2.8R*.
- 14.2.4 R (1) A *TP firm* must once every year, and by the time it is required to make a notification in accordance with *CASS 14.2.9R*, determine whether it is a *CASS large TP firm*, *CASS medium TP firm* or a *CASS small TP firm* according to the amount of *client money* or *safe custody assets* which it holds, using the limits set out in the table in *CASS 14.2.8R*.
- (2) For the purpose of determining its 'CASS firm type' in accordance with *CASS 14.2.8R*, a *TP firm* must:
- (a) if it currently holds *client money* or *safe custody assets*, calculate the higher of the highest total amount of *client money* and the highest total value of *safe custody assets*

held during the previous calendar year ending on 31 December, and use that figure to determine its ‘CASS firm type’;

- (b) if it did not hold *client money* or *safe custody assets* in the previous calendar year but projects that it will do so in the current calendar year, calculate the higher of the highest total amount of *client money* and the highest total value of *safe custody assets* that it projects that it will hold during that year, and use that figure to determine its ‘CASS firm type’; but
- (c) in either case, exclude from its calculation any *client money* held in accordance with CASS 5.

- 14.2.5 G For the purposes of CASS 14.2.4R a *TP firm* should only include *client money* and *safe custody assets* that it holds (or is projected to hold) in relation to the *TP firm’s* activities which are carried on (or projected to be carried on) in reliance of the *firm’s temporary permission*. It should not include *client money* and *safe custody assets* that it holds in reliance of any authorisation in its *Home State*.
- 14.2.6 R For the purpose of calculating the value of the total amounts of *client money* and *safe custody assets* that it holds on any given day during a calendar year a *TP firm* must:
- (1) in complying with CASS 14.2.4R(2)(a), base its calculation on the reconciliation performed in accordance with CASS 7.15.20R during the previous year;
  - (2) in relation to *client money* or *safe custody assets* denominated in a currency other than sterling, translate the value of that *money* or those *safe custody assets* into sterling at the previous day’s closing spot exchange rate; and
  - (3) in relation to *safe custody assets* only, calculate their total value using the previous day’s closing mark to market valuation, or if in relation to a particular *safe custody asset* none is available, the most recent available valuation.
- 14.2.7 R (1) Notwithstanding CASS 14.2.4R, provided that the conditions in (2) are satisfied a *TP firm* may elect to be treated:
- (a) as a *CASS medium TP firm*, in the case of a *TP firm* that is classed by the application of the limits in CASS 14.2.8R as a *CASS small TP firm*; and
  - (b) as a *CASS large TP firm*, in the case of a *TP firm* that is classed by the application of the limits in CASS 14.2.8R as a *CASS medium TP firm*.

- (2) The conditions to which (1) refers are that in either case:
- (a) the election is notified to the *FCA* by email;
  - (b) the notification in accordance with (a) is made at least one week before the election is intended to take effect; and
  - (c) the *FCA* has not objected.

14.2.8 R CASS firm types

| <b>CASS firm type</b>      | <b>Highest total amount of <i>client money</i> held during the <i>TP firm</i>'s last calendar year or as the case may be that it projects that it will hold during the current calendar year</b> | <b>Highest total value of <i>safe custody assets</i> held by the <i>TP firm</i> during the <i>TP firm</i>'s last calendar year or as the case may be that it projects that it will hold during the current calendar year</b> |
|----------------------------|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <i>CASS large TP firm</i>  | more than £1 billion                                                                                                                                                                             | more than £100 billion                                                                                                                                                                                                       |
| <i>CASS medium TP firm</i> | an amount equal to or greater than £1 million and less than or equal to £1 billion                                                                                                               | an amount equal to or greater than £10 million and less than or equal to £100 billion                                                                                                                                        |
| <i>CASS small TP firm</i>  | Less than £1 million                                                                                                                                                                             | Less than £10 million                                                                                                                                                                                                        |

14.2.9 R Once every calendar year a *TP firm* must notify to the *FCA* by email the information specified in (1), (2) or (3) as applicable, and the information specified in (4), in each case no later than the day specified in (1) to (4):

- (1) if it held *client money* or *safe custody assets* in the previous calendar year, the highest total amount of *client money* and the highest total value of *safe custody assets* held during the previous calendar year, notification of which must be made no later than the fifteenth *business day* of January;
- (2) if it did not hold *client money* or *safe custody assets* in the previous calendar year but at any point up to the fifteenth *business day* of January the *TP firm* projects that it will do so in the current calendar year, the highest total amount of *client money* and the highest total value of *safe custody assets* that the *TP firm* projects that it will hold during the current calendar year, notification of which must be made no later than the fifteenth *business day* of January; or



- (3) in any other case, the highest total amount of *client money* and the highest total value of *safe custody assets* that the *TP firm* projects that it will hold during the remainder of the current calendar year, notification of which must be made no later than the *business day* before the firm begins to hold *client money* or *safe custody assets*; and
- (4) in every case, of its ‘CASS firm type’ classification, notification of which must be made at the same time the *TP firm* makes the notification under (1), (2) or (3).
- 14.2.10 R For the purpose of the annual notification to which CASS 14.2.9R refers, a *TP firm* must apply the calculation rule in CASS 14.2.6R.
- 14.2.11 R For the purpose of CASS 14.2.9R(1), the *FCA* will treat that obligation as satisfied if a *TP firm* submitted a *TPCAR* for each period within the previous calendar year in compliance with the *rules* in CASS 14.3.
- 14.2.12 R A *TP firm's* ‘CASS firm type’ and any change to it takes effect if the *TP firm*:
- (1) notifies the *FCA* in accordance with CASS 14.2.9R(1) or CASS 14.2.9R(2), on 1 February following the notification; or
- (2) notifies the *FCA* in accordance with CASS 14.2.9R(3), on the day it begins to hold *client money* or *safe custody assets*; or
- (3) makes an election under CASS 14.2.7R(1), and provided the conditions in CASS 14.2.7R(2) are satisfied, on the day the notification made under CASS 14.2.7R(2)(a) states that the election is intended to take effect.
- 14.2.13 G Any written notification made to the *FCA* under this chapter should be marked for the attention of: “Client Assets TP Firm Classification”.

### **14.3 Temporary Permission Client Assets Return**

- 14.3.1 R (1) A *TP firm* must submit a completed *TPCAR* to the *FCA* by email for each reporting period specified in CASS 14.3.3R.
- (2) The *TP firm* must submit the *TPCAR* to the *FCA* by the deadline specified in CASS 14.3.4R.
- (3) A *TPCAR* must be completed using the template specified at CASS 14 Annex 1R.
- 14.3.2 G Guidance notes on completing a *TPCAR* are available at CASS 14 Annex 2G.
- 14.3.3 R The *TPCAR* reporting periods for the purposes of CASS 14.3.1R are:

- (1) for *TP firms* to which either or both of *CASS 6* and *CASS 7* applies as a result of *GEN 2.2.26R*, either:
  - (a) for *CASS small TP firms*, the initial nine-month period from 1 April 2019 to 31 December 2019, and each subsequent 12-month period; or
  - (b) for *CASS medium TP firms* and *CASS large TP firms*, the initial one-month period from 1 April 2019 to 30 April 2019, and each subsequent one-month period; and
- (2) for *TP firms* to whom as a result of *GEN 2.2.26R*, *CASS 5* applies:
  - (a) if the *TP firm's* annual revenue from its business to which *CASS 5* applies as a result of *GEN 2.2.26R* is £5 million or less:
    - (i) the shorter of:
      - (A) the initial period from 1 April 2019 to the *firm's accounting reference date*, and
      - (B) the initial period from 1 April 2019 to the last day of the six-month period after the *firm's accounting reference date*; and
    - (ii) each six-month period subsequent to the shorter of those initial periods; or
  - (b) if the *TP firm's* annual revenue from its business to which *CASS 5* applies as a result of *GEN 2.2.26R* exceeds £5 million:
    - (i) the shorter of:
      - (A) the initial period from 1 April 2019 to the *firm's accounting reference date*, and
      - (B) the initial period from 1 April 2019 to the last day of the three-month period after the *firm's accounting reference date*; and
    - (ii) each three-month period subsequent to the shorter of those initial periods.

14.3.4 R The *TPCAR* submission deadlines for the purposes of *CASS 14.3.1R* are:

- (1) for *TP firms* to which either or both of *CASS 6* and *CASS 7* applies as a result of *GEN 2.2.26R*, either:

- (a) for *CASS small TP firms* the 15<sup>th</sup> *business day* of the *month* that follows the reporting period specified in *CASS* 14.3.3R(1); or
  - (b) for *CASS medium TP firms* and *CASS large TP firms*, the 15<sup>th</sup> *business day* of the *month* that follows the reporting period specified in *CASS* 14.3.3R(2); and
- (2) for *TP firms* to which *CASS* 5 applies as a result of *GEN* 2.2.26R, the 30<sup>th</sup> *business day* after the relevant reporting period specified in *CASS* 14.3.3R(3).
- 14.3.5 G (1) If both *CASS* 14.3.3R(1) and (2) apply to a *TP firm*, then it should submit a completed *TPCAR* to the *FCA* to cover each reporting period that applies to it, by the relevant submission deadline in *CASS* 14.3.4R(1) and (2).
- (2) In those cases:
- (a) a *TP firm* should only complete Part 1 and Part 2 of any *TPCAR* that is for a reporting period specified under *CASS* 14.3.3R(1); and
  - (b) it should only complete Part 1 and Part 3 of any *TPCAR* that is for a reporting period specified under *CASS* 14.3.3R(2).

Election to use the *CMAR* for *TP firms* that had a Part 4A permission before exit day

- 14.3.6 R (1) This *rule* applies to a *TP firm* to which *SUP* 16.14.3R (Client money and asset return) applies as a result of *GEN* 2.2.26R(1), on the basis that it has classified itself as a *CASS large firm* or a *CASS medium firm* for the purposes of *CASS* 1A.
- (2) A *TP firm* may comply with *SUP* 16.14.3R instead of *CASS* 14.3.1R provided that it has notified the *FCA* in advance and by email that it has elected to do so.
- (3) A *TP firm* that makes the election under this *rule* must, when completing data field 8 of the *CMAR*:
- (a) use a separate row to distinguish between types of business activity or services which are carried on in reliance of the *firm's temporary permission* and types which are not; and
  - (b) clearly indicate which rows relate to a business activity or service which is carried on in reliance of the *firm's temporary permission*.

- 14.3.7 G (1) See *GEN* 2.2.37G(3) for an explanation of the effect of *GEN* 2.2.26R(1) and *CASS* 14.1.5G.
- (2) *CASS* 14.3.6R may be relevant to a *TP firm* that had a *Part 4A permission* immediately before *exit day* for acting as trustee or depositary of an AIF or acting as trustee or depositary of a *UCITS* and continues to hold that *permission*.
- (3) In complying with *CASS* 14.3.6R(3):
- (a) a *TP firm* should observe the guidance at *SUP* 16 Annex 29AG (Guidance notes for the data item in *SUP* 16 Annex 29R) in relation to data field 8 of the *CMAR* and, therefore, distinguish between each different type of business activity or service which it carries on in reliance of its *temporary permission*, as well as between each type which it carries on under its *Part 4A permission*;
- (b) a *TP firm* could, for example, annotate each row which relates to a business activity or service which is carried on in reliance of the *firm's temporary permission* by including the letters "TP" in data field 8A; and
- (c) if a *TP firm* follows sub-paragraph (b), the overall effect may be that data field 8 includes a number of rows that are prefaced with "TP" (for example, "TP CFD business" and "TP share custody business") and a number of rows that are not (for example, "AIF depositary business" and "UCITS depositary business").

#### 14.4 Temporary permission auditor's report

- 14.4.1 R This section does not apply in relation to a *TP firm* to which only *CASS* 5 applies as a result of *GEN* 2.2.26R.
- 14.4.2 R Subject to *CASS* 14.4.3R, a *TP firm* to which this section applies must ensure that the *FCA* receives any report made by its external auditors pursuant to a requirement in its *Home State* that implements article 8 of the *MiFID Delegated Directive*, in the following circumstances:
- (1) where the auditor's report confirms that the *TP firm's* arrangements referred to in article 8 of the *MiFID Delegated Directive* are not adequate; or
- (2) in response to a request made by the *FCA* to the *TP firm* in writing.
- 14.4.3 R (1) If the *TP firm* did not have a *temporary permission* during the entire period covered by an auditor's report, that auditor's report is excluded from the requirement under *CASS* 14.4.2R.

- (2) Where the auditor's report required under CASS 14.4.2R is not in English, the *TP firm* must ensure that the *FCA* receives both the auditor's report and an English translation of it.
- 14.4.4 R (1) A *TP firm* must ensure that any auditor's report and English translation which are required to be provided to the *FCA* under this section are sent by email.
- (2) In the case of an auditor's report, this must be sent:
- (a) where CASS 14.4.2R(1) applies, as soon as it is made available to the relevant *Home State* regulator; and
- (b) where CASS 14.4.2R(2) applies, immediately on the *FCA*'s written request.
- (3) In the case of an English translation, this must be sent:
- (a) where CASS 14.4.2R(1) applies, within one *month* of the auditor's report being made available to the relevant *Home State* regulator; and
- (b) where CASS 14.4.2R(2) applies, within one *month* of the *FCA*'s written request.
- 14.4.5 R Where a *TP firm* intends to rely on another *person* to send an auditor's report to the *FCA* under this section, it must inform the *FCA* in advance of that person's identity by email.
- 14.4.6 R The *rules* in this section apply regardless of whether the scope of an auditor's report includes a *TP firm*'s activities specified in CASS 14.1.2R.

## 14.5 Client information

- 14.5.1 R A *TP firm* must provide any *client* in respect of which it carries on the activities specified in CASS 14.1.2R with the following information (the "TP Firm CASS Disclosure") in English and in a *durable medium*:
- (1) any non-UK jurisdiction under which the *TP firm*'s failure may be administered; and
- (2) unless such an outcome is not possible under the law of that jurisdiction as it applies on *exit day*, a statement that makes clear the possibility that any *client money* or *safe custody assets* belonging to that *client* will, as a result of the law of that jurisdiction, be treated differently to *money* or assets belonging to other customers of the *TP firm* in the event of the *TP firm*'s failure.

- 14.5.2 R (1) A *firm* must ensure that the “TP Firm CASS Disclosure” is not obscured by or disguised within other information.
- (2) Where a *firm* provides the “TP Firm CASS Disclosure” amidst or alongside other information, it must ensure that it uses a font size for the ‘TP Firm CASS Disclosure’ that is at least equal to the predominant font size used throughout the information provided, as well as a layout that ensures the “TP Firm CASS Disclosure” is prominent.
- 14.5.3 G (1) To comply with CASS 14.5.1R(1) it is sufficient to name the jurisdiction. For example, this may be the name of the *TP firm’s Home State*, or an administrative region within it.
- (2) In order to comply with CASS 14.5.1R(2), a *TP firm* should carefully consider the applicable law and insolvency rules in question as at *exit day* when deciding whether or not a statement is required to be given under that provision. For example, it could obtain a legal opinion on whether the law differentiates between the treatment of different classes of *clients*. If, following such careful consideration, the *firm* cannot rule out the possibility of different treatment, then it should make the statement under CASS 14.5.1R(2).
- 14.5.4 R The “TP Firm CASS Disclosure” under CASS 14.5.1R is not required where a *firm* complies with those requirements of CASS 5, CASS 6 or CASS 7 that are applied under GEN 2.2.26R without needing to safeguard *client money* or *safe custody assets*.
- 14.5.5 G Situations falling under CASS 14.5.4R include where, for example, the *TP firm* relies on:
- (1) CASS 5.1.5R(1)(b) or (2);
- (2) CASS 7.10.6R; or
- (3) GEN 2.2.26R(3) or (4) and takes the approach set out in article 10.6.a, 10.6.b or 10.6.d of IDD.
- 14.5.6 R A *TP firm* must provide the “TP Firm CASS Disclosure” under CASS 14.5.1R to a *client*:
- (1) where it safeguards *client money* or *safe custody assets* for the *client* on *exit day*, on that date (unless it has taken steps before that date which would have complied with the requirements under CASS 14.5.1R and CASS 14.5.2R); or
- (2) otherwise, in good time before it safeguards *client money* or *custody assets* for the *client*.

## 14.6 Tied agents and appointed representatives of TP firms

- 14.6.1 G (1) CASS does not apply directly to a *TP firm's appointed representative* or *tied agent*.
- (2) A *TP firm* will be responsible for the acts and omissions of its *appointed representatives* and *tied agents* in carrying on business for which the *TP firm* has accepted responsibility.
- (3) In determining whether a *TP firm* has complied with any provision of CASS, anything done or omitted by a *TP firm's* appointed representative or tied agent (when acting as such) will be treated as having been done or omitted by the *TP firm*.
- (4) CASS 14.6.2R further restricts the possibility of *appointed representatives* and *tied agents* of *TP firms* from receiving or holding *client money* and *safe custody assets*. But that rule does not apply in relation to the business of an *appointed representative* or *tied agent* of a *TP firm* in respect of which CASS 5 would apply to the *TP firm* as a result of GEN 2.2.26R.
- 14.6.2 R A *TP firm* must not permit an *appointed representative* or *tied agent* to receive or hold *client money* or *safe custody assets* in the course of or in connection with any of their business in respect of which CASS 6 or CASS 7 would apply to the *TP firm* as a result of GEN 2.2.26R.

## 14 Annex Temporary permissions client asset return (TPCAR) 1R

[**Note:** A *firm* must answer all the questions in Part 1. A *firm* must also complete either Part 2 or Part 3, depending on the answer to question 1.1.3. Further guidance notes are available at CASS 14 Annex 2G.]

| PART 1 - TO BE COMPLETED BY ALL TP FIRMS    |                                                                                                                                                                                                                                                |                                                                            |
|---------------------------------------------|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|----------------------------------------------------------------------------|
| <b>Section 1.1 - Scope of this return</b>   |                                                                                                                                                                                                                                                |                                                                            |
| 1.1.1                                       | What is the reporting period start date for this return?                                                                                                                                                                                       | [dd/mm/yyyy]                                                               |
| 1.1.2                                       | What is the reporting period end date for this return?                                                                                                                                                                                         | [dd/mm/yyyy]                                                               |
| 1.1.3                                       | Does this return report on:<br>- <i>investment services or activities</i> , to which CASS 6 or CASS 7 apply as a result of GEN 2.2.26R, or<br>- <i>insurance distribution activities</i> , to which CASS 5 applies as a result of GEN 2.2.26R? | [Investment services or activities]<br>[Insurance distribution activities] |
| <b>Section 1.2 - Location of activities</b> |                                                                                                                                                                                                                                                |                                                                            |
| 1.2.1                                       | During the reporting period, did the <i>firm</i> conduct any of the activities to which this return relates from an establishment in the UK?                                                                                                   | [Yes]<br>[No]                                                              |
| <b>Section 1.3 - Compliance</b>             |                                                                                                                                                                                                                                                |                                                                            |
| 1.3.1                                       | During the reporting period, did the <i>firm</i> have any breaches of its obligations under CASS 14?                                                                                                                                           | [Yes]<br>[No]                                                              |
| 1.3.2                                       | During the reporting period, did the <i>firm</i> obtain an external auditor report on the adequacy of the <i>firm's</i> arrangements under its client assets obligations?                                                                      | [Yes]<br>[No]                                                              |
| <b>Section 1.4 - Solvency</b>               |                                                                                                                                                                                                                                                |                                                                            |
| 1.4.1                                       | During the reporting period, were there any issues with the <i>firm's</i> solvency?                                                                                                                                                            | [Yes]<br>[No]                                                              |
| <b>Section 1.5 - Other issues</b>           |                                                                                                                                                                                                                                                |                                                                            |
| 1.5.1                                       | During the reporting period, were there any other issues with the <i>firm</i> in relation to its obligations under CASS which applied as a result of GEN 2.2.26R? If so, please provide a brief description.                                   |                                                                            |

| <b>PART 2 - FOR REPORTING ON INVESTMENT SERVICES OR ACTIVITIES (SEE Q 1.1.3)</b> |                                                                                                                                                                                                                                                      |                                                              |
|----------------------------------------------------------------------------------|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|--------------------------------------------------------------|
| 2.1.1                                                                            | During the reporting period, did the firm hold <i>client money</i> and/or <i>safe custody assets</i> in relation to activities carried on in reliance of the firm's temporary permission to which CASS 6 or CASS 7 apply as a result of GEN 2.2.26R? | [Yes]<br>[No]                                                |
| <b>If yes, then during the reporting period:</b>                                 |                                                                                                                                                                                                                                                      |                                                              |
| 2.1.2                                                                            | What was the highest balance of <i>client money</i> held in relation to activities carried on in reliance of the firm's temporary permission, in relation to which CASS 7 applies as a result of GEN 2.2.26R?                                        | [Highest balance]                                            |
| 2.1.3                                                                            | What was the highest amount of <i>safe custody assets</i> held in relation to activities carried on in reliance of the firm's temporary permission, in relation to which CASS 6 applies as a result of GEN 2.2.26R?                                  | [Highest balance]                                            |
| 2.1.4                                                                            | What percentage of the <i>client money</i> reported in Question 2.1.2 was deposited with a bank or a qualifying money market fund in the same group as the firm (article 4, MiFID Delegated Directive)?                                              | [ ]%                                                         |
| 2.1.5                                                                            | What was the frequency of reconciliations between the firm's internal accounts and records and those of any third party with whom the <i>client money</i> reported in Question 2.1.2 was held (article 2(1)(c), MiFID Delegated Directive)?          | [Daily]<br>[Monthly]<br>[Quarterly]<br>[Annually]<br>[Other] |
| 2.1.6                                                                            | What was the frequency of reconciliations between the firm's internal accounts and records and those of any third party with whom the <i>safe custody assets</i> reported in Question 2.1.3 were held (article 2(1)(c), MiFID Delegated Directive)?  | [Daily]<br>[Monthly]<br>[Quarterly]<br>[Annually]<br>[Other] |
| 2.1.7                                                                            | Did the firm resolve all discrepancies identified by its reconciliations referred to in Questions 2.1.5 and 2.1.6 as applicable (article 2(1)(c), MiFID Delegated Directive)?                                                                        | [Yes]<br>[No]                                                |
| 2.1.8                                                                            | Were there any changes to the firm's officer responsible for compliance with obligations relating to safeguarding of <i>client money</i> and <i>safe custody assets</i> appointed pursuant to article 7 of the MiFID Delegated Directive?            | [Yes]<br>[No]                                                |
| 2.1.9                                                                            | Did the firm have any breaches of its obligations to segregate and/or keep records in accordance with its obligations under CASS 6 or 7 which applied as a result of GEN 2.2.26R?                                                                    | [Yes]<br>[No]                                                |

| <b>PART 3 - FOR REPORTING ON INSURANCE DISTRIBUTION ACTIVITIES (SEE Q 1.1.3)</b> |                                                                                                                                                                                                       |                                                                                                                                                                           |
|----------------------------------------------------------------------------------|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| 3.1.1                                                                            | During the reporting period, did the firm hold <i>money</i> in relation to activities carried on in reliance of the firm's temporary permission to which CASS 5 applies as a result of GEN 2.2.26R?   | [Yes]<br>[No]                                                                                                                                                             |
| <b>If yes, then during the reporting period:</b>                                 |                                                                                                                                                                                                       |                                                                                                                                                                           |
| 3.1.2                                                                            | How did the firm protect such <i>money</i> in accordance with article 10.6 of the IDD?                                                                                                                | [Contractual risk transfer to the insurer]<br>[Holding customers' monies in segregated customer accounts]<br>[Holding capital on a permanent basis]<br>[A guarantee fund] |
| 3.1.3                                                                            | What was the highest balance of <i>money</i> held by the firm in relation to activities carried on in reliance of the firm's temporary permission to which CASS 5 applies as a result of GEN 2.2.26R? | [Balance]                                                                                                                                                                 |
| 3.1.4                                                                            | Did the firm have any breaches of its obligations to segregate and/or keep records in accordance with its obligations under CASS 5 which applied as a result of GEN 2.2.26R?                          | [Yes]<br>[No]                                                                                                                                                             |

## 14 Annex Guidance notes for the TPCAR 2G

1. This annex contains *guidance* on the TPCAR and is therefore only relevant to a *firm* that is subject to CASS 14.3.
2. Italicised terms in the TPCAR have the same meaning as in the *Glossary*.
3. A *firm* is reminded of its obligation to determine their "CASS firm type" categorisation in accordance with CASS 14.2.8R.
4. A *firm* should complete Part 1 and either Part 2 or Part 3, depending on whether it is reporting on *investment services and activities* or *insurance distribution activities*. See also the guidance at CASS 14.3.5G for *firms* that carry on both sorts of activities under their *temporary permission*.



5. For the purposes of the *TPCAR*, the *FCA* does not prescribe any particular methodology or frequency for valuing *safe custody assets*.
6. Guide for completing individual questions in the *TPCAR*:

## PART 1 - TO BE COMPLETED BY ALL TP FIRMS

| Section 1.1 - Scope of this return |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                             |
|------------------------------------|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| 1.1.1                              | What is the reporting period start date for this return?                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                    |
| 1.1.2                              | What is the reporting period end date for this return?                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                      |
|                                    | <p>The reporting period is a calendar period for which the <i>TPCAR</i> is required to be completed in accordance with <i>CASS 14.3.1R</i>, including the first <i>day</i> and the last <i>day</i> of the relevant period applicable to the <i>firm</i>. The first reporting period starts from 1 April 2019.</p> <p>For example:</p> <ul style="list-style-type: none"> <li>• For a <i>firm</i> conducting <i>investment services or activities</i> under their <i>temporary permission</i> which is subject to monthly reporting under <i>CASS 14.3.3R</i>, the first reporting period will be 1 April 2019 to 30 April 2019, regardless of whether or not any <i>day</i> in April is a <i>business day</i>.</li> <li>• For a <i>firm</i> conducting <i>insurance distribution</i> activities under their <i>temporary permission</i> which is subject to half-yearly reporting under <i>CASS 14.3.3R</i> and has an accounting reference date of 31 December, the first reporting period will be 1 April 2019 to 30 June 2019, regardless of whether or not any <i>day</i> in this period is a <i>business day</i>. The next reporting period for such a <i>firm</i> will be 1 July 2019 to 31 December 2019.</li> </ul> |
| 1.1.3                              | <p>Does this return report on:</p> <ul style="list-style-type: none"> <li>- <i>investment services and activities</i>, to which <i>CASS 6</i> or <i>CASS 7</i> apply as a result of <i>GEN 2.2.26R</i>; or</li> <li>- <i>insurance distribution</i> activities, to which <i>CASS 5</i> applies as a result of <i>GEN 2.2.26R</i>?</li> </ul>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                |
|                                    | <p>A <i>firm</i> should identify the relevant activity in the course of which it holds <i>client money</i> or <i>safe custody assets</i> under its <i>temporary permission</i> and answer either “investment services or activities” or “insurance distribution activities”.</p>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                            |

|                                             |                                                                                                                                                                                                                                                   |
|---------------------------------------------|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
|                                             | If a <i>firm</i> is conducting both activities in the course of which it holds <i>client money</i> or <i>safe custody assets</i> under its <i>temporary permission</i> , then it will need to complete a separate <i>TPCAR</i> for each activity. |
|                                             |                                                                                                                                                                                                                                                   |
| <b>Section 1.2 - Location of activities</b> |                                                                                                                                                                                                                                                   |
| 1.2.1                                       | Did the <i>firm</i> conduct the activities to which this return relates from an establishment in the <i>UK</i> ?                                                                                                                                  |
|                                             |                                                                                                                                                                                                                                                   |
|                                             | A <i>firm</i> should answer either “Yes” or “No”. For example, a <i>firm</i> should answer “Yes” if, during the reporting period, it conducted the above activities from a <i>branch</i> in the <i>UK</i> .                                       |
|                                             |                                                                                                                                                                                                                                                   |
| <b>Section 1.3 - Compliance</b>             |                                                                                                                                                                                                                                                   |
| 1.3.1                                       | During the reporting period, did the <i>firm</i> have any breaches of its obligations under <i>CASS 14</i> ?                                                                                                                                      |
|                                             |                                                                                                                                                                                                                                                   |
|                                             | A <i>firm</i> should answer either “Yes” or “No”.                                                                                                                                                                                                 |
|                                             |                                                                                                                                                                                                                                                   |
| 1.3.2                                       | During the reporting period, did the <i>firm</i> obtain an external auditor’s report on the adequacy of the <i>firm's</i> arrangements under its client assets obligations?                                                                       |
|                                             |                                                                                                                                                                                                                                                   |
|                                             | A <i>firm</i> should answer either “Yes” or “No”.                                                                                                                                                                                                 |
|                                             |                                                                                                                                                                                                                                                   |
| <b>Section 1.4 - Solvency</b>               |                                                                                                                                                                                                                                                   |
| 1.4.1                                       | During the reporting period, were there any issues with the <i>firm's</i> solvency?                                                                                                                                                               |
|                                             |                                                                                                                                                                                                                                                   |
|                                             | A <i>firm</i> should answer either “Yes” or “No”.                                                                                                                                                                                                 |
|                                             |                                                                                                                                                                                                                                                   |
| <b>Section 1.5 - Other issues</b>           |                                                                                                                                                                                                                                                   |

|       |                                                                                                                                                                                                                                                            |
|-------|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| 1.5.1 | During the reporting period, were there any other issues with the <i>firm</i> in relation to its obligations under <i>CASS</i> which applied as a result of <i>GEN 2.2.26R</i> ? If so, please provide a brief description.                                |
|       |                                                                                                                                                                                                                                                            |
|       | A <i>firm</i> should describe any issues not covered by the <i>TPCAR</i> that may be relevant in respect of holding <i>client money or safe custody assets</i> to which <i>CASS</i> applies as a result of <i>GEN 2.2.26R</i> during the reporting period. |

## PART 2 - FOR REPORTING ON INVESTMENT SERVICES OR ACTIVITIES

|       |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                    |
|-------|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| 2.1.1 | During the reporting period, did the <i>firm</i> hold <i>client money</i> and/or <i>safe custody assets</i> in relation to activities carried on in reliance of the <i>firm's temporary permission</i> to which <i>CASS 6</i> or <i>CASS 7</i> apply as a result of <i>GEN 2.2.26R</i> ?                                                                                                                                                                                                                                                                                                                                                                                                                                                           |
|       |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                    |
|       | A <i>firm</i> should answer either “Yes” or “No”.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                  |
|       |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                    |
| 2.1.2 | What was the highest balance of <i>client money</i> held in relation to activities carried on in reliance of the <i>firm's temporary permission</i> , in relation to which <i>CASS 7</i> applies as a result of <i>GEN 2.2.26R</i> ?                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                               |
|       |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                    |
|       | <p>A <i>firm</i> should report the highest total amount of <i>client money</i> that it held at any point during the reporting period.</p> <p>A <i>firm</i> should ensure that it includes in the amount reported any <i>client money</i> that it is holding, which has or have been placed with a third party <i>custodian</i>, either by a <i>custodian</i> with which that <i>firm</i> has deposited those <i>client money</i>, or by that <i>firm</i> if it is a <i>custodian</i>.</p> <p>A <i>firm</i> should determine the highest figures by reference to the data that it has recorded from its reconciliations required under article 2(1)(c) of the <i>MiFID Delegated Directive</i> that relate to the reporting period in question.</p> |
|       |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                    |
| 2.1.3 | What was the highest amount of <i>safe custody assets</i> held in relation to activities carried on in reliance of the <i>firm's temporary permission</i> , in relation to which <i>CASS 6</i> applies as a result of <i>GEN 2.2.26R</i> ?                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                         |
|       |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                    |

|       |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                  |
|-------|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
|       | <p>A <i>firm</i> should report the highest total amount of <i>safe custody assets</i> that it held at any point during the reporting period.</p> <p>A <i>firm</i> should ensure that it includes in the amount reported any <i>safe custody assets</i> that it is holding, which has or have been placed with a third party <i>custodian</i>, either by a <i>custodian</i> with which that <i>firm</i> has deposited those safe custody assets, or by that <i>firm</i> if it is a <i>custodian</i>.</p> <p>A <i>firm</i> should determine the highest figures by reference to the data that it has recorded from its reconciliations required under article 2(1)(c) of the <i>MiFID Delegated Directive</i> that relate to the reporting period in question.</p> |
|       |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                  |
| 2.1.4 | What percentage of the <i>client money</i> reported in Question 2.1.2 was deposited with a <i>bank</i> or a <i>qualifying money market fund</i> in the same <i>group</i> as the <i>firm</i> (article 4, <i>MiFID Delegated Directive</i> )?                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                      |
|       |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                  |
|       | A <i>firm</i> should state what percentage of <i>client money</i> are held with a <i>credit institution, bank or qualifying money market fund</i> of the same <i>group</i> as the <i>firm</i> .                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                  |
|       |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                  |
| 2.1.5 | What was the frequency of reconciliations between the <i>firm's</i> internal accounts and records and those of any third party with whom the <i>client money</i> reported in Question 3 was held (article 2(1)(c), <i>MiFID Delegated Directive</i> )?                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                           |
|       |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                  |
|       | A <i>firm</i> should identify the frequency of its reconciliations in respect of <i>client money</i> required by article 2(1)(c) of <i>MiFID Delegated Directive</i> and answer either “Daily”, “Quarterly”, “Monthly”, “Annually” or “Other”.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                   |
|       |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                  |
| 2.1.6 | What was the frequency of reconciliations between the <i>firm's</i> internal accounts and records and those of any third party with whom the <i>safe custody assets</i> reported in Question 2.1.2 were held (article 2(1)(c), <i>MiFID Delegated Directive</i> )?                                                                                                                                                                                                                                                                                                                                                                                                                                                                                               |
|       |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                  |
|       | A <i>firm</i> should identify the frequency of its reconciliations in respect of <i>safe custody assets</i> required by article 2(1)(c) of <i>MiFID Delegated Directive</i> and answer either “Daily”, “Quarterly”, “Monthly”, “Annually” or “Other”.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                            |
|       |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                  |

|       |                                                                                                                                                                                                                     |
|-------|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| 2.1.7 | Did the <i>firm</i> resolve all discrepancies identified by its reconciliations referred to in Questions 7 and 8 as applicable (article 2(1)(c), <i>MiFID Delegated Directive</i> )?                                |
|       |                                                                                                                                                                                                                     |
|       | A <i>firm</i> should answer either “Yes” or “No”.                                                                                                                                                                   |
|       |                                                                                                                                                                                                                     |
| 2.1.8 | Were there any changes to the <i>firm's</i> officer responsible for compliance with obligations relating to safeguarding of client assets appointed pursuant to article 7 of the <i>MiFID Delegated Directive</i> ? |
|       |                                                                                                                                                                                                                     |
|       | A <i>firm</i> should answer either “Yes” or “No”.                                                                                                                                                                   |
|       |                                                                                                                                                                                                                     |
| 2.1.9 | Did the <i>firm</i> have any breaches of its obligations to segregate and/or keep records in accordance with its obligations under CASS 6 or 7 which applied as a result of GEN 2.2.26R?                            |
|       |                                                                                                                                                                                                                     |
|       | A <i>firm</i> should answer either “Yes” or “No”.                                                                                                                                                                   |

### PART 3 - FOR REPORTING ON INSURANCE DISTRIBUTION ACTIVITIES

|       |                                                                                                                                                                                                                                                                                                    |
|-------|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| 3.1.1 | During the reporting period, did the <i>firm</i> hold <i>money</i> in relation to activities carried on in reliance of the <i>firm's</i> temporary permission to which CASS 5 applies as a result of GEN 2.2.26R?                                                                                  |
|       |                                                                                                                                                                                                                                                                                                    |
|       | A <i>firm</i> should answer either “Yes” or “No”.                                                                                                                                                                                                                                                  |
|       |                                                                                                                                                                                                                                                                                                    |
| 3.1.2 | How did the <i>firm</i> protect such <i>money</i> in accordance with article 10.6 of the <i>IDD</i> ?                                                                                                                                                                                              |
|       |                                                                                                                                                                                                                                                                                                    |
|       | This question should only be answered if a <i>firm</i> answered “Yes” in Question 3.1.1.<br><br>A <i>firm</i> should answer “Contractual risk transfer to the insurer”, “Holding customers' monies in segregated customer accounts”, “Holding capital on a permanent basis” or “A guarantee fund”. |

|       |                                                                                                                                                                                                                                                                                                                                                                                       |
|-------|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
|       | <p>A <i>firm's</i> answer may depend on which of these methods are permitted by its <i>Home State's</i> implementation of the <i>IDD</i>.</p> <p>More than one answer may be given if the <i>firm</i> protects <i>money</i> using more than one of these methods.</p>                                                                                                                 |
|       |                                                                                                                                                                                                                                                                                                                                                                                       |
| 3.1.3 | What was the highest balance of <i>money</i> held by the <i>firm</i> in relation to activities carried on in reliance of the <i>firm's temporary permission</i> to which <i>CASS 5</i> applies as a result of <i>GEN 2.2.26R</i> ?                                                                                                                                                    |
|       |                                                                                                                                                                                                                                                                                                                                                                                       |
|       | <p>This question should only be answered if a <i>firm</i> answered “Yes” in Question 11.</p> <p>A <i>firm</i> should take into account the amount recorded in the <i>firm's</i> records that relate to the reporting period in question. A <i>firm</i> should also take into account <i>money</i> held in all the possible methods of holding such <i>money</i> under <i>IDD</i>.</p> |
|       |                                                                                                                                                                                                                                                                                                                                                                                       |
| 3.1.4 | Did the <i>firm</i> have any breaches of its obligations to segregate and/or keep records in accordance with its obligations under <i>CASS 5</i> which applied as a result of <i>GEN 2.2.26R</i> ?                                                                                                                                                                                    |
|       |                                                                                                                                                                                                                                                                                                                                                                                       |
|       | A <i>firm</i> should answer either “Yes” or “No”.                                                                                                                                                                                                                                                                                                                                     |

Annex E

Amendments to the Compensation sourcebook (COMP)

In this Annex, underlining indicates new text.

**5.5 Protected investment business**

...

Territorial scope condition

5.5.2 R The territorial scope condition is that the *protected investment business* was carried on from:

(1) an establishment of the *relevant person* in the *United Kingdom*; or

...

(6) an establishment in an EEA State of the relevant person, if it is a TP firm (other than a supervised run-off firm) that is:

(a) managing a UK UCITS; or

(b) managing an AIF that is an authorised fund.

...

**6.2 Who is a relevant person?**

...

6.2.4 G A TP firm that under section 213(9A) or section 213(9A) [bis] of the Act is not to be regarded as a relevant person is not a participant firm. For the purposes of the FCA's compensation rules, this means that most (but not all) TP firms operating in the UK without an establishment are not participant firms.

...

**TP 1 Transitional provisions**

TP 1.1 Transitional provisions table

| (1) | (2)                                                  | (3) | (4)                    | (5)                                    | (6)                                   |
|-----|------------------------------------------------------|-----|------------------------|----------------------------------------|---------------------------------------|
|     | Material to which the transitional provision applies |     | Transitional provision | Transitional provision: dates in force | Handbook provisions coming into force |

|           |                                                                                                                                               |          |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                           |                                    |                 |
|-----------|-----------------------------------------------------------------------------------------------------------------------------------------------|----------|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|------------------------------------|-----------------|
| ...       |                                                                                                                                               |          |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                           |                                    |                 |
| <u>47</u> | <u>Amendments introduced to COMP by the Exiting the European Union: Temporary Permission and Financial Services Contracts Instrument 2019</u> | <u>R</u> | <p><u>The amendments referred to in column (2) do not apply:</u></p> <p><u>(1) in relation to a claim against a TP firm, or against a successor of a TP firm, that was in default before exit day; or</u></p> <p><u>(2) to any acts or omissions before exit day that give rise to a claim against a TP firm, or against a successor of a TP firm, after exit day;</u></p> <p><u>but nothing in limb (2) of this rule shall limit the ability of the FSCS to pay compensation in respect of a claim against a TP firm or a successor of a TP firm, where it is a relevant person for a reason other than because it is a TP firm.</u></p> | <u>From exit day, indefinitely</u> | <u>exit day</u> |



## Annex F

## Amendments to the Credit Unions sourcebook (CREDS)

In this Annex, underlining indicates new text.

## Sch 3 Fees and other required payments

...

## Sch 3.2 G

| Description of fee   | Reference      |
|----------------------|----------------|
| ...                  | ...            |
| <u>TPR SFGB levy</u> | <u>FEES 7C</u> |
| <u>TPR DA levy</u>   | <u>FEES 7D</u> |

## **Annex G**

### **Non-Handbook guidance**

We expect incoming EEA-based firms in the Temporary Permissions Regime (TPR) or supervised run-off firms (SRO) in the Financial Services Contracts Regime to consider and communicate to their customers any material changes in home state investor compensation scheme coverage, as a result of UK withdrawal from the European Union. We would also expect such a firm to provide, on a customer's request, information concerning the firm's inclusion in any compensation schemes, including the firm's home state scheme. An example of a material change in home state investor compensation scheme coverage is where that coverage is removed from the UK activities of incoming EEA-based firms as a result of the UK's withdrawal from the EU.