

Chapter

Article 5a Requirements for the provision of indirect clearing services by indirect clients

(1) An indirect client may only provide indirect clearing services to second indirect clients provided that the parties to the indirect clearing arrangements fulfil one of the requirements set out in paragraph 2 and that all of the following conditions are met:

(a) the indirect client is an authorised credit institution or investment firm or an entity established in a third country that would be considered to be a credit institution or investment firm if that entity were established in the United Kingdom;

(b) the indirect client and the second indirect client conclude, in writing, an indirect clearing arrangement. The indirect clearing arrangement shall include at least the following contractual terms:

(i) the general terms and conditions referred to in Article 2(1)(b);

(ii) the indirect client's commitment to honour all obligations of the second indirect client towards the client with regard to transactions covered by the indirect clearing arrangement;

(c) the assets and positions of the second indirect client are held by the clearing member in an account as referred to in Article 4(2)(a).

All aspects of the indirect clearing arrangement referred to in point (b) shall be clearly documented.

(2) For the purposes of paragraph 1, the parties to the indirect clearing arrangements shall fulfil one of the following requirements:

(a) the clearing member and the client are part of the same group, but the indirect client is not part of that group;

(b) the client and the indirect client are part of the same group, but neither the clearing member nor the second indirect client is part of that group.

(3) For indirect clearing arrangements entered into by parties in the situation referred to in paragraph 2(a):

(a) Articles 4(1), 4(5), 4(6) and 4(8) shall apply to the client as if that client were a clearing member;

(b) Articles 2(1)(b), 5(2), 5(3), 5(6), 5(8) and 5(9) shall apply to the indirect client as if that indirect client were a client.

(4) For indirect clearing arrangements entered into by parties in the situation referred to in paragraph 2(b):

(a) Articles 4(5) and 4(6) shall apply to the client as if that client were a clearing member;

(b) Articles 2(1)(b), 5(2), 5(3), 5(6), 5(8) and 5(9) shall apply to the indirect client as if that indirect client were a client.