

SUPERVISION MANUAL INSTRUMENT 2001

A. The Financial Services Authority makes the rules, gives the guidance and makes the directions and requirements in the Annex to this instrument (“SUP”) in the exercise of the powers listed in Schedule 4 to SUP (Powers exercised).

B. This instrument shall come into force as follows:

- (1) SUP 9 (Individual guidance): immediately;
- (2) the following parts of SUP: at the beginning of the first day on which section 40 (Application for permission) of the Financial Services and Markets Act 2000 (the “Act”) comes into force for any purpose:
 - (a) SUP 6 (Applications to vary and cancel Part IV permission);
 - (b) SUP 8 (Waiver and modification of rules);
 - (c) SUP 10 (Approved persons);
- (3) SUP 7 (Individual requirements): at the beginning of the first day on which section 45 of the Act (Variation etc on the Authority’s own initiative) comes into force for any purpose;
- (4) other parts of SUP: at the beginning of the day on which section 19 of the Act (The general prohibition) comes into force;
- (5) paragraphs A to E on this page: immediately.

C. The provisions of the Act relevant to making rules and listed in Schedule 4 to this instrument (Powers exercised) are specified for the purpose of section 153(2) of the Act (Rule-making instruments).

D. This instrument may be cited as the Supervision Manual Instrument 2001.

E. The Annex to this instrument (including its Schedules) may be cited as the Supervision manual (or SUP).

By order of the Board
21 June 2001

ANNEX



Supervision



Contents

Transitional provisions

Text of SUP:

- 1 The FSA's approach to supervision
- 2 Information gathering by the FSA on its own initiative
- 3 Auditors
- 4 Actuaries
- 5 Skilled persons *
- 6 Applications to vary and cancel Part IV permission
- 7 Individual requirements
- 8 Waiver and modification of rules
- 9 Individual guidance
- 10 Approved persons
- 11 Controllers and close links
- 12 Appointed representatives
- 13 Exercise of passport rights by UK firms *
- 14 Variation of passport rights by incoming EEA firms *
- 15 Notifications to the FSA
- 16 Reporting requirements
- 17 Transaction reporting
- 18 Transfers of business *
- 19 Commodity Futures Trading Commission Part 30 exemption
- 20 Fees *

Appendix 1 Prudential categories and sub-categories

Appendix 2 Insurers: Scheme of operations

Schedule 1: Record keeping requirements *

Schedule 2: Notification requirements *

Schedule 3: Fees and other required payments *

Schedule 4: Powers exercised

Schedule 5: Rights of action for damages *

Schedule 6: Rules that can be waived *

Derivations *

Destinations *

[* These parts of SUP will be added later]

Handbook Modules

Transitional provisions

1 Table

(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	SUP 3.3.2R(1)	R	<p><u>Auditors</u></p> <p>A <i>firm</i> will not contravene SUP 3.3.2R(1), if the office of auditor is filled at <i>commencement</i>. The auditor filling the office at that time will be deemed to be appointed under SUP 3.3.2R.</p>	From <i>commencement</i>	<i>Commencement</i>
2	SUP 3.9 and SUP 3.10	R	<p>An auditor of a <i>firm</i> will not contravene a rule in SUP 3.9 or SUP 3.10 to the extent that:</p> <p>(1) a report submitted under that rule relates to a period which ended before <i>commencement</i> and was prepared in accordance with a substantially similar pre-<i>commencement</i> provision (whether applicable to the auditor or the <i>firm</i> audited); or</p> <p>(2) a report submitted under that section relates to a period which ended on or after <i>commencement</i> and, as regards any part of that period prior to <i>commencement</i>, relates to compliance by the <i>firm</i> with the relevant pre-<i>commencement</i> provision.</p>	From <i>commencement</i> for 2 years	<i>Commencement</i>

(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
3	SUP 3.9.4R and SUP 3.10.4R	R	<p>(1) Paragraph (2) applies to an auditor of a firm to whom SUP 3.9 applies if:</p> <ul style="list-style-type: none"> (a) the firm is an <i>ex-section 43 firm</i>, or was a member of <i>SFA, IMRO</i> or <i>PIA</i> immediately before commencement; (b) a report equivalent to that required under SUP 3.9 has not been submitted to the firm's previous regulator in respect of the firm's last accounting reference date; and (c) the period for submission of that report under the rules and guidance of that regulator is still running. <p>(2) An auditor in (1) must submit such a report in accordance with the rules and guidance of the previous regulator (as if those provisions applied directly to the auditor).</p>	From commencement for one year	Commencement
4	SUP 4.3.1R(1) and SUP 4.4.1R(1)	R	<p>Actuaries</p> <p>A firm will not contravene SUP 4.3.1R(1) or 4.4.1R(1) to the extent that the office of appointed actuary or appropriate actuary, respectively, is filled as at commencement and the appointment was made in accordance with relevant statutory requirements.</p>	From commencement	Commencement
5	SUP 4.3.3R	R	<p>If an appointed actuary of a firm has been appointed by a previous regulator under statutory or contractual powers and remains in office immediately before commencement, that appointment will be deemed to have been made under SUP 4.3.3R, but on the terms of the actual appointment.</p>	From commencement	Commencement

(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
6	SUP 8.6.1R	R	<p><u>Waivers</u></p> <p>A firm which has applied to the FSA for a waiver, or been granted a waiver by the FSA before commencement under the Act, must notify the FSA immediately after commencement if it became aware, before commencement, of any matter which is material to the relevance or appropriateness of the waiver.</p>	From commencement for one month	Commencement
7	SUP 10.12.2D	D	<p><u>Approved persons</u></p> <p>If a firm submitted an application to IMRO, PIA or the SFA before applications day for individual registration of a person in accordance with the rules or guidance of that body, the firm will be treated as having submitted Form A (SUP 10 Ann 4D) in respect of that person.</p>	From commencement for three months	Commencement
8	SUP 10.13.6R	R	<p>A firm will not contravene SUP 10.13.6R, to the extent that notice of the relevant matter was given to its previous regulator before applications day in accordance with a statutory requirement or the rules or guidance of that regulator.</p>	From commencement for one month	Commencement
9	SUP 12.5.5R SUP 12.5.7R	R	<p><u>Appointed representatives</u></p> <p>A firm will not contravene SUP 12.5.5R or SUP 12.5.7R to the extent that it continues to rely on a written contract with an appointed representative entered into before commencement which complied with a substantially similar pre-commencement provision applicable to the firm.</p>	From commencement for 12 months	Commencement

(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
10	SUP 16.4.5R SUP 16.5.5R	R	<p>Reporting</p> <p>(1) SUP 16.4.5R and 16.5.5R are modified so as to require a <i>firm</i> to submit the first relevant report:</p> <p>(a) prepared as at its <i>accounting reference date</i>; and</p> <p>(b) within 4 months of commencement;</p> <p>if the <i>firm's accounting reference date</i> falls within the 4 months before commencement.</p> <p>(2) SUP 16.4.5R and 16.5.5R are modified so as to require a <i>firm</i> to submit the first relevant report:</p> <p>(a) prepared as at any date falling within 4 months after commencement; and</p> <p>(b) within 4 months of commencement; and if:</p> <p>(c) the <i>firm</i> was, before commencement, required to submit reports equivalent to those required under SUP 16.4.5R and 16.5.5R (respectively) under a substantially similar pre-commencement provision; and</p> <p>(d) the <i>firm's first accounting reference date</i> after commencement falls more than eight months after the date on which it submitted its last such report under that pre-commencement provision.</p>	From commencement for four months	Commencement

(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
11	SUP 16.6 SUP 16.7 SUP 16.8	R	<p>A <i>firm</i> will not contravene a requirement in SUP 16.6, SUP 16.7 and SUP 16.8 to submit a report to the extent that:</p> <p>(1) the date as at which the report must be prepared is before <i>commencement</i>; or</p> <p>(2) the period with respect to which the report must be prepared ended before <i>commencement</i>,</p> <p>and in either case:</p> <p>(3) the <i>firm</i> submits an equivalent report in accordance with a substantially similar pre-commencement provision applicable to the <i>firm</i>; or</p> <p>(4) there was no substantially similar pre-commencement provisions applicable to the <i>firm</i>.</p>	From commencement for 2 years	Commencement
12	SUP 16.7.7R; SUP 16.7.9R, SUP 16.7.11R, SUP 16.7.16R, SUP 16.7.24R, SUP 16.7.26R, SUP 16.7.35R, SUP 16.7.44R, SUP 16.7.46R, SUP 16.7.48R, SUP 16.7.57R	R	<p>A <i>firm</i> will not contravene a rule in SUP 16.7 requiring a report to be submitted using a form which is specified in an annex to SUP 16.7, to the extent that the <i>firm</i> submits the report using a substantially similar form specified by its <i>previous regulator</i>.</p>	From commencement for one year	Commencement
13	SUP 16.8	R	<p>In Forms 1R(1) to (3) in SUP 16 Ann 6R, for any <i>life policy</i> promoted before <i>commencement</i>, a reference to "direct offer financial promotion" must be read as a reference to "direct offer advertisement", as defined in the rulebook of the PIA at the time the <i>policy</i> was promoted.</p>	From commencement for 6 years	Commencement
14	SUP 16.8	R	<p>SUP 16.8 does not apply to an <i>insurer</i> (including a <i>friendly society</i>) which was not a member of the PIA immediately before <i>commencement</i>.</p>	From commencement for 6 years	Commencement

(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
15	SUP 17	R	<p><u>Transaction Reporting</u></p> <p><i>A firm:</i></p> <p>(1) to whom SUP 17 applies under SUP 17.1.1R(1)(c); and</p> <p>(2) which was authorised under the Financial Services Act 1986 immediately before commencement otherwise than through membership of the SFA;</p> <p>must comply with SUP 17 as if it were:</p> <p>(3) an investment management firm, if it was a member of IMRO immediately before commencement, or</p> <p>(4) a personal investment firm, otherwise.</p>	From commencement	Commencement
16	Paragraphs 1 to 15	R	<p><u>Definitions</u></p> <p>In these transitional provisions:</p> <p>(1) "pre-commencement provision" means a provision repealed or revoked by or under the Act or a rule or guidance of the firm's previous regulator, including (where the context permits) any relevant provision which it replaced before commencement; and</p> <p>(2) "substantially similar" means substantially similar in purpose and effect.</p>	From commencement	Commencement

2 Table

GEN contains some technical transitional provisions that apply throughout the *Handbook* and which are designed to ensure a smooth transition at *commencement*. These include transitional provisions relevant to record keeping and *notification rules*.

Chapter 1

The FSA's approach to supervision



1.1 Application and purpose

Application

- 1.1.1** G_{/1} This chapter applies to every *firm*, except that its relevance for an *ICVC* is limited as the *FSA* does not intend to carry out an assessment of an *ICVC* that is specific to that *ICVC*.

Purpose

- 1.1.2** G_{/1} The *Act* requires the *FSA* to “maintain arrangements designed to enable it to determine whether persons on whom requirements are imposed by or under this Act are complying with them” (paragraph 6(1) of Schedule 1 to the *Act*).
- 1.1.3** G_{/1} The design of these arrangements is shaped by the *regulatory objectives*. These are set out in section 2 of the *Act* (The Authority’s general duties) and are:
- (1) maintaining confidence in the *financial system*;
 - (2) promoting public understanding of the *financial system*;
 - (3) securing the appropriate degree of protection for *consumers*; and
 - (4) reducing the extent to which it is possible for a business carried on by a regulated person, or in contravention of the *general prohibition*, to be used for a purpose connected with financial crime.
- 1.1.4** G_{/1} In designing its approach to supervision, the *FSA* has regard to the principles of good regulation set out in section 2(3) of the *Act*. In particular, the *FSA*’s regulatory approach aims to focus and reinforce the responsibility of the management of each *firm* (section 2(3)(b) of the *Act*) to ensure that it takes reasonable care to organise and control the affairs of the *firm* responsibly and effectively and develops and maintains adequate risk management systems. It is the responsibility of management to ensure that the *firm* acts in compliance with its regulatory requirements. The *FSA* will have regard to the principle that a burden or restriction which is imposed on a *firm* should be proportionate to the benefits, considered in general terms, which are expected to result from the imposition of that burden or restriction (section 2(3)(c) of the *Act*).

1.2 Introduction

1.2.1

G

/1

- (1) The Authorisation manual (*AUTH*), the Supervision manual (*SUP*), the Enforcement manual (*ENF*) and the Decision making manual (*DEC*) form the regulatory processes part of the *Handbook*.
- (2) *AUTH* sets out the relationships between the FSA and applicants for *Part IV permission* and *persons* wishing to exercise *EEA rights*, *Treaty rights* or *UCITS Directive* rights.
- (3) *SUP* sets out the relationship between the FSA and *authorised persons* (referred to in the *Handbook* as *firms*). As a general rule, material that is of continuing relevance after *authorisation* is in *SUP*.
- (4) *ENF* describes the FSA's enforcement powers under the *Act* and sets out its policies for using those powers.
- (5) *DEC* is principally concerned with, and sets out, the FSA's decision making procedures for decisions that involve the giving of *statutory notices*.

1.2.2

G

/1

For a *firm* which undertakes business internationally (or is part of a *group* which does), the FSA will have regard to the context in which it operates, including the nature and scope of the regulation to which it is subject in jurisdictions other than the *United Kingdom*. For a *firm* with its head office outside the *United Kingdom*, the regulation in the jurisdiction where the head office is located will be particularly relevant. As part of its supervision of such a *firm*, the FSA will usually seek to cooperate with relevant *overseas regulators*, including exchanging information on the *firm*. Different arrangements apply for an *incoming EEA firm*, an *incoming Treaty firm* and a *UCITS qualifier*. The arrangements applying for an *incoming EEA firm* and an *incoming Treaty firm* are addressed in SYSC App 1. For *UCITS qualifiers* see also *CIS 2.3*, *CIS 16*, and *CIS 17*.

1.2.3

G

/1

The FSA continues to develop the risk assessment approach set out in this chapter. The approach will not be introduced for all *firms* at *commencement*. For those *firms* where the approach is not introduced at *commencement*, the FSA continues to operate the risk assessment approach of the *firm's previous regulator*.



1.3 The FSA's risk based approach to supervision

Purpose

1.3.1 G_{/1} The purpose of taking a risk-based approach to supervision is to focus the FSA's resources on the mitigation of risks to the *regulatory objectives*, and to have regard to the need to use the FSA's resources in the most efficient and economic way. The approach to risk assessment of *firms* is based on the extent to which they pose risks to the FSA meeting the *regulatory objectives*. This extent encompasses both the impact of such risks were they to crystallise and the probability of their doing so. The probability of risks crystallising depends on the inherent risks run by *firms*, the environment within which they operate and the internal systems and controls designed to mitigate such risks. This approach permits a matching of the intensity of the FSA's supervisory effort with the degree of risk posed by *firms* to meeting the *regulatory objectives*.

Impact and probability assessment

1.3.2 G_{/1} The FSA uses a standard risk assessment process applied consistently across all its activities. It involves assessing the risk posed by the *firm* against a number of impact and probability factors, both initially and on a continuing basis.

1.3.3 G_{/1} The impact of a *firm* is assessed by reference to a range of factors derived from the *regulatory objectives*, including:

- (1) the degree to which risks related to the *firm*, were they to materialise, would damage market confidence;
- (2) the extent to which the *firm* may pose risks to the achievement of the objective of promoting public understanding;
- (3) the extent to which *consumers* may be adversely affected either directly or indirectly by the *firm* as a result of prudential failure, misconduct, market malfunction, market manipulation or the need to contribute to the financial reconstitution of compensation schemes;
- (4) the incidence and materiality of any *financial crime* which may be perpetrated through or by the *firm*.

1.3.4 G_{/1} The probability of a *firm* posing a risk to meeting the *regulatory objectives* is, where applicable, assessed in terms of "risk groups". These are discrete sources of risks to meeting the *regulatory objectives* which arise from:

- (1) the *firm's* strategy;
- (2) the *firm's* business risk: those risks (such as credit, market and operational risk) which are inherent in the business;
- (3) the financial soundness of the *firm*;
- (4) the nature of the *firm's customers* and the products and services it offers;
- (5) the internal systems and controls and the compliance culture of the *firm*; and
- (6) the organisation of the *firm* and the role played by its governing body, management and staff in effectively mitigating risk.

1.3.5 G_{/1} The impact and probability assessments are combined to give an overall judgment as to the *firm's* priority for the *FSA* and therefore the nature of the relationship which the *FSA* will seek to have with the *firm* (see 'A new regulator for the new millennium' and 'Building the new regulator, Progress report 1').

1.3.6 G_{/1} In addition to assessing the *firm* in terms of these impact and probability factors, the *FSA* takes into account three further factors which may affect the choice of supervisory approach and activities:

- (1) the level of confidence in the information on which the risk assessment is based;
- (2) the quality of the home regulatory regime (for *firms* with their head office overseas); and
- (3) any anticipated material change in impact and probability factors.

The scope of the risk assessment process for firms

1.3.7 G_{/1} The risk assessment process applies to all *firms*, although the detail required may vary from *firm* to *firm*. *Firms* judged as high impact are likely to require a more detailed assessment. A peer review process within the *FSA* assists consistency.

1.3.8 G_{/1} The main steps in the risk assessment process are:

- (1) preliminary assessment of a *firm's* potential impact on the *regulatory objectives*;
- (2) probability assessment – the level of detail depends on the impact rating and the complexity of the *firm* (in the case of low impact *firms*, the firm-specific probability analysis will be minimal);
- (3) for a sample of *firms*, validation panel for peer review of risk grading and resource allocation;
- (4) letter to *firm* regarding risk assessment and any remedial actions (see *SUP* 1.3.10G); and
- (5) continuing review of risk assessment as necessary.

1.3.9 G_{/1} In order to create incentives for *firms* to raise standards and to maximise the success of the *FSA's* supervisory arrangements, it is important that a *firm* understands the *FSA's* evaluation of its risk so that it can take appropriate action.

1.3.10 G_{/1} The *FSA* intends to communicate the outcomes of its risk assessment to the *firm*. In the case of *firms* in which risks have been identified which could have a material bearing on the *FSA* meeting the *regulatory objectives*, the *FSA* will also outline a programme intended to address these. The *FSA* considers that it would generally be inappropriate for the *firm* to disclose the *FSA* risk assessment to third parties, except those who have a right to be aware of it, for example external auditors. The assessment is directed towards a very specific purpose – to illustrate the risk posed by the *firm* to the *regulatory objectives* and to enable the *FSA* to allocate its resources accordingly. Using it for any other purpose might well be misleading. The *FSA* therefore discourages *firms* from disclosing their assessments.

The nature of the FSA's relationship with firms

1.3.11 G_{/1} The *FSA's* relationship with *firms* has five main elements:

- (1) Determining satisfaction of the threshold conditions: in order to carry on *regulated activities*, a *firm* must demonstrate that it can satisfy, initially and on a continuing basis, the *threshold conditions* (see *COND*) (for example, the need to maintain adequate resources).
- (2) Baseline monitoring which is designed to ensure that *firms* comply, on a continuing basis, with the regulatory requirements which apply to them (see *SUP 1.1.2G*): the *FSA* collects and analyses data supplied by *firms* (see for example *SUP 16*) and by third parties such as the *Financial Ombudsman Service Limited*, *consumers*, and by other regulators.
- (3) Sectoral reviews and thematic work which will be used, for example, to validate information provided by a *firm* and to collect up to date information on a particular sector, in order to assess whether a *firm* meets required standards: thematic work is carried out to assess the risks posed by a particular issue (rather than by a sector or group of *firms*). The issues selected for such work are likely to be broader and proportionately more significant to the *FSA's regulatory objectives*.
- (4) Programmes designed to mitigate specific risks in individual *firms*: these programmes depend on the *firm's* priority for the *FSA* (see *SUP 1.3.5G*).
- (5) Work undertaken after particular risks have escalated or crystallised: once the *FSA* has identified an issue, it will need to use its regulatory judgment to determine how it should respond, if at all.

1.3.12 G_{/1} The exact mixture of elements will thus vary with the *firm's* risk categorisation. Moreover, the elements being used at a particular time will depend on the *firm's* circumstances – for example, whether it is applying for *permission* to conduct other *regulated activities*, or is being investigated by the *FSA*.



1.4 Tools of supervision

- 1.4.1** G_{/1} In order to meet the *regulatory objectives* and address identified risks to those objectives, the FSA has a range of supervisory tools available to it.
- 1.4.2** G_{/1} The FSA classifies these tools under four headings:
- (1) diagnostic: designed to identify, assess and measure risks;
 - (2) monitoring: to track the development of identified risks, wherever these arise;
 - (3) preventative: to limit or reduce identified risks and so prevent them crystallising or increasing; and
 - (4) remedial: to respond to risks when they have crystallised.
- 1.4.3** G_{/1} Tools may serve more than one purpose. For example, supervisory powers can be used to address risks which have materialised or to assist in preventing risks from escalating. In the first instance they are remedial, in the second, preventative.
- 1.4.4** G_{/1} Certain of these tools, for example the use of public statements to deliver messages to *firms* or *consumers* of financial services, do not involve the FSA in direct oversight of the business of *firms*. Other tools do involve a direct relationship with *firms*. The FSA also has powers to act on its own initiative to impose individual *requirements* on a *firm* (see SUP 7).
- 1.4.5** G_{/1} The FSA uses a variety of tools to monitor whether a *firm*, once *authorised*, remains in compliance with regulatory requirements. These tools include:
- (1) desk-based reviews;
 - (2) liaison with other agencies or regulators;
 - (3) meetings with management and other representatives of a *firm*;
 - (4) on-site inspections;
 - (5) reviews and analysis of periodic returns and notifications;
 - (6) reviews of past business;
 - (7) transaction monitoring;
 - (8) use of auditors;
 - (9) use of *skilled persons*.

1.4.6

G
/1

The FSA also uses a variety of tools to address specific risks identified in *firms*. These tools include:

- (1) making recommendations for preventative or remedial action;
- (2) giving other individual *guidance* to a *firm*;
- (3) imposing individual *requirements*;
- (4) varying a *firm's permission* in another way.

1.4.7

G
/1

For further discussion of the FSA's regulatory approach, see publications on the FSA website (www.fsa.gov.uk): in particular, 'A new regulator for the new millennium' and 'Building the new regulator, Progress report 1'.



1.5 Lead supervision

Application

1.5.1 G_{/1} This section applies to a *firm* which is a member of a *group* with more than one supervisory contact at the *FSA*.

Purpose

1.5.2 G_{/1} The *FSA* has developed arrangements for lead supervision in order to achieve more efficient and more effective supervision of *firms* and their *groups*. Lead supervision is designed to deliver a coordinated approach to the supervision of *groups* with more than one supervisory contact at the *FSA*, assisting the *FSA* to monitor them effectively and respond to the risks that arise.

Process

1.5.3 G_{/1} The *FSA* appoints a lead supervisor for a *group* with more than one supervisory contact at the *FSA*. The choice of lead supervisor depends principally on the predominant business of the *group*.

1.5.4 G_{/1} The lead supervisor has three key responsibilities:

- (1) to produce an overall assessment of the *group*: this comprises an assessment of the strengths and weaknesses of the business of the *group* and each of the *firms* within a *group* and a risk assessment of the *group* as a whole;
- (2) to coordinate the supervision programme: based on the overall assessment, the coordinated supervision programme is a single, risk-based supervision plan for the whole *group* for a specified period; and
- (3) to act as the central point of contact for the *group* with the *FSA*, where the *group* decides to use the lead supervisor in this way; this removes the need for duplicate communication between the *FSA* and *firms* in *groups* on group-wide issues.

Chapter 2

2

Information gathering by the FSA on its own initiative



2.1 Application and purpose

Application

- 2.1.1 **R** _{/1} The application of this chapter is the same as the application of *Principle 11 (Relations with regulators)*.
- 2.1.2 **G** _{/1} *PRIN 3* (Rules about application) specifies to whom, to what and where *Principle 11* applies.

Purpose

- 2.1.3 **G** _{/1} Achieving the *regulatory objectives* involves the *FSA* informing itself of developments in *firms* and in markets. The *Act* requires the *FSA* to monitor a *firm's* compliance with requirements imposed by or under the *Act* (paragraph 6 (1) of Schedule 1). The *Act* also requires the *FSA* to take certain steps to cooperate with other regulators (section 354). For these purposes, the *FSA* needs to have access to a broad range of information about a *firm's* business.
- 2.1.4 **G** _{/1} The *FSA* receives the information in *SUP 2.1.3G* through a variety of means, including notifications by *firms* (see *SUP 15*) and regular reporting by *firms* (see *SUP 16*). This chapter is concerned with the methods of information gathering that the *FSA* may use on its own initiative in the discharge of its functions under the *Act*.
- 2.1.5 **G** _{/1} Part XI of the *Act* (Information Gathering and Investigations) gives the *FSA* statutory powers, including:

 - (1) to require the provision of information (see section 165 and *ENF 2*);
 - (2) to require reports from *skilled persons* (see section 166 and *SUP 5*);
 - (3) to appoint investigators (see sections 167, 168 and 169 of the *Act* and *ENF 2*); and
 - (4) to apply for a warrant to enter premises (see section 176 of the *Act* and *ENF 2*).
- 2.1.6 **G** _{/1} The *FSA* prefers to discharge its functions by working in an open and cooperative relationship with *firms*. The *FSA* will look to obtain information in the context of that relationship unless it appears that obtaining information in that way will not achieve the necessary results, in which case it will use its statutory powers. The *FSA* has exercised its *rule-making* powers to make *Principle 11* which requires that a *firm* must deal with its regulators in an open and cooperative way, and must

disclose to the *FSA* appropriately anything relating to the *firm* of which the *FSA* would reasonably expect notice.

2.1.7

G
/1

The *FSA* operates in the context of the *Act* and the general law. The purpose of *SUP 2.2* is to explain how certain provisions of the *Act* and the general law are relevant to the *FSA*'s methods of information gathering described in *SUP 2.3* and *SUP 2.4*.

2.1.8

G
/1

The purpose of *SUP 2.3* is to amplify *Principle 11* in the context of information gathering by the *FSA* on its own initiative in the discharge of its functions under the *Act*. *SUP 2.3* therefore sets out, in *guidance* on *Principle 11* and in *rules*, how the *FSA* expects *firms* to deal with the *FSA* in that context, including the steps that a *firm* should take with a view to ensuring that certain connected persons should also cooperate with the *FSA*.

2.1.9

G
/1

The purpose of *SUP 2.4* is to explain a particular method of information gathering used by the *FSA*, known as "mystery shopping". Information about how a *firm* sells financial products can be very difficult to obtain, and the purpose of this method is to obtain such information from individuals who approach a *firm* in the role of potential retail *consumers* on the *FSA*'s initiative. The *FSA* may seek information about particular issues or the activities of individual *firms* by means of mystery shopping.



2.2 Information gathering by the FSA on its own initiative: background

Link to the statutory information gathering and investigation powers

2.2.1 **G**_{/1} Breaching *Principle 11*, or the *rules* in this chapter, makes a *firm* liable to regulatory sanctions, including discipline under Part XIV of the *Act* (Disciplinary Measures), and may be relevant to the use of the *FSA*'s other powers, including the statutory information gathering and investigation powers (see further *PRIN 1.1.7G* to *1.1.9G*). But, unlike a breach of a requirement imposed under the statutory powers listed in *SUP 2.1.5G*, a breach of *Principle 11* or a *rule*:

- (1) is not a criminal offence; and
- (2) cannot lead to a *person* being treated as if in contempt of court (see section 177 of the *Act* (Offences)).

2.2.2 **G**_{/1} Neither *Principle 11* nor *SUP 2.3.5R(1)* (Access to premises) enable the *FSA* to force access to premises.

Banking confidentiality and legal privilege

2.2.3 **G**_{/1} The *FSA* would not normally seek to gather information using the methods described in *SUP 2.3* or *SUP 2.4* in a situation where the *FSA* could not have obtained it under the powers in Part XI of the *Act* (Information Gathering and Investigations). In particular, the limitations in the following sections of the *Act* are relevant to this chapter:

- (1) section 175(5) (Information and documents: supplementary powers) under which no *person* may be required under Part XI of the *Act* (Information Gathering and Investigations) to disclose information or produce a document subject to banking confidentiality (with exceptions); the *FSA* would not normally seek such information using the methods described in *SUP 2.3* or *SUP 2.4*; and
- (2) section 413 (Protected items), under which no *person* may be required under the *Act* to produce, disclose or permit the inspection of *protected items*; a *firm* would not breach *Principle 11* or the *rules* in this chapter by not producing such items.

Confidentiality of information

2.2.4

G
/1

When the *FSA* obtains confidential information using the methods of information gathering described in *SUP 2.3* or *SUP 2.4*, it is obliged under Part XXIII of the *Act* (Public Record, Disclosure of Information and Co-operation) to treat that information as confidential. The *FSA* will not disclose confidential information without lawful authority, for example if an exception applies under the Financial Services and Markets Act 2000 (Disclosure of Confidential Information) Regulations 2001(SI 2001/2188) or with the consent of the *person* from whom that information was received and (if different) to whom the information relates.

Admissibility of information in proceedings

2.2.5

G
/1

Information obtained by the *FSA* using the methods described in *SUP 2.3* and *SUP 2.4* is admissible in evidence in any proceedings, so long as it complies with any requirements governing the admissibility of evidence in the circumstances in question.



2.3 Information gathering by the FSA on its own initiative: cooperation by firms

Introduction: Methods of information gathering requiring cooperation

2.3.1

G
/1

The FSA uses various methods of information gathering on its own initiative which require the cooperation of *firms*:

- (1) Visits may be made by representatives or appointees of the FSA. These visits may be made on a regular basis, on a sample basis, for special purposes such as theme visits (looking at a particular issue across a range of *firms*), or when the FSA has a particular reason for visiting a *firm*. Appointees of the FSA may include *persons* who are not FSA staff, but who have been appointed to undertake particular monitoring activities for the FSA (paragraph 6(2) of Schedule 1 to the *Act*). The FSA needs to have access to a *firm's documents*, personnel and business premises to carry out a visit.
- (2) The FSA may seek meetings at the FSA's offices or elsewhere.
- (3) The FSA may seek information or request *documents* by telephone, at meetings or in writing, including by electronic communication.

2.3.2

G
/1

The FSA expects to request meetings or access to business premises during reasonable business hours. The FSA also normally expects to be able to give reasonable notice to a *firm* or connected person when it seeks information, *documents*, meetings or access to business premises. On rare occasions, however, the FSA may seek access to premises without notice. The prospect of unannounced visits is intended to encourage *firms* to comply with the requirements and standards under the *regulatory system* at all times.

Access to a firm's documents and personnel

2.3.3

G
/1

In complying with *Principle 11*, the FSA considers that a *firm* should, in relation to the discharge by the FSA of its functions under the *Act*:

- (1) make itself readily available for meetings with representatives or appointees of the FSA as reasonably requested;
- (2) give representatives or appointees of the FSA reasonable access to any records, files, tapes or computer systems, which are within the *firm's* possession or control, and provide any facilities which the representatives or appointees may reasonably request;

- (3) produce to representatives or appointees of the FSA specified *documents*, files, tapes, computer data or other material in the *firm's* possession or control as reasonably requested;
- (4) print information in the *firm's* possession or control which is held on computer or on microfilm or otherwise convert it into a readily legible *document* or any other record which the FSA may reasonably request;
- (5) permit representatives or appointees of the FSA to copy *documents* or other material on the premises of the *firm* at the *firm's* reasonable expense and to remove copies and hold them elsewhere, or provide any copies, as reasonably requested; and
- (6) answer truthfully, fully and promptly all questions which are reasonably put to it by representatives or appointees of the FSA.

2.3.4

G
/1

In complying with *Principle 11*, the FSA considers that a *firm* should take reasonable steps to ensure that the following *persons* act in the manner set out in SUP 2.3.3G:

- (1) its *employees*, agents and *appointed representatives*; and
- (2) any other members of its *group*, and their *employees* and agents.

(See also, in respect of *appointed representatives*, SUP 12.5.3G(2)).

Access to premises

2.3.5

R
/1

- (1) A *firm* must permit representatives of the FSA, or *persons* appointed for the purpose by the FSA, to have access, with or without notice, during reasonable business hours to any of its business premises in relation to the discharge of the FSA's functions under the Act.
- (2) A *firm* must take reasonable steps to ensure that its agents, suppliers under *material outsourcing* arrangements and *appointed representatives* permit such access to their business premises. (See also, in respect of *appointed representatives*, SUP 12.5.3G(2)).

2.3.6

G
/1

The FSA normally expects to give reasonable notice of a visit (See SUP 2.3.2G).

Suppliers under material outsourcing arrangements

2.3.7

R
/1

A *firm* must take reasonable steps to ensure that each of its suppliers under *material outsourcing* arrangements deals in an open and cooperative way with the FSA in the discharge of its functions under the Act in relation to the *firm*.

2.3.8

G
/1

The cooperation that a *firm* is expected to procure from such suppliers is similar to that expected of the *firm*, in the light of the *guidance* in SUP 2.3.3.G to SUP 2.3.4G, but does not extend to matters outside the scope of the FSA's functions in

relation to the *firm*. SUP 2.3.5R(2) also requires a *firm* to take reasonable steps regarding access to the premises of such suppliers.

2.3.9 G_{/1} When a *firm* appoints or renews the appointment of a supplier under a *material outsourcing* arrangement, it should satisfy itself that the terms of its contract with the supplier require the supplier to give the *FSA* access to its premises as described in SUP 2.3.5R(2), and to cooperate with the *FSA* as described in SUP 2.3.7R. The *FSA* does not consider that the 'reasonable steps' in SUP 2.3.7R would require a *firm* to seek to change a contract, already in place when that *rule* was made by the *FSA*, until renewal of the contract.

2.3.10 G_{/1} The *FSA* will normally seek information from the *firm* in the first instance, but reserves the right to seek it from a supplier under a *material outsourcing* arrangement if the *FSA* considers it appropriate.

Information requested on behalf of other regulators

2.3.11 G_{/1} The *FSA* may ask a *firm* to provide it with information at the request of or on behalf of other regulators to enable them to discharge their functions properly. Those regulators may include *overseas regulators* or the *Takeover Panel*. The *FSA* may also, without notifying a *firm*, pass on to those regulators information which it already has in its possession. The *FSA's* disclosure of information to other regulators is subject to the obligation described in SUP 2.2.4G (Confidentiality of information).

2.3.12 G_{/1} In complying with *Principle 11*, the *FSA* considers that a *firm* should cooperate with it in providing information for other regulators. Section 169 of the *Act* (Investigations etc. in support of overseas regulator) gives the *FSA* certain statutory powers to obtain information and appoint investigators for *overseas regulators* if required (see *ENF 2*).



2.4 'Mystery shopping'

2.4.1

G

/1

Representatives or appointees of the FSA (which may include individuals engaged by a market research firm) may approach a *firm*, its agents or its *appointed representatives* in the role of potential retail *consumers* with any authorisation under the Regulation of Investigatory Powers Act 2000 that is considered appropriate. This is known as 'mystery shopping'.

2.4.2

G

/1

The FSA uses mystery shopping to help it protect *consumers*. This may be by seeking information about a particular practice across a range of *firms* (SUP 2.4.3G(1)) or the practices of a particular *firm* (SUP 2.4.3G(2)). One of the risks *consumers* face is that they may be sold financial products which are inappropriate to them. A problem in protecting *consumers* from this risk is that it is very difficult to establish after the event what a *firm* has said to a 'genuine' *consumer* in discussions. By recording what a *firm* says in discussions with a 'mystery shopper', the FSA can establish a *firm's* normal practices in a way which would not be possible by other means.

2.4.3

G

/1

The FSA may carry out mystery shopping:

- (1) together with a programme of visits to obtain information about a particular practice, looking at a particular issue across a range of *firms*, when the FSA may advise the *firms* of the issues beforehand; the practice being scrutinised may be that of *firms* or a class of *firms* in carrying on *regulated activities* or *ancillary activities* or in *communicating* or *approving financial promotions*;
- (2) together with focused visits (concentrating on particular aspects of a *firm's* business) to obtain information about the practices of a *firm*; these practices may be in carrying on *regulated activities* or *ancillary activities* or in *communicating* or *approving financial promotions* when the FSA has particular concerns about those practices;
- (3) using recording devices, telephonic or other communications; the FSA may monitor and store the contents of the materials obtained by these devices or communications.

2.4.4

G

/1

Telephone calls and meetings held during mystery shopping will be recorded. The FSA expects that any mystery shopping it arranges will be conducted in accordance with the Market Research Society Code of Practice.

Chapter 3

Auditors



3.1 Application

3.1.1

R

This chapter applies to:

^{/1}

- (1) every *firm* within a category listed in column (1) of the table in SUP 3.1.2R; and
- (2) the external auditor of such a *firm* appointed under SUP 3.3;

in accordance with column (2) or (3) of that table, except as described in the remainder of this section.

3.1.2

R

Table Applicable sections (see SUP 3.1.1R)

^{/1}

(1) Category of firm	(2) Sections applicable to the firm	(3) Sections applicable to its auditor
(1) <i>Bank or building society which in either case carries on designated investment business</i>	SUP 3.1 – SUP 3.7	SUP 3.1, SUP 3.2, SUP 3.8, SUP 3.10
(2) <i>Bank or building society which in either case does not carry on designated investment business</i>	SUP 3.1 – SUP 3.7	SUP 3.1, SUP 3.2, SUP 3.8
(3) <i>Investment management firm, personal investment firm (other than a small personal investment firm), or securities and futures firm (Note 1)</i>	SUP 3.1 – SUP 3.7	SUP 3.1, SUP 3.2, SUP 3.8 – SUP 3.10
(4) <i>Insurer, the Society of Lloyd's, underwriting agent or members' adviser</i>	SUP 3.1 – SUP 3.7	SUP 3.1, SUP 3.2, SUP 3.8

(1) Category of firm	(2) Sections applicable to the firm	(3) Sections applicable to its auditor
(5) <i>Small personal investment firm, service company or authorised professional firm</i> (Note 2)	SUP 3.1, SUP 3.2, SUP 3.7	SUP 3.1, SUP 3.2, SUP 3.8

Note 1 = This note applies in relation to an *oil market participant* to which *IPRU(INV)* 3 does not apply. Only *SUP* 3.1, *SUP* 3.2 and *SUP* 3.7 are applicable to such a *firm* and only *SUP* 3.1, *SUP* 3.2 and *SUP* 3.8 are applicable to its auditor.

Note 2 = This note applies in relation to an *authorised professional firm* which is required by *IPRU(INV)* 2.1.2R to comply with chapter 3, 5, 10 or 13 of *IPRU(INV)*. This chapter applies to such a *firm* (and its auditor) as if it were the relevant *firm* type in the right-hand column of *IPRU(INV)* 2.1.4R.

Incoming firms

- 3.1.3** **R**_{/1} This chapter does not apply to an *incoming EEA firm* without a *top-up permission* or an auditor of such a *firm*.
- 3.1.4** **G**_{/1} The application of *SUP* 3.10 to the auditor of an *incoming EEA firm* with a *top-up permission* is qualified in *SUP* 3.10.3R.
- 3.1.5** **R**_{/1} This chapter does not apply to an *incoming Treaty firm*, which:
- (1) does not have a *top-up permission*; and
 - (2) is not required to comply with the *client asset rules*.
- 3.1.6** **G**_{/1} The application of *SUP* 3.7 and *SUP* 3.9 to an *incoming Treaty firm* or an auditor of such a *firm* is further qualified in *SUP* 3.7.1G and *SUP* 3.9.2R.

Auditors of lead regulated firms

- 3.1.7** **G**_{/1} The application of *SUP* 3.9 and *SUP* 3.10 to the auditor of a *lead regulated firm* is qualified in *SUP* 3.9.2R and *SUP* 3.10.3R.

Auditors of firms of solicitors subject to SUP 3.10

- 3.1.8** **G**_{/1} A *firm* of solicitors is not required to comply with the *client money rules* (COB 9.3) and instead must comply with its *designated professional body's* rules (COB

9.3.25R). SUP 3.10 is therefore modified for the auditor of such a *firm*, if it applies (see Note 2 to the table in SUP 3.1.2R and SUP 3.10.2R).

Material elsewhere in the Handbook

3.1.9

G
/1

A *firm* which is a *bank, building society, friendly society* or other *insurer, investment management firm, personal investment firm, securities and futures firm* or the *Society of Lloyd’s* should see the Interim Prudential sourcebooks for further provisions on auditors as set out in SUP 3.1.10G. For the categorisations employed in SUP 3.1.2R and SUP 3.1.10G see SUP App 1.

3.1.10

G
/1

Table Other relevant sections of the Handbook (see SUP 3.1.9G)

<i>Bank</i>	<i>IPRU(BANK)</i>
<i>Building society</i>	<i>IPRU(BSOC)</i>
<i>Friendly society</i>	<i>IPRU(FSOC)</i>
<i>Insurer (other than a friendly society)</i>	<i>IPRU(INS)</i>
<i>Investment management firm,</i>	<i>IPRU(INV)</i>
<i>personal investment firm, securities</i>	
<i>and futures firm</i>	
<i>Society of Lloyd’s</i>	<i>LLD</i>

3.2 Purpose

- 3.2.1** G_{/1} This chapter sets out *rules* and *guidance* on the role auditors play in the FSA's monitoring of *firms'* compliance with the requirements and standards under the *regulatory system*. In determining whether a *firm* satisfies the *threshold conditions*, the FSA has regard to whether the *firm* has appointed auditors with sufficient experience in the areas of business to be conducted by the *firm* (COND 2.5.7G(11)). Auditors act as a source of information for the FSA in its supervision. They report, where required, on the financial resources of the *firm*, the accuracy of its reports to the FSA and its compliance with particular *rules*, such as the *client asset rules*.
- 3.2.2** G_{/1} The *Act*, together with other legislation such as the Companies Acts 1985 and 1989, the Building Societies Act 1986 and the Friendly Societies Act 1992, provides the statutory framework for *firms'* and auditors' obligations.
- 3.2.3** G_{/1} The requirements in SUP 3.9 represent an interim approach to the use of auditors, based mainly on the requirements which *previous regulators* applied to *firms*.
- 3.2.4** G_{/1} SUP 3.1.1R and SUP 3.1.2R limit the application of this chapter in relation to *authorised professional firms* and certain *oil market participants*. Such a *firm* is not required, under this chapter, to appoint an auditor. If such a *firm* appoints an auditor, for example, under the Companies Act 1985, SUP 3.7 and 3.8 nevertheless apply to help the FSA discharge its functions under the *Act*.

3.3 Appointment of auditors

Purpose

- 3.3.1** **G** ^{/1} This section requires a *firm* to appoint an auditor and supply the *FSA* with information about its auditor. The *FSA* requires such information to ensure that the *firm* has an auditor.

Appointment by firms

- 3.3.2** **R** ^{/1} A *firm* to which this section applies (see *SUP* 3.1) must:
- (1) appoint an auditor to undertake the duties and responsibilities set out in *SUP* 3.8 to *SUP* 3.10 (as applicable);
 - (2) notify the *FSA*, without delay, when it is aware that a vacancy in the office of auditor will arise or has arisen, giving the reason for the vacancy;
 - (3) appoint an auditor to fill any vacancy in the office of auditor which has arisen;
 - (4) ensure that the replacement auditor can take up office at the time the vacancy arises or as soon as reasonably practicable after that; and
 - (5) notify the *FSA* of the appointment of an auditor, advising the *FSA* of the name and business address of the auditor appointed and the date from which the appointment has effect.
- 3.3.3** **G** ^{/1}
- (1) *SUP* 3.3.2R applies to every *firm* to which this section applies. That includes a *firm* which is under an obligation to appoint an auditor under an enactment other than the *Act*, such as the Companies Act 1985. Such a *firm* is free to have a single auditor who is appointed to fulfil both obligations. *SUP* 3.3.2 R is made under section 138 of the *Act* (General rule-making power), in relation to such *firms*, and under section 340(1) (Appointment) in relation to other *firms*.
 - (2) *Building societies* and *friendly societies* are reminded that they are subject to the provisions of Schedule 11 to the Building Societies Act 1986 and Schedule 14 to the Friendly Societies Act 1992 relating to auditors, in addition to the provisions in this chapter. In relation to *SUP* 3.3.2R(2), such *firms* may give

the FSA a single notification of a vacancy in the office of auditor provided that the notification complies with the requirements of the relevant Act and SUP 3.3.2R(2).

The Society of Lloyd's

3.3.4

D
/1

With a view to achieving the objectives of promoting confidence in the market at Lloyd's and protecting the interests of policyholders and potential policyholders, the *Society* is directed under section 318 of the *Act* (Exercise of powers through Council), to take reasonable steps to ensure that:

- (1) every *managing agent* appoints an auditor for every *syndicate* which it manages; and
- (2) the auditor of every *syndicate* has the skill, resources and experience required to perform his duties.

Underwriting agents: notification to the Society of Lloyd's

3.3.5

R
/1

- (1) Paragraph (2) applies if the notifications required by SUP 3.3.2R(2) or (5) are within the scope of any arrangements made by the FSA with the *Society of Lloyd's* under paragraph 6(2) of Schedule 1 to the *Act*.
- (2) An *underwriting agent* must submit a notification in (1) to the *Society of Lloyd's* rather than to the FSA.

3.3.6

G
/1

An underwriting agent should see SUP 15.7.13G and SUP 15.7.14G for further guidance on the arrangements in SUP 3.3.5R.

Appointment by the FSA

3.3.7

R
/1

- (1) Paragraph (2) applies to a *firm* which is not under an obligation to appoint an auditor imposed by an enactment other than the *Act*.
- (2) If a *firm* fails to appoint an auditor within 28 days of a vacancy arising, the FSA may appoint an auditor for it on the following terms:
 - (a) the auditor to be remunerated by the *firm* on the basis agreed between the auditor and *firm* or, in the absence of agreement, on a reasonable basis; and
 - (b) the auditor to hold office until he resigns or the *firm* appoints another auditor.

3.3.8

G
/1

In addition, in the case of a *building society* or *friendly society*, Schedule 11 of the Building Societies Act 1986 and Schedule 14 of the Friendly Societies Act 1992

allow the *FSA* to appoint an auditor if this is not done at the society's annual general meeting.

3.3.9

G

/1

SUP 3.3.7R allows but does not require the *FSA* to appoint an auditor if the *firm* has failed to do so within the 28 day period. When it considers whether to use this power, the *FSA* will take into account the likely delay until the *firm* can make an appointment and the urgency of any pending duties of the appointed auditor.

3.3.10

R

/1

A *firm* must comply with and is bound by the terms on which an auditor has been appointed by the *FSA*, whether under *SUP* 3.3.7R, the Building Societies Act 1986 or the Friendly Societies Act 1992.

3.4 Auditors' qualifications

Purpose

- 3.4.1** **G**
/1 The *FSA* is concerned to ensure that the auditor of a *firm* has the necessary skill and experience to audit the business of the *firm* to which he has been appointed. This section sets out the *FSA's rules* and *guidance* aimed at achieving this.

Qualifications

- 3.4.2** **R**
/1 Before a *firm*, to which *SUP* 3.3.2R applies, appoints an auditor, it must take reasonable steps to ensure that the auditor has the required skill, resources and experience to perform his functions under the *regulatory system* and that the auditor:
- (1) is eligible for appointment as an auditor under Part II of the Companies Act 1989 or Part III of the Companies (Northern Ireland) Order 1990 (Eligibility for appointment) respectively; or
 - (2) if appointed under an obligation in another enactment, is eligible for appointment as an auditor under that enactment; or
 - (3) in the case of an *overseas firm*, is eligible for appointment as an auditor under any applicable equivalent laws of that country or territory.
- 3.4.3** **G**
/1 Enactments within *SUP* 3.4.2R(2) include the Building Societies Act 1986 and the Friendly Societies Act 1992.
- 3.4.4** **G**
/1 An auditor which a *firm* proposes to appoint should have skills, resources and experience commensurate with the nature, scale and complexity of the *firm's* business and the requirements and standards under the *regulatory system* to which it is subject. A *firm* should have regard to whether its proposed auditor has expertise in the relevant requirements and standards (which may involve access to *UK* expertise) and possesses or has access to appropriate specialist skill, for example actuarial expertise in carrying out audits of insurance companies or *friendly societies* where appropriate. The *firm* should seek confirmation of this from the auditor concerned as appropriate.

Disqualified auditors

3.4.5 **R**
/1 A *firm* must not appoint as auditor a *person* who is disqualified by the *FSA* under section 345 of the *Act* (Disqualification) from acting as an auditor either for that *firm* or for a relevant class of *firm*.

3.4.6 **G**
/1 If it appears to the *FSA* that an auditor of a *firm* has failed to comply with a duty imposed on him under the *Act*, it may disqualify him under section 345 of the *Act*. For more detail about what happens when the disqualification of an auditor is being considered or put into effect, see *ENF* 17. A list of *persons* who are disqualified by the *FSA* under section 345 of the *Act* may be found on the *FSA* website (www.fsa.gov.uk).

Requests for information on qualifications by the FSA

3.4.7 **R**
/1 A *firm* must take reasonable steps to ensure that an auditor, which it is planning to appoint or has appointed, provides information to the *FSA* about the auditor's qualifications, skills, experience and independence in accordance with the reasonable requests of the *FSA*.

3.4.8 **G**
/1 To enable it to assess the ability of an auditor to audit a *firm*, the *FSA* may seek information about the auditor's relevant experience and skill. The *FSA* will normally seek information by letter from an auditor who has not previously audited any *firm*. The *firm* should instruct the auditor to reply fully to the letter (and should not appoint an auditor who does not reply to the *FSA*). The *FSA* may also seek further information on a continuing basis from the auditor of a *firm* (see also the auditor's duty to cooperate under *SUP* 3.8.2R).

3.5 Auditors' independence

Purpose

- 3.5.1** **G**
/1 If an auditor is to carry out his duties properly, he needs to be independent of the *firm* he is auditing, so that he is not subject to conflicts of interest. Many *firms* are also subject to requirements under the Companies Act 1989, the Building Societies Act 1986 or the Friendly Societies Act 1992 on auditor's independence.

Independence

- 3.5.2** **R**
/1 A *firm* must take reasonable steps to ensure that the auditor which it appoints is independent of the *firm*.
- 3.5.3** **R**
/1 If a *firm* becomes aware at any time that its auditor is not independent of the *firm*, it must take reasonable steps to ensure that it has an auditor independent of the *firm*. The *firm* must notify the FSA if independence is not achieved within a reasonable time.
- 3.5.4** **G**
/1 The FSA will regard an auditor as independent if his appointment or retention does not breach the ethical guidance in current issue from the auditor's recognised supervisory body on the appointment of an auditor in circumstances which could give rise to conflicts of interest.
- 3.5.5** **G**
/1 *Firms* are reminded that the Building Societies Act 1986 and Friendly Societies Act 1992 provide that an auditor who is ineligible under section 27 of the Companies Act 1989 for appointment as auditor of a company (which is a subsidiary undertaking of a *building society* or a subsidiary of a *friendly society*) is ineligible for appointment as auditor to the *building society* or *friendly society* concerned.

3.6 Firms' cooperation with their auditors

- 3.6.1** **R** *A firm must cooperate with its auditor in the discharge of his duties under this chapter.*
/1

Auditor's access to accounting records

- 3.6.2** **G** In complying with SUP 3.6.1R, a *firm* should give a right of access at all times to the *firm's* accounting and other records, in whatever form they are held, and *documents* relating to its business. A *firm* should allow its auditor to copy *documents* or other material on the premises of the *firm* and to remove copies or hold them elsewhere, or give him such copies on request.
/1

- 3.6.3** **G** Section 341 of the *Act* (Access to books etc.) provides that an auditor of a *firm* appointed under SUP 3.3.2R:
/1
- (1) has a right of access at all times to the *firm's* books, accounts and vouchers; and
 - (2) is entitled to require from the *firm's* officers such information and explanations as he reasonably considers necessary for the performance of his duties as auditor.

- 3.6.4** **G** Section 389A of the Companies Act 1985, section 79 of the Building Societies Act 1986 and section 75 of the Friendly Societies Act 1992 give similar rights to auditors of companies, *building societies* and *friendly societies* respectively.
/1

- 3.6.5** **G** Section 413 (Protected items), under which no person may be required under the *Act* to produce, disclose or permit the inspection of *protected items*, is relevant to SUP 3.6.1R and SUP 3.6.3G.
/1

Access and cooperation: appointed representatives, material outsourcing, employees

- 3.6.6** **G** In complying with SUP 3.6.1R, a *firm* should take reasonable steps to ensure that each of its *appointed representatives* gives the *firm's* auditor the same rights of access to the books, accounts and vouchers of the *appointed representative* and entitlement to information and explanations from the *appointed representative's* officers as are given in respect of the *firm* by section 341 of the *Act* (see also SUP 12.5.5G(3)).
/1

- 3.6.7** **G** In complying with SUP 3.6.1R, a *firm* should take reasonable steps to ensure that each of its suppliers under a *material outsourcing* arrangement gives the *firm's* auditor the same rights of access to the books, accounts and vouchers of the *firm*
/1

held by the supplier, and entitlement to information and explanations from the supplier's officers as are given in respect of the *firm* by section 341 of the *Act*.

3.6.8

G
/1

In complying with *SUP* 3.6.1R, a *firm* should take reasonable steps to ensure that all its employees cooperate with its auditor in the discharge of his duties under this chapter.

Provision of false or misleading information to auditors

3.6.9

G
/1

Firms and their officers, *managers* and *controllers* are reminded that, under section 346 of the *Act* (Provision of false or misleading information to auditor or actuary), knowingly or recklessly giving false information to an auditor appointed under *SUP* 3.3.2R constitutes an *offence* in certain circumstances, which could render them liable to prosecution. This applies even when an auditor is also appointed under an obligation in another enactment.

3.7 Notification of matters raised by auditor

Application

- 3.7.1** **G**_{/1} SUP 3.7 does not apply to an *incoming Treaty firm* which does not have a *top-up permission*.

Notification

- 3.7.2** **G**_{/1} A *firm* should consider whether it should notify the FSA under *Principle 11* if:
- (1) the *firm* expects or knows its auditor will qualify his report on the audited annual financial statements or add an explanatory paragraph; or
 - (2) the *firm* receives a written communication from its auditor commenting on *internal controls* (see also SUP 15.3).
- 3.7.3** **G**_{/1} An *underwriting agent* should submit any notifications under this section in accordance with the arrangements made between the FSA and the *Society of Lloyd's*. For *guidance* on those arrangements see SUP 15.7.13G and SUP 15.7.14G.

3.8 Rights and duties of all auditors

Purpose

- 3.8.1** **G**
/1 The auditor of a *firm* has various rights and duties to obtain information from the *firm* and both to enable and to require him to pass information to the *FSA* in specified circumstances. This section imposes or gives *guidance* on those rights and duties.

Cooperation with the FSA

- 3.8.2** **R**
/1 An auditor of a *firm* must cooperate with the *FSA* in the discharge of its functions under the *Act*.
- 3.8.3** **G**
/1 The *FSA* may ask the auditor to attend meetings and to supply it with information about the *firm*. In complying with *SUP* 3.8.2R, the auditor should attend such meetings as the *FSA* requests and supply it with any information the *FSA* may reasonably request about the *firm* to enable the *FSA* to discharge its functions under the *Act*.
- 3.8.4** **R**
/1 An auditor of a *firm* must give any *skilled person* appointed by the *firm* all assistance that *person* reasonably requires (see *SUP* 5 and section 166(5) of the *Act* (Reports by skilled persons)).

Auditor's independence

- 3.8.5** **R**
/1 An auditor of a *firm* must be independent of the *firm* in performing his duties in respect of that *firm*.
- 3.8.6** **R**
/1 An auditor of a *firm* must take reasonable steps to satisfy himself that he is free from any conflict of interest in respect of that *firm* from which bias may reasonably be inferred. He must take appropriate action where this is not the case.
- 3.8.7** **G**
/1 *SUP* 3.5.4G explains that an auditor whose appointment does not breach the ethical guidance in current issue from the auditor's recognised supervisory body will be regarded as independent by the *FSA*.

Auditors' rights to information

- 3.8.8** G_{/1} *SUP* 3.6.1R requires a *firm* to cooperate with its auditor. *SUP* 3.6.3G refers to the rights to information which an auditor is granted by the *Act*. *SUP* 3.6.4G refers to similar rights granted by the Companies Act 1985, the Building Societies Act 1986 and the Friendly Societies Act 1992.

Communication between the FSA, the firm and the auditor

- 3.8.9** G_{/1} Within the legal constraints that apply, the *FSA* may pass on to an auditor any information which it considers relevant to his function. An auditor is bound by the confidentiality provisions set out in Part XXIII of the *Act* (Public record, disclosure of information and cooperation) in respect of confidential information he receives from the *FSA*. An auditor may not pass on such confidential information without lawful authority, for example if an exception applies under the Financial Services and Markets Act 2000 (Disclosure of Confidential Information) Regulations 2001 (SI 2001/2188) or with the consent of the *person* from whom that information was received and (if different) to whom the information relates.

Auditors' statutory duty to report

- 3.8.10** G_{/1} Auditors are subject to regulations made by the Treasury under sections 342(5) and 343(5) of the *Act* (Information given by auditor or actuary to the *FSA*). These regulations oblige auditors to report certain matters to the *FSA*. Sections 342(3) and 343(3) of the *Act* provide that an auditor does not contravene any duty by giving information or expressing an opinion to the *FSA*, if he is acting in good faith and he reasonably believes that the information or opinion is relevant to any functions of the *FSA*. These provisions continue to have effect after the end of the auditor's term of appointment.

Termination of term of office, disqualification

- 3.8.11** R_{/1} An auditor must notify the *FSA* without delay if he:
- (1) is removed from office by a *firm*; or
 - (2) resigns before his term of office expires; or
 - (3) is not re-appointed by a *firm*.
- 3.8.12** R_{/1} If an auditor ceases to be, or is formally notified that he will cease to be, the auditor of a *firm*, he must notify the *FSA* without delay:
- (1) of any matter connected with his so ceasing which he thinks ought to be drawn to the *FSA*'s attention; or
 - (2) that there is no such matter.

3.8.13

R

/1

- (1) An auditor of an *underwriting agent* must submit a notification under *SUP 3.8.11R* or *SUP 3.8.12R* to the *Society of Lloyd's* rather than to the *FSA* if (2) applies.
- (2) This paragraph applies if the notification is within the scope of any arrangements made by the *FSA* with the *Society of Lloyd's* under paragraph 6(2) of Schedule 1 to the *Act*.

3.8.14

G

/1

For *guidance* on these arrangements, see *SUP 15.7.13G* and *SUP 15.7.14G*. Notification to the *Society* acting on behalf of the *FSA* in accordance with *SUP 3.8.13R* also satisfies the obligation to notify the *FSA* in accordance with section 344 of the *Act* (Duty of auditor or actuary resigning etc. to give notice).

3.9 Duties of auditors: reports on certain investment business firms

Purpose

- 3.9.1** **G**
/1 The types of *firm* which an auditor is required to report on in this section generally have businesses and assets of a nature which lend themselves well to the use of standardised reports by auditors as a supervisory tool. To assist its supervision, the FSA therefore requires an auditor's report on these *firms'* financial statements and regulatory reporting in the format in SUP 3.9.5R as a means of obtaining information about the *firm's* financial position, and the quality of its regulatory reporting.

Application

- 3.9.2** **R**
/1 In addition to those excluded under SUP 3.1, SUP 3.9 does not apply to the auditor of:
- (1) a *lead-regulated firm*; or
 - (2) an *incoming Treaty firm*, which does not have a *top-up permission*.
- 3.9.3** **R**
/1 Where this section requires the auditor of a *firm* to report on a *firm's* compliance with *rules*, this section applies to the auditor only to the extent that the *firm* is required to comply with the relevant *rules*.

The auditor's report: content

- 3.9.4** **R**
/1 An auditor of a *firm* must:
- (1) submit a report addressed to the FSA, signed in his capacity as auditor, which states the matters set out in SUP 3.9.5R;
 - (2) in preparing a report to the FSA under (1), carry out such investigations as are reasonably necessary in order to form an opinion as to the matters required to be stated in the report; and

3.9.5

R

Table Auditor's report

/1

- (3) submit a letter to the *firm* annually commenting on the *firm's internal controls* or stating that he has no such comments, whichever is appropriate; such a letter need only cover matters which have come to the auditor's attention while undertaking the work to produce the reports required by (1) or SUP 3.10.4R.

whether the auditor has:

- (1) audited the *firm's* annual financial statements in accordance with United Kingdom Auditing Standards issued by the Auditing Practices Board;
- (2) carried out such other procedures as he considered necessary, having regard to the relevant Auditing Practices Board's Practice Note; and
- (3) obtained all the information and explanations which to the best of his knowledge and belief are necessary for the purposes of his report to the *FSA*; and

whether in the auditor's opinion:

- (4) except in the case of an *OPS firm*, the audited annual financial statements of the *firm* give a true and fair view:
- (a) in the case of the profit and loss account, of the *firm's* profit or loss for the period to which that account relates; and
- (b) in the case of the annual balance sheet, of the state of the affairs of the *firm* at the *accounting reference date* at which that balance sheet was prepared;
- (5) in the case of an *OPS firm*, the audited annual financial statements give a true and fair view of the state of affairs:
- (a) in the case of the statements of the *firm*, of the *firm* at the *accounting reference date* of the *firm*; and
- (b) in the case of any *OPS collective investment scheme* in relation to which the *firm* carries on *OPS activities*, of the *OPS collective investment scheme* at the *accounting reference date* of the scheme;
- (6) the relevant financial reporting statement has been properly prepared in accordance with the *FSA's rules*, the relevant financial reporting statement being, in the case of:

- (a) **an investment management firm: the annual financial return (see SUP 16.7.36R) ; or**
- (b) **a personal investment firm: the annual financial statement (see SUP 16.7.45R) ; or**
- (c) **a securities and futures firm: the annual reporting statement (SUP 16.7.25R or SUP 16.7.27R);**
- (7) **the balance sheet and the profit and loss account of the relevant financial reporting statement in (6) are in agreement with the firm's accounting records and returns;**
- (8) **in the case of:**
 - (a) **a personal investment firm; or**
 - (b) **a securities and futures firm;****the balance sheet of the relevant financial reporting statement in (6) has been properly reconciled to the quarterly reporting statement or monthly reporting statement prepared as at the same accounting reference date;**
- (9) **in the case of a securities and futures firm, the balance sheet of the annual reporting statement has been properly reconciled to the balance sheet of the audited annual financial statements;**
- (10) **the firm (not being a corporate finance advisory firm or an OPS firm) has calculated its expenditure requirement in accordance with the relevant rules for the forthcoming year, the relevant rules being, in the case of:**
 - (a) **an investment management firm: IPRU(INV) 5.2.3R (4) and IPRU(INV) 5.2.4R;**
 - (b) **a category A personal investment firm (see SUP 3.9.6R): IPRU(INV) 13.2R and IPRU(INV) 13.5R;**
 - (c) **a category B personal investment firm (see SUP 3.9.6R): IPRU(INV) 13.9R and IPRU(INV) 13.12R;**
 - (d) **a securities and futures firm which is not an ISD investment firm: IPRU(INV) 3-70R, IPRU(INV) 3-71R and IPRU(INV) 3-73R;**
 - (e) **a securities and futures firm which is an ISD investment firm: IPRU(INV) 10-71R, IPRU(INV) 10-72R and IPRU(INV) 10-73R;**

- (11) the *firm's* statement of financial resources, and the *firm's* statement of financial resources requirement, have been properly prepared in accordance with the *rules*;
- (12) the *firm's* financial resources at the *accounting reference date* are sufficient to meet the *firm's* financial resources requirement;
- (13) the *firm* has kept proper accounting records in accordance with the *rules* throughout its financial year, the relevant *rules* being, in the case of:
 - (a) an *investment management firm*: IPRU(INV) 5.3.1R;
 - (b) a *personal investment firm*: IPRU(INV) 13.1.11 – 13.1.16R
 - (c) a *securities and futures firm* which is not an *ISD investment firm*: IPRU(INV) 3–10R;
 - (d) a *securities and futures firm* which is an *ISD investment firm*: IPRU(INV) 10–10R;
- (14) if the *firm* prepares a consolidated reporting statement at its *accounting reference date*, that it has been prepared in accordance with the *rules*.

3.9.6

R

In SUP 3.9.5R(10)(b) and (c), a "Category A *personal investment firm*" is a *personal investment firm* which is an *ISD investment firm* and a "Category B *personal investment firm*" is a *personal investment firm* other than a category A *personal investment firm*.

/1

The auditor's report: timing of submission

3.9.7

R

An auditor of a *firm* must submit a report under SUP 3.9.4R(1) after each *accounting reference date* of the *firm* and so as to be received by the *FSA* within:

/1

- (1) in the case of an auditor of a *securities and futures firm*, three months of the *firm's accounting reference date*;
- (2) in the case of an auditor of a *personal investment firm* or an *investment management firm*, four months of the *firm's accounting reference date*.

3.9.8

R

If an auditor is unable to report to the *FSA* within the timetable set out in SUP 3.9.7R, the auditor must notify the *FSA* and advise the *FSA* of the reasons why it has been unable to meet the requirements of SUP 3.9.7R.

/1

The auditor's report: requirements not met or inability to form opinion

3.9.9

R

/1

- (1) If the report under *SUP 3.9.4R(1)* states that one or more of the applicable requirements described in *SUP 3.9.5R(4)* to (14) have not been met, the auditor must specify in the report those requirements and the respects in which they have not been met.
- (2) If an auditor is unable to form an opinion as to whether one or more of the applicable requirements described in *SUP 3.9.5R(4)* to (14) have been met, the auditor must specify in the report under *SUP 3.9.4R(1)* those requirements and the reasons why the auditor has been unable to form an opinion.

Method of submission of reports

3.9.10

R

/1

An auditor of a *firm* must submit a report under *SUP 3.9.4(1)* in accordance with the *rules* in *SUP 16.3.6R* to *SUP 16.3.13R* as if those *rules* applied directly to the auditor.

Service of Notice Regulations

3.9.11

G

/1

The Financial Services and Markets Act 2000 (Service of Notices) Regulations 2001 (SI 2001/1420) contains provisions relating to the service of documents on the *FSA*. They do not apply to reports required under *SUP 3.9* because of the specific provisions in *SUP 3.9.10R*.

3.10 Duties of auditors: notification and report on client assets

Application

- 3.10.1 **R** /1 Where this section requires an auditor of a *firm* to report on a *firm's* compliance with *rules*, this section applies to the auditor only to the extent that the *firm* is required to comply with the relevant *rules*.
- 3.10.2 **R** /1 An auditor of an *authorised professional firm* need not report under this section in relation to that *firm's* compliance with the *client money rules* (COB 9.3), if that firm is regulated by:
- (1) the Law Society (England and Wales);
 - (2) the Law Society of Scotland;
 - (3) the Law Society of Northern Ireland.
- 3.10.3 **R** /1 *SUP* 3.10.5R (3) does not apply to an auditor of a *lead regulated firm* or an *incoming EEA firm*.

Client assets report: content

- 3.10.4 **R** /1 An auditor of a *firm* must submit a report addressed to the *FSA*, signed in his capacity as auditor, which:
- (1) states the matters set out in *SUP* 3.10.5; or
 - (2) if the *firm* claims not to hold *client money* or *custody assets*, states whether anything has come to the auditor's attention that causes him to believe that the *firm* held *client money* or *custody assets* during the period covered by the report.
- 3.10.5 **R** /1 Table Client assets report

whether in the auditor's opinion

- (1) the *firm* has maintained systems adequate to enable it to comply with the *rules* in *COB 9 (Client assets)* throughout the period since the last date as at which a report was made;
- (2) the *firm* was in compliance with the *rules* in *COB 9 (Client assets)* at the date as at which the report has been made; and
- (3) in the case of an *investment management firm, personal investment firm or securities and futures firm*, when a *subsidiary* of the *firm* is a *nominee company* in whose name *custody assets* of the *firm* are registered, that *nominee company* has maintained throughout the year systems for the custody, identification and control of *custody assets* which:
 - (a) are adequate; and
 - (b) include reconciliations at appropriate intervals between the records maintained (whether by the *firm* or the *nominee company*) and statements or confirmations from *custodians* or from the *person* who maintains the record of legal entitlement.

Client assets report: period covered

- 3.10.6 **R** The period covered by a report under *SUP 3.10.4R* must end not more than 53 weeks after the period covered by the previous report on such matters, or, if none, after the *firm* is *authorised* or becomes a *firm* to which *SUP 3.10* applies.

Client assets report: timing of submission

- 3.10.7 **R** An auditor must deliver a report under *SUP 3.10.4R* to the *FSA* so as to be received within four months of the end of each period covered.
- 3.10.8 **R** If an auditor is unable to report to the *FSA* within the timetable set out in *SUP 3.10.7R*, the auditor must notify the *FSA* and advise the *FSA* of the reasons why it has been unable to meet the requirements of *SUP 3.10.7R*.

Client assets report: requirements not met or inability to form opinion

- 3.10.9** **R** /1 If the report under *SUP* 3.10.4R states that one or more of the applicable requirements described in *SUP* 3.10.5R have not been met, the auditor must specify in the report those requirements and the respects in which they have not been met.
- 3.10.10** **R** /1 If an auditor is unable to form an opinion as to whether one or more of the applicable requirements described in *SUP* 3.10.5R have been met, the auditor must specify in the report under *SUP* 3.10.4R those requirements and the reasons why the auditor has been unable to form an opinion.
- 3.10.11** **G** /1 An auditor may at the *firm's* request include the matters required under this section in a separate report to that required under section *SUP* 3.9.

Method of submission of reports

- 3.10.12** **R** /1 An auditor of a *firm* must submit a report under *SUP* 3.10.4R in accordance with the rules in *SUP* 16.3.6R to *SUP* 16.3.13R as if those *rules* applied directly to the auditor.

Service of Notice Regulations

- 3.10.13** **G** /1 The Financial Services and Markets Act 2000 (Service of Notices) Regulations 2001 (SI 2001/1420) contain provisions relating to the service of documents on the *FSA*. They do not apply to reports required by *SUP* 3.10 because of the specific provisions in *SUP* 3.10.12R.

Chapter 4

Actuaries





4.1 Application

4.1.1

R
/1

This chapter applies to:

- (1) every *firm* within a category listed in column (1) of the table in SUP 4.1.3R; and
 - (2) the *appointed actuary* or *appropriate actuary* of such a *firm*;
- in accordance with column (2) of that table.

4.1.2

G
/1

This chapter applies to *long-term insurers* (including *friendly societies*) and other *friendly societies*. This chapter does not apply to the *Society of Lloyd's* or to Lloyd's *underwriting agents*. Requirements dealing with the appointment and duties of *actuaries* in relation to Lloyd's *insurance business* are contained in *LLD*.

4.1.3

R
/1

Table Applicable sections (see SUP 4.1.1.R)

(1) Category of firm	(2) Applicable sections
(1) A long term <i>insurer</i> , other than:	SUP 4.1, SUP 4.2, SUP 4.3 and SUP 4.5
(a) a <i>registered friendly society</i> which is a <i>non-directive friendly society</i> ; and	
(b) an <i>incorporated friendly society</i> that is a <i>flat rate benefits business friendly society</i> .	
(2) A <i>friendly society</i> , other than a <i>friendly society</i> within (1)	SUP 4.1, SUP 4.2, SUP 4.4 and SUP 4.5

4.2 Purpose

- 4.2.1** G_{/1} Section 340 of the *Act* gives the *FSA* power to make *rules* requiring an *authorised person*, or an *authorised person* falling into a specified class, to appoint an actuary. Section 340 further empowers the *FSA* to make *rules* governing the manner, timing and notification to the *FSA* of such an appointment and, where an appointment is not made, for the *FSA* to make an appointment on the *firm's* behalf. The *FSA's* rule-making powers under section 340 of the *Act* also extend to the actuary's duties and to the cessation of an actuary's term of office.
- 4.2.2** G_{/1} This chapter defines the relationship between a *firm* and its *appointed actuary* or *appropriate actuary* and clarifies the role which *appointed actuaries* and *appropriate actuaries* play in the *FSA's* monitoring of *firms'* compliance with the requirements and standards under the *regulatory system*. The chapter sets out *rules* and *guidance* on the appointment of an *actuary* to the position of *appointed actuary* or *appropriate actuary*, and the termination of the *actuary's* term of office, as well as setting out their respective rights and duties. The purpose of the chapter is to ensure that:
- (1) *long-term insurers* (other than certain *friendly societies*) have access to adequate actuarial advice; and
 - (2) other *friendly societies* carrying on *insurance business* (and which have traditionally relied upon actuarial expertise) employ or use an *actuary* of appropriate seniority and experience to evaluate the liabilities of that business.
- 4.2.3** G_{/1} The function described by *SUP* 4.2.2G(1) is performed by the *appointed actuary* who is required to hold office continuously and must be an *approved person*. The principal duty of the *appointed actuary* is to advise the *firm* (see *SUP* 4.3.13R to *SUP* 4.3.21G for the rights and duties of the *appointed actuary*).
- 4.2.4** G_{/1} The function described by *SUP* 4.2.2G(2) is performed by the *appropriate actuary* who is appointed triennially to prepare the investigation required by *IPRU(FSOC)* [number to be inserted later] (see *SUP* 4.4.7R to *SUP* 4.4.10G for the rights and duties of an *appropriate actuary*).
- 4.2.5** G_{/1} Both the *appointed actuary* and the *appropriate actuary* act as a valuable source of information to the *FSA* in carrying out its functions. For example, in determining whether a *firm* satisfies the *threshold conditions*, the *FSA* has regard to whether the *firm* has appointed an *appointed actuary* with sufficient experience in the areas of business to be conducted by the *firm* (*COND* 2.5.7G(11)).

4.3 Appointed actuaries

Appointment by firms

4.3.1

R

/1

A *firm* to which this section applies (see SUP 4.1) must:

- (1) appoint an *actuary* (the "*appointed actuary*");
- (2) notify the *FSA*, without delay, when it is aware that a vacancy in the office of *appointed actuary* will arise or has arisen, giving the reason for the vacancy;
- (3) appoint an *actuary* to fill any vacancy in the office of *appointed actuary* that has arisen; and
- (4) ensure the replacement *actuary* can take up office at the time the vacancy arises or as soon as reasonably practicable after that.

4.3.2

G

/1

The provisions relating to the duties of the *appointed actuary* are set out in SUP 4.3.13R to SUP 4.3.21G. Acting in the capacity of *appointed actuary* of a *firm* under SUP 4.3.1R is specified as a *controlled function* (CF 12, the *appointed actuary function*) in SUP 10 (*Approved persons*). As a result, an application must be made to the *FSA* under section 60 of the *Act* (Applications for approval) for approval of the *person* proposing to take up an appointment as an *appointed actuary*. Section 61(3) of the *Act* (Determination of applications) gives the *FSA* three months to grant its approval or give a *warning notice* that it proposes to refuse the application. A *firm* should not appoint an *actuary* until the *FSA* has approved the *actuary*. In order to comply with SUP 4.3.1R, a *firm* should ensure it applies to the *FSA* as soon as practicable before the date when it needs the *actuary* to take office. The *FSA* will need time to consider the application before deciding whether to grant approval. See SUP 10 (*Approved persons*).

Appointment by the FSA

4.3.3

R

/1

If a *firm*, which is required to appoint an *actuary* under SUP 4.3.1R, fails to do so within 28 days of a vacancy arising, the *FSA* may appoint an *actuary* to perform the function of *appointed actuary* on the following terms:

- (1) the *actuary* to be remunerated by the *firm* on the basis agreed between the *actuary* and the *firm* or, in the absence of agreement, on a reasonable basis; and
- (2) the *actuary* to hold office until he resigns or the *firm* appoints another *actuary*.

4.3.4 G_{/1} SUP 4.3.3R allows but does not require the FSA to appoint an *actuary* if the *firm* has failed to do so within the 28 day period. When it considers whether to use this power, the FSA will take into account the likely delay until the *firm* can make an appointment and the urgency of any pending duties of the *appointed actuary*.

4.3.5 G_{/1} The FSA will not normally seek to appoint an *actuary* under SUP 4.3.3R if a notification under SUP 10 (*Approved persons*) has been received from the *firm* in relation to a proposed appointment of an *actuary* under SUP 4.3.1R, and that application is still being considered.

4.3.6 R_{/1} A *firm* must comply with and is bound by the terms on which an *actuary* has been appointed by the FSA under SUP 4.3.3R.

4.3.7 G_{/1} If the FSA appoints an *actuary* under SUP 4.3.3R, he will not be an *appointed actuary* (not being appointed under SUP 4.3.1R) and will not therefore need to be an *approved person*. However, the *firm* is still under an obligation to appoint an *actuary* under SUP 4.3.1R and will need to seek prior approval of that person (even if the individual it proposes to appoint is the person who has been appointed by the FSA under SUP 4.3.3R).

Appointed actuary's qualifications

4.3.8 G_{/1} The FSA is concerned to ensure the *appointed actuary* of a *firm* has the necessary skill and experience to provide the *firm* with appropriate actuarial advice. SUP 4.3.9R to SUP 4.3.10G set out the FSA's *rules* and *guidance* aimed at achieving this.

4.3.9 R_{/1} Before a *firm* applies for approval of its proposed *appointed actuary*, it must take reasonable steps to ensure that the *actuary*:

- (1) has the required skill and experience to perform his functions under the *regulatory system*; and
- (2) is a Fellow of the Institute of Actuaries or of the Faculty of Actuaries.

4.3.10 G_{/1} To comply with SUP 4.3.9R and *Principle 3*, before an *appointed actuary* takes up his appointment the *firm* should ensure that the *actuary*:

- (1) has skills and experience appropriate to the nature, scale and complexity of the *firm's* business and the requirements and standards under the *regulatory system* to which it is subject; and
- (2) has adequate qualifications and experience, which includes holding an Appointed Actuaries Practising Certificate under the rules of the Institute of Actuaries or the Faculty of Actuaries;

and seek confirmation of these from the *actuary*, or the *actuary's* current and previous employers, as appropriate.

Disqualified actuaries

4.3.11 **R** ^{/1} A *firm* must not appoint as *appointed actuary* an *actuary* who is disqualified by the *FSA* under section 345 of the *Act* (Disqualification) from acting as an *actuary* either for that *firm* or for a relevant class of *firm*.

4.3.12 **G** ^{/1} If it appears to the *FSA* that an *appointed actuary* has failed to comply with a duty imposed on him under the *Act*, it may disqualify him under section 345 of the *Act*. For more detail about what happens when the disqualification of an *actuary* is being considered or put into effect, see *ENF 17*. A list of *actuaries* who are disqualified by the *FSA* may be found on the *FSA* website (www.fsa.gov.uk).

Rights and duties of the appointed actuary

4.3.13 **R** ^{/1} An *appointed actuary* must:

- (1) identify and monitor the risks the *firm* runs so far as they may have a material impact on the *firm's* ability to meet *liabilities to policyholders* in respect of *long-term insurance contracts* as they fall due;
- (2) inform the *firm's* management, at the level of seniority that is reasonably appropriate, if he has any material concerns or good reason to believe that the *firm*:
 - (a) is not meeting *liabilities to policyholders* under *long-term insurance contracts* as they fall due, or may not be doing so, or might not have done so, or might, in reasonably foreseeable circumstances, not do so;
 - (b) is, or may be, effecting new *long-term insurance contracts* on inadequate terms contrary to *IPRU(INS) 3.5A* or *IPRU(FSOC)* [number to be inserted later] as applicable;
 - (c) does not, or may not, have sufficient financial resources to meet *liabilities to policyholders* as they fall due (including reasonable bonus expectations) or, if the *firm* currently has sufficient resources, might, in reasonably foreseeable circumstances, not continue to have them;
- (3) perform actuarial investigations and prepare abstracts of those investigations as required by *IPRU(INS) 9.4R* or *IPRU(FSOC)* [number to be inserted later] as applicable;

- (4) request from the *firm* such information and explanations as are reasonably considered necessary to enable him to properly perform the duties described in SUP 4.3.13R(1) to (3); and
- (5) advise the *firm* as to the data and systems reasonably needing to be kept and maintained to provide such information and explanations.

4.3.14

G

/1

A *liability to a policyholder* is defined in the *Glossary* as any liability or obligation of an *insurer* to, or in respect of, a *policyholder*. It includes *policyholder's* reasonable expectations as to discretionary benefits and charges.

4.3.15

G

/1

The *appointed actuary's* duty to request information does not necessarily require him to undertake continuous monitoring. This depends on the *firm's* size, financial position, future plans and other circumstances, including the robustness of its systems and controls. If a periodic update or review is sufficient, it should be carried out as often as is reasonably necessary. An annual update may suffice for small, financially sound, well-run *insurers*. Such periodic reviews might also usefully be supplemented by desk-based monitoring to identify circumstances where the timing of the next review might need to be brought forward.

4.3.16

G

/1

If a *firm* also carries out general insurance contracts, the *appointed actuary* should consider the *general insurance business* to the extent, if any, that this might have an impact on the *long-term insurance business*.

4.3.17

R

/1

A *firm* must require and allow its *appointed actuary* to perform his duties and, in particular:

- (1) keep him informed of the *firm's business* and other plans (including, where relevant, those of any related *firm*, to the extent it is aware of these);
- (2) provide him with sufficient resources (including his own time and access to the time of others);
- (3) hold such data and establish such systems as he reasonably requires;
- (4) request his advice about the likely effect of material changes in the *firm's* business plans, practices or other circumstances on the rights and reasonable expectations of *policyholders* in respect of *long-term insurance contracts*; and
- (5) pay due regard to his advice, whether provided in response to a request under (4) or on the *appointed actuary's* own initiative; this will include, if he requests it, allowing him to present his advice directly to the *firm's governing body* (that is, the board of *directors* or, for a *friendly society*, the committee of management).

4.3.18

G

/1

A *firm's* duty to keep its *appointed actuary* informed includes providing relevant information, even where the *appointed actuary* does not ask for it. The *firm* needs to appreciate that the *appointed actuary* may be unaware of certain business developments and so unable to request relevant information.

4.3.19

G

/1

Section 341 of the *Act* (Access to books etc.) provides that an *appointed actuary*:

- (1) has a right of access at all times to the *firm's* books, accounts and vouchers; and
- (2) is entitled to require from the *firm's* officers such information and explanations as he reasonably considers necessary to perform his duties as *appointed actuary*.

4.3.20

R

/1

When carrying out his duties, an *appointed actuary* must pay due regard to generally accepted actuarial best practice.

4.3.21

G

/1

The standards and guidance issued from time to time by the Institute of Actuaries and the Faculty of Actuaries are important sources of actuarial best practice.

4.4 Appropriate actuaries

Appointment of an appropriate actuary

- 4.4.1 **R**_{/1} A *firm* to which this section applies (see *SUP* 4.1) and required by *IPRU(FSOC)* [number to be inserted later] to ensure that an investigation is carried out must:
- (1) appoint an *actuary* (the "*appropriate actuary*") to carry out that investigation into its business and to prepare an abstract of it; and
 - (2) appoint a replacement for that *actuary* if he ceases to hold office before he has carried out the duty described in (1).

- 4.4.2 **G**_{/1} The *appropriate actuary* need not hold office continuously. He need only be appointed in good time to prepare the investigation required by *IPRU(FSOC)* [number to be inserted later]. His appointment may cease when the abstract of that investigation has been deposited with the *FSA*.

Appropriate actuaries' qualifications

- 4.4.3 **R**_{/1} Before a *friendly society* appoints an *appropriate actuary*, it must take reasonable steps to ensure that the *actuary* is a Fellow of the Institute of Actuaries or of the Faculty of Actuaries.
- 4.4.4 **G**_{/1} An *appropriate actuary* should have skills and experience appropriate to the nature, scale and complexity of the *firm's* business and the requirements and standards under the *regulatory system* to which it is subject. In complying with *Principle 3*, a *firm* should have regard to whether its proposed *appropriate actuary* has adequate qualifications and experience, and seek confirmation of this from the *actuary*, or the *actuary's* current and previous employers, as appropriate.
- 4.4.5 **R**_{/1} A *firm* must not appoint as *appropriate actuary* an *actuary* who has been disqualified by the *FSA* under section 345 of the *Act* (Disqualification) from acting as an *actuary* either for that *firm* or for a relevant class of *firm*.
- 4.4.6 **G**_{/1} If it appears to the *FSA* that an *appropriate actuary* has failed to comply with a duty imposed on him under the *Act*, it may disqualify him under section 345 of the *Act*. For more detail about what happens when the disqualification of an *actuary* is being considered or put into effect, see *ENF* 17. A list of *actuaries* who have been disqualified by the *FSA* may be found on the *FSA* website (www.fsa.gov.uk).

Rights and duties of the appropriate actuary

- 4.4.7 **R**_{/1} An *appropriate actuary* must carry out the triennial investigation and prepare an abstract of it as required by *IPRU(FSOC)* [number to be inserted later].
- 4.4.8 **G**_{/1} Section 341 of the *Act* (Access to books etc.) provides that an *appropriate actuary*:
- (1) has a right of access at all times to the *firm's* books, accounts and vouchers; and
 - (2) is entitled to require from the *firm's* officers such information and explanations as he reasonably considers necessary for the performance of his duties as *appropriate actuary*.
- 4.4.9 **R**_{/1} In carrying out his duties an *appropriate actuary* must pay due regard to generally accepted actuarial best practice.
- 4.4.10 **G**_{/1} The standards and guidance issued by the Institute of Actuaries and the Faculty of Actuaries are important sources of actuarial best practice.

4.5 Provisions applicable to both appointed and appropriate actuaries

Objectivity

- 4.5.1** **R** ^{/1} *An appointed actuary or appropriate actuary must be objective in performing his duties.*
- 4.5.2** **G** ^{/1} Objectivity requires the *appointed actuary* or *appropriate actuary* to perform his duties in such a manner that he can have an honest belief in his work and does not compromise the quality of his work or his judgment. An *appointed actuary* or *appropriate actuary* should not allow himself to be placed in situations where he feels unable to make objective professional judgments.
- 4.5.3** **R** ^{/1} *An appointed actuary or appropriate actuary must take reasonable steps to satisfy himself that he is free from bias, or from any conflict of interest from which bias may reasonably be inferred. He must take appropriate action where this is not the case.*
- 4.5.4** **G** ^{/1} The appropriate action may include asking the *firm's governing body* to re-assign temporarily some or all of his duties to another competent *actuary*. Where this is insufficient, the *appointed actuary* or *appropriate actuary* should resign his office.
- 4.5.5** **G** ^{/1} If the *appointed actuary* or *appropriate actuary* is an *employee* of the *firm*, the ordinary incentives of employment, including profit-related pay, *share options* or other financial interests in the *firm* or any *associate*, give rise to a conflict of interest only where they are disproportionate, or exceptional, relative to those of other employees of equivalent seniority.
- 4.5.6** **G** ^{/1} The guidance and professional conduct standards in current issue from the Institute of Actuaries and the Faculty of Actuaries are relevant to compliance with *SUP* 4.5.1R and *SUP* 4.5.3R.

Appointed and appropriate actuaries' statutory duty to report

- 4.5.7** **G** ^{/1} *Appointed actuaries* and *appropriate actuaries* are subject to regulations made by the Treasury under section 342(5) and 343(5) of the *Act* (Information given by *auditor* or *actuary* to the Authority). These regulations oblige *actuaries* to report certain matters to the *FSA*. Sections 342(3) and 343(3) of the *Act* provide that an *actuary* does not contravene any duty by giving information or expressing an opinion to the *FSA*, if he is acting in good faith and he reasonably believes that the information or opinion is relevant to any functions of the *FSA*. These provisions continue to have effect after the end of the *actuary's* term of appointment.

Termination of term of office

- 4.5.8** **G**_{/1} SUP 4.5.9R to SUP 4.5.11G apply to a *person* who is or has been an *appointed actuary* or *appropriate actuary*.
- 4.5.9** **R**_{/1} An *appointed actuary* or *appropriate actuary* must notify the FSA without delay if he:
- (1) is removed from office by a *firm*; or
 - (2) resigns before his term of office expires; or
 - (3) is not reappointed by a *firm*.
- 4.5.10** **R**_{/1} An actuary who has ceased to be the *appointed actuary* or *appropriate actuary*, or who has been formally notified that he will cease to be the *appointed actuary* or *appropriate actuary*, of a *firm* must notify the FSA without delay:
- (1) of any matter connected with the cessation which he thinks ought to be drawn to the FSA's attention; or
 - (2) that there is no such matter.
- 4.5.11** **G**_{/1} When an *appointed actuary* ceases to hold office, he ceases to perform the *appointed actuary* function. A *firm* is therefore required under SUP 10.13.6R to tell the FSA within seven *business days* of its *appointed actuary* ceasing to hold office and to complete a withdrawal form (Form C, SUP 10 Ann 6R). Note also the requirement of SUP 10.13.7R in relation to qualified withdrawals.

Chapter 6

Applications to vary and cancel Part IV permission



6.1 Application and purpose

Application

- 6.1.1** G_{/1} This chapter applies to every *firm* with a *Part IV permission* which wishes to:
- (1) vary its *Part IV permission*; or
 - (2) cancel its *Part IV permission* and end its *authorisation*.
- 6.1.2** G_{/1} If appropriate, a *firm* which is the manager of a *collective investment scheme* should also refer to *CIS 14* for *guidance* on the termination of *ICVCs* and *AUTs* and on winding up schemes that are not commercially viable.
- 6.1.3** G_{/1} This chapter applies to an *incoming firm* or a *UCITS qualifier* only in respect of a *top-up permission*. An *incoming firm* or a *UCITS qualifier* should refer to *SUP 14* (Variation of passport rights by incoming EEA firms and ending authorisation) for the procedures for changes to *permission* granted under Schedules 3, 4 or 5 of the *Act*.

Purpose

- 6.1.4** G_{/1} This chapter explains:
- (1) how a *firm* with *Part IV permission* can apply to the *FSA* to vary that *permission*;
 - (2) how a *firm* which has ceased to carry on any of the *regulated activities* for which it has *Part IV permission*, or which expects to do so in the short term (normally less than six months), should apply to the *FSA* to cancel that *permission* completely;
 - (3) the additional procedures that apply to a *firm* carrying on *regulated activities* which create long term obligations to *customers* (for example, *effecting contracts of insurance*, *carrying out contracts of insurance* or *accepting deposits*) that needs to wind down (run off) its business over a long term period (normally more than six months) and the applications it should make with a view to ultimately cancelling its *permission*; and
 - (4) how the *FSA* assesses those applications.
- 6.1.5** G_{/1} This chapter also outlines the *FSA's* powers to withdraw *authorisation* from a *firm* whose *Part IV permission* has been cancelled at the *firm's* request. It does not, however, cover the *FSA's* use of its *own-initiative powers* to vary or cancel a *firm's*

Part IV permission (see *SUP 7* (Individual requirements) and *ENF 5* (Cancellation of Part IV permission on the FSA's own initiative and withdrawal of authorisation)).



6.2 Introduction

6.2.1 G_{/1} A *firm authorised* under Part IV of the *Act* (Permission to carry on regulated activity) has a single *Part IV permission* granted by the *FSA*. A *firm's Part IV permission* specifies all or some of the following elements (as detailed in *AUTH* 3.3.3G (When is Part IV permission required and what does it contain?)):

- (1) a description of the activities the *firm* may carry on, including any *limitations*;
- (2) the *specified investments* involved; and
- (3) if appropriate, *requirements*.

6.2.2 G_{/1} Under section 20(1) of the *Act* (Authorised persons acting without permission), a *firm* is prohibited from carrying on a *regulated activity* in the *United Kingdom* (or purporting to do so) otherwise than in accordance with its *permission*.

6.2.3 G_{/1} If a *firm* wishes to change its *Part IV permission*, it can apply to the *FSA* under section 44 of the *Act* (Variation etc. at request of authorised person) for a variation or cancellation of its *Part IV permission*. *SUP* 6.2.5G sets out the differences between these types of application and the circumstances in which they should be made and *SUP* 6 Ann 1G gives an overview of the considerations in these cases.

6.2.4 G_{/1} A *firm* intending to expand its business should assess, taking appropriate professional advice where necessary, whether it will need to apply to the *FSA* to vary its *Part IV permission* before making any changes to its business.

6.2.5 G_{/1} Table Variation and cancellation of Part IV permission. See *SUP* 6.2.3G

Question	Variation of Part IV permission	Cancellation of Part IV permission
What does the application apply to?	Individual elements of a <i>firm's Part IV permission</i> . Variations may involve adding or removing categories of <i>regulated activity</i> or <i>specified investments</i> or varying or removing any <i>limitations</i> or <i>requirements</i> in the <i>firm's Part IV permission</i> .	A <i>firm's</i> entire <i>Part IV permission</i> and not individual elements within it.

Question	Variation of Part IV permission	Cancellation of Part IV permission
In what circumstances is it usually appropriate to make an application?	<p>If a <i>firm</i>:</p> <ol style="list-style-type: none"> wishes to change the <i>regulated activities</i> it carries on in the <i>United Kingdom</i> under a <i>Part IV permission</i> (SUP 6.3); or has the ultimate intention of ceasing carrying on <i>regulated activities</i> but due to the nature of those <i>regulated activities</i> (for example, <i>accepting deposits</i>, or <i>insurance business</i>) it will require a long term (normally over six months) to wind down (run off) its business (see SUP 6.2.8G to SUP 6.2.11G and SUP 6 Ann 4G). 	<p>If a <i>firm</i>:</p> <ol style="list-style-type: none"> has ceased to carry on all of the <i>regulated activities</i> for which it has <i>Part IV permission</i> (SUP 6.4); or wishes or expects to cease carrying on all of the <i>regulated activities</i> for which it has <i>Part IV permission</i> in the short term (normally not more than six months). In this case, the <i>firm</i> may apply to cancel its <i>Part IV permission</i> prior to ceasing the <i>regulated activities</i> (see SUP 6.4.3G).
Where do I find a summary of the application procedures?	See SUP 6 Ann 2G.	See SUP 6 Ann 3G.

6.2.6

G

A *firm* which is seeking to:

- vary its *Part IV permission* substantially; or
- cancel its *Part IV permission*;

should discuss its plans with its usual supervisory contact at the *FSA* as early as possible before making an application, in order to comply with *Principle 11* (see SUP 15.3.7G (Notifications to the *FSA*)). These discussions will help the *FSA* and the *firm* to agree the correct approach for the *firm*.

6.2.7

G

If a *firm* intends to cease carrying on one or more *regulated activities* permanently, it should give prompt notice to the *FSA* to comply with *Principle 11* (see SUP 15.3.8G(1)(d)). A *firm* should consider whether it needs to notify the *FSA* before applying to vary or cancel its *Part IV permission*.

Firms with long term liabilities to customers

6.2.8

G

Discussions with the *FSA* are particularly relevant where the *firm* has to discharge obligations to its *customers* or policyholders before it can cease carrying on a *regulated activity*. This may be the case, for example, where the *firm* is an *insurer*, a *bank* or, as is often the case, holding *client money* or *customer assets*.

6.2.9 G_{/1} If an *insurer* or a *bank* wishes to cease carrying on all *regulated activities* for which it has *Part IV permission*, it will usually be necessary to wind down the business over a long term period which is normally more than six months. This may also be the case for a *firm* holding *client money* or *customer assets*. In these circumstances, it will usually be appropriate for the *firm* to apply for variation of its *Part IV permission* before commencing the wind-down. A *firm* should only make an application for cancellation of *permission* when it expects to complete its wind-down (run-off) within six months.

6.2.10 G_{/1} A *firm* which is winding down (running off) its activities should contact its usual supervisory contact at the *FSA* to discuss its circumstances. The *FSA* will discuss the *firm's* winding down plans and the need for the *firm* to vary or cancel its *Part IV permission*. Following these discussions, an application for variation or cancellation of *Part IV permission*, as appropriate, should usually be made by the *firm*, although, in certain circumstances, the *FSA* may use its *own-initiative powers* under section 45 of the *Act* (Variation etc. on the *FSA's* own initiative) (see *SUP 7* and *ENF 3* (Variation of Part IV permission on the *FSA's* own initiative)).

6.2.11 G_{/1}

- (1) Specific guidance on the additional procedures for a *firm* winding down (running off) its business in the circumstances discussed in *SUP 6.2.8G* is in *SUP 6 Ann 4G*.
- (2) The guidance in *SUP 6 Ann 4G* applies to any *firm* that is applying for variation of *Part IV permission* before it applies for cancellation of *Part IV permission* to enable it to wind down (run off) its business over a long term period of six months or more. It will apply to most *insurers* and *banks* and, in some circumstances, as advised by the *FSA*, to *firms* holding *client money* or *customer assets*.
- (3) If a *firm* wishes to cease carrying on some of its *regulated activities*, or the *specified investments* in respect of which the activities are carried on, the *FSA* may consider it appropriate for the *firm* to comply with the additional procedures in *SUP 6 Ann 4G*. This would depend on the scale and nature of the *regulated activities* concerned. This might be the case, for example, if the *firm* is ceasing a significant part of its business in respect of which it has outstanding obligations to *customers* and the *FSA* believes that the additional procedures would protect *consumers*.

UK firms exercising EEA or Treaty rights

6.2.12 G_{/1} A *UK firm* should assess the effect of any change to its *Part IV permission* on its ability to continue to exercise any *EEA right* or *Treaty right* and discuss any concerns with its usual supervisory contact at the *FSA*. A variation of *Part IV permission* may also change the *applicable provisions* with which it is required to comply by a *Host State*.

6.2.13 G_{/1} A *UK firm* which, as well as applying to vary or cancel its *Part IV permission*, wishes to vary or terminate any business which it is carrying on in another *EEA State* under one of the *Single Market Directives*, should follow the procedures in *SUP 13* (Exercise of passport rights by UK firms) on varying or terminating its *branch* or *cross border services* business.

The Lloyd's market

6.2.14

G
/1

A *firm* making an application to vary or cancel its *Part IV permission* which requires any approval from the *Society of Lloyd's* should apply to the *Society* for this at the same time as applying to the *FSA* for the variation or cancellation. See *SUP 6 Ann 4G* for additional procedures.

6.3 Applications for variation of permission

What is a variation of permission?

- 6.3.1** **G**_{/1} Under section 44 of the *Act*, a *firm* may apply to the *FSA* to vary its *Part IV permission* to:
- (1) allow it to carry on further *regulated activities*; or
 - (2) reduce the number of *regulated activities* it is permitted to carry on; or
 - (3) vary the *FSA*'s description of its *regulated activities* (including by the removal or variation of any *limitations*); or
 - (4) cancel any *requirement* applied for by the *firm* or imposed by the *FSA* under section 43 of the *Act* (Imposition of requirements); or
 - (5) vary any such *requirement*.
- 6.3.2** **G**_{/1} An application for variation of *Part IV permission* may include one or more of *SUP* 6.3.1G(1)-(5). For example, a *firm* may apply to vary its *Part IV permission* to add a new *regulated activity* and at the same time remove a *regulated activity* for which it currently has *permission*.
- 6.3.3** **G**_{/1} In applying for a variation of *Part IV permission*, a branch of a *firm* from outside the *EEA* should be mindful of any continuing requirements referred to in *AUTH* 3.18 and, for *insurers*, *AUTH* 3.12.

Applications to add additional regulated activities

- 6.3.4** **G**_{/1} In determining the activities and *specified investments* for which a *Part IV permission* is required, and whether to apply for a variation of that *permission*, a *firm* may need to take professional advice and may also wish to discuss this with its usual supervisory contact at the *FSA*.
- 6.3.5** **G**_{/1} Before applying to vary its *permission*, a *firm* should determine whether there are any statutory restrictions that do not allow combinations of certain types of *regulated activity*, particularly for *insurance business* or *UCITS* managers. For example, the *FSA* will not grant a variation of *Part IV permission* to allow a *friendly society* to carry on reinsurance business (see *AUTH* 3.12.5G). A *firm* should refer to *AUTH* 3 for details of any restrictions or discuss its plans with its usual supervisory contact at the *FSA*.

- 6.3.6 G_{/1} If a *firm* is seeking a variation of *Part IV permission* to add categories of *regulated activities*, it should be mindful of the directive requirements referred to at SUP 6.3.42G relating to the need to commence new activities within 12 months.

Applications to remove certain regulated activities

- 6.3.7 G_{/1} If a *firm* wishes to cease carrying on an activity for which it has *Part IV permission*, it will usually apply to vary its *Part IV permission* to remove that activity. If a *firm* wishes to cease carrying on an activity in relation to any *specified investment*, it will usually apply to vary its *Part IV permission* to remove that *specified investment* from the relevant activity.

How a variation of permission may affect the firm's approved persons

- 6.3.8 G_{/1}
- (1) Where a *firm* is submitting an application for variation of *Part IV permission* which would lead to a change in the *controlled functions* of its *approved persons*, it should, at the same time and as appropriate:
 - (a) make an application to the *FSA* for an internal transfer of an *approved person*, Form E (Internal transfer), or make an application to the *FSA* for an individual to perform additional *controlled functions*, Form A (Application); see SUP 10.13.3G to SUP 10.13.5G;
 - (b) notify the *FSA* of any *approved person* who has ceased to perform a *controlled function*, Form C (Ceasing to perform controlled functions); see SUP 10.13.6G to SUP 10.13.13G.
 - (2) If the *firm* intends to recruit new individuals to perform *controlled functions*, it should apply to the *FSA* for approval of the individuals as *approved persons* as soon as possible using Form A (Application); see SUP 10.12.

How a variation of permission may change a firm's prudential category

- 6.3.9 G_{/1} A variation of *Part IV permission* may, in some cases, lead to a change in a *firm's* prudential category or sub-category (see SUP App 1). For example, an *investment management firm* which varies its *Part IV permission* to include *accepting deposits* and as a result meets the definition of a *bank*, would move to the prudential category for a *bank* (see SUP App 1 1.3.1G).

- 6.3.10 G_{/1} Even if a variation of *permission* does not itself lead to a change in a *firm's* prudential category or sub-category, the *FSA* may use its *own-initiative powers* to require a *firm* to comply with a different category or sub-category of prudential *rules* where it considers this to be appropriate. For details of when and how the *FSA* may use its *own-initiative powers* in this context, see SUP 7.

Variation of permission involving insurance business

- 6.3.11 G_{/1} A *firm* with *Part IV permission* to carry on *insurance business*, which is applying for a variation of its *Part IV permission* to add further *insurance activities* or *specified investments*, will be required to submit particular information on its

existing activities as part of its application. This includes the *scheme of operations* which is required to be submitted as part of the application pack (for further details on the *scheme of operations*, see SUP App 2 (Insurers: scheme of operations)).

6.3.12 G_{/1} In applying to vary its *Part IV permission* to add categories of *specified investments*, in relation to *insurance business*, a *firm* carrying on *insurance business* will need to determine the *classes* of *specified investments* relating to *effecting and carrying out contracts of insurance* for which variation of *Part IV permission* will be necessary, having regard to whether certain *classes* of contract may qualify to be effected or carried out on an ancillary or supplementary basis (see AUTH 3.12.6G to AUTH 3.12.12G).

6.3.13 G_{/1} The application for variation of *Part IV permission* will need to provide information about the *classes* of *contract of insurance* for which variation of *Part IV permission* is requested and also those *classes* qualifying to be carried on on an ancillary or supplementary basis. *Firms* should note that, as explained in AUTH 3.9.29G(3), the FSA will not use the power described in AUTH 3.9.29G(2) to grant *Part IV permission* for *insurance business* which has not been included in the application.

6.3.14 G_{/1}

- (1) A *firm* carrying on *insurance business* which is seeking to cease such business in respect of one or more *classes* of *specified investment*, but which is not intending to cease all *insurance business*, should apply to vary its *Part IV permission* to remove the activity of *effecting contracts of insurance* in respect of those *specified investments* in relation to which it no longer wishes to carry on business. A *firm* intending to cease all *insurance business* should refer to SUP 6 Ann 4G.
- (2) If the application for variation of *Part IV permission* is granted by the FSA, the *firm* will have *Part IV permission* only to *carry out contracts of insurance* in respect of the *specified investments* in relation to which it no longer wishes to carry on business (see SUP 6 Ann 4G). This will allow the *firm* to run off this aspect of its business. When the business in question has been run-off completely, the *firm* should then apply to vary its *Part IV permission* to remove the relevant *classes* of *specified investment*.

The application for variation of permission

6.3.15 D_{/1}

- (1) A *firm* which wishes to apply for a variation of *Part IV permission* must do so in writing to the FSA, explaining the variation it seeks.
- (2) A *firm's* application for variation of *Part IV permission* must be given or addressed, and delivered in the way set out in SUP 15.7.4R to SUP 15.7.6R (Form and method of notification).
- (3) Until the application has been determined, a *firm* which submits an application for variation of *Part IV permission* must inform the FSA of any significant change to the information given in the application immediately it becomes aware of the change.

6.3.16 G_{/1}

- (1) Section 51(2) of the Act (Applications under this Part) requires that the application for variation of *Part IV permission* must contain a statement:
 - (a) of the desired variation; and

(b) of the *regulated activity* or *regulated activities* which the *firm* proposes to carry on if its *permission* is varied.

(2) The full form and content of the application for variation of *Part IV permission* is a matter for direction by the *FSA*, who will determine the additional information and documentation required on a case by case basis.

6.3.17

G
/1

(1) Subject to *SUP* 6.3.20G, there is no application pack for a variation of *Part IV permission*. Instead, a *firm* should send an application under *SUP* 6.3.15D to its usual supervisory contact at the *FSA*. This application should set out the requirements in *SUP* 6.3.16G in as much detail as possible, together with a detailed description of the reasons and circumstances that have given rise to the request.

(2) However, a *firm* is advised to discuss its application with its usual supervisory contact at the *FSA* before submission, particularly if it is seeking a variation of *permission* within a short timescale. A *firm* is also advised to include as much detail as possible (including any additional information identified by its supervisors at this stage) with its application.

6.3.18

G
/1

The *FSA*, as soon as possible after receipt of an application, will advise the *firm* of any additional information which is required as part of its application (see *SUP* 6.3.23G to *SUP* 6.3.27G). The amount of information the *FSA* will require will vary depending on the scale of the variation in the context of the *firm* as a whole, and the nature, risk profile and complexity of the variation.

Applications from firms winding down (running off) business over the long term

6.3.19

G
/1

A *firm* which is making an application for variation of *Part IV permission* to wind down (run off) its business before applying for a cancellation of that *permission* (see *SUP* 6.2.9G) should read *SUP* 6 Ann 4G for details of the additional procedures that apply.

Applications involving significant changes

6.3.20

G
/1

In certain cases, *FSA* may consider that granting an application for variation of *Part IV permission* which includes adding further *regulated activities* or changing a *requirement* or *limitation* would cause a significant change in the *firm's* business or risk profile. In these circumstances, the *FSA* may require the *firm* to complete appropriate parts of the full application pack (see *AUTH* 3), as directed by the *FSA*. Applications for variation involving significant changes may be processed by the *firm's* usual supervisory contact at the *FSA*, in conjunction with the Corporate Authorisation department.

6.3.21

G
/1

Examples of an application for variation of *Part IV permission* which may represent a significant change include, but are not limited to, an application:

- (1) to carry on new *regulated activities* such as *accepting deposits*;
- (2) to extend the *insurance business* of a *firm* which already has *Part IV permission* which includes *carrying out* or *effecting contracts of insurance* (or both), to new *classes of specified investment*; or

- (3) to remove a *requirement* preventing a *firm* from holding or controlling *client money*; or
- (4) which causes the *firm* to change prudential category by, for example, removing a *requirement* relating to prudential category (see SUP App 1).

6.3.22

G
/1

A *firm* that wishes to make a significant change to its business, or is unsure whether the changes it is proposing would be considered to be significant, should contact its usual supervisory contact at the FSA. The FSA will discuss with the *firm* whether it will be required to submit parts of the application pack and whether any reports from third parties may be required.

Information to be supplied to the FSA as part of the application

6.3.23

G
/1

- (1) The FSA may ask for any information it reasonably requires before determining the application. The information required will be determined on a case by case basis, taking into account the FSA’s existing knowledge of the *firm* and the variation requested. The FSA will advise the *firm* of the information required at an early stage in the application process.
- (2) The nature of the information and documents requested will be related to the risks posed to the FSA’s *regulatory objectives* by the *regulated activities* and any *unregulated activities* that the *firm* is seeking to carry on. This information will be proportional to the nature of the business which the *firm* intends to carry on or the risks posed by the *firm*.

6.3.24

G
/1

- (1) The information the FSA may require includes, but is not limited to, the examples given in SUP 6.3.25G:

6.3.25

G
/1

Table Information which may be required. See SUP 6.3.24G

Type of business	Information which may be required
All	<ul style="list-style-type: none"> 1. Details of how the <i>firm</i> plans to comply with the FSA’s regulatory requirements relating to any additional <i>regulated activities</i> it is seeking to carry on. 2. Descriptions of the <i>firm</i>’s key controls, senior management arrangements and audit and proposed compliance arrangements in respect of any new <i>regulated activity</i> (see SYSC). 3. Organisation charts and details of individuals transferring or being recruited to perform new <i>controlled functions</i> (see SUP 10 for details of the application or transfer procedures under the <i>approved persons</i> regime).
<i>Insurance business</i>	<ul style="list-style-type: none"> 1. A <i>scheme of operations</i> in accordance with SUP Appendix 2.

Type of business	Information which may be required
Accepting deposits and designated investment business	1. A business plan which includes the impact of the variation on the <i>firm's</i> existing or continuing business financial projections for the <i>firm</i> , including the impact of the requested variation of <i>Part IV permission</i> on the <i>firm's</i> financial resources and capital adequacy requirements.

6.3.26 G_{/1} Specific information may also be required by the *FSA* on the activities the *firm* intends to cease, or cease carrying on in relation to any *specified investments* (see *SUP* 6 Ann 4G).

6.3.27 G_{/1} When determining whether to grant an application, the *FSA* may request further information, including reports from third parties such as the *firm's* auditors, and may require meetings with, and visits to, the *firm*. The *FSA* may also require a statement from members of the *firm's governing body* confirming, to the best of their knowledge, the completeness and accuracy of the information supplied. The *FSA* may also discuss the application with other regulators, exchanges.

When will the FSA grant an application for variation of permission?

6.3.28 G_{/1} (1) The *FSA* is required by section 41(2) of the *Act* to ensure that a *firm* applying to vary its *Part IV permission* satisfies and will continue to satisfy the *threshold conditions* in relation to all the regulated activities for which the *firm* has or will have *Part IV permission* after the variation. However, the *FSA's* duty under the *Act* does not prevent it, having regard to that duty, from taking such steps as it considers necessary in relation to a particular *firm*, to secure its *consumer* protection objective. This may include granting a *firm's* application for variation of *Part IV permission* when it wishes to wind down (run off) its business activities and cease to carry on new business as a result of no longer being able to satisfy the *threshold conditions*.

(2) In addition, the *FSA* may refuse the application if it appears that the interests of *consumers*, or a group of *consumers*, would be adversely affected if the application were to be granted and it is desirable in the interests of *consumers*, or that group of *consumers*, for the application to be refused.

6.3.29 G_{/1} In determining whether the *firm* satisfies and continues to satisfy the *threshold conditions*, the *FSA* will consider whether the *firm* is ready, willing and organised to comply with the regulatory requirements it will be subject to if the requested variation of *Part IV permission* is granted.

6.3.30 G_{/1} The *FSA* will also consider the specific requirements that apply to certain types of activity (see *AUTH* 3.11 to *AUTH* 3.20) as these may not allow certain combinations of activity.

6.3.31 G_{/1} In considering whether to grant a *firm's* application to vary its *Part IV permission*, the *FSA* will also have regard, under section 49(1) of the *Act* (Persons connected with an applicant), to any person appearing to be, or likely to be, in a relationship with the *firm* which is relevant (see *AUTH* 3.9.22G to *AUTH* 3.9.24G (*Connected persons*)).

The FSA’s powers in respect of application for variation of Part IV permission

6.3.32 G_{/1} The FSA’s power to vary a *Part IV permission* after it receives an application from a *firm* extends to including in the *Part IV permission* as varied any provision that could be included as though a fresh *permission* was being given in response to an application under section 40 of the *Act* (Application for permission), see *AUTH* 3. Under sections 42 (Giving permission) and 43 of the *Act* (Imposition of requirements), the FSA may:

- (1) incorporate in the description of a *regulated activity* a *limitation* (for example, as to the circumstance in which a *regulated activity* may or may not be carried on); or
- (2) specify a narrower or wider description of *regulated activity* than the *firm* applied for in the application for variation of *Part IV permission* (see *AUTH* 3.9.29G(3) for restrictions on *insurers*); or
- (3) require the *firm* not to take a specified action (for example, not to hold *client money*); or
- (4) require the *firm* to take a specified action (for example, to submit financial returns more frequently than normal).

6.3.33 G_{/1} Thus, when determining an application for variation of *Part IV permission*, the FSA can, therefore:

- (1) include new *limitations* and vary existing *limitations*, either on application from the *firm* (for example, the *customer* categories with which a *firm* may carry on a specified activity), or if considered appropriate by the FSA under section 42(7)(a) of the *Act*; or
- (2) include any new *requirements* and vary existing *requirements*, either on application from the *firm* or where considered appropriate by the FSA under section 43 of the *Act* to ensure that the *firm* satisfies and continues to satisfy the *threshold conditions*.

6.3.34 G_{/1} If *limitations* or *requirements* are varied or imposed by the FSA which were not included in the *firm’s* application for variation of *Part IV permission*, the FSA will be required to issue the *firm* with a *warning notice* and *decision notice* (see *SUP* 6.3.39G).

How long will an application take?

6.3.35 G_{/1} Under section 52(1) of the *Act* (Determination of applications), the FSA has six months to consider a completed application from the date of receipt.

6.3.36 G_{/1} If the FSA receives an application which is incomplete (that is, if information or a document required as part of the application is not provided), section 52(2) of the *Act* requires the FSA to determine that incomplete application within 12 months of the initial receipt of the application.

6.3.37 G_{/1} Within these time limits, however, the length of the process will relate directly to the complexity of the variation requested. The FSA publishes standard response times on its website at www.fsa.gov.uk setting out how long the application

process is expected to take in practice. From time to time, the *FSA* also publishes its performance against these times.

6.3.38

G
/1

At any time after receiving an application and before determining it, the *FSA* may require the applicant to provide additional information or documents. The circumstances of each application will dictate what additional information or procedures are appropriate.

How will the FSA make the decision?

6.3.39

G
/1

A decision to grant an application for variation of *Part IV permission*, as applied for, will be taken by appropriately experienced *FSA* staff. However, if the *FSA* staff dealing with the application recommend that a *firm's* application for variation of *Part IV permission* be either refused or granted subject to *limitations* or *requirements* or a narrower description of *regulated activities* than applied for, the decision will be taken by either the *RDC* or *executive procedures*.

6.3.40

G
/1

DEC gives guidance on the *FSA's* decision making procedures including the procedures it will follow if it proposes to refuse an application for variation of *Part IV permission* either in whole or in part (for example, an application granted by the *FSA* but subject to *limitations* or *requirements* not applied for).

Commencing new regulated activities

6.3.41

G
/1

If the variation of *Part IV permission* is given, the *FSA* will expect a *firm* to commence a new *regulated activity* in accordance with its business plan (revised as necessary to take account of changes during the application process) or scheme of operations for an *insurer*. *Firms* should take this into consideration when determining when to make an application to the *FSA*.

6.3.42

G
/1

- (1) *Firms* should be aware that the *FSA* may exercise its *own-initiative power* to vary or cancel their *Part IV permission* if they do not:
 - (a) commence a *regulated activity* for which they have *Part IV permission* within a period of at least 12 months from the date of being given; or
 - (b) carry on a *regulated activity* for which they have *Part IV permission* for a period of at least 12 months (irrespective of the date of grant).
- (2) If the *FSA* considers that such a variation or cancellation of the *firm's Part IV permission* is appropriate, it will discuss the proposed action with the *firm* and its reasons for not commencing or carrying on the *regulated activities* concerned.

6.3.43

G
/1

When a *firm* commences new *regulated activities* following a variation of a *Part IV permission*, it should have particular regard to the requirements of *Principle 11* (Relations with regulators) (see *SUP 15.3.8G(1)(c)*).

6.4 Applications for cancellation of permission

6.4.1 **G**_{/1} Under section 44(2) of the *Act* (Variation etc. at request of authorised person), if an *authorised person* with a *Part IV permission* applies to the *FSA*, the *FSA* may cancel that *permission*. Cancellation applies to a *firm's* entire *Part IV permission*; that is to every activity and every *specified investment* and not to the individual elements such as *specified investments*. Changes to the individual elements of a *permission* would require a variation.

6.4.2 **G**_{/1} Under section 44(3) of the *Act*, the *FSA* may refuse an application from a *firm* to cancel its *Part IV permission* if it appears that:

- (1) the interests of *consumers*, or potential *consumers*, would be adversely affected if the application were to be granted; and
- (2) it is desirable in the interests of *consumers*, or potential *consumers*, for the application to be refused.

6.4.3 **G**_{/1}

- (1) A *firm* may apply to the *FSA* to cancel its *Part IV permission* before it has ceased carrying on all *regulated activities*. However, where a *firm* makes a formal application for cancellation of its *permission* when it has not yet ceased carrying on *regulated activities*, the *FSA* will expect the *firm*:
 - (a) to cease those *regulated activities* within the short term (normally no more than six months from the date of application for cancellation); and
 - (b) to have formal plans to cease its *regulated activities* in an orderly manner.
- (2) *Firms* should note, however, that the *FSA* will not grant an application for cancellation of *Part IV permission* until the *firm* can demonstrate that it has ceased carrying on all *regulated activities* (SUP 6.4.19G).
- (3) The *FSA* may apply additional procedures or require additional information, as if the *firm* had entered into a long term wind down of business (see SUP 6 Ann 4G), if it considers it appropriate to the circumstances of the *firm*.

6.4.4 **G**_{/1} Additional guidance for a *firm* carrying on *insurance business*, *accepting deposits* or which holds *client money* or *customer's* assets is given in SUP 6 Ann 4G. As noted in SUP 6.2.9G, it will usually be appropriate for a *firm* to apply for variation of its *Part IV permission* while winding down (running off) its *regulated activities* and before applying to cancel its *Part IV permission*.

The application for cancellation of permission

6.4.5 **D**_{/1} (1) If a *firm* wishes to cancel its *Part IV permission*, it must write to the *FSA* giving the reasons for its application to cancel its *Part IV*

permission and the date on which the *firm* has ceased, or expects to cease, to carry on *regulated activities*. The *firm* must explain the full circumstances of its application.

- (2) A *firm's* application for cancellation of *Part IV permission* must be:
 - (a) given to a member of, or addressed for the attention of, the Resignation Team at the *FSA*; and
 - (b) delivered to the *FSA* by one of the methods in *SUP 15.7.5R* (Form and method of notification).
- (3) A *firm's* application for cancellation of *Part IV permission* must be served in the ways set out in *SUP 15.7* (Form and method of notification).
- (4) Until the application has been determined, a *firm* which submits an application for cancellation of *Part IV permission* must inform the *FSA* of any significant change to the information given in the application immediately it becomes aware of the change.

6.4.6

G

/1

- (1) *SUP 6.4.5R(2)(a)* provides that the application for cancellation of *Part IV permission* must be sent to the Resignation Team in the *FSA's* Corporate Authorisation department which performs a central administrative function. The *firm's* usual supervisory contact at the *FSA* will, however, be responsible for all day-to-day contact with the *firm* and assessing the application.
- (2) To contact the Corporate Authorisation Resignation Team:
 - (a) telephone on 020 7676 1000; fax on 020 7676 1099; or
 - (b) write to: Corporate Authorisation Resignation Team, The Financial Services Authority, 25 The North Colonnade, Canary Wharf, London, E14 5HS; or
 - (c) email corporate.authorisation@fsa.gov.uk

6.4.7

G

/1

When it receives this application, the Corporate Authorisation Resignation Team will send the *firm* a written acknowledgement. This acknowledgement will explain the cancellation process and detail the information required as part of the application (examples of which are given in *SUP 6.4.8G* to *SUP 6.4.17G*). The *firm* will be required to provide information which, in the opinion of the *FSA*, is necessary for it to determine whether to grant or refuse the application for cancellation of *Part IV permission*. The Corporate Authorisation Resignation Team will work with the *firm's* usual supervisory contact at the *FSA* during this process.

Information to be supplied to the FSA as part of the application for cancellation of permission

6.4.8

G

/1

The information which the *FSA* may request on the circumstances of the application for cancellation and the confirmations which the *FSA* may require a *firm* to provide will differ according to the nature of the *firm* and the activities it has *Part IV permission* to carry on.

6.4.9 G_{/1} A *firm* will be expected to demonstrate to the *FSA* that it has ceased carrying on *regulated activities*. The *FSA* may require, as part of the application, a report from the *firm* that includes, but is not limited to, the confirmations referred to in *SUP* 6.4.12G (as appropriate to the *firm's* business). The *FSA* may also require additional information to be submitted with the report including, in some cases, confirmation or verification from a professional adviser on certain matters to supplement the report (see *SUP* 6.4.15G).

6.4.10 G_{/1}

- (1) If a *firm* is subject to the complaints rules in *DISP*, the *FSA* may request confirmation from the *firm* that there are no unresolved, unsatisfied or undischarged complaints against the *firm* from a *customer* of the *firm*.
- (2) If there are unresolved or undischarged complaints against a *firm* from a *customer* of the *firm*, the *FSA* may request confirmation, as appropriate, of the steps (if any) which have been taken under the *firm's* complaints procedures and the amount of compensation claimed. The *FSA* may also request an explanation of the arrangements made for the future consideration of such complaints.

6.4.11 G_{/1} If the *firm* is carrying on *designated investment business* with *private customers*, the *FSA* may request confirmation that the *firm* has written, or intends to write, to all *private customers* with, or for whom, the *firm* has conducted *regulated activities* within a certain period.

Confirmations and resolutions

6.4.12 G_{/1} The *FSA* will usually require the report in *SUP* 6.4.9G to be signed by a *director* or other officer with authority to bind the *firm*. It may include confirmations from the *firm* that, in relation to business carried on under its *Part IV permission*, it has:

- (1) ceased carrying on all *regulated activities*;
- (2) properly disbursed funds in its *client bank accounts* and closed those accounts;
- (3) discharged all insurance or *deposit* liabilities; and
- (4) properly transferred all *investments*, title documents and other property that it held on behalf of *clients*.

6.4.13 G_{/1} The *FSA* may also require a resolution from the *firm's governing body*, for example to support the application for cancellation of *permission*, expressed to be irrevocable, and to give the signatory the authority to sign the formal report to the *FSA*.

6.4.14 G_{/1} Under section 397 of the *Act* (Misleading statements and practices), it is an *offence*, in purported compliance with a requirement imposed by or under the *Act* (including the directions in *SUP* 6.4.5D), for a *person* to knowingly or recklessly give the *FSA* information that is false or misleading. If necessary, a *firm* should take appropriate professional advice when supplying information required by the *FSA*. An *insurer*, for example, may ask an *actuary* to check assumptions in respect of future *claims* made under *contracts of insurance*.

Reports from professionals

6.4.15 G_{/1} The *FSA* may require additional information, including professional advice, to supplement or support the report in *SUP* 6.4.9G where it considers this appropriate. Examples of reports that may be requested by the *FSA* include, but are not limited to those detailed in *SUP* 6.4.16G.

6.4.16 G_{/1} Table Types of reports. See *SUP* 6.4.15G

Category of firm	Type of report
a <i>bank</i> or <i>building society</i>	<ul style="list-style-type: none"> • an audited balance sheet which confirms that, in the auditor’s opinion, the <i>firm</i> has no remaining <i>deposit</i> liabilities to <i>customers</i>; • a report from auditors or <i>reporting accountants</i>;
a <i>securities and futures firm</i>	<ul style="list-style-type: none"> • a report from auditors or <i>reporting accountants</i>
an <i>insurer</i>	<ul style="list-style-type: none"> • an audited closing balance sheet which demonstrates that the <i>firm</i> has no insurance liabilities to <i>policyholders</i>; • a report from the auditors or <i>reporting accountants</i>: and • in some cases, an actuarial opinion as to the likelihood of any remaining liabilities to <i>policyholders</i>.

6.4.17 G_{/1} If a *firm* is transferring its business, the *FSA* may require a professional opinion in respect of certain aspects of the transfer. For example, the *FSA* may require a legal opinion on the validity of arrangements to transfer *regulated activities*, *client money*, *client deposits*, *custody assets* or any other *property* belonging to *clients*, to another *authorised person*. Alternatively, an auditor or *reporting accountant* may be requested to verify that a transfer has been properly accounted for in the *firm’s* books and records. Transfers of *insurance* and *banking business* are subject to statutory requirements (see *SUP* 18).

Approved persons

6.4.18 G_{/1} A *firm* which is applying for cancellation of *Part IV permission* and which is not otherwise *authorised* by, or under, the *Act* should, at the same time, comply with *SUP* 10.13.6R and notify the *FSA* of persons ceasing to perform *controlled functions*. These forms should give the effective date of withdrawal, if known (see *SUP* 10 (Approved persons)).

When will the FSA grant an application for cancellation of permission?

- 6.4.19** G_{/1} The FSA will usually not cancel a *firm's Part IV permission* until the *firm* can demonstrate that, in relation to business carried on under that permission, it has, as appropriate:
- (1) ceased carrying on *regulated activities* or fully run off or transferred all insurance liabilities;
 - (2) repaid all *client money* and *client deposits*;
 - (3) discharged *custody assets* and any other *property* belonging to *clients*; and
 - (4) discharged, satisfied or resolved complaints against the *firm*.
- 6.4.20** G_{/1} If it is not possible for a *firm* to demonstrate a relevant matter referred to in SUP 6.4.19G, for example, depositors are uncontactable, the *firm* will be expected to have satisfied the FSA that it has made adequate provisions for discharging any liabilities to *clients* which do not involve the *firm* carrying on *regulated activities*.
- 6.4.21** G_{/1} Before the FSA cancels a *firm's Part IV permission*, the *firm* will be expected to be able to demonstrate that it has ceased or transferred all *regulated activities* under that *permission*. For example, the *firm* may be asked to provide evidence that a transfer of business (including, where relevant, any *client money*, *customer* assets or *deposits* or insurance liabilities) is complete. As noted in SUP 6.4.9G, the FSA may require the *firm* to confirm this by providing a report, in a form specified by the FSA:
- (1) as part of the application for cancellation of *permission*, if the *firm* has ceased carrying on all *regulated activities* under its *Part IV permission* at the time of application (see SUP 6.4.9G); or
 - (2) after the application but before its determination, if the *firm* has not ceased carrying on *regulated activities* under its *Part IV permission* at the time of application.
- 6.4.22** G_{/1} In deciding whether to cancel a *firm's Part IV permission*, the FSA will take into account all relevant factors in relation to business carried on under that *permission*, including whether:
- (1) there are unresolved, unsatisfied or undischarged complaints against the *firm* from any of its *customers*;
 - (2) the *firm* has complied with COB 9.3.133R (Client money: discharge of fiduciary duty) and COB 9.3.138R (Client money: allocated but unclaimed client money) if it has ceased to hold *client money*; these COB rules apply to both repayment and transfer to a third party;
 - (3) the *firm* has ceased to hold or control *custody assets* in accordance with instructions received from *clients* (including instructions set out in an agreement entered into in accordance with COB 9.1.49R (Custody: client agreement));
 - (4) the *firm* has repaid all *client deposits*, if it is ceasing to carry on *regulated activities* including *accepting deposits*;
 - (5) the FSA or another regulator has commenced an investigation against the *firm* or continuing enforcement action against the *firm*;

- (6) there are any matters affecting the *firm* which should be investigated before a decision on whether the *firm* should have its *Part IV permission* cancelled by the *FSA* or be disciplined;
- (7) the *firm* has unsettled or unexpired liabilities to *consumers*, for example, outstanding contracts (such as *deposits* or insurance liabilities);
- (8) the *firm* has settled all its debts to the *FSA*; and
- (9) the factors set out in *SUP* 6.4.19G apply.

The FSA’s enforcement and investigation powers against a former authorised person

6.4.23

G
/1

If the *FSA* has granted an application for cancellation of *Part IV permission* and withdrawn a *firm’s* status as an *authorised person* (see *SUP* 6.5) it will retain certain investigative and enforcement powers in relation to the *firm* as a former *authorised person*. These include:

- (1) information gathering and investigation powers in Part XI of the *Act* (Investigation gathering and investigations) (see *ENF* 2 (Information gathering and investigation powers));
- (2) powers to apply to court for *injunctions* and restitution orders in Part XXV of the *Act* (Injunctions and restitution) (see *ENF* 6 (Injunctions) and *ENF* 9 (Restitution and redress));
- (3) powers in Part XXIV of the *Act* (Insolvency) to petition for administration orders or winding up orders against *companies* or insolvent *partnerships*, or bankruptcy orders (or in Scotland sequestration awards) against individuals (see *ENF* 10 (Insolvency proceedings and orders against debt avoidance));
- (4) powers in Part XXVII of the *Act* (Offences) to prosecute *offences* under the *Act* and other specified provisions (see *ENF* 15 (Prosecution of criminal offences)).

6.4.24

G
/1

However, the *FSA* will not be able to use the following powers against former *authorised persons*:

- (1) powers to take disciplinary action against *firms* by publishing statements of misconduct under section 205 of the *Act* (Public censure) or imposing financial penalties under section 206(1) of the *Act* (Financial penalties); and
- (2) the power to require *firms* to make restitution under section 384 of the *Act* (Power of the *FSA* to require restitution).

6.4.25

G
/1

Consequently, the *FSA* considers that it will have good reason not to grant a *firm’s* application for cancellation of *permission* where:

- (1) it proposes to exercise any of the powers described in *SUP* 6.4.24G; or
- (2) it has already begun disciplinary and restitution proceedings against the *firm* by exercising either or both of these powers against the *firm*.

6.4.26

G
/1

The *FSA’s* use of those powers is outlined in *ENF* 11 (Discipline of authorised firms and approved persons: The *FSA’s* general approach).

How long will an application take?

6.4.27

G
/1

- (1) Under section 52(1) of the *Act* (Determination of applications), the *FSA* has six months to consider a completed application.
- (2) If the *FSA* receives an application which is incomplete, that is, where information or a *document* required as part of the application is not provided, section 52(2) of the *Act* requires the *FSA* to determine the incomplete application within 12 months of the initial receipt of the application.
- (3) Within these time limits, however, the length of the process will relate directly to the complexity of variation requested and whether the *firm* has fully wound down (run off) its activities at the time it applies. The *FSA* publishes standard response times on its website setting out how long the application process is expected to take in practice. From time to time, the *FSA* also publishes its performance against these times.

How will FSA make the decision?

6.4.28

G
/1

A decision to grant an application for cancellation of *permission* will be taken by appropriately experienced *FSA* staff. Where, however, the *FSA* staff dealing with the application recommend that a *firm's* application for cancellation of *Part IV permission* be refused, the decision will be taken by the *RDC*.

6.4.29

G
/1

See *DEC* for *guidance* on the *FSA's* decision making procedures, including the procedures it will follow if it proposes to refuse an application for cancellation of *Part IV permission*.



6.5 Ending authorisation

6.5.1

G

^{/1}

Under section 33(2) of the *Act* (Withdrawal of authorisation by the FSA), if the FSA cancels a *firm's Part IV permission*, and as a result there is no *regulated activity* for which the *firm* has *permission*, the FSA is required to give a *direction* withdrawing the *firm's* status as an *authorised person*.

6.5.2

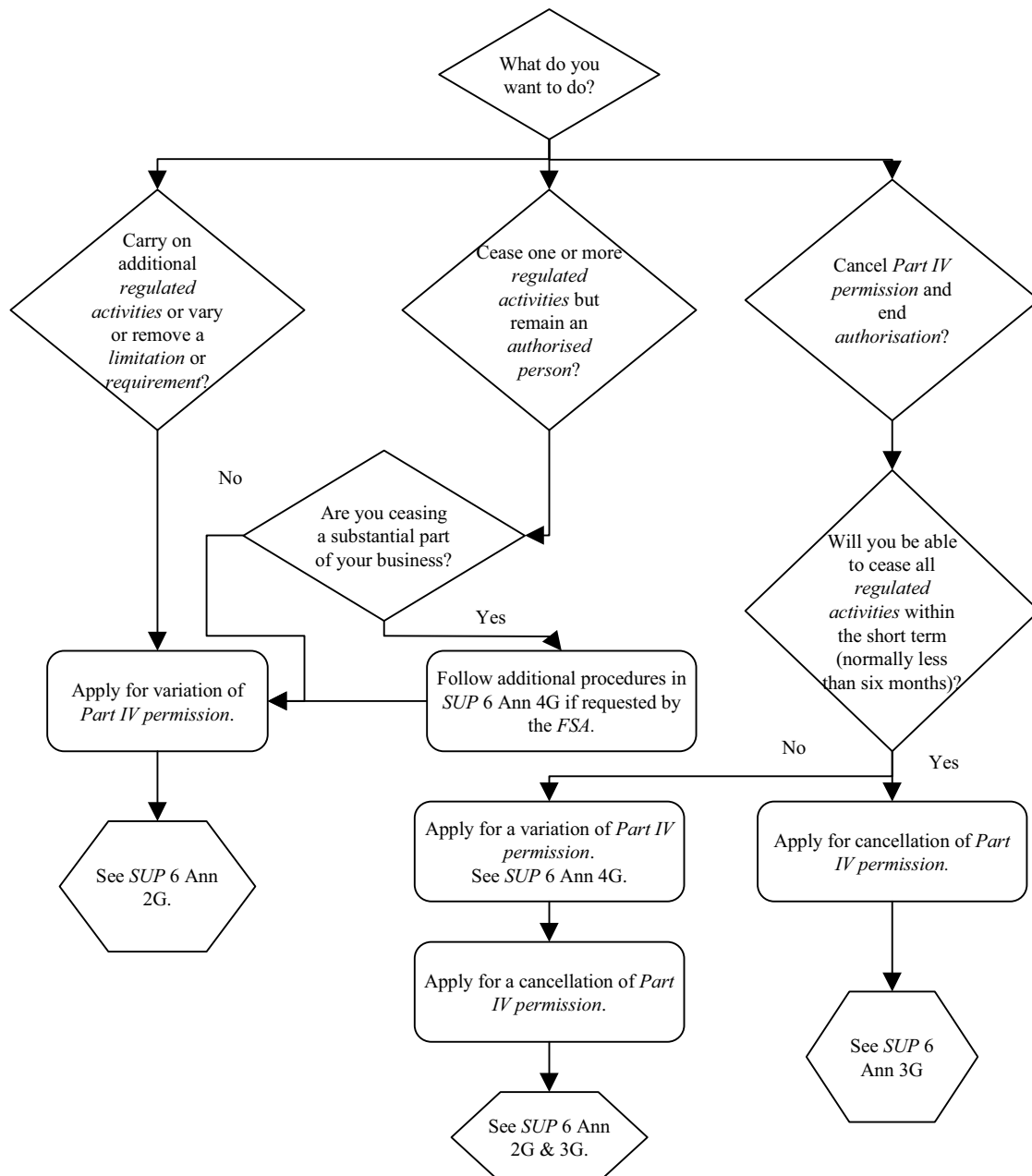
G

^{/1}

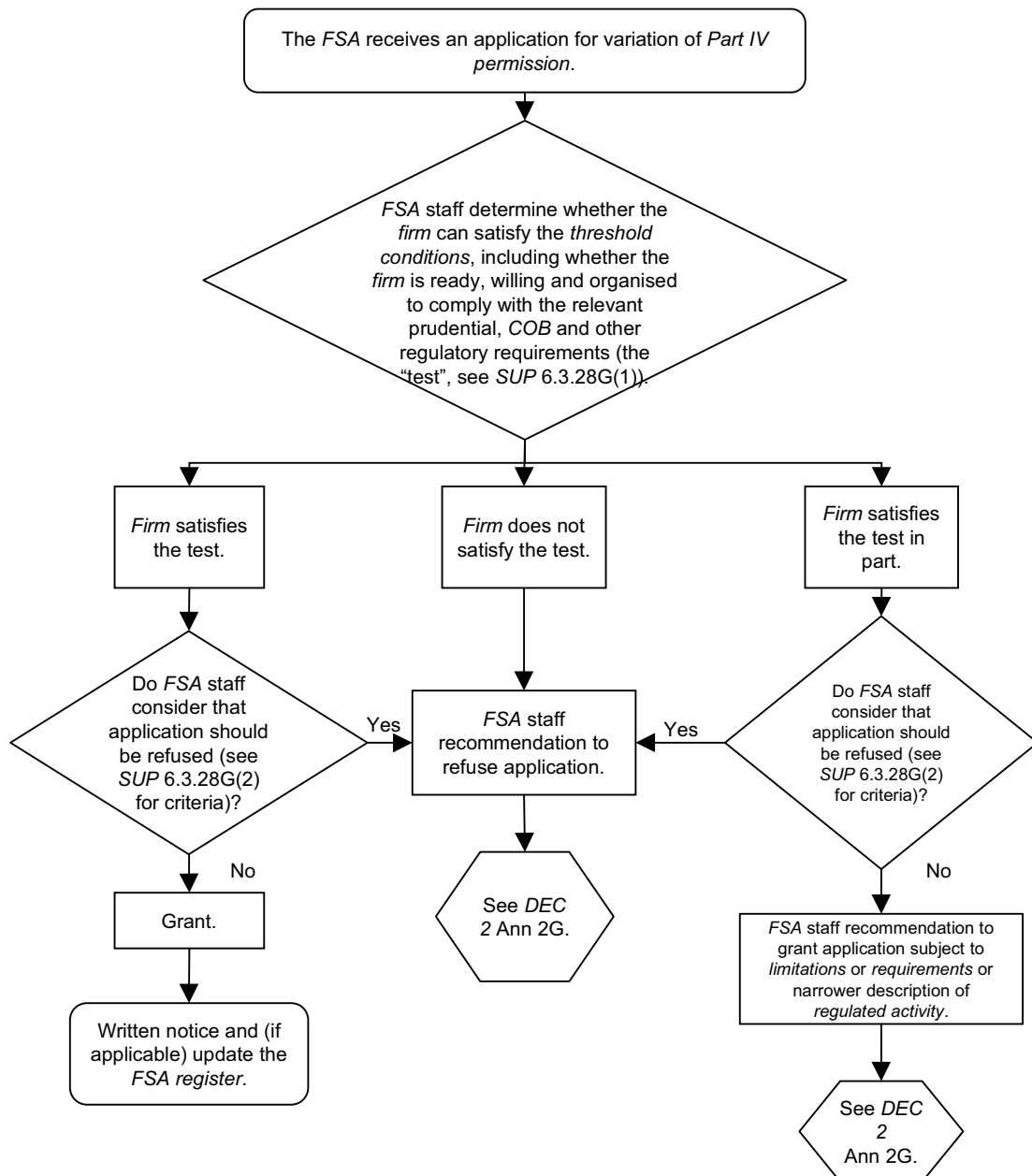
If the FSA concludes that it should grant a *firm's* application for cancellation of *permission* and end its *authorisation*, the FSA will:

- (1) cancel the *firm's Part IV permission* under section 44(2) of the *Act*;
- (2) withdraw the *firm's authorised* status under section 33(2) of the *Act* by giving the *firm* a direction in writing; and
- (3) update the *firm's* entry in the *FSA register* to show it has ceased to be *authorised*.

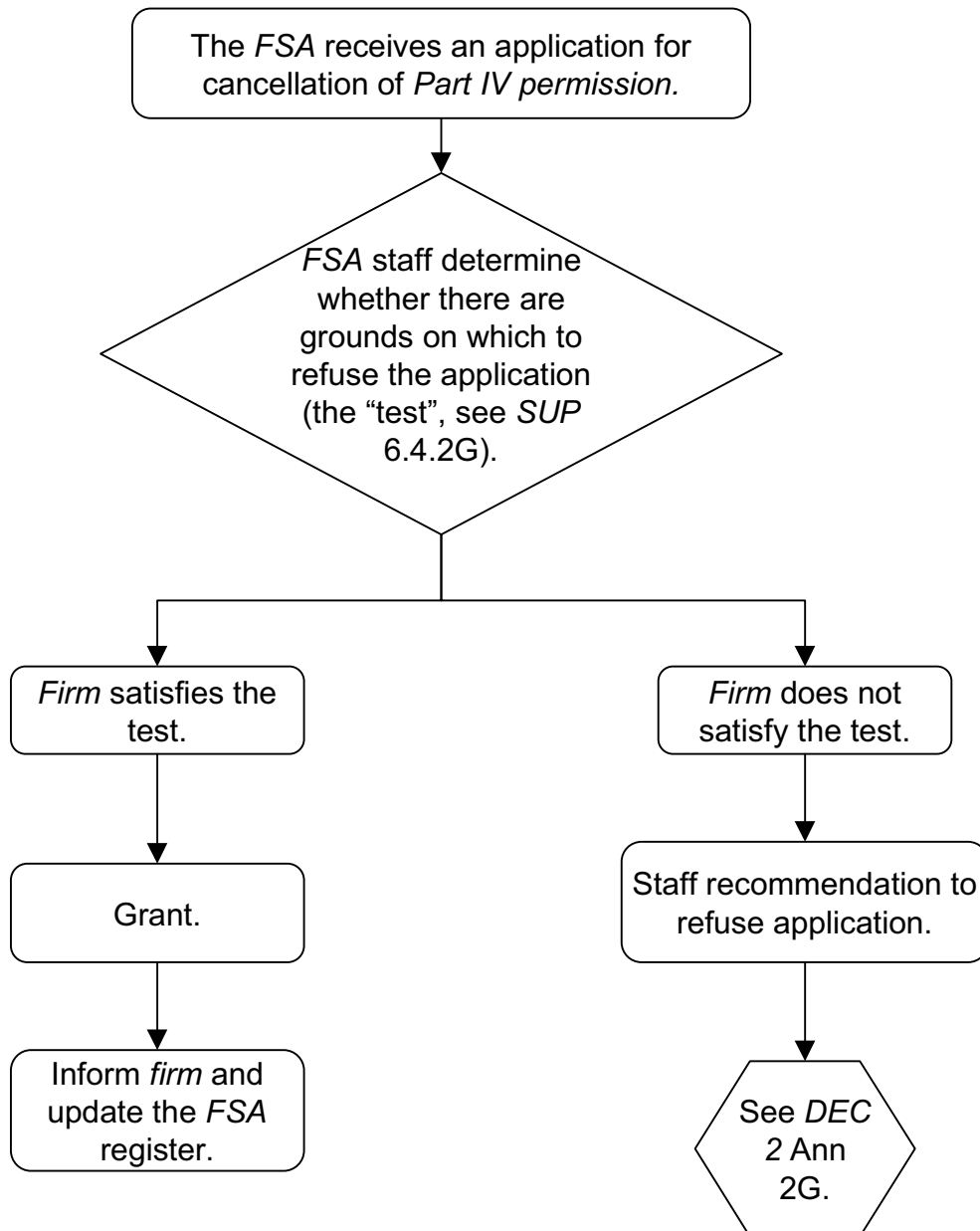
SUP 6 Ann 1G: Applications for variation and cancellation of Part IV permission



SUP 6 Ann 2G: Summary of procedures on application for variation of Part IV permission



SUP 6 Ann 3G: Summary of procedures on application for cancellation of Part IV permission



Additional guidance for a firm winding down (running off) its business

General

1. If a *firm* has *Part IV permission* which enables it to hold *client money* or to carry on *regulated activities* including:
 - (a) *carrying out contracts of insurance and effecting contracts of insurance*; or
 - (b) *accepting deposits*; or
 - (c) *safeguarding and administration of assets*;

it may require a long period (usually in excess of six months) in which to wind down (run off) its business. In these circumstances, it will usually be appropriate for the *firm* to apply for a variation of *Part IV permission* before commencing the wind down.
2. A *firm* that believes that it may need to apply for a variation of *Part IV permission* as a first step towards cancellation of its *permission* should discuss its plans with its usual supervisory contact at the *FSA*.
3. If appropriate, in the interests of *consumer* protection, the *FSA* will require details of the *firm's* plans and will discuss them with the *firm* and monitor the winding down or transfer of the *firm's* business. During the period in which it is winding down, a *firm* will also be required to notify the *FSA* of any material changes to the information provided such as, for example, receipt of new complaints and changes to plans.
4. If, after its *Part IV permission* has been varied, a *firm* has wound down its business, complied with any *requirements* imposed by the *FSA* and ceased to carry on *regulated activities* (or expects to do so within the next six months), it should then make an application for cancellation of its *Part IV permission* (see *SUP 6.4* (Applications for cancellation of permission)).

USE OF OWN-INITIATIVE POWERS

5. If, for example, the *FSA* has *consumer* protection concerns, it may, however, use its *own-initiative power* under section 45 of the *Act* (Variation etc. on the Authority's own initiative) (see *SUP 7* (Individual requirements) and *ENF 3* (Variation of Part IV permission on the *FSA's* own initiative), to vary the *Part IV permission* of a *firm* which is winding down or transferring its *regulated activities*.

REPORTING REQUIREMENTS : GENERAL

6. If a *firm* is winding down (running-off) its business, the routine reporting requirements in *SUP 16* (Reporting requirements) will apply unless the *firm* is granted a waiver. In addition, a *firm* may be asked to submit additional reports, for example, to enable the *FSA* to monitor the wind down.

Specific guidance for firms holding client money or customer assets

1. If a *firm* makes an application to vary its *Part IV permission* to effect the winding down of *regulated activities* which it is carrying on including the repayment of *client money*, or the return of *client deposits*, *custody assets* or any other property belonging to *clients*, the *FSA* will expect it to have formal plans to ensure that:

- (1) the *regulated activities* are wound down in an orderly manner;
 - (2) the *regulated activities* are properly completed and all *client deposits*, *client money*, *custody assets* or any other property belonging to *clients* are repaid, returned or transferred to another *authorised person*; and
 - (3) the interests of *customers* are not adversely affected.
2. A *firm* must comply with COB 9.3.133R (Client money : discharge of fiduciary duty) and COB 9.3.138R (Client money: allocated but unclaimed *client money*) if it is ceasing to hold *client money*. A *firm* must also cease to hold or *control custody assets* in accordance with instructions received from *clients* (including instructions set out in an agreement entered into in accordance with COB 9.1.49R (Custody: client agreement)). These *COB rules* apply to both repayment and transfer to a third party.

Specific guidance for insurers

1. A *firm* carrying on *insurance business* which, ultimately, intends to cease *insurance business* completely, will first need to apply for a variation of its *Part IV permission* while it is running off its business. The *firm* should apply for a variation of *Part IV permission* to remove the activity of *effecting contracts of insurance* from its *permission*, thus restricting its activities to *carrying out insurance contracts* to enable it to run off its remaining insurance liabilities (see SUP 6.2.9G).
2. Examples of variations of *Part IV permission* which may be appropriate in the context of winding down *insurance business* include:
 - (1) removing one or more *regulated activities* (for example, when a *firm* which has *Part IV permission* to carry on *insurance business* enters into run-off, its *Part IV permission* will need to be varied to remove the activity of *effecting contracts of insurance* in relation to new *contracts of insurance*); a new *contract of insurance* excludes contracts effected under a term of a subsisting *contract of insurance*. Thus the *firm's permission* will be restricted to *carrying out contracts of insurance* to enable it to run off its existing liabilities; or
 - (2) imposing a *limitation* on *regulated activities* in a *firm's Part IV permission* or imposing a *requirement* on the type of investments a *firm* holds to support its insurance liabilities.
3. An *insurer* ceasing to *carry out contracts of insurance* is required to submit a *scheme of operations* in accordance with SUP App 2 (Insurers: scheme of operations). The *FSA* may require other information depending on the circumstances, for example an actuarial assessment of the *firm's* run-off.
4. A *firm* that is ceasing *effecting new contracts of insurance* in all categories of *specified investment* should refer to SUP App 2 for details of the specific reporting requirements that apply.
5. An *insurer* should note that the *FSA* will not cancel a *firm's permission* until all the *firm's* insurance liabilities have been discharged, including any potential insurance liabilities. A *firm* is, therefore, advised to submit an application for cancellation of its *Part IV permission* when its run-off is completed.

Specific guidance for firms in the Lloyd's market

1. A *firm* making an application to vary or cancel its *Part IV permission* which requires any approval from the *Society of Lloyd's* should apply to the *Society* for this in addition to applying to the *FSA* for the variation or cancellation.

2. Where a *firm* has *Part IV permission to manage the underwriting capacity of a Lloyd's syndicate as a managing agent at Lloyd's* then, if it wishes to vary its *Part IV permission to remove this regulated activity* or to cancel its *Part IV permission* completely, special procedures will apply.
3.
 - (1) As a first step, the *firm* should apply to the *FSA* for a variation of its *Part IV permission to limit the regulated activity*, after the *Lloyd's syndicates* have been closed, to permit no new business. Once the *syndicates* have been closed, the *firm's* consent from the *Society* to manage *syndicates* will also lapse.
 - (2) After a period of one year from the date of closure of the *Lloyd's syndicates* the *firm* may apply to the *FSA* to vary its *Part IV permission*, to remove the *regulated activity* or to cancel its *Part IV permission* entirely, as appropriate. At this time, a *firm's* approval from the *Society of Lloyd's* as a *managing agent* will cease.
4. *Firms* which wish to discuss these procedures in more detail should contact their usual supervisory contact at the *FSA* and the *Society of Lloyd's*, as appropriate.

Specific guidance for firms accepting deposits

1. As stated in *SUP 6.2.9G*, where a *bank*, or other *firm* with *permission* that includes *accepting deposits*, wishes to cancel its *Part IV permission*, it will generally need to apply for a variation of that *permission* while it winds down its business.
2. When a *firm* is winding down its business activities, it may be appropriate to vary its *Part IV permission* by imposing:
 - (1) a *limitation* that no new *deposits* will be accepted; or
 - (2) a *limitation* on the purchasing of *investments* for its own account; or
 - (3) *requirements* concerning solvency.
3. After a *bank* has discussed with the *FSA* the type of variation of *Part IV permission* the *bank* requires to wind down its business, it should make an application for variation of *Part IV permission* as directed in *SUP 6.3.15D* and follow the *guidance* and procedures in *SUP 6* as well as the additional procedures set out in this annex.
4. The *FSA* may vary the *firm's Part IV permission* to impose one or more of:
 - (1) a *requirement* that the *firm* takes certain steps or refrains from adopting or pursuing a particular course of action or to restrict the scope of its business in a particular way;
 - (2) a *limitation* on *accepting deposits*, for example a *limitation* that no new deposits will be accepted;
 - (3) a *requirement* restricting the granting of *credit* or the making of investments;
 - (4) a *requirement* prohibiting the *firm* from soliciting *deposits* either generally or from *persons* who are not already depositors.
5. The information concerning the circumstances of the application for variation of *Part IV permission* and the confirmations a *firm* is required to give to the *FSA* will differ according to the nature of the *bank* and its *Part IV permission*. If appropriate, it may include, but will not necessarily be limited to:

- (1) a plan containing the arrangements made in respect of the business of any current depositors, for example how and when the *firm* intends to repay or novate arrangements with depositors; or
- (2) confirmation that the *bank* will not take any new *deposits*, will not roll over or renew any existing *deposits* at maturity and will repay all remaining *deposits* (including accrued interest) as they fall due for repayment.

DEALING WITH RESIDUAL DEPOSITS: GENERAL

6. Where a *firm* has residual *deposits* which, for whatever reason, cannot be repaid, they may be protected by a number of different methods. The precise applicability of the courses to be followed depends upon the particular circumstances of the individual *firm*. The *FSA's* supervisory approach will be determined by the course of action taken.
7. Specific issues regarding the transfer of *deposits* are discussed in *SUP 18* [to be added later].

HOLDING FUNDS ON TRUST

8. In some circumstances, it may be appropriate for the *firm* to make an irrevocable transfer of funds, at least equal to the total of its *deposits*, to an independent *trustee* to be held on *trust* for the benefit of the depositors. Any such proposal should be discussed in advance with the *FSA*. The amount of funds held on trust should at all times exceed the total of all *deposits*, in order to provide for contingencies. Trust account arrangements are appropriate only in respect of solvent institutions. The *guidance* in paragraph 10 of this section applies in most cases.
9.
 - (1) A plan containing the arrangements should be made by the *firm* in respect of the business of any current depositors, for example how and when the *firm* intends to repay or novate arrangements with depositors.
 - (2) The *trustee* should be an independent and appropriately qualified third party, nominated by the institution and acceptable to the *FSA*.
 - (a) The trustee should usually be a major *UK bank*. If appropriate, an additional trustee from within the institution may be appointed, preferably in an advisory role. An internal trustee may help to ensure continuity if the *firm* and the trust are likely to remain in existence for the foreseeable future.
 - (b) The *FSA* should be consulted about, or pre-notified of, a potential change of trustee.
 - (c) Trustees are responsible for fulfilling their obligations under the trust deed. In practice, the *FSA* may wish to point out that certain factors need to be given consideration by the trustees and the institution (for example, the procedures for paying out to depositors).
 - (3) The *FSA* would require to see an opinion by the *firm's* legal advisers, confirming the validity and enforceability of the *trust* and in particular specifying the extent (if any) to which the trust arrangements may be set aside in future. The *FSA* reserves the right to request sight of the proposed trust documentation itself.
 - (4) The trustee has the right (and probably the obligation) to invest the funds, and in doing so should normally seek to "match" the maturity profile of the *firm's deposit* base. However, the following could result in *deposit* liabilities exceeding *trust* funds at any time:

- (a) maturity mismatches, that is, whether there are insufficient liquid funds across the maturity bands to repay depositors; or
 - (b) changes in interest rates; or
 - (c) the trustee's fees and disbursements.
10. The trustee should not deposit, or otherwise invest, trust funds except in segregated accounts with third-party authorised institutions.
11. (1) An auditor's report, similar to that used to determine whether all the *deposits* have been repaid by a *firm*, should be provided to confirm that all depositors have been repaid before the discharge of a trust is allowed.
- (2) Auditors' reports, from the trust's auditors, should subsequently be obtained at intervals to demonstrate that funds in the trust continue to be at least equal to the remaining liabilities to depositors and that repayments have been properly made. The *firm* retains the ultimate responsibility to provide information to the *FSA*.
- (3) The *FSA* may, however, require the inclusion of a clause in the trust deed requiring the trustee to provide such information as may be requested.
12. Entering into a trust arrangement does not "transfer" deposits or discharge the *firm's* contractual obligations to its depositors. The *firm* will, therefore, need to continue to be an *authorised person* until these obligations are discharged.

HOLDING THE FUNDS IN SEGREGATED ACCOUNTS

13. The *firm* may place and retain an amount at all times at least equal to its *deposit* liabilities in a segregated account with its usual bankers. The advantage of this course of action is that if all *deposit* liabilities are matched by funds in such an account, then the *firm* is not carrying on the *regulated activity* of *accepting deposits* in contravention of the *Act*.
14. Placing funds in a segregated account does not discharge a *firm's* contractual obligations to its depositors; the *FSA* therefore continues to have a supervisory responsibility towards the *firm*.

Chapter 7

Individual requirements



7.1 Application and purpose

Application

- 7.1.1** G This chapter applies to every *firm* which has a *Part IV permission*.
- 7.1.2** G^{/1} The application of this chapter to an *incoming EEA firm*, *incoming Treaty firm* or *UCITS qualifier* with a *Part IV permission* (a "*top-up permission*") is limited as explained in *SUP 7.2.4G*.

Purpose

- 7.1.3** G^{/1} The *Handbook* primarily contains provisions which apply to all *firms* or to certain categories of *firm*. However, a *firm* may apply for a waiver or modification of *rules* in certain circumstances as set out in *SUP 8*; or it may receive individual *guidance* on the application of the *rules*, as set out in *SUP 9*.
- 7.1.4** G^{/1} The *FSA*, in the course of its supervision of a *firm*, may sometimes judge it necessary or desirable to impose additional *requirements* on a *firm* or in some way amend or restrict the activities which the firm has *permission* to undertake. The *guidance* in this chapter describes when and how the *FSA* will seek to do this.
- 7.1.5** G^{/1} By waiving or modifying the requirements of a *rule* or imposing an additional *requirement* or *limitation*, the *FSA* can ensure that the *rules*, and any other *requirements* or *limitations* imposed on a *firm*, take full account of the *firm's* individual circumstances, and so assist the *FSA* in meeting the *regulatory objectives* (for example, to protect *consumers* and maintain market confidence).

7.2 The FSA's powers to set individual requirements on its own initiative

- 7.2.1** ^G_{/1} The FSA has the power under section 45 of the *Act* (Variation on the Authority's own initiative) to vary a *firm's Part IV permission*. This includes imposing a statutory *requirement* or *limitation* on that *Part IV permission*. (See *AUTH* 3.6 and *AUTH* 3.7 for a further explanation of potential *limitations* and *requirements* on a *firm's permission*.)
- 7.2.2** ^G_{/1} The circumstances in which the FSA may vary a *firm's Part IV permission* on its own initiative under section 45 of the *Act* include where it appears to the FSA that:
- (1) one or more of the threshold conditions is or is likely to be no longer satisfied; or
 - (2) it is desirable to vary a *firm's permission* in order to protect the interests of consumers or potential consumers.
- 7.2.3** ^G_{/1} The FSA may also use its powers under section 45 for enforcement purposes. *ENF* 3 sets out in detail the FSA's powers under section 45 and the circumstances under which the FSA may vary a *firm's permission* in this way, whether for enforcement purposes or as part of its day to day supervision of *firms*. This chapter provides additional guidance on when the FSA will use these powers for supervision purposes.
- 7.2.4** ^G_{/1} The FSA may use its powers under section 45 of the *Act* only in respect of a *Part IV permission*; that is, a *permission* granted to a *firm* under section 42 of the *Act* (Giving permission) or having effect as if so given. In respect of an *incoming EEA firm*, an *incoming Treaty firm*, or a *UCITS qualifier*, this power applies only in relation to any *top-up permission* that it has. There are similar but more limited powers under Part XIII of the *Act* in relation to the *permission* of an *incoming EEA firm* or *incoming Treaty firm* under Schedules 3 or 4 to the *Act* (see *ENF* 4).
- 7.2.5** ^G_{/1} If the FSA exercises its powers under section 45 of the *Act*, it will do so by issuing a *supervisory notice*. The procedure that will be followed is set out in *DEC* 3 and a flowchart is provided in *DEC* 3 Ann 2G.
- 7.2.6** ^G_{/1} A *firm* has a right of referral to *the Financial Services and Markets Tribunal* (see *DEC* 5) in respect of the exercise by the FSA of its powers to vary, on its own initiative, the *firm's Part IV permission*.

7.3 Criteria for varying a firm's permission

7.3.1

G
/1

The FSA expects to maintain a close working relationship with certain types of *firm* and expects that routine supervisory matters arising can be resolved during the normal course of this relationship by, for example, issuing individual *guidance* where appropriate (see SUP 9.3). However, the FSA may seek to vary a *firm's Part IV permission*:

- (1) in circumstances where it considers it appropriate for the *firm* to be subject to a formal *requirement*, breach of which could attract enforcement action; or
- (2) if a variation is needed to enable the *firm* to comply with the *requirement*, due to agreements the *firm* may have with third parties. (For example a *firm* may be under a contractual obligation to do something, but only if it can do so lawfully. In this case, if the FSA considers the *firm* must not do it, then the FSA would need to prevent it doing so through a variation in its *Part IV permission* to enable the *firm* to avoid breaching the contractual obligation.)

7.3.2

G
/1

The FSA may seek to vary a *firm's Part IV permission* on its own initiative in certain situations, including the following:

- (1) If the FSA determines that a *firm's* management, business or *internal controls* give rise to material risks that are not fully addressed by its *rules*, the FSA may seek to vary the *firm's Part IV permission* and impose an additional *requirement* or *limitation* on the *firm*.
- (2) If a *firm* becomes or is to become involved with new products or selling practices which present risks not adequately addressed by existing requirements, the FSA may seek to vary the *firm's Part IV permission* in respect of those risks.
- (3) If there has been a change in a *firm's* structure, *controllers*, activities or strategy which generate material uncertainty or create unusual or exceptional risks, then the FSA may seek to vary the *firm's Part IV permission*. (See also SUP 11.7.14G to 11.7.18G for a description of the FSA's ability to vary a *firm's Part IV permission* on a change in *control* under section 46 of the *Act*.)

7.3.3

G
/1

The FSA may seek to impose *requirements* or *limitations* which include but are not restricted to:

- (1) requiring a *firm* to submit regular reports covering, for example, trading results, management accounts, *customer* complaints, connected party transactions;
- (2) requiring a *firm* to maintain prudential limits, for example on large *exposures*, foreign currency *exposures* or liquidity gaps;

- (3) requiring a *firm* to submit a business plan (or for an *insurer*, a *scheme of operations* (see SUP App 2));
- (4) limiting the *firm's* activities;
- (5) requiring a *firm* to maintain a particular amount or type of financial resources.

7.3.4

G

^{/1}

The FSA will seek to give a *firm* reasonable notice of an intent to vary its *permission* and to agree with the *firm* an appropriate timescale. However, if the FSA considers that a delay may be prejudicial to the interest of *consumers*, the FSA may need to act immediately using its powers under section 45 of the *Act* to vary a *firm's Part IV permission* with immediate effect.

Chapter 8

Waiver and modification of rules





8.1 Application and purpose

8.1.1

R

/1

This chapter applies to every:

- (1) *firm* that wishes to apply for, consent to, or has been given a modification of or waiver of the *FSA's rules*;
- (2) *person*, as respects a particular *AUT* or *ICVC*, who wishes to apply for, or consent to, or has been given a modification of or waiver of the *rules* in *CIS*.

8.1.2

G

/1

A *recognised body* should see *REC* 3.3 for information on *waivers* of *rules* in *REC* under section 294 of the *Act*.

8.1.3

G

/1

This chapter is not relevant to the functions of the *UKLA*, that is the *FSA* acting in its capacity as the *competent authority* for the purposes of Part VI of the *Act* (Official Listing).

Purpose

8.1.4

G

/1

This chapter explains how the regime for the waiver or modification of *rules* works.



8.2 Introduction

Waivers under section 148 of the Act

- 8.2.1** G_{/1} Under section 148 of the *Act* (Modification or waiver of rules), the *FSA* may, on the application or with the consent of a *firm*, direct that certain *rules* (see *SUP* 8.2.6G to *SUP* 8.2.8G):
- (1) are not to apply to the *firm*; or
 - (2) are to apply to the *firm* with such modifications as may be specified.

- 8.2.2** G_{/1} The directions referred to in *SUP* 8.2.1G (1) and (2) are collectively referred to in the *Handbook* as *waivers*.

Waivers of rules in CIS

- 8.2.3** G_{/1} Section 250 of the *Act* and regulation 7 of the *OEIC Regulations* allow the *FSA* to *wave* the application of certain *rules* in *CIS* to:
- (1) a *person*, as respects a particular *AUT* or *ICVC*, on the application or with the consent of that *person*; and
 - (2) an *AUT* or *ICVC* on the application or with the consent of the *manager* and *trustee* (in the case of an *AUT*) or the *ICVC* and its *depository* (in the case of an *ICVC*).

- 8.2.4** G_{/1} Those *persons* to whom section 250 and regulation 7 of the *OEIC Regulations* are relevant, but who are not *firms*, should follow *SUP* 8 as if they were *firms*.

- 8.2.5** G_{/1} Section 250 of the *Act* and regulation 7 of the *OEIC Regulations* work by giving effect to section 148 of the *Act* in respect of *waivers* given under section 250(2) and (3) and regulation 7(1) and (2) of the *OEIC Regulations*.

Rules which can be waived

- 8.2.6** G_{/1} The *rules* which the *FSA* can *wave* are listed in section 148(1) and 250(1) of the *Act* and regulation 7 of the *OEIC Regulations*, and are set out in *SUP* 8.2.7G.

- 8.2.7** G_{/1} Table Rules which can be waived (see *SUP* 8.2.6G)

Rules	Section of the Act or regulation of the OEIC Regulations under which rules are made	Chapters of the Handbook where such rules appear (Note 1)
Auditors and Actuaries rules (Appointment) (Note 2)	Section 340	<i>SUP 3</i> and <i>SUP 4</i>
Control of information rules	Section 147	<i>COB 2.4</i>
Financial promotion rules	Section 145	<i>COB 3</i> , <i>PRIN</i> and <i>SYSC</i>
General rules	Section 138	Throughout the <i>Handbook</i>
Insurance business rules	Section 141	<i>IPRU(INS)</i>
Money laundering rules	Section 146	<i>ML</i>
Price stabilising rules	Section 144	<i>MAR 2</i>
<i>Authorised unit trust</i> scheme rules	Section 247	<i>CIS</i>
<i>Authorised unit trust</i> scheme particulars rules	Section 248	<i>CIS</i>
<i>Investment company with variable capital</i> rules	Regulation 6	<i>CIS</i>

Note 1=There are also relevant incidental, supplemental, consequential and transitional *rules* made under those powers in various parts of the *Handbook*, including relevant application provisions, *GEN*, the *Glossary* and relevant schedules of transitional provisions.

Note 2=The FSA does not have the power to *waive* the application of auditors and actuaries rules, if those *rules* apply directly to an auditor or actuary, as opposed to applying to a *firm*. Schedule 6 to the Supervision manual identifies those auditors and actuaries rules in *SUP 3* and *SUP 4* which can be waived.

8.2.8

G

/1

Schedule 6 identifies those *rules* that can and cannot be waived.



8.3 Applying for a waiver

Conditions for giving a waiver

8.3.1

G

^{/1}

Under section 148(4) of the *Act*, the *FSA* may not give a *waiver* unless it is satisfied that:

- (1) compliance by the *firm* with the *rules*, or with the *rules* as unmodified, would be unduly burdensome, or would not achieve the purpose for which the *rules* were made; and
- (2) the *waiver* would not result in undue risk to *persons* whose interests the *rules* are intended to protect.

Publication of waivers

8.3.2

G

^{/1}

The *FSA* is required by section 148(6) of the *Act* to publish a *waiver* unless it is satisfied that it is inappropriate or unnecessary to do so (see *SUP* 8.6).

Form and method of application

8.3.3

D

^{/1}

If a *firm* wishes to apply for a *waiver*, it must apply in writing. The application must be given or addressed, and delivered in the way set out in *SUP* 15.7.4R to *SUP* 15.7.6R (Form and method of notification). The application must include:

- (1) the name and *FSA* firm reference number of the *firm* making the application, and a contact point for the *firm* on the application;
- (2) the reference number of the *rule* to which the application relates;
- (3) a clear explanation of the *waiver* that is being applied for and the reasons why the *firm* wants it;
- (4) details of any special requirements, for example if the *firm* needs a decision urgently, or if there is a specific period for which the *waiver* is required;
- (5) relevant facts that support the *firm's* application;
- (6) the *firm's* reasons for considering that the conditions in section 148(4) of the *Act* are satisfied (see *SUP* 8.3.1G); and

- (7) confirmation that the *firm* is content for the *waiver* to be published or, if not, the reasons, with reference to SUP 8.6.2G, why the *firm* believes that:
 - (a) it would be inappropriate or unnecessary to publish the *waiver*; or
 - (b) the *waiver* should be published without disclosing the identity of the *firm* (giving details of any possible prejudice to commercial interests).

8.3.4 G_{/1} Before sending in a *waiver* application, a *firm* may find it helpful to discuss the application with its usual supervisory contact at the FSA. However, the *firm* should still ensure that all relevant information is included in the application.

Procedure on receipt of an application

8.3.5 G_{/1} The FSA will acknowledge an application promptly and if necessary will seek further information from the *firm*. The time taken to determine an application will depend on the issues it raises. However, the FSA will aim to give *waiver* decisions within 20 *business days* of receiving an application which includes sufficient information. If the FSA expects to take longer, it will tell the *firm* and give an estimated decision date. A *firm* should make it clear in the application if it needs a decision within a specific time.

8.3.6 G_{/1} In some cases, the FSA may give a modification of a *rule* rather than direct that the *rule* is not to apply. The FSA may also impose conditions on a *waiver*, for example additional reporting requirements. A *waiver* may be given for a specified period of time only, after which time it will cease to apply. A *firm* wishing to extend the duration of a *waiver* should follow the procedure in SUP 8.3.3D. A *waiver* will not apply retrospectively.

8.3.7 G_{/1} If the FSA decides not to give a *waiver*, it will give reasons for the decision.

8.3.8 G_{/1} A *firm* may withdraw its application at any time up to the giving of the *waiver*. In doing so, a *firm* should give the FSA its reasons for withdrawing the application.

8.3.9 G_{/1} If the FSA believes that a particular *waiver* given to a *firm* may have relevance to other *firms*, it may publish general details about the possible availability of the *waiver*. For example, IPRU(INV)3-80(10)G explains that a *firm* that wishes to use its own internal model to calculate its position risk requirement (PRR) will need to apply for a *waiver* of the relevant *rules*.

Giving a waiver with consent rather than on an application

8.3.10 G_{/1} Under section 148(2) of the *Act* the FSA may give a *waiver* with the consent of a *firm*. This power may be used by the FSA in exceptional circumstances where the FSA considers that a *waiver* should apply to a number of *firms* (for example, where a *rule* unmodified may not meet the particular circumstances of a particular category of *firm*). In such cases the FSA will inform the *firms* concerned that the *waiver* is available, either by contacting *firms* individually or by publishing details of the availability of the *waiver* on the FSA's website. The *firms* concerned will not have to make a formal application but will have to give their written consent for the *waiver* to apply.



8.4 Reliance on waivers

Application of waived rules

8.4.1

G

^{/1}

If the FSA gives a *firm* a *waiver*, then the relevant *rule* no longer applies to the *firm*. But:

- (1) if a *waiver* directs that a *rule* is to apply to a *firm* with modifications, then contravention of the modified *rule* could lead to FSA enforcement action and (if applicable) a right of action under section 150 of the *Act* (Actions for damages); and
- (2) if a *waiver* is given subject to a condition, it will not apply to activities conducted in breach of the condition, and those activities, if in breach of the original *rule*, could lead to FSA enforcement action or such a right of action.

The effect of rule changes on waivers

8.4.2

G

^{/1}

Substantive changes to the *rules* (this would not include simple editorial changes) in the *Handbook* may affect existing *waivers*, changing their practical effect and creating a need for a change to the original *waiver*. The FSA will consult on proposed *rule* changes. A *firm* should note proposed *rule* changes and discuss the impact on a *waiver* with its usual supervisory contact at the FSA.



8.5 Notification of altered circumstances relating to waivers

- 8.5.1 **R** _{/1} A *firm* which has applied for or has been granted a *waiver* must notify the *FSA* immediately if it becomes aware of any matter which could affect the continuing relevance or appropriateness of the application or the *waiver*.
- 8.5.2 **G** _{/1} *Firms* are also referred to *SUP* 15.6 (Inaccurate, false or misleading information). This requires, in *SUP* 15.6.4R, a *firm* to notify the *FSA* if false, misleading, incomplete or inaccurate information has been provided. This would apply in relation to information provided in an application for a *waiver*.



8.6 Publication of waivers

Requirement to publish

8.6.1 G_{/1} The *FSA* is required by section 148(6) of the *Act* to publish a *waiver* unless it is satisfied that it is inappropriate or unnecessary to do so. If the *FSA* publishes a *waiver*, it will not publish details of why a *waiver* was required or any of the supporting information given in a *waiver* application.

Matters for consideration

8.6.2 G_{/1} When considering whether it is satisfied under section 148(6), the *FSA* is required by section 148(7) of the *Act*:

- (1) to take into account whether the *waiver* relates to a *rule* contravention of which is actionable under section 150 of the *Act* (Actions for damages); Schedule 5 identifies such *rules*;
- (2) to consider whether its publication would prejudice, to an unreasonable degree, the commercial interests of the *firm* concerned, or any other member of its *immediate group*; and
- (3) to consider whether its publication would be contrary to an international obligation of the *United Kingdom* (for example, the confidentiality obligations in the *Single Market Directives*).

8.6.3 G_{/1} *Waivers* can affect the legal rights of third parties, including *consumers*. In the *FSA*'s view it is important that the fact and effect of such *waivers* should be transparent. So the fact that a *waiver* relates to a *rule* that is actionable under section 150 of the *Act* (see *SUP* 8.6.2G(1)) will tend to argue in favour of publication.

8.6.4 G_{/1} In making *waiver* applications under section 250 of the *Act* or regulation 7 of the *OEIC Regulations*, *SUP* 8.6.2G(2) should be read in application to *rules* in *CIS* as if the word "commercial" were omitted.

8.6.5 G_{/1} In considering whether commercial interests would be prejudiced to an unreasonable degree (see *SUP* 8.6.2G(2)), the *FSA* will weigh the prejudice to *firms*' commercial interests against the interests of *consumers*, markets and other third parties in disclosure. In doing so the *FSA* will consider factors such as the extent to which publication of the *waiver* would involve the premature release of proprietary information to commercial rivals, for example relating to a product innovation, or reveal information which could reasonably be regarded as the *firm*'s own intellectual property. In line with section 148(8) of the *Act*, the *FSA* will also

consider whether prejudice to a *firm's* commercial interests could be avoided or mitigated by publication of the *waiver* without disclosing the identity of the *firm*.

8.6.6

G
/1

The *FSA* may consider publication unnecessary where, for example, the *waiver* relates to a minor matter that does not affect any third party and is unlikely to be of relevance or interest to other *firms*.

Firm's objection to publication

8.6.7

G
/1

If, after taking into account the matters in *SUP* 8.6.2G to *SUP* 8.6.6G, a *firm* believes there are good grounds for the *FSA* either to withhold publication or to publish the *waiver* without disclosing the identity of the *firm*, it should make this clear in its application (see *SUP* 8.3.3D(7)). If the *FSA* proposes to publish a *waiver* against the wishes of the *firm*, the *FSA* will give the *firm* the opportunity to withdraw its application before the *waiver* is given.

Withholding publication for a limited period

8.6.8

G
/1

A decision to withhold a *waiver* or identity of a *firm* from publication may be for a limited period only, usually as long as the duration of the relevant grounds for non-publication. If the *FSA* proposes to publish information about a *waiver* that had previously been withheld, it will first give the *firm* an opportunity to make representations.

Means of publication

8.6.9

G
/1

The principal means of publication of *waiver* information will be the *FSA's* website (www.fsa.gov.uk).



8.7 Varying waivers

8.7.1

G

^{/1}

Once the FSA has given a *waiver*, it may vary it with the *firm's* consent, or on the *firm's* application. If a *firm* wishes the FSA to vary a *waiver*, it should follow the procedures in SUP 8.3.3D, giving reasons for the application. In a case where a *waiver* has been given to a number of *firms* (see SUP 8.3.10G), if the FSA wishes to vary such *waivers* with the consent of those *firms*, it will follow the procedures in SUP 8.3.10G.

8.7.2

G

^{/1}

If the *waiver* that has been varied has previously been published, the FSA will publish the variation unless it is satisfied that it is inappropriate or unnecessary to do so, having regard to any representation made by the *firm*.



8.8 Revoking waivers

8.8.1 G_{/1} The *FSA* may revoke a *waiver* at any time. In deciding whether to revoke a *waiver*, the *FSA* will consider whether the conditions in section 148(4) of the *Act* are no longer satisfied (see *SUP* 8.3.1G), and whether the *waiver* is otherwise no longer appropriate. The *FSA* may revoke a *waiver* with immediate effect, if it considers that this is necessary, for example, in order to prevent undue risk to *consumers*.

8.8.2 G_{/1} If the *FSA* proposes to revoke a *waiver*, or revokes a *waiver* with immediate effect, it will:

- (1) give the *firm* written notice either of its proposal, or of its action, giving reasons;
- (2) state in the notice a reasonable period (usually 28 *days*) within which the *firm* can make representations about the proposal or action; if a *firm* wants to make oral representations, it should inform the *FSA* as quickly as possible, specify who will make the representations and which matters will be covered; the *FSA* will inform the *firm* of the time and place for hearing the representations and may request a written summary;
- (3) after considering any representations, in the case of a proposed revocation, give the *firm* written confirmation of its decision to revoke the *waiver* or not; or, in the case of a revocation that has already taken effect, either confirm the revocation or seek the *firm's* consent to a new *waiver*.

8.8.3 G_{/1} If the *waiver* that has been revoked has previously been published, the *FSA* will publish the revocation unless it is satisfied that it is inappropriate or unnecessary to do so, having regard to any representations made by the *firm*.



8.9 Decision making

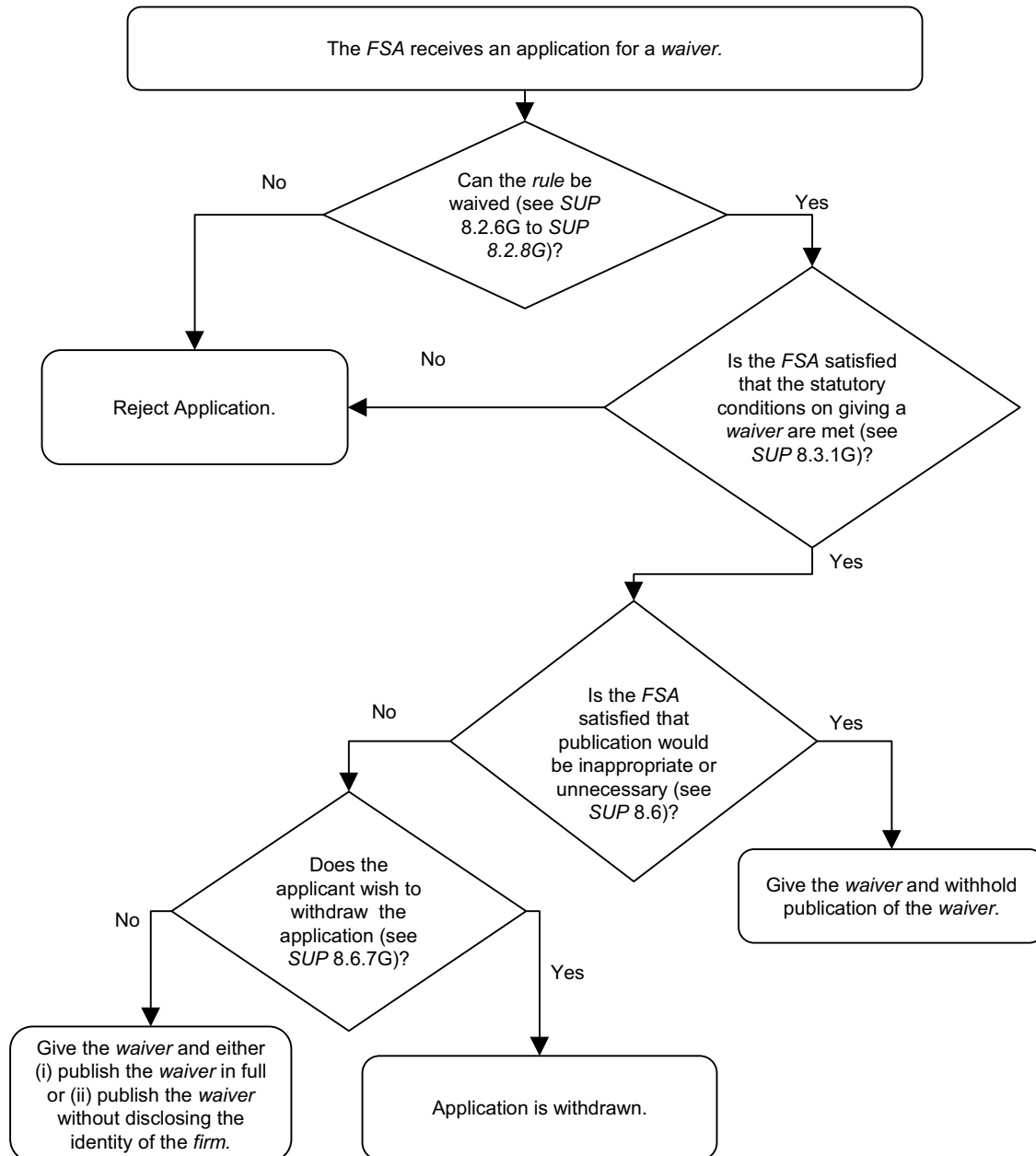
8.9.1

G
/1

The *waivers* regime is overseen by a staff committee. Its responsibility is to ensure that the giving of *waivers* is in accordance with the requirements of the *Act*, of the *guidance* in SUP 8 and of other relevant *guidance*. Decisions on individual applications are made under arrangements designed to result in rapid, responsive and well-informed decision making. The arrangements include arrangements for collective decision making to set general policies, and, as necessary, determine cases for applications with substantially common characteristics (for example, *waivers* in relation to the same *rule* or related *rules* or by *firms* in a similar position). It also includes arrangements for decision making by individuals within established precedents and policies.

SUP 8: Waiver and notification of rules

Summary of procedures on application for a waiver



Chapter 9

Individual guidance



9.1 Application and purpose

Application

- 9.1.1** **G**
/1
- (1) This chapter applies to every *firm* and to *persons* generally.
 - (2) *SUP 9.3* (Giving individual guidance to a firm on the FSA's own initiative) is, however, only relevant to a *firm*.
 - (3) This chapter does not apply in relation to *guidance* requested from, or given by, the *UKLA*, that is the *FSA* acting in its capacity as the *competent authority* for the purposes of Part VI of the *Act* (Official Listing).

Purpose

- 9.1.2** **G**
/1
- Individual *guidance* is *guidance* given to one particular *person*, which relates to its own particular circumstances or plans. It may be oral or written. Individual *guidance* will not be published but may at the *FSA*'s discretion be converted to general *guidance* and published in the *Handbook*.
- 9.1.3** **G**
/1
- A *person* may need to ask the *FSA* for individual *guidance* on how the *rules* and general *guidance* in the *Handbook*, the *Act* or other regulatory requirements apply in their particular circumstances. This chapter describes how a *person* may do this. Section 157 of the *Act* gives the *FSA* the power to give *guidance* consisting of such information and advice as it considers appropriate.
- 9.1.4** **G**
/1
- The *FSA* may at times also consider it appropriate to give a *firm* individual *guidance* on its own initiative, for example on how it considers a *firm* should comply with a *rule*. *SUP 9.3* describes when and how the *FSA* will seek to do this.

9.2 Making a request for individual guidance

How to make a request

- 9.2.1** **G**_{/1} Requests for individual *guidance* may be made in writing or orally. If oral queries raise complex or significant issues, the *FSA* will normally expect the details of the request to be confirmed in writing. Simple requests for *guidance* may often be dealt with orally, although it is open to a *person* to seek a written confirmation from the *FSA* of oral *guidance* given by the *FSA*.

Who to address a request to

- 9.2.2** **G**_{/1} A *firm* and its professional advisers should address requests for individual *guidance* to the *firm's* usual supervisory contact at the *FSA*, with the exception of requests for *guidance* on the *Code of Market Conduct (MAR 1)* which should be addressed to the specialist team within the Markets and Exchanges Division. A *firm* may wish to discuss a request for *guidance* with the relevant contact before making a written request.
- 9.2.3** **G**_{/1} A *person* who is not a *firm* should address his request for individual *guidance* to the appropriate department within the *FSA*. A *person* who is unsure of where to address his request may address his enquiry to the *FSA*, making clear the nature of the request.

Discussions on a no-names basis

- 9.2.4** **G**_{/1} The *FSA* does not expect to enter into discussions on a 'no-name' basis about the affairs of an individual *person*.

The FSA's response to a reasonable request

- 9.2.5** **G**_{/1} The *FSA* will aim to respond quickly and fully to reasonable requests. The *FSA* will give high priority to enquiries about areas of genuine uncertainty or about difficulties in relating established requirements to innovative practices or products. What constitutes a 'reasonable request' is a matter for the *FSA*. It will depend on the nature of the request and on the resources of the *firm* or other *person* making it. The *FSA* will expect the *person* to have taken reasonable steps to research and analyse a topic before approaching the *FSA* for individual *guidance*. The *FSA* should not be viewed as a first port of call for *guidance*, except where it is only the

FSA that can give the *guidance*, for example in confirming non-standard reports that it wishes to receive from a *firm*.

Information required by the FSA

9.2.6

G
/1

The *FSA* will always need sufficient information and time before it can properly evaluate the situation and respond to a request. If a request is time-critical, the *person* or its professional adviser should make this clear. The more notice a *person* can give the *FSA*, the more likely it is that the *FSA* will be able to meet the *person's* timetable. However, the time taken to respond will necessarily depend upon the complexity and novelty of the issues involved. In making a request, a *person* should identify the *rule*, general *guidance*, or other matter on which individual *guidance* is sought, and provide a description of the circumstances relating to the request. The *FSA* may request further information if it considers that it does not have sufficient information.



9.3 Giving individual guidance to a firm on the FSA's own initiative

9.3.1

G

^{/1}

Business and internal control risks vary from *firm* to *firm*, according to the nature and complexity of the business. The FSA's assessment of these risks is reflected in how its *rules* apply to different categories of *firm* as well as in the use of its other regulatory tools. One of the tools the FSA has available is to give a *firm* individual *guidance* on the application of the requirements or standards under the *regulatory system* in the *firm's* particular circumstances.

9.3.2

G

^{/1}

The FSA may give individual *guidance* to a *firm* on its own initiative if it considers it appropriate to do so. For example:

- (1) the FSA may consider that general *guidance* in the *Handbook* does not appropriately fit a *firm's* particular circumstances (which may be permanent or temporary) and therefore decide to give additional individual *guidance* to the *firm*;
- (2) some of the FSA's requirements are expressed in general terms; however, there may be times when the FSA will wish to respond to a *firm's* particular circumstances by giving individual *guidance* on the application of the general requirement in these circumstances;
- (3) the FSA may consider that a *firm* should be given more detailed *guidance* than that contained in the *Handbook*; for example, where a *firm* holds positions in instruments of a non-standard form it may be appropriate to give the *firm* additional or more detailed *guidance* on how the FSA considers that it should calculate its financial resources requirement;
- (4) in some instances a *rule* allows a *firm* to select which requirement, within a range of alternative requirements, a *firm* should comply with; in many instances, the *Handbook* gives *guidance* setting out the circumstances in which compliance with a particular requirement is appropriate; the FSA may sometimes consider it necessary to give additional individual *guidance* to tell a *firm* which requirement it considers appropriate;
- (5) in relation to the maintenance of adequate financial resources, the FSA may give a *firm* individual *guidance* on the amount or type of financial resources the FSA considers appropriate, for example on individual capital ratios for *banks* and *building societies*; further *guidance* on how and when the FSA may give individual *guidance* on financial resources is contained in the Interim Prudential sourcebooks:
 - (a) for a *bank*: IPRU(BANK) CO4;
 - (b) for a *building society*: IPRU(BSOC) 1.5 and Ann 1J;

(c) for a *securities and futures firm* (or other *firm* required to comply with IPRU(INV) 3 or IPRU(INV)10): IPRU(INV)10-74R and appendix 48.

9.3.3

G
/1

If the FSA intends to give a *firm* individual *guidance* on its own initiative, it will normally seek to discuss the issue with the *firm* and agree suitable individual *guidance*.

9.3.4

G
/1

Individual *guidance* given to a *firm* on the FSA's own initiative will normally be given in writing.

9.4 Reliance on individual guidance

Reliance by recipient of individual guidance

- 9.4.1** **G**_{/1} If a *person* acts in accordance with current individual written *guidance* given to him by the *FSA* in the circumstances contemplated by that *guidance*, then the *FSA* will proceed on the footing that the *person* has complied with the aspects of the *rule* or other requirement to which the *guidance* relates.
- 9.4.2** **G**_{/1} The extent to which a *person* can rely on individual *guidance* given to him will depend on many factors. These could include, for example, the degree of formality of the original query and the *guidance* given, and whether all relevant information was submitted with the request. Individual *guidance* is usually given in relation to a set of particular circumstances which exist when the *guidance* is given. If the circumstances later change, for example, because of a change in the circumstances of the *person* or a change in the underlying *rule* or other requirement, and the premises upon which individual *guidance* was given no longer apply, the *guidance* will cease to be effective.
- 9.4.3** **G**_{/1} If the circumstances relating to individual *guidance* change it will be open to a *person* to ask for further *guidance*.

Effect on rights of third parties

- 9.4.4** **G**_{/1} Rights conferred on third parties (such as a *firm's clients*) cannot be affected by *guidance* given by the *FSA*. *Guidance* on *rules*, the *Act* or other legislation represents the *FSA's* view, and does not bind the courts, for example in relation to an action for damages brought by a *private person* for breach of a *rule* (section 150 of the *Act* (Actions for damages)) or in relation to enforceability of a contract if the *general prohibition* is breached (sections 26 and 27 of the *Act* (Enforceability of agreements)). A *person* may need to seek his own legal advice.

Chapter 10

Approved persons



10.1 Application

General

- 10.1.1** **R** This chapter applies to every *firm*.
/1
- 10.1.2** **G** This chapter is also relevant to every *approved person*.
/1
- 10.1.3** **G** The *rules* in this chapter specify descriptions of functions under section 59 of the *Act* (Approval for particular arrangements). The effect of these *rules*, and the provisions of Part V of the *Act* (Performance of *Regulated Activities*), is that every *firm* must apply to the *FSA* for the approval of one or more *persons* to perform a *controlled function* on its behalf.
/1
- 10.1.4** **G** The directions in this chapter relate to the manner in which a *firm* must apply for the *FSA*'s approval under section 59 of the *Act* and other procedures.
/1
- 10.1.5** **G** The list of *controlled functions* is at *SUP* 10.4.5R.
/1

Overseas firms: UK services

- 10.1.6** **R** This chapter does not apply to an *overseas firm* in relation to *regulated activities* which are carried on in the *United Kingdom* other than from an establishment maintained by it or its *appointed representative* in the *United Kingdom*.
/1

Overseas firms: UK establishments

- 10.1.7** **R** Only the following *controlled functions* apply to an *overseas firm* which maintains an establishment in the *United Kingdom* from which *regulated activities* are carried on:
/1
- (1) the *chief executive function*;
 - (2) the *required functions*;
 - (3) the *significant management (designated investment business) function*;

- (4) *the significant management (settlements) function* in so far as the activities relate to *designated investment business*; and
- (5) *the customer functions*.

10.1.8

G

/1

For an *incoming EEA firm*, *incoming Treaty firm* or *UCITS qualifier*, see SUP 10.1.9R to SUP 10.1.15G.

Incoming EEA firms, incoming Treaty firms and UCITS qualifiers

10.1.9

R

/1

This chapter does not apply to:

- (1) an *incoming EEA firm*; or
- (2) an *incoming Treaty firm*; or
- (3) a *UCITS qualifier*;

if and in so far as the question of whether a *person* is fit and proper to perform a particular *function* in relation to that *firm* is reserved, under any of the *Single Market Directives*, the *Treaty* or the *UCITS Directive* to an authority in a country or territory outside the *United Kingdom*.

10.1.10

G

/1

SUP 10.1.9R reflects the provisions of section 59(8) of the *Act* and, in relation to an *incoming Treaty firm* and a *UCITS qualifier*, the *Treaty* and the *UCITS Directive*. It preserves the principle of *Home State* prudential regulation. In relation to an *incoming EEA firm* exercising an *EEA right*, or an *incoming Treaty firm* exercising a *Treaty right*, the effect is to reserve to the *Home State regulator* the assessment of the fitness and propriety of a *person* performing a function in the exercise of that right. A member of the *governing body*, or the notified *UK branch manager*, of an *incoming EEA firm*, acting in that capacity, will not therefore have to be approved by the *FSA* under the *Act*.

10.1.11

G

/1

But an *incoming EEA firm*, or *incoming Treaty firm*, will have had to consider the impact of the *Host State rules* with which it is required to comply when carrying on a *passported activity* or *Treaty activity* through a *branch* in the *United Kingdom*. An *incoming EEA firm* will have been notified of those provisions under Part II of Schedule 3 to the *Act* in the course of satisfying the conditions for *authorisation* in the *United Kingdom*.

10.1.12

G

/1

An *incoming EEA firm* will have to consider, for example, the position of a *branch manager* based in the *United Kingdom* who may also be performing a function in relation to the carrying on of a *regulated activity* not covered by the *EEA right* of the *firm*. In so far as the function is within the description of a *controlled function*, the *firm* will need to seek approval for that *person* to perform that *controlled function*.

Incoming EEA firms: passported activities from a branch

10.1.13 **R** Only the following *controlled functions* apply to an *incoming EEA firm* with respect to its *passported activities* carried on from a *branch* in the *United Kingdom*:

- (1) the *EEA investment business oversight function*;
- (2) the *compliance oversight function*;
- (3) the *money laundering reporting function*;
- (4) the *significant management (designated investment business) function*;
- (5) the *significant management (settlements) function* in so far as the activities relate to *designated investment business*; and
- (6) the *customer functions* other than the *adviser on syndicate participation at Lloyd's function*.

Incoming EEA firms etc with top-up permission activities from a UK branch

10.1.14 **R** In relation to the activities of a *firm* for which it has a *top-up permission*, only the following *controlled functions* apply:

- (1) the *required functions*, other than the *apportionment and oversight function*;
- (2) the *significant management (designated investment business) function*;
- (3) the *significant management (settlements) function* in so far as the activities relate to *designated investment business*; and
- (4) the *customer functions*.

10.1.15 **G** An *incoming EEA firm* may require a *Part IV permission* in respect, for example, of its *commodities* business. The list of *controlled functions* which apply mirror those which apply to *overseas firms*, without the *chief executive function*. In the case of a *firm* with *top-up permission*, the *FSA* anticipates that the equivalent responsibility of the *chief executive* for the relevant business would be assumed by the *person* performing the *EEA investment business oversight function*.

Appointed representatives

10.1.16 **R** The descriptions of the following functions apply to an *appointed representative* of a *firm*, except an *introducer appointed representative* as they apply to a *firm*:

- (1) **the governing functions; and**
- (2) **the customer functions other than the investment management function.**

10.1.17 G _{/1} The effect of SUP 10.1.16R is that the *directors* (or their equivalent) and *senior managers* (or their equivalent) of an *appointed representative* must also be *approved* under section 59 of the *Act* for the performance of certain *controlled functions*.

Members of a profession

10.1.18 R _{/1} This chapter, except in respect of the *required functions*, does not apply to an *authorised professional firm* in respect of its *non-mainstream regulated activities*.

10.1.19 G _{/1} SUP 10.1.18R is relevant to the *person*, such as a *partner* in a *professional firm*, whose only *regulated activities* are incidental to his professional services, and where the principal purpose of the *firm* is to carry on activities which are not *regulated activities*. Any regulated activities which that *person* carries on are not within the description of a *controlled function* (except with respect to the *required functions*).

10.1.20 G _{/1} For further guidance on the supervision and regulation of activities carried on by a member of a *designated professional body*, see PROF 5.

Oil market participants and service companies

10.1.21 R _{/1} The descriptions of *significant influence functions*, other than the *required functions*, do not extend to activities carried on by a *firm* whose principal purpose is to carry on activities other than *regulated activities* and which is:

- (1) **an oil market participant; or**
- (2) **a service company.**

10.1.22 G _{/1} It will be a matter of fact in each case whether a *firm's* principal purpose is to carry on activities other than *regulated activities* having regard to all the circumstances, including in particular where the balance of the business lies. If a *firm* wishes to rely on SUP 10.1.21R, it should be in a position to demonstrate that its principal purpose is to carry on activities other than *regulated activities*.

Committees of the Society of Lloyd's

10.1.23 R _{/1} (1) For the purpose of SUP 10.6.4R (the *director function*), "director" includes an executive member of a committee to which the *Council of the Society of Lloyd's* directly delegates authority to carry out the *Society's regulatory functions*.

(2) For the purpose of SUP 10.6.8R (the *non-executive director function*), "non-executive director" includes a non-executive member of a committee to which the *Council of the Society of Lloyd's* directly delegates authority to carry out the *Society's* regulatory functions.

10.1.24

G

/1

The effect of SUP 10.6.4R is that the function of an executive member of the *Council of the Society of Lloyd's* comes within the description of the *director function*. SUP 10.1.23R(1) provides that the function of an executive member of certain committees of the *Society of Lloyd's* with regulatory functions also comes within the description of the *director function*. SUP 10.6.8R and SUP 10.1.23R(2) are the equivalent provisions for the non-executive member of certain committees of the *Society of Lloyd's* with regulatory functions.

10.1.25

G

/1

See SUP 10.10.15R for the *adviser on syndicate participation at Lloyd's function*.

Insolvency practitioners

10.1.26

R

/1

This chapter does not apply to a function performed by:

- (1) a *person* acting as an insolvency practitioner within the meaning of section 388 of the Insolvency Act 1986; or
- (2) a *person* acting as a nominee in relation to a voluntary arrangement under Parts I (Company Voluntary Arrangements) and VIII (Individual Voluntary Arrangements) of the Insolvency Act 1986; or
- (3) a *person* acting as an insolvency practitioner within the meaning of Article 3 of the Insolvency (Northern Ireland) Order 1989; or
- (4) a *person* acting as a nominee in relation to a voluntary arrangement under Parts II (Company Voluntary Arrangements) and VIII (Individual Voluntary Arrangements) of the Insolvency (Northern Ireland) Order 1989.

10.2 Purpose

- 10.2.1** G_{/1} The immediate purpose of *SUP* 10.3 to *SUP* 10.10 is to specify, under section 59 of the *Act*, descriptions of the 27 *controlled functions* which are listed in *SUP* 10.4.5R. The underlying purpose is to establish, and mark the boundaries of, the "approved persons regime". An *approved person* is a *person*, generally an individual, who is approved to perform a *controlled function*.
- 10.2.2** G_{/1} The *controlled functions* which have been specified in this chapter are those functions which the *FSA* sees as key to the operation of the provisions of Part V of the *Act* (Performance of *Regulated Activities*) and the provisions made under Part V. Those provisions include:
- (1) the *Statements of Principle and Code of Practice for Approved Persons* issued under section 64 of the *Act* (see *APER*); and
 - (2) the fit and proper test referred to in section 61 of the *Act* (see *FIT*).
- 10.2.3** G_{/1} The purpose of the direct regulation of an individual (and in some cases a *body corporate*) is to complement the regulation of the *authorised person*, that is the *firm* for which the *approved person* performs the function.
- 10.2.4** G_{/1} *SUP* 10.11 to *SUP* 10.14 set out the procedures for applying for approval, changing the details held by the *FSA* concerning an *approved person*, and withdrawing from approval.

10.3 Provisions related to the act

Arrangements and regulated activities

- 10.3.1** **R**_{/1} A function is a *controlled function* only to the extent that it is performed under an *arrangement* entered into by:
- (1) a *firm*; or
 - (2) a contractor of the *firm*;
- in relation to the carrying on by the *firm* of a *regulated activity*.
- 10.3.2** **G**_{/1} Sections 59(1) and (2) of the *Act* provide that approval is necessary in respect of a *controlled function* which is performed under an *arrangement* entered into by a *firm*, or its contractor (typically an *appointed representative*), in relation to a *regulated activity*.
- 10.3.3** **G**_{/1} *Arrangement* is defined in section 59(10) of the *Act* as any kind of *arrangement* for the performance of a function and includes the appointment of a *person* to an office, his becoming a *partner*, or his employment (whether under a contract of service or otherwise). For the provisions in this chapter relating to outsourcing, see SUP 10.12.3G and 10.12.4G.
- 10.3.4** **G**_{/1} If, however, a *firm* is a member of a *group*, and the *arrangements* for the performance of a *controlled function* of the *firm* are made by, say, the *holding company*, the *person* performing the function will only require approval if there is an *arrangement* (under section 59(1)) or a contract (under section 59(2)) between the *firm* and *holding company* permitting this. This need not be a written contract but could arise, for example, by conduct, custom and practice.
- 10.3.5** **G**_{/1} The *arrangement* must be "in relation to" the carrying on of a *regulated activity*. *Regulated activities* are defined in the *Glossary* by reference to the *Regulated Activities Order*. This order prescribes the activities which are *regulated activities* for the purposes of the *Act*.



10.4 Specification of functions

- 10.4.1** **R** (1) Each of the functions described in SUP 10.4.5R (the *table of controlled functions*) is a *controlled function*.
 /1
- (2) The descriptions of the *controlled functions* in (1) are amplified by the provisions of this chapter.
- (3) A function performed by an *approved person* which is not within (1) is not within the description of the *controlled function*.

10.4.2 **G** SUP 10.4.1R(1), together with the *table of controlled functions* in SUP 10.4.5R, specifies, in brief terms, the descriptions of the *controlled functions*. SUP 10.4.1R(2) provides that the other *rules* in this chapter contain the detail of the description for each function. Further *rules* in this chapter contain provisions which will apply to each description as indicated in those *rules*: see in particular SUP 10.1 for the application provisions.
 /1

10.4.3 **G** SUP 10.4.1R(3) also addresses the position of an *approved person* who is carrying on activities which are unrelated to *regulated activities* or are otherwise outside the description of a *controlled function*. The fact that the *person* may be approved for one purpose does not have the effect of bringing all his activities within the *controlled function*.
 /1

10.4.4 **G** Certain *controlled functions* expressly include other *controlled functions*: see SUP 10.6.2R in relation to *governing functions*; SUP 10.10.7R in relation to the *investment adviser function*; and SUP 10.10.20R in relation to the *investment management function*. In view of broad descriptions of the *significant management functions* (CF16 to CF20), these are expressed so as not to include other *controlled functions*.
 /1

10.4.5 **R** Table Controlled functions
 /1

Type	CF	Description of controlled function
<i>Governing functions*</i>	1	<i>Director function</i>
	2	<i>Non-executive director function</i>
	3	<i>Chief executive function</i>
	4	<i>Partner function</i>
	5	<i>Director of unincorporated association function</i>
	6	<i>Small friendly society function</i>
	7	<i>Sole trader function</i>

Type	CF	Description of controlled function
<i>Required functions*</i>	8	<i>Apportionment and oversight function</i>
	9	<i>EEA investment business oversight function</i>
	10	<i>Compliance oversight function</i>
	11	<i>Money laundering reporting function</i>
	12	<i>Appointed actuary function</i>
<i>Systems and controls functions*</i>	13	<i>Finance function</i>
	14	<i>Risk assessment function</i>
<i>Significant management functions*</i>	15	<i>Internal audit function</i>
	16	<i>Significant management (designated investment business) function</i>
	17	<i>Significant management (other business operations) function</i>
	18	<i>Significant management (insurance underwriting) function</i>
	19	<i>Significant management (financial resources) function</i>
<i>Customer functions</i>	20	<i>Significant management (settlements) function</i>
	21	<i>Investment adviser function</i>
	22	<i>Investment adviser (trainee) function</i>
	23	<i>Corporate finance adviser function</i>
	24	<i>Pension transfer specialist function</i>
	25	<i>Adviser on syndicate participation at Lloyd's function</i>
	26	<i>Customer trading function</i>
	27	<i>Investment management function</i>
<i>*significant influence functions</i>		

10.5 Significant influence functions

What are the significant influence functions?

- 10.5.1** **G**
/1 The *significant influence functions*, which are specified in SUP 10.4.1R, comprise the *governing functions* (see SUP 10.6), the *required functions* (see SUP 10.7), the *systems and controls functions* (see SUP 10.8) and the *significant management functions* (see SUP 10.9). SUP 10.5 applies to each of the *significant influence functions*.

The first condition

- 10.5.2** **R**
/1 Each *significant influence function* is one which is likely to result in the *person* responsible for its performance exercising a significant influence on the conduct of a *firm's* affairs, so far as relating to a *regulated activity* of the *firm*.
- 10.5.3** **G**
/1 SUP 10.5.2R gives effect to section 59(5) of the *Act* (where this provision is referred to as the first condition).
- 10.5.4** **G**
/1 Whether a function is likely to result in the *person* responsible for its performance exercising significant influence on the conduct of the *firm's* affairs is a question of fact in each case. The *FSA* has identified the *significant influence functions* as satisfying this condition. What amounts to exercising significant influence in any particular case will depend on the circumstances. The *person* performing one of these functions is likely to play a part in ensuring that effective governance structures, systems and controls are developed and operated. In relation to a *firm* as a whole, this is expected to include setting the business strategy, regulatory climate and ethical standards of the *firm*. In relation to a *branch*, this will include ensuring that the *firm's* strategy (as it affects the *branch*) is appropriate in the context of the *UK regulatory system*, and setting the regulatory climate and ethical standards of the *branch* in the *United Kingdom*.

Periods of less than 12 weeks

- 10.5.5** **R**
/1 **If:**
- (1) a *firm* appoints an individual to perform a function which, but for this rule, would be a *significant influence function*;

- (2) the appointment is to provide cover for an *approved person* whose absence is:
 - (a) temporary; or
 - (b) reasonably unforeseen; and
- (3) the appointment is for less than 12 weeks in a consecutive 12 month period;

the description of the relevant *significant influence function* does not relate to those activities of that individual.

10.5.6

G

/1

SUP 10.5.5R enables cover to be given for, say, holidays and emergencies and avoids the need for the precautionary approval of, for example, a deputy. However, as soon as it becomes apparent that a *person* will be performing a *controlled function* for more than 12 weeks, the *firm* should apply for approval.

10.6 Governing functions

Introduction

- 10.6.1** **G**
/1
- Every *firm* will have one or more *persons* responsible for directing its affairs. These *persons* will be performing the *governing functions* and will be required to be *approved persons* unless the application provisions in SUP 10.1, or the particular description of a *controlled function*, provide otherwise. For example, each *director* of a *company* incorporated under the Companies Acts will perform the *governing function* in relation to that *company*.

What the governing functions include

- 10.6.2** **R**
/1
- Each of the *governing functions* (other than the *non-executive director function*) includes where apportioned under SYSC 2.1.1R:

- (1) *systems and controls functions*; and
- (2) *significant management functions*.

- 10.6.3** **G**
/1
- The effect of SUP 10.6.2R is that a *person* who is *approved* to perform a *governing function* (other than the *non-executive function*) will not have to be specifically approved to perform any of the *systems and controls functions* or the *significant management functions*. However, he will have to be additionally approved before he can perform any of the *required functions* or *customer functions*.

Director function (CF1)

- 10.6.4** **R**
/1
- If a *firm* is a *body corporate* (other than a *limited liability partnership*), the *director function* is the function of acting in the capacity of a *director* (other than *non-executive director*) of that *firm*.

- 10.6.5** **G**
/1
- The definition of *director* includes a *person* in accordance with whose directions or instructions the *directors* are accustomed to act. Such a *person* is defined in section 741 of the Companies Act 1985 as a "shadow director". The *directors* of a *holding company* would not, as such, be *shadow directors*. Neither would an individual be a *shadow director* (or *director*) because his job description included the word "director". Whether a *person* is a *director* within the definition is a question of fact in each case.

10.6.6 G_{/1} Similarly, the fact that a *person* may have "director" in his title does not of itself make him a *director* within the meaning of the definition. Whether a *person* is a *director* will depend on the facts in each case.

10.6.7 G_{/1} A *director* can be a *body corporate* and may accordingly require approval as an *approved person* in the same way as a natural *person* may require approval.

Non-executive director function (CF2)

10.6.8 R_{/1} If a *firm* is a *body corporate*, the *non-executive director function* is the function of acting in the capacity of a *non-executive director* of that *firm*.

10.6.9 G_{/1} Examples of responsibilities of a *non-executive director* may include:

- (1) playing his part, by providing an independent perspective to the overall running of the business, in setting and monitoring the *firm's* strategy;
- (2) scrutinising the approach of executive management, the *firm's* performance and its standards of conduct; and
- (3) carrying out other responsibilities as assigned by the *firm*, for example as a member of a board committee on audit or remuneration.

10.6.10 G_{/1} The extent of the responsibilities of a particular *non-executive director* will be a matter of fact in each case but they will not extend to executive responsibilities.

Chief executive function (CF3)

10.6.11 R_{/1} The *chief executive function* is the function of acting in the capacity of a *chief executive* of a *firm*.

10.6.12 G_{/1} The title given to a *person* performing the *chief executive function* is likely to be "Chief Executive Officer" or similar. However, the title, or absence of title, does not of itself determine whether the activities of a *person* amount to the *chief executive function*.

10.6.13 G_{/1} This function is having the responsibility, alone or jointly with one or more others, under the immediate authority of the *governing body*, for the conduct of the whole of the business (or relevant activities); or, in the case of a *branch* in the *United Kingdom* of an *overseas firm*, for all of the activities subject to the *UK regulatory system*.

10.6.14 G_{/1} For a *branch* in the *United Kingdom* of an *overseas firm*, the *FSA* would not normally expect the overseas *chief executive* of the *firm* as a whole to be approved for this function where there is a *senior manager* under him with specific responsibility for those activities of the *branch* which are subject to the *UK regulatory system*. In some circumstances, the person within the *firm* responsible for *UK* operations may, if the function is likely to enable him to exercise significant influence over the *branch*, also perform the *chief executive function* (see *SUP* 10.7.4G). The *senior manager* may be called a Managing Director, *UK* Regional Head, Branch Manager, *UK* Country Head; or, in the case of a non-EEA *insurer* with a *branch* in the *United Kingdom*, *UK chief executive*.

10.6.15 **G**_{/1} A *person* performing the *chief executive function* may be a *member* of the *governing body* but need not be. If the chairman of the *governing body* is also the *chief executive*, he will be discharging this function. If the responsibility is divided between more than one *person* but not shared, there is no *person* exercising the *chief executive function*. But if that responsibility is discharged jointly by more than one *person*, each of those *persons* will be performing the *chief executive function*.

10.6.16 **G**_{/1} Note that a *body corporate* may be a *chief executive*. If so, it will need to be approved to perform the *chief executive function*.

Partner function (CF4)

- 10.6.17** **R**_{/1}
- (1) If a *firm* is a *partnership*, the *partner function* is the function of acting in the capacity of a *partner* in that *firm*.
 - (2) If the principal purpose of the *firm* is to carry on one or more *regulated activities*, each *partner* performs the *partner function*.
 - (3) If the principal purpose of the *firm* is other than to carry on *regulated activities*:
 - (a) a *partner* performs the *partner function* to the extent only that he has responsibility for a *regulated activity*; and
 - (b) a *partner* in a *firm* will be taken to have responsibility for each *regulated activity* except where the *partnership* has apportioned responsibility to another *partner* or group of *partners*.

10.6.18 **G**_{/1} For the purpose of this chapter, the definition of *partner* has been extended to include a "shadow partner", that is, a *person* in accordance with whose directions or instructions the *partners* are accustomed to act. This brings the concept of a *partner* into line with the concept of a *director*.

10.6.19 **G**_{/1} Any apportionment referred to in SUP 10.6.17R(3)(b) will have taken place under SYSC 2.1.1R. The FSA may ask to see details of the apportionment but will not require, as a matter of course, a copy of the material which records this (see SYSC 2.2).

10.6.20 **G**_{/1} The effect of SUP 10.1.18R is that *regulated activity* in SUP 10.6.17R (and elsewhere) is to be taken as not including an activity that is a *non-mainstream exempt regulated activity*. Therefore, a *partner* whose only *regulated activities* are incidental to his professional services, in a *partnership* whose principal purpose is to carry on other than *regulated activities*, need not be an *approved person*. What amounts to the principal purpose of the *firm* is a matter of fact in each case having regard to all the circumstances, including the activities of the *firm* as a whole. Any *regulated activities* which such a *partner* carries on are not within the description of the *partner function*.

10.6.21 **R**_{/1} If a *firm* is a *limited liability partnership*, the *partner function* extends to the *firm* as if the *firm* were a *partnership* and a member of the *firm* were a *partner*.

10.6.22 **G** _{/1} The *Limited Liability Partnerships Act 2000* provides for a legal entity to be formed under which every member of the *limited liability partnership* is the agent of the *limited liability partnership*. The effect of SUP 10.6.21R is to treat a *limited liability partnership* as a *partnership* for the purposes of the *partner function*.

10.6.23 **R** _{/1} If a *partnership* is registered under the Limited Partnership Act 1907, the *partner function* does not extend to any function performed by a limited partner.

Director of unincorporated association function (CF5)

10.6.24 **R** _{/1} If a *firm* is an unincorporated association, the *director of unincorporated association function* is the function of acting in the capacity of a *director* of the unincorporated association.

10.6.25 **G** _{/1} There are many kinds of unincorporated association. For example, it could be a committee of management of a property unit trust; or the board of trustees of an *occupational pension scheme* where the trustees themselves carry on *regulated activities*. The FSA would expect each member of the committee of management or board to be performing the *director of unincorporated association function* and therefore to need to be approved to do so.

Small friendly society function (CF6)

10.6.26 **R** _{/1} (1) If a *firm* is a *non-directive friendly Society*, the *small friendly society function* is the function of directing its affairs, either alone or jointly with others.

(2) If the principal purpose of the *firm* is to carry on *regulated activities*, each *person* with responsibility for directing its affairs performs the *controlled function*.

(3) If the principal purpose of the *firm* is other than to carry on *regulated activities*, a *person* performs the *small friendly society function* only to the extent that he has responsibility for a *regulated activity*.

10.6.27 **G** _{/1} A *friendly society* that is not subject to the *Insurance Directives* is often referred to as a *non-directive friendly society*. For the purposes of SUP 10 it is referred to as a *small friendly society*.

10.6.28 **R** _{/1} (1) Each *person* on the *non-directive friendly society's governing body* will be taken to have responsibility for its *regulated activities*, unless the *firm* has apportioned this responsibility to one particular individual to whom it is reasonable to give this responsibility.

(2) The individual need not be a member of the *governing body*.

10.6.29 **G** _{/1} (1) Typically a *non-directive friendly Society* will appoint a "committee of management" to direct its affairs. However, the governing arrangements may

10.7 Required functions

Apportionment and oversight function (CF8)

- 10.7.1** **R**_{/1} The *apportionment and oversight function* is the function of acting in the capacity of a *director* or *senior manager* responsible for either or both of the apportionment function and the oversight function set out in SYSC 2.1.3R.
- 10.7.2** **G**_{/1} SYSC 2.1.3R provides that a *firm* must appropriately allocate to one or more individuals the functions of dealing with the apportionment of responsibilities under SYSC 2.1.1R, and of overseeing the establishment and maintenance of systems and controls under SYSC 3.1.1R. Where there is a *chief executive*, he or she must be one of the individuals to whom the functions are allocated (unless the functions are allocated to someone of greater seniority); see SYSC 2.1.6G.
- 10.7.3** **G**_{/1} The fact that there is a *person* performing the *apportionment and oversight function*, and who has responsibility for activities subject to regulation by the FSA, may have a bearing on whether a manager who is based overseas will be performing a *controlled function*. It is a factor to take into account when assessing the likely influence of the overseas manager.
- 10.7.4** **G**_{/1} Generally, in relation to a UK establishment of an *overseas firm* or a *firm* which is part of an overseas *group*, where an overseas manager's responsibilities in relation to the United Kingdom are strategic change only, he will not need to be an *approved person*. However, where, in accordance with SYSC 3, he is responsible for implementing that strategy in the *United Kingdom*, and has not delegated that responsibility to a *senior manager* in the *United Kingdom*, he is likely to be performing a *controlled function*, such as, for example, the *chief executive function*.
- 10.7.5** **G**_{/1} See also SUP 10.9.5G and SUP 10.9.6G in relation to matrix management in the context of *significant management functions*.

EEA investment business oversight function (CF9)

- 10.7.6** **R**_{/1} The *EEA investment business oversight function* is the function of acting in the capacity of an individual who is responsible, in accordance with SYSC 2.1.3R(2), for overseeing the establishment and maintenance of systems and controls in relation to *designated investment business* carried on from a *branch* in the *United Kingdom* of an *incoming EEA firm*.

- 10.7.7** **G**_{/1} Where an overseas individual has not delegated this function to a *senior manager* in the *United Kingdom*, he is likely to be performing this *controlled function*. However, the *FSA* anticipates that any individual carrying out this function will normally be located in the *United Kingdom*. He may be the local *chief executive* or one or more of the individuals *approved* to perform the *significant management (designated investment business) function*. If the local *chief executive* (or other individual) is approved for this function, this does not mean that all his responsibilities are the concern of the *FSA*. *SUP* 10.1.9R preserves the principle of *Home State* prudential regulation whenever it applies and in respect of each *controlled function*.

Compliance oversight function (CF10)

- 10.7.8** **R**_{/1} The *compliance oversight function* is the function of acting in the capacity of a *director* or *senior manager* who is allocated the function set out in *SYSC* 3.2.8R.
- 10.7.9** **G**_{/1} *SYSC* 3.2.8R provides that a *firm* which carries on *designated investment business* must allocate to a *director* or *senior manager* the function of having responsibility for oversight of the *firm's* compliance and reporting to the *governing body* in respect of that responsibility.
- 10.7.10** **G**_{/1} Compliance in *SYSC* 3.2.8R means compliance with the rules in *COB* and *CIS*. The *FSA* anticipates that some *firms* will include oversight of compliance with *PRIN*, *MAR*, and other requirements and standards, within its compliance function. These other responsibilities would not, however, be brought within the *compliance oversight function* (see also *SUP* 10.4.3G).
- 10.7.11** **G**_{/1} Some *firms*, particularly *firms* with complex structures or which are part of a *group*, may find it appropriate to seek approval for the group head of compliance and other *persons* to perform the *compliance oversight function*. Examples of other *persons* include the *senior manager* responsible for compliance in a *firm* which is a *subsidiary* within the *group* and a *senior manager* in a reporting line, where compliance is organised along product lines.
- 10.7.12** **G**_{/1} Although a *firm* may choose to use the services of an external compliance consultant, the responsibility for the *compliance oversight function* must, in accordance with *SYSC* 3.2.8R, rest with one or more *directors* or *senior managers* of the *firm*.

Money laundering reporting function (CF11)

- 10.7.13** **R**_{/1} The *money laundering reporting function* is the function of acting in the capacity of the *money laundering reporting officer* of a *firm*.
- 10.7.14** **G**_{/1} The *rules* in the *Money Laundering* sourcebook (*ML*) provide that a *firm* must have a *money laundering reporting officer* unless:
- (1) it is a *sole trader* with no *employees*; or
 - (2) its *regulated activities* are certain *insurance business* only; or
 - (3) it is an *incoming firm* providing only services into the *United Kingdom*.

10.7.15 G_{/1} The specific responsibilities of the *money laundering reporting officer* are set out in *ML 7.1*.

10.7.16 G_{/1} *ML 7.1.9R* provides that a *money laundering reporting officer* must have a "sufficient level of seniority" within the *firm*, so that he can carry out his *controlled function* effectively.

Appointed actuary function (CF12)

10.7.17 R_{/1} The *appointed actuary function* is the function of acting in the capacity of the *appointed actuary* of a *firm*.

10.7.18 G_{/1} The effect of *SUP 4.1.1R* (Application) and *SUP 4.3.1R* (Appointment of an actuary) is that a *long-term insurer* (unless it is a certain kind of *friendly society*) must appoint an *actuary*, defined in *SUP 4.3.1R* as an *appointed actuary*. The kinds of *friendly society* to which the provisions do not apply are:

- (1) a *registered friendly society* which is a *non-directive friendly society*; and
- (2) an *incorporated friendly society* that is a *flat rate benefits business friendly society*.

10.7.19 G_{/1} The *appointed actuary* is a personal appointment and typically is an *employee* of the *firm*. However, in many cases a *partner* in a firm of actuaries is appointed.

10.7.20 G_{/1} The *appointed actuary function* does not extend to the giving of actuarial advice to a *firm* by an *actuary* who is acting outside the capacity of *appointed actuary*. A *person* who gives actuarial advice, whether occasionally or regularly, other than in the course of his duties as an *appointed actuary* would not be performing the *appointed actuary function*.

10.7.21 G_{/1} The *rules* and *guidance* concerning the rights and duties of the *appointed actuary* are set out in *SUP 4.3.10R* to *SUP 4.3.17G*.

10.8 Systems and control functions

Finance function (CF13)

10.8.1 **R** ^{/1} The *finance function* is the function of acting in the capacity of a *senior manager* with responsibility for reporting to the *governing body* of a *firm* in relation to its financial affairs.

10.8.2 **G** ^{/1} This function is often performed by a *senior manager* who is given the title of Financial Controller, Chief Finance Officer or Finance Officer. The individual may also be given the title of Finance Director but, if he is a *director* of the *company*, he should be *approved* to perform the *director function* (and not the *finance function*). The fact that an individual may use one of these titles does not necessarily mean that he is performing a *controlled function*.

Risk assessment function (CF14)

10.8.3 **R** ^{/1} The *risk assessment function* is the function of acting in the capacity of a *senior manager* with responsibility for reporting to the *governing body* of a *firm* in relation to setting and controlling its *risk exposure*.

10.8.4 **G** ^{/1} Depending on the scale, nature and complexity of its business it may be appropriate for a *firm* to have a separate *risk assessment function*: see SYSC 3.2.10G.

10.8.5 **G** ^{/1} This function is often performed by a *senior manager* who is given the title of Head of Risk. Other examples of titles are Head of Credit Risk and Head of Market Risk (but the fact that an individual may use one of these titles does not necessarily mean that he is performing a *controlled function*).

Internal audit function (CF15)

10.8.6 **R** ^{/1} The *internal audit function* is the function of acting in the capacity of a *senior manager* with responsibility for reporting to the *governing body*, or the audit committee (or its equivalent), of a *firm* in relation to its adherence to internal systems and controls, procedures and policies.

10.8.7 **G** ^{/1} Depending on the scale, nature and complexity of its business it may be appropriate for a *firm* to have a separate *internal audit function*: see SYSC

3.2.16G. If it does, this will not require the *person* performing the function to have any special obligation towards the *FSA* (such as reporting directly on matters to the *FSA*) nor will this cause the *FSA* to call for all internal audit reports as a matter of routine.

10.8.8

G
/1

This function is often performed by a *senior manager* who is given the title of Head of Internal Audit or Internal Auditor (but the fact that an individual may use one of these titles does not necessarily mean that he is performing a *controlled function*).

10.9 Significant management functions

Application

- 10.9.1** **R**_{/1} *SUP 10.9 applies only to a firm which, under SYSC 2.1.1R, apportions a significant responsibility, within the description of a significant management function, to a senior manager of a significant business unit.*
- 10.9.2** **G**_{/1} The FSA anticipates that there will be only a few firms needing to seek approval for an individual to perform a significant management function. In most firms, those approved for the governing functions, required functions and, where appropriate, the systems and controls functions, are likely to exercise all the significant influence at senior management level.
- 10.9.3** **G**_{/1} However, the scale, nature and complexity of the firm's business may be such that a firm apportions under SYSC 2.1.1R a significant responsibility to an individual who is not approved to perform the governing functions, required functions or, where appropriate, the systems and controls functions. If so, the firm should consider whether the functions of that individual fall within a significant management function. For the purposes of the description of the significant management functions, the following additional factors about the firm should be considered:
- (1) the size and significance of the firm's business in the United Kingdom; for example, a firm carrying on designated investment business may have a large number of approved persons (for example, in excess of 100 individuals); or a firm carrying on general insurance business may have gross written premiums in excess of £100mn;
 - (2) the number of regulated activities carried on, or proposed to be carried on, by the firm and (if relevant) other members of the group;
 - (3) its group structure (if it is a member of a group);
 - (4) its management structure (for example matrix management); and
 - (5) the size and significance of its international operations, if any.
- 10.9.4** **G**_{/1} When considering whether a business unit is significant, the firm should take into account all relevant factors in the light of the firm's current circumstances and its plans for the future, including:
- (1) the risk profile of the unit; or

- (2) its use or commitment of a *firm's* capital; or
- (3) its contribution to the profit and loss account; or
- (4) the number of *employees* or *approved persons* in the unit; or
- (5) the number of *customers* of the unit; or
- (6) any other factor which makes the *unit* significant to the conduct of the *firm's* affairs so far as relating to the *regulated activity*.

10.9.5 G_{/1} The question may arise whether a manager who is based overseas will be performing a *controlled function* (such as the *significant management (designated investment business) function*) and should therefore be an *approved person*. This is especially true where the *firm* operates matrix management. The fact there is a *person* performing the *apportionment and oversight function*, and who has responsibility for activities subject to regulation by the *FSA*, may have a bearing on this. It is a factor to take into account when assessing the likely influence of the overseas manager.

10.9.6 G_{/1} Generally, in relation to a *branch* of a *firm*, or a *firm* which is part of an overseas *group*, where an overseas *manager* is responsible for strategy, he will not need to be an *approved person*. However, where he is responsible for implementing that strategy in the *United Kingdom*, and has not delegated that responsibility to a *senior manager* in the *United Kingdom*, he is likely to be performing a *controlled function*.

10.9.7 G_{/1} See also *SUP* 10.7.3G to *SUP* 10.7.5G in relation to matrix management.

Reporting requirement

10.9.8 R_{/1} A *firm* must, by no later than 31 July each year, provide the *FSA* with:

- (1) the name of every individual who is *approved* to perform any of its *significant management functions*; and
- (2) brief details of the job performed by that individual, as at 30 June of that year;

unless it has, within the 12 *months* preceding 30 June, already provided the *FSA* with that information.

10.9.9 G_{/1} The broad description of each *significant management function* means that an individual may perform a different function within the *significant management function* without needing prior approval. However, the *FSA* does require a notification of the job performed by such people once a year. Typically, a *firm* will give this information to the *FSA* as a matter of routine during the year but, if not, *SUP* 10.9.8R requires it to do so by 31 July. The *rule* requires the *firm* to provide a report only in respect of individuals performing a *significant management function*: if there are none, there is no need to provide a report.

Significant management (designated investment business) function (CF16)

- 10.9.10** **R**
/1
- (1) The *significant management (designated investment business) function* is the function of acting as a *senior manager* with significant responsibility for a significant business unit which carries on *designated investment business*.
 - (2) This function does not include any of the activities described in any other *controlled function*.

- 10.9.11** **G**
/1
- Where SUP 10.9.1R and SUP 10.9.10R apply, the FSA would expect the *senior manager* of a significant trading department, such as equities in a large international *firm*, possibly with the title of *Chief Investment Officer*, to be performing this function. Other examples are *senior managers* with responsibility for investment banking, fixed income, *derivatives*, *commodities*, trading, *custody*, asset management, marketing and sales. The Regional Heads of Sales of an *insurer* are also likely to be performing this function. The *senior manager* may, for example, be responsible for about 100 individuals *approved* to perform the *investment adviser function*. The FSA would not expect an individual below this level to need to be approved to perform the *significant management (designated investment business) function*. The fact that an individual may use one of these titles does not necessarily mean that he is performing a *controlled function*. Whether he does so depends on the circumstances of the *firm* and the application of SUP 10.9.1R.

Significant management (other business operations) function (CF17)

- 10.9.12** **R**
/1
- (1) The *significant management (other business operations) function* is the function of acting as a *senior manager* with significant responsibility for a significant business unit which carries on an activity which is not in relation to *designated investments*.
 - (2) A *person* may be a *senior manager* for the purposes of this *rule* even if he is not managing any or any substantial number of staff, provided he has responsibility for managing all, or a very substantial proportion, of the assets or exposures or decision making of the unit.
 - (3) This function does not include any of the activities described in any other *controlled function*.

- 10.9.13** **G**
/1
- Where SUP 10.9.1R and SUP 10.9.12R apply, the *senior manager* could, for example, be the head of a unit carrying on the activities of: retail banking, personal lending, corporate lending; leasing assets, issuing credit cards, trade finance, loan syndicates or debt, salvage or loan recovery, or proprietary trading. The *senior manager* could also be a proprietary trader whose trading limits are such that he may put, or potentially put, his *firm* at significant risk. This function would not extend to every proprietary trader.

Significant management (insurance underwriting) function (CF18)

- 10.9.14** **R**
/1
- (1) The *insurance underwriting function* is the function of acting in the capacity of a *senior manager* with significant responsibility for the effecting by an *insurer*, or by a *managing agent* on behalf of a *member* of the *Society of Lloyd's*, of *contracts of insurance* other than *contractually based investments*.
- (2) This function does not include any of the activities described in any other controlled function.

- 10.9.15** **G**
/1
- Where SUP 10.9.1R and SUP 10.9.14R apply, the FSA would expect the *senior manager* with responsibility for a significant underwriting unit such as marine underwriting in a large insurer to be performing this function. Other examples are *senior managers* with underwriting responsibility for aviation, motor, property, third party liability, term insurance and health care.

Significant management (financial resources) function (CF19)

- 10.9.16** **R**
/1
- (1) The *significant management (financial resources) function* is the function of acting in the capacity of a *senior manager* with significant responsibility for the making of material decisions on the commitment of a *firm's* financial resources, its financial commitments, its asset acquisitions, its liability management and its overall cash and capital planning.
- (2) This function does not include any of the activities described in any other *controlled function*, including, in particular, the *finance function*.

- 10.9.17** **G**
/1
- Where SUP 10.9.1R and SUP 10.9.16R apply, the individual performing this function would typically be the Chief Treasurer, or a member of a high level committee such as an Asset and Liability Committee. In the case of the *Society of Lloyd's*, it would include being a member of the Market Board (or a successor committee performing the functions of the Market Board).

Significant management (settlements) function (CF20)

- 10.9.18** **R**
/1
- (1) The *significant management (settlements) function* is the function of acting in the capacity of a *senior manager* with significant responsibility for processing confirmations, payments, settlements, insurance claims, *client money* and similar matters.
- (2) This function does not include any of the activities described in any other *controlled function*, including, in particular, the *significant management (financial resources) function*.

- 10.9.19** **G**
/1
- The tasks within this *controlled function* are often referred to as the back office functions. Where SUP 10.9.1R and SUP 10.9.18R apply, the *person* performing this function may be known, for example, as the Head of Payments, Head of

Settlements, or Head of Claims. The fact that an individual may use one of these titles does not necessarily mean that he is performing a *controlled function*. Whether he does so depends on the circumstances of the *firm* and the application of SUP 10.9.1R.

10.10 Customer functions

- 10.10.1** **R** ^{/1} *SUP 10.10 (the customer functions) applies only in relation to a regulated activity to which COB applies under COB 1.4.*
- 10.10.2** **G** ^{/1} (1) Without *SUP 10.10.1R* the descriptions of the *customer functions* would extend to functions wherever they are performed. The effect of *SUP 10.10.1R* is that the descriptions are limited, in relation to *regulated activities* with an overseas element, in a manner which is consistent with the scope of *COB* regulation.
- (2) *COB 1.4 (General application: Where)* specifies the *rules* which apply to *regulated activities* by reference to the location from which the activity is carried on. For example, where the *regulated activity* is carried on from an establishment maintained by a *firm* (or by its *appointed representative*) in the *United Kingdom*, *COB* applies in full (but special provisions apply in relation to *financial promotion*). See *COB 1.4* for further details.
- 10.10.3** **G** ^{/1} The *customer functions* have to do with giving advice on, *dealing* and arranging deals in and *managing investments*; they have no application to banking business such as deposit taking and lending, nor to *general insurance business*.
- The customer conditions (the second and third conditions)**
- 10.10.4** **R** ^{/1} Each *customer function* is one which will involve the *person* performing it in *dealing with customers*, (and for the *corporate finance adviser function, clients*), or *dealing with property of customers*, of a *firm* in a manner substantially connected with the carrying on of a *regulated activity* of the *firm*.
- 10.10.5** **G** ^{/1} *SUP 10.10.4R* gives effect to sub-sections (6) and (7) of section 59 of the *Act* (referred to in that section as the second and third conditions). *Customer* is given the meaning in the *Glossary* (which is not the same as the definition given in section 59 (11) of the *Act*).
- 10.10.6** **G** ^{/1} The *FSA* interprets the phrase "dealing with" as including having contact with *customers* and extending beyond "dealing" as used in the phrase "dealing in investments". "Dealing in" is used in Schedule 2 to the *Act* to describe in general terms the *regulated activities* which are specified in Part II of the *Regulated Activities Order*.

Investment adviser function (CF21)

- 10.10.7** **R** /1 (1) The *investment adviser function* is the function of:
- (a) *advising on investments*; and
 - (b) performing functions within the *customer trading function* in connection with *advising on investments*.
- (2) This function does not include:
- (a) the *investment adviser (trainee) function*; and
 - (b) the *pension transfer specialist function*.
- (3) This function does not extend to an individual who is based overseas and who, in a 12 month period, spends no more than 30 days in the *United Kingdom* in so far as:
- (a) his activities relate to *designated investment business*; and
 - (b) he is supervised by an *approved person advising on investments*.

10.10.8 **G** /1 The function of *advising on investments* would include, for example, giving advice to *clients* in connection with *corporate finance business*. It does not include *managing investments* (see the *investment management function*) or advising on syndicate participation at Lloyd's (see the *adviser on syndicate participation at Lloyd's function*).

10.10.9 **G** /1 When considering an application for *approval* in relation to this *controlled function*, the *FSA* may ask for evidence of the individual's competence. *TC 2.4.1R* provides that a *firm* must ensure that an *employee* is not allowed to engage in an activity unless the *employee* has been assessed as competent in that activity, in accordance with *TC 2.4.4R*, or is appropriately supervised. *TC 2.4.2R* provides that a *firm* must, before an *employee* can be assessed as competent, ensure that the *employee* has been assessed as able to apply the knowledge and skills necessary to engage without supervision in the relevant activity and has passed the appropriate *approved examination*.

10.10.10 **G** /1 It is a matter for the *firm* to decide what level of supervision is appropriate for an individual from overseas. However, the *FSA* would expect the individual to be accompanied on a visit to a *customer*.

Investment adviser (trainee) function (CF22)

10.10.11 **R** /1 The *investment adviser (trainee) function* is the function of *advising on investments* where the individual performing the function has not yet been assessed as competent in accordance with the *rules* in the *Training and Competence sourcebook (TC)*.

10.10.12 **G** /1 If a *firm* notifies the *FSA* that an individual who is performing the *investment adviser (trainee) function* has passed the appropriate examination, and has been

assessed as competent, the FSA will treat this as an application for the individual to perform the *investment adviser function*. (Form D SUP 10 Ann 7R may be used for this purpose).

Corporate finance adviser function (CF23)

- 10.10.13 **R** _{/1} The *corporate finance adviser function* is the function of giving advice to *clients* only in connection with *corporate finance business*.

Pension transfer specialist function (CF24)

- 10.10.14 **R** _{/1} The *pension transfer specialist function* is the function of giving advice or performing related activities in connection with:

- (1) *pension transfers*; or
 - (2) *opt-outs*;
- for *private customers*.

Adviser on syndicate participation at Lloyds' function (CF25)

- 10.10.15 **R** _{/1} The *adviser on syndicate participation at Lloyd's function* is the function of giving advice to a person to become, or continue or cease to be, a member of a particular *Lloyds syndicate*.

Customer trading function (CF26)

- 10.10.16 **R** _{/1} The *customer trading function* is the function of *dealing*, as principal or as agent, and arranging *deals in investments* with or for, or in connection with, *private customers* and *intermediate customers* where:

- (1) the *dealing* or *arranging deals* is governed by COB 7 (dealing and managing); and
- (2) the *person* performing the function is not advising on or managing *investments* unless approved to perform the *investment adviser function* or the *investment management function*.

- 10.10.17 **G** _{/1} A *person* who advises on or manages *investments* must be approved to perform the *investment adviser function* or the *investment management function* (see SUP 10.10.7R and SUP 10.10.20R) and does not need to be separately approved for the *customer trading function* (see SUP 10.10.16R).

10.10.18 **G**_{/1} COB 7 applies to a *firm* conducting *designated investment business*. Where a firm's proprietary trader may deal with a *private* or *intermediate customer*, the *firm* should ensure that the trader is *approved* under the *customer trading function*.

10.10.19 **G**_{/1} The *customer trading function* does not extend to the individual who, on the instructions of the customer, simply inputs the customer's instructions into an automatic execution system where no discretion is or may be exercised by the individual carrying out the activity. Nor does it extend to merely introducing a *customer* to a *firm* or distributing advertisements.

Investment management function (CF27)

10.10.20 **R**_{/1} The *investment management function* is the function of *managing investments* and, when ancillary to that function, functions within:

- (1) the *customer trading function*; and
- (2) the *investment adviser function*.

10.10.21 **G**_{/1} Note that the definition of *managing investments* provides that the activity consists of managing assets comprising or including certain *specified investments* "in circumstances which involve the exercise of discretion".



10.11 Procedures relating to approved persons

Forms

10.11.1 **G** /1 The forms listed in *SUP 10.11.2G* are referred to in *SUP 10.11* (Procedures relating to approved persons) to *SUP 10.14* (Further questions).

10.11.2 **G** /1 Table Approved persons forms

Form A	SUP 10 Ann 4D	Application to perform controlled functions under the approved persons regime
Form B	SUP 10 Ann 5R	Notice to withdraw an application to perform controlled functions under the approved persons regime
Form C	SUP 10 Ann 6R	Notice of ceasing to perform controlled functions
Form D	SUP 10 Ann 7R	Notification of changes in personal information or application details
Form E	SUP 10 Ann 8G	Internal transfer of an approved person

10.11.3 **G** /1 A summary of the forms and their purposes is in *SUP 10 Ann 2G*. A summary of *FSA* procedures is in *SUP 10 Ann 3G*. For the method of notification to the *FSA*, see *SUP 15.7* (Form and method of notification).

10.11.4 **G** /1 Unless the context otherwise requires, in *SUP 10.11* (Procedures relating to *approved persons*) to *SUP 10.14* (Further questions) where reference is made to a *firm*, this also includes an applicant for *Part IV permission*, and other *persons* seeking to carry on *regulated activities* as an *authorised person*.

10.11.5 G_{/1} Forms B, C, D and E can only be submitted in respect of an *approved person* by the *firm* that submitted an *approved person's* original application (that is, Form A).

10.11.6 G_{/1} Copies of Forms A, B, C, D and E may be obtained from the *FSA* website or from the Individual Vetting and Approval department. To contact the Individual Vetting and Approval department for general enquiries:

(1) telephone 020 7676 0019; or

(2) fax 020 7676 0017; or

(3) write to:

Individual Vetting and Approval

The Financial Services Authority

25 The North Colonnade

Canary Wharf

LONDON E14 5HS; or

(4) e-mail iva@fsa.gov.uk

10.12 Application for approval and withdrawing an application for approval

When to apply for approval

- 10.12.1 **G**_{/1} In accordance with section 59 of the *Act* (Approval for particular arrangements), where a *candidate* will be performing one or more *controlled functions*, a *firm* must take reasonable care to ensure that the *candidate* does not perform these functions unless he has prior approval from the FSA.

How to apply for approval

- 10.12.2 **D**_{/1} An application by a *firm* for the FSA's approval under section 59 of the *Act* (Approval for particular arrangements) must be made by completing Form A.

Who should make the application?

- 10.12.3 **G**_{/1} In accordance with section 60 of the *Act* (Applications for approval), applications must be submitted by, or on behalf of, the *firm* itself, not by the *candidate*. Usually this will be the *firm* that is employing the *candidate* to perform the *controlled function*. Where a *firm* has outsourced the performance of a *controlled function*, the details of the outsourcing determine where responsibility lies and whom the FSA anticipates will submit *approved persons* forms. SUP 10.12.4G describes some common situations. The *firm* which is outsourcing is referred to as "A" and the *person* to whom the performance of the function has been outsourced, or which makes the *arrangement* for the function to be performed, is referred to as "B". In each situation, A must take reasonable care to ensure that, in accordance with section 59(2) of the *Act*, no *person* performs a *controlled function* under an *arrangement* entered into by its contractor in relation to the carrying on by A of a *regulated activity*, without approval from the FSA. See also SYSC 3.2.4G and if applicable IPRU (BANK) OS and IPRU (BSOC) OS.

- 10.12.4 **G**_{/1} Table Outsourcing arrangements

Outsourcing arrangement		Submitting forms
<p>Firm A to firm B</p>	<p>The FSA will consider A to have taken reasonable care if it enters into a contract with B under which B is responsible for ensuring that the relevant controlled functions are performed by approved persons, and that it is reasonable for A to rely on this</p>	<p>Firm B submits approved persons forms on behalf of firm A</p>
<p>Outsourcing by A to B (both being a member of the same United Kingdom group and each having its registered office in the United Kingdom)</p>	<p>See SUP 10.3.4G</p>	<p>See SUP 15.7.7</p>
<p>(i) A to B, where B is a non-authorised person not part of the same group as A (ii) A to B, where A is a branch of an overseas firm in the United Kingdom, and B is an overseas undertaking of the same group (iii) A to B, where A is a UK authorised subsidiary of an overseas firm, and B is an overseas undertaking of the same group</p>	<p>Responsibility for (as opposed to the performance of) any activity outsourced to B will remain with A. See SYSC 3.2.4G</p>	<p>A ensures that an individual approved under one of the significant influence functions has responsibility for the outsourced arrangement and A submits a form in relation to that individual</p>

Processing an application

10.12.5 G_{/1} The *Act* allows the *FSA* three *months* from the time it receives a properly completed application to consider it and come to a decision. The *FSA* must either grant the application or, if it proposes not to grant an application, issue a *warning notice* (see *DEC 2*). The *FSA* will deal with cases more quickly than this whenever circumstances allow and will try to meet the standard response times published on the website and in its Annual Report. However, if an application is incomplete when received, or the *FSA* has knowledge that, or reason to believe that, the information is incomplete, then the processing time will be longer than the published standard response times.

10.12.6 G_{/1} Application forms must always be completed fully and honestly. Further notes on how to complete the form are contained in each form. If forms are not completed fully and honestly, applications will be delayed and, in some cases, possibly rejected. A *person* who provides information to the *FSA* that is false or misleading may commit a criminal offence. As a general guide, disclosure is required in the application form in respect of:

- (1) previous employment history going back ten years and with reasons for leaving;
- (2) outstanding county court judgments, bankruptcies and arrangements with creditors; and
- (3) previous disciplinary actions by a *regulatory body*.

10.12.7 G_{/1} If there is a delay in processing the application within the standard response time, the *FSA* will tell the *firm* making the application as soon as this becomes apparent.

10.12.8 G_{/1} Before making a decision to grant the application or give a *warning notice*, the *FSA* may ask the *firm* for more information about the *candidate*. If it does this, the three *month* period in which the *FSA* must determine a completed application:

- (1) will stop on the *day* the *FSA* requests the information; and
- (2) will start running again on the *day* on which the *FSA* finally receives all the requested information.

10.12.9 G_{/1} The *FSA* may grant an application only if it is satisfied that the *candidate* is a fit and proper *person* to perform the *controlled function* stated in the application form. Responsibility lies with the *firm* making the application to satisfy the *FSA* that the *candidate* is fit and proper to perform the *controlled function* applied for.

10.12.10 G_{/1} For further *guidance* on criteria for assessing whether a *candidate* is fit and proper, see *FIT*.

Decisions on applications

10.12.11 G_{/1} Whenever it grants an application, the *FSA* will confirm this in writing to all *interested parties*.

10.12.12 G_{/1} If the *FSA* proposes to refuse an application in relation to one or more *controlled functions*, it must follow the procedures for issuing *warning* and *decision notices* to all *interested parties*. The *requirements* relating to *warning* and *decision notices*

and the process for referrals to the *Financial Services and Markets Tribunal* are in *DEC 2* and *DEC 5* respectively.

Withdrawing an application for approval

10.12.13 **R** *A firm applying to withdraw an application must notify the FSA, using Form B.*
/1

10.12.14 **G** Under section 61(5) of the *Act* (Determination of applications), the *firm* may withdraw an application only if it also has the consent of the *candidate* and the *person* by whom the *candidate* is or would have been employed, if this is not the *firm* making the application.
/1

10.13 Changes to an approved person's details

Moving within a firm

- 10.13.1** **G**_{/1} An *approved person's* job may change from time to time as a result, for instance, of a change in personal job responsibilities or a *firm's regulated activities*. Where the changes will involve the *person* performing one or more different *controlled functions* from those for which approval has already been granted, then an application must be made to the *FSA* for approval for the *person* to perform those *controlled functions*. The *firm* must take reasonable care to ensure that an individual does not begin performing a *controlled function* until the *FSA* has granted *approved person* status to that individual in respect of that *controlled function*. This applies to *individuals* seeking approval in respect of a *controlled function* within the *firm* for which they already perform *controlled functions*. If the *approved person* is ceasing to perform *controlled functions*, as well as applying for *approval* in respect of additional *controlled functions*, then refer to *SUP* 10.13.3G.
- 10.13.2** **G**_{/1} Form A must be used to apply for an individual to perform further *controlled functions* for a *firm* for which he already performs a *controlled function* as an *approved person* (see *SUP* 10.12.2D). It is not mandatory to complete all parts of the form. See the notes attached to the form for full details.
- 10.13.3** **G**_{/1} A *firm* should use Form E where an *approved person* is both ceasing to perform one or more *controlled functions* and needs to be approved in relation to one or more new *controlled functions* within the same *firm*.

Moving between firms

- 10.13.4** **G**_{/1} If it is proposed that an *approved person* will no longer be performing a *controlled function* under an *arrangement* entered into by one *firm* or one of its contractors, but will be performing the same or a different *controlled function* under an *arrangement* entered into by a new *firm* or one of its contractors (whether or not the new *firm* is in the same *group* as the old *firm*), the new *firm* will be required to make a fresh application for the performance of the *controlled function* by that *person*.
- 10.13.5** **G**_{/1} In certain circumstances, when the *FSA* already has the information it would usually require, a shortened version of Form A may be completed. See the notes attached to the form for full details.

Ceasing to perform a controlled function

- 10.13.6** **R** ^{/1} A *firm* must submit to the *FSA* a completed Form C no later than seven *business days* after an *approved person* ceases to perform a *controlled function*.
- 10.13.7** **R** ^{/1} (1) A *firm* must notify the *FSA* as soon as practicable after it becomes aware, or has information which reasonably suggests, that it will submit a qualified Form C in respect of an *approved person*.
- (2) Form C is qualified if the information it contains:
- (a) relates to the fact that the *firm* has dismissed the *approved person* from its employment; or
 - (b) relates to the resignation by the *approved person* while under investigation by the *firm*, the *FSA* or any other regulatory body; or
 - (c) otherwise reasonably suggests that it may affect the *FSA*'s assessment of the *approved person's* fitness and propriety.
- 10.13.8** **G** ^{/1} Notification under SUP 10.13.7R may be made by telephone, fax or email and should be made, where possible, within one *business day* of the *firm* becoming aware of the information. If the *firm* does not submit Form C, it should inform the *FSA* in due course of the reason. This could be done using Form D, if appropriate.
- 10.13.9** **G** ^{/1} A *firm* is responsible for notifying the *FSA* if any *approved person* has ceased to perform a *controlled function* under an *arrangement* entered into by its *appointed representative* or former *appointed representative*.
- 10.13.10** **G** ^{/1} A *firm* can submit Form C or Form E to the *FSA* in advance of the cessation date. When a *person* ceases the *arrangement* under which he performs a *controlled function*, he will automatically cease to be an *approved person* in relation to that *controlled function*. A *person* can only be an *approved person* in relation to a specific *controlled function*. Therefore, a *person* is not an *approved person* during any period between ceasing to perform one *controlled function* (when he is performing no other *controlled function*) and being *approved* in respect of another *controlled function*.
- 10.13.11** **G** ^{/1} Sending forms promptly will help to ensure that any fresh application can be processed within the standard response times.
- 10.13.12** **R** ^{/1} (1) If a *firm* (A):
- (a) is considering appointing a *person* to perform any of the *customer functions*;
 - (b) requests another *firm* (B), as a former *employer* of that *person*, for a reference or other information in connection with that appointment; and
 - (c) indicates to B the purpose of the request;

B must, as soon as reasonably practicable, give to A all relevant information of which it is aware.

- (2) When giving the information to A under (1), B must have regard to the purpose of the request and in particular to:
- (a) any outstanding liabilities of that *person* from commission payments;
 - (b) any relevant outstanding or upheld complaint against that *person*;
 - (c) section 5 of Form A in SUP 10 Annex 4D (Application to perform controlled functions under approved persons regime);
 - (d) FIT 2 (Main assessment criteria); and
 - (e) if SUP 16.8.1R (*Persistency reports from insurers*) applies to B, the persistency of any *life policies* sold by that *person*.

10.13.13

G
/1

A *firm* supplying a reference in accordance with SUP 10.13.12R owes a duty to its former *employee* and the recipient *firm* to exercise due skill and care in the preparation of the reference. The reference should be accurate and based on documented fact. The *firm* may give frank and honest views, but only after taking reasonable care both as to factual content, and as to the opinions expressed, and verifying the information upon which they are based.

Changes to an approved person's personal details

10.13.14

R
/1

If an *approved person's* title, name or national insurance number changes, the *firm* for which the *person* performs a *controlled function* must notify the FSA on Form D of that change within seven *business days* of the *firm* becoming aware of the matter.

10.13.15

G
/1

The duty to notify in SUP 10.13.14R does not apply to changes to an *approved person's* private address.

10.13.16

R
/1

If a *firm* becomes aware of information which would reasonably be material to the assessment of an *approved person's*, or a *candidate's*, fitness and propriety (see FIT), it must inform the FSA on Form D as soon as practicable.

10.13.17

G
/1

The duty to notify in SUP 10.13.16R extends to any circumstances that would normally be declared when giving the information required for section 5 of Form A or matters considered in FIT 2.



10.14 Further questions

10.14.1

G

A list of frequently asked questions and answers is at *SUP* 10 Ann 1G.

10.14.2

G

If the *firm* or its advisers have further questions, they should contact the *FSA*'s Individual Vetting and Approval department (see *SUP* 10.11.6G).

/1

/1

SUP 10 Ann 1G: Frequently asked questions

1 Table

	Question	Answer
	Requirements of the regime	
1	Does pre-approval apply to individuals taking up a new <i>controlled function</i> within the same <i>firm</i> ?	Yes. Pre-approval applies in all circumstances (see section 59 of the <i>Act</i> (Approval for particular arrangements)) except under the temporary ('12 weeks') provision. See <i>SUP 10.5.5R</i> and question 2.
2	What are the procedures for 'emergency situations'?	Individuals may perform <i>significant influence functions</i> for up to 12 weeks in any consecutive 12 <i>month</i> period without requiring approval. When it becomes clear that a <i>person</i> will be performing the function on a permanent basis, then an application for approval should be made. However, there is no provision for individuals to perform the <i>customer functions</i> on a continuing basis without approval. See <i>SUP 10.5.5.R</i> .
3	Can a <i>person</i> be approved for more than one <i>controlled function</i> ?	Yes. A <i>firm</i> will need to seek approval in respect of each <i>controlled function</i> a <i>person</i> is to perform.
4	Do the <i>controlled functions</i> apply to an <i>incoming EEA firm</i> that is providing <i>cross border services</i> into the <i>United Kingdom</i> ?	No. The <i>approved persons</i> regime does not apply to <i>cross border services</i> . See <i>SUP 10.1.6R</i>
5	May any activity be outsourced by a <i>firm</i> ?	Yes. But if that activity constitutes a <i>regulated activity</i> , the <i>person</i> to whom it is outsourced will itself need permission.

6	Can a <i>significant influence function</i> be outsourced?	It is a question of fact in each case who is performing a <i>significant influence function</i> . These functions are mostly described at a high level of responsibility, that is, for example, the <i>director</i> of a <i>company</i> or a <i>partner</i> in a <i>partnership</i> . The <i>persons</i> performing these functions cannot avoid their ultimate responsibility and therefore the need for approval. However, some of the <i>significant influence functions</i> may be performed by a <i>person</i> who is specifically brought in to do the job, for example the <i>chief executive function</i> (where it is to be performed by a <i>body corporate</i>) and the <i>appointed actuary function</i> .
7	Do Lloyd's underwriting agents still require registration with Lloyd's?	Yes. Approval for a <i>controlled function</i> is not sufficient.
8	What should a <i>firm</i> do if it is unsure whether an individual needs approval?	The <i>firm</i> should contact the Individual Vetting and Approval Department. See SUP 10.11.6G.
Submitting an application		
9	Who applies for approval?	The <i>firm</i> . See section 60 of the <i>Act</i> (Applications for approval).
10	What is the role of the <i>candidate</i> in the application process?	Before the <i>firm</i> submits Form A it must verify the information contained in it. As part of this verification, the Form provides for the <i>candidate</i> to confirm the accuracy of the information given by the <i>firm</i> so far as it relates to him.
11	What checks must a <i>firm</i> make on a <i>candidate</i> before submitting an application for approval from the <i>FSA</i> ?	The <i>FSA</i> expects firms to perform due and diligent enquiries into their <i>candidates</i> . Note also the requirements of <i>ENF</i> 8.12.2G and <i>TC</i> 2.2.1R.

12	What is the “fit and proper” test for approval?	Section 61(1) of the <i>Act</i> (Determination of applications) provides that the <i>FSA</i> may grant an application only if it is satisfied that the <i>candidate</i> is a fit and proper <i>person</i> to perform the relevant function. In determining this question, the <i>Act</i> sets out the matters to which the <i>FSA</i> may have regard (section 61(2)) and the <i>FSA</i> has given guidance on this in <i>FIT</i> .
13	If a <i>firm</i> is unsure whether or not something may have an impact upon an individual’s fitness and propriety, should it be disclosed?	Yes, always. The deliberate non-disclosure of material facts is taken very seriously by the <i>FSA</i> as it is seen as possible evidence of current dishonesty. Therefore, if in doubt, disclose.
14	What happens if adverse information comes to light after the application form has been submitted or after the individual has been approved?	The <i>firm</i> must inform the <i>FSA</i> at the earliest opportunity. See <i>SUP</i> 10.13.16R.
15	Will the <i>FSA</i> consider an application in respect of a <i>candidate</i> who has not yet signed a contract with the <i>firm</i> ?	Yes, as the <i>FSA</i> will consider the <i>arrangement</i> under which the <i>candidate</i> will perform the function. However, the <i>FSA</i> will not consider speculative or provisional applications – such as for the candidates in an election to a mutual society Board. The <i>FSA</i> must be informed immediately of any material changes to the information provided on the application form which arises before the application has been determined. All changes must be communicated to the <i>FSA</i> by the <i>firm</i> making the application (see <i>SUP</i> 15.6.4R). Failure to notify the <i>FSA</i> may result in a delay in processing or rejection or both.
16	How can we get a supply of application forms (Form A)?	These can either be ordered through the Individual Vetting and Approval Department or obtained from the <i>FSA</i> website at www.fsa.gov.uk . There is no charge for an application form.
17	Is there a separate fee for making an application for <i>approved person</i> status?	No.
18	Must all gaps in previous employment be explained?	Yes.

FSA procedures		
19	Does the <i>FSA</i> verify the information provided to it?	Yes, as far as possible, information is verified.
20	Will the <i>FSA</i> handle information confidentially?	Yes. The <i>FSA</i> is obliged to handle all information confidentially and is subject to the provisions of the Data Protection Act 1998.
21	How long will the <i>FSA</i> take to process an application for <i>approved person</i> status?	Generally the <i>FSA</i> will handle this within seven <i>business days</i> for <i>significant influence functions</i> and four <i>business days</i> for <i>customer functions</i> . However, if information is missing, or the information provided gives the <i>FSA</i> cause for concern, processing time will almost always be longer. In each case, the <i>FSA</i> will notify the <i>firm</i> of any extension to the processing times.
22	Will the <i>firm</i> and individual be notified if there is a delay in processing the application form?	Yes. The <i>FSA</i> will contact the firm explaining the position and, where appropriate, giving the reasons for delay. It will then be the responsibility of the <i>firm</i> to keep the <i>candidate</i> and any other <i>interested party</i> informed.
23	How are non-routine cases handled?	Refer to <i>DEC 2 Ann 2G</i> .
24	Can the <i>FSA</i> apply conditions to an <i>approved person</i> ?	<p>No. The application can either be granted or refused. The <i>Act</i> provides no equivalent to the <i>limitations</i> or <i>requirements</i> which may be included in <i>permissions</i>. If the application is refused, the <i>firm</i> may re-apply in respect of the same individual but a different <i>controlled function</i>. If it is considering doing this, the <i>firm</i> is encouraged to discuss the matter with the <i>FSA</i>.</p> <p>Where there are reasonable grounds for doing so, the <i>FSA</i> may require a <i>firm</i> to provide information about an <i>approved person</i> (see section 165 of the <i>Act</i> (Power to require information)).</p>

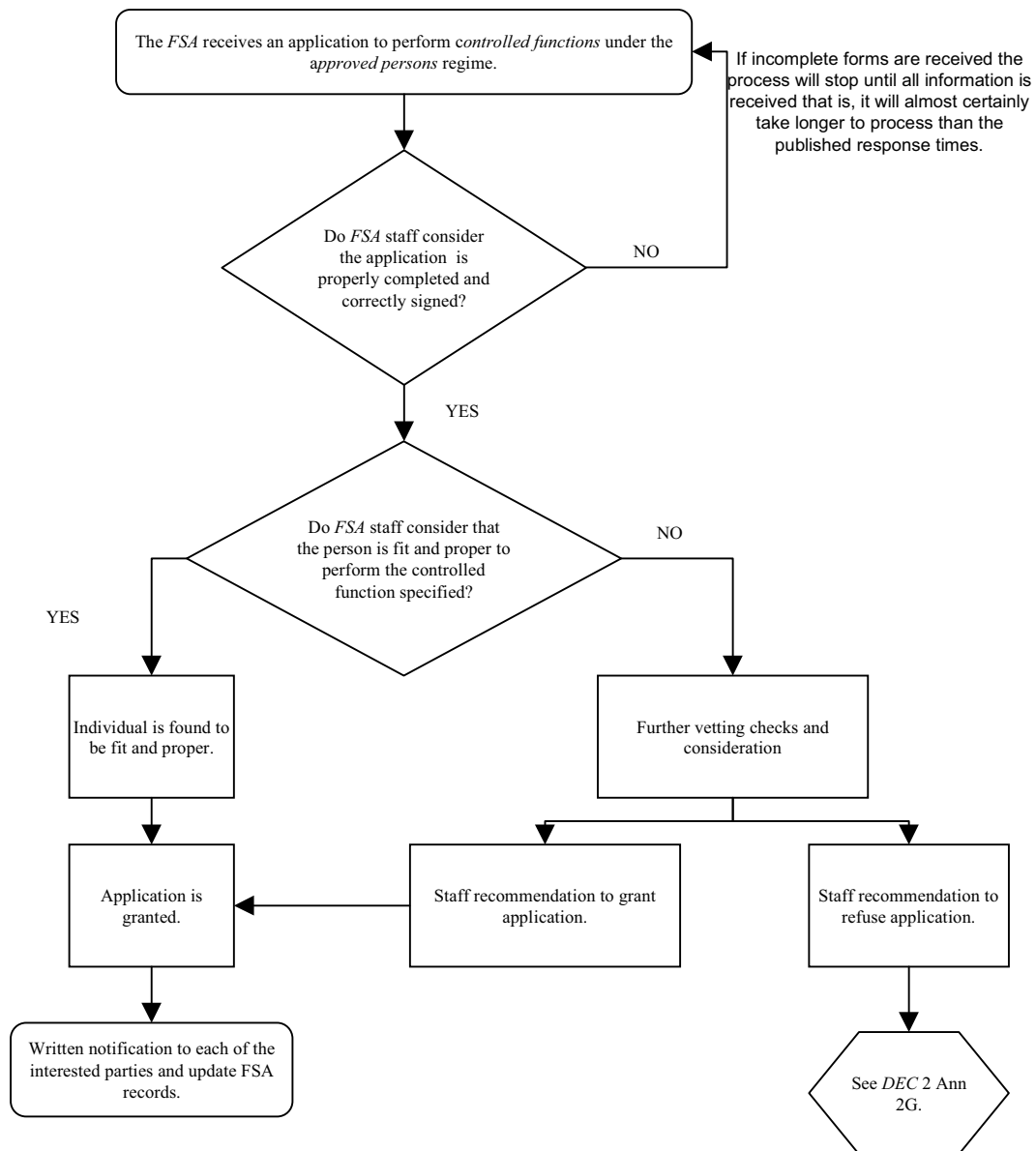
25	<p>Will the <i>firm</i> be issued with confirmation of approval?</p>	<p>Yes. The <i>firm</i> will be sent a letter setting out the effective date of approval together with the <i>controlled function</i> for which the individual has been approved. It will then be the <i>firm's</i> responsibility to inform the individual and any other <i>interested party</i>, for example any <i>appointed representative</i>.</p>
Withdrawing an application		
26	<p>Can a <i>firm</i> withdraw its application?</p>	<p>Yes, but only with the consent of the <i>candidate</i>. See section 61(5) of the <i>Act</i> (Determination of applications).</p>
27	<p>What happens if the individual refuses to consent to the withdrawal of the application?</p>	<p>The <i>FSA</i> will consider with all <i>interested parties</i> what to do. If it proposes to refuse the application, it will give a <i>warning notice</i> to all <i>interested parties</i>. See section 62 of the <i>Act</i> (Applications for approval: procedure and right to refer to the Tribunal).</p>
28	<p>Can the <i>firm</i> withdraw only part of an application – say, in relation to a specific <i>controlled function</i>?</p>	<p>The <i>FSA</i> will allow the <i>firm</i> to amend its application at any time before determination with the consent of all other <i>interested parties</i>. Whether the amendment will have the effect of amounting to a fresh application will be considered on a case by case basis.</p>
Conduct of approved persons		
29	<p>How and when must the <i>firm</i> report to the <i>FSA</i> potentially adverse information about an <i>approved person's</i> fitness and propriety?</p>	<p>Normally, the <i>firm</i> should report such matters to the <i>FSA</i> on Form D once it is reasonably satisfied as to the information's validity. See <i>SUP</i> 10.13.16R. See also, Principle for Businesses 11 (PRIN) and Statements of Principle 4 (APER).</p> <p>However, if an <i>approved person</i> is dismissed or resigns while under investigation by the <i>firm</i>, the <i>FSA</i> or another regulatory body, the <i>firm</i> should inform the <i>FSA</i> (<i>SUP</i> 10.13.7R) that it will be submitting a Form C containing adverse information. Full details must then be provided within seven <i>business days</i>, on the Form C. See <i>SUP</i> 10.13.6R.</p>

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

SUP 10 Ann 2G: Approved person regime: summary of forms and their use

Circumstance:	Form	Submitted by whom and when
Person about to perform a <i>controlled function</i> for the first time.	A	Submitted by the <i>firm</i> making the application <u>before</u> activities requiring approval commence.
Person moving firms but performing the same <i>controlled function(s)</i> .	Shortened Form A if conditions met.	Submitted by the <i>firm</i> making the application <u>before</u> activities requiring approval commence.
Persons moving firms and performing different <i>controlled function(s)</i> .	A	Submitted by the <i>firm</i> making the application <u>before</u> activities requiring approval commence.
Firm applying for an outstanding application to be withdrawn.	B	Submitted by the <i>firm</i> - signed by all interested parties.
Person ceasing to perform a <i>controlled function(s)</i> .	C	Submitted by the <i>firm</i> within seven <i>business days</i> of approved person ceasing to perform <i>controlled function(s)</i> .
If an <i>approved person's</i> title, name or national insurance number change.	D	Submitted by <i>firm</i> within seven <i>business days</i> of the <i>firm</i> becoming aware of the matter.
Person remaining with the same <i>firm</i> but changing <i>controlled function(s)</i> .	E	Submitted by <i>firm</i> before changes take place.

SUP 10 Ann 3G: Summary of procedures on application for approved status





Application number
(for FSA use only)

Form A

Application to perform controlled functions under the approved persons regime

FSA Handbook Reference: SUP10 Annex 4D

30 April 2001

Name of candidate
(to be completed by applicant)

Name of firm
(as entered in 2.01)

The Financial Services Authority
Individual Vetting & Approval
25 The North Colonnade
Canary Wharf
London E14 5HS
United Kingdom
Telephone +44 (0) 20 7676 0019
Facsimile +44 (0) 20 7676 0017
E-mail iva@fsa.gov.uk
Website <http://www.fsa.gov.uk>

Registered as a Limited Company in England and Wales No 1920623. Registered Office as above

Notes for Form A

Application to perform controlled functions under the approved persons regime

PLEASE NOTE: A CANDIDATE MUST NOT BEGIN PERFORMING ANY CONTROLLED FUNCTIONS UNTIL THE FSA HAS GRANTED APPROVAL.

Full details of the approved persons regime and the application process are given in chapter 6 of the Authorisation manual and chapter 10 of the Supervision manual.

The purpose of this Form

This is Form A referred to in AUTH 3.1D and SUP 10.12.2D. This Form must be used where the candidate is an individual seeking approval to perform controlled functions. The firm is the applicant.

Applications for corporate candidates must be made using an adapted Form A that will be supplied by the FSA upon request.

Completing this Form

The Form must be completed in black ink and (if in manuscript) in BLOCK LETTERS.

All dates should be provided in numeric form (e.g. 29/02/2000 for 29 February 2000).

Indicate clearly if a question is not applicable. Tick the appropriate box where a yes/no answer is required. Further details should be given in section 6 (supplementary information) if there is insufficient space for a detailed answer.

Additional information can be attached to the Form. It must be securely attached to the rest of the Form and you must indicate at question 6.04 the number of additional sheets attached.

Do not assume that information is known to the FSA merely because it is in the public domain, or has been previously disclosed to the FSA or to another regulatory body. In all circumstances, disclosures should be full, frank and unambiguous. If there is any doubt about the relevance of information, it should be included. The information supplied by the candidate should be verified by the firm wherever possible. If the FSA's vetting checks reveal any matters that have not been disclosed, then applications will be delayed and, in some cases, possibly rejected. See SUP 10.12.6G.

Expressions in this Form in italics have the meaning given in the Glossary to the FSA's Handbook (or, if no meaning is given there, the expressions are to be interpreted in accordance with the related expression defined in the Glossary).

The firm is responsible for the accuracy of the data and completion of the Form. If the Form is not fully and correctly completed, the FSA may need to return it for proper completion. This could significantly delay the FSA's decision on whether to grant approval to perform the requested controlled functions (see SUP 10.12.6G).

The FSA may require the applicant to provide further information at any time after receiving an application and before determining whether it is to be granted or not (see AUTH 6.3.9G or SUP 10.12.8G).

If a firm has provided, or has information that reasonably suggests that it may have provided, the FSA with information which was or has become false, misleading, incomplete or inaccurate, in a material particular, it must notify the FSA immediately (see SUP 15.6.4R). Failure to notify the FSA may result in a delay in processing or rejection.

SHORTENED APPLICATION FORM

It is not necessary to complete section 4 (Employment history) and section 5 (Fitness and propriety) of Form A if:

- (1) an approved person is applying to perform an additional controlled function under an arrangement with the same firm; or
- (2) the candidate has ceased to perform a controlled function under an arrangement with firm A and now requires approval to perform a controlled function under an arrangement with firm B.

However, Form A must be completed in full if either:

- (1) the candidate ceased to be an approved person more than six months ago; or
- (2) the candidate or approved person is seeking approval in respect of a significant influence function for the first time.

SECTION 1 – PERSONAL IDENTIFICATION DETAILS

If the candidate has more than one previous name (surname or forenames), passport number or nationality, or is known by any other names, provide details in section 6.

- 1.01: If the candidate does not have an FSA Individual Reference Number or does not know it, include the name of the previous regulator and the previous Individual Reference Number, as applicable.
- 1.13: United Kingdom addresses must be given, or a statement stating that the individual resides abroad.

SECTION 2 – FIRM IDENTIFICATION DETAILS

- 2.01 & 2.02: This section identifies the firm making the application by FSA Firm Reference Number (FRN) and name.
- 2.03: The firm must indicate a point of contact for any queries in connection with the application.

SECTION 3 – ARRANGEMENTS AND CONTROLLED FUNCTIONS

The firm must tick the box in 3.01 that most accurately describes its arrangement with the candidate.

For applications from a single firm, the firm should complete 3.02, 3.03 & 3.04 indicating the controlled functions required by selecting the appropriate box in 3.02. However, if the application is being made on behalf of a candidate who will carry out controlled functions for more than one firm, 3.05 must be used to describe the controlled functions and the relationships between the candidate and those firms.

- 3.01: If this application relates to more than one appointed representative, provide details in section 6.
- 3.02: If any of controlled functions 16 to 20 are requested, the specific job title of the candidate must be included.
- 3.03: The effective date is the date on which the firm wishes the candidate to begin performing controlled functions (subject to approval). This should be left blank unless there is a reason for the effective date to be beyond the FSA's published standard response times. For instance, a firm may wish to be sure that a candidate has been approved before they take up their post.

Unless the firm indicates otherwise, the FSA assumes that the arrangement given on the application form includes all of the activities that fall within the description of the controlled function. This means that a firm may alter a candidate's responsibilities within the broad description of a controlled function without needing further approval from the FSA. However, in relation to the significant management functions, firms must comply with the reporting requirements in SUP 10.9.8R and SUP 10.9.9G.

SECTION 4 – EMPLOYMENT HISTORY FOR PAST 10 YEARS

A full ten-year employment history for the candidate must be provided – with all gaps explained. If the record of employment does not go back ten years, all periods of education and unemployment must be indicated. Full details of any periods of self-employment must be included.

The employment history should be provided in reverse chronological order, starting with the most recent period of employment, unemployment etc, but excluding the activity to which this application relates.

Always give the address of the actual place of employment, rather than a central head office.

“Regulatory body” in this context means the bodies listed in the notes to section 5 (below).

State the position held by the candidate and a brief explanation of his or her duties. If the candidate’s job title included the word “director” but his or her duties did not include those associated with the title of director, as defined in the Glossary, this should be indicated.

The reason for leaving each employer must be given. If there were any issues arising on leaving, these must be fully explained in section 6. Previous employers may be contacted and the omission of relevant details may result in applications being delayed and, in some cases, possibly rejected. See SUP 10.12.6G.

Candidates who are applying for significant influence functions (CF 1 to 20) are required to submit a copy of their curriculum vitae, in addition to completing section 4 of this Form. It should be attached securely to the Form.

SECTION 5 – FITNESS AND PROPRIETY

Answer the question by ticking the relevant ‘yes’ or ‘no’ box. If the answer to any of the questions is ‘yes’, give complete details in section 6 and attach relevant supporting documentation.

5.03 to 5.06: Court judgments (e.g. County Court Judgments) and arrangements with creditors (e.g. Individual Voluntary Arrangements) are covered by questions 5.03 to 5.06. Any outstanding County Court Judgements or arrangements with creditors must be listed in section 6, and the circumstances surrounding them explained. The FSA will conduct credit checks.

“Regulatory body” in this context refers to:

- i) the self-regulatory organisations including IMRO, SFA, PIA, LAUTRO, FIMBRA, AFBD and TSA;
- ii) the statutory bodies including the FSA, SIB, the Society of Lloyd’s, the Registry of Friendly Societies, the Friendly Societies Commission, the Building Societies Commission, the Bank of England; HM Treasury – Insurance Directorate (formerly of the DTI) and the recognised bodies;
- iii) the designated professional bodies; and
- iv) the equivalent of all such regulators overseas.

SECTION 6 – SUPPLEMENTARY INFORMATION

This section provides space for any additional information and should be used whenever a question in section 5 is answered ‘yes’.

List here all directorships currently held or held in the past 10 years by the candidate.

Relevant documents must also be provided, such as evidence of the settlements of County Court Judgements.

SECTION 7 – DECLARATIONS & SIGNATURES

This section contains declarations which must be signed by both an appropriate individual for the firm or applicant submitting the application and the candidate. The FSA considers that an appropriate individual would either be an individual approved for a controlled function described under section 59(5) of the Act (the significant influence functions – controlled functions 1 to 20) or someone to whom the firm has delegated the authority to notify the FSA. If this authority has been delegated, the firm should keep records of those individuals authorised to sign on behalf of the firm.

If you have any questions or need additional information, please contact the Individual Vetting and Approval Helpline on 020 7676 0019 or e-mail [iva@ FSA.gov.uk](mailto:iva@FSA.gov.uk)

PLEASE RETURN COMPLETED FORM TO:

THE FINANCIAL SERVICES AUTHORITY
INDIVIDUAL VETTING AND APPROVAL
25 THE NORTH COLONNADE
CANARY WHARF
LONDON E14 5HS
UNITED KINGDOM

1.01	a FSA Individual Reference Number (IRN)	
	b OR name of previous regulatory body	
	c AND previous reference number (if applicable)	
1.02	Title (e.g. Mr, Mrs, Ms, etc)	
1.03	Surname	
1.04	ALL forenames	
1.05	Name commonly known by	
1.06	Date of birth	
1.07	National Insurance number	
1.08	Previous name SEE NOTE	
1.09	Date of change	
1.10	Reason for change	
1.11	a Nationality SEE NOTE	
	b Passport number (if National Insurance number not available) -SEE NOTE	
1.12	Place of birth	



I have supplied further information related to this page in Section 6

YES

NO

1.13 a Private address

[Redacted address details]

b

Postcode

c Dates resident at this address (mm/yyyy)

From

[Redacted start date]

To

PRESENT

(If address has changed in the last three years, please provide addresses for the previous three years.)

1.14 a Previous address 1

[Redacted address details]

b

Postcode

c Dates resident at this address (mm/yyyy)

From

[Redacted start date]

To

[Redacted end date]

1.15 a Previous address 2

[Redacted address details]

b

Postcode

c Dates resident at this address (mm/yyyy)

From

[Redacted start date]

To

[Redacted end date]



I have supplied further information related to this page in Section 6

YES

NO

2.01	Name of firm making the application	
2.02	FSA Firm Reference Number (FRN)	
2.03 a	Who should the FSA contact at the firm in relation to this application?	
b	Position	
c	Telephone	
d	Fax	
e	E-mail	



I have supplied further information related to this page in Section 6

YES

NO

3.01 Nature of the arrangement between the candidate and the applicant.

a	Employee	<input type="checkbox"/>	
<hr/>			
b	Group employee	<input type="checkbox"/>	
	Name of group		
<hr/>			
c	Contract for services	<input type="checkbox"/>	
<hr/>			
d	Partner/Sole trader	<input type="checkbox"/>	
<hr/>			
e	Appointed rep – employee	<input type="checkbox"/>	
	Name of AR		
<hr/>			
f	Appointed rep – principal	<input type="checkbox"/>	
	Name of AR		
<hr/>			
g	Other	<input type="checkbox"/>	
	Give details		

3.02 For applications from a single firm, please tick the boxes that correspond to the controlled functions to be performed.

If the controlled functions are to be carried out for more than one firm, please go to question 3.05

a Significant influence functions

CF 1	Director function	<input type="checkbox"/>
CF 2	Non-executive director function	<input type="checkbox"/>
CF 3	Chief executive function	<input type="checkbox"/>
CF 4	Partner function	<input type="checkbox"/>
CF 5	Director of an unincorporated association function	<input type="checkbox"/>
CF 6	Small friendly society function	<input type="checkbox"/>
CF 7	Sole trader function	<input type="checkbox"/>



I have supplied further information related to this page in Section 6

YES

NO

Significant influence functions continued	CF 8	Apportionment and oversight function	<input type="checkbox"/>	
	CF 9	EEA investment business oversight function	<input type="checkbox"/>	
	CF 10	Compliance oversight function	<input type="checkbox"/>	
	CF 11	Money laundering reporting function	<input type="checkbox"/>	
	CF 12	Appointed actuary function	<input type="checkbox"/>	
	CF 13	Finance function	<input type="checkbox"/>	
	CF 14	Risk assessment function	<input type="checkbox"/>	
	CF 15	Internal audit function	<input type="checkbox"/>	
	CF 16	Significant management (designated investment business) function	<input type="checkbox"/>	
	CF 17	Significant management (other business operations) function	<input type="checkbox"/>	
	CF 18	Significant management (insurance underwriting) function	<input type="checkbox"/>	
	CF 19	Significant management (financial resources) function	<input type="checkbox"/>	
	CF 20	Significant management (settlements) function	<input type="checkbox"/>	
	b Customer functions	CF 21	Investment adviser function	<input type="checkbox"/>
		CF 22	Investment adviser (trainee) function	<input type="checkbox"/>
CF 23		Corporate adviser function	<input type="checkbox"/>	
CF 24		Pension transfer specialist function	<input type="checkbox"/>	
CF 25		Adviser on syndicate participation at Lloyd's function	<input type="checkbox"/>	
CF 26		Customer trading function	<input type="checkbox"/>	
CF 27		Investment management function	<input type="checkbox"/>	

3.03 Effective date of controlled functions indicated above

3.04 Job title (mandatory for controlled functions 16 to 20)



I have supplied further information related to this page in Section 6

YES

NO

3.05 List all firms within the group (including the firm entered in 2.01) for which the candidate requires approval and the requested controlled function for that firm.

	FSA Firm Reference Number	Name of firm	Controlled function	Job title (mandatory for controlled functions 16 to 20)	Effective date
a					
b					
c					
d					
e					

3.06 Has the individual been assessed as competent in accordance with the Training and Competence Rules (see TC 2.3.5R (Attaining Competence))?
 Tick "NOT APPLICABLE" if the candidate is not within the scope of chapter 2 of the Training and Competence Sourcebook (see TC 2.1.3R)

YES
 NO
 NOT APPLICABLE

3.07 If the answer to 3.06 is "YES", indicate which of the following formed part of the assessment (only tick one box):

Passing each module of the appropriate examination as specified in the annexes to TC2
 OR
 Complying with TC 2.4.5R (Approved examinations)
 OR
 Complying with TC Transitional Provisions



I have supplied further information related to this page in Section 6 YES NO

Note: ALL gaps must be accounted for (SEE NOTE)

4.01 Employment details (1)

a Period (mm/yyyy) From To

b Nature of employment

a	Employed	<input type="checkbox"/>
b	Self-employed	<input type="checkbox"/>
c	Unemployed	<input type="checkbox"/>
d	Full-time education	<input type="checkbox"/>

If b, c, or d is ticked, please give details

c Name of employer

d Nature of business

e Previous / other names of employer

f Last known address of employer

g Is/was employer regulated by a regulatory body? SEE NOTE YES NO Name of regulatory body

h Is/was employer an appointed representative? YES NO If yes, of which firm?

i Position held SEE NOTE

j Responsibilities

k Reason for leaving: SEE NOTE

a	Resignation	<input type="checkbox"/>
b	Redundancy	<input type="checkbox"/>
c	Retirement	<input type="checkbox"/>
d	Termination/dismissal	<input type="checkbox"/>
e	End of contract	<input type="checkbox"/>
f	Other	<input type="checkbox"/>

Specify



I have supplied further information related to this page in Section 6 YES NO

4.02 Employment details (2)

a Period (mm/yyyy) From To

b Nature of employment

a	Employed	<input type="checkbox"/>
b	Self-employed	<input type="checkbox"/>
c	Unemployed	<input type="checkbox"/>
d	Full-time education	<input type="checkbox"/>

If b, c, or d is ticked, please give details

c Name of employer

d Nature of business

e Previous / other names of employer

f Last known address of employer

g Is/was employer regulated by a regulatory body? SEE NOTE YES NO Name of regulatory body

h Is/was employer an appointed representative? YES NO If yes, of which firm?

i Position held SEE NOTE

j Responsibilities

k Reason for leaving: SEE NOTE

a	Resignation	<input type="checkbox"/>
b	Redundancy	<input type="checkbox"/>
c	Retirement	<input type="checkbox"/>
d	Termination/dismissal	<input type="checkbox"/>
e	End of contract	<input type="checkbox"/>
f	Other	<input type="checkbox"/>

Specify



I have supplied further information related to this page in Section 6

YES

NO

4.03 Employment details (3)

a Period (mm/yyyy) From To

b Nature of employment

a	Employed	<input type="checkbox"/>
b	Self-employed	<input type="checkbox"/>
c	Unemployed	<input type="checkbox"/>
d	Full-time education	<input type="checkbox"/>

If b, c, or d is ticked, please give details

c Name of employer

d Nature of business

e Previous / other names of employer

f Last known address of employer

g Is/was employer regulated by a regulatory body? SEE NOTE YES NO Name of regulatory body

h Is/was employer an appointed representative? YES NO If yes, of which firm?

i Position held SEE NOTE

j Responsibilities

k Reason for leaving: SEE NOTE

a	Resignation	<input type="checkbox"/>
b	Redundancy	<input type="checkbox"/>
c	Retirement	<input type="checkbox"/>
d	Termination/dismissal	<input type="checkbox"/>
e	End of contract	<input type="checkbox"/>
f	Other	<input type="checkbox"/>

Specify



I have supplied further information related to this page in Section 6

YES

NO

4.04 Employment details (4)

a Period (mm/yyyy) From To

b Nature of employment

a	Employed	<input type="checkbox"/>
b	Self-employed	<input type="checkbox"/>
c	Unemployed	<input type="checkbox"/>
d	Full-time education	<input type="checkbox"/>

If b, c, or d is ticked, please give details

c Name of employer

d Nature of business

e Previous / other names of employer

f Last known address of employer

g Is/was employer regulated by a regulatory body? SEE NOTE YES NO Name of regulatory body

h Is/was employer an appointed representative? YES NO If yes, of which firm?

i Position held SEE NOTE

j Responsibilities

k Reason for leaving: SEE NOTE

a	Resignation	<input type="checkbox"/>
b	Redundancy	<input type="checkbox"/>
c	Retirement	<input type="checkbox"/>
d	Termination/dismissal	<input type="checkbox"/>
e	End of contract	<input type="checkbox"/>
f	Other	<input type="checkbox"/>

Specify



I have supplied further information related to this page in Section 6

YES

NO

4.05 Employment details (5)

a Period (mm/yyyy) From To

b Nature of employment

a	Employed	<input type="checkbox"/>
b	Self-employed	<input type="checkbox"/>
c	Unemployed	<input type="checkbox"/>
d	Full-time education	<input type="checkbox"/>

If b, c, or d is ticked, please give details

c Name of employer

d Nature of business

e Previous / other names of employer

f Last known address of employer

g Is/was employer regulated by a regulatory body? SEE NOTE YES NO Name of regulatory body

h Is/was employer an appointed representative? YES NO If yes, of which firm?

i Position held SEE NOTE

j Responsibilities

k Reason for leaving: SEE NOTE

a	Resignation	<input type="checkbox"/>
b	Redundancy	<input type="checkbox"/>
c	Retirement	<input type="checkbox"/>
d	Termination/dismissal	<input type="checkbox"/>
e	End of contract	<input type="checkbox"/>
f	Other	<input type="checkbox"/>

Specify

If necessary, please continue in section 6.



I have supplied further information related to this page in Section 6

YES

NO

- 5.01 a Has the candidate ever been convicted of any offence involving fraud, theft, false accounting or other dishonesty or an offence (whether or not in the United Kingdom) relating to companies, building societies, industrial and provident societies, credit unions, friendly societies, insurance, banking or other financial services, insolvency, consumer credit or consumer protection, money laundering, market manipulations or insider dealing? (Convictions spent under the Rehabilitation of Offenders Act 1974 must be included) YES NO
- b Is the candidate the subject of any current criminal proceedings? YES NO
- 5.02 Has the candidate any convictions for any offences other than those listed in 5.01 above which are not spent, whether or not in the United Kingdom (excluding traffic offences unless these resulted in a ban from driving or involved driving without insurance)? YES NO
- 5.03 a Is the candidate, or has the candidate ever been, the subject of any civil proceedings, arbitration or litigation, including proceedings that may lead to a County Court Judgment (“CCJ”) or other judgment debts, in the United Kingdom or elsewhere? YES NO
- b Is the candidate aware of any intention to begin such proceedings against the candidate in the future? YES NO
- 5.04 Does the candidate have any judgment debts (including CCJs) made under a court order still outstanding, whether in full or in part? YES NO
- 5.05 Has the candidate ever failed to satisfy any such judgment debts within one year of the making of the order? YES NO
- 5.06 a Is the candidate, or has the candidate ever been, the subject of any bankruptcy proceedings, or proceedings for the sequestration of the candidate’s estate? YES NO
- b Has the candidate ever entered into a deed of arrangement or an individual voluntary arrangement (or in Scotland a trust deed) or other agreement in favour of the candidate’s creditors, or is the candidate doing so? YES NO
- 5.07 Does the candidate have any outstanding financial obligations arising from regulated activities, which the candidate has conducted in the past, whether in the United Kingdom or overseas? (In the case of advisers, this will include any outstanding liabilities arising from commissions paid for the sale of packaged products that have lapsed.) YES NO
- 5.08 Has the candidate ever been found guilty of conducting any unauthorised regulated activities or been investigated for possible conduct of unauthorised regulated activities? YES NO
- 5.09 Is the candidate, or has the candidate ever been, the subject of an investigation into allegations of misconduct or malpractice in connection with any business activity? YES NO
- 5.10 Has the candidate ever, either in the United Kingdom, or elsewhere –
- a been refused entry to, or been dismissed or requested to resign from, any profession, vocation, office or employment, or from any fiduciary office or position of trust, whether or not remunerated? YES NO
- b been refused, restricted in, or had suspended, the right to carry on any trade, business or profession for which specific licence, authorisation, registration, membership or other permission is required? YES NO



I have supplied further information related to this page in Section 6

YES NO

c	been disqualified by a court from acting as a director of a company or from acting in a management capacity or conducting the affairs of any company, partnership or unincorporated association?	YES <input type="checkbox"/>	NO <input type="checkbox"/>
d	been the subject of a disqualification direction under section 59 of the Financial Services Act 1986 or a prohibition order, under section 56 of the Financial Services and Markets Act 2000, or received a warning notice to make such a direction or order?	YES <input type="checkbox"/>	NO <input type="checkbox"/>
5.11	In respect of activities regulated by the FSA or any other regulatory body (see note), has the candidate, or has any company, partnership or unincorporated association of which the candidate is or has been a controller, director, senior manager, partner or company secretary, during the candidate's association with that entity and for a period of three years after the candidate ceased to be associated with it, ever –		
a	been refused, had revoked, restricted or terminated, any licence, authorisation, registration, notification, membership or other permission granted by any such body?	YES <input type="checkbox"/>	NO <input type="checkbox"/>
b	been criticised, censured, disciplined, suspended, expelled, fined, or been the subject of any other disciplinary or intervention action by any such body?	YES <input type="checkbox"/>	NO <input type="checkbox"/>
c	resigned whilst under investigation by, or been required to resign from, any such body?	YES <input type="checkbox"/>	NO <input type="checkbox"/>
d	decided, after making an application for any licence, authorisation, registration, notification, membership or other permission granted by any such body, not to proceed with it?	YES <input type="checkbox"/>	NO <input type="checkbox"/>
e	been the subject of any civil action which has resulted in a finding against the candidate or it by a court?	YES <input type="checkbox"/>	NO <input type="checkbox"/>
5.12	Has any company, partnership, or unincorporated association of which the candidate is or has been a controller, director, senior manager, partner, or company secretary, in the United Kingdom or elsewhere, at any time during the candidate's involvement or within one year of such an involvement –		
a	been put into liquidation, wound up, ceased trading, had a receiver or administrator appointed or entered into any voluntary arrangement with its creditors?	YES <input type="checkbox"/>	NO <input type="checkbox"/>
b	been adjudged by a court liable for any fraud, misfeasance, wrongful trading or other misconduct?	YES <input type="checkbox"/>	NO <input type="checkbox"/>
c	been investigated or been involved in an investigation by an inspector appointed under companies or any other legislation, or required to produce documents to the Secretary of State, or any other authority, under any such legislation?	YES <input type="checkbox"/>	NO <input type="checkbox"/>
d	been convicted of any criminal offence, censured, disciplined or publicly criticised, by any inquiry, by the Takeover Panel or any governmental or statutory authority or any other regulatory body (other than as already indicated under 5.11(b) above)?	YES <input type="checkbox"/>	NO <input type="checkbox"/>
5.13	Is the candidate aware of any business interests, employment obligations, or any other situations which may conflict with the performance of the controlled functions for which approval is now sought?	YES <input type="checkbox"/>	NO <input type="checkbox"/>



I have supplied further information related to this page in Section 6

YES

NO

Please complete questions 6.03 and 6.04

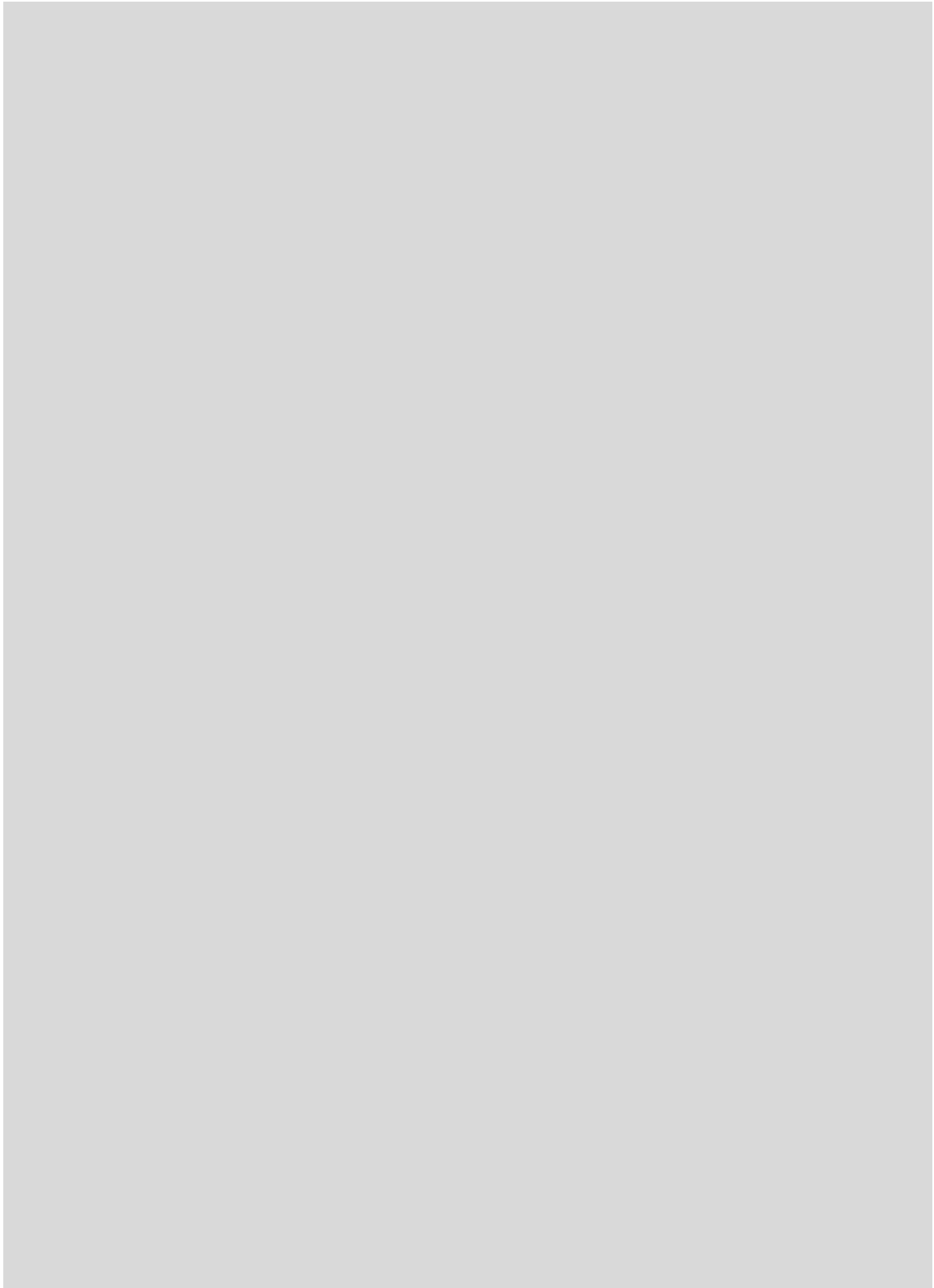
6.01 Include any additional information from previous sections below.

If there is insufficient space, please continue on a separate sheet of paper, and clearly identify the section and question to which the additional information relates.

Full details must be provided here if there were any issues that arose when leaving an employer listed in section 4 or if any question has been answered 'yes' in section 5.

Question	Information

6.02 Include a list of all directorships currently or previously held by the candidate (where director has the meaning given in the Glossary).



6.03 Is there any other information the candidate or the firm considers to be relevant to the application?

YES NO

If yes, provide details below or on a separate sheet of paper

A large, solid grey rectangular area intended for the applicant to provide details if they answered 'yes' to question 6.03.

6.04 How many additional sheets are being submitted?

A horizontal grey rectangular box for entering the number of additional sheets being submitted.

Knowingly or recklessly giving the FSA information which is false or misleading in a material particular may be a criminal offence (section 398 of the Financial Services and Markets Act 2000).

It should not be assumed that information is known to the FSA merely because it is in the public domain or has previously been disclosed to the FSA or another regulatory body. If there is any doubt about the relevance of information, it should be included.

I confirm that the information in this Form is accurate and complete to the best of my knowledge and belief and that I have read the notes to this Form.

I confirm that, where Form A is a shortened version, there have been no changes to the information previously disclosed in sections 4 and 5 of Form A.

The FSA may seek to verify the information given in this Form including answers pertaining to fitness and propriety. I authorise the FSA to make such enquiries and seek such further information as it thinks appropriate in the course of verifying the information given in this Form. I also understand that the results of these checks may be disclosed to my employer.

7.01 Candidate's full name

7.02 Signature

Date

Knowingly or recklessly giving the FSA information which is false or misleading in a material particular may be a criminal offence (sections 398 and 400 of the Financial Services and Markets Act 2000). SUP 15.6.1R and SUP 15.6.4R require an authorised person to take reasonable steps to ensure the accuracy and completeness of information given to the FSA and to notify the FSA immediately if materially inaccurate information has been provided. APER 4.4.6E provides that, where an approved person is responsible for reporting matters to the FSA, failure to inform the FSA of materially significant information of which he is aware is a breach of Statement of Principle 4. Contravention of these requirements may lead to disciplinary sanctions or other enforcement action by the FSA. It should not be assumed that information is known to the FSA merely because it is in the public domain or has previously been disclosed to the FSA or another regulatory body. If there is any doubt about the relevance of information, it should be included.

In making this application the firm believes on the basis of due and diligent enquiry that the candidate is a fit and proper person to perform the controlled function(s) listed in section 3. The firm also believes, on the basis of due and diligent enquiry, that the candidate is competent to fulfil the duties required of such function(s).

I confirm that the information in this Form is accurate and complete to the best of my knowledge and belief and that I have read the notes to this Form.

I confirm that I have authority to make this application, and sign this Form, on behalf of each firm identified in section 3.05. I also confirm that a copy of this Form, as submitted to the FSA, will be sent to each of those firms at the same time as submitting the Form to the FSA.

7.03 Name of the firm submitting the application

7.04 Name of person signing on behalf of the firm

7.05 Job title

7.06 Signature

Date

Completion checklist

- Is the Form fully completed?

- Are ALL forenames included?

- Is there a complete ten-year employment history with all gaps explained?

- Is the Form correctly signed and dated by both the firm making the application and the candidate?

- Has all supplementary information been included and clearly marked?

Note : Detach and keep the notes before returning the completed Form to the FSA.



Application number
(for FSA use only)

Form B

Notice to withdraw an application to perform controlled functions under the approved persons regime

FSA Handbook Reference: SUP10 Annex 5R

30 April 2001

Name of candidate
(to be completed by applicant)

Name of firm
(as entered in 2.01)

The Financial Services Authority
Individual Vetting & Approval
25 The North Colonnade
Canary Wharf
London E14 5HS
United Kingdom
Telephone +44 (0) 20 7676 0019
Facsimile +44 (0) 20 7676 0017
E-mail iva@fsa.gov.uk
Website <http://www.fsa.gov.uk>

Registered as a Limited Company in England and Wales No 1920623. Registered Office as above

Notes for Form B

Notice to withdraw an application to perform controlled functions under the approved persons regime

Full details of the approved persons regime and the application process are given in chapter 6 of the Authorisation manual and chapter 10 of the Supervision manual.

The purpose of this Form

This is Form B referred to in SUP 10.12.13R. This Form must be used when a firm or applicant wishes to withdraw an application to perform controlled functions under the approved persons regime (Form A) before the application has been determined and with immediate effect.

Completing this Form

The Form must be completed in black ink and (if in manuscript) in BLOCK LETTERS.

A Notice to withdraw an application may be submitted in relation to all or some of the controlled functions or firms listed on the original application (Form A). If it is submitted in relation to only some of the controlled functions or firms, you must list at section 4.01 the controlled functions and firms to which the withdrawal relates. If section 4.01 is left blank it will be assumed that the withdrawal relates to all of the controlled functions listed on the original application.

Any issues that arose in relation to this withdrawal, such as resignation or termination of contract, must be explained in section 4.01.

Additional information can be attached to the Form. It must be securely attached to the rest of the Form and you must indicate at question 4.02 the number of additional sheets attached.

Under section 61(5) of the Act (Determination of applications) the firm may withdraw the application only if it also has the consent of the candidate and the person by whom the candidate is or would have been employed, if this is not the firm making the application (see SUP 10.12.14G).

An appropriate individual must sign the declaration for the firm submitting the Form. The FSA considers that an appropriate individual would either be an individual approved for a controlled function described under section 59(5) of the Act (the significant influence functions – controlled functions 1 to 20) or someone to whom the firm has delegated the authority to notify the FSA. If this authority has been delegated, the firm should keep records of those individuals authorised to sign on behalf of the firm.

Note: Detach and keep these notes before returning the completed Form to the FSA.

If you have any questions or need additional information, please contact the Individual Vetting and Approval Helpline 020 7676 0019 or via e-mail at iva@fsa.gov.uk

PLEASE RETURN COMPLETED FORM TO:

THE FINANCIAL SERVICES AUTHORITY
INDIVIDUAL VETTING AND APPROVAL
25 THE NORTH COLONNADE
CANARY WHARF
LONDON E14 5HS
UNITED KINGDOM

1.01	FSA Individual Reference Number (IRN)	<input type="text"/>
1.02	Title (e.g. Mr, Mrs, Ms, etc)	<input type="text"/>
1.03	Surname	<input type="text"/>
1.04	ALL forenames	<input type="text"/>
1.05	Date of birth	<input type="text"/>
1.06	National Insurance number	<input type="text"/>
1.07	Candidate's private address	<input type="text"/>



I have supplied further information related to this page in Section 4

YES

NO

2.01 Name of firm

2.02 FSA Firm Reference Number (FRN)

2.03 a Who should the FSA contact at the firm in relation to this notice?

b Position

c Telephone

d Fax

e E-mail

2.04 Firms included on application Form (including applicant firm)

	FSA FRN	Name of firm	Controlled functions
a	<input type="text"/>	<input type="text"/>	<input type="text"/>
b	<input type="text"/>	<input type="text"/>	<input type="text"/>
c	<input type="text"/>	<input type="text"/>	<input type="text"/>
d	<input type="text"/>	<input type="text"/>	<input type="text"/>
e	<input type="text"/>	<input type="text"/>	<input type="text"/>



I have supplied further information related to this page in Section 4

YES

NO

3.01 Indicate the reason for withdrawal

a	Internal movement of staff	<input type="checkbox"/>
b	Termination of employment or contract	<input type="checkbox"/>
c	Resignation	<input type="checkbox"/>
d	Redundancy	<input type="checkbox"/>
e	Withdrawal of offer of employment	<input type="checkbox"/>
f	End of contract	<input type="checkbox"/>
g	Suspension	<input type="checkbox"/>
h	Other	<input type="checkbox"/>
GIVE DETAILS IN SECTION 4		



I have supplied further information
related to this page in Section 4

YES

NO

4.01 Include here any issues that arose in relation to this withdrawal, such as resignation or termination of contract. Indicate clearly which question supplementary information relates to.

Question	Information

4.02 How many additional sheets are being submitted?

DECLARATION OF CANDIDATE

Knowingly or recklessly giving the FSA information which is false or misleading in a material particular may be a criminal offence (section 398 of the Financial Services and Markets Act 2000).

It should not be assumed that information is known to the FSA merely because it is in the public domain or has previously been disclosed to the FSA or another regulatory body. If there is any doubt about the relevance of information, it should be included.

I confirm that I consent to the withdrawal of the application Form with immediate effect and understand that the FSA will cease to carry out further vetting and checks on receipt of this Form.

5.01	Candidate's full name	
5.02	Signature	
	Date	

DECLARATION BY APPOINTED REPRESENTATIVE OR OTHER FIRM (if applicable)

We concur that the application to perform controlled functions under the approved persons regime made in respect of the above candidate should be withdrawn with immediate effect.

5.03	Name of appointed representative or other firm	
5.04	Name of person signing on behalf of the firm	
5.05	Job title	
5.06	Signature	
	Date	

DECLARATION BY FIRM

Knowingly or recklessly giving the FSA information which is false or misleading in a material particular may be a criminal offence (sections 398 and 400 of the Financial Services and Markets Act 2000). SUP 15.6.1R and SUP 15.6.4R require an authorised person to take reasonable steps to ensure the accuracy and completeness of information given to the FSA and to notify the FSA immediately if materially inaccurate information has been provided. APER 4.4.6E provides that, where an approved person is responsible for reporting matters to the FSA, failure to inform the FSA of materially significant information of which he is aware is a breach of Statement of Principle 4. Contravention of these requirements may lead to disciplinary sanctions or other enforcement action by the FSA. It should not be assumed that information is known to the FSA merely because it is in the public domain or has previously been disclosed to the FSA or another regulatory body. If there is any doubt about the relevance of information, it should be included.

I confirm that the information in this Form is accurate and complete to the best of my knowledge and belief and that I have read the notes to this Form .

5.07	Name of firm	
5.08	Name of person signing on behalf of the firm	
5.09	Job title	
5.10	Signature	
	Date	



Application number
(for FSA use only)

Form C

Notice of ceasing to perform controlled functions

FSA Handbook Reference: SUP10 Annex 6R

30 April 2001

Name of approved person
(to be completed by applicant)

Name of firm
(as entered in 2.01)

The Financial Services Authority
Individual Vetting & Approval
25 The North Colonnade
Canary Wharf
London E14 5HS
United Kingdom
Telephone +44 (0) 20 7676 0019
Facsimile +44 (0) 20 7676 0017
E-mail iva@fsa.gov.uk
Website <http://www.fsa.gov.uk>

Registered as a Limited Company in England and Wales No 1920623. Registered Office as above

Notes for Form C

Notice of ceasing to perform controlled functions

Full details of the approved persons regime and the application process are given in chapter 6 of the Authorisation manual and chapter 10 of the Supervision manual.

The purpose of this Form

This is Form C referred to in SUP 10.13.6R. This Form must be used when an approved person ceases to perform one or more controlled functions.

If an approved person ceases to perform controlled functions in respect of a number of firms within the same group, a single Form C may be used, ensuring all firms are clearly marked on the Form.

A firm must submit to the FSA a completed Form C no later than seven business days after an approved person ceases to perform a controlled function (see SUP 10.13.6R).

If a firm has reasonable grounds for believing that it will submit a qualified Form C, it must notify the FSA of the fact as soon as practicable.

Form C is qualified if:

1. the firm submitting Form C reasonably believes that the information it contains may affect the FSA's assessment of an approved person's fitness and propriety; or
2. a firm dismisses an approved person from its employment; or
3. an approved person resigns whilst under investigation by the firm, the FSA or any other regulatory body.

Notification of a qualified Form C may be made by telephone, fax or email and should be made, where possible, within one business day of the firm becoming aware of the information. If the firm does not submit Form C, it should inform the FSA in due course of the reason. This could be done using Form D, if appropriate (see SUP 10.13.7R and SUP 10.13.8G).

A firm is responsible for notifying the FSA if any approved person has ceased to perform a controlled function under an arrangement entered into by its appointed representative or former appointed representative (see SUP 10.13.9G).

Completing this Form

This Form must be completed in black ink and (if in manuscript) in BLOCK LETTERS.

Additional information can be attached to the Form. It must be securely attached to the rest of the Form and you must indicate at question 4.02 the number of additional sheets attached.

The reasons why an approved person is no longer performing controlled functions must be indicated on the Form. However, if an approved person has been dismissed or requested to resign, or the firm has any doubts about their fitness and propriety (3.01 column B), a full explanation of the reason for the dismissal or resignation must be provided in section 4.01 (supplementary information). If the firm ticks the box marked 'Suspension', the firm will have to reapply (using Form A) for the individual to perform controlled functions again.

The firm must also include details of any other matter that the firm is aware of and which in its reasonable opinion is relevant in connection with the approved person ceasing to perform their controlled function.

An appropriate individual must sign the declaration for the firm submitting the Form. The FSA considers that an appropriate individual would either be an individual approved for a controlled function described under section 59(5) of the Act (the significant influence functions – controlled functions 1 to 20) or someone to whom the firm has delegated the authority to notify the FSA. If this authority has been delegated, the firm should keep records of those individuals authorised to sign on behalf of the firm.

Only the firm that made the original application (Form A) may sign this Form.

Note: Detach and keep these notes before returning the completed Form to the FSA.

If you have any questions or need additional information, please contact the Individual Vetting and Approval Helpline 020 7676 0019 or via e-mail at iva@fsa.gov.uk

PLEASE RETURN COMPLETED FORM TO:

THE FINANCIAL SERVICES AUTHORITY
INDIVIDUAL VETTING AND APPROVAL
25 THE NORTH COLONNADE
CANARY WHARF
LONDON E14 5HS
UNITED KINGDOM

Personal identification details

Section 1

1.01	FSA Individual Reference Number (IRN)	
1.02	Title (e.g. Mr, Mrs, Ms, etc)	
1.03	Surname	
1.04	ALL forenames	
1.05	Date of birth	
1.06	National Insurance number	
1.07	Approved person's private address	

Firm identification details

Section 2

2.01	Name of firm	
2.02	FSA Firm Reference Number (FRN)	
2.03 a	Who should the FSA contact at the firm in relation to this notice?	
b	Position	
c	Telephone	
d	Fax	
e	E-mail	



I have supplied further information related to this page in Section 4

YES

NO

3.01 List all controlled functions which the approved person is ceasing to perform. The effective date is the date the person will cease to perform the functions.

If the reason for ceasing to perform the controlled function is indicated in column B, the FSA should be notified in accordance with SUP 10.13.7R and SUP 10.13.8G (that is, within one business day, by telephone, fax or email) that this Form will be submitted

	FRN	Name of firm	Controlled function	Effective date	Reason	
					A	B Full explanation in 4.01
a					Resignation <input type="checkbox"/> Redundancy <input type="checkbox"/> Retirement <input type="checkbox"/> End of contract <input type="checkbox"/> Internal movement of staff <input type="checkbox"/>	Dismissal/ termination of employment or contract <input type="checkbox"/> Suspension <input type="checkbox"/> Other <input type="checkbox"/> (specify in 4.01)
b					Resignation <input type="checkbox"/> Redundancy <input type="checkbox"/> Retirement <input type="checkbox"/> End of contract <input type="checkbox"/> Internal movement of staff <input type="checkbox"/>	Dismissal/ termination of employment or contract <input type="checkbox"/> Suspension <input type="checkbox"/> Other <input type="checkbox"/> (specify in 4.01)
c					Resignation <input type="checkbox"/> Redundancy <input type="checkbox"/> Retirement <input type="checkbox"/> End of contract <input type="checkbox"/> Internal movement of staff <input type="checkbox"/>	Dismissal/ termination of employment or contract <input type="checkbox"/> Suspension <input type="checkbox"/> Other <input type="checkbox"/> (specify in 4.01)
d					Resignation <input type="checkbox"/> Redundancy <input type="checkbox"/> Retirement <input type="checkbox"/> End of contract <input type="checkbox"/> Internal movement of staff <input type="checkbox"/>	Dismissal/ termination of employment or contract <input type="checkbox"/> Suspension <input type="checkbox"/> Other <input type="checkbox"/> (specify in 4.01)
e					Resignation <input type="checkbox"/> Redundancy <input type="checkbox"/> Retirement <input type="checkbox"/> End of contract <input type="checkbox"/> Internal movement of staff <input type="checkbox"/>	Dismissal/ termination of employment or contract <input type="checkbox"/> Suspension <input type="checkbox"/> Other <input type="checkbox"/> (specify in 4.01)



I have supplied further information related to this page in Section 4

YES

NO

4.01 Please indicate clearly which question the supplementary information relates to.

Question	Information

4.02 How many additional sheets are being submitted?

Knowingly or recklessly giving the FSA information which is false or misleading in a material particular may be a criminal offence (sections 398 and 400 of the Financial Services and Markets Act 2000). SUP 15.6.1R and SUP 15.6.4R require an authorised person to take reasonable steps to ensure the accuracy and completeness of information given to the FSA and to notify the FSA immediately if materially inaccurate information has been provided. APER 4.4.6E provides that, where an approved person is responsible for reporting matters to the FSA, failure to inform the FSA of materially significant information of which he is aware is a breach of Statement of Principle 4. Contravention of these requirements may lead to disciplinary sanctions or other enforcement action by the FSA. It should not be assumed that information is known to the FSA merely because it is in the public domain or has previously been disclosed to the FSA or another regulatory body. If there is any doubt about the relevance of information, it should be included.

I confirm that the information in this Form is accurate and complete to the best of my knowledge and belief and that I have read the notes to this Form.

5.01	Name of the firm	<input type="text"/>
5.02	Name of person signing on behalf of the firm	<input type="text"/>
5.03	Job title	<input type="text"/>
5.04	Signature	<input type="text"/>
	Date	<input type="text"/>



Application number
(for FSA use only)

Form D

Notification of changes in personal information or application details

FSA Handbook Reference: SUP 10 Annex 7R

30 April 2001

Name of individual
(to be completed by applicant)

Name of firm
(as entered in 2.01)

The Financial Services Authority
Individual Vetting & Approval
25 The North Colonnade
Canary Wharf
London E14 5HS
United Kingdom
Telephone +44 (0) 20 7676 0019
Facsimile +44 (0) 20 7676 0017
E-mail iva@fsa.gov.uk
Website <http://www.fsa.gov.uk>

Registered as a Limited Company in England and Wales No 1920623. Registered Office as above

Notes for Form D

Notification of changes in personal information or application details

Full details of the approved persons regime and the application process are given in chapter 6 of the Authorisation manual and chapter 10 of the Supervision manual.

The purpose of this Form

This is Form D referred to in SUP 10.13.8G, SUP 10.13.14R and SUP 10.13.16R. The firm must use this Form to inform the FSA of changes in the personal details of an approved person or a change in the details of an application to perform controlled functions (Form A). It is not necessary to notify the FSA of changes in an approved person's private address (see SUP 10.13.15G).

The firm must also keep the FSA informed of any significant circumstances directly affecting an approved person and which any reasonable person would consider relevant to the approved person's position under the FSA rules (see SUP 10.13.16R).

The firm is required to notify the FSA of any matter, in relation to an approved person, that would normally be declared when giving the information required for section 5 of Form A or matters considered in FIT 2 (see SUP 10.13.17G).

Do not use this Form if the approved person requires approval in respect of further controlled functions or has ceased to perform controlled functions.

Completing this Form

This Form must be completed in black ink and (if in manuscript) in BLOCK LETTERS.

Where a person is an approved person in respect of a number of firms within the same group, a single Form D may be used, ensuring all firms are clearly marked on the Form.

Additional information can be attached to the Form. It must be securely attached to the rest of the Form and you must indicate at question 3.02 the number of additional sheets attached.

An appropriate individual must sign the declaration for the firm submitting the Form. The FSA considers that an appropriate individual would either be an individual approved for a controlled function described under section 59(5) of the Act (the significant influence functions – controlled functions 1 to 20) or someone to whom the firm has delegated the authority to notify the FSA. If this authority has been delegated, the firm should keep records of those individuals authorised to sign on behalf of the firm.

Only the firm that made the original application (Form A) may sign this Form.

Note: Detach and keep these notes before returning the completed Form to the FSA.

If you have any questions or need additional information, please contact the Individual Vetting and Approval Helpline 020 7676 0019 or via e-mail at iva@fsa.gov.uk

PLEASE RETURN COMPLETED FORM TO:

THE FINANCIAL SERVICES AUTHORITY
INDIVIDUAL VETTING AND APPROVAL
25 THE NORTH COLONNADE
CANARY WHARF
LONDON E14 5HS
UNITED KINGDOM

1.01 FSA Individual Reference Number (IRN)

DETAILS TO BE CHANGED

1.02 Title
(e.g. Mr, Mrs, Ms, etc)

1.03 Surname

1.04 ALL forenames

1.05 Date of birth

1.06 National Insurance number

1.07 Other changes in application details, and matters relating to fitness and propriety

1.08 Effective date of change

1.09 Reason for change



I have supplied further information related to this page in Section 3

YES

NO

2.01 Name of firm

2.02 FSA Firm reference Number (FRN)

2.03 Other firms for whom the individual performs controlled functions

	FSA FRN	Name of firm	Controlled function
a	<input type="text"/>	<input type="text"/>	<input type="text"/>
b	<input type="text"/>	<input type="text"/>	<input type="text"/>
c	<input type="text"/>	<input type="text"/>	<input type="text"/>
d	<input type="text"/>	<input type="text"/>	<input type="text"/>
e	<input type="text"/>	<input type="text"/>	<input type="text"/>

2.04 a Who should the FSA contact at the firm in relation to this notification?

b Position

c Telephone

d Fax

e E-mail



I have supplied further information related to this page in Section 3

YES

NO

3.01 Please indicate clearly which question the supplementary information relates to.

Question	Information

3.02 How many additional sheets are being submitted?

DECLARATION OF APPROVED PERSON

Knowingly or recklessly giving the FSA information which is false or misleading in a material particular may be a criminal offence (section 398 of the Financial Services and Markets Act 2000).

It should not be assumed that information is known to the FSA merely because it is in the public domain or has previously been disclosed to the FSA or another regulatory body. If there is any doubt about the relevance of information, it should be included.

I confirm that the information in this Form is accurate and complete to the best of my knowledge and belief and that I have read the notes to this Form.

The FSA may seek to verify the information given in this Form including answers pertaining to fitness and propriety. I authorise the FSA to make such enquiries and seek such further information as it thinks appropriate in the course of verifying the information given in this Form. I also understand that the results of these checks may be disclosed to my employer.

4.01 Full name of approved person
i.e. Title, forenames, SURNAME

4.02 Signature

Date

DECLARATION OF FIRM

Knowingly or recklessly giving the FSA information which is false or misleading in a material particular may be a criminal offence (sections 398 and 400 of the Financial Services and Markets Act 2000). SUP 15.6.1R and SUP 15.6.4R require an authorised person to take reasonable steps to ensure the accuracy and completeness of information given to the FSA and to notify the FSA immediately if materially inaccurate information has been provided. APER 4.4.6E provides that, where an approved person is responsible for reporting matters to the FSA, failure to inform the FSA of materially significant information of which he is aware is a breach of Statement of Principle 4. Contravention of these requirements may lead to disciplinary sanctions or other enforcement action by the FSA. It should not be assumed that information is known to the FSA merely because it is in the public domain or has previously been disclosed to the FSA or another regulatory body. If there is any doubt about the relevance of information, it should be included.

I confirm that the information in this Form is accurate and complete to the best of my knowledge and belief and that I have read the notes to this Form.

4.03 Name of the firm

4.04 Name of person signing
on behalf of the firm

4.05 Position

4.06 Signature

Date



Application number
(for FSA use only)

Form E

Internal transfer of an approved person

FSA Handbook Reference: SUP 10 Annex 8G

30 April 2001

Name of approved person
(to be completed by applicant)

Name of firm
(as entered in 2.01)

The Financial Services Authority
Individual Vetting & Approval
25 The North Colonnade
Canary Wharf
London E14 5HS
United Kingdom
Telephone +44 (0) 20 7676 0019
Facsimile +44 (0) 20 7676 0017
E-mail iva@fsa.gov.uk
Website <http://www.fsa.gov.uk>

Registered as a Limited Company in England and Wales No 1920623. Registered Office as above

Notes for Form E

Internal transfer of an approved person

PLEASE NOTE: A CANDIDATE MUST NOT BEGIN PERFORMING ANY CONTROLLED FUNCTIONS UNTIL THE FSA HAS GRANTED APPROVAL.

Full details of the approved persons regime can be found in chapter 6 of the Authorisation manual and chapter 10 of the Supervision manual.

The purpose of this Form

This is Form E referred to in SUP 10.13.3G. A firm should use this form when an approved person ceases to perform one or more controlled functions and the firm wishes to apply for approval for the individual in respect of other controlled functions. This Form should not be used for a qualified withdrawal (see SUP 10.13.7R).

Form B must be used if the individual is ceasing to perform a controlled function but is not seeking approval in respect of another controlled function.

Completing this Form

The Form must be completed in black ink and (if in manuscript) in BLOCK LETTERS.

All dates should be provided in numeric form (e.g. 29/02/2000 for 29 February 2000).

Indicate clearly if a question is not applicable. Tick the appropriate box where a yes/no answer is required. Further details should be given in section 6 (supplementary information) if there is insufficient space for a detailed answer.

Additional information can be attached to the Form. It must be securely attached to the rest of the Form and you must indicate at question 5.02 the number of additional sheets attached.

Do not assume that information is known to the FSA merely because it is in the public domain, or has been previously disclosed to the FSA or to another regulatory body. In all circumstances, disclosures should be full, frank and unambiguous. If there is any doubt about the relevance of information, it should be included. The information supplied by the candidate should be verified by the firm wherever possible. If the FSA's vetting checks reveal any matters that have not been disclosed, then applications will be delayed and, in some cases, possibly rejected. See SUP 10.12.6G.

Expressions in this Form in italics have the meaning given in the Glossary to the FSA's Handbook (or, if no meaning is given there, the expressions are to be interpreted in accordance with the related expression defined in the Glossary).

The firm is responsible for the completion of the Form. If the Form is not fully and correctly completed, the FSA may need to return it for proper completion. This could significantly delay the FSA's decision on whether to grant approval to perform the requested controlled functions (see SUP 10.12.6G).

The FSA may require the applicant to provide further information at any time after receiving an application and before determining whether it is to be granted or not (see SUP 10.12.8G).

If a firm has provided, or has information that reasonably suggests that it may have provided, the FSA with information which was or has become false, misleading, incomplete or inaccurate, in a material particular, it must notify the FSA immediately (see SUP 15.6.4R). Failure to notify the FSA may result in a delay in processing or rejection.

SECTION 4 – ARRANGEMENTS AND CONTROLLED FUNCTIONS

The firm must tick the box in 4.01 that most accurately describes its arrangement with the candidate. For applications from a single firm, the firm should complete 4.02, 4.03 & 4.04 indicating the controlled functions required by selecting the appropriate box in 4.02. However, if the application is being made on behalf of a candidate who will carry out controlled functions for more than one firm, 4.05 must be used to describe the controlled functions and the relationships between the candidate and those firms.

- 4.01: If this application relates to more than one appointed representative, provide details in section 6.
- 4.02: If any of controlled functions 16 to 20 are requested, the specific job title of the candidate must be included.
- 4.03: The effective date is the date on which the firm wishes the candidate to begin performing controlled functions (subject to approval). This should be left blank unless there is a reason for the effective date to be beyond the FSA's published standard response times. For instance, a firm may wish to be sure that a candidate has been approved before they take up their post.

Unless the firm indicates otherwise, the FSA assumes that the arrangement given on the application form includes all of the activities that fall within the description of the controlled function. This means that a firm may alter a candidate's responsibilities within the broad description of a controlled function without needing further approval from the FSA.

SECTION 5 – SUPPLEMENTARY INFORMATION

This section provides extra space for any previous answer and for additional information relevant to this application.

The firm must include details of any other matter which the firm is aware of and which in its reasonable opinion is relevant in connection with the approved person ceasing to perform their controlled function. If there is insufficient space, additional sheets may be used.

SECTION 6 – DECLARATIONS AND SIGNATURES

This section contains declarations which must be signed by both an appropriate individual for the firm or applicant submitting the application and the candidate. The FSA considers that an appropriate individual would either be an individual approved for a controlled function described under section 59(5) of the Act (the significant influence functions – controlled functions 1 to 20) or someone to whom the firm has delegated the authority to notify the FSA. If this authority has been delegated, the firm should keep records of those individuals authorised to sign on behalf of the firm.

Note: Detach and keep these notes before returning the completed Form to the FSA.

If you have any questions or need additional information, please contact the Individual Vetting and Approval Helpline 020 7676 0019 or via e-mail at iva@fsa.gov.uk

PLEASE RETURN COMPLETED FORM TO:

THE FINANCIAL SERVICES AUTHORITY
INDIVIDUAL VETTING AND APPROVAL
25 THE NORTH COLONNADE
CANARY WHARF
LONDON E14 5HS
UNITED KINGDOM

Personal identification details

Section 1

1.01	FSA Individual Reference Number (IRN)	
1.02	Title (e.g. Mr, Mrs, Ms, etc)	
1.03	Surname	
1.04	ALL forenames	
1.05	Date of birth	
1.06	National Insurance number	

Firm identification details

Section 2

2.01	Name of firm	
2.02	FSA Firm Reference Number (FRN)	
2.03 a	Who should the FSA contact at the firm in relation to this application?	
b	Position	
c	Telephone	
d	Fax	
e	E-mail	



I have supplied further information related to this page in Section 5

YES

NO

3.01 List all controlled functions which the approved person is ceasing to perform. The effective date is the date the person will cease to perform the functions.

	FSA FRN	Name of firm	Controlled function	Effective date
a				
b				
c				
d				
e				



I have supplied further information related to this page in Section 5

YES

NO

4.01 Nature of the arrangement between the candidate and the applicant.

a	Employee	<input type="checkbox"/>	
<hr/>			
b	Group employee	<input type="checkbox"/>	
	Name of group		
<hr/>			
c	Contract for services	<input type="checkbox"/>	
<hr/>			
d	Partner/Sole trader	<input type="checkbox"/>	
<hr/>			
e	Appointed rep – employee	<input type="checkbox"/>	
	Name of AR		
<hr/>			
f	Appointed rep – principal	<input type="checkbox"/>	
	Name of AR		
<hr/>			
g	Other	<input type="checkbox"/>	
	Give details		

4.02 For applications from a single firm, please tick the boxes that correspond to the controlled functions to be performed.

If the controlled functions are to be carried out for more than one firm, please go to question 4.05

a Significant influence functions

CF 1	Director function	<input type="checkbox"/>
CF 2	Non-executive director function	<input type="checkbox"/>
CF 3	Chief executive function	<input type="checkbox"/>
CF 4	Partner function	<input type="checkbox"/>
CF 5	Director of an unincorporated association function	<input type="checkbox"/>
CF 6	Small friendly society function	<input type="checkbox"/>
CF 7	Sole trader function	<input type="checkbox"/>



I have supplied further information related to this page in Section 5

YES

NO

Significant
influence
functions
continued

CF 8	Apportionment and oversight function	<input type="checkbox"/>
CF 9	EEA investment business oversight function	<input type="checkbox"/>
CF 10	Compliance oversight function	<input type="checkbox"/>
CF 11	Money laundering reporting function	<input type="checkbox"/>
CF 12	Appointed actuary function	<input type="checkbox"/>
CF 13	Finance function	<input type="checkbox"/>
CF 14	Risk assessment function	<input type="checkbox"/>
CF 15	Internal audit function	<input type="checkbox"/>
CF 16	Significant management (designated investment business) function	<input type="checkbox"/>
CF 17	Significant management (other business operations) function	<input type="checkbox"/>
CF 18	Significant management (insurance underwriting) function	<input type="checkbox"/>
CF 19	Significant management (financial resources) function	<input type="checkbox"/>
CF 20	Significant management (settlements) function	<input type="checkbox"/>
b	Customer functions	
CF 21	Investment adviser function	<input type="checkbox"/>
CF 22	Investment adviser (trainee) function	<input type="checkbox"/>
CF 23	Corporate adviser function	<input type="checkbox"/>
CF 24	Pension transfer specialist function	<input type="checkbox"/>
CF 25	Adviser on syndicate participation at Lloyd's function	<input type="checkbox"/>
CF 26	Customer trading function	<input type="checkbox"/>
CF 27	Investment management function	<input type="checkbox"/>

4.03 Effective date of controlled functions indicated above

4.04 Job title (mandatory for controlled functions 16 to 20)



I have supplied further information related to this page in Section 5

YES

NO

4.05 List all firms within the group (including the firm entered in 4.02) for which the applicant requires approval and the requested controlled function for that firm.

	FSA Firm Reference Number	Name of firm	Controlled function	Job title (mandatory for controlled functions 16 to 20)	Effective date
a					
b					
c					
d					
e					

4.06 Has the individual been assessed as competent in accordance with the Training and Competence Rules (see TC 2.3.5R (Attaining Competence))?
 Tick "NOT APPLICABLE" if the individual is not within the scope of chapter 2 of the Training and Competence Sourcebook (see TC 2.1.3R)

YES	<input type="checkbox"/>
NO	<input type="checkbox"/>
NOT APPLICABLE	<input type="checkbox"/>

4.07 If the answer to 4.06 is "YES", indicate which of the following formed part of the assessment
 Only tick one box

Passing each module of the appropriate examination as specified in the annexes to TC 2	<input type="checkbox"/>
OR	
Complying with TC 2.4.5R (Approved examinations)	<input type="checkbox"/>
OR	
Complying with TC Transitional Provisions	<input type="checkbox"/>



I have supplied further information related to this page in Section 5 YES NO

5.01 Is there any other information the candidate or the firm considers to be relevant to the application?

YES NO

If yes, please provide details below or on a separate sheet of paper and clearly identify the section and question to which the additional information relates.

Question	Information

5.02 How many additional sheets are being submitted?

CANDIDATE'S DECLARATION

Knowingly or recklessly giving the FSA information which is false or misleading in a material particular may be a criminal offence (section 398 of the Financial Services and Markets Act 2000). APER 4.4.6E provides that, where an approved person is responsible for reporting matters to the FSA, failure to inform the FSA of materially significant information of which he is aware is a breach of Statement of Principle 4. Contravention of these requirements may lead to disciplinary sanctions or other enforcement action by the FSA. It should not be assumed that information is known to the FSA merely because it is in the public domain or has previously been disclosed to the FSA or another regulatory body. If there is any doubt about the relevance of information, it should be included.

I confirm that the information in this Form is accurate and complete to the best of my knowledge and belief and that I have read the notes to this Form.

The FSA may seek to verify the information given in this Form including answers pertaining to fitness and propriety. I authorise the FSA to make such enquiries and seek such further information as it thinks appropriate in the course of verifying the information given in this Form. I also understand that the results of these checks may be disclosed to my employer.

6.01	Candidate's full name	
6.02	Signature	
	Date	

FIRM'S DECLARATION

Knowingly or recklessly giving the FSA information which is false or misleading in a material particular may be a criminal offence (sections 398 and 400 of the Financial Services and Markets Act 2000). SUP 15.6.1R and SUP 15.6.4R require an authorised person to take reasonable steps to ensure the accuracy and completeness of information given to the FSA and to notify the FSA immediately if materially inaccurate information has been provided. APER 4.4.6E provides that, where an approved person is responsible for reporting matters to the FSA, failure to inform the FSA of materially significant information of which he is aware is a breach of Statement of Principle 4. Contravention of these requirements may lead to disciplinary sanctions or other enforcement action by the FSA. It should not be assumed that information is known to the FSA merely because it is in the public domain or has previously been disclosed to the FSA or another regulatory body. If there is any doubt about the relevance of information, it should be included.

In making this application the firm believes on the basis of due and diligent enquiry that the candidate is a fit and proper person to perform the controlled function(s) listed in section 4. The firm also believes, on the basis of due and diligent enquiry, that the candidate is competent to fulfil the duties required of such function(s).

I confirm that the information in this Form is accurate and complete to the best of my knowledge and belief and that I have read the notes to this Form.

I confirm that I have authority to make this application, and sign this Form, on behalf of each firm identified in section 3.05. I also confirm that a copy of this Form, as submitted to the FSA, will be sent to each of those firms at the same time as submitting the Form to the FSA.

6.03	Name of the firm submitting the application	
6.04	Name of person signing on behalf of the firm	
6.05	Job title	
6.06	Signature	
	Date	

Chapter 11

Controllers and close links



11.1 Application

Application to firms

11.1.1 **R** This chapter applies to every *firm* except:

^{/1}

- (1) an *ICVC*;
- (2) an *incoming EEA firm*;
- (3) an *incoming Treaty firm*;
- (4) a *firm* which is a *partnership*;
- (5) a *sole trader*;
- (6) a *UCITS qualifier*;

as set out in the table in *SUP* 11.1.2R.

11.1.2 **R** Table Applicable sections (see *SUP* 11.1.1R)

^{/1}

	Category of firm	Applicable sections
(1)	A <i>UK domestic firm</i>	All except <i>SUP</i> 11.3 and <i>SUP</i> 11.4.4R
(2)	An <i>overseas firm</i>	All except <i>SUP</i> 11.3, <i>SUP</i> 11.4.2R, <i>SUP</i> 11.4.3G, <i>SUP</i> 11.4.9G, <i>SUP</i> 11.5.8G to <i>SUP</i> 11.5.10G, <i>SUP</i> 11.6.2R, <i>SUP</i> 11.6.3R, <i>SUP</i> 11.6.6.G, <i>SUP</i> 11.7

11.1.3 **G** This chapter may apply to *friendly societies* in the circumstances described in *SUP* 16.4.2G (1) to (3).

^{/1}

Application to controllers

11.1.4 **D** *SUP* 11.1, *SUP* 11.2, *SUP* 11.3 and *SUP* 11.7 apply to a *controller* or a proposed *controller* of a *UK domestic firm* not listed in *SUP* 11.1.1R(1) to (6).

^{/1}

11.1.5 **G** This chapter may apply to *controllers* and *proposed controllers* of *friendly societies* in the circumstances described in *SUP* 16.4.2G (1) to (3).

^{/1}

11.2 Purpose

- 11.2.1** **G**_{/1} Part XII of the *Act* (Control over authorised persons) places an obligation on the *controllers* and proposed *controllers* of those *UK domestic firms* not listed in *SUP* 11.1.1R (1) to (6) to notify the *FSA* of changes in *control*. Furthermore, those *persons* are required to obtain the *FSA*'s *approval* before becoming a *controller* or increasing the level of *control* held (in certain circumstances). *SUP* 11.3 is intended to assist those *persons* in complying with their obligations under Part XII of the *Act* and also sets out the information which a *controller* or proposed *controller* must provide to the *FSA* before becoming a *controller* or increasing the level of *control* held.
- 11.2.2** **G**_{/1} The *rules* in *SUP* 11.4 to *SUP* 11.6 are aimed at ensuring that the *FSA* receives information it needs from *firms* to assist the *FSA* with its responsibility to monitor and, in some cases, give prior approval to *firms*' *controllers*. These *rules* also implement certain requirements relating to changes in *control* that are required under the *Investment Services Directive*, the *Banking Consolidation Directive*, the *Third Life Directive* and the *Third Non-Life Directive*.
- 11.2.3** **G**_{/1} As the approval of the *FSA* is not required under the *Act* for a new *controller* of an *overseas firm*, the *notification rules* on such *firms* are less prescriptive than they are for *UK domestic firms*. Nevertheless, the *FSA* still needs to monitor such an *overseas firm*'s continuing satisfaction of the *threshold conditions*, which normally includes consideration of a *firm*'s connection with any *person*, including its *controllers* and *parent undertakings* (see *COND*). The *FSA* therefore needs to be notified of *controllers* and *parent undertakings* of *overseas firms*.
- 11.2.4** **G**_{/1} As part of the *FSA*'s function of monitoring a *firm*'s continuing satisfaction of the *threshold conditions*, the *FSA* needs to consider the impact of any significant change in the circumstances of one or more of its *controllers*, for example, in their financial standing and, in respect of corporate *controllers*, in their *governing bodies*. Consequently, the *FSA* needs to know if there are any such changes. *SUP* 11.8 therefore requires a *firm* to tell the *FSA* if it becomes aware of particular matters relating to a *controller*.
- 11.2.5** **G**_{/1} Similarly, the *FSA* needs to monitor a *firm*'s continuing satisfaction of *threshold condition 3* (Close links) (see *COND* 2.3), which requires that a *firm*'s *close links* are not likely to prevent the *FSA*'s effective supervision of that *firm*. Accordingly the *FSA* needs to be notified of any changes in a *firm*'s *close links*. This requirement is contained in *SUP* 11.9 and implements a requirement of the amending Directive (the *Post BCCI directive*) in relation to *close links*.
- 11.2.6** **G**_{/1} Every *firm* other than a *firm* listed in *SUP* 11.1.1R(1) to (6) is required to submit an annual report on its *controllers* and *close links* as set out in *SUP* 16.4 and *SUP* 16.5.
- 11.2.7** **G**_{/1} A summary of the notification requirements in this chapter is given in *SUP* 11 Ann 1G.



11.3 Requirements on controllers or proposed controllers under the Act

11.3.1 G_{/1} A summary of the notification requirements described in this section is given in SUP 11 Ann 1G.

Requirement to notify a change in control

11.3.2 G_{/1} Part XII of the *Act* requires a *person* (whether or not he is an *authorised person*) to notify the *FSA* in writing if he proposes to take a step which would result in his acquiring *control* or increasing or reducing his *control* over a *firm* in a way described in SUP 11.4.2R(1) to (4). Failure to notify is an offence under section 191(1) of the *Act* (Offences under this Part). An event described in SUP 11.4.2R(1) to (4) is referred to in this chapter as a “change in *control*”.

11.3.3 G_{/1} The notifications referred to in SUP 11.3.2G may be given jointly with the *firm* as described in SUP 11.5.8G.

Prior approval of acquiring or increasing control

11.3.4 G_{/1} If a *person* proposes to acquire *control* or increase his *control* over a *firm* in a way described in SUP 11.4.2R(1) to (4), he must obtain the *FSA*’s approval before doing so. *Failure* to obtain approval is an offence under section 191(3) of the *Act* (Offences under this Part). The *FSA* has up to three *months* to consider whether to *approve* such a change in *control*. A *controller* or proposed *controller* should take this period into account when deciding when to give his notification.

11.3.5 G_{/1} The *FSA*’s *approval* is not required before a *controller* reduces his *control* over a *firm*.

Change in control without taking any step

11.3.6 G_{/1} If a change in *control* occurs without the *person* himself having taken any step (for example, because of an increase in the *firm*’s capital), he must notify the *FSA* within 14 days of becoming aware of the change (sections 178(2) and 190(2) of the *Act*). Provisions determining when such a notice is treated as being received by the *FSA* are set out in regulation 10(1) of the Financial Services and Markets Act 2000 (Service of Notices) Regulations 2001 (SI 2001/1420)).

Form of notification when acquiring or increasing control

11.3.7

D
/1

A notification ("notice of *control*") given to the *FSA* by a *person* who is acquiring *control* or increasing his *control* over a *firm*, in a way described in *SUP* 11.4.2R(1) to (4), must :

- (1) in the case of a *controller* or a proposed *controller* who is not an *authorised person*, contain the information required in:
 - (a) Controllers Form A (*SUP* 11 Ann 4D); and
 - (b) one or more of Controllers Form B (*SUP* 11 Ann 5D) in accordance with *SUP* 11.3.8D; or
- (2) in all other cases, contain the information required in Controllers Form A, sections 1, 5 and 6 (*SUP* 11 Ann 4D).

11.3.8

D
/1

The information in Controllers Form B is required in relation to the following *persons*:

- (1) if the *controller* is an individual, that individual;
- (2) if the *controller* is a *body corporate*:
 - (a) the individual who is its *chief executive*; and
 - (b) one other individual who is a *director* of the *body corporate*;
- (3) if the *controller* is a *partnership* or is a *controller* because he is a partner in a *partnership*:
 - (a) the individual who is a managing partner or equivalent in the *partnership*; and
 - (b) one other individual who is a partner in the *partnership*.

11.3.9

D
/1

If a Controllers Form B has already been submitted to the *FSA* in relation to a relevant individual, then the information in that form need not be submitted to the *FSA* as long as details of any changes in the information previously submitted, or confirmation that there are none, is submitted.

11.3.10

D
/1

(1) A *person* who has submitted a notification under *SUP* 11.3.7D must notify the *FSA* immediately if he becomes aware, or has information that reasonably suggests, that he has or may have provided the *FSA* with information which was or may have been false, misleading, incomplete or inaccurate, or has or may have changed, in a material particular. The notification must include:

- (a) details of the information which is or may be false, misleading, incomplete or inaccurate, or has or may have changed;
- (b) an explanation why such information was or may have been provided; and
- (c) the correct information.

- (2) If the information in (1) (c) cannot be submitted with the notification (because it is not immediately available), it must instead be submitted as soon as possible afterwards.
- (3) The requirement in (1) ceases if the change in *control* occurs or will not take place.

11.3.11 G_{/1} Copies of the Controllers Form A and Controllers Form B are available on the FSA’s website at www.fsa.gov.uk.

11.3.12 G_{/1} If a *controller* or proposed *controller* considers that the requirements in SUP 11.3.7D to SUP 11.3.9D are not appropriate to his circumstances, for example,

- (1) if the *control* is to be held through a trust; or
- (2) if Form B is required (under SUP 11.3.8D) in relation to an individual who is an *approved person*;

he should consult the FSA. The FSA has power, under section 182(3) of the Act (Notification), to amend those requirements if it considers it appropriate to do so.

11.3.13 G_{/1} The Act provides that the FSA may request any additional information or documentation from the *controller* or proposed *controller* that it reasonably requires in order to determine what action it is to take in response to the notification. A *controller* or proposed *controller* which is an *authorised person* is required to submit less information under SUP 11.3.7D than other *persons* and consequently the FSA may ask for confirmation of details already held or any additional information which it considers appropriate.

11.3.14 G_{/1} If item 1.05 of Controllers Form A is answered in the affirmative, the FSA may be obliged to consult regulatory authorities in other EEA States before approving the change in *control* or giving a *warning notice*.

Form of notification when reducing control

11.3.15 G_{/1} A notification given to the FSA by a *person* who is reducing his *control* over a *firm*, in a way described in SUP 11.4.2R(1) to (4), must, in accordance with section 190(4) of the Act (Notification):

- (1) be in writing; and
- (2) provide details of the extent of *control* (if any) which the *controller* will have following the change in *control*.

Notification when change in control occurs

11.3.16 G_{/1} A *person* who is under a duty to notify the FSA of a change in *control* is also required to notify the FSA when the relevant change in *control* has occurred (sections 178(3) and 190(3) of the Act). The notification may be given jointly with the *firm* as described in SUP 11.6.6G. If a *person* has reduced his *control*, section 190(4) of the Act requires that the notification should provide details of the extent of *control* retained (if any).



11.4 Requirements on firms

11.4.1 **G** /1 A summary of the notification requirements in this section is given in *SUP* 11 Ann 1G.

Requirement to notify a change in control

11.4.2 **R** /1 A *UK domestic firm* must notify the *FSA* of any of the following events concerning the *firm*:

- (1) a *person* acquiring *control* or ceasing to have *control*;
- (2) an existing *controller* acquiring an additional *kind of control* or ceasing to have a *kind of control*;
- (3) an existing *controller* increasing or decreasing a *kind of control* which he already has so that the percentage of shares or *voting power* concerned becomes or ceases to be equal to or greater than 20, 33 or 50;
- (4) an existing *controller* becoming or ceasing to be a *parent undertaking*.

11.4.3 **G** /1 *SUP* 11 Ann 2G gives examples of the circumstances in which a notification in accordance with *SUP* 11.4.2R is required.

11.4.4 **R** /1 An *overseas firm* must notify the *FSA* of any of the following events concerning the *firm*:

- (1) a *person* acquiring *control* or ceasing to have *control*;
- (2) an existing *controller* becoming or ceasing to be a *parent undertaking*.

11.4.5 **G** /1 If there is uncertainty whether a particular relationship constitutes *control*, it may be appropriate for the *firm* or *controller* or proposed *controller* to ask the *FSA* for individual *guidance* (see *SUP* 9) and to obtain its own legal advice. For example, if the *control* is to be held through a trust, then certain trustees, beneficiaries and other parties may qualify as *controllers* for the purposes of the *Act* and this chapter. Furthermore, a *person* may qualify as a *controller* if he is able to exercise 10% or more of the *voting power* at a *firm's* general meeting as a result of the ability to exercise proxy votes.

11.4.6 G_{/1} If a *firm* is required to obtain approval from the *Society of Lloyd's* for any changes in its *controllers*, it should apply for this approval as well as notifying the *FSA*.

Content and timing of the notification

11.4.7 R_{/1} The notification by a *firm* under *SUP 11.4.2R* or *SUP 11.4.4R* must:

- (1) **be in writing;**
- (2) **contain the information set out in:**
 - (a) **in the case of acquiring or increasing *control*, *SUP 11.5.1R* (subject to *SUP 11.5.2R*); or**
 - (b) **in the case of reducing *control*, *SUP 11.5.7R*; and**
- (3) **be made:**
 - (a) **as soon as the *firm* becomes aware that a *person* is proposing to take a step that would result in the event concerned; or**
 - (b) **if the event takes place without the knowledge of the *firm*, within 14 *days* of the *firm* becoming aware of the event concerned.**

11.4.8 G_{/1} *Principle 11* requires *firms* to be open and cooperative with the *FSA*. A *firm* should discuss with the *FSA*, at the earliest opportunity, any prospective changes of which it is aware, in *controllers'* or proposed *controllers'* shareholdings or *voting power* (if the change is material). These discussions may take place before the formal notification requirement in *SUP 11.4.2R* or *SUP 11.4.4R* arises. (See also *SUP 11.3.2G*.) As a minimum, the *FSA* considers that such discussions should take place before a *person*:

- (1) enters into any formal agreement in respect of the purchase of shares or a proposed acquisition or merger which would result in a change in *control* (whether or not the agreement is conditional upon any matter, including the *FSA's* approval); or
- (2) purchases any *share options*, *warrants* or other financial instruments, the exercise of which would result in the *person* acquiring *control* or any other change in *control*.

11.4.9 G_{/1} The obligation in *SUP 11.4.2R* applies whether or not the *controller* himself has given or intends to give a notification, in accordance with his obligations under the *Act*.

Identity of controllers

11.4.10 R_{/1} A *firm* must take reasonable steps to keep itself informed about the identity of its *controllers*.

11.4.11

G
/1

The steps that the *FSA* expects a *firm* to take to comply with *SUP* 11.4.10R include, if applicable:

- (1) monitoring its register of shareholders (or equivalent);
- (2) monitoring notifications to the *firm* in accordance with Part VI of the Companies Act 1985;
- (3) monitoring public announcements made under the relevant disclosure provisions of the *Takeover Code* or other rules made by the *Takeover Panel* (for example the *SARs*);
- (4) monitoring the entitlement of delegates, or *persons* with voting rights in respect of group insurance contracts, to exercise or control *voting power* at general meetings.



11.5 Form of notification by firms

11.5.1 **R** Table Information to be submitted by the firm (see SUP 11.4.7R(2)(a))

/1

(1)	The name of the <i>firm</i>;
(2)	the name of the <i>controller</i> or proposed <i>controller</i> and, if it is a <i>body corporate</i> and is not an <i>authorised person</i>, the names of its <i>directors</i> and its <i>controllers</i>;
(3)	a description of the proposed event including the shareholding and voting power of the <i>person</i> concerned, both before and after the proposed event; and
(4)	any other information of which the <i>FSA</i> would reasonably expect notice, including information which could have a material impact on any of the approval requirements in section 186(2) of the <i>Act</i> (see SUP 11.7.5G) and any relevant supporting documentation.

11.5.2 **R** The notification from a *firm* under SUP 11.4.7R(2)(a) need only contain as much of the information set out in SUP 11.5.1R as the *firm* is able to provide, having made reasonable enquiries from *persons* and other sources as appropriate.

/1

11.5.3 **G** In determining what the *FSA* would reasonably expect notice of in accordance with row (4) in SUP 11.5.1R, a firm should have regard, in particular, to the matters set out in items 1.03 to 1.07 and 6.02 of Controllers Form A (SUP 11 Ann 4D) to the extent that the *firm* is aware of such matters. *Firms* are also reminded of the circumstances set out in SUP 15.3.8G (Communication with the *FSA* in accordance with Principle 11) which may arise on a change in *control* and which should also be notified.

/1

11.5.4 **G** *Firms* are reminded that a change in *control* may give rise to a change in the *group companies* to which the *FSA*'s consolidated financial supervision requirements apply. Also, the *firm* may for the first time become subject to the *FSA*'s requirements on consolidated financial supervision (or equivalent requirements imposed by another *EEA State*). This may apply, for example, if the *controller* is itself an *authorised undertaking*. The *FSA* may therefore request such a *firm*, *controller* or proposed *controller* to provide evidence that, following the change in *control*, the *firm* will meet the requirements of these *rules*, if appropriate.

/1

11.5.5 **G** If a *controller* proposes any significant changes to the *firm*, for instance to its *regulated activities*, business plan or strategy, the *firm* may be requested to provide a business plan (see SUP 2: Information gathering by the *FSA* on its own initiative). If an *insurer* comes under the *control* of a new *parent undertaking*, such a business plan would be a *scheme of operations* in accordance with SUP App 2.

/1

11.5.6 **G** The *FSA* may request the *firm* to provide additional information (see SUP 2 (Information gathering by the *FSA* on its own initiative)). In determining any

/1

additional information requirements, the *FSA* will have regard to the supervision being exercised over the *firm* by any *overseas regulators*.

Form of notification when a person reduces control

11.5.7 **R** A notification of a proposed reduction in *control* must:

/1

- (1) give the name of the *controller*; and
- (2) provide details of the extent of *control* (if any) which the *controller* will have following the change in *control*.

Joint and shared notifications

11.5.8 **G** A *firm* and its *controller* or proposed *controller* may discharge an obligation to notify the *FSA* by submitting a single joint notification containing the information required from the *firm* and the *controller* or proposed *controller*. In this case, the Controllers Form A may be used to submit a notification on behalf of both the *firm* and the *controller* or proposed *controller*.

/1

11.5.9 **G** If a *person* is proposing a change in *control* over more than one *firm* within a *group*, then the *controller* or proposed *controller* may submit a single notification in respect of all those *firms*. The notification should contain all the required information as if separate notifications had been made, but information and documentation need not be duplicated.

/1

11.5.10 **G** When an event occurs (for example, a *group* restructuring or a merger) as a result of which:

/1

- (1) more than one *firm* in a *group* would undergo a change in *control*; or
- (2) a single *firm* would experience more than one change in *control*;

then, to avoid duplication of documentation, all the *firms* and their *controllers* or proposed *controllers* may discharge their respective obligations to notify the *FSA* by submitting a single notification containing one set of information.

11.6 Subsequent notification requirements by firms

Changes in the information provided to the FSA

11.6.1 **G** ^{/1} *Firms* are reminded that *SUP 15.6.4R* requires them to notify the *FSA* if information notified under *SUP 11.4.2R* or *SUP 11.4.4R* was false, misleading, inaccurate, incomplete, or changes, in a material particular. This would include a *firm* becoming aware of information that it would have been required to provide under *SUP 11.5.1R* if it had been aware of it.

11.6.2 **R** ^{/1} After submitting a notification under *SUP 11.4.2R* and until the change in *control* occurs (or is no longer to take place), *SUP 15.6.4R* and *SUP 15.6.5R* apply to a *UK domestic firm* in relation to any information its *controller* or proposed *controller* provided to the *FSA* under *SUP 11.5.1R* or *SUP 11.3.7D*.

11.6.3 **R** ^{/1} During the period in *SUP 11.6.2R*, a *UK domestic firm* must take reasonable steps to keep itself informed about the circumstances of the *controller* or the proposed *controller* to which the notification related.

Notification that the change in control has taken place

11.6.4 **R** ^{/1} A *firm* must notify the *FSA*:

- (1) when a change in *control* which was previously notified under *SUP 11.4.2R* or *SUP 11.4.4R* has taken place; or
- (2) if the *firm* has grounds for reasonably believing that the event will not now take place.

11.6.5 **R** ^{/1} The notification under *SUP 11.6.4R* must be given within 14 *days* of the change in *control* or of having the grounds (as applicable).

11.6.6 **G** ^{/1} A notification under *SUP 11.6.4R* may be given jointly with the notification of the *controller* under *SUP 11.3.16G*.



11.7 Acquisition or increase of control: approval procedures

11.7.1 **G** /1 The approval procedures are summarised in SUP 11 Ann 3G.

Approval with or without conditions

11.7.2 **G** /1 If the FSA decides to approve a proposed acquisition or increase of *control* unconditionally, it must give an "approval notice" without delay (section 184(1) of the Act).

11.7.3 **G** /1 Alternatively, the FSA may decide to approve the proposed acquisition or increase of *control* subject to such conditions as it considers appropriate, having regard to the FSA's duty to ensure that the *firm* concerned will satisfy, and continue to satisfy, the *threshold conditions* (section 185 of the Act). If the FSA proposes to approve subject to conditions, it must give a *warning notice*. If the FSA decides to proceed to approve subject to conditions, it must give a *decision notice*.

11.7.4 **G** /1 A notice which approves a change of control (with or without conditions) is effective only for a limited period as set out in the notice (or, if no such period is specified, for one year) (section 184(3) of the Act). An approved change in *control* may not therefore take place after the end of this period.

Approval requirements and objection

11.7.5 **G** /1 The FSA may object to a proposed acquisition or increase of *control* unless it is satisfied that the approval requirements are met (section 186 of the Act). These are that:

- (1) the acquirer is a fit and proper *person* to have the *control* over the *firm* that he has or would have if he acquired the *control* in question; and
- (2) the interests of *consumers* would not be threatened by the acquirer's *control* or by his acquiring that *control*.

11.7.6 **G** /1 In deciding whether the approval requirements are met, the FSA must have regard, in relation to the *control* that the acquirer:

- (1) has over the *firm*; or
- (2) will have over the *firm* if the proposal to which the notification relates is carried out;

to the FSA's duty to ensure that the *firm* will satisfy, and continue to satisfy, the *threshold conditions* (section 186(3) of the *Act*).

11.7.7 G_{/1} If the FSA proposes to object, it must issue a *warning notice*. If the FSA decides to proceed with its proposed objection, it must issue a *decision notice*. If the FSA considers that the approval requirements would be met if a particular step were taken or not taken, the *decision notice* must identify that step (section 186(4) of the *Act*).

11.7.8 G_{/1} As well as objecting when satisfied that the approval requirements are not met, the FSA may also object if it has not received sufficient information from either the *controller* or the *firm* to satisfy itself that the approval requirements are met.

Warning notices and decision notices

11.7.9 G_{/1} The procedure followed by the FSA in relation to the giving of *warning notices* and *decision notices* and the process for referrals to the *Financial Services and Markets Tribunal* are set out in DEC 2.

The FSA's timeframe for responding to a notification

11.7.10 G_{/1} If the FSA receives a valid notification from a *controller* or proposed *controller* (whether a joint notification in accordance with SUP 11.5.8G or otherwise), the FSA must respond within three *months* regardless of when it receives a notification from the *firm* (section 183(1) of the *Act*). The response from the FSA will be either an approval notice or a *warning notice*.

11.7.11 G_{/1} Alternatively, the FSA may receive a notification from the *firm* but not from the *controller* or proposed *controller* or may otherwise become aware of a possible breach by the *controller* or proposed *controller* of his obligations under section 178(1) or (2) of the *Act* (Obligation to notify the Authority). The FSA may require the *person* concerned to provide additional information or *documents* (section 188(4) of the *Act*). If the FSA is satisfied that a breach has occurred, but is not satisfied that the approval requirements are met, the FSA may give a *warning notice* to the *controller* or proposed *controller* (section 187(1) and 188(1) of the *Act*). Alternatively, the FSA may approve the change of *control* as if a notification had been received from the *controller* or proposed *controller* (section 187(2) of the *Act*).

11.7.12 G_{/1} If the FSA does not receive a notification from the *controller* or proposed *controller* and proposes to give a *warning notice*, it must do so within three *months* of the date on which it became aware that the *controller* or proposed *controller* had failed to comply with his duty to notify (section 188(3) of the *Act*).

11.7.13 G_{/1} Before giving an approval notice or *warning notice*, the FSA may be required to consult with competent authorities outside the *United Kingdom* (sections 183(2) and 188(2) of the *Act*).

The FSA's right to object to existing controllers

11.7.14 G_{/1} If a *controller* fails to give a notification under section 178(3) of the *Act* on acquiring or increasing *control*, and the FSA is not satisfied that the approval

requirements are met, the *FSA* may propose to object to the *controller* by giving him a *warning notice* (sections 187(1) and 188(1) of the *Act*).

11.7.15

G
/1

The *FSA* may propose to object to a *controller* by giving him a *warning notice* at any time if it becomes aware of matters as a result of which it is satisfied that:

- (1) the approval requirements are not met with respect to the *controller*; or
- (2) a condition attached to an approval required the *controller* to do (or refrain from doing) a particular thing and that condition has been breached by the *controller* (sections 187(3) and 188(1) of the *Act*).

11.7.16

G
/1

If the *FSA* gives a *warning notice* as described in *SUP* 11.7.14G or *SUP* 11.7.15G, section 188 of the *Act* sets out various requirements as to timetable, consultation and provision of information.

11.7.17

G
/1

Following a *warning notice* as described in *SUP* 11.7.14G or *SUP* 11.7.15G, the *FSA* may decide to object to the *controller* and give him a *decision notice*. If the *FSA* does so, or if a conditional approval has been contravened, it may impose restrictions on some or all of the *controller's* shares by notice in writing or apply to the court for an order that the *controller* dispose of them (section 189 of the *Act*).

11.7.18

G
/1

If it appears to the *FSA* that the likely effect of an acquisition of *control* on a *firm*, or on any of its activities, is uncertain, the *FSA* may, in accordance with section 46 of the *Act* (Variation of permission on acquisition of control), vary the *firm's Part IV permission* by:

- (1) imposing a *requirement* (see *SUP* 7: Individual requirements); or
- (2) varying an existing *requirement*.

The *warning notice* and *decision notice* procedure does not apply to action taken under section 46 of the *Act*, but the *FSA* will operate a procedure that is fair in the circumstances.

11.8 Changes in the circumstances of existing controllers

- 11.8.1** **R** ^{/1} A *firm* must notify the FSA immediately it becomes aware of any of the following matters in respect of one or more of its *controllers*:
- (1) if a *controller*, or any entity subject to his *control*, is or has been the subject of any legal action or investigation which might put into question the integrity of the *controller*;
 - (2) if there is a significant deterioration in the financial position of a *controller*;
 - (3) if a corporate *controller* undergoes a substantial change or series of changes in its *governing body*;
 - (4) if a *controller*, who is authorised in another EEA State as an *ISD investment firm* or *BCD credit institution* or under the *Insurance Directives*, ceases to be so authorised.
- 11.8.2** **G** ^{/1} In assessing whether a matter should be notified to the FSA under SUP 11.8.1R(1), (2) or (3), a *firm* should have regard to the *guidance* on satisfying *threshold condition 5* (Suitability) contained in COND 2.5.
- 11.8.3** **G** ^{/1} In respect of SUP 11.8.1R(3), the FSA considers that, in particular, the removal or replacement of a majority of the members of a *governing body* (in a single event or a series of connected events) is a substantial change and should be notified.
- 11.8.4** **G** ^{/1} If a matter has already been notified to the FSA (for example, as part of the *firm's* application for a *Part IV permission*), the *firm* need only inform the FSA of any significant developments.
- 11.8.5** **G** ^{/1} The level of a *firm's* awareness of its *controller's* circumstances will depend on its relationship with that *controller*. The FSA does not expect *firms* to implement systems or procedures so as to be certain of any changes in its *controllers'* circumstances. However, the FSA does expect *firms* to notify it of such matters if the *firm* becomes aware of them, and it expects *firms* to make enquiries of its *controllers* if it becomes aware that one of the events in SUP 11.8.1R may occur or has occurred.
- 11.8.6** **G** ^{/1} The FSA may ask the *firm* for additional information following a notification under SUP 11.8.1R in order to satisfy itself that the *controller* continues to be suitable (see SUP 2: Information gathering by the FSA on its own initiative).



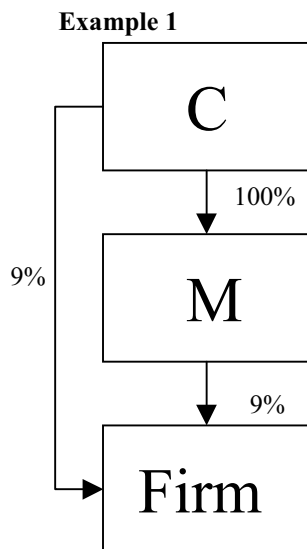
11.9 Changes in close links

- 11.9.1** **R** A *firm* must notify the *FSA* immediately it becomes aware that it has become or ceased to be *closely linked* with any *person*. The notification must include the information set out in *SUP 16.5.4R(4)*.
/1
- 11.9.2** **G** *Guidance* on what constitutes a *close link* is provided in *COND 2.3*.
/1
- 11.9.3** **G** The *FSA* may ask the *firm* for additional information following a notification under *SUP 11.9.1R* in order to satisfy itself that the *firm* continues to satisfy the *threshold conditions* (see *SUP 2: Information gathering by the FSA on its own initiative*).
/1

Summary of notifications required in this chapter

Event triggering a notification	Requirement reference	
	When	How
Notifications from a controller or proposed controller of a UK domestic firm		
1 A <i>person</i> proposing to become a <i>controller</i> or an existing <i>controller</i> proposing to increase his level of <i>control</i>	SUP 11.3.2G SUP 11.3.6G	SUP 11.3.7D to SUP 11.3.14G
2 An existing <i>controller</i> proposing to reduce his <i>control</i>	SUP 11.3.2G SUP 11.3.6G	SUP 11.3.15G
3 When a change in <i>control</i> actually takes place	SUP 11.3.16G	SUP 11.3.16G
Notifications from a UK domestic firm relating to a change in control		
1 When a <i>firm</i> becomes aware of a <i>person</i> proposing to become a <i>controller</i> or an existing <i>controller</i> proposing to increase his level of <i>control</i>	SUP 11.4.2R SUP 11.4.7R SUP 11.4.8G	SUP 11.5.1R SUP 11.5.2R SUP 11.5.3G SUP 15.7
2 When a <i>firm</i> becomes aware that an existing <i>controller</i> is proposing to reduce his level of <i>control</i>	SUP 11.4.2R SUP 11.4.7R SUP 11.4.8G	SUP 11.5.7R SUP 15.7
3 When a <i>firm</i> becomes aware of any material inaccuracies, omissions or changes in information previously provided to the FSA either by the <i>firm</i> or by the <i>controller</i>	SUP 11.6.1G SUP 11.6.2R	SUP 15.7
4 When a change in <i>control</i> actually takes place or, although a notification has been submitted, is not, after all, going to take place	SUP 11.6.4R SUP 11.6.5R	SUP 15.7
Notifications from an overseas firm relating to a change in control		
1 When a <i>firm</i> becomes aware that a <i>person</i> is becoming or ceasing to become a <i>controller</i> or <i>parent undertaking</i>	SUP 11.4.4R SUP 11.4.7R SUP 11.4.8G	SUP 11.5.1R SUP 11.5.2R SUP 11.5.3G SUP 15.7
2 When a <i>firm</i> becomes aware of any material inaccuracies, omissions or changes in information previously provided to the FSA by the <i>firm</i>	SUP 11.6.1G	SUP 15.7
3 When a change in <i>control</i> actually takes place or, although a notification has been submitted, is not, after all, going to take place	SUP 11.6.4R SUP 11 6.5G	SUP 15.7
Other ongoing notifications from a firm (UK domestic or overseas)		
1 When a <i>firm</i> becomes aware of a change in the circumstances of an existing <i>controller</i>	SUP 11.8.1R to SUP 11.8.4G	SUP 15.7
2 When a <i>firm</i> becomes aware that it has become or ceased to be <i>closely linked</i> with any <i>person</i>	SUP 11.9.1R	SUP 15.7

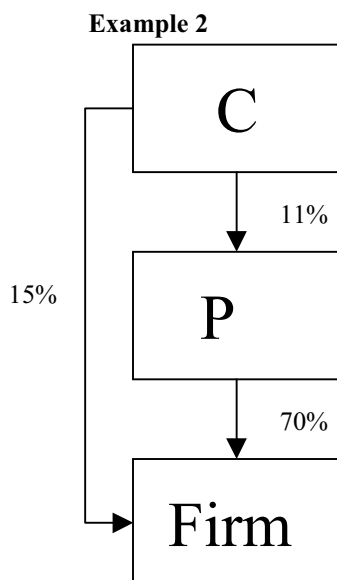
SUP 11 Ann 2G: Guidance on events requiring approval



M is associated with C (because it is a *subsidiary* of C) and therefore M's shareholding in the *firm* of 9% must be aggregated with C's direct shareholding in the *firm* of 9%. C is therefore an 18% *controller* of the *firm*, both as a holder of *shares* and as a *person with voting power*.

If M then decides to purchase a further 15% of *shares* in the *firm*, M becomes a *controller* (its shareholding becomes 24% and has therefore exceeded the 10% threshold). C becomes a 33% *controller*. These are notifiable events under SUP 11.4.2R(1) (M has become a *controller*) and under SUP 11.4.2R(3) (C's holding has become equal to 33%) and both require the *FSA's* prior approval.

If M purchases a further 5% so that M has 29% and C has 38%, the acquisition does not require notification or approval as neither holding has reached one of the limits in SUP 11.4.2R(3).

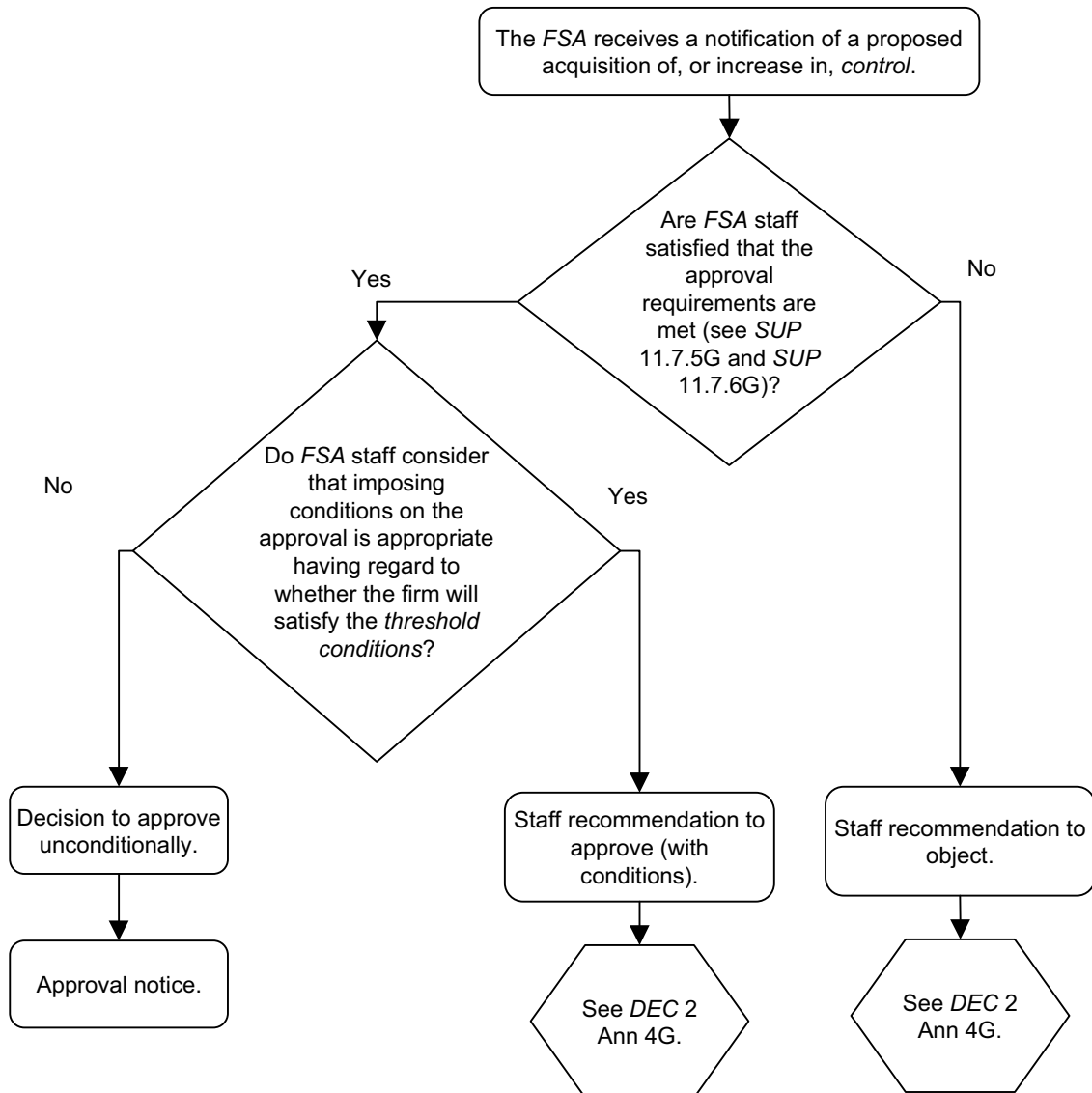


C is an 11% *controller* of the *firm* because of its shareholding in the *firm's parent undertaking* (P).

If C subsequently acquires a 15% shareholding directly in the *firm*, then this is an additional '*kind of control*' and is notifiable under SUP 11.4.2R(2). The *FSA's* prior approval of the event is required.

Note: It is assumed that M is not a *parent undertaking* of the *firm*, and C is not a *parent undertaking* of P. It is also assumed that all *shares* concerned are ordinary voting *shares* with no special rights attached.

SUP 11 Ann 3G: Summary of procedures on a notification of a change in control





Notification number
(for FSA use only)

Controllers Form A

Notification of a change in control

FSA Handbook Reference: SUP 11 Annex 4D

30 April 2001

The Financial Services Authority
25 The North Colonnade
Canary Wharf
London E14 5HS
United Kingdom
Telephone +44 (0) 20 7676 1000
Facsimile +44 (0) 20 7676 1099
Website <http://www.fsa.gov.uk>

Registered as a Limited Company in England and Wales No 1920623. Registered Office as above

Notes for Controllers Form A

Notification of a change in control

Rules and guidance on changes in control of a firm are contained in chapter 11 of the Supervision manual.

Photocopies of this Form, or any relevant part of the Form, may be used. The Form is available on the FSA's website at www.fsa.gov.uk and downloaded copies may be completed and submitted.

The purpose of this Form

This is the Controllers Form A referred to in SUP 11.3.7D of chapter 11 of the FSA's Supervision manual.

Completing this Form

The Form should be completed in black ink and (if in manuscript) in BLOCK CAPITALS.

All dates should be written in a dd/mm/yyyy format (e.g. 29/02/2000 for 29 February 2000) unless otherwise indicated on the Form.

Indicate clearly if a question is not applicable. Tick the appropriate box where a yes/no answer is required. Further details should be given in section 6 (supplementary information) if there is insufficient space for a detailed answer.

Additional information can be attached to the Form. It should be securely attached to the rest of the Form and you should indicate at question 6.03 the number of additional sheets attached.

Do not assume that information is known to the FSA merely because it is in the public domain, or has previously been disclosed to the FSA or to another regulatory body. In all circumstances, disclosures should be full, frank and unambiguous. If there is any doubt about the relevance of information, it should be included. If the FSA's checks reveal any matters that have not been disclosed this may result in a delay in processing and/or objection to the change in control.

Expressions in the Form in italics have the meaning given in the Glossary to the FSA's Handbook (or, if no meaning is given there, are to be interpreted in accordance with the related expression defined in the Glossary).

The controller or proposed controller submitting the Form is responsible for the accuracy of the data and completion of the Form. In the case of a joint notification, the firm is responsible for the accuracy of any information contained in the Form which is required from the firm in accordance with SUP 11.5.1R. If the Form is not fully and correctly completed, the FSA may need to return it for proper completion. This could significantly delay the FSA's decision on whether to approve the change in control.

The FSA may require a controller or proposed controller to provide further information at any time after receiving a notification and before determining whether or not to approve the change in control.

The FSA must be informed immediately of any material changes to the information provided in the Form, and of any information provided which may be false, misleading, incomplete or inaccurate, which becomes known before the notification has been determined, as required by SUP 11.3.10D. All such information must be communicated to the FSA by the controller submitting the Form. Failure to inform the FSA may result in a delay in processing and/or objection to the change in control.

The Form consists of Sections 1 to 6 which are required as follows:

Section	When required
Section 1 Details of the proposed change in control	In all cases
Section 2 Information required from corporate controllers	Controller is a body corporate and is not an authorised person
Section 3 Information required from partnership controllers	Controller is partnership and is not an authorised person
Section 4 Information required from individual controllers	Controller is an individual and is not an authorised person
Section 5 Joint notifications	Joint notifications by more than one controller or controller and firm(s)
Section 6 Supplementary information	In all cases if appropriate

SECTION 1 - DETAILS OF THE PROPOSED CHANGE IN CONTROL

1.01 The events to be notified using the Form are any of the following concerning a firm:

- (1) a person acquiring control or ceasing to have control;
- (2) an existing controller acquiring an additional kind of control or ceasing to have a kind of control;
- (3) an existing controller increasing or decreasing a kind of control which he already has such that the percentage of shares or voting power concerned becomes or ceases to be equal to or greater than 20, 33 or 50; and
- (4) an existing controller becoming or ceasing to be a parent undertaking.

"Kind of control" in (2) and (3) above means:

- (a) control arising as a result of holding shares in the firm;
- (b) control arising as a result of holding shares in the parent undertaking of the firm;
- (c) control arising as a result of the entitlement to exercise or control the exercise of voting power in the firm;
- (d) control arising as a result of the entitlement to exercise or control the exercise of voting power in the parent undertaking of the firm;

in accordance with section 179 (4) of the Financial Services and Markets Act 2000 and the Glossary.

The percentages of control held and to be held after the event must be calculated having regard to the definition of "controller" in the Glossary and the guidance in SUP 11 Annex 2G.

1.03 If a controller proposes any significant changes to the firm, for instance to its regulated activities, business plan or strategy, the firm and/or controller or proposed controller may be requested to provide a business plan. For a firm that is an insurer, such a plan would comprise a scheme of operations in accordance with SUP App 2.

It may be appropriate to ask the FSA whether a business plan will be required before submitting this notification, to avoid any delay in the FSA deciding to approve the change in control.

SECTION 4 - INFORMATION REQUIRED FROM INDIVIDUAL CONTROLLERS

Individual controllers are reminded that they must submit the information required in Controllers Form B in addition to the information required in this Form.

SECTION 5 – JOINT NOTIFICATIONS

A firm and its controller or proposed controller may discharge an obligation to notify the FSA by submitting a single joint notification containing the information required from the firm and the controller or proposed controller. In this case, Controllers Form A may be used to submit a notification on behalf of both the firm and the controller or proposed controller.

If a person is proposing a change in control over more than one firm within a group, then the controller or proposed controller may submit a single notification in respect of all those firms. The notification should contain all the required information as if separate notifications had been made, but information and documentation need not be duplicated.

When an event occurs (for example, a group restructuring or a merger) as a result of which:

- (1) more than one firm in a group would undergo a change in control; or
- (2) a single firm would experience more than one change in control;

then, to avoid duplication of documentation, all the firms and their controllers or proposed controllers may discharge their respective obligations to notify the FSA by submitting a single notification containing one set of information.

In a joint notification:

- the information requirements from each firm (as set out in SUP 11.5.1R) are satisfied by completion of
 - 1.01 and 1.02 of Section 1
 - Section 6
 - (in the case of a body corporate controller which is an authorised person) 2.01, 2.06 and 2.07 of Section 2;
- Section 1 must be completed;
- depending on the type of controller or proposed controller, Section 2, 3 or 4 must be completed by each controller or proposed controller;
- Section 5 must be completed;
- Section 6 should be completed if appropriate;
- the declaration and signature should be completed by each firm, controller or proposed controller submitting the joint notification.

SECTION 6 – SUPPLEMENTARY INFORMATION

This section provides space for any additional information required.

Relevant supporting documentation must also be provided.

DECLARATION AND SIGNATURE

In the case of a joint notification, the declaration and signature should be completed by each firm, controller or proposed controller (using photocopies if necessary).

For a controller or proposed controller, the signatory to this Form should be:

Capacity in which control to be held	Signatory
As an individual	that individual
As a body corporate	an individual who is a director (if Controllers Form B is submitted in relation to directors, one of those directors should sign)
As a partnership	a partner (if Controllers Form B is submitted in relation to partners, one of those partners should sign)

If the Form is submitted by a firm, see SUP 15.7.3G in chapter 15 of the Supervision manual regarding authorisation of signatory.

PLEASE RETURN THE COMPLETED FORM TO:

THE FINANCIAL SERVICES AUTHORITY
25 THE NORTH COLONNADE
CANARY WHARF
LONDON E14 5HS
UNITED KINGDOM

The Form should be marked for the attention of the relevant firm's usual supervisory contact at the FSA; if known, please include the name of the contact.

1.01 Enter the following details of the firm to which the change in control relates.

If the change in control relates to more than one firm, enter the following details for each firm (SEE NOTE)

	FSA Firm Reference Number	Name of firm	% of control currently held	% of control to be held after the event (SEE NOTE)
a				
b				
c				
d				
e				
f				
g				
h				
i				
j				
k				

Continue in Section 6 if necessary



I have supplied further information related to this page in Section 6

YES

NO

- 1.02 Corporate structure charts must be provided (and any accompanying explanations) showing the position both before and after the event. The charts must clearly show the following matters:
- i) the name(s) of the controller(s);
 - ii) the name(s) of the firm(s);
 - iii) the percentage of shares to be held in the firm(s) or its/their parent undertakings before and after the event;
 - iv) the percentage of voting power to be exercised (or controlled) in the firm(s) or its/their parent undertakings before and after the event;
 - (v) whether the control proposed will be held directly or through associates (as defined within the definition of controller in the Glossary); and
 - (vi) (if relevant) whether the control arises from the ability to exercise a significant influence over the firm(s) or its/their parent undertakings.

1.03 Does the controller intend to make any significant changes to the firm's or firms' regulated activities, business plan or strategy as a result of the change in control (SEE NOTE)?

YES NO

(All firms listed in 1.01 must be considered.)

Firm	Proposed changes



I have supplied further information related to this page in Section 6

YES

NO

1.04 Does the controller intend any restructuring either in terms of the legal form of the firm(s) or in its/their borrowings, capital restructuring or financing arrangements?

YES NO

(All firms listed in 1.01 must be considered.)

Firm	Proposed changes



I have supplied further information related to this page in Section 6

YES NO

- 1.05 Is the controller:
- (a) authorised in another EEA State as an ISD investment firm or a BCD credit institution or pursuant to the Insurance Directives? YES NO
- (b) a parent undertaking or 50% controller of such an authorised entity? YES NO

If so, give details

- 1.06 In the case of a share acquisition or similar, how is this to be financed?

- 1.07 Does the controller have any interests which may conflict with its role as a controller of the firm? YES NO

If yes, provide details in section 6



- I have supplied further information related to this page in Section 6 YES NO

For corporate controllers which are not authorised persons

2.01 Name

2.02 Registered number (or equivalent if incorporated outside the United Kingdom)

2.03 Place of incorporation

2.04 Registered office address

2.05 Location of head office (if different from registered office)

2.06 Directors

	Full name	Date of birth	Title (eg Chief Executive)	Executive/ Non-executive	
a	<input type="text"/>	<input type="text"/>	<input type="text"/>	Executive <input type="checkbox"/> Non-executive <input type="checkbox"/>	<input type="checkbox"/> <input type="checkbox"/>
b	<input type="text"/>	<input type="text"/>	<input type="text"/>	Executive <input type="checkbox"/> Non-executive <input type="checkbox"/>	<input type="checkbox"/> <input type="checkbox"/>
c	<input type="text"/>	<input type="text"/>	<input type="text"/>	Executive <input type="checkbox"/> Non-executive <input type="checkbox"/>	<input type="checkbox"/> <input type="checkbox"/>
d	<input type="text"/>	<input type="text"/>	<input type="text"/>	Executive <input type="checkbox"/> Non-executive <input type="checkbox"/>	<input type="checkbox"/> <input type="checkbox"/>
e	<input type="text"/>	<input type="text"/>	<input type="text"/>	Executive <input type="checkbox"/> Non-executive <input type="checkbox"/>	<input type="checkbox"/> <input type="checkbox"/>
f	<input type="text"/>	<input type="text"/>	<input type="text"/>	Executive <input type="checkbox"/> Non-executive <input type="checkbox"/>	<input type="checkbox"/> <input type="checkbox"/>
g	<input type="text"/>	<input type="text"/>	<input type="text"/>	Executive <input type="checkbox"/> Non-executive <input type="checkbox"/>	<input type="checkbox"/> <input type="checkbox"/>
h	<input type="text"/>	<input type="text"/>	<input type="text"/>	Executive <input type="checkbox"/> Non-executive <input type="checkbox"/>	<input type="checkbox"/> <input type="checkbox"/>

Continue in section 6 if necessary



I have supplied further information related to this page in Section 6

YES

NO

2.07 List all controllers of the corporate controller
(unless this has been provided in 1.02 in which case a cross reference to 1.02 is sufficient).

[Redacted area]

2.08 Details of any litigation (or known circumstances which might give rise to litigation) against the corporate controller currently outstanding or that has occurred in the last five years, except cases arising in the course of normal business activities.

[Redacted area]

2.09 a Is the corporate controller a regulated financial services provider? YES NO

b If yes, state name of regulator. [Redacted area]

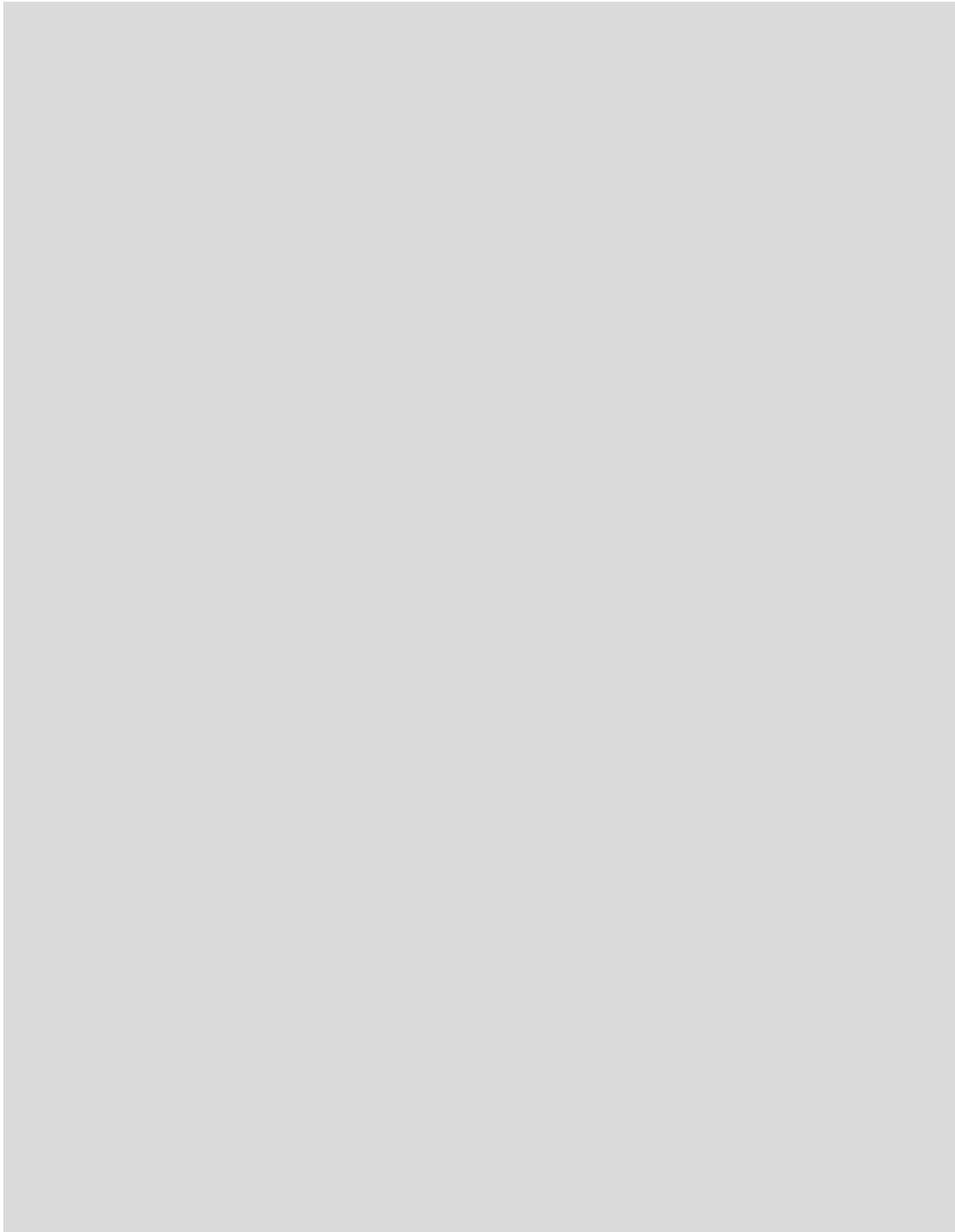


I have supplied further information related to this page in Section 6 YES NO

2.10 Provide details of the corporate controller's financial standing. This must, as a minimum, include details of the controller's solvency and, in relation to the adequacy of the firm's or firms' resources for the purposes of threshold condition 4 (Adequate resources), of:

- (i) the effect that the corporate controller's membership of the firm's or firms' group will have; and
- (ii) if appropriate, how the group will satisfy the FSA's consolidated financial supervision requirements.

Relevant supporting documentation must also be provided.



I have supplied further information related to this page in Section 6

YES

NO

2.11 List all other undertakings which the corporate controller controls (see definition of controller).
 (This information may be provided in an organisation chart)

	Name of undertaking	Business of undertaking	% control
a	Authorised persons (ie authorised under the Financial Services and Markets Act 2000)		
b	Undertakings authorised in another EEA State (other than those included above)		



I have supplied further information related to this page in Section 6

YES

NO

	Name of undertaking	Business of undertaking	% control
2.11 c	Undertakings authorised outside the EEA (other than those included above)		
d	Other bodies corporate, partnerships and unincorporated associations		



I have supplied further information related to this page in Section 6

YES

NO

For partnership controllers which are not authorised persons

3.01 Name

3.02 Registered number (if applicable)

3.03 Law under which the partnership is formed

3.04 Partnership head office address

3.05 Partners

	Full name	Date of birth	Title	Status
a	<input type="text"/>	<input type="text"/>	<input type="text"/>	Equity <input type="checkbox"/> Salaried <input type="checkbox"/> Limited partner <input type="checkbox"/> General partner <input type="checkbox"/>
b	<input type="text"/>	<input type="text"/>	<input type="text"/>	Equity <input type="checkbox"/> Salaried <input type="checkbox"/> Limited partner <input type="checkbox"/> General partner <input type="checkbox"/>
c	<input type="text"/>	<input type="text"/>	<input type="text"/>	Equity <input type="checkbox"/> Salaried <input type="checkbox"/> Limited partner <input type="checkbox"/> General partner <input type="checkbox"/>
d	<input type="text"/>	<input type="text"/>	<input type="text"/>	Equity <input type="checkbox"/> Salaried <input type="checkbox"/> Limited partner <input type="checkbox"/> General partner <input type="checkbox"/>
e	<input type="text"/>	<input type="text"/>	<input type="text"/>	Equity <input type="checkbox"/> Salaried <input type="checkbox"/> Limited partner <input type="checkbox"/> General partner <input type="checkbox"/>
f	<input type="text"/>	<input type="text"/>	<input type="text"/>	Equity <input type="checkbox"/> Salaried <input type="checkbox"/> Limited partner <input type="checkbox"/> General partner <input type="checkbox"/>

Continue in section 6 if necessary



I have supplied further information related to this page in Section 6

YES

NO

3.06 Details of any litigation (or known circumstances which might give rise to litigation) against the controller currently outstanding or that has occurred in the last five years, except cases arising in the course of normal business activities.

[Redacted area]

3.07 a Is the controller a regulated financial services provider? YES NO

b If yes, state name of regulator. [Redacted area]

3.08 Provide details of the partnership controller's financial standing. This must, as a minimum, include details of the controller's solvency and, in relation to the adequacy of the firm's or firms' resources for the purposes of threshold condition 4 (Adequate resources), of:

- (i) the effect that the partnership controller's membership of the firm's or firms' group will have; and
- (ii) if appropriate, how the group will satisfy the FSA's consolidated financial supervision requirements.

Relevant supporting documentation must also be provided.

[Redacted area]



I have supplied further information related to this page in Section 6

YES

NO

3.09 List all other undertakings which the partnership controller controls (see definition of controller).
 (This information may be provided in an organisation chart)

	Name of undertaking	Business of undertaking	% control
a	Authorised persons (ie authorised under the Financial Services and Markets Act 2000)		
b	Undertakings authorised in another EEA State (other than those included above)		



I have supplied further information related to this page in Section 6

YES

NO

		Name of undertaking	Business of undertaking	% control
3.09 c	Undertakings authorised outside the EEA (other than those included above)			
d	Other bodies corporate, partnerships and unincorporated associations			



I have supplied further information related to this page in Section 6

YES

NO

For individual controllers who are not authorised persons (SEE NOTE)

4.01 Name

4.02 a Is the individual controller a regulated financial services provider? YES NO

b If yes, state name of regulator.

4.03 List all other undertakings which the individual controller controls (see definition of controller).
(This information may be provided in an organisation chart)

	Name of undertaking	Business of undertaking	% control
a	Authorised persons (ie authorised under the Financial Services and Markets Act 2000)	<input style="width: 300px; height: 20px;" type="text"/>	<input style="width: 80px; height: 20px;" type="text"/>
		<input style="width: 300px; height: 20px;" type="text"/>	<input style="width: 80px; height: 20px;" type="text"/>
		<input style="width: 300px; height: 20px;" type="text"/>	<input style="width: 80px; height: 20px;" type="text"/>
		<input style="width: 300px; height: 20px;" type="text"/>	<input style="width: 80px; height: 20px;" type="text"/>
		<input style="width: 300px; height: 20px;" type="text"/>	<input style="width: 80px; height: 20px;" type="text"/>
		<input style="width: 300px; height: 20px;" type="text"/>	<input style="width: 80px; height: 20px;" type="text"/>
b	Undertakings authorised in another EEA State (other than those included above)	<input style="width: 300px; height: 20px;" type="text"/>	<input style="width: 80px; height: 20px;" type="text"/>
		<input style="width: 300px; height: 20px;" type="text"/>	<input style="width: 80px; height: 20px;" type="text"/>
		<input style="width: 300px; height: 20px;" type="text"/>	<input style="width: 80px; height: 20px;" type="text"/>
		<input style="width: 300px; height: 20px;" type="text"/>	<input style="width: 80px; height: 20px;" type="text"/>
		<input style="width: 300px; height: 20px;" type="text"/>	<input style="width: 80px; height: 20px;" type="text"/>
		<input style="width: 300px; height: 20px;" type="text"/>	<input style="width: 80px; height: 20px;" type="text"/>



I have supplied further information related to this page in Section 6 YES NO

	Name of undertaking	Business of undertaking	% control
4.03 c	Undertakings authorised outside the EEA (other than those included above)		
d	Other bodies corporate, partnerships and unincorporated associations		



I have supplied further information related to this page in Section 6

YES

NO

Please complete questions 6.02 and 6.03

6.01 Include any additional information from previous sections below.

Three pages are provided, but if there is still insufficient space, please continue on a separate sheet of paper, and clearly identify the section and question to which the additional information relates.

Question	Additional information

Question	Additional information

Question	Additional information

6.02 Is the controller firm submitting the Form aware of any other information relevant to this notification of change in control of which the FSA would reasonably expect notice, including information which could have a material impact on any of the approval requirements described in section 186(3) of the Act (see SUP 11.7.5G)?

YES

NO

If yes, provide details below or on a separate sheet of paper

A large, solid grey rectangular area intended for providing details if the answer to question 6.02 is 'yes'. It occupies the majority of the page's vertical space below the question.

6.03 How many additional sheets are being submitted?

A small, solid grey rectangular area intended for providing the number of additional sheets being submitted.

SEE NOTE

Knowingly or recklessly giving the FSA information which is false or misleading in a material particular may be a criminal offence (sections 398 and 400 of the Financial Services and Markets Act 2000).

It should not be assumed that information is known to the FSA merely because it is in the public domain or has previously been disclosed to the FSA or another regulatory body. If there is any doubt about the relevance of information, it should be included.

I confirm that the information in the Form is accurate and complete to the best of my knowledge and belief and that I have read the notes to the Form.

I authorise the FSA to make such enquiries and seek such further information as it thinks appropriate in the course of verifying the information given in the Form.

Full name

Position

Signature

On behalf of
(name of firm, controller or proposed controller)

If on behalf of a firm or an authorised controller or proposed controller, FSA Firm Reference Number

Date of signature

Note : Please detach and keep the notes before returning the completed Form to the FSA.



Notification number
(for FSA use only)

Controllers Form B

Information in respect of directors, partners and individuals

FSA Handbook Reference: SUP 11 Annex 5D

30 April 2001

Name of individual

The Financial Services Authority
25 The North Colonnade
Canary Wharf
London E14 5HS
United Kingdom
Telephone +44 (0) 20 7676 1000
Facsimile +44 (0) 20 7676 1099
Website <http://www.fsa.gov.uk>

Registered as a Limited Company in England and Wales No 1920623. Registered Office as above

Notes for Controllers Form B

Information in respect of directors, partners and individuals

Rules and guidance on changes in control of a firm are contained in chapter 11 of the Supervision manual.

Photocopies of the Form, or any relevant part of the Form, may be used. The Form is available on the FSA's website at www.fsa.gov.uk and downloaded copies may be completed and submitted.

The purpose of this Form

This is the Controllers Form B referred to in SUP 11.3.7D and SUP 11.3.8D of chapter 11 of the FSA's Supervision manual. The information in the Form is required from a controller or potential controller in relation to individuals as set out in SUP 11.3.8D. As indicated in SUP 11.3.9D, if the relevant individual has previously submitted the Form, then the information required in the Form need not be submitted in relation to that individual but the FSA requires details of any changes in the information previously submitted, or confirmation that there are no such changes. The information in the Form is not required from the firm in respect of which the change in control is to occur.

Completing this Form

The Form should be completed in black ink and (if in manuscript) in BLOCK CAPITALS.

All dates should be written in a dd/mm/yyyy format (e.g. 29/02/2000 for 29 February 2000) unless otherwise indicated on the Form.

Indicate clearly if a question is not applicable. Tick the appropriate box where a yes/no answer is required. Further details should be given in section 5 (supplementary information) if there is insufficient space for a detailed answer.

Additional information can be attached to the Form. It should be securely attached to the rest of the Form and you should indicate at question 5.03 the number of additional sheets attached.

Do not assume that information is known to the FSA merely because it is in the public domain, or has previously been disclosed to the FSA or to another regulatory body. In all circumstances, disclosures should be full, frank and unambiguous. If there is any doubt about the relevance of information, it should be included. If the FSA's checks reveal any matters that have not been disclosed this may result in a delay in processing and/or objection to the change in control.

Expressions in this Form in italics have the meaning given in the Glossary to the FSA's Handbook (or, if no meaning is given there, are to be interpreted in accordance with the related expression defined in the Glossary).

The controller or proposed controller submitting the Form is responsible for the accuracy of the data and completion of the Form. If the Form is not fully and correctly completed, the FSA may need to return it for proper completion. This could significantly delay the FSA's decision on whether to grant approval for the change in control.

The FSA may require a controller or proposed controller to provide further information at any time after receiving a notification and before determining whether or not to approve the change in control.

The FSA must be informed immediately of any material changes to the information provided in the Form, and of any information provided which may be false, misleading, incomplete or inaccurate, which become known before the notification has been determined, as required by SUP 11.3.10D. All changes must be communicated to the FSA by the controller submitting the Form. Failure to inform the FSA may result in a delay in processing and/or objection to the change in control.

SECTION 1 – PERSONAL IDENTIFICATION DETAILS

- 1.07 & 1.10 If the individual has more than one previous name (surname or forenames), passport number or nationality, or is known by any other names, provide details in section 5.
- 1.13 United Kingdom addresses must be given, or a statement stating that the individual resides abroad.

SECTION 2 – EMPLOYMENT HISTORY FOR PAST 10 YEARS

A full ten-year employment history must be provided – with all gaps explained. If the record of employment does not go back ten years, all periods of education and unemployment must be indicated. Full details of any periods of self-employment must be included.

The employment history must be provided in reverse chronological order, starting with the most recent period of employment, unemployment etc.

- 2.01 Always give the address of the actual place of employment, rather than a central head office.
- “Regulatory body” in this context means the bodies listed in the Notes to section 3 below.
- State the position held and a brief explanation of the individual’s duties. If the individual’s job title included the word “director” but his duties did not include those associated with the title of director, as defined in the Glossary, this should be indicated.
- The reason for leaving each employer must be given. If there were any issues arising on leaving, these must be fully explained in section 5. Previous employers may be contacted and omission of relevant details may result in a delay in processing and/or possible objection to the change in control.

SECTION 3 – FITNESS AND PROPRIETY

Answer the question by ticking the relevant ‘yes’ or ‘no’ box. If the answer to any of the questions is ‘yes’, give complete details in section 5 and attach relevant supporting documentation.

- 3.03 to 3.06 Any outstanding county court judgements (e.g. CCJs) or arrangements (e.g. IVAs) with creditors must be listed in section 5, and the circumstances surrounding them explained.
- 3.11 & 3.12(d) “Regulatory body” in this context refers to:
- i) the SROs including IMRO, SFA, PIA, LAUTRO and FIMBRA;
 - ii) the statutory bodies including the FSA, SIB, the Society of Lloyd’s, the Registry of Friendly Societies, the Friendly Societies Commission, the Building Societies Commission, the Bank of England, HM Treasury – Insurance Directorate (formerly of the DTI) and the recognised bodies;
 - iii) the designated professional bodies; and
 - iv) the equivalent of all such regulators overseas.

SECTION 5 – SUPPLEMENTARY INFORMATION

This section provides space for any additional information and should be used whenever a question in sections 3 or 4 is answered ‘yes’.

Relevant supporting documentation must also be provided.

SECTION 6 – DECLARATIONS AND SIGNATURES

This section contains declarations which should be signed both by the individual whose details are given in the Form and by the controller or proposed controller.

6.05(b) Indicate whether you are signing this Form in your capacity as a chief executive (or equivalent), director, managing partner (or equivalent), partner or other of a controller or proposed controller which is a legal entity. If other, specify.

6.06 This is the name of the firm which is the subject of the change in control.

6.07 to 6.12 For a controller or proposed controller, the signatory to this Form should be:

Capacity in which control to be held	Signatory
As a body corporate	an individual who is a director and is a person in relation to whom a Controllers Form B is submitted
As a partner in a partnership or as a partnership	a partner in relation to whom a Controllers Form B is submitted

If the controller or proposed controller is an individual, that individual need not complete 6.07-6.12.

If you have any queries or need additional information, please contact the relevant firm's usual supervisory contact.

PLEASE RETURN THE COMPLETED FORM TO:

THE FINANCIAL SERVICES AUTHORITY
25 THE NORTH COLONNADE
CANARY WHARF
LONDON E14 5HS
UNITED KINGDOM

The Form should be marked for the attention of the relevant firm's usual supervisory contact at the FSA; if known, please include the name of the contact.

1.01	Title (e.g. Mr, Mrs, Ms, etc)			
1.02	Surname			
1.03	ALL forenames			
1.04	Name commonly known by			
1.05	Date of birth			
1.06	National Insurance number			
1.07	Previous name SEE NOTE			
1.08	Date of change			
1.09	Reason for change			
1.10	Nationality SEE NOTE			
1.11	Passport number (if National Insurance number not available -SEE NOTE)			
1.12	Place of birth			
1.13 a	Private address			
	b		Postcode	
	c	Dates resident at this address (mm/yyyy)	From	To PRESENT

(If address has changed in the last three years, please provide addresses for the previous three years.)



I have supplied further information related to this page in Section 5

YES

NO

1.14 a Previous address 1

[Redacted address details]

b

Postcode

c Dates resident at this address (mm/yyyy)

From

[Redacted start date]

To

[Redacted end date]

1.15 a Previous address 2

[Redacted address details]

b

Postcode

c Dates resident at this address (mm/yyyy)

From

[Redacted start date]

To

[Redacted end date]

1.16 Details of professional qualifications and membership of any trade or professional body

[Redacted professional qualifications and membership details]



I have supplied further information related to this page in Section 5

YES

NO

Note: ALL gaps must be accounted for (SEE NOTE)

2.01 Employment details (1)

a Period (mm/yyyy) From To

b Nature of employment

a	Employed	<input type="checkbox"/>
b	Self-employed	<input type="checkbox"/>
c	Unemployed	<input type="checkbox"/>
d	Full-time education	<input type="checkbox"/>

If b, c, or d is ticked, please give details

c Name of employer

d Nature of business

e Previous / other names of employer

f Last known address of employer
SEE NOTE

g Is/was employer regulated by a regulatory body? SEE NOTE YES NO Name of regulatory body

h Is/was employer an appointed representative? YES NO If yes, of which firm?

i Position held
SEE NOTE

j Responsibilities

k Reason for leaving:
SEE NOTE

a	Resignation	<input type="checkbox"/>
b	Redundancy	<input type="checkbox"/>
c	Retirement	<input type="checkbox"/>
d	Termination/dismissal	<input type="checkbox"/>
e	End of contract	<input type="checkbox"/>
f	Other	<input type="checkbox"/>

If 'Other': specify



I have supplied further information related to this page in Section 5 YES NO

2.02 Employment details (2)

a Period (mm/yyyy) From To

b Nature of employment

a	Employed	<input type="checkbox"/>
b	Self-employed	<input type="checkbox"/>
c	Unemployed	<input type="checkbox"/>
d	Full-time education	<input type="checkbox"/>

If b, c, or d is ticked, please give details

c Name of employer

d Nature of business

e Previous / other names of employer

f Last known address of employer
SEE NOTE

g Is/was employer regulated by a regulatory body? SEE NOTE YES NO Name of regulatory body

h Is/was employer an appointed representative? YES NO If yes, of which firm?

i Position held
SEE NOTE

j Responsibilities

k Reason for leaving:
SEE NOTE

a	Resignation	<input type="checkbox"/>
b	Redundancy	<input type="checkbox"/>
c	Retirement	<input type="checkbox"/>
d	Termination/dismissal	<input type="checkbox"/>
e	End of contract	<input type="checkbox"/>
f	Other	<input type="checkbox"/>

If 'Other': specify



I have supplied further information related to this page in Section 5

YES

NO

2.03 Employment details (3)

a Period (mm/yyyy) From To

b Nature of employment

a	Employed	<input type="checkbox"/>
b	Self-employed	<input type="checkbox"/>
c	Unemployed	<input type="checkbox"/>
d	Full-time education	<input type="checkbox"/>

If b, c, or d is ticked, please give details

c Name of employer

d Nature of business

e Previous / other names of employer

f Last known address of employer
SEE NOTE

g Is/was employer regulated by a regulatory body? SEE NOTE YES NO Name of regulatory body

h Is/was employer an appointed representative? YES NO If yes, of which firm?

i Position held
SEE NOTE

j Responsibilities

k Reason for leaving:
SEE NOTE

a	Resignation	<input type="checkbox"/>
b	Redundancy	<input type="checkbox"/>
c	Retirement	<input type="checkbox"/>
d	Termination/dismissal	<input type="checkbox"/>
e	End of contract	<input type="checkbox"/>
f	Other	<input type="checkbox"/>

If 'Other': specify



I have supplied further information related to this page in Section 5 YES NO

2.04 Employment details (4)

a Period (mm/yyyy) From To

b Nature of employment

a	Employed	<input type="checkbox"/>
b	Self-employed	<input type="checkbox"/>
c	Unemployed	<input type="checkbox"/>
d	Full-time education	<input type="checkbox"/>

If b, c, or d is ticked, please give details

c Name of employer

d Nature of business

e Previous / other names of employer

f Last known address of employer
SEE NOTE

g Is/was employer regulated by a regulatory body? SEE NOTE YES NO Name of regulatory body

h Is/was employer an appointed representative? YES NO If yes, of which firm?

i Position held
SEE NOTE

j Responsibilities

k Reason for leaving:
SEE NOTE

a	Resignation	<input type="checkbox"/>
b	Redundancy	<input type="checkbox"/>
c	Retirement	<input type="checkbox"/>
d	Termination/dismissal	<input type="checkbox"/>
e	End of contract	<input type="checkbox"/>
f	Other	<input type="checkbox"/>

If 'Other': specify



I have supplied further information related to this page in Section 5

YES

NO

2.05 Employment details (5)

a Period (mm/yyyy) From To

b Nature of employment

a	Employed	<input type="checkbox"/>
b	Self-employed	<input type="checkbox"/>
c	Unemployed	<input type="checkbox"/>
d	Full-time education	<input type="checkbox"/>

If b, c, or d is ticked, please give details

c Name of employer

d Nature of business

e Previous / other names of employer

f Last known address of employer
SEE NOTE

g Is/was employer regulated by a regulatory body? SEE NOTE YES NO Name of regulatory body

h Is/was employer an appointed representative? YES NO If yes, of which firm?

i Position held
SEE NOTE

j Responsibilities

k Reason for leaving:
SEE NOTE

a	Resignation	<input type="checkbox"/>
b	Redundancy	<input type="checkbox"/>
c	Retirement	<input type="checkbox"/>
d	Termination/dismissal	<input type="checkbox"/>
e	End of contract	<input type="checkbox"/>
f	Other	<input type="checkbox"/>

If 'Other': specify

If necessary, please continue in section 6.



I have supplied further information related to this page in Section 5 YES NO

- 3.01 a Has the individual ever been convicted of any offence involving fraud, theft, false accounting or other dishonesty or an offence (whether or not in the United Kingdom) relating to companies, building societies, industrial and provident societies, credit unions, friendly societies, insurance, banking or other financial services, insolvency, consumer credit or consumer protection, money laundering, market manipulations or insider dealing? (Convictions spent under the Rehabilitation of Offenders Act 1974 must be included) YES NO
- b Is the individual the subject of any current criminal proceedings? YES NO
- 3.02 Has the individual any convictions for any offences other than those listed in 3.01 above which are not spent, whether or not in the United Kingdom (excluding traffic offences unless these resulted in a ban from driving or involved driving without insurance)? YES NO
- 3.03 a Is the individual, or has the individual ever been, the subject of any civil proceedings, arbitration or litigation, including proceedings that may lead to a County Court Judgement (“CCJ”) or other judgement debts, in the United Kingdom or elsewhere? YES NO
- b Is the individual aware of any intention to begin such proceedings against the individual in the future? YES NO
- 3.04 Does the individual have any judgement debts (including CCJs) made under a court order still outstanding, whether in full or in part? YES NO
- 3.05 Has the individual ever failed to satisfy any such judgement debts within one year of the making of the order? YES NO
- 3.06 a Is the individual, or has the individual ever been, the subject of any bankruptcy proceedings, or proceedings for the sequestration of the individual’s estate? YES NO
- b Has the individual ever entered into a deed of arrangement or an individual voluntary arrangement (or in Scotland a trust deed) or other agreement in favour of the individual’s creditors, or is the individual doing so? YES NO
- 3.07 Does the individual or any undertaking under the management of the individual have any outstanding financial obligations arising from regulated activities conducted in the past, whether in the United Kingdom or overseas? YES NO
- 3.08 Has the individual or any undertaking under the management of the individual ever been found guilty of conducting any unauthorised regulated activities or been investigated for possible conduct of unauthorised regulated activities? YES NO
- 3.09 Is the individual, or has the individual ever been, the subject of an investigation into allegations of misconduct or malpractice in connection with any business activity? YES NO
- 3.10 Has the individual ever, either in the United Kingdom , or elsewhere –
 - a been refused entry to, or been dismissed or requested to resign from, any profession, vocation, office or employment, or from any fiduciary office or position of trust, whether or not remunerated? YES NO
 - b been refused, restricted in, or had suspended, the right to carry on any trade, business or profession for which specific licence, authorisation, registration, membership or other permission is required? YES NO



I have supplied further information related to this page in Section 5 YES NO

c	been disqualified by a court from acting as a director of a company or from acting in a management capacity or conducting the affairs of any company, partnership or unincorporated association?	YES <input type="checkbox"/>	NO <input type="checkbox"/>
d	been the subject of a disqualification direction under section 59 of the Financial Services Act 1986 or a prohibition order, under section 56 of the Financial Services and Markets Act 2000, or received a warning notice to make such a direction or order?	YES <input type="checkbox"/>	NO <input type="checkbox"/>
3.11	In respect of activities regulated by the FSA or any other regulatory body (see note), has the individual, or has any company, partnership or unincorporated association of which the individual is or has been a controller, director, senior manager, partner or company secretary, during the individual's association with that entity and for a period of three years after the individual ceased to be associated with it, ever –		
a	been refused, had revoked, restricted or terminated, any licence, authorisation, registration, notification, membership or other permission granted by any such body ?	YES <input type="checkbox"/>	NO <input type="checkbox"/>
b	been criticised, censured, disciplined, suspended, expelled, fined, or been the subject of any other disciplinary or intervention action by any such body ?	YES <input type="checkbox"/>	NO <input type="checkbox"/>
c	resigned whilst under investigation by, or been required to resign from, any such body ?	YES <input type="checkbox"/>	NO <input type="checkbox"/>
d	decided, after making an application for any licence, authorisation, registration, notification, membership or other permission granted by any such body, not to proceed with it?	YES <input type="checkbox"/>	NO <input type="checkbox"/>
e	been the subject of any civil action which has resulted in a finding against the individual or it by a court?	YES <input type="checkbox"/>	NO <input type="checkbox"/>
3.12	Has any company, partnership, or unincorporated association of which the individual is or has been a controller, director, senior manager, partner, or company secretary, in the United Kingdom or elsewhere, at any time during the individual's involvement or within one year of such an involvement –		
a	been put into liquidation, wound up, ceased trading, had a receiver or administrator appointed or entered into any voluntary arrangement with its creditors?	YES <input type="checkbox"/>	NO <input type="checkbox"/>
b	been adjudged by a court liable for any fraud, misfeasance, wrongful trading or other misconduct?	YES <input type="checkbox"/>	NO <input type="checkbox"/>
c	been investigated or been involved in an investigation by an inspector appointed under companies or any other legislation, or required to produce documents to the Secretary of State, or any other authority, under any such legislation?	YES <input type="checkbox"/>	NO <input type="checkbox"/>
d	been convicted of any criminal offence, censured, disciplined or publicly criticised, by any inquiry, by the Takeover Panel or any governmental or statutory authority or any other regulatory body (other than as already indicated under 3.11(b) above)?	YES <input type="checkbox"/>	NO <input type="checkbox"/>



I have supplied further information related to this page in Section 5

YES

NO

4.01 Does the individual have any personal or business interests that may conflict with his role as a controller of the firm or, with respect to his capacity indicated in 6.04b, his position within the controlling entity?

YES NO

If yes, provide details in section 5.

4.02 Please list all UK and non-UK directorships held:

	Name of undertaking	Business of undertaking
a UK directorships		
b Non-UK directorships		



I have supplied further information related to this page in Section 5

YES NO

Please complete questions 5.02 and 5.03

5.01 Include any additional information from previous sections below.

Three pages are provided, but if there is still insufficient space, please continue on a separate sheet of paper, and clearly identify the section and question to which the additional information relates.

Question	Additional information

Question	Additional information

Question	Additional information

5.02 Is the individual submitting the Form aware of any other information relevant to this notification of change in control of which the FSA would reasonably expect notice, including information which could have a material impact on any of the approval requirements described in SUP 11.7.5G?

YES

NO

If yes, provide details below or on a separate sheet of paper.

A large, solid grey rectangular area intended for providing details if the answer to question 5.02 is 'YES'. It occupies the majority of the page's vertical space.

5.03 How many additional sheets are being submitted?

A small, solid grey rectangular area intended for providing the number of additional sheets being submitted.

DECLARATION OF INDIVIDUAL WHOSE DETAILS ARE GIVEN IN THE FORM

Knowingly or recklessly giving the FSA information which is false or misleading in a material particular may be a criminal offence (sections 398 and 400 of the Financial Services and Markets Act 2000).

It should not be assumed that information is known to the FSA merely because it is in the public domain or has previously been disclosed to the FSA or another regulatory body. If there is any doubt about the relevance of information, it should be included.

I confirm that the information in this Form is accurate and complete to the best of my knowledge and belief and that I have read the notes to this Form.

I authorise the FSA to make such enquiries and seek such further information as it thinks appropriate in the course of verifying the information given in this Form.

6.01 Full name

6.02 Signature

6.03 Date of signature

6.04 Are you a controller or proposed controller as an individual in your own right? YES NO

If NO

a State the name of the entity which is the controller or proposed controller of whose notification this Form is a part (and of each of them if more than one)

b State the capacity in which you are completing this Form (SEE NOTE)

6.05 a Name of authorised firm in respect of which this Form is being submitted (SEE NOTE)

b FRN number of firm (if known)

DECLARATION OF CONTROLLER OR PROPOSED CONTROLLER (if not an individual) (SEE NOTE)

Knowingly or recklessly giving the FSA information which is false or misleading in a material particular may be a criminal offence (sections 398 and 400 of the Financial Services and Markets Act 2000).

It should not be assumed that information is known to the FSA merely because it is in the public domain or has previously been disclosed to the FSA or another regulatory body.

I confirm that the information in this Form is accurate and complete to the best of my knowledge and belief and that I have read the notes to this Form.

6.06	Full name	
6.07	Signature	
6.08	Date of signature	
6.09	Position	
6.10	On behalf of: (name of controller or proposed controller)	

Completion checklist

- Is the Form fully completed?
- Are ALL forenames included?
- Is there a complete ten-year employment history with all gaps explained?
- Is the Form correctly signed and dated?
- Has all supplementary information been included and clearly marked?

Note : Please detach and keep the notes before returning the completed Form to the FSA.

Chapter 12

Appointed representatives



12.1 Application and purpose

Application

- 12.1.1** **R**_{/1} (1) This chapter applies to a *firm* with *permission* to carry on *designated investment business* and which is considering appointing, has decided to appoint or has appointed an *appointed representative*.
- (2) The *rules*, and *guidance on rules*, in this chapter do not apply to a *UCITS qualifier*.

Purpose

- 12.1.2** **G**_{/1} This chapter gives *guidance* to a *firm*, which is considering appointing an *appointed representative*, on how the provisions of section 39 of the *Act* (Exemption of appointed representatives) work. For example, it gives *guidance* on the conditions that must be satisfied for a *person* to be appointed as an *appointed representative*. It also gives *guidance* to a *firm* on the implications, for the *firm* itself, of appointing an *appointed representative*.
- 12.1.3** **G**_{/1} The chapter also sets out the *FSA's rules*, and *guidance on these rules*, that apply to a *firm* before it appoints, when it appoints and when it has appointed an *appointed representative*. The main purpose of these *rules* is to place responsibility on a *firm* for seeking to ensure that:
- (1) its *appointed representatives* are fit and proper to deal with *clients* in its name; and
 - (2) *clients* dealing with its *appointed representatives* are afforded the same level of protection as if they had dealt with the *firm* itself.
- 12.1.4** **G**_{/1} A separate leaflet will be produced to give *guidance* to *appointed representatives* themselves. For a copy of this leaflet (when available) please contact the Corporate Authorisation department (see *SUP 12.7.5G*).

12.2 Introduction

What is an appointed representative?

12.2.1

G

/1

- (1) Under section 19 of the *Act* (The general prohibition), no *person* may carry on a *regulated activity* in the *United Kingdom*, or purport to do so, unless he is an *authorised person*, or he is an *exempt person* in relation to that activity.
- (2) A *person* will be an *exempt person* if he satisfies the conditions in section 39(1) of the *Act*, *guidance* on which is given in SUP 12.2.2G. A *person* who is exempt as a result of satisfying these conditions is referred to in the *Act* as an *appointed representative*.

12.2.2

G

/1

- (1) A *person* must satisfy the conditions in section 39(1) of the *Act* to become an *appointed representative*. These are that:
 - (a) the *person* must not be an *authorised person*, that is, he must not have *permission* under the *Act* to carry on any *regulated activity* in his own right (section 39(1) of the *Act*);
 - (b) the *person* must have entered into a contract with an *authorised person*, referred to in the *Act* as the '*principal*', which:
 - (i) permits or requires him to carry on business of a description prescribed in the *Appointed Representatives Regulations* (section 39(1)(a)(i) of the *Act*) (see SUP 12.2.7G); and
 - (ii) complies with any requirements that may be prescribed in the *Appointed Representatives Regulations* (section 39(1)(a)(ii) of the *Act*) (see SUP 12.5.2G); and
 - (c) the *principal* must have accepted responsibility, in writing, for the activities of the *person* in carrying on the whole, or part, of the business specified in the contract.
- (2) The *appointed representative* is an *exempt person* in relation to any *regulated activity* comprised in the carrying on of the business for which his *principal* has accepted responsibility.

12.2.3

G

/1

As long as the conditions in section 39 of the *Act* are satisfied, any *person*, other than an *authorised person*, may become an *appointed representative*, including a *body corporate*, a *partnership* or an individual in business on his own account. However, an *appointed representative* cannot be an *authorised person* under the *Act*; that is, it cannot be exempt for some *regulated activities* and *authorised* for others.

- 12.2.4** G_{/1} The *Act* and the *Appointed Representative Regulations* do not prevent an *appointed representative* from acting for more than one *principal*.
- 12.2.5** G_{/1} However, an *appointed representative* of a *provider firm* may only give *advice on investments* to a *private customer* concerning the purchase of a *packaged product* if it is issued by a *firm* in the *marketing group* or is an *adopted packaged product* (see SUP 12.5.6G).
- 12.2.6** G_{/1}
- (1) An *appointed representative* may be appointed by any *firm* with *permission* to carry on *designated investment business* of the type described in SUP 12.2.7G, including a *provider firm* or an *independent intermediary*.
 - (2) An *independent intermediary* is referred to as a '*network*' if it appoints five or more *appointed representatives* or if it appoints less than five *appointed representatives* which have, between them, twenty-six or more *financial advisers*.

Business for which an appointed representative is exempt

- 12.2.7** G_{/1} The *Appointed Representatives Regulations* are made by the Treasury under section 39(1) of the *Act*. These regulations describe, among other things, the business for which an *appointed representative* may be exempt, which is business which comprises any of:
- (1) *arranging (bringing about) deals in investments* or *making arrangements with a view to transactions in investments* (article 25 of the *Regulated Activities Order*) where the arrangements are for or with a view to transactions relating to *securities or contractually based investments*;
 - (2) *arranging safeguarding and administration of assets* (part of article 40 of the *Regulated Activities Order*);
 - (3) *advising on investments* (article 53 of the *Regulated Activities Order*); and
 - (4) *agreeing to carry on a regulated activity* (article 64 of the *Regulated Activities Order*) where the *regulated activity* is one of those in (1) to (3).

What is an introducer appointed representative?

- 12.2.8** G_{/1}
- (1) An *introducer appointed representative* is an *appointed representative* appointed by a *firm* whose scope of appointment must, under SUP 12.5.7R, be limited to:
 - (a) effecting introductions between *customers* and the *firm* or other members of the *firm's marketing group*; and
 - (b) distributing *non-real-time financial promotions approved* by the *firm* or other members of the *firm's marketing group* or the producer of an *adopted packaged product*.
 - (2) The permitted scope of appointment of an *introducer appointed representative* does not include *advising on investments* or other activity that might reasonably lead a *customer* to believe that he had received *advice on*

investments or that the *introducer appointed representative* is permitted to give *advice on investments*.

12.2.9

G
/1

- (1) To become an *introducer appointed representative*, a *person* must meet the conditions in the *Act* to become an *appointed representative* (see SUP 12.2.2G).
- (2) In considering the appointment of a *person* as an *introducer appointed representative*, a *firm* should have regard to the requirements in SUP 12.5.7R. In particular, these requirements mean that the *introducer appointed representative* cannot be an *appointed representative* for a member of another *marketing group*.

12.2.10

G
/1

All *rules* in SUP 12 apply in relation to *introducer appointed representatives* except for:

- (1) SUP 12.4.2R, on the appointment of *appointed representatives*, which is replaced by SUP 12.4.6R; and
- (2) SUP 12.5.5R on required contract terms, which is replaced by SUP 12.5.7R.

12.2.11

G
/1

If an *introducer appointed representative* is an individual in business on his own, then he will also be an *introducer* (see SUP 12.2.13G). This has certain implications in COB (see COB 5 (Advising and selling)).

Introducers, representatives and financial advisers: what do these terms mean and what is the relationship with an appointed representative?

12.2.12

G
/1

A *firm* or its *appointed representative* may appoint or employ individuals to act as *introducers*, *representatives* or *financial advisers* in respect of *designated investment business*.

12.2.13

G
/1

- (1) An *introducer* is an individual appointed by a *provider firm* or by an *appointed representative* of such a *firm* to carry out, in the course of *designated investment business*, either or both of the following activities:
 - (a) effecting introductions;
 - (b) distributing *non-real-time financial promotions*.
- (2) An *introducer* is not an *exempt person* under section 39 of the *Act* (unless he is also an *introducer appointed representative*) and hence cannot benefit from the exemption to carry on *regulated activities* in his own right. As a result, an *introducer* that is not an *introducer appointed representative* works in the name of his *firm* or the *firm's appointed representative* but he does not fall within the scope of the *approved persons* regime as he does not, as such, perform a *controlled function*.
- (3) An *introducer* who is also an *introducer appointed representative* in his own right may need to be approved to perform the *sole trader function* (see SUP 12.6.8G and SUP 12.6.9G). Further, in these circumstances, in addition to complying with the requirements in SUP 12, the *firm* should ensure that the rules for *introducers* in COB 5 are complied with.

12.2.14

G
/1

- (1) A *representative* is an individual appointed by a *provider firm* or by an *appointed representative* of that *firm*, to carry out, in the course of *designated investment business*, either or both of the following activities:
 - (a) advising *customers* on the merits of *packaged products* offered by that *firm* (or any other *provider firm* within the same *marketing group*);
 - (b) *arranging (bringing about) deals in investments* in relation to such products.
- (2) If a *provider firm* appoints an *appointed representative* who is an individual in (1), that *appointed representative* will also be a *representative*. The individual must be approved to perform the *investment adviser function* or the *customer trading function* or both, and possibly also the *sole trader function* (see SUP 12.6.8G and SUP 12.6.9G). In these circumstances, in addition to complying with the requirements of SUP 12 and other regulatory requirements, the *firm* should ensure that the *rules* for *representatives* in COB 5 are complied with.

12.2.15

G
/1

- (1) A *financial adviser* is an individual appointed by an *independent intermediary* or by its *appointed representative* to provide any or all of the following services:
 - (a) *advising on investments* which are *designated investments*;
 - (b) *arranging (bringing about) deals in investments* or *executing* transactions involving, in each case, *designated investments* with or for *clients*;
 - (c) *managing investments*;
 - (d) receiving or holding *client money* or other *client* assets;
 - (e) *safeguarding and administering investments*.
- (2) Many of the activities for which an *appointed representative* can be appointed (see SUP 12.2.7G) are also within (1). If an *independent intermediary* appoints an *appointed representative* which is an individual in business on his own account, to perform such activities, that *appointed representative* will also be a *financial adviser*. The individual may need to be approved to perform *the sole trader function* and other relevant *controlled functions* (see SUP 12.6.8G and SUP 12.6.9G). Further, in these circumstances, in addition to complying with the requirements of SUP 12 and other regulatory requirements, the *firm* should ensure that the *rules* for *financial advisers* in COB 5 are complied with.



12.3 What responsibility does a firm have for its appointed representatives?

- 12.3.1** G_{/1} In determining whether a *firm* has complied with any provision in or under the *Act* such as any *Principle* or other *rule*, anything that an *appointed representative* has done or omitted to do as respects the business for which the *firm* has accepted responsibility will be treated as having been done or omitted to be done by the *firm* (section 39(4) of the *Act*).
- 12.3.2** G_{/1} The *firm* is responsible, to the same extent as if it had expressly permitted it, for anything the *appointed representative* does or omits to do, in carrying on the business for which the *firm* has accepted responsibility (section 39(3) of the *Act*).
- 12.3.3** G_{/1} In determining whether the *firm* has committed any *offence*, however, the knowledge or intentions of an *appointed representative* are not attributable to the *firm*, unless in all the circumstances it is reasonable for them to be attributed to it (section 39(6) of the *Act*).

12.4 What must a firm do when it appoints an appointed representative?

The permission that the firm needs

- 12.4.1 **R** ^{/1} A *firm* may only appoint an *appointed representative* to carry on *regulated activities* on its behalf if the *firm* has *permission* to carry on those *regulated activities*.

Appointment of an appointed representative (other than an introducer appointed representative)

- 12.4.2 **R** ^{/1} Before a *firm* appoints a *person* as an *appointed representative* (other than an *introducer appointed representative*) and on a continuing basis, it must take reasonable care to ensure that:
- (1) the appointment does not prevent the *firm* from satisfying and continuing to satisfy the *threshold conditions*;
 - (2) the *person*:
 - (a) is solvent;
 - (b) is suitable to act for the *firm* in that capacity;
 - (c) has no *close links* which would be likely to prevent the effective supervision of the *person* by the *firm*; and
 - (3) the *firm* has adequate:
 - (a) controls over the *person's regulated activities* for which the *firm* has responsibility (see SYSC 3.1); and
 - (b) resources to monitor and enforce compliance by the *person* with the relevant requirements applying to the *regulated activities* for which the *firm* is responsible and with which the *person* is required to comply under its contract with the *firm* (see SUP 12.5.3R(2)).

12.4.3 **G**_{/1} In assessing, under *SUP* 12.4.2R(2)(a) and (b), whether an *appointed representative* or prospective *appointed representative* is solvent and suitable, a *firm* should determine, among other matters, whether the *person* is likely to be adversely influenced by its financial position in the conduct of the business for which the *firm* is responsible. This might arise, for example, if the *person* has cashflow problems and is not able to service its debts. Guidance for *firms* on assessing the financial position of an *appointed representative* or prospective *appointed representative* is given in *SUP* 12 Ann 1G.

12.4.4 **G**_{/1} In assessing, under *SUP* 12.4.2R(2)(b), whether an *appointed representative* or prospective *appointed representative* is suitable to act for the *firm* in that capacity, a *firm* should consider:

- (1) whether the *person* is fit and proper; *guidance* on the information that *firms* should take reasonable steps to obtain and verify is given in *SUP* 12 Ann 2G; and
- (2) the fitness and propriety (including good character and competence) and financial standing of the *controllers, directors, partners, proprietors and managers* of the *person*; *firms* seeking *guidance* on the information which they should take reasonable steps to obtain and verify should refer to *FIT* and the questions in Form A (Application to perform controlled functions under the approved person regime) in *SUP* 10 Ann 4D.

12.4.5 **G**_{/1} In determining, under *SUP* 12.4.2R(2)(c), whether an *appointed representative* or prospective *appointed representative* has any *close links* which would be likely to prevent the *firm's* effective supervision, a *firm* should consider the *guidance* to *threshold condition 3* (Close links) in *COND* 2.3.

Appointment of an introducer appointed representative

12.4.6 **R**_{/1} Before a *firm* appoints a *person* as an *introducer appointed representative*, and on a continuing basis, it must take reasonable care to ensure that the *person* is suitable to act for the *firm* in that capacity (having regard, in particular, to other *persons* connected with the *person* who will be, or who are, directly responsible for its activities).

12.4.7 **G**_{/1} In assessing, under *SUP* 12.4.6R, whether an *introducer appointed representative* or prospective *introducer appointed representative* is suitable to act for the *firm* in that capacity, the *firm* should determine whether it and those *persons* who will be, or who are, directly responsible for its activities are of sufficiently good reputation and otherwise fit and proper for that appointment. The *firm* should, as a minimum, verify the identity of a prospective *introducer appointed representative* and relevant *persons* but need not carry out the more extensive due diligence required for the appointment of an *appointed representative* under *SUP* 12.4.2R.

12.4.8 **G**_{/1} If a *firm* has doubts that a prospective *introducer appointed representative* or other *person* is of sufficiently good reputation and otherwise fit and proper, the *FSA* will expect it to resolve those doubts before appointing the prospective *introducer appointed representative*. For example, if a *firm* is aware that a *person's* previous appointment as an *introducer appointed representative* or *representative* was terminated, it should take reasonable steps to find out the reasons for the termination and the extent to which those reasons reflect on the *person* concerned.

12.5 Contracts: required terms

Required contract terms for all appointed representatives

- 12.5.1** G_{/1} The *Appointed Representative Regulations* include, among other things, the prescribed requirements applying to contracts between *firms* and *appointed representatives* for the purposes of section 39(1)(a)(ii) of the *Act*.
- 12.5.2** G_{/1}
- (1) Regulation 3 of the *Appointed Representatives Regulations* makes it a requirement that the contract between the *firm* and the *appointed representative* (unless it prohibits the *appointed representative* from representing other counterparties) contains a provision enabling the *firm* to:
 - (a) impose such a requirement; or
 - (b) impose restrictions as to the other counterparties which the *appointed representative* may represent, or as to the types of *investment* in relation to which the *appointed representative* may represent other counterparties.
 - (2) Under the *Appointed Representative Regulations*, an *appointed representative* is treated as representing other counterparties if it:
 - (a) makes arrangements (within article 25 of the *Regulated Activities Order*) for *persons* to enter into investment transactions with other counterparties; or
 - (b) *arranges the safeguarding and administration of assets* by other counterparties; or
 - (c) gives *advice* on the merits of entering into investment transactions with other counterparties;

where an "investment transaction" means a transaction to *buy, sell, subscribe for or underwrite a security or a contractually based investment*.
- 12.5.3** G_{/1} A *firm* should satisfy itself that the terms of the contract with its *appointed representative* (including an *introducer appointed representative*):
- (1) are designed to enable the *firm* to comply properly with any *limitations or requirements* on its own *permission*;
 - (2) require the *appointed representative* to cooperate with the *FSA* as described in *SUP 2.3.4G* (Information gathering by the *FSA* on its own initiative: cooperation by firms) and give access to its premises, as described in *SUP 2.3.5R(2)*; and

- (3) require the *appointed representative* to give the *firm's* auditors the same rights as are provided by section 341 of the *Act*, as described in SUP 3.6.6G.

12.5.4

G

/1

A *firm* should have the ability to terminate the contract with its *appointed representative* in the circumstances in SUP 12.6.1R(2). However, such a termination provision should not be automatic (see SUP 12.8.3R(1)).

Required contract terms for an appointed representative (other than an introducer appointed representative)

12.5.5

R

/1

A *firm* must ensure that its written contract with each of its *appointed representatives* (other than *introducer appointed representatives*):

- (1) complies with the requirements prescribed in regulation 3 of the *Appointed Representatives Regulations* (see SUP 12.5.2G); and
- (2) requires the *appointed representative* to comply, and to ensure that any *persons* who provide services to the *appointed representative* under a contract of services or a contract for service comply, with the relevant requirements in or under the *Act* (including the *rules*) that apply to the activities which it carries on as *appointed representative* of the *firm*.

12.5.6

G

/1

- (1) If the *appointed representative* is appointed to give *advice on investments* to *private customers* concerning *packaged products*, the *firm* should also satisfy itself that:

- (a) the contract requires compliance with the *rules* in COB 5.1 (Polarisation and status disclosure); and
- (b) if the *firm* is a *provider firm*, the contract prevents the *appointed representative* from giving *advice on investments* to a *private customer* concerning the purchase of a *packaged product* which is not issued by the *firm* or by another member of its *marketing group* or is not an *adopted packaged product* (see COB 5.1.8R).

- (2) The contractual requirements in SUP 12.5.5R should extend to:

- (a) the activities of the *appointed representative*, if the *appointed representative* is a *representative, introducer or financial adviser*; or
- (b) the activities of the *employees* of, or *representatives, introducers and financial advisers* appointed by, the *appointed representative*.

Required contract terms for an introducer appointed representative

12.5.7

R

/1

A *firm* must ensure that its written contract with each of its *introducer appointed representatives* prohibits the *introducer appointed representative* from:

- (1) in relation to a *designated investment* or *designated investment business*:
 - (a) effecting an introduction between a *customer* and a *person* other than the *firm* or another member of the *firm's marketing group*; and
 - (b) distributing *non-real-time financial promotions approved* by a *person* other than the *firm* or another member of the *firm's marketing group* or the producer of an *adopted packaged product*; and
- (2) carrying on any *regulated activity* on behalf of any *person* other than the *firm* or another member of the *firm's marketing group*.

12.6 Continuing obligations of firms with appointed representatives

Suitability etc. of appointed representatives

- 12.6.1** **R**_{/1} If at any time a *firm* has reasonable grounds to believe that the conditions in *SUP* 12.4.2R or *SUP* 12.4.6R (as applicable) are not satisfied, or are likely not to be satisfied, in relation to any of its *appointed representatives*, the *firm* must:
- (1) take immediate steps to rectify the matter; or
 - (2) terminate its contract with the *appointed representative*.
- 12.6.2** **G**_{/1} The *FSA* would normally expect a *firm* to carry out a check on its *appointed representative's* financial position every year (more often, if necessary) and to review critically the information obtained. An appropriately experienced *person* (for example, a financial accountant) should carry out these checks.
- 12.6.3** **G**_{/1} Consideration should be given, among other things, to the impact on the *appointed representative's* financial position of any debts owed to, or by, the *appointed representative*. Indicators that an *appointed representative* is experiencing financial problems may include failure to adhere to repayment schedules for any debts, failure to meet any other financial commitments or requests for advances of *commission*.
- 12.6.4** **G**_{/1} A *firm* should look into any concerns that may arise at any time about an *appointed representative's* financial standing and take the necessary action. The necessary action may include, for example, increased monitoring or, if appropriate, suspension or termination of the appointment.

Appointed representatives not to hold client money

- 12.6.5** **R**_{/1}
- (1) A *firm* must not permit an *appointed representative* to hold *client money*.
 - (2) The *firm* must take reasonable steps to ensure that if *client money* is received by the *appointed representative*, it is paid into a *client bank account* of the *firm*, or forwarded to the *firm*, in accordance with *COB* 9.3.49R to *COB* 9.3.51R.

Regulated activities and investment services outside the scope of appointment

12.6.6

R

/1

A *firm* must take reasonable steps to ensure that each of its *appointed representatives*:

- (1) does not carry on *regulated activities* in breach of the *general prohibition* in section 19 of the *Act*; and
- (2) carries on the *regulated activities* for which the *firm* has accepted responsibility in a way which is, and is held out as being, clearly distinct from any of the *appointed representative's* other business:
 - (a) which is performed as an *appointed representative* of another *firm*; or
 - (b) which:
 - (i) is, or is held out as being, primarily for the purposes of investment; and
 - (ii) is not a *regulated activity*.

Senior management responsibility for appointed representatives

12.6.7

G

/1

The senior management of a *firm* should be aware that the activities of *appointed representatives* are an integral part of the business that they manage. The responsibility for the control and monitoring of the activities of *appointed representatives* rests with the senior management of the *firm*. *Guidance* is set out in SYSC 3 on delegation (for example, SYSC 3.2.3G and SYSC 3.2.4G) and in the *Statements of Principle* and *Code of Practice for Approved Persons* in APER (for example, APER 4.5 and APER 4.6).

Obligations of firms under the approved persons regime

12.6.8

G

/1

Some of the *controlled functions*, as set out in SUP 10.4.1R, apply to an *appointed representative* of a *firm* just as they apply to a *firm* (see SUP 10.1.16R). These are the *governing functions* and the *customer functions* (other than the *investment management function*), for example, CF 21, the *investment adviser function*. As explained in SUP 10.1.17G and SUP 10.3.2G respectively:

- (1) the effect of SUP 10.1.16R is that the *directors* (or their equivalent) and *senior managers* (or their equivalent) of an *appointed representative* must also be approved under section 59 of the *Act* for the performance of certain *controlled functions*; and
- (2) sections 59(1) and 59(2) of the *Act* (Approval for particular arrangements) provide that approval is necessary in respect of a *controlled function* which is performed under an *arrangement* entered into by a *firm*, or its contractors (typically an *appointed representative*), in relation to a *regulated activity*.

12.6.9

G

/1

Firms should be aware that, under the *approved persons* regime, the *firm* is responsible for submitting applications to the FSA for the approval as an *approved person* of:

- (1) any individual who performs a *controlled function* and who is an *appointed representative*; and
- (2) any *person* who performs a *controlled function* under an *arrangement* entered into by any of the *firm's appointed representatives*.

Applications for approval should be submitted as early as possible since a *person* may not perform a *controlled function* if he has not been approved by the FSA (see SUP 10.12).

Obligations of firms under the training and competence rules

12.6.10

G

/1

The *rules* and *guidance* in TC extend to any *employee* of the *firm* in respect of whom the relevant *rules* apply. For these purposes, an *employee* of a *firm* includes:

- (1) an individual who is an *appointed representative* of a *firm*; and
- (2) an individual who is employed or appointed by an *appointed representative* of a *firm* (whether under a contract of service or for services) in connection with the business of *the appointed representative* for which the *firm* has accepted responsibility.

12.6.11

G

/1

A *firm* should take reasonable care to ensure that:

- (1) it has satisfied TC 2 in respect of the relevant staff of the *appointed representative*; and
- (2) its *appointed representative* has adequate arrangements in respect of training and competence, which meet the requirements in TC.

Additional obligations for introducer appointed representatives

12.6.12

R

/1

A *firm* must take reasonable steps to ensure that each of its *introducer appointed representatives*:

- (1) does not, in relation to a *designated investment* or *designated investment business*:
 - (a) effect an introduction between a *customer* and a *person* other than the *firm* or another member of the *firm's marketing group*; or
 - (b) distribute *non-real-time financial promotions* approved by a *person* other than the *firm* or another member of the *firm's marketing group* or the producer of an *adopted packaged product*; and

- (2) does not carry on any *regulated activity* on behalf of any *person* other than the *firm* or another member of the *firm's marketing group*.

12.7 Notification requirements

- 12.7.1** **R**_{/1} (1) A *firm* which appoints an *appointed representative* must give written notice of the appointment to the *FSA* not more than ten *business days* after the date the appointment takes effect.
- (2) A *firm's* notification under (1) must be given to a member of or addressed for the attention of the Corporate Authorisation department at the address given in *SUP 12.7.5R*.
- 12.7.2** **G**_{/1} A *firm's* notice under *SUP 12.7.1R* should give details of the *appointed representative* and the *regulated activities* which the *firm* is, or intends to, carry on through the *appointed representative*, including:
- (1) the name of the *firm's* new *appointed representative* (if the *appointed representative* is a *body corporate*, this is its registered name);
- (2) any trading name under which the *firm's* new *appointed representative* carries on a *regulated activity* in that capacity;
- (3) a description of the *regulated activities* which the *appointed representative* is permitted or required to carry on and for which the *firm* has accepted responsibility; and
- (4) any restrictions imposed on the *regulated activities* for which the *firm* has accepted responsibility.
- 12.7.3** **G**_{/1} A *firm* need not notify the *FSA* of any restrictions imposed on the *regulated activities* for which the *firm* has accepted responsibility (under *SUP 12.7.2G(4)*) if the *firm* accepts responsibility for the unrestricted scope of the *regulated activities*.
- 12.7.4** **G**_{/1} (1) *Firms* can obtain a standard notification form from either the *FSA* website at www.fsa.gov.uk or by post from the Corporate Authorisation department.
- (2) A *firm's* notice under *SUP 12.7.1R* should be returned to the Corporate Authorisation department at the address below.
- 12.7.5** **R**_{/1} **To contact the Corporate Authorisation department:**
- (1) telephone on 020 7676 1000; fax on 020 7676 1099; or
- (2) write to: Corporate Authorisation department, The Financial Services Authority, 25 The North Colonnade, Canary Wharf, London E14 5HS; or
- (3) email appreps@fsa.gov.uk.

- 12.7.6** **G**_{/1} When the *FSA* receives the notification under *SUP* 12.7.1R, it will update the *firm's* entry in the *FSA Register* to include public information about the *firm's* *appointed representative*.
- 12.7.7** **R**_{/1}
- (1) A *firm* must give written notice to the *FSA* of a change in any information provided to the *FSA* under *SUP* 12.7.1R, within ten *business days* of a change being made or, if later, as soon as it becomes aware of the change. The notice must state the information that has changed.
 - (2) A *firm's* notification under (1) must be given to a member of or addressed for the attention of the Corporate Authorisation department at the address given in *SUP* 12.7.5R.
- 12.7.8** **R**_{/1}
- (1) A *firm* must give written notice to the *FSA* as soon as it has reasonable grounds to believe that any of the conditions in *SUP* 12.4.2R or *SUP* 12.4.6R (as applicable) are not satisfied, or are likely not to be satisfied, in relation to any of its *appointed representatives*.
 - (2) In its notification under *SUP* 12.7.8R(1), the *firm* must state either:
 - (a) the steps it proposes to take to rectify the matter; or
 - (b) the date of termination of its contract with the *appointed representative* (see *SUP* 12.8).
 - (3) A *firm's* notification under (1) must be given to a member of or addressed for the attention of the Corporate Authorisation department at the address given in *SUP* 12.7.5R.

12.8 Termination of a relationship with an appointed representative

Notification of termination or prohibited amendment of the contract

12.8.1

R

/1

If either the *firm* or the *appointed representative* notifies the other that it proposes to terminate a contract or to amend it so that it no longer meets the requirements prescribed in the *Appointed Representative Regulations* (see *SUP 12.5.2G*) and, in the case of an *introducer appointed representative*, *SUP 12.5.7R*, the *firm* must:

- (1) give written notice to the *FSA* no more than ten *business days* after the date of the decision to terminate or so amend the contract or, if later, as soon as it becomes aware that the contract is to be or has been terminated or amended;
- (2) include in the written notice the reason for the termination or amendment, if the termination or amendment is due to misconduct or the *appointed representative* is resigning while under investigation by the *firm*, the *FSA*, another regulator, a *clearing house*, an *exchange*, a *designated professional body*, or a government body or agency;
- (3) if relevant, include in the written notice details of action taken by the *firm* and, if applicable, its outcome; and
- (4) ensure that the written notice is given to a member of or addressed for the attention of the Corporate Authorisation department at the address given in *SUP 12.7.5R*.

12.8.2

G

/1

In assessing whether to terminate a relationship with an *appointed representative*, a *firm* should be aware that the *notification rules* in *SUP 15* require notification to be made immediately to the *FSA* if certain events occur. Examples include a matter having a serious regulatory impact or involving an *offence* or a breach of any requirement imposed by the *Act* or by regulations or orders made under the *Act* by the Treasury.

Steps to be taken on termination or prohibited amendment of the contract

12.8.3

R

/1

If a contract with an *appointed representative* is terminated, or if it is amended in a way which gives rise to a requirement to notify under SUP 12.8.1R, a *firm* must take all reasonable steps to ensure that:

- (1) if the termination is by the *firm*, the *appointed representative* is notified in writing before, or if not possible, immediately on, the termination of the contract and informed that it will no longer be an *exempt person* for the purpose of the *Act* because of the contract with the *firm*;
- (2) outstanding *regulated activities* and obligations to *customers* are properly completed and fulfilled either by itself or another of its *appointed representatives*; and
- (3) where appropriate, *clients* are informed of any relevant changes.

Notification of approved persons on termination

12.8.4

G

/1

The *firm* is responsible for notifying the *FSA* of any *approved person* who no longer performs a *controlled function* under an *arrangement* entered into by a *firm* or its *appointed representative* (see SUP 10.13).

12.9 Record keeping

- 12.9.1** **R** ^{/1} A *firm* must make the following records on each of its *appointed representatives*:
- (1) the *appointed representative's* name;
 - (2) a copy of the original contract with the *appointed representative* and any subsequent amendments to it (including details of any restrictions placed on the activities which the *appointed representative* may carry on); and
 - (3) the date and reason for terminating or amending its contract with the *appointed representative*, whenever such termination or amendment gives rise to a requirement to notify under *SUP* 12.8.1R.
- 12.9.2** **R** ^{/1} A *firm* must retain these records for at least three years from the date of termination or the amendment of the contract with the *appointed representative*.
- 12.9.3** **G** ^{/1} The *firm* should also satisfy itself that:
- (1) the *appointed representative* is making and retaining records in accordance with the relevant record keeping *rules* in the *Handbook*, if these records are not maintained by the *firm*;
 - (2) the *appointed representative* (other than an *introducer appointed representative*) is making and retaining records sufficient to disclose with reasonable accuracy the financial position of the *business* it carries on in its capacity as the *firm's appointed representative*; and
 - (3) the *firm* has full access to the *appointed representative's* records under (1) and (2) and any other records relevant to the *regulated activities* that the *appointed representative* carries on in that capacity.
- 12.9.4** **G** ^{/1} *Firms* are reminded that they should make and retain records in relation to any *person* who falls within the scope of the *rules* in *TC* or who performs a *controlled function* under an *arrangement* entered into by a *firm* or by an *appointed representative*. See *SUP* 10 and *TC* for the applicable record keeping *rules*.

SUP 12 Ann 1G: Guidance on steps a firm should take in assessing the financial position of an appointed representative (other than an introducer appointed representative). See SUP 12.4.3G

1 Table

1. The *guidance* in this annex applies to a *firm* which intends to appoint, or has appointed, an *appointed representative* (other than an *introducer appointed representative*).
2. All of the items in this annex should be applied, as appropriate, to an individual who is in business on his own.
3. *Partners* in *partnerships* (other than limited partners in *limited liability partnerships*) have joint and several unlimited liability. It follows that any assessment of the financial position of an *appointed representative* which is a *partnership* should take into account the financial position of the individual *partners* as well as the *partnership* itself.

2 Table Assessing the financial position of an appointed representative (other than an introducer appointed representative)

Accounts	<ol style="list-style-type: none"> 1. Consider whether the type of accounts obtained is appropriate to the type of <i>appointed representative</i> (for example, <i>companies</i> should supply audited accounts prepared in accordance with Companies Act provisions while individuals in business on their own may only prepare unaudited accounts, for example, for submission to the Inland Revenue or their bankers). 2. Consider whether the accounts have been prepared on a timely basis. Consider the content of the audit report, including all detail and explanations given, and any qualifications which it may contain. Investigate any concerns. 3. If relevant, obtain the most recent management accounts to assess whether the <i>appointed representative's</i> financial position has changed materially since the most recent audited accounts. 4. If audited accounts are not available, be more circumspect about the accounts as they have not been independently audited. If necessary, consider obtaining third party verification of material balances.
----------	--

Unusual items/ recoverability of debts/ goodwill	<ol style="list-style-type: none"> 1. Investigate fully any unusual items – in particular any amounts outstanding with <i>directors, partners, connected persons</i> or <i>associates</i> and any guarantees. 2. Consider whether any amounts due to the <i>appointed representative</i> would be recoverable; and whether the <i>appointed representative</i> would be in a position to pay any debts if it were required to do so at short notice. 3. Any balance for goodwill should be ignored since this will normally represent a stream of potential future income which may not be forthcoming if the equity interest in the <i>appointed representative</i> were sold.
Financial stability/ cash- flows	<ol style="list-style-type: none"> 1. Critically review the accounts to ensure that the <i>appointed representative</i> is financially stable. The review should take into account the overall position of the <i>appointed representative</i> and its cashflow. 2. The review should also consider the nature of the <i>appointed representative's</i> assets and whether or not they are liquid and readily available to the <i>appointed representative</i>, if required. <i>Investments</i> in (for example) unquoted <i>companies</i> or <i>property</i> may be difficult to realise if there were a sudden need for <i>cash</i>.
Income / financial pres- sures	<ol style="list-style-type: none"> 1. Assess the overall financial pressures on the <i>appointed representative</i> and <i>connected persons</i>. Account should be taken of the full range of the <i>appointed representative's</i> activities (and not merely those activities in which the <i>appointed representative</i> will be acting for the <i>firm</i>). Careful consideration should be given to any debts arising out of previous activities within the financial services industry. 2. If relevant, review the accounts of any <i>associates</i> where there is a possibility that their performance – or any commitments entered into in respect of them – may affect the financial position of the <i>appointed representative</i>. 3. Establish whether the <i>appointed representative's</i> income is sufficient both to service any debts and to provide an acceptable level of income to the proprietors.

Credit checks / dealings gov- ernment bodies	<ol style="list-style-type: none"> 1. Undertake a <i>credit</i> reference check on the <i>appointed representative</i> itself (in the case of a <i>company</i>); on the <i>partners</i> (in the case of a <i>partnership</i>); or on the individual (in the case of a <i>sole trader</i>). 2. Ask the <i>appointed representative</i> whether it is up to date in its dealings with the Inland Revenue, HM Customs and Excise (etc).
Forecasts	<ol style="list-style-type: none"> 1. If relevant, obtain a <i>forecast</i> of the next year's figures and review it to ensure that the <i>appointed representative</i> is likely to remain in a satisfactory financial position. This is particularly important where a material change is expected in the <i>appointed representative's</i> operations; or where the <i>appointed representative</i> has only recently been established so that accounts are not available for the previous three complete financial years. 2. If the <i>firm</i> decides to appoint the <i>appointed representative</i>, the <i>firm</i> should keep the <i>appointed representative's</i> actual performance under close review so as to assess whether the <i>forecasts</i> were realistic and to enable any problems to be addressed.

SUP 12 Ann 2G: Guidance on information firms should take reasonable steps to obtain to verify and to assess the fitness and propriety of an appointed representative (other than an introducer appointed representative). See SUP 12.4.4G(1).

1 Table Guidance Notes

1. The *guidance* in this annex applies to a *firm* which intends to appoint or has appointed an *appointed representative* (except an *introducer appointed representative*).
2. Items 1(c) and 1(d) in the following table will not be relevant in the case of an individual who is himself an *appointed representative*, unless, in the case of 1(d), the individual is in business on his own.
3. If the *appointed representative* is a *partnership*, the information a *firm* should obtain, having regard to SUP 12.4.4(1)G, is that contained in this annex on the basis that the information sought applies to each *partner*. When considering the fitness and propriety of each *partner*, having regard to SUP 12.4.4(1)G, information a firm should obtain will also include information in this annex. Therefore, a *firm* may wish to assess the fitness and propriety of *partners* as suggested in SUP 12.4.4(2)G and then consider if any additional information is recommended under this annex.

2 Table Verifying and assessing the fitness and propriety of an appointed representative (other than an introducer appointed representative).

(1)	Information about the <i>appointed representative</i>	(a) Name (b) Address, and, where applicable and different, address of the registered office and the principal place of <i>business</i> (c) full name of every <i>director</i> , <i>senior manager</i> and <i>controller</i> (d) accounts (see SUP 12 Ann 1G) for the last three complete financial years
	The <i>appointed representative's</i> professional reputation	(a) Disciplinary proceedings <ol style="list-style-type: none"> (i) whether the <i>appointed representative</i> has ever been publicly censured, disciplined, suspended or expelled by the <i>FSA</i>, another regulator, a <i>clearing house</i>, an <i>exchange</i>, a <i>professional body</i>, or a <i>government body</i> or agency; (ii) whether the <i>appointed representative</i> is currently the subject of any disciplinary proceedings by a body referred to in (i) above or is aware that such proceedings are pending; (iii) whether the <i>appointed representative</i> has ever been the subject of a formal investigation under the powers in the Companies Act 1985; and (iv) whether the <i>appointed representative</i> has had anything equivalent to (i) to (iii) above occur under relevant overseas provisions.

<p>The <i>appointed representative's</i> professional reputation – continued</p>	<p>(b) Criminal or civil proceedings</p> <p>Whether the <i>appointed representative</i> is a defendant in any current civil proceedings connected with professional activities in which an allegation of fraud or dishonesty is being made, the subject of any current criminal proceedings, or has been convicted of any criminal offence, either in the <i>United Kingdom</i> or overseas.</p> <p>(c) Insolvency, bankruptcy and winding up</p> <p>Whether the <i>appointed representative</i> has:</p> <ul style="list-style-type: none"> (i) been wound up or had a petition presented, or had a meeting called to consider a resolution, for winding it up; or (ii) in the case of a company, been the subject of an application to dissolve it or to strike it off the Register of Companies; or (iii) made, or proposed to make, a composition or voluntary arrangement with any one of more of its creditors; or (iv) had an administrator or trustee in bankruptcy appointed to it or had an application made for such an appointment; or (v) had a receiver appointed to it (whether an administrative receiver or a receiver appointed over particular property); or (vi) had an application for an interim order made against it under section 252 of the Insolvency Act 1986 (or, in Northern Ireland, section 227 of the Insolvency (Northern Ireland) Order 1989); or (vii) if it is a <i>sole trader</i>, been the subject of an application for a sequestration order or a petition for bankruptcy; or (viii) ceased trading in circumstances in which any of its creditors did not receive full payment; or. (ix) had anything equivalent to (i) to (viii) above occur under relevant overseas law.
--	--

Chapter 15

Notifications to the FSA

15.1 Application

Who?

- 15.1.1 **R** This chapter applies to every *firm* except an *ICVC* or a *UCITS* *qualifier*.
/1
- 15.1.2 **R** The application of this chapter to an *incoming EEA firm* or an *incoming Treaty firm* is set out in *SUP 15 Ann 1R*.
/1
- 15.1.3 **G** In some cases, the application of provisions set out in *SUP 15 Ann 1R* depends on whether responsibility is reserved to a *Home State regulator*. *SYSC App 1* contains *guidance* on this.
/1

What?

- 15.1.4 **R** This chapter:
/1
- (1) applies with respect to the carrying on of both *regulated activities* and *unregulated activities*; and
 - (2) takes into account any activity of other members of a *group* of which the *firm* is a member.

Where?

- 15.1.5 **G** *Firms* are reminded that, unless expressly stated otherwise, where a *rule* or *guidance* includes a reference to a '*firm*' this includes all *UK* and overseas branches and representative offices of that *firm*, whether or not those branches or offices carry on any *regulated activities*.
/1

15.2 Purpose

15.2.1

G

^{/1}

A *firm* is required to provide the FSA with a wide range of information to enable the FSA to meet its responsibilities for monitoring the *firm's* compliance with requirements imposed by or under the *Act*. Some of this information is provided through regular reports, including those set out in SUP 16 (Reporting requirements) and SUP 17 (Transaction reporting). In addition, other chapters in the *Handbook* set out specific notification and reporting requirements. *Principle 11* includes a requirement for a *firm* to disclose to the FSA appropriately anything relating to the *firm* of which the FSA would reasonably expect notice.

15.2.2

G

^{/1}

This chapter sets out:

- (1) *guidance* on the type of event or change in condition which a *firm* should consider notifying in accordance with *Principle 11*; the purpose of this *guidance* is to set out examples and not to give comprehensive advice to *firms* on what they should notify in order to be in compliance with *Principle 11*;
- (2) *rules* on events and changes in condition that a *firm* must notify; these are the types of event that the FSA must be informed about, usually as soon as possible, if it is to be able to carry out its monitoring function effectively and react in good time to developments that may require a regulatory response;
- (3) *rules* on the core information that a *firm* must provide to the FSA, for example its name and address and the names of its other regulators, so that the FSA is able to maintain a relationship with the *firm* and with those regulators; and
- (4) *rules* requiring a *firm* to ensure that information provided to the FSA is accurate and complete; section 398 of the *Act* makes it an *offence* knowingly or recklessly to provide the FSA with information which is false or misleading in a material particular, in purported compliance with any requirement imposed by or under the *Act*; the purpose of the *rules* in SUP 15.6 is to ensure that *firms* take due care to ensure the accuracy of information and to require them to ensure that information is not only accurate but also complete.

15.2.3

G

^{/1}

Rules and *guidance* have also been included to set out how *firms* should make a notification and to determine when it may be appropriate to discuss matters with their usual supervisory contact by telephone (SUP 15.7).

15.2.4

G

^{/1}

Schedule 2 contains a consolidated summary of all the *notification rules* applicable to *firms* set out in the *Handbook*.

15.3 General notification requirements

Matters having a serious regulatory impact

- 15.3.1** **R**_{/1} A *firm* must notify the FSA immediately it becomes aware, or has information which reasonably suggests, that any of the following has occurred, may have occurred or may occur in the foreseeable future:
- (1) the *firm* failing to satisfy one or more of the *threshold conditions*; or
 - (2) any matter which could have a significant adverse impact on the *firm's* reputation; or
 - (3) any matter which could affect the *firm's* ability to continue to provide adequate services to its *customers* and which could result in serious detriment to a *customer* of the *firm*; or
 - (4) any matter in respect of the *firm* which could result in serious financial consequences to the *financial system* or to other *firms*.
- 15.3.2** **G**_{/1} The circumstances which may give rise to any of the events in SUP 15.3.1R are wide-ranging and the probability of any matter resulting in such an outcome, and the severity of the outcome, may be difficult to determine. However, the FSA expects *firms* to consider properly all potential consequences of events.
- 15.3.3** **G**_{/1} In determining whether an event that may occur in the foreseeable future should be notified to the FSA, a *firm* should consider both the probability of the event happening and the severity of the outcome should it happen.
- 15.3.4** **G**_{/1} *Guidance* on satisfaction of the *threshold conditions* is given in COND.
- 15.3.5** **G**_{/1} A *firm* making a notification in accordance with SUP 15.3.1R should consider the *guidance* in SUP 15.7.2G and notify the FSA by telephone if appropriate.
- 15.3.6** **G**_{/1} An *insurer* or *friendly society* making a notification under SUP 15.3.1R(1) relating to satisfaction of *threshold condition 4* (Adequate resources) should be aware of the requirements in SUP App 2 (Scheme of operations).

Communication with the FSA in accordance with Principle 11

15.3.7

G

/1

Principle 11 requires a *firm* to deal with its regulators in an open and cooperative way and to disclose to the FSA appropriately anything relating to the *firm* of which the FSA would reasonably expect notice. *Principle 11* applies to *unregulated activities* as well as *regulated activities* and takes into account the activities of other members of a *group*.

15.3.8

G

/1

Compliance with *Principle 11* includes, but is not limited to, giving the FSA notice of:

- (1) any proposed restructuring, reorganisation or business expansion which could have a significant impact on the *firm's* risk profile or resources, including, but not limited to:
 - (a) setting up a new *undertaking* within a *firm's group*, or a new branch (whether in the *United Kingdom* or overseas); or
 - (b) commencing the provision of cross border services into a new territory; or
 - (c) commencing the provision of a new type of product or service (whether in the *United Kingdom* or overseas); or
 - (d) ceasing to undertake a *regulated activity* or *ancillary activity*, or significantly reducing the scope of such activities; or
 - (e) entering into, or significantly changing, a *material outsourcing* arrangement (a *bank* should also see IPRU(BANK) OS 4.2 and a *building society* should also see IPRU(BSOC) 12 OS 4.2 for further details); or
 - (f) a substantial change or a series of changes in the *governing body* of an *overseas firm* (other than an *incoming firm*); or
 - (g) any change to the *firm's* prudential category or sub-category, as used in the Interim Prudential sourcebooks and SUP and on which *guidance* is given in SUP App 1;
- (2) any significant failure in the *firm's* systems or controls, including those reported to the *firm* by the *firm's* auditor;
- (3) any action which a *firm* proposes to take which would result in a material change in its capital adequacy or solvency, including, but not limited to:
 - (a) any action which would result in a material change in the *firm's* financial resources or financial resources requirement; or
 - (b) a material change resulting from the payment of a special or unusual dividend or the repayment of *share* capital or a subordinated loan; or
 - (c) for *firms* which are subject to the *rules* on consolidated financial supervision, any proposal under which another *group company* may be considering such an action; or
 - (d) significant trading or non-trading losses (whether recognised or unrecognised).

15.3.9 G_{/1} The period of notice given to the *FSA* will depend on the event, although the *FSA* expects a *firm* to discuss relevant matters with it at an early stage, before making any internal or external commitments.

15.3.10 G_{/1} A notification under *Principle 11* may be given orally or in writing (as set out in *SUP 15.7.1R* and *SUP 15.7.2G*), although the *FSA* may request written confirmation of a matter. However, it is the responsibility of a *firm* to ensure that matters are properly and clearly communicated to the *FSA*. A *firm* should provide a written notification if a matter either is complex or may be such as to make it necessary for the *FSA* to take action. A *firm* should also have regard to *Principle 11* and the *guidance* in *SUP 15.7.2G* in respect of providing important information promptly.

Breaches of rules and other requirements in or under the Act

15.3.11 R_{/1} (1) A *firm* must notify the *FSA* of:

- (a) a significant breach of a *rule* (which includes a *Principle*) or *Statement of Principle*; or
- (b) a breach of any requirement imposed by the *Act* or by regulations or an order made under the *Act* by the Treasury (except if the breach is an *offence*, in which case (c) applies); or
- (c) the bringing of a prosecution for, or a conviction of, any *offence* under the *Act*;

by (or as regards (c) against) the *firm* or any of its *directors*, *officers*, *employees*, *approved persons*, or *appointed representatives*.

(2) A *firm* must make the notification in (1) immediately it becomes aware, or has information which reasonably suggests, that any of the matters in (1) has occurred, may have occurred or may occur in the foreseeable future.

15.3.12 G_{/1} In *SUP 15.3.11R*(1)(a), significance should be determined having regard to potential financial losses to *customers* or to the *firm*, frequency of the breach, implications for the *firm's* systems and controls and if there were delays in identifying or rectifying the breach.

15.3.13 G_{/1} In assessing whether an event that may occur in the foreseeable future should be notified to the *FSA*, a *firm* should consider the *guidance* in *SUP 15.3.3G*.

15.3.14 G_{/1} A notification under *SUP 15.3.11R* should include:

- (1) information about any circumstances relevant to the breach or *offence*;
- (2) identification of the *rule* or requirement or *offence*; and
- (3) information about any steps which a *firm* or other *person* has taken or intends to take to rectify or remedy the breach or prevent any future potential occurrence.

Civil, criminal or disciplinary proceedings against a firm

15.3.15

RA *firm* must notify the *FSA* immediately if:

/1

- (1) civil proceedings are brought against the *firm* and the amount of the claim is significant in relation to the *firm's* financial resources or its reputation; or
- (2) any action is brought against the *firm* under section 71 of the *Act* (Actions for damages) or section 150 (Actions for damages); or
- (3) disciplinary measures or sanctions have been imposed on the *firm* by any statutory or regulatory authority, professional organisation or trade body (other than the *FSA*) or the *firm* becomes aware that one of those bodies has started an investigation into its affairs; or
- (4) the *firm* is prosecuted for, or convicted of, any *offence* involving fraud or dishonesty, or any penalties are imposed on it for tax evasion; or
- (5) it is an *OPS firm*, which is a trustee, and is removed as trustee by a court order.

15.3.16

GA notification under *SUP* 15.3.15R should include details of the matter and an estimate of the likely financial consequences, if any.

/1

Fraud, errors and other irregularities

15.3.17

RA *firm* must notify the *FSA* immediately if one of the following events arises and the event is significant:

/1

- (1) it becomes aware that an *employee* may have committed a fraud against one of its *customers*; or
- (2) it becomes aware that a *person*, whether or not *employed* by it, may have committed a fraud against it; or
- (3) it considers that any *person*, whether or not *employed* by it, is acting with intent to commit a fraud against it; or
- (4) it identifies irregularities in its accounting or other records, whether or not there is evidence of fraud; or
- (5) it suspects that one of its *employees* may be guilty of serious misconduct concerning his honesty or integrity and which is connected with the *firm's regulated activities* or *ancillary activities*.

15.3.18

GIn determining whether a matter is significant, a *firm* should have regard to:

/1

- (1) the size of any monetary loss or potential monetary loss to itself or its *customers* (either in terms of a single incident or group of similar or related incidents);
- (2) the risk of reputational loss to the *firm*; and
- (3) whether the incident or a pattern of incidents reflects weaknesses in the *firm's internal controls*.

15.3.19

G
/1

The notifications under SUP 15.3.17R are required as the FSA needs to be aware of the types of fraudulent and irregular activity which are being attempted or undertaken, and to act, if necessary, to prevent effects on *consumers* or other *firms*. A notification under SUP 15.3.17R should provide all relevant and significant details of the incident or suspected incident of which the *firm* is aware.

15.3.20

G
/1

In addition, the *firm* may have suffered significant financial losses as a result of the incident, or may suffer reputational loss, and the FSA will wish to consider this and whether the incident suggests weaknesses in the *firm's internal controls*.

Insolvency, bankruptcy and winding up

15.3.21

R
/1

A *firm* must notify the FSA immediately of any of the following events:

- (1) the calling of a meeting to consider a resolution for winding up the *firm*; or
- (2) an application to dissolve the *firm* or to strike it off the Register of Companies; or
- (3) the presentation of a petition for the winding up of the *firm*; or
- (4) the making of, or any proposals for the making of, a composition or arrangement with any one or more of its creditors; or
- (5) an application for the appointment of an administrator or trustee in bankruptcy to the *firm*; or
- (6) the appointment of a receiver to the *firm* (whether an administrative receiver or a receiver appointed over particular property); or
- (7) an application for an interim order against the *firm* under section 252 of the Insolvency Act 1986 (or, in Northern Ireland, section 227 of the Insolvency (Northern Ireland) Order 1989); or
- (8) if the *firm* is a *sole trader*:
 - (a) an application for a sequestration order on the *firm*; or
 - (b) the presentation of a petition for bankruptcy; or

-
- (9) anything equivalent to (1) to (8) above occurring in respect of the *firm* in a jurisdiction outside the *United Kingdom*.

15.4 Notified persons

- 15.4.1** **R** /1 (1) *An overseas firm, which is not an incoming firm, must notify the FSA within 30 business days of any person taking up or ceasing to hold the following positions:*
- (a) *the firm's worldwide chief executive (that is, the person who, alone or jointly with one or more others, is responsible under the immediate authority of the directors for the whole of its business) if the person is based outside the United Kingdom;*
 - (b) *the person within the overseas firm with a purely strategic responsibility for UK operations (see SUP 10.7.4G);*
 - (c) *for a bank: the two or more persons who effectively direct its business in accordance with IPRU(BANK) GN 3.3.1R;*
 - (d) *for an insurer: the authorised UK representative.*
- (2) *The notification in (1) must be submitted using Form F (SUP 15 Ann 2R). However, if the person is an approved person, notification giving details of his name, the approved person's FSA individual reference number and the position to which the notification relates, is sufficient.*
- 15.4.2** **G** /1 *SUP 15.4.1R is not made under the powers conferred on the FSA by Part V of the Act (Performance of Regulated Activities). A person notified to the FSA under SUP 15.4.1R is not subject to the Statements of Principle or Code of Practice for Approved Persons, unless he is also an approved person.*
- 15.4.3** **G** /1 *Copies of Form F may be obtained from the FSA website at www.fsa.gov.uk or from the Individual Vetting and Approval department. See SUP 10.11.6G for contact details.*
- 15.4.4** **G** /1 *If adverse information is revealed about a person notified to the FSA under SUP 15.4.1R, the FSA may exercise its own initiative power against the firm (see SUP 7 (Individual requirements)).*

15.5 Core information requirements

Change in name

- 15.5.1 **R** A *firm* must give the FSA reasonable advance notice of a change in:
/1
- (1) the *firm's* name (which is the registered name if the *firm* is a *body corporate*);
 - (2) any business name under which the *firm* carries on a *regulated activity* or *ancillary activity* either from an establishment in the *United Kingdom* or with or for clients in the *United Kingdom*.

- 15.5.2 **G** A notification under SUP 15.5.1R should include the details of the proposed new name and the date on which the *firm* intends to implement the change of name.
/1

- 15.5.3 **G** *Firms* are reminded that certain name changes (for example, to include 'Limited') may also require a notification under SUP 15.5.5R.
/1

Change in address

- 15.5.4 **R** A *firm* must give the FSA reasonable advance notice of a change in any of the following addresses, and give details of the new address and the date of the change:
/1
- (1) the *firm's* principal place of business in the *United Kingdom*;
 - (2) in the case of an *overseas firm*, its registered office (or head office) address.

Change in legal status

- 15.5.5 **R** A *firm* must give the FSA reasonable advance notice of a proposed change in its legal status which limits the liability of any of its members or *partners*.
/1

- 15.5.6 **G** For the purpose of SUP 15.5.5R, limiting liability includes:
/1

- (1) re-registration as a limited liability *company* of a *company* incorporated with unlimited liability; and
- (2) a general *partner* in a *firm* becoming a limited *partner*.

Other regulators

15.5.7 **R** *A firm must notify the FSA immediately if it becomes subject to or ceases to be subject to the supervision of any overseas regulator (including a Home State regulator).*

/1

15.5.8 **G** The FSA's approach to the supervision of a *firm* is influenced by the regulatory regime and any legislative or foreign provisions to which that *firm*, including its branches, is subject.

/1

15.6 Inaccurate, false or misleading information

15.6.1

R

A *firm* must take reasonable steps to ensure that all information it gives to the FSA in accordance with a *rule* in any part of the *Handbook* (including *Principle 11*) is:

/1

- (1) factually accurate or, in the case of estimates and judgments, fairly and properly based after appropriate enquiries have been made by the *firm*; and
- (2) complete, in that it should include anything of which the FSA would reasonably expect notice.

15.6.2

G

SUP 15.6.1R applies also in relation to *rules* outside this chapter, and even if they are not *notification rules*. Examples of *rules* and chapters to which *SUP 15.6.1R* is relevant, are:

/1

- (1) *Principle 11*, and the guidance on *Principle 11* in *SUP 2* (Information gathering by the FSA on its own initiative);
- (2) *SUP 15* (Notifications to the FSA);
- (3) *SUP 16* (Reporting requirements);
- (4) *SUP 17* (Transaction reporting); and
- (5) any *notification rule* (see Schedule 2 which contains a consolidated summary of such *rules*).

15.6.3

G

If a *firm* is unable to obtain the information required in *SUP 15.6.1R(2)*, then it should inform the FSA that the scope of the information provided is, or may be, limited.

/1

15.6.4

R

If a *firm* becomes aware, or has information that reasonably suggests that it has or may have provided the FSA with information which was or may have been false, misleading, incomplete or inaccurate, or has or may have changed in a material particular, it must notify the FSA immediately. Subject to *SUP 15.6.5R*, the notification must include:

/1

- (1) details of the information which is or may be false, misleading, incomplete or inaccurate, or has or may have changed;
- (2) an explanation why such information was or may have been provided; and

(3) **the correct information.**

- 15.6.5** **R**
/1 If the information in *SUP 15.6.4R(3)* cannot be submitted with the notification (because it is not immediately available), it must instead be submitted as soon as possible afterwards.
- 15.6.6** **G**
/1 The *FSA* may request the *firm* to provide revised documentation containing the correct information, if appropriate.
- 15.6.7** **G**
/1 *Firms* are reminded that section 398 of the *Act* (Misleading the Authority: residual cases) makes it an *offence* for a *firm* knowingly or recklessly to provide the *FSA* with information which is false or misleading in a material particular in purported compliance with the *FSA's rules* or any other requirement imposed by or under the *Act*. An offence by a *body corporate, partnership* or unincorporated association may be attributed to an *officer* or certain other *persons* (section 400 of the *Act* (Offences by bodies corporate etc)).

15.7 Form and method of notification

Form of notification: oral or written

- 15.7.1** **R**
/1 A notification required from a *firm* under any *notification rule* must be given in writing, and in English, and must give the *firm's* FSA Firm Reference Number unless:
- (1) the *notification rule* states otherwise; or
 - (2) the notification is provided solely in compliance with *Principle 11* (see *SUP 15.3.7G*).
- 15.7.2** **G**
/1 A *firm* should have regard to the urgency and significance of a matter and, if appropriate, should notify its usual supervisory contact at the *FSA* by telephone or by other prompt means of communication, before submitting a written notification. Oral notifications should be given directly to the *firm's* usual supervisory contact. An oral notification left with another person or left on a voicemail or other automatic messaging service is unlikely to have been given appropriately.
- 15.7.3** **G**
/1 The *FSA* is entitled to rely on any information it receives from a *firm* and to consider any notification received as being made by a *person* authorised by the *firm* to do so. A *firm* should therefore consider whether it needs to put procedures in place to ensure that only appropriate *employees* make notifications to the *FSA* on its behalf.

Method of notification

- 15.7.4** **R**
/1 Unless otherwise stated in the *notification rule*, a written notification required from a *firm* under any *notification rule* must be:
- (1) given to or addressed for the attention of the *firm's* usual supervisory contact at the *FSA*; and
 - (2) delivered to the *FSA* by one of the methods in *SUP 15.7.5R*:
- 15.7.5** **R**
/1 Table Methods of notification

Method of delivery	
1.	Post to the appropriate address in SUP 15.7.6R
2.	Leaving the notification at the appropriate address in SUP 15.7.6R and obtaining a time-stamped receipt
3.	Electronic mail to an address for the <i>firm's</i> usual supervisory contact at the FSA and obtaining an electronic confirmation of receipt
4.	Hand delivery to the <i>firm's</i> usual supervisory contact at the FSA
5.	Fax to a fax number for the <i>firm's</i> usual supervisory contact at the FSA, followed by delivery by one of methods 1– 4 in this table within five <i>business days</i> after the date of the faxed notification

15.7.6

R
/1

The address for a written notification to the FSA is:

(1) The Financial Services Authority

25 The North Colonnade

Canary Wharf

London E14 5HS

if the *firm's* usual supervisory contact at the FSA operates from London, or:

(2) The Financial Services Authority

Sutherland House

108-114 Dundas Street

Edinburgh EH3 5DQ

if the *firm's* usual supervisory contact at the FSA operates from Edinburgh.

15.7.7

G
/1

If the *firm* or its *group* is subject to lead supervision arrangements by the FSA, the *firm* or *group* may give or address a notice under SUP 15.7.4R(1) to the supervisory contact at the FSA, designated as lead supervisor, if the *firm* has chosen to make use of the lead supervisor as a central point of contact (see SUP 1.5).

15.7.8

G
/1

If a *firm* is a member of a *group* which includes more than one *firm*, any one *undertaking* in the *group* may notify the FSA on behalf of all *firms* in the *group* to which the notification applies. In this way, that *undertaking* may satisfy the obligation of all relevant *firms* in the *group* to notify the FSA. Nevertheless, the obligation to make the notification remains the responsibility of the individual *firm* itself. See also SUP 15.7.3G.

15.7.9

G
/1

Firms wishing to communicate with the FSA by electronic mail or fax should obtain the appropriate address or number from the FSA.

Timely notification

15.7.10

R
/1

If a *notification rule* requires notification within a specified period:

- (1) the *firm* must give the notification so as to be received by the *FSA* no later than the end of that period; and
- (2) if the end of that period falls on a *day* which is not a *business day*, the notification must be given so as to be received by the *FSA* no later than the first *business day* after the end of that period.

15.7.11

G
/1

If a *notification rule* does not require notification within a specified period, the *firm* should act reasonably in deciding when to notify.

Underwriting agents: notification to the Society of Lloyd's

15.7.12

R
/1

- (1) Paragraph (2) applies in relation to notifications required under this chapter within the scope of any arrangements made by the *FSA* with the *Society of Lloyd's* under paragraph 6(2) of Schedule 1 to the *Act*.
- (2) An *underwriting agent* must submit the notifications in (1) to the *Society of Lloyd's* rather than to the *FSA*.

15.7.13

G
/1

Paragraph 6(2) of Schedule 1 to the *Act* enables the *FSA* to make arrangements which provide for monitoring functions to be performed by any body or *person* who, in its opinion, is competent to perform them. Arrangements made under this provision are published by the *FSA*.

15.7.14

G
/1

The *FSA* has made arrangements with the *Society of Lloyd's* with respect to the monitoring of *underwriting agents*. *Underwriting agents* should check whether these arrangements provide for any notifications required under this chapter to be sent to the *Society* instead of to the *FSA*. [For further details see the *FSA* website.]

Consequences of breach of form and method rules

15.7.15

G
/1

If a *firm* fails to comply with the *rules* in this section then the notification is invalid and there may be a breach of the *rule* that required the notification to be given.

Service of Notices Regulations

15.7.16

G
/1

The Financial Services and Markets Act 2000 (Service of Notices) Regulations 2001 (SI 2001/1420) contain provisions relating to the service of documents on the *FSA*. They do not apply to notifications required under *notification rules* because of the specific *rules* in this section.

SUP 15 Ann 1R: Application of this chapter to incoming EEA firms and incoming Treaty firms

1 Table

1. This chapter applies in full to an *incoming EEA firm*, or *incoming Treaty firm*, which has a *top up permission*.
2. SUP 15 does not apply to an *incoming EEA firm* which has *permission only for cross border services* and which does not carry on *regulated activities in the United Kingdom*.
3. For any other *incoming EEA firm* or *incoming Treaty firm*, SUP 15 applies as set out in the following table.

2 Table Application of SUP 15 to an incoming EEA firm or an incoming Treaty firm which does not have a top-up permission

Applicable sections		Application
SUP 15.1 SUP 15.2	Application, Purpose	Apply in full
SUP 15.3.1R to SUP 15.3.6G	Matters having a serious regulatory impact	15.3.1R(1) does not apply, otherwise apply in full
SUP 15.3.7G to SUP 15.3.10G	Communication with the FSA in accordance with Principle 11	Apply insofar as responsibility for the matter in question is not reserved by a European Community instrument to the <i>firm's Home State regulator</i>

Applicable sections		Application
<i>SUP 15.3.11R to SUP 15.3.14G</i>	Breaches of rules and other requirements in or under the Act	Apply in full
<i>SUP 15.3.15R and SUP 15.3.16G</i>	Civil, criminal or disciplinary proceedings against a firm	Apply insofar as responsibility for the matter in question is not reserved by a European Community instrument to the <i>firm's Home State regulator</i>
<i>SUP 15.3.17R to SUP 15.3.20G</i>	Fraud, errors and other irregularities	Apply insofar as responsibility for the matter in question is not reserved by a European Community instrument to the <i>firm's Home State regulator</i>
<i>SUP 15.3.21R</i>	Insolvency, bankruptcy and winding up	Apply insofar as responsibility for the matter in question is not reserved by a European Community instrument to the <i>firm's Home State regulator</i>
<i>SUP 15.4</i>	Notified persons	Does not apply

Applicable sections		Application
<i>SUP 15.5.1R to SUP 15.5.3G</i>	Change in name	Apply in full
<i>SUP 15.5.4R(1)</i>	Change in address: principal place of business in the UK	Applies in full
<i>SUP 15.5.4R(2)</i>	Change in address: registered office	Applies to an <i>incoming Treaty firm</i> . Does not apply to an <i>incoming EEA firm</i> , but such a firm is referred to <i>SUP 14</i> (Variation of passport rights by incoming EEA firms and ending automatic authorisation).
<i>SUP 15.5.5R and SUP 15.5.6G</i>	Change in legal status	Do not apply
<i>SUP 15.5.7R and SUP 15.5.8G</i>	Other regulators	Apply insofar as responsibility for the matter in question is not reserved by a European Community instrument to the <i>firm's Home State regulator</i>
<i>SUP 15.6</i>	Inaccurate, false or misleading information	Applies in full

Applicable sections		Application
<i>SUP 15.7</i>	Form and method of notification	Applies in full



Application number
(for FSA use only)

Form F

Changes in notified persons

FSA Handbook Reference: SUP 15 Annex 2R

30 April 2001

Name of notified person
(to be completed by applicant)

Name of firm
(as entered in 2.01)

The Financial Services Authority
Individual Vetting & Approval
25 The North Colonnade
Canary Wharf
London E14 5HS
United Kingdom
Telephone +44 (0) 20 7676 0019
Facsimile +44 (0) 20 7676 0017
E-mail iva@fsa.gov.uk
Website <http://www.fsa.gov.uk>

Registered as a Limited Company in England and Wales No 1920623. Registered Office as above

Notes for Form F

Changes in notified persons

The rule for notification is set out in SUP 15.4.1R.

The purpose of this Form

This is Form F referred to in SUP 15.4.1R (2).

Membership of the governing body of an overseas firm with a branch in the United Kingdom is not a controlled function requiring approval of the FSA under the approved persons regime. The rule at SUP 15.4.1R (Notified persons) is not made under the powers conferred on the FSA by Part V of the Act and the Statements of Principle do not apply to a person notified to the FSA under SUP 15.4.1R unless he is also an approved person.

An overseas firm (excluding an incoming firm) must notify the FSA within 30 business days of any person taking up or ceasing to hold the following positions (see SUP 15.4.1R):

the firm's world-wide chief executive if the person is based outside the United Kingdom;

the person, if not the worldwide chief executive, within the overseas firm with a purely strategic responsibility for UK operations (see SUP 10.7.4G);

for a bank: the two or more persons who effectively direct its business in accordance with IPRU (BANK) GN 3.3.1R;

for an insurer: the authorised UK representative.

These notifications must be submitted using this Form. However, if the person is an approved person, notification can be made by letter giving details of his name and the position to which the notification relates (see SUP 15.4.1R (2)).

If adverse information is revealed about a person notified to the FSA under SUP 15.4.1R, the FSA may exercise its own-initiative power against the firm (see SUP 15.4.4G).

Completing this Form

The Form must be completed in black ink and (if in manuscript) in BLOCK LETTERS.

All dates should be provided in numeric form (e.g. 29/02/2000 for 29 February 2000).

Indicate clearly if a question is not applicable. Tick the appropriate box where a yes/no answer is required. Further details should be given in section 6 (supplementary information) if there is insufficient space for a detailed answer.

Additional information can be attached to the form. It must be securely attached to the rest of the Form and you must indicate at question 6.03 the number of additional sheets attached.

Do not assume that information is known to the FSA merely because it is in the public domain, or has been previously disclosed to the FSA or to another regulatory body. In all circumstances, disclosures should be full, frank and unambiguous. If there is any doubt about the relevance of information, it should be included. The information supplied by the notified person should be verified by the firm wherever possible.

Expressions in this Form in italics have the meaning given in the Glossary to the FSA's Handbook (or, if no meaning is given there, the expressions are to be interpreted in accordance with the related expression defined in the Glossary).

The firm is responsible for the accuracy of the data and completion of the Form. If the Form is not fully and correctly completed, the FSA may need to return it for proper completion.

The FSA must be informed immediately of any material changes to the information provided in this Form. All changes must be communicated to the FSA by the firm (see SUP 15.6.4R).

SECTION 1 – PERSONAL IDENTIFICATION DETAILS

If the notified person has more than one previous name (surname or forenames), passport number or nationality, or is known by any other names, provide details in section 6.

- 1.01: If the notified person does not have an FSA Individual Reference Number or does not know it, include the name of the previous regulator and the previous Individual Reference Number, as applicable.
- 1.13: United Kingdom addresses must be given, or a statement stating that the individual resides abroad.

SECTION 2 – FIRM IDENTIFICATION DETAILS

- 2.01 & 2.02: This section identifies the firm making the application by FSA Firm Reference Number (FRN) and name. If the individual will be performing the notified activity in relation to more than one firm and this notification is given on behalf of those other firms, please list the names and FSA Firm Reference Numbers of the other firms at section 6.
- 2.03: The regulatory organisation and country of the firm's registered office must also be indicated.
- 2.04: The firm must also indicate a point of contact for any queries in connection with the application.

SECTION 3 – CHANGES TO NOTIFIED PERSONS

The notified position to which this Form relates should be identified, including effective date and, if applicable, the name of individual being replaced.

SECTION 4 – EMPLOYMENT HISTORY FOR PAST 10 YEARS

A full ten-year employment history for the notified person must be provided – with all gaps explained. If the record of employment does not go back ten years, all periods of education and unemployment must be indicated. Full details of any periods of self-employment should also be included.

Always give the address of the actual place of employment, rather than a central head office.

The employment history should be provided in reverse chronological order, starting with the most recent period of employment, unemployment etc, but excluding the activity to which this notification relates.

“Regulatory body” in this context means the bodies listed in the notes to section 5 (below).

State the position held by the notified person and a brief explanation of his or her duties. If the notified person's job title included the word “director” but his or her duties did not include those associated with the title of director, as defined in the Glossary, this should be indicated.

The reason for leaving each employer must be given. If there were any issues arising on leaving, these must be fully explained in section 6. Previous employers may be contacted.

SECTION 5 – FITNESS AND PROPRIETY

Answer the questions by ticking the relevant ‘yes’ or ‘no’ box. If the answer to any of the questions is ‘yes’, give complete details in section 6 and attach relevant supporting documentation.

When answering question 5.01, you must include ‘spent’ convictions, i.e. convictions for which, under the Rehabilitation of Offenders Act 1974 (and any overseas equivalent), declaration would not normally be obligatory.

5.03 – 5.06: Court judgements (e.g. County Court Judgments) (and their overseas equivalent) and arrangements with creditors (e.g. Individual Voluntary Arrangements) are covered by questions 5.03 to 5.06. Any outstanding County Court Judgments or arrangements with creditors must be listed in section 6, and the circumstances surrounding them explained.

“Regulatory body” in this context refers to:

- i) the self-regulatory organisations including IMRO, SFA, PIA, LAUTRO, FIMBRA, AFBD and TSA;
- ii) the statutory bodies including the FSA, SIB, the Society of Lloyd’s, the Registry of Friendly Societies, the Friendly Societies Commission, the Building Societies Commission, the Bank of England; HM Treasury – Insurance Directorate (formerly of the DTI) and the recognised bodies;
- iii) the designated professional bodies; and
- iv) the equivalent of all such regulators overseas.

SECTION 6 – SUPPLEMENTARY INFORMATION

This section provides space for any additional information and should be used whenever a question in section 5 is answered ‘yes’.

List here all directorships currently held or held in the past 10 years by the candidate.

Relevant documents must also be provided, such as evidence of the settlements of CCJs.

SECTION 7 – DECLARATIONS AND SIGNATURES

This section contains declarations which must be signed by both an appropriate individual for the firm or applicant submitting the application and the notified person. The FSA considers that an appropriate individual would be someone to whom the firm has delegated the authority to notify the FSA. The firm should keep records of those individuals authorised to sign on behalf of the firm.

If you have any questions or need additional information, please contact the Individual Vetting and Approval Helpline 020 7676 0019 or via e-mail at iva@fsa.gov.uk

PLEASE RETURN COMPLETED FORM TO:

THE FINANCIAL SERVICES AUTHORITY
INDIVIDUAL VETTING AND APPROVAL
25 THE NORTH COLONNADE
CANARY WHARF
LONDON E14 5HS
UNITED KINGDOM

1.01 a	FSA Individual Reference Number (IRN)	
b	OR name of previous regulatory body	
c	AND previous reference number	
1.02	Title (e.g. Mr, Mrs, Ms, etc)	
1.03	Surname	
1.04	ALL forenames	
1.05	Name commonly known by	
1.06	Date of birth	
1.07	National Insurance number	
1.08	Previous name See note	
1.09	Date of change	
1.10	Reason for change	
1.11 a	Nationality	
b	Passport number (If National Insurance number not available)	
1.12	Place of birth	



I have supplied further information related to this page in Section 6

YES

NO

1.13 a Private address

[Redacted address information]

b

Postcode

c Dates resident at this address (mm/yyyy)

From

[Redacted date]

To

PRESENT

(If address has changed in the last three years, please provide addresses for the previous three years.)

1.14 a Previous address 1

[Redacted address information]

b

Postcode

c Dates resident at this address (mm/yyyy)

From

[Redacted date]

To

[Redacted date]

1.15 a Previous address 2

[Redacted address information]

b

Postcode

c Dates resident at this address (mm/yyyy)

From

[Redacted date]

To

[Redacted date]



I have supplied further information related to this page in Section 6

YES

NO

2.01	Name of firm making the application	
2.02	FSA Firm Reference Number (FRN)	
2.03 a	Name of Home State regulator	
b	Country	
2.04 a	Who should the FSA contact at the firm in relation to this notification?	
b	Position	
c	Telephone	
d	Fax	
e	E-mail	



I have supplied further information related to this page in Section 6

YES

NO

3.01 Notified positions individual is taking over.

- a Firm's world-wide chief executive where the person is situated outside the United Kingdom
- b The person, if not the worldwide chief executive, within the overseas firm with a purely strategic responsibility for UK operations
- c For a bank: the two or more persons who effectively direct its business in accordance with IPRU (BANK) GN 3.3.1R
- d For a UK branch of an insurer: the authorised UK representative

3.02 Effective date

3.03 FSA Individual Reference Number of individual being replaced

3.04 Name of individual being replaced



I have supplied further information related to this page in Section 6

YES

NO

Note: ALL gaps must be accounted for

4.01 Employment details (1)

a Period (mm/yyyy) From To

b Nature of employment

a	Employed	<input type="checkbox"/>
b	Self-employed	<input type="checkbox"/>
c	Unemployed	<input type="checkbox"/>
d	Full-time education	<input type="checkbox"/>

If b, c, or d is ticked, please give details

c Name of employer

d Nature of business

e Previous / other names of employer

f Last known address of employer

g Is/was employer regulated by a regulatory body? SEE NOTE

YES NO

Name of regulatory body

h Is/was employer an appointed representative?

YES NO

If yes, of which firm?

i Position held
SEE NOTE

j Responsibilities

k Reason for leaving:
SEE NOTE

a	Resignation	<input type="checkbox"/>
b	Redundancy	<input type="checkbox"/>
c	Retirement	<input type="checkbox"/>
d	Termination/dismissal	<input type="checkbox"/>
e	End of contract	<input type="checkbox"/>
f	Other	<input type="checkbox"/>

Specify



I have supplied further information related to this page in Section 6 YES NO

4.02 Employment details (2)

a Period (mm/yyyy) From To

b Nature of employment

a	Employed	<input type="checkbox"/>
b	Self-employed	<input type="checkbox"/>
c	Unemployed	<input type="checkbox"/>
d	Full-time education	<input type="checkbox"/>

If b, c, or d is ticked, please give details

c Name of employer

d Nature of business

e Previous / other names of employer

f Last known address of employer

g Is/was employer regulated by a regulatory body? SEE NOTE

YES <input type="checkbox"/>	NO <input type="checkbox"/>	Name of regulatory body
		<input type="text"/>

h Is/was employer an appointed representative?

YES <input type="checkbox"/>	NO <input type="checkbox"/>	If yes, of which firm?
		<input type="text"/>

i Position held
SEE NOTE

j Responsibilities

k Reason for leaving:
SEE NOTE

a	Resignation	<input type="checkbox"/>
b	Redundancy	<input type="checkbox"/>
c	Retirement	<input type="checkbox"/>
d	Termination/dismissal	<input type="checkbox"/>
e	End of contract	<input type="checkbox"/>
f	Other	<input type="checkbox"/>

Specify



I have supplied further information related to this page in Section 6 YES NO

4.03 Employment details (3)

a Period (mm/yyyy)

From To

b Nature of employment

a	Employed	<input type="checkbox"/>
b	Self-employed	<input type="checkbox"/>
c	Unemployed	<input type="checkbox"/>
d	Full-time education	<input type="checkbox"/>

If b, c, or d is ticked,
please give details

c Name of employer

d Nature of business

e Previous / other names of employer

f Last known address of employer

g Is/was employer regulated by a regulatory body? SEE NOTE

YES NO

Name of regulatory body

h Is/was employer an appointed representative?

YES NO

If yes, of which firm?

i Position held
SEE NOTE

j Responsibilities

k Reason for leaving:
SEE NOTE

a	Resignation	<input type="checkbox"/>
b	Redundancy	<input type="checkbox"/>
c	Retirement	<input type="checkbox"/>
d	Termination/dismissal	<input type="checkbox"/>
e	End of contract	<input type="checkbox"/>
f	Other	<input type="checkbox"/>

Specify



I have supplied further information
related to this page in Section 6

YES

NO

4.04 Employment details (4)

a Period (mm/yyyy)

From To

b Nature of employment

a	Employed	<input type="checkbox"/>
b	Self-employed	<input type="checkbox"/>
c	Unemployed	<input type="checkbox"/>
d	Full-time education	<input type="checkbox"/>

If b, c, or d is ticked,
please give details

c Name of employer

d Nature of business

e Previous / other names of employer

f Last known address of employer

g Is/was employer regulated by a regulatory
body? SEE NOTE

YES NO Name of regulatory body

h Is/was employer an appointed
representative?

YES NO If yes, of which firm?

i Position held
SEE NOTE

j Responsibilities

k Reason for leaving:
SEE NOTE

a	Resignation	<input type="checkbox"/>
b	Redundancy	<input type="checkbox"/>
c	Retirement	<input type="checkbox"/>
d	Termination/dismissal	<input type="checkbox"/>
e	End of contract	<input type="checkbox"/>
f	Other	<input type="checkbox"/>

Specify



I have supplied further information
related to this page in Section 6 YES NO

4.05 Employment details (5)

a Period (mm/yyyy) From To

b Nature of employment

a	Employed	<input type="checkbox"/>
b	Self-employed	<input type="checkbox"/>
c	Unemployed	<input type="checkbox"/>
d	Full-time education	<input type="checkbox"/>

If b, c, or d is ticked, please give details

c Name of employer

d Nature of business

e Previous / other names of employer

f Last known address of employer

g Is/was employer regulated by a regulatory body? SEE NOTE

YES NO

Name of regulatory body

h Is/was employer an appointed representative?

YES NO

If yes, of which firm?

i Position held
SEE NOTE

j Responsibilities

k Reason for leaving:
SEE NOTE

a	Resignation	<input type="checkbox"/>
b	Redundancy	<input type="checkbox"/>
c	Retirement	<input type="checkbox"/>
d	Termination/dismissal	<input type="checkbox"/>
e	End of contract	<input type="checkbox"/>
f	Other	<input type="checkbox"/>

Specify

If necessary, please continue in section 6.



I have supplied further information related to this page in Section 6 YES NO

5.01 a	Has the notified person ever been convicted of any offence involving fraud, theft, false accounting or other dishonesty or an offence (whether or not in the United Kingdom) relating to companies, building societies, industrial and provident societies, credit unions, friendly societies, insurance, banking or other financial services, insolvency, consumer credit or consumer protection, money laundering, market manipulations or insider dealing? (Convictions spent under the Rehabilitation of Offenders Act 1974 must be included)	YES <input type="checkbox"/>	NO <input type="checkbox"/>
b	Is the notified person the subject of any current criminal proceedings?	YES <input type="checkbox"/>	NO <input type="checkbox"/>
5.02	Has the notified person any convictions for any offences other than those listed in 5.01 above which are not spent, whether or not in the United Kingdom (excluding traffic offences unless these resulted in a ban from driving or involved driving without insurance)?	YES <input type="checkbox"/>	NO <input type="checkbox"/>
5.03 a	Is the notified person, or has the notified person ever been, the subject of any civil proceedings, arbitration or litigation, including proceedings that may lead to a County Court Judgment ("CCJ") or other judgment debts, in the United Kingdom or elsewhere?	YES <input type="checkbox"/>	NO <input type="checkbox"/>
b	Is the notified person aware of any intention to begin such proceedings against the notified person in the future?	YES <input type="checkbox"/>	NO <input type="checkbox"/>
5.04	Does the notified person have any judgment debts (including CCJs) made under a court order still outstanding, whether in full or in part?	YES <input type="checkbox"/>	NO <input type="checkbox"/>
5.05	Has the notified person ever failed to satisfy any such judgment debts within one year of the making of the order?	YES <input type="checkbox"/>	NO <input type="checkbox"/>
5.06 a	Is the notified person, or has the notified person ever been, the subject of any bankruptcy proceedings, or proceedings for the sequestration of the notified person's estate?	YES <input type="checkbox"/>	NO <input type="checkbox"/>
b	Has the notified person ever entered into a deed of arrangement or an individual voluntary arrangement (or in Scotland a trust deed) or other agreement in favour of the notified person's creditors, or is the notified person doing so?	YES <input type="checkbox"/>	NO <input type="checkbox"/>
5.07	Does the notified person have any outstanding financial obligations arising from regulated activities, which the notified person has conducted in the past, whether in the United Kingdom or overseas? (In the case of advisers, this will include any outstanding liabilities arising from commissions paid for the sale of packaged products that have lapsed.)	YES <input type="checkbox"/>	NO <input type="checkbox"/>
5.08	Has the notified person ever been found guilty of conducting any unauthorised regulated activities or been investigated for possible conduct of unauthorised regulated activities?	YES <input type="checkbox"/>	NO <input type="checkbox"/>
5.09	Is the notified person, or has the notified person ever been, the subject of an investigation into allegations of misconduct or malpractice in connection with any business activity?	YES <input type="checkbox"/>	NO <input type="checkbox"/>
5.10	Has the notified person ever, either in the United Kingdom, or elsewhere –		
a	been refused entry to, or been dismissed or requested to resign from, any profession, vocation, office or employment, or from any fiduciary office or position of trust, whether or not remunerated?	YES <input type="checkbox"/>	NO <input type="checkbox"/>
b	been refused, restricted in, or had suspended, the right to carry on any trade, business or profession for which specific licence, authorisation, registration, membership or other permission is required?	YES <input type="checkbox"/>	NO <input type="checkbox"/>



I have supplied further information related to this page in Section 6

YES

NO

c	been disqualified by a court from acting as a director of a company or from acting in a management capacity or conducting the affairs of any company, partnership or unincorporated association?	YES <input type="checkbox"/>	NO <input type="checkbox"/>
d	been the subject of a disqualification direction under section 59 of the Financial Services Act 1986 or a prohibition order, under section 56 of the Financial Services and Markets Act 2000, or received a warning notice to make such a direction or order?	YES <input type="checkbox"/>	NO <input type="checkbox"/>
5.11	In respect of activities regulated by the FSA or any other regulatory body (see note), has the notified person, or has any company, partnership or unincorporated association of which the notified person is or has been a controller, director, senior manager, partner or company secretary, during the notified person's association with that entity and for a period of three years after the notified person ceased to be associated with it, ever –		
a	been refused, had revoked, restricted or terminated, any licence, authorisation, registration, notification, membership or other permission granted by any such body ?	YES <input type="checkbox"/>	NO <input type="checkbox"/>
b	been criticised, censured, disciplined, suspended, expelled, fined, or been the subject of any other disciplinary or intervention action by any such body ?	YES <input type="checkbox"/>	NO <input type="checkbox"/>
c	resigned whilst under investigation by, or been required to resign from, any such body ?	YES <input type="checkbox"/>	NO <input type="checkbox"/>
d	decided, after making an application for any licence, authorisation, registration, notification, membership or other permission granted by any such body, not to proceed with it?	YES <input type="checkbox"/>	NO <input type="checkbox"/>
e	been the subject of any civil action which has resulted in a finding against the notified person or it by a court?	YES <input type="checkbox"/>	NO <input type="checkbox"/>
5.12	Has any company, partnership, or unincorporated association of which the notified person is or has been a controller, director, senior manager, partner, or company secretary, in the United Kingdom or elsewhere, at any time during the notified person's involvement or within one year of such an involvement –		
a	been put into liquidation, wound up, ceased trading, had a receiver or administrator appointed or entered into any voluntary arrangement with its creditors?	YES <input type="checkbox"/>	NO <input type="checkbox"/>
b	been adjudged by a court liable for any fraud, misfeasance, wrongful trading or other misconduct?	YES <input type="checkbox"/>	NO <input type="checkbox"/>
c	been investigated or been involved in an investigation by an inspector appointed under companies or any other legislation, or required to produce documents to the Secretary of State, or any other authority, under any such legislation?	YES <input type="checkbox"/>	NO <input type="checkbox"/>
d	been convicted of any criminal offence, censured, disciplined or publicly criticised, by any inquiry, by the Takeover Panel or any governmental or statutory authority or any other regulatory body (other than as already indicated under 5.11(b) above)?	YES <input type="checkbox"/>	NO <input type="checkbox"/>
5.13	Is the notified person aware of any business interests, employment obligations, or any other situations which may conflict with the performance of the controlled functions for which approval is now sought?	YES <input type="checkbox"/>	NO <input type="checkbox"/>



I have supplied further information related to this page in Section 6

YES

NO

Please also complete questions 6.03 and 6.04.

6.01 Full details must be provided here if there were any issues that arose when leaving an employer listed in section 4 or if any question has been answered 'yes' in section 5.

Please indicate clearly which question additional information relates to.

Question	Information

6.02 Include a list of all directorships currently or previously held by the candidate (where director has the meaning given in the Glossary).



6.03 Is there any other information the candidate or the firm considers to be relevant to the application?

YES NO

If yes, provide details below or on a separate sheet of paper

A large, solid grey rectangular area intended for providing details if the answer to question 6.03 is 'yes'. It occupies most of the page's vertical space.

6.04 How many additional sheets are being submitted?

A small, solid grey rectangular area intended for providing the number of additional sheets being submitted.

DECLARATION OF NOTIFIED PERSON

Knowingly or recklessly giving the FSA information which is false or misleading in a material particular may be a criminal offence (section 398 of the Financial Services and Markets Act 2000).

It should not be assumed that information is known to the FSA merely because it is in the public domain or has previously been disclosed to the FSA or another regulatory body. If there is any doubt about the relevance of information, it should be included.

I confirm that the information in this Form is accurate and complete to the best of my knowledge and belief and that I have read the Notes to this Form.

The FSA may seek to verify the information given in this Form including answers pertaining to fitness and propriety. I authorise the FSA to make such enquiries and seek such further information as it thinks appropriate in the course of verifying the information given in this Form. I also understand that the results of these checks may be disclosed to my employer.

7.01	Notified person's full name	
7.02	Signature	
	Date	

DECLARATION OF FIRM

Knowingly or recklessly giving the FSA information which is false or misleading in a material particular may be a criminal offence (sections 398 and 400 of the Financial Services and Markets Act 2000). SUP 15.6.1R and SUP 15.6.4R require an authorised person to take reasonable steps to ensure the accuracy and completeness of information given to the FSA and to notify the FSA immediately if materially inaccurate information has been provided. APER 4.4.6E provides that, where an approved person is responsible for reporting matters to the FSA, failure to inform the FSA of materially significant information of which he is aware is a breach of Statement of Principle 4. Contravention of these requirements may lead to disciplinary sanctions or other enforcement action by the FSA. It should not be assumed that information is known to the FSA merely because it is in the public domain or has previously been disclosed to the FSA or another regulatory body. If there is any doubt about the relevance of information, it should be included.

In making this application the firm believes on the basis of due and diligent enquiry that the notified person is a fit and proper person to perform the notified position(s) listed in section 3. The firm also believes, on the basis of due and diligent enquiry, that the notified person is competent to fulfil the duties required of such function(s).

I confirm that the information in this Form is accurate and complete to the best of my knowledge and belief and that I have read the Notes to this Form.

I confirm that I have authority to make this notification, and sign this Form, on behalf of each firm identified in section 6. I also confirm that a copy of this Form, as submitted to the FSA, will be sent to each of those firms at the same time as submitting the Form to the FSA.

7.03	Name of the firm submitting the application	
7.04	Name of person signing on behalf of the firm	
7.05	Job title	
7.06	Signature	
	Date	

Completion checklist

- Is the Form fully completed?

- Are ALL forenames included?

- Is there a complete ten-year employment history with all gaps explained?

- Is the Form correctly signed and dated by both the firm making the application and the notified person?

- Has all supplementary information been included and clearly marked?

Note : Detach and keep the Notes before returning the completed Form to the FSA.

Chapter 16

Reporting requirements



16.1 Application

- 16.1.1** **R** ^{/1} This chapter applies to every *firm* within a category listed in column (2) of the table in SUP 16.1.3R and in accordance with column (3) of that table.
- 16.1.2** **G** ^{/1} The only categories of *firm* to which no section of this chapter applies are:
- (1) an *ICVC*;
 - (2) an *incoming EEA firm* or *incoming Treaty firm*, unless it is:
 - (a) a *firm* of a type listed in SUP 16.1.3R as a type of *firm* to which SUP 16.6 or SUP 16.7 applies; or
 - (b) an *insurer* with *permission to effect or carry out life policies*;
 - (3) a *UCITS qualifier*.
- 16.1.3** **R** ^{/1} Table Application of different sections of SUP 16

(1) Section(s)	(2) Categories of firm to which section applies	(3) Applicable rules and guidance
SUP 16.1, 16.2 and 16.3	<p>All categories of <i>firm</i> except:</p> <p>(a) an <i>ICVC</i>;</p> <p>(b) an <i>incoming EEA firm</i> or <i>incoming Treaty firm</i>, which is not:</p> <p style="padding-left: 40px;">(i) a <i>firm</i> of a type to which <i>SUP 16.6</i> or <i>SUP 16.7</i> applies; or</p> <p style="padding-left: 40px;">(ii) an <i>insurer</i> with <i>permission to effect or carry out life policies</i>;</p> <p>(c) a <i>UCITS qualifier</i>.</p>	Entire sections
SUP 16.4 and 16.5	<p>All categories of <i>firm</i> except:</p> <p>(a) an <i>ICVC</i>;</p> <p>(b) an <i>incoming EEA firm</i>;</p> <p>(c) an <i>incoming Treaty firm</i>;</p> <p>(d) a <i>non-directive friendly society</i>;</p> <p>(e) a <i>partnership</i>;</p> <p>(f) a <i>sole trader</i>;</p> <p>(g) a <i>service company</i>;</p> <p>(h) a <i>UCITS qualifier</i>.</p>	Entire sections

(1) Section(s)	(2) Categories of firm to which section applies	(3) Applicable rules and guidance
<i>SUP 16.6</i>	<i>Bank</i>	<i>SUP 16.6.4 to SUP 16.6.5R</i>
	<i>Depository of an ICVC</i>	<i>SUP 16.6.6R to SUP 16.6.9G</i>
	<i>OPS firm</i>	<i>SUP 16.6.6R to SUP 16.6.8R</i>
	<i>Trustee of an AUT</i>	<i>SUP 16.6.6R to SUP 16.6.9G</i>
<i>SUP 16.7</i>	<i>Bank</i>	<i>SUP 16.7.7R to SUP 16.7.15R</i>
	<i>Building society</i>	<i>SUP 16.7.16R to SUP 16.7.19R</i>
	<i>Service company</i>	<i>SUP 16.7.20R to SUP 16.7.21R</i>
	<i>Securities and futures firm (other than an oil market participant to which IPRU(INV) 3 does not apply)</i>	<i>SUP 16.7.22R to SUP 16.7.34G</i>
	<i>Investment management firm</i>	<i>SUP 16.7.35R to SUP 16.7.41R</i>
	<i>Personal investment firm</i>	<i>SUP 16.7.42R to SUP 16.7.53R</i>
	<i>Authorised professional firm (note)</i>	<i>SUP 16.7.54R</i>
	<i>Society of Lloyd's</i>	<i>SUP 16.7.55R to SUP 16.7.56R and SUP 16.7.59R(1) and (2)</i>
<i>Members' adviser</i>	<i>SUP 16.7.57R to SUP 16.7.58R, SUP 16.7.59R(3), SUP 16.7.60G and SUP 16.7.61G</i>	

(1) Section(s)	(2) Categories of firm to which section applies	(3) Applicable rules and guidance
SUP 16.8	An insurer with permission to effect or carry out life policies	Entire section

Note = Section 16.7 applies to an authorised professional firm which is required by IPRU(INV) 2.1.2R(1) to comply with chapter 3, 5, 10 or 13 of IPRU(INV). Section 16.7 applies to such a firm as if it were the relevant firm category in the right hand column of IPRU(INV) 2.1R.

16.1.4

G
/1

- (1) This chapter contains requirements to report to the FSA on a regular basis. These requirements include reports relating to a firm’s financial condition, and to its compliance with other rules and requirements which apply to the firm. Where the relevant requirements are set out in another section of the Handbook, this chapter contains cross references. An example of this is financial reporting for insurers and friendly societies.
- (2) Where such requirements already apply to a firm under legislation other than the Act, they are not referred to in this chapter. An example of this is reporting to the FSA by building societies under those parts of the Building Societies Act 1986 which have not been repealed.
- (3) Requirements for individual firms reflect:
 - (a) the category of firm;
 - (b) the nature of business carried on;
 - (c) whether a firm has its registered office (or if it does not have a registered office, its head office) in the United Kingdom; and
 - (d) whether a firm is an incoming EEA firm or incoming Treaty firm.

16.1.5

G
/1

The reporting of complaints is covered in DISP 1.5.4R – DISP 1.5.8G.

16.1.6

G
/1

Reporting on pension transfers and pension opt-outs arranged by the firm against its advice is covered in COB 5.3.26R.

16.2 Purpose

16.2.1

G
/1

- (1) In order to discharge its functions under the *Act*, the *FSA* needs timely and accurate information about *firms*. The provision of this information on a regular basis enables the *FSA* to build up over time a picture of *firms*' circumstances and behaviour.
- (2) *Principle 11* requires a *firm* to deal with its regulators in an open and cooperative way, and to tell the *FSA* appropriately anything of which the *FSA* would reasonably expect notice. The reporting requirements are part of the *FSA*'s approach to amplifying *Principle 11* by setting out in more detail the information that the *FSA* requires. They supplement the provisions of *SUP 2* (Information gathering by the *FSA* on its own initiative) and *SUP 15* (Notifications to the *FSA*). The reports required under these *rules* help the *FSA* to monitor *firms*' compliance with *Principles* governing relationships between *firms* and their *customers*, with *Principle 4*, which requires *firms* to maintain adequate financial resources, and with other requirements and standards under the *regulatory system*.

16.3 General provisions on reporting

Application

16.3.1

G

/1

The effect of SUP 16.1.1R is that this section applies to every *firm* except:

- (1) an ICVC;
- (2) an *incoming EEA firm* or *incoming Treaty firm*, which is not:
 - (a) a *firm* of a type listed in SUP 16.1.3R as a *firm* to which section SUP 16.6 or SUP 16.7 applies;
 - (b) an *insurer* with *permission* to *effect* or *carry out life policies*;
- (3) a *UCITS qualifier*.

Structure of the chapter

16.3.2

G

/1

This chapter has been split into five sections, covering:

- (1) annual controllers reports (SUP 16.4);
- (2) annual close links reports (SUP 16.5);
- (3) compliance reports (SUP 16.6);
- (4) financial reports (SUP 16.7); and
- (5) persistency reports (SUP 16.8).

16.3.3

G

/1

The annual controllers, annual close links and persistency reports sections are the same for all categories of *firm* to which they apply.

16.3.4

G

/1

The compliance and financial reports sections are both set out by category of *firm*, with detailed requirements set out in tables giving:

- (1) a brief description of each report;
- (2) the frequency with which the report is required; and
- (3) the due date for submission of the report.

- 16.3.5** **G**_{/1} Further requirements about the reports, such as form and content, are set out in the sections for each category of *firm*, where this is appropriate. In many cases, however, it is more appropriate to provide this information by means of a separate annex; in these cases the relevant section refers to the annex.

Method of submission of reports

- 16.3.6** **R**_{/1} Unless a *rule* in this chapter states otherwise, a report required under this chapter must be submitted in writing in accordance with *SUP* 16.3.7R – *SUP* 16.3.10R.
- 16.3.7** **R**_{/1}
- (1) A report required under this chapter must give the *firm's* FSA firm reference number.
 - (2) If a report required under this chapter is submitted on behalf of more than one *firm*, the report must either:
 - (a) give the FSA firm reference number of the *firm* submitting it; or
 - (b) be submitted with a covering letter or email giving:
 - (i) the FSA firm reference numbers of all *firms* on whose behalf the report has been submitted;
 - (ii) the title of the report being submitted; and
 - (iii) the date as at which the report has been prepared.
- 16.3.8** **R**_{/1} A written report must be:
- (1) given to or addressed for the attention of the *firm's* usual supervisory contact at the *FSA*; and
 - (2) delivered to the *FSA* by one of the methods listed in *SUP* 16.3.9R.

- 16.3.9** **R**_{/1} Table Method of submission of reports (see *SUP* 16.3.8R)

Method of delivery

1. **Post to the appropriate address in *SUP* 16.3.10R**
2. **Leaving the report at the appropriate address in *SUP* 16.3.10R and obtaining a time-stamped receipt**
3. **Electronic mail to an address for the *firm's* usual supervisory contact at the *FSA* and obtaining an electronic confirmation of receipt**

4. Hand delivery to the *firm's* usual supervisory contact at the *FSA*
5. Fax to the number notified by the *firm's* usual supervisory contact at the *FSA*, followed by submission by one of methods 1– 4 in this table within five *business days* after the date of the faxed submission

16.3.10

RThe address for the submission of reports to the *FSA* is:

/1

- (1) The Financial Services Authority

25 The North Colonnade

Canary Wharf

London E14 5HS

if the *firm's* usual supervisory contact at the *FSA* operates from London, or:

- (2) The Financial Services Authority

Sutherland House

108-114 Dundas Street

Edinburgh EH3 5DQ

if the *firm's* usual supervisory contact at the *FSA* operates from Edinburgh.

Complete reporting

16.3.11

R

A *firm* must submit reports required under this chapter to the *FSA* containing all the information required.

/1

16.3.12

G

SUP 15.6 refers to and contains requirements regarding the steps that *firms* must take to ensure that information provided to the *FSA* is accurate and complete. Those requirements apply to reports required to be submitted under this chapter.

/1

Timely reporting

16.3.13

R

- (1) A *firm* must submit a report required by this chapter in the frequency, and so as to be received by the *FSA* no later than the due date, specified for that report.
- (2) If the due date for submission of a report required by this chapter falls on a day which is not a *business day*, the report must be

/1

submitted so as to be received by the *FSA* no later than the first *business day* after the due date.

- (3) If the due date for submission of a report required by this chapter is a set period of time after the quarter end, the quarter ends will be the following dates, unless another *rule* or the reporting form states otherwise:
- (a) the *firm's accounting reference date*;
 - (b) 3 months after the *firm's accounting reference date*;
 - (c) 6 months after the *firm's accounting reference date*; and
 - (d) 9 months after the *firm's accounting reference date*.

Failure to submit reports

16.3.14 G_{/1} Failure to submit a report in accordance with the *rules* in this chapter may lead to the imposition of a financial penalty and other disciplinary sanctions (see *ENF* 13.5).

16.3.15 G_{/1} The *FSA* does not routinely send reminders to *firms* when reports are overdue. *Firms* should not therefore assume that the *FSA* has received a report merely because they have not received a reminder.

16.3.16 G_{/1} The *firm* is responsible for ensuring delivery of the required report at the *FSA's* offices by the due date. If a report is received by the *FSA* after the due date and the *firm* believes its delivery arrangements were adequate, it may be required to provide proof of those arrangements. Examples of such proof would be:

- (1) "proof of posting" receipts from a *UK* post office or overseas equivalent which demonstrates that the report was posted early enough to allow delivery by the due date in accordance with the delivery service standards prescribed by the relevant postal authority; or
- (2) recorded postal delivery receipts showing delivery on the required day; or
- (3) records of a courier service provider showing delivery on the required day.

Change of accounting reference date

- 16.3.17** R_{/1}
- (1) A *firm* must notify the *FSA* if it changes its *accounting reference date*.
 - (2) When a *firm* extends its accounting period, it must make the notification in (1) before the previous *accounting reference date*.
 - (3) When a *firm* shortens its accounting period, it must make the notification in (1) before the new *accounting reference date*.

16.3.18 G_{/1} *SUP* 16.2.1G emphasises the importance to the *FSA* of timely and accurate information. The extension of a *firm's* accounting period to more than 15 months may hinder the timely provision of relevant and important information to the *FSA*. This is because many due dates for reporting to the *FSA* are linked to *firms' accounting reference dates*. Indeed, for some categories of *firm*, the only reports required by the *FSA* have due dates for submission which are linked to the *firm's accounting reference date*. If the extension of a *firm's* accounting period appears likely to impair the effectiveness of the *FSA's* supervisory work, the *FSA* may take action to ensure that it continues to receive the information it requires on a timely basis. This may include the use of any of the tools of supervision set out in *SUP* 1.4.5G.

16.3.19 G_{/1} If more than one *firm* in a *group* intends to change its *accounting reference date* at the same time, a single notification may be given to the *FSA*, as described in *SUP* 15.7.8G.

Underwriting agents: submission to the Society of Lloyd's

16.3.20 R_{/1} (1) Paragraph (2) applies in relation to reports required under this chapter within the scope of any arrangements made by the *FSA* with the *Society of Lloyd's* under paragraph 6(2) of Schedule 1 to the *Act*.

(2) An *underwriting agent* must submit the reports in (1) to the *Society of Lloyd's* rather than to the *FSA*.

16.3.21 G_{/1} See *SUP* 15.7.13G and *SUP* 15.7.14G for *guidance* on arrangements in *SUP* 16.3.20R.

Service of Notices Regulations

16.3.22 G_{/1} The Financial Services and Markets Act 2000 (Service of Notices) Regulations 2001 (SI 2001/1420) contain provisions relating to the service of documents on the *FSA*. They do not apply to reports required under *SUP* 16, because of the specific *rules* in this section.

Confidentiality and sharing of information

16.3.23 G_{/1} When the *FSA* receives a report which contains confidential information and whose submission is required under this chapter, it is obliged under Part XXIII of the *Act* (Public Record, Disclosure of Information and Co-operation) to treat that information as confidential. (See *SUP* 2.2.4G)

16.3.24 G_{/1} *SUP* 2.3.12G states that the *FSA* may pass to other regulators information which it has in its possession. Such information includes information contained in reports submitted under this chapter. The *FSA's* disclosure of information to other regulators is subject to *SUP* 2.2.4G (Confidentiality of information).

Reports from groups**16.3.25****G**
/1

If this chapter requires the submission of a report covering a *group*, a single report may be submitted, and so satisfy the requirements of all *firms* in the *group*. Such a report should contain the information required from all of them, meet all relevant due dates and indicate all the *firms* on whose behalf it is submitted; if necessary a separate covering sheet should list the *firms* on whose behalf a report is submitted. Nevertheless, the requirement to provide a report, and the responsibility for the report, remain with each *firm* in the *group*.

16.3.26**G**
/1

Examples of reports covering a *group* are:

- (1) the compliance reports required from *banks* under SUP 16.6.4R;
- (2) annual controllers reports required under SUP 16.4.5R;
- (3) annual close links reports required under SUP 16.5.4R
- (4) consolidated financial reports required from *banks* under SUP 16.7.7R;
- (5) consolidated reporting statements required from *securities and futures firms* under SUP 16.7.24R.

16.4 Annual controllers report

Application

16.4.1

G

/1

The effect of SUP 16.1.1R is that this section applies to every *firm* except:

- (1) an *ICVC*;
- (2) an *incoming EEA firm*;
- (3) an *incoming Treaty firm*;
- (4) a *non-directive friendly society*;
- (5) a *partnership*;
- (6) a *sole trader*;
- (7) a *service company*;
- (8) a *UCITS qualifier*.

16.4.2

G

/1

This section may be of relevance to a *directive friendly society*:

- (1) if it has 10 members or less;
- (2) if it has a delegate voting system and has 10 delegates or less; or
- (3) if it has 20 members or less and effects or carries out group insurance contracts where one person may exercise one vote on behalf of the members of a group and one vote in their private capacity; or

where a member or delegate, whether alone or with any associate, is entitled to exercise, or control the exercise of, 10% or more of the total voting power.

16.4.3

G

/1

Requirements for notifications of a change in *control* can be found in SUP 11 (Controllers and close links).

Purpose

16.4.4

G

/1

A *firm* and its *controllers* are required to notify certain changes in *control* (See SUP 11 (Controllers and close links)). The purpose of the *rules* and *guidance* in this section is:

- (1) to ensure that, in addition to such notifications, the *FSA* receives regular and comprehensive information about the identities of all of the *controllers* of a *firm*, which is relevant to a *firm's* continuing to satisfy the *threshold conditions* (see *COND 2.3*) and to the protection of *consumers*;
- (2) to implement certain requirements relating to annual reporting of *controllers* which must be imposed on *firms* under the *Investment Services Directive*, the *Banking Consolidation Directive*, the *Third Life Directive* and the *Third Non-Life Directive*; and
- (3) to support the *FSA's* functions under Part XII of the *Act* (Control over authorised persons) (see *SUP 11* (Controllers and close links)).

Reporting requirement

16.4.5

R
/1

- (1) A *firm* must submit a report to the *FSA* annually, containing the information in (3) or (4) (as applicable).
- (2) A *firm* must submit the report in (1) to the *FSA* within four months of the *firm's accounting reference date*.
- (3) If a *firm* is not aware:
 - (a) that it has any *controllers*; or
 - (b) of any changes in the identity of its *controllers* since the submission of its previous report under (1); or
 - (c) of any changes in the percentage of shares or *voting power* in the *firm* held by any *controllers* (alone or with any associate) since the submission of its previous report;

then the report in (1) must confirm this.
- (4) Unless (3) applies, the report in (1) must contain a list of all the *controllers* as at the *firm's accounting reference date* of which it is aware and, for each such *controller*, state:
 - (a) its name;
 - (b) the percentage of *voting power* in the *firm*, or in the *firm's parent undertaking*, which it is entitled to exercise or control the exercise of, whether alone or with any associate;
 - (c) the percentage of shares in the *firm*, or in the *firm's parent undertaking*, which it holds, whether alone or with any associate;
 - (d) if the *controller* is a *body corporate*, its country of incorporation, address and registered number; and
 - (e) if the *controller* is an individual, his date and place of birth.

(5) **In this section, “associate” and “shares” have the meanings given in the definition of *controller*.**

- 16.4.6** **G**
/1 The information required by SUP 16.4.5R(4) may be provided in the form of a group organisation chart.
- 16.4.7** **G**
/1 If a *group* includes more than one *firm*, a single annual controllers report may be submitted, and so satisfy the requirements of all *firms* in the *group*. Such a report should contain the information required from all of them, meet all relevant due dates and indicate all the *firms* on whose behalf it is submitted. Nevertheless, the requirement to provide a report, and the responsibility for the report, remain with each *firm* in the *group*.
- 16.4.8** **G**
/1 A *firm* may submit a single report satisfying the requirements of its annual controllers report (SUP 16.4.5R) and its annual close links report (SUP 16.5.4R). Such a report should contain the information required on both *controllers* and *close links*.
- 16.4.9** **G**
/1 *Firms* are reminded of the requirement in SUP 11.4.10R to take reasonable steps to keep themselves informed about the identity of their *controllers*.
- 16.4.10** **R**
/1 If a *firm* is a *friendly society* or a *building society*, then it is required to submit a report under SUP 16.4.5R only if it is aware that it has a *controller*.

16.5 Annual close links report

Application

16.5.1

G
/1

The effect of *SUP* 16.1.1R is that this section applies to every *firm* except:

- (1) an *ICVC*;
- (2) an *incoming EEA firm*;
- (3) an *incoming Treaty firm*;
- (4) a *non-directive friendly society*;
- (5) a *partnership*;
- (6) a *sole trader*;
- (7) a *service company*;
- (8) a *UCITS qualifier*.

Purpose

16.5.2

G
/1

A *firm* is required to notify the *FSA* of changes to its *close links* (see *SUP* 11.9). *Threshold condition 3* (Close links) provides that, if a *firm* has *close links* with another *person*, the *FSA* must be satisfied that:

- (1) those *close links* are not likely to prevent the *FSA*'s effective supervision of the *firm*; and
- (2) where it appears to the *FSA* that the *person* is subject to the laws, regulations or administrative provisions of a territory which is not an *EEA State*, neither the foreign provisions, nor any deficiency in their enforcement, would prevent the *FSA*'s effective supervision of the *firm*.

16.5.3

G
/1

The purposes of the *rules* and *guidance* in this section are:

- (1) to ensure that, in addition to such notifications, the *FSA* receives regular and comprehensive information about the identities of all persons with whom a *firm* has *close links*, which is relevant to a *firm*'s continuing to satisfy the *threshold condition 3* (Close links) (see *COND* 2.3) and to the protection of *consumers*; and

- (2) to implement certain requirements relating to the provision of information on *close links* which must be imposed on *firms* under the “*Post-BCCI Directive*”.

Report

16.5.4

R

/1

- (1) A *firm* must submit a report to the *FSA* annually, containing the information in (3) or (4) (as applicable).
- (2) A *firm* must submit the report in (1) to the *FSA* within four months of the firm’s *accounting reference date*.
- (3) If a *firm* is not aware:
- (a) that it has any *close links*; or
 - (b) of any material changes to the details in (4) (a) to (c) in respect of its *close links* since the submission of its previous report under (1);
- then the report in (1) must confirm this.
- (4) Unless (3) applies, the report in (1) must contain a list of all *persons* with whom the *firm* has *close links* as at the *firm’s accounting reference date* of which it is aware, and for each such *person* state:
- (a) its name;
 - (b) the nature of the *close links*;
 - (c) if the *close link* is with a *body corporate*, its country of incorporation, address and registered number; and
 - (d) if the *close link* is with an individual, his date and place of birth.

16.5.5

G

/1

The information required by *SUP* 16.5.4R(4) may be provided in the form of a group organisation chart.

16.5.6

G

/1

If a *group* includes more than one *firm*, a single annual close links report may be submitted and so satisfy the requirements of all *firms* in the *group*. Such a report should contain the information required from all of them, meet all relevant due dates and indicate all the *firms* on whose behalf it is submitted. Nevertheless, the requirement to provide a report, and the responsibility for the report, remain with each *firm* in the *group*.

16.5.7

G

/1

A *firm* may submit a single report satisfying the requirements of its annual controllers report (*SUP* 16.4.5R) and its annual close links report (*SUP* 16.5.4R). Such a report should contain the information required on both *controllers* and *close links*.

16.5.8

R

/1

If a *firm* is an unincorporated *friendly society*, then it is only required to submit a report under SUP 16.5.4R if it is aware that it has *close links*.



16.6 Compliance reports

Application

16.6.1 G_{/1} The effect of SUP 16.1.1R is that this section applies to every *firm* within a category listed in the left hand column of the table in SUP 16.6.2G.

16.6.2 G_{/1} Table Applicable provisions of this section (see SUP 16.6.1G)

Category of firm	Applicable provisions
<i>Bank</i>	SUP 16.6.4R – SUP 16.6.5R
<i>Trustee of an AUT</i> <i>Depositary of an ICVC</i>	SUP 16.6.6R – SUP 16.6.9G
<i>OPS firm</i>	SUP 16.6.6R – SUP 16.6.8R

Purpose

16.6.3 G_{/1} The FSA performs part of its supervision work by reviewing and analysing information about *firms*' records of compliance with the requirements and standards under the *regulatory system*. The type of report the FSA requires will vary, depending on the type of business a *firm* undertakes. The requirements in SUP 16.6 represent an interim approach to compliance reporting, based mainly on the reporting requirements, which *previous regulators* applied to *firms*. This information helps the FSA to determine whether a *firm* is complying with the requirements applicable to its business, and what procedures it is operating to ensure its compliance.

Banks

16.6.4 R_{/1} **A bank must submit compliance reports to the FSA in accordance with SUP 16.6.5R.**

16.6.5 R_{/1} Table Compliance reports from a bank (see SUP 16.6.4R)

Report	Frequency	Due date
List of all <i>overseas regulators</i> for each legal entity in the <i>firm's group</i>	Annually	6 months after the <i>firm's accounting reference date</i>
Organogram showing the <i>authorised entities</i> in the <i>firm's group</i>	Annually	6 months after the <i>firm's accounting reference date</i>

Trustees of authorised unit trust schemes, depositaries of ICVCs, and OPS firms

16.6.6 **R** ^{/1} A *firm* within a category listed in the left-hand column of SUP 16.6.7R must submit compliance reports in accordance with SUP 16.6.7R.

16.6.7 **R** ^{/1} Table Compliance reports from trustees of AUTs, depositaries of ICVCs, and OPS firms (see SUP 16.6.6R)

Report	Frequency	Due date
Report from a <i>trustee</i> of an <i>AUT</i> on <i>manager's failures</i> as set out in SUP 16.6.8R(1)	Quarterly	1 month after quarter end (Note)
Report from a <i>depositary</i> of an <i>ICVC</i> on failures by the <i>authorised corporate director</i> as set out in SUP 16.6.8R(2)	Quarterly	1 month after quarter end (Note)
<i>OPS firms only:</i> Annual accounts of each <i>occupational pension scheme</i> in respect of which the <i>firm</i> is acting	Annually	7 months after end of the scheme year

Report	Frequency	Due date
<i>OPS firms only:</i> Audited annual accounts of each <i>OPS collective investment scheme</i> in respect of which the <i>firm</i> is acting	Annually	7 months after end of the scheme year
Note = The quarter ends are the end of the scheme year and 3, 6 and 9 months after that date.		

16.6.8

R

/1

- (1) The report from a *trustee* of an *AUT* to the *FSA* must state, in relation to the *manager* of each *AUT* for which it is a *trustee*, the number of times during the quarter in which facts came to the *firm's* knowledge from which it appeared, or might have appeared, that the *manager* had failed (materially or otherwise) to:
- (a) give correct instructions to the *trustee* to create or cancel *units* in the *AUT* when the *manager* should have done so, and the error:
 - (i) resulted in the creation of too few *units* or in the cancellation of too many *units*; and
 - (ii) was not corrected in accordance with the *FSA's guidance* as set out in *CIS App*;
 - (b) price *units* in the *AUT* in accordance with *CIS 4* for single-priced *AUTs* and *CIS 15* for dual-priced *AUTs*, where the pricing error was:
 - (i) greater than 0.5% of the price of a *unit*; or
 - (ii) less than 0.5% of the price of a *unit*, and the *trustee* did not consider the *manager's* controls to be adequate;
- unless the failure was an isolated incident.
- (2) The report from a *depository* of an *ICVC* to the *FSA* must state, in relation to the *authorised corporate director* of each *ICVC* for which the *firm* is a *depository*, the number of times during the quarter in which facts came to the *firm's* knowledge from which it appeared or might have appeared that the *authorised corporate director* had failed (materially or otherwise) to:
- (a) arrange for the issue or cancellation of *shares* in the *ICVC* when the *authorised corporate director* should have done so, and the error:

- (i) resulted in the creation of too few *shares* or in the cancellation of too many *shares*; and
- (ii) was not corrected in accordance with the *FSA's guidance* as set out in *CIS App*;
- (b) price *shares* in the *ICVC* in accordance with the provisions of *CIS 4* for *ICVCs*, where the pricing error was:
 - (i) greater than 0.5% of the price of a *share*; or
 - (ii) less than 0.5% of the price of a *share*, and the *depository* did not consider the *authorised corporate director's* controls to be adequate;

unless the failure was an isolated incident.

- (3) An *OPS firm* must notify the *FSA* of any change in the date of commencement of the scheme year of an *OPS* or *OPS collective investment scheme*, in respect of which the *firm* is acting, not less than 15 *business days* before the date on which such a change is to become effective.

16.6.9

G
/1

SUP 16 Ann 12G provides *guidance* on the completion of the report from a *trustee* of an *AUT* on a *manager's* failures as set out in *SUP 16.6.8R(1)*, and the report from a *depository* of an *ICVC* on failures by the *authorised corporate director* as set out in *SUP 16.6.8R(2)*. This *guidance* includes suggested formats for the submission of the reports.



16.7 Financial reports

Application

- 16.7.1 **G**_{/1} The effect of SUP 16.1.1R is that this section applies to every *firm* within a category listed in the left hand column of SUP 16.7.5G.
- 16.7.2 **G**_{/1}
 - (1) Reporting requirements for *insurers*, excluding *friendly societies* are set out in IPRU(INS).
 - (2) Reporting requirements for *friendly societies* are set out in IPRU(FSOC).

Purpose

- 16.7.3 **G**_{/1} *Principle 4* requires *firms* to maintain adequate financial resources, and the Interim Prudential sourcebooks set out the FSA’s detailed capital adequacy requirements. By submitting regular financial reports, *firms* enable the FSA to monitor their compliance with *Principle 4* and with the detailed requirements of the Interim Prudential sourcebooks. These reports also help the FSA to analyse *firms*’ financial condition and performance and to understand their business. By means of further collation and review of the data which these reports provide, the FSA also uses the reports to identify developments across the financial services industry and its constituent sectors.
- 16.7.4 **G**_{/1} The requirements in this section differ according to *firm* categories, as different financial information is required to reflect different types of business. The requirements in SUP 16.7 represent an interim approach to financial reporting, based mainly on the reporting requirements which *previous regulators* applied to *firms*. Standard formats are used for reporting by each category of *firm*, to assist comparability between *firms* of the same category. Timely submission is important to ensure the FSA has up-to-date information.

16.7.5 **G**_{/1} Table Applicable rules and guidance on financial reports (see SUP 16.7.1G)

Firm category	Applicable rules and guidance
<i>Bank</i>	SUP 16.7.7R – SUP 16.7.15R
<i>Building society</i>	SUP 16.7.16R – SUP 16.7.19R
<i>Service company</i>	SUP 16.7.20R – SUP 16.7.21R

Firm category	Applicable rules and guidance
<i>Securities and futures firm</i> (Note 1)	SUP 16.7.22R – SUP 16.7.34G
<i>Investment management firm</i>	SUP 16.7.35R – SUP 16.7.41R
<i>Personal investment firm</i>	SUP 16.7.42G – SUP 16.7.53G
<i>Authorised professional firm</i> (Note 2)	SUP 16.7.54R
<i>Society of Lloyd’s</i>	SUP 16.7.55R – SUP 16.7.56R and SUP 16.7.59R(1) and (2)
<i>Members’ adviser</i>	SUP 16.7.57R – SUP 16.7.58R, SUP 16.7.59R(3), SUP 16.7.60G and SUP 16.7.61G

Note 1 = For an *oil market participant*, this section does not apply unless *IPRU(INV)* 3 applies to the *firm*.

Note 2 = This section applies to an *authorised professional firm* which is required by *IPRU(INV)* 2.1.2R(1) to comply with chapter 3, 5, 10 or 13 of *IPRU(INV)*. This section applies to such a *firm* as if it were the relevant *firm* category in the right hand column of *IPRU(INV)* 2.1R.

16.7.6

G
/1

For each *firm* category there is a table listing the reporting requirements. The tables state the name of each report, the frequency with which a *firm* must submit it, and the due date for submission. Detailed reporting forms and *rules* and *guidance* on their completion are contained in annexes to this chapter.

Banks

16.7.7

R
/1

A UK bank must submit reports in accordance with SUP 16.7.8R.

16.7.8

R
/1

Table Financial reports from a UK bank (see SUP 16.7.7R)

Content of Report	Form (Note 1)	Frequency	Due date
Annual report and audited accounts	N/A	Annually	3 months after the <i>firm's accounting reference date</i>
Adequate information on capital adequacy (Unconsolidated, solo consolidated)	BSD3	Quarterly	10 <i>business days</i> after quarter end (12 <i>business days</i> if submitted electronically)
Adequate information on capital adequacy (Consolidated)	BSD3	Half yearly	20 <i>business days</i> after period end (22 <i>business days</i> if submitted electronically)
Analysis of large exposures (Unconsolidated, solo consolidated)	LE2	Quarterly	10 <i>business days</i> after quarter end
Analysis of large exposures (Consolidated)	LE2	Quarterly	20 <i>business days</i> after period end

Content of Report	Form (Note 1)	Frequency	Due date
Adequate information on holdings of credit and financial institutions' and non-financial companies' capital instruments (Unconsolidated, solo consolidated)	M1 (Note 2)	Quarterly	10 <i>business days</i> after quarter end (12 <i>business days</i> if submitted electronically)
Adequate information on holdings of credit and financial institutions' and non-financial companies' capital instruments (Consolidated)	M1 (Note 2)	Half yearly	20 <i>business days</i> after period end (22 <i>business days</i> if submitted electronically)
Adequate information on sterling stock liquidity	SLR1 (Note 3)	Monthly (Note 4)	6 <i>business days</i> after second Wednesday of the month
Adequate information on mismatch liquidity	LR (Note 3)	Quarterly	10 <i>business days</i> after quarter end (12 <i>business days</i> if submitted electronically)

Content of Report	Form (Note 1)	Frequency	Due date
List of <i>companies</i> included in the <i>bank's</i> consolidated large exposure reporting	N/A	Annually	6 months after the <i>firm's</i> accounting reference date
Annual confirmation that all <i>companies</i> included in solo consolidation meet the criteria for such consolidation as set out in <i>IPRU(BANK)</i> CS 9.2	N/A	Annually	6 months after the <i>firm's</i> accounting reference date

Note 1 = When giving the report required, a *bank* must use the form indicated, if any. The content of the form has the status of *guidance* on the type of information that should be provided to meet the reporting obligation. A copy of the form is located in *SUP* 16 Ann 1R.

Note 2 = This report is only required from a *bank* which reports either on a solo or consolidated basis and:

(i) has been granted a trading book concession as explained in *IPRU(BANK)* CA 10.3; or

(ii) has qualifying holdings in non-financial *companies* as explained in *IPRU(BANK)* CA 10.4.

Content of Report	Form (Note 1)	Frequency	Due date
-------------------	---------------	-----------	----------

Note 3 = A *bank* is not required to submit both the SLR1 and LR.

A *bank* which monitors its liquidity according to the maturity mismatch approach as set out in *IPRU(BANK) LM* must submit the LR.

A *bank* which monitors its liquidity according to the sterling stock liquidity approach as set out in *IPRU(BANK) LS* must submit the SLR1.

Note 4 = This report must be prepared as at the second Wednesday of each month. See *IPRU(BANK) LS 5.2 (2)* regarding submission of an SLR1 on breach of various limits.

16.7.9 **R** An *EEA bank* must submit reports in accordance with *SUP 16.7.10R*.

/1

16.7.10 **R** Table Financial reports from an *EEA bank* (see *SUP 16.7.9R*)

/1

Content of Report	Form (Note)	Frequency	Due date
Adequate information on mismatch liquidity (excluding deposit concentration)	LR – (excluding Part 5)	Quarterly	10 <i>business days</i> after quarter end (12 <i>business days</i> if submitted electronically)

Note = When giving the report required, a *bank* must use the form indicated. The content of the form has the status of *guidance* on the type of information that should be provided to meet the reporting obligation. A copy of the form is located in *SUP 16 Ann 1R*.

16.7.11 **R** A *bank* established outside the *EEA* must submit reports in accordance with *SUP 16.7.12R*.

/1

16.7.12

R

Table Financial reports from a bank established outside the EEA (see SUP 16.7.11R)

/1

Content of Report	Form (Note)	Frequency	Due date
Analysis of profits, large exposures, balance sheet, off balance sheet items and bad and doubtful debt provisions	B7	Half yearly	10 <i>business days</i> after period end (12 <i>business days</i> if submitted electronically)
Adequate information on mismatch liquidity	LR (Note 2)	Quarterly	10 <i>business days</i> after quarter end (12 <i>business days</i> if submitted electronically)

Note = When giving the report required, a *bank* must use the form indicated. The content of the form has the status of *guidance* on the type of information that should be provided to meet the reporting obligation. A copy of the form is located in SUP 16 Ann 1R.

16.7.13

R

A *bank* must submit the reports described in SUP 16.7.8R, SUP 16.7.10R and SUP 16.7.12R to the following:

/1

- (1) BSD3, LR, SLR1, B7 and M1 to: The Financial Statistics Division Domestic Banking Group (HO-4) Bank of England Threadneedle Street London EC2R 8AH;
- (2) all other reports to the *bank's* usual supervisory contact at the address in SUP 16.3.10R.

The Bank of England acts only as the agent of the *FSA* with regard to reports in (1).

16.7.14

G

Guidance notes for the completion of the reports are contained in SUP 16 Ann 2G.

/1

Electronic submission to the Bank of England

16.7.15

R

/1

A *bank* must submit the reports referred to in SUP 16.7.13R(1) either: in the electronic format specified in the Bank of England Reporting System specification as at *commencement*, sent either:

- (1) on paper; or
- (2) in the electronic format specified in the Bank of England Reporting System specification as at *commencement* and sent either;
 - (a) by the AT&T Global Network to one of the addresses specified in the above specification; or
 - (b) by e-mail to mfsd_beers@bofe.co.uk
 - (c) on computer diskette but to paper reporting deadlines

Building societies

16.7.16

R

/1

A *building society* must submit reports to the FSA in accordance with SUP 16.7.17R.

16.7.17

R

/1

Table Financial reports from a building society. (see SUP 16.7.16R)

Content of Report	Form (Note 1)	Frequency	Due date
Adequate information on group balance sheet, analysed between society and subsidiary undertakings	MFS1 – (Table A)	Monthly	9 <i>business days</i> after month end (largest societies) (Note 2) 12 <i>business days</i> after month end (other societies)
Adequate information on society's balance sheet and primary business transactions	MFS1 – (Tables B to G)	Monthly	7 <i>business days</i> after month end (largest societies) (Note 2) 10 <i>business days</i> after month end (other societies)
Sectoral breakdown of the society's balance sheet	MFS1 Supp (Note 3)	Monthly	7 <i>business days</i> after month end
Adequate information on balance sheets and primary business transactions of society's subsidiary undertakings accepting deposits and/ or lending	MFS2	Monthly	7 <i>business days</i> after month end (largest societies) (Note 2) 10 <i>business days</i> after month end (other societies)
Analysis of interest rate risk gap (Note 4)	N/A	Monthly	15 <i>business days</i> after month end

Content of Report	Form (Note 1)	Frequency	Due date
Adequate information on balance sheet, income and expenditure, capital, lending quality, large exposures and maturities for the society and its subsidiary undertakings, together with relevant expected and likely out-turns	QFS1	Quarterly	18 <i>business days</i> after society's financial quarter end
Sectoral and other breakdowns of assets and liabilities, gilt maturities, and derivative contracts	QFS2 (Note 3)	Quarterly	11 <i>business days</i> after calendar quarter end
Adequate information on balance sheet, income and expenditure, the range and volume of activities undertaken by the society, its subsidiary undertakings, and where relevant, its participating interests	AFS1	Annually	2 months after society's accounting reference date.

Content of Report	Form (Note 1)	Frequency	Due date
<p>Note 1 = When giving the report required, a <i>building society</i> must use the form indicated, if any. The content of the form has the status of <i>guidance</i> on the type of information that should be provided to meet the reporting obligation. A copy of the form is located in <i>SUP 16 Ann 3R</i> for all reports (except the "Analysis of interest rate gap" for which no form is provided).</p> <p>Note 2 = Largest societies are defined as those societies who were the 40 largest <i>building societies</i> (in terms of total assets) as at 31 December 1991.</p> <p>Note 3 = Only required from the largest tier (see Note 2).</p> <p>Note 4 = All societies except those on the "Administered" approach (see <i>IPRU(BSOC) 4 Ann 4A 4A.2</i>) complete the "Analysis of interest rate risk gap". <i>SUP 16.7.19R</i> does not apply to the "Analysis of interest rate risk gap".</p>			

16.7.18 G *Guidance* notes for the completion of the reports are contained in *SUP 16 Ann 4G*.
/1

Method of submission

16.7.19 R A *building society* must submit the reports in *SUP 16.7.17R* (other than the "Analysis of interest rate risk gap") either:
/1

- (1) by means of the Remote Data Entry system supplied by the *FSA* (and previously by the Building Societies Commission); or
- (2) by post or fax to the address in *SUP 16.3.10R* using:
 - (a) the pre-printed forms supplied by the *FSA* for that purpose; or
 - (b) its own version of the *FSA's* specified forms, provided that version is equivalent in terms of content and layout.

Service companies

16.7.20 R A *service company* must submit reports to the *FSA* in accordance with *SUP 16.7.21R*.
/1

16.7.21 R Table Financial reports required from service companies (see *SUP 16.7.20R*)
/1

Report	Frequency	Due date
Annual audited financial statements	Annually	6 months after the <i>firm's accounting reference date</i>

Securities and futures firms

- 16.7.22** **R** (1) *SUP 16.7.23R to SUP 16.7.30R do not apply to a lead regulated firm.*
/1
- (2) *A lead regulated firm must submit a copy of its audited annual financial statements to the FSA within six months of the date at which they were prepared.*
- 16.7.23** **R** For the purposes of *SUP 16.7.24R to SUP 16.7.34G*, the definitions of the following *firm* types provided in the glossaries in *IPRU(INV) 3 and 10* apply:
/1
- (1) adviser;
 - (2) arranger;
 - (3) broad scope firm;
 - (4) category A;
 - (5) category B;
 - (6) category C;
 - (7) category D;
 - (8) local; and
 - (9) venture capital firm.
- 16.7.24** **R** *A securities and futures firm which is a category A or B firm or a broad scope firm must submit reports to the FSA in accordance with SUP 16.7.25R.*
/1
- 16.7.25** **R** Table Financial reports required from a securities and futures firm which is a category A or B firm or a broad scope firm (see *SUP 16.7.24R*)
/1

Report	Frequency	Due date
Audited annual financial statements	Annually	3 months after the <i>firm's accounting reference date</i>
Annual reporting statement	Annually	3 months after the <i>firm's accounting reference date</i>
Annual reconciliation (Note 1)	Annually	3 months after the <i>firm's accounting reference date</i>
Audited accounts of any subsidiary, unless the <i>rules</i> in this chapter require that subsidiary to submit accounts to the <i>FSA</i>	Annually	3 months after the <i>firm's accounting reference date</i>
Consolidated reporting statement (Note 2)	Half yearly	1 month after period end
Large exposures quarterly reporting statement (Form LEM 1 or LEM 2) – solo (Notes 3 and 4)	Quarterly	15 <i>business days</i> after quarter end
Large exposures quarterly reporting statement (Form LEM 1 or LEM 2) – consolidated (Notes 2 and 4)	Quarterly	1 month after quarter end
Monthly reporting statement	Monthly	15 <i>business days</i> after month end

Report	Frequency	Due date
--------	-----------	----------

Note 1 = Every year a *firm* must submit:

(a) a reconciliation and explanation of any differences between amounts shown in the balance sheet in the audited annual financial statements and the annual reporting statement; and

(b) a reconciliation and explanation of any differences between the annual reporting statement and the monthly reporting statement prepared as at the same date.

Note 2 = Only for category A and B firms which are subject to the consolidation *rules* set out in *IPRU (INV)* 10–200R – 10–203R, and are not exempt from the consolidation *rules* under *IPRU (INV)* 10–200R(2) or *IPRU (INV)* 10–204R.

Note 3 = Only for category A and B firms.

Note 4 = A *firm* which was required to submit Form LEM1 in the relevant period immediately prior to the *commencement* must continue to do so.

A *firm* which was required to submit Form LEM2 in the relevant period immediately prior to the *commencement* must continue to do so. A category A or B firm *authorised* after the *commencement* must submit Form LEM1.

16.7.26 **R** ^{/1} A *securities and futures firm* which is a category C or D firm or an arranger or venture capital firm must submit reports to the FSA in accordance with SUP 16.7.27R.

16.7.27 **R** ^{/1} Table Financial reports from a securities and futures firm which is a category C or D firm or an arranger or venture capital firm (see SUP 16.7.26R)

Report	Frequency	Due date
Audited annual financial statements	Annually	3 months after the <i>firm's accounting reference date</i>
Annual reporting statement	Annually	3 months after the <i>firm's accounting reference date</i>

Report	Frequency	Due date
Annual reconciliation (Note 1)	Annually	3 months after the <i>firm's accounting reference date</i>
Audited accounts of any <i>subsidiary</i> unless the <i>rules</i> in this chapter require that <i>subsidiary</i> to submit accounts to the <i>FSA</i>	Annually	3 months after the <i>firm's accounting reference date</i>
Consolidated reporting statement (Note 2)	Half yearly	1 month from period end
Large exposures quarterly reporting statement (Form LEM 1 or LEM 2) – solo (Notes 3 and 4)	Quarterly	15 <i>business days</i> after quarter end
Large exposures quarterly reporting (Form LEM 1 or LEM 2) – consolidated (Notes 2 and 4)	Quarterly	1 month after quarter end
Quarterly reporting statement	Quarterly	15 <i>business days</i> after quarter end

Note 1 = Every year a *firm* must submit:

(a) a reconciliation and explanation of any differences between amounts shown in the balance sheet in the audited annual financial statements and the annual reporting statement; and

(b) a reconciliation and explanation of any differences between the annual reporting statement and the monthly reporting statement prepared as at the same date.

Report	Frequency	Due date
<p>Note 2 = Only for category C firms (as defined in the glossaries located in <i>IPRU(INV)</i> 10), which are subject to the consolidation rules set out in <i>IPRU(INV)</i> 10–200R – 10–203R, and are not exempt from the consolidation rules under <i>IPRU(INV)</i> 10–200R(2) or <i>IPRU(INV)</i> 10–204R.</p>		
<p>Note 3 = Only for category C firms (as defined in the glossaries located in <i>IPRU(INV)</i> 10).</p>		
<p>Note 4 = A firm which was required to submit Form LEM1 in the relevant period immediately prior to commencement must continue to do so.</p>		
<p>A firm which was required to submit Form LEM2 in the relevant period immediately prior to commencement must continue to do so.</p>		
<p>A category C firm authorised after commencement must submit the Form LEM1.</p>		

16.7.28 **R** *A securities and futures firm* which is an adviser or local, or a traded options market maker (as referred to in *IPRU(INV)* 3-60R (4)) must submit reports to the FSA in accordance with SUP 16.7.29R.
/1

16.7.29 **R** Table Financial reports from a securities and futures firm which is an adviser, local or a traded options market maker (see SUP 16.7.28R)
/1

Report	Frequency	Due date
Solvency statement (<i>sole traders only</i>)	Annually	2 months after the <i>firm's accounting reference date</i>
Audited annual financial statements (<i>partnerships and bodies corporate only</i>)	Annually	3 months after the <i>firm's accounting reference date</i>
Audited accounts of any <i>subsidiary unless the rules in this chapter require that subsidiary to submit accounts to the FSA</i>	Annually	3 months after the <i>firm's accounting reference date</i>

- 16.7.30** **R**
/1 (1) *A securities and futures firm* which is an *ISD investment firm*, and which is a *sole trader*, or a *partnership* formed under the laws of England and Wales, must submit a solvency statement for the *sole trader* or each *partner* to the *FSA* every year.
- (2) The due date for the submission of the solvency statement is three months after the *firm's accounting reference date*.
- 16.7.31** **R**
/1 *A securities and futures firm* must submit the reports in accordance with, and in the same format as, the forms contained in *SUP 16 Ann 10R*, and as required by section 6 of that annex.
- 16.7.32** **G**
/1 *Guidance* notes for the completion of the reports are contained in *SUP 16 Ann 11G*.
- 16.7.33** **R**
/1 (1) Any report in *SUP 16.7.23R* to *SUP 16.7.30R* submitted to the *FSA* by a *securities and futures firm* must be signed by two authorised signatories satisfying the requirements of *SUP 16.7.33R(2)*, except for:
- (a) the audited accounts of a *subsidiary* of the *firm* and the *firm's* audited annual financial statements; and
- (b) other reports where the *firm* is a *sole trader*, when only one authorised signatory is required.
- (2) An authorised signatory must be:
- (a) for a body corporate, a *director*;

- (b) for a partnership, a *partner* who is an *approved person* of the *firm*;
 - (c) for a *sole trader*, the proprietor.
- (3) A *firm* must use the FiRSt 5.0 software package made available to *firms* by the *FSA* (and previously by the *SFA*) to submit the following reports:
- (a) annual reporting statement;
 - (b) monthly reporting statement;
 - (c) quarterly reporting statement; and
 - (d) consolidated reporting statement.
- (4) All reports in *SUP* 16.7.24R to *SUP* 16.7.30R must be sent to the address given in *SUP* 16.3.10R, using pre-printed labels provided by the *FSA* for this purpose.

16.7.34

G
/1

The *FSA* expects the audited annual financial statements to be submitted together with the auditor's report required by *SUP* 3.9.4R.

Investment management firms

16.7.35

R
/1

An *investment management firm* which is not one of the types of *firm* specified in *SUP* 16.7.37R must submit reports to the *FSA* in accordance with *SUP* 16.7.36R.

16.7.36

R
/1

Table Financial reports from an investment management firm (see *SUP* 16.7.35R)

Report	Frequency	Due date
Annual Financial Return (Note 1)	Annually	4 months after the <i>firm's accounting reference date</i>
Annual accounts (Note 1)	Annually	4 months after the <i>firm's accounting reference date</i>
Annual solvency statement (only for individuals in partnership) (Note 2)	Annually	At the same time as the Annual Financial Return

Report	Frequency	Due date
Quarterly Financial Return (only for firms subject to a Liquid Capital Requirement as set out in <i>IPRU(INV) 5.2.3 (1)(a)</i>)	Quarterly	1 month after quarter end
Monthly Financial Return (only for ISD firms (Note 3) subject to the Own Funds Requirement of Euro 730,000 as set out in <i>IPRU(INV) 5.2.3(1)(b)</i>) (Note 4)	Monthly	1 month after month end

Note 1: The Annual Financial Return and the annual accounts of a *firm* must together give a true and fair view of the state of affairs of the *firm* (or in the case of a *sole trader*, of his regulated activities) and of the *firm's* profit or loss.

Note 2: The annual solvency statement is a statement from each *partner* in the following form: "I certify that I have sufficient assets to cover my personal liabilities."

Note 3: The definition of ISD firm for this purpose is provided in the glossary located in *IPRU(INV) 5*.

Note 4: A *firm* need not prepare a Monthly Financial Return as at the same date as a Quarterly Financial Return. A *firm* must therefore prepare eight Monthly and four Quarterly Financial Returns each year. One Quarterly Financial Return must be prepared to the same date as the Annual Financial Return (but submitted earlier). Monthly and Quarterly Financial Returns are not cumulative, and must relate only to the period concerned. A *firm* may need to prepare more frequent accounts, including financial resources statements, for its own internal use to ensure that it complies at all times with the *rules* in *IPRU(INV)*.

16.7.37

R

SUP 16.7.36R does not apply to an *investment management firm* which is:

/1

(1) a *lead regulated firm* or an *OPS firm* (but if a *firm* falls into either of these categories, then it must submit a copy of its annual accounts in accordance with SUP 16.7.36R);

(2) a local authority.

16.7.38 **R** ^{/1} An *investment management firm* must submit the required reports in accordance with, and in the same format as, the forms contained in SUP 16 Ann 5R, and according to the requirements contained in section 4 of that annex.

16.7.39 **G** ^{/1} The FSA expects the annual accounts to be submitted together with the auditor's report required by SUP 3.9.4R.

Reporting periods

16.7.40 **R** ^{/1} The period covered by:

- (1) monthly financial returns may not exceed one *month*;
- (2) quarterly financial returns may not exceed three *months*; and
- (3) annual financial returns may not exceed twelve *months*.

Timely reporting

16.7.41 **R** ^{/1} An *investment management firm* must notify the FSA in writing as soon as it has reason to believe it will be unable to submit an annual, quarterly or monthly financial return by the dates specified in SUP 16.7.36R. Such notice must specify why it cannot submit the report to the FSA on time and give the date by which it will submit the report to the FSA.

Personal investment firms

16.7.42 **G** ^{/1} SUP 16.7.48R covers the reporting requirements applicable to a *small personal investment firm*.

16.7.43 **R** ^{/1} For the purposes of SUP 16.7.44R to SUP 16.7.51R the definitions of the following *firm* types provided in the glossary in IPRU(INV) 13 apply:

- (1) Category A1 firm;
- (2) Category A2 firm;
- (3) Category A3 firm;

- (4) Category B1 firm;
- (5) Category B2 firm;
- (6) Category B3 firm;
- (7) network;

16.7.44 **R** *A personal investment firm (except a small personal investment firm) must submit reports to the FSA in accordance with SUP 16.7.45R.*
/1

16.7.45 **R** Table Financial reports from a personal investment firm (except a small personal investment firm) (see SUP 16.7.44R)
/1

Report	Frequency	Due date
Annual questionnaire (Note 1)	Annually	2 months after the firm's accounting reference date
Annual financial statements (Note 2)	Annually	4 months after the firm's accounting reference date
Audited consolidated statutory accounts (Note 3)	Annually	4 months after the firm's accounting reference date
Annual reconciliation (Note 4)	Annually	4 months after the firm's accounting reference date
Form 13A (Balance sheet)	Note 5	Note 5
Form 13Bi/ Bii (Profit and Loss)	Note 5	Note 5
Form 13Ci (Statement of own funds)	Note 5	Note 5
Form 13Cii (Statement of own funds) (unincorporated firms only)	Note 5	Note 5

Report	Frequency	Due date
Form 13D (Financial Resources test – current assets)	Note 5	Note 5
Form 13E (Financial Resources test – expenditure requirement) (Note 6)	Note 5	Note 5
Form 13F (Financial Resources test – assets and liabilities)	Note 5	Note 5
Form 13G (Financial Resources test – position risk deductions)	Note 5	Note 5
Form 13J (<i>Sole trader solvency statement</i>) (<i>sole traders only</i>)	Note 5	Note 5
Report on holdings of second-hand life policies (only from second hand life policy market makers) (Note 7)	Quarterly	3 weeks after quarter end

Note 1 = Not required from Category A1 and B1 firms.

Note 2 = The annual financial statements must include all reports, for which this Table specifies a monthly or quarterly frequency.

Note 3 = Only required from a *firm* if it is a *holding company*, or if one of its *controllers* is a *company*.

Note 4 = Every year a *firm* must submit a reconciliation of the amounts shown in the balance sheet in the annual financial statements with the amounts shown in the balance sheet in the last monthly or quarterly financial statements.

The *firm* must submit this reconciliation with its annual financial statements.

Report	Frequency	Due date
<p>Note 5 = For a Category A1 or B1 firm, the frequency will be monthly, and the due date will be 3 weeks after month end.</p> <p>For a Category B2 firm, which has less than 26 <i>financial advisers</i>, the frequency will be annual, and the due date will be 4 months after year end.</p> <p>For a Category B3 firm, which has less than 26 <i>financial advisers</i>, and has <i>permission to manage investments</i>, the frequency will be annual, and the due date will be 4 months after year end.</p> <p>For any other <i>firm</i> to which SUP 16.7.46R applies, frequency will be quarterly, and the due date will be 3 weeks after quarter end.</p> <p>Note 6 = A <i>firm</i> which is a Category A1 firm, a Category A2 firm with <i>permission to manage investments</i>, or a Category A network must submit the Form 13Ei as contained in SUP 16 Ann 7 (section 3). A <i>firm</i> which is a Category A2 firm without <i>permission to manage investments</i>, or a Category A3 firm, must submit the Form 13Eii as contained in SUP 16 Ann 7 (section 3). A <i>firm</i> which is a Category B1, B2 or B3 firm must submit the Form 13E as contained in SUP 16 Ann 7 (section 4).</p> <p>Note 7 = “Second hand life policy” in SUP 16 means a <i>life policy</i> which is to be or has been assigned for value by the <i>policyholder</i> to another <i>person</i>.</p>		

16.7.46 **R** In addition to the reports specified in SUP 16.7.45R, a Category A1, A2 or A3 *personal investment firm* must submit reports to the FSA in accordance with SUP 16.7.47R.

16.7.47 **R** Table Additional financial reports required from a Category A1, A2 or A3 firm (see SUP 16.7.46R)

Report	Frequency	Due date
Consolidated financial resources return (Note 1)	Quarterly	3 weeks after quarter end
Form CAD 13	Quarterly	3 weeks after quarter end
Form 13H (Restrictions of Financial Resources)	Note 2	Note 2
Form 13I (Statement of large exposures)	Quarterly	3 weeks after quarter end
Form 13I (Consolidated statement of large exposures) (Note 1)	Quarterly	3 weeks after quarter end

Note 1 = This report is only required from a *firm* if it is a member of a *group*, and it is subject to consolidated supervision as set out in *IPRU(INV)* 13.7.1R to 13.7.2R.

Note 2 = For a Category A1 firm frequency will be monthly and due date will be 3 weeks after month end. For a Category A2 or A3 firm frequency will be quarterly and due date will be 3 weeks after quarter end.

16.7.48 **R** *A small personal investment firm* must submit reports to the FSA in accordance with SUP 16.7.49R.
/1

16.7.49 **R** Table Financial reports required from a small personal investment firm. (see SUP 16.7.48R)
/1

Report	Frequency	Due date
Annual questionnaire	Annually	4 months after the <i>firm's accounting reference date</i>
Audited consolidated annual financial statements (Notes 1 and 2)	Annually	4 months after the <i>firm's accounting reference date</i>

Report	Frequency	Due date
Note 1 = Only required from a <i>firm</i> if it is a <i>holding company</i>, or if one of its <i>controllers</i> is a <i>company</i>.		
Note 2 = The <i>firm</i> must submit the statutory accounts of the <i>group</i> to which it belongs.		

- 16.7.50** **R** ^{/1} SUP 16.7.42G to SUP 16.7.49R do not apply to a *lead regulated firm*.
- 16.7.51** **R** ^{/1} (1) A Category A1, A2 or A3 firm must submit the reports in SUP 16.7.45R and SUP 16.7.47R in accordance with, and in the same format as, the forms contained in SUP 16 Ann 7R (sections 1, 3 and 6), and as required by section 5 of that annex.
- (2) A Category B1, B2 or B3 firm must submit the reports in SUP 16.7.45R and SUP 16.7.49R in the same format as the forms contained in SUP 16 Ann 7R (sections 1, 2 and 4), and as required by section 5 of that annex.
- 16.7.52** **G** ^{/1} *Guidance* notes for the completion of reports for the purposes of consolidated supervision, and of the annual questionnaire required under SUP 16.7.48R can be found in SUP 16 Ann 8G.
- 16.7.53** **G** ^{/1} If a *firm* must submit audited financial statements, the FSA expects the audited financial statements to be submitted together with the auditor's report required by SUP 3.9.4R.

Authorised professional firms

- 16.7.54** **R** ^{/1} (1) An *authorised professional firm* must submit an annual questionnaire to the FSA every year in accordance with, and in the same format as, the form contained in SUP 16 Ann 9R.
- (2) The due date for submission of the annual questionnaire is four months after the *firm's accounting reference date*.

Society of Lloyd's and members' advisers

- 16.7.55** **R** ^{/1} The *Society of Lloyd's* must submit reports to the FSA in accordance with SUP 16.7.56R.
- 16.7.56** **R** ^{/1} Table Financial reports from the Society of Lloyd's (see SUP 16.7.55R)

Report	Frequency	Due date
Annual audited accounts	Annually	6 months after the <i>Society's accounting reference date</i>
Annual Lloyd's Return	Annually	6 months after the <i>Society's accounting reference date</i>
Syndicate returns	Annually	6 months after the <i>Society's accounting reference date</i>

16.7.57 **R** ^{/1} A *members' adviser* must submit reports to the FSA in accordance with SUP 16.7.58R.

16.7.58 **R** ^{/1} Table Financial reports from a *members' adviser* (see SUP 16.7.57R)

Report	Frequency	Due date
Audited annual financial statements	Annually	3 months after the <i>firm's accounting reference date</i>
Annual reporting statement	Annually	3 months after the <i>firm's accounting reference date</i>
Annual reconciliation	Annually	3 months after the <i>firm's accounting reference date</i>
Audited accounts of any <i>subsidiary</i> , unless the <i>rules</i> in this chapter require those <i>subsidiaries</i> to submit accounts to the FSA	Annually	3 months after the <i>firm's accounting reference date</i>
Quarterly reporting statement	Quarterly	15 <i>business days</i> after quarter end

- 16.7.59** **R**_{/1} (1) The *Society of Lloyd's* must prepare its reports in the format specified in *LLD 15*, unless (2) applies.
- (2) The *Society* must ensure that the annual syndicate returns are prepared in accordance with, and in the format set out in, Lloyd's Syndicate Accounting Byelaw (No. 18 of 1994) as amended and in force at *commencement*.
- (3) A *members' adviser* must prepare its reports in accordance with, and in the format set out in, *SUP 16 Ann 10R* and as required by section 6 of that annex.
- 16.7.60** **G**_{/1} *Guidance* notes for the completion of the reports required from a *members' adviser* are contained in *SUP 16 Ann 11G*.
- 16.7.61** **G**_{/1} The nature of the advisory business of a *members' adviser* whose *permission* is restricted to *advising on syndicate participation at Lloyd's* is akin to giving corporate finance advice, and the requirements are those applicable to *firms* giving corporate finance advice.

16.8 Persistency reports from insurers

Application

- 16.8.1** **G**_{/1} The effect of *SUP* 16.1.1R is that this section applies to every *insurer* (including a *friendly society*) with *permission to effect or carry out life policies*.

Purpose

- 16.8.2** **G**_{/1} The purpose of this section is to enable information on the persistency of life policies to be prepared and provided to the *FSA* in a standard format. This information is used in the monitoring of *firms* both individually and collectively.

Requirement to submit persistency reports

- 16.8.3** **R**_{/1} A *firm* must submit a persistency report to the *FSA* by 30 April each year.

Interpretation of this section

- 16.8.4** **R**_{/1} In this section, and Forms 1R(1) to (3) in *SUP* 16 Annex 6R:
- (1) '12 month report' means the part of a persistency report reporting on *life policies effected* in Y-2, '24 month report' means the part of a persistency report reporting on *life policies effected* in Y-3, and so on;
 - (2) 'CC' means the number of *life policies* which:
 - (a) were *effected* during the year to which the calculation relates; and
 - (b) are reported on in the persistency report (see *SUP* 16.8.8R to *SUP* 16.8.15R);
 - (3) 'CF' means the number of *life policies* which:
 - (a) were *effected* during the year to which the calculation relates;

- (b) are reported on in the persistency report (see *SUP 16.8.8R* to *SUP 16.8.15R*); and
- (c) are treated as in force at the end of Y-1 (see *SUP 16.8.16R* to *SUP 16.8.18R*);
- (4) Forms 1R(1), 1R(2), 1R(3) mean the forms in *SUP 16 Ann 6R*;
- (5) 'group personal pension policy' means a *life policy* which is not a separate *pension scheme*, effected under a collecting arrangement made for the *employees* of a particular employer to participate in a personal pension arrangement on a group basis;
- (6) 'insurance ISA' means the insurance component of an *ISA* (mini or maxi);
- (7) 'ordinary assurance policy' means a *life policy* which is not an *industrial assurance policy*;
- (8) 'other life assurance' means a *life policy* other than a *pension policy*, *endowment assurance* or *whole life assurance*;
- (9) 'other pension policy' means a *pension policy* other than a *personal pension policy*;
- (10) 'persistency rate' means a rate calculated using this formula:

$$\frac{CF}{CC} \times 100$$

(see Table *SUP 16.8.5G*) ;
- (11) 'persistency report' means a report complying with *SUP 16.8.19R*;
- (12) 'policy anniversary' means the anniversary, falling within Y-1, of the date on which a *life policy* was effected;
- (13) 'regular premium life policy' means a *life policy* where there is (or could be, or has been) a commitment by the policyholder to make a regular stream of contributions (for example by means of a direct debit mandate);
- (14) 'single premium life policy' means a *life policy* that is not a regular premium *life policy*, except that a recurrent single premium *life policy* must be treated as a regular premium *life policy*;
- (15) 'Y' means the year in which the report is submitted, 'Y-1' means the preceding year, 'Y-2' means the next earlier year and so on;
- (16) 'year' means calendar year, unless *SUP 16.8.7R* applies.

16.8.5 **G** The following are not within the definition of 'life policy':

^{/1}

- (1) *occupational pension schemes*; and
- (2) annuity contracts other than deferred annuity contracts.

16.8.6 **R** A *firm* may treat a 12-month period ending between 1 October and 31 March as a 'year' for the purposes of this section and Forms 1R(1) to (3):

^{/1}

- (1) if the *firm's* financial year does not end on 31 December; or
- (2) for *industrial assurance policy* business;

provided that the use of an alternative period is disclosed in the persistency report.

16.8.7 **G** Table Example of calculation of persistency rate for life policies that commenced during 1996 (see SUP 16.8.3R)

^{/1}

Y (year of reporting)	Number of life policies which commenced during 1996	Number of 1996 policies that cease to be in force during Y-1	Deaths and retirements (must not be reported on)	CF	CC
1998	1000	143	2	1000 -143 -2 = 855	1000 -2 = 998
1999	1000	25	1	1000 -143 -25 -2 -1 = 829	1000 -2 -1 = 997

Report submitted in 1998

Persistency rate for *life policies* that commenced during Y-2 (i.e. 1996)

$$CF \times 100 = \frac{855}{1000} \times 100 = 85.5\%$$

CC 998

Report submitted in 1999

Persistency rate for *life policies* that commenced during Y-3 (i.e. 1996)

$$CF \times 100 = \frac{829}{1000} \times 100 = 82.9\%$$

CC 997

Life policies to be reported on in the persistency report

- 16.8.8** **R**
/1 A persistency report must report on every *life policy* which was promoted subject to *rules* in *COB*, or conduct of business rules made by a *previous regulator*, is not a *life policy* of a type listed in *SUP* 16.8.13R or *SUP* 16.8.14R, and which:
- (1) was effected by the *firm* submitting the report; or
 - (2) was effected by a member of the *firm's group*, which is not an *authorised person*, and in circumstances in which the *firm* submitting the report was responsible for promoting that *life policy*; or
 - (3) was effected by another *firm*, but is being carried out by the *firm* submitting the report.
- 16.8.9** **G**
/1 *Life policies* falling within *SUP* 16.8.8R(3) are those which have been transferred from another *firm*, for example under an insurance business transfer scheme under Part VII of the *Act* (Control of Business Transfers).
- 16.8.10** **R**
/1 *Life policies* falling within *SUP* 16.8.8R, which were promoted subject to the conduct of business rules of a *previous regulator*, need to be reported only if they were required to be reported in the *previous regulator's* persistency reports.
- 16.8.11** **R**
/1 A *life policy* which was issued in substitution for a similar contract may be treated as being effected on the inception date of the previous *life policy*, provided that the *firm* is satisfied that there is no loss to the *policyholder*.
- 16.8.12** **G**
/1 Examples of loss to the *policyholder* under *SUP* 16.8.11R are higher charges and more restrictive benefits and options.
- 16.8.13** **R**
/1 A persistency report must not report on:
- (1) a *life policy* that was cancelled from inception whether or not this was as a result of service of a notice under *COB* 6 (Cancellation rules); or
 - (2) an *appropriate personal pension scheme* to which contributions are made only by the Department of Social Security; or
 - (3) a *life policy* (excluding *income withdrawal*) which has terminated as a result of death, critical illness, retirement, maturity or other completion of the contract term; or
 - (4) *income withdrawals* that have ceased as a result of the death of the *policyholder*.
- 16.8.14** **R**
/1 A persistency report need not report on a *life policy* if the number of *life policies* on substantially the same terms effected by the *firm* (or a member of the *firm's group*) in the relevant year did not exceed the

higher of fifty and 1% of the total reportable *life policies* effected by that *firm* in that year.

- 16.8.15 **R** /1 If the term of an *endowment assurance* is less than five years, the *life policy* must only be included in a persistency report in respect of years up to and including the anniversary prior to maturity.

Life policies to be treated as in force

- 16.8.16 **R** /1 Subject to SUP 16.8.17R and SUP 16.8.18R, a *life policy* must be treated as in force at the end of Y-1 (that is included in CF) if and only if:
- (1) in the case of a regular premium life policy:
 - (a) the *premium* has been paid in respect of the month in which the policy anniversary falls; or
 - (b) in the case of an *industrial assurance policy* on which the *premiums* are paid at intervals of four weeks, the *premium* has been paid in respect of the four-week period in which the policy anniversary falls;
 - (2) in the case of a single premium life policy, the policy has not been surrendered as at the policy anniversary.

- 16.8.17 **R** /1 A cluster *life policy* must be reported as a single *life policy* and must be treated as in force (that is included in CF) even if some of the constituent *life policies* have been terminated.

- 16.8.18 **R** /1 An *income withdrawal* that has terminated other than by death of the *policyholder* must be treated as not in force at the end of Y-1 (that is, not included in CF).

Contents of the persistency report

- 16.8.19 **R** /1 A persistency report must be a report in the format of Forms 1R(1), (2) and (3) fully completed, and must include:
- (1) a separate copy of each Form reporting on *life policies effected* during each of Y-2, Y-3, Y-4 and Y-5; and
 - (2) if indicated on the relevant Form:
 - (a) a separate copy of each Form reporting on regular premium life policies and single premium life policies; and

(b) a separate copy of each Form reporting on *life policies* classified as ordinary assurance policies and *industrial assurance policies*.

16.8.20 **R** ^{/1} If a *firm* has no *life policies* to report on in a copy of any Form, the *firm* need not submit that copy provided that it confirms in writing to the *FSA*, when submitting the persistency report, that it is not doing so and the reason for not doing so.

16.8.21 **R** ^{/1} If a persistency report reports on an *endowment assurance* with a term of five years or less, the *firm* must:

- (1) report on such a *policy* in Form 1R(2); and
- (2) not report on such a *policy* in Form 1R(1).

16.8.22 **G** ^{/1} (1) Under *SUP* 16.8.16R above, a *life policy* must be treated as not in force if *premiums* have not been paid at the relevant date. Form 1R(3) seeks additional information on the number of *policies* treated as not in force which are subject to genuine contribution holidays.

- (2) A *firm* should treat a *life policy* as 'subject to a contribution holiday' if:
- (a) the terms of the *policy* allow the *policyholder* to take a contribution holiday;
 - (b) the *policyholder* has opted to take a contribution holiday in accordance with those terms;
 - (c) the *policyholder* has clearly stated his intention to resume payments; and
 - (d) at the end of Y-1, not more than 12 months have elapsed from the date that *premiums* ceased to be paid.

Records

16.8.23 **R** ^{/1} A *firm* must make and retain such records as will enable it to:

- (1) monitor regularly the persistency of *life policies* effected through each of its *representatives*; and
- (2) make persistency reports to the *FSA* in accordance with *SUP* 16.8.3R.

16.8.24 **G** ^{/1} Separate records should be made and retained for:

- (1) *life policies* originally promoted through:
 - (a) *representatives*;
 - (b) *independent intermediaries*;
 - (c) the *firm's* own *direct offer financial promotions*;

- (2) *life policies* not within (1), including execution-only business;
- (3) single and regular premium life policies;
- (4) ordinary assurance policies and *industrial assurance policies*;
- (5) the categories of *life policies* and *pension policies* referred to in Forms 1R(1) to (3).

Persistency Report

To be submitted by 30 April each year to the Financial Services Authority, 25 The North Colonnade, Canary Wharf, London E14 5HS.

Name of Firm: Firm Reference Number :

Regular Premium Policies / Single Premium Policies :

Ordinary Assurance Policies / Industrial Assurance Policies :

Year in which Policies Effected:

12 Month Report / 24 Month Report / 36 Month Report / 48 Month Report :

Policies promoted through:	Representative			Independent intermediary		
Policy Type	Number effected during the year (CC)	Number in force at end of Y-1 (CF)	Persistency rate	Number effected during the year (CC)	Number in force at end of Y-1 (CF)	Persistency rate
Endowment Assurance						
Whole Life Assurance						
Personal Pension Policy						
Other Pension Policy						
Other Life Assurance						
Income Withdrawal						
Group Personal Pension policy						
Insurance ISA						

Policies promoted through	Direct offer financial promotion			Other		
Policy Type	Number effected during the year (CC)	Number in force at end of Y-1 (CF)	Persistency rate	Number effected during the year (CC)	Number in force at end of Y-1 (CF)	Persistency rate
Endowment Assurance						
Whole Life Assurance						
Personal pension policy						
Other Pension Policy						
Other Life Assurance						
Income Withdrawal						
Group Personal Pension policy						
Insurance ISA						

Guidance notes to persistency report

Please provide (either below or on a separate sheet of paper):

- details of any alternative approaches used to calculate figures if this is permitted by the rules in *SUP* 16.8;
- a note of any types of policy for which no figures have been submitted (including any types to be reported on in Forms 1R(2) and 1R(3));
- a brief explanation of the effects of inaccuracies on the figures for previous years which have already been supplied; and
- confirmation that regular premium life policies have only been treated as in force if a premium has been received on or after the relevant policy anniversary.

Expressions which are defined in the Handbook Glossary, or in *SUP* 16.8, have the same meanings in this form.

Signature and declaration

Knowingly or recklessly giving the *FSA* information which is false or misleading in a material particular may be a criminal offence (sections 398 and 400 of the Financial Services and Markets Act 2000). *SUP* 15.6.1R and *SUP* 15.6.4R require an *authorised person* to take reasonable steps to ensure the accuracy and completeness of information given to the *FSA* and to notify the *FSA* immediately if materially inaccurate information has been provided. *SUP* 16.3.11R requires an *authorised person* to submit reports containing all the information required. *APER* 4.4.6E provides that, where an *approved person* is responsible for reporting matters to the *FSA*, failure to inform the *FSA* of materially significant information of which he is aware is a breach of *Statement of Principle* 4. Contravention of these requirements may lead to disciplinary sanctions or other enforcement action by the *FSA*. It should not be assumed that information is known to the *FSA* merely because it is in the public domain or has previously been disclosed to the *FSA* or another regulatory body. If there is any doubt about the relevance of information, it should be included.

I confirm that the information in this form is accurate and complete to the best of my knowledge and belief and that I have read the Guidance Notes to this form.

Form submitted by (BLOCK CAPITALS):

The following person should be able to assist the *FSA* with any queries that may arise:

Name: Title:

Address:

.....

.....

Telephone Number:..... e-mail:

Persistency Report - short term endowments/ assurance

To be submitted by 30 April each year to the Financial Services Authority, 25 The North Colonnade, Canary Wharf, London E14 5HS.

Name of Firm:

Firm Reference Number :

Regular Premium Policies / Single Premium Policies:

Ordinary Branch Policies / Industrial Branch Policies:

Year in which Policies Effected:

12 Month / 24 Month / 36 Month / 48 Month report:

Endowment assurance term	Representative			Independent intermediary		
	Number effected during the year (CC)	Number in force at end of Y-1 (CF)	Persistency rate	Number effected during the year (CC)	Number in force at end of Y-1 (CF)	Persistency rate
2 (<3) year term						
3 (<4) year term						
4 (<5) year term						
under 5 year total						

Endowment assurance term	Direct offer financial promotion			Other		
	Number effected during the year (CC)	Number in force at end of Y-1 (CF)	Persistency rate	Number effected during the year (CC)	Number in force at end of Y-1 (CF)	Persistency rate
2 (<3) year term						
3 (<4) year term						
4 (<5) year term						
under 5 year total						

Expressions which are defined in the Handbook Glossary, or in SUP 16.8, have the same meanings in this form.

Signature and declaration

Knowingly or recklessly giving the FSA information which is false or misleading in a material particular may be a criminal offence (sections 398 and 400 of the Financial Services and Markets Act 2000). SUP 15.6.1R and SUP 15.6.4R require an *authorised person* to take reasonable steps to ensure the accuracy and completeness of information given to the FSA and to notify the FSA immediately if materially inaccurate information has been provided. SUP 16.3.11R requires an *authorised person* to submit reports containing all the information required. APER 4.4.6E provides that, where an *approved person* is responsible for reporting matters to the FSA, failure to inform the FSA of materially significant information of which he is aware is a breach of *Statement of Principle 4*. Contravention of these requirements may lead to disciplinary sanctions or other enforcement action by the FSA. It should not be assumed that information is known to the FSA merely because it is in the public domain or has previously been disclosed to the FSA or another regulatory body. If there is any doubt about the relevance of information, it should be included.

I confirm that the information in this form is accurate and complete to the best of my knowledge and belief and that I have read the Guidance Notes to this form.

Form submitted by (BLOCK CAPITALS):

The following person should be able to assist the FSA with any queries that may arise:

Name: Title:

Address:

.....

.....

Telephone Number:..... e-mail:

Persistency Report – Contribution Holidays

To be submitted by 30 April each year to the Financial Services Authority, 25 The North Colonnade, Canary Wharf, London E14 5HS.

Name of Firm:

Firm Reference Number : Year in which Policies Effected:

12 Month Report/24 Month Report/36 Month Report/48 Month Report:

Policies promoted through:	Representative			Independent intermediary			
	Policy Type	Number effected during the year (CC)	Number subject to contribution holiday at end of Y-1 (CH)	Holiday factor (CH/CC)	Number effected during the year (CC)	Number subject to contribution holiday at end of Y-1 (CH)	Holiday factor (CH/CC)
Endowment Assurance							
Whole Life Assurance							
Personal Pension Policy							
Other Pension Policy							
Other Life Assurance							
Income Withdrawal	N/a	N/a	N/a	N/a	N/a	N/a	N/a
Group Personal Pension policy							
Insurance ISA							

Policies promoted through:	Direct offer financial promotion			Other			
	Policy Type	Number effected during the year (CC)	Number subject to contribution holiday at end of Y-1 (CH)	Holiday factor (CH/CC)	Number effected during the year (CC)	Number subject to contribution holiday at end of Y-1 (CH)	Holiday factor (CH/CC)
Endowment Assurance							
Whole Life Assurance							
Personal pension policy							
Other Pension Policy							
Other Life Assurance							
Income Withdrawal							
Group Personal Pension policy							
Insurance ISA							

Expressions which are defined in the Handbook Glossary, or in SUP 16.8, have the same meanings in this form.

Signature and declaration

Knowingly or recklessly giving the FSA information which is false or misleading in a material particular may be a criminal offence (sections 398 and 400 of the Financial Services and Markets Act 2000). SUP 15.6.1R and SUP 15.6.4R require an *authorised person* to take reasonable steps to ensure the accuracy and completeness of information given to the FSA and to notify the FSA immediately if materially inaccurate information has been provided. SUP 16.3.11R requires an *authorised person* to submit reports containing all the information required. APER 4.4.6E provides that, where an *approved person* is responsible for reporting matters to the FSA, failure to inform the FSA of materially significant information of which he is aware is a breach of *Statement of Principle 4*. Contravention of these requirements may lead to disciplinary sanctions or other enforcement action by the FSA. It should not be assumed that information is known to the FSA merely because it is in the public domain or has previously been disclosed to the FSA or another regulatory body. If there is any doubt about the relevance of information, it should be included.

I confirm that the information in this form is accurate and complete to the best of my knowledge and belief and that I have read the Guidance Notes to this form.

Form submitted by (BLOCK CAPITALS):

The following person should be able to assist the FSA with any queries that may arise:

Name: Title:

Address:

.....

.....

Telephone Number:..... e-mail:

SUP 16 Ann 12G: Reports from trustees of AUTs and depositaries of ICVCs (see SUP 16.6.9G)

1 Table

1. Trustees of AUTs

- (1) Form 1 at the end of this annex provides a suggested format for the submission of the reports.
- (2) The quarterly report should be completed each year as at 31 March, 30 June, 30 September, and 31 December.
- (3) The report should be signed by an *approved person* who works in the *firm's trustee* area.
- (4) A *firm* should refer to *CIS* 4, 7, 15 and Appendix *CIS* before completing this report.

2. Depositaries of ICVCs

- (1) Form 2 at the end of this annex provides a suggested format for the submission of the reports.
- (2) The quarterly report should be completed each year as at 31 March, 30 June, 30 September, and 31 December.
- (3) The report should be signed by an *approved person* who works in the *firm's depositary* area.
- (4) A *firm* should refer to *CIS* 4, 7 and Appendix *CIS* before completing this report.

Form 1

Quarterly Return of Notifiable Breaches – Authorised Unit Trusts

1. Pricing Errors

Manager	Did status of manager change in quarter? (Note)	No. of pricing errors of 0.5% and above	No. of pricing errors below 0.5%, where trustee does not consider manager's controls to be adequate	No. of authorised unit trusts in operation

Note = From "controls adequate" to "controls inadequate" (or vice versa). Where the manager's status changed, the report should state the date of that change and the number of reportable breaches of CIS 4 and 15 before and after that change of status.

2. Negative Boxes

Manager	Did status of manager change in quarter? (Note 1)	No. of negative boxes where CIS 4.3.12R and CIS 15.3.12R have not been applied. (Note 2)	No. of authorised unit trusts in operation

Note 1 = From "controls adequate" to "controls inadequate" (or vice versa). Where the manager's status changed, the report should state the date of that change and the number of reportable breaches of CIS 4 and 15 before and after that change of status.

Note 2 = The application of CIS 4.3.12R and CIS 15.3.12R relates to the correction of an error by the manager with the trustee's agreement in accordance with CIS 4.3.12R and CIS 15.3.12R.

The statistical information above has been provided to the FSA in accordance with SUP 16.6.8R(1).

Knowingly or recklessly giving the FSA information which is false or misleading in a material particular may be a criminal offence (sections 398 and 400 of the Financial Services and Markets Act 2000). SUP 15.6.1R and SUP 15.6.4R require an *authorised person* to take reasonable steps to ensure the accuracy and completeness of information given to the FSA and to notify the FSA immediately if materially inaccurate information has been provided. SUP 16.3.11R requires an *authorised person* to submit reports containing all the information required. APER 4.4.6E provides that, where an *approved person* is responsible for reporting matters to the FSA, failure to inform the FSA of materially significant information of which he is aware is a breach of *Statement of Principle 4*. Contravention of these requirements may lead to disciplinary sanctions

or other enforcement action by the *FSA*. It should not be assumed that information is known to the *FSA* merely because it is in the public domain or has previously been disclosed to the *FSA* or another regulatory body. If there is any doubt about the relevance of information, it should be included.

I confirm that the information in this form is accurate and complete to the best of my knowledge and belief.

Signed

Name

Position

Date

Form 2

Quarterly Return of Notifiable Breaches – Investment Companies with Variable Capital

1. Pricing Errors

Authorised Corporate Director (ACD)	Did status of ACD change in quarter? (Note)	No. of pricing errors of 0.5% and above	No. of pricing errors below 0.5%, where depositary does not consider manager's controls to be adequate	No. of Investment Companies with Variable Capital in operation

Note = From “controls adequate” to “controls inadequate” (or vice versa). Where the ACD's status changed, the report should state the date of that change and the number of reportable breaches of CIS 4 before and after that change of status.

2. Negative Boxes

Authorised Corporate Director (ACD)	Did status of ACD change in quarter? (Note 1)	No. of negative boxes where CIS 4.3.12R has not been applied. (Note 2)	No. of Investment Companies with Variable Capital in operation

Note 1 = From “controls adequate” to “controls inadequate” (or vice versa). Where the ACD's status changed, the report should state the date of that change and the number of reportable breaches under CIS 4 before and after that change of status.

Note 2 = The application of CIS 4.3.12R relates to the correction of an error by the ACD with the depositary's agreement in accordance with CIS 4.3.12R.

The statistical information above has been provided to the FSA in accordance with SUP 16.6.8R(2).

Knowingly or recklessly giving the FSA information which is false or misleading in a material particular may be a criminal offence (sections 398 and 400 of the Financial Services and Markets Act 2000). SUP 15.6.1R and SUP 15.6.4R require an *authorised person* to take reasonable steps to ensure the accuracy and completeness of information given to the FSA and to notify the FSA immediately if materially inaccurate information has been provided. SUP 16.3.11R requires an *authorised person* to submit reports containing all the information required. APER 4.4.6E provides that, where an *approved person* is responsible for reporting matters to the FSA, failure to inform the FSA of materially significant information of which he is aware is a breach of *Statement of Principle 4*. Contravention of these requirements may lead to disciplinary sanctions

or other enforcement action by the *FSA*. It should not be assumed that information is known to the *FSA* merely because it is in the public domain or has previously been disclosed to the *FSA* or another regulatory body. If there is any doubt about the relevance of information, it should be included.

I confirm that the information in this form is accurate and complete to the best of my knowledge and belief.

Signed

Name

Position

Date

Chapter 17

Transaction reporting

17.1 Application

Who?

- 17.1.1 **R** /1 (1) This chapter applies to every *firm* which is:
- (a) a *securities and futures firm*; or
 - (b) a *personal investment firm*; or
 - (c) an *investment firm* (including a *credit institution* which is an *investment firm*) not within (a) or (b) excluding a *firm* to whom the *ISD* does not apply under Article 2(2) of the *ISD*.
- (2) This chapter does not apply to:
- (a) an *incoming EEA firm* in relation to its *passport activities*; or
 - (b) an *oil market participant* in relation to its *oil market investment activities*.

What?

- 17.1.2 **R** /1 This chapter applies to a *firm* in SUP 17.1.1 R that enters into *reportable transactions* (whether on its own account or on behalf of others).

Where?

- 17.1.3 **R** /1 This chapter applies with respect to:
- (1) activities carried on from an establishment maintained by the *firm* (or its *appointed representative*) in the *United Kingdom*; or
 - (2) *passport activities* of an *ISD investment firm* (including a *credit institution* which is an *ISD investment firm*) carried on from a *branch* in another *EEA State*.

17.2 Purpose

17.2.1

G

^{/1}

This chapter sets out the requirements for *firms* to report transactions to the *FSA*. One purpose of the chapter is to implement article 20 of the *Investment Services Directive* which has the two aims of protecting investors and ensuring the smooth operation and transparency of the markets in transferable securities. *Transaction reports* also form a useful part of the *FSA*'s arrangements for monitoring (under paragraph 6(1) of Schedule 1 to the *Act*) and can assist the *FSA* in assessing the type and conduct of business carried out by a *firm*.

17.3 Introduction

17.3.1

G
/1

The requirements set out in this chapter represent an interim approach to transaction reporting, based on the reporting requirements which previous regulators applied to *firms*. A number of provisions reflect the interim nature of the requirements – notably the *guidance* in SUP 17.4.4 G. Also there are still significant differences in the requirements applicable to different categories of *firm*. To help *firms* the FSA intends to publish additional *guidance* from time to time covering developments and issues in transaction reporting (including sources of relevant information).

17.3.2

G
/1

The reporting obligations vary according to the nature of a *firm's* business and the number of transactions which a *firm* ordinarily enters into. *Firms* are generally expected to report transactions through the electronic systems listed in the chapter, but *firms* which enter into relatively few transactions may report those transactions manually, by fax or e-mail (see SUP 17.7).

17.4 Obligation to make transaction reports

- 17.4.1** **R** When a *firm* (whether on its own account or on behalf of another) enters into a *reportable transaction* (as defined in SUP 17.5), it must make a *transaction report* (as set out in SUP 17.6) to the FSA.

Exceptions: general

- 17.4.2** **R** A *firm* need not make a *transaction report* to the FSA if:
- (1) the *firm* complies with a requirement on it to report the *reportable transaction* to its *Home State regulator*; or
 - (2) the *reportable transaction* is transacted on one of the exchanges listed in SUP 17 Ann 1R and the *firm* reports the *reportable transaction* to that exchange.

Exceptions: investment management firms and personal investment firms

- 17.4.3** **R** An *investment management firm* or a *personal investment firm* need not make a *transaction report* to the FSA if:
- (1) the *reportable transaction* is transacted on a *regulated market* and the *firm*:
 - (a) reports the *reportable transaction* to that *regulated market*; or
 - (b) satisfies itself that it will be so reported; or
 - (2) the *firm* is the seller, or is acting on behalf of the seller, and the counterparty for that transaction is another *firm*; or
 - (3) the *firm* has reasonable grounds to believe that:
 - (a) another *firm* is obliged to make a *transaction report* to the FSA for that transaction; and
 - (b) that other *firm* is not entitled to rely on this exception.

- 17.4.4** **G**_{/1} For the purposes of SUP 17.4.3 R (3) “reasonable grounds” would include a *firm* relying on a broker if:
- (1) the *firm* used the same broker for transactions before *commencement*;
 - (2) that *broker* was previously regulated by *SFA* and was subject to its transaction reporting requirements; and
 - (3) the *firm* is not aware of any material changes to the broker’s *permission*.

17.4.5 **G**_{/1} The *guidance* in SUP 17.4.4 G is likely to become less relevant over time.

17.4.6 **G**_{/1} “Reasonable grounds” require more than just a check as to whether the other *firm* is *authorised*. For example a *firm* should not rely on SUP 17.4.3 R (3) alone if the only other party to a *reportable transaction* is an *investment management firm* or a *personal investment firm*.

Use of reporting agents

- 17.4.7** **R**_{/1} A *firm* may appoint another *person* to make *transaction reports* on its behalf if:
- (1) the *firm* has informed the *FSA* of that appointment in writing; and
 - (2) the *transaction reports* made on its behalf comply with SUP 17 and distinguish each individual transaction, using the *firm’s* identifying code.

17.4.8 **G**_{/1} SUP 17.4.7 R sets out the conditions which must be satisfied if a *firm* wishes to appoint someone else to make *transaction reports* on its behalf. The *firm* will remain responsible for its compliance with SUP 17.

Other reporting requirements

17.4.9 **G**_{/1} A *firm’s* obligations under this chapter do not affect any obligation to report transactions under the rules of any reporting system or of any exchange, whether or not that exchange is a *regulated market*.



17.5 Reportable transactions

17.5.1

R

/1

A “*reportable transaction*” is a transaction of a type identified in SUP 17.5.4 R, except:

- (1) stock or bond lending and borrowing, repurchase or reverse repurchase agreements;
- (2) asset trading transactions, including novation, assignment and sub-participation; and
- (3) issues, market allotments and syndications which are not dealt in on a *regulated market*.

17.5.2

G

/1

For a list of *regulated markets* see SUP 17 Ann 5G.

17.5.3

G

/1

In general, transactions, other than those in *derivative* products, between the issuer of an instrument and the first taker as *principal* are not *reportable transactions*. However, if an instrument is already dealt in on a *regulated market*, all secondary issue transactions are reportable if the new issue ranks equally with those already in issue and the issue is already traded or *listed* on a *regulated market*. All secondary market transactions carried out on or off exchange, before or after the instrument is issued, are reportable. In addition, for a *firm* which is not a *personal investment firm* or an *investment management firm* (essentially *BCD credit institutions* and *securities and futures firms*), *reportable transactions* include transactions in some instruments which are not traded on a *regulated market* at all – for example the instrument concerned might only be traded over the counter or through a trading facility such as Ofex.

17.5.4

R

/1

Table Reportable transactions (see SUP 17.5.1R)

Class of firm	Reportable transactions
<i>personal investment firm</i>	<p>A transaction which is entered into within an <i>EEA State</i> and is in any of the following instruments which is dealt in on a <i>regulated market</i>:</p> <ul style="list-style-type: none"> (a) a <i>security</i> (except a <i>unit</i>); or (b) a <i>future</i>; or (c) an <i>option</i>.

Class of firm	Reportable transactions
<i>investment management firm</i>	<p>A transaction which:</p> <ul style="list-style-type: none"> (a) is executed in the <i>EEA</i>; (b) is carried out for valuable consideration; and (c) relates to an instrument which is dealt in on a <i>regulated market</i> other than: <ul style="list-style-type: none"> (i) <i>futures</i> not relating to <i>shares</i>; or (ii) <i>options</i> (including <i>covered warrants</i>) not relating to <i>shares</i>; or (iii) swaps relating to <i>designated investments</i> other than <i>shares</i> or <i>debentures</i>; or (iv) <i>currencies</i> and <i>currency derivatives</i>; or (v) <i>units</i>; or (vi) <i>futures</i> or <i>options</i> relating to a basket of <i>shares</i> or an equity index not capable of settlement by delivery.
any other <i>firm</i>	<p>A transaction in a <i>designated investment</i> except for:</p> <ul style="list-style-type: none"> (a) <i>money-market instruments</i> not dealt in on a <i>regulated market</i>; or (b) <i>units</i>; or (c) <i>contracts for differences</i> which are not related to debt or equities (see note); or (d) <i>currencies</i>; or (e) <i>commodities</i> (including <i>bullion</i>); or (f) <i>life policies</i>; or (g) <i>futures</i> or <i>options</i> on anything in (a) to (e). <p>Note: <i>Firms</i> are required to report <i>contracts for differences</i> (including <i>spread bets</i>) on the value or price of a bond, an equity or a related index or indices. <i>Firms</i> are not required to report <i>contracts for differences</i> where the contract is based on the fluctuation in the price or value of an interest rate, currency, a commodity or on the value of a dividend payment or payments on an equity or a basket of equities.</p>



17.6 Transaction reports

Timing of reports

17.6.1 **R** ^{/1} *A transaction report must be made as soon as practicable and in any event, subject to SUP 17.7.10 R (Failure of reporting systems), before the end of the next business day after the day on which the firm entered into the transaction.*

Content

17.6.2 **R** ^{/1} *A transaction report must:*

- (1) *in the case of an investment management firm, include the details set out in SUP 17.6.4 R, except that it need not provide the details in the column headed “Counterparty” if the counterparty is not an ISD investment firm; or*
- (2) *in the case of a personal investment firm, include the details set out in SUP 17.6.4 R; or*
- (3) *in the case of any other firm, include all the fields identified in SUP 17 Ann 2 for the relevant reporting system.*

17.6.3 **G** ^{/1} *SUP 15.6 applies to transaction reports and requires a firm to take reasonable steps to ensure that information provided to the FSA is accurate.*

17.6.4 **R** ^{/1} **Table** *Details to be reported (investment management firms and personal investment firms) (see SUP 17.6.2 R)*

Firm	Counterparty	Investment	Transaction
Name	Name	Description	Time of transaction
Address	Address	Quantity/size	Date of transaction
Whether agent or principal		Unit price	Whether purchase or sale
			Total amount of consideration payable on settlement date

- 17.6.5** **A**_{/1} (1) A *firm* subject to SUP 17.6.2 R (3) should ensure that a *transaction report* is accepted by the relevant reporting system.
- (2) Contravention of (1) may be relied on as tending to establish contravention of SUP 17.4.1 R.

- 17.6.6** **R**_{/1} The price reported in a *transaction report* must be the transaction price, excluding any *charges* or *commission* which is shown separately on the contract note or on any similar notification.

Basket trades

- 17.6.7** **R**_{/1} If a *firm* (other than an *investment management firm* or a *personal investment firm*) effects a series of transactions within a 24 hour period which is an exact replica of any of the following indices (known as a “basket trade”), it may report them as a single transaction under a single approved security code:

- (1) CAC 40; or
- (2) DAX 30; or
- (3) LSE/Nikkei 50; or
- (4) Nikkei 225; or
- (5) Standard and Poors 500; or
- (6) TOPIX.

- 17.6.8** **G**_{/1} The “single approved security code” referred to in SUP 17.6.7 R and SUP 17.6.9 R is the code issued by the relevant exchange or numbering agency.

- 17.6.9** **R**_{/1} If a *firm* (other than an *investment management firm* or a *personal investment firm*) effects a series of transactions within a 24 hour period which does not exactly replicate one of the indices listed in SUP 17.6.7 R, it may make a *transaction report* for them showing:

- (1) a single basket trade *transaction* under a single approved security code; and
- (2) the missing constituents of the relevant index, as reverse trades, with the price and quantity set according to their weighting in the index.

- 17.6.10** **G**_{/1} A *firm* which effects a series of transactions to which SUP 17.6.9 R applies may report them as individual transactions, rather than under that *rule*.



17.7 Method of making transaction reports

Use of reporting systems

- 17.7.1 **R** /1 *A transaction report must be made through one of the reporting systems listed in SUP 17.7.8 R unless SUP 17.7.4 R applies.*
- 17.7.2 **R** /1 *Before a firm uses any of the systems listed in SUP 17.7.8 R, it must notify the FSA in writing that it intends to do so.*
- 17.7.3 **R** /1 *A firm must send a notification under SUP 17.7.2 R to a member of its supervision team and to the FSA’s Transaction Monitoring Unit.*

Reporting by fax or e-mail

- 17.7.4 **R** /1 *Firms within the categories in the table in SUP 17.7.5 R may report transactions by a fax or e-mail transmission which complies with the relevant requirements in the table.*
- 17.7.5 **R** /1 *Table Reporting by fax or e-mail (see SUP 17.7.4 R)*

Category of firm	Requirements
<i>An investment management firm.</i>	<i>The firm must include the information required by SUP 17.6.2 R (1) in the fax or e-mail sent to the FSA.</i>
<i>A personal investment firm which effects reportable transactions at an average rate of fewer than 40 in a month.</i>	<i>The firm must include the information required by SUP 17.6.2 R (2) in the fax or e-mail sent to the FSA.</i>
<i>Any other firm which effects reportable transactions at an average rate of fewer than 20 in a month.</i>	<i>The firm must complete the manual reporting form set out in SUP 17 Ann 3 and send it by fax or e-mail to the FSA.</i>

- 17.7.6 **G** /1 *The manual reporting form in SUP 17 Ann 3 is not compulsory for investment management firms or personal investment firms, but those firms may use it to record the required information.*

17.7.7 **R** ^{/1} *Transaction reports* made under SUP 17.7.4 R must be sent to the FSA's Data Integrity Unit:

- (1) by fax on 020 7676 3675; or
- (2) by e-mail to tmu@fsa.gov.uk.

Permitted reporting systems

17.7.8 **R** ^{/1} The reporting systems referred to in SUP 17.7.1 R are:

- (1) CEDCOM system operated by CEDEL SA, Luxembourg;
- (2) CGO – Central Gilts Office;
- (3) CRESTCo Limited;
- (4) EUCLID operated by Euroclear SA (input directly into EUCLID or through SWIFT);
- (5) the FSA's Direct Reporting System;
- (6) SEQUAL 2000 system of Thomson Financial Services;
- (7) Tradepoint Financial Networks Plc;
- (8) Trade Registration System of The London International Financial Futures and Options Exchange (LIFFE);
- (9) TRAX system of the International Securities Market Association; and
- (10) Jiway Limited.

17.7.9 **G** ^{/1} *Guidance* on the use of particular reporting systems listed in SUP 17.7.8 R is available from the FSA's Transaction Monitoring Unit.

Failure of reporting systems

17.7.10 **R** ^{/1} If a reporting system fails (whether a relevant reporting system, the *firm's* own system or the system of a *person* reporting on its behalf), a *firm* must:

- (1) make the *transaction report* through another reporting system, if the *firm* considers it reasonably practicable to do so; or
- (2) make the *transaction report* by the end of the *business day* after the *day* when the failure is remedied, if the *firm* does not consider it reasonably practicable to comply with (1).

- 17.7.11 **R** /1 A *firm* must notify the *FSA* in writing, before the end of the *business day* after the *day* when the failure occurs, which of *SUP* 17.7.10 R (1) or *SUP* 17.7.10 R (2) it will adopt.
- 17.7.12 **R** /1 A *firm* must notify the *FSA*, in writing and without delay, of any failure of its own system, or that of a *person* reporting on its behalf, which prevents a *transaction report* being made within the period specified in *SUP* 17.6.1 R.

SUP 17 Ann 1R: Exchanges relevant for SUP 17.4.2R (2)

1 Table

American Stock Exchange (AMEX)
Australian Stock Exchange
Chicago Board of Trade
Chicago Board Options Exchange / Chicago Options Exchange
Chicago Mercantile Exchange
Chicago Stock Exchange
Coffee, Sugar and Cocoa Exchange
Hong Kong Futures Exchange
Hong Kong Stock Exchange
Johannesburg Stock Exchange
Kansas City Board of Trade
Korean Stock Exchange
MidAmerica Commodity Exchange
Minneapolis Grain Exchange
Montreal Stock Exchange
NASDAQ
New York Futures / Cotton Exchange
New York Mercantile Exchange / Commodity Exchange Inc
(NYMEX)
New York Stock Exchange
New Zealand Futures and Options Exchange
Osaka Securities Exchange
Pacific Stock Exchange
Philadelphia Board of Trade
Philadelphia Stock Exchange
Singapore Stock Exchange
South African Futures Exchange (SAFEX)
Sydney Futures Exchange
Tokyo Stock Exchange (including TIFFE)
Toronto Stock Exchange
any non UK *regulated market*

(see SUP 17 Annex 5G)

SUP 17 Ann 2R: Mandatory fields for reporting systems

1 Table

1. For the purposes of *SUP* 17.6.2(3)R, all the following are mandatory fields:
 - (1) the firm's and each counterparty's identifying code, as required under 2;
 - (2) the investment's identifying code if listed in 3 or a full description;
 - (3) the date and time of the transaction;
 - (4) the transaction size, price and currency;
 - (5) whether the transaction is a purchase or sale;
 - (6) whether the *firm* dealt as principal or agent;
 - (7) the settlement due date;
 - (8) the transaction's reference number;
 - (9) any other mandatory fields required by the reporting system;
 - (10) whether the transaction is a cancellation; and
 - (11) in the case of a *derivative* transaction, the appropriate expiry date, strike price and, if appropriate, whether a put or a call.
2. A *firm* must allocate to each counterparty an appropriate counterparty identifier code, using the following identifier codes:
 - (1) the counterparty participant code identified on the transaction report from the relevant reporting system; or
 - (2) where the counterparty is another *firm*, the *FSA* authorisation code or a *BIC* code, plus a sub-account code; or
 - (3) in the case of any other counterparty, a unique root allocated specifically to that counterparty by the reporting *firm*, plus a sub account code.

2 Table Guidance to SUP 17 Ann 2R 2

If a *firm*'s counterparty is acting for a disclosed *principal* (identified either by name or by a distinctive account indicator), the *firm* will need to allocate a counterparty identifier code which indicates the identity of the underlying *principal*. This code can use the "root code" of the immediate counterparty provided that it is coupled with a sub-account code identifying the *principal*.

3 Table The investment identification codes referred to in (1) above are:

CC	CEDEL and Euroclear Common Codes	9 Numeric
CU	CUSIP	9 Alphanumeric
IS	ISIN	2 Alphabetic and 10 Alphanumeric
SE	SEDOL	7 Numeric
SV	SICOVAM	From 5 to 7 Numeric
TR	TRAX	1 Alphabetic and 6 Numeric
TS	TOKYO STOCK EXCHANGE	From 4 to 9 Numeric

4 Table

When reporting *on-exchange derivatives* transactions (except through DRS), a market identifier code followed by the product mnemonic of that exchange will be acceptable. Codes must be left justified when they are input.

SUP 17 Ann 3R: Manual transaction reporting form

1 Table Notes for completion of manual transaction reporting form

[Field descriptions and guidelines]

NB: Fields which are denoted as “A” are fields that must be input in all circumstances. Fields which are denoted as “M” are only mandatory in the case of a firm which is not a personal investment firm or an investment management firm. Fields which are denoted as “O” are only mandatory in certain circumstances.

FIRM DETAILS

Firm Name (A)
Contact Name (M)
Telephone Number (M)
Submission date (M)
Signature (M)

TRANSACTION DETAILS

This field must contain the FSA code of the firm which is making the report (NB – The FSA code is currently six numbers).

FSA Code (A)

Internal Transaction Reference: (M)

This must be a unique reference, internal to the firm making the report, that will enable the firm to provide FSA with more information concerning the trade, if required.

Trade Date (A)

The date when the trade was executed.

Trade Time (A)

The time when the trade was executed. This should be in London time.

Bought/Sold Indicator (A)

Either “B” (i.e. Buy) or “S” (i.e. Sell) with respect to the firm making the Transaction Report.

Cancel Indicator (O)

Input a “C” for cancellation. This field can be used to cancel a trade previously submitted. For cancelled trades all of the fields apart from the Cancel Indicator, must be the same as the original trade report.

Counterparty1 Code Type (O)

The valid Counterparty Code Types, when used in conjunction with the Counterparty fields are as follows:

B – The Counterparty Root Code is a BIC code (as issued by S.W.I.F.T);

S – The Counterparty Root Code is an FSA code (as issued by the Financial Services Authority);

F – The Counterparty Root Code contains the reporting firm’s own reference code to identify the Counterparty.

If there is only a single counterparty to a principal trade, details may be supplied either in Counterparty1 fields or in Counterparty2 fields.

Counterparty1 Root Code (O)

The counterparty to the trade. Depending upon the Counterparty Code Type, it will consist of one of the following:

BIC code (11 characters)

FSA code (currently 6 digits)

Firm’s reference code (up to 11 characters).

Counterparty1 Sub Code (O)

A code identifying the lowest level of account within the reporting firm for which this transaction will be booked. This will usually be the reporting firm’s own internal account code. If the Counterparty1 Root Code is completed, the firm must also complete this field.

Trade Quantity (A)

The volume of the trade (e.g. number of units, nominal value of bonds, number of lots, number of contracts).

Security Code Type (O)

The valid Security Type Codes are as follows:

CC – CEDEL and Euroclear Common Codes;

CU – CUSIP;

IS – ISIN;

SE – SEDOL;

SV – SICOVAM;

TR – TRAX;

TS – Tokyo Stock Exchange;

ON – For trades in On-Market Derivatives.

For OTC trades where the instrument is not traded on an exchange market, please specify “OFF-market”.

Security Code (O)

The Security Code according to the value of Security Code Type (Field 11). Valid codes are:

CC – 9 Numeric;

CU – Alphanumeric
IS – 2 Alphabetic and 10 Alphanumeric
SE – 7 Numeric
SV – From 5 to 7 Numeric
TR – 1 Alphabetic and 6 Numeric
TS – From 4 to 9 Numeric
ON – The market’s own three-character Market Identifier Code followed immediately by the standard code for the contract being traded as used on that market.

Instrument type (A)

This field will be used to classify the instrument traded, or, in the case of a derivative, the underlying instrument. Valid codes are:

A – Equity;
B – Bond/Fixed Interest;
I – Index (derivatives only);
M – Commodity (derivatives only);
R – Interest Rate (derivatives only);
U – Currency (derivatives only);
W – Warrant;
O – Other (i.e. none of the above).

Issuer Name (A) (see note)

The name of the issuer of the security if the Security Type Code is specified as “OFF market”. Otherwise, completion of the field is optional. The name of the issuer of the security must be readable (i.e. meaningful).

Instrument Description (A/O)

A description of the instrument is required if the Security Type Code is specified as “OFF market”. Otherwise completion of the field is optional.

A full description of the security or derivative (e.g. “Bloggs 50p ordinary share” for equities) is required. For fixed interest securities, the following information is required:

Coupon rate;
 whether it is a bond, debenture or loan (BDS, DIB, INS);
 whether it is a convertible;
 redemption date.

Option Exercise Price (O)

This field is only required for options.

Derivative Type (O)

This field indicates the derivative type. Valid codes are:

P: Put Option;
C: Call Option;
F: Future;

D: Contract for Difference;

S: Swap.

NB: Double options must be reported as two transactions, one for call and one for put option. The premium must be halved and entered on both transactions which must have the same transaction reference number.

Delivery/Expiry/Maturity date (O)

The delivery date of a futures contract, the expiry date of an option, the maturity or redemption date of a bond. For a bond derivative, it is the delivery or expiry date.

Trade Currency (A)

The currency in which the trade was dealt; an ISO code such as USD, GBP, DEM etc. (NB: GBX, USX, and IEX are not accepted)

Trade Price (A)

The (unit) price of the trade in the currency in which the trade was dealt (as indicated by the Trade Currency Code. For bonds, it must be a percentage price. For derivatives, it must be the decimal value per contract, not the tick value.

Price Multiplier (M)

Value of unit change in price, such that for on-exchange derivatives:

Price x Quantity x Multiplier = Trade Value.

For warrants, if the trade represents units of 50 warrants then multiplier equals 50. For bonds this should equal 1 as trade price must be reported as percentage price. The default multiplier is 1.

Consideration (A/O)

The consideration to be settled. For Options, the total premium. The consideration should be in the currency indicated by either the Trade Currency Code or the Settlement Currency Code. The field must be left blank if there is no consideration (e.g. margin only trades).

Settlement Date (O)

The settlement date for the trade.

Settlement Currency Code (O)

This field is required if the Consideration field is completed and is not in the currency indicated by the Trade Currency Code. Valid codes are any ISO code, such as USD, GBP, DEM, etc.

Dealing Capacity (A)

The dealing capacity of the firm making the Transaction Report.

Valid codes are:

- A Agency;**
- C Principal Cross;**
- P Principal;**
- X Agency Cross.**

Counterparty2 Code Type (O)

The valid Counterparty Code Types, when used in conjunction with the Counterparty2 fields are as follows:

- B –The Counterparty2 Root Code is a BIC code (as issued by S.W.I.F.T);**
- S –The Counterparty2 Root Code is an FSA code (as issued by the Financial Services Authority);**
- F –The Counterparty2 Root Code contains the reporting firm’s own reference code to identify the Counterparty.**

If there is only a single counterparty to a principal trade, details may be supplied either in Counterparty1 fields or Counterparty2 fields.

Counterparty2 Root Code (O)

The second counterparty to the trade. It will consist of, depending upon the Counterparty2 Code Type, one of the following:

- BIC code (11 characters)**
- FSA code (currently 6 digits)**
- Firm’s reference code (up to 11 characters).**

Counterparty2 Sub Code (O)

A code identifying the lowest level of account within the reporting firm for which this transaction will be booked. This will usually be the reporting firm’s own internal account code. If the Counterparty2 Root code is completed, this field must also be completed.

Bargain Condition Codes (O)

Up to eight two character bargain conditions codes can be supplied. Valid conditions are:

- CB Cum Bonus**
- CC Cum Coupon**
- CD Cum Dividend**
- CP Cum Capital Repayment**
- CR Cum Rights**
- NP Delivery Free of Payment**
- RN Redemption**
- RO Result of Option**
- RP Repo**
- SB Borrowing/Lending**
- SP Special Price**

WI	When Issued
XB	Ex Bonus
XC	Ex Coupon
XD	Ex Dividend
XP	Ex Capital Payment
XR	Ex Rights
XX	Special Conditions

Market Identifier Code (M)

A three character code to indicate the market upon which the transactions was executed. The code is the first three characters of SWIFT Market Identifier Code excluding the leading “X”. OFF–market trades must be denoted by “OFF”.

(A list of “Market Identifier Codes” can be obtained from S.W.I.F.T on Tel: 020 7377 9190 – a list as at March 2000 is set out in *SUP 17 Ann 4G*.)

NB: If a valid Security Type and a valid Security Code does not exist for a transaction, the issuer Name and Instrument Description must be completed.

FSA MANUAL TRANSACTION REPORTING FORM

To: Data integrity Unit

Fax: 020 7676 3675

Email: tmu@fsa.gov.uk

FSA Handbook • SUP • Pre-release 0.1 (21 June 2001)

CONTACT NAME	
(A) FIRM NAME:	
TELEPHONE NUMBER:	
SUBMISSION DATE:	

CONTACTS	
SIGNATURE:	

(A) FSA CODE:	
INTERNAL REF NO:	
(A) TRADE DATE/TIME:	
(A) BUY/SELL:	
CANCEL INDICATOR:	
COUNTERPARTY1 CODE TYPE:	
COUNTERPARTY1 ROOT CODE:	
COUNTERPARTY1 SUB CODE:	
(A) TRADE QUANTITY:	
SECURITY CODE TYPE:	
SECURITY CODE:	
(A) INSTRUMENT TYPE:	
(A) ISSUER NAME:	
(A) INSTRUMENT DESCRIPTION:	
 OPTION EX PRICE:	
DERIVATIVE TYPE:	
D/E/M:	

(A) TRADE CURRENCY:	
(A) TRADE PRICE:	
PRICE MULTIPLIER:	
(A) CONSIDERATION:	
SETTLEMENT DATE:	
SETTLEMENT CURRENCY:	
(A) DEALING CAPACITY:	
COUNTERPARTY2 CODE TYPE:	
COUNTERPARTY2 ROOT CODE:	
COUNTERPARTY2 SUB CODE:	
BARGAIN CONDITION CODES:	
MARKET ID CODE:	
COMMENTS:	

(A) – Mandatory fields for all firms.
 Other fields are mandatory for some firms, but not all.
 Please refer to guidance notes in SUP 17 Annex 3R for additional details.

SUP 17 Ann 4G: Market identifier codes [Listed alphabetically by exchange]

1 Table

MIC	EXCHANGE
ABJ	Abidjan, bourse des valeurs
ALB	Alberta Stock Ex., Calgary
ASE	American Stock Exchange
AMM	Amman Stock Exchange
ACE	Amsterdam Comm. Exchange
AMS	Amsterdam Effectenbeurs
ANT	Antwerpen Stock Exchange
FTA	ATA (Netherlands)
ATH	Athens Stock Exchange
AOM	Australian Options Mkt, Sidney
ASX	Australian Stock Exchange
OTB	Austrian Options Exchange
BAH	Bahrain Stock Exchange, Manama
BAL	Baltic Stock Exchange
BAN	Bangalore Stock Exchange
BKK	Bangkok Stock Exchange
BAR	Barcelona Stock Exchange
BSL	Basle Stock Exchange
BEY	Beirut, Bourse de
BFO	Belgian Futures and Options Ex
BER	Berlin Stock Exchange
BRN	Bern Stock Exchange
BIL	Bilbao, Borsa de
BOG	Bogata, Bolsa de
BOL	Bolivian Bolsa de Valoures, Le Paz
BDP	Bolsa de Derivados do Porto
BMF	Bolsa de Mercadorias & Futuros
BOM	Bombay Stock Exchange
BOR	Bordeaux Stock Exchange
BOS	Boston Stock Exchange
BOT	Botswana Share Market
BRA	Bratislava Stock Exchange
BRE	Bremer Wertpapierboerse
BRU	Brussels Stock Exchange
BSE	Bucharest Stock Exchange
BCE	Budapest Commodity Exchange
BUD	Budapest Stock Exchange
BUE	Buenos Aires Stock Exchange
BUL	Bulgarian, The Ist, Sofia
CAI	Cairo Stock Exchange
CAL	Calcutta Stock Exchange
CAR	Caracas Stock Exchange
CAS	Casablanca Stock Exchange
KAZ	Central Asian Stock Exchange

MIC	EXCHANGE
CBT	Chicago Board of Trade
CBO	Chicago Board Options Ex.
CME	Chicago Mercantile Exchange
CRC	Chicago Rice and Cotton Ex.
CHI	Chicago Stock Exchange
CCE	Chubu Commodity Exchange
COL	Columbo Stock Exchange
CEC	Comm. Exchange Center, NY
CSE	Copenhagen Stock Exchange
ROS	Cordoba Stock Exchange
CYS	Cyprus Stock Exchange, Nicosia
DES	Delhi Stock Exchange
DWZ	Deutsche Bourse, Frankfurt
DHA	Dhaka Stock Exchange
DTB	DTB Deutsche Terminboerse
DUB	Dublin Stock Exchange
DUS	Duesseldorf, (Rheinisch–West)
EAS	EASDAQ, Brussels
EOE	Euro. Opt. Ex. Amsterdam
FNX	Financial Instrument Exchange (FINEX)
FOM	Finnish Options Market
FIR	Florence Stock Exchange
FRA	Frankfurter Wertpapierboerse
FKA	Fukuoka Stock Exchange
DOF	FUTOP, Copenhagen
GEN	Genoa Stock Exchange
GVA	Genova Stock Exchange
GHA	Ghana Stock Exchange
GUA	Guayaquil Stock Exchange
HAM	Hamburg Stock Exchange
HAN	Hannover Stock Exchange
HEL	Helsinki Stock Exchange
HIR	Hiroshima Stock Exchange
HFE	Hong Kong Futures Exchange
HKG	Hong Kong Stock Exchange
IBR	Ibis, Frankfurt
ICE	Iceland Stock Exchange
IST	IMKB Istanbul Stock Exchange
IOM	Index and Options Mkt Chicago
IMM	Int. Monetary Mkt Chicago
DUB	Irish Stock Exchange (Dublin)
DMI	Italian Derivatives Market
JKT	Jakarta Stock Exchange
JAM	Jamaica Stock Exchange
JSE	Johannesburg Stock Exchange
KST	Kamon Commodity Exchange (Japan)
KBT	Kansas City Board of Trade
KAC	Kansai Agricultural Commodity Exchange (KANEX)
KAR	Karachi Stock Exchange
KKT	Kobe Raw Silk Exchange
KGT	Kobe Rubber Exchange
KOR	Korea Stock Exchange, Seoul
KLC	Kuala Lumpur Comm. Exchange.
LOF	Kuala Lumpur Options and Financial Futures Exchange (KLOFFE)
KLS	Kuala Lumpur Stock Exchange

MIC	EXCHANGE
KUW	Kuwait Stock Exchange
KYO	Kyoto Stock Exchange
LAU	Lausanne Stock Exchange
LIF	LIFFE
LIC	Lille Commodity Exchange
LIL	Lille Stock Exchange
LIM	Lima Bolsa de Valores
LIS	Lisbon Stock Exchange
LIT	Lithuania Stock Exchange
LJU	Ljubljana Stock Exchange
CEL	Ljubljana Commodity Exchange
LME	London Metal Exchange
ISE	London Stock Exchange
LUS	Lusaka Stock Exchange
LUX	Luxembourg Stock Exchange
LYO	Lyon Stock Exchange
MDS	Madras Stock Exchange
MAD	Madrid, Bolsa de
MKT	Maebashi Dried Cocoon Exchange
MAK	Makati Stock Exchange, Manila
MNE	Malaysian Monetary Exchange
MAL	Malta Stock Exchange
MNL	Manila Stock Exchange
MAR	Marseille Stock Exchange
MAT	Matif S.A., Paris
MAU	Mauritius Stock Exchange
MED	Medellin Bolsa
MEF	Meff Renta fija, Barcelona
MRV	Meff Renta Madrid
MIF	Mercato Italiano Futures Exchange
MEX	Mexican Stock Exchange
MAC	Mid America Comm. Exchange
MID	Midwest Stock Ex., Chicago
MIL	Milan Stock Exchange
MGE	Minneapolis Grain Exchange
MNT	Montevideo Bolse de Valores
MOO	Montreal Opt. and Der. Mkt.
MON	Montreal, (Bourse De)
MIC	Moscow Interbank Currency Exchange
MOS	Moscow Stock Exchange
MUN	Muenchen, (Bayerische Borse)
MUS	Muscat Securities Market
NGO	Nagoya Stock Exchange
NST	Nagoya Textile Exchange
NAI	Nairobi Stock Exchange
NAM	Namibian Stock Exchange
NAY	Nancy Stock Exchange
NAN	Nantes Stock Exchange
NAP	Napoli, (Borsa Valori Di)
NAS	NASDAQ
NMS	NASDAQ National Market Systems, Washington DC
NEU	Neuchatel Stock Exchange
NYC	New York Cotton Exchange
NYF	New York Futures Exchange
NYM	New York Mercantile Exchange

MIC	EXCHANGE
NYS	New York Stock Exchange
NEE	New Zealand Futures Exchange
NZE	New Zealand Stock Exchange
AUK	New Zealand Stock Exchange, Auckland
NSA	Nigerian Stock Exchange
NII	Niigata Stock Exchange
CSC	NY Cocoa, Coffee and Sugar Ex.
OFF	OFF MARKET
MCE	OM Stockholm
MLX	OMLX, London
OPO	Oporto Stock Exchange
OHS	Optionsseine Handels System
OSM	Osaka Mercantile Exchange
OSE	Osaka Securities Exchange
OST	Osaka Textile Exchange
OSL	Oslo Bors
OTC	OTC Bulletin Board, Washington
PSE	Pacific Stock Exchange, San Francisco
PAL	Palermo Stock Exchange
PTY	Panama Bolsa de Valores
PAR	Paris Stock Exchange
PHO	Philadelphia options Exchange
PHL	Philadelphia Stock Exchange
PBT	Philadelphia Board of Trade
POR	Portal, Washington
PRA	Prague Stock Exchange
QUI	Quito Stock Exchange
RAS	RASDAQ
RIS	Riga Stock Exchange
RIO	Rio de Janeiro, Bolsa de valores
ROM	Rome, Borsa valori di
RUS	Russian Exchange (The)
BNV	San Jose Stock Exchange
SGO	Santiago Stock Exchange
BMF	Sao Paulo Futures Exchange
BSP	Sao Paulo Stock Exchange
SAP	Sapporo Stock Exchange
SHG	Shanghai Stock Exchange
SME	Shenzhen Mercantile Exchange
SHE	Shenzhen Stock Exchange
SIB	Siberian Stock Exchange
SCE	Singapore Commodity Exchange
SIM	Singapore Int. Monetary Ex.
SES	Singapore Stock Exchange
SFX	SOFFEX, Zurich
SAF	South African Financial Futures Exchange (SAFFEX)
PET	St Petersburg Stock Exchange
GAL	St. Gallen Stock Exchange
SSE	Stockholm Stock Exchange
STU	Stuttgart Stock Exchange
SWX	Swiss Exchange, Zurich
SFE	Sydney Futures Exchange
TAI	Taiwan Stock Exchange
TAL	Tallinn Stock Exchange
TEH	Tehran Stock Exchange

MIC	EXCHANGE
TAE	Tel Aviv Stock Exchange
TKT	Tokyo Commodity Exchange (TOCOM)
TKO	Tokyo Grain Exchange
TFF	Tokyo Int. Financial Futures
TKS	Tokyo Stock Exchange
TOR	Torino Stock Exchange
TFE	Toronto Futures Exchange
TOE	Toronto Options Exchange
TSE	Toronto Stock Exchange
TKA	Toyohashi Dried Cocoon Exchange
TFN	Tradepoint
TRI	Trieste Stock Exchange
TRN	Trinidad & Tobago Stock Exchange
TUN	Tunis, Borsa de Valores
VAL	Valencia Bolsa de
VSE	Vancouver Stock Exchange
VEN	Venezia Stock Exchange
VIE	Vienna Stock Exchange
VLA	Vladivostok Stock Exchange
HCE	Warenterminborse Hannover
WAR	Warsaw Stock Exchange
WCE	Winnipeg Commodity Exchange
EBE	Xebec Trading, Bucharest
YKT	Yokohama Raw Silk Exchange
ZAG	Zagreb Stock Exchange
ZIM	Zimbabwe Stock Exchange
ZRH	Zurich Stock Exchange

SUP 17 Ann 5G: Regulated markets

1 Table List of the regulated markets notified to the Commission by the Member States under Article 16 of the Investment Services Directive (93/22/EEC) as at April 2001

Austria	The following two markets of the Vienna Stock Exchange (both operated by the Wiener Borse AG)
	Amtlicher Handel (Official Market)
	Geregelter Freiverkehr (Semi-Official Market)
Belgium	De eerste, de tweede en de nieuwe markt van de Effectenbeurs van Brussel/Le premier, le second marché et le nouveau marché de la Bourse de valeurs mobilières de Bruxelles [Bourse de Bruxelles]
	De Belgische Future- en Optiebeurs, afgekort Belfox/La bourse belge des futures et options, en abrégé Belfox
	De secundaire buitenbeursmarkt van de lineaire obligaties, de gesplitste effecten en de schakelcertificaten/Le marché secondaire hors bourse des obligations linéaires, des titres scindés et des certificats de trésorerie EASDAQ
Denmark	The Copenhagen Stock Exchange (Københavns Fondsbørs)
	Dansk Autoriseret Markedplads A/S (Danish Authorised Market Place Ltd (AMP))
Finland	HEX Oy, Helsingin Arvopaperi- ja johdannaispörssi, selvitys-yhtiö/HEX Ab, Helsingfors Värdepapper- och derivativbörs, clearingbolag (HEX Ltd, Helsinki Securities and Derivatives Exchange, Clearing House) including:
	Stock Exchange
	Main List: Equity and Debt Instruments
	Parallel Lists (I List, NM List and Pre List): Equity and Debt Instruments
	Option Corporation: Derivatives Exchange and Clearing House
France	Le Matif
	Le premier marché et le second marché de la SBF-Bourse de Paris
	Le nouveau marché
	Le Monep
Germany	Berliner Wertpapierbörse (Amtlicher Handel, Geregelter Markt) [Berlin Stock Exchange]
	Bremer Wertpapierbörse (Amtlicher Handel, Geregelter Markt) [Bremen Stock Exchange]
	Rheinisch-Westfälische Börse zu Düsseldorf (Amtlicher Handel, Geregelter Markt) [Rhine-Westphalian Stock Exchange Düsseldorf]
	Frankfurter Wertpapierbörse (Amtlicher Handel, Geregelter Markt) [Frankfurt Stock Exchange]
	Eurex Deutschland
	Hanseatische Wertpapierbörse Hamburg (Amtlicher Handel, Geregelter Markt) [Hanseatic Stock Exchange Hamburg]

	Niedersächsische Börse zu Hannover (Amtlicher Handel, Geregelter Markt) [(Am Stock Exchange of Lower Saxony [Hannover])] Bayrische Börse (Amtlicher Handel, Geregelter Markt) [Bavarian Stock Exchange [Munich]] Baden–Württembergische Wertpapierbörse zu Stuttgart (Amtlicher Handel, Geregelter Markt) [Baden–Wurtemberg Stock Exchange [Stuttgart]]
Greece	Athens Stock Exchange (ASE) – Thessaloniki Stock Exchange Centre (TSEC) Athens Derivatives Exchange (ADEX)
Ireland	Irish Stock Exchange
Italy	Borsa, articolata nei comparti: Mercato telematico azionario (MTA) Mercato telematico delle obbligazioni e dei titoli di Stato (MOT) Mercato telematico dei contratti a premio (MPR) Mercato ristretto Mercato di borsa per la negoziazione degli strumenti finanziari previsti dall'articolo 1, comma 2, lettere f) e i), del decreto legislativo 24 febbraio 1998, n. 58 (Mercato degli strumenti derivati – IDEM) Mercato all'ingrosso dei titoli di Stato italiani ed esteri, articolato nei segmenti: Mercato all'ingrosso dei titoli emessi dallo Stato italiano e da Stati esteri. Mercato all'ingrosso dei titoli emessi da organismi inter–nazionali partecipati da Stati. Mercato dei contratti uniformi a termine sui titoli di Stato (MIF). Nuovo Mercato
Luxembourg	Luxembourg Stock Exchange (Société de la Bourse de Luxembourg SA)
The Netherlands	Amsterdam Exchanges (AEX) including the following markets that are held by Amsterdam Exchanges: AEX Stock Exchange AEX Options Exchange AEX Financial Futures Market NMAX New Market Amsterdam Exchanges
Portugal	Mercado de Cotações Oficiais da Bolsa de Valores de Lisboa [Market with Official Quotations of the Bolsa de Valores de Lisboa] Segundo Mercado de Bolsa de Valores de Lisboa [Second Market of the Bolsa de Valores de Lisboa] Mercado sem Cotações da Bolsa de Valores de Lisboa [Market without Quotations of the Bolsa de Valores de Lisboa] Bolsa de Derivados do Porto
Spain	La Bolsa de Valores de Barcelona La Bolsa de Valores de Bilbao La Bolsa de Valores de Madrid La Bolsa de Valores de Valencia Los mercados oficiales de futuros y opciones de Meff Sociedad Recora del Mercado de Productos Financieros Derivados de Renta Fija, SA y Meff Sociadcad Recora del Mercado de Productos Financieros Derivados de Renta Variable, SA Mercado AIAF de Renta Fija, S.A. Mercado de Deuda Pública en Anotaciones.

Sweden

Stockholm Stock Exchange (Stockholms Fondbörs AB)
Penningmarknadsinformation Pml AB
OM Stockholm AB
IM Marknadsplats AB
Aktietorget I Norden AB

United Kingdom

The following four of the markets comprising the London Stock Exchange Limited:

The Domestic Equity Market
The European Equity Market
The Gilt Edged and Sterling Bond Market
The Alternative Investment Market.

LIFFE Administration and Management

OM London Exchange Limited.

virt-x plc (formerly Tradepoint Financial Networks plc).

Jiway Limited

COREDEAL Limited

List of the regulated markets notified to the Standing Committee of the EFTA States under Article 16 of the Investment Services Directive (93/22/EEC) included in point 30b of Annex IX to the Agreement of the European Economic Area as at April 2001

Iceland

Iceland Stock Exchange (Verdbrefathing Islands)

Liechtenstein

Norway

The Oslo Stock Exchange

Chapter 19

Commodity Futures Trading Commission Part 30 exemption



19.1 Application

19.1.1

G
/1

This chapter applies to a *firm*:

- (1) whose *permission* includes:
 - (a) the *regulated activities* of *dealing in investments as principal, dealing in investments as agent, arranging (bringing about) deals in investments or managing investments*; and
 - (b) the *specified investments* of *options or futures*;
- (2) which intends to trade on behalf of US customers on non-US futures and options exchanges; and
- (3) which wishes to seek exemption under Part 30 of the General Regulations of the US Commodity Exchange Act.



19.2 Purpose

19.2.1

G
/1

Section 30.3 of Part 30 of the General Regulations under the US Commodity Exchange Act ('CFTC Part 30') makes it unlawful for any person to trade on behalf of US customers on non-US futures and options exchanges unless the trade is transacted by or through a US-registered futures commission merchant on a fully disclosed basis. However, these regulations allow the CFTC to grant an exemption from this registration requirement on a jurisdiction by jurisdiction basis. The CFTC operates an exemption system for firms regulated by the FSA.

19.2.2

G
/1

The FSA sponsors applications for exemption from *firms* to the CFTC in line with the terms of the agreement between the *United Kingdom* and US regulators. This *guidance* is to help *firms* understand why an application may be required and to explain which *rules* apply as a result of an exemption.



19.3 Exemption under CFTC Part 30

- 19.3.1** **G**_{/1} The *CFTC* can exempt from certain *CFTC* rules and obligations a non-US firm that solicits or accepts orders for non-US futures and option transactions from customers located in the United States. The *CFTC* receives this power from *CFTC* Part 30. The exempted rules and obligations include registration and financial requirements. The firm has to comply with comparable regulatory requirements imposed by its home country regulator instead.
- 19.3.2** **G**_{/1} The scope of the exemption is limited to firms trading in non-US futures and options on behalf of US customers on non-US futures and options exchanges other than a contract market designated as such under section 5 of the US Commodity Exchange Act.
- 19.3.3** **G**_{/1} Registration is not required if a firm is trading for US customers through a futures commission merchant on an omnibus basis. Trading on an omnibus basis means the customers' identities are not revealed to the firm and all orders are given by the US futures commission merchant, so preventing the firm from having any contact with the US customers.



19.4 Applicable rules for firms under CFTC Part 30 exemption

- 19.4.1** **G**_{/1} A *firm* that has a *Part 30 exemption order* must continue to comply with the applicable requirements and standards under the *regulatory system* including *COB*. However, it becomes subject to a number of additional US rules. The *FSA* is responsible for the supervision of the *firm* and its adherence to the *UK* requirements and standards and additional US requirements.
- 19.4.2** **G**_{/1} *CFTC* rules generally require US customers to be offered segregation in accordance with the *client money rules*. This is also an *FSA* requirement for a *firm* with a *Part 30 exemption order* (see *COB 9.3.141R* to *COB 9.3.144R*).
- 19.4.3** **G**_{/1} *Firms* should note that, although supervision rests with the *FSA*, the *CFTC* may be allowed access to relevant documents if it requests, under the terms of the *Part 30 exemption order*.
- 19.4.4** **G**_{/1} As well as the *FSA*'s requirements on risk warnings, a *firm* obtaining an exemption must meet the following US documentation requirements:
- (1) general risk disclosure for foreign futures and options;
 - (2) options disclosure; and
 - (3) particular additional risk disclosure and explanatory statement to London Metal Exchange customers.

Appendix 1

Prudential categories and sub-categories

1.1 Application

- 1.1.1 **G** This appendix applies to every *firm*.
/1

1.2 Purpose

- 1.2.1 **G** The purpose of this appendix is to give *guidance* on the prudential categories and sub-categories of *firm* used in the Interim Prudential sourcebooks and the Supervision manual. The prudential categories are defined in the *Glossary*, and some of the sub-categories are defined there and some in the glossaries of the Interim Prudential sourcebooks.
/1

- 1.2.2 **G** The *FSA* is developing its approach to prudential standards and some provisions in the Supervision manual in a two-stage approach. Initially the *FSA* is including in the *Handbook* interim material as set out in the five Interim Prudential sourcebooks and the Supervision manual, for example *SUP 16* (Reporting requirements). The *FSA* is developing material which will provide an integrated approach to the setting of prudential standards. Each of the Interim Prudential sourcebooks is based on the prudential regime that existed before *commencement*, changed, mainly where the *Act*, and other statutory and international developments, have made a change desirable or essential. The Lloyd's sourcebook shows less continuity with the prudential regime previously applied to the *Society of Lloyd's*, as it introduces requirements similar to those already applied to *insurers*. Most grandfathered *firms* have a prudential category and sub-category equivalent to that which they had before *commencement*.
/1

- 1.2.3 **G** If there is any doubt about prudential categorisation, a *firm* should seek individual *guidance* from its usual supervisory contact at the *FSA* and an applicant for authorisation should seek *guidance* from the Corporate Authorisation department.
/1

1.3 Prudential categories and sub-categories

1.3.1

G
/1

Table Prudential categories and sub-categories used in the Interim Prudential sourcebooks and the Supervision manual

Prudential categories (Note 1)	Applicable prudential requirements (Note 2)	Prudential sub-categories
<i>Authorised professional firm*</i>	<i>IPRU(INV)</i> 1 and 2	
<i>Bank*</i>	<i>IPRU(BANK)</i>	<i>EEA bank</i> <i>Overseas bank</i> <i>UK bank</i>
<i>Building society*</i>	<i>IPRU(BSOC)</i>	
<i>Friendly society</i>	<i>IPRU(FSOC)</i>	<i>Directive friendly society</i> <i>Incorporated friendly society</i> <i>Non-directive friendly society</i> <i>Registered friendly society</i> <i>Flat rate benefits business friendly society</i>
<i>ICVC*</i>	None, but see <i>CIS</i>	
<i>Incoming EEA firm</i>	None (unless another prudential category applies)	
<i>Incoming Treaty firm</i>	None (unless another prudential category applies)	
<i>Insurer*</i>	<i>IPRU(INS)</i> or <i>IPRU(FSOC)</i>	<i>Long term insurer</i> <i>General insurer</i> <i>Friendly society</i> (see above)
<i>Investment management firm*</i>	<i>IPRU(INV)</i> 1 and 5	<i>OPS firm</i> <i>Non-OPS life office</i> <i>Non-OPS local authority</i> <i>Individuals admitted to authorisation collectively</i> <i>Individual whose sole investment business is giving investment advice to institutional or corporate investors</i> <i>Other</i>
<i>Lead regulated firm</i>	None (unless another prudential category applies)	
<i>Media firm*</i>	None	

Prudential categories (Note 1)	Applicable prudential requirements (Note 2)	Prudential sub-categories
<i>Members' adviser</i>	<i>IPRU(INV)</i> 1 and 4	
<i>Personal investment firm*</i>	<i>IPRU(INV)</i> 1 and 13	Category A firm Category A1 firm Category A2 firm Category A3 firm Category B firm Category B1 firm Category B2 firm Category B3 firm Low resource firm Network Small personal investment firm
<i>Securities and futures firm*</i>	<i>IPRU(INV)</i> 1 and either 3 or 10 There is a special transitional regime for <i>ex-section 43 lead regulated firms</i> – see transitional rules to <i>IPRU(INV)</i> .	<i>IPRU(INV)</i> 3: <i>Adviser</i> <i>Arranger</i> <i>Broad scope firm</i> <i>Corporate finance advisory firm</i> <i>Dematerialised instruction transmitter</i> <i>Derivative fund manager</i> <i>Local</i> <i>Oil market participant</i> <i>Venture capital firm</i> Other <i>IPRU(INV)</i> 10: Category A Category B Category C Category D Category D – corporate finance advisory firm
<i>Service company*</i>	<i>IPRU(INV)</i> 1 and 6	
<i>Society of Lloyd's*</i>	<i>LLD</i>	
<i>UCITS qualifier</i>	None (unless another prudential category applies)	
<i>Underwriting agent</i>	<i>IPRU(INV)</i> 1 and 4	<i>Managing agent</i> <i>Members' agent</i>

Prudential categories (Note 1)	Applicable prudential requirements (Note 2)	Prudential sub-categories
<p>Note 1 = It is possible for a <i>firm</i> to have more than one prudential category. But it cannot have more than one of the prudential categories marked with a '*'. Note 2 = Only the requirements in the Interim Prudential sourcebooks and <i>LLD</i> are listed in the column. Requirements in other parts of the <i>Handbook</i> will also apply.</p>		

1.4 Relevance of prudential categories

1.4.1 G_{/1} Many, but not all, of the categories are used only in the Interim Prudential sourcebooks and the Supervision manual. The prudential category of a *firm* will normally determine:

- (1) which Interim Prudential sourcebook is applicable to the *firm*;
- (2) if the *firm* is subject to the *IPRU(INV)*, which chapter of that sourcebook is applicable to the *firm*;
- (3) whether particular chapters of the Supervision manual are applicable to the *firm*; and
- (4) if the *firm* is subject to *SUP 3* (Auditors), *SUP 16* (Reporting) or *SUP 17* (Transaction reporting), which parts of those chapters apply to the *firm*.

1.4.2 G_{/1} In some cases, a *firm* may also fall within a prudential sub-category. This will determine which provisions within a particular sourcebook or chapter apply to the *firm*.

1.4.3 G_{/1} If a *firm* is part of a *group*, each *authorised* member of the *group* will have its own prudential category. *Firms* should refer to the provisions of the relevant Interim Prudential sourcebooks to determine whether and, if so, how consolidated supervision applies.

1.5 Determining the prudential categories of a firm

1.5.1 G_{/1} This appendix includes flow diagrams (Figures 1 and 2) to assist in determining the prudential category of a *firm*.

- 1.5.2** G_{/1} For a *firm* which became an *authorised person* after *commencement*, the *FSA* will have confirmed the applicable prudential category of the *firm* as part of the *authorisation* process.
- 1.5.3** G_{/1} For a *firm* with automatic *authorisation* by passporting under the *Single Market Directives*, exercising rights under the *Treaty* or as a *UCITS qualifier*, the *FSA* will have notified the firm of its prudential category at the same time as the *FSA* notified it of the *applicable provisions* to which it is subject (see *AUTH 5* for further details on inward passporting). If it has a *top-up permission*, then *SUP App 1 1.5.2G* may also apply.

1.6 Changing prudential category after authorisation

- 1.6.1** G_{/1} A *firm's* prudential category may change in the following circumstances:
- (1) A variation in the *firm's permission* may, in some cases, lead to an automatic change in the *firm's* prudential category or sub-category because of the way those categories are defined. For example, if an *investment management firm* is granted *permission to accept deposits*, it may become a *bank* and cease to be an *investment management firm*. Figures 1 and 2 may be used, even if a *firm's permission* is varied after *commencement*. They should enable a *firm* to determine whether any variation in its *permission* will lead to a change in prudential category.
 - (2) The *FSA* may vary the *firm's permission* and thereby require a *firm* to comply with the *rules* applicable to a different prudential category, either through using its *own-initiative power* or on the application of the *firm*.
- 1.6.2** G_{/1} A *firm* should notify the *FSA* immediately if it believes that its prudential category or sub-category has changed (see *SUP 15.3.8G(1)(g)*), or if there has been an expansion or reduction in its business that could be relevant to its prudential categorisation or sub-categorisation (see *SUP 15.3.8G*).

1.7 Prudential categories and sub-categories

Figure 1: Determination of a firm's prudential category - general

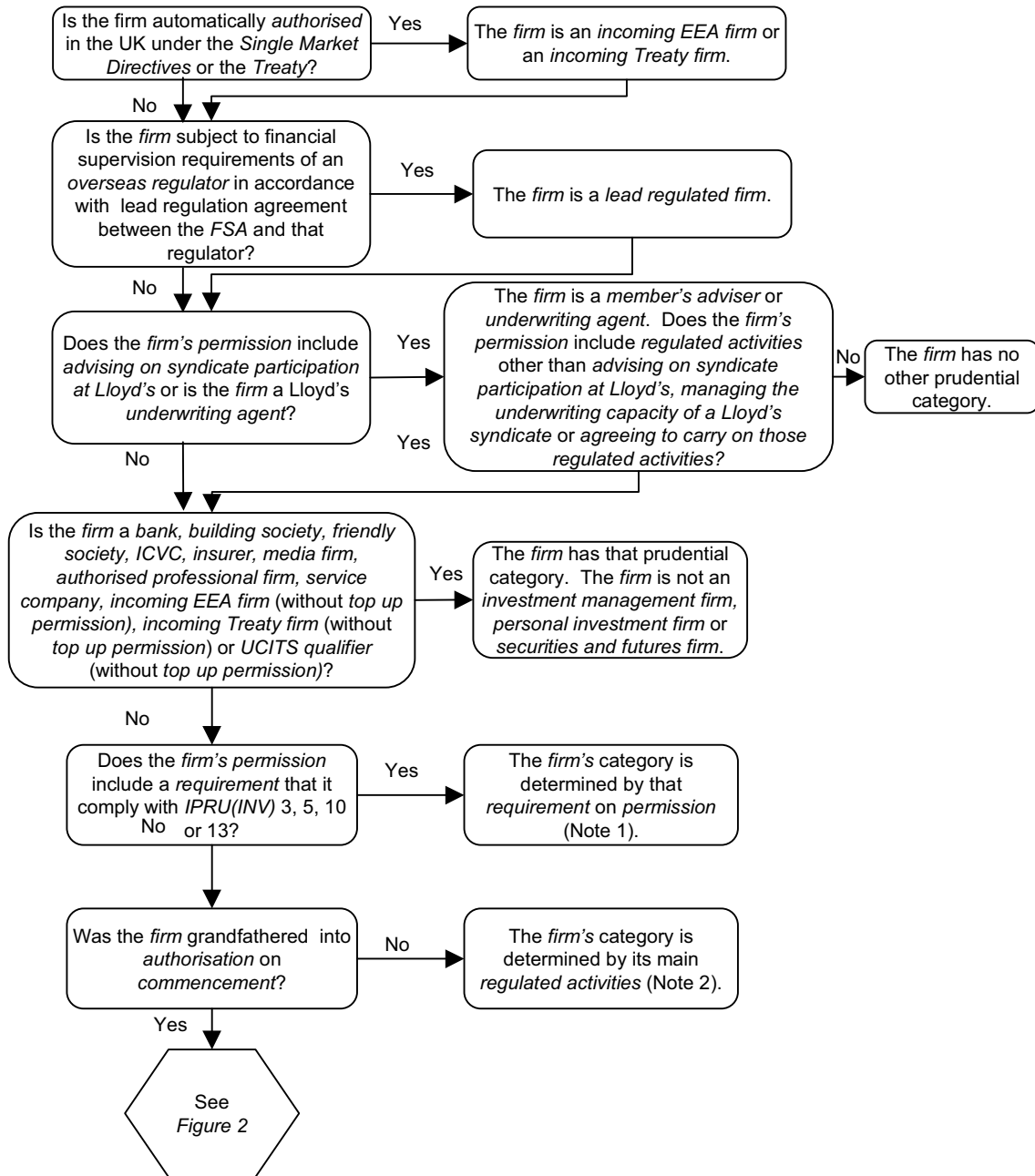
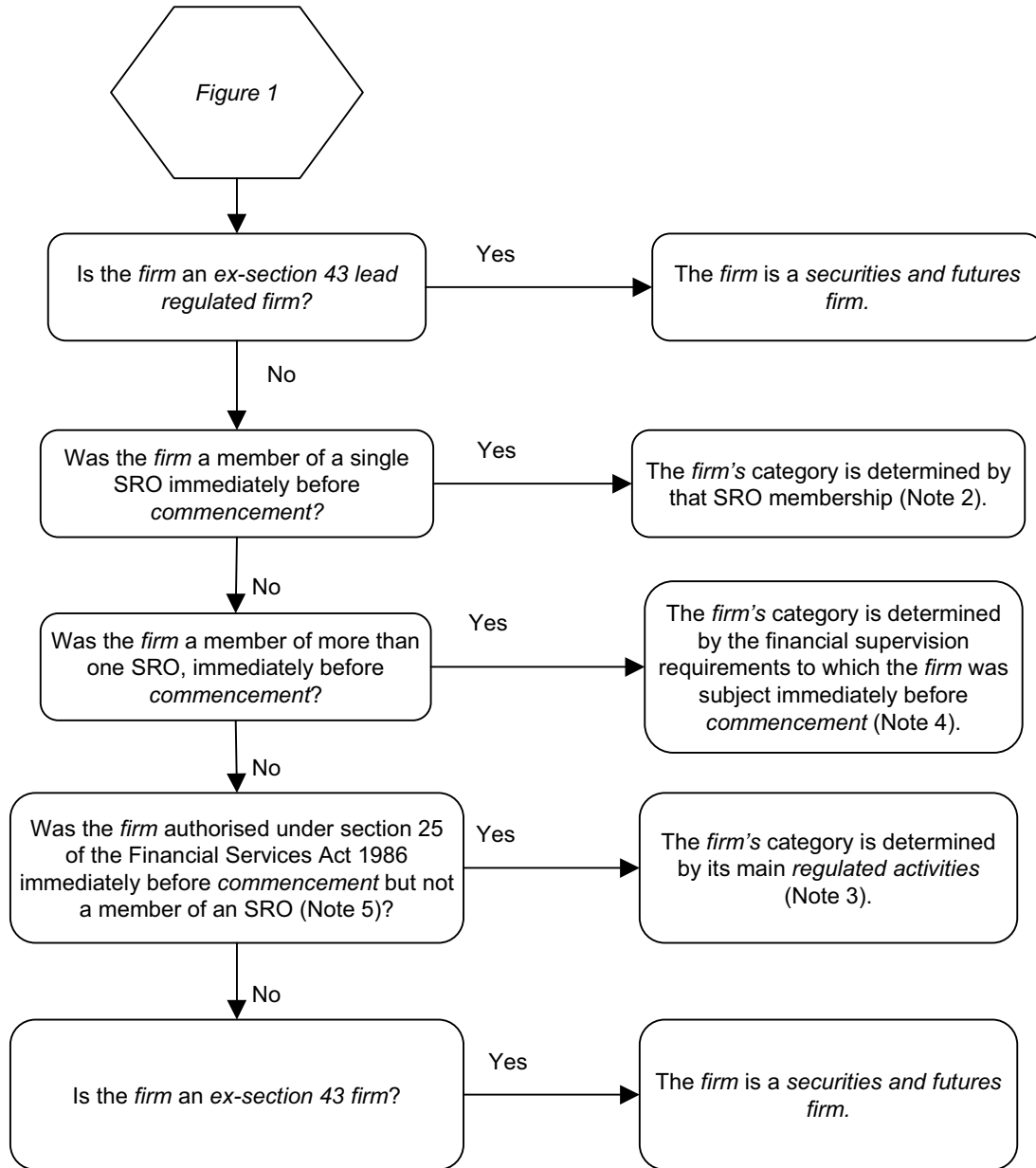


Figure 2: Determination of a firm's prudential category (cont'd)



1.8

Notes to Figures 1 and 2

1.8.1

G Table Note 1
/1

Chapter of IPRU(INV) that requirement on permission requires the firm to comply with	Firm's prudential category
Chapter 3	<i>Securities and futures firm</i>
Chapter 5	<i>Investment management firm</i>
Chapter 10	<i>Securities and futures firm</i>
Chapter 13	<i>Personal investment firm</i>

1.8.2

G

/1

Table Note 2

The table below shows how a *firm's* main *regulated activities* determine its prudential category. A *firm's* 'main *regulated activities*' in this context are the *regulated activities* included in the *firm's* *Part IV permission* from which the *firm* derives or is expected to derive the most substantial part of its gross income, including *commissions*. The aggregate gross income from all of the activities listed against each prudential category should be considered to determine which source is the most substantial.

The gross income is based on the business plan submitted as part of the *firm's* application for a *Part IV permission* (for a *firm* given a *Part IV permission* after *commencement*) or on the *firm's* financial year preceding its *authorisation* under the *Act* (for a *firm* *authorised* under section 25 of the Financial Services Act 1986 prior to *commencement*).

If the *firm's* prudential categorisation is not clear, please consult the *FSA* for *guidance*.

Activities from which the most substantial part of the firm's gross income, including commissions, from regulated activities is derived

- (i) *Managing investments* other than for *private customers* or if the assets managed are primarily *derivatives*;
- (ii) *OPS activity*;
- (iii) acting as the *manager* or *trustee* of an *AUT*;
- (iv) acting as the *ACD* or *depository* of an *ICVC*;
- (v) *establishing, operating or winding-up* a *collective investment scheme* other than an *AUT* or *ICVC*; and
- (vi) *safeguarding and administering investments*.

Firm's prudential category

Investment management firm

(i) <i>Advising on investments, or arranging (bringing about) deals in investments, in relation to packaged products; and</i>	<i>Personal investment firm</i>
(ii) <i>managing investments for private customers.</i>	
(i) <i>An activity carried on as a member of an exchange;</i>	<i>Securities and futures firm</i>
(ii) <i>making a market in securities or derivatives;</i>	
(iii) <i>corporate finance business;</i>	
(iv) <i>dealing, or arranging (bringing about) deals in investments, in securities or derivatives;</i>	
(v) <i>the provision of clearing services as a clearing firm;</i>	
(vi) <i>managing investments where the assets managed are primarily derivatives; and</i>	
(vi) <i>activities relating to spread bets;</i>	

1.8.3

G

Table Note 3

/1

Single SRO membership	Firm's prudential category
<i>IMRO</i>	<i>Investment management firm</i>
<i>PIA</i>	<i>Personal investment firm</i>
<i>SFA</i>	<i>Securities and futures firm</i>

1.8.4

G

Table Note 4

/1

SRO to whose Financial Supervision requirements the firm was subject	Firm's prudential category
<i>IMRO</i>	<i>Investment management firm</i>
<i>PIA</i>	<i>Personal investment firm</i>
<i>SFA</i>	<i>Securities and futures firm</i>

1.8.5

G

Table Note 5

/1

Only a small number of *firms* are expected to be authorised under section 25 of the Financial Services Act 1986 immediately prior to *commencement* and not be a member of one of the SROs. These *firms* are directly regulated by the *FSA* under the Financial Services Act 1986.

Appendix 2

Insurers: Scheme of operations

2.1 Application

2.1.1 **R** This appendix applies to every *insurer* which is not:

^{/1}

an *incoming EEA firm*; or

an *incoming Treaty firm*.

2.1.2 **G** This appendix applies to every *friendly society* as a friendly society is an *insurer*.

^{/1}

2.2 Purpose

2.2.1 **G** To fulfil its obligations under the *Insurance Directives*, and as part of the FSA's risk-based approach to supervision, there are certain times when the FSA needs to monitor an *insurer* more closely than it normally would. This is so the FSA can fulfil its function of supervising *insurers* properly and meet the *regulatory objective* of securing an appropriate degree of protection for *consumers*.

^{/1}

2.2.2 **G** The *rules* in this appendix require an *insurer* to submit reports and information to the FSA when:

^{/1}

- (1) an *insurer* is failing to satisfy *threshold condition 4* (Adequate resources) (see COND 2.4), and its *margin of solvency* has fallen below its *required minimum margin*, or its *guarantee fund*;
- (2) an *insurer* has decided to cease to *effect new contracts of insurance*;
- (3) an *insurer* is going through periods of potential uncertainty, for example when it has come under the *control of a new parent undertaking*, or following the grant or variation of *permission*.

2.2.3 **G** In accordance with the *Insurance Directives*, an *insurer* whose *margin of solvency* has fallen below its *required minimum margin*, or its *guarantee fund*, is required, by the *rules* set out in this appendix, to submit a *scheme of operations*, together with an explanation of how the *margin of solvency* will be adequately restored. Similarly, an *insurer* which is entering into run-off is required to submit a *scheme of operations*, including also an explanation of how its *liabilities to policyholders*

^{/1}

will be met in full. In other cases, such as following a change in *control*, or the grant or variation of *permission*, the reports help the *FSA* to identify when an *insurer* departs from the *scheme of operations* submitted as part of the notification of a change in *control*, or an application for the grant or variation of *permission*, and on which basis such notification or application was approved.

- 2.2.4 **G**_{/1} These *rules* are in addition to the other *rules* and *guidance* in *SUP*, in particular *SUP* 2 (Information gathering by the *FSA* on its own initiative), *SUP* 15 (Notifications to the *FSA*), *SUP* 16 (Reporting requirements) and the Principles (*PRIN*).

2.3 Margin of solvency below required margin of solvency

- 2.3.1 **R**_{/1} If an *insurer's margin of solvency* falls below its *required margin of solvency*, it must, within 28 days of the firm becoming aware of this event, submit to the *FSA* a plan for the restoration of a sound financial position including:
- (1) a *scheme of operations* (see *SUP* App 2.9); and
 - (2) an explanation of how, if at all, and by when it expects its *margin of solvency* to be adequately restored to the *required margin of solvency*.

- 2.3.2 **G**_{/1} See *SUP* App 2.8.2G for *guidance* on the period that the *scheme of operations* should cover.

2.4 Margin of solvency below guarantee fund

- 2.4.1 **R**_{/1} If an *insurer's margin of solvency* falls below its *guarantee fund*, it must, within 14 days of the firm becoming aware of this event, submit a short-term financial plan to the *FSA* including:
- (1) a *scheme of operations* (see *SUP* App 2.9); and
 - (2) an explanation of how, if at all, and by when it expects its *margin of solvency* to be adequately restored to the *guarantee fund*.

- 2.4.2 **G**_{/1} See *SUP* App 2.8.2G for *guidance* on the period that the *scheme of operations* should cover.

2.5 Ceasing to effect contracts of insurance

2.5.1 **R** /1 If an *insurer* decides to cease to *effect* new *contracts of insurance*, it must, within 28 days of that decision, submit a run-off plan to the FSA including:

- (1) a *scheme of operations*; and
- (2) an explanation of how, or to what extent, all *liabilities to policyholders* (including, where relevant, reasonable bonus expectations) will be met in full as they fall due.

2.5.2 **G** /1 *SUP* App 2.5.1R only applies if a *firm* ceases to *effect* new *contracts of insurance* in respect of the whole of its *insurance business*.

2.5.3 **G** /1 For the purposes of *SUP* App 2.5.1R a new *contract of insurance* excludes contracts effected under a term in a subsisting *contract of insurance*.

2.5.4 **G** /1 Under *Principle 11*, the FSA normally expects to be notified by an *insurer* when it decides to cease *effecting* new *contracts of insurance* in respect of one or more *classes of contract of insurance* (see *SUP* 15.3.8G). At the same time, the FSA would normally expect the *firm* to discuss with it the need for the *firm* to apply to vary its *permission* (see *SUP* 6.2.6G and *SUP* 6.2.7G) and, if appropriate, to submit a *scheme of operations* in accordance with *SUP* App 2.5.1R.

2.5.5 **G** /1 See *SUP* App 2.8.2G for *guidance* on the period that the *scheme of operations* should cover.

2.6 Under control of a new parent undertaking

2.6.1 **G** /1 An *insurer* that has notified the FSA of a new *parent undertaking* may be requested to submit a *scheme of operations* (see *SUP* 11.5.5G). A *scheme of operations* would be requested if the significance and circumstances of the change were considered to be sufficient to merit that level of scrutiny. This is normally only likely to be necessary when there has been an ultimate change in *control*, or when, as a result of the change in *control*, significant changes are proposed to the *firm's regulated activities*, business plan or strategy. An *insurer* which has submitted a *scheme of operations* under *SUP* 11.5.5G, is not required to submit a further *scheme of operations* under this Appendix unless *SUP* App 2.3 to *SUP* App 2.6 applies. *SUP* App 2.10 does, however, apply to such an *insurer*.

2.7 Grant or variation of permission

- 2.7.1** G_{/1} The *FSA* may ask an *insurer* seeking a grant or variation of permission to provide a *scheme of operations* as part of the application process (see AUTH 3.9.9G(1) and SUP 6.3.25G). Such an *insurer* is not required to submit a further *scheme of operations* under this appendix unless SUP App 2.3 to SUP App 2.6 applies. SUP App 2.10 and SUP 6 Ann 4G do, however, apply to such an *insurer*.

2.8 Submission of a scheme of operations

- 2.8.1** G_{/1} A *firm* should discuss its plan in draft with the *FSA* before submitting it. If a plan is submitted which does not satisfy the *FSA* that the *firm* can restore its *margin of solvency* (as appropriate), or meet its liabilities as they fall due, the *FSA* may use its *own-initiative power* to vary or cancel the *firm's permission*.

- 2.8.2** G_{/1} The *schemes of operations* required when an *insurer's margin of solvency* has fallen below its *required margin of solvency* or its *guarantee fund* (see SUP App 2.3.1R and SUP App 2.4.1R, respectively) should cover a period which is sufficient to demonstrate that the *insurer's margin of solvency* will be adequately restored. Typically this would be a period of at least three years. However, if a *scheme of operations* has expired, but SUP App 2.3.1R or SUP App 2.4.1R continue to apply, the *insurer* should submit a new *scheme of operations*. The *scheme of operations* required by SUP App 2.5.1R, when an *insurer* ceases to *effect new contracts of insurance*, should cover the run-off period until all *liabilities to policyholders* are met.

2.9 Content of a scheme of operations

- 2.9.1** R_{/1} A *scheme of operations* must:
- (1) describe the *firm's* business strategy;
 - (2) include financial projections (for appropriate scenarios and stress-tests) as follows:
 - (a) a forecast summary profit and loss account in accordance with SUP App 2.9.7R;
 - (b) a forecast summary balance sheet in accordance with SUP App 2.9.8R; and

- (c) a forecast statement of solvency in accordance with *SUP App 2.9.9R*; and
- (3) as at the end of each *financial year* which falls (in whole or part) within the period to which the *scheme of operations* relates:
- (a) describe the assumptions which underlie those forecasts and the reasons for adopting those assumptions; and
- (b) identify any material transactions (see *SUP App 2.11.1R*) proposed to be effected or carried out with, or in respect of, any *associate*.

2.9.2

G
/1

The business strategy referred to at *SUP App 2.9.1R(1)* should include a description of the nature of the risks which the *insurer* is underwriting, or intends to underwrite. It should also give an explanation of the *firm's* strategy for managing the risks associated with carrying on *insurance business* (including, in particular, reinsurance).

2.9.3

G
/1

The amount of detail to be given on the *firm's* business strategy required by *SUP App 2.9.1R(1)* should be appropriate to the scale and complexity of the *insurer's* operations and the degree of risk involved.

2.9.4

R
/1

The information required by *SUP App 2.9.1R* must cover the same aspects of the *firm's* business as are covered under *IPRU(INS) 2.1* or *IPRU(FSOC)* [number to be added later] (as applicable).

2.9.5

G
/1

IPRU(INS) 2.1 and *IPRU(FSOC)* [number to be added later] set out the *margin of solvency* requirements for *insurers* (other than *friendly societies*) and *friendly societies*, respectively. The *margin of solvency* an *insurer* is required to maintain varies according to whether the *insurer* has its head office in the *United Kingdom* or overseas, and depending on the nature of the *insurance business* it carries on. A *firm* submitting a *scheme of operations* should provide the information required by *SUP App 2.9.1R* according to the requirements for the *margin of solvency* as set out in *IPRU(INS) 2.1* and *IPRU(FSOC)* [number to be added later] (as applicable). For example, in order to satisfy *SUP App 2.9.1R*, an *insurer* with its head office outside the *United Kingdom* which is carrying on direct *insurance business* in the *United Kingdom* is required to submit separate information concerning its world-wide activities and its *UK* activities.

2.9.6

G
/1

In accordance with *IPRU(INS) 2.1(4)* and *IPRU(FSOC)*[number to be added later], to comply with *SUP App 2.9.1R*, an *insurer* which carries on both *long-term insurance business* and *general insurance business* should submit separate information for each type of *insurance business*.

2.9.7

R
/1

Table Summary profit and loss account (see *SUP app 2.9.1R (2)(a)*)

(1)	Premiums and claims (gross and net of reinsurance) analysed by accounting class of insurance business
(2)	Investment return
(3)	Expenses

(4)	Other charges and income
(5)	Taxation
(6)	Dividends paid and accrued

2.9.8 **R** Table Summary balance sheet (see SUP App 2.9.1 R (2)(b))

/1

(1)	Investments analysed by type
(2)	Assets held to cover linked liabilities
(3)	Other assets and liabilities separately identifying cash at bank and in hand
(4)	Capital and reserves analysed into called up <i>share</i> capital or equivalent funds, <i>share</i> premium account, revaluation reserve, other reserves and profit and loss account
(5)	Subordinated liabilities
(6)	The fund for future appropriations
(7)	Technical provisions gross and net of reinsurance analysed by <i>class of insurance business</i> and separately identifying the provision for linked liabilities, unearned <i>premiums</i> , unexpired risks and equalisation
(8)	Other liabilities and credits

2.9.9 **R** A forecast statement of solvency (under SUP App 2.9.1R (2)(c)) must include the forecast *margin of solvency* and the forecast *required margin of solvency* at the end of each *financial year* or part *financial year*.

/1

2.10 Obligations on insurers which have previously submitted a scheme of operations

2.10.1 **R** An *insurer* which has submitted a *scheme of operations* to the FSA, whether required by SUP App 2.3 to SUP App 2.6, or as part of an application under SUP 6.3 (see SUP 6.3.25G), SUP 6.5 (see SUP 6

/1

Ann 4G), *AUTH* 3.9 (see *AUTH* 3.9.9G(1)), or *SUP* 11.5 (see *SUP* 11.5.5G), or an amended *scheme of operations*, must during the period covered by that *scheme of operations*:

- (1) notify the *FSA* at least 28 days before entering into or carrying out any material transaction (see *SUP* APP 2.11.1R) with, or in respect of an *associate*, unless that transaction is in accordance with a *scheme of operations* which has been submitted to the *FSA*;
- (2) submit a quarterly financial return to the *FSA* which must include for, or as at the end of, each quarter:
 - (a) a summary profit and loss account prepared in accordance with *SUP* App 2.9.7R;
 - (b) a summary balance sheet prepared in accordance with *SUP* App 2.9.8R; and
 - (c) a statement of solvency prepared in accordance with *SUP* App 2.9.9R;

and which must identify and explain differences between the actual results and the forecasts submitted in the *scheme of operations*; and
- (3) notify the *FSA* promptly of any matter which has either happened or is likely to happen and which represents a significant departure from the *scheme of operations*; the *insurer* must either:
 - (a) explain the nature of the departure and the reasons for it and provide revised forecast financial information in the *scheme of operations* for its remaining term; or
 - (b) include an amended *scheme of operations* and explain the amendments and the reasons for them.

2.10.2

R

A report under *SUP* App 2.10.1R(2) must be submitted in accordance with the rules in *SUP* 16.3.6R to *SUP* 16.3.13R.

/1

2.10.3

G

For the purpose of *SUP* App 2.10.1R(1), the *FSA* considers that transactions with, or in respect of, *associates* include:

/1

- (1) contracting (as either party), advancing, repaying, writing off or agreeing to change the terms of any loan;
- (2) entering into (in any capacity), releasing, calling upon or agreeing to change the terms of any guarantee, pledge, security, charge or any off-balance-sheet transaction;
- (3) entering into agreements to acquire or dispose of *property* or which otherwise affect the nature or value of the *insurer's* assets
- (4) making an investment (directly or indirectly) in an *associate*;

2.10.4

G
/1

- (5) entering into (as either party), commuting or agreeing to change the terms of, any contract of reinsurance; and
- (6) entering into, or changing the terms of, any agreement to give or provide services or to share costs.

The FSA considers that a significant departure referred to in SUP App 2.10.1R(3) includes:

- (1) entry or withdrawal from a line of *insurance business*;
- (2) significant revision of the firm's strategy for managing risks, in particular the basis upon which risks are reinsured;
- (3) forecast *premiums* being exceeded, by more than 10%, for a single *financial year* (or part year if the period covered by the *scheme of operations* is or includes part of a *financial year*);
- (4) *claims* experience being significantly worse than forecast for a single *financial year* (or part year if the period covered by the *scheme of operations* is or includes part of a *financial year*);
- (5) the actual *margin of solvency* being significantly worse than forecast;
- (6) paid or proposed dividends being greater than those forecast; and
- (7) any other transaction or circumstance which is likely to have a material effect upon available assets (as defined in IPRU(INS)[number to be inserted later]).

2.11

Meaning of "material transaction"

2.11.1

R
/1

In this appendix, a transaction is a "material transaction" if (when aggregated with any similar transactions):

- (1) the price actually paid or received for the transfer of assets or liabilities or the performance of services; or
- (2) the price which would have been paid or received had that transaction been negotiated at arm's length between unconnected parties

exceeds:

- (3) in the case of an *insurer* which carries on either *general insurance business* or *long-term insurance business*, but not both, 5% of the general insurance business amount (as defined in IPRU(INS) 11.1), or the long-term business amount (as defined in IPRU(INS) 11.1), as applicable; or

-
- (4) in the case of an *insurer* that carries on both types of business either:
- (a) 5% of the long-term insurance business amount (as defined) in *IPRU(INS) 11.1* where the transaction is in connection with the *insurer's* long-term business; or
 - (b) In other cases, 5% of the general insurance business amount (as defined in *IPRU(INS) 11.1*).

Handbook Modules

Schedule4 Powers exercised

G

- 1 The following powers and related provisions in the Act have been exercised by the FSA to make the rules in SUP:
 - (1) Section 59 (Approval for particular arrangements)
 - (2) Section 138 (General rule-making power)
 - (3) Section 145 (Financial promotion rules)
 - (4) Section 146 (Money laundering rules)
 - (5) Section 149 (Evidential provisions)
 - (6) Section 156 (General supplementary powers)
 - (7) Section 340 (Appointment)
- 2 The following power in the Act has been exercised by the FSA to give the guidance in SUP:
 - (1) Section 157(1) (Guidance)
- 3 The following powers and related provisions in or under the Act have been exercised by the FSA in SUP to direct or require:
 - (1) Section 51 (Applications under this Part)
 - (2) Section 60 (Applications for approval)
 - (3) Section 148(3) (Modification or waiver of rules)
 - (4) Section 182 (Notification)
 - (5) Section 250(4) and (5) (Modification or waiver of rules)
 - (6) Section 318 (Exercise of powers through Council)
 - (7) Regulation 7(3) and (4) of the OEIC Regulations (Modification of waiver of rules)