

**HANDBOOK ADMINISTRATION (NO 15) INSTRUMENT 2009****Powers exercised**

- A. The Financial Services Authority makes this instrument in the exercise of:
- (1) the following powers and related provisions in the Act:
    - (a) section 138 (General rule-making power);
    - (b) section 139 (Miscellaneous ancillary powers);
    - (c) section 156 (General supplementary powers);
    - (d) section 157(1) (Guidance);
    - (e) section 213 (The compensation scheme); and
    - (f) section 214 (General); and
  - (2) the other powers and related provisions listed in Schedule 4 (Powers exercised) to the General Provisions of the Handbook.
- B. The rule-making powers referred to above are specified for the purpose of section 153(2) (Rule-making instruments) of the Act.

**Commencement**

- C. This instrument comes into force as follows:
- (1) Part 1 of Annex N (COMP) comes into force on 1 October 2009;
  - (2) Part 2 of Annex C (SYSC) comes into force on 1 January 2010;
  - (3) Part 2 of Annex A (Glossary) and Part 2 of Annex N (COMP) come into force on 31 December 2010;
  - (4) the remainder of this instrument comes into force on 6 October 2009.

**Amendments to the Handbook and related material**

- D. The modules of the FSA Handbook of rules and guidance listed in column (1) below are amended in accordance with the Annexes to this instrument listed in column (2).

(1)	(2)
Glossary of definitions	Annex A
Principles for Businesses	Annex B
Senior Management Arrangements, Systems and Controls sourcebook (SYSC)	Annex C
General Provisions (GEN)	Annex D
Fees manual (FEES)	Annex E
Prudential sourcebook for Banks, Building Societies and Investment Firms (BIPRU)	Annex F
Prudential sourcebook for Insurers (INSPRU)	Annex G
Prudential sourcebook for Mortgage and Home Finance Firms, and Insurance Intermediaries (MIPRU)	Annex H
Conduct of Business sourcebook (COBS)	Annex I

Mortgages and Home Finance: Conduct of Business sourcebook (MCOB)	Annex J
Market Conduct sourcebook (MAR)	Annex K
Supervision manual (SUP)	Annex L
Dispute Resolution: Complaints sourcebook (DISP)	Annex M
Compensation sourcebook (COMP)	Annex N
Complaints against the FSA sourcebook (COAF)	Annex O
Collective Investment Schemes sourcebook (COLL)	Annex P
Credit Unions sourcebook (CRED)	Annex Q
Regulated Covered Bonds sourcebook (RCB)	Annex R
Recognised Investment Exchanges and Recognised Clearing Houses sourcebook (REC)	Annex S
Listing Rules sourcebook (LR)	Annex T
Disclosure Rules and Transparency Rules sourcebook (DTR)	Annex U
Prospectus Rules sourcebook (PR)	Annex V

### Amendments to material outside the Handbook

- E. The Perimeter Guidance manual (PERG) is amended in accordance with Annex W to this instrument.

### Notes

- F. In the Annexes to this instrument, the Notes (indicated by “**Note:**”) are included for the convenience of readers but do not form part of the legislative text.

### Citation

- G. This instrument may be cited as the Handbook Administration (No 15) Instrument 2009.

By order of the Board  
24 September 2009

## Annex A

## Amendments to the Glossary of definitions

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

**Part 1: Comes into force on 6 October 2009**

<i>arranging (bringing about) a regulated sale and rent back agreement</i>	<p>the <i>regulated activity</i>, specified in article 25E(1) of the <i>Regulated Activities Order</i>, which is in summary making arrangements:</p> <p>...</p> <p>including making arrangements with a view to a <i>person</i> who participates in the arrangements <i>entering into a regulated sale and rent <u>back</u> agreement</i> as agreement seller or agreement provider.</p>
<i>related party</i>	<p>(1) (in <i>LR</i>) as defined in <i>LR</i> 11.1.4R;</p> <p>(2) (in relation to an agreement seller under a <i>regulated sale and rent back agreement</i> or, where the agreement seller is a trustee, a beneficiary of the trust), <del>means:</del></p> <p>(a) that <i>person's</i> spouse or civil partner; <u>or</u></p> <p>(b) a <i>person</i> (whether or not of the opposite sex) whose relationship with that <i>person</i> has the characteristic of the relationship between husband and wife; or</p> <p>(c) that <i>person's</i> parent, brother, sister, child, grandparent or grandchild.</p>

**Part 2: Comes into force on 31 December 2010**

<i>deposit</i>	<p>(1) ...</p> <p>(2) (in <i>COMP</i>) the <i>investment</i> within (1), but including a sum of money that would otherwise be excluded:</p> <p>(a) ...</p> <p>(b) ...; <u>or</u></p> <p>(c) <u>by article 6 of the <i>Regulated Activities Order</i>, where the <i>person</i> paying it is an <i>eligible claimant</i>.</u></p>
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## Annex B

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

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

#### Sch 4 Powers exercised

...

The following <del>power</del> <u>powers</u> in the <i>Act</i> <del>has</del> <u>have</u> been exercised by the <i>FSA</i> to give the <i>guidance</i> in <i>PRIN</i> :	
	Section 157(1) (Guidance)
	<u>Section 158A (Guidance on outsourcing by investment firms and credit institutions)</u>

## Annex C

**Amendments to the Senior Management Arrangements, Systems and Controls  
sourcebook (SYSC)**

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

**Part 1: Comes into force on 6 October 2009**

**Sch 4 Powers exercised**

...

The following <del>power</del> <u>powers</u> in the <i>Act</i> <del>has</del> <u>have</u> been exercised by the FSA to give the <i>guidance</i> in SYSC:	
	Section 157(1) (Guidance)
	<u>Section 158A (Guidance on outsourcing by investment firms and credit institutions)</u>

**Part 2: Comes into force on 1 January 2010**

- 19.2.1 R A *firm* must establish, implement and maintain *remuneration ~~policies~~ policies*, procedures and practices that are consistent with and promote effective risk management.

## Annex D

### Amendments to the General Provisions (GEN)

Delete Schedule 4 (Powers Exercised) and replace with the following text. The text is not underlined.

#### Schedule 4 Powers exercised

4.1 G In this Schedule, references to *GEN* include the *Glossary*.

4.2 G The following powers and related provisions in or under the *Act* have been exercised by the *FSA* to make the *rules* in *GEN*:

	Section 59 (Approval for particular arrangements)
	Section 72 (The competent authority)
	Section 73A (Part 6 Rules)
	Section 74 (The official list)
	Section 75 (Applications for listing)
	Section 77 (Discontinuance and suspension of listing)
	Section 79 (Listing particulars and other documents)
	Section 80 (General duty of disclosure in listing particulars)
	Section 81 (Supplementary listing particulars)
	Section 84 (Matters which may be dealt with by prospectus rules)
	Section 85 (Prohibition of dealing etc in transferable securities without approved prospectus)
	Section 87 (Election to have prospectus)
	Section 87A (Criteria for approval of prospectus by competent authority)
	Section 87G (Supplementary prospectus)
	Section 87R (Register of investors)
	Section 88 (Sponsors)

	Section 89 (Public censure of sponsor)
	Section 89A (Transparency rules)
	Section 89B (Provision of voteholder information)
	Section 89C (Provision of information by issuers of transferable securities)
	Section 89D (Notification of voting rights held by issuer)
	Section 89E (Notification of proposed amendment of issuer's constitution)
	Section 89F (Transparency rules: interpretation etc)
	Section 89G (Transparency rules: other supplementary provisions)
	Section 89O (Corporate governance rules)
	Section 96 (Obligations of issuers of listed securities)
	Section 96A (Disclosure of information requirements)
	Section 96C (Suspension of trading)
	Section 99 (Fees)
	Section 100 (Penalties)
	Section 101 (Part 6 rules: general provisions)
	Section 118(8) (Market abuse)
	Section 136(2) (Funding of the legal assistance scheme)
	Section 138 (General rule-making power)
	Section 139 (Miscellaneous ancillary matters)
	Section 140 (Restrictions on managers of certain collective investment schemes)
	Section 141 (Insurance business rules)
	Section 142(2) (Insurance business: regulations supplementing Authority's rules)
	Section 144 (Price stabilising rules)
	Section 145 (Financial promotion rules)

	Section 146 (Money laundering rules)
	Section 147 (Control of information rules)
	Section 148(3) (Modification or waiver of rules)
	Section 149 (Evidential provisions)
	Section 150(2) (Actions for damages)
	Section 156 (General supplementary powers)
	Section 158A (Guidance on outsourcing by investment firms and credit institutions)
	Section 178 (Obligation to notify the Authority: acquisitions of control)
	Section 191D (Obligation to notify the Authority: dispositions of control)
	Section 213 (The compensation scheme) (including as referred to in section 216(5) (Continuity of long-term insurance policies) and section 217(7) (Insurers in financial difficulties)
	Section 214 (General)
	Section 215 (Rights of the scheme in relevant person's insolvency)
	Section 216 (Continuity of long-term insurance policies)
	Section 217 (Insurers in financial difficulties)
	Section 218(2)(b) (Annual report)
	Section 223 (Management expenses)
	Section 226 (Compulsory jurisdiction) (including as applied by regulation 125 of the <i>Payment Services Regulations</i> )
	Section 226A(7) (Consumer credit jurisdiction)
	Section 229 (Awards)
	Section 234 (Industry funding)
	Section 238(5) (Restrictions on promotion)
	Section 239 (Single property schemes)
	Section 242 (Applications for authorisation of unit trust schemes)



	Section 247 (Trust scheme rules)
	Section 248 (Scheme particulars rules)
	Section 278 (Rules as to scheme particulars)
	Section 283(1) (Facilities and information in UK)
	Section 293 (Notification requirements)
	Section 295 (Notification: overseas investment exchanges and overseas clearing houses)
	Section 300B (Duty to notify proposal to make regulatory provision)
	Section 322 (Rules applicable to former underwriting members)
	Section 332(1) (Rules in relation to persons to whom the general prohibition does not apply)
	Section 340 (Appointment)
	Section 341 (Access to books etc)
	Paragraph 17 (Fees) of Schedule 1 (The Financial Services Authority)
	Paragraphs 19 (Establishment) and 20 (Services) of Schedule 3 (EEA Passport Rights)
	Schedule 7 (The Authority as Competent Authority for Part VI)
	Paragraphs 7(3) (Annual reports), 13 (Authority's procedural rules), 16B (Procedure for complaints etc) and 16D (Enforcement of money awards) of Schedule 17 (The Ombudsman Scheme)
	Articles 9G (Obtaining information from certified persons etc) and 9H (Rules prohibiting the issue of electronic money at a discount) of the <i>Regulated Activities Order</i>
	Regulation 6(1) (FSA rules) of the <i>OEIC Regulations</i>
	Article 4(1) (Designation of pre-commencement provisions) of the Financial Services and Markets Act 2000 (Transitional Provisions and Savings) (Rules) (Order 2001 (SI 2001/1534))
	Article 15 (Record-keeping and reporting requirements relating to relevant complaints) of the <i>Ombudsman Transitional Order</i>
	The Financial Services and Markets Act 2000 (Variation of

	Threshold Conditions) Order 2001 (SI 2001/2507)
	Articles 4 (Pending applications), 6 (Post-commencement applications), 9 (Article 9 defaults occurring before commencement), 9A (Contributions in relation to mesothelioma claims), 10 (Applications in respect of compulsory liability insurance), 12 (Applications under the new scheme) and 23 (Record-keeping and reporting requirements relating to pre-commencement) of the <i>compensation transitionals order</i>
	Articles 9 (Designation of existing provisions to take effect as rules) and 10 (Modifications of existing provisions) of the Financial Services and Markets Act 2000 (Consequential Amendments and Transitional Provisions) (Credit Unions) Order 2002 (SI 2002/1501)
	Regulation 3 (Consumer contract requirements: modification of rule-making powers) of the Electronic Commerce Directive (Financial Services and Markets) Regulations 2002 (SI 2002/1775)
	Regulation 2 (Power of the Authority to make rules under section 138 of the Financial Services and Markets Act 2000) of the Financial Services and Markets Act 2000 (Fourth Motor Insurance Directive) Regulations 2002 (SI 2002/2706)
	Article 9 (Record-keeping and reporting requirements relating to relevant transitional complaints) of the <i>Mortgage and General Insurance Complaints Transitional Order</i>

4.3

G

The following additional powers have been exercised by the FSA to make the *rules* in *GEN*:

	Regulation 2(3) (Application for permission) of the Capital Requirements Regulations 2006 (SI 2006/3221)
	Regulation 82 (Reporting requirements) of the <i>Payment Services Regulations</i>
	Regulation 92 (Costs of compliance) of the <i>Payment Services Regulations</i>
	Articles 3 (Further power for Authority to make rules concerning mesothelioma claims) and 4 (Modification of FSMA in relation to FSA rules for mesothelioma claims) of the <i>mesothelioma regulations</i>
	Regulations 8 (Applications for registration), 9 (Applications for admission to the register of issuers), 18 (Notification requirements), 20 (Material changes to the regulated covered bond), 24

	(Requirements relating to the asset pool), 25 (Change of owner), 36 (financial penalties policy statement), 46 (Modifications of primary and secondary legislation) of, and paragraph 5 (fees) to the Schedule (Modifications to primary and secondary legislation) to, the <i>RCB Regulations</i>
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4.4	G	The following powers and related provisions in the <i>Act</i> have been exercised by the <i>FSA</i> to issue the parts of the codes in <i>GEN</i> :
		Section 64(2) (Conduct: statements and codes)
		Section 119 (The code)
		Section 120 (Provisions included in the Authority's code by reference to the City Code)
		Section 121 (Codes: procedure)

4.5	G	The following powers and related provisions in the <i>Act</i> have been exercised by the <i>FSA</i> to issue the parts of the statements in <i>GEN</i> :
		Section 64(1) (Conduct: statements and codes)
		Section 69 (Statement of policy) (including as applied by paragraph 1 of Schedule 5 to the <i>Payment Services Regulations</i> )
		Section 93 (Statement of policy)
		Section 124 (Statement of policy)
		Section 169(9) (Investigations etc in support of overseas regulator) (including as applied by paragraph 3 of Schedule 5 to the <i>Payment Services Regulations</i> )
		Section 210 (Statements of policy) (including as applied by regulation 86(6) of the <i>Payment Services Regulations</i> )
		Section 395 (The Authority's procedures) (including as applied by paragraph 7 of Schedule 5 to the <i>Payment Services Regulations</i> )

4.6	G	The following additional powers and related provisions have been exercised by the <i>FSA</i> to issue the parts of the statements in <i>GEN</i> :
		Regulation 42 (Guidance) of the <i>RCB Regulations</i>

	Regulation 44 (Warning notices and decision notices) of the <i>RCB Regulations</i>
	Regulation 93 (Guidance) of the <i>Payment Services Regulations</i>

4.7 G

The following powers and related provisions in the *Act* have been exercised by the *FSA* in *GEN* to direct, require or specify:

	Section 51 (Applications under this Part)
	Section 60 (Applications for approval)
	Section 148(3) (Modification or waiver of rules)
	Section 182 (Notification)
	Section 242 (Applications for authorisation of unit trust schemes)
	Sections 250(4) and (5) (Modification or waiver of rules)
	Section 270(6)(b) (Schemes authorised in designated countries or territories)
	Section 274 (Applications for recognition of individual schemes)
	Section 287 (Application by an investment exchange)
	Section 288 (Application by a clearing house)
	Section 294(2) (Modification or waiver of rules)
	Section 316 (Direction by Authority)
	Section 317 (The core provisions)
	Section 318 (Exercise of powers through Council)
	Paragraph 5(4) (Notice to Authority) of Schedule 4 (Treaty Rights)
	Articles 9D (Applications for certificates) and 9F (Revocation of certificate on request) of the <i>Regulated Activities Order</i>
	Regulations 7(3) and (4) (Modification or waiver of FSA rules) and 12 (Application for authorisation) of the <i>OEIC Regulations</i>

4.8 G

The following power in the *Act* has been exercised by the *FSA* to make the part of the complaints scheme in *GEN*:

	Paragraph 7 (Arrangements for the investigation of complaints) of Schedule 1 (The Financial Services Authority)
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4.9 G The following powers in or under the *Act* have been exercised by the *FSA* to give the other *guidance* in *GEN*:

	Section 157(1) (Guidance)
	Section 158A (Guidance on outsourcing by investment firms and credit institutions)
	Article 11(1) (Guidance) of the Financial Services and Markets Act 2000 (Transitional Provisions and Savings) (Rules) (Order 2001 (SI 2001/1534))
	Article 14 (Guidance on continued provisions) of the Financial Services and Markets Act 2000 (Consequential Amendments and Transitional Provisions) (Credit Unions) Order 2002 (SI 2002/1501)

4.10 G The following additional powers have been exercised by the *FSA* to make the other *guidance* in *GEN*:

	Regulation 93 (Guidance) of the <i>Payment Services Regulations</i>
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## Annex E

### Amendments to the Fees manual (FEES)

In this Annex, the text is all new and is not underlined.

After FEES Transitional Provisions, insert the following.

**Schedule 1** [to follow]

**Schedule 2** [to follow]

**Schedule 3** [to follow]

**Schedule 4 Powers exercised**

4.1 G The following powers and related provisions in or under the *Act* have been exercised by the *FSA* to make the *rules* in *FEES*:

	Section 72 (The competent authority)
	Section 74 (The official list)
	Section 99(1), (1B) and (2) (Fees)
	Section 101 (Part 6 rules: general provisions)
	Section 138 (General rule-making power)
	Section 156 (General supplementary powers)
	Section 213 (The compensation scheme) (including as referred to in section 216(5) (Continuity of long-term insurance policies) and section 217(7) (Insurers in financial difficulties)
	Section 214 (General)
	Section 223 (Management expenses)
	Section 234 (Industry funding)
	Paragraph 17 (Fees) of Schedule 1 (The Financial Services Authority)
	Paragraphs 1 (General), 4 (Rules) and 7 (Fees) of Schedule 7 (The Authority as Competent Authority for Part VI)

4.2 G The following additional powers have been exercised by the *FSA* to make the

<i>rules in FEES:</i>	
	Regulation 82 (Reporting requirements) of the <i>Payment Services Regulations</i>
	Regulation 92 (Costs of compliance) of the <i>Payment Services Regulations</i>

4.3	G	The following power in the <i>Act</i> has been exercised by the <i>FSA</i> to make the <i>guidance in FEES:</i>
		Section 157 (Guidance)

4.4	G	The following additional power has been exercised by the <i>FSA</i> to make the <i>guidance in FEES:</i>
		Regulation 93 (Guidance) of the <i>Payment Services Regulations</i>

4.5	G	The following powers and related provisions in the <i>Act</i> have been exercised by the <i>FOS Ltd</i> to make the <i>rules in FEES:</i>
		Paragraphs 15 (Fees), 16C (Fees) and 18 (Terms of reference to the scheme) of Schedule 17 (The Ombudsman Scheme)

**Schedule 5** [to follow]

**Schedule 6** [to follow]

## Annex F

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

In this Annex, underlining indicates new text.

**Sch 4 Powers exercised**

4.1	G	The following powers and related provisions in the <i>Act</i> have been exercised by the <i>FSA</i> to make the <i>rules</i> in <i>BIPRU</i> :
		...

<u>4.2</u>	<u>G</u>	<u>The following additional powers have been exercised by the <i>FSA</i> to make the <i>rules</i> in <i>BIPRU</i>:</u>
		<u>Regulation 2(3) (Application for permission) of the Capital Requirements Regulations 2006 (SI 2006/3221)</u>

...



## Annex G

### Amendments to the Prudential sourcebook for Insurers (INSPRU)

In this Annex, underlining indicates new text.

#### Sch 4 Powers exercised

4.1	G	The following powers and related provisions in the <i>Act</i> have been exercised by the <i>FSA</i> ... :
		...
		Section 156 ...
		<u>Section 316(1) (Direction by Authority)</u>
		...

## Annex H

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

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

#### Sch 4 Powers exercised

4.1 G The following powers and related provisions in or under the *Act* have been exercised by the *FSA* to make the *rules* in *MIPRU*:

	...
	Section 149 (Evidential provisions); <del>and</del>
	<u>Section 150(2) (Actions for damages)</u>
	Section 156 (General supplementary powers)

**Annex I**

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

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

Obligations on cancellation

- 15.4.4 R The *firm* must, without any undue delay and no later than within 30 calendar days, return to the *consumer* any sums it has received from him in accordance with the ~~*distance contract*~~ contract, except for any amount that the *consumer* may be required to pay under this section. ...

...

**Sch 4 Powers exercised**

4.1	G	The following powers and related provisions in or under the <i>Act</i> have been exercised by the <i>FSA</i> to make the <i>rules</i> in <i>COBS</i> :
		Section 138 (General rule-making power)
		<u>Section 141 (Insurance business rules)</u>
		...

**Annex J****Amendments to the Mortgages and Home Finance: Conduct of Business  
sourcebook (MCOB)**

In this Annex, underlining indicates new text.

- 2.6A.18 G ... A *reversion administrator* or *SRB administrator* is under the same obligation in relation to a *reversion occupier* or *SRB agreement seller* under a *home reversion plan* or *regulated sale and rent back agreement* which it administers on behalf of an *unauthorised reversion provider* or *unauthorised SRB agreement provider*.

...

## Annex K

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

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

#### 5.7 Pre-trade transparency requirements for shares

5.7.1 R (1) Unless (2) ,(3) or (4) applies, in respect of shares *admitted to trading* on a *regulated market*, a *firm* operating an *MTF* must make public, on reasonable commercial terms and on a continuous basis during *normal trading hours*:

- (a) the current bid and offer prices which are advertised through its systems; and
- (b) the depth of trading interests at those prices.

[**Note:** Article 29(1) of *MiFID*]

(2) Paragraph (1) does not apply to systems operated by an *MTF* to the extent that those systems satisfy one of the criteria in (a) or (b), subject to (c):

- (a) ...
- (b) they formalise negotiated transactions, each of which meets one of the criteria in (i) and (ii), subject to the provisions in (iii) and (iv):
  - (i) it is made at or within the current volume weighted spread reflected on the order book or the quotes of the market makers of the *MTF* operating that system or, where the share is not traded continuously, within a percentage of a suitable reference price, being a percentage and a reference price set in advance by the system operator;
  - (ii) it is subject to conditions other than the current market price of the share.
  - (iii) For the purposes of (b), the other conditions specified in the rules of the *MTF* for a transaction of this kind must also have been fulfilled.
  - (iv) Negotiated transaction has the meaning given in Article 19 of the *MiFID Regulation*.

[**Note:** Article 19 of the *MiFID Regulation* is reproduced in

## MAR 5.7.9EU.]

...

...

...

5.7.8

EU

1.	Waivers in accordance with Article 29(2) and 44(2) of [the <i>MiFID</i> ] Directive 2004/39/EC may be granted by the <i>competent authorities</i> for systems operated by an <i>MTF</i> or a <i>regulated market</i> , if those systems satisfy one of the following criteria:	
(a)	they must be based on a trading methodology by which the price is determined in accordance with a reference price generated by another system, where that reference price is widely published and is regarded generally by market participants as a reliable reference price;	
(b)	they formalise negotiated transactions, each of which meets <u>one</u> of the following criteria:	
(i)	it is made at or within the current volume weighted spread reflected on the order book or the quotes of the market makers of the <i>regulated market</i> or <i>MTF</i> operating that system or, where the share is not traded continuously, within a percentage of a suitable reference price, being a percentage and a reference price set in advance by the system operator;	
(ii)	it is subject to conditions other than the current market price of the share.	
For the purposes of point (b), the other conditions specified in the rules of the regulated market or <i>MTF</i> for a transaction of this kind must also have been fulfilled. In the case of systems having functionality other than as described in points (a) or (b), the waiver shall not apply to that other functionality.		
...		

...

Publication of results of calculations and estimates made by the FSA

7.2.13

G The information relating to ‘minimum qualifying size’ referred to in Article 28 of the *MiFID Regulation* (see MAR 7.2.6EU) and the results of calculations and estimates required to be published as a result of Articles 33 and 34 of the *MiFID Regulation* are available at [www.fsa.gov.uk](http://www.fsa.gov.uk) and at [www.cesr.eu.org](http://www.cesr.eu.org) <http://mifiddatabase.cesr.eu/>.

Trade Data Monitors

7.2.14 G The *FSA* considers that a *firm* will satisfy its obligations under MAR 7.2.12EU if:

- (1) in assessing the arrangements, the *firm* follows the guidelines published on the *FSA*'s website at [www.fsa.gov.uk/Pages/About/What/International/mifid/documents/index.shtml](http://www.fsa.gov.uk/Pages/About/What/International/mifid/documents/index.shtml) ~~http://www.fsa.gov.uk/pubs/international/guidelines\_tdm.pdf~~; and

...

A "trade data monitor" is a provider of such arrangements which has been assessed by the *FSA* or an external auditor as having the capability to provide services and facilities to *firms* in accordance with the guidelines published on the *FSA*'s website at

[www.fsa.gov.uk/Pages/About/What/International/mifid/documents/index.shtml](http://www.fsa.gov.uk/Pages/About/What/International/mifid/documents/index.shtml) ~~http://www.fsa.gov.uk/pubs/international/guidelines\_tdm.pdf~~.

...

...

**Sch 4 Powers exercised**

...

The following powers in the <i>Act</i> have been exercised by the <i>FSA</i> to give the <i>guidance</i> in <i>MAR</i> (including the <i>guidance</i> comprising of the <i>Code of Market Conduct</i> ):	
	...
	Section 120 ...
	<u>Section 121 (Codes: procedure)</u>
	...

## Annex L

## Amendments to the Supervision manual (SUP)

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

## Director function (CF1)

- 10.6.4 R 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 either a:
- (1) *director* (other than *non-executive director*) of that *firm*; or
  - (2) a *person*:
    - (a) who is a *director*, partner, officer, member (if the *parent undertaking* or *holding company* is a *limited liability partnership*), *senior manager*, or employee (other than a *non-executive director*) of a *parent undertaking* or *holding company* (except where that *parent undertaking* or *holding company* ~~is an EEA firm~~ has a *Part IV permission* or is regulated by an *EEA regulator*); and
    - (b) whose decisions or actions are regularly taken into account by the *governing body* of the *firm*.

...

## 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 either a:
- (a) *non-executive director* of that *firm*; or
  - (b) *non-executive director* of a *parent undertaking* or *holding company* (except where that *parent undertaking* or *holding company* ~~is an EEA firm~~ has a *Part IV permission* or is regulated by an *EEA regulator*) whose decisions, or actions are regularly taken into account by the *governing body* of the *firm*.

...

## 10.12 Application for approval and withdrawing an application for approval

...

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:
- (a) the *candidate*; or
  - (b) (where the *candidate* works for the *firm's* parent undertaking or holding company) by the *firm's* parent undertaking or holding company).

...

...

**SUP TP 1 Transitional provisions**

...

**TP 1.2**

(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
...					
8H	<u>SUP 10.1.7R(1)</u>	<u>R</u>	<p>(1) <u>This rule deals with the application of the <i>director function</i> under SUP 10.1.7R(1) to a <i>person</i> (a “director”) who would otherwise have been performing the <i>director function</i> on 6 August 2009 in an <i>overseas firm</i> which maintains an establishment in the <i>United Kingdom</i> from which <i>regulated activities</i> are carried on (or would have been doing so but for a <i>waiver</i>).</u></p> <p>(2) <u>Between the dates in column (5), the functions described in SUP 10.1.7R(1) are not treated as forming part of the <i>director function</i> as respects that establishment in the <i>United Kingdom</i>, and that director.</u></p>	<u>6 October 2009 to 6 February 2010</u>	<u>6 February 2010</u>

			<p><u>(3) If this transitional rule has not already expired under column (5), this rule comes to an end as respects that director and that establishment in the United Kingdom, if and when an application is made for the director to perform the <i>director function</i> for that establishment in the United Kingdom and that application is granted.</u></p>	
8I	SUP 10.1.7R(2)	R	<p><u>(1) This rule deals with the application of the <i>non-executive director function</i> under SUP 10.1.7R(2) to a person (a “non-executive director”) who would otherwise have been performing the <i>non-executive director function</i> on 6 August 2009 in an overseas firm which maintains an establishment in the United Kingdom from which regulated activities are carried on (or would have been doing so but for a waiver).</u></p>	<p><u>6 October 2009 to 6 February 2010</u></p>
			<p><u>(2) Between the dates in column (5), the functions described in SUP 10.1.7R(2) are not treated as forming part of the <i>non-executive director function</i> as respects that establishment in the United Kingdom, and that non-executive director.</u></p> <p><u>(3) If this transitional rule has not already expired under column (5), this rule comes to an end as respects that non-executive director and that establishment in the United Kingdom, if and when an application is made for the non-executive director to perform the <i>non-executive director function</i> for that establishment in the United Kingdom and that application is granted.</u></p>	<p><u>6 February 2010</u></p>

8J	<u>SUP</u> <u>10.1.7R(5)</u>	<u>R</u>	<u>(1) This rule deals with the application of the <i>systems and controls function</i> under <u>SUP 10.1.7R(5)</u> to <u>persons who would otherwise have been performing the <i>systems and controls function</i> on 6 August 2009 in an overseas firm which maintains an establishment in the <i>United Kingdom</i> from which <i>regulated activities</i> are carried on (or would have been doing so but for a <i>waiver</i>).</u></u>	<u>6 October 2009 to 6 February 2010</u>	<u>6 February 2010</u>
			<u>(2) Between the dates in column (5), the functions described in <u>SUP 10.1.7R(5)</u> are not treated as forming part of the <i>systems and controls function</i> as respects that establishment in the <i>United Kingdom</i> and that person.</u>  <u>(3) If this transitional rule has not already expired under column (5), this rule comes to an end as respects that person and that establishment in the <i>United Kingdom</i>, if and when an application is made for that person to perform the <i>systems and controls function</i> for that establishment in the <i>United Kingdom</i> and that application is granted.</u>		
...					

...

**Sch 4 Powers exercised**

4.1 G The following powers and related provisions in or under the *Act* have been exercised by the *FSA* to make the *rules* in *SUP*:

	...
	Section 247 ...
	Section 293 (Notification requirements)

	Section 318(1) ...
	...
	<del>Regulation</del> <u>Regulations 6(1) (FSA rules) and 12 (Applications for authorisation)</u> of the <del>OEIC Regulations</del> <u>OEIC Regulations (FSA rules)</u>
	Article 4(1) of <del>The</del> <u>the</u> Financial Services and Markets Act 2000 (Transitional Provisions and Savings) (Rules) Order 2001 ( <u>SI 2001/1534</u> ) <del>The Financial Services and Markets Act 2000 (Transitional Provisions and Savings) (Rules) Order 2001</del>

4.2 G The following powers and related provisions in or under the *Act* have been exercised by the *FSA* to give the *guidance* in *SUP*:

	Section 157(1) (Guidance)
	Article 11(1) of <del>The</del> <u>the</u> Financial Services and Markets Act 2000 (Transitional Provisions and Savings) (Rules) Order 2001 ( <u>SI 2001/1534</u> )

4.3 G The following powers and related provisions in or under the *Act* have been exercised by the *FSA* in *SUP* to direct or require:

...	
	Section <del>317</del> <u>316</u> (Direction by Authority)
...	

## Annex M

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

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

#### Appendix 1 Introduction

...

- 1.1.4 G This appendix is relevant both to the obligations arising under the complaints handling *rules* contained in *DISP* ~~4.2~~ 1 and to the *FSA*'s approach to the supervision of *firms*.

## Annex N

## Amendments to the Compensation sourcebook (COMP)

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

**Part 1: Comes into force on 1 October 2009**

10.2.3 R Table Limits

This table belongs to COMP 10.2.1R

Type of claim	Level of cover	Maximum payment
<i>Protected deposit or protected dormant account</i>	100% of <i>claim</i>	£50,000 or €50,000 whichever is the greater on the date the <i>relevant person</i> is determined to be <i>in default</i> or the date the <i>protected deposit</i> was due and payable, if later.  [Note: article 7(1) of the <i>Deposit Guarantee Directive</i> ]  (see also below for building society and other mutual society mergers <u>and transfers</u> (COMP 10.2.10R) and protected deposit transfers under the special resolution regime (COMP 10.2.11R))
...		

...

Building society and other mutual society mergers and transfers

10.2.10 R (1) ...

- (2) In the event of a merger between two *building societies* or a transfer of the business of a *building society* and the to a subsidiary of another mutual society (whether or not of the same type), there is a separate and additional £50,000 maximum payment limit for a claimant with respect to *claims* for *protected deposits* held under the name of the dissolved entity (or such part of the name as is permitted

by law) provided the following conditions are satisfied:

- (a) the merger or transfer takes effect between 1 December 2008 and 30 December 2010;
- (b) the successor entity has notified the *FSA* before the merger or transfer takes effect that it wishes this *rule* to apply;
- (c) before the merger or transfer took effect, the claimant had a *protected deposit* with each of the ~~merging~~ relevant entities; and
- (d) the successor entity continues to operate the business of the dissolved entity under the name of the latter (or such part of the name as is permitted by law).

...

...

10.2.11 R (1) ...

- (2) In the event of a transfer of *protected deposits* from one *deposit-taking firm* to another *deposit-taking firm* pursuant to the property transfer powers under the Banking Act 2009, there is a separate and additional £50,000 maximum payment limit for a claimant with respect to *claims* for *protected deposits* held under the name of the transferor (or such part of the name as is permitted by law) provided the following conditions are satisfied:

...

...

TP 1.1 Transitional provision table

(1)	(2)	(3)	(4)	(5)	(6)
	Material to which the transitional provision applies		Transitional provision	Transitional provision: dates in force	Handbook Provisions: coming into force
...					
<u>20</u>	<u>COMP 4.3.1R</u>	<u>R</u>	<u>The change to the eligibility requirements for claimants for <i>protected deposits</i> made by the Financial Services Compensation Scheme</u>	<u>From 1 August 2009 indefinitely</u>	<u>1 August 2009</u>

			(Banking Compensation Reform) Instrument 2009 does not apply in relation to a <i>claim</i> against a <i>relevant person</i> that was <i>in default</i> before 1 August 2009.		
--	--	--	--	--	--

**Part 2: Comes into force on 31 December 2010**

**INTRO 1 Foreword**

...

The Sourcebook is divided into 46 17 Chapters covering all aspects of the scheme:

...

Chapter 17 Systems and information requirements for firms that accept deposits

This chapter sets out the information required by the FSCS to make deposit compensation payments to eligible depositors. This chapter also sets out the electronic requirements connected to the information contained within each Single Customer View, including the requirement to flag eligible depositor accounts, aggregate accounts held by each eligible depositor to provide a consistent view of each eligible depositor, perform a limit check on each aggregated Single Customer View and enable the electronic submission of the Single Customer View to the FSCS. This chapter also outlines a threshold below which the electronic requirements connected to the Single Customer View are not mandatory.

...

17.2.4 R A *firm* must ensure that each *single customer view* contains all the information set out in *COMP 17.2.7R* ~~17.2.8R~~.

...

17.2.7 R (1) If a *firm* operates less than 5,000 accounts held by *eligible claimants*, *COMP 17.2.1R(2)*, *COMP 17.2.3R(2)* ~~17.2.3R(3)~~ and *COMP 17.2.5R* do not apply.

(2) ...

(3) If a *firm* hitherto within (1) operates 5,000 or more accounts held by *eligible claimants* for two consecutive accounts years as at 31 December of each year, *COMP 17.2.1R(2)*, *COMP 17.2.3R(2)* ~~17.2.3R(3)~~ and *COMP 17.2.5R* apply and continue to apply even if the *firm* operates less than 5,000 accounts held by *eligible claimants* at a future date.



- (4) If a *firm* operates 5,000 or more accounts held by *eligible claimants* on 31 December 2009 *COMP* 17.2.1R(2), *COMP* ~~17.2.3R(2)~~ 17.2.3R(3) and *COMP* 17.2.5R apply and continue to apply even if the *firm* operates less than 5,000 accounts held by *eligible claimants* at a future date.

17.2.8 R This table belongs to *COMP* 17.2.4R

<b>Field identifier</b>	<b>Field descriptor</b>
...	...
National Insurance number	National Insurance number, <u>where held by the <i>firm</i></u>
...	...

## Annex O

### Amendments to the Complaints against the FSA Scheme sourcebook (COAF)

In this Annex, underlining indicates new text.

#### Sch 4 Powers exercised

4.1	G	The following powers ... have been exercised by the <i>FSA</i> to make the Complaints against the FSA Scheme:
		<u>Section 157(1) (Guidance)</u>
		...

## Annex P

## Amendments to the Collective Investment Schemes sourcebook (COLL)

In this Annex, underlining indicates new text.

## Sch 4 Powers exercised

4.1	G	The following powers and related provisions in or under the <i>Act</i> have been exercised by the <i>FSA</i> to make the <i>rules</i> in <i>COLL</i> :
		Section 138 (General rule-making power)
		<u>Section 139 (Miscellaneous ancillary powers)</u>
		...
		Section 156 (General supplementary powers)
		<u>Section 238(5) (Restrictions on promotion)</u>
		...

## Annex Q

### Amendments to the Credit Unions sourcebook (CRED)

In this Annex, underlining indicates new text.

#### Sch 4 Powers exercised

4.1	G	The following powers and related provisions in or under the <i>Act</i> have been exercised by the <i>FSA</i> to make the <i>rules</i> in <i>CRED</i> :
		Section 138 ...
		<u>Section 146 (Money laundering rules);</u>
		...

## Annex R

## Amendments to the Regulated Covered Bonds sourcebook (RCB)

Delete Schedule 4 (Powers exercised) and replace with the following. The text is not underlined.

## Sch 4 Powers exercised

4.1 G The following powers and related provisions in the *RCB Regulations* have been exercised by the *FSA* to make the rules and directions in *RCB*:

	Regulation 8 (Applications for registration)
	Regulation 9 (Applications for admission to the register of issuers)
	Regulation 18 (Notification requirements)
	Regulation 20 (Material changes to the regulated covered bond)
	Regulation 24 (Requirements relating to the asset pool)
	Regulation 25 (Change of owner)
	Regulation 36 (financial penalties policy statement)
	Regulation 46, and paragraph 5 (fees) of the Schedule (Modifications to primary and secondary legislation)

4.2 G The following power under the *Act* has been exercised by the *FSA* to make the rules in *RCB*:

	Section 138 (General rule-making power)
--	---

4.3 G The following power in the *RCB Regulations* has been exercised by the *FSA* to give the *guidance* in *RCB*:

	Regulation 42 (Guidance)
--	--------------------------

## Annex S

**Amendments to the Recognised Investment Exchanges and Recognised Clearing Houses  
sourcebook (REC)**

In this Annex, underlining indicates new text.

**Sch 4 Powers exercised**

4.1	G	The following powers and related provisions in the <i>Act</i> have been exercised by the <i>FSA</i> to make the <i>rules</i> in <i>REC</i> :
		<u>Section 138 (General rule-making power)</u>
		Section 156 ...
		...

## Annex T

## Amendments to the Listing Rules sourcebook (LR)

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

8.2.1 R A *company* with, or applying for, a *primary listing* of its *equity securities* must appoint a *sponsor* on each occasion that it:

...

(5) is required to do so by the *FSA* because it appears to the *FSA* that there is, or may be, a breach of the *listing rules* or the *disclosure rules* ~~and~~ and *transparency rules* by the *listed company*.

Other transaction where a listed company must obtain a sponsor's guidance

8.2.2 R If a *listed company* is proposing to enter into a transaction which due to its size or nature could amount to a *class 1 transaction* or a *reverse takeover* it must obtain the guidance of a *sponsor* to assess the application of the *listing rules* and *disclosure rules* ~~and~~ and *transparency rules*.

8.2.3 R If a *listed company* is proposing to enter into a transaction which is, or may be, a *related party transaction* it must obtain the guidance of a *sponsor* in order to assess the application of the *listing rules* and *disclosure rules* ~~and~~ and *transparency rules*.

...

8.3.1 R A *sponsor* must in relation to a *sponsor service*:

...

(2) referred to in *LR 8.2.1R*, *LR 8.2.2R* or *LR 8.2.3R*, guide the *listed company* or *applicant* in understanding and meeting its responsibilities under the *listing rules* and *disclosure rules* ~~and~~ and *transparency rules*.

...

8.3.4R R Where, in relation to a *sponsor service*, a *sponsor* gives any guidance or advice to a *listed company* or *applicant* on the application or interpretation of the *listing rules* or *disclosure rules* ~~and~~ and *transparency rules*, the *sponsor* must take reasonable steps to satisfy itself that the *director* or *directors* of the *listed company* understand their responsibilities and obligations under the *listing rules* and *disclosure rules* ~~and~~ and *transparency rules*.

...

8.3.5A R A *sponsor* must in relation to a *sponsor service* disclose to the *FSA* in a timely manner any material information relating to the *sponsor* or to a *listed company* or *applicant* of which it has knowledge which concerns non-compliance with the *listing rules* or *disclosure rules* ~~and~~ and *transparency rules*.

...

8.4.2 R A *sponsor* must not submit to the *FSA* an application on behalf of an *applicant*, in accordance with *LR 3*, unless it has come to a reasonable opinion, after having made due and careful enquiry, that:

...

(3) the *directors* of the *applicant* have established procedures which enable the *applicant* to comply with the *listing rules* and the *disclosure rules* ~~and~~ and *transparency rules* on an ongoing basis;

...

...

8.4.12 R A *sponsor* must not submit to the *FSA*, on behalf of a *listed company*, an application for approval of a *circular* regarding a transaction set out in *LR 8.4.11R*, unless the *sponsor* has come to a reasonable opinion, after having made due and careful enquiry, that:

...

(2) the transaction will not have an adverse impact on the *listed company's* ability to comply with the *listing rules* or the *disclosure rules* ~~and~~ and *transparency rules*; and

...

...

8.6.9B G In assessing whether a *person* is competent to provide, or to continue to provide, *sponsor services*, the *FSA* may also take into account, where relevant, the quality of any guidance or advice on the *listing rules* or *disclosure rules* ~~and~~ and *transparency rules* the *person* has given in circumstances other than in providing *sponsor services*.

...

After *LR Transitional Provisions*, insert the following. The text is new and is not underlined.

**Schedule 1** [to follow]

**Schedule 2** [to follow]



**Schedule 3** [to follow]

**Schedule 4 Powers exercised**

4.1 G The following powers and related provisions in or under the *Act* have been exercised by the *FSA* to make the *rules* in *LR*:

	Section 73A (Part 6 Rules)
	Section 75 (Applications for listing)
	Section 77 (Discontinuance and suspension of listing)
	Section 79 (Listing particulars and other documents)
	Section 80 (General duty of disclosure in listing particulars)
	Section 81 (Supplementary listing particulars)
	Section 88 (Sponsors)
	Section 89 (Public censure of sponsor)
	Section 96 (Obligations of issuers of listed securities)
	Section 99 (Fees)
	Section 100 (Penalties)
	Section 101 (Part 6 rules: general provisions)
	Section 138 (General rule-making power)
	Section 156 (General supplementary powers)
	Schedule 7 (The Authority as Competent Authority for Part VI)

4.2 G The following power in the *Act* has been exercised by the *FSA* to give the *guidance* in *LR*:

(1)	Section 157(1) (Guidance)
-----	---------------------------

**Schedule 5** [to follow]

**Schedule 6** [to follow]

## Annex U

## Amendments to the Disclosure Rules and Transparency Rules sourcebook (DTR)

After DTR Transitional Provisions, insert the following. The text is new and is not underlined.

**Schedule 1** [to follow]

**Schedule 2** [to follow]

**Schedule 3** [to follow]

**Schedule 4 Powers exercised**

4.1 G The following powers and related provisions in or under the *Act* have been exercised by the *FSA* to make the *rules* in *DTR*:

	Section 73A (Part 6 Rules)
	Section 89A (Transparency rules)
	Section 89B (Provision of voteholder information)
	Section 89C (Provision of information by issuers of transferable securities)
	Section 89D (Notification of voting rights held by issuer)
	Section 89E (Notification of proposed amendment of issuer's constitution)
	Section 89F (Transparency rules: interpretation etc)
	Section 89G (Transparency rules: other supplementary provisions)
	Section 89O (Corporate governance rules)
	Section 96 (Obligations of issuers of listed securities)
	Section 96A (Disclosure of information requirements)
	Section 96C (Suspension of trading)
	Section 99 (Fees)
	Section 101 (Part 6 rules: general provisions)
	Section 138 (General rule-making power)
	Section 156 (General supplementary powers)

	Schedule 7 (The Authority as Competent Authority for Part VI)
--	---

4.2 G The following power in the *Act* has been exercised by the *FSA* to give the *guidance* in *DTR*:

	Section 157(1) (Guidance)
--	---------------------------

**Schedule 5** [to follow]

**Schedule 6** [to follow]

## Annex V

### Amendments to the Prospectus Rules sourcebook (PR)

After PR Transitional Provisions, insert the following. The text is new and is not underlined.

**Schedule 1** [to follow]

**Schedule 2** [to follow]

**Schedule 3** [to follow]

**Schedule 4 Powers exercised**

4.1	G	The following powers and related provisions in or under the <i>Act</i> have been exercised by the <i>FSA</i> to make the <i>rules</i> in <i>PR</i> :
		Section 73A (Part 6 Rules)
		Section 84 (Matters which may be dealt with by prospectus rules)
		Sections 85 (Prohibition of dealing etc in transferable securities without approved prospectus)
		Section 87 (Election to have prospectus)
		Section 87A (Criteria for approval of prospectus by competent authority)
		Section 87G (Supplementary prospectus)
		Section 87R (Register of investors)
		Section 96 (Obligations of issuers of listed securities)
		Section 99 (Fees)
		Section 101 (Part 6 rules: general provisions)
		Schedule 7 (The Authority as Competent Authority for Part VI)

4.2	G	The following power in the <i>Act</i> has been exercised by the <i>FSA</i> to give the <i>guidance</i> in <i>PR</i> :
		Section 157(1) (Guidance)

**Schedule 5** [to follow]

**Schedule 6** [to follow]

## Annex W

### Amendments to the Perimeter Guidance manual (PERG)

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

#### 1.5 What other guidance about the perimeter is available from the FSA?

- 1.5.1 G General *guidance* on the perimeter is also contained in various *FSA* documents (mainly fact sheets and frequently asked questions) that are available on the *FSA* website at [www.fsa.gov.uk](http://www.fsa.gov.uk). These documents, and the URL on which they may be accessed, include:
- (1) [deleted]
  - (2) [deleted]
  - (3) [deleted]
  - (4) ~~*guidance* about the position under the *Insurance Mediation Directive* and the *Regulated Activities Order* of property owners and tenants – [http://www.fsa.gov.uk/pages/Doing/small\\_firms/insurance/faq/property.shtml](http://www.fsa.gov.uk/pages/Doing/small_firms/insurance/faq/property.shtml); [deleted]~~
  - (5) ~~*guidance* about the scope of the exclusion in article 72C of the *Regulated Activities Order* (Provision of information on an incidental basis) [http://www.fsa.gov.uk/pages/Doing/small\\_firms/insurance/faq/exclusion.shtml](http://www.fsa.gov.uk/pages/Doing/small_firms/insurance/faq/exclusion.shtml);) [deleted]~~
  - (6) ~~*guidance* on passporting for insurers and insurance intermediaries – [http://www.fsa.gov.uk/pages/Doing/small\\_firms/insurance/faq/insurers.shtml](http://www.fsa.gov.uk/pages/Doing/small_firms/insurance/faq/insurers.shtml); [deleted]~~
  - (7) *guidance* about the position under the *Insurance Mediation Directive* and the *Regulated Activities Order* of the company appointed to manage a PPP or similar construction and operation project - [http://www.fsa.gov.uk/pubs/other/letter\\_pppforum.pdf](http://www.fsa.gov.uk/pubs/other/letter_pppforum.pdf) ;
  - (8) *guidance* about the position under the *Insurance Mediation Directive* and the *Regulated Activities Order* of property managing agents - ~~[http://www.fsa.gov.uk/pages/doing/small\\_firms/insurance/library/imd.shtml](http://www.fsa.gov.uk/pages/doing/small_firms/insurance/library/imd.shtml) ;~~ [http://www.fsa.gov.uk/smallfirms/your\\_firm\\_type/gi/library/imd.shtml](http://www.fsa.gov.uk/smallfirms/your_firm_type/gi/library/imd.shtml) ; and
  - (9) *guidance* for employers about how to provide advice and information to their employees on pension matters without contravening the *Act* - <http://www.fsa.gov.uk/pubs/other/guide4employers.pdf>.

...

- 3.1.2 G This appendix also applies to a *person* who needs to know the extent to which section 21 of the *Act* (Restrictions on financial promotion) and ~~COB 3 (Financial promotion)~~ COBS 4 (Communicating with clients, including financial promotions) apply to *e-money*.
- ...
- 8.2.3 G An *authorised person* will not breach section 21 when *communicating a financial promotion*. Nevertheless, this *guidance* may be relevant where an *authorised person* needs to know whether the *financial promotion rules* apply to a particular communication. ~~For example, to find out if the communication would be subject to an exemption if it were made by an unauthorised person (for example, see COB 3.2.4R and COB 3.2.5R(2)).~~
- ...
- 8.2.5 G If the answer to *PERG 8.2.4G(8)* is yes then the appropriate *financial promotion rules* will potentially apply (subject to ~~additional exemptions in, for example, COB 3.2.5R~~ the application provisions in *COBS 1* and *COBS 4*). If the answer is no, then the promotion must be *approved* by an *authorised person* if it is a *non-real time financial promotion*. *Authorised persons* are not allowed to *approve real time financial promotions* (see ~~COB 3.12.2R~~ COBS 4.10.4R). *PERG 8.36.1G* contains a flowchart explaining these steps.
- ...
- 8.4.34 G ... Communications which are intended to educate or give employees information with no element of persuasion or incitement will not be invitations or inducements under section 21. Employers may wish to give their employees investment material prepared and *approved* by an *authorised person*. This material may be given under cover of a communication from the employer. If so, the covering communication will not itself be an inducement if all it does is to refer employees to the material and explain what they should do if they wish to act on it, without seeking to persuade or incite them to act. Where the covering communication is itself a *financial promotion* it will need to be *approved* by an *authorised person* provided it is a *non-real time financial promotion* unless an exemption applies. If it is a *real time financial promotion* it cannot be *approved* (see, for example, ~~COB 3.12.2R~~ COBS 4.10.4R). In such cases, an exemption would need to apply. ...
- ...
- 8.14.18 G This exemption allows a *person* in another *EEA State* who lawfully carries on a *controlled activity* in that State to promote into the *United Kingdom*. The terms of the exemption are that the promotion must comply with the *rules* in ~~COB 3~~ COBS 4 or *MCOB 3* (as relevant). ...
- ...

8.19.1 G ...

~~COB 3.13.1R~~ COBS 4.9.4R imposes a similar restriction on *authorised persons* concerning their *communicating* or *approving financial promotions* in the precluded circumstances.

...

8.20.4 G The FSA has made *rules* under section 238(5) which allow *authorised firms* to *communicate* or *approve a financial promotion* for an *unregulated collective investment scheme* in certain specified circumstances. These circumstances are set out in ~~COB 3 Annex 5R~~ and referred to in ~~COB 3.11~~ COBS 4.12.1R. ...

...

## 10.5 Employers and affinity groups (such as trade unions)

...

### Q 48 What are the exemptions that are available to employers?

Where an employer is obliged by law to offer its employees a *stakeholder pension scheme*, any *financial promotion* made for that purpose will be exempt under article 29 of the Financial Services and Markets Act 2000 (Financial Promotion) Order 2005 (“the *Financial Promotion Order*”).

There is also a specific exemption for employers who make financial promotions to their staff in article ~~71~~ 72 of the ~~Financial Promotion Order~~ Financial Promotion Order. This applies, broadly speaking, where:

- the promotion is about a *group personal pension* or a *stakeholder pension scheme*;
- the employer contributes to the pension scheme and discloses details of its contribution to the employee;
- the employer does not obtain any direct commercial benefit from promoting the scheme to its employees; and
- the employer informs the employee in any written promotion of his right to seek independent financial advice from a regulated person.

### Q49 Are there any other exemptions available to employers or any that apply to affinity groups?

There are a few exemptions that may be relevant. For example:

- follow-up promotions, such as may be made after the employer has made a promotion under article ~~71~~ 72 of the ~~Financial Promotion Order~~ Financial

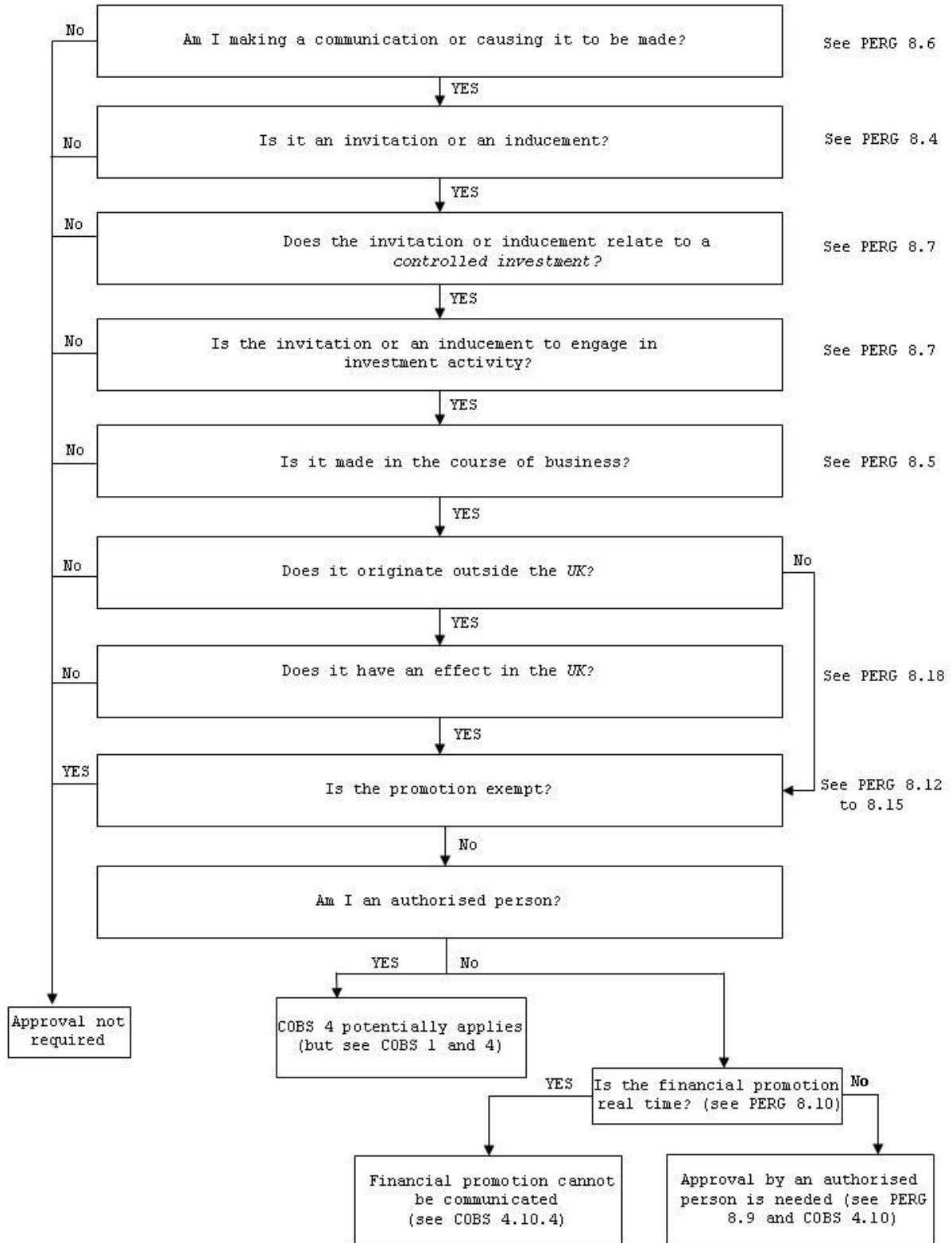
Promotion Order - see article 14 of the ~~Financial Promotion Order~~  
Financial Promotion Order; and

- one-off promotions (that is, promotions that take account of the personal circumstances of the recipient) - see articles 28 and 28A of the ~~Financial Promotion Order~~ Financial Promotion Order.

*continued*



8.36.1 G This flowchart sets out the matters which a *person* will need to consider to see if the restriction in section 21 of the *Act* applies to his communications. It is referred to in *PERG* 8.2.5G.



...

9.10.3 G Promotions made by *authorised persons* in the *United Kingdom* are generally subject to the controls in ~~COB 3 (Financial Promotion)~~ COBS 4 (Communicating with clients, including financial promotions). ...

...

9.10.6 G The *FSA* has also made *rules* under section 238(5) which allow *authorised persons* to *communicate* or *approve* a *financial promotion* for an *open-ended investment company* that is an *unregulated collective investment scheme* (that is, one that does not fall within *PERG* 9.10.4G). The circumstances in which such a communication or approval is allowed are explained in ~~COB 3 Annex 5R (which is introduced by COB 3.11)~~ COBS 4.12.1R.