

HANDBOOK ADMINISTRATION (NO 3) INSTRUMENT 2006**Powers exercised**

- A. The Financial Services Authority makes this instrument in the exercise of the powers and related provisions in the Financial Services and Markets Act 2000 (“the Act”) referred to in Schedule 4 to the General Provisions (GEN) (Powers exercised) 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 on 6 July 2006.

Amendments to the Handbook

- 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
General Provisions (GEN)	Annex B
Fees manual (FEES)	Annex C
Conduct of Business sourcebook (COB)	Annex D
Insurance: Conduct of Business sourcebook (ICOB)	Annex E
Client Assets sourcebook (CASS)	Annex F
Supervision manual (SUP)	Annex G
Perimeter Guidance manual (PERG)	Annex H

Citation

- E. This instrument may be cited as the Handbook Administration (No 3) Instrument 2006.

By order of the Board
22 June 2006

Annex A

Amendments to the Glossary of definitions

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

Amend the following definitions as shown.

<i>advising on investments</i>	<p>the <i>regulated activity</i>, specified in article 53 of the <i>Regulated Activities Order</i> (Advising on investments), which is in summary: advising a <i>person</i> if the advice is:</p> <ul style="list-style-type: none">(a) given to the <i>person</i> in his capacity as an investor or potential investor, or in his capacity as agent for an investor or a potential investor; and(b) advice on the merits of his doing any of the following (whether as principal or agent):<ul style="list-style-type: none">(i) <i>buying, selling</i>, subscribing for or underwriting a particular <i>investment</i> which is a <i>security</i> or <i>relevant investment</i> (that is, any <i>designated investment, funeral plan contract, pure protection contract, general insurance contract</i> or right to or interests in a <i>funeral plan contract</i>); or(ii) exercising any right conferred by such an <i>investment</i>, other than a <i>pure protection contract</i> or a <i>general insurance contract</i>, to <i>buy, sell</i>, subscribe for or underwrite such an <i>investment</i>.
...	
<i>appropriate personal pension</i>	<p>a <i>personal pension policy</i> or a <i>personal pension contract</i> under which contributions are made to a <i>personal pension scheme</i> which is an appropriate scheme under section 1(8) <u>7(4)</u> of the Social Security Act 1986 <u>Pension Schemes Act 1993</u> or article 3(8) <u>section 3(4)</u> of the Social Security (Northern Ireland) Order 1986 <u>Pension Schemes (Northern Ireland) Act 1993</u>.</p>
...	
<i>individual pension account</i>	<p>an account for the holding of <i>IPA eligible investments</i> operated by a firm in accordance with the Personal Pension Schemes (Restriction on Discretion to Approve) (Permitted Investments) Regulations 2001 (SI 2001/117), which satisfies the conditions described in <u>regulation 2(2) of the Stamp Duty and Stamp Duty Reserve Tax (Definition of Unit Trust Scheme and Open-ended Investment Company) Regulations 2001 (SI 2001/964)</u>.</p>

...

insurance undertaking an undertaking, or (in CASS 5 and COMP) a *member*, whether or not an *insurer*, which carries on *insurance business*.

...

IPA eligible investments a type of investment specified in regulation ~~4.(6)~~ 2(2) (condition 5) of The Personal Pension Schemes (Restriction on Discretion to Approve) (Permitted Investments) Regulations 2001 (SI 2001/117) the Stamp Duty and Stamp Duty Reserve Tax (Definition of Unit Trust Scheme and Open-ended Investment Company) Regulations 2001 (SI 2001/964).

...

option the *investment*, specified in article ~~77~~ 83 of the *Regulated Activities Order* (Options), which is an option to acquire or dispose of:

- (a) a *designated investment* (other than an option); or
- (b) currency of the *United Kingdom* or of any other country or territory; or
- (c) palladium, platinum, gold or silver; or
- (d) an option to acquire or dispose of an option specified in (a), (b) or (c).

...

pure protection contract (1) a *long-term insurance contract* in respect of which the following conditions are met:

- (a) the benefits under the contract are payable only on death or in respect of incapacity due to injury, sickness or infirmity;
- (b) the contract provides that benefits are payable on death (other than death due to an accident) only where the death occurs within ten years of the date on which the life of the person in question was first insured under the contract, or where the death occurs before that person attains a specified age not exceeding seventy years;
- (c) the contract has no surrender value, or the consideration consists of a single premium and the surrender value does not exceed that premium; and

(d) the contract makes no provision for its conversion or extension in a manner which would result in it ceasing to comply with any of (a), (b) or (c); ~~and or~~

(e) ~~the contract is not a reinsurance contract. [deleted]~~

(2) a reinsurance contract covering all or part of a risk to which a person is exposed under a long-term insurance contract.

...

terms of business

a statement in a *durable medium* of the terms and conditions on which a *firm* will ~~conduct *designated investment* business~~ carry on a *regulated activity* with or for a *client* or *retail customer*.

Annex B

Amendments to the General Provisions (GEN)

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

Amend GEN 2.1 as shown. Deleted paragraphs are not shown struck through.

2.1 ~~Application and purpose~~ Introduction

Application

2.1.1 G ~~[deleted]~~

2.1.2 R This chapter applies to every *person* to whom any ~~rule~~ provision in the
- *Handbook* applies. In relation to a provision other than a rule, the rules in this chapter apply as if they were part of that provision.

2.1.3 P ~~[deleted]~~

2.1.4 E ~~[deleted]~~

2.1.5 D ~~[deleted]~~

2.1.6 G ~~[deleted]~~

2.1.7 R ~~[deleted]~~

2.1.8 R ~~[deleted]~~

2.1.9 G ~~[deleted]~~

~~Purpose~~ The Reader's Guide

2.1.10 G ~~The purpose of GEN 2 is to facilitate interpretation of the Handbook, in conjunction with the Reader's Guide. The Reader's Guide supplements this chapter. It provides an introduction to the structure and contents of the Handbook and its related materials, explaining how the different modules fit together and how to interpret and use the Handbook.~~

...

Continuity of authorised partnerships and unincorporated associations

2.2.18 R (1) If a *firm*, which is a ~~partnership~~ partnership or unincorporated association, is dissolved, ~~any firm~~ but its authorisation continues to have effect under section 32 of the Act (Partnerships and unincorporated associations) in relation to any partnership or unincorporated association which succeeds to the business of the

dissolved firm, the successor partnership or unincorporated association is to be regarded as the same firm for the purposes of the Handbook unless the context otherwise requires.

- (2) ~~For the purposes of (1), a firm is to be regarded as succeeding to the business of another firm only if:~~
- (a) ~~the members of the resulting firm are substantially the same as those of the former firm; and~~
 - (b) ~~succession is to the whole or substantially the whole of the business of the former firm. [deleted]~~
- (3) ~~In (1), “partnership” does not include a partnership which is constituted under the law of any place outside the United Kingdom and is a body corporate. [deleted]~~

2.2.19 G In principle, it is possible to view a change of ~~partners~~ partners in a ~~partnership~~ partnership, or a change in the membership of the unincorporated association, as the formation of a new ~~partnership~~ partnership or association. *GEN 2.2.18R* reflects section 32 of the *Act* (Partnerships and unincorporated associations), which provides for the continuing ~~authorisation of partnerships~~ partnerships and unincorporated associations following a change in ~~partners~~ partners or members if certain conditions are satisfied. In particular, this continuity does not apply if a limited liability partnership or individual sole trader succeeds to the business of a dissolved partnership; authorisation of the limited liability partnership or sole trader would need to be applied for. *GEN 2.2.18 R* ensures a similar effect to section 32 in relation to the status of the ~~partnership~~ partnership or unincorporated associations as a “firm” or “authorised person” for the purposes of the *Handbook*. ~~This continuity does not apply if a limited liability partnership succeeds to the business of a dissolved partnership; authorisation of the limited liability partnership would need to be applied for.~~

Annex C

Amendments to the Fees manual (FEES)

In this Annex, striking through indicates deleted text.

FEES 4 Annex 5R

...

Notes

- (1) The *FSA register* includes details of *exempt professional firms* carrying out *insurance mediation activity*.
- (2) In addition to the periodic fees shown above, the sum of £31,400 will be due from the *designated professional bodies*, divided between the bodies in proportion to the number of *exempt professional firms* each has on the *FSA register* on 14 January 2006. This is a contribution towards the costs of developing this part of the *FSA register*.
- (3) ~~Each of the *designated professional bodies* will be invoiced for the appropriate amount in January 2006. The invoices must be paid on or before 28 February 2006.~~

Annex D

Amendments to the Conduct of Business sourcebook (COB)

In this Annex, underlining indicates new text.

COB Sch 2 Notification requirements

COB Sch 2.1G

Handbook reference	Matter to be notified	Contents of notification	Trigger event	Time allowed
...				
[deleted]	[deleted]	[deleted]	[deleted]	[deleted]
<u>COB 6.12.94R(1)</u>	<u>Fact that the <i>firm</i> has ceased to effect new <i>contracts of insurance in a with-profits fund</i></u>	<u>Fact that the <i>firm</i> has ceased to effect new <i>contracts of insurance in a with-profits fund</i></u>	<u><i>Firm</i> first ceasing to effect new <i>contracts of insurance in a with-profits fund</i></u>	<u>28 days</u>
<u>COB 6.12.94R(2)</u>	<u>Details of how the <i>firm</i> will ensure a full and fair distribution of the closed <i>with-profits fund</i> and its <i>inherited estate</i> (if any)</u>	<u>The information described in <i>SUP App 2.15</i></u>	<u><i>Firm</i> first ceasing to effect new <i>contracts of insurance in a with-profits fund</i></u>	<u>A maximum of 3 months</u>
COB 11.6.6R	...			

Annex E

Amendments to the Insurance: Conduct of Business sourcebook (ICOB)

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

5.3.1 R If a *non-investment insurance contract* is not a *distance contract*, an *insurance intermediary* must, in good time before the conclusion of the contract:

(1) ...

(2) draw the attention of the *retail customer* orally to ... the section of the *policy summary* on significant ~~and~~ or unusual exclusions or limitations.

...

5.3.6 R (1) ...

(2) The following exemptions from (1) apply:

(a) Telephone sales

...an *insurance intermediary* may proceed on the basis of at least the following information:

...

(iv) significant ~~and~~ or unusual exclusions or limitations;

...

(b) Certain other means of distance communication

...the *insurance intermediary* must provide the following information by other means before the conclusion of the contract:

...

(iv) significant ~~and~~ or unusual exclusions or limitations;

...

...

5.3.27 G When explaining the implications of a change in accordance with *ICOB* 5.3.24R(2) or *ICOB* 5.3.25R(2)(a) to a *retail customer*, an *insurance intermediary* should explain any changes to the benefits and significant ~~and~~ or unusual exclusions arising from the change.

Annex F

Amendments to the Client Assets sourcebook (CASS)

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

4.3.98 G The purpose of CASS 4.3.99R to CASS 4.3.102R is to set out those situations in which a *firm* will have fulfilled its contractual and fiduciary obligations in relation to any *client money* held for or on behalf of its *client*, or in relation to the *firm's* ability to require repayment of that *money* from a third party.

...

5.5.79 G The purpose of CASS 5.5.80R to CASS 5.5.83R is to set out those situations in which a *firm* will have fulfilled its contractual and fiduciary obligations in relation to any *client money* held for or on behalf of its *client*, or in relation to the *firm's* ability to require repayment of that *money* from a third party.

...

5.6.9 R *Client money* received by the *firm* ... after a *primary pooling event* ... must be placed in a *client bank account* that has been opened after that event and must be handled in accordance with the *client money rules*, and returned to the relevant *client* without delay, except to the extent that:

(1) ...

(2) it is *money* relating to a *client*, for whom the *client money entitlement requirement*, calculated in accordance with CASS 5.5.66R or CASS 5.5.68R, shows that *money* is due from the *client* to the *firm* ...

Annex G

Amendments to the Supervision manual (SUP)

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

10.10 Customer functions

...

- 10.10.7 R (1) The *investment adviser function* is the function of:
- (a) *advising on investments* other than a *non-investment insurance contract*; and
 - (b) performing functions within the *customer trading function* in connection with *advising on investments* other than *non-investment insurance contracts*.
- (2) This function does not include:
- (a) the *investment adviser (trainee) function*; ~~and~~
 - (b) the *pension transfer specialist function*; ~~and~~
 - (c) *advising on investments in the course of carrying on the activity of providing basic advice on a stakeholder product.*

...

...

Form of notification when acquiring or increasing control

- 11.3.7 D A notification (“notice of *control*”) given to the *FSA* by a *person* who is acquiring *control* or increasing his *control* over a *UK domestic firm*, in a way described in *SUP* 11.4.2R(1) to (4), or acquiring *control* in a way described in *SUP* 11.4.2AR(1), must:
- (1) where the *controller* or a proposed *controller* is not an *authorised person*, contain the information required in:
 - (a) ~~Controllers Form A (*SUP* 11 Annex 4); and~~
 - (b) ~~one or more of Controllers Form B (*SUP* 11 Annex 5) in accordance with *SUP* 11.3.8D; or~~
- the relevant controllers form;

...

- (2) where the *controller* or proposed *controller* is any other *authorised person*, contain the information required in ~~these sections of Controllers Form A (SUP 11 Annex 4) which deal with details of the proposed change in control and the persons involved in the notification~~ the relevant controllers form; and

...

11.3.8 D 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.~~
[deleted]

11.3.9 D If a ~~Controllers Form B~~ relevant controllers form, or an Application to perform *controlled functions* under the *approved persons* regime (Form A in SUP 10 Annex 4D) in respect of a *governing function*, 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.

...

11.3.11 G The *FSA*, for administrative reasons, expects notifications within SUP 11.3.7D to be given on ~~Controllers Form A or Controllers Form B~~ the relevant controllers form, as appropriate. If notifications are not made on these forms the applicant must inform the *FSA* of the reasons for not using them.

11.3.12 G 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 temporary; ~~or~~,
- (2) if ~~Form B is required (under ■ SUP 11.3.8 D)~~ in relation to:
 - (a) ~~an individual who is an approved person; or~~
 - (b) ~~a partnership of which one or more of the partners are bodies corporate;~~

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.

...

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~~ relevant controllers form may be used to submit a notification on behalf of both the *firm* and the *controller* or proposed *controller*.

...

SUP 11 Annexes 4D and 5D are deleted in their entirety. The deleted text is not shown struck through.

Annex 4 D [deleted]

Annex 5 D [deleted]

...

- 16.7.15 R A *bank* must submit the reports referred to in SUP 16.7.13 R(1) either:
- (1) ...
 - (2) in electronic format using the specifications for the Bank of England Reporting System and sent either:
 - (a) ...
 - (b) by e-mail to ~~mfsd_beers@bofe.co.uk~~ mfsd_beers@bankofengland.co.uk; or
 - (c) ...

1. Annual questionnaire for authorised professional firms

...

Supervision and monitoring data

Section 2

...

Latest period
£ Previous period
£

2.02 Income from mainstream regulated activities

a ...

b During the period, please indicate the proportion of this income generated from:

(An estimate to the nearest 10% is sufficient)

Percentage

i) Investment management activities (see 3.08)

ii) Corporate finance activities

iii) *Retail investment activities*

iv) *Mortgage mediation activities*

v) *Insurance mediation activities*

vi) Other

TOTAL

100 %

c ...

...

2.08 Professional indemnity insurance

a Are the terms of the *firm's* professional indemnity insurance policy compliant with the requirements set out in the *Handbook*?
(The professional indemnity insurance requirements for *authorised professional firms* are set out in *PRU* 9.2 and *IPRU(INV)* 2 and 13.)

YES NO

If NO, please explain.

b ...

c In relation to the *firm's* current policy, please provide the following information:

(i) Expiry date.

(For *firms* who are members of the Law

Society of Scotland, the Council for Licensed Conveyancers or the Royal Institution of Chartered Surveyors: please give details of the *firm's* professional indemnity insurance under the Law Society of Scotland's *designated professional body's* Master Policy.)

...

Financial resources and reporting

Section 3

...

3.08 Investment management

Did the *firm* act as an *investment manager* during the period?

YES NO

If YES, please provide the following information:

a If this includes **discretionary** management, what type of services has the *firm* provided during the period?

(e.g. *Managing investments for private customers/intermediate customers/non-UK customers, trustee trustee activities, ISA management*)

b ...

c ...

d Total funds under management :
(exclude 'custody custody only' funds)

Date £

At latest practicable date

...

Declaration

THIS DECLARATION MUST BE COMPLETED BY ALL FIRMS

I/ we confirm that the *firm* is, and continues to be, an *authorised professional firm*.

I/ we declare that the *firm* is able to meet its liabilities as they fall due until the end of the current accounting period (or twelve months from the last ~~accounting reference date~~ accounting reference date, if later).

...

SUP Sch 2 Notification requirements

SUP Sch 2.2G

Handbook reference	Matter to be notified	Contents of notification	Trigger event	Time allowed
<p>SUP App 2.10.1 R-(1) [deleted]</p>	<p><i>Insurers: scheme of operations</i> – an insurer which is not an <i>incoming EEA firm</i> or an <i>incoming Treaty firm</i> – obligations on insurers which have previously submitted a <i>scheme of operations</i> [deleted]</p>	<p>The fact of the transactions specified [deleted]</p>	<p>An <i>insurer</i> which has submitted a <i>scheme of operations</i>, during the period covered by the <i>scheme of operations</i>, entering into or carrying out any material transaction (see SUP App 2.11.1 R) with, or in respect of an <i>associate</i>, unless that transaction is in accordance with a <i>scheme of operations</i> which has been submitted to the <i>FSA</i> [deleted]</p>	<p>28 days before entering into or carrying out the specified transaction [deleted]</p>

Annex H

Amendments to the Perimeter Guidance manual (PERG)

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

2.7.7A G There are four arranging activities that are *regulated activities* under the *Regulated Activities Order*. These are:

...

- (3) *arranging (bringing about) regulated mortgage contracts*, which includes arranging for another *person* to vary the terms of a *regulated mortgage contract* entered into ~~before~~ after 31 October 2004 (article 25A(1)); and

...

...

PERG 2 Annex 2G, 2 Table, ‘Table 1: Regulated Activities’:

Regulated activity	Specified investment in relation to which the regulated activity (in the corresponding section of column one) may be carried on
...	
(j) <i>advising on investments</i> (article 53) [see note 1B to Table 1] [also see Section of Table 1 headed ‘Regulated mortgage activity’]	
For the purposes of the <i>permission</i> regime, this <i>regulated activity</i> : <u>(i) does not apply to advice given in the course of carrying on the regulated activity of providing basic advice on a stakeholder product; and</u> (ii) is subdivided into: (†) (A) <i>advising on investments (except pension transfers and pension opt-outs)</i> ; and (††) (B) <i>advising on pension transfers and pension opt-outs</i> [see note 4 to Table 1]	
...	
(pp) (pa) <i>providing basic advice on a stakeholder product</i> (article 5B)	...

Insurance mediation activity [see note 5A to Table 1]	
(pa) <u>(pb)</u> <i>dealing in investments as agent</i> (article 21)	...
(pb) <u>(pc)</u> <i>arranging (bringing about) deals in investments</i> (article 25(1))	non-investment insurance contract pure protection contract [see note 5C to Table 1] general insurance contract [see note 5D to Table 1]
(pe) <u>(pd)</u> <i>making arrangements with a view to transactions in investments</i> (article 25(2))	<i>rights to or interests in investments</i> (article 89) in so far as they relate to a <i>life policy</i>
(pd) <u>(pe)</u> <i>assisting in the administration and performance of a contract of insurance</i> (article 39A)	
(pe) <u>(pf)</u> <i>advising on investments</i> (article 53)	
For the purpose of the <i>permission</i> regime, this <i>regulated activity</i> is sub-divided into: (i) <i>advising on investments (except pension transfers or pension opt-outs)</i> ; (ii) <i>advising on pension transfers or pension opt-outs</i> [See note 5 <u>ED</u> to Table 1].	
...	

PERG 2 Annex 2G, 3Table, ‘Notes to Table 1’

...

Note 1B:

... The full list of *insurance mediation activities* is set out in ~~(pa)~~ (pb) to ~~(pe)~~ (pf). ...

...

Note 5A:

Where they are carried on in relation to a *life policy*, the activities listed as *insurance mediation activities* in ~~(pa)~~ (pb) to ~~(pe)~~ (pf) ...

...

Note 5C:

‘Non-investment insurance contract’ is the term used in firms’ permissions to mean *pure protection contract* or *general insurance contract*. *Pure protection contract* is the term used in the *Handbook* to mean a *long-term insurance contract* which is not a *life policy*. *General insurance contract* is the term used in the *Handbook* to mean *contract of insurance within column 1 of Table 2*.

Note 5D:

~~*General insurance contract* is the term used in the *Handbook* to mean *contract of insurance within column 1 of Table 2*. [deleted]~~

Note 5E:

For the purposes of the *permission* regime, the activity in ~~(pe)~~(pf)(ii) of *advising on pension transfers and pension opt-outs* is carried on in respect of the following *specified investments*:

- *life policy* (explained in note 5A); and
- *rights to or interests in investments* in so far as they relate to a *life policy*.

...

PERG 2 Annex 2G, 5 Table ‘Table 3: Securities, contractually based investments and relevant investments [see notes 1 and 2 to Table 3]’

Security (article 3(1))

Contractually based
investment (article 3(1))

Relevant investments (article
3(1))

...

...

...

non-investment insurance contract [see note 5C to

Table 1]

pure protection contract [see
note 5C to Table 1]

general insurance contract
[see note 5D to Table 1]