

**LEGAL CUTOVER (WAIVER AND MODIFICATION OF RULES)  
INSTRUMENT 2013**

**WHEREAS:**

- A. The Authority has, in accordance with Article 5 of the Designation Order, appointed persons to exercise functions referred to in Article 5(1) of the Designation Order, which include the function of the Financial Conduct Authority of designating or modifying a Relevant Instrument and the functions of making rules and issuing guidance.
- B. By virtue of Article 5(3)(a) of the Designation Order the persons appointed may discharge the relevant functions as if they were the governing body of the Financial Conduct Authority.
- C. By virtue of Article 7(1) of the Designation Order this Instrument shall be treated as if it had been made by the Financial Conduct Authority acting through its governing body.
- D. Article 2(1)(c) of the Early Commencement Order commenced certain of the Financial Conduct Authority's rule making and other powers for the purposes specified in Part 3 of the Schedule to that Order..
- E. Article 2(1)(c) of the Early Commencement Order commenced certain of the Prudential Regulation Authority's rule making and other powers for the purposes specified in the Schedule to that Order.

**Interpretation**

1 In this Instrument (including the Recitals):

- (1) "Designation Order" means the Financial Services Act 2012 (Transitional Provisions) (Rules and Miscellaneous Provisions) Order 2013 (SI 2013/161);
- (2) "Early Commencement Order" means the Financial Services Act 2012 (Commencement No. 1) Order 2013 (SI 2013/113);
- (3) "the 2000 Act" means the Financial Services and Markets Act 2000;
- (4) "the 2012 Act" means the Financial Services Act 2012;
- (5) "the Authority" means the Financial Services Authority;
- (6) "Financial Conduct Authority" means the body corporate referred to in section 1A of the 2000 Act as amended by section 6 of the 2012 Act;
- (7) "Prudential Regulation Authority" means the body corporate referred to in section 2A(1) of the 2000 Act as amended by section 6 of the 2012 Act;
- (8) "Handbook" means the Authority's Handbook of Rules and Guidance (and including for this purpose the Handbook Guides and Regulatory Guides published by the Authority alongside the Handbook of Rules and Guidance) in each case as published on the Authority's Handbook website at 11h59 pm on 27 February 2013;
- (9) "Relevant Instrument" has the meaning in section 119(6)(b) of the 2012 Act;

- (10) “FSA Instrument” means an instrument published by the Authority, by which the Authority made, issued, gave, imposed or amended a Relevant Instrument;
- (11) “FCA Relevant Instrument” means a Relevant Instrument designated by the Financial Conduct Authority under paragraph 2;
- (12) “PRA Relevant Instrument” means a Relevant Instrument designated by the Prudential Regulation Authority under paragraph 14 and excludes any Relevant Instrument falling within paragraph 15;

### **Designation of rules etc. by the Financial Conduct Authority**

- 2 In accordance with Article 3(1) of the Designation Order, the Financial Conduct Authority designates the rules, guidance, requirements, codes, schemes, statements or directions, set out in each FSA Instrument (or part of such instrument) by which the Authority made, issued, gave, imposed or amended each part or provision of the Handbook, identified as:
  - (1) “Designated” in Column 2 of Annex B to this Instrument; and
  - (2) “FCA” or “FCA/PRA” in Column 3 of Annex B to this Instrument.
- 3 As required by Article 3(1)(c) and (d) of the Designation Order, the Financial Conduct Authority specifies that:
  - (1) The FCA Relevant Instruments were made, issued, given or imposed by the Authority under the provisions set out in the relevant FSA Instrument;
  - (2) The FCA Relevant Instruments collectively were made, issued, given or imposed by the Authority under the provisions set out in column 1 of Parts 1 to 10 of Schedule A to this Instrument; and
  - (3) The FCA Relevant instruments collectively are treated as made, issued, given or imposed by the Financial Conduct Authority under the corresponding provisions set out in column 2 of Parts 1 to 10 of Schedule A to this Instrument.
- 4 In accordance with Article 2(2)(a) of the Designation Order, each FCA Relevant Instrument is treated as having been made, issued, given or imposed by the Financial Conduct Authority.

### **Modification of rules etc. by the Financial Conduct Authority**

- 5 In accordance with Article 3(1) of the Designation Order, the Financial Conduct Authority modifies each FCA Relevant Instrument (or part of such instrument) as specified in Annex B to this Instrument.

### **Rules etc. made, given or amended by the Financial Conduct Authority**

- 6 In accordance with Article 2(1)(c) of the Early Commencement Order and in the exercise of the powers and related provisions specified in paragraph 9, the Financial Conduct Authority makes, issues, gives, amends or imposes:

- (1) each provision in Annex A to this Instrument that meets all of the conditions in paragraph 7; and
  - (2) any amendment that is not a modification made in accordance with paragraph 5 specified in a provision in Annex B to this Instrument that meets all of the conditions in paragraph 8.
- 7 The conditions referred to in paragraph 6(1) are that a provision is:
- (1) identified as “Made” in Column 2 of Annex B to this Instrument; and
  - (2) identified as “FCA” or “PRA/FCA” in Column 3 of Annex B to this Instrument.
- 8 The conditions referred to in paragraph 6(2) are that a provision is:
- (1) identified as “Designated” in Column 2 of Annex B to this Instrument; and
  - (2) identified as “FCA” or “PRA/FCA” in Column 3 of Annex B to this Instrument.
- 9 The Financial Conduct Authority makes, issues, gives, amends or imposes the provisions in paragraph 6 in exercise of the following powers and related provisions of the 2000 Act, as amended by the 2012 Act:
- (1) section 137A (The FCA’s general rules);
  - (2) section 137T (General supplementary powers);
  - (3) section 138A(3) (Modification or waiver of rules);
  - (4) section 139A (Power of the FCA to give guidance);
  - (5) section 250 (Modification or waiver of rules); and
  - (6) section 294 (Modification or waiver of rules).
- 10 The rule-making powers in paragraph 9 are specified for the purpose of section 138G (Rule-making instruments) of the 2000 Act, as amended by the 2012 Act.

**Commencement: Financial Conduct Authority**

- 11 As required by Article 3(1) of the Designation Order, the Financial Conduct Authority specifies that the designation (in paragraph 2) and the modification (in paragraph 5) of each FCA Relevant Instrument comes into effect on 1 April 2013..
- 12 The Financial Conduct Authority directs that paragraph 6 of this Instrument comes into effect on 1 April 2013.
- 13 The Financial Conduct Authority directs that paragraph 6 of this Instrument comes into force immediately after the coming into force of the designations in paragraph 2 and the modifications in paragraph 5.

**Designation of rules etc. by the Prudential Regulation Authority**

- 14 In accordance with Article 3(1) of the Designation Order, the Prudential Regulation Authority designates the rules, requirements, codes, schemes, statements or directions, set out in each FSA Instrument (or part of such instrument) by which the Authority made, gave or amended the part or provision of the Handbook identified as:
- (1) “Designated” in Column 2 of Annex B to this Instrument; and
  - (2) “PRA” or “FCA/PRA” in Column 3 of Annex B to this Instrument.
- 15 The designation by the Prudential Regulation Authority in paragraph 14 excludes any provision designated as guidance in an FSA Instrument.
- 16 As required by Article 3(1)(c) and (d) of the Designation Order, the Prudential Regulation Authority specifies that:
- (1) The PRA Relevant Instruments were made, issued, given or imposed by the Authority under the provisions set out in the relevant FSA Instrument;
  - (2) The PRA Relevant Instruments collectively were made, issued, given or imposed by the Authority under the provisions set out in column 1 of Parts 1 to 10 of Schedule A to this Instrument; and
  - (3) The PRA Relevant instruments collectively are treated as made, issued, given or imposed by the Prudential Regulation Authority under the corresponding provisions set out in column 3 of Parts 1 to 10 of Schedule A to this Instrument.
- 17 In accordance with Article 2(2)(a) of the Designation Order, each PRA Relevant Instrument is treated as having been made, issued, given or imposed by the Prudential Regulation Authority.

**Modification of rules etc. by the Prudential Regulation Authority**

- 18 In accordance with Article 3(1) of the Designation Order, the Prudential Regulation Authority modifies each PRA Relevant Instrument (or part of such instrument) as specified in Annex C to this Instrument.

**Rules etc. made, given or amended by the Prudential Regulation Authority**

- 19 In accordance with Article 2(1)(c) of the Early Commencement Order and in the exercise of the powers and related provisions specified in paragraph 22, the Prudential Regulation Authority makes, issues, gives, amends or imposes:
- (1) each provision in Annex A to this Instrument that meets all of the conditions in paragraph 20; and
  - (2) any amendment that is not a modification made in accordance with paragraph 18 specified in a provision in Annex B to this Instrument that meets all of the conditions in paragraph 21.
- 20 The conditions referred to in paragraph 19(1) are that a provision is:

- (1) identified as “Made” in Column 2 of Annex B to this Instrument; and
  - (2) identified as “PRA” or “PRA/FCA” in Column 3 of Annex B to this Instrument.
- 21 The conditions referred to in paragraph 19(2) are that a provision is:
- (1) identified as “Designated” in Column 2 of Annex B to this Instrument; and
  - (2) identified as “PRA” or “PRA/FCA” in Column 3 of Annex B to this Instrument.
- 22 The Prudential Regulation Authority makes, gives, amends or imposes the provisions in paragraph 19 in exercise of the following powers and related provisions of the 2000 Act, as amended by the 2012 Act:
- (1) section 137G (The PRA’s general rules);
  - (2) section 137T (General supplementary powers);
  - (3) section 138A(3) (Modification or waiver of rules); and
  - (4) section 294 (Modification or waiver of rules).
- 23 The rule-making powers in paragraph 22 are specified for the purpose of section 138G (Rule-making instruments) of the 2000 Act, as amended by the 2012 Act.
- 24 The Prudential Regulation Authority gives as guidance:
- (1) each provision in Annex A to this instrument identified as “PRA” or “FCA/PRA” in Column 3 of Annex B that is marked with a G in Column 1 of Annex B to this Instrument; and
  - (2) each provision listed in Annex B to this Instrument identified as “PRA” or “FCA/PRA” in Column 3 of Annex B that is (a) marked with a G in Column 1 of Annex B to this Instrument and (b) not in Annex A to this Instrument.

**Commencement: Prudential Regulation Authority**

- 25 As required by Article 3(1) of the Designation Order, the Prudential Regulation Authority specifies that the designation (in paragraph 14) and the modification (in paragraph 18) of each PRA Relevant Instrument comes into effect on 1 April 2013.
- 26 The Prudential Regulation Authority directs that paragraph 18 of this Instrument comes into effect on 1 April 2013.
- 27 The Prudential Regulation Authority directs that paragraph 19 of this Instrument comes into force immediately after the coming into force of the designations in paragraph 14 and the modifications in paragraph 18.

**Amendments to the Handbooks**

- 28 The Supervision manual (SUP) of the FCA’s and PRA’s Handbooks of rules and guidance is amended in accordance with Annex A to this Instrument.

**Citation**

29 This Instrument may be cited as the Legal Cutover (Waiver and Modification of Rules) Instrument 2013.

**By order of the persons appointed under Article 5 of the Designation Order to discharge specified functions of the Financial Conduct Authority as if they were its governing body**

19 March 2013

**By order of the Board of the Prudential Regulation Authority**

22 March 2013

## Annex A

### Amendments to the Supervision manual (SUP)

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

#### 8 Waiver and modification of rules

##### 8.1 Application and purpose

8.1.1 R ~~This chapter applies to every:~~

- (1) ~~*firm or person* who is subject to *FSA rules* 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, consent to, or has been given a modification of or waiver of the *rules in COLL*. [deleted]~~

8.1.1-A R This chapter applies to every:  
[FCA]

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

8.1.1-B R This chapter applies to every *firm* or *person* who is subject to *PRA rules* that  
[PRA] wishes to apply for, consent to, or has been given a modification of or waiver of the *PRA's rules*.

8.1.1A G This chapter is relevant to an applicant for a ~~*Part IV permission*~~ *Part 4A*  
[FCA/ *permission*, as if that applicant were a *firm*. Where the chapter refers to ~~usual~~  
PRA] *appropriate* supervisory contact, the applicant should read this as being the usual supervisory contact in at the ~~Permissions Department~~ *appropriate* *regulator*. Further, this chapter is relevant to a *person* who is subject to rules made by the ~~*FSA*~~ *appropriate regulator* and where the chapter refers to a *firm*, this includes that person.

...

8.1.3 G This chapter is not relevant to the functions of the ~~*FSA*~~ *FCA* acting in its  
[FCA] capacity as the *competent authority* for the purposes of Part VI of the *Act* (Official Listing).

...

## 8.2 Introduction

Waivers under section ~~148~~ 138A of the Act

8.2.1 [FCA/  
PRA] G Under section ~~148~~ 138A of the *Act* (Modification or waiver of rules), the ~~FSA~~ appropriate regulator may, on the application or with the consent of a *firm*, direct that its *rules*:

- (1) are not to apply to the *firm*; or
- (2) are to apply to the *firm* with such modifications as may be specified.

8.2.1A [FCA/  
PRA] G SUP 8.2.1G does not apply to:

- (1) rules made by either regulator under section 137O of the Act;
- (2) rules made by the FCA under sections 247 or 248 of the Act.

...

Waivers of rules in COLL

8.2.3 [FCA] G Section 250 of the *Act* and regulation 7 of the *OEIC Regulations* allow the ~~FSA~~ FCA to *wave* the application of certain *rules* in *COLL* to:

...

...

8.2.5 [FCA] G Section 250 of the *Act* and regulation 7 of the *OEIC Regulations* work by giving effect to section ~~148~~ 138A of the *Act* in respect of *waivers* given under section 250(2) and (3) and regulation 7(1) and (2) of the *OEIC Regulations*.

...

## 8.3 Applying for a waiver

Conditions for giving a waiver

8.3.1 [FCA/  
PRA] G Under section ~~148(4)~~ 138A(4) of the *Act*, the ~~FSA~~ appropriate regulator 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~~ adversely affect the advancement of, in the case of the *PRA*, any of its objectives and, in the case of the *FCA*, any of its operational objectives.

8.3.1A  
[FCA/  
PRA]

- G Even if the conditions in section ~~148(4)~~ 138A(4) of the *Act* are satisfied, the ~~*FSA*~~ *appropriate regulator* will consider other relevant factors before giving a *waiver*, such as whether the *waiver* would be compatible with European law, including relevant EC Directives.

#### Publication of waivers

8.3.2  
[FCA/  
PRA]

- G The ~~*FSA*~~ *appropriate regulator* is required by section ~~148(6)~~ 138B of the *Act* to publish a *waiver* unless it is satisfied that it is inappropriate or unnecessary to do so (see *SUP* 8.6).

8.3.2A  
[FCA]

- G The *FCA* must consult the *PRA* before publishing or deciding not to publish a *waiver* which relates to:

- (1) a *PRA-authorised person*; or  
(2) an *authorised person* who has as a member of its *immediate group* a *PRA-authorised person*;

unless the *waiver* relates to rules made by the *FCA* under sections 247 or 248 of the *Act*.

#### Form and method of application

8.3.3  
[FCA/  
PRA]

- D A firm wishing to apply for a *waiver* must complete the application form in *SUP* 8 Annex 2D and submit it in the way set out in *SUP* 15.7.4R to *SUP* 15.7.9G (Form and method of notification).

- (1) ~~A *firm* other than a *credit union* wishing to apply for a *waiver* must apply online at [www.fsa.gov.uk](http://www.fsa.gov.uk) using the form specified on the *FSA*'s ONA system. [deleted]~~
- (2) ~~A *credit union* wishing to apply for a *waiver* must complete the application form in *SUP* 8 Annex 2D and submit it in the way set out in *SUP* 15.7.4R to *SUP* 15.7.9G (Form and method of notification). [deleted]~~
- (3) ~~Where a *firm* is obliged to submit an application online under (1), if the *FSA*'s information technology systems fail and online submission is unavailable for 24 hours or more, until such time as facilities for online submission are restored a *firm* must use the form in *SUP* 8 Annex 2D and submit it in the way set out in *SUP* 15.7.4R to *SUP* 15.7.9G (Form and method of notification). [deleted]~~

...

- 8.3.3A [FCA/PRA] G (1) ~~If the *FSA's* information technology systems fail and online submission is unavailable for 24 hours or more, the *FSA* will endeavour to publish a notice on its website confirming that online submission is unavailable and that the alternative methods of submission set out in *SUP* 8.3.3D(3) and *SUP* 15.7.4R to *SUP* 15.7.9G (Form and method of notification) should be used. The appropriate regulator's preferred method of submission for waiver applications is by e-mail.~~
- (2) ~~Where *SUP* 8.3.3D(3) applies to a *firm*, *GEN* 1.3.2R (Emergency) does not apply. The form is available on the appropriate regulator's website.~~
- 8.3.4 [FCA/PRA] G Before sending in a *waiver* application, a *firm* may find it helpful to discuss the application with its ~~usual~~ appropriate supervisory contact ~~at the *FSA*.~~ However, the *firm* should still ensure that all relevant information is included in the application.
- 8.3.4A FCA G *Firms* or *persons* other than *PRA-authorized persons* should send applications for *waivers* or applications for variations of *waivers* to the *FCA*.
- 8.3.4B [FCA/PRA] G *PRA-authorized persons* should send applications for *waivers* or applications for variations of *waivers* to:
- (1) the *FCA* in respect of rules in the *FCA Handbook* applicable to that *PRA-authorized person*; and
- (2) the *PRA* in respect of rules in the *PRA Handbook*.

#### Procedure on receipt of an application

- 8.3.5 [FCA] G The ~~*FSA*~~ appropriate regulator 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*~~ appropriate regulator will aim to give *waiver* decisions within 20 *business days* of receiving an application which includes sufficient information. If the ~~*FSA*~~ appropriate regulator 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.
- 8.3.5A [FCA/PRA] G The ~~*FSA*~~ appropriate regulator will treat a *firm's* application for a *waiver* as withdrawn if it does not hear from the *firm* within 20 *business days* of sending a communication which requests or requires a response from the *firm*. The ~~*FSA*~~ appropriate regulator will not do this if the *firm* has made it clear to the ~~*FSA*~~ appropriate regulator in some other way that it intends to pursue the application.
- 8.3.6 G In some cases, the ~~*FSA*~~ appropriate regulator may give a modification of a

[FCA/  
PRA] *rule* rather than direct that the *rule* is not to apply. The *FSA appropriate regulator* 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 If the *FSA appropriate regulator* decides not to give a *waiver*, it will give reasons for the decision.  
[FCA/  
PRA]

8.3.8 G 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 appropriate regulator* its reasons for withdrawing the application.  
[FCA/  
PRA]

8.3.9 G If the *FSA appropriate regulator* 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*.  
[FCA/  
PRA]

#### Giving a waiver with consent rather than on an application

8.3.10 G Under section ~~148(2)~~ 138A(1) of the *Act* the *FSA appropriate regulator* may give a *waiver* with the consent of a *firm*. This power may be used by the *FSA appropriate regulator* in exceptional circumstances where the *FSA appropriate regulator* 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 appropriate regulator* 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 appropriate regulator's* website provided that the *FCA* must comply with SUP 8.3.2AG. The *firms* concerned will not have to make a formal application but will have to give their written consent for the *waiver* to apply.  
[FCA/  
PRA]

#### Waiver of an evidential provision

8.3.11 G An application for a *waiver* of an *evidential provision* will normally be granted only if a breach of the underlying binding *rule* is actionable under section ~~150~~ 138D of the *Act*. Individual *guidance* would normally be a more appropriate response (see SUP 9 (Individual Guidance)) if there is no right of action.  
[FCA/  
PRA]

...

8.3.13 G For an application for a *waiver* of the presumption of contravention of a binding *rule*, which is actionable under section ~~150~~ 138D of the *Act*, the *FSA appropriate regulator* would normally wish to be satisfied that the evidential *rule* is itself unduly burdensome or does not achieve the purpose of the *rule*.  
[FCA/  
PRA]

8.3.13A G In accordance with section 138C(4) of the Act, in SUP 8.3.11G to 8.3.13G, a  
[FCA/  
PRA] reference to a rule does not include a rule made under:

(1) section 137O of the Act; or

(2) section 192J of the Act.

...

## 8.4 Reliance on waivers

Application of waived rules

8.4.1 G If the ~~FSA~~ appropriate regulator gives a *firm* a *waiver*, then the relevant *rule*  
[FCA/  
PRA] 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~~ appropriate regulator enforcement action and (if applicable) a right of action under section ~~450~~ 138D 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~~ appropriate regulator enforcement action or such a right of action.

The effect of rule changes on waivers

8.4.2 G Substantive changes to the *rules* (this would not include simple editorial  
[FCA/  
PRA] 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~~ appropriate regulator will consult on proposed *rule* changes. A *firm* should note proposed *rule* changes and discuss the impact on a *waiver* with its usual appropriate supervisory contact ~~at the FSA~~.

## 8.5 Notification of altered circumstances relating to waivers

8.5.1 R A *firm* which has applied for or has been granted a *waiver* must notify the  
[FCA/  
PRA] ~~FSA~~ appropriate regulator 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 *Firms* are also referred to SUP 15.6 (Inaccurate, false or misleading  
[FCA/  
PRA] information). This requires, in SUP 15.6.4R, a *firm* to notify the ~~FSA~~ appropriate regulator if false, misleading, incomplete or inaccurate

PRA] 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 The ~~FSA~~ *appropriate regulator* is required by ~~section 148(6)~~ sections 138B(1) and (2) of the *Act* to publish a *waiver* unless it is satisfied that it is inappropriate or unnecessary to do so. If the ~~FSA~~ *appropriate regulator* 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.

8.6.1A G The FCA must consult the PRA before publishing or deciding not to publish a waiver which relates to:

(1) a PRA-*authorised person*; or

(2) an *authorised person* who has as a member of its immediate group a PRA-*authorised person*;

unless the *waiver* relates to *rules* made by the FCA under sections 247 or 248 of the *Act*.

### Matters for consideration

8.6.2 G When considering whether it is satisfied under section ~~148(6)~~ 138B(2), the ~~FSA~~ *appropriate regulator* is required by section ~~148(7)~~ 138B(3) of the *Act*:

(1) to take into account whether the *waiver* relates to a *rule* contravention of which is actionable under section ~~150~~ 138D 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*); ~~and~~

(4) to consider whether the publication of the *waiver* would be detrimental to the stability of the UK financial system.

8.6.3 G *Waivers* can affect the legal rights of third parties, including *consumers*. In the ~~FSA's~~ *appropriate regulator'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~~ 138D of the *Act* (see SUP 8.6.2G (1)) will tend to argue in favour of publication.

...

8.6.5 [FCA/PRA] G In considering whether commercial interests would be prejudiced to an unreasonable degree (see SUP 8.6.2G(2)), the *FSA appropriate regulator* 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 appropriate regulator* 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)-138B(5) of the *Act*, the *FSA appropriate regulator* 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 [FCA/PRA] G The *FSA appropriate regulator* 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 [FCA/PRA] G If, after taking into account the matters in SUP 8.3.3D to SUP 8.6.6G, a *firm* believes there are good grounds for the *FSA appropriate regulator* 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 appropriate regulator* proposes to publish a *waiver* against the wishes of the *firm*, the *FSA appropriate regulator* will give the *firm* the opportunity to withdraw its application before the *waiver* is given.

#### Withholding publication for a limited period

8.6.8 [FCA/PRA] G 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 appropriate regulator* 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 [FCA/PRA] G The principal means of publication of *waiver* information will be the *FSA's appropriate regulator's* website ([www.fsa.gov.uk](http://www.fsa.gov.uk)).

## 8.7 Varying waivers

8.7.1 [FCA/PRA] G Once the *FSA appropriate regulator* 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 appropriate regulator* 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 appropriate regulator* wishes to vary such *waivers* with the consent of those *firms*, it will follow the procedures in SUP 8.3.10G.

- 8.7.2 [FCA/PRA] G If the *waiver* that has been varied has previously been published, the *FSA appropriate regulator* 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 [FCA/PRA] G The *FSA appropriate regulator* may revoke a *waiver* at any time. In deciding whether to revoke a *waiver*, the *FSA appropriate regulator* will consider whether the conditions in section ~~148(4)~~138A(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 [FCA/PRA] G If the *FSA appropriate regulator* proposes to revoke a *waiver*, or revokes a *waiver* with immediate effect, it will:

...

- (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 appropriate regulator* as quickly as possible, specify who will make the representations and which matters will be covered; the *FSA appropriate regulator* will inform the *firm* of the time and place for hearing the representations and may request a written summary;

...

- 8.8.3 [FCA/PRA] G If the *waiver* that has been revoked has previously been published, the *FSA appropriate regulator* 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

...

- 8.9.2 [FCA/PRA] G If the *FSA appropriate regulator*, in the course of carrying on supplementary supervision of a *financial conglomerate*, is considering exercising its powers under section ~~148~~ 138A of the *Act* (Modification or waiver of rules), regulation 4 of the *Financial Groups Directive Regulations* contains special

provisions. The *FSA appropriate regulator* must, in broad terms, do two things. Where required by those regulations, it must obtain the consent of the relevant competent authorities of the group. And, where required by those Regulations, it must consult those competent authorities.

SUP 8 Annex 1G is deleted in its entirety. The deleted text is not shown.

Amend the following as shown.

**8 Annex Application form for a waiver or modification of rules**

**2**

[FCA/  
PRA]

- D This annex consists only of one or more forms. Forms are to be found through the following address:

*Waiver Application form - ~~FSA/does/sup/w\_form.doc~~ [web address tbc]*



**Annex B**

**Designations & Regulator making new provision**

<b>Handbook Provision</b>	<b>Made, designated or not in force after legal cutover</b>	<b>Relevant regulator</b>
8.1.1 R	Designated	FCA/PRA
8.1.1XA R	Made	FCA
8.1.1XB R	Made	PRA
8.1.1A G	Designated	FCA/PRA
8.1.2 G	Designated	FCA
8.1.3 G	Designated	FCA
8.1.4 G	Designated	FCA/PRA
8.2.1 G	Designated	FCA/PRA
8.2.1A G	Made	FCA/PRA
8.2.2 G	Designated	FCA/PRA
8.2.3 G	Designated	FCA
8.2.4 G	Designated	FCA
8.2.5 G	Designated	FCA
8.2.6 G	Not in force after legal cutover	
8.2.7 G	Not in force after legal cutover	
8.2.8 G	Not in force after legal cutover	
8.3.1 G	Designated	FCA/PRA
8.3.1A G	Designated	FCA/PRA
8.3.2 G	Designated	FCA/PRA
8.3.2A G	Made	FCA

8.3.3 D	Designated	FCA/PRA
8.3.3A G	Designated	FCA/PRA
8.3.4 G	Designated	FCA/PRA
8.3.4A G	Made	FCA
8.3.4B G	Made	FCA/PRA
8.3.5 G	Designated	FCA
8.3.5A G	Designated	FCA/PRA
8.3.6 G	Designated	FCA/PRA
8.3.7 G	Designated	FCA/PRA
8.3.8 G	Designated	FCA/PRA
8.3.9 G	Designated	FCA/PRA
8.3.10 G	Designated	FCA/PRA
8.3.11 G	Designated	FCA/PRA
8.3.12 G	Designated	FCA/PRA
8.3.13 G	Designated	FCA/PRA
8.3.13A G	Made	FCA/PRA
8.3.14 G	Designated	FCA/PRA
8.4.1 G	Designated	FCA/PRA
8.4.2 G	Designated	FCA/PRA
8.5.1 R	Designated	FCA/PRA
8.5.2 G	Designated	FCA/PRA
8.6.1 G	Designated	FCA/PRA
8.6.1A G	Made	FCA
8.6.2 G	Designated	FCA/PRA
8.6.3 G	Designated	FCA/PRA
8.6.4 G	Designated	FCA

8.6.5 G	Designated	FCA/PRA
8.6.6 G	Designated	FCA/PRA
8.6.7 G	Designated	FCA/PRA
8.6.8 G	Designated	FCA/PRA
8.6.9 G	Designated	FCA/PRA
8.7.1 G	Designated	FCA/PRA
8.7.2 G	Designated	FCA/PRA
8.8.1 G	Designated	FCA/PRA
8.8.2 G	Designated	FCA/PRA
8.8.3 G	Designated	FCA/PRA
8.9.1 G	Designated	FCA/PRA
8.9.2 G	Designated	FCA/PRA
8 Annex 1 G	Not in force after legal cutover	
8 Annex 2 D	Designated	FCA/PRA

**SCHEDULE A**

**Part 1**

<b>Column 1</b>	<b>Column 2</b>	<b>Column 3</b>
<b>Provisions of the 2000 Act under which the Authority made rules</b>	<b>Corresponding provisions: Financial Conduct Authority</b>	<b>Corresponding provisions: Prudential Regulation Authority</b>
Section 59 (Approval for particular arrangements)	Section 59	Section 59
Section 72 (The competent authority)	Part VI	None
Section 73A (Part 6 Rules)	Section 73A	None
Section 74 (The official list)	Section 74	None
Section 75 (Applications for listing)	Section 75	None
Section 77 (Discontinuance and suspension of listing)	Section 77	None
Section 79 (Listing particulars and other documents)	Section 79	None
Section 80 (General duty of disclosure in listing particulars)	Section 80	None
Section 81 (Supplementary listing particulars)	Section 81	None
Section 84 (Matters which may be dealt with by prospectus rules)	Section 84	None
Section 85 (Prohibition of dealing etc in transferable securities without approved prospectus)	Section 85	None
Section 87 (Election to have prospectus)	Section 87	None
Section 87A (Criteria for approval of prospectus by	Section 87A	None

<b>Column 1</b>	<b>Column 2</b>	<b>Column 3</b>
<b>Provisions of the 2000 Act under which the Authority made rules</b>	<b>Corresponding provisions: Financial Conduct Authority</b>	<b>Corresponding provisions: Prudential Regulation Authority</b>
competent authority)		
Section 87G (Supplementary prospectus)	Section 87G	None
Section 88 (Sponsors)	Section 88	None
Section 89 (Public censure of sponsor)	Sections 88A-88F	None
Section 89A (Transparency rules)	Section 89A	None
Section 89B (Provision of voteholder information)	Section 89B	None
Section 89C (Provision of information by issuers of transferable securities)	Section 89C	None
Section 89D (Notification of voting rights held by issuer)	Section 89D	None
Section 89E (Notification of proposed amendment of issuer's constitution)	Section 89E	None
Section 89F (Transparency rules: interpretation etc)	Section 89F	None
Section 89G (Transparency rules: other supplementary provisions)	Section 89G	None
Section 89O (Corporate governance rules)	Section 89O	None
Section 96 (Obligations of issuers of listed securities)	Section 96	None
Section 96A (Disclosure of information requirements)	Section 96A	None
Section 96C (Suspension of trading)	Section 96C	None

<b>Column 1</b>	<b>Column 2</b>	<b>Column 3</b>
<b>Provisions of the 2000 Act under which the Authority made rules</b>	<b>Corresponding provisions: Financial Conduct Authority</b>	<b>Corresponding provisions: Prudential Regulation Authority</b>
Section 99 (Fees)	Schedule 1ZA, Paragraph 23.	Schedule 1ZB, Paragraph 31.
Section 100 (Penalties)	Sections 312J and 312K, and schedule 1ZA, Part 2.	None
Section 101 (Part 6 rules: general provisions)	Sections 101 and 137T.	None.
Section 118(8) (Market abuse)	Section 118(8)	None
Section 136(2) (Funding of the legal assistance scheme)	Section 136(2)	None
Section 138 (General rule-making power)	Section 137A	Section 137G
Section 139 (Miscellaneous ancillary matters)	Section 137B	None
Section 140 (Restrictions on managers of certain collective investment schemes)	Section 137A(1)	Section 137G(1)
Section 141 (Insurance business rules)	Section 137A(1)	Section 137G(1)
Section 142(2) (Insurance business: regulations supplementing Authority's rules)	Section 137A(1)	Section 137G(1)
Section 144 (Price stabilising rules)	Section 137Q	None
Section 145 (Financial promotion rules)	Section 137R	None
Section 146 (Money laundering rules)	Section 137A(1)	None
Section 147 (Control of information rules)	Section 137P	Section 137P

<b>Column 1</b>	<b>Column 2</b>	<b>Column 3</b>
<b>Provisions of the 2000 Act under which the Authority made rules</b>	<b>Corresponding provisions: Financial Conduct Authority</b>	<b>Corresponding provisions: Prudential Regulation Authority</b>
Section 148(3) (Modification or waiver of rules)	Section 138A(3)	Section 138A(3)
Section 149 (Evidential provisions)	Section 138C	Section 138C
Section 150(2) (Actions for damages)	Section 138D(3)	Section 138D(1)
Section 156 (General supplementary powers)	Section 137T	Section 137T
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 213	Section 213
Section 214 (General)	Section 214	Section 214
Section 215 (Rights of the scheme in relevant person's insolvency)	Section 215	Section 215
Section 216 (Continuity of long-term insurance policies)	Section 216	Section 216
Section 217 (Insurers in financial difficulties)	Section 217	Section 217
Section 218(2)(b) (Annual report)	Section 218(2)(b)	Section 218(2)(b)
Section 223 (Management expenses)	Section 223	Section 223
Section 223C (Payments in error)	Section 223C	Section 223C
Section 224F (Rules about relevant schemes)	Section 224F	Section 224F
Section 226 (Compulsory	Section 226	None

<b>Column 1</b>	<b>Column 2</b>	<b>Column 3</b>
<b>Provisions of the 2000 Act under which the Authority made rules</b>	<b>Corresponding provisions: Financial Conduct Authority</b>	<b>Corresponding provisions: Prudential Regulation Authority</b>
jurisdiction) (including as applied by regulation 125 of the Payment Services Regulations 2009 (SI 2009/209))		
Section 226A(7) (Consumer credit jurisdiction)	Section 226A(7)	None
Section 229 (Awards)	Section 229	None
Section 234 (Industry funding)	Section 234	None
Section 238(5) (Restrictions on promotion)	Section 238(5)	None
Section 239 (Single property schemes)	Section 239	None
Section 242 (Applications for authorisation of unit trust schemes)	Section 242	None
Section 247 (Trust scheme rules)	Section 247	None
Section 248 (Scheme particulars rules)	Section 248	None
Section 278 (Rules as to scheme particulars)	Section 278	None
Section 283(1) (Facilities and information in UK)	Section 283(1)	None
Section 293 (Notification requirements)	Section 293	Section 293
Section 295 (Notification: overseas investment exchanges and overseas clearing houses)	Section 295	Section 295
Section 300B (Duty to notify)	Section 300B	Section 300B



<b>Column 1</b>	<b>Column 2</b>	<b>Column 3</b>
<b>Provisions of the 2000 Act under which the Authority made rules</b>	<b>Corresponding provisions: Financial Conduct Authority</b>	<b>Corresponding provisions: Prudential Regulation Authority</b>
proposal to make regulatory provision)		
Section 322 (Rules applicable to former underwriting members)	None	Section 322
Section 332(1) (Rules in relation to persons to whom the general prohibition does not apply)	Section 332(1)	None
Section 340 (Appointment)	Section 340	Section 340
Paragraph 17 (Fees) of Schedule 1 (The Financial Services Authority)	Schedule 1ZA, Paragraph 23.	Schedule 1ZB, Paragraph 31.
Paragraphs 19 (Establishment) and 20 (Services) of Schedule 3 (EEA Passport Rights)	Paragraphs 19 (Establishment) and 20 (Services) of Schedule 3 (EEA Passport Rights)	Paragraphs 19 (Establishment) and 20 (Services) of Schedule 3 (EEA Passport Rights)
Schedule 7 (The Authority as Competent Authority for Part VI)	Part VI	None
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)	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)	None

**SCHEDULE A**

**Part 2**

<b>Column 1</b>	<b>Column 2</b>	<b>Column 3</b>
<b>Provisions of other enactments under which the Authority made rules</b>	<b>Corresponding provisions: Financial Conduct Authority</b>	<b>Corresponding provisions: Prudential Regulation Authority</b>
Regulation 6(1) (FSA rules) of the Open-Ended Investment Companies Regulations 2001 (SI 2001/1228)	Regulation 6(1) (FCA rules) of the Open-Ended Investment Companies Regulations 2001 (SI 2001/1228).	None
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)	Section 137A(1)	Section 137G(1)
Article 15 (Record-keeping and reporting requirements relating to relevant complaints) of the Financial Services and Markets Act 2000 (Transitional Provisions) (Ombudsman and Complaints Scheme) Order 2001 (SI 2001/2326)	Article 15 (Record-keeping and reporting requirements relating to relevant complaints) of the Financial Services and Markets Act 2000 (Transitional Provisions) (Ombudsman and Complaints Scheme) Order 2001 (SI 2001/2326)	None
The Financial Services and Markets Act 2000 (Variation of Threshold Conditions) Order 2001 (SI 2001/2507)	None	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	Articles 4 (Pending applications), 6 (Post-commencement applications), 9 (Article 9 defaults occurring before	Articles 4 (Pending applications), 6 (Post-commencement applications), 9 (Article 9 defaults occurring before

Column 1	Column 2	Column 3
<b>Provisions of other enactments under which the Authority made rules</b>	<b>Corresponding provisions: Financial Conduct Authority</b>	<b>Corresponding provisions: Prudential Regulation Authority</b>
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 Financial Services and Markets Act 2000 (Transitional Provisions, Repeals and Savings) (Financial Services Compensation Scheme) Order 2001 (SI 2001/2967).	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 Financial Services and Markets Act 2000 (Transitional Provisions, Repeals and Savings) (Financial Services Compensation Scheme) Order 2001 (SI 2001/2967).	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 Financial Services and Markets Act 2000 (Transitional Provisions, Repeals and Savings) (Financial Services Compensation Scheme) Order 2001 (SI 2001/2967).
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)	Section 137A(1)	Section 137G(1)
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 3 (Consumer contract requirements: modification of rule-making powers) of the Electronic Commerce Directive (Financial Services and Markets) Regulations 2002 (SI 2002/1775)	None
Regulation 2 (Power of the Authority to make rules under section 138 of the Financial Services and	Regulation 2 (Power of the Authority to make rules under section 138 of the Financial Services and	None.

Column 1	Column 2	Column 3
<b>Provisions of other enactments under which the Authority made rules</b>	<b>Corresponding provisions: Financial Conduct Authority</b>	<b>Corresponding provisions: Prudential Regulation Authority</b>
Markets Act 2000) of the Financial Services and Markets Act 2000 (Fourth Motor Insurance Directive) Regulations 2002 (SI 2002/2706)	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 Financial Services and Markets Act 2000 (Transitional Provisions) (Complaints Relating to General Insurance and Mortgages) Order (SI 2004/454)	Article 9 (Record-keeping and reporting requirements relating to relevant transitional complaints) of the Financial Services and Markets Act 2000 (Transitional Provisions) (Complaints Relating to General Insurance and Mortgages) Order (SI 2004/454).	None
Regulation 2(3) (Application for permission) of the Capital Requirements Regulations 2006 (SI 2006/3221)	Regulation 2(3) (Application for permission) of the Capital Requirements Regulations 2006 (SI 2006/3221)	Regulation 2(3) (Application for permission) of the Capital Requirements Regulations 2006 (SI 2006/3221)
Regulation 82 (Reporting requirements) of the Payment Services Regulations 2009 (SI 2009/209)	Regulation 82 (Reporting requirements) of the Payment Services Regulations 2009 (SI 2009/209).	None
Regulation 92 (Costs of supervision) of the Payment Services Regulations 2009 (SI 2009/209)	Regulation 92 (Costs of supervision) of the Payment Services Regulations 2009 (SI 2009/209).	None
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 Compensation	None	Article 3 (Further power for PRA to make rules concerning mesothelioma claims) and 4 (Modification of FSMA in relation to FSA rules for mesothelioma claims) of the

Column 1	Column 2	Column 3
<b>Provisions of other enactments under which the Authority made rules</b>	<b>Corresponding provisions: Financial Conduct Authority</b>	<b>Corresponding provisions: Prudential Regulation Authority</b>
Act 2006 (Contribution for Mesothelioma Claims) Regulations 2006 (SI 2006/3259)		Compensation Act 2006 (Contribution for Mesothelioma Claims) Regulations 2006 (SI 2006/3259).
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 Regulated Covered Bonds Regulations 2008 (SI 2008/346)	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 Regulated Covered Bonds Regulations 2008 (SI 2008/346).	None

**SCHEDULE A**

**Part 3**

<b>Column 1</b>	<b>Column 2</b>	<b>Column 3</b>
<b>Provisions of the 2000 Act under which the Authority issued codes</b>	<b>Corresponding provisions: Financial Conduct Authority</b>	<b>Corresponding provisions: Prudential Regulation Authority</b>
Section 64(2) (Conduct: statements and codes)	Section 64(2)	Section 64(2)
Section 119 (The code)	Section 119	None
Section 120 (Provisions included in the Authority's code by reference to the City Code)	Section 120	None
Section 121 (Codes: procedure)	Section 121	None

**SCHEDULE A**

**Part 4**

<b>Column 1</b>	<b>Column 2</b>	<b>Column 3</b>
<b>Provisions of the 2000 Act under which the Authority issued statements</b>	<b>Corresponding provisions: Financial Conduct Authority</b>	<b>Corresponding provisions: Prudential Regulation Authority</b>
Section 64(1) (Conduct: statements and codes)	Section 64(1)	Section 64(1A)
Section 69 (Statement of policy) (including as applied by paragraph 1 of Schedule 5 to the Payment Services Regulations 2009 (SI 2009/209) and paragraph 1 of Schedule 3 to the Electronic Money Regulations 2011 (SI 2011/99).)	Section 69	Section 69
Section 93 (Statement of policy)	Section 93	None
Section 124 (Statement of policy)	Section 124	None
Section 165B(6) (Safeguards etc in relation to exercise of power under section 165A)	None	Section 165B(6)
Section 169(9) (Investigations etc in support of overseas regulator) (including as applied by paragraph 3 of Schedule 5 to the Payment Services Regulations 2009 (SI 2009/209) and paragraph 3 of Schedule 3 to the Electronic Money Regulations 2011 (SI 2011/99).)	Section 169(9)	Section 169(9)
Section 210 (Statements of policy) (including as applied by regulation 86(6) of the Payment Services Regulations 2009 (SI 2009/209) and regulation 53	Section 210	Section 210

Column 1	Column 2	Column 3
<b>Provisions of the 2000 Act under which the Authority issued statements</b>	<b>Corresponding provisions: Financial Conduct Authority</b>	<b>Corresponding provisions: Prudential Regulation Authority</b>
(6) of the Electronic Money Regulations 2011 (SI 2011/99).)		
Section 395 (The Authority's procedures) (including as applied by paragraph 7 of Schedule 5 to the Payment Services Regulations 2009 (SI 2009/209) and paragraph 8 of Schedule 3 to the Electronic Money Regulations 2011 (SI 2011/99).)	Section 395	Section 395



**SCHEDULE A**

**Part 5**

<b>Column 1</b>	<b>Column 2</b>	<b>Column 3</b>
<b>Provisions of other enactments under which the Authority issued statements</b>	<b>Corresponding provisions: Financial Conduct Authority</b>	<b>Corresponding provisions: Prudential Regulation Authority</b>
Regulation 42 (Guidance) of the Regulated Covered Bonds Regulations 2008 (SI 2008/346)	Regulation 42 (Guidance) of the Regulated Covered Bonds Regulations 2008 (SI 2008/346).	None
Regulation 44 (Warning notices and decision notices) of the Regulated Covered Bonds Regulations 2008 (SI 2008/346)	Regulation 44 (Warning notices and decision notices) of the Regulated Covered Bonds Regulations 2008 (SI 2008/346).	None
Regulation 93 (Guidance) of the Payment Services Regulations 2009 (SI 2009/209)	Regulation 93 (Guidance) of the Payment Services Regulations 2009 (SI 2009/209).	None
Regulation 60 (Guidance) of the Electronic Money Regulations 2011 (SI 2011/99).	Regulation 60 (Guidance) of the Electronic Money Regulations 2011 (SI 2011/99).	None

**SCHEDULE A**

**Part 6**

<b>Column 1</b>	<b>Column 2</b>	<b>Column 3</b>
<b>Provisions of the 2000 Act under which the Authority directed, required or specified:</b>	<b>Corresponding provisions: Financial Conduct Authority</b>	<b>Corresponding provisions: Prudential Regulation Authority</b>
Section 51 (Applications under this Part)	Section 55U	Section 55U
Section 60 (Applications for approval)	Section 60	Section 60
Section 148(3) (Modification or waiver of rules)	Section 138A(3)	Section 138A(3)
Section 182 (Notification)	Section 179	None
Section 242 (Applications for authorisation of unit trust schemes)	Section 242	None
Sections 250(4) and (5) (Modification or waiver of rules)	Sections 250(4) and (5)	None
Section 270(6)(b) (Schemes authorised in designated countries or territories)	Section 270(6)(b)	None
Section 274 (Applications for recognition of individual schemes)	Section 274	None
Section 287 (Application by an investment exchange)	Section 287	None
Section 294(2) (Modification or waiver of rules)	Section 294(2)	Section 294(2)
Section 316 (Direction by Authority)	Section 316	Section 316
Section 317 (The core provisions)	Section 317	Section 317
Section 318 (Exercise of	Section 318	Section 318

Column 1	Column 2	Column 3
<p><b>Provisions of the 2000 Act under which the Authority directed, required or specified:</b></p>	<p><b>Corresponding provisions: Financial Conduct Authority</b></p>	<p><b>Corresponding provisions: Prudential Regulation Authority</b></p>
<p>powers through Council)</p>		
<p>Paragraph 5(4) (Notice to Authority) of Schedule 4 (Treaty Rights)</p>	<p>Paragraph 5(4) (Notice to UK Regulator) of Schedule 4 (Treaty Rights)</p>	<p>Paragraph 5(4) (Notice to UK Regulator) of Schedule 4 (Treaty Rights)</p>

**SCHEDULE A**

**Part 7**

<b>Column 1</b>	<b>Column 2</b>	<b>Column 3</b>
<b>Provisions of other enactments under which the Authority directed, required or specified</b>	<b>Corresponding provisions: Financial Conduct Authority</b>	<b>Corresponding provisions: Prudential Regulation Authority</b>
Regulations 7(3) and (4) (Modification or waiver of FSA rules) and 12 (Application for authorisation) of the Open-Ended Investment Companies Regulations 2001 (SI 2001/1228)	Regulations 7(3) and (4) (Modification or waiver of FSA rules) and 12 (Application for authorisation) of the Open-Ended Investment Companies Regulations 2001 (SI 2001/1228).	<b>None</b>
Regulation 49 (Reporting requirements) of the Electronic Money Regulations 2011 (SI 2011/99).	Regulation 49 (Reporting requirements) of the Electronic Money Regulations 2011 (SI 2011/99).	<b>None</b>

**SCHEDULE A**

**Part 8**

<b>Column 1</b>	<b>Column 2</b>	<b>Column 3</b>
<b>Provisions of the 2000 Act under which the Authority made complaints schemes</b>	<b>Corresponding provisions: Financial Conduct Authority</b>	<b>Corresponding provisions: Prudential Regulation Authority</b>
Paragraph 7 (Arrangements for the investigation of complaints) of Schedule 1 (The Financial Services Authority)	Part 6 of the Financial Services Act 2012	Part 6 of the Financial Services Act 2012

**SCHEDULE A**

**Part 9**

<b>Column 1</b>	<b>Column 2</b>	<b>Column 3</b>
<b>Provisions of the 2000 Act under which the Authority gave guidance</b>	<b>Corresponding provisions: Financial Conduct Authority</b>	<b>Corresponding provisions: Prudential Regulation Authority</b>
Section 157(1) (Guidance)	Section 139A(1)	None
Section 158A (Guidance on outsourcing by investment firms and credit institutions)	None	None

**SCHEDULE A**

**Part 10**

<b>Column 1</b>	<b>Column 2</b>	<b>Column 3</b>
<b>Provisions of other enactments under which the Authority gave guidance</b>	<b>Corresponding provisions: Financial Conduct Authority</b>	<b>Corresponding provisions: Prudential Regulation Authority</b>
Article 11(1) (Guidance) of the Financial Services and Markets Act 2000 (Transitional Provisions and Savings) (Rules) Order 2001 (SI 2001/1534)	Section 139A(1)	None
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)	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)	None
Articles 9D (Applications for certificates) and 9F (Revocation of certificate on request) of the Regulated Activities Order	Articles 9D (Applications for certificates) and 9F (Revocation of certificate on request) of the Regulated Activities Order	None
Articles 9G (Obtaining information from certified persons etc) and 9H (Rules prohibiting the issue of electronic money at a discount) of the Regulated Activities Order	Articles 9G (Obtaining information from certified persons etc) and 9H (Rules prohibiting the issue of electronic money at a discount) of the Regulated Activities Order	None

Column 1	Column 2	Column 3
<b>Provisions of other enactments under which the Authority gave guidance</b>	<b>Corresponding provisions: Financial Conduct Authority</b>	<b>Corresponding provisions: Prudential Regulation Authority</b>
Regulation 14 (Guidance) of the Cross-Border Payments in Euro Regulations 2010 (SI 2010/89)	Regulation 15 of the Payments in Euro (Credit Transfers and Direct Debits) Regulations 2012 (SI 2012/3122)	None
Regulation 60 (Guidance) of the Electronic Money Regulations 2011 (SI 2011/99).	Regulation 60 (Guidance) of the Electronic Money Regulations 2011 (SI 2011/99).	None