

HANDBOOK ADMINISTRATION (NO 30) INSTRUMENT 2013**Powers exercised by the Board of the Financial Conduct Authority**

- A. The Financial Conduct Authority makes this instrument in the exercise of the 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 138G(2) (Rule-making instruments) of the Financial Services and Markets Act 2000.

Commencement

- C. This instrument comes into force on 1 July 2013.

Amendments to the FCA's Handbook

- D. The modules of the FCA's 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
Senior Management Arrangements, Systems and Controls sourcebook (SYSC)	Annex B
General Provisions (GEN)	Annex C
Fees manual (FEES)	Annex D
Prudential sourcebook for Banks, Building Societies and Investment Firms (BIPRU)	Annex E
Prudential sourcebook for Insurers (INSPRU)	Annex F
Mortgages and Home Finance: Conduct of Business sourcebook (MCOB)	Annex G
Market Conduct sourcebook (MAR)	Annex H
Supervision manual (SUP)	Annex I
Consumer Redress Schemes sourcebook (CONRED)	Annex J
Compensation sourcebook (COMP)	Annex K
Listing Rules sourcebook (LR)	Annex L

Amendments to the material outside the Handbook

- E. The Building Societies Regulatory Guide (BSOG) is amended in accordance with Annex M to this instrument.

Notes

- F. In Annex L (LR) to this instrument, the "note" (indicated by "**Note:**") is included for the convenience of readers but does not form part of the legislative text.

Citation

- G. This instrument may be cited as the Handbook Administration (No 30) Instrument 2013.

By order of the Board of the Financial Conduct Authority
27 June 2013

Annex A

Amendments to the Glossary of definitions

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

<i>asset backed security</i>	(as defined in the <i>PD Regulation</i>) securities <u>securities</u> which: ...
<i>class</i>	<p>(A) In the FCA Handbook <u>FCA Handbook</u>:</p> <p>...</p> <p>(5) (in <i>FEES</i>) one of the broad classes to which <i>FSCS</i> allocates levies as described in <i>FEES</i> 6.4.7AR, <i>FEES</i> 6.5.6AR and <i>FEES</i> 6 Annex 3AR.</p> <p>...</p>
<i>depository</i>	<p>...</p> <p>(2) (in <i>LR</i>) a <i>person</i> that issues <i>certificates representing certain securities</i> that have been <i>admitted to listing</i> or are the subject of an application for <i>admission to listing</i>.</p>
<i>financial adviser</i>	<p>(a) an individual appointed by an independent intermediary or by its appointed representative or where applicable, tied agent, to provide any or all of the following services:</p> <ul style="list-style-type: none"> (i) giving advice on investments to clients; (ii) arranging (bringing about) deals in investments or executing transactions involving, in each case, designated investments with or for clients; (iii) managing investments; (iv) receiving or holding client money or other client assets; (v) safeguarding and administering investments. <p>(b) For the purposes of this definition, an independent intermediary is a <i>firm</i> acting as an intermediary but excluding:</p> <ul style="list-style-type: none"> (i) a <i>firm</i> which is a member of a <i>marketing group</i>; (ii) a <i>product provider</i> which sells its own <i>packaged products</i>.

<i>in the money</i>	(1) (in <i>LR</i>) (in relation to securitised derivatives <u>securitised derivatives</u>):
<i>investment trust</i>	a <i>company listed</i> in the <i>United Kingdom</i> or another <i>EEA State</i> which: <ul style="list-style-type: none"> (a) is approved by the Commissioners for HM Revenue and Customs under section 842 of the Income and Corporation Taxes Act 1988 <u>or section 1158 and 1159 of the Corporation Tax Act 2010</u> (or, in the case of a newly formed <i>company</i>, has declared its intention to conduct its affairs so as to obtain such approval); or (b) is resident in an <i>EEA State</i> other than the <i>United Kingdom</i> and would qualify for such approval if resident and listed in the <i>United Kingdom</i>.
<i>long-term incentive scheme</i>	(in <i>LR</i>) any arrangement (other than a retirement benefit plan, a deferred bonus or any other arrangement that is an element of an executive <i>director's</i> remuneration package) which may involve the receipt of any asset (including cash or any security <u>security</u>) by a <i>director</i> or <i>employee</i> of the <i>group</i> : ...
<i>Model Code</i>	The Model Code on directors' <u>directors'</u> dealings in securities <u>securities</u> set out in <i>LR 9 Annex 1R</i> .
<i>regulated activity</i>	(A) in the <i>PRA Handbook</i>: (in accordance with section 22 of the <i>Act</i> (Regulated activities)) any of the following activities specified in Part II of the <i>Regulated Activities Order</i> (Specified Activities): ... (ta) <u>providing information in relation to a specified benchmark;</u> (tb) <u>administering a specified benchmark;</u> (u) <u>agreeing to carry on a regulated activity</u> (article 64); which is carried on by way of business and, <u>except for (ta) and (tb)</u> , relates to a <i>specified investment</i> applicable to that activity or, in the case of (l), (m), (n) and (o), is carried on in relation to property of any kind. (B) in the <i>FCA Handbook</i>: as in (A) with the addition of: (ta) providing information in relation to a specified benchmark;

(tb) ~~administering a specified benchmark;~~

~~which is carried on by way of business and, except for (ta) and (tb), relates to a specified investment applicable to that activity or, in the case of (l), (m), (n) and (o), is carried on in relation to property of any kind.~~

sponsor service

a service relating to a matter referred to in LR 8.2 that a *sponsor* provides or is requested or appointed to provide, including preparatory work that a *sponsor* may undertake before a decision is taken as to whether or not it will act as *sponsor* for a *listed company* or *applicant* or in relation to a particular transaction, and including all the *sponsor's* communications with the ~~FSA~~ FCA in connection with the service. But nothing in this definition is to be taken as requiring a *sponsor* when requested to agree to act as a *sponsor* for a *company* or in relation to a transaction.

trading day

...

(2) ~~other than in (1) or (3), a day included in the calendar of trading days published by the appropriate regulator at www.fsa.gov.uk.~~

...

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

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

[*Editor's Note:* The changes to 10.2.3G confirm the changes which have already been partly made administratively to this provision.]

Control of information

- 10.2.3 G SYSC 10.2.2R is made under section 137P of the *Act* (Control of information ~~rules~~ rules). It has the following effect:
- (1) acting in conformity with SYSC 10.2.2R(1) provides a defence against proceedings brought under ~~section 397(2) or (3) of the *Act* (Misleading statements and practices) — see section 397(4) and (5) (e); sections 89(2) and 90(1) of the Financial Services Act 2012 (Misleading statements and Misleading impressions) - see sections 89(3)(b) and 90(9)(c);~~

...

Annex C

Amendments to the General Provisions (GEN)

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

4.3 Letter disclosure

...

- 4.3.2B G For a *UK domestic firm* that is a *PRA-authorised person*, the required disclosure in *GEN 4 Annex 1AR* is "Authorised by the Prudential Regulation Authority and regulated by the Financial Conduct Authority and the Prudential Regulation Authority".

Annex D

Amendments to the Fees manual (FEES)

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

Late Payments

...

2.2.2 G The *FCA*, (for *FCA* and *PRA* periodic fees, *FOS* and *FSCS* levies and *CFEB* levies), ~~expect~~ expects to issue invoices...

Recovery of Fees

2.2.3 G Paragraphs 23(8) and 27 of Schedule 1ZA and paragraphs 31(7) and 35 of Schedule 1ZB to the *Act* permit the *FCA* and *PRA* respectively to recover fees (including, in respect of the *FCA*, fees relating to *payment services*)

...

...

3 Annex 9 Special Project Fee for restructuring

...	
(8) R	No <u>Subject to <i>FEES</i> TP 8.1, no</u> SPFR is payable to an <i>appropriate regulator</i> :
	...
(9) R	The SPFR for the <i>appropriate regulator</i> is calculated as follows:
	(a) Determine the number of hours, or part of an hour, taken by the <i>appropriate regulator</i> , or, if applicable, both the <i>FCA</i> and <i>PRA</i> <u>under <i>FEES</i> TP 8.1</u> , in relation to the regulatory work conducted...
	...
...	

...

Time of payment

4.3.6 G ...

(5A) (In relation to *PRA-authorized persons* only) paragraphs (1A) and (2) do not apply to any Solvency 2 Special Project fee or Solvency 2 Implementation fee (as defined in *FEES* 4 Annex 2BR) and such fees are not taken into account for the purposes of the split in (1A). Instead any Solvency 2 Special Project fee or Solvency 2

Implementation fee is payable on the date specified in (1A)(b) or (2) (depending on which applies to the rest of its periodic fee) or any earlier date required by (3) or (4).

...

...

**4 Annex 12G Guidance on the calculation of tariffs set out in FEES 4 Annex 1AR
Part 3 and FEES 4 Annex 1BR Part 3**

...

...

**TP 8 Transitional provisions relating to FEES 3 Annex 9R and FEES 4.3.6R
taking effect in 2013/14**

(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
...					
8.1.3	FEES 3 Annex 9R	R	In relation to the kind of special project fee specified in FEES TP 8.1.1R, where one of the events referred to in FEES 3 Annex 9R(2) or (9)(b) <u>(6)(b)</u> had occurred: ...	From 1 April 2013 indefinitely	1 April 2013
...					

Annex E

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

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

1.3 Applications for advanced approaches and waivers

...

Waiver – general

1.3.10 G As explained in *SUP 8*, under ~~sections~~ section 138A and 138B of the *Act*, the *appropriate regulator* may not grant a *waiver* to a *firm* unless it is satisfied that:

- (1) compliance by the *firm* with the *rules*, or with the *rules* as modified, 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 any of the *appropriate regulator's* objectives.

...

2.2 Internal capital adequacy standards

...

Failure to meet individual capital guidance and monitoring and reporting on the capital planning buffer

...

2.2.23C G Where a *firm's capital planning buffer* is being drawn down due to circumstances other than those referred to in *BIPRU 2.2.23G*, such as poor planning or mismanagement, the *appropriate regulator* may ask the *firm* for more detailed plans for it to restore its *capital planning buffer*. In the light of the relevant circumstances, the *appropriate regulator* may consider taking other remedial actions, which may include using its powers under section 55J of the *Act* to vary on its own initiative a *firm's Part 4A permission* 55L (in the case of the *FCA*) or section 55M (in the case of the *PRA*) of the *Act* to impose on its own initiative such requirements on a *firm* as it considers appropriate.

...

3.4.28 G An *exposure* to a *multilateral development bank* listed in point (4) (a) of

the definition in the *Glossary* must be assigned a 0% *risk weight*.

...

- 7.10.47 G This paragraph provides *guidance* on *BIPRU* 7.10.46R~~(3)~~(2). Take as an example a *VaR model* based on a factor model or on a historical simulation model. The ability of the model to explain price variation could be demonstrated by a statistical comparison over the same period of time between actual price changes on the portfolio and the profit and loss impact of risk factors included within the model. A *firm* may wish to include an estimate of residual variation not explained by the model.

Annex F**Amendments to the Prudential sourcebook for Insurers (INSPRU)**

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

7.1 Application

...

7.1.3A G ... In particular:

...

- (2) certain *rules* and *guidance* in *INSPRU* 7.1 are also made by the *FCA* for the purpose of their application to *dormant account fund operators*. ...

Annex G

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

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

6.5 Mortgages: information to be provided in the offer document or separately

...

Distance contracts with retail customers

6.5.6 R If a *firm* makes an offer to a *consumer* with a view to *entering into a regulated mortgage contract* which is a *distance contract*, it must provide the *consumer* with the following information with the *offer document*:

...

(4) if not provided previously:

(a) ...

(b) (i) ~~confirmation that the mortgage lender is authorised and regulated by the FCA~~ an appropriate status disclosure statement (compliant with GEN 4) for the mortgage lender;

...

Annex H

Amendments to the Market Conduct sourcebook (MAR)

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

2.1 Application and Purpose

Application

...

2.1.2 G This chapter is available to every *person* who wishes to show that he acted in conformity with:

...

- (4) the *price stabilising rules*, for the purposes of ~~section 397(4) or (5)(b) of the Act (Misleading statements and practices)~~ section 90(9)(b) (Misleading impressions) or section 91(4)(a) (Misleading statements etc in relation to benchmarks) of the Financial Services Act 2012.

Annex I**Amendments to the Supervision manual (SUP)**

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

Variation of permission involving insurance business

...

- 6.3.12 G In applying to vary its *Part 4A permission* to add categories of *specified investments*, in relation to *insurance business*, a *firm* carrying on *insurance business* will need to determine the *classes* of *specified investments* relating to *effecting* and *carrying out contracts of insurance* for which variation of *Part 4A permission* will be necessary, having regard to whether certain *classes* of contract may qualify to be effected or carried out on an ancillary or supplementary basis (~~see SUP 3.12.6G to SUP 3.12.12G~~).

Annex J

Amendments to the Consumer Redress Schemes sourcebook (CONRED)

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

2 Annex 13 CF Arch cru funds template instructions

...		
10		Redress Section
...		
10.4	R	Take the following steps in each redress case:
		...
		(4) submit a redress calculation request to the <i>FCA</i> following the instructions at 10.13R, above <u>below</u> .
...		

Annex K

Amendments to the Compensation sourcebook (COMP)

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

Sch 1 Record-keeping requirements

...

Sch 1.2G

Handbook reference	Subject of record	Contents of record	When record must be made	Retention Period
...				
<i>COMP</i> 10.2.10 R(3)	Potential claimants for whom the separate limit under <i>COMP</i> 10.2.10R(2) applies	Sufficient details to enable the identification of claimants for whom the separate limit under <i>COMP</i> 10.2.10R(2) applies	As implicit from the <i>rules in COMP</i>	As implicit from the <i>rules in COMP</i>
<i>COMP</i> 10.2.11R	Potential claimants for whom the separate limit under <i>COMP</i> 10.2.11R(2) applies	Sufficient details to enable the identification of claimants for whom the separate limit under <i>COMP</i> 10.2.10R(2) applies	As implicit from the <i>rules in COMP</i>	As implicit from the <i>rules in COMP</i>

Annex L

Amendments to the Listing Rules sourcebook (LR)

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

Appendix 1 Relevant definitions

Amend the following definitions as shown.

<i>associate</i>	<p>...</p> <p>(3) any <i>company</i> in whose <i>equity securities</i> the individual or any member or members (taken together) of the individual's family or the individual and any such member or members (taken together) are directly or indirectly interested (or have a conditional or contingent entitlement to become interested) so that they are (or would on the fulfilment of the condition or the occurrence of the contingency be) able:</p> <p>...</p> <p>(b) to appoint or remove directors <u>directors</u> holding a majority of voting rights at board meetings on all, or substantially all, matters;</p> <p>...</p>
<i>convertible securities</i>	<p>a <i>security</i> which is:</p> <p>...</p> <p>(2) accompanied by a warrant <u>warrant</u> or option <u>option</u> to subscribe for or purchase other <i>securities</i>.</p>
<i>depository</i>	<p>a <i>person</i> that issues <i>certificates representing certain securities</i> that have been admitted to listing <u>admitted to listing</u> or are the subject of an application for <i>admission to listing</i>.</p>
<i>investment trust</i>	<p>a <i>company listed</i> in the <i>United Kingdom</i> or another <i>EEA State</i> which:</p> <p>(a) is approved by the Inland Revenue Commissioners <u>Commissioners for HM Revenue and Customs</u> under section 842 of the Income and Corporation Taxes Act 1988 ...</p> <p>...</p>
<i>issuer</i>	<p>any <i>company</i> or other legal person or undertaking (including a <i>public sector issuer</i>), any <i>class</i> of whose <i>securities</i> has been admitted to <u>admitted</u></p>

	<i>to listing</i> or is the subject of an application for <i>admission</i> to <i>to listing</i> .
<i>OECD state guaranteed issuer</i>	an <i>issuer</i> of <i>debt securities</i> whose obligations in relation to those <i>securities</i> <i>securities</i> have been guaranteed by a member state of the <i>OECD</i> .
<i>open-ended investment company</i>	...
<i>prohibited period</i>	as defined in <u>by paragraph 1(e) of the Model Code</u> .
<i>property company</i>	a <i>company</i> primarily engaged in property <i>property</i> activities including: ...
<i>prospectus rules</i>	(as defined in section 73A(4) of the <i>Act</i>) <i>rules</i> expressed to relate to transferable securities <i>transferable securities</i> .
<i>regulated market</i>	(1) a multilateral system operated and/or managed by a <i>market operator</i> , which brings together or facilitates the bringing together of multiple third-party buying and selling interests in <i>financial instruments</i> = in the system and in accordance with its non-discretionary rules = in a way that results in a contract, in respect of the <i>financial instruments</i> admitted to trading under its rules and/or systems, and which is authorised and functions regularly and in accordance with the provisions of Title III of <i>MiFID</i> . <u>[Note: article 4(1)(14) of <i>MiFID</i>]</u> ...
<i>Schedule schedule</i>	(as defined in the <i>PD Regulation</i>) a list of minimum information requirements ...
<i>securitised derivative</i>	an <i>option</i> or <i>contract for differences</i> which, in either case, is <i>listed</i> under <i>LR 19</i> (including such an <i>option</i> or contract for differences <i>contract for differences</i> which is also a <i>debenture</i>).
<i>sponsor service</i>	a service relating to a matter referred to in <i>LR 8.2</i> that a <i>sponsor</i> provides or is requested or appointed to provide, including preparatory work that a <i>sponsor</i> may undertake before a decision is taken as to whether or not it will act as <i>sponsor</i> for a <i>listed company</i> or <i>applicant</i> or in relation to a particular transaction, and including all the <i>sponsor's</i> communications with the <i>FSA</i> <i>FCA</i> in connection with the service. But nothing in this definition is to be taken as requiring a <i>sponsor</i> when requested to agree to act as a <i>sponsor</i> for a <i>company</i> or in relation to a transaction.
<i>trading day</i>	a day included in the calendar of trading days published by the <i>FCA</i> at www.fsa.gov.uk www.fca.org.uk .

Annex M

Amendments to the Building Societies Regulatory Guide (BSOG)

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

2.5 Confirmation

...

The Authority's Prudential regulator's decision

- 2.5.31 G The Prudential Regulator will not normally give an oral decision at the end of the hearing and may be expected to reserve its decision to be issued later in writing, setting out its reasons. Copies of the written decision will be sent to the participants and, on request, to any other person. The decision may also be published, and the Prudential Regulator usually asks the ~~registration team~~ FCA to place copies on the public files of the participating societies.

...

2.8 Timetable

...

- 2.8.4 G Notes:

...

- (4) Where the Prudential Regulator is the PRA it is under a statutory obligation to consult the FCA (~~see section 95(6A) of the 1986 Act~~) in respect of approval of the Transfer Statement and Confirmation. This consultation will take place within the above timetable.

...

3.8 Notification and Dissolution

...

- 3.8.5 G The society will be dissolved on the vesting date or on the later date for dissolution referred to in *BSOG* 3.8.2G, and its registration will subsequently be cancelled by the ~~FCA~~ FCA under the provisions of Section 103(1)(a) of the 1986 Act ~~having consulted the FCA~~ PRA.