

**EXITING THE EUROPEAN UNION: REGULATORY PROCESSES  
SOURCEBOOKS (AMENDMENTS) INSTRUMENT 2019**

**Powers exercised**

- A. The Financial Conduct Authority (“the FCA”) makes this instrument in the exercise of:
- (1) regulation 3 of The Financial Regulators’ Powers (Technical Standards etc.) (Amendment etc.) (EU Exit) Regulations 2018;
  - (2) the following powers and related provisions in or under the Financial Services and Markets Act 2000:
    - (a) section 139A (Power of the FCA to give guidance);
    - (b) section 395 (The [FCA’s and PRA’s] Procedures); and
  - (3) regulation 120 (guidance) of the Payment Services Regulations 2017.

**Commencement**

- B. This instrument comes into force on exit day as defined in the European Union (Withdrawal) Act 2018.

**Amendments to the Handbook**

- C. The Supervision manual (SUP) is amended in accordance with Annex A to this instrument.
- D. The Decision Procedure and Penalties manual (DEPP) is amended in accordance with Annex B to this instrument.

**Notes**

- E. In this instrument, notes shown as “**Note:**” are intended for the convenience of the reader but do not form part of the legislative text.

**Citation**

- F. This instrument may be cited as the Exiting the European Union: Regulatory Processes Sourcebooks (Amendments) Instrument 2019.

By order of the Board  
28 March 2019

## Annex A

### Amendments to the Supervision manual (SUP)

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

#### 1A The FCA’s approach to supervision

##### 1A.1 Application and purpose

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###### Purpose

- 1A.1.2 G The *Act* (section 1L) requires the *FCA* to “maintain arrangements for supervising authorised persons”. Section 1K of the *Act* also requires the *FCA* to provide general *guidance* about how it intends to advance its operational objectives in discharging its general functions in relation to different categories of *authorised person* or *regulated activity*. One purpose of this *guidance* is to discharge the duties of the *FCA* set out in sections 1L and 1K of the *Act*. The *FCA*’s approach to supervision is also designed to enable it to meet its supervisory obligations in accordance with EU legislation, where applicable, including in relation to requirements arising otherwise than under the *Act* (for example, ~~directly applicable EU regulations~~ onshored regulations).

...

##### 1A.2 Introduction

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- 1A.2.2 G For a *firm* which undertakes business internationally (or is part of a *group* which does), the *FCA* will have regard to the context in which it operates, including the nature and scope of the regulation to which it is subject in jurisdictions other than the *United Kingdom*. For a *firm* with its head office outside the *United Kingdom*, the regulation in the jurisdiction where the head office is located will be particularly relevant. As part of its supervision of such a *firm*, the *FCA* will usually seek to cooperate with relevant *overseas regulators*, including exchanging information on the *firm*. ~~Different arrangements apply for an *incoming EEA firm*, an *incoming Treaty firm* and a *UCITS qualifier*. The arrangements applying for an *incoming EEA firm* and an *incoming Treaty firm* are addressed in SYSC Appendix 1. For *UCITS qualifiers* see also COLLG.~~

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#### 3 Auditors

### 3.1 Application

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#### Incoming firms

- 3.1.3 R ~~This chapter applies to an *incoming EEA firm* (and the auditor of such a *firm*) only if it has a *top-up permission*. [deleted]~~
- 3.1.4 G ~~The application of SUP 3.10 to the auditor of an *incoming EEA firm* with a *top-up permission* is qualified in SUP 3.10.3R. [deleted]~~
- 3.1.5 R ~~This chapter does not apply to an *incoming Treaty firm*, which:
 
  - (1) ~~does not have a *top-up permission*; and~~
  - (2) ~~is not required to comply with the *client asset rules*. [deleted]~~~~
- 3.1.6 G ~~The application of SUP 3.7 to an *incoming Treaty firm* or an auditor of such a *firm* is further qualified in SUP 3.7.1G. [deleted]~~

...

### 3.7 Notification of matters raised by auditor

#### Application

- 3.7.1 G ~~SUP 3.7 does not apply to an *incoming Treaty firm* which does not have a *top-up permission*. [deleted]~~

...

### 3.10 Duties of auditors: notification and report on client assets

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- 3.10.3 R ~~SUP 3.10.5R(3) does not apply to an auditor of a *lead regulated firm* or an *incoming EEA firm*. [deleted]~~

...

## 4 Actuaries

### 4.1 Application

...

- 4.1.3 R Applicable sections

(1)	Category of firm	(2) Applicable sections or rules

(1)	A long-term insurer, other than:		SUP 4.1, SUP 4.2, SUP 4.3 and SUP 4.5
	(a)	...	
	(b)	an incorporated friendly society that is a flat rate benefits business friendly society; <u>and</u>	
	(c)	an incoming EEA firm; and <u>[deleted]</u>	
	(d)	...	
...			

...

## 6 Applications to vary and cancel Part 4A permission and to impose, vary or cancel requirements

### 6.1 Application, interpretation and purpose

...

- 6.1.3 G This chapter applies to an incoming firm or a UCITS qualifier only in respect of a top-up permission. An incoming firm or a UCITS qualifier should refer to SUP 14 (Variation of passport rights by incoming EEA firms and ending authorisation) for the procedures for changes to permission granted under Schedules 3, 4 or 5 of the Act. [deleted]

...

### 6.2 Introduction

...

#### ~~UK firms exercising EEA or Treaty rights~~

- 6.2.12 G A UK firm should assess the effect of any change to its Part 4A permission, or any requirements, on its ability to continue to exercise any EEA right or Treaty right and discuss any concerns with its appropriate supervisory contact(s). This may also change the applicable provisions with which it is required to comply by a Host State. [deleted]
- 6.2.13 G A UK firm which, as well as applying to vary or cancel its Part 4A permission, wishes to vary or terminate any business which it is carrying on in another EEA State under one of the Single Market Directives, should follow the procedures in SUP 13 (Exercise of passport rights by UK firms) on varying or terminating its branch or cross border services business. [deleted]

...

### 6.3 Applications for variation of permission and/or imposition, variation or cancellation of requirements

...

- 6.3.3 G In applying for a variation of *Part 4A permission*, a branch of a *firm* from outside the ~~EEA~~ UK should be mindful of any continuing requirements referred to in the rest of the *Handbook*.

...

- 6.3.6 G If a *firm* is seeking a variation of *Part 4A permission* to add categories of *regulated activities*, it should be mindful of the ~~directive~~ requirements referred to at *SUP 6.3.42G* relating to the need to commence new activities within 12 months.

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## 7 Individual requirements

### 7.1 Application and purpose

Application

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- 7.1.2 R ~~The application of this chapter to an *incoming EEA firm*, *incoming Treaty firm* or *UCITS qualifier* with a *Part 4A permission* (a "*top-up permission*") is limited as explained in *SUP 7.2.4G*. [deleted]~~

...

### 7.2 The FCA's powers to set individual requirements and limitations on its own initiative

...

- 7.2.4 G The *FCA* may use its *own-initiative powers* only in respect of a *firm's Part 4A permission*; that is, a *permission* granted to a *firm* under sections 55E or 55F of the *Act* (Giving permission) or having effect as if so given. ~~In respect of an *incoming EEA firm*, an *incoming Treaty firm*, or a *UCITS qualifier*, this power applies only in relation to any *top-up permission* that it has. There are similar but more limited powers under Part XIII of the *Act* in relation to the *permission* of an *incoming EEA firm* or *incoming Treaty firm* under Schedules 3 or 4 to the *Act* (see *EG 8.26* to *EG 8.27*).~~

...

## 11 Controllers and close links

## 11.1 Application

Application to firms

- 11.1.1 R This chapter applies to every *firm* except:
- (1) an *ICVC*;
  - (2) ~~an *incoming EEA firm*; [deleted]~~
  - (3) ~~an *incoming Treaty firm*; [deleted]~~
  - (5) a *sole trader*;
  - (6) ~~a *UCITS qualifier*; [deleted]~~
  - (7) a *UK ISPV*;
  - (8) a *firm* which only has *permission* for *administering a benchmark*,
- as set out in the table in *SUP* 11.1.2R.

...

## 11.2 Purpose

...

- 11.2.7 G The requirements in *SUP* 11 ~~implement~~ implemented certain provisions relating to changes in *control* and *close links* which were required under the *Single Market Directives*.

...

## 11.3 Requirements on controllers or proposed controllers under the Act

...

- 11.3.14 G ~~Pursuant to section 188 of the Act (Assessment: consultation with EC competent authorities), the *appropriate regulator* is obliged to consult any *appropriate Home State regulator* before making a determination under section 185 of the Act (Assessment: general). [deleted]~~

...

## 11.5 Notifications by firms

...

- 11.5.4 G *Firms* are reminded that a change in *control* may give rise to a change in the *group companies* to which the *appropriate regulator's* consolidated financial supervision requirements apply. Also, the *firm* may for the first time become subject to the *appropriate regulator's* requirements on

consolidated financial supervision (or equivalent requirements imposed by another *EEA State*). This may apply, for example, if the *controller* is itself an authorised *undertaking*. The *appropriate regulator* may therefore request such a *firm*, *controller* or proposed *controller* to provide evidence that, following the change in *control*, the *firm* will meet the requirements of these *rules*, if appropriate.

...

## 11.7 Acquisition or increase of control: assessment process and criteria

...

- 11.7.13 G Before making a determination under section 185 or giving a *warning notice* under section 191A, the *appropriate regulator* must comply with the requirements as to consultation with ~~EC competent authorities set out in section 188 of the Act~~ and with the other regulator set out in sections 187A, 187B and 191A of the *Act*, as applicable.

...

## 11.8 Changes in the circumstances of existing controllers

- 11.8.1 R A *firm* must notify the *appropriate regulator* immediately it becomes aware of any of the following matters in respect of one or more of its *controllers*:

...

- (3) if a corporate *controller* undergoes a substantial changes or series of changes in its governing body;
- (4) if a *controller*, who is authorised in another *EEA State* as a *MiFID investment firm*, *CRD credit institution* or *UCITS management company* or under the *Solvency II Directive* or the *IDD*, ceases to be so authorised (registered in the case of an *IDD insurance intermediary*). ~~[deleted]~~

...

## 12 Appointed representatives

### 12.1 Application and purpose

General application

- 12.1.1 R ...

- (1A) This chapter applies to a ~~UK MiFID investment firm~~ MiFID investment firm which is considering appointing, has decided to appoint or has appointed an ~~EEA tied agent~~ FCA registered tied agent.

...

- (2) ~~This chapter does not apply to a *UCITS* qualifier. [deleted]~~
- (3) ~~This chapter does not apply in relation to a *tiered agent* acting on behalf of an *EEA MiFID investment firm* unless that *tiered agent* is established in the *UK*. [deleted]~~

#### Territorial application: compatibility with EU law

- 12.1.1A R (1) ~~The territorial scope of *SUP 12* is modified to the extent necessary to be compatible with *EU* law (see *SUP 12.1.1BG* and *12.1.1CG* for guidance on this). [deleted]~~
- (2) ~~This rule overrides every other rule in this chapter. [deleted]~~
- 12.1.1B G ~~For a *UK MiFID investment firm*, in our view, rules in this chapter that are within the scope of *MiFID* apply to its *MiFID business* carried on from an establishment in the *United Kingdom* or another *EEA State*. [deleted]~~
- ~~[Note: articles 34(1) and 35(1) and (8) of *MiFID*]~~
- 12.1.1C G ~~For an *EEA MiFID investment firm*, in our view, rules in this chapter that are within the scope of *MiFID* apply only to its *MiFID business* to the extent they relate to the knowledge and competence of one or more of its *UK tiered agents*. An *EEA MiFID investment firm* should complete the Appointed representative appointment form in *SUP 12 Annex 3R* when appointing a *UK tiered agent* to carry on *MiFID business* on its behalf. [deleted]~~
- ~~[Note: article 29(3) of *MiFID*]~~

#### Interaction of SUP 12 and other modules in relation to MiFID business

- 12.1.1D G In addition to those rules in *SUP 12* relating to the *MiFID business* of appointed representatives and tiered agents, there are other *MiFID* obligations derived from *MiFID* in the *Handbook* relevant to the knowledge and competence of tiered agents and related compliance obligations (see *SYSC 5.1*, *TC* and *FIT* (in respect of appointed representatives that are approved persons)). These provisions are subject to the territorial application requirements in their respective chapters.

...

- 12.1.5 G This chapter also sets out:
- (1) guidance about section 39A of the Act, which is relevant to a *UK MiFID investment firm* *MiFID investment firm* that is considering appointing an *FCA registered tiered agent*; and
  - (2) the *FCA's* rules, and guidance on those rules, in relation to the appointment of:



- (a) ~~an EEA tied agent FCA registered tied agent~~ by a ~~UK MiFID investment firm~~ MiFID investment firm;

...

## 12.2 Introduction

...

Business for which an appointed representative is exempt

- 12.2.7 G (1) The *Appointed Representatives Regulations* are made by the Treasury under sections 39(1), (1C) and (1E) of the *Act*. These regulations describe, among other things, the business for which an *appointed representative* may be exempt or to which sections 20(1) and (1A) and 23(1A) of the *Act* may not apply, which is business which comprises any of:

...

- (aa) ~~bidding in emissions auctions (article 24A of the Regulated Activities Order) where that activity does not consist either of dealing on own account or the execution of orders on behalf of clients;~~ [deleted]

...

...

...

What is a tied agent?

- 12.2.16 G ...

- (3) This chapter sets out the provisions which apply to *tied agents*:

- (a) ~~established in the UK;~~ or  
 (b) ~~established in another EEA State and~~ appointed by a ~~UK MiFID investment firm~~ MiFID investment firm.

- (4) ~~A tied agent appointed by a firm to carry on investment services and activities or ancillary services on its behalf may not provide cross border services or establish a branch in another EEA State in its own right. This is because tied agents do not have passporting rights. The tied agent of a MiFID investment firm may, however, provide cross border services or establish a branch in another EEA State by availing itself of the appointing firm's passport. MiFID investment firms may also appoint tied agents established in different EEA States.~~ [deleted]

- (5) A *tied agent* will not be an *appointed representative* if it does not and is not likely to conduct any business as a *tied agent* in the UK. If such Such a *tied agent* is appointed by a UK MiFID investment firm it will be an ~~EEA tied agent~~ FCA registered tied agent. ~~EEA tied agents are either FCA registered tied agents or EEA registered tied agents.~~

...

- (7) ~~Under MiFID, a tied agent must be registered with the competent authority of the EEA State in which it is established. A UK MiFID investment firm~~ MiFID investment firm may appoint a *tied agent* established in the UK but that does not, and is not likely to, conduct any business as a *tied agent* in the UK. That *tied agent* must be registered with the FCA. Such an ~~EEA tied agent~~ a tied agent is referred to in the *Handbook* as an *FCA registered tied agent*.

- (8) ~~If a UK MiFID investment firm appoints a tied agent established in an EEA State other than the UK, the tied agent must be registered with the competent authority of the EEA State in which it is established. Such an EEA tied agent is referred to in the Handbook as an EEA registered tied agent. [deleted]~~

What is a MiFID optional exemption appointed representative?

12.2.17 G ...

- (3) The *rules* in this chapter which apply with respect to ~~UK~~ *tied agents* appointed by ~~UK~~ *firms* also apply to a *firm* that appoints a *MiFID optional exemption appointed representative*.

What is a structured deposit appointed representative?

12.2.18 G (1) If a *MiFID investment firm* or a *third country investment firm* appoints a *person* to act under its full and unconditional responsibility but only for the purpose of selling, or advising *clients* in relation to, *structured deposits* (and not any of the activities within ~~article 4(1)(29) of MiFID~~ section 39(7) of the Act), that *person* will not be a *tied agent* in respect of that activity.

...

- (3) The *rules* in this chapter which apply with respect to ~~UK~~ *tied agents* appointed by ~~UK~~ *firms* also apply to a *firm* that appoints a *structured deposit appointed representative*.

### 12.3 What responsibility does a firm have for its appointed representatives or EEA FCA registered tied agents?

Responsibility for appointed representatives

12.3.1 G In determining whether a *firm* has complied with:

...

(3) any qualifying *EU* provision specified, or of a description specified, for the purpose of section 39(4) of the *Act* by the Treasury by order,

anything that an *appointed representative* has done or omitted to do as respects the business for which the *firm* has accepted responsibility will be treated as having been done or omitted to be done by the *firm* (section 39(4) of the *Act* and article 17 of the *MCD Order*).

...

Responsibility for ~~EEA~~ FCA registered tied agents

12.3.5 R ~~A UK MiFID investment firm must not appoint an EEA registered tied agent or allow such an agent to continue to act for it unless it accepts or has accepted responsibility in writing for the agent's activities in acting as its EEA registered tied agent. [deleted]~~

[~~Note: paragraph 1 of article 29(2) of MiFID~~]

12.3.6 G The effect of section 39A(6)(b) of the *Act* is to prohibit a ~~UK MiFID investment firm~~ MiFID investment firm from appointing an *FCA registered tied agent* unless it has accepted responsibility in writing for the agent's activities in acting as a *tied agent*.

**12.4 What must a firm do when it appoints an appointed representative or an ~~EEA~~ FCA registered tied agent?**

...

Appointment of an FCA registered tied agent

12.4.11 R If a ~~UK MiFID investment firm~~ MiFID investment firm appoints an *FCA registered tied agent*, SUP 12.4.2R and SUP 12.4.2AR apply to that *firm* as though the *FCA registered tied agent* were an *appointed representative*.

[~~Note: paragraphs 2 and 3 of article 29(3) of MiFID~~]

Tied agents

12.4.12 G (1) A *tied agent* that is an *appointed representative* may not start to act as a *tied agent* until it is included on the applicable register (section 39(1A) of the *Act*). ~~If the tied agent is established in the UK, the~~ The register maintained by the *FCA* is the applicable register for these purposes. ~~If the tied agent is established in another EEA State, the applicable register is that maintained by the competent authority in the EEA State in which the tied agent is established.~~

- (2) A ~~UK MiFID investment firm~~ MiFID investment firm that appoints an *FCA registered tied agent* who is not registered with the *FCA* will, subject to certain conditions, be taken to have contravened a requirement imposed on it by or under the *Act* (see section 39A(6)(c) and (d) of the *Act*).
- (3) ~~A UK MiFID investment firm that appoints an EEA registered tied agent will be required to register that agent with the competent authority of the EEA State in which it is established. This requirement will be imposed by the rules of that EEA State. [deleted]~~
- (4) ~~If the tied agent is not established in the UK and is appointed by an EEA MiFID investment firm, it cannot commence acting as a tied agent until it is included on the public register of tied agents in the EEA State in which it is established. [deleted]~~

...

...

## 12.5 Contracts: required terms

...

12.5.2 G ...

- (1A) ~~The requirement described in paragraph (1) does not apply if the firm is an EEA MiFID investment firm. [deleted]~~

...

12.5.2A G If:

- (1) a ~~UK MiFID investment firm~~ MiFID investment firm or a *third country investment firm* appoints an *appointed representative* that is a *tied agent* or a *MiFID optional exemption appointed representative*, regulation 3(6) of the *Appointed Representatives Regulations* requires the contract between the *firm* and the *appointed representative* to contain a provision that the representative is only permitted to provide the services and carry on the activities referred to in article 4(1)(29) of *MiFID* section 39(7) of the Act while entered on the Register.

...

...

Required contract terms for EEA FCA registered tied agents

- 12.5.8 R If a ~~UK MiFID investment firm~~ MiFID investment firm appoints an ~~EEA tied agent~~ FCA registered tied agent, SUP 12.5.6AR(1A) applies to that *firm* as though the ~~EEA tied agent~~ FCA registered tied agent were an *appointed*

*representative.*

[**Note:** articles 4(1)(29) and 29(1) of *MiFID*]

Required contract terms for FCA registered tied agents

- 12.5.9 G Under section 39A(6)(a) of the *Act* a ~~*UK MiFID investment firm*~~ *MiFID investment firm* must ensure that the contract it uses to appoint an *FCA registered tied agent* complies with the requirements that would apply under the *Appointed Representatives Regulations* if it were appointing an *appointed representative*.

...

## 12.6 **Continuing obligations of firms with appointed representatives or EEA FCA registered tied agents**

...

- 12.6.1A R A *firm* that is a *principal* of a *tied agent* that is an *appointed representative* must monitor the activities of that *tied agent* so as to ensure the *firm* complies with obligations ~~imposed under~~ derived from *MiFID* (or equivalent obligations relating to the *equivalent business of a third country investment firm*) when acting through that *tied agent*.

[**Note:** paragraph 3 of article 29(2) of *MiFID*]

- 12.6.1B R A *firm* that is a *principal* of an *appointed representative* that carries on *MCD credit intermediation activity* must monitor the activities of that *appointed representative* to ensure compliance with obligations ~~imposed under~~ derived from the *MCD* (including those in *MCOB* and *TC*).

[**Note:** article 31(3) of the *MCD*]

...

Continuing obligations of firms with ~~EEA~~ FCA registered tied agents

- 12.6.15 R If a ~~*UK MiFID investment firm*~~ *MiFID investment firm* appoints an ~~*EEA tied agent*~~ *FCA registered tied agent*, *SUP* 12.6.1R, *SUP* 12.6.1AR, *SUP* 12.6.5R and *SUP* 12.6.11AR apply to that *firm* as though the ~~*EEA tied agent*~~ *FCA registered tied agent* were an *appointed representative*.

Continuing obligations of firms with *MiFID* optional exemption appointed representatives or structured deposit appointed representatives

- 12.6.15 R If a *firm* appoints a *MiFID optional exemption appointed representative* or a  
A *structured deposit appointed representative*, that *firm* must:
- (1) monitor the activities of the *appointed representative* to ensure that the *firm* complies with those obligations which ~~implement~~ implemented provisions of *MiFID* and to which it is subject when

acting through its *appointed representative*;

...

- 12.6.15 G In *SUP* 12.6.15AR(1), the obligations which ~~implement~~ implemented  
B relevant provisions of *MiFID* to which a *firm* is subject include:
- (1) in the case of a *MiFID optional exemption firm* appointing a *MiFID optional exemption appointed representative*, those conduct requirements which are ~~imposed pursuant to~~ derived from article 3(2) of *MiFID*; and
  - (2) in the case of a *firm* appointing a *structured deposit appointed representative*, those requirements which are ~~imposed pursuant to~~ derived from article 1(4) of *MiFID*.

...

## 12.7 Notification requirements

...

Notifications relating to ~~EEA~~ FCA registered tied agents

- 12.7.9 R If a ~~UK MiFID investment firm~~ MiFID investment firm appoints an ~~EEA tied agent~~ FCA registered tied agent this section applies to that *firm* as though the ~~EEA tied agent~~ FCA registered tied agent were an *appointed representative*.

...

## 12.8 Termination of a relationship with an appointed representative or ~~EEA~~ FCA registered tied agent

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Termination of a ~~UK~~ MiFID investment firm's relationship with an ~~EEA~~ FCA registered tied agent

- 12.8.6 R If a ~~UK MiFID investment firm~~ MiFID investment firm has appointed an ~~EEA tied agent~~ FCA registered tied agent this section applies to that *firm* as though the ~~EEA tied agent~~ FCA registered tied agent were an *appointed representative*.

## 12.9 Record keeping

...

Record keeping in relation to ~~EEA~~ FCA registered tied agents

- 12.9.5 R If a ~~UK MiFID investment firm~~ MiFID investment firm appoints an ~~EEA tied agent~~ FCA registered tied agent this section applies to that *firm* as though

the ~~EEA tied agent~~ FCA registered tied agent were an appointed representative.

...

SUP 13 and the Annexes to SUP 13 are deleted in their entirety. The deleted text is not shown but is marked deleted as shown below.

### **13 Exercise of passport rights by UK firms** [deleted]

SUP 13A and the Annexes to SUP 13A are deleted in their entirety. The deleted text is not shown but the chapter is marked deleted as shown below.

### **13A Qualifying for authorisation under the Act** [deleted]

SUP 14 is deleted in its entirety. The deleted text is not shown but the chapter is marked deleted as shown below.

### **14 Incoming EEA firms changing details, and cancelling qualification for authorisation** [deleted]

Amend the following as shown.

## **15 Notifications to the FCA**

### **15.1 Application**

Who?

15.1.1 G This chapter applies to every *firm* except that:

(1) only SUP 15.10 applies to an *ICVC* ~~or a *UCITS* qualifier~~; and

...

15.1.2 R ~~The application of this chapter to an *incoming EEA firm* or an *incoming Treaty firm* is set out in SUP 15 Annex 1.~~ [deleted]

...

15.1.6 R ~~This chapter does not apply to an *incoming ECA provider* acting as such.~~ [deleted]

...

### **15.3 General notification requirements**

...

15.3.8 G Compliance with *Principle 11* includes, but is not limited to, giving the *FCA* notice of:

- (1) any proposed restructuring, reorganisation or business expansion which could have a significant impact on the *firm's* risk profile or resources, including, but not limited to:

...

- (f) a substantial change or a series of changes in the *governing body* of an *overseas firm* (~~other than an incoming firm~~); or

...

...

Breaches of rules and other requirements in or under the Act or the CCA

15.3.11 R (1) A *firm* must notify the *FCA* of:

...

- (d) a breach of a ~~directly~~ an applicable provision imposed by *MiFIR* or any onshored regulations which were previously ~~EU regulation~~ regulations adopted under *MiFID* or *MiFIR*; or

- (da) a breach of a ~~directly~~ an applicable provision in the ~~EU CRR~~ UK CRR or any ~~directly applicable regulations~~ onshored regulations which were previously ~~EU Regulations~~ made adopted under *CRD* or the *EU CRR*; or

...

- (ea) ~~a breach of a directly applicable provision in the auction regulation; or~~ [deleted]

...

- (h) a breach of any ~~directly~~ applicable onshored regulations which were previously ~~EU regulation~~ regulations made adopted under *AIFMD*; or

- (ha) a breach of the *benchmarks regulation* (apart from Annex II to that regulation) or of any ~~directly~~ applicable regulations ~~onshored regulations or requirements~~ which were previously EU regulations made or imposed under the EU benchmarks regulation; or



- (i) a breach of a ~~any directly~~ applicable onshored regulations which were previously ~~EU regulation made~~ EU regulations adopted under the *IDD*;
- ...
- ...
- 15.3.29 R ...
- (2) ...
- (b) the AIF is a ~~EuSEF~~ SEF or ~~EuVECA~~ RVECA (see *SUP* 15.3.31G).
- 15.3.30 D (1) ...
- (b)
- ...
- (ii) the AIF is a ~~EuSEF~~ SEF or ~~EuVECA~~ RVECA (see *SUP* 15.3.31G);
- 15.3.31 G A ~~EuSEF~~ SEF manager or a ~~EuVECA~~ RVECA manager should notify the *FCA* of the following changes in the following manner:
- ...
- (2) for changes to the jurisdiction in which its ~~EuSEF~~ SEF or ~~EuVECA~~ RVECA is marketed or to *market* a new ~~EuSEF~~ SEF or ~~EuVECA~~ RVECA, by using the form in *SUP* 15 Annex 6FG
- ...
- 15.3.35 G ...
- (2) Notification under *SUP* 15.3.32R is not sufficient to constitute an application for leniency or immunity from penalty in any subsequent investigation under Chapter 1 of the Competition Act 1998 ~~or article 101 of the Treaty~~.
- 15.4 Notified persons**
- 15.4.1 R (1) An ~~overseas firm, which is not an incoming firm,~~ must notify the *FCA* within 30 *business days* of any *person* taking up or ceasing to hold the following positions:
- ...
- ...

## 15.6 Inaccurate, false or misleading information

...

15.6.1A R *SUP* 15.6.1R also applies to all information given, or to be given, by a *firm* in accordance with any of the following:

- (1) ~~a directly~~ an applicable provision imposed by *MiFIR* or any onshored regulations which were previously or any EU regulation regulations adopted under *MiFID* or *MiFIR*; or

...

...

## 15.9 Notifications by members of financial conglomerates

...

15.9.4 R A *firm* does not have to give notice to the *FCA* under *SUP* 15.9.1R if it or another member of the *consolidation group* has already given notice of the relevant fact to:

...

- (3) (in the case of a *financial conglomerate* that does not yet have a *co-ordinator*) the *competent authority* who would be *co-ordinator* under ~~Article 10(2) of the *Financial Groups Directive* (Competent authority responsible for exercising supplementary supervision (the *co-ordinator*))~~ Regulation 1(2) of the *Financial Groups Directive Regulations*.

15.9.5 R (1) A *firm* must, at the level of the ~~EEA~~ financial conglomerate in the United Kingdom, regularly provide the *FCA* with details on the *financial conglomerate's* legal structure and governance and organisational structure, including all *regulated entities*, and non-regulated subsidiaries, ~~and significant branches.~~

- (2) A *firm* must disclose publicly, at the level of the ~~EEA~~ financial conglomerate in the United Kingdom, on an annual basis, either in full or by way of references to equivalent information, a description of the *financial conglomerate's* legal structure and governance and organisational structure.

- (3) For the purposes of (1) and (2), where a *firm* is a member of ~~an EEA~~ a financial conglomerate in the United Kingdom which is part of a wider ~~UK regulated EEA~~ financial conglomerate, reporting applies only at the level of the ~~EEA~~ parent mixed financial holding company or ultimate EEA mixed financial holding company.

...

**15.14 Notifications under the Payment Services Regulations**

...

15.14.20 D *Payment service providers* must comply with the *EBA's* Guidelines on incident reporting under the *Payment Services Directive* as issued on 27 July 2017 (EBA/GL/2017/10) where they are addressed to *payment service providers*.

15.14.21 D ...

(1) within the timescales and at the frequencies specified in the *EBA's* Guidelines on incident reporting under the *Payment Services Directive* (EBA/GL/2017/10);

...

15.14.22 ~~*Payment service providers* should note that article 16(3) of Regulation (EU) No 1093/2010 also requires them to make every effort to comply with the *EBA's* Guidelines on incident reporting under the *Payment Services Directive*. [deleted]~~

SUP 15 Annex 1R is deleted in its entirety. The deleted text is not shown but the annex is marked deleted as shown below.

**15**            **Application of SUP 15 to incoming EEA firms, incoming Treaty firms, EEA**  
**Annex**       **authorised payment institutions and EEA authorised electronic money**  
**1R**            **institutions [deleted]**

Amend the following as shown.

**15A Applications and notifications under EMIR****15A.1 Application and notifications under EMIR**

...

15A.1.3 G Where a *person* intends to rely on article 11~~(6), (7), (8), or (9) or (10)~~ for an exemption from the obligation to implement risk management procedures set out in article 11(3) of *EMIR*, the *person* should make their application or notification to the *FCA* in accordance with *EMIR requirements*, including (where relevant) those set out in the *EMIR technical standards on OTC derivatives and Part 5 (Transitional Provisions: Intragroup Transactions) of the Trade Repositories (EU Exit) Regulations*.

...

## 15B Applications and notifications under the benchmarks regulation and powers over Miscellaneous BM persons

...

### 15B.3 Applications to endorse a third country benchmark

- 15B.3.1 G (1) Article 33 of the *benchmarks regulation* provides that a *supervised entity* may apply to the *FCA* to endorse a benchmark or a family of benchmarks provided in a *third country* for their use in the ~~EU~~ UK.

...

### 15B.4 Applications for recognition of third country administrators

- 15B.4.1 G (1) Article 32 of the *benchmarks regulation* provides that a benchmark administrator *located* in a *third country* may apply to ~~a competent authority~~ the FCA for prior recognition.

...

...

## 16 Reporting requirements

### 16.1 Application

...

- 16.1.2 G The only ~~categories~~ category of *firm* to which no section of this chapter applies ~~are~~ is:
- (1) an *ICVC*; ~~;~~
  - (2) ~~an incoming EEA firm or incoming Treaty firm, unless it is:~~
    - (a) a *firm* of a type listed in ~~SUP 16.1.3 R~~ as a type of *firm* to which ~~SUP 16.6, SUP 16.7A, SUP 16.9, SUP 16.12, SUP 16.14, or SUP 16.23A~~ applies; or
    - (b) an *insurer* with ~~permission~~ to effect or carry out life policies; or
    - (c) a *firm* with ~~permission~~ to establish, operate or wind up a *personal pension scheme* or a *stakeholder pension scheme*; or
    - (d) a *payment service provider* to which ~~SUP 16.22~~ applies [deleted]
  - (3) ~~a UCITS qualifier. [deleted]~~

16.1.3 R Application of different sections of SUP 16 (excluding SUP 16.13, SUP 16.15, SUP 16.16 and SUP 16.17) and SUP 16.22)

(1) Section(s)	(2) Categories of firm to which section applies		(3) Applicable rules and guidance
SUP 16.1, SUP 16.2 and SUP 16.3	All categories of <i>firm</i> except:		Entire sections
	...		
	(b)	<del>an incoming EEA firm or incoming Treaty firm, which is not:</del> [deleted]	
		(i) a firm of a type to which SUP 16.6 or SUP 16.12 applies; or	
		(ii) an insurer with permission to effect or carry out life policies; or	
		(iii) a firm with permission to establish, operate or wind up a personal pension scheme or a stakeholder pension scheme; or	
		(iv) a payment service provider to which SUP 16.22 applies	
	(c)	<del>a UCITS qualifier.</del> [deleted]	
SUP 16.4 and SUP 16.5	All categories of <i>firm</i> except:		Entire sections

	...		
	(b)	<del>an incoming EEA firm;</del> <del>[deleted]</del>	
	(c)	<del>an incoming Treaty firm;</del> <del>[deleted]</del>	
	...		
	(h)	<del>a UCITS qualifier</del> <del>[deleted]</del>	
	...		
...			
<i>SUP 16.10</i>	All categories of <i>firm</i> except:		Entire section
	(a)	<del>an ICVC; and</del>	
	(b)	<del>a UCITS qualifier; and</del> <del>[deleted]</del>	
	...		
...			
<i>SUP 16.23A</i>	A <i>firm</i> undertaking the regulated activities in <i>SUP 16.23A.1R</i> , <del>including all incoming EEA firms or incoming Treaty firms (including those providing cross border services and undertaking the same activities)</del>		Entire section
...			

16.1.4 G ...

(3) Requirements for individual *firms* reflect:

...

(c) whether a *firm* has its registered office (or if it does not have a registered office, its head office) in the *United Kingdom*; and

(d) ~~whether a *firm* is an incoming EEA firm or incoming Treaty~~

~~firm; and [deleted]~~

...

...

### 16.3 General provisions on reporting

Application

16.3.1 G ...

- (1) an *ICVC*;
- (2) ~~an incoming EEA firm or incoming Treaty firm, which is not [deleted]~~
  - (a) ~~a firm of a type listed in SUP 16.1.3R as a firm to which section SUP 16.6 or SUP 16.12 applies;~~
  - (b) ~~an insurer with permission to effect or carry out life policies;~~
- (3) ~~a UCITS qualifier. [deleted]~~

...

### 16.5 Annual Close Links Reports

...

Purpose

16.5.2 G ...

- (3) if the *person* is subject to the laws, regulations or administrative provisions of a territory which is not ~~an EEA State~~ the United Kingdom, whether those foreign provisions, or any deficiency in their enforcement, would prevent the *appropriate regulator's* effective supervision of the *firm*.

...

### 16.7A Annual report and accounts

Application

16.7A.1 R This section applies to every *firm* in the *regulatory activity group (RAG)* set out in column (1), which is a type of *firm* in column (2), of the tables in SUP 16.7A.3R and SUP 16.7A.5R, except:

- (1) ~~an incoming EEA firm with permission for cross border services only; [deleted]~~
- (2) ~~an incoming EEA firm in relation to its carrying on of bidding in~~

~~emissions auctions~~; [deleted]

...

...

Requirement to submit annual report and accounts

- 16.7A.3 R A *firm* in the *RAG* in column (1) and which is a type of *firm* in column (2) must submit its *annual report and accounts* to the *FCA* annually on a single entity basis.

(1)	(2)
RAG	Firm type
1	...
	...
	<del>Non-EEA bank</del> A <u>non-UK bank</u> .
...	

...

Time period for firms submitting their annual report and accounts

- 16.7A.8 R *Firms* must submit their *annual report and accounts* in accordance with *SUP* 16.7A.3R within the following deadlines:
- (1) for a ~~non-EEA bank~~ non-UK bank, within 7 months of the accounting reference date;

...

...

**16.12 Integrated Regulatory Reporting**

Application

- 16.12.1 G The effect of *SUP* 16.1.1R is that this section applies to every *firm* carrying on business set out in column (1) of *SUP* 16.12.4R except:
- (1) ~~an incoming EEA firm with permission for cross border services only~~; [deleted]
- (1A) ~~an incoming EEA firm in relation to its carrying on of bidding in emissions auctions~~; [deleted]



...

...

- 16.12.4 R Table of applicable rules containing *data items*, frequency and submission periods

(1)		(2)	(3)	(4)
<i>RAG number</i>	<i>Regulated Activities</i>	<b>Provisions containing:</b>		
		<b>applicable data items</b>	<b>reporting frequency/ period</b>	<b>due date</b>
...				
<i>RAG 11</i> [deleted]	<i>bidding in emissions auctions</i>	<i>SUP</i> <del>16.12.29AR</del>	<i>SUP</i> <del>16.12.29AR</del>	<del><i>SUP</i> 16.12.29AR</del>
...				

...

- 16.12.11 R The applicable *data items* referred to in *SUP* 16.12.4R are set out according to *firm* type in the table below:

Description of <i>data item</i>	Firms' prudential category and applicable <i>data items</i> (note 1) ...
...	
<del>Non-EEA sub-group</del> <u>Non-UK sub-group</u>	
...	
Note 1	All <i>firms</i> , except <i>IFPRU investment firms</i> in relation to <i>data items</i> reported under the <del><i>EU-CRR</i></del> <i>UK CRR</i> , when submitting the completed <i>data item</i> required, a <i>firm</i> must use the format of the <i>data item</i> set out in <i>SUP</i> 16 Annex 24. Guidance notes for completion of the <i>data items</i> are contained in <i>SUP</i> 16 Annex 25.
...	

...

16.12.15 R ...

Description of <i>data item</i>	<i>Firms' prudential category and applicable data items (note 1)</i>
	...
	...
<del>Non-EEA sub-group</del> <u>Non-UK sub-group</u>	
...	
Note 34	Requirements under COREP and FINREP should be determined with reference to the <del>EU CRR</del> <u>UK CRR</u> and applicable technical standards.

...

16.12.22 R ...  
A

Description of <i>Data item</i>	<i>Firms' prudential category and applicable data item (note 1)</i>
...	
<del>Non-EEA sub-group</del> <u>Non-UK sub-group</u>	
...	
Note 29	Requirements under COREP and FINREP should be determined with reference to the <del>EU CRR</del> <u>UK CRR</u> and applicable technical standards.

...

16.12.25 R ...  
A

Description of <i>data item</i>	<i>Firms' prudential category and applicable data item (note 1)</i>
...	...
...	

Non-EEA sub-group <u>Non-UK sub- group</u>	
...	
Note 30	Requirements under COREP and FINREP should be determined with reference to the <del>EU CRR</del> <u>UK CRR</u> and applicable technical standards.

...

~~Regulated Activity Group 11~~

- 16.12.29 R A ~~A firm must submit the form contained in SUP 16 Annex 32R (Bidding in emissions auctions return) annually within 30 business days from its accounting reference date unless the firm did not carry on any auction regulation bidding during the year to which that form relates. [deleted]~~

...

## Financial conglomerates

- 16.12.32 R ...
- (a) it is at the head of a ~~UK regulated EEA financial conglomerate~~; or

...

**16.13 Reporting under the Payment Services Regulations**

...

## Purpose

- 16.3.2 G ...
- (4) ~~give directions to EEA authorised payment institutions under regulation 30(4) of the Payment Services Regulations in relation to:~~
- (a) ~~the information that they must provide to the FCA in respect of the payment services they carry on in the United Kingdom in exercise of passport rights; and~~
- (b) ~~the time at which and the form in which they must provide that information and the manner in which it must be verified. [deleted]~~

...

## Reporting requirement

- 16.13.3 D (1) *An authorised payment institution, a small payment institution, ~~an EEA authorised payment institution~~ or a registered account information service provider* must submit to the FCA the duly completed return applicable to it as set out in column (2) of the table in SUP 16.13.4D.
- ...
- 16.13.3 D SUP 16.3.11R (Complete reporting) and SUP 16.3.13R (Timely reporting) also apply to *authorised payment institutions, small payment institutions, ~~EEA authorised payment institutions~~ and registered account information service providers* as if a reference to *firm* in these rules were a reference to these categories of *payment service provider*.
- A
- ...
- 16.13.4 D The table below sets out the format, reporting frequency and due date for submission in relation to regulatory returns that apply to *authorised payment institutions, small payment institutions, ~~EEA authorised payment institutions~~ and registered account information service providers*.
- ...
- 16.13.11 G The EBA issued Guidelines on 12 December 2017 on the security measures for operational and security risks of payment services under the *Payment Services Directive (EBA/GL/2017/17)*. The Guidelines specify requirements for the establishment, implementation and monitoring of the security measures that *payment service providers* must take to manage operational and security risks relating to the *payment services* they provide.
- [**Note:** see ~~<https://www.eba.europa.eu/regulation-and-policy/payment-services-and-electronic-money/guidelines-on-security-measures-for-operational-and-security-risks-under-the-psd2>~~ EBA guidelines: Guidelines on the security measures for operational and security risks of payment services, 12 December 2017/EBA/GL/2017/17.]
- 16.13.12 D *Payment service providers* must comply with the EBA's Guidelines on the security measures for operational and security risks of payment services (EBA/GL/2017/17) as issued on 12 December 2017 where they are addressed to *payment service providers*.
- ...
- 16.13.17 G ~~*Payment service providers* should note that article 16(3) of Regulation (EU) No. 1093/2010 also requires them to make every effort to comply with the EBA's Guidelines on security measures for operational and security risks of payment services. [deleted]~~
- ...

## 16.15 Reporting under the Electronic Money Regulations

...

- 16.15.8 D The table below sets out the format, reporting frequency and due date for submission in relation to regulatory returns that apply to *electronic money issuers* that are not *credit institutions*.

(1) Type of <i>electronic money issuer</i>	(2) Return	(3) Format	(4) Reporting Frequency	(5) Due date (Note 4)
...				
(a) the Post Office Limited  (b) the Bank of England, <del>the ECB and the national central banks of EEA States other than the United Kingdom</del>  (c) Government departments and local authorities  (d) <i>credit unions</i>  (e) municipal banks  (f) the National Savings Bank	<i>Average outstanding electronic money</i>	No standard format	Annual (Note 6)	30 <i>business days</i>

...

## 16.17 Remuneration reporting

...

### Interpretation

- 16.17.2 R In this section “UK lead regulated group” means an *FCA consolidation group* that is headed by ~~an EEA parent institution~~ a UK parent institution, ~~an EEA parent financial holding company~~ a UK parent financial holding company or ~~an EEA parent mixed financial holding company~~ a UK parent mixed financial holding company.

...

16.17.3 R ...

(5) The *firm* must complete the Remuneration Benchmarking Information Report using accounting year-end amounts in euros determined, if necessary, by reference to the exchange rate used by the European Commission for financial programming and the budget for December of the reported year.

(6) This *rule* applies to:

(a) an *IFPRU investment firm*; and

(b) an *overseas firm* that:

(i) ~~is not an *EEA firm*; [deleted]~~

(ii) ~~has its head office outside the *EEA*; and [deleted]~~

(iii) would be an *IFPRU investment firm*, if it had been a *UK domestic firm*, had carried on all of its business in the *United Kingdom* and had obtained whatever authorisations for doing so as are required under the *Act*;

that:

(c) is not, and does not have, ~~an *EEA a UK parent institution*, an *EEA a UK parent financial holding company* or an *EEA a UK parent mixed financial holding company*~~, and that had total assets equal to or greater than £50 billion on an unconsolidated basis on the accounting reference date immediately prior to the *firm's* last complete financial year.

(7) This *rule* also applies to:

(a) an *IFPRU investment firm*; and

(b) an *overseas firm* that

(i) ~~is not an *EEA firm*; [deleted]~~

(ii) ~~has its head office outside the *EEA*; and [deleted]~~

(iii) would be an *IFPRU investment firm*, if it had been a *UK domestic firm*, had carried on all of its business in the *United Kingdom* and had obtained whatever authorisations for doing so as are required under the *Act*;

that:

(c) is part of a UK lead regulated group, and that had total assets equal to or greater than £50 billion on an unconsolidated basis on the accounting reference date immediately prior to the *firm's*

last complete financial year.

- (8) In this rule “total assets” means:
- (a) in relation to an *IFPRU investment firm*, its total assets as set out in its balance sheet on the relevant *accounting reference date*; and
  - (b) in relation to an overseas firm in (76)(b) and (87)(b), the total assets of the *overseas firm* as set out in its balance sheet on the relevant *accounting reference date* that cover the activities of the branch operation in the *United Kingdom*.

...

### High Earners Reporting Requirements

- 16.17.4 R (1) A *firm* to which this *rule* applies must submit a High Earners Report to the *FCA* annually.
- (2) The *firm* must submit that report to the *FCA* within four months of the end of the *firm's accounting reference date*.
- (3) A *firm* that is not part of a UK lead regulated group must complete that report on an unconsolidated basis in respect of *remuneration* awarded in the last completed financial year to all *high earners* of the *firm* who mainly undertook their professional activities within the *EEA United Kingdom*.
- (4) A *firm* that is part of a UK lead regulated group must not complete that report on either a solo consolidation basis or an unconsolidated basis. The *firm* must complete that report on a consolidated basis in respect of *remuneration* awarded in the last completed financial year to all *high earners* who mainly undertook their professional activities within the *EEA United Kingdom* at:
- (a) the ~~*EEA parent institution, EEA parent financial holding company or EEA parent mixed financial holding company*~~ *UK parent institution, UK parent financial holding company or UK parent mixed financial holding company* of the UK lead regulated group;
  - (b) each *subsidiary* of the UK lead regulated group that has its registered office (or, if it has no registered office, its head office) in an ~~*EEA State*~~ *the United Kingdom*; and
  - (c) each *branch* of the UK lead regulated group that is established or operating in an ~~*EEA State*~~ *the United Kingdom*.
- (5) (a) The *firm* must complete a ~~separate~~ template, in the format set out in SUP 16 Annex 34A, ~~for each EEA State in which~~ where there is a *high earner*, and for each payment bracket of EUR 1

million. Those templates together form the High Earners Report.

- (b) The number of *high earners* must be reported as the number of natural persons, independent of the number of working hours on which their contract is based.
- (9) The information in the High Earners Report must be denominated in Euros determined, if necessary, by reference to the exchange rate used by the European Commission for financial programming and the budget for December of the reported year.
  - (10) This *rule* applies to an *IFPRU investment firm* that is not, and does not have, ~~an EEA parent institution, an EEA parent financial holding company or an EEA parent mixed financial holding company~~ a UK parent institution, a UK parent financial holding company or a UK parent mixed financial holding company.
  - (11) This *rule* also applies to an *IFPRU investment firm* that is part of a UK lead regulated group.
  - (12) This *rule* also applies to a *BIPRU firm*, an *exempt CAD firm*, a *local firm*, or any other *firm* that is not a *bank*, a *building society* or an *IFPRU investment firm*:
    - (a) that is part of a UK lead regulated group; and
    - (b) where that UK lead regulated group contains either:
      - (i) a *bank*, *building society* or an *IFPRU investment firm*; or
      - (ii) an *overseas firm* that;
        - (A) ~~is not an EEA firm;~~ [deleted]
        - (B) ~~has its head office outside the EEA;~~ and [deleted]
        - (C) would be a *bank*, *building society* or an *IFPRU investment firm*, if it had been a *UK domestic firm*, had carried on all of its business in the *UK* and had obtained whatever authorisations for doing so as are required under the *Act*.
  - (13) This *rule* also applies to an *overseas firm* that:
    - (a) ~~is not an EEA firm;~~ [deleted]
    - (b) ~~has its head office outside the EEA;~~ [deleted]
    - (c) would be an *IFPRU investment firm*, if it had been a *UK domestic firm*, had carried on all of its business in the *UK* and had obtained whatever authorisations for doing so as are



required under the Act;

and either:

- (d) is not, and does not have, ~~an EEA parent institution, an EEA parent financial holding company or an EEA parent mixed financial holding company~~ a UK parent institution, a UK parent financial holding company or a UK parent mixed financial holding company; or
- (e) is part of a UK lead regulated group.

...

## 16.18 AIFMD reporting

### Application

16.18.1 G This section applies to the following types of AIFM in line with SUP 16.18.2G:

- (1) a *full-scope UK AIFM*;
- (2) a *small authorised UK AIFM*;
- (3) a *small registered UK AIFM*;
- (4) an ~~above-threshold non-EEA AIFM~~ above-threshold non-UK AIFM marketing in the UK; and
- (5) a ~~small non-EEA AIFM~~ small non-UK AIFM marketing in the UK.

16.18.2 G

Type of AIFM	Rules	Directions	Guidance	AIFMD level 2 regulation
<i>full-scope UK AIFM</i>	<i>FUND 3.4</i> (Reporting obligation to the FCA) and <i>SUP 16.18.5R</i>			Article 110 (Reporting to competent authorities) (as replicated in <i>SUP 16.18.4EU</i> <u>16.18.4UK</u> )
<i>small authorised UK AIFM</i>	<i>SUP 16.18.6R</i>			Article 110 (Reporting to competent authorities) (as replicated in <i>SUP 16.18.4EU</i> <u>16.18.4UK</u> )
<i>small</i>		<i>SUP</i>		Article 110

<i>registered UK AIFM</i>		16.18.7D		(Reporting to competent authorities) (as replicated in <i>SUP 16.18.4EU</i> <u>16.18.4UK</u> )
<i>above-threshold non-EEA AIFM above-threshold non-UK AIFM marketing in the UK</i>			<i>SUP 16.18.8G</i>	Article 110 (Reporting to competent authorities) (as replicated in <i>SUP 16.18.4EU</i> <u>16.18.4UK</u> )
<i>small non-EEA AIFM small non-UK AIFM marketing in the UK</i>		<i>SUP 16.18.9D</i>		Article 110 (Reporting to competent authorities) (as replicated in <i>SUP 16.18.4EU</i> <u>16.18.4UK</u> )

Purpose

- 16.18.3 G This section specifies the end dates for reporting periods for *AIFMs* and the reporting period for *small AIFMs* for the types of *AIFM* to whom this section applies. Although article 110 of the *AIFMD level 2 regulations* (Reporting to competent authorities) (as replicated in *SUP 16.18.4EU* *SUP 16.18.4UK*) applies certain reporting requirements directly to *AIFMs*, it does not specify the end dates for reporting periods for an *AIFM* and, for *small AIFMs*, it does not specify the reporting period. Therefore, *competent authorities* are required to specify these requirements.

Article 110 of the AIFMD level 2 regulation

16.18.4

EU  
UK

Reporting to <del>competent authorities</del> <u>the FCA</u>	
1.	In order to comply with the requirements of <del>the second subparagraph of Article 24(1) and of point (d) of Article 3(3) of Directive 2011/61/EU [FUND 3.4.2R]</del> and directions given by the FCA under <u>regulation 21(2) of the AIFM Regulations 2013</u> , an <i>AIFM</i> shall provide the following information when reporting to <del>competent authorities</del> <u>the FCA</u> :
(a)	the main instruments in which it is trading, including a breakdown of financial instruments and other assets, including the

	AIF's investment strategies and their geographical and sectoral investment focus;
(b)	the markets of which it is a member or where it actively trades;
(c)	the diversification of the AIF's portfolio, including, but not limited to, its principal exposures and most important concentrations.
The information shall be provided as soon as possible and not later than one month after the end of the period referred to in paragraph 3. Where the AIF is a fund of funds this period may be extended by the AIFM by 15 days.	
2.	For each of the EU AIFs they manage and for each of the AIFs they market in the <u>United Kingdom or the Union</u> , AIFMs shall provide to <del>the competent authorities of their home Member State</del> <u>the FCA</u> the following information in accordance with <del>Article 24(2) of Directive 2011/61/EU</del> <u>[FUND 3.4.3R]</u> :
(a)	the percentage of the AIF's assets which are subject to special arrangements as defined in Article 1(5) of this Regulation arising from their illiquid nature as referred to in <del>point (a) of Article 23(4) of Directive 2011/61/EU</del> <u>[FUND 3.2.5R(1)]</u> ;
(b)	any new arrangements for managing the liquidity of the AIF;
(c)	the risk management systems employed by the AIFM to manage the market risk, liquidity risk, counterparty risk and other risks including operational risk;
(d)	the current risk profile of the AIF, including:
(i)	the market risk profile of the investments of the AIF, including the expected return and volatility of the AIF in normal market conditions;
(ii)	the liquidity profile of the investments of the AIF, including the liquidity profile of the AIF's assets, the profile of redemption terms and the terms of financing provided by counterparties to the AIF;
(e)	information on the main categories of assets in which the AIF invested including the corresponding short market value and long market value, the turnover and performance during the reporting period; and
(f)	the results of periodic stress tests, under normal and exceptional circumstances, performed in accordance with <del>point (b) of Article 15(3) and the second subparagraph of Article 16(1) of Directive 2011/61/EU</del> <u>[FUND 3.6.3R(2) and 3.7.5R(2)(b)]</u> .

3.	<p>The information referred to in paragraphs 1 and 2 shall be reported as follows:</p> <p>(a) on a half-yearly basis by AIFMs managing portfolios of AIFs whose assets under management calculated in accordance with Article 2 in total exceed the threshold of either EUR 100 million or EUR 500 million laid down in <del>points (a) and (b) respectively of Article 3(2) of Directive 2011/61/EU sub-paragraphs (b) and (a) respectively of regulation 9(1) of the AIFM Regulations 2013</del> but do not exceed EUR 1 billion, for each of the <u>UK and EU AIFs they manage and for each of the AIFs they market in the United Kingdom or the Union</u>;</p> <p>(b) on a quarterly basis by AIFMs managing portfolios of AIFs whose assets under management calculated in accordance with Article 2 in total exceed EUR 1 billion, for each of the <u>UK and EU AIFs they manage, and for each of the AIFs they market in the United Kingdom or in the Union</u>;</p> <p>(c) on a quarterly basis by AIFMs which are subject to the requirements referred to in point (a) of this paragraph, for each AIF whose assets under management, including any assets acquired through use of leverage, in total exceed EUR 500 million, in respect of that AIF;</p> <p>(d) on an annual basis by AIFMs in respect of each unleveraged AIF under their management which, in accordance with its core investment policy, invests in non-listed companies and issuers in order to acquire control.</p>
4.	By way of derogation from paragraph 3, the <del>competent authority of the home Member State of the AIFM</del> <u>FCA</u> may deem it appropriate and necessary for the exercise of its function to require all or part of the information to be reported on a more frequent basis.
5.	AIFMs managing one or more AIFs which they have assessed to be employing leverage on a substantial basis in accordance with Article 111 of this Regulation shall provide the information required under <del>Article 24(4) of Directive 2011/61/EU</del> <u>[FUND 3.4.5R]</u> at the same time as that required under paragraph 2 of this Article.
6.	AIFMs shall provide the information specified under paragraphs 1, 2 and 5 in accordance with the pro-forma reporting template set out in the Annex IV.
7.	<del>In accordance with point (a) of Article 42(1) of Directive 2011/61/EU, for non-EU AIFMs, any reference to the competent authorities of the home Member State shall mean the competent authority of the Member State of reference. [deleted]</del>

[**Note:** Article 110 of the *AIFMD level 2 regulation*]

...

#### Guidelines

- 16.18.11 G *ESMA's* guidelines on reporting obligations under articles 3(3)(d) and 24(1), (2) and (4) of the *AIFMD* ([http://www.esma.europa.eu/system/files/2013-1339\\_final\\_report\\_on\\_esma\\_guidelines\\_on\\_aifmd\\_reporting\\_for\\_publication\\_revised.pdf](http://www.esma.europa.eu/system/files/2013-1339_final_report_on_esma_guidelines_on_aifmd_reporting_for_publication_revised.pdf)), 8 August 2014 (ESMA/2014/869EN), provide further details in relation to the requirements in this section.

...

### 16.23 Annual Financial Crime Report

...

- 16.23.2 R Unless a *firm* is listed in the table below, this section does not apply to it where both of the following conditions are satisfied:

...

Table: Firms to which the exclusion in SUP 16.23.2R does not apply

a <i>UK bank</i> ;
a <i>building society</i> ;
<del>a <i>EEA bank</i>;</del>
<del>a <i>non-EEA bank</i>;</del>
<del>a <i>non-UK bank</i>;</del>
a <i>mortgage lender</i> ;
a <i>mortgage administrator</i> ; or
a <i>firm</i> offering <i>life and annuity</i> insurance products.

...

### 16.23A Employers' Liability Register compliance reporting

#### Application

- 16.23A.1 R (1) This section applies to any *firm* required to produce an employers' liability register in compliance with the requirements in *ICOBS* 8.4.4R, which is: a *firm carrying out contracts of insurance*, or a *managing agent managing insurance business*, including in either case business accepted under *reinsurance to close*, which includes *UK*

commercial lines employers' liability insurance.

- (a) ~~a firm carrying out contracts of insurance, or a managing agent managing insurance business, including in either case business accepted under reinsurance to close, which includes United Kingdom commercial lines employers' liability insurance; and~~
- (b) ~~an incoming EEA firm or incoming Treaty firm falling within (a), including those providing cross border services.~~

...

...

## 16.24 Retirement income data reporting

Application

16.24.1 R This section applies to:

- (1)
  - (a) ~~a firm with permission to establish, operate or wind up a personal pension scheme or a stakeholder pension scheme; and~~
  - (b) ~~a firm with permission to effect or carry out contracts of insurance in relation to life and annuity contracts of insurance.~~
- (2) ~~This rule does not apply to an incoming firm:~~
  - (a) ~~in respect of that part of its business that was carried on as an electronic commerce activity; or~~
  - (b) ~~if the customer is habitually resident in (and, if applicable, the State of the risk is) an EEA State other than the United Kingdom, to the extent that the EEA State in question imposes measures of like effect. [deleted]~~

...

SUP 16 Annex 32R is deleted in its entirety. The deleted text is not shown but the annex is marked deleted as shown below.

## 16 Bidding in emissions auctions return [deleted] Annex 32R

Amend the following as shown.

## 18 Transfers of business

...

## 18.2 Insurance business transfers

...

Consultation with EEA regulators and/or other foreign regulators

- 18.2.23 G Under the terms of the Memorandum of Understanding, the PRA will lead when carrying out consultation with ~~EEA regulators and/or other~~ foreign regulators.  
A
- 18.2.24 G ~~The guidance set out in SUP 18.2.25G to SUP 18.2.30G derives from the requirements of the Solvency II Directive and the associated agreements between EEA regulators. Schedule 12 of the Act implements some of these requirements. [deleted]~~
- 18.2.25 G (1) ~~If the transferee is (or will be) an EEA firm (authorised in its Home State to carry on insurance business under the Solvency II Directive) or a Swiss general insurance company, then the appropriate regulator has to consult the transferee's Home State regulator, who has 3 months to respond. It will be necessary for the appropriate regulator to obtain from the transferee's Home State regulator a certificate confirming that the transferee will meet the Home State's solvency margin requirements (if any) after the transfer. [deleted]~~
- (1 A) ~~If the transferee is (or will be) an EEA firm (authorised in its Home State to carry on insurance business under the Reinsurance Directive) it will be necessary for the appropriate regulator to obtain from the transferee's Home State regulator a certificate confirming that the transferee will meet the Home State's solvency margin requirements (if any) after the transfer. [deleted]~~
- (2) ~~If the transferee is authorised in the United Kingdom, the The appropriate regulator will need to certify that the transferee will meet its solvency margin requirements after the transfer. If the appropriate regulator has required of a UK firm a "recovery plan" of the kind mentioned in the PRA Rulebook: Solvency II firms: Undertakings in Difficulty, the appropriate regulator will not issue a certificate for so long as it considers that policyholders' rights are threatened within the meaning of these paragraphs.~~
- 18.2.26 G ~~The transferor will need to provide the appropriate regulator with the information that the Home State regulator requires from the appropriate regulator. This information includes:~~
- (1) ~~the transfer agreement or a draft, with:~~
- (a) ~~the names and addresses of the transferor and transferee; and~~
- (b) ~~the classes of insurance business and details of the nature of the risks or commitments to be transferred;~~

- (2) ~~for the business to be transferred (both before and after reinsurance):~~
  - (a) ~~the amount of technical provisions;~~
  - (b) ~~the amount of *premiums* (in the most recent financial period);~~  
~~and~~
  - (c) ~~for *general insurance business*, the *claims* incurred (in the most recent financial period);~~
- (3) ~~details of assets to be transferred;~~
- (4) ~~details of any guarantees (including reinsurance arrangements), whether provided by the transferor or a third party, to protect the provisions for the business transferred against deterioration; and~~
- (5) ~~the *states of the risks* or the *states of the commitments* of the business being transferred. [deleted]~~

18.2.27 G If the transferee is not (and will not be) *authorised* and will not be ~~neither an *EEA firm* nor a *Swiss general insurance company*~~, then the *appropriate regulator* will need to consult the transferee's insurance supervisor in the place where the business is to be transferred. The *appropriate regulator* will need confirmation from this supervisor that the transferee will meet his solvency margin requirements there (if any) after the transfer.

18.2.28 G If the transferor is a *UK insurer* (other than a *pure reinsurer*) and the business to be transferred includes ~~business carried on from a branch in another *EEA State*~~, then the *appropriate regulator* ~~has to consult the *Host State regulator*, who has 3 months to respond. The *appropriate regulator* will need to be given the information that the *Host State regulator* requires from it. This information should identify the parties to the transfer and include the transfer agreement or draft transfer agreement or a summary containing relevant information, and describe arrangements for settling *claims* if the branch is to be closed. [deleted]~~

18.2.29 G If the transferor is a *UK insurer* and the business to be transferred includes a long-term insurance contract (other than reinsurance) for which the *state of the commitment* is an *EEA state* other than the *United Kingdom*, then the *appropriate regulator* ~~has to consult the *Host State regulator*. If the transferor is a *UK insurer* and the business to be transferred includes a general insurance contract (other than reinsurance) for which the *state of the risk* is an *EEA state* other than the *United Kingdom*, then the *appropriate regulator* must consult the *Host State regulator*. The *appropriate regulator* will need to be given the information that the *Host State regulator* requires from it. This information should identify the parties to the transfer and include the transfer agreement or draft transfer agreement or a summary containing relevant information. It would be helpful (especially for *long-term insurance business*) if a draft of the *scheme report* was also available. The *appropriate regulator* will also need to have sufficient information about the business proposed to be transferred~~



~~to be satisfied that the applicants have undertaken sufficient steps to identify the *state of the risk* or the *state of the commitment*, as the case may be. The consent of the *Host State regulator* to the transfer is required, unless he does not respond within 3 months. [deleted]~~

- 18.2.30 G ~~Where the transferor is a *UK deposit insurer* and, following the transfer, it will no longer be carrying on *insurance business* in the *United Kingdom*, the *appropriate regulator* will need to collaborate with *regulatory bodies* in the other *EEA States* in which it is carrying on business to ensure that effective supervision of the business carried on in the *EEA* continues. The transferor should cooperate with the *appropriate regulator* and the other *regulatory bodies* in this process and demonstrate that it will meet the requirements of its regulators following the transfer. [deleted]~~

...

- 18.2.47 G ~~As the consent (or presumed consent) of the *Host State* is required for a transfer covering contracts for which another *EEA State* is the *state of the risk* (for *general insurance business*) or the *state of the commitment* (for *long-term insurance business*), it is advisable to obtain the consent of *regulatory body* in the *Host State* to any waiver of publication in that state. The approval of the court will still be required. [deleted]~~

...

#### Post-transfer advertising

- 18.2.61 G ~~Under section 114 of the Act the court must direct that notice of the transfer be published by the transferee in any *EEA State* other than the *United Kingdom* which is the *state of the commitment* or the *state of the risk* as regards any policy included in the transfer which evidences a contract of insurance (other than a contract of reinsurance). The regulators would expect the transferee to publish notice in at least one national newspaper in each relevant *EEA State*. Such publication should include the notification of the transfer to the policyholders in the *state of the commitment* or the *state of the risk*. The parties should also be mindful of relevant provisions of the national laws of the relevant *state of the commitment* or the *state of the risk*. [deleted]~~

- 18.2.62 G ~~Under section 114A of the Act the court may direct that notice of a transfer be published by the transferee in any *EEA State* which is the *state of the commitment* or the *state of the risk* as regards any policy included in the transfer which evidences a contract of *reinsurance*. [deleted]~~

...

### 18.3 Insurance business transfers outside the United Kingdom

#### Purpose

- 18.3.1 G Under section 115 of the Act, the *appropriate regulator* has the power to give a certificate confirming that a *firm* possesses any necessary margin of

solvency, to facilitate an *insurance business* transfer to the *firm* under overseas legislation ~~from a firm authorised in another EEA State or from a Swiss general insurance company~~. This section provides *guidance* on how the *appropriate regulator* would exercise this power and on related matters.

...

- 18.3.2 G ~~Under cooperation agreements between EEA regulators, if it has serious concerns about the proposed transferee, the appropriate regulator should inform the regulatory body of the transferor within 3 months of the original request from that regulatory body. The appropriate regulator is not obliged to reply, but if it does not, its opinion is taken to be favourable. Although the protocol does not apply to Switzerland, the appropriate regulator is required to cooperate with the Swiss regulatory body and would apply similar principles to~~ If it has serious concerns about a proposed transfer from a Swiss general insurance company, the appropriate regulator should inform the Swiss regulatory body.

...

#### 18.4 Friendly Society transfers and amalgamations

...

- 18.4.2 G *Friendly societies* are encouraged to discuss a proposed transfer or amalgamation with the appropriate authority, at an early stage to help ensure that a workable timetable is developed. This is particularly important where there are notification requirements for supervisory authorities in ~~EEA States~~ states other than the *United Kingdom*, or for an amalgamation where additional procedures are required

...

- 18.4.9 G For an amalgamation the successor society, and for a transfer the transferee, may need to apply for *permission*, or to vary its *permission*, under Part 4A of the *Act*. The regulators will need sufficient time before a transfer is confirmed to consider whether any necessary *permission* or variation should be given. If the transferee is ~~an EEA firm or a Swiss general insurance company~~, then confirmation will be needed from its ~~Home State regulator~~ regulator that it meets ~~the Home State's~~ relevant solvency margin requirements (see *SUP* 18.4.25G(3)).

...

- 18.4.24 G ~~For a directive friendly society, if the transfer or amalgamation includes policies where the state of the risk or the state of the commitment is an EEA State other than the United Kingdom, consultation with the Host State regulator is required and SUP 18.2.25G to SUP 18.2.29G apply (for an amalgamation they apply as if the business of the amalgamating societies is to be transferred to the successor society). Paragraph 6(1) of Schedule 15 to the Friendly Societies Act 1992 requires publication of the application to~~

~~the appropriate authority for confirmation of an amalgamation or transfer and the appropriate authority may require the notice of the application to be published in two national newspapers in the *Host State*. [deleted]~~

- 18.4.25 G The criteria that the appropriate authority must use in determining whether to confirm a proposed amalgamation or transfer are set out in schedule 15 to the Friendly Societies Act 1992. These criteria include that:
- ...
- (2) the appropriate authority must be satisfied that:
- ...
- (c) ~~for a *directive friendly society* where a transfer includes *policies* where the *state of the risk* or the *state of the commitment* is an *EEA State* other than the *United Kingdom*, the *Host State regulator* has been notified of the transfer and has consented or has not refused consent to the transfer; and [deleted]~~
- (3) for a transfer, the transferee possesses the necessary margin of solvency after taking the proposed transfer into account or, where it is not required to maintain a necessary margin of solvency, possesses an excess of assets over liabilities (for a transferee that is a *Swiss general insurance company* ~~or an *EEA firm*~~, this is evidenced by a certificate from its ~~*home state regulator*~~ regulator).

...

## App 2 Insurers: Regulatory intervention points and run-off plans

### App 2.1 Application

- 2.1.1 R Subject to *SUP* App 2.1.6R, *SUP* App 2.1 to 2.15 apply to an *insurer*, unless it is:
- (1) ~~a *Swiss general insurer*; or~~
- (2) ~~an *EEA deposit insurer*; or~~
- (3) ~~an *incoming EEA firm*; or~~
- (4) ~~an *incoming Treaty firm*.~~

...

### App 2.10 Grant or variation of permission

- 2.10.1 The *PRA* will ask *Solvency II firms* seeking a grant or variation of *permission* to provide a *scheme of operations* as part of the application process (see the *UK provisions which implemented* article 18 of the *Solvency II Directive*). It may make

a similar request to other *firms* (see SUP 6.3.25G). *Firms* which have submitted such a *scheme of operations* are not required to submit to the *PRA* a further *scheme of operations* under this appendix unless SUP App 2.8 or the relevant parts of *PRA* Rulebook: Non-Solvency II firms: Run Off Operations or *PRA* Rulebook: Solvency II firms: Run Off Operations apply. SUP 6 Annex 4 does, however, apply to such a *firm*.

...

**App 2.15 Run-off plans for closed with-profits funds**

...

2.15.8B Delegated acts or implementing technical standards may be adopted under the UK provisions which implemented article 35(6) and (7) of the *Solvency II Directive* in relation, among other things, to run-off plans. In that event *Solvency II firms* should comply with those acts and standards to the extent that they supersede SUP App 2.15.8A G.

...

SUP Appendix 3 is deleted in its entirety. The deleted text is not shown but the appendix is marked deleted as shown below.

**App 3 Guidance on passporting issues [deleted]**

Amend the following as shown.

**TP 10 Benchmarks Regulation Transitional Provisions**

...

10.2 Overview

10.2.1 G (1) The *EU benchmarks regulation* applied from 1 January 2018. The *benchmarks regulation* is the UK version of, and replacement for, this *EU regulation* and applies from 1 January 2018 *exit day*.

...

Insert the following new TP 12 after SUP TP 11 (Bank of England and Financial Services Act 2016: Approved persons in insurers). The text is not underlined.

**TP 12 Transitional provisions relating to tied agents**

(1)	(2)	(3)	(4)	(5)	(6)
-----	-----	-----	-----	-----	-----

	Material to which the transitional provision applies		Transitional provision	Transitional provision: dates in force	Handbook provision: coming into force
12.1	<i>SUP 12</i>	R	<p>(1) This <i>rule</i> applies to a <i>MiFID investment firm</i> in respect of a <i>tiered agent</i> that is not an <i>appointed representative</i> and is not an <i>FCA registered tiered agent</i> because it is established in an <i>EEA State</i>.</p> <p>(2) A <i>MiFID investment firm</i> must not appoint a <i>tiered agent</i> referred to in (1), or allow such an agent to continue to act for it, unless it accepts, or has accepted, responsibility in writing for the agent's activities in acting as its <i>tiered agent</i>.</p>	Three years starting with the first day after <i>exit day</i>	<i>exit day</i>
12.2	<i>SUP 12.5.8R, SUP 12.6.15R, SUP 12.7.9R, SUP 12.8.6R and SUP 12.9.5R</i>	R	(1) This <i>rule</i> applies to a <i>MiFID investment firm</i> in respect of a <i>tiered agent</i>	Three years starting with the first day after <i>exit day</i>	<i>exit day</i>

			<p>that is not an <i>appointed representative</i> and is not an <i>FCA registered tied agent</i> because it is established in an <i>EEA State</i>.</p> <p>(2) The <i>rules</i> in column (2) apply to the appointment referred to in (1) as if the reference in those <i>rules</i> to an <i>FCA registered tied agent</i> included reference to a <i>tied agent</i> of the type referred to in (1).</p>		
12.3	<i>SUP 12</i>	G	<p>The transitional provisions in (1) and (2) above reflect the three-year transitional period provided by Regulation 13(8) - (10) of the Financial Services and Markets Act 2000 (Amendment) (EU Exit) Regulations 2019.</p>	Three years starting with the first day after <i>exit day</i>	<i>exit day</i>



## Sch 1 Record keeping requirements

...

Sch 1.2G

Handbook reference	Subject of record	Contents of record	When record must be made	Retention period
...				
<i>SUP 12.9.5R</i>	<i><u>EEA tied agents FCA registered tied agents</u></i>	If a <i>UK MiFID investment firm</i> appoints an <i>EEA tied agent FCA registered tied agent</i> the record keeping requirements in <i>SUP 12.9</i> applies to that <i>firm</i> as though the <i>EEA tied agent FCA registered tied agent</i> were an <i>appointed representative</i> .		
<i>SUP 13.11</i>	<i>UK firm exercising EEA right</i>	<del>(a) the services or activities it carries on from a <i>branch in</i>, or provide <i>cross border services</i> into, another <i>EEA State</i> under that <i>EEA right</i>; and the <i>requisite details</i> or relevant details relating to those services or activities (if applicable)</del>	Not specified	Three years from the earlier of the date on which: (a) it was superseded by a more up-to-date record; or
				<del>(a) the <i>UK firm</i> ceased to have a <i>branch in</i>, or</del>



				<del>carry cross border services into, any EEA State under an EEA right</del>
<del>SUP 13.11.1R</del>	Exercise of passport rights by UK firms	(1) Services or activities carried on from a <i>branch</i> in, or provided cross-border into, another <i>EEA State</i> under an <i>EEA right</i> .  (2) The details relating to those services or activities (as set out in <i>SUP 13.6</i> and <i>SUP 13.7</i> ).	Not specified	Five years (for <i>firms</i> passporting under <i>MiFID</i> ) or three years (for other <i>firms</i> ) from earlier of:  (1) record being superseded;  (2) <i>firm</i> ceasing to have any <i>EEA branches</i> or <i>cross border services</i> .
...				

...

**Sch 4 Powers exercised**

Sch 4.1G

The following powers and related provisions in or under the <i>Act</i> have been exercised by the <i>FCA</i> to make the <i>rules</i> in <i>SUP</i> :	
	...
	<del>Paragraphs 19 (Establishment) and 20 (Services) of Schedule 3 (EEA Passport Rights)</del>
	...

...

Sch 4.3G

The following powers and related provisions in the <i>Act</i> have been exercised by the <i>FCA</i> in <i>SUP</i> to direct, require or specify:	
	...

	Paragraph 5(4) (Notice to UK Regulator) of Schedule 4 (Treaty Rights)
	...

## Annex B

### Amendments to the Decision Procedure and Penalties manual (DEPP)

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

## 1 Application and Purpose

### 1.1 Application and Purpose

Application

- 1.1.1 G This manual (*DEPP*) is relevant to *firms, approved persons* and other *persons*, whether or not they are regulated by the *FCA*. It sets out:
- ....
- (3) the *FCA*'s policy with respect to the conduct of interviews by investigators appointed in response to a request from an overseas regulator ~~or an *EEA regulator* (*DEPP* 7)~~;

...

## 2 Statutory notices and the allocation of decision making

...

### 2.5 Provision for certain categories of decision

...

Decisions relating to applications for FCA authorisation or approval

- 2.5.3 G *FCA* staff under *executive procedures* will take the decision to give a *warning notice* if the *FCA* proposes to:

...

- (6) ~~refuse an application for variation or rescission of a requirement imposed on an *incoming EEA firm*. [deleted]~~

...

- 2.5.16 G ~~A notice under paragraph 15A(4) of Schedule 3 to the *Act* relating to the application by an *EEA firm* for approval to manage a *UCITS scheme* is not a *warning notice*, but the *FCA* will operate a procedure for this notice which will be similar to the procedure for a *warning notice*. [deleted]~~

...

## 2 Annex 1 Warning notices and decision notices under the Act and certain other enactments

Note: Third party rights and access to *FCA* material apply to the powers listed in this Annex where indicated by an asterisk \* (see *DEPP* 2.4)

Section of the Act	Description	Handbook reference	Decision maker
...			
192L(1) 192L(4)	when the <i>FCA</i> is proposing or deciding to take action against a qualifying parent undertaking by exercising the disciplinary powers conferred by section 192K*		<i>RDC</i>
200(4)/(5)	when the <i>FCA</i> is proposing or deciding to refuse an application for variation or rescission of a requirement imposed on an <i>EEA incoming firm</i> [deleted]		<i>RDC</i> or <i>executive procedures</i> See <i>DEPP</i> 2.5.6G
...			
269(1)/(2)	when the <i>FCA</i> , on an application under section 267(4) or (5) by an operator of a section 264 recognised scheme to revoke or vary a direction that the promotion of the scheme be suspended, proposes or decides to refuse the application or to vary the direction otherwise than in accordance with the application [deleted]		<i>RDC</i>
...			
Paragraph 15A(4) of	when the <i>FCA</i> is notifying an <i>EEA firm</i> wishing to	<i>SUP</i> 13A See <i>DEPP</i>	<i>Executive procedures</i>

Schedule 3	<del>manage a <i>UCITS scheme</i> and its <i>Home State regulator</i> that the <i>EEA firm</i> does not comply with the <i>fund application rules</i>, or is not authorised by its <i>Home State regulator</i> to manage the type of <i>collective investment scheme</i> for which <i>authorisation</i> is required, or has not provided the documentation required under article 20(1) of the <i>UCITS Directive</i> [deleted]</del>	2.5.16G	
...			
Paragraph 15B(2)(a) of Schedule 3	<del>when the <i>FCA</i> is deciding not to withdraw a notice issued to an <i>EEA firm</i> wishing to manage a <i>UCITS scheme</i> and to its <i>Home State regulator</i> that the <i>EEA firm</i> does not comply with the <i>fund application rules</i>, or is not authorised by its <i>Home State regulator</i> to manage the type of <i>collective investment scheme</i> for which <i>authorisation</i> is required, or has not provided the documentation required under article 20(1) of the <i>UCITS Directive</i> [deleted]</del>	<i>SUP-13A</i>	<i>Executive procedures</i>
Paragraph 19(8)/(12) of Schedule 3	<del>when the <i>FCA</i> is proposing or deciding to refuse to give a <i>consent notice</i> to a <i>UK firm</i> wishing to establish a <i>branch</i> under an <i>EEA right</i> [deleted]</del>	<i>SUP-13</i>	<i>RDC</i>

...

Payment Services Regulations	Description	Handbook reference	Decision maker
...			
Regulations 10(2), 10(3)(a), 15 and 19	when the <i>FCA</i> is proposing or deciding to either cancel an <i>authorised payment institution's</i> authorisation, or to cancel a <i>small payment institution</i> or <i>account information service provider's</i> registration, otherwise than at that institution's own request*		<i>RDC</i>
Regulations 28(1) and 26	<del>when the <i>FCA</i> is proposing to refuse to register an <i>EEA branch</i> or an <i>EEA registered account information service provider</i> [deleted]</del>		<i>Executive procedures</i>
Regulations 28(2)(a) and 26	<del>when the <i>FCA</i> is deciding to refuse to register an <i>EEA branch</i> or an <i>EEA registered account information service provider</i> [deleted]</del>		<i>Executive procedures where no representations are made in response to a warning notice, otherwise by the RDC</i>
Regulations 28(1), 28(2)(a) and 26	<del>when the <i>FCA</i> is proposing or deciding to cancel the registration of an <i>EEA branch</i>* or an <i>EEA registered account information service provider</i> [deleted]</del>		<i>RDC</i>

...

Cross-Border Payments in Euro Regulations 2010 [deleted]	Description	Handbook reference	Decision maker
Regulations 7(1) and 7(3)	when the <i>FCA</i> is proposing or deciding to impose a financial penalty*		<i>RDC</i>
Regulations 7(1) and 7(3)	when the <i>FCA</i> is proposing or deciding to publish a statement that a <i>payment service provider</i> has contravened the <i>EU Cross-Border Regulation</i> *		<i>RDC</i>
Regulations 10(1) and 10(3)	when the <i>FCA</i> is proposing or deciding to exercise its powers to require restitution*		<i>RDC</i>
Schedule paragraph 1	when the <i>FCA</i> is proposing or deciding to publish a statement that a relevant person has been knowingly concerned with a contravention of the <i>EU Cross-Border Regulation</i> (Note 1)		<i>RDC</i>
Schedule paragraph 1	when the <i>FCA</i> is proposing or deciding to impose a financial penalty against a relevant person (Note 1)		<i>RDC</i>
<p>Note:</p> <p>(1) The <i>Cross Border Payments in Euro Regulations</i> do not require third party</p>			

rights and access to *FCA* material when the *FCA* exercises this power. However, the *FCA* generally intends to allow for third party rights and access to material when exercising this power.

[deleted]

Electronic Money Regulations	Description	Handbook reference	Decision maker
...			
Regulations 11(6), 11(9), 11(10)(b) and 15	when the <i>FCA</i> is exercising its powers to vary an <i>electronic money institution's</i> authorisation or vary a <i>small electronic money institution's</i> registration on its own initiative		<i>RDC</i> or <i>Executive procedures</i> (Note 1)
Regulation 29(2)	when the <i>FCA</i> is <del>proposing to refuse to register an <i>EEA branch of an authorised electronic money institution</i></del> [deleted]		<i>Executive procedures</i>
Regulation 29(3)(a)	when the <i>FCA</i> is <del>deciding to refuse to register an <i>EEA branch of an authorised electronic money institution</i></del> [deleted]		<i>Executive procedures</i> where no representations are made in response to a warning notice, otherwise by the <i>RDC</i>
Regulation 29(2) and Regulation 29(3)(a)	when the <i>FCA</i> is <del>proposing or deciding to cancel the registration of an <i>EEA branch of an authorised electronic money</i></del>		<i>RDC</i>



	<i>institution*</i> [deleted]		
...			

<b>Recognised Auction Platforms Regulations 2011 [deleted]</b>	<b>Description</b>	<b>Handbook reference</b>	<b>Decision-maker</b>
Regulation 5A	where the <i>FCA</i> is proposing or deciding to publish a statement censuring an <i>RAP</i> , or to impose a financial penalty on an <i>RAP</i>	<i>REC 2A.4</i>	<i>RDC</i>

<b>Alternative Investment Fund Managers Regulations 2013</b>	<b>Description</b>	<b>Handbook reference</b>	<b>Decision maker</b>
...			
Regulation 13(2)(a), article 14b of the <del><i>EuVECA regulation</i></del> <i>RVECA regulation</i> and article 15b of the <del><i>EuSEF regulation</i></del> <i>SEF regulation</i>	where the <i>FCA</i> decides to refuse an application for entry on the register of <i>small registered UK AIFMs</i>		<i>Executive procedures</i> where no representations are made in response to a <i>warning notice</i> otherwise by the <i>RDC</i>
Regulation 18(1)	where the <i>FCA</i> proposes to revoke the registration of a <i>small registered UK AIFM</i> including, where applicable, its		<i>RDC</i>

	registration as a <del><i>EuSEF manager</i></del> or <del><i>EuVECA manager</i></del> <u><i>SEF manager</i></u> or <u><i>RVECA manager</i></u>		
Regulation 18(2)(a)	where the <i>FCA</i> decides to revoke the registration of a <i>small registered UK AIFM</i> including where applicable its registration as a <del><i>EuSEF manager</i></del> or <del><i>EuVECA manager</i></del> <u><i>SEF manager</i></u> or <u><i>RVECA manager</i></u>		<i>RDC</i>
Regulation 23B(1)	where the <i>FCA</i> proposes to refuse an application made by a <i>UK AIF</i> for authorisation as a <del><i>UK ELTIF</i></del> <u><i>UK LTIF</i></u>		<i>Executive procedures</i>
Regulation 23B(2)(a)	where the <i>FCA</i> decides to refuse an application made by a <i>UK AIF</i> for authorisation as a <del><i>UK ELTIF</i></del> <u><i>UK LTIF</i></u>		<i>Executive procedures</i> where no representations are made in response to a <i>warning notice</i> otherwise by the <i>RDC</i>
Regulation 23C(1)	where the <i>FCA</i> proposes to revoke the authorisation of a <del><i>UK ELTIF</i></del> <u><i>UK LTIF</i></u>		<i>RDC</i>
Regulation 23C(2)(a)	where the <i>FCA</i> decides to revoke the authorisation of a <del><i>UK ELTIF</i></del> <u><i>UK LTIF</i></u>		<i>RDC</i>
...			

Regulation 71(1)(e)	where the <i>FCA</i> is proposing or deciding to publish a statement that an <i>unauthorised AIFM</i> has contravened the regulations or <del>directly applicable</del> <i>EuSEF regulation</i> or <del>EuVECA</del> <i>regulation</i> <i>SEF regulation</i> or <i>RVECA regulation</i>		<i>RDC</i>
Regulation 71(1)(f)	where the <i>FCA</i> is proposing or deciding to impose a financial penalty on an <i>unauthorised AIFM</i> that has contravened the regulations or <del>directly applicable</del> <i>EuSEF regulation</i> or <del>EuVECA</del> <i>regulation</i> <i>SEF regulation</i> or <i>RVECA regulation</i>		<i>RDC</i>

...

## 2 Annex 2 Supervisory notices

Section of the Act	Description	Handbook reference	Decision maker
...			
191B(1)	when the <i>FCA</i> gives a <i>restriction notice</i> under section 191B		<i>Executive procedures</i>
197(3)/(6)/(7)(b)	when the <i>FCA</i> is exercising its power of intervention in respect of an	<del><i>SUP 14</i></del>	<del><i>RDC</i></del> or <i>executive procedures</i> See <i>DEPP</i>

	<i>incoming firm</i> [deleted]		2.5.7G and 2.5.7AG
...			

...

<b>Alternative Investment Fund Managers Regulations 2013</b>	<b>Description</b>	<b>Handbook reference</b>	<b>Decision maker</b>
Regulation 22(4)	where the <i>FCA</i> is exercising its power on its own initiative to give or vary a direction under regulation 22(1) to a <i>small registered UK AIFM</i> , a <i>EuSEF manager</i> or <i>EuVECA manager</i> <i>SEF manager</i> or <i>RVECA manager</i>		<i>RDC</i> or <i>executive procedures</i>  See <i>DEPP</i> 2.5.7G to <i>DEPP</i> 2.5.8G
Regulation 22(4)	where the <i>FCA</i> is exercising its power on its own initiative to give or vary a direction under regulation 22(2) to a <i>small registered UK AIFM</i> with its registered office in an <i>EEA State</i> other than the <i>UK</i> in accordance with article 19.3 of the <i>EuSEF regulation</i> or article 18.3 of the <i>EuVECA regulation</i> [deleted]		<i>RDC</i> or <i>executive procedures</i>  See <i>DEPP</i> 2.5.7G to <i>DEPP</i> 2.5.8G

...

The Financial Services Act 2012 (Consumer Credit) Order 2013 [deleted]	Description	Handbook reference	Decision maker
Article 3(6)	when the <i>FCA</i> is exercising its power of intervention in respect of an <i>incoming firm</i> by reference to the contravention or likely contravention of a <i>CCA Requirement</i>	<del>SUP 14</del>	<i>RDC</i> or <i>executive procedures</i>  See <i>DEPP 2.5.7G</i> and <i>DEPP 2.5.7AG</i>

...

Markets in Financial Instruments Regulations 2017	Description	Handbook reference	Decision maker
Regulations 10(2) and <u>Regulation 12(2)</u>	when the <i>FCA</i> is exercising its power of intervention in respect of a <i>third country</i> firm		<i>RDC</i> or <i>executive procedures</i>  (see <i>DEPP 2.5.7G</i> and <i>DEPP 2.5.7AG</i> )
...			

...

**6A The power to impose a suspension, restriction, condition, limitation or disciplinary prohibition**

**6A.1 Introduction**

...

6A.1.2 G (1) For the purposes of *DEPP 6A*, “suspension” refers to the suspension of:

- (a) any *permission* which an *authorised person* has to carry on a *regulated activity* (under sections 123B or 206A of the *Act*),
  - (b) any approval of the performance by an *approved person* of any function to which the approval relates (under section 66 of the *Act*),
  - (c) a *sponsor's* approval (under section 88A(2)(b) of the *Act*),
  - (d) and a *primary information provider's* approval (under section 89Q(2)(b) of the *Act*);
- (2) “restriction” refers to limitations or other restrictions in relation to:
- (a) the carrying on of a *regulated activity* by an *authorised person* (under sections 123B or 206A of the *Act*),
  - (b) [deleted]
  - (c) the performance of services to which a *sponsor's* approval relates (under section 88A(2)(c) of the *Act*), and
  - (d) the dissemination of *regulated information* by a *primary information provider* (under section 89Q(2)(c) of the *Act*);
- (3) “condition” refers to a condition imposed in relation to any approval of the performance by an *approved person* of any function to which the approval relates (under section 66 of the *Act*);
- (4) “limitation” refers, apart from in *DEPP* 6A.1.2G(2), to a limitation of the period for which any approval of the performance by an *approved person* of any function to which the approval relates is to have effect (under section 66 of the *Act*); and
- (5) “disciplinary prohibition” refers to a temporary or permanent prohibition on an individual holding an office or position involving responsibility for taking decisions about the management of a *MiFID investment firm* (under section 123A(2)(a) and (3) of the *Act*) or a temporary prohibition on an individual directly or indirectly acquiring or disposing of *financial instruments* ~~(or *emission products*)~~ on his or her own account or the account of a third party, (under section 123A(2)(b) of the *Act*), ~~or a temporary prohibition on an individual directly or indirectly making a bid at an auction conducted by a *recognised auction platform*, on his or her own~~

~~account or the account of a third party (under section 123A(2)(c) of the Act).~~

~~[Note: see Regulation 6 and Schedule 1 to the RAP Regulations for application of the powers to contraventions of the auction regulation]~~

...

## 7 Statement of policy on interviews conducted on behalf of overseas and EEA regulators

### 7.1 Application and purpose

Application

7.1.1 G *DEPP 7* applies when the *FCA*:

- (1) has appointed an investigator at the request of an *overseas regulator*, under section 169(1)(b) (Assistance to overseas regulators) ~~or an EEA regulator~~ under section 131FA of the *Act*; and
- (2) has directed, or is considering directing, the investigator, under section 169(7) or section 131FA of the *Act*, to permit a representative of the *overseas regulator* ~~or of the EEA regulator~~ to attend, and take part in, any interview conducted for the purposes of the investigation.

...

7.1.4 G The *FCA* is keen to promote co-operation with *overseas regulators* ~~and EEA regulators~~. It views provision of assistance to *overseas regulators* ~~and EEA regulators~~ as an essential part of discharging its general functions.

### 7.2 Interviews

Appointment of investigator and confidentiality of information

7.2.1 G Under section 169(1)(b) and section 131FA of the *Act*, the *FCA* may appoint an investigator to investigate any matter at the request of an *overseas regulator* ~~or EEA regulator~~. The powers of the investigator appointed by the *FCA* (referred to here as the '*FCA*'s investigator') include the power to require *persons* to attend at a specified time and place and answer questions (the compulsory interview power).

7.2.2 G Where the *FCA* appoints an investigator in response to a request from an *overseas regulator* ~~or EEA regulator~~ it may, under section 169(7) or section 131FA of the *Act*, direct him to permit a representative of that regulator to attend and take part in any interviews conducted for the purposes of the investigation. The *FCA* may only give a direction under

section 169(7) or section 131FA if it is satisfied that any information obtained by an *overseas regulator* ~~or EEA regulator~~ as a result of the interview will be subject to the safeguards equivalent to those contained in Part XXIII (Public Record, Disclosure of Information and Cooperation) of the *Act*.

...

#### Policy on use of investigative powers

- 7.2.4 G The *FCA*'s policy on how it will use its investigative powers, including its power to appoint investigators, in support of *overseas regulators* ~~and EEA regulators~~, is set out in the *FCA*'s Enforcement Guide (*EG*).

#### Use of direction powers

- 7.2.5 G The *FCA* may need to consider whether to use its direction power at two stages of an investigation:
- (1) at the same time that it considers the request from the *overseas regulator* ~~or EEA regulator~~ to appoint investigators;
  - (2) after it has appointed investigators, either at the request of the *overseas regulator* ~~or EEA regulator~~ or on the recommendation of the investigators.

- 7.2.6 G Before making a direction under section 169(7) or section 131FA the *FCA* will discuss and determine with the *overseas regulator* ~~or EEA regulator~~ how this statement of policy will apply to the conduct of the interview, taking into account all the circumstances of the case. Amongst other matters, the *FCA* will at this stage determine the extent to which the representative of the *overseas regulator* ~~or EEA regulator~~ will be able to participate in the interview. The *overseas regulator* ~~or EEA regulator~~ will be notified of this determination on the issuing of the direction.

- 7.2.7 G The direction will contain the identity of the representative of the *overseas regulator* ~~or EEA regulator~~ that is permitted to attend any interview and the role that he will play in the interview. If the *FCA* envisages that there will be more than one interview in the course of the investigation, the direction may also specify which interview(s) the representative is allowed to attend.

#### Conduct of interview

...

- 7.2.9 G The *FCA*'s investigator will act on behalf of the *FCA* and under its control. He may be instructed to permit the representative of the *overseas regulator* ~~or EEA regulator~~ to assist in the preparation of the interview. Where the *FCA* considers it appropriate, it may permit the representative to attend and ask questions of the interviewee in the



course of the interview. The interview will be conducted according to the terms of the direction and the notification referred to in *DEPP 7.2.6G*.

- 7.2.10 G If the direction does permit the representative of an *overseas regulator* ~~or *EEA regulator*~~ to attend the interview and ask the interviewee questions, the *FCA*'s investigator will retain control of the interview throughout. Control of the interview means the following will apply:
- ...
- (3) The *FCA*'s investigator has responsibility for making a record of the interview. The record should note the times and duration of any breaks in the interview and any periods when the representative of the *overseas regulator* ~~or *EEA regulator*~~ was either present or not present.
- (4) Where the *FCA*'s investigator considers it appropriate, he may either suspend the interview, ask the overseas representative to leave the interview, or terminate the interview and reschedule it for another occasion. In making that decision he will bear in mind the terms of the direction, any agreement made with the *overseas regulator* ~~or *EEA regulator*~~ as to the conduct of the interview and the contents of this statement of policy.
- 7.2.11 G The *FCA* will in general provide written notice of the appointment of an investigator to the *person* under investigation pursuant to the request of an *overseas regulator* ~~or *EEA regulator*~~. Whether or not the interviewee is the *person* under investigation, the *FCA*'s investigator will inform the interviewee of the provisions under which he has been appointed, the identity of the requesting authority and general nature of the matter under investigation. The interviewee will also normally be informed if a representative of the *overseas regulator* ~~or *EEA regulator*~~ is to attend and take part in the interview. Notification of any of these matters may not be provided in advance of the interview if the *FCA* believes that the circumstances are such that notification would be likely to result in the investigation being frustrated.
- ...
- 7.2.14 G When the *FCA*'s investigator has exercised the compulsory interview power, at the outset of the interview the interviewee will be given an appropriate warning. The warning, amongst other things, must state that the interviewee is obliged to answer all questions put to them during the interview, including any put by the representative of the *overseas regulator* ~~or *EEA regulator*~~. It will also state that in criminal proceedings or proceedings for *market abuse* the *FCA* will not use as evidence against the interviewee any information obtained under compulsion during the interview.
- 7.2.15 G The *FCA*'s investigator may decide which documents or other

information may be put to the interviewee, and whether it is appropriate to give the interviewee sight of the *documents* before the interview takes place. Where the *overseas regulator* ~~or EEA regulator~~ wishes to ask questions about *documents* during the interview and the *FCA's* investigator wishes to inspect those *documents* before the interview, he will be given the opportunity to do so. If the *FCA's* investigator wishes to inspect them and has not been able to do so before the interview, he may suspend the interview until he has had an opportunity to inspect them.

- 7.2.16 G When the *FCA's* investigator has exercised the compulsory interview power, the *FCA's* investigator will require the *person* attending the interview to answer questions. Where appropriate, questions may also be posed by the representative of the *overseas regulator* ~~or EEA regulator~~. The interviewee will also be required to answer these questions. The *FCA's* investigator may intervene at any stage during questioning by the representative of the *overseas regulator* ~~or EEA regulator~~.

#### Language

- 7.2.17 G Interviews will, in general, be conducted in English. Where the interviewee's first language is not English, at the request of the interviewee arrangements will be made for the questions to be translated into the interviewee's first language and for his answers to be translated back into English. If a translator is employed at the request of the representative of the *overseas regulator* ~~or EEA regulator~~ then the translation costs will normally be met by the *overseas regulator* ~~or EEA regulator~~. ~~Where interviews are being conducted in pursuance of an EU law obligation these costs will be met by the FCA.~~ In any event, the meeting of costs in relation to translators and, where applicable, the translation of *documents* will always be agreed in advance with the *overseas regulator* ~~or EEA regulator~~.

#### Tape-recording

- 7.2.18 G All compulsory interviews will be tape-recorded. The method of recording will be decided on and arranged by the *FCA's* investigator. Costs will be addressed similarly to that set out in the preceding paragraph. The *FCA* will not provide the *overseas regulator* ~~or EEA regulator~~ with transcripts of the tapes of interviews unless specifically agreed to, but copies of the tapes will normally be provided where requested. The interviewee will be provided with a copy of tapes of the interview but will only be provided with transcripts of the tapes or translations of any transcripts if he agrees to meet the cost of producing them.

#### Representation

- 7.2.19 G The interviewee may be accompanied at the interview by a legal adviser or a non-legally qualified observer of his choice. The costs of

any representation will not be met by the *FCA*. The presence at the interview of a representative of the *overseas regulator* ~~or EEA regulator~~ may mean that the interviewee wishes to be represented or accompanied by a *person* either from or familiar with that regulator's jurisdiction. As far as practical the arrangements for the interview should accommodate this wish. However, the *FCA* reserves the right to proceed with the interview if it is not possible to find such a *person* within a reasonable time or no such *person* is able to attend at a suitable venue.

7.2.20 G In relation to the publication of investigations by *overseas regulators* ~~or EEA regulators~~, the *FCA* will pursue a policy similar to the policy that relates to its own investigations.

...

### Sch 3 Fees and other required payments

...

Sch 3.2G

The <i>FCA</i> 's power to impose financial penalties is contained in:	
	Section 63A (Power to impose penalties) of the <i>Act</i>
	Section 66 (Disciplinary powers) of the <i>Act</i>
	Section 88A (Disciplinary powers: contravention of s.88(3)(c) or (e)) of the <i>Act</i>
	Section 89Q (Disciplinary powers: contravention of s.89P(4)(b) or (d)) of the <i>Act</i>
	Section 91 (Penalties for breach of Part 6 Rules) of the <i>Act</i>
	Section 123 (Power to impose penalties in cases of market abuse) of the <i>Act</i>
	section 131G (Power to impose penalty or issue censure) of the <i>Act</i>
	Section 192K (Power to impose penalty or issue censure) of the <i>Act</i>
	Section 206 (Financial penalties) of the <i>Act</i>
	Section 249 (Disciplinary measures) of the <i>Act</i>
	Section 312F (Financial penalties) of the <i>Act</i>
	Section 345 (Disciplinary measures) of the <i>Act</i>

	Part III of Schedule 1ZA (The Financial Conduct Authority) to the <i>Act</i>
	the <i>Money Laundering Regulations</i>
	the Transfer of Funds (Information on the Payer) Regulations 2007 (SI 2007/3298)
	the <i>RCB Regulations</i>
	the <i>Payment Services Regulations</i>
	<del>the <i>Cross-Border Payments in Euro Regulations</i> [deleted]</del>
	the <i>OTC derivatives, CCPs and trade repositories regulation</i>
	the <i>AIFMD UK regulation</i>
	the <i>Referral Fees Regulations</i>
	the <i>CCA Order</i>
	the <i>Immigration Regulations</i>
	the <i>MCD Order</i>
	the <i>Small and Medium Sized Business (Credit Information) Regulations</i>
	the <i>MiFI Regulations</i>
	the <i>UK Benchmarks Regulations 2018</i>
	the <i>UK Securitisation Regulations</i>
	the <i>DRS Regulations</i>
	the <i>Payment Accounts Regulations</i>
	the <i>Small and Medium Sized Business (Finance Platforms) Regulations</i>

#### Sch 4 Powers Exercised

##### Sch 4.1G

The following powers and related provisions in or under the *Act* have been exercised by the *FCA* to make the statements of policy in *DEPP*:

	Section 63C (Statement of policy)
	Section 63ZD (Statement of policy relating to conditional approval and variation)
	Section 69 (Statement of policy) (including as applied by paragraph 1 of Schedule 5 to the <i>Payment Services Regulations</i> and by paragraph 1 of the Schedule to the <del><i>Cross-Border Payments in Euro Regulations</i></del> )
	Section 88C (Action under s.88A: statement of policy)
	Section 89S (Action under s. 89Q: statement of policy)
	Section 93(1) (Statement of policy)
	Section 124(1) (Statement of policy)
	Section 131J (Impositions of penalties under section 131G: statement of policy)
	Section 139A (Power of the FCA to give guidance)
	Section 169(9) (Investigations etc in support of overseas regulator) (including as applied by paragraph 3 of Schedule 5 to the <i>Payment Services Regulations</i> )
	Section 192N (Imposition of penalties under section 192K: statement of policy)
	Section 210(1) (Statements of policy) (including as applied by regulation 86(6) of the <i>Payment Services Regulations</i> , by paragraph 3 of the Schedule to the <del><i>Cross-Border Payments in Euro Regulations</i></del> , by article 23(4) of the <i>MCD Order</i> , regulation 43 of the <i>Small and Medium Sized Business (Credit Information) Regulations</i> , by regulation 36(6) of the <i>Payment Accounts Regulations</i> and by regulation 40 of the <i>Small and Medium Sized Business (Finance Platforms) Regulations</i> )
	Section 249 (Disciplinary measures)
	Section 312J (Statement of policy)
	Section 345D (Imposition of penalties on auditors or actuaries: statement of policy)
	Section 395 (The Authority's procedures) (including as applied by paragraph 7 of Schedule 5 to the <i>Payment Services Regulations</i> , by paragraph 5 of the Schedule to the <del><i>Cross-Border Payments in Euro Regulations</i></del> , by article 24(2) of the <i>MCD Order</i> , regulation 44 of the <i>Small and Medium Sized Business (Credit Information) Regulations</i> ,

	by paragraph 4 of Schedule 7 of the <i>Payment Accounts Regulations</i> and by regulation 41 of the <i>Small and Medium Sized Business (Finance Platforms) Regulations</i> )
	Paragraph 16 (Penalties) of Schedule 1 (The Financial Services Authority)

## Sch 4.2G

The following additional powers and related provisions have been exercised by the <i>FCA</i> to make the statements of policy in <i>DEPP</i> :	
	Regulation 42 (Guidance) of the <i>RCB Regulations</i>
	Regulation 44 (Warning notices and decision notices) of the <i>RCB Regulations</i>
	Regulation 86 (Proposal to take disciplinary measures) of the <i>Payment Services Regulations</i>
	Regulation 93 (Guidance) of the <i>Payment Services Regulations</i>
	<del>Regulation 14 (Guidance) of the <i>Cross-Border Payments in Euro Regulations</i> [deleted]</del>
	Regulation 70 (Warning Notices, Decision Notices and Supervisory Notices) of the <i>AIFMD UK regulation</i>
	Regulation 71 (Application of Act to unauthorised AIFs) of the <i>AIFMD UK regulation</i>
	Regulation 29 (Statements of policy) of the <i>Referral Fees Regulations</i>
	Regulation 30 (Application of Part 26 of the 2000 Act) of the <i>Referral Fees Regulations</i>
	Article 3(11) (Application of provisions of FSMA 2000 in connection with failure to comply with the 1974 Act) of the <i>CCA Order</i>
	Article 4 (Statement of policy) of the <i>CCA Order</i>
	Regulation 28 (Statements of policy) of the <i>Immigration Regulations</i>
	Regulation 29 (Application of Part 26 of the 2000 Act) of the <i>Immigration Regulations</i>

	Paragraph 7 of Schedule 1 (Guidance) of the <i>MiFI Regulations</i>
	Paragraph 14 of Schedule 1 (Statements of Policy) of the <i>MiFI Regulations</i>
	Paragraph 22 of Schedule 1 (Application of Part 26 of the Act) of the <i>MiFI Regulations</i>
	Regulation 20 (Guidance) of the <i>DRS Regulations</i>
	Regulation 27 (Statements of Policy) of the <i>DRS Regulations</i>
	Regulation 37 (Application of Part 26 of the Act) of the <i>DRS Regulations</i>
	Regulation 82 (The FCA: procedure (general)) of the <i>Money Laundering Regulations</i>
	Paragraph 3 (Statements of Policy) of Schedule 1 of the Packaged Retail and Insurance-based Investment Products Regulations
	Paragraph 6 (Application of Part 26 of the Act) of Schedule 1 to the Packaged Retail and Insurance-based Investment Products Regulations
	Regulation 14 (Statements of Policy) of the <i>UK Benchmarks Regulations 2018</i>
	Regulation 19 (Application of Part 11 of the Act (information gathering and investigations)) of the <i>UK Benchmarks Regulations 2018</i>
	Regulation 23 (Application of Part 26 of the Act (notices)) of the <i>UK Benchmarks Regulations 2018</i>
	Regulation 9 (Statements of Policy) of the <i>UK Securitisation Regulations</i>
	Paragraph 1 of Schedule 1 (Application of sections 66 to 70 of the Act) of the <i>UK Securitisation Regulations</i>
	Paragraph 3 of Schedule 1 (Application of Part 11 of the Act (information gathering and investigation)) of the <i>UK Securitisation Regulations</i>
	Paragraph 4 of Schedule 1 (Application of Part 14 of the Act (disciplinary measures)) of the <i>UK Securitisation Regulations</i>
	Application of Part 26 of the Act (notices) of the <i>UK Securitisation Regulations</i>

