Waiver – Application Form (SUP 8 Ann 2D)

**Waiver Application number (for FCA / PRA use only)**

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**Firm Name**

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**Firm Reference Number (FRN)**

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**Address**

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**Please tick if this firm has a PRA firm within its immediate group [ ]**

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| Before completing this form, you may find it helpful to discuss your application with your appropriate supervisory contact at the Financial Conduct Authority or the Prudential Regulation Authority. However, you must still ensure you include all relevant information in this form. If you do not, your application will be delayed while you answer further questions from us.**Before completing this application form please read the notes at the end of the form as they explain or give help for many of the questions.**The FCA and Bank of England process personal data in line with the requirements of The General Data Protection Regulation (EU) 2016/679 and the Data Protection Act 2018. For further information about the way we use the personal data collected in this form, please read our privacy notices available on our websites: * FCA: [www.fca.org.uk/privacy](http://www.fca.org.uk/privacy)
* Bank of England: <https://www.bankofengland.co.uk/prudential-regulation/authorisations>

If you need more space you must use a separate sheet of paper. If you have used separate sheets of paper you must indicate how many and label them clearly.**If you are a solo-regulated or dual-regulated firm applying for a waiver or modification for a rule in the FCA Handbook, you can submit this notification via the FCA Connect Portal:** <https://www.fca.org.uk/firms/connect>**. Alternatively, please return this form via email to** centralwaiversteam@fca.org.uk**.** **If you are applying for a waiver or modification for a rule in the PRA Rulebook please submit this notification via email to the ATLAS Team at the PRA:** PRA-waivers@bankofengland.co.uk |

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| 1 | **Personal details and timings for this application** |

**If you are submitting your application using Connect you can continue to Question 1.3**

**Contact for this application**

 **1.1 Contact name for this application**

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| Title |       |

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| First names |       |

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| Surname |       |

 **1.2 Contact details**

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| Business address |       |
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| Postcode |       |

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| Position in firm |       |

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| Daytime telephone number |       |

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| Email address  |       |

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| Individual reference number (IRN), if applicable |       |

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| Name of Approved Person responsible for this application, if applicable |       |

**1.3 Does the applicant have any timing factors that it would like us to consider?**

[ ]  Yes 4Please enter date required and the reason why

[ ]  No

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**Additional details**

**Group applications**

 **1.4 Where applicable, please list the group firms on behalf of which this application is also being made**

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| **Firm Reference Number (FRN)** | **Firm Name** |
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 **1.5 What types of client would be affected if we granted your application? (tick all that apply)**

[ ]  Retail Clients

[ ]  Professional Clients

[ ]  Eligible Counterparty

[ ]  Retail Customers (insurance distribution activities only)

[ ]  Commercial Customers (insurance distribution activities only)

[ ]  Customers (home finance business only)

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| 2 | **Rule(s) to which the application relates** |

If you are applying for a waiver or modification of more than one rule, you should copy this section as appropriate and attach the copies to this application.

 **2.1 Please state the Handbook/Rulebook rule to which the application relates**

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 **2.2 Is there a related Handbook/Rulebook Annex?**

[ ]  Yes 4Please provide the Annex Reference below

[ ]  No

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 **2.3 Is there a related Handbook/Rulebook table?**

[ ]  Yes 4Please provide the Table Reference below

[ ]  No

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 **2.4 Which section of the Financial Service and Markets Act 2000 (FSMA) forms the basis for the application for waiver/modification of this rule?**

[ ]  section 138A of FSMA (relevant for most rules)

[ ]  section 250 of FSMA (relevant for certain rules in the Collective Investment Schemes sourcebook, see SUP 8.2.3G)

[ ]  section 294 of FSMA (relevant for certain rules in the Recognised Investment Exchanges and Recognised Clearing Houses Sourcebook, see REC 3.3)

[ ]  OEIC Regulations – Regulation 7 (relevant for certain rules in the Collective Investment Schemes sourcebook, see SUP 8.2.3G)

 **2.5 Are you applying for a waiver or modification of this rule?**

[ ]  Waiver

[ ]  Modification4Please describe the modification you require

Unmodified Handbook text

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Draft of modified Handbook text

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 **2.6 Are you applying for a variation of an existing waiver/modification which has previously been granted to the firm?**

[ ]  Yes 4Please give the Direction reference number

[ ]  No

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| 3 | **Precedents** |

 **3.1 Have you checked the waivers published by us for a precedent on which this application may be based?**

Published waivers can be inspected at:

 <https://www.fca.org.uk/publications>

[ ]  Yes

[ ]  No4Please state why you think it is not relevant in this instance

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 **3.2 If your application is based on a precedent, please give the direction reference number and preferably highlight the similarities and differences with your application.**

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| 4 | **Additional details** |

 **4.1 Please give a brief description of the nature of your business and a full and clear explanation of why you are applying for the waiver or modification. You may attach any documents that you wish to submit with this application.**

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 **4.2 Please give a full and clear explanation of why you think you satisfy the statutory tests:**

 **a Your compliance with the rules, or with the rules as unmodified, would be unduly burdensome because…**

(In answering this question you will need to include detailed figures showing the costs to your firm of complying with the rules as is and as modified)

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 **OR**

 **b Your compliance with the rules, or with the rules as unmodified, would not achieve the purpose for which the rules were made because…**

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 **AND**

 **c The direction would not adversely affect**

 **(i) the advancement of any of the regulator’s objectives because…**

* If solo regulated (regardless of whether the firm is part of a PRA group) or dual regulated and applying for the waiver/modification of a rule in the FCA Handbook please reference the FCA’s operational objectives. This also applies to an applicant to whom (ii) below applies.
* If dual regulated and applying for the waiver/modification of a rule in the PRA Rulebook please reference the PRA’s objectives.
* If dual regulated and applying for the waiver/modification of a shared rule please reference both regulator’s objectives.

The FCA’s operational objectives are:

1. the consumer protection objective
2. the integrity objective, and
3. the competition objective

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| Additional guidance regarding the FCA’s operational objectives: \  |

<https://www.fca.org.uk/about/the-fca>

The PRA’s objectives are:

1. the general objective – to promote the safety and soundness of firms it supervises, and
2. the insurance objective – to contribute to securing an appropriate degree of protection for those who are or may become policyholders

 **(ii) (where the person making the application is a cryptoasset exchange provider or custodian wallet provider, as defined in Regulation 14A of the Money Laundering, Terrorist Financing and Transfer of Funds (Information on the Payer) Regulations 2017, who is making the application in relation to rules to which they are subject as a result of the FCA’s exercise of its rule-making powers as applied by Article 10 of the Financial Services and Markets Act 2000 (Financial Promotion) (Amendment) Order 2023 (“the Order”)) the securing of an appropriate degree of protection for persons who receive, have received or may receive invitations or inducements to engage in investment activity in relation to qualifying cryptoassets.**

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 **4.3 If you are applying to waive or modify an FCA rule, give a detailed explanation as to why, and how, the granting of this waiver would align with Principle 12 of the FCA’s Handbook in supporting good outcomes for retail customers’**

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 **4.4 Are you happy for us to publish the waiver?**

(Please see SUP 8.6.7G, Firm’s objection to publication)

[ ]  Yes

[ ]  No4Please state your reasons

We prefer to publish waivers wherever possible. If you believe you have good grounds for not publishing, you will need to give clear and substantive arguments. Please refer to section 138B of FSMA.

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| 5 | **Supporting documents** |

 **5.1** **Indicate the required supporting documents to accompany this form.**

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| **Documents** | **Mode (by email, fax or post)** |
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Other information (please specify)

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| 6 | **Declaration and signatures** |

**Warning**

Knowingly or recklessly giving the FCA or the PRA information, which is false or misleading in a material particular, may be a criminal offence (sections 398 and 400 of FSMA). SUP 15.6.4R requires an authorised person to take reasonable steps to ensure the accuracy and completeness of information given to the FCA or the PRA and to notify the FCA or the PRA immediately if materially inaccurate information has been provided. Contravention of these requirements may lead to disciplinary sanctions or other enforcement action by the FCA or the PRA. It should not be assumed that information is known to the FCA or the PRA merely because it is in the public domain or has previously been disclosed to the FCA or the PRA or another regulatory body. If you are not sure whether a piece of information is relevant, please include it anyway.

**Declaration**

By submitting this application form:

* I/we confirm that this information is accurate and complete to the best of my knowledge and belief and that I have taken all reasonable steps to ensure that this is the case.
* I am/we are aware that it is a criminal offence knowingly or recklessly to give the FCA or the PRA information that is false or misleading in a material particular.
* Some questions do not require supporting evidence. However, the records, which demonstrate the applicant's compliance with the rules in relation to the questions, must be available to the FCA or the PRA on request.
* I/we will notify the FCA or the PRA immediately if there is a significant change to the information given in the form. If I/we fail to do so, this may result in a delay in the application process or enforcement action.

**Date (dd/mm/yyyy)**

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**Name of first signatory [[1]](#footnote-2)**

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**Position of first signatory[[2]](#footnote-3)**

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**Individual reference number**

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**Signature**\*

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**Name of second signatory**

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**Position of second signatory**

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**Individual reference number**

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**Signature**\*

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**Declaration and signature if a third party is named**

If the waiver will name a third party (for example, the firm to whom Client Money balance will be transferred to when applying for a waiver of CASS 7.11.34R), please check the box below to confirm that you have the agreement of the third party and enter the third party's name below.

I confirm the information in this form that concerns my circumstances is accurate and complete to the best of my knowledge and belief. I also confirm that I am happy for the waiver to be published, unless otherwise indicated in Question 4.3 of this form\*.

**Signature of named Third Party** \*

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**Name and date**

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\* The above question should only be completed if the form is being submitted in one of the ways set out in SUP 15.7 other than online submission. It should not be completed if the submission of this form is online.

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| 7 | **Notes on completing the waivers form** |

Please note that defined terms used in the text are shown in italics. Definitions can be found in the Handbook Glossary or PRA Rulebook Glossary.

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| **Question Number** | **Notes**  |
| Front Cover | If the applicant is not a *firm*, for example an applicant for a *Part 4A permission*, give its name and indicate that it is not an *authorised person*. There is no need to give the Firm Reference Number (FRN). |
| Section 1 | We may contact the *approved person*, or other designated individual, about the application.The individual may have responsibility for an application for more than one applicant if they have the authority to do so. |
| Section 1 | If the application is submitted by, or on behalf of, more than one applicant (for example, by more than one firm in a group), the names of each applicant must be given as well as each Firm Reference Number (FRN), if applicable. |
| Section 2 Question 2.4 | Section 138A of FSMA is the power used to give most waivers. Section 250 of FSMA and regulation 7 of the *OEIC Regulations* are relevant only for certain *rules* in the Collective Investment Schemes sourcebook (see SUP 8.2.3G). Section 294 of FSMA is relevant only for certain *rules* in the Recognised Investment Exchanges and Recognised Clearing Houses sourcebook (see REC 3.3). |
| Section 2 Question 2.5 | Your draft modification must show how you propose to change the original text of the *rule(s)*. You must do this by underlining inserted text and scoring through deleted text. |
| Section 2 Question 2.6 | You can find the Direction reference number on the Direction we send you. |
| Section 3 | You can find published *waivers* at: <https://www.fca.org.uk/publications>  |
| Section 4 Question 4.1 | Weexpect you to provide (where applicable):* relevant background information about the firm and the context in which you are applying for a *waiver*
* details of any relevant correspondence with former or other regulators
* details of any relevant correspondence with us
* details of any changes in a:
* *rule*
* circumstance, or
* market condition

that has affected the applicant or prompted your application for a *waiver*;* details of the anticipated benefits that may be received if the *waiver* was granted (and, if arguing the 'unduly burdensome' argument, what the estimated impact on the firm and its customers would be if the *waiver* was not granted), and
* an explanation of why the *waiver* is required

This list is not exhaustive. You should include any other information that you think is relevant.You should know what information we require and cross-reference it to the answers set out in Question 4.3, where relevant, to avoid duplication. |
| Section 4 Question 4.2 | We cannot give a *waiver* unless the statutory tests are satisfied. The tests are set out in section 138A(4) of FSMA, and reproduced in *SUP* 8.3.1G. The tests under sections 250 and 294 of FSMA and regulation 7 of the *OEIC Regulations*, are similar. You need to be aware that both matters (‘unduly burdensome’ or ‘not achieve the purpose’; and ‘not affect the advancement of any of the regulator’s objectives’) noted require detailed explanation and substantive argument before we can process the application. Unless there are satisfactory responses to these matters, we may reject the *waiver* application, or we may need more information. You should set out only the relevant arguments in support of the unduly burdensome or purpose tests.The FCA and the PRA have a duty to coordinate their activities in relation to waivers and rule modifications where there are matters of common regulatory interest or where the grant of a direction by one regulator could adversely affect the advancement of the other regulator’s objectives. Where this duty applies, the second regulator may need to evaluate whether approving your application might adversely affect the advancement of its own objectives. In these cases, we may ask you to provide additional supporting information. |
| Section 4 Question 4.4 | See SUP 8.6.7G (Firm’s objection to publication). Please see section 138B of FSMA in relation to publication considerations. |

1. For a sole trader, the signature of the principal is required.
For a limited company, the signature of two directors or one director and the company secretary is required.
For a partnership, the signature of at least one partner is required. [↑](#footnote-ref-2)
2. E.g. Director, Partner or Sole Trader.

\* The above question should only be completed if the form is being submitted in one of the ways set out in SUP 15.7 other than online submission. It should not be completed if the submission of this form is online. [↑](#footnote-ref-3)