

Quarterly Consultation

No 19

Consultation Paper

CP17/39*

December 2017

How to respond

We are asking for comments on this Consultation Paper (CP) by 1 January 2018 for Chapters 2, 6 and 7, and 1 February 2018 for Chapters 3, 4, 5 and 8.

Comments may be sent by using the form on our website at www.fca.org.uk/cp17-39-response-form
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If you are responding in writing to several chapters please send your comments to Emily How in the Handbook Editorial Team, who will pass your responses on as appropriate

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1 Overview

Chapter No	Proposed changes to Handbook	Consultation Closing Period
2	To make consequential changes to the Decision Procedure and Penalties manual (DEPP) because of a change in our governance structure.	One month
3	To clarify in the LR the meaning of Premium Listing Principle 6 and, in the DTR, on where diversity reporting may be located under corporate governance reporting requirements.	Two months
4	Changes to DISP relating to access to the Financial Ombudsman Service for PEPs, and referrals to TPO.	Two months
5	Changes to the Glossary definition of fee-paying payment service provider.	Two months
	Changes to FEES 5 Annex 1R to collect the general levy for the Financial Ombudsman Service from RAISPs.	
6	Enforcement and other miscellaneous changes to ensure full implementation of the Insurance Distribution Directive.	One month
7	Changes to the guidance notes on the completion of the Annual Financial Crime Report (REP-CRIM) to reflect changes in the Money Laundering, Terrorist Financing and Transfer of Funds (Information on the Payer) Regulations 2017 (MLRs). We are also proposing to add new guidance notes.	One month
8	Changes to regulatory reporting requirements.	Two months

2 Changes to the Decision Procedure and Penalties manual (DEPP)

Introduction

- 2.1** The Decision Procedure and Penalties manual (DEPP) sets out our decision-making policies and procedures for giving statutory notices, imposing penalties, suspensions, restrictions and disciplinary prohibitions, conducting certain interviews and varying an SMF manager's approval. Chapter 4 (DEPP 4) deals with decisions by FCA staff under executive procedures and refers to 'the FCA's senior executive committee', which has previously referred to our most senior executive committee, the Executive Committee.

Summary of proposals

- 2.2** A change to our governance structure in January 2018 will mean that one of our 'senior staff committees' referred to in DEPP will be elevated in status to become a second 'senior executive committee'. This will result in us, the FCA, having two, rather than one, 'senior executive committees'. As a result, we propose replacing the seven references in DEPP 4 to 'the FCA's senior executive committee' to 'an FCA senior executive committee'.

Q2.1: Do you know of any reason why the seven references in DEPP 4 to 'the FCA's senior executive committee' should not be changed to 'an FCA senior executive committee'?

Cost benefit analysis

- 2.3** Section 138I of Financial Services and Markets Act (FSMA) requires us to perform a cost benefit analysis of our proposed requirements and to publish the results, unless we consider the proposal will not give rise to any cost or to an increase in costs of minimal significance. This proposal does not incur any costs as it is simply a consequential amendment to reflect the change in status of one of the FCA's senior staff committees to become a second senior executive committee.

Compatibility statement

- 2.4** Section 1B of FSMA requires us, when discharging our general functions, so far as is reasonably possible, to act in a way that is compatible with our strategic objective and advances one or more of our operational objectives. We also need to, so far as is compatible with acting in a way that advances the consumer protection objective or



the integrity objective, carry out our general functions in a way that promotes effective competition in the interests of consumers.

- 2.5** This proposal simply reflects an administrative change to the FCA's governance structure. Therefore, we are satisfied that this proposal is compatible with our general duties under section 1B of FSMA, having regard to the matters set out in s. 1C(2) FSMA and the regulatory principles in s. 3B.

Equality and diversity

- 2.6** We have considered the equality and diversity issues that may arise from the proposals in this Chapter.
- 2.7** Overall, we do not consider that the proposals adversely impact any of the groups with protected characteristics ie age, disability, sex, marriage or civil partnership, pregnancy and maternity, race, religion and belief, sexual orientation and gender reassignment.
- 2.8** We will continue to consider the equality and diversity implications of the proposal during the consultation period, and will revisit them when publishing the final rules.
- 2.9** In the interim we welcome any feedback to this consultation.

3 Minor changes to the Listing Rules and the Disclosure Guidance and Transparency Rules sourcebooks

Introduction

- 3.1** In this Chapter we propose two changes to clarify existing provisions within the Listing Rules (LR) and Disclosure Guidance and Transparency Rules (DTR) sourcebooks.
- 3.2** We are proposing to change Premium Listing Principle 6 (PLP6) in LR 7.2.1AR to restore its wording to accord with the original form of its predecessor, Listing Principle 4. This rule was last updated when the Listing Principles were reformulated in 2014.
- 3.3** We are also proposing minor changes to align two rules in DTR 7.2 with the rest of that section. These changes will clarify that the information on diversity reporting must be contained within the corporate governance statement and that statement can be made with the flexibility in mode of delivery (eg through website publication) that DTR 7.2 already provides for.

Summary of proposals

Premium Listing Principle 6 – Communications with holders of equity shares

- 3.4** In 2014, as part of our 'Enhancing the effectiveness of the Listing Regime' reforms, we revised the Listing Principles (LPs) in LR 7. This revision involved dividing the LPs into two new categories to reflect their revised application. The scope of two LPs was extended to cover all listed companies, while those applicable only to premium listed companies were rebadged as Premium Listing Principles.
- 3.5** Premium Listing Principle 6 (PLP6) currently provides that a premium listed company must communicate information to holders and potential holders of its listed equity shares in such a way as to avoid the creation of a false market in those listed equity shares. This Principle is the direct successor of the former Listing Principle 4 (LP4). However, the wording we adopted in PLP6, in contrast to former LP4, does not explicitly make reference to the 'continuation' as well as the 'creation' of a false market. When proposing the changes in CP12/25 we stated that PLP6 restated LP4, which required a listed company to communicate information to holders and potential holders of its listed shares in such a way as to avoid the creation or continuation of a false market in such listed securities.
- 3.6** We believe Handbook users will find the clarification of the meaning of PLP6 helpful. Accordingly, to be consistent with the position we communicated in CP12/25, we are proposing to change PLP6 to reinsert the words 'or continuation' after 'creation'. Doing so reinstates the original LP4 wording.



Q3.1: Do you agree with our proposal to clarify PLP6 by reinstating the explicit reference to the 'continuation' of a false market?

Diversity reporting

- 3.7** In DTR 7.2.8AR we specify the requirements for reporting by certain issuers on their diversity policy in accordance with the provisions of the Accounting Directive (AD). These elements of reporting have to be included, as required by our rules and by the AD, within the corporate governance statement the issuer is required to make under DTR 7.2.1R and corresponding provisions of the directive.
- 3.8** In DTR 7.2.9R we give the option to the issuer to set out its corporate governance statement in a separate report published together with its annual report, or alternatively in a document published on the company's website. We also explicitly provide that reporting requirements on other topics required by DTR 7.2 can be made through the corporate governance statement.
- 3.9** When introducing the diversity reporting requirements we omitted also to include explicit reference to these within the reporting items specified in DTR 7.2.9R and DTR 7.2.1R. We propose to change the wording of DTR 7.2.9R and DTR 7.2.1R to address this omission.

Q3.2: Do you agree with our proposed changes to the requirements of DTR 7.2.9R and DTR 7.2.1R?

Cost benefit analysis

- 3.10** When proposing new rules, we are obliged under section 138I of FSMA to publish a cost benefit analysis (CBA), unless we consider that the proposals will not give rise to any increase in costs, or the increase in costs will be of minimal significance. Taken from an analysis of both the costs and benefits that will arise from these proposals, the CBA is a statement of the differences between the baseline (current position) and the position that will arise if we implement the proposals.
- 3.11** Our proposals in this Chapter are designed to clarify existing Handbook provisions. We do not therefore consider that our proposals will create any additional costs but, in providing clarity, will create potential benefits of greater certainty to users, even though these are difficult to quantify.

Impact on mutual societies

- 3.12** Section 138K of FSMA requires us to state whether, in our opinion, our proposed rules have a significantly different impact on authorised persons who are mutual societies, compared with other authorised persons. We are satisfied that the proposed changes will not have a significantly different impact on mutual societies compared with other authorised persons.

Compatibility statement

- 3.13** Section 138I(2)(d) of FSMA requires us to explain why we believe our proposed rules are compatible with our strategic objective, advance one or more of our operational objectives, and have regard to the regulatory principles in section 3B of FSMA.
- 3.14** We consider that the proposals in this Chapter are compatible with our strategic objective and advance our operational objectives as they ensure the Handbook continues to be clear and up to date, providing an appropriate level of information to stakeholders. In preparing the proposals set out in this Chapter, we have had regard to the regulatory principles in section 3B.
- 3.15** We have also considered the FCA's duty to promote effective competition in the interests of consumers. We do not think the proposals will have an impact in this area.

Equality and diversity

- 3.16** We have considered the equality and diversity issues that may arise from the proposals in this Chapter.
- 3.17** Overall, we do not consider that the proposals adversely impact any of the groups with protected characteristics ie age, disability, sex, marriage or civil partnership, pregnancy and maternity, race, religion and belief, sexual orientation and gender reassignment.
- 3.18** We will continue to consider the equality and diversity implications of the proposals during the consultation period, and will revisit them when publishing the final rules.
- 3.19** In the interim we welcome any feedback to this consultation.



4 Changes to DISP: Access to the Financial Ombudsman Service for PEPs, and referrals to TPO

Introduction

- 4.1** In this Chapter, we set out our proposals to change the Dispute Resolution: Complaints sourcebook (DISP) in relation to access to the Financial Ombudsman Service for persons identified as politically exposed persons (PEPs), their family members and known close associates. We also set out proposals on the referring of complaints to the Pensions Ombudsman (TPO).
- 4.2** The Financial Ombudsman Service proposes to mirror certain changes we are proposing to make to the compulsory jurisdiction (CJ) in its voluntary jurisdiction (VJ). To the extent that this Chapter proposes changes to the Financial Ombudsman Service's VJ, this consultation is issued jointly by the FCA and the Financial Ombudsman Service.

Our proposals

Access to the Financial Ombudsman Service for politically exposed persons

- 4.3** The Financial Ombudsman Service was set up under FSMA to quickly and informally resolve complaints about financial services. The Financial Ombudsman Service has a CJ and a VJ. We are responsible for setting the scope of the CJ, which generally applies to complaints relating to regulated activities and certain other activities such as payment services and lending money. The Financial Ombudsman Service is responsible for setting the scope and standard terms for the VJ, which may cover complaints that cannot be dealt with under the CJ.
- 4.4** A complainant is eligible to complain to the Financial Ombudsman Service if they fall within a class of person specified as eligible (e.g consumer or micro-enterprise) in the rules for the CJ or the VJ.
- 4.5** The Money Laundering, Terrorist Financing and Transfer of Funds (Information on Payer) Regulations 2017 ('the Regulations') provide for enhanced due diligence when firms are dealing with PEPs, their family members or known close associates. The term 'PEP' refers to someone who holds prominent public office. The Regulations amend FSMA to require that the rules for the CJ must provide that individuals identified by firms as PEPs, their family members, and known close associates are eligible to complain to the Financial Ombudsman Service about complaints arising out of their identification as such, or any acts or omissions by the firm as a result of that identification.
- 4.6** We are proposing to amend the rules for the CJ to give effect to this requirement in relation to complaints regarding an act or omission on or after 22 June 2017. This is the

date that the Regulations which amended FSMA to include the requirement came into force. A person identified as a PEP, a family member or known close associate of a PEP will already be an eligible complainant where they are a 'consumer' for the purposes of DISP. Therefore we do not consider that the amendment will have a significant impact.

4.7 The proposed rules are set out in Appendix 4. We are jointly consulting with the Financial Ombudsman Service on these changes which it proposes to mirror in its VJ.

Q4.1: Do you agree the proposed wording for the Handbook to make individuals identified as PEPs, their family members or known close associates specifically eligible to complain to the Financial Ombudsman Service under its CJ, about complaints arising out of their identification as such or any acts or omissions by the firm in consequence of that identification, is clear and compliant with the FSMA requirement? If not, why?

Q4.2: Do you agree that these persons should also be specifically eligible to complain to the Financial Ombudsman Service under its VJ about these types of complaints? If not, why?

Referrals to the Pensions Ombudsman

4.8 TPO deals with complaints and disputes which concern the administration and/or management of both occupational and personal pension schemes. At ministerial level, it has been decided that TPO will take over the dispute resolution function (which will include the handling of complaints about the administration of an occupational pension scheme) currently performed by the Pensions Advisory Service (TPAS) by 1 April 2018. So we are proposing to change DISP to state that these complaints should be referred directly to TPO rather than TPAS (as TPAS will no longer resolve disputes) from 1 April 2018. However, this date may be earlier, and we will confirm the date this change takes effect when we make the changes final.

Q4.3: Do you agree with our proposal to advise firms to refer complaints about the administration of an occupational pension scheme to TPO as only it will be responsible for handling these complaints? If not, why?

4.9 Firms are required to provide eligible complainants with information about the Financial Ombudsman Service to raise consumer awareness about protection that is available. Firms are also required to refer eligible complainants to the Financial Ombudsman Service when issuing a final response to a complaint.

4.10 Some complaints about personal pension schemes may be considered by the Financial Ombudsman Service or by TPO. A Memorandum of Understanding between the two organisations, reflecting that overlap, has recently been updated. Against this backdrop, we are proposing to change DISP to state that, where relevant, and additionally to requirements regarding the Financial Ombudsman Service:

- respondents can provide eligible complainants with information about TPO
- respondents can refer eligible complainants to TPO using prescribed wording when issuing a final response



- 4.11** We would expect firms to have regard to our Principles when making reference to TPO. Our proposed changes are set out in Appendix 4. They do not replace the requirements for firms regarding the Financial Ombudsman Service.

Q4.4: Do you agree with our proposal to state that, where relevant, firms can provide eligible complainants with information about TPO, in addition to the requirements for firms regarding the Financial Ombudsman Service? If not, why?

Q4.5: Do you agree with our proposal to state that, where relevant, firms can refer eligible complainants to TPO using prescribed wording when issuing a final response letter, in addition to the requirements regarding the Financial Ombudsman Service? If not, why?

Cost benefit analysis

- 4.12** Section 138I(2)(a) of FSMA requires us to publish a cost benefit analysis (CBA) when proposing draft rules. Section 138L(3) of FSMA provides that section 138I(2)(a) does not apply where we consider that there will be no increase in costs or the increase will be of minimal significance.
- 4.13** We do not plan to issue a CBA as we believe the costs of compliance with the final rules will be of minimal significance.

Compatibility statement

- 4.14** Section 138I(2)(d) of FSMA requires us to explain why we believe our proposed rules are compatible with our strategic objective, advance one or more of our operational objectives, and have regard to the regulatory principles in section 3B of FSMA. In addition, section 138K(2) of FSMA requires us to state where the proposed rules will have a significantly different impact on mutual societies as opposed to other authorised persons.
- 4.15** The proposals set out in this Chapter relate to the ability for complaints to be considered by an Alternative Dispute Resolution scheme, or raising awareness of the availability of this. As such they help to advance our consumer protection operational objective and are compatible with our strategic objective to ensure that the relevant markets function well. We have had regard to the regulatory principles, for example, by explaining the proposals transparently, and giving consideration to their burdens and benefits.
- 4.16** The proposals are not expected to have a significantly different impact on mutual societies.

Equality and diversity

- 4.17** We have considered the equality and diversity issues that may arise from the proposals in this Chapter. Overall, we do not consider that the proposals adversely impact any of the groups with protected characteristics ie age, disability, sex, marriage or civil partnership, pregnancy and maternity, race, religion and belief, sexual orientation and gender reassignment.
- 4.18** We will continue to consider the equality and diversity implications of the proposal during the consultation period, and will revisit them when publishing the final rules.
- 4.19** In the interim we welcome any feedback to this consultation.



5 PSD2: Changes to collect the general levy for the Financial Ombudsman Service from registered account information service providers (RAISPs)

Introduction

- 5.1** Following the revised Payment Services Directive (PSD2), implemented in the UK by the Payment Services Regulations 2017, a business which provides only account information services may apply to us, the FCA, to become a registered account information service provider (RAISP).
- 5.2** RAISPs fall under the definition of payment service provider (PSP) and are subject to the compulsory jurisdiction (CJ) and voluntary jurisdiction (VJ) of the Financial Ombudsman Service.
- 5.3** We are responsible for setting the scope of the CJ, and the CJ generally applies to complaints relating to regulated activities and certain other activities, such as payment services and lending money. The Financial Ombudsman Service is responsible for setting the scope and standard terms for the VJ, and the VJ may cover complaints which cannot be dealt with under the CJ.
- 5.4** This Chapter sets out our proposal for collecting the general levy for the CJ from RAISPs from 1 April 2018.

Our proposal

- 5.5** We propose that RAISPs should, as fee-paying payment service providers, sit in industry block 11 for fees to fund the Financial Ombudsman Service, and pay the same fee as authorised payment institutions, as set out in FEES 5 Annex 1R in Appendix 5. RAISPs are also in the same group as authorised payment institutions for the purposes of FCA fees¹.
- 5.6** Authorised payment institutions are currently required to pay a levy of £0.0007 per £1,000 of relevant income subject to a minimum levy of £75 per year.
- 5.7** An accompanying amendment has also been proposed to the glossary to include RAISPs within the definition of fee-paying payment service providers. Should the proposal set out in paragraph 5.5 above be approved, the change to the glossary will be required automatically. While respondents are welcome to make comments on the proposed glossary amendment, no specific comment is sought in respect of Annex A to the instrument.

¹ FEES 4 Annex 11

Q5.1: Do you agree with our proposal to treat RAISPs in the same way as authorised payment institutions for the purpose of collecting the general levy to fund the Financial Ombudsman? If not, why?

Cost benefit analysis

- 5.8** Under section 138I of FSMA, the FCA is not required to carry out a cost benefit analysis in relation to fees rules.

Compatibility statement

- 5.9** Section 138I(2)(d) of FSMA requires us to explain why we believe our proposed rules are compatible with our strategic objective, advance one or more of our operational objectives, and have regard to the regulatory principles in section 3B of FSMA. In addition, section 138K(2) of FSMA requires us to state whether the proposed rules will have a significantly different impact on mutual societies as opposed to other authorised persons.
- 5.10** The proposal set out in this Chapter is compatible with our duties under section 1B of FSMA and advances our consumer protection objective. Further, the FCA has had regard to the regulatory principles set out in section 3B of FSMA.
- 5.11** The proposal is not expected to have a significantly different impact on mutual societies.

Equality and diversity

- 5.12** We have considered the equality and diversity issues that may arise from the proposals in this Chapter. Overall, we do not consider that the proposals adversely impact any of the groups with protected characteristics i.e. age, disability, sex, marriage or civil partnership, pregnancy and maternity, race, religion and belief, sexual orientation and gender reassignment.
- 5.13** We will continue to consider the equality and diversity implications of the proposal during the consultation period, and will revisit them when publishing the final rules.
- 5.14** In the interim we welcome any feedback to this consultation.



6 Enforcement and other miscellaneous IDD-related changes

Introduction

- 6.1** In this Chapter we set out proposals for changes to our Handbook to reflect the Insurance Distribution Directive (IDD). These are split between: (A) our enforcement approach to breaches of IDD requirements; and (B) other miscellaneous changes.
- A. Our enforcement approach to breaches of IDD requirements**
- 6.2** The IDD replaces the Insurance Mediation Directive (IMD). It aims to enhance the protection of consumers when buying insurance (including non-investment insurance, life insurance and insurance-based investment products (IBIPs)) and to support competition between insurance distributors by creating a level playing field. The IDD entered into force on 23 February 2016 and firms must follow its requirements from 23 February 2018. The IDD will be implemented by making changes to legislation and our Handbook. This consultation is based on a draft statutory instrument.
- 6.3** Like the IMD, the IDD covers the authorisation, passporting arrangements and regulatory requirements for insurance and reinsurance intermediaries. However, the application of the IDD is wider, covering organisational and conduct of business requirements for both insurance and reinsurance intermediaries and insurance and reinsurance undertakings. The IDD also introduces requirements in new areas. These include product oversight and governance, and enhanced conduct rules for IBIPs, where its stated intention is to more closely align customer protections with those provided by the Markets in Financial Instruments Directive II. The IDD also introduces a requirement for non-life insurance distributors to provide the customer with a standardised Insurance Product Information Document (IPID).
- 6.4** We are now consulting on changes to our Enforcement Guide (EG) in light of enforcement requirements under the IDD. We are only proposing minimal changes, as we are using existing enforcement policies and procedures, including the use of our investigatory and sanctioning powers and penalty policy, for the wider scope and additional of the IDD.
- 6.5** The IDD allows for enhanced supervision which will be introduced by new Part 13A FSMA. If an EEA insurance distributor's primary place of business is located in the UK rather than in its home member state, section 203A of FSMA enables us, the FCA to enter into agreement with the home state regulator to exercise relevant functions in relation to the firm in accordance with the agreement, as if the firm was a UK firm. Under s. 203B where UK insurance distributor has its primary place of business within EEA State, we, the FCA, can agree on enhanced supervision of a UK firm by that host state. The details of this new arrangement will be detailed in an agreement between the member states.

6.6 For a complete overview of our changes following from the implementation of IDD you should refer to our Consultation Papers (CPs) and Policy Statements (PSs). In CP17/7, CP 17/23, and CP17/33 we set out our initial proposals on how we plan to implement the IDD. We also published PS17/21 where we provided feedback to CP17/7 and made near-final rules. Further PSs are planned for December 2017 and January 2018.

B. Other changes

6.7 In this section we set out some additional changes being made as part of the IDD implementation. These include changes to:

- the Variation of Permission (VoP) application form (at SUP 6 Annex 5D)
- SUP 15.3.11R which will require firms to notify us where they are aware of a breach of any directly applicable EU regulation made under the IDD

Summary of proposals

A. Our enforcement approach to breaches of IDD requirements

6.8 The powers required to enforce the obligations under IDD will be contained in FSMA and we will therefore follow our existing policies and procedures as explained in the Decision Procedure and Penalties manual (DEPP) and EG. In relation to breaches of IDD requirements we propose to use our current enforcement policies and procedures, including investigatory and sanctioning powers, and to apply our current penalty policy as described in DEPP 6.

6.9 We do not propose any changes to DEPP as we consider that relevant requirements under the IDD are covered by our current policies and procedures. However, there are some limited changes to be made in EG to reflect the IDD.

Changes to EG

6.10 We are proposing to change EG by:

- Updating references from IMD to IDD.
- Signposting sections 203A and 204B of FSMA which will enable us, the FCA, to agree enhanced supervision for EEA firms and allow the same treatment of UK firms within the EEA in particular cases. We are proposing to insert a new section EG 3.8B which describes the existence of this type of cooperation.

Q6.1: Do you agree with our proposed changes to EG?

B. Changes to the Supervision manual (SUP)

6.11 We are proposing the changes outlined below to SUP.

Variation of Permission (VoP) Application form

6.12 We are proposing to amend the Variation of Permission (VoP) application form, which appears at SUP 6 Annex 5D, to reflect the information that is required to be collected as a condition of registration under article 3 of the IDD.



Breaches of directly applicable IDD regulations

- 6.13** We are proposing to change SUP 15.3.11R to include a requirement for firms to notify us of any breaches of directly applicable regulations made under the IDD. This change, to be made by adding IDD directly-applicable regulations to the existing list at SUP 15.3.11R, is consistent with our approach in respect of other directly applicable European legislation. While creating a new obligation in terms of precisely which breaches need to be notified to the FCA, it is in line with our existing requirement that firms notify us of regulatory breaches under SUP 15.3.11R. We consider that if there were to be any increase in costs on firms these would be of minimal significance.

Q6.2: Do you agree with our proposed changes to SUP?

Cost benefit analysis

- 6.14** Section 138I(2)(a) of FSMA requires us to publish a cost benefit analysis (CBA) when proposing draft rules. Section 138L(3) of FSMA provides that section 138I(2)(a) does not apply where we consider that there will be no increase in costs or the increase will be of minimal significance.
- 6.15** We do not plan to issue a CBA as we believe the costs of compliance with the final rules will be of minimal significance. We do not expect that any significant additional costs to authorised firms will arise as a result of these proposed changes, which generally implement minimum directive requirements.

Impact on mutual societies

- 6.16** Section 138K of FSMA requires us to state whether, in our opinion, our proposed rules have a significantly different impact on authorised persons who are mutual societies, compared to other authorised persons. We do not expect that the proposed changes will have any significantly different impact on mutual societies.

Compatibility statement

- 6.17** Section 138I(2)(d) of FSMA requires us to explain why we believe our proposed rules are compatible with our strategic objective, advance one or more of our operational objectives and have regard to the regulatory principles in section 3B of FSMA.
- 6.18** The FCA also needs to, so far as is compatible with acting in a way that advances the consumer protection objective or the integrity objective, carry out its general functions in a way that promotes effective competition in the interests of consumers.
- 6.19** We are satisfied that these proposals are compatible with our general duties under section 1B of FSMA, having regard to the matters set out in section 1C(2) of FSMA and the regulatory principles in section 3B.
- 6.20** These proposals are relevant to our operational objectives of securing an appropriate degree of protection for consumers and ensuring market integrity. They will ensure that, among other things, our Handbook forms reflect the changes relevant to the IDD, and that firms are required to notify us of any breaches of directly applicable regulations made under the IDD.

- 6.21** In preparing the proposals as set out in this consultation, we have had regard to the recommendations made by the Treasury under section 1JA of FSMA about aspects of the economic policy of Her Majesty's Government in connection with our general duties. It is our opinion that making the consequential changes has no impact on the Treasury's recommendations.
- 6.22** The proposed changes are not expected to have a significantly different impact on mutual societies.
- 6.23** We are satisfied that the proposed changes are compatible with our objectives and regulatory principles.

Equality and diversity

- 6.24** In developing our proposals, we have considered any potential equality and diversity implications, and take the view that they do not adversely impact any of the groups with protected characteristics, ie age, disability, gender, pregnancy and maternity, race, religion and belief, sexual orientation and transgender.
- 6.25** We will continue to consider the equality and diversity implications of the proposals during the consultation period, and will revisit them when publishing the final rules.
- 6.26** In the interim we welcome any feedback to this consultation.

7 Financial Crime reporting

Introduction

- 7.1** The Money Laundering, Terrorist Financing and Transfer of Funds (Information on the Payer) Regulations 2017 (MLRs) came in to force on 26 June and updated the UK Anti-Money Laundering (AML) framework to transpose the EU's 4th Money Laundering Directive. The MLRs changed the scope of the definition of a politically exposed person (PEP) and correspondent banking relationships. This impacts on how we collect information from certain firms under the reporting requirements in the Financial Crime Annual Return (REP-CRIM).
- 7.2** The REP-CRIM came into force on 31 December 2016. We have identified a number of questions where we think additional guidance would assist firms in submitting the report and improve the quality of the data we receive.

Summary of proposals

- 7.3** We are proposing to update SUP 16 Annex 42BG in relation to a number of REP-CRIM questions:

Section	Question	Reason for proposed changes
1	3 A&B	Provide additional guidance
2	Customer Information	Provide additional guidance
2	4 A&B	Reflect changes in MLRs
2	5 A&B	Reflect changes in MLRs
2	6 A&B	Reflect changes in MLRs
2	6 A&B	Provide additional guidance
2	7-16	Provide additional guidance
2	17	Provide additional guidance
2	18 A&B	Provide additional guidance
3	Compliance Information	Provide additional guidance
3	23 A&B	Provide additional guidance
3	24	Provide additional guidance
3	25	Provide additional guidance
3	26	Provide additional guidance
3	28 A&B	Provide additional guidance

Question 4 A&B - PEPs

- 7.4** The MLRs require firms to identify whether a customer or beneficial owner of a customer is a PEP, a family member or a known close associate of a PEP. The definition has changed from applying only to those holding a role outside of the UK to include those who hold a role in the UK or are entrusted with such a role by the UK. In line with the PEPs Guidance² we propose that firms only report to us those PEPs, family members or known close associates who they have identified as being high risk in accordance with the guidance. In practice this means that UK PEPs will not need to be reported as a PEP customer. However, if there are other factors which might indicate higher risks, then this should be reported in Question 6A&B. Although we did state in PS16/19 that we would use a firm's definition of a PEP, we nonetheless wish, with the MLRs and PEPs guidance, to continue efforts to avoid firms inappropriately classifying domestic PEPs as high risk and ensure the REP-CRIM is focused on identifying higher risk indicators.

Question 5 A&B - Correspondent banking and trading relationships

- 7.5** Regulation 14 of the Money Laundering Regulations 2007 required firms to undertake enhanced due diligence (EDD) in relation to correspondent banking relationships outside the EEA, and the guidance notes reflect this. Regulation 34(4)(a) of the MLRs expands the definition of correspondent banking relationships by requiring EDD in relation not only to the provision of correspondent banking but also to 'the relationship between and among credit and financial institutions'. Correspondent banking is recognised as a high risk activity. The Joint Money Laundering Steering Group (JMLSG) guidance defines the relationships between and among credit and financial institutions as 'correspondent trading relationships' and states that the degree of money laundering / terrorist financing (ML/TF) risk in such relationships is different, and generally lower than it is with relationships which provide banking-related services on behalf of the respondent institution's customers. As such, we propose retaining the existing guidance definition so as to require firms to provide only information about high risk relationships as defined under Regulation 34(4)(a)(i), and not correspondent trading relationships.

Q7.1: Do you have any comments on our proposed approach to reporting in relation to PEPs and correspondent banking?

Question 6 A&B – All other high risk customers

- 7.6** Regulation 14(2) of the Money Laundering Regulations 2007 required firms to take specific and adequate measures to compensate for the higher risk posed where a customer had not been physically present for identification purposes. The revised MLRs removed this specific requirement, although Regulation 33 of the MLRs refers to a number of factors which might indicate higher risk.

All other questions

- 7.7** We received a number of queries from firms seeking clarification on how to complete the return. We have also analysed REP-CRIM responses to identify common data problems. We propose amending parts of the guidance to improve the accuracy and consistency of returns.

² FG17/6 'The treatment of politically exposed persons for anti-money laundering purposes' (July 2017) <https://www.fca.org.uk/publications/finalised-guidance/fg17-6-treatment-politically-exposed-persons-peps-money-laundering>



Q7.2: Do you have any comments on our proposed amendments to the guidance notes in relation to the other questions?

Cost benefit analysis

7.8 We do not anticipate that these changes in reporting, which only reflect changes in legislation and provide additional guidance, will create further costs on business beyond those that were assessed as part of the original consultation process³. We believe that this move will be beneficial as it is designed to avoid different interpretations emerging between firms, and will reduce the risk of firms reporting information about non-high risk relationships. This approach will ensure that our ability to operate a risk-sensitive supervisory approach remains. We have not added any additional reporting requirements or questions.

Impact on mutual societies

7.9 Mutual societies with a turnover of over £5m are required to submit the REP-CRIM. We believe that the changes to the guidance will have a minimal impact on mutual societies.

Compatibility statement

7.10 Section 1B of FSMA requires the FCA, when discharging its general functions, as far as is reasonably possible, to act in a way that is compatible with its strategic objective and advances one or more of its operational objectives. The FCA also needs to, so far as is compatible with acting in a way that advances the consumer protection objective or the integrity objective, carry out its general functions in a way that promotes effective competition in the interests of consumers. The FCA's general functions include its functions in relation to the giving of general guidance. In discharging its general functions, the FCA must have regard to the regulatory principles in section 3B of FSMA. We are satisfied that the proposed changes are compatible with our objectives and regulatory principles.

Equality and diversity

7.11 We have considered the equality and diversity issues that may arise from the proposals in this Chapter.

7.12 Overall, we do not consider that the proposals adversely impact any of the groups with protected characteristics ie age, disability, sex, marriage or civil partnership, pregnancy and maternity, race, religion and belief, sexual orientation and gender reassignment.

³ CP15/42 'Quarterly Consultation Paper No. 11' (December 2015) <https://www.fca.org.uk/publications/consultation-papers/cp15-42-quarterly-consultation-paper-no-11> and PS16/19 'Financial Crime Reporting: feedback on Chapter 6 of CP15/42 and final rules' (July 2016) <https://www.fca.org.uk/publications/policy-statements/ps16-19-financial-crime-reporting-feedback-chapter-6-cp15-42-and>



- 7.13** We will continue to consider the equality and diversity implications of the proposal during the consultation period, and will revisit them when publishing the final rules.
- 7.14** In the interim we welcome any feedback to this consultation.



8 Changes to reporting requirements in the Supervision manual and ICOBS

Introduction

- 8.1** We collect regulatory data to inform and support our supervision of firms. Our data reporting requirements are set out in our Handbook, mainly in the Supervision manual (SUP). We use feedback from firms and FCA colleagues to clarify and improve these requirements each quarter.
- 8.2** This consultation will be of interest to:
- mutual insurers, and
 - all firms required to produce an employers' liability register complying with the requirements of ICOBS 8 Annex 1
- 8.3** Appendix 8 sets out the proposed Handbook text and details the statutory powers they will be made under.

Summary of proposals

- 8.4** *Changing the submission process for director's certificate and auditor report*
We wish to change the submission period and method by which firms submit their director's certificate and auditor report (Employers' Liability Register compliance data) to us, the FCA. Firms currently submit this data to us by email at various points throughout the year, depending on when they first became subject to the requirement to produce an employers' liability register. There is not a prescribed format or timing for these submissions, which means we currently spend time processing them manually, which is inefficient.

- 8.5** *Changes to the submission period*
Our first proposal is to set a single submission period for all firms to provide this data to us. The submission period will start on the 1 August and end on the 31 August. By setting a single submission period, we will ensure we have a complete dataset that provides a comprehensive view of compliance with our requirements.

Q8.1: Do you have any comments on our proposal to change the submission period for Employers' Liability Register compliance data?

- 8.6** *Changes to the submission method*
Our second proposal is to change the method by which firms submit the Employers' Liability Register compliance data to us. Under this proposal we will contact all firms required to submit this data ahead of the submission period providing access to an

online form (the Employers' Liability Register compliance return). A draft of the form is set out in the draft Handbook text in Appendix 8. The form will not require the collection of new or additional data from firms and it will provide a consistent, validated dataset for quick and efficient analysis.

Q8.2: Do you have any comments on our proposal to change the submission method for Employers' Liability Register compliance data?

Changes to ICOBS 8.4 and SUP 16

- 8.7** To facilitate the proposed changes we intend to move the relevant FCA Handbook rules and guidance from ICOBS 8.4 to SUP 16.25. We will update the text to reflect the proposed changes and include guidance on completing the Employers' Liability Register compliance return (please see Appendix 8 for the proposed Handbook text). As a result of introducing these changes, firms will become subject to the late administration fee as set out in SUP 16.3.14R if they fail to submit the return by the end of the submission period.

Q8.3: Do you have any comments on our proposal to move and update the relevant rules and guidance for Employers' Liability Register compliance data in the FCA Handbook?

Cost benefit analysis

- 8.8** Sections 138I(2)(a) of FSMA requires us to publish a cost benefit analysis when proposing draft rules. Section 138L(3) of FSMA provides that section 138I(2)(a) does not apply where we consider that there will be no increase in costs or the increases will be of minimal significance. Having assessed the changes proposed in this Chapter and having considered previous estimates of similar reporting changes, we believe this exemption applies to the items proposed in this Chapter.

Impact on mutual societies

- 8.9** Section 138K(2) of FSMA requires us to provide an opinion on whether the impact of proposed rules on mutual societies is significantly different to the impact on other authorised persons. We are satisfied that the proposed changes do not impact on mutual societies more than any other authorised firm.



Compatibility statement

- 8.10** Section 1B of FSMA requires us, so far as is reasonably possible, to act in a way that is compatible with our strategic objective and advances one or more of our operational objectives. We also need to carry out our general functions in a way that promotes effective competition in the interests of consumers.
- 8.11** The proposed changes in this Chapter will allow us to collect more accurate firm data and process it more efficiently. In turn, this will allow more effective supervision of firms and will help us to advance our consumer protection objective.
- 8.12** We do not believe that the proposed changes will have an impact on competition. The changes are expected to impose no or minimal costs on firms and do not affect firms' incentives or ability to compete in the market.

Equality and diversity

- 8.13** Overall, we do not believe that the proposals in this Chapter adversely impact any of the groups with protected characteristics specified in legislation i.e. age, disability, sex, marriage or civil partnership, pregnancy and maternity, race, religion and belief, sexual orientation and gender reassignment.
- 8.14** We will continue to consider the equality and diversity implications of the proposals during the consultation period, and, if necessary, will revisit them when we publish the final rules.
- 8.15** In the interim, we welcome any input to this consultation.

Annex 1

List of questions

- Q2.1:** Do you know of any reason why the seven references in DEPP 4 to 'the FCA's senior executive committee' should not be changed to 'an FCA senior executive committee'?
- Q3.1:** Do you agree with our proposal to clarify PLP6 by reinstating the explicit reference to the 'continuation' of a false market?
- Q3.2:** Do you agree with our proposed changes to the requirements of DTR 7.2.9R and DTR 7.2.1R?
- Q4.1:** Do you agree the proposed wording for the Handbook to make PEPs, their family members and known close associates specifically eligible to complain to the Financial Ombudsman Service under its CJ, about complaints arising out of their identification as such or any acts or omissions by the firm in consequence of that identification, is clear and compliant with the FSMA requirement?
- Q4.2:** Do you agree that these persons should also be specifically eligible to complain to the Financial Ombudsman Service under its VJ about these types of complaints? If not, why?
- Q4.3:** Do you agree with our proposal to advise firms to refer complaints about the administration of an occupational pension scheme to TPO as only it will be responsible for handling these complaints? If not, why?
- Q4.4:** Do you agree with our proposal to state that, where relevant, firms can provide eligible complainants with information about TPO, in addition to the requirements for firms regarding the Financial Ombudsman Service? If not, why?
- Q4.5:** Do you agree with our proposal to state that, where relevant, firms can refer eligible complainants to TPO using prescribed wording when issuing a final response letter, in addition to the requirements regarding the Financial Ombudsman Service? If not, why?
- Q5.1:** Do you agree with our proposal to treat RAISPs in the same way as authorised payment institutions for the purpose of collecting the general levy to fund the Financial Ombudsman? If not, why?



- Q6.1:** Do you agree with our proposed changes to EG?
- Q6.2:** Do you agree with our proposed changes to SUP 15?
- Q7.1:** Do you have any comments on our proposed approach to reporting in relation to PEPs and correspondent banking?
- Q7.2:** Do you have any comments on our proposed amendments to the guidance notes in relation to the other questions?
- Q8.1:** Do you have any comments on our proposal to change the submission period for Employers' Liability Register compliance data?
- Q8.2:** Do you have any comments on our proposal to change the submission method for Employers' Liability Register compliance data?
- Q8.3:** Do you have any comments on our proposal to move and update the relevant rules and guidance for Employers' Liability Register compliance data in the FCA Handbook?

Appendix 1

Abbreviations used in this paper

AD	the Accounting Directive
AML	anti-money laundering
AIF	alternative investment fund
ACS	authorised contractual scheme
AUT	authorised unit trust
CJ	compulsory jurisdiction
CBA	cost benefit analysis
DEPP	Decision Procedure and Penalties manual
DTR	the Disclosure Guidance and Transparency Rules sourcebook
DISP	the Dispute Resolution: Complaints sourcebook
EDD	enhanced due diligence
EEA	European Economic Area
EU	European Union
FM/KCA	family member or a known close associate of a PEP
FCA	Financial Conduct Authority
REP-CRIM	Financial Crime Annual Return
FSMA	Financial Services and Markets Act 2000
IBIPS	insurance-based investment products
ICOBS	Insurance: Conduct of Business sourcebook
IDD	Insurance Distribution Directive
IMD	Insurance Mediation Directive
IPID	Insurance Product Information Document



ICVC	investment company with variable capital
JMLSG	the Joint Money Laundering Steering Group
LPs	Listing Principles
LP4	Listing Principle 4
LR	the Listing Rules sourcebook
ML/TF	money laundering / terrorist financing
MLRs	the Money Laundering, Terrorist Financing and Transfer of Funds (Information on the Payer) Regulations 2017
MMF	money market fund
OEIC	open-ended investment company
PEP	politically exposed person
PEPs Guidance	FCA Guidance FG17/6 issued under Regulation 48 of the MLRs
PLP6	Premium Listing Principle 6
PSD2	Revised Payment Services Directive
RAISP	Registered Account Information Service Provider
SUP	the Supervision manual
TPAS	the Pensions Advisory Service
TPO	the Pensions Ombudsman
UCITS	Undertakings for Collective Investment in Transferable Securities
VoP	Variation of Permission
VJ	voluntary jurisdiction

We have developed the policy in this Consultation Paper in the context of the existing UK and EU regulatory framework. The Government has made clear that it will continue to implement and apply EU law until the UK has left the EU. We will keep the proposals under review to assess whether any amendments may be required in the event of changes in the UK regulatory framework in the future.

We make all responses to formal consultation available for public inspection unless the respondent requests otherwise. We will not regard a standard confidentiality statement in an email message as a request for non-disclosure.

Despite this, we may be asked to disclose a confidential response under the Freedom of Information Act 2000. We may consult you if we receive such a request. Any decision we make not to disclose the response is reviewable by the Information Commissioner and the Information Rights Tribunal.

All our publications are available to download from www.fca.org.uk. If you would like to receive this paper in an alternative format, please call 020 7066 9644 or email: publications_graphics@fca.org.uk or write to: Editorial and Digital team, Financial Conduct Authority, 25 The North Colonnade, Canary Wharf, London E14 5HS



Appendix 2

Changes to the Decision Procedure and Penalties manual (DEPP)

**DECISION PROCEDURE AND PENALTIES MANUAL (AMENDMENT)
INSTRUMENT 2018**

Powers exercised

- A. The Financial Conduct Authority makes this instrument in the exercise of the power in section 139A (Power of the FCA to give guidance) of the Financial Services and Markets Act 2000.

Commencement

- B. This instrument comes into force on [*date*].

Amendments to the Handbook

- C. The Decision Procedure and Penalties manual (DEPP) is amended in accordance with the Annex to this instrument.

Citation

- D. This instrument may be cited as the Decision Procedure and Penalties Manual (Amendment) Instrument 2018.

By order of the Board
[*date*]

Annex

Amendments to the Decision Procedure and Penalties manual (DEPP)

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

4 Decisions by FCA staff under executive procedures

4.1 Executive decision maker

...

4.1.3 G ~~The FCA's~~ An FCA senior executive committee will from time to time determine that particular categories of *statutory notice decision* to be taken under *executive procedures* and decisions referred to in *DEPP 2.5.6AG* will be taken by a *senior staff committee*.

4.1.4 G A *senior staff committee* will consist of such *FCA* staff members as ~~the FCA's~~ an FCA senior executive committee may from time to time determine. ~~The FCA's~~ An FCA senior executive committee may authorise the chairman of a *senior staff committee* to select its other members. A *senior staff committee* is accountable for its decisions to ~~the FCA's~~ an FCA senior executive committee and, through it, to the *FCA* Board.

...

4.1.11 G ...

(2) If a member of a senior staff committee has a potential conflict of interest in any matter in which he is asked to participate he will disclose the conflict to the secretariat of the senior staff committee, and disclose it:

(a) in the case of the chairman of the senior staff committee, to a member of ~~the FCA's~~ an FCA senior executive committee or, if the *person* with the conflict is the chairman of ~~the FCA's~~ an FCA senior executive committee, to the Chairman of the *FCA*;

(b) in the case of the deputy chairman of the senior staff committee, to the chairman of the committee, or if he is unavailable, to a member of ~~the FCA's~~ an FCA senior executive committee;

...

...

...



Appendix 3

Minor changes to the Listing Rules and the Disclosure Guidance and Transparency Rules sourcebooks

**LISTING RULES AND DISCLOSURE GUIDANCE AND TRANSPARENCY RULES
(MISCELLANEOUS AMENDMENTS) INSTRUMENT 2018**

Powers exercised

- A. The Financial Conduct Authority makes this instrument in the exercise of the following powers and related provisions in the Financial Services and Markets Act 2000 (the “Act”):
- (1) section 73A (Part 6 Rules);
 - (2) section 89O (Corporate governance rules);
 - (3) section 96 (Obligations of issuers of listed securities);
 - (4) section 137A (The FCA’s general rules);
 - (5) section 137T (General supplementary powers); and
 - (6) section 139A (Power of the FCA to give guidance).
- B. The rule-making powers listed above are specified for the purpose of section 138G(2) (Rule-making instruments) of the Act.

Commencement

- C. This instrument comes into force on [*date*].

Amendments to the Handbook

- D. The Listing Rules sourcebook (LR) is amended in accordance with Annex A to this instrument.
- E. The Disclosure Guidance and Transparency Rules sourcebook (DTR) is amended in accordance with Annex B to this instrument.

Citation

- F. This instrument may be cited as the Listing Rules and Disclosure Guidance and Transparency Rules (Miscellaneous Amendments) Instrument 2018.

By order of the Board
[*date*]

Annex A

Amendments to the Listing Rules sourcebook (LR)

In this Annex, underlining indicates new text.

7 Listing Principles and Premium Listing Principles

...

7.2 The Listing and Premium Listing Principles

...

7.2.1A R The Premium Listing Principles are as follows:

...	
Premium Listing Principle 6	<i>A listed company</i> must communicate information to holders and potential holders of its listed equity shares in such a way as to avoid the creation <u>or continuation</u> of a false market in those listed equity shares.

...

Annex B

Amendments to the Disclosure Guidance and Transparency Rules sourcebook (DTR)

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

7 Corporate governance

...

7.2 Corporate governance statements

7.2.1 R An *issuer* to which this section applies must include a corporate governance statement in its directors' report. That statement must be included as a specific section of the directors' report and must contain at least the information set out in *DTR 7.2.2R* to *DTR 7.2.7R* and, where applicable, *DTR 7.2.8AR* and *DTR 7.2.10R*.

...

7.2.9 R An *issuer* may elect that, instead of including its corporate governance statement in its directors' report, the information required by *DTR 7.2.1R* to ~~*DTR 7.2.7R*~~ *DTR 7.2.8AR* may be set out in:

...

...



Appendix 4

Changes to DISP: Access to the Financial Ombudsman Service for PEPs, and referrals to TPO

DISPUTE RESOLUTION: COMPLAINTS (POLITICALLY EXPOSED PERSONS AND PENSIONS OMBUDSMAN) INSTRUMENT 2018

Powers exercised by the Financial Ombudsman Service

- A. The Financial Ombudsman Service Limited makes and amends the Voluntary Jurisdiction rules, and fixes and varies the standard terms for Voluntary Jurisdiction participants as set out in the Annexes to this instrument in the exercise of the following powers and related provisions in the Financial Services and Markets Act 2000 (“the Act”):
- (1) section 227 (Voluntary Jurisdiction);
 - (3) paragraph 18 (Terms of reference to the scheme) of Schedule 17; and
 - (4) paragraph 22 (Consultation) of Schedule 17.
- B. The making and amendment of the Voluntary Jurisdiction rules and the fixing and varying of the standard terms for Voluntary Jurisdiction participants by the Financial Ombudsman Service Limited is subject to the approval of the Financial Conduct Authority.

Powers exercised by the Financial Conduct Authority

- C. The Financial Conduct Authority makes this instrument in and under the exercise of the following powers and related provisions in the Financial Services and Markets Act 2000 (the “Act”):
- (1) section 137A (FCA’s general rule making power);
 - (2) section 137T (General supplementary powers);
 - (3) section 139A (Power of the FCA to give guidance);
 - (4) section 226 (Compulsory jurisdiction); and
 - (5) paragraph 13 of Schedule 17 (FCA’s rules).
- D. The rule-making powers listed above are specified for the purpose of section 138G(2) (Rule-making instruments) of the Act.
- E. The Financial Conduct Authority approves the Voluntary Jurisdiction rules made and amended and the standard terms for Voluntary Jurisdiction participants fixed and varied by the Financial Ombudsman Service Limited under this instrument.

Commencement

- F. This instrument comes into force on [1 April 2018].

Amendments to the Handbook

- G. The Glossary of definitions is amended in accordance with Annex A of this instrument.

- H. The Dispute Resolution: Complaints sourcebook (DISP) is amended in accordance with Annex B of this instrument.

Citation

- I. This instrument may be cited as the Dispute Resolution: Complaint (Politically Exposed Persons and Pensions Ombudsman) Instrument 2018.

By order of the Board of the Financial Ombudsman Service Limited
[*date*]

By order of the Board of the Financial Conduct Authority
[*date*]

Annex A

Amendments to the Glossary

Insert the following new definitions in the appropriate alphabetical position. The text is not underlined.

<i>family member of a politically exposed person</i>	as defined in regulation 35(12) Money Laundering, Terrorist Financing and Transfer of Funds (Information on the Payer) Regulations (SI 2017/692).
<i>known close associate of a politically exposed person</i>	as defined in regulation 35(12) Money Laundering, Terrorist Financing and Transfer of Funds (Information on the Payer) Regulations (SI 2017/692).
<i>Pensions Ombudsman</i>	the person appointed as the Pensions Ombudsman by the Secretary of State under section 145 Pensions Schemes Act 1993.
<i>politically exposed person</i>	as defined in regulation 35(12) Money Laundering, Terrorist Financing and Transfer of Funds (Information on the Payer) Regulations (SI 2017/692).

Annex B

Amendments to the Dispute Resolution: Complaints sourcebook (DISP)

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

1 Introduction

1.1 Purpose and application

...

1.1.9A G The scope of this sourcebook does not include:

...

- (2) a *complaint* about the administration of an *occupational pension scheme*, because this is not a *regulated activity* (*firms* should refer complainants to the ~~Pensions Advisory Service~~ Pensions Ombudsman rather than the Financial Ombudsman Service).

1.2 Consumer awareness rules

...

The Pensions Ombudsman

1.2.6 G Where *respondents* are required to provide information in relation to the *Financial Ombudsman Service*, they may also, where relevant, do so in relation to the *Pensions Ombudsman* on the same basis as set out in *DISP* 1.2.1(4)R and *DISP* 1.2.3G.

1.2.7 G Where *respondents* are permitted to display or reproduce the *Financial Ombudsman Service* logo, they may, where relevant, also display or reproduce the *Pensions Ombudsman* logo (with consent) on the same basis as set out in *DISP* 1.2.5G.

1.6 Complaints time limit rules

...

1.6.6B G A *respondent* may, where relevant, in a response sent under the *complaints time limit rules* (*DISP* 1.6.2R and *DISP* 1.6.4R) refer to the availability of the *Pensions Ombudsman*, in addition to the *Financial Ombudsman Service*,

by including the wording set out in DISP 1 Annex 4G.

2 Jurisdiction of the Financial Ombudsman Service

...

2.7 Is the complainant eligible?

...

2.7.7A **R** In addition, an individual is an *eligible complainant* if:

- (1) they have been identified by the *respondent* as a *politically exposed person*, a *family member of a politically exposed person*, or a *known close associate of a politically exposed person*; and
- (2) their *complaint* relates to:
 - (a) such identification; or
 - (b) an act or omission by the *respondent* in consequence of such identification.

After DISP 1 Annex 3R (Appropriate wording for inclusion in a final response or written acceptance) insert the following new Annex. The text is not underlined.

1 Appropriate wording for inclusion in a final response or written acceptance Annex 4G

	Reference to the availability of The Pensions Ombudsman
(1)	<p>“You have the right to refer your complaint to The Pensions Ombudsman free of charge.</p> <p>The Pensions Ombudsman can be contacted at [current address, current telephone number and current website address].”</p>

Amend the following as shown.

TP 1 Transitional provisions

1.1 Transitional Provisions table

(1)	(2) Material provision to which transitional provision applies	(3)	(4) Transitional provision	(5) Transitional provision: dates in force	(6) Handbook provision: coming into force
...					
[x]	<u>DISP 2.7.7AR</u>	<u>R</u>	<u>DISP 2.7.7AR applies in relation to a <i>complaint</i> concerning an act or omission which occurs on or after 22 June 2017.</u>	[x]	[x]



Appendix 5

PSD2: Changes to collect the general levy for the Financial Ombudsman Service from registered account information service providers (RAISPs)

FEES (PAYMENT SERVICES) INSTRUMENT (No [X]) 2018

Powers exercised

- A. The Financial Conduct Authority makes this instrument in the exercise of the following powers and related provisions in or under the Financial Services and Markets Act 2000 (“the Act”):
- (1) the following powers and related provisions in or under the Financial Services and Markets Act 2000 (“the Act”):
 - (a) section 137A (The FCA’s general rules), as applied by paragraph 3 of Schedule 6 to the Payment Services Regulations 2017 (SI 2017/752) (“the Regulations”) and paragraph 2A of Schedule 3 to the Electronic Money Regulations 2011 (SI 2011/99);
 - (b) section 137T (General supplementary powers), as applied by paragraph 3 of Schedule 6 to the Regulations and paragraph 2A of Schedule 3 to the Electronic Money Regulations 2011 (SI 2011/99);
 - (c) section 139A (Power of the FCA to give guidance);
 - (d) paragraph 23 (Fees) in Part 3 (Penalties and Fees) of Schedule 1ZA (The Financial Conduct Authority);
 - (2) regulation 92 (Costs of supervision) of the Payment Services Regulations 2009 (SI 2009/209);
 - (3) regulation 59 (Costs of supervision) of the Electronic Money Regulations 2011 (SI 2011/99); and
 - (4) regulations 118 (Costs of supervision) and 120 (Guidance) of the Regulations.
- B. The rule-making powers listed above are specified for the purpose of section 138G (Rule-making instruments) of the Act.

Commencement

- C. This instrument comes into force on *[date]*.

Amendments to the Handbook

- D. The Glossary of definitions is amended in accordance with Annex A to this instrument.
- E. The Fees manual (FEES) is amended in accordance with Annex B to this instrument.

Citation

- F. This instrument may be cited as the Fees (Payment Services) Instrument (No [X]) 2018.

By order of the Board
[*date*]

Annex A

Amendments to the Glossary of definitions

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

- fee-paying payment service provider* any of the following when they provide payment services:
- (a) a *payment institution*;
 - (b) a *full credit institution*;
 - (c) an *electronic money issuer* (except where it is an *electronic money issuer* whose only payment service activities are those relating to the issuance of *electronic money* by itself or if it is a *credit union*, a municipal bank or the National Savings Bank);
 - (d) the Post Office Limited;
 - (e) the Bank of England, other than when acting in its capacity as a monetary authority or carrying out functions of a public nature; ~~and~~
 - (f) government departments and local authorities, other than when carrying out functions of a public nature; and
 - (g) a registered account information service provider.

A *full credit institution* that is an *EEA firm* is only a *fee-paying payment service provider* if it is exercising an *EEA right* in accordance with Part 2 of Schedule 3 to the Act (exercise of passport rights) to provide *payment services* in the *United Kingdom*. An *EEA authorised payment institution* or an *EEA authorised electronic money institution* is only a *fee-paying payment service provider* if it is exercising a right under article 25 of the *Payment Services Directive* or Article 3 of the *Electronic Money Directive* to provide *payment services* in the *United Kingdom*.

Annex B

Amendments to the Fees manual (FEES)

In this Annex, underlining indicates new text.

5 Financial Ombudsman Service Funding

...

5 Annex 1R Annual General Levy Payable in Relation to the Compulsory Jurisdiction for 2017/18

...

Compulsory jurisdiction – general levy

Industry block	Tariff base	General levy payable by firm
...
11-fee-paying payment service providers (but excluding firms in any other Industry block except Industry block 18)17	For authorised payment institutions, <u>registered account information service providers</u> , electronic money issuers (except for small electronic money institutions), the Post Office Limited, the Bank of England, government departments and local authorities, and EEA authorised payment institutions relevant income as described in FEES 4 Annex 11 Part 3	£0.0007 per £211,000 of relevant income subject to a minimum levy of £75
...

...



Appendix 6

Enforcement and other miscellaneous IDD-related changes

ENFORCEMENT (INSURANCE DISTRIBUTION (REGULATED ACTIVITIES AND MISCELLANEOUS AMENDMENTS) ORDER 2017) INSTRUMENT 2018

Powers exercised

- A. The Financial Conduct Authority makes this instrument in the exercise of the following powers and related provisions in the Financial Services and Markets Act 2000 (“the Act”):
- (1) section 139A (Power of the FCA to give guidance); and
 - (2) section 395 (The FCA’s and PRA’s procedures).
- B. The rule-making powers listed above are specified for the purpose of section 138G(2) (Rule-making instruments) of the Act.

Commencement

- C. This instrument comes into force on [*date*].

Material outside the Handbook

- D. The Enforcement Guide (EG) is amended in accordance with the Annex to this instrument.

Citation

- E. This instrument may be cited as the Enforcement (Insurance Distribution (Regulated Activities and Miscellaneous Amendments) Order 2017) Instrument 2018.

By order of the Board
[*date*]

[*Editor's note:* The text in this Annex takes into account the changes suggested by PS17/21 'Insurance Distribution Directive Implementation – Feedback to CP17/7 and near-final rules' (September 2017) as if they were made. It also takes into account the draft Insurance Distribution (Regulated Activities and Miscellaneous Amendments) Order 2017 as if it were made.]

Annex

Amendments to the Enforcement Guide (EG)

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

3 Use of information gathering and investigation powers

...

3.8B Information requests and investigations under the enhanced supervision of EEA firms under the Insurance Distribution Directive

Under the *IDD*, where an *EEA firm's* primary place of business is located in the *United Kingdom* rather than in its home member state, section 203A allows the *FCA* to enter into an agreement with that *firm's Home State* regulator to exercise certain functions as if the *firm* were a *UK firm*. This same power but in reverse allows by virtue of section 203B the *FCA* to agree that an *EEA regulator* can exercise certain functions in respect of a *UK firm* whose primary place of business is in that *EEA* member state (see also *SUP 13.11A.2G*). A *firm* will be notified of such an agreement without delay.

...

8 Variation and cancellation of permission and imposition of requirements on the FCA's own initiative and intervention against incoming firms

...

8.6 Exercising the power under section 55Q to vary or cancel a firm's Part 4A permission or to impose requirements on a firm in support of an overseas regulator: the FCA's policy

...

8.6.2 Relevant Community obligations which the *FCA* may need to consider include those under the Capital Requirements Directive, the *Solvency II Directive*, the Investment Services Directive/Markets in Financial Instruments Directive, the ~~Insurance Mediation Directive~~ Insurance Distribution Directive (*IDD*) and the *Market Abuse Regulation*. Each of these legislative acts imposes general obligations on the relevant *EEA competent authority* to cooperate and collaborate closely in discharging their functions under the legislative acts.

...

19 Non-FSMA powers

...

19.6 Regulated Activities Order 2001 (RAO)

...

- 19.6.1 The RAO sets out those activities which are regulated for the purposes of the *Act*. Part V of the RAO also requires the *FCA* to maintain a register of all those people who are not authorised by the *FCA* but who carry on insurance ~~mediation~~ distribution activities. Under article 95 RAO, the *FCA* has the power to remove from the register an appointed representative who carries on insurance ~~mediation~~ distribution activities if it considers that he is not fit and proper. The *FCA* will give the person a *warning notice* informing him that it proposes to remove his registration and a *decision notice* if the decision to remove his registration is taken. The decisions to give a *warning notice* or a *decision notice* will be taken by the *RDC* following the procedures set out in *DEPP* 3.2 or, where appropriate, *DEPP* 3.3. A person who receives a decision notice under article 95 RAO may refer the matter to the *Tribunal*.

INSURANCE DISTRIBUTION DIRECTIVE (No 3) INSTRUMENT 2018

Powers exercised

- A. The Financial Conduct Authority makes this instrument in the exercise of the powers and related provisions in or under:
- (1) the following sections of the Financial Services and Markets Act 2000 (“the Act”):
 - (a) section 55U (Applications under this Part);
 - (b) section 137A (The FCA’s general rules);
 - (c) section 137T (General supplementary powers); and
 - (2) the other powers and related provisions listed in Schedule 4 (Powers exercised) to the General Provisions of the Handbook.
- B. The rule-making powers listed above are specified for the purpose of section 138G(2) (Rule-making instruments) of the Act.

Commencement

- C. This instrument comes into force on *[date]*.

Amendments to the Handbook

- D. The Supervision manual (SUP) is amended in accordance with the Annex to this instrument.

Citation

- E. This instrument may be cited as the Insurance Distribution Directive (No 3) Instrument 2018.

By order of the Board
[date]

[*Editor's note:* The text in this Annex takes into account the changes suggested by CP17/23 'Insurance Distribution Directive Implementation – Consultation Paper 2' (July 2017) as if they were made. It also takes into account the draft Insurance Distribution (Regulated Activities and Miscellaneous Amendments) Order 2017 as if it were made.]

Annex

Amendments to the Supervision manual (SUP)

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

15 Notifications to the FCA

...

15.3 General notification requirements

...

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:

...

(g) a breach of the *AIFMD UK regulation*; or

(h) a breach of any directly applicable EU regulation made under *AIFMD*; or

(i) a breach of a directly applicable EU regulation made under the *IDD*;

...

[*Editor's note:* the text shown below takes into account the changes suggested by CP17/33 'Insurance Distribution Directive Implementation – Consultation Paper 3' (September 2017) as if they were made.]

The form (Variation of Permission Application – Home Finance and General Insurance Distribution Activities) referred to in SUP 6 Annex 5D is amended as shown.

...

Variation of Permission (VOP) Application

Home Finance Mediation and General Insurance Distribution Activities

...

Purpose of this form

This form is **only** for firms wishing to change the scope of their permission for **Home Finance Mediation and/or General Insurance Distribution Business**. ~~You must answer all sections.~~

...

5

Threshold Conditions

We need to know whether the firm will continue to satisfy the threshold conditions as a result of the change in its permission.

...

5A**Insurance Distribution Activities: shareholders and close links**

We are required by the Insurance Distribution Directive to collect information about shareholders and close links

This section applies only where a firm applies to add an insurance distribution activity for the first time.

5A.1 You must provide the following information for any individual shareholder or member who has a holding in the firm that exceeds 10%.

Name	Date of Birth	National Insurance Number	Address	% Holding

5A.2 You must provide the following information for any legal person who has a holding in the firm that exceeds 10%.

Name	Address	Incorporation details	Is the entity regulated?	% Holding
			<input type="checkbox"/> Yes <input type="checkbox"/> No	
			<input type="checkbox"/> Yes <input type="checkbox"/> No	
			<input type="checkbox"/> Yes <input type="checkbox"/> No	
			<input type="checkbox"/> Yes <input type="checkbox"/> No	

			<input type="checkbox"/> Yes <input type="checkbox"/> No	
			<input type="checkbox"/> Yes <input type="checkbox"/> No	
			<input type="checkbox"/> Yes <input type="checkbox"/> No	
			<input type="checkbox"/> Yes <input type="checkbox"/> No	
			<input type="checkbox"/> Yes <input type="checkbox"/> No	
			<input type="checkbox"/> Yes <input type="checkbox"/> No	

5A.3 Does the firm have close links?

- No ▶ Continue to Section 6
- Yes ▶ Continue to Question 5A.4

5A.4 You must provide the information about the close links below and provide a structure chart which shows the nature of the relationship between the firm and each close link (please include details of the business of the close links).

Structure chart provided on separate sheet

Natural persons

<u>Name</u>	<u>Date of Birth</u>	<u>National Insurance Number</u>	<u>Address</u>
_____	_____	_____	_____
_____	_____	_____	_____
_____	_____	_____	_____
_____	_____	_____	_____
_____	_____	_____	_____

Legal persons

Name	Address	Incorporation details	Is the entity regulated?
			<input type="checkbox"/> Yes <input type="checkbox"/> No
			<input type="checkbox"/> Yes <input type="checkbox"/> No
			<input type="checkbox"/> Yes <input type="checkbox"/> No
			<input type="checkbox"/> Yes <input type="checkbox"/> No

5A.5 Are you aware of any information to suggest that any holding (identified in 5A.1 and 5A.2 above) or close link is likely to prevent our effective supervision of the firm?

No

Yes ▶ Give details below



Appendix 7

Financial Crime reporting

**SUPERVISION MANUAL (FINANCIAL CRIME REPORT) (AMENDMENT)
INSTRUMENT 2018**

Powers exercised

- A. The Financial Conduct Authority makes this instrument in the exercise of the following powers and related provisions:
- (1) section 139A (Power of the FCA to give guidance) of the Financial Services and Markets Act 2000: and
 - (2) regulation 60 (Guidance) of the Electronic Money Regulations 2011 (SI 2011/99).

Commencement

- B. This instrument comes into force on [*date*] 2018.

Amendments to the Handbook

- C. The Supervision manual (SUP) is amended in accordance with the Annex to this instrument.

Citation

- D. This instrument may be cited as the Supervision Manual (Financial Crime Report) (Amendment) Instrument 2018.

By order of the Board
[*date*] 2018

Annex

Amendments to the Supervision manual (SUP)

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

16 Reporting requirements

16 Guidance notes for completion of the Annual Financial Crime Report

Annex
42BG

...

Section 1: Operating jurisdictions		
Please list:		
3A	The jurisdictions within which the <i>firm</i> operates as at the end of the reporting period.	<p>Select from the list of <u>Input</u> the country codes (in ISO 3166 format) <u>of</u> the jurisdictions within which the <i>firm</i> is operating as at the end of the reporting period.</p> <p>Only those jurisdictions active as at the end of the reporting period should be reported; if a <i>firm</i> terminated operations within a jurisdiction during the reporting period, this jurisdiction does not need to be reported.</p> <p>‘Operates’ for the purposes of this form is defined as where the <i>firm</i> carries on its business or has a physical presence through a legal entity.</p> <p>For avoidance of doubt, this definition includes those jurisdictions in which the <i>firm</i> has representative offices. It also includes any jurisdictions where the firm carries on business using a services passport or an establishment passport.</p> <p><u>Where a <i>firm</i> is operating in the UK as a branch or subsidiary of a foreign institution, it should report the operations of the UK branch or subsidiary rather than all jurisdictions where the <i>firm</i> operates.</u></p> <p><u>This question does not concern the geographical location of the <i>firm’s</i> customers or</u></p>

		<p><i>clients.</i></p> <p><u>This question is mandatory and must contain at least one entry, i.e. ‘GBR’.</u></p>
3B	Those jurisdictions assessed and considered high-risk by the <i>firm</i> .	<p>Select from the list of <u>Input</u> the country codes (in ISO 3166 format) of the jurisdictions assessed and considered by the <i>firm</i> to be high-risk. <i>Firms</i> As a minimum, <i>firms</i> should report any jurisdictions considered high-risk in which they operate. In addition, where a <i>firm</i> has conducted a Country Risk Assessment (i.e. it maintains a ‘high-risk jurisdiction list’) and any additional jurisdictions assessed as high-risk by the <i>firm</i> within the previous 2 years, e.g. as part of a Country Risk Assessment the jurisdictions that were the subject of such an assessment should be recorded in 3B.</p> <p>This question should be answered with regard to the <i>firm</i>’s own assessment of risk, which may or may not include the use of available public indices.</p> <p><u>A <i>firm</i> should therefore leave this section blank if it does not operate in any high-risk jurisdictions nor carries out a country risk assessment.</u></p> <p><u><i>Firms</i> who provide a positive response to question 17 (customers linked to high-risk jurisdictions) should also provide a response to question 3B.</u></p> <p>A <i>firm</i> is not required to report those jurisdictions in which it does not operate or which it has not assessed for risk.</p>
<p>Section 2: Customer information</p> <p>Figures in this section should be for the number of <i>customer</i> or <i>client</i> relationships as at the end of the reporting period. It should include all accounts that are open, including dormant and inactive accounts. This would also include all <i>current accounts</i>, <i>CTF bank accounts</i>, <i>client bank accounts</i> and <i>client transaction accounts</i>. It excludes former <i>customers</i> or <i>clients</i>. <u>Each party to a joint account should be recorded as a separate <i>customer</i> or <i>client</i>.</u></p> <p>Where the figure requested is ‘new in the reporting period’, a <i>firm</i> should report new (not pre-existing) <i>customer</i> or <i>client</i> relationships initiated within the reporting period. This should not include existing customers taking on new products. A <i>firm</i> should only provide figures in this section for those areas of its business subject to the <i>Money Laundering Regulations</i>.</p> <p>For non-financial institutions which may carry out <u>some</u> regulated business (e.g.</p>		

<p>consumer credit), the <i>firm</i> should not include customers which are outside its regulated activities the scope of the <i>Money Laundering Regulations</i>.</p> <p><u><i>Firms</i> should refer to sector specific industry guidance (i.e. JMLSG Guidance Part II) for additional information on who is their <i>customer</i> or <i>client</i> for the purposes of this section.</u></p> <p><u><i>Firms</i> should ensure they record an entry in each field. Where a <i>firm</i> has no data to report please record '0'.</u></p> <p>If any part of the <i>firm's</i> business is subject to the <i>Money Laundering Regulations</i>, please provide the total number of the <i>firm's</i> relationships with:</p>		
<p>4A&B</p>	<p>Politically Exposed Persons (PEPs)</p>	<p>A definition of 'Politically Exposed Person' can be found in Regulation 14(5) 35(12)(a). The <u>figure should include family members and known close associates of PEPs, as defined in Regulation 35(12)(b) and (c) of the <i>Money Laundering Regulations</i>. These definitions should be read in conjunction with guidance published by the <i>FCA</i> in FG 17/06. This could be either a <i>customer</i> or <i>client</i> relationship with an individual, or with a corporate entity which the <i>firm</i> has classified as being a PEP-connected <i>customer</i> due to the existence of PEP shareholders, PEP ultimate beneficial owners of PEP Board Directors, as per the <i>firm's</i> own internal policy.</u></p> <p><i>Firms</i> should report the number of <i>customer</i> or <i>client</i> relationships, either individual or corporate, which they have classified in accordance with FG17/06 as being a "higher risk" PEP, family member, known close associate or PEP-connected relationships. They should not report the total number of PEPs associated with a particular corporate <i>customer</i> or <i>client</i>.</p> <p><u>In practice this means that <i>UK</i> PEPs will not need to be reported as a PEP customer. However, if there are other factors which might indicate higher risks, then this should be reported in Question 6A&B.</u></p> <p><i>Firms</i> should not reclassify <i>customers</i> or <i>clients</i> for the purposes of completing this return. If <i>firms</i> do not classify or identify PEP-connected corporate entities as PEP <i>customers</i> or <i>clients</i> within their current policies, there is similarly no requirement to report.</p> <p>If a <i>firm</i> uses its own alternative, wider, PEP definition (e.g. including domestic PEPs or</p>

		<p>retention periods longer than a year), it should submit figures using its own definitions.</p> <p>The figure provided should include existing <i>customer</i> or <i>client</i> relationships that became PEPs in the reporting period.</p> <p>Where a PEP has multiple relationships with the <i>firm</i>, that PEP should only be reported once in each of questions 4A and 4B.</p>
5A&B	Non-EEA correspondent banks	<p>This refers to situations where a <i>credit institution</i> has a correspondent banking relationship with a respondent institution from a <i>non-EEA state</i>. These terms are intended as set out in Regulation 14(3) <u>34(4)(a)(i)</u> of the <i>Money Laundering Regulations</i>. Non-<i>credit institutions</i> who do not hold these types of relationships should simply record zero in their response. <u>In addition, for the purposes of reporting, a firm is not required to include any relationship that falls within Regulation 34(4)(a)(ii).</u></p>
6A&B	All other high-risk customers	<p>This refers to a <i>customer</i> or <i>client</i> categorised as being of high-risk for the purposes of compliance with Regulation 14 <u>33(1)(a)</u> of the <i>Money Laundering Regulations</i>, and therefore subject to Enhanced Customer Due Diligence measures, but not otherwise captured in response to question 4 or 5.</p> <p><u>Existing customers who become high-risk during the relevant period should be included in the response to 6B</u></p> <p>It does not include customers or clients meeting the definition under Regulation 14(2) (customers not physically present for identification purposes) except where they are deemed high risk for other reasons.</p>
For the <i>firm's</i> business subject to the <i>Money Laundering Regulations</i> :		
7-16	Please provide the number of the <i>firm's</i> customer relationships located in the following geographical areas:	The location for <i>customer</i> or <i>client</i> relationships should be determined by the location in which the <i>customer</i> or <i>client</i> is based. Where a <i>customer</i> or <i>client</i> has multiple addresses, the location reported should be the primary correspondence address as determined by the

		<p><i>firm</i>.</p> <p>Where the relationship is with a trust, the <i>firm</i> should report the location as the location of the trust.</p> <p><u>Note that question 7 is an aggregate figure, therefore responses recorded in questions 8 to 10 should be less than or equal to the figure recorded in response to question 7.</u></p> <p>Except for the <i>United Kingdom</i> and <i>EEA</i>, for the purposes of this question geographical areas should be determined with reference to <i>SUP 16 Annex 42CG</i>.</p>
17	Please provide the number of the <i>firm's</i> customers linked to those jurisdictions considered by the <i>firm</i> to be high-risk:	<p>The <i>firm</i> should provide the number of customers judged by the <i>firm</i> to have links to jurisdictions identified by it as high-risk in question 3B. <u>Therefore <i>firms</i> who provide customer numbers in response to question 17 should also provide a response to question 3B.</u></p> <p>Links to a high-risk jurisdiction, for the purposes of this question, means <i>customers</i> or <i>clients</i> that are resident/domiciled/incorporated in a jurisdiction identified as high-risk by the <i>firm</i>.</p>
18A&B	Please provide the number of customer relationships refused or exited for financial crime reasons during the reporting period:	<p>The number of 'refused' relationships refers to the number of <i>customers</i> or <i>clients</i> that the <i>firm</i> did not take on, where financial crime was the principal driver behind the decision. <u>This could be at any stage of <i>customer</i> or <i>client</i> take-on.</u></p> <p>It would not include <i>customers</i> or <i>clients</i> whose application did not proceed because, for example, they lacked appropriate documentary evidence of identity or who failed Immigration Act 2014 checks.</p> <p>It would include <i>customers</i> or <i>clients</i> whose application was escalated to management (due to financial crime concerns) for a decision on whether to proceed, and was rejected.</p> <p>'Relationships exited' covers any <i>customers</i> or <i>clients</i> with whom the <i>firm</i> ceased to do business where financial crime was the principal driver behind the decision. <u>This would only include <i>customers</i> or <i>clients</i> exited from all lines of business.</u></p>

		This covers criminal behaviour by the <i>customer</i> or <i>client</i> where such behaviour has a financial element, e.g. benefits fraud.
Section 3: Compliance information		
<u>Firms should ensure they record an entry in each field. Where a firm has no data to report please record '0'.</u>		
Please provide the number of suspicious activity reports (SARs) under Part 7 of the Proceeds of Crime Act 2002 (POCA):		
...		
23A&B	Please provide the number of relationships maintained with natural or corporate <i>persons</i> (excluding group members) which introduce business to the <i>firm</i> . Please also provide the number of these relationships which have been exited for financial crime reasons during the reporting period.	<p>This question refers to individuals who, or corporate entities which, directly introduce <i>customers</i> or <i>clients</i> to the <i>firm</i> under a formal agency/broker agreement in return for a direct or indirect fee, commission or other monetary benefit.</p> <p><u>If the firm makes no payment to the introducer (e.g. commission) it is not necessary to report these relationships.</u></p> <p><u>Legacy commission payments do not need to be included where these arrangements were made prior to the relevant reporting period.</u></p> <p><u>This question does not concern reliance as defined under Regulation 39 of the <i>Money Laundering Regulations</i>.</u></p>
If the <i>firm</i> has <i>appointed representatives</i> (ARs):		
24	Please provide the number of <i>appointed representative</i> (AR) relationships exited due to financial crime reasons:	<p><i>Firms</i> should report the number of existing AR relationships terminated for financial crime reasons during the reporting period.</p> <p><u>If the firm has no <i>appointed representatives</i>, please record '0'.</u></p>
For all <i>firms</i> :		
25	As at the end of the reporting period, please provide the total full time equivalent (FTE) <u>the total full time</u>	<p><i>Firms</i> should provide an FTE figure on a reasonable endeavours basis.</p> <p>For example, if the <i>firm</i> has 20 part time staff that work 50% of normal hours <u>in a financial crime role</u>, the figure would be 10 FTE.</p>

	<p><u>equivalent (FTE)</u> of UK staff with financial crime roles:</p>	<p><u>This figure should cover staff in roles relating to anti-money laundering, counter-terrorist financing, anti-bribery and corruption, and fraud.</u></p> <p>This field facilitates the entry of numbers to two decimal places. Integers should therefore be provided in the format [n].00.</p> <p>If this report is being completed on a <i>group</i> basis this figure should be the FTE for the specified <i>group</i>.</p> <p>Where this report is being completed on a single regulated entity basis and services are shared across multiple <i>firms</i>, <i>firms</i> may provide an estimate of the FTE spent on each reported entity on a best endeavours basis.</p> <p>In <i>firms</i> where financial crime responsibilities are divided up among staff with other roles rather than managed by a dedicated function, the figure should reflect the aggregated FTE spent on financial crime activity.</p> <p>The phrase ‘financial crime roles’ for the purposes of this question is intended to cover staff employed in a dedicated financial crime function (for example AML or compliance teams) who <u>deal with, or</u> take decisions on financial crime issues. Therefore it would not cover teams or individuals responsible for collecting customer due diligence or those who submit internal suspicious activity reports.</p> <p>Outsourced financial crime activities should not be included in this figure.</p>
Of which:		
26	<p>Please provide the percentage of the FTE <u>percentage of the FTE</u> stated above dedicated to fraud <u>fraud</u> responsibilities</p>	<p>Firms should provide a percentage figure <u>percentage figure</u> on a reasonable endeavours basis. This field facilitates the entry of numbers to two decimal places. Integers should therefore be provided in the format [n].00.</p> <p><u>Please note that this question requires <i>firms</i> to provide the percentage of financial crime staff dedicated to fraud (i.e. of the total number provided in response to Q25, what proportion of staff deal with fraud only). This field should contain a value between 0 and 100 (to two decimal places).</u></p>

		<p>If this report is being completed on a <i>group</i> basis this figure should be the percentage for the specified <i>group</i>.</p> <p>Where this report is being completed on a single regulated entity basis and services are shared across multiple <i>firms</i>, <i>firms</i> may provide an estimate of the percentage spent on each reported entity on a best endeavours basis.</p>
Section 4: Sanctions-specific information		
...		
<u>28A&B</u>	How many TRUE sanction matches were detected during the reporting period?	<p>The number of confirmed true sanctions alerts which matched against the <i>firm's customer, client</i> or <i>payment</i>.</p> <p>The number to be reported relates to any matches against any relevant sanctions lists and is defined as any matches reported to the relevant authorities, regardless of whether these are confirmed as true by the authority.</p> <p>Relevant sanctions lists are the lists against which the <i>firm</i> screens its <i>customers</i> or <i>clients</i>.</p> <p><u>Where no true sanctions matches were detected, <i>firms</i> should record '0'.</u></p>
...		



Appendix 8

Changes to reporting requirements in the Supervision manual and ICOBS

**SUPERVISION MANUAL (REPORTING No [X])
INSTRUMENT 2018**

Powers exercised

- A. The Financial Conduct Authority makes this instrument in the exercise of the following powers and related provisions in the Financial Services and Markets Act 2000 (“the Act”):
- (1) section 137A (The FCA’s general rules);
 - (2) section 137T (General supplementary powers); and
 - (3) section 139A (Power of the FCA to give guidance).
- B. The rule-making powers listed above are specified for the purpose of section 138G(2) (Rule-making instruments) of the Act.

Commencement

- C. This instrument comes into force on *[date]*.

Amendments to the Handbook

- D. The Insurance: Conduct of Business sourcebook (ICOBS) is amended in accordance with Annex A to this instrument.
- E. The Supervision manual (SUP) is amended in accordance with Annex B to this instrument.

Citation

- E. This instrument may be cited as the Supervision Manual (Reporting No [X]) Instrument 2018.

By order of the Board
[date]

Annex A

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

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

8 Claims handling

...

8.4 Employers' Liability Insurance

...

8.4.1 R ...

(3) ...

(b) a 'director's certificate' are to a statement complying with the requirements in ~~ICOBS 8.4.4R(1)(b)~~ SUP 16.23A;

...

(d) a 'qualified director's certificate' are to the statement complying with the requirements in ~~ICOBS 8.4.4R(1)(b)(ii)~~ SUP 16.23A.5R;

...

Principal obligation to produce an employers' liability register ~~and supporting documents~~

8.4.4 R (1) 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, must:

...

(b) ~~obtain and submit to the FCA a written statement, by a director of the firm responsible for the production of the employers' liability register, that to the best of the director's knowledge the firm in its production of the register is either:~~

(i) ~~materially compliant with the requirements of ICOBS 8.4.4R(2) and ICOBS 8 Annex 1, including (where necessary) how the firm has used and continues to use its best endeavours in accordance with ICOBS 8 Annex 1-1.1CR; or~~

- (ii) ~~not materially compliant with the provisions referred to in (i), in which case the statement must also set out, to the best of the *director's* knowledge, the information required by *ICOBS* 8.4.4AR; and [deleted]~~
- (c) ~~obtain and submit to the *FCA* a report satisfying the requirements of *ICOBS* 8.4.4CR, prepared by an auditor satisfying the requirements of *SUP* 3.4 and *SUP* 3.8.5R to 3.8.6 R, and addressed to the *directors* of the *firm*. [deleted]~~

(1A) For the purposes of *ICOBS* 8.4.4R(1)(b):

- (a) ~~'materially compliant' means that in relation to at least ninety nine percent of *policies* for which information is required to be included, the information in the register does not contain any inaccuracy or lack faithful reproduction (as relevant) that would affect the outcome of a search when compared to a search carried out with fully accurate and/or faithfully reproduced information; and~~
- (b) ~~the *firm* must ensure that the *director's* certificate includes the description of 'materially compliant' referred to in (a). [deleted]~~

...

- (3) ~~For the purposes of (1)(b) and (c) the *director's* certificate and report prepared by an auditor must:~~
 - (a) ~~relate to the version of the register as at a date no later than 12 *months* after it is first produced in accordance with (1)(a); and~~
 - (b) ~~be obtained and submitted to the *FCA* within four *months* of the date in (a). [deleted]~~

...

8.4.4A R The information referred to in *ICOBS* 8.4.4R (1)(b)(ii) is:

- (1) ~~a description of the ways in which the *firm*, in its production of the register, is not materially compliant;~~
- (2) ~~the number of *policies*, in relation to which, either:~~
 - (a) ~~the *firm* is not able to include any information in the register; and/or~~
 - (b) ~~information is included in the register but information may be incorrect or incomplete;~~

in each case as a proportion of the total number of *policies* required to be included in the register;

- (3) where the *firm* is only practicably able to provide an estimate of the numbers in (2), the basis of each estimate; and
- (4) a description of the systems and controls used in the production of the register and of the steps, together with relevant timescales, that the *firm* is taking to ensure that the *firm* will be materially compliant as soon as practicable. [deleted]

8.4.4B G In relation to the written statement referred to in *ICOBS* 8.4.4R(1)(b):

- (1) *ICOBS* 8.4.4R(1)(b) does not preclude the relevant director from, in addition, including in the *director's* statement any of the following as relevant:
 - (a) if a *firm's* employers' liability register is more than materially compliant, a statement to this effect, and/or a statement of the extent to which the *director* considers, to the best of his knowledge, the *firm* to be compliant in its production of the register;
 - (b) reasons for the level of any non-compliance; and/or
 - (c) information relating to *policies* which are not required to be included in the register;
- (2) the statement regarding the *firm's* level of compliance with requirements in *ICOBS* 8.4.4R(2) and *ICOBS* 8 Annex 1, and, in relevant cases, the steps the *firm* is undertaking to ensure material compliance as soon as practicable, does not alter the underlying requirement that the *firm* has to comply fully with the relevant requirements in *ICOBS* 8.4.4R(2) and *ICOBS* 8 Annex 1 (that is, not just to a material extent). So, it is possible that a *firm* will be able to comply with *ICOBS* 8.4.4R(1)(b) but continue to not fully comply with the underlying requirements, for example, in respect of the *policies* falling outside the ninety-nine percent threshold. In relation to these *policies*, as well as those identified in any qualified *director's* certificate, the *firm* will need to remedy errors or omissions as soon as practicable, and have systems and controls in place to give effect to this on an ongoing basis. [deleted]

8.4.4C R The report referred to in *ICOBS* 8.4.4R(1)(c) must:

- (1) be prepared on the basis of providing an opinion under a *limited assurance engagement* confirming whether the auditor has found no reason to believe that the *firm*, solely in relation to the *firm's* extraction of information from its underlying records, has not materially complied with the requirements in *ICOBS* 8.4.4R(2) and *ICOBS* 8 Annex 1 in the production of its employer's liability register;

~~having regard in particular to the possible errors and omissions referred to in (3) below;~~

- ~~(2) use the description of material compliance as referred to in *ICOBS* 8.4.4R(1A)(a) adapted as necessary to apply solely to the *firm's* extraction of information from its underlying records;~~
- ~~(3) address, in particular, the following risks:~~
 - ~~(a) information relating to certain *policies* issued or renewed on or after 1 April 2011 is entirely omitted from the register even though some relevant policy details are included in the *firm's* underlying records;~~
 - ~~(b) information relating to certain *policies* in respect of which claims were made on or after 1 April 2011 is entirely omitted from the register even though some relevant policy details are included in the *firm's* underlying records;~~
 - ~~(c) relevant information required to be included in the register, and which is included in the *firm's* underlying records, is omitted from, or is inaccurately entered on to, the register; and~~
 - ~~(d) information relating to *policies* which do not provide *employers' liability insurance* are included in the register. [deleted]~~

...

Requirement to make employers' liability register and supporting documents available

8.4.7 R (1) ...

...

- (b) the latest *director's* certificate prepared in accordance with *SUP* 16.23A.5R(1) and the latest report prepared by an auditor for the purposes of ~~*ICOBS* 8.4.4R(1)(e)~~ *SUP* 16.23A.6R(1), to a tracing office which has obtained information from the *firm* for the purposes of providing comprehensive tracing information, in accordance with *ICOBS* 8.4.4R(2)(d), provided that the tracing office has agreed with the *firm* not to disclose confidential information in the certificate and the report to third parties, save as required by law.

...

...

Updating and verification requirements

8.4.11 R ...

(2) A *firm* producing an employers' liability register must:

...

- (c) update the register, no less frequently than once every three *months*, and include the date that the register was updated and a statement that the register may be relied on as up-to-date as at a date three *months* prior to the date upon which the register was updated, or such later date as applicable to the *firm*; ~~and~~
- (d) ~~obtain and submit to the FCA a *director's* certificate:~~
- (i) ~~no later than twelve *months* after the date of the most recent *director's* certificate, obtained and submitted to the FCA in accordance with *ICOBS* 8.4.4R(1)(b) or this *rule*;~~
 - (ii) ~~complying with the requirements, and containing one of the statements, set out in *ICOBS* 8.4.4R(1)(b); and~~
 - (iii) ~~in relation to a version of the employers' liability register dated no more than four *months* prior to the date of the *director's* certificate;~~
- (e) ~~obtain and submit to the FCA a report prepared by an auditor:~~
- (i) ~~no later than twelve *months* after the date of the most recent report, obtained and submitted to the FCA in accordance with *ICOBS* 8.4.4R(1)(c) or this *rule*;~~
 - (ii) ~~complying with the requirements set out in *ICOBS* 8.4.4R(1)(c); and~~
 - (iii) ~~in relation to a version of the employers' liability register dated no more than four months prior to the date of the report; and~~
- (f) ~~make available, in accordance with *ICOBS* 8.4.7R, the *director's* statement in (d) and the report in (e) no later than four *months* after the effective date of the version of the register to which they relate, in place of the previous certificate and report.~~

...

Sch 2 Notification requirements

Sch 2.1G	Handbook reference	Matters to be notified	Contents of notification	Trigger event	Time allowed

<p><i>ICOB</i>S 8.4.4R(1)(b); <i>ICOB</i>S 8.4.4R(3); <i>ICOB</i>S 8.4.11R(2)(d)</p>	<p>A statement satisfying the requirements of <i>ICOB</i>S 8.4.4R(1)(b)</p>	<p>A statement satisfying the requirements of <i>ICOB</i>S 8.4.4R(1)(b)</p>	<p>Obtaining a statement satisfying the requirements of <i>ICOB</i>S 8.4.4R(1)(b)</p>	<p>Four <i>months</i> from the date of the version of the register being commented on in accordance with <i>ICOB</i>S 8.4.4R(3) or <i>ICOB</i>S 8.4.11R(2)(d)</p>
<p><i>ICOB</i>S 8.4.4R(1)(e); <i>ICOB</i>S 8.4.4CR, <i>ICOB</i>S 8.4.4R(3); <i>ICOB</i>S 8.4.11R(2)(e)</p>	<p>A report satisfying the requirements of <i>ICOB</i>S 8.4.4CR</p>	<p>A report satisfying the requirements of <i>ICOB</i>S 8.4.4CR</p>	<p>Obtaining a report satisfying the requirements of <i>ICOB</i>S 8.4.4CR</p>	<p>Four <i>months</i> from the date of the version of the register being reported on in accordance with <i>ICOB</i>S 8.4.4R(3) or <i>ICOB</i>S 8.4.11R(2)(e)</p>
<p>...</p>				

Annex B

Amendments to the Supervision manual (SUP)

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

16 Reporting requirements

16.1 Application

...

16.1.2 G The only categories of *firm* to which no section of this chapter applies are:

(1) ...

(2) an *incoming EEA firm* or *incoming Treaty firm*, unless it is:

(a) a *firm* of a type listed in SUP 16.1.3R as a type of *firm* to which SUP 16.6, SUP 16.7A, SUP 16.9, SUP 16.12, ~~or SUP 16.14~~, or SUP 16.23A applies; or

...

...

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

(1) Section(s)	(2) Categories of firm to which section applies	(3) Applicable rules and guidance
...		
<u>SUP 16.23A</u>	<u>A firm undertaking the regulated activities in SUP 16.23A.1R including all incoming EEA firms or incoming Treaty firms including those providing cross border services and undertaking the same activities</u>	<u>Entire section</u>
...		
...		

...

16.3 General provisions on reporting

...

Structure of the chapter

16.3.2 G This chapter has been split into the following sections, covering:

...

(18) annual financial crime reporting (*SUP 16.23*); ~~and~~

(18A) Employers' Liability Register compliance reporting (*SUP 16.23A*);
and

...

After *SUP 16.23* (Annual Financial Crime Report) insert the following new section *SUP 16.23A*. The text is not underlined.

16.23A Employers' Liability Register compliance reporting

Application

- 16.23A.1 R (1) This section applies to any *firm* who is required to produce an employers' liability register in compliance with the requirements in *ICOBS 8.4.4R* which is:
- (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*;
 - (b) an *incoming EEA firm* or *incoming Treaty firm* falling within (a) including those providing cross border services.
- (2) In this section:
- (a) a '*director's certificate*' refers to a statement complying with the requirements in *SUP 16.23A.5R(1)*;
 - (b) *employers' liability insurance* include business accepted under *reinsurance to close* covering *employers' liability insurance* (including business that is only included as *employers' liability insurance* for the purposes of this section);
 - (c) a '*qualified director's certificate*' refers to the statement complying with the requirements in *SUP 16.23A.5R(1)(b)*;

- (d) 'materially compliant' has the meaning in *SUP* 16.23A.5R;
- (e) the 'register' is the employers' liability register complying with the requirements in *ICOBS* 8.4.4R and *ICOBS* 8 Annex 1;
- (f) the 'return' is the Employers Liability Register compliance return at *SUP* 16 Annex [44]AR; and
- (g) 'supporting documents' are the *directors* certificate and auditor's report specified in *SUP* 16.23A.5R and *SUP* 16.23A.6R.

Purpose

- 16.23A.2 G *ICOBS* 8.4.4R requires a *firm* to produce the register. *SUP* 16.23A sets out further requirements on the *firm* to obtain and submit to the *FCA* a statement that the *firm's* production of the register complies with the requirements in *ICOBS* 8.4.4R, including supporting documents from a *director* and an auditor. It specifies the time, form and method of providing that information.

Reporting requirement

- 16.23A.3 R (1) A *firm* must submit the return annually to the *FCA*.
- (2) The return must cover the period 1 April to 31 March.
- (3) The return must be submitted online through the appropriate systems made available by the *FCA*:
- (a) between the 1 and 31 August each year;
 - (b) in the format set out in *SUP* 16 Annex [44]AR; and
 - (c) any supporting documents must be provided in pdf format.

Content of return and supporting documents

- 16.23A.4 R The return consists of the information required in the form at *SUP* 16 Annex [44]AR and the supporting documents specified in *SUP* 16.23A.5R and *SUP* 16.23A.6R.

Director's certificate

- 16.23A.5 R (1) A *firm* must obtain and submit to the *FCA* a written statement, by a *director* of the *firm* responsible for the production of the register, that to the best of the *director's* knowledge, during the reporting period the *firm* in its production of the register is either:
- (a) materially compliant with the requirements of *ICOBS* 8.4.4R(2) and *ICOBS* 8 Annex 1, including (where necessary) how the *firm* has used and continues to use its best endeavours in

accordance with *ICOB*S 8 Annex 1 1.1CR; or

- (b) not materially compliant with the provisions referred to in (1)(a), in which case the statement must also set out, to the best of the *director's* knowledge, the information required by (3).
- (2) 'Materially compliant' means that in relation to at least ninety-nine percent of *policies* for which information is required to be included, the information in the register does not contain any inaccuracy or lack faithful reproduction (as relevant) that would affect the outcome of a search when compared to a search carried out with fully accurate and/or faithfully reproduced information.
- (3) The information referred to in (1)(b) is:
- (a) a description of the ways in which the *firm*, in its production of the register, is not materially compliant;
 - (b) the number of *policies*, in relation to which, either:
 - (i) the *firm* is not able to include any information in the register; and/or
 - (ii) information is included in the register but information may be incorrect or incomplete,
 in each case as a proportion of the total number of *policies* required to be included in the register;
 - (c) where the *firm* is only practicably able to provide an estimate of the numbers in (b), the basis of each estimate; and
 - (d) a description of the systems and controls used in the production of the register and of the steps, together with relevant timescales, that the *firm* is taking to ensure that it will be materially compliant as soon as practicable.
- (4) The *firm* must ensure that the *director's* certificate includes the description of 'materially compliant' referred to in (2).

- 16.23A.5 G (1) In relation to the written statement referred to in *SUP* 16.23A.5R(1):
A
- (a) *SUP* 16.23A.5R(1) does not preclude the relevant *director* from, in addition, including in the *director's* statement any of the following as relevant:
 - (i) if a *firm's* employers' liability register is more than materially compliant, a statement to this effect, and/or a statement of the extent to which the *director* considers, to the best of their knowledge, the *firm* to be compliant in its

- production of the register;
- (ii) reasons for the level of any non-compliance; and/or
 - (iii) information relating to policies which are not required to be included in the register;
- (b) the statement regarding the *firm's* level of compliance with the requirements in *ICOBS* 8.4.4R(2) and *ICOBS* 8 Annex 1, and, in relevant cases, the steps the *firm* is undertaking to ensure material compliance as soon as practicable, does not alter the underlying requirement that the *firm* has to comply fully with the relevant requirements in *ICOBS* 8.4.4R(2) and *ICOBS* 8 Annex 1 (that is, not just to a material extent). So, it is possible that a *firm* will be able to comply with *SUP* 16.23A.5R(1) but continue to not fully comply with the underlying requirements, for example, in respect of the *policies* falling outside the ninety-nine percent threshold. In relation to these *policies*, as well as those identified in any qualified *director's* certificate, the *firm* will need to remedy errors or omissions as soon as practicable, and have systems and controls in place to give effect to these on an ongoing basis.

Auditor's report

- 16.23A.6 R (1) A *firm* must obtain and submit to the *FCA* a report satisfying the requirements of *SUP* 16.23A.6R(2), prepared by an auditor satisfying the requirements of *SUP* 3.4 and *SUP* 3.8.5R to 3.8.6R, and addressed to the directors of the *firm*.
- (2) The report referred to in *SUP* 16.23A.6R(1) must:
- (a) be prepared on the basis of providing an opinion under a *limited assurance engagement* confirming whether the auditor has found no reason to believe that the *firm*, solely in relation to the *firm's* extraction of information from its underlying records, has not materially complied with the requirements in *ICOBS* 8.4.4R(2) and *ICOBS* 8 Annex 1 in the production of its employer's liability register during the reporting period, having regard in particular to the possible errors and omissions referred to in (2)(c) below;
 - (b) use the description of material compliance as referred to in *SUP* 16.23A.5R(2) adapted as necessary to apply solely to the *firm's* extraction of information from its underlying records;
 - (c) address, in particular, the following risks:
 - (i) information relating to certain *policies* issued or renewed on or after 1 April 2011 is entirely omitted from the register even though some relevant policy details are

included in the *firm's* underlying records;

- (ii) information relating to certain *policies* in respect of which claims were made on or after 1 April 2011 is entirely omitted from the register even though some relevant policy details are included in the *firm's* underlying records;
- (iii) relevant information required to be included in the register, and which is included in the *firm's* underlying records, is omitted from, or is inaccurately entered on to, the register; and
- (iv) information relating to *policies* which do not provide *employers' liability insurance* are included in the register.

16.23A.7 R For the purposes of *SUP* 16.23A.5R(1) and *SUP* 16.23A.6R(1) the director's certificate and report prepared by an auditor must be obtained and submitted to the *FCA* within the timeframe set out in *SUP* 16.23A.3R(3)(a) and in the format set out in *SUP* 16 Annex [44]AR.

After *SUP* 16 Annex 43BG (Guidance notes for completion of the Retirement income flow data return ('REP015') and the Retirement income stock and withdrawals flow data return ('REP016')) insert the following new Annex *SUP* 16 Annex [44]AR.

**16 Annex Employers' Liability Register compliance return
[44]AR**

Employers' Liability Insurance compliance return		
Special Instructions		
Firms should upload copies of their Director's Certificate and Auditor's Report in PDF format only.		
Firm Details		
1	FRN	<input type="text" value="#####"/>
2	Firm Name	<input type="text"/>
Director's Certificate		
3	Is the firm materially compliant with ICOBS 8.4.4R(2) and ICOBS 8 Annex 1 in the production of the firm's employers' liability registers in the reporting period?	<input type="text" value="Yes/No"/>
3.1	Please confirm that the Director's Certificate contains a description of the ways in which the firm, in its production of the register, is not materially compliant and of the steps, together with relevant timescales, that the firm is taking to ensure that the firm will be materially compliant as soon as practicable. This question relates to the requirement in SUP 16.23A.5R(1)(b).	<input type="text" value="Yes/No"/>
3.2	How many policies are omitted from the register? <i>(as a proportion of the total number of policies required to be included in the register.)</i>	<input type="text"/>
3.3	How many policies in the register contain incorrect or incomplete information? <i>(as a proportion of the total number of policies required to be included in the register.)</i>	<input type="text"/>
Director's Certificate upload		
4	Please upload a copy of the Director's Certificate here in PDF format	<input type="text" value="[upload]"/>
Auditor's Report		
5	Does the Auditor's Report confirm the firm is materially compliant with ICOBS 8.4.4R(2) and ICOBS 8 Annex 1 in the production of its employers' liability registers in the reporting period?	<input type="text" value="Yes/No"/>
Auditor's Report upload		
6	Please upload a copy of the Auditor's Report here in PDF format	<input type="text" value="[upload]"/>

After SUP 16 Annex [44]AR (Employers' Liability Register compliance return) insert the following new Annex SUP 16 Annex [44]BG.

16 Annex [44]BG Guidance notes for the completion of Employers' Liability Register compliance return in SUP 16 Annex [44]AR

General notes

[...]

Firm details

1 FRN

Enter the *firm* reference number.

2 Firm name

Enter the firm name as it appears on the Financial Services Register.

Director's Certificate

3 Is the firm materially compliant with ICOBS 8.4.4R(2) and ICOBS 8 Annex 1 in the production of the firm's employers' liability registers in the reporting period?

If the firm is materially compliant select 'Yes' and move on to question 4.

If the firm is not materially compliant, select 'No' and proceed to answer questions 3.1 to 3.3.

3.1 Please confirm that the Director's Certificate contains a description of the ways in which the firm, in its production of the register, is not materially compliant and of the steps, together with relevant timescales, that the firm is taking to ensure that the firm will be materially compliant as soon as practicable. This question relates to the requirement in SUP 16.23A.5R(1)(b).

If an explanation is provided in the Director's Certificate or auditor's report select 'Yes'.

3.2 How many policies are omitted from the register? (as a proportion of the total number of policies required to be included in the register.)

Enter the percentage of the total number of policies omitted from the register.

If this percentage is an estimate, the basis for estimation should be included in the supporting documents.

3.3 How many policies in the register contain incorrect or incomplete information? (as a proportion of the total number of policies required to be included in the register.)

Enter the percentage of the total number of policies where there is incorrect or incomplete information on the register.

If this percentage is an estimate, the basis for estimation should be included in the supporting documents.

Director's Certificate upload

4 Please upload a copy of the Director's Certificate here in PDF format

[upload functionality]

Auditor's Report

5 Does the Auditor's Report confirm the firm is materially compliant with ICOBS 8.4.4R(2) and ICOBS 8 Annex 1 in the production of its employers' liability registers in the reporting period?

Indicate if the Auditor's Report confirms the *firm* is materially compliant by selecting 'Yes'.

Where the Auditor's Report states the *firm* is not materially compliant select 'No'.

Auditor's Report upload

6 Please upload a copy of the Auditor's Report here in PDF format.

[upload functionality]

