

Quarterly Consultation

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How to respond

The Financial Conduct Authority invites comments on this Consultation Paper. Comments should reach us by 6 January 2020 for chapters 3, 7 and 8, and 6 February 2020 for chapters 2, 4, 5 and 6.

Comments may be sent by electronic submission using the form on the FCA's website at (TBC). Alternatively, please send comments in writing to:

Chapter 2:	Flora Page	Redress Policy	020 7066 0920
Chapter 3:	Babatunde Carew	Markets Policy	020 7066 0916
Chapter 4:	Babatunde Carew	Markets Policy	020 7066 0916
Chapter 5:	Sarah Fortt	Redress & Retail Lending	020 7066 2021
Chapter 6:	Kat Cloud	Payment Policy	020 7066 4836
Chapter 7:	Maria Donaghy	Reporting Policy	020 7066 0293
Chapter 8:	Louisa Chender	Brexit Policy & Handbook Team	020 7066 6849

If you are responding in writing to several chapters please send your comments to Ayesha Dayaji in the Handbook Team, who will pass your responses on as appropriate.

All responses should be sent to:
Financial Conduct Authority
12 Endeavour Square, London, E20 1JN

Telephone: 020 7066 0575
Email: cp19-33@fca.org.uk

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1 Overview

Chapter No	Proposed changes to Handbook	Consultation Closing Period
2	Clarification of the rules relating to Financial Services Compensation Scheme claims against appointed representatives and principals	Two months
3	Changes to the Listing Rules' requirements, which cross-refer to the Prospectus Regulation, for information to be put on display	One month
4	Amendments to the Listing Rules to include a requirement mandating the disclosure of rights attached to the securities	Two months
5	Minor amendments to the Handbook to reflect changes made by the Financial Guidance and Claims Act	Two months
6	Changes to the Perimeter Guidance Manual (PERG) 15.3 on payment accounts	Two months
7	Changes to regulatory reporting requirements	One month
8	Further Brexit-related changes to Handbook & BTS following extension of Article 50	One month

2 Claims against appointed representatives and principals

Introduction

- 2.1** This Chapter proposes amendments to the Handbook to clarify that the Financial Services Compensation Scheme (FSCS) can only consider one protected claim against **either** an appointed representative (AR) **or** a principal, up to the relevant limits set out in COMP 10.2.3R.
- 2.2** It also proposes to clarify that, in line with the relevant provisions in the Financial Services and Markets Act 2000 (FSMA), FSCS claims can be made by an eligible claimant against a relevant person who has acted outside the scope of its permissions, including an appointed representative (AR) acting outside the scope of its agreement with the principal.
- 2.3** This is a rule change to clarify existing policy and practice. In addition to firms that act as ARs or principals, it may also be of interest to consumers.

Summary of proposals

- 2.4** The FSCS is the UK's statutory compensation scheme of last resort. It can step in when an authorised financial services firm is, or is likely to be, unable to pay claims against it. A number of conditions have to be met before the FSCS can pay compensation, for example the scheme only covers 'protected activities'. The conditions are set out in the FCA Handbook. One of them is that the claim must be against a relevant person¹, which generally means a FCA- or PRA- authorised firm or an appointed representative of an authorised firm. There are various compensation limits that apply depending on the type of claim, and these limits apply per person per firm.
- 2.5** ***Single protected claim against an appointed representative or an authorised firm***
The policy intent behind our rules, and FSCS implementation of them, has always been consistent: a claim can be made against a firm (acting as principal), or their AR, but not both. This interpretation is supported by COMP 9.2.2R, which provides that the FSCS may delay paying compensation in relation to a claim against an AR where the FSCS considers that the claimant should pursue a claim against the AR's principal. Furthermore, COMP 12.4.2R states that the FSCS may pay compensation "only to the extent that the FSCS considers that the payment of compensation is essential in order to provide the claimant with fair compensation" (emphasis added). Paying two claims as against both the AR and the principal would give an unfair advantage to those who have transacted with ARs, when compared with those who have transacted directly with a firm that is not an AR. Following a similar principle, we also amended COMP on 29 April 2016 with the insertion of 10.2.5AR, to make it explicit that "no claimant shall be eligible

¹ See COMP 6.2.1R: www.handbook.fca.org.uk/handbook/COMP/6/2.html

to make a claim... in respect of both the relevant person and a successor in relation to the same loss”.

2.6 We therefore propose to amend COMP to clarify that no claimant shall be eligible to make a claim in respect of both a principal and the AR of the principal arising from the same act or omission by the AR. We also propose using this more precise wording to replace “the same loss” in COMP 10.2.5AR.

2.7 Under these proposals, it will continue to be possible to make a claim against either the AR or the principal, but if both are declared in default, it will not be possible to make a claim which arises from the same act or omission by the AR.

Claims in cases where a relevant person acts outside the scope of permitted activities

2.8 Section 213(3)(a)(i) FSMA provides that FSCS protection should apply to claims against authorised persons or appointed representatives whether or not the relevant person was carrying on its activities with permission. For an authorised person, this means whether or not it had the required Part 4A permission or other permission under FSMA to carry on the regulated activity. For an appointed representative, this means whether or not it was acting within the scope of business for which its principal had accepted responsibility under Section 39 FSMA. A similar outcome applies under Section 213(3)(a)(ii) in relation to recognised investment exchanges that operate a multilateral trading facility (MTF) or organised trading facility (OTF). They must qualify for recognition under Section 290 FSMA, but if they operate outside the scope of the recognition requirements that apply to these activities, FSCS compensation may still be payable.

2.9 The effect of COMP is already in line with the position above, but we intend to add a new rule to make this clear on the face of the rules.

Chapter headings

2.10 We are also proposing to insert chapter headings to help with navigation of the rules as follows:

Above 8.2.1R: Inaccurate or incomplete applications

Above 8.2.3R: Limitation periods and claims extinguished by operation of law

Above 8.2.5R: Dissolved companies

Above 8.2.7R: Protected investment business: claims covered by the pensions review

2.11 None of the amendments set out above will have an adverse effect on consumers, participant firms or their appointed representatives as they will not change the current policy intent of the rules and they are consistent with the approach that FSCS has taken in historic claims.

2.12 This does not impact claims under the PRA's policyholder protection rules.

Q2.1 Do you agree that our proposed amendments to COMP will make the current application of the rules clearer?

Cost benefit analysis

2.13 We do not consider that the clarificatory amendments that we are making will increase costs for firms that pay FSCS levies because they will not change current policy

intent behind the rules nor the approach that FSCS will take to claims. There will be a qualitative benefit to having greater clarity in the rules.

Compatibility statement

- 2.14** These amendments are in accordance with our strategic objective that relevant markets function well, because it will ensure clarity of the rules governing claims payments in these particular circumstances. They also meet our operational objective of securing an appropriate degree of protection for consumers (Section 1C(1) of FSMA). It would not secure appropriate protection to provide some consumers with an unfair advantage over others. These amendments will make it explicit that those who have transacted with an AR have the same degree of protection as those who have transacted directly with a firm. Further, these amendments meet our operational competition objective because clearer rules are advantageous to ensure a level playing field for all market participants.
- 2.15** We have had regard to the importance of taking action to minimise financial crime, in accordance with Section 1B(5)(b), and to economic policy as recommended by the Treasury, in accordance with Section 1JA of FSMA. These amendments cannot have any impact in respect of either area.
- 2.16** These amendments are in accordance with the regulatory principles set out in Section 3B of FSMA, because clarity of rules assists with all the applicable principles.
- 2.17** These amendments are also in accordance with our duties under the Legislative and Regulatory Reform Act 2006 (LRRRA), because we are acting in a transparent, accountable, proportionate and consistent way, and these amendments are targeted only at cases in which action is needed (Section 21(2) of LRRRA), and we have had regard to the Regulators' Compliance Code (Section 22 of LRRRA).
- 2.18** We do not consider that these amendments will affect mutual societies, but even if exceptionally a mutual society was affected by these amendments, it is our opinion that the impact of the amendments will be no different for them as compared with other authorised persons. All authorised persons will benefit from clarity around the question of where FSCS claims should be directed. Also, for the reasons set out above, we consider that the amendments advance our consumer protection objective. We therefore consider that the requirements of Section 138K(2) of FSMA are met.

Equality and diversity

- 2.19** We are obliged to have due regard to the need to eliminate discrimination and promote equality of opportunity in carrying out this policy consultation. However, these amendments will not change current practice, so we do not foresee any adverse impact on any groups with 'protected characteristics'.

3 Listing Rules references to the Prospectus Regulation

Introduction

- 3.1** Earlier this year, we made consequential amendments to the Listing Rules to take account of the introduction of the EU Prospectus Regulation, which replaced the Prospectus Directive.
- 3.2** One of the chapters that was updated is Chapter 13 of the Listing Rules. This chapter sets out what information has to be provided by premium listed issuers to investors in connection with the production of the circular.
- 3.3** When an issuer produces a circular, the circular has to contain all information necessary to allow the investor to make a properly informed decision. In addition, for certain transactions, other documents have to be made available for inspection or 'put on display'. The Listing Rules specify what documents have to be put on display by making reference to the Prospectus Regulation requirements for 'documents on display'. In addition, the Listing Rules specify that the Sale and Purchase agreement must be put on display.
- 3.4** The Listing Rules requirements for how that information has to be put on display is also determined by reference to prospectus requirements.
- 3.5** The method for how to meet the 'on display documents available' requirement changed when the Prospectus Regulation was introduced. Whereas previously issuers had a choice of making information available electronically or in hard copy, the Prospectus Regulation now prescribes inspection on a website. When we updated our Listing Rules to refer to the new amended 'documents available' requirements in the Prospectus Regulation, we also effectively changed how documents can be put on display for the purpose of the Listing Rules.
- 3.6** In relation to most items that have to be put on display, this change of requirement in practice has no material effect, because the information is readily available electronically for other reasons and/or not commercially sensitive. For example, the up to date memorandum and articles of association of the issuer has to be capable of inspection on a website but would usually be available through public filings.
- 3.7** However, this is not the case for the Sale and Purchase agreement. The Sale and Purchase Agreement always had to be 'put on display' for Listing Rule purposes, but this document was normally available in hard copy only. Our change earlier this year means the Sale and Purchase Agreement needs to also be made available online, and this was not our intention when updating the rules.

Amending the circular requirements

- 3.8** We are proposing to amend the requirements relating to 'documents on display' to make clear that the Sale and Purchase agreement does not have to be made available online. A copy will still need to be made available in hard copy for inspection, and the issuer will need to specify where it can be found.
- 3.9** This proposed amendment reverses the changes introduced in July, and reinstates the ability to rely on the previous, established practice in relation to Sale and Purchase Agreements.

Q3.1: Do you agree with our proposed amendments?

Cost benefit analysis

- 3.10** The Financial Services and Markets Act 2000 (FSMA), as amended by the Financial Services Act 2012, requires us to publish a cost benefit analysis (CBA) of our proposed rules. Specifically, section 138I requires us to publish a CBA of proposed rules, defined as 'an analysis of the costs, together with the benefits that will arise if the proposed rules are made'.
- 3.11** Our July change was an error. Correcting it therefore avoids issuers incurring unintended costs, without affecting the benefits accruing to investors, and markets more generally.
- 3.12** We are aware some issuers have been affected by this.

Q3.2: Do you agree with our CBA?

Impact on mutual societies

- 3.13** Section 138K of FSMA requires us to state whether our proposed rules have a significantly different impact on authorised persons who are mutual societies, compared with other authorised persons. The relevant rules we propose to introduce in the LRs will apply equally to listed companies regardless of whether they are a mutual society or another authorised person. Therefore, we consider that the impact of our proposals would not significantly differ between mutual societies or other authorised persons.

Compatibility statement

- 3.14** Section 138I(2)(d) of FSMA requires us to explain why we consider 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.

- 3.15** We consider that the proposals in this chapter are compatible with our strategic objective, and advance our operational objectives, particularly our consumer protection and market integrity objectives, because they help ensure information is made available to investors in a manner that is proportionate.

Equality and diversity

- 3.16** We have assessed the likely equality and diversity impacts of the proposals and do not consider that the proposals give rise to any concerns.
- 3.17** 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. In the interim, we welcome any input to this consultation on such matters.

4 Amendments to the Listing Rules to include a requirement mandating the disclosure of rights attached to the securities

Introduction

- 4.1** In this chapter, we are proposing an amendment to the Listing Rules sourcebook (LR) in our Handbook. The purpose of this amendment is to require issuers with securities listed in the UK to publish, and keep publicly available, information. This is to allow investors and holders of those securities to understand the rights attached to the securities they own.
- 4.2** This chapter will be of interest to:
- issuers with securities admitted to our Official List or considering a listing
 - firms advising issuers or persons investing in them
 - firms or persons investing or dealing in UK listed securities
- 4.3** The proposed amendments and the statutory powers they will be made under are set out in the relevant Appendix.

Summary of proposals

- 4.4** In this chapter, we propose a new Listing Rule that will require issuers with securities admitted to the UK's Official List to keep publicly available in the National Storage Mechanism (NSM) at least one of the below:
- 4.4.1 the securities' approved prospectus or listing particulars;
- 4.4.2 the relevant agreement or document that sets out the terms and conditions of the securities;
- 4.4.3 a description of the rights attached to the securities, including any limitations of those rights, and the procedure for the exercise of those rights, in accordance with the relevant Annex of the Prospectus Regulation that would have to be applied if the issuer was required to produce a prospectus for the securities in question.
- 4.5** We propose that this information will need to be kept available at all times whilst the securities remain admitted to the Official List.
- 4.6** The purpose of this new requirement is to make sure investors can have ready access to information that allows them to understand the rights attached to the listed securities they own.

- 4.7** Where investors do not have access to information about the rights attached to the securities they hold, there is a risk that this can cause market disruption if the issuer announces an action that security holders were not aware was within the issuer's rights to take. Accurate and relevant information about a security's rights should be, and remain, publicly available throughout the life of the security.
- 4.8** Many issuers already keep such information available: since July 2005, pursuant to the Prospectus Directive, and more recently the Prospectus Regulation, issuers would have had to publish a prospectus that would have had to include a description of the rights attached to the securities. The prospectus would also have to include information on any limitations of those rights, and the procedure for exercising them. Often, but not always, such prospectuses will remain publicly available. However, for securities issued before then, and for securities where the prospectus is not publicly available, this information may not be available at all.
- 4.9** Our objective is to make sure that, regardless of when a security was first admitted to the Official List, holders and potential holders of listed securities have ready access to information in relation to the rights attached to them. This will provide better transparency to the market, allow investors to make more informed decisions and avoid potential market disruption.
- 4.10** The new requirement we are consulting on will be a new continuing obligation that will be replicated in several chapters of the LR sourcebook:
- LR 9.2
 - LR 14.3
 - LR 17.3
 - LR 18.4
 - LR 19.4
 - LR 20.3
 - LR 21.8
- 4.11** For LR 18.4 and LR 21.8, we propose the requirement will relate to information about depository receipts.² Furthermore, we propose not to apply this rule to open-ended investment companies and therefore propose to amend LR 16.4 to dis-apply it.
- 4.12** The new rule will require issuers to file this information with the FCA by uploading it to the NSM. For many issuers, the uploaded document will become regulated information and therefore they will need to consider their obligations to notify a Regulatory Information Service (RIS) in this respect.
- 4.13** Insofar as the information specified by the new rule is already available on the NSM, the issuer will be exempted from the new rule and no further action will be required. This could be the case for example where an issuer filed the prospectus at the time of admission and it remains available on the NSM.
- 4.14** We are also consulting on guidance that explains the objective of the rule, which is to make sure issuers with listed securities publish, and maintain publicly available information, to allow investors and holders of securities to understand the rights attached to the listed securities in question.

² We use the description depository receipts in this consultation paper. The technical term employed within the Listing Rules for instruments of this type is 'Certificates representing certain securities'.

Q4.1: Do you agree with the proposed amendments to the Listing Rules?

Cost benefit analysis

- 4.15** The Financial Services and Markets Act 2000 (FSMA), as amended by the Financial Services Act 2012, requires us to publish a cost benefit analysis (CBA) of our proposed rules. Specifically, section 138I requires us to publish a CBA of proposed rules, defined as 'an analysis of the costs, together with the benefits that will arise if the proposed rules are made'.
- 4.16** The primary benefit of our proposed rules is that investors will be able to access information relating to the rights attached to listed securities, regardless of when the securities were first admitted to the Official List. This should help investors price the securities and avoid market disruption that can occur when an issuer announces an action that security holders were not aware was within the issuer's rights to take.
- 4.17** As set out in paragraph 4.13, we consider that an issuer that already has publicly available one of the three documents that the proposed new rule relates to in the NSM, will already be in compliance with the proposed new rule. Therefore, for these issuers the cost of the proposed new rule will be limited to minimal familiarisation costs.
- 4.18** We consider that most of the issuers whose securities were first admitted to the Official List after November 2013 will fall within this category as they will already have their prospectus publicly available. This is because in November 2013, we amended the Prospectus Rules Sourcebook to include a requirement for issuers to file their prospectus electronically with the NSM. Therefore, the cost for these issuers will be negligible.
- 4.19** For issuers whose securities were first admitted to trading to the Official List after the Prospectus Directive came into force in July 2005 but before filing with the NSM in the current form was specified, the cost will be greater, though we still expect it to be low. This is because the cost for these issuers should be limited to filing the approved prospectus with us, possibly using an RIS. The cost of filing will vary depending on the arrangements the issuer has in place, but we estimate typically between £70 and £205 per class of listed securities.
- 4.20** Circa 84% of the securities admitted to the Official List as of October 2017 should have an approved prospectus available as they were first admitted to the Official List after 2005. Out of those, over 63% were first admitted to the Official List after 2014 and therefore we estimate will already be in compliance with the proposed new requirement as they should already have their approved prospectus filed in the NSM.
- 4.21** For those issuers whose securities were first admitted to the Official List before July 2005, and which therefore will not have an approved prospectus, the cost should be limited to the cost of publication and filing of the relevant agreement or document that sets out the terms and conditions of the securities, which they should have available. As set out in paragraph 4.19, we estimate the actual filing cost to be between £70 and £205 per class of listed securities.

- 4.22** We consider that there can be a very small number of issuers whose securities were first admitted to the Official List probably before July 2005 which would not have the relevant agreement or document that sets out the terms and conditions of the securities available. In this case, the issuers will have to produce and publish a document containing a description of the rights attached to the securities, including any limitations of those rights, and the procedure for the exercise of those rights, in accordance with the relevant Annex of the Prospectus Regulation that would have to be applied if the issuer was required to produce a prospectus for the securities in question. For these issuers, the cost will be greater as they will have to add to the cost of publication, the cost of producing such a document. However, we are unable to quantify how much the cost would be for these issuers as this will depend on the amount of information that each issuer has on each given class of listed securities.
- 4.23** A quantifiable assessment of costs versus benefits is difficult due to the lack of quantifiable data. However, we expect that the costs related to these proposed rules will not be disproportionate to the benefits for investors of listed securities and the market as a whole.

Q4.2: Do you have any comments on the CBA?

Impact on mutual societies

- 4.24** Section 138K of FSMA requires us to state whether our proposed rules have a significantly different impact on authorised persons who are mutual societies, compared with other authorised persons. The relevant rules we propose to introduce in the LR sourcebook will apply equally to issuers and listed companies regardless of whether they are a mutual society or another authorised person. Therefore, we consider that the impact of our proposals would not significantly differ between mutual societies or other authorised persons.

Compatibility statement

- 4.25** Section 138I(2)(d) of FSMA requires us to explain why we consider 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.
- 4.26** We consider that the proposals in this chapter are compatible with our strategic objective, and advance our operational objectives, particularly our consumer protection and market integrity objectives, because they help ensure that appropriate information is more readily available to investors. In preparing these proposals, we have had regard to the regulatory principles in section 3B of FSMA.

Equality and diversity

- 4.27** We have assessed the likely equality and diversity impacts of the proposals and do not consider that the proposals give rise to any concerns regarding equality and diversity issues.
- 4.28** 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. In the interim, we welcome any input to this consultation on such matters.

5 Amendments to the Handbook to reflect changes made by Financial Guidance and Claims Act

Introduction

- 5.1** The Financial Guidance and Claims Act 2018 (FGCA) established the Single Financial Guidance Body (SFGB), now known as the Money Advice and Pensions Service (MAPS).
- 5.2** MAPS took on the responsibilities of the Consumer Financial Education Body (CFEB), which was known as the Money Advice Service (MAS) as well as the responsibilities of Pension Wise and the Pensions Advisory Service (TPAS).
- 5.3** The purpose of this consultation is to set out changes we propose to make to the FCA Handbook to align it with the FGCA. We intend to consult on rule changes that will arise from the change to MAPS and in particular, the signposting to it, early next year.
- 5.4** The FGCA repeals sections 333A to 333R of FSMA, which relate to pensions guidance, with effect from 1 January 2019. It also repeals sections of FSMA relating to the pensions guidance levy and CFEB levy.
- 5.5** As a result of these changes, amendments are required to the Glossary of definitions, the Fees Manual (FEES), the Credit Unions New Sourcebook (CREDS) and our General Provisions (GEN).
- 5.6** We have summarised our proposed changes below but the text of our proposed changes can be found in Annex *** of the draft instrument at Appendix ***

Summary of proposals

- 5.7** Changes relating to the giving of pensions guidance by designated guidance providers
- 5.8** Section 333H of FSMA required us to set the standards for the giving of pensions guidance by designated guidance providers. As this function has been repealed by the FGCA we intend to delete these standards.
- 5.9** We also intend to delete the Glossary term '*designated guidance providers*'. This is because the relevant provision of FSMA which relates to this term has been repealed by the FGCA.

5.10 For the same reasons as above, we also intend to delete references in GEN to:

- GEN Sch 4.2; powers to make rules, as it refers to section 33Q (funding of FCA's pension guidance costs) and section 33R (Funding of Treasury's pensions guidance costs);
- GEN Sch 4.9; powers to set standards, as it refers to section 333H (Standards for giving of pensions guidance by designated guidance providers).

5.11 The FGCA also amends FSMA to impose new duties on the FCA to make rules about the disclosure of information about the availability of financial guidance³, and the power to recover expenses relating to MAPS⁴ and devolved authorities.⁵ We intend to add these new provisions of FSMA in GEN Sch 4.2.

Removal of pensions guidance provider's levy

5.12 The pensions guidance provider's levy is defined in the Glossary as the amount payable to the FCA by each designated guidance provider to which FEES 11 applies and the Pensions guidance levy is currently defined in the Glossary as the amount payable to the FCA by the firms to which FEES 10 (pensions guidance levy) applies.

5.13 FEES 10 and 11 have already been deleted from the Handbook by way of [PS19/19](#) following an earlier consultation in [CP19/16](#) and our proposals in this consultation to remove these Glossary definitions is due to the relevant sections of FSMA being repealed. We therefore intend to also remove the Glossary definitions of pensions guidance provider's levy, Pensions guidance levy and all references to it in FEES.

5.14 As the provisions of FSMA relating to CFEB have been repealed by the SFGB we intend that the Glossary definitions of CFEB and CFEB levy be deleted and references to them in the Handbook is also removed.

Q5.1 Do you agree with removing the terms repealed by the FGCA from the Glossary and removing any associated references from the FCA Handbook?

Update to the definition of pensions guidance

5.15 The Glossary definition of pensions guidance refers to section 333B of FSMA, which has been repealed.

5.16 We propose to amend the Glossary definition of pensions guidance so that it reflects the definition given in section 137FB of FSMA as amended by section 18 of the FGCA.

Q5.2: Do you agree with this proposed change to the definition of pensions guidance?

³ See [Section 137FC \(General rules: disclosure of information about the availability of financial guidance\)](#)

⁴ See [Section 137SA \(Rules to recover expenses relating to the Money and Pension Service\)](#)

⁵ [Section 137SB \(Rules to recover debt advice expenses incurred by the devolved authorities\)](#)

Cost benefit analysis

- 5.17** Section 138I (2)(a) of FSMA requires us to publish a cost benefit analysis (CBA) when proposing draft rules. However, section 138L (3) of FSMA says that section does not apply where we consider that there will be no increase in cost, or the increase will be of minimal significance.
- 5.18** Our changes ensure that the Handbook references align with the FGCA. Having assessed the changes proposed in this chapter we expect there to be no increase in cost to firms or consumers, or the increases will be of minimal significance.

Impact on mutual societies

- 5.19** 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 believe this will be the case.

Compatibility statement

- 5.20** Section 1B of FSMA requires us, when discharging our general functions, to act in a way that is compatible with our strategic objective and advances one or more of our operational objectives. We also need, so far as is compatible with acting in a way that advances the consumer protection objective or the integrity objective, to carry out our general functions in a way that promotes effective competition in the interests of consumers.
- 5.21** We believe the proposed amendments are compatible with our strategic objective and advances our operational objectives under section 1B of FSMA. The proposed changes are designed to make the Handbook consistent with the amendments made in FSMA by the FGCA and will support our consumer protection objective.

Equality and diversity

- 5.22** We do not think that the proposals in this chapter adversely impact any of the groups with protected characteristics under the Equality Act 2000, ie age, disability, sex, marriage of civil partnership, pregnancy and maternity, race, religion and belief, sexual orientation and gender reassignment.

6 Payment Services and Electronic Money: changes to PERG 15.3 Payment Service

Introduction

Payment Accounts

- 6.1** On 19 September 2017, we published our Policy Statement (PS) 17/19 on the Implementation of the revised Payment Services Directive (PSD2). It confirmed changes to our Handbook and Approach Document guidance to reflect PSD2 and the Payment Services Regulations 2017 (PSRs 2017), which implement PSD2 in the UK. The definition of a 'payment account' is set out in Regulation 2 of the PSRs 2017.
- 6.2** On 4 October 2018, the Court of Justice of the European Union (CJEU) handed down its [judgement](#) on Case 191/17, which considered the concept of a "payment account" under the Payment Services Directive (PSD). While the case was being discussed in court PSD was repealed and replaced by PSD2, which retains the same definition for "payment account". As such the decision made by the CJEU applies to the definition of "payment account" under PSD2.
- 6.3** The CJEU found that "the possibility of making payment transactions to a third party from an account or of benefiting from such transactions carried out by a third party is a defining feature of the concept of 'payment account'".

Summary of proposals

- 6.4** We are proposing to add guidance on the defining features of a payment account in Q16 of [Chapter 15.3](#) of our Perimeter Guidance Manual (PERG) to reflect the CJEU's judgement.
- 6.5** Currently the text in Q16 of PERG states; "Payment account" is defined in regulation 2 as "an account held in the name of one or more payment service users which is used for the execution of payment transactions". When determining whether or not an account is a "payment account" for the purposes of the regulations, in our view it is appropriate to focus on its underlying purpose."
- 6.6** We propose to add the following wording to Q16 of PERG; "The possibility of making payment transactions to a third party from an account or of benefitting from such transactions carried out by a third party is a defining feature of the concept of "payment account".
- 6.7** The CJEU ruling focuses on what functions are not in scope of a "payment account". For maximum clarity, our proposed guidance focuses on what functions are in scope of a "payment account".

- 6.8** We are proposing these changes so our guidance accurately represents the functionalities of a "payment account" under PSD2 in line with the judgement of the CJEU and is not inadvertently misleading.
- 6.9** The proposed amendment is to ensure consistency with PSD2 in light of the CJEU judgement. This change will provide additional guidance to firms who are unsure if they are offering payment accounts as defined in the PSRs 2017.

Q6.1 Do you agree with our proposed change to Q16 of Chapter 15.3 of PERG?

Cost benefit analysis

- 6.10** We are not required to publish a cost benefit analysis in relation to the exercise of our powers under the PSRs 2017. However, regulation 106(3) of the PSRs 2017 requires us to have regard to the principle that a burden or restriction imposed on any person should be proportionate to the benefits. In assessing the proportionality of our proposals, we have considered whether they impose costs on payment service providers beyond those that are inherent in the obligations under PSRs 2017.
- 6.11** As the changes proposed under the PSRs 2017 are designed to clarify existing guidance, we consider it unlikely that it will lead to costs for firms.

Impact on mutual societies

- 6.12** The PSRs 2017 do not require us to carry out an assessment of the impact on mutual societies. However, we are satisfied that the proposed changes in this chapter do not impact mutual societies any differently to any other authorised persons.

Compatibility statement

- 6.13** When determining general policy and principles under the PSRs 2017, we are required to have regard to the principles set out in Regulation 106(3) of the PSRs 2017. We are of the view that our changes meet the principles set out in these Regulations.

Equality and diversity

- 6.14** We have considered the quality and diversity issues that may arise from the proposals in this chapter.
- 6.15** We do not consider that the proposals adversely impact any of the group with protected characteristics (ie age, disability, gender reassignment, marriage or civil partnerships, pregnancy and maternity, race religion or belief, sex, and sexual orientation).
- 6.16** We welcome any feedback on this view as part of our consultation.

7 Changes to reporting requirements in the Supervision manual

Introduction

- 7.1** We collect regulatory data to inform and support our supervision of firms. Our data reporting requirements are set out in the Handbook, predominantly in the Supervision manual (SUP). We use internal feedback and feedback directly from firms to clarify and improve these requirements. This chapter sets out our proposed changes to regulatory reporting forms, their application rules and supporting guidance notes.
- 7.2** This chapter of the consultation paper (CP) will be of interest to:
- Firms required to complete FIN071 – Capital Adequacy Form
- 7.3** The proposed changes are to the Handbook text itself. The statutory powers the changes will be made under are set out in Appendix X of this CP.

Summary of proposals

Alterations to the guidance notes (SUP 16 Annex 25) for form FIN071 (Capital adequacy form)

- 7.4** We propose to alter the guidance notes for FIN071 which incorrectly references various provisions of the Interim Prudential sourcebook for Investment Businesses (IPRU(INV)) within the Data Elements table that no longer exist. We therefore propose to amend the guidance in this annex to provide the correct cross-references with IPRU(INV) to provide clarity.
- 7.5** Guidance for data item 23B incorrectly requests firms to provide the amount of own funds. Instead, we propose to amend this to request the amount of liquid capital to enable firms to more accurately report data.
- 7.6** We also propose to enhance the guidance for data items 29B and 31B to provide better clarity to firms as to what data we are requesting.

Q7.1 Do you have any comments on our proposals to amend guidance notes for FIN071 contained in SUP 16 Annex 25?

Cost benefit analysis

- 7.7** Sections 138I(2)(a) of the Financial Services and Markets Act 2000 (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 increases will be of minimal significance.

7.8 Having assessed the individual changes proposed in this chapter and based on previous estimates relating to similar reporting changes, we believe the exemption of minimal significance applies to the all the items therefore no CBA is required for the proposals in this chapter.

Q7.2 Do you have any comments on our assessment that any increase of costs from the changes set out in this chapter will be of only minimal significance?

Impact on mutual societies

7.9 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 in this chapter do not impact mutual societies any differently to any other authorised persons.

Compatibility statement

7.10 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.

7.11 The proposed changes in this chapter will allow us to collect more accurate firm data. In turn, this will allow more effective and efficient supervision of firms which will help us to advance our consumer protection objective.

7.12 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

7.13 We do not believe that the proposals in this chapter adversely impact any of the groups with protected characteristics specified in legislation ie age, disability, sex, marriage or civil partnership, pregnancy and maternity, race, religion and belief, sexual orientation and gender reassignment.

7.14 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.

7.15 We welcome any feedback to this chapter of the consultation on our equality and diversity assessment.

8 Further Brexit-related changes to Handbook & BTS following extension of Article 50

Introduction

- 8.1** The period under Article 50(3) of the Treaty on European Union has been extended. This means that 'exit day' - the day the United Kingdom (UK) leaves the European Union (EU) under the European Union (Withdrawal) Act 2018 (EUWA) - has changed to 31 January 2020 (at 11pm GMT).
- 8.2** The EUWA will repeal the European Communities Act 1972 and convert existing directly applicable EU law into UK law on exit. It also gives ministers powers to make secondary legislation amending this body of law to ensure it functions effectively when the UK leaves the EU. The Government has delegated some of these powers to us, the Prudential Regulation Authority (PRA), the Bank of England (the Bank) and the Payment Systems Regulator (PSR).
- 8.3** As the UK continues to be an EU Member State until exit day, we need to continue to implement any new EU legislation that is not already implemented which comes into application up to that date. In parallel, we need to continue to fix deficiencies arising from the UK's withdrawal from the EU in any affected Handbook provisions and in any new EU binding technical standards (BTS), to take effect at exit day. Under the EUWA, 'deficiencies' include, for example, provisions which may become redundant when the UK leaves the EU or which make provision for arrangements involving the EU which are no longer appropriate.
- 8.4** This consultation follows, and should be read together with, our previous [Brexit consultation papers \(CPs\)](#) and [policy statement \(PS\)](#)⁶ on, and [approach to amending financial services legislation under the EUWA](#). We are now consulting on further changes to ensure that an operable legal framework is in place after the UK leaves the EU.
- 8.5** Although the proposed changes are minor or consequential in nature we have chosen to consult, to the extent possible, in the interests of transparency and to inform stakeholders of the proposed amendments ahead of exit day. We are consulting on Brexit-related changes to:
- a.** Handbook provisions not included in the March 2019 Brexit instruments⁷ or made or consulted on since the September 2019 consultation ([CP19/27](#)) on further Brexit-related changes to Handbook & BTS. For this consultation, we have included provisions in effect or expected to be in effect by 31 January 2020. We have also

⁶ CP19/27 quarterly consultation No 25; CP18/28 and CP18/36 on proposed changes to the Handbook and BTS; CP18/29 on a temporary permissions regime for inbound firms and funds; CP19/2 on Brexit and contractual continuity; CP18/34 on regulatory fees and levies (regarding question 10 on firms in the temporary permissions regime contributing to the devolved authorities' debt advice levy); and PS19/5.

⁷ Near-final versions published in Brexit PS19/5 and final versions available at www.fca.org.uk/handbook

included Handbook provisions that are expected to be in effect by 31 January 2020, but not yet made by the Board.⁸

- b. BTS that start to apply before 31 January 2020, as published in the Official Journal of the EU as at 29 November 2019.

- 8.6** The consultation period for this chapter closes on 6 January 2020. Responses to this chapter will be shared with the Bank and the PRA.
- 8.7** If a withdrawal agreement has not been agreed by the UK and the EU (ie in the event of a no-deal exit), and having considered any consultation responses received, we expect to present the final Handbook and BTS instruments to our Board for making ahead of 31 January 2020. This will also include material consulted on in CP19/27.
- 8.8** We intend to use the delegated EUWA powers that are available to us at exit day to make our proposed amendments to BTS and the Handbook in this consultation, other than the proposed Handbook provisions relating to the Senior Managers & Certification Regime (SM&CR). For the SM&CR we intend to use our Financial Services and Markets Act 2000 (FSMA) powers to make the proposed amendments. In amending our Handbook guidance, we are using our general power under section 139A of FSMA (power of the FCA to give guidance). All changes proposed under the EUWA powers will be subject to approval by the Treasury before the relevant instruments are made by our Board. We have consulted with the Bank/PRA on our proposed amendments to our Handbook instruments and BTS. Where required by statutory instrument, we will seek consent on shared BTS we have led on amending.
- 8.9** This chapter includes:
- a. A summary of our proposals for further Brexit-related changes (deficiency-fixing and consequential changes) to our Handbook rules and BTS.
 - b. An update on the temporary permissions regime (TPR).
 - c. An update on the forms guide.
- 8.10** Annex 1 lists the BTS we are consulting on.
- 8.11** Appendix 8 includes the draft instruments reflecting the proposed changes in this chapter and consequential amendments due to other changes in onshoring legislation.

Summary of proposals

- 8.12** Appendix 8 contains the draft instruments setting out the detailed proposed amendments to various Handbook sourcebooks, chapters and the Glossary, and BTS. Stakeholders should read this appendix for a full understanding of all the Handbook and BTS changes proposed. We have summarised the changes below.

⁸ These provisions are subject to being made by the Board, and do not appear in the Handbook version in effect on 31 January 2020.

Handbook instruments

8.13 A summary of the proposed changes and the Handbook areas affected is set out in the table below.

Handbook areas	Proposed changes
Glossary (EU EMIR)	We are proposing to amend the definition of EU EMIR (European Market Infrastructure Regulation) in the Glossary. The amendment reflects the fact that EMIR has been amended by EMIR REFIT. This will bring the definition in line with the current Handbook definition of EMIR (which was amended to reflect REFIT by the Over-the-counter derivatives, central counterparties and trade repositories (No 3) Instrument 2019 (FCA 2019/97)).
Glossary (readily realisable security)	<p>On 26 November 2019, the FCA published final temporary rules (as a new section in COBS 4.14) to restrict the marketing of speculative illiquid securities to retail clients, which will apply from 1 January 2020 for 12 months. These rules refer to two glossary definitions. One reference is the application of the rules to firms where we propose to follow our default approach such that on exit day this would no longer include incoming EEA firms.</p> <p>The second is the term for readily realisable securities, which are excluded from the scope of our marketing restrictions. This term includes a reference to securities which are listed or traded on an exchange in an EEA State. Under an earlier onshoring measure, we indicated that post-exit we would create two definitions of readily realisable security. One retains a reference to EEA State, and is applied for the purpose of COLL and our definition of non-readily realisable securities (this latter term links to certain financial promotions rules in COBS 4.7). The other definition replaces 'EEA State' with 'UK' and applies where the term is used elsewhere in the Handbook.</p> <p>Since our temporary marketing restriction is intended to sit alongside our financial promotions rules, and was designed to exclude listed securities as they are subject to a Prospectus requirement and allow a public secondary market, which mitigates some of the risks we perceive from speculative illiquid securities, we consider it appropriate to adopt the definition of readily realisable security that retains a reference to 'EEA State' for the purpose of COBS 4.14. Otherwise, it would expand the scope of our temporary rules to instruments that we did not intend to catch, which firms would not reasonably expect (and would create an additional compliance burden for them), and where we have not evidenced the same consumer harm.</p>
MCOB 1.3.1	We are proposing a correction to MCOB 1.3.1R to preserve the protections in place for borrowers with pre-exit day regulated mortgage contracts who are resident in the EEA after exit day.
SYSC 4.4.5, SYSC 4.4.6, SYSC 23 (Annex 1 Part One 1.3; Annex 1 Part Six 6.3), SYSC 27.8.15, SUP 10 (various), SUP TP (various)	In chapter 7 of CP 19/27, we proposed changes to the final SM&CR rules for FCA-authorised firms to ensure that these rules function in the event of a no-deal exit on 31 October 2019. As exit day has been extended to 31 January 2020, certain provisions need to be updated to take this into account. We will also be making other minor changes to reflect that all references to SM&CR firms will be included in SUP10C 'FCA senior managers regime for approved persons in SMCR firms' of our Handbook as of 9 December 2019. As with CP19/27, we are using our FSMA powers to make amendments to these provisions.
DTR 4.1.14 Glossary (TD ESEF Regulation)	Consequential change to DTR 4.1.14R which we proposed in CP19/27 to implement Article 4(7) of the Transparency Directive. We are proposing to amend the reference to the European Single Electronic Format (ESEF) RTS in DTR 4.1.14R to the UK version of it and add this to the Glossary.

Q8.1 Do you have any comments on the proposed Handbook amendments?

Binding technical standards (BTS)

- 8.14** We are proposing to make changes to 3 BTS that have been made by the EU and will start to apply in the period from 1 November 2019 to 31 January 2020. The proposed changes relate to:
- Transparency Directive (TD)
 - Securitisation Regulation (SR)
 - Markets in Financial Instruments Regulation (MiFIR)
- 8.15** There are several BTS mandated under EU legislation that have not been finalised by the EU. We have included BTS that have been published in the Official Journal of the EU by 29 November 2019. BTS that have not reached that stage are not included in this consultation, such as BTS mandated under the Prospectus Regulation.
- 8.16** In the scenario that we are given the power to fix new BTS we propose to amend 3 BTS. In order to amend deficiencies arising from the UK's exit from the EU, these BTS would need to be added to the Schedule of the Regulators' Powers SI (The Financial Regulators' Powers (Technical Standards etc.) (Amendment etc.) (EU Exit) Regulations 2018) before the end of January 2020. The list of new BTS is set out in Annex 1 of this chapter.
- 8.17** Some BTS are relevant to firms and persons supervised by us and the Bank/PRA. The legislation giving us the power to correct BTS designates an appropriate regulator for each BTS and, in some cases, this is shared between two regulators. We have approached the BTS under MiFIR as if it will be designated to the FCA and Bank.
- 8.18** It is important to both the Bank/PRA and us that the substance of our MiFIR BTS, where designation is shared, maintains an appropriate degree of alignment after exit day. Therefore, any changes to this BTS before exit day will be made with each other's consent.
- 8.19** All changes to BTS should be read alongside the amendments made to the onshored EU legislation, as amended by the Treasury. It may also be useful to refer to the amendments to our Handbook, where Handbook provisions and BTS interrelate. We have outlined our changes to the BTS below.
- The ESEF RTS**
- 8.20** The ESEF RTS will apply directly in the UK if the UK remains subject to EU law on 1 January 2020. It originates in the Transparency Directive which provides for the harmonisation of transparency requirements across the EU by requiring issuers with securities admitted to trading on a regulated market to disclose a minimum level of information to the public. These requirements are implemented in the UK in the DTRs.
- 8.21** In CP19/27 we consulted on a new rule in DTR 4.1.14R to implement Article 4(7) of the Transparency Directive. If the rule is made, it will require all issuers to prepare their annual financial report using the single electronic reporting format specified in the ESEF RTS. This would apply to annual financial reports for financial years beginning on or after 1 January 2020. It requires all issuers to prepare these reports in XHTML format. Also, issuers who prepare consolidated annual financial statements in

accordance with International Financial Reporting Standards will be required to 'mark-up' certain data so that it is 'machine-readable'. Issuers will be required to make these reports available to the public in the new format from 1 January 2021.

- 8.22** In its explanatory memorandum on the Official Listing of Securities, Prospectus and Transparency (Amendment etc.) (EU Exit) Regulations 2019, the Treasury proposed that the UK's transparency framework should continue to operate as intended in the UK once the UK has left the EU. To ensure consistency with that approach, all issuers with securities admitted to trading on a UK regulated market will be required to comply with the transparency requirements from exit day. If DTR 4.1.14R is made, they will also be required to comply with the UK version of the ESEF RTS. So, under our proposals, all issuers with securities admitted to trading on a UK regulated market will be subject to the same requirements as under the EU ESEF RTS to prepare their annual financial reports in the specified single electronic format and, where applicable, to mark-up their annual financial reports.
- 8.23** We are proposing some other consequential changes, including where EEA incorporated issuers will be treated in the same way as other overseas (third country) incorporated issuers following exit day. We are also proposing to apply the temporary transitional power to Article 5(1) of the RTS. This will mean that Article 5(1) will continue to apply to EEA incorporated issuers for the duration of the relevant direction issued under the power.

Securitisation regulation

Technical standards on the homogeneity of the underlying exposures in securitisation

- 8.24** The EU technical standards on the homogeneity of the underlying exposures in securitisation (COMMISSION DELEGATED REGULATION (EU) 2019/1851) under the Securitisation Regulation were published in the Official Journal of the European Union on 6 November 2019. These will come into force before 31 January 2020 and will become part of retained direct EU law under the EUWA.
- 8.25** These technical standards specify the requirements for homogeneity of the underlying exposures for both non-ABCP (asset-backed commercial paper) and ABCP securitisations. Homogeneity is one of the requirements for securitisations to be assessed as simple, transparent and standardised (STS) and to be eligible for more risk-sensitive capital weighting under the new EU and UK securitisation framework. STS securitisations must be backed by a pool of underlying assets that are homogeneous (similar) in terms of asset type, taking into account associated cash flows including their contractual, credit risk and prepayment characteristics. A pool of underlying exposures is deemed homogenous when it is made up of only one asset type.
- 8.26** Little amendment is required to the BTS to make it operational after exit day, but we have made one textual amendment to a standard provision present in all BTS as to the legislation binding all Member States, in line with the powers delegated to us under the legislation.

MiFIR

- 8.27** The provisions in Article 37 of MiFIR on access to benchmarks by market infrastructure open in January 2020. We are therefore onshoring the RTS associated with these

provisions. Interpretation provisions have been added so that the BTS will operate effectively in the UK after exit day.

Prospectus regulation

8.28 On 24 May 2018, the European Commission published a proposal for a regulation amending the Market Abuse Regulation, (EU) No 596/2014, and the Prospectus Regulation, (EU) 2017/1129, as regards the use of SME growth markets. The proposal is progressing through the EU legislative approval process and includes prospectus-related provisions which are expected to apply before 31 January 2020.

8.29 Should the text enter the EU Official Journal before exit day, we intend to fix deficiencies in affected Handbook provisions, including our Prospectus Regulation Rules (PRR) sourcebook, and in any relevant binding technical standards under the proposed regulation or the Prospectus Regulation that are published and take effect under EUWA at exit day. As Official Journal text was not available we are not proposing any amendments to this regulation in this consultation.

Q8.2: Do you have any comments on the proposed BTS amendments?

Temporary permissions regime

8.30 In March 2019, in preparation for exiting the EU, we made rules that apply a subset of our Handbook to firms in the temporary permission regime (TPR) and the supervised run-off regime (TP firms). These rules are set out in the General Provisions (GEN), in GEN 2.2.26R onwards (FCA instrument 2019/36). The application of these rules is based on the EUWA definition of 'exit day', which is 31 January 2020. Among other rules, GEN 2.2.26R continues to apply rules that applied to an EEA passporting firm immediately before 31 January 2020, including any rules made between March 2019 and exit day. The same approach applies to so-called TP UCITS qualifiers and TP AIFM qualifiers, which market but do not manage such funds in the UK. Further details of the rules that apply to TP firms are set out in our Brexit CPs 18/29 and 18/36, and Brexit PS19/5.

Forms

8.31 Our Handbook forms and related guidance provide regulatory data, disclosures and other key information to us. In many cases, our Handbook forms will have references and provisions that will no longer have their intended effect after Brexit.

8.32 In March, we produced a guide which sets out the approach we expect users of our Handbook forms to take after Brexit.

8.33 We propose to make an addition to Table 2 of our guide to completing forms after Brexit to cover the situation of EuSEFs and EuVECAs which in their onshored form will have different names and acronyms (SEF and RVECA respectively). This can be found in Appendix 8.

Cost benefit analysis

- 8.34** Under the powers to address deficiencies in our rules and BTS in the Financial Regulators' Powers SI there is no obligation to conduct a cost benefit analysis (CBA). We have therefore not produced a CBA for the proposed amendments to rules and BTS where we have used those powers.
- 8.35** For some of the proposed rule changes, we intend to use our powers in FSMA. FSMA requires us to publish a CBA of our proposed rules. Specifically, section 138I requires us to publish a CBA of proposed rules, defined as 'an analysis of the costs, together with an analysis of the benefits that will arise if the proposed rules are made'. We are not required to undertake a CBA if, in making the appropriate comparison, there will be no increase in costs, or there will be an increase in costs but that increase will be of minimal significance. We have set out below our assessment of relevant rule changes in light of these obligations.
- 8.36** For the SM&CR proposals, we do not expect there to be a significant increase in costs for firms, other than what we have already consulted on in Brexit CP18/36. This is because the proposed changes are minor and do not require firms to comply with additional rules other than those they are already required to comply with. We therefore believe the costs related to these proposals will be of minimal significance and we are not required to conduct a CBA. For the costs and benefits for the related SM&CR proposals, stakeholders may wish to consult our previous Brexit CPs and PS, specifically CP18/36.

Compatibility statement

- 8.37** In relation to changes in this chapter that we propose to make using the delegated powers under the Financial Regulators' Powers (Technical Standards etc.) (Amendment etc.) (EU Exit) Regulations 2018, we consider that they are appropriate to prevent, remedy or mitigate any failure of the relevant FCA Handbook provisions or BTS to operate effectively, or any other deficiency in the relevant FCA Handbook provisions or BTS, arising from the withdrawal of the UK from the EU. The changes proposed under these powers do not impose or increase taxation or fees; make retrospective provision; create a criminal offence which is capable of leading to imprisonment of more than two years; establish a public authority; implement the Article 50 Withdrawal Agreement; result in the transfer of a function of an EU authority to a UK authority; confer any power to legislate by means of orders, rules, regulations or any other subordinate instrument; or amend any legislation other than the relevant FCA Handbook provisions and BTS.
- 8.38** The proposed amendments in relation to the SM&CR rules are compatible with our general duties (as described in the previous CPs). The proposed changes will ensure the proper functioning of SM&CR rules in the event of a no-deal exit and, as a result, also support firms in complying with these rules.

Equality and diversity

- 8.39** We have assessed whether the proposals in this chapter would give rise to equality and diversity matters, or would adversely impact anyone with a protected characteristic under the Equality Act 2010. We consider that they do not.

Annex 1

List of BTS proposed to be amended using delegated powers

- Transparency Directive (TD)
 - Commission Delegated Regulation (EU) 2019/815 of 17 December 2018 supplementing the Transparency Directive with regard to regulatory technical standards on the specification of a single electronic reporting format as amended from time to time
- Securitisation Regulation (SR)
 - Commission Delegated Regulation (EU) 2019/1851 of 28 May 2019 supplementing Regulation (EU) 2017/2402 of the European Parliament and of the Council with regard to regulatory technical standards on the homogeneity of the underlying exposures in securitisation
- MiFIR
 - Commission Delegated Regulation (EU) 2016/2021 of 2 June 2016 supplementing Regulation (EU) No 600/2014 of the European Parliament and of the Council on markets in financial instruments with regard to regulatory technical standards on access in respect of benchmarks

Annex 1

Abbreviations used in this paper

ABCP	Asset-backed commercial paper
AIFM	Alternative Investment Fund Manager
Bank	Bank of England
BTS	Binding Technical Standards
CBA	Cost Benefit Analysis
CFEB	Consumer Financial Education Body
CJEU	Court of Justice of the European Union
COLL	Collective Investment Schemes sourcebook
CP	Consultation Paper
CREDS	Credit Unions New Sourcebook
DTR	Disclosure Rules and Transparency Rules sourcebook
EEA	European Economic Area
EMIR	European Market Infrastructure Regulation
ESEF	European Single Electronic Format
EuSEF	European Social Entrepreneurship Fund
EuVECA	European Venture Capital Fund
EUWA	European Union (Withdrawal) Act 2018
FCA	Financial Conduct Authority
FEES	Fees Manual
FGCA	The Financial Guidance and Claims Act 2018
FSCS	Financial Services Compensation Scheme
FSMA	Financial Services and Markets Act 2000

GABRIEL	Gathering Better Regulatory Information Electronically
GEN	General Provision
IPRU(INV)	Interim Prudential sourcebook for Investment Businesses
LR	Listing Rules sourcebook
LRRRA	Legislative and Regulatory Reform Act 2006
MAPS	Money Advice and Pensions Service
MAS	Money Advice Service
MCOB	Mortgage and Home Finance: Conduct of Business
MiFIR	Markets in Financial Instruments Regulation
NSM	National Storage Mechanism
PERG	Perimeter Guidance Manual
PR	Prospectus Regulation
PRA	Prudential Regulation Authority
PRR	Prospectus Regulation Rules
PS	Policy Statement
PSD	Payment Services Directive
PSD2	The Revised Payment Services Directive (2007/64/EC)
PSP	Payment Service Provider
PSR	Payment Systems Regulator
PSRs 2017	Payment Services Regulations 2017
RIS	Regulatory Information Service
RTS	Regulatory Technical Standards
RVECA	Registered Venture Capital Fund
SEF	Social Entrepreneurship Fund
SFGB	Single Financial Guidance Body

SI	Statutory Instruments
SM&CR	Senior Managers & Certification Regime
SR	Securitisation Regulation
STS	Simple, Transparent and Standardised
SUP	Supervision manual
TD	Transparency Directive
TP firms	Firms in the TPR
TPAS	The Pensions Advisory Service
TPR	Temporary Permissions Regime
TTP	Temporary Transitional Power
UCITS	Undertaking for Collective Investment in Transferable Securities
XHTML	eXtensible HyperText Markup Language

Appendix 1

List of questions

- Q2.1:** Do you agree that our proposed amendments to COMP will make the current application of the rules clearer?
- Q3.1:** Do you agree with our proposed amendments?
- Q3.2:** Do you agree with our CBA?
- Q4.1:** Do you agree with the proposed amendments to the Listing Rules?
- Q4.2:** Do you have any comments on the CBA?
- Q5.1:** Do you agree with removing the terms repealed by the FGCA from the Glossary and removing any associated references from the FCA Handbook?
- Q5.2:** Do you agree with this proposed change to the definition of pensions guidance?
- Q6.1:** Do you agree with our proposed change to Q16 of Chapter 15.3 of PERG?
- Q7.1:** Do you have any comments on our proposals to amend guidance notes for FIN071 contained in SUP 16 Annex 25?
- Q7.2:** Do you have any comments on our assessment that any increase of costs from the changes set out in this chapter will be of only minimal significance?
- Q8.1:** Do you have any comments on the proposed Handbook amendments?
- Q8.2:** Do you have any comments on the proposed BTS amendments?



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.

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Appendix 2

Financial Services Compensation Scheme (Appointed Representatives) Instrument 2020

FINANCIAL SERVICES COMPENSATION SCHEME (APPOINTED REPRESENTATIVES) INSTRUMENT 2020

Powers exercised

- A. The Financial Conduct Authority (“the FCA”) makes this instrument in the exercise of the powers and related provisions in the following sections of the Financial Services and Markets Act 2000 (“the Act”):
- (1) section 137A (The FCA’s general rules);
 - (2) section 137T (General supplementary powers);
 - (3) section 213 (The compensation scheme); and
 - (4) section 214 (General).
- 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 Compensation sourcebook (COMP) is amended in accordance with the Annex to this instrument.

Citation

- E. This instrument may be cited as the Financial Services Compensation Scheme (Appointed Representatives) Instrument 2020.

By order of the Board
[*date*]

Annex

Amendments to the Compensation sourcebook (COMP)

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

6 Relevant persons and successors in default

...

6.2 Who is a relevant person?

...

6.2.2A R The *FSCS* may pay compensation in respect of the activities of a *relevant person*:

- (1) (if it was a *firm*) whether or not it was acting within the scope of its *permission*;
- (2) (if it was an *appointed representative*) whether or not it was acting within the scope of the business for which its *principal* had accepted responsibility;
- (3) (if it was a *recognised investment exchange*) whether or not it was acting in accordance with any *recognition requirements* resulting from section 286 of the *Act* and relating to the *regulated activity of operating a multilateral trading facility* or *operating an organised trading facility*.

[Note: sections 39(3) and 213(3)(a) of the *Act*]

...

8 Rejection of application and withdrawal of offer

...

8.2 Rejection of application for compensation

Inaccurate or incomplete applications

8.2.1 R ...

...

Limitation periods and claims extinguished by operation of law

8.2.3 R ...

...

Dissolved companies

8.2.5 R ...

...

Protected investment business: claims covered by the pensions review

8.2.7 R ...

...

10 Limits on the amount of compensation payable

...

10.2 Limits on compensation payable

...

Claims in cases where there is a successor

10.2.5A R No claimant shall be eligible to make a claim under the *compensation scheme* in respect of both the *relevant person* and a *successor* ~~in relation to the same loss~~ arising from the same act or omission by the *relevant person*.

...

Claims in cases where a principal and its appointed representative are both in default

10.2.14 R No claimant shall be eligible to make a claim under the *compensation scheme* in respect of both a *principal* and its *appointed representative* arising from the same act or omission by the *appointed representative*.

Appendix 3

Listing Rules (Contents of Circulars) (Amendment) Instrument 2020

**LISTING RULES (CONTENTS OF CIRCULARS) (AMENDMENT) INSTRUMENT
2020**

Powers exercised

- A. The Financial Conduct Authority (“the FCA”) 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 96 (Obligations of issuers of listed securities);
 - (3) section 137A (The FCA’s general rules); and
 - (4) section 137T (General supplementary powers).
- 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 the Annex to this instrument.

Citation

- E. This instrument may be cited as the Listing Rules (Contents of Circulars) (Amendment) Instrument 2020.

By order of the Board
[*date*]

Annex

Amendments to the Listing Rules sourcebook (LR)

In this Annex, underlining indicates new text.

13 Contents of circulars: Premium listing

...

13 Annex 1	Class 1 circulars		
...			
13 Annex 1.1R			
	3	The information required by this Annex is modified as follows:	
		...	
		(5)	information required by Annex 1 item 21.1 must include a copy of the Sale and Purchase Agreement (or equivalent document) if applicable. <u>The issuer must indicate where the Sale and Purchase Agreement (or equivalent document) is available for physical or electronic inspection.</u>
...			

Appendix 4

Listing Rules (Disclosure of Rights of Securities) Instrument 2020

**LISTING RULES (DISCLOSURE OF RIGHTS OF SECURITIES) INSTRUMENT
2020**

Powers exercised

- A. The Financial Conduct Authority (“the FCA”) 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 96 (Obligations of issuers of listed securities);
 - (3) section 137A (General rule-making power);
 - (4) section 137T (General supplementary powers); and
 - (5) section 139A (Guidance).
- B. The rule-making provisions listed above are specified for the purposes of section 138G(2) of the Act.

Commencement

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

Amendments to the Handbook

- D. The Listing Rules (LR) sourcebook is amended in accordance with the Annex to this instrument.

Citation

- E. This instrument may be cited as the Listing Rules (Disclosure of Rights of Securities) Instrument 2020.

By order of the Board
[*date*]

Annex

Amendments to the Listing Rules sourcebook (LR)

In this Annex, underlining indicates new text.

9 Continuing obligations

...

9.2 Requirements with continuing application

...

Disclosure of rights attached to equity shares

- 9.2.6E **R** (1) Unless exempted in LR 9.2.6GR, a listed company must file with the FCA a copy of one or more of the following:
- (a) the approved prospectus or listing particulars for its listed equity shares;
 - (b) the relevant agreement or document setting out the terms and conditions on which its listed equity shares were issued; or
 - (c) a document describing:
 - (i) the rights attached to its listed equity shares;
 - (ii) limitations on such rights; and
 - (iii) the procedure for the exercise of such rights,produced in accordance with the relevant Annex of the Prospectus Regulation that would have applied had the listed company been required to produce a prospectus for those listed equity shares.
- (2) A listed company must file a new document in accordance with (1) if the information in the document previously filed is no longer accurate.
- (3) The documents in (1) and (2) must be filed by uploading them to the system identified by the FCA on its website as the national storage mechanism.
- 9.2.6F **G** The purpose of LR 9.2.6ER is to require listed companies to maintain publicly available information in relation to the rights attached to their listed equity shares so that investors can access such information.

9.2.6G R A listed company is exempt from LR 9.2.6ER where:

- (1) it has previously filed with the FCA a document specified in LR 9.2.6ER(1), by uploading it to the system identified by the FCA on its website as the national storage mechanism; or
- (2) it has complied with LR 9.6.1R or LR 9.6.2R (Notifications) with respect to a document specified in LR 9.2.6ER(1),

provided the information in the relevant document remains accurate.

...

14 Standard listing (shares)

...

14.3 Continuing obligations

...

Disclosure of rights attached to shares

14.3.11 R (1) Unless exempted in LR 14.3.11C, a company must file with the FCA a
 A copy of one or more of the following:

- (a) the approved prospectus or listing particulars for its listed shares;
- (b) the relevant agreement or document setting out the terms and conditions on which its listed shares were issued; or
- (c) a document describing:
 - (i) the rights attached to its listed shares;
 - (ii) limitations on such rights; and
 - (iii) the procedure for the exercise of such rights,

produced in accordance with the relevant Annex of the Prospectus Regulation that would have applied had the company been required to produce a prospectus for those listed shares.

(2) A company must file a new document in accordance with (1) if the information in the document previously filed is no longer accurate.

- (3) The documents in (1) and (2) must be filed by uploading them to the system identified by the FCA on its website as the national storage mechanism.

14.3.11B G The purpose of LR 14.3.11CR is to require companies to maintain publicly available information in relation to the rights attached to their listed shares so that investors can access such information.

14.3.11C R A company is exempt from LR 14.3.11AR where:

- (1) it has previously filed with the FCA a document specified in LR 14.3.11AR(1), by uploading it to the system identified by the FCA on its website as the national storage mechanism; or
- (2) it has complied with LR 14.3.6R (Copies of documents) with respect to a document specified in LR 14.3.11AR(1),

provided the information in the relevant document remains accurate.

...

16 Open-ended investment companies: Premium listing

...

16.4 Requirements with continuing application

...

16.4.1 R An open-ended investment company must comply with:

- (1) LR 9 (Continuing obligations) except LR 9.2.2AR to LR 9.2.2GR, LR 9.2.6BR, LR 9.2.6CR, LR 9.2.6DR, LR 9.2.6ER to LR 9.2.6GR, LR 9.2.15R, LR 9.2.20R, LR 9.2.21R, LR 9.2.23R, LR 9.2.24R, LR 9.2.25R, LR 9.3.11R and LR 9.8.4R(14);

...

17 Debt and debt-like securities: Standard listing

...

17.3 Requirements with continuing application

...

Disclosure of rights attached to securities

- 17.3.9B R (1) An issuer must comply with the requirements of LR 14.3.11AR to LR 14.3.11CR.
- (2) For the purposes of this rule:
- (a) a reference to a company and its listed shares in LR 14.3.11AR must be read as a reference to an issuer and its listed securities; and
 - (b) the reference to LR 14.3.6R in LR 14.3.11CR must be read as a reference to LR 17.3.1R(1) (Copies of documents).

...

18 Certificates representing certain securities: Standard listing

...

18.4 Continuing obligations

...

Disclosure of rights attached to securities which the certificates represent

- 18.4.10 R (1) An issuer must comply with the requirements of LR 14.3.11AR.
- (2) For the purposes of this rule:
- (a) a reference to a company in LR 14.3.11AR must be read as a reference to an issuer of the securities which the certificates represent; and
 - (b) a reference to listed shares in LR 14.3.11AR must be read as a reference to the certificates representing the securities.

...

19 Securitised derivatives: Standard listing

...

19.4 Continuing obligations

...

Disclosure of rights attached to securitised derivatives

19.4.11 D R (1) An issuer must comply with the requirements of LR 14.3.11AR to LR 14.3.11CR.

(2) For the purposes of this rule:

(a) a reference to a company and its listed shares in LR 14.3.11AR must be read as a reference to an issuer and its securitised derivatives; and

(b) the reference to LR 14.3.6R in LR 14.3.11CR must be read as a reference to LR 19.5.1R(1) (Disclosures).

...

20 Miscellaneous Securities: Standard listing

...

20.4 Continuing obligations

...

Disclosure of rights attached to miscellaneous securities

20.4.7A R (1) An issuer must comply with the requirements of LR 14.3.11AR to LR 14.3.11CR.

(2) For the purposes of this rule:

(a) a reference to a company and its listed shares in LR 14.3.11AR must be read as a reference to an issuer and its listed miscellaneous securities; and

(b) the reference to LR 14.3.6R in LR 14.3.11CR must be read as a reference to LR 20.5.1R(1) (Disclosures).

...

21 Sovereign Controlled Commercial Companies: Premium Listing

...

21.8 Continuing obligations: Certificates representing shares

Compliance with LR 9 (Continuing obligations)

...

21.8.2B R For the purposes of *LR 21.8.1R*:

- (1) a reference to *listed equity shares* in *LR 9.2.6ER* must be read as a reference to *certificates representing shares*; and
- (2) the references to *LR 9.6.1R* and *LR 9.6.2R* in *LR 9.2.6GR* must be read as a reference to *LR 21.8.9*.

Appendix 5

Pension Guidance and Relevant Provisions (Miscellaneous Amendments) Instrument 2020

**[PENSION GUIDANCE AND RELEVANT PROVISIONS (MISCELLANEOUS
AMENDMENTS) INSTRUMENT 2020]**

Powers exercised

- A. The Financial Conduct Authority (“the FCA”) 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);
 - (3) section 137SA (Rules to recover expenses relating to the Money and Pensions Service);
 - (4) section 137SB (Rules to recover debt advice expenses incurred by the devolved authorities);
 - (5) section 139A (Power of the FCA to give guidance); and
 - (6) paragraph 23 (Fees) in Part 3 (Penalties and Fees) of Schedule 1ZA (The Financial Conduct Authority).
- 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 modules of the FCA Handbook listed in column (1) are amended in accordance with the Annexes to this instrument listed in column (2).

(1)	(2)
Glossary of definitions	Annex A
General Provisions (GEN)	Annex B
Fees manual (FEES)	Annex C
Credit Unions sourcebook (CREDS)	Annex D

Citation

- E. This instrument may be cited as the Pension Guidance and Relevant Provisions (Miscellaneous Amendments) Instrument 2020.

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.

Amend the following definition as shown.

pensions guidance ~~the guidance made available by the Secretary of State in accordance with section 333B of the Act~~ as defined in section 137FB (4) of the Act, information or guidance provided by any person in pursuance of the requirements mentioned in section 4 of the Financial Guidance and Claims Act 2018 (information etc about flexible benefits under pension schemes).

Delete the following definitions. The text is not shown struck through.

CFEB the consumer financial education body originally established by the *FSA* under section 6A(1) of the *Act* (Enhancing public understanding of financial matters etc) (as it had effect before the passing of the Financial Services Act 2012) and having the name Money Advice Service.

CFEB levy the levy payable to the *FCA* pursuant to *FEES* 7.2.1R by the *persons* listed in *FEES* 1.1.2R(5).

designated guidance providers the bodies listed in section 333E of the Act to provide the pensions guidance

pensions guidance levy the amount payable to the *FCA* by the *firms* to which *FEES* 10 (pensions guidance levy) applies.

pensions guidance providers' levy the amount payable to the *FCA* by each *designated guidance provider* to which *FEES* 11 (Pensions guidance providers' levy) applies.

Annex B

Amendments to the General Provisions (GEN)

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

Sch 4 Powers exercised

...

Sch 4.2G Powers to make rules

The following powers and related provisions in or under the *Act* have been exercised by the *FCA* to make the rules in *GEN*:

...

Section 137FC (General rules: disclosure of information about the availability of financial guidance)

...

Section 137SA (Rules to recover expenses relating to the Money and Pension Service)

Section 137SB (Rules to recover debt advice expenses incurred by the devolved authorities)

...

~~Section 333Q (Funding of FCA's pensions guidance costs)~~

~~Section 333R (Funding of Treasury's pensions guidance costs)~~

...

Sch 4.9G ~~Powers to set standards~~ [deleted]

~~The following powers in or under the *Act* have been exercised by the *FCA* to set standards in *GEN*:~~

~~Section 333H (Standards for giving of pensions guidance by designated guidance providers)~~

Annex C

Amendments to the Fees manual (FEES)

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

1 Fees Manual

1.1 Application and Purpose

1.1.1 G ...

(7) ~~FEES 7 relates to the CFEB levy.~~ [deleted]

...

...

1.1.1C G ~~FEES 10 (Pensions guidance levy) relates to the pensions guidance levy.~~ [deleted]

1.1.1D G ~~FEES 11 (Pensions guidance providers' levy) relates to the pensions guidance providers' levy.~~ [deleted]

...

Application

1.1.2 R ...

(5) ~~FEES 1, 2, 7, 7A~~ (in relation to the *SFGB money advice levy* and *SFGB debt advice levy* only) and 7B apply to:

...

FEES 1, 2, 7, 7A and 7B do not apply to an incoming EEA firm or an incoming Treaty firm that has not established a branch in the United Kingdom.

1.1.2B R ~~FEES 1 and 11 apply to a designated guidance provider.~~ [deleted]

...

2 General Provisions

2.1 Introduction

Application

...

2.1.1A R This chapter does not apply in relation to:

...

(5) ~~the pensions guidance levy; or [deleted]~~

(6) ~~the pensions guidance providers' levy; or [deleted]~~

...

...

Purpose

...

2.1.7 G The key components of the *FCA* fee mechanism (excluding the *FSCS* levy, the *FOS* levy and case fees, ~~and the *CFEB* levy~~ which are dealt with in *FEES* 5, *FEES* 6 ~~and *FEES* 7~~) are:

...

...

2.2 Late Payments and Recovery of Unpaid Fees

Late Payments

2.2.1 R If a *person* does not pay the total amount of a periodic fee, *FOS* levy, or share of the *FSCS* levy, ~~*CFEB* levy~~, *SFGB* levy or *DA* levy, before the end of the date on which it is due, under the relevant provision in *FEES* 4, 5, 6, 7, 7A or 7B, that *person* must pay an additional amount as follows:

...

2.2.2 G The *FCA*, (for *FCA* and *PRA* periodic fees, *FOS* and *FSCS* levies, ~~*CFEB* levies~~, *SFGB* levies and a *DA* levy), expects to issue invoices at least 30 *days* before the date on which the relevant amounts fall due. Accordingly, it will generally be the case that a *person* will have at least 30 *days* from the issue of the invoice before an administrative fee becomes payable.

Recovery of Fees

2.2.3 G (1) Paragraph 23(8) of *Schedule 1ZA* of the *Act* permits the *FCA* to recover fees (including fees relating to *payment services*, the issuance of *electronic money*, *CBTL* firms, *data reporting services providers*, *designated credit reference agencies*, *designated finance platforms* and, where relevant, *FOS* levies, ~~*CFEB* levies~~, *SFGB* levies, and a *DA* levy).

...

- 2.2.4 G In addition, the *FCA* may be entitled to take regulatory action in relation to the non-payment of fees, *FOS* levies, ~~*CFEB* levies~~, *SFGB* levies and a *DA* levy. The *FCA* may also take regulatory action in relation to the non-payment of a share of the *FSCS* levy, after reference of the matter to the *FCA* by the *FSCS*. What action (if any) that is taken by the *FCA* will be decided upon in the light of the particular circumstances of the case.

...

2.3 Relieving Provisions

Remission of Fees and levies

- 2.3.1 R If it appears to the *FCA* or the *FSCS* (in relation to any *FSCS* levy only) that in the exceptional circumstances of a particular case, the payment of any fee, *FSCS* levy, *FOS* levy, ~~*CFEB* levy~~, *SFGB* levy or *DA* levy would be inequitable, the *FCA* or the *FSCS* as relevant, may (unless *FEES* 2.3.2BR applies) reduce or remit all or part of the fee or levy in question which would otherwise be payable.
- 2.3.2 R If it appears to the *FCA* or the *FSCS* (in relation to any *FSCS* levy only) that in the exceptional circumstances of a particular case to which *FEES* 2.3.1R does not apply, the retention by the *FCA* ~~or the *FSCS*~~, ~~or the *CFEB*~~, as relevant, of a fee, *FSCS* levy, *FOS* levy, ~~*CFEB* levy~~, *SFGB* levy or *DA* levy which has been paid would be inequitable, the *FCA* ~~or the *FSCS*~~ ~~or the *CFEB*~~, may (unless *FEES* 2.3.2BR applies) refund all or part of that fee or levy.

...

2.4 VAT

- 2.4.1 R All fees payable or any stated hourly rate under *FEES* 3 (Application, notification and vetting fees), *FEES* 4 (Periodic fees), ~~*FEES* 7 (The *CFEB* levy)~~ and *FEES* 7A (The *SFGB* levy), and *FEES* 7B (The *DA* levy) are stated net of VAT. Where VAT is applicable this must also be included.

Annex D

Amendments to Credit Unions sourcebook (CREDS)

In this Annex, striking through indicates deleted text.

Sch 3 Fees and other required payments

...

Sch 3.2G	Description of fee	Reference
	...	
	CFEB levy	FEES 7
	...	
	Pensions guidance levy	FEES 10
	...	

Appendix 6

Payment Services Regulations 2017 (Payment Account) Instrument 2020

**PAYMENT SERVICES REGULATIONS 2017 (PAYMENT ACCOUNT)
INSTRUMENT 2020**

Powers exercised

- A. The Financial Conduct Authority makes this instrument in the exercise of the power in Regulation 120 (Guidance) in the Payment Services Regulations 2017.

Commencement

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

Amendments to material outside the Handbook

- C. The Perimeter Guidance Manual (PERG) is amended in accordance with the Annex to this instrument.

Citation

- D. This instrument may be cited as the Payment Services Regulations 2017 (Payment Account) Instrument 2020.

By order of the Board
[*date*]

Annex

Amendments to the Perimeter Guidance Manual (PERG)

In this Annex, underlining indicates new text.

15 **Guidance on the scope of the Payment Services Regulations 2017**

...

15.3 **Payment services**

...

Q16. What is a payment account?

“Payment account” is defined in regulation 2 as “an account held in the name of one or more payment service users which is used for the execution of payment transactions”. The possibility of making payment transactions to a third party from an account or of benefitting from such transactions carried out by a third party is a defining feature of the concept of “payment account”. When determining whether or not an account is a “payment account” for the purposes of the regulations, in our view it is appropriate to focus on its underlying purpose. To establish this it is necessary to consider a number of factors including:

...

Appendix 7

Supervision Manual (Reporting No [13])

Instrument 2020

SUPERVISION MANUAL (REPORTING No [13]) INSTRUMENT 2020

Powers exercised

- A. The Financial Conduct Authority (“the FCA”) makes this instrument in the exercise of powers 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 Supervision manual (SUP) is amended in accordance with the Annex to this instrument.

Citation

- D. This instrument may be cited as the Supervision Manual (Reporting No [13]) Instrument 2020.

By order of the Board
[*date*]

Annex

Amendments to the Supervision manual (SUP)

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

16 **Guidance notes for data items in SUP 16 Annex 24 R**
Annex
25 G

...

FIN071 Capital adequacy for firms with the permission of establishing, operating or winding up a personal pension scheme

Introduction

[...] This data item is intended to reflect the underlying prudential requirements contained in *IPRU(INV)* ~~5.2.3(4)R(a)(i)~~ 5.4 and allows monitoring against the requirements set out there.

...

Description	Data Element	Guidance
Regulatory Capital		

Liquid Capital	23B	The amount of own funds in accordance with Table 5.2.2(1) <u>in <i>IPRU(INV)</i> 5.3.3R and 5.8.</u>
Regulatory Capital Test		
Assets under Administration	24B	The average of the sum of the <i>personal pension schemes</i> administered by the <i>firm</i> at the most recent 4 quarter end dates, in accordance with Table 5.2.3(4)(a) in <i>IPRU(INV)</i> <u>by reference to <i>IPRU(INV)</i> 5.9.1R.</u>
...		
Fraction of plans containing non-standard asset types	26B	The fraction of plans that the <i>firm</i> operates that contains non-standard assets, in accordance with Table 5.2.3(4)(a) in

		<u>IPRU(INV) by reference to IPRU(INV) 5.9.1R.</u>
Initial Capital Requirement	27B	A <i>firm</i> must calculate its Initial Capital Requirement in accordance with Table 5.2.3(3)(a) in IPRU(INV) <u>5.9.1R.</u>
Capital Surcharge	28B	A <i>firm</i> must calculate its Capital Surcharge in accordance with Table 5.2.3(4)(a) in IPRU(INV) <u>5.9.1R.</u>
Total Capital Requirement	29B	This <u>should be read as the “Liquid Capital Requirement”, rather than the “Total Capital Requirement”</u> and is the sum of 27B and 28B, in accordance with Table 5.2.3(3)(a) in IPRU(INV) <u>5.9.1R.</u>
Capital held in accordance with Note 2 of IPRU(INV) 5.2.3(4)(a)	31B	This should be read as “ <u>Capital held in accordance with Note 2 of IPRU(INV) 5.9.1R and IPRU(INV) 5.3.3R</u> ”, rather than “ <u>Capital held in accordance with Note 2 of IPRU(INV) 5.2.3(4)(a)</u> ”. The <i>firm</i> should enter “YES” or “NO”.

...

Appendix 8

Further Brexit-related changes to Handbook & BTS following extension of Article 50

**EXITING THE EUROPEAN UNION: HANDBOOK (AMENDMENTS) (No 2)
INSTRUMENT 2020**

Powers exercised

- A. The Financial Conduct Authority (“the FCA”) makes this instrument in the exercise of:
- (1) regulation 3 of the Financial Regulators’ Powers (Technical Standards) (Amendment etc.) (EU Exit) Regulations 2018;
 - (2) section 139A (Power of the FCA to give guidance) in the Financial Services and Markets Act 2000 (“the Act”); and
 - (3) the relevant powers and related provisions referred to in schedule 4 to the General Provisions of the FCA Handbook.
- B. The rule-making provisions referred to above are specified for the purposes of section 138G(2) (Rule-making instruments) of the Act.

Commencement

- C. This instrument comes into force on exit day as defined in the European Union (Withdrawal) Act 2018, save for:
- (1) Annex A, which comes into force on exit day as defined in the European Union (Withdrawal) Act 2018, immediately after the changes made by Annex A in the Exiting the European Union: Glossary (Amendments) Instrument 2019 (FCA 2019/19) come into force;
 - (2) Annex B, which comes into force on exit day as defined in the European Union (Withdrawal) Act 2018, immediately after the changes made by Annex C in the Exiting the European Union: Business Standards Sourcebooks (Amendments) Instrument 2019 (FCA 2019/23) come into force;
 - (3) Annex D, which comes into force on exit day as defined in the European Union (Withdrawal) Act 2018, immediately after the changes made by the Exiting the European Union: Miscellaneous (Amendments) Instrument 2019 (FCA 2019/29) come into force.

Amendments to the Handbook

- D. The modules of the FCA’s Handbook of rules and guidance listed in column (1) below are amended in accordance with the Annexes in this instrument listed in column (2) below.

(1)	(2)
Glossary of definitions	Annex A
Mortgages and Home Finance: Conduct of Business sourcebook (MCOB)	Annex B
Disclosure Guidance and Transparency Rules sourcebook (DTR)	Annex C

- E. The FCA confirms and remakes in the Glossary of definitions the defined expressions relating to any UK legislation which has been amended further to section 8 of the European Union (Withdrawal) Act 2018.

Amendments to material outside the Handbook

- F. The General Guidance on Benchmark Submission and Administration (BENCH) is amended in accordance with Annex D to this instrument.

Notes

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

Citation

- H. This instrument may be cited as the Exiting the European Union: Handbook (Amendments) (No 2) Instrument 2020.

By order of the Board
[date]

Annex A

Amendments to the Glossary of definitions

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

<i>TD ESEF Regulation</i>	the <i>UK</i> version of Commission Delegated Regulation (EU) 2019/815 of 17 December 2018 supplementing Directive 2004/109/EC of the European Parliament and of the Council with regard to regulatory technical standards on the specification of a single electronic reporting format, which is part of <i>UK</i> law by virtue of the <i>EUWA</i> .
---------------------------	--

Amend the following definitions as shown. Underlining indicates new text.

<i>EU EMIR</i>	the <i>EU</i> version of Regulation (EU) No 648/2012 on OTC derivatives, central counterparties and trade repositories <u>as amended by Regulation (EU) 2019/834 of the European Parliament and of the Council of 20 May 2019.</u>
----------------	--

<i>readily realisable security</i>	(except in <i>COLL</i> and for the purposes of the definition of <i>non-readily realisable security</i>):
------------------------------------	--

...

(in *COBS* 4.14, *COLL* and for the purposes of the definition of *non-readily realisable security*):

...

Annex B

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

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

1 Application and purpose

...

1.3 General application: where?

Location of the customer

- 1.3.1 R Except as set out in this section, *MCOB* applies if the *customer* of a *firm* carrying on *home finance activities* is, at the time that the *home finance activity* is carried on, resident in:
- (1) the *United Kingdom* at the time that the *home finance activity* is carried on; or
 - (2) an *EEA State*, where the activity is carried on:
 - (a) from an establishment maintained by the *firm* (or its *appointed representative*) in the *United Kingdom*; and
 - (b) in respect of a *regulated mortgage contract* entered into before *exit day*.

[*Editor's Note:* the amendments proposed to DTR 4.1.14R below take account of the changes to DTR 4.1 that were consulted upon in Chapter 5 of the Quarterly Consultation No 25 (CP19/27) as if they had been made.]

Annex C

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

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

4 Periodic Financial Reporting

4.1 Annual financial report

...

Reporting format

- 4.1.14 R The annual financial report must be prepared using the single electronic reporting format specified in ~~Commission Delegated Regulation (EU) 2019/815 of 17 December 2018 supplementing Directive 2004/109/EC of the European Parliament and of the Council with regard to regulatory technical standards on the specification of a single electronic reporting format~~ the *TD ESEF Regulation* as amended from time to time.

[**Note:** article 4(7) of the *TD*]

...

Annex D

Amendments to the General guidance on Benchmark Administration, Contribution and use (BENCH)

In this Annex, striking through indicates deleted text.

2 **Parts of the Handbook applicable to regulated benchmark administrators and benchmark contributors**

...

2.3 **Guidance for benchmark users: articles 28 and 29 of the benchmarks regulation**

...

2.3.2 G ...

(2) The effect of the prohibition in article 29 is that, subject to the exclusions in article 2 of the *benchmarks regulation*, a *firm* which is a *supervised entity* may only use a *benchmark* in cases where:

- (a) if the benchmark administrator is *located* in the *UK*, the benchmark administrator is listed in the register maintained by the *FCA* under article 36 of the *benchmarks regulation*; or
- (b) if the benchmark administrator is *located* outside the *United Kingdom*, the *benchmark* itself is listed in the register maintained by the *FCA* under article 36 of the *benchmarks regulation*.

~~[Note: Part 3, Chapter 2 of the *benchmarks regulation* provides for a temporary registration period, of two years beginning with *exit day*, during which a *firm* which is a *supervised entity* may also use a *benchmark* in cases where, if the benchmark administrator is *located* outside the *UK* but in the *EU*, has been authorised or registered by a competent authority of an *EEA State* under article 34 of the *EU benchmarks regulation* and is recorded on the *ESMA* register at 5pm on *exit day*, the benchmark administrator is listed in the register maintained by the *FCA* under article 36 of the *benchmarks regulation*.]~~

**EXITING THE EUROPEAN UNION: SMCR AND APR (AMENDMENTS) (No 2)
INSTRUMENT 2020**

Powers exercised

- A. The Financial Conduct Authority (“the FCA”) 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 59 (Approval for particular arrangements);
 - (2) section 59AB(1) (Specifying functions as controlled functions: transitional provision);
 - (3) section 60 (Applications for approval);
 - (4) section 60A (Vetting candidates by authorised persons);
 - (5) section 61 (Determination of applications);
 - (6) section 62A (Changes to responsibilities of senior managers);
 - (7) section 63ZA (Variation of senior manager’s approval at request of authorised person);
 - (8) section 63ZD (Statement of policy relating to conditional approval and variation);
 - (9) section 63C (Statement of policy);
 - (10) section 63E (Certification of employees by authorised persons);
 - (11) section 63F (Issuing of certificates);
 - (12) section 64A (Rules of conduct);
 - (13) section 64C (Requirements for authorised persons to notify regulator of disciplinary action);
 - (14) section 69 (Statement of policy);
 - (15) section 137A (The FCA’s general rules);
 - (16) section 137T (General supplementary powers);
 - (17) section 138D (Action for damages);
 - (18) section 139A (Power of the FCA to give guidance);
 - (19) section 395 (The FCA’s and PRA’s procedures); and
 - (20) paragraph 23 of Schedule 1ZA (Fees).
- 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 exit day as defined in the European Union (Withdrawal) Act 2018, immediately after the coming into force of the amendments made by the Exiting the European Union: SMCR and APR (Amendments) Instrument 2019 (FCA 2019/30) that come into force on exit day.

Amendments to the Handbook

- D. The Senior Management Arrangements, Systems and Controls sourcebook (SYSC) 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.

Effect of conflicting amendments

- F. (1) This paragraph deals with the effect of the interaction of certain amendments to the Handbook made by this instrument and the Exiting the European Union: SMCR and APR (Amendments) Instrument 2019, the Individual Accountability (FCA-Authorised Firms) Instrument 2019 and the Reporting of Changes to the Management Body (FCA-Authorised Firms) Instrument 2019.
- (2) The deletion of a provision of the Handbook by an instrument in (1) remains effective even if that provision is amended by another instrument in (1).
- (3) Such a deletion still takes effect if the text shown as deleted by the instrument deleting it is not the same as the version in force at the date the deletion is to take effect because of amendments made by another of the instruments in (1).
- (4) Subject to (5), the amendment of the Handbook by an instrument in (1) remains effective even if the provision in question is deleted by another instrument in (1).
- (5) If an amendment made by an instrument in (1) is stated to take effect after a deletion of the same provision made by another instrument referred to in (1), the amendment does not take effect.
- (6) If more than one of the instruments in (1) make the same amendment or deletion, that amendment or deletion comes into force on the earliest of the commencement dates specified by those instruments.

Notes

- G. (1) In this draft instrument, text marked as “*Legislative Note*” does not form part of the legislative text made by the FCA but prescribes how the amendments made by this instrument take effect; and
- (2) notes shown as “*Editor’s Note*” are intended for the convenience of the reader but do not form part of the legislative text.

Citation

- H. This instrument may be cited as the Exiting the European Union: SMCR and APR (Amendments) (No 2) Instrument 2020.

By order of the Board
[date]

[*Editor’s Note*:

- (1) The purpose of this draft instrument is to update:
- (a) the near-final version of the instrument titled “Exiting The European Union: SMCR and APR (Amendments) (Solo Regulated Firms) Instrument 2019” included in PS19/5: Brexit Policy Statement; and

- (b) the draft instrument titled “Exiting the European Union: SMCR and APR (Amendments) (No 2) Instrument 2019” included in Quarterly Consultation No 25 (CP19/27).
- (2) This draft instrument does not include text in the draft instruments in (1) that is not changing, except where stated otherwise.
- (3) When the instruments are due to be made, all three drafts will be combined into one document, coming into force on exit day.
- (4) Unless otherwise stated, text is marked up as if the draft instruments in (1)(a) and (b) had been made and were in force and against the Handbook as it will be in force on 9 December 2019 (the date that the SMCR comes into force for solo-regulated firms).]

Annex A

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

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

[*Editor's Note:* Owing to the number of changes that have been made to SYSC 4.4 in instruments and draft instruments dealing with exiting the European Union, this draft instrument consolidates all of the proposed changes as well as including new changes. The text is marked up as against the Handbook as in force on 9 December 2019.]

[*Legislative Note:* The amendments made to SYSC 4.4 made by the Individual Accountability (FCA-Authorised Firms) Instrument 2019 are revoked, except that if the same amendment is shown in that instrument and this instrument, the purpose is to provide that that amendment remains in force.]

4 General organisational requirements

...

4.4 Apportionment of responsibilities

...

Allocating functions of apportionment and oversight

4.4.5 R A *firm* must appropriately allocate to one or more individuals, in accordance with the following table, the functions of:

...

1: Firm type	2: Allocation of both functions must be to the following individual, if any (see Note):	3: Allocation to one or more individuals selected from this column is compulsory if there is no allocation to an individual in column 2, but is otherwise optional and additional:
...
(2) An <i>incoming EEA firm</i> or <i>incoming Treaty</i>

firm <u>EEA SMCR firm</u> (note: only the functions in SYSC 4.4.5R(2) must be allocated)		
...

4.4.6 G Frequently asked questions about allocation of functions in SYSC 4.4.5R

Question		Answer
...
12	How does the requirement to allocate the functions in SYSC 4.4.5R apply to an <i>EEA SMCR firm</i> other than a claims management <i>firm</i> ?	<p>...</p> <p>(2) Such a <i>firm</i> is required to allocate the function of oversight in SYSC 4.4.5R(2). However, the systems and controls that must be overseen are those relating to matters which the FCA, as Host State regulator, is entitled to regulate (there is guidance on this in SUP 13A Annex 2). Those are primarily, but not exclusively, the systems and controls relating to the conduct of the firm's activities carried on from its UK branch.</p> <p>...</p> <p>(4) SYSC 4.4 does not apply to an <i>EEA SMCR PTV firm</i> which has provision only <u>for cross border services if it does not have a branch in the United Kingdom.</u></p> <p>See also Questions <u>Question 1 and 15.</u></p>
...
15	What about incoming electronic commerce activities carried on from an establishment in another EEA State with or for a	An incoming ECA provider acting as such is not an SMCR firm.

	<i>person in the United Kingdom?</i> [deleted]	
--	--	--

...

23 Senior managers and certification regime: Introduction and classification

...

23 Definition of SMCR firm and different types of SMCR firms Annex 1

Part One: Flow diagram and other basic provisions

...

1.3 R A reference in this Annex to a *firm* having *permission* to carry on a particular *regulated activity* but no other *regulated activity* includes that *firm* also having *permission* for *agreeing to carry on a regulated activity* in respect of that first *regulated activity*.

1.4 R (1) A Gibraltar-based firm (as defined in *GEN 2.3* (General saving of the Handbook for Gibraltar)) is treated as an *EEA PTV firm* for the purposes of deciding into which category of *SMCR firm* it falls. In particular, it is to be treated as an *EEA SMCR firm*.

~~1.3~~

(2) (1) is without prejudice to the generality of *GEN 2.3*.

...

Part Six: Definition of limited scope SMCR firm

...

6.3 R (1) A *firm* listed in the table in SYSC 23 Annex 1 6.4R is a *limited scope SMCR firm* if:

(a) its principal purpose is to carry on activities other than *regulated activities*; and

(b) it is not a *MiFID investment firm* or an *EEA MiFID investment firm* that is an *EEA PTV SMCR firm*.

...

...

27 Senior managers and certification regime: Certification regime

...

27.8 Definitions of the FCA certification functions

...

Material risk takers

...

27.8.15 R Table: Definition of material risk taker

Type of SMCR firm	Employees included
...	...
<p>Note: The definition of the <i>persons</i> included in column (2) applies in relation to an <i>EEA PTV SMCR firm</i> in one of the rows of column (1) in the same way as it does to other <i>overseas SMCR firms</i> in that row. The definitions of <i>dual-regulated firms Remuneration Code staff</i>, <i>Remuneration Code staff</i>, <i>AIFM Remuneration Code staff</i> and <i>BIPRU Remuneration Code staff</i> apply accordingly.</p>	

[*Editor’s Note:* The text above is marked up from the Exiting the European Union: SMCR and APR (Amendments) Instrument 2019 as amended by the near-final version of the instrument titled “Exiting the European Union: SMCR and APR (Amendments) (Solo Regulated Firms) Instrument 2019” included in PS19/5: Brexit Policy Statement.]

...

Annex C

Amendments to the Supervision manual (SUP)

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

10A FCA Approved Persons

10A.1 Application

...

Appointed representatives

10A.1.15 R The descriptions of the following *FCA controlled functions* apply to an *appointed representative* of a *firm*, except in relation to *CBTL business* or an *introducer appointed representative*, as they apply to an *FCA- authorised person*:

- (1) the *FCA governing functions*, subject to *SUP 10A.1.16R* and except for a *tied agent* of a *firm* that is both an *EEA MiFID investment firm* and an ~~*EEA PTV firm*~~ *EEA SMCR firm*; and

...

...

~~Gibraltar firms~~

10A.1.33A R (1) ~~A Gibraltar based firm (as defined in *GEN 2.3 (General saving of the Handbook for Gibraltar)*) is treated as an *EEA PTV firm* for the purposes of deciding into which categories of *firm* in this chapter it falls.~~

- (2) (1) is without prejudice to the generality of *GEN 2.3*. ~~[deleted]~~

...

10C FCA senior managers regime for approved persons in SMCR firms

10C.1 Application

...

Gibraltar firms

10C.1.13 G ~~*SYSC 23 Annex 1 1.3R*~~ *SYSC 23 Annex 1 1.4R* says that a Gibraltar-based firm (as defined in *GEN 2.3 (General saving of the Handbook for Gibraltar)*) is treated as an *EEA PTV firm* for the purposes of deciding into which categories of *SMCR firm* it falls.

...

10C.8A EEA branch senior manager function (SMF21)

...

10C.8A.2 R ...

(5) For the purposes of this *rule*, “passport activities” of an *EEA PTV SMCR firm* means *regulated activities* that meet the following conditions:

(a) they are included in the *permission* of the *EEA PTV SMCR firm* under the EEA Passport Rights (Amendment, etc., and Transitional Provisions) (EU Exit) Regulations 2018; and

(b) ...

(6) For the purposes of this *rule*, “passport activities” of an *EEA PTV SMCR firm* also mean *regulated activities* that were subject to an EEA right applicable to the category of *firm* into which the *EEA PTV SMCR firm* falls. For these purposes EEA right has the meaning that it did in Schedule 3 of the *Act* as it was in force immediately before *exit day*.

...

10C Annex 1 What functions apply to what type of firm

...

Part Four: Functions applying to insurance sector firms

4.1 R ...

(2) *SMCR firms* in (1) are divided into the following categories for the purposes in (1):

...

(b) a *Solvency II firm* that is an *EEA PTV SMCR firm*;

...

...

...

TP 12 Bank of England and Financial Services Act 2016: Approved persons in solo-regulated firms

...

12.24 Gibraltar

- 12.24.1 R This section ~~applies to a Gibraltar-based firm (as defined in *GEN 2.3* (General saving of the Handbook for Gibraltar))~~.
- 12.24.2 R *GEN 2.3* continues to apply on and after the **commencement date**, but taking into account the amendments made by the Individual Accountability (FCA Authorised Firms) Instrument 2019.
- 12.24.3 R In particular, a provision of the *FCA Handbook* that applied under *GEN 2.3* to *firms* that were *SMCR firms on exit day* applies on and after the commencement date to a **solo-regulated SMCR firm** to which this section applies unless the contrary intention appears.
- 12.24.4 G ~~*SUP TP 12.24.3R* may mean, for example, that the deleted parts of *SYSC 25.6* (Management responsibilities maps: Material only relevant to EEA SMCR firms) apply to a **solo-regulated SMCR firm** even though none of *SYSC 25.6* applied to it on or before *exit day*.~~

[*Editor's Note:* The text above is taken from the near-final version of the instrument titled "Exiting the European Union: SMCR and APR (Amendments) (Solo Regulated Firms) Instrument 2019" included in PS19/5: Brexit Policy Statement. What was SUP TP 12 in that document has now been included in the Handbook as SUP TP 11A with different section numbering.]

**TECHNICAL STANDARDS (TRANSPARENCY DIRECTIVE) (EU EXIT) (No 2)
INSTRUMENT 2020**

Powers exercised

- A. The Financial Conduct Authority (“the FCA”), being an appropriate regulator within the meaning of the Financial Regulators’ Powers (Technical Standards etc.) (Amendment etc.) (EU Exit) Regulations 2018 (“the Regulations”), with the approval of the Treasury, makes this instrument in exercise of the powers conferred by regulation 3 of the Regulations.

Pre-conditions to making

- B. The FCA is the appropriate regulator for the EU Regulation specified in Part 1 of the Schedule to the Regulations.
- C. The FCA has consulted the Prudential Regulation Authority and the Bank of England as appropriate in accordance with regulation 5 of the Regulations.
- D. A draft of this instrument has been approved by the Treasury, the Minister considering that it makes appropriate provision to prevent, remedy or mitigate any failure of retained EU law to operate effectively, or any other deficiency in retained EU law, arising from the withdrawal of the United Kingdom from the European Union.

Interpretation

- E. Any reference in this instrument to any EU Regulation or EU tertiary legislation (within the meaning of section 20 of the European Union (Withdrawal) Act 2018) is, unless the contrary intention appears, to be treated as a reference to that EU regulation or EU tertiary legislation which is part of UK law by virtue of the European Union (Withdrawal) Act 2018.

Modifications

- F. The following EU Regulation is amended in accordance with Annex A of this instrument.

(1)	(2)
Commission Delegated Regulation (EU) 2019/815 of 17 December 2018 supplementing Directive 2004/109/EC of the European Parliament and of the Council with regard to regulatory technical standards on the specification of a single electronic reporting format	Annex A

Commencement

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

Citation

- H. This instrument may be cited as the Technical Standards (Transparency Directive) (EU Exit) (No 2) Instrument 2020.

By order of the Board
[*date*]

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

Annex A

COMMISSION DELEGATED REGULATION (EU) 2019/815 of 17 December 2018 supplementing Directive 2004/109/EC of the European Parliament and of the Council with regard to regulatory technical standards on the specification of a single electronic reporting format

~~(Text with EEA relevance)~~

...

Article 1

Subject matter

This Regulation specifies the single electronic reporting format, ~~as referred to in Article 4(7) of Directive 2004/109/EC to be used for the preparation of~~ for annual financial reports published by issuers in accordance with an obligation imposed by virtue of section 89C(2) of the Financial Services and Markets Act 2000.

Article 2

Definitions

For the purposes of this Regulation, the following definitions shall apply:

...

(2A) ‘exit day’ has the meaning given in the European Union (Withdrawal) Act 2018;

(3) ‘IFRS consolidated financial statements’ means consolidated financial statements prepared in accordance with either UK-adopted international accounting standards, or IFRS adopted pursuant to Regulation (EC) No 1606/2002 as that Regulation applies in the European Union, or with IFRS as referred to in point (a) of the first subparagraph of Article 1 of Decision 2008/961/EC;

(4) ‘UK-adopted international accounting standards’ means (in accordance with section 474(1) of the Companies Act 2006) international accounting standards which are adopted for use within the United Kingdom by virtue of Chapter 2 or 3 of Part 2 of the International Accounting Standards and European Public Limited-Liability Company (Amendment etc.) (EU Exit) Regulations 2019.

...

Article 5

Marking up other parts of the annual financial reports

1. Issuers incorporated in ~~Member States~~ the United Kingdom may mark up all parts of their annual financial reports other than those set out in Article 4 if they use the XBRL markup language and a taxonomy specific to those parts and that taxonomy is provided ~~by the Member State in which they are incorporated~~ in the United Kingdom.

...

Article 7

XBRL taxonomy files

~~ESMA~~ The Financial Conduct Authority may publish machine-readable and downloadable XBRL taxonomy files based on the core taxonomy. Those files shall comply with the criteria set out in Annex V.

Article 8

Entry into force and application

...

~~This Regulation shall be binding in its entirety and directly applicable in all Member States.~~

...

ANNEX IV

Marking up and filing rules

...

7. ...

The dedicated root taxonomy elements shall also be included in the XBRL taxonomy files prepared by ~~ESMA~~ the Financial Conduct Authority.

...

ANNEX V

XBRL taxonomy files

XBRL taxonomy files published by ~~ESMA~~ the Financial Conduct Authority shall:

...

**TECHNICAL STANDARDS (SECURITISATION REGULATION) (EU EXIT)
INSTRUMENT (No 2) 2020**

Powers exercised

- A. The Financial Conduct Authority (“the FCA”), being the appropriate regulator within the meaning of the Financial Regulators’ Powers (Technical Standards) (EU Exit) Regulations 2018 (“the Regulations”), with the approval of the Treasury, makes this instrument in exercise of the power conferred by regulation 3 of the Regulations.

Pre-conditions to making

- B. The FCA is the appropriate regulator for the EU Regulations specified in Part 1 of the Schedule to the Regulations.
- C. A draft of this instrument has been approved by the Treasury, the Minister considering that it makes appropriate provision to prevent, remedy or mitigate any failure of retained EU law to operate effectively, or any other deficiency in retained EU law, arising from the withdrawal of the United Kingdom from the European Union.

Interpretation

- D. Any reference in this instrument to any EU Regulation or EU tertiary legislation (within the meaning of section 20 of the European Union (Withdrawal) Act 2018) is, unless the contrary intention appears, to be treated as a reference to that EU regulation or EU tertiary legislation which is part of UK law by virtue of the European Union (Withdrawal) Act 2018.

Modifications

- E. The FCA makes the modifications contained in the Annex listed in column (2) to the corresponding EU Regulation listed in column (1) below.

(1)	(2)
Commission Delegated Regulation (EU) 2019/1851 of 28 May 2019 supplementing Regulation (EU) 2017/2402 of the European Parliament and of the Council with regard to regulatory technical standards on the homogeneity of the underlying exposures in securitisation	Annex A

Commencement

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

Citation

- G. This instrument may be cited as the Technical Standards (Securitisation Regulation) (EU Exit) (No 2) Instrument 2020.

By order of the Board
[date]

In this instrument, deleted text is shown struck through.

Annex A

COMMISSION DELEGATED REGULATION (EU) 2019/1851 of 28 May 2019 supplementing Regulation (EU) 2017/2402 of the European Parliament and of the Council with regard to regulatory technical standards on the homogeneity of the underlying exposures in securitisation

...

Article 3

~~This Regulation shall be binding in its entirety and directly applicable in all Member States.~~

...

**TECHNICAL STANDARDS (MARKETS IN FINANCIAL INSTRUMENTS
REGULATION) (EU EXIT) (No 3) INSTRUMENT 2020**

Powers exercised

- A. The Financial Conduct Authority (“the FCA”), being an appropriate regulator within the meaning of the Financial Regulators’ Powers (Technical Standards etc.) (Amendment etc.) (EU Exit) Regulations 2018 (“the Regulations”), with the approval of the Treasury, makes this instrument in exercise of the powers conferred by regulation 3 of the Regulations.

Pre-conditions to making

- B. The FCA and the Bank of England are the appropriate regulators for the EU Regulation specified in Part 5 of the Schedule to the Regulations.
- C. The Bank of England has consented to the FCA making the changes in this instrument as appropriate in accordance with regulation 3 of the Regulations.
- D. The FCA has consulted the Prudential Regulation Authority and the Bank of England as appropriate in accordance with regulation 5 of the Regulations and Article 37 of Regulation 600/2014/EU as amended by the Markets in Financial Instruments (Amendment) (EU Exit) Regulations 2018.
- E. A draft of this instrument has been approved by the Treasury, the Minister considering that it makes appropriate provision to prevent, remedy or mitigate any failure of retained EU law to operate effectively, or any other deficiency in retained EU law, arising from the withdrawal of the United Kingdom from the European Union.

Interpretation

- F. Any reference in this instrument to any EU Regulation or EU tertiary legislation (within the meaning of section 20 of the European Union (Withdrawal) Act 2018) is, unless the contrary intention appears, to be treated as a reference to that EU regulation or EU tertiary legislation which is part of UK law by virtue of the European Union (Withdrawal) Act 2018.

Modifications

- G. The following EU Regulation is amended in accordance with Annex A of this instrument.

(1)	(2)
-----	-----

Commission Delegated Regulation (EU) 2016/2021 of 2 June 2016 supplementing Regulation (EU) No 600/2014 of the European Parliament and of the Council on markets in financial instruments with regard to regulatory technical standards on access in respect of benchmarks	Annex A
--	---------

Commencement

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

Citation

- I. This instrument may be cited as the Technical Standards (Markets in Financial Instruments Regulation) (EU Exit) (No 3) Instrument 2020.

By order of the Board
[*date*]

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

Annex A

**COMMISSION DELEGATED REGULATION (EU) 2016/2021 of 2 June 2016
supplementing Regulation (EU) No 600/2014 of the European Parliament and of the
Council on markets in financial instruments with regard to regulatory technical
standards on access in respect of benchmarks**

~~(Text with EEA relevance)~~

...

Article -2

Application

This technical standard applies in accordance with Regulation 600/2014/EU.

Article -1

Interpretation

1. Where a term is defined in article 2 Regulation 600/2014/EU, as amended by the Markets in Financial Instruments (Amendment) (EU Exit) Regulations 2018, that definition shall apply for the purposes of this Regulation save where the context requires otherwise.
2. Article 2(1)(62) of Regulation 600/2014/EU shall also apply to references to ‘trading venue’ in this Regulation.

...

Article 6

Entry into force and application

~~This Regulation shall be binding in its entirety and directly applicable in all Member States.~~

...

[Editor’s Note: the ‘Interpretative guide on completing our forms after the UK’s withdrawal from the EU’ (see: <https://www.fca.org.uk/publication/corporate/guide-to-completing-our-forms-after-brexit.pdf>) is amended as follows. Underlining indicates new text.]

Interpretative guide on completing our forms after the UK’s withdrawal from the EU

...

Guidance on specific forms in the Handbook

Table 2

This table sets out guidance on how to approach specific cases.

Handbook form or accompanying guidance location	Form title	Reference	Interpretation
...			
<u>SUP 10A Annex 10D</u>	<u>MiFID Article 4 APER Information Form</u>	<u>MiFID II requires certain information to be provided by the applicant firm when making changes to their management body or key function holders and currently refers to European technical standards.</u>	<u>The information required is detailed in the MiFID II UK version of Regulatory Technical Standards (RTS) Implementing Technical Standards (ITS) which are part of UK law by virtue of the EUWA.</u>
<u>SUP 15 Annex 6ED</u>	<u>Small registered AIFM change form</u>	<u>EuSEF manager or EuVECA manager</u>	<u>References to a ‘EuSEF manager’ should be</u>

Handbook form or accompanying guidance location	Form title	Reference	Interpretation
			<p><u>read to mean a 'SEF manager'.</u></p> <p><u>References to a 'EuVECA manager' should be read to mean an 'RVECA manager'.</u></p>
<p><u>SUP 15 Annex 6FG</u></p>	<p><u>EuSEF and EuVECA management and marketing notifications</u></p>	<p><u>(1) EuSEF, EuSEF Regulation, EuSEF management, EuSEF manager.</u></p> <p><u>(2) EuVECA, EuVECA Regulation, EuVECA management, EuVECA manager.</u></p>	<p><u>The terms in (1) should be read to mean 'SEF', 'SEF Regulation', 'SEF management' and 'SEF manager', as applicable.</u></p> <p><u>The terms in (2) should be read to mean 'RVECA', 'RVECA Regulation', 'RVECA management' and 'RVECA manager', as applicable.</u></p>
<p>...</p>			

...

