

SUPERVISION MANUAL (AMENDMENT NO 6) INSTRUMENT 2001

Powers exercised

A. The Financial Services Authority amends the Supervision manual 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 138 (General rule-making power);
- (3) section 156 (General supplementary powers);
- (4) section 157(1) (Guidance);
- (5) section 182 (Notification);
- (6) section 340 (Appointment).

B. The provisions of the Act relevant to rules and listed above are specified for the purpose of section 153(2) of the Act (Rule-making instruments).

Commencement

C. This instrument comes into force immediately.

Amendments to the Supervision manual

D. The Supervision manual is amended in accordance with the Annex to this instrument.

Citation

E. This instrument may be cited as the Supervision Manual (Amendment No 6) Instrument 2001.

By order of the Board
15 November 2001

Annex
Amendments to text already made

In this Annex, where amendments are shown rather than described, underlining indicates new text and striking through indicates deleted text.

SUP transitional provisions

In the first table of transitional provisions, amend the following rows as shown:

2	<i>SUP</i> 3.9 and <i>SUP</i> 3.10	R	<p>An auditor of a <i>firm</i> will not contravene a <i>rule</i> in <i>SUP</i> 3.9 or <i>SUP</i> 3.10 to the extent that:</p> <p>(1) a report submitted under that <i>rule</i> relates to a period which ended before <i>commencement</i> and was prepared in accordance with, <u>and submitted within the time permitted by,</u> a substantially similar pre-commencement provision (whether applicable to the auditor or the <i>firm</i> audited); or</p> <p>...</p>	From <i>commence- ment</i> for 2 years	<i>Commence- ment</i>
10	<i>SUP</i> 16.4.5R <i>SUP</i> 16.5.5R	R	<p>...</p> <p>(2) <i>SUP</i> 16.4.5R and 16.5.5R are modified so as to require a <i>firm</i> to submit the first relevant report:</p> <p style="padding-left: 40px;">(a) prepared as at any date falling within 4 <i>months</i> after <i>commencement</i>; and</p> <p style="padding-left: 40px;">(b) within 4 <i>months</i> of <i>commencement</i>; and</p> <p>if:</p> <p>...</p>	From <i>commence- ment</i> for four months	<i>Commence- ment</i>

In the first table of transitional provisions, insert the following new row:

3C	SUP 3.10	R	<p>(1) Paragraph (2) applies to an auditor of a <i>firm</i> if:</p> <p>(a) the last client assets report delivered to the <i>firm's previous regulator</i> covered a period ending between 1 and 31 December 2000 (inclusive); and</p> <p>(b) the period covered by the first client assets report on the <i>firm</i> delivered to the <i>FSA</i> ends on 30 November 2001.</p> <p>(2) An auditor will not contravene SUP 3.10 to the extent that any of the following apply:</p> <p>(a) the auditor delivers the first client assets report on the <i>firm</i> to the <i>FSA</i> within a period of 53 weeks plus four <i>months</i> after the end of the period covered by the last report delivered to the <i>firm's previous regulator</i>;</p> <p>(b) the first client assets report on the <i>firm</i> relates to compliance by the <i>firm</i> with the relevant pre-commencement provision;</p> <p>(c) the period covered by the second client assets report on the <i>firm</i> delivered to the <i>FSA</i> ends not later than 31 December 2002.</p>	From commencement for 13 months	Commencement
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SUP 3 Auditors

SUP 3.9.5R In row (13)(d), after "*IPRU(INV) 10-10R*", insert "(except *IPRU(INV) 10-10R(3)(m)* and (n))"

SUP 3.10.5R In rows (1) and (2), for "*COB 9*", substitute "*COB 9.1 to COB 9.4*"
 Insert a new row (4) as follows:

- (4) (if there has been a *secondary pooling event* during the period) the *firm* complied with the *rules* in COB 9.5 (Client money distribution) in relation to that pooling event.

SUP 9 Individual guidance

SUP 9.1.2G Amend as shown:

Individual *guidance* is *guidance* that is not given to persons or regulated persons generally or to a class of regulated person. It will normally be given to one particular person and relate to his own particular circumstances or plans. It may be oral or written. Individual *guidance* will not be published but may at the FSA's discretion be converted to general guidance and published in the Handbook. Written individual *guidance* will often be labelled as such.

SUP 10 Approved persons

- SUP 10.9.10R(1) In the last sentence, after "*designated investment business*" insert "other than *dealing in investments as principal*"
- SUP 10.9.11G At the end of the provision, insert "For the position in relation to proprietary traders, see SUP 10.9.13 G."
- SUP 10.9.12R(1) For "an activity which is not in relation to *designated investments*" substitute "*dealing in investments as principal* or an activity which is not *designated investment business*"

SUP 11 Controllers and close links

- SUP 11.3.9D After "If a Controllers Form B" insert ", or an Application to perform *controlled functions* under the *approved persons* regime (Form A in SUP 10 Ann 4D) in respect of a *governing function*,"
- SUP 11 Ann 4D (Controllers Form A) Amend question 1.05 as shown:
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- (b) The conditions are:
- (i) the *firm* has permission to accept deposits ~~is a BCD credit institution~~;
 - (ii) the *controller* is either a *BCD credit institution* or the *parent undertaking* of a *BCD credit institution*; and
 - (iii) as a result of the proposed change in *control*, the *controller* would become a *parent undertaking* of the *firm*.
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SUP 12 Appointed representatives

SUP 12.2.6G After "SUP 12.2.7G", insert "(1)"

SUP 12.2.7G Renumber SUP 12.2.7G as SUP 12.2.7G(1), and renumber paragraphs (1) to (4) as (a) to (d)

For "(1) to (3)" substitute "(a) to (c)".

Insert at the end:

- (2) If the *appointed representative* is an investment firm (see (3)), the business in (1) does not include the reception and transmission of orders on behalf of investors in relation to instruments covered by the *ISD* unless that activity is solely on behalf of another investment firm.
- (3) In (2), an "investment firm" is a *person* whose regular occupation or business is the provision of *core investment services* to third parties on a professional basis, other than a *person* to whom the *ISD* does not apply under article 2(2) of the *ISD*.

SUP 16 Reporting requirements

SUP 16.7.36R In the row of the table beginning "Quarterly Financial Return", after "(a)", add "or (b)"

SUP 17 Transaction reporting

SUP 17 Ann 5G In the table, under the heading "Iceland", insert "Iceland OTC market"