

DEALING AS PRINCIPAL INSTRUMENT 2002

Powers exercised

- A. The Financial Services Authority makes this instrument in the exercise of the powers listed in Schedule 4 to the General provisions.
- B. The rule-making powers listed in that Schedule are specified for the purpose of section 153(2) of the Financial Services and Markets Act 2000 (Rule-making instruments).

Commencement

- C. This instrument comes into force as follows:
 - (1) the amendments in Annex B come into force on 1 May 2003;
 - (2) the remainder of this instrument comes into force on 1 December 2002.

Amendments coming into force on 1 December 2002

- D. SYSC, GEN and SUP are amended in accordance with Annex A to this instrument.

Amendments coming into force on 1 May 2003

- E. MAR, SUP and the Glossary are amended in accordance with Annex B to this instrument.

Citation

- F. This instrument may be cited as the Dealing as Principal Instrument 2002.

By order of the Board
21 November 2002

Annex A

Amendments to SYSC, GEN and SUP

coming into force on 1 December 2002

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

Amendments to Senior management arrangements, systems and controls

SYSC 3.2.8 R (1) A *firm* which carries on *designated investment business* with or for *customers* must allocate to a *director* or *senior manager* the function of:

- (a) having responsibility for oversight of the *firm*'s compliance;
and
- (b) reporting to the governing body in respect of that responsibility.

...

Amendments to the General provisions

General Provisions

Transitional provisions

2 Table

(1)	(2)	(3)	(4)	(5)	(6)
	Material to which the transitional provision applies		Transitional provision	Transitional provision: dates in force	Handbook provision: coming into force
...					
23	Every rule in the <i>Handbook</i> made by the <i>FSA</i>	R	Dealing as principal by certain grandfathered firms ...	From 20 December 2001 until 19 December 2002 <u>30 April 2003</u>	Various dates

(1)	(2) Material to which the transitional provision applies	(3)	(4) Transitional provision	(5) Transitional provision: dates in force	(6) Handbook provision: coming into force
24	Paragraph 23 and <i>guidance</i> in the <i>Handbook</i> ...	G	(1) Paragraph 23 applies to ...	From 20 December 2001 until 19 December 2002 <u>30 April 2003</u>	Various dates

Amendments to the Supervision manual

SUP 3.1.2R Table Applicable sections (see ~~SUP~~ SUP 3.1.1R)

(1) Category of firm	(2) Sections applicable to the firm	(3) Sections applicable to its auditor
...		
(4) <i>Bank or building society</i> which in either case carries on <i>designated investment business</i> (<u>Note 2A</u>)	SUP 3.1 – SUP 3.7	SUP 3.1, SUP 3.2, SUP 3.8, SUP 3.10
(5) <i>Bank or building society</i> which in either case does not carry on <i>designated investment business</i> (<u>Note 2A</u>)	SUP 3.1 – SUP 3.7	SUP 3.1, SUP 3.2, SUP 3.8
...		
<p>...</p> <p>Note 2A = For this purpose, <i>designated investment business</i> does not include either or both:</p> <p>(a) <u>dealing which falls within the exclusion in article 15 of the Regulated Activities Order (Absence of holding out etc) (or agreeing to do so); and</u></p> <p>(b) <u>dealing in investments as principal (or agreeing to do so):</u></p> <p> <u>(i) by a firm whose permission to deal in investments as principal is subject to a limitation to the effect that the firm, in carrying on this regulated activity, is limited to entering into transactions in a manner which, if the firm was an unauthorised person, would come within article 16 of the Regulated Activities Order (Dealing in contractually based investments); and</u></p> <p> <u>(ii) in a manner which comes within that limitation;</u></p> <p><u>having regard to article 4(4) of the Regulated Activities Order (Specified activities: general: core investment services by investment firms).</u></p> <p>...</p>		

...

SUP 10.7.9G SYSC 3.2.8R provides that a *firm* which carries on *designated investment business* with or for customers must allocate to a *director* or *senior manager* the function of having responsibility for oversight of

the *firm's* compliance and reporting to the *governing body* in respect of that responsibility.

Annex B

Amendments to MAR, SUP and the Glossary

coming into force on 1 May 2003

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

Amendments to the Market conduct sourcebook

MAR 3.1.2A R In MAR 3.1.2R, the exclusion in article 15 of the *Regulated Activities Order* (Absence of holding out etc) is to be disregarded in determining whether *dealing in investments as principal* (or *agreeing to do so*) is a *regulated activity*.

Amendments to the Supervision manual

SUP 10.9.10R (1) The *significant management (designated investment business) function* is the function of acting as a *senior manager* with significant responsibility for a significant business unit which carries on *designated investment business* other than *dealing in investments as principal*, disregarding article 15 of the *Regulated Activities Order* (Absence of holding out etc), (and *agreeing to do so*).

...

...

SUP 10.9.12R (1) The *significant management (other business operations) function* is the function of acting as a *senior manager* with significant responsibility for a significant business unit which carries on:

- (a) *dealing in investments as principal*, disregarding article 15 of the *Regulated Activities Order* (Absence of holding out etc), (or *agreeing to do so*); or
- (b) an activity which is not *designated investment business*.

...

Amendments to the Glossary

Amend the following definition as shown:

*inter-
professional
business*

the business of a *firm*:

(a) when it carries on:

- (i) *regulated activities*; or
- (ii) related *ancillary activities*;

to the extent that the *regulated activity* that the *firm* is carrying on is:

- (A) *dealing in investments as principal*; or
- (B) *dealing in investments as agent*; or
- (C) acting as an *arranger*; or
- (D) giving *transaction-specific advice* or agreeing to do so;

but only if that activity is:

- (I) in or in respect of an *inter-professional investment*;
- (II) undertaken with or for a *market counterparty*; and
- (III) carried on from an establishment maintained by the *firm* in the *United Kingdom*;

(b) but excluding the carrying on of the following activities:

- (i) the *approval* by a *firm* of a *financial promotion*;
- (ii) activities carried on between *operators*, or between *operators* and *depositaries*, of the same *collective investment scheme* (when acting in that capacity);
- (iii) *corporate finance business*;
- (iv) *safeguarding and administering investments* and *agreeing to carry on that regulated activity*;

in this definition, the exclusion in article 15 of the *Regulated Activities Order* (Absence of holding out etc) is to be disregarded in determining whether *dealing in investments as principal* or *agreeing to do so*) is a *regulated activity*.