

SUPERVISION MANUAL (ACTUARIES) (AMENDMENT) INSTRUMENT 2005**Powers exercised**

- A. The Financial Services Authority makes this instrument in the exercise of the following powers and related provisions in the Financial Services and Markets Act 2000 (“the Act”):
- (1) section 138 (General rule-making power);
 - (2) section 156 (General supplementary powers);
 - (3) section 157(1) (Guidance);
 - (4) section 213 (The compensation scheme); and
 - (5) section 214 (General).
- B. The rule-making powers listed above are specified for the purpose of section 153(2) (Rule-making instruments) of the Act.

Commencement

- C. This instrument comes into force on 1 October 2005.

Amendments to the Handbook

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

(1)	(2)
Statements of Principle and Code of Practice for Approved Persons (APER)	Annex A
General Provisions (GEN)	Annex B
Authorisation manual (AUTH)	Annex C
Supervision manual (SUP)	Annex D
Dispute Resolution: Complaints sourcebook (DISP)	Annex E
Compensation sourcebook (COMP)	Annex F

Citation

- E. This instrument may be cited as the Supervision Manual (Actuaries) (Amendment) Instrument 2005.

By order of the Board
15 September 2005

Annex A

Amendments to the Statements of Principle and Code of Practice for Approved Persons

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

4.1.3 E Deliberately misleading (or attempting to mislead) by act or omission:

...

(2) his *firm* (or its auditors or ~~an appointed~~ actuary appointed by his firm under SUP 4 (Actuaries)); or

...

4.1.4 E Behaviour of the type referred to in *APER* 4.1.3E includes, but is not limited to, deliberately:

...

(10) providing false or inaccurate information to the *firm* (or to the *firm's* auditors or ~~an appointed~~ actuary appointed by the firm under SUP 4 (Actuaries));

...

...

4.1.6 E Deliberately failing to inform, without reasonable cause:

...

(2) his *firm* (or its auditors or ~~an appointed~~ actuary appointed by his firm under SUP 4 (Actuaries)); or

...

...

4.2.3 E Failing to inform:

...

(2) his *firm* (or its auditors or ~~an appointed~~ actuary appointed by his firm under SUP 4 (Actuaries));

...

4.2.4 E Behaviour of the type referred to in *APER* 4.2.3E includes, but is not limited to:

...

(4) providing inaccurate or inadequate information to a *firm*, its auditors or ~~appointed~~ an actuary appointed by his firm under SUP 4 (Actuaries);

...

...

Annex B

Amendments to the General Provisions

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

GEN TP1 Transitional provisions

GEN TP 1.2 Table 2: Transitional Provisions applying across the Handbook

(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
...					
15	...	R	<p><u>Notification</u> <i>A firm</i> (or its auditor, appointed actuary or appropriate actuary <u>appointed under SUP 4 (Actuaries)</u>) will not contravene a <i>notification rule</i> in the <i>Handbook</i> to the extent that notice of the relevant matter was given to the <i>firm's previous regulator</i> before <i>commencement</i> in accordance with: ...</p>
...					

Annex C

Amendments to the Authorisation manual

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

AUTH 6 Annex 1 Approved Persons

	Question:	Answer:
...		
6	Can a <i>significant influence function</i> be outsourced?	It is a question of fact in each case who is performing a <i>significant influence function</i> . These functions are mostly described at a high level of responsibility, that is, for example, the <i>director</i> of a <i>company</i> or a <i>partner</i> of a partnership. The <i>persons</i> performing these functions cannot avoid their ultimate responsibility and therefore the need for approval <u>approval</u> . However, some of the <i>significant influence functions</i> may be performed by a <i>person</i> who is specifically brought in to do the job, for example the <i>chief executive function</i> (where it is to be performed by a <i>body corporate</i>) and the appointed actuary <u>actuarial and with-profits actuary functions</u> .
...		

Annex D

Amendments to the Supervision manual

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

Amendments to the Transitional Provisions in the Supervision Manual are set out on page 8 of this instrument.

- 4.3.16A R An *actuary* appointed to perform the *with-profits actuary function* must:
- ...
- (3) at least once a year ~~in respect of each financial year commencing on or after 1 January 2005~~, report to the *firm's governing body* on key aspects (including those aspects of the *firm's application of its Principles and Practices of Financial Management* on which the advice described in (1) has been given) of the discretion exercised in respect of the period covered by his report affecting those classes of *with-profits business* of the *firm*;
- (4) in respect of each financial year ~~commencing on or after 1 January 2005~~, make a written report addressed to the relevant classes of the *firm's with-profits policyholders*, to accompany the *firm's* annual report under COB 6.11.9R, as to whether, in his opinion and based on the information and explanations provided to him by the *firm*, and taking into account where relevant the *rules* and *guidance* in COB 6.12, the annual report and the discretion exercised by the *firm* in respect of the period covered by the report may be regarded as taking, or having taken, the interests of the relevant classes of the *firm's with-profits policyholders* into account in a reasonable and proportionate manner;
- ...
- 4.3.16B G ...
- (1) bonus rates to be applied to *policies* at maturity or on the death of ~~the~~ a *policyholder* or when calculating the annual bonus;
- ...
- (8) communications with *policyholders* or potential *policyholders* on the issues in (1) to (7).
- 4.3.16C G The reports in SUP 4.3.16AR(3) and (4) should be proportionate to the nature of the *with-profits business*. For smaller *firms* with fewer products, the extent of reporting would be proportionately less.

...

SUP 10 Ann 1G: Frequently asked questions

	Question:	Answer:
	Requirement of the regime	
...		
6	Can a <i>significant influence function</i> be outsourced?	It is a question of fact in each case who is performing a <i>significant influence function</i> . These functions are mostly described at a high level of responsibility, that is, for example, the <i>director</i> of a <i>company</i> or a <i>partner</i> in a <i>partnership</i> . The <i>persons</i> performing these functions cannot avoid their ultimate responsibility and therefore the need for approval. However, some of the <i>significant influence functions</i> may be performed by a <i>person</i> who is specifically brought in to do the job, for example the <i>chief executive function</i> (where it is to be performed by a <i>body corporate</i>) and the appointed <u>actuarial and with-profits actuary functions</u> .
...		

...

18.2.16 G For a transfer of *long-term insurance business* the *independent expert* should be an *actuary* familiar with the role and responsibilities of the *actuarial function* holder and (if the relevant *insurance business* includes *with-profits insurance business*) a *with-profits an appointed actuary*.

...

18.2.39 G For a scheme involving *long-term insurance business*, the report should:

...

(7) state whether, in the *independent expert's* opinion, for each relevant *firm* the scheme has sufficient safeguards (such as principles of financial management or certification by ~~the appointed~~ a *with-profits actuary* or *actuarial function* holder) to ensure that the scheme operates as presented.

...

18.2.58 G For *long-term insurance business*, the affidavit evidence to the court would normally include copies of reports on the transfer by the *actuarial function* holder and (if the *insurance business* includes *with-profits business*) the *with-profits actuary* of ~~appointed actuaries~~ of both *firms*, which should be provided to the *FSA* at an early stage. *SUP* 4.3.17R(4) requires a *firm* to request the advice of ~~consult its~~ *appointed-with-profits actuary* about the likely effect of

material changes in its business plans on the rights and reasonable expectations of the relevant classes of its *with-profits policyholders*. A transfer would be material unless the liabilities transferred were not material relative to the total liabilities of the *firm*. The advice on a transfer would normally be in the form of a formal report by the *appointed with-profits actuary*.

...

SUP Sch 1 Record keeping requirements

...

SUP Sch 1.2G

Handbook reference	Subject of record	Content of record	When record must be made	Retention period
<i>SUP</i> 4.3.17R (3)	Data for <i>appointed actuary (or actuaries) appointed under SUP 4 (Actuaries)</i>	Such data as the <i>appointed actuary (or actuaries) appointed under SUP 4 (Actuaries)</i> reasonably requires
...				

SUP TP1 Transitional Provisions applying to the Supervision manual only

SUP TP1.1

(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
...					
4	SUP 4.3.1R(1) and SUP 4.4.1R(1)	R	<p>Actuaries</p> <p><i>A firm will not contravene SUP 4.3.1R(1) or SUP 4.4.1R(1) to the extent that the office of <u>actuarial function holder, with-profits actuary appointed actuary or appropriate actuary, respectively, is filled by an actuary appointed on or before 31 December 2004, provided that that actuary was appointed as at commencement and the appointment was made in accordance with the relevant statutory requirements, or the requirements of the regulatory system, in force at that time.</u></i></p>
...					
4B	SUP 4.3.1R [deleted]	R	<p>A firm must notify the FSA immediately of all appointments under SUP 4.3.1R (as amended) which come into, or are in, effect on 31 December 2004, advising the FSA of the name and business address of each actuary appointed and the functions each actuary is to perform.</p>	From 31 December 2004	31 December 2004
4BA	SUP 4.3.16AR(3)	R	The rules apply in	From 31	31

	and (4)		respect of each financial year commencing on or after 1 January 2005.	December 2004	December 2004
4C	SUP 4.5.9R	R	An <i>actuary</i> , who immediately before 31 December 2004 is the <i>appointed actuary</i> of a <i>firm</i> , must notify the <i>FSA</i> under SUP 4.5.9R (as amended) if on that date he is not appointed by the <i>firm</i> under SUP 4.3.1R (as amended).	From 31 December 2004	31 December 2004
4D	SUP 4.5.10R	R	An <i>actuary</i> , who immediately before the relevant time in (a) or (b) below is the <i>appointed actuary</i> of a <i>firm</i> , must notify the <i>FSA</i> under SUP 4.5.10R (as amended) if: (a) he is not appointed by the <i>firm</i> under SUP 4.3.1R (as amended) on 31 December 2004; or (b) he is or has been formally notified that he will not be so appointed by the <i>firm</i> .	From 31 December 2004	31 December 2004
4E	SUP 4.3.1R and SUP 4.3.3R	G	<i>Firms</i> and the <i>FSA</i> will need to make fresh appointments once these proposed amendments come into effect, even if an <i>actuary</i> has already been appointed under the existing provisions. A <i>firm</i> will not need to seek fresh approval under section 60 of the <i>Act</i> for an existing <i>appointed</i>	From 31 December 2004	31 December 2004

			<p><i>actuary</i> who continues to perform the <i>actuarial function</i> (CF 12) or the <i>with-profits actuary function</i> (CF12A). This is because both these <i>controlled functions</i> are already covered by an <i>actuary's</i> existing approval to perform the previous <i>appointed actuary function</i>.</p> <p>However, under <i>SUP TP4B</i> firms are required to notify the <i>FSA</i> of any new or continued appointments to perform either or both of these functions. The effect of <i>SUP TP4CR</i> and <i>SUP TP4DR</i> is to require an existing <i>appointed actuary</i> to notify the <i>FSA</i> under <i>SUP 4.5.9R</i> and <i>SUP 4.5.10R</i> if he ceases to hold any appointment at all under <i>SUP 4.3.1R</i>, but not if he is appointed to perform either or both functions.</p>		
5	<i>SUP 4.3.3R</i>	R	<p>If an <i>appointed firm's actuary</i> of a <i>firm</i> has been appointed by a <i>previous regulator</i> under statutory or contractual powers and remains in office immediately before <i>commencement</i>, that appointment will be deemed to have been made under <i>SUP 4.3.3R</i>, but on the terms of the actual appointment.</p>

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Annex E

Amendments to the Dispute Resolution: Complaints sourcebook

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

DISP App 2.6 Valuing Relevant Benefits

2.6.3 G A *product provider* should ensure that the method it adopts for valuing augmentation benefits is consistent with the statements made in the documentation published about the windfall event. Relevant documentation for the purpose of valuing such benefits will include (but is not limited to):-

...

(3) statements in any report produced by any ~~appointed~~ actuary ~~report~~ appointed under SUP 4 (Actuaries) produced for the event;

...

...

2.6.7 G ~~The *product provider's appointed* An actuary, appointed by a *product provider* under SUP 4 (Actuaries),~~ An actuary, appointed by a *product provider* under SUP 4 (Actuaries), should certify that the method adopted by the *product provider* for calculating the value of an augmentation benefit is in accordance with the *guidance* in DISP App 2.6.1G to DISP 2.6.6G.

...

Annex F

Amendments to the Compensation sourcebook

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

- 4.2.2 R Table COMP 4.2.2R Persons not eligible to claim unless COMP 4.3 applies (see COMP 4.2.1R)
This table belongs to COMP 4.2.1R

...	
(11)	The auditors of the <i>relevant person in default</i> , or of any body corporate <u>body corporate</u> in the same group as the <i>relevant person in default</i> , or the <u>any appointed actuary appointed under SUP 4 (Actuaries) by</u> of a <i>friendly society or insurance undertaking in default</i>
...	

...