

SUPERVISION MANUAL (CONTROLLERS) (AMENDMENT) INSTRUMENT 2009**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 178 (Obligation to notify the Authority: acquisitions of control); and
 - (5) section 191D (Obligation to notify the Authority: dispositions of control).
- 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 28 March 2009.

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).

(1)	(2)
Glossary of definitions	Annex A
Supervision manual (SUP)	Annex B
Decision Procedure and Penalties manual (DEPP)	Annex C
Recognised Investment Exchanges and Recognised Clearing Houses sourcebook (REC)	Annex D

Citation

- E. This instrument may be cited as the Supervision Manual (Controllers) (Amendment) Instrument 2009

By order of the Board
26 March 2009

Annex A

Amendments to the Glossary of definitions

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

section 178 notice

(in accordance with section 178(3) of the Act) a notice given to the FSA under section 178 of the Act.

control

...

(3) (except in (2)) (in accordance with section 182 of the Act) a controller ("A") (whether acting alone or in concert) increases control over a firm ("B") when:

(a) the percentage of shares A holds in B or a parent undertaking ("P") of B increases by any of the following steps:

(i) from less than 20% to 20% or more;

(ii) from less than 30% to 30% or more;

(iii) from less than 50% to 50% or more;

(b) the percentage of voting power A holds in B or P increases by any of the steps mentioned above; or

(c) A becomes a parent undertaking of B.

(4) (except in (2)) (in accordance with section 183 of the Act) a controller ("A") (whether alone or acting in concert) reduces control over a firm ("B") whenever:

(a) the percentage of shares which A holds in B or a parent undertaking ("P") of B decreases by any of the following steps:

(i) from 50% or more to less than 50%;

(ii) from 30% or more to less than 30%;

(iii) from 20% or more to less than 20%;

(b) the percentage of voting power which A holds in B or P decreases by any of the steps mentioned above; or

(c) A ceases to be a parent undertaking of B.

(5) (except in (2)) (in accordance with section 183 of the Act) a controller ("A") (whether acting alone or in concert) ceases to have control over a firm ("B") if A ceases to hold any of the following:

(a) 10% or more of the shares in B or a parent undertaking ("P") of B;

(b) 10% or more of the voting power in B or P;

(c) shares or voting power in B or in P as a result of which A is able to exercise significant influence over the management of B.

(6) (for the purposes of the calculations in (3) to (5)) the holding of shares or voting power by a person ("A1") includes any shares or voting power held by another ("A2") if A1 and A2 are acting in concert.

controller

~~(1) (in relation to a firm or other undertaking ("A")) other than an UK insurance intermediary) (in accordance with section 422 of the Act (Controller)) a person who falls within any of the following cases; the cases are where the person:~~

~~(a) holds 10% or more of the shares in A; or~~

~~(b) is able to exercise significant influence over the management of A through his shareholding in A; or~~

~~(c) holds 10% or more of the shares in a parent undertaking ("P") of A; or~~

~~(d) is able to exercise significant influence over the management of P through his shareholding in P; or~~

~~(e) is entitled to exercise, or control the exercise of, 10% or more of the voting power in A; or~~

~~(f) is able to exercise significant influence over the management of A through his voting power in A; or~~

~~(g) is entitled to exercise, or control the exercise of, 10% or more of the voting power in P; or~~

~~(h) is able to exercise significant influence over the management of P through his voting power in P;~~

~~(2) (in relation to an UK insurance intermediary) (in accordance with article 17 of the Insurance Intermediaries Order) a person who would fall within (1) if 20% were substituted for 10%;⁵ in (1) and (2) of this definition:⁵~~

~~(i) "the person" means:~~

~~(A) the person; or~~

~~(B) any of the person's associates; or~~

~~(C) the person and any of his associates;~~

~~(ii) "associate", in relation to a person ("H") holding shares in an undertaking ("C") or entitled to exercise or control the exercise of~~

voting power in relation to another *undertaking* ("D"), means:

(A) ~~the spouse ⁴⁴ or civil partner of H;~~

(B) ~~a child or stepchild of H (if under 18);~~

(C) ~~the trustee of any settlement under which H has a life interest in possession (or in Scotland a life interest);~~

(D) ~~an *undertaking* of which H is a director;~~

(E) ~~a *person* who is an employee or partner of H;~~

(F) ~~if H is an *undertaking*:~~

(I) ~~a director of H;~~

(H) ~~a *subsidiary undertaking* of H;~~

(III) ~~a director or employee of such a *subsidiary undertaking*; and~~

(G) ~~if H has with any other *person* an agreement or arrangement with respect to the acquisition, holding or disposal of shares or other interests in C or D or under which they undertake to act together in exercising their *voting power* in relation to C or D, that other *person*;~~

(iii) ~~"settlement" includes any disposition or arrangement under which property is held on trust (or subject to a comparable obligation);~~

(iv) ~~"shares" means:~~

(A) ~~in relation to an *undertaking* with a share capital, allotted shares;~~

(B) ~~in relation to an *undertaking* with capital but no share capital, rights to share in the capital of the *undertaking*;~~

(C) ~~in relation to an *undertaking* without capital, interests:~~

(I) ~~conferring any right to share in the profits, or liability to contribute to the losses, of the *undertaking*, or~~

(II) ~~giving rise to any obligation to contribute to the debts or expenses of the *undertaking* in the event of a winding up.~~

(1) (in relation to a *firm* or other *undertaking* ("B"), other than a *non-directive firm*), a *person* ("A") who (whether acting alone or in concert):

(a) holds 10% or more of the *shares* in B or in a *parent*

undertaking (“P”) of B;

(b) holds 10% or more of the voting power in B or in P; or

(c) holds shares or voting power in B or P as a result of which A is able to exercise significant influence over the management of B.

(2) (in relation to a non-directive firm (“B”)) a person (“A”) who (whether acting alone or in concert):

(a) holds 20% or more of the shares in B or in a parent undertaking (“P”) of B;

(b) holds 20% or more of the voting power in B or in P; or

(c) holds shares or voting power in B or P as a result of which A is able to exercise significant influence over the management of B.

(3) for the purposes of calculations relating to (1) and (2), the holding of shares or voting power by a person (“A1”) includes any shares or voting power held by another (“A2”) if A1 and A2 are acting in concert.

(4) shares and voting power that a person holds in a firm (“B”) or in a parent undertaking of B (“P”) are disregarded for the purposes of determining control in the following circumstances:

(a) shares held for the sole purposes of clearing and settling within a short settlement cycle;

(b) shares held by a custodian or its nominee in its custodian capacity are disregarded, provided that the custodian or nominee is only able to exercise voting power attached to the shares in accordance with instructions given in writing;

(c) shares representing no more than 5% of the total voting power in B or P held by an investment firm, provided that:

(i) it holds the shares in the capacity of a market maker (as defined in article 4.1(8) of MIFID);

(ii) it is authorised by its Home State regulator under MIFID; and

(ii) it does not intervene in the management of B or P nor exerts any influence on B or P to buy the shares or back the share price;

(d) shares held by a credit institution or investment firm in its trading book are disregarded, provided that:

(i) the shares represent no more than 5% of the total

voting power in B or P; and

(ii) the credit institution or investment firm ensures that the voting power is not used to intervene in the management of B or P;

(e) shares held by a credit institution or an investment firm are disregarded, provided that:

(i) the shares are held as a result of performing the investment services and activities of:

(A) underwriting share issues; or

(B) placing shares on a firm commitment basis in accordance with Annex I, section A.6 of MIFID; and

(ii) the credit institution or investment firm:

(A) does not exercise voting power represented by the shares or otherwise intervene in the management of the issuer; and

(B) retains the holding for a period of less than one year;

(f) where a management company and its parent undertaking both hold shares or voting power, each may disregard holdings of the other, provided that each exercises its voting power independently of the other;

(g) but (f) does not apply if the management company:

(i) manages holdings for its parent undertaking or an undertaking in respect of which the parent undertaking is a controller;

(ii) has no discretion to exercise the voting power attached to such holdings; and

(iii) may only exercise the voting power in relation to such holdings under direct or indirect instruction from:

(A) its parent undertaking; or

(B) an undertaking in respect of which of the parent undertaking is a controller;

(h) where an investment firm and its parent undertaking both hold shares or voting power, the parent undertaking may disregard holdings managed by the investment firm on a client by client basis and the investment firm may disregard holdings of the parent undertaking, provided that the investment firm:

(i) has permission to provide *portfolio management*;

(ii) exercises its *voting power* independently from the *parent undertaking*; and

(iii) may only exercise the *voting power* under instructions given in writing, or has appropriate mechanisms in place for ensuring that individual *portfolio management services* are conducted independently of any other services.

credit institution

...

(2) (in *REC* and in *SUP 11 (Controllers and close links)* and *SUP 16 (Reporting requirements)*):

(a) a credit institution authorised under the *Banking Consolidation Directive*; or

(b) an institution which would satisfy the requirements for authorisation as a credit institution under the *Banking Consolidation Directive* if it had its registered office (or if it does not have a registered office, its head office) in an *EEA state*.

non-directive firm

(in *SUP 11 (Controllers and close links)* and *SUP 16 (Reporting requirements)*) (in accordance with the *Financial Services and Markets Act 2000 (Controllers) (Exemption) Order 2009 (SI 2009/774)*) a *UK domestic firm* other than:

(a) a *credit institution* authorised under the *Banking Consolidation Directive*;

(b) an *investment firm* authorised under *MIFID*;

(c) a *management company* as defined in article 1a.2 of the *UCITS Directive*, authorised under that directive;

(d) an *undertaking* pursuing the activity of direct insurance within the meaning of:

(i) article 2 of the *Consolidated Life Directive*, authorised under that directive; or

(ii) article 1 of the *First Non-Life Directive*, authorised under that directive;

(d) an *undertaking* pursuing the activity of *reinsurance* within the meaning of article 2.1 (a) of the *Reinsurance Directive*, authorised under that directive.

restriction notice

a notice served under section 191B of the *Act*.

...

shares

(1) (except in *COLL*, *LR*, *DTR* and *REC*, *SUP 11* (Controllers and close links) and *SUP 16* (Reporting requirements)) the *investment*, specified in article 76 of the *Regulated Activities Order* (Shares etc), which is in summary: a share or stock in the share capital of:

- (a) any *body corporate* (wherever incorporated);
- (b) any unincorporated body constituted under the law of a country or territory outside the *United Kingdom*.

...

(5) (in *SUP 11* (Controllers and close links) and *SUP 16* (Reporting requirements)) (in accordance with section 422 of the *Act*):

(a) in relation to an *undertaking* with share capital, allotted shares;

(b) in relation to an *undertaking* with capital but no share capital, rights to share in the capital of the *undertaking*;

(c) in relation to an *undertaking* without capital, interests:

(i) conferring any right to share in the profits, or liability to contribute to the losses, of the *undertaking*;
or

(ii) giving rise to an obligation to contribute to the debts or expenses of the *undertaking* in the event of a winding up.

voting power

~~(in relation to an *undertaking*) (in accordance with section 422(7) of the *Act* (Controller)) voting power exercisable at a general meeting of the *undertaking* or, if the *undertaking* does not have general meetings at which matters are decided by the exercise of voting rights, the right under the constitution of the *undertaking* to direct the overall policy of the *undertaking* or to alter the terms of its constitution.~~

(in *SUP 11* (Controllers and close links) and *SUP 16* (Reporting requirements)) (in accordance with section 422 of the *Act*):

(a) includes, in relation to a *person* (“H”):

(i) voting power held by a third party with whom H has concluded an agreement, which obliges H and the third party to adopt, by concerted exercise of the voting power they hold, a lasting common policy towards the management of the *undertaking* in question;

(ii) voting power held by a third party under an

agreement concluded with H providing for the temporary transfer for consideration of the voting power in question;

(iii) voting power attaching to *shares* which are lodged as collateral with H, provided that H controls the voting power and declares an intention to exercise it;

(iv) voting power attaching to *shares* in which H has a life interest;

(v) voting power which is held, or may be exercised within the meaning of subparagraphs (i) to (iv), by a subsidiary *undertaking* of H;

(vi) voting power attaching to *shares* deposited with H which H has discretion to exercise in the absence of specific instructions from the shareholders;

(vii) voting power held in the name of a third party on behalf of H;

(viii) voting power which H may exercise as a proxy where H has discretion about the exercise of the voting power in the absence of specific instructions from the shareholders; and

(b) in relation to an *undertaking* which does not have general meetings at which matters are decided by the exercise of voting rights, the right under the constitution of the *undertaking* to direct the overall policy of the *undertaking* or alter the terms of its constitution.

Annex B

Amendments to the Supervision manual (SUP)

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

Controllers and close links

11.1 Application

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11.1.2 R Applicable sections (see SUP 11.1.1R)

	Category of firm	Applicable sections
(1)	A UK domestic firm other than a building society, a non – directive friendly society or a UK insurance intermediary <u>non-directive firm</u>	All except SUP 11.3, SUP 11.4.2AR and SUP 11.4.4 R
(1A)	A building society	(a) In the case of an exempt change in control (see Note), SUP 11.1, SUP 11.2 and SUP 11.9 (b) In any other case, all except SUP 11.3, SUP 11.4.2AR and SUP 11.4.4R
(2)	A non-directive friendly society	SUP 11.1, SUP 11.2, and SUP 11.9
(2A)	A UK insurance intermediary <u>non-directive firm</u>	all except SUP 11.3, SUP 11.4.2R SUP 11.4.3G and SUP 11.4.4R
(3)	An overseas firm	All except SUP 11.3, SUP 11.4.2R , SUP 11.4.2AR, SUP 11.4.3G , SUP 11.4.9G, SUP 11.5.8G to SUP 11.5.10G, SUP 11.6.2R, SUP 11.6.3R, SUP 11.6.6G , SUP 11.7
Note	In row (1A), a change in control is exempt if the controller or proposed controller is exempt from any obligation to notify the FSA under Part XII of the Act (Control Notices of acquisitions of control over Authorised Persons <u>UK authorised persons</u>) because of The Financial Services and Markets Act 2000 (Controllers) (Exemption) (No 2) Order 2001 <u>2009</u> (SI 2001/3338 <u>2009/774</u>). (See SUP	

	11.3.2AG).
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Application to controllers

- 11.1.4 D *SUP 11.1, SUP 11.2.1G, SUP 11.3 and SUP 11.7 apply to a controller or a proposed controller of a UK domestic firm not listed in SUP 11.1.1R(1) to SUP 11.1.1R(6).*

...

11.2 Purpose

- 11.2.1 G ~~Part XII of the Act (Control Notices of acquisitions of control over UK authorised persons) places an obligation on the controllers and proposed controllers of those UK domestic firms not listed in SUP 11.1.1R(1) to SUP 11.1.1R(6) to notify the FSA of changes in control, including acquiring, increasing or reducing control or ceasing to have control over a firm.~~ Furthermore, those persons are required to obtain the FSA's approval before becoming a controller or ~~increasing the level of control held (in certain circumstances) increasing their control over a firm.~~ *SUP 11.3 is intended to assist those persons in complying with their obligations under Part XII of the Act and also sets out the information which a controller or proposed controller must provide to the FSA before becoming a controller or increasing the level of control held.*

- 11.2.2 G *The rules in SUP 11.4 to SUP 11.6 are aimed at ensuring that the FSA receives information it needs from firms to assist the FSA with its responsibility to monitor and, in some cases, give prior approval to firms' controllers.*

- 11.2.2A G ~~Part XII of the Act does not place an obligation on a controller of a UK insurance intermediary to notify the FSA where it becomes or ceases to be a parent undertaking. Nevertheless, the rule in SUP 11.4.2R(2) requires the UK insurance intermediary notify the FSA of parent undertakings so that the FSA can monitor the firm's continuing satisfaction of the threshold conditions, which includes consideration of its controllers and parent undertakings (see COND). [deleted]~~

...

- 11.2.8 G ~~An event described in SUP 11.4.2R(1) to SUP 11.4.2 R(4) [and SUP 11.4.2AR(1) and SUP 11.4.2AR(2)], SUP 11.4.2AR and SUP 11.4.4R is referred to in this chapter as a "change in control".~~

11.3 Requirements on controllers or proposed controllers under the Act

- 11.3.1 G The notification requirements are set out in sections 178, 179, 191D and 191E of the Act and holdings which may be disregarded are set out in section 184 of

the Act. A summary of the notification requirements described in this section is given in SUP 11 Annex 1.

Requirement to notify a proposed change in *control*

- 11.3.2 G Sections 178(1) and ~~190(1)~~ 191D(1) of the *Act* require a *person* (whether or not he is an *authorised person*) to notify the *FSA* in writing if he ~~proposes~~ decides to take a step which would result in his acquiring *control* or increasing or reducing acquire, increase or reduce his *control* or to cease to have *control* in a *UK domestic firm* ~~in a way described in SUP 11.4.2 R (1) to SUP 11.4.2R (4), or acquiring or reducing his control in a way described in SUP 11.4.2 R (1) and (2)~~. Failure to notify is an offence under section 191F(1) of the *Act* (Offences under this Part).
- 11.3.2A G The Treasury have made the following exemptions from the obligations under section 178 of the Act:
- (1) *controllers* and potential *controllers* of *non-directive friendly societies* are exempt from the obligation to notify a change in *control* (The Financial Services and Markets Act 2000 (Controllers) (Exemption) Order ~~2001~~ 2009 (SI ~~2001/3338~~ 2009/774));
 - (2) *controllers* and potential *controllers* of *building societies* are exempt from the obligation to notify a change in *control* unless the change involves the acquisition of a holding of a specified percentage of a *building society's* capital or the increase or reduction by a specified percentage of a holding of a *building society's* capital (The Financial Services and Markets Act 2000 (Controllers) (Exemption) ~~(No 2)~~ Order ~~2001~~ 2009 (SI ~~2001/3338~~ 2009/774)). The "capital" of a *building society* for these purposes consists of:
 - (a) any shares of a class defined as deferred shares for the purposes of section 119 of the Building Societies Act 1986 which have been issued by the society (in practice, likely to be permanent interest bearing shares (PIBS)); and
 - (b) the general reserves of ~~the~~ that *building* society;
 - (3) potential *controllers* of *non-directive firms* ("A") are exempt from the obligation to notify a change in *control* unless the change results in the potential *controller* holding:
 - (a) 20% or more of the *shares* in A or in a *parent undertaking* of A ("P");
 - (b) 20% or more of the *voting power* in A or P; or
 - (c) *shares* or *voting power* in A or P as a result of which the *controller* is able to exercise significant influence over the management of A;

or where the change in control over A would lead to the controller ceasing to fall into any of the cases (a), (b) or (c) above (The Financial Services and Markets Act 2000 (Controllers) (Exemption) Order 2009 (SI 2009/774)).

11.3.3 G [deleted]

Approval required before acquiring or increasing control

11.3.4 G If a *person* ~~proposes~~ decides to acquire *control* or increase ~~his~~ *control* over a *UK domestic firm* in a way described in SUP 11.4.2R (1) to (4) or acquire *control* in a way described in SUP 11.4.2AR(1), he must obtain the *FSA's* approval before doing so. ~~Failure to obtain approval~~ Making an acquisition before the *FSA* has approved of it is an offence under section 191E(3) of the *Act* (Offences under this Part). ~~The *FSA* has up to three months to consider whether to approve such a change in control: see SUP 11.7 for guidance on the approval procedures.~~

11.3.5 G The *FSA's* approval is not required before a *controller* reduces ~~his~~ *control* or ceases to have control over a *UK domestic firm*.

Pre-notification and approval for fund managers

11.3.5A G The *FSA* recognises that *firms* acting as *investment managers* may have difficulties in complying with the prior notification requirements in sections 178(1) and 191D of the *Act* as a result of acquiring or disposing of listed *shares* in the course of that fund management activity. To ameliorate these difficulties, the *FSA* may accept pre-notification of proposed changes in *control*, made in accordance with SUP 11.3.5BD, and may grant approval of such changes for a period lasting up to a year.

11.3.5B D The *FSA* may treat as notice given in accordance with sections 178(1) and 191D of the *Act* a written notification from a *firm* which contains the following statements:

- (1) that the *firm* proposes to acquire and/or dispose of *control*, on one or more occasions, of any *UK domestic firm* whose *shares* or those of its ultimate *parent undertaking* are, at the time of the acquisition or disposal of *control*, *listed* or which are admitted to listing on a *designated investment exchange*;
- (2) that any such acquisitions and/or disposals of *control* will occur only in the course of the *firm's* business as an *investment manager*; ~~and~~
- (3) that the level of *control* the *firm* so acquires in the pre-approval period will at all times remain less than 20%: and
- (4) that the *firm* will not exercise any influence over the *UK domestic firm* in which the shares are held, other than by exercising its voting rights as a shareholder or by exercising influence intended to promote generally accepted principles of good corporate governance.

- 11.3.5C G Where the *FSA* approves changes in *control* proposed in a notice given under *SUP* 11.3.5BD:
- (1) the *controller* remains subject to the requirement to notify the *FSA* when a change in *control* actually occurs; and
 - (2) the notification of change in *control* should be made no later than five *business days* after the end of each *month* and set out all changes in the *controller's* control position for each *UK domestic firm* for the *month* in question.

At that stage, the *FSA* may seek from the *controller* further information, including that which would have been supplied under *SUP* 11.3.7D(2).

~~Change in control without taking any step~~

- 11.3.6 G ~~If a change in *control* occurs without the *person* himself having taken any step, he must notify the *FSA* within 14 days of becoming aware of the change (sections 178(2) and 190(2) of the *Act*). Failure to notify is an offence under section 191(2) of the *Act*. [deleted]~~

~~Custodians obtaining control~~

- 11.3.6A G ~~The *FSA* considers that a *custodian* or its wholly owned subsidiary *nominee company*, acting only in that capacity, does not itself take any step for the purposes of sections 178(2) and 190(2) of the *Act* when it becomes the *controller* of a *UK domestic firm*, its *control* of a *UK domestic firm* changes or it ceases to be the *controller* of a *UK domestic firm* as a result of acquiring or disposing of *custody assets* in the form of *shares* in accordance with its *client's* instructions. [deleted]~~
- 11.3.6B G ~~For the purposes of sections 178(2) and 190(2) of the *Act* and where there has been more than one change in *control* for each *UK domestic firm* in a fortnightly period, a *custodian* or its wholly owned subsidiary *nominee company* to which *SUP* 11.3.6A G applies need only notify the *FSA* of its final *control* position for each *UK domestic firm* for that fortnight, so long as it also supplies the highest *control* position for each *UK domestic firm* it obtained during that period. [deleted]~~
- 11.3.6C G ~~Reporting by a *custodian* or its wholly owned subsidiary *nominee company* does not relieve any other *person* with an interest in any *custody assets* from its *control* notification responsibilities under Part XII of the *Act*. [deleted]~~

~~Form~~ Forms of notification notifications when acquiring or increasing control

- 11.3.7 D ~~A notification ("notice of *control*")~~ section 178 notice given to the *FSA* by a *person* who is acquiring *control* or increasing *control* over a *UK domestic firm*, in a way described in *SUP* 11.4.2R, or acquiring *control* in a way described in *SUP* 11.4.2AR(1), ~~must~~ contain the information and be accompanied by such documents as are required by the controllers form approved by the *FSA* for the relevant application.

- (1) ~~where the controller or a proposed controller is not an authorised person, contain the information required in the relevant controllers form.~~
- (1A) ~~where the controller is a custodian or a nominee company notifying under SUP 11.3.6AG, comply with that direction;~~
- (2) ~~where the controller or proposed controller is any other authorised person, contain the information required in the relevant controllers form; and~~
- (3) ~~if a notification is not submitted on the relevant form specified in (1) or (2), provide reasons why that form was not used.~~

11.3.7A G The controllers forms approved by the FSA may be found at the FSA's website (<http://www.fsa.gov.uk/Pages/Doing/Regulated/Notify/Control/index.shtml>).

11.3.8 D [deleted]

11.3.9 D ~~If a relevant controllers form, or an Application to perform controlled functions under the approved persons regime (the relevant Form A in SUP 10 Annex 4) in respect of a governing function, has already been submitted to the FSA in relation to a relevant individual, then the information in that form need not be submitted to the FSA as long as details of any changes in the information previously submitted, or confirmation that there are none, is submitted. [deleted]~~

11.3.10 D (1) ~~A person who has submitted a notification~~ a section 178 notice under SUP 11.3.7D must notify the FSA immediately if he becomes aware, or has information that reasonably suggests, that he has or may have provided the FSA with information which was or may have been false, misleading, incomplete or inaccurate, or has or may have changed, in a material particular. The notification must include:

- (a) details of the information which is or may be false, misleading, incomplete or inaccurate, or has or may have changed;
- (b) an explanation why such information was or may have been provided; and
- (c) the correct information.

(2) ~~If the information in (1)(c) cannot be submitted with the notification~~ section 178 notice (because it is not immediately available), it must instead be submitted as soon as possible afterwards.

(3) The requirement in (1) ceases if the change in *control* occurs or will not take place.

11.3.11 G ~~The FSA, for administrative reasons, expects notifications within SUP 11.3.7D to be given on the relevant controllers form as appropriate. If notifications are~~

not made on these forms the applicant must inform the FSA of the reasons for not using them. The FSA will inform a section 178 notice giver as soon as reasonably practicable if it considers the section 178 notice to be incomplete.

- 11.3.12 G ~~If a controller or proposed controller considers that the requirements in SUP 11.3.7D to SUP 11.3.9D are not appropriate to his circumstances (for example, if control is temporary), he should consult the FSA. The FSA has power, under section 182(3) 179(3) of the Act (Notification Requirements for section 178 notices), to amend vary or waive those these requirements in relation to a section 178 notice in particular cases if it considers it appropriate to do so.~~
- 11.3.13 G ~~The Act provides that the FSA may request any additional information or documentation from the controller or proposed controller that it reasonably requires in order to determine what action it is to take in response to the notification. A controller or proposed controller which is an authorised person is required to submit less information under SUP 11.3.7D than other persons and consequently the FSA may ask for confirmation of details already held or any additional information required under SUP 11.5.1R which it considers appropriate.~~
- 11.3.14 G Pursuant to section 188 of the Act (Assessment: consultation with EC competent authorities), the FSA is obliged to consult regulatory authorities in other EEA States any appropriate Home State regulator before approving the change in control or giving a warning notice where the Financial and Services Markets Act 2000 (Consultation with Competent Authorities) Regulations 2001 (SI 2001/2509, as amended) apply. In summary, these regulations require the FSA to consult with the home state regulator of an MiFID investment firm, a BCD credit institution, an EEA insure, an EEAUCITS management company or the parent undertaking of any of these, where that firm has acquired or proposes to acquire control of certain UK domestic firms such that the acquiring firm would become the parent undertaking of the relevant UK domestic firm. These regulations also impose certain consultation obligations on the FSA in respect of financial conglomerates. making a determination under section 185 of the Act (Assessment: general).

Form of notification Notification when reducing control

- 11.3.15 G ~~A notification given to the FSA by a person who is reducing his control over a UK domestic firm, in a way described SUP 11.4.2R (1) to (4), must, in accordance with section 190(4) of the Act (Notification):~~

- ~~(1) be in writing; and~~
- ~~(2) provide details of the extent of control (if any) which the controller will have following the change in control. [deleted]~~

- 11.3.15A D A notice given to the FSA by a person who is reducing or ceasing to have control over a UK domestic firm, as set out in SUP 11.4.2R or SUP 11.4.2AR must:

- (1) be in writing; and
- (2) provide details of the extent of *control* (if any) which the *controller* will have following the change in *control*.

~~Notification when change in control occurs~~

- 11.3.16 G ~~A *person* who is under a duty to notify the *FSA* of a proposed change in *control* is also required to notify the *FSA* when the relevant change in *control* has occurred (sections 178(3) and 190(3) of the *Act*). [deleted]~~

~~Joint and shared notifications~~

- 11.3.17 G Notifications to the *FSA* by proposed *controllers* and *controllers* under Part XII of the *Act* may be made on a joint ~~or shared~~ basis outlined in *SUP* 11.5.8G to *SUP* 11.5.10G.

11.4 Requirements on firms

...

~~Requirement to notify a change in control~~

- 11.4.2 R A *UK domestic firm*, other than a *UK insurance intermediary non-directive firm*, must notify the *FSA* of any of the following events concerning the *firm*:
- (1) a *person* acquiring *control* ~~or ceasing to have *control*~~;
 - (2) an existing *controller* increasing ~~acquiring an additional *kind of control*~~ ~~or ceasing to have a *kind of control*~~;
 - (3) an existing *controller* reducing ~~increasing or decreasing a *kind of control* which he already has so that the percentage of shares or voting power concerned becomes or ceases to be equal to or greater than 20, 33 or 50;~~
 - (4) an existing *controller* ~~becoming or ceasing to be a *parent undertaking*~~ have *control*.
- 11.4.2A R A *UK insurance intermediary non-directive firm* must notify the *FSA* of any of the following events concerning the *firm*:
- (1) a *person* ~~acquiring *control*~~ becoming *controller* of the *firm*; or
 - (2) ~~in relation to an existing *controller*: ceasing to be *controller* of the *firm*.~~
 - (a) ~~the percentage of *shares* held in the *firm* decreasing from 20% or more to less than 20%; or~~

- (b) ~~the percentage of *shares* held in a *parent undertaking* of the *firm* decreasing from 20% or more to less than 20%; or~~
 - (c) ~~percentage of *voting power* which it is entitled to exercise, or control the exercise of, in the *firm* decreasing from 20% or more to less than 20%; or~~
 - (d) ~~the percentage of *voting power* which it is entitled to exercise, or control the exercise of, in a *parent undertaking* of the *firm* decreasing from 20% or more to less than 20%;~~
- (3) ~~an existing *controller* becoming or ceasing to be a *parent undertaking*.~~
- 11.4.3 G ~~*SUP 11 Annex 2* gives examples of the circumstances in which a notification in accordance with *SUP 11.4.2R* is required. [deleted]~~
- 11.4.4 R An overseas firm must notify the FSA if a person becomes a controller of the firm, increases or reduces control over the firm or ceases to have control over the firm of any of the following events concerning the firm:
- (1) ~~a person acquiring control or ceasing to have control;~~
 - (2) ~~an existing controller becoming or ceasing to be a parent undertaking.~~
- 11.4.5 G ~~If there is uncertainty whether a particular relationship constitutes control, it may be appropriate for the firm or controller or proposed controller to ask the FSA for individual guidance (see *SUP 9*) and to obtain its own legal advice. For example, if the control is to be held through a trust, then certain trustees, beneficiaries and other parties may qualify as controllers for the purposes of the Act and this chapter. Furthermore, a person may qualify as a controller if he is able to exercise 10%. (20% if the firm is a UK insurance intermediary) or more of the voting power at a firm's general meeting as a result of the ability to exercise proxy votes. [deleted]~~

...

Content and timing of the notification

- 11.4.7 R The notification by a firm under *SUP 11.4.2R*, *SUP 11.4.2AR* or *SUP 11.4.4R* must:
- ...
- (3) be made:
- (a) as soon as the firm becomes aware that a person is proposing to take a step that would result in the event concerned, whether alone or acting in concert, has decided to acquire control or to increase or reduce control; or
 - (b) if the event change in control takes place without the knowledge of the firm, within 14 days of the firm becoming aware of the

change in *control* concerned.

11.4.8 G *Principle 11* requires *firms* to be open and cooperative with the *FSA*. A *firm* should discuss with the *FSA*, at the earliest opportunity, any prospective changes of which it is aware, in ~~*controllers'*~~ *a controller's* or proposed ~~*controllers'*~~ *controller's* shareholdings or *voting power* (if the change is material). These discussions may take place before the formal notification requirement in *SUP 11.4.2R*, *SUP 11.4.2AR* or *SUP 11.4.4R* arises. (See also *SUP 11.3.2G*). As a minimum, the *FSA* considers that such discussions should take place before a *person*:

- (1) enters into any formal agreement in respect of the purchase of shares or a proposed acquisition or merger which would result in a change in *control* (whether or not the agreement is conditional upon any matter, including the *FSA's* approval); or
- (2) purchases any *share options*, *warrants* or other financial instruments, the exercise of which would result in the *person* acquiring *control* or any other change in *control*.

11.4.9 G The ~~obligation~~ obligations in *SUP 11.4.2R* and *SUP 11.4.2AR(1)* ~~and *SUP 11.4.2AR(2)*~~ applies apply whether or not the *controller* himself has given or intends to give a notification, in accordance with his obligations under the *Act*.

...

11.5 ~~Form of notification~~ Notifications by firms

11.5.1 R Information to be submitted by the firm (see *SUP 11.4.7R(2)(a)*)

(1)	The name of the <i>firm</i> ;
(2)	the name of the <i>controller</i> or proposed <i>controller</i> and, if it is a <i>body corporate</i> and is not an <i>authorised person</i> , the names of its <i>directors</i> and its <i>controllers</i> ;
(3)	a description of the proposed event including the shareholding and <i>voting power</i> of the <i>person</i> concerned, both before and after the proposed event <u>change in control</u> ; and
(4)	any other information of which the <i>FSA</i> would reasonably expect notice, including information which could have a material impact on any of the approval requirements in section 186(2) of the Act (see <i>SUP 11.7.5 G</i>) and any relevant supporting documentation.

...

11.5.3 G ~~In determining what the *FSA* would reasonably expect notice of in accordance with row (4) in *SUP 11.5.1R*, a *firm* should have regard, in particular, to the following matters to the extent that the *firm* is aware of them:~~

- (1) ~~whether the *controller* intends to make any significant changes to the *firm's* or *firms' regulated activities*, business plan or strategy as a result of the change in *control*;~~
- (2) ~~whether the *controller* intends any restructuring either in terms of the legal form of the *firm(s)* or in its or their borrowings, capital restructuring or financing arrangements;~~
- (3) ~~whether the *FSA* is obliged to consult with regulatory authorities in other *EEA States* (see *SUP 11.3.14G*);~~
- (4) ~~in the case of a share acquisition or similar, how it is to be financed;~~
- (5) ~~whether the *controller* has any interests which may conflict with its role as *controller* of the *UK domestic firm*.~~

~~*Firms* are also reminded of the circumstances set out in *SUP 15.3.8G* (Communication with the *FSA* in accordance with Principle 11) which may arise on a change in *control* and which should also be notified. [deleted]~~

...

- 11.5.5 G ~~If a *controller* proposes any significant changes to the *firm*, for instance to its *regulated activities*, business plan or strategy, the *firm* may be requested to provide a business plan (see *SUP 2: Information gathering by the FSA on its own initiative*). If an *insurer* comes under the *control* of a new *parent undertaking*, such a business plan would be a *scheme of operations* in accordance with *SUP App 2*. [deleted]~~
- 11.5.6 G ~~The *FSA* may request the *firm* to provide additional information (see *SUP 2* (Information gathering by the *FSA* on its own initiative)). In determining any additional information requirements, the *FSA* will have regard to the supervision being exercised over the *firm* by any *overseas regulators*. [deleted]~~

...

Joint and shared notifications

- 11.5.8 G A *firm* and its *controller* or proposed *controller* may discharge an obligation to notify the *FSA* by submitting a single joint ~~notification~~ section 178 notice containing the information required from the *firm* and the *controller* or proposed *controller*. In this case, the ~~relevant controllers form~~ section 178 notice may be used to ~~submit a notification~~ on behalf of both the *firm* and the *controller* or proposed *controller*.
- 11.5.9 G If a *person* is proposing a change in *control* over more than one *firm* within a *group*, then the *controller* or proposed *controller* may submit a single ~~notification~~ section 178 notice in respect of all those *firms*. The ~~notification~~ section 178 notice should contain all the required information as if separate notifications had been made, but information and documentation need not be duplicated.

11.5.10 G When an event occurs (for example, a *group* restructuring or a merger) as a result of which:

- (1) more than one *firm* in a *group* would undergo a change in *control*; or
- (2) a single *firm* would experience more than one change in *control*;

then, to avoid duplication of documentation, all the *firms* and their *controllers* or proposed *controllers* may discharge their respective obligations to notify the *FSA* by submitting a single ~~notification~~ section 178 notice containing one set of information.

11.6 Subsequent notification requirements by firms

Changes in the information provided to the *FSA*

...

11.6.2 R After submitting ~~a notification~~ a section 178 notice under *SUP* 11.4.2R or *SUP* ~~11.4.2AR(1) and SUP 11.4.2AR(2)~~ SUP 11.4.2AR and until the change in *control* occurs (or is no longer to take place), *SUP* 15.6.4R and *SUP* 15.6.5R apply to a *UK domestic firm* in relation to any information its *controller* or proposed *controller* provided to the *FSA* under *SUP* 11.5.1R or *SUP* 11.3.7D .

...

11.6.6 G ~~A notification under SUP 11.6.4R may be given jointly with the notification of the controller under SUP 11.3.16G. [deleted]~~

11.7 Acquisition or increase of control: assessment approval procedures process and criteria

11.7.1 G ~~The assessment approval procedures are summarised in SUP 11 Annex 3 process and the assessment criteria are set out in sections 185 to 191 of the Act.~~

~~Approval with or without conditions~~

11.7.2 G ~~If the *FSA* decides to approve a proposed acquisition or increase of *control* unconditionally, it must give an 'approval notice' without delay (section 184(1) of the Act). Section 191A deals with the procedure the *FSA* must follow where there has been a failure to notify or a default.~~

11.7.3 G ~~Alternatively, the *FSA* may decide to approve the proposed acquisition or increase of *control* subject to such conditions as it considers appropriate, having regard to the *FSA's* duty to ensure that the *firm* concerned will satisfy, and continue to satisfy, the *threshold conditions* (section 185 of the Act). The *FSA* may serve *restriction notices* in certain circumstances in accordance with~~

section 191B of the Act.

- (1) If the *FSA* proposes to approve subject to conditions, it must give a *warning notice*.
- (2) If the *FSA* decides to proceed to approve subject to conditions, it must give a *decision notice*.

- 11.7.4 G A notice which approves a change of control (with or without conditions) is effective only for a limited period as set out in the notice (or, if no such period is specified, for one year) (section 184(3) of the *Act*). An approved change in *control* may not therefore take place after the end of this period. The *FSA* may apply to the court for an order for the sale of *shares* in accordance with section 191C of the *Act*.

~~Approval requirements and objection~~

- 11.7.5 G The *FSA* may object to a proposed acquisition or increase of *control* unless it is satisfied that the approval requirements are met (section 186 of the *Act*). These are that:

- (1) the acquirer is a fit and proper *person* to have the *control* over the *firm* that he has or would have if he acquired the *control* in question; and
- (2) the interests of *consumers* would not be threatened by the acquirer's *control* or by his acquiring that *control*. ~~[deleted]~~

- 11.7.6 G In deciding whether the approval requirements are met, the *FSA* must have regard, in relation to the *control* that the acquirer:

- (1) has over the *firm*; or
- (2) will have over the *firm* if the proposal to which the notification relates is carried out;

~~to the *FSA*'s duty to ensure that the *firm* will satisfy, and continue to satisfy, the *threshold conditions* (section 186(3) of the *Act*). [deleted]~~

- 11.7.7 G (1) If the *FSA* proposes to object, it must issue a *warning notice*.
- (2) If the *FSA* decides to proceed with its proposed objection, it must issue a *decision notice*.
- (3) If the *FSA* considers that the approval requirements would be met if a particular step were taken or not taken, the *decision notice* must identify that step (section 186(4) of the *Act*). ~~[deleted]~~

- 11.7.8 G The *FSA* may also object if it has not received sufficient information from either the *controller* or the *firm* to satisfy itself that the approval requirements are met. ~~[deleted]~~

~~Warning notices and decision notices~~

- 11.7.9 G ~~The procedure followed by the FSA in relation to the giving of *warning notices* and *decision notices* is set out in *DEPP 2*. [deleted]~~

The FSA's timeframe for responding to a notification

- 11.7.10 G ~~If the FSA receives a valid notification from a *controller* or proposed *controller*, the FSA must respond within three *months* (section 183(1) of the *Act*). The response from the FSA will be either an approval notice or a *warning notice*. [deleted]~~

- 11.7.11 G (1) ~~Where the FSA becomes aware of a possible breach by the *controller* or proposed *controller* of his obligations under section 178(1) or (2) of the *Act* (Obligation to notify the Authority), it may require the *person* concerned to provide additional information or *documents* (section 188(4) of the *Act*).~~

- (2) ~~If the FSA is satisfied that a breach has occurred, but is not satisfied that the approval requirements are met, the FSA may give a *warning notice* to the *controller* or proposed *controller* (section 187(1) and 188(1) of the *Act*).~~

- (3) ~~Alternatively, the FSA may retrospectively approve the change in *control* as if a notification had been received from the *controller* or proposed *controller* (section 187(2) of the *Act*). [deleted]~~

- 11.7.12 G ~~If the FSA does not receive a notification from the *controller* or proposed *controller* and proposes to give a *warning notice*, it must do so within three *months* of the date on which it became aware that the *controller* or proposed *controller* had failed to comply with his duty to notify (section 188(3) of the *Act*). [deleted]~~

- 11.7.13 G ~~Before making a determination under section 185 or giving an approval notice or a *warning notice* under section 191A, the FSA must comply with the certain requirements as to consultation with EC competent authorities set out in section 188 of the Act, outside the *United Kingdom* (sections 183(2) and 188(2) of the *Act* and the Financial Services and Markets Act 2000 (Consultation with Competent Authorities) Regulations 2001). The *Financial Groups Directive* Regulations make special provision in relation to (the change in *control* over a *UK* authorised person (within the meaning of section 178(4) of the *Act*) which is a member of a *third country group*.~~

The FSA's right to object to existing controllers

- 11.7.14 G ~~If a *controller* fails to give a notification under section 178 of the *Act* on acquiring or increasing *control*, and the FSA is not satisfied that the approval requirements are met, the FSA may propose to object to the *controller* by giving him a *warning notice* (sections 187(1) and 188(1) of the *Act*). [deleted]~~

- 11.7.15 G ~~The FSA may propose to object to a *controller* by giving him a *warning notice* at any time if it becomes aware of matters as a result of which it is satisfied~~

that:

- (1) ~~the approval requirements are not met with respect to the *controller*; or~~
- (2) ~~a condition attached to an approval required the *controller* to do (or refrain from doing) a particular thing and that condition has been breached by the *controller* (sections 187(3) and 188(1) of the *Act*).
[deleted]~~

11.7.16 G ~~If the *FSA* gives a *warning notice* as described in *SUP 11.7.14 G* or *SUP 11.7.15 G*, section 188 of the *Act* sets out various requirements as to timetable, consultation and provision of information. [deleted]~~

11.7.17 G ~~Following a *warning notice* as described in *SUP 11.7.14 G* or *SUP 11.7.15 G*, the *FSA* may decide to object to the *controller* and give him a *decision notice*. If the *FSA* does so, or if a conditional approval has been contravened, it may impose restrictions on some or all of the *controller's* shares by notice in writing or apply to the court for an order that the *controller* dispose of them (section 189 of the *Act*). [deleted]~~

11.7.18 G ~~If it appears to the *FSA* that the likely effect of an acquisition of *control* on a *firm*, or on any of its activities, is uncertain, the *FSA* may, in accordance with section 46 of the *Act* (Variation of permission on acquisition of control), vary the *firm's Part IV permission* by:~~

- (1) ~~imposing a *requirement* (see *SUP 7: Individual requirements*); or~~
- (2) ~~varying an existing *requirement*.~~

~~The *warning notice* and *decision notice* procedure does not apply to action taken under section 46 of the *Act*, but the *FSA* will operate a procedure that is fair in the circumstances. [deleted]~~

11 Annex 1G: Summary of notifications required in this chapter

Event triggering a notification	Requirement	reference
	When	How
Notifications from a <i>controller</i> or proposed <i>controller</i> of a <i>UK domestic firm</i> other than a <i>UK insurance intermediary non-directive firm</i>		
1. A When a person proposing <u>decides to become a controller or an existing controller proposing to increase his level of control</u> decides to increase control	SUP 11.3.2G SUP 11.3.6G	SUP 11.3.7D to SUP 11.3.14G
2. An When an existing controller proposing to reduce his control <u>decides to reduce control or to cease to have control</u>	SUP 11.3.2G SUP 11.3.6G	SUP 11.3.15G SUP 11.3.15AD
3. When a change in control actually takes place	SUP 11.3.16G	SUP 11.3.16G
Notifications from a <i>controller</i> or proposed <i>potential controller</i> of a <i>UK insurance intermediary non-directive firm</i>		
1. A person proposing to become a controller <u>When a potential controller of a non-directive firm ("A") decides to acquire (a) 20% or more of the shares in A or in a parent undertaking of A ("P"); (b) 20% or more of the voting power in A or P; or (c) shares or voting power in A or P as a result of which the potential controller will be able to exercise significant influence over the management of A</u>	SUP 11.3.2G SUP 11.3.2AG(3)	SUP 11.3.7D to SUP 11.3.14G
2. An When an existing controller proposing to reduce his control <u>decides to reduce control over A in a manner which will result in the controller failing to fall in any of the cases described in 1 above</u>	SUP 11.3.2G SUP 11.3.6G SUP 11.3.2AG(3)	SUP 11.3.15G SUP 11.3.15AD
3. When a change in control actually takes place	SUP 11.3.16G	SUP 11.3.16G
Notifications from a <i>UK domestic firm</i> other than a <i>UK insurance intermediary non-directive firm</i> relating to a change in control		
1. When a <i>firm</i> becomes aware of a <i>person</i> proposing to become a <i>controller</i> or an existing <i>controller</i> proposing to increase his level of control <u>increase his control over the firm</u>	SUP 11.4.2R SUP 11.4.7R SUP 11.4.8G	SUP 11.5.1R SUP 11.5.1AG SUP 11.5.2R SUP 11.5.3G SUP 15.7
2. When a <i>firm</i> becomes aware that an existing <i>controller</i> is proposing to reduce his level of control over the firm <u>or is proposing to cease to be a controller of the firm</u>	SUP 11.4.2R SUP 11.4.7R SUP 11.4.8G	SUP 11.5.7R SUP 15.7
3. When a <i>firm</i> becomes aware of any material inaccuracies, omissions or changes in information previously provided to the <i>FSA</i> either by the <i>firm</i> or by the <i>controller</i>	SUP 11.6.1G SUP 11.6.2R	SUP 15.7

4.	When a change in <i>control</i> actually takes place or, although a notification has been submitted, is not, after all, going to take place	SUP 11.6.4R SUP 11.6.5R	SUP 15.7
Notification from a UK insurance intermediary non-directive firm relating to a change in control			
1.	When a <i>firm</i> becomes aware that a person ("A") is becoming or ceasing to be a controller or parent undertaking <u>acquiring (a) 20% or more of the shares in the firm ("B") or in a parent undertaking of B ("P"); (b) 20% or more of the voting power in B or P; or (c) shares or voting power in B or P as a result of which the controller is able to exercise significant influence over the management of B</u>	SUP 11.4.2AR SUP 11.4.7R SUP 11.4.8G	SUP 11.5.1R SUP 11.5.2R SUP 11.5.3G
2.	When a firm becomes aware of any material inaccuracies omissions or changes in information previously provided to the FSA either by the firm or by the controller <u>When a firm becomes aware that A is ceasing to fall in any of the cases described in 1 above</u>	SUP 11.6.1G SUP 11.6.2R SUP 11.4.2R SUP 11.4.7R SUP 11.4.8G	SUP 15.7 SUP 11.5.7R SUP 15.7
3.	When a change in control actually takes place or, although a notification has been submitted, is not, after all, going to take place <u>When a firm becomes aware of any material inaccuracies omissions or changes in information previously provided to the FSA either by the firm or by the controller</u>	SUP 11.6.4R SUP 11.6.5R SUP 11.6.1G SUP 11.6.2R	SUP 15.7
4.	When a change in control actually takes place or, although a notification has been submitted, is not, after all, going to take place	SUP 11.6.4R SUP 11.6.5R	SUP 15.7
Notifications from an overseas firm relating to a change in control			
1.	When a <i>firm</i> becomes aware that a person is becoming or ceasing to become <u>becomes a controller or parent undertaking of the firm, increases or reduces his control over the firm or ceases to be have control over the firm</u>	SUP 11.4.4R SUP 11.4.7R SUP 11.4.8G	SUP 11.5.1R SUP 11.5.2R SUP 11.5.3G SUP 15.7
2.	When a <i>firm</i> becomes aware of any material inaccuracies, omissions or changes in information previously provided to the <i>FSA</i> by the <i>firm</i>	SUP 11.6.1G	SUP 15.7
3.	When a change in <i>control</i> actually takes place or, although a notification has been submitted, is not, after all, going to take place	SUP 11.6.4R SUP 11.6.5R	SUP 15.7
Other ongoing notifications from a firm (UK domestic or overseas)			
1.	When a <i>firm</i> becomes aware of a change in the circumstances of an existing <i>controller</i>	SUP 11.8.1R to SUP 11.8.4G	SUP 15.7
2.	When a <i>firm</i> becomes aware that it has become or ceased to be <i>closely linked</i> with any person	SUP 11.9.1R	SUP 15.7

11 Annex 2G: Guidance on events requiring approval

Delete Annex 2 of SUP 11. The deleted text is not shown.

11 Annex 3G: Summary of procedures on a notification of a change in control

Delete Annex 3 of SUP 11. The deleted text is not shown.

16.4 Annual controllers report

Application

...

16.4.2 G This section may be of relevance to a *directive friendly society*:

...

(3) ...; or

where a member or delegate, whether alone or ~~with any associate~~ acting in concert, is entitled to exercise, or control the exercise of, 10% or more of the total voting power.

16.4.2A G This section may be of relevance to *non-directive firms*.

...

Purpose

16.4.4 G A *firm* and its *controllers* are required to notify certain changes in *control* (See SUP 11 (*Controllers* and close links)). The purpose of the *rules and guidance* in this section is:

(1) to ensure that, in addition to such notifications, the FSA receives regular and comprehensive information about the identities of all of the *controllers* of a *firm*, which is relevant to a *firm's* continuing to satisfy the *threshold conditions* (see COND 2.3) ~~and to the protection of consumers~~;

(2) ...

(3) to support the FSA's functions under Part XII of the *Act* (Notices of acquisitions of ~~€~~control over UK authorised persons) (see SUP 11 (*Controllers* and close links)).

Reporting requirement

16.4.5 R ...

- (3) If a *firm* is not aware:
- (a) ...
 - (b) ...
 - (c) of any changes in the percentage of shares or *voting power* in the *firm* held by any *controllers* (alone or ~~with any associate~~ acting in concert) since the submission of its previous report;

then the report in (1) must confirm this.

- (4) Unless (3) applies, the report in (1) must contain a list of all the *controllers* as at the *firm's accounting reference date* of which it is aware and, for each such *controller*, state:

- (a) ...
- (b) the percentage of voting power in the *firm*, or in the *firm's parent undertaking*, which it is entitled to exercise or control the exercise of, whether alone or ~~with any associate~~ acting in concert;
- (c) the percentage of shares in the *firm*, or in the *firm's parent undertaking*, which it holds, whether alone or ~~with any associate~~ acting in concert;

...

- (5) ~~In this section, 'associate' and 'shares' have the meanings given in the definition of *controller*. [deleted]~~

...

Exceptions: friendly societies and building societies

...

- 16.4.11 R In *SUP* 16.4.5R and *SUP* 16.4.10R, a *building society* may regard a *person* as not being a *controller* if that *person* is exempt from the obligation to notify a change in *control* under The Financial Services and Markets Act 2000 (Controllers) (Exemption) (~~No.2~~) Order 2001 2009 (SI 2001/3338 2009/774) (see *SUP* 11.3.2AG(2)).

Annex C

Amendments to the Decisions Procedure and Penalties Manual (DEPP)

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

2 Annex 1G Statutory notices and the allocation of decision making

Warning notices and decision notices under the Act and certain other enactments

Section of the Act	Description	Handbook reference	Decision maker
...			
183(3)/186(1) <u>189(4)/(7)</u>	when the <i>FSA</i> is proposing or deciding to object to a change in <i>control</i> following receipt of a notice of control <u>section 178 notice</u>	<i>SUP 11</i>	<i>Executive procedures</i>
185(3)/(4) <u>189(4)/(7)</u>	when the <i>FSA</i> is proposing or deciding to approve a change in control following receipt of a notice of control but subject to conditions <u>approve a change in control with conditions,</u> following receipt of a <u>section 178 notice</u>	<i>SUP 11</i>	<i>Executive procedures</i>
187(1)/(3) and 188(1) <u>191A(4)/(6)</u>	when the <i>FSA</i> is proposing or deciding to object to a <i>person</i> who has failed to submit a notice of control or a notice on acquiring, or increasing, control, or to object to an existing controller <u>acquired or increased control without giving a section 178 notice</u>	<i>SUP 11</i>	<i>Executive procedures</i>
<u>191A(4)/(6)</u>	when the <i>FSA</i> is proposing or <u>deciding to object to a person's control on the basis of the matters in section 186</u>	<u><i>SUP 11</i></u>	<u><i>Executive procedures</i></u>
<u>191A(4)/(6)</u>	<u>when the <i>FSA</i> is proposing or</u>	<u><i>SUP 11</i></u>	<u><i>Executive</i></u>

	<u>deciding to object to a <i>person's control</i> on the grounds that he is in breach of a condition imposed under section 187</u>		<u><i>procedures</i></u>
...			
301C(5)/(7) 301G(3)(b)/(5)	when the <i>FSA</i> is proposing or deciding to object to a change in control <u>proposed acquisition of a <i>UK RIE</i> following receipt of a section 301A notice of control.</u>	<i>REC 4.2C</i>	<i>Executive procedures</i>
301D(1)/(4) 301I(3)/(4)	when the <i>FSA</i> is not satisfied that the approval requirement is met, it may give a decision notice (which must be preceded by a warning notice) to a <i>person</i> who has failed to comply with a duty to notify imposed by section 301A <u>proposing or deciding to object to a <i>person</i> who has acquired or increased <i>control</i> in a <i>UK RIE</i> without giving a section 301 notice</u>	<i>REC 4.2C</i>	<i>Executive procedures</i>
301D(3)/(4) 301I(3)/(4)	when the <i>FSA</i> becomes aware of matters as a result of which it is satisfied that the approval requirement is not met with respect to a <i>person</i> who is a <i>controller</i> of a <i>recognised investment exchange</i> , it may give a decision notice (which must be preceded by a warning notice) to the <i>controller</i> <u>is proposing or deciding to object to a <i>person's control</i> in a <i>UK RIE</i> on the basis of the approval requirement in section 301F(4)</u>	<i>REC 4.2C</i>	<i>Executive procedures</i>

Annex D

**Amendments to the Recognised Investment Exchanges and
Recognised Clearing Houses sourcebook (REC)**

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

4 Supervision

...

4.2C Control over a UK RIE

- 4.2C.1 G ~~Chapter~~ Section 301A(1) of chapter 1A of Part XVIII of the Act places an obligation on ~~controllers and proposed controllers of UK RIEs~~ a person who decides to acquire or increase control (see sections 301D and 301E of the Act) over a UK RIE to notify the FSA, before making the acquisition of acquisitions of or increases in control. Furthermore, those *persons* are required to obtain the FSA's approval before ~~becoming a controller~~ acquiring control or increasing the level of control held (~~in certain circumstances~~).
- 4.2C.2 G The FSA will approve an acquisition of or an increase in control if it is satisfied that the acquisition of ~~control~~ by the *person* seeking approval does not pose a threat to the sound and prudent management of any financial market operated by the *UK RIE* (see section 301F(4) of the Act).
- 4.2C.3 G If a proposed ~~controller acquirer or controller~~ has complied with the obligation to notify, the procedure the *FSA* will follow if it approves or does not approve of that *person* becoming a controller acquiring or increasing the level of control held increasing control is set out in sections ~~301C~~ 301F and 301G of the *Act*.
- 4.2C.4 G ~~If a controller or proposed controller has not complied with the duty to notify, the procedure the FSA will follow if it approves or does not approve of that person becoming a controller or increasing the level of control held is set out in section 301D of the Act. [deleted]~~
- 4.2C.5 G ~~If the FSA becomes aware of matters as a result of which it is satisfied that the criterion set out in REC 4.2C.2 G is not met, the procedure it will follow is set out in criterion 301D of the Act. [deleted]~~
- 4.2C.6 G The *FSA*'s internal arrangements provide for any decisions to refuse to approve an change of control of acquisition or object to an existing control to be taken at an appropriately senior level.
- 4.2C.7 G If the *FSA* refuses to approve an change of acquisition control or objects to an existing control, the *person* concerned may refer the matter to the *Tribunal* (see *EG* 2.39).

- 4.2C.8 G The powers the FSA can exercise in the event that a *person* acquires or continues to exercise control notwithstanding the *FSA*'s refusal to approve the acquisition of control or the *FSA*'s objection to the exercise of control are set out in sections ~~301E~~ 301J and 301K of the *Act*.
- 4.2C.9 G The offences for which a *person* who fails to comply with the obligations set out in Chapter 1A of Part XVIII of the *Act* is liable are set out in section ~~301F~~ 301L of the *Act*.