

**CONSEQUENTIAL AMENDMENTS (FINANCIAL SERVICES ACT 2010)  
INSTRUMENT 2010**

**Powers exercised**

- A. The Financial Services Authority makes this instrument in the exercise of:
- (1) the following powers and related provisions in the Financial Services and Markets Act 2000 (“the Act”):
    - (a) section 138 (General rule-making power);
    - (b) section 156 (General supplementary powers);
    - (c) section 157(1) (Guidance); and
  - (2) the other powers and related provisions listed in Schedule 4 (Powers exercised) to the General Provisions of the Handbook.
- B. The rule-making powers referred to above are specified for the purpose of section 153(2) (Rule-making instruments) of the Act.

**Commencement**

- C. This instrument comes into force on 6 August 2010.

**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
Principles for Businesses (PRIN)	Annex B
Senior Management Arrangements, Systems and Controls sourcebook (SYSC)	Annex C
Threshold Conditions (COND)	Annex D
Prudential sourcebook for Banks, Building Societies and Investment Firms (BIPRU)	Annex E
Prudential sourcebook for Insurers (INSPRU)	Annex F
Prudential sourcebook for UCITS Firms (UPRU)	Annex G
Supervision manual (SUP)	Annex H
Compensation sourcebook (COMP)	Annex I
Credit Unions sourcebook (CRED)	Annex J
Electronic Money sourcebook (ELM)	Annex K
Professional Firms sourcebook (PROF)	Annex L
Recognised Investment Exchanges and Recognised Clearing Houses sourcebook (REC)	Annex M

**Citation**

- E. This instrument may be cited as the Consequential Amendments (Financial Services Act 2010) Instrument 2010.

By order of the Board  
22 July 2010

## Annex A

### Amendments to the Glossary of definitions

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

<i>consumer</i>	<p>(1) ...</p> <p>(2) (in relation to the <i>FSA's</i> power to make general <i>rules</i> (section 138 of the <i>Act</i> (General rule-making power))), the approval requirements for <i>controllers</i> (section 186 of the <i>Act</i> (Objection to acquisition of control)), the publication of notices (section 391 of the <i>Act</i> (Publication)) and the exercise of <i>Treaty rights</i> (Schedule 4 to the <i>Act</i> (Treaty rights)) <del>(as defined in section 138(7) of the <i>Act</i> (General rule-making power))</del> a <i>person</i>:</p> <p style="text-align: center;">...</p>
<i>prudential context</i>	<p>in relation to activities carried on by a <i>firm</i>, the context in which the activities have, or might reasonably be regarded as likely to have, a negative effect on:</p> <p>(a) confidence in the <u>UK financial system</u>; or</p> <p style="text-align: center;">...</p>
<i>regulatory objectives</i>	<p>(as described in sections 2(2) and 3 to 6 of the <i>Act</i>)</p> <p>(a) market confidence;</p> <p>(b) public awareness;</p> <p>(c) the protection of <i>consumers</i>; <del>and</del></p> <p>(d) the reduction of <i>financial crime</i>; <u>and</u></p> <p>(e) <u>financial stability</u>.</p>

**Annex B**

**Amendments to the Principles for Businesses (PRIN)**

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

1.1.6 G As set out in *PRIN 3.3* (Where?), *Principles 1* (Integrity), *2* (Skill, care and diligence) and *3* (Management and control) apply to world-wide activities in a *prudential context*. *Principle 5* (Market conduct) applies to world-wide activities which might have a negative effect on confidence in the UK financial system ~~operating in the United Kingdom~~. In considering whether to take regulatory action under these *Principles* in relation to activities carried on outside the *United Kingdom*, the *FSA* will take into account the standards expected in the market in which the *firm* is operating. *Principle 11* (Relations with regulators) applies to world-wide activities; in considering whether to take regulatory action under *Principle 11* in relation to cooperation with an overseas regulator, the *FSA* will have regard to the extent of, and limits to, the duties owed by the *firm* to that regulator. (*Principle 4* (Financial prudence) also applies to world-wide activities.)

...

3.3.1 R Territorial application of the Principles

Principle	Territorial application
...	
<i>Principle 5</i>	if the activities have, or might reasonably be regarded as likely to have, a negative effect on confidence in the <u>UK financial system</u> <del>operating in the United Kingdom</del> , applies with respect to activities wherever they are carried on; otherwise, applies with respect to activities carried on from an establishment maintained by the <i>firm</i> (or its <i>appointed representative</i> ) in the <i>United Kingdom</i> .
...	

## Annex C

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

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

- 3.2.11 G (1) ...
- (2) Risks of regulatory concern are those risks which relate to the fair treatment of the *firm's customers*, to the protection of *consumers*, to confidence in the UK financial system, ~~and~~ to the use of that system in connection with *financial crime*, and to financial stability.
- ...
- 14.1.4 G The purpose of this section is to serve the *FSA's regulatory objectives* of consumer protection, ~~and~~ market confidence and financial stability. In particular, this section aims to reduce the risk that a *firm* may pose a threat to these *regulatory objectives*, either because it is not prudently managed, or because it has inadequate systems to permit appropriate senior management oversight and control of its business.
- ...
- 14.1.51 G SYSC 3.2.20R requires a *firm* to take reasonable care to make and retain adequate records. The following policy on record keeping supplements SYSC 3.2.20R by providing some additional *rules* and *guidance* on record keeping in a *prudential context*. The purpose of this policy is to:
- (1) ...
- (2) help the *FSA* to satisfy itself that a *firm* is operating in a prudent manner and is not prejudicing the interests of its *customers*, ~~or~~ market confidence or financial stability.
- ...
- 15.1.5 G Credit risk concerns the *FSA* in a *prudential context* because inadequate systems and controls for credit risk management can create a threat to the *regulatory objectives* of market confidence, ~~and~~ consumer protection and financial stability by:
- ...
- ...
- 17.1.4 G Insurance risk concerns the *FSA* in a *prudential context* because inadequate systems and controls for its management can create a threat to the *regulatory objectives* of market confidence, ~~and~~ consumer protection and financial

stability. Inadequately managed insurance risk may result in:

...

## Annex D

### Amendments to the Threshold Conditions (COND)

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

- 2.5.7 G In determining whether a *firm* will satisfy and continue to satisfy *threshold condition 5* in respect of having competent and prudent management and exercising due skill, care and diligence, relevant matters, as referred to in *COND 2.5.4G(2)*, may include, but are not limited to whether:
- ...
- (2) if appropriate, the *governing body* of the *firm* includes non-executive representation, at a level which is appropriate for the control of the *regulated activities* proposed, for example, as members of an audit committee (~~see *COND 3.2.15G (Audit Committee)*~~);
- ...
- (9) the *firm* has conducted enquiries (for example, through market research or the previous activities of the *firm*) that are sufficient to give it reasonable assurance that it will not be posing unacceptable risks to *consumers* or the *UK financial system*;
- ...

## Annex E

**Amendments to the Prudential sourcebook for Banks, Building Societies and  
Investment Firms (BIPRU)**

In this Annex, underlining indicates new text.

- 12.3.9 G As part of the *SLRP*, the *FSA* will assess the appropriateness of the *liquidity risk* tolerance adopted by an *ILAS BIPRU firm* to ensure that this risk tolerance is consistent with maintenance by the *firm* of adequate liquidity resources for the purpose of the *overall liquidity adequacy rule*. The *FSA* will expect a *firm* to provide it with an adequately reasoned explanation for the level of *liquidity risk* which that *firm's governing body* has decided it should assume. In assessing the appropriateness of the *liquidity risk* tolerance adopted by a *firm*, the *FSA* will consider whether the tolerance adopted is consistent with the *firm's* satisfaction of *threshold condition 5 (COND 2.5.7G(6))*. Consistent with the *FSA's* statutory objectives under the *Act*, in assessing the appropriateness of a *firm's* adopted *liquidity risk* tolerance the *FSA* will also have regard to the role and importance of a *firm* in the *UK financial system*.
- ...
- 12.4.3 G Consistent with *BIPRU 12.3.5R*, the *FSA* expects that the extent and frequency of such testing, as well as the degree of regularity of *governing body* review under *BIPRU 12.4.2R*, should be proportionate to the nature scale and complexity of a *firm's* activities, as well as to the size of its liquidity risk exposures. Consistent with the *FSA's* statutory objectives under the *Act*, in assessing the adequacy of a *firm's* stress testing arrangements (including their frequency and the regularity of *governing body* review) the *FSA* will also have regard to the role and importance of that *firm* in the *UK financial system*. The *FSA* will, however, expect stress testing and *governing body* review to be carried out no less frequently than annually. The *FSA* expects that a *firm* will build into its stress testing arrangements the capability to increase the frequency of those tests in special circumstances, such as in volatile market conditions or where requested by the *FSA*.
- ...
- 12.8.5 G This section represents merely an indication of the matters to which the *FSA* will have regard in considering an application for a *whole-firm liquidity modification* or an *intra-group liquidity modification*. In considering such an application, the *FSA* will always take into account anything that it reasonably considers to be relevant for the purposes of assessing whether the statutory tests in section 148 of the *Act* are met. In doing so, it will have regard to the role and importance of a *firm* or *UK branch* in the *UK financial system*.
- ...



12.8.12 G In determining the appropriate duration of an *intra-group liquidity modification*, the *FSA* will have regard to the role and importance of the *firm* in question in the *UK financial system*. In some cases, the *FSA* may take the view that an *intra-group liquidity modification* covering a *firm* whose role and importance in the *UK financial system* are significant ought to be reviewed more regularly than one granted in respect of a less systemically significant *firm*. The *FSA* will consider this issue in determining the appropriate duration of such a modification.

...

12.8.30 G In determining the appropriate duration of a *whole-firm liquidity modification*, the *FSA* will have regard to the role and importance of the *UK branch* in question in the *UK financial system*. In some cases, the *FSA* may take the view that a *whole-firm liquidity modification*, covering a *UK branch* whose role and importance in the *UK financial system* are significant, ought to be reviewed more regularly than one granted in respect of a less systemically significant *branch*. ...

**Annex F****Amendments to the Prudential sourcebook for Insurers (INSPRU)**

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

- 5.1.4 G Operational risk concerns the *FSA* in a *prudential context* because inappropriate management of operational risk can adversely affect the solvency or business continuity of a *firm*, threatening the *regulatory objectives* of market confidence, ~~and~~ consumer protection and financial stability.

## Annex G

### Amendments to the Prudential sourcebook for UCITS Firms (UPRU)

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

- 1.2.1 G (1) The purpose of this sourcebook is to amplify *Principle 4* (Financial prudence) which requires a *firm* to maintain adequate financial resources to meet its *designated investment business* commitments and to withstand the risks to which its business is subject. This assists in the achievement of the *regulatory objectives* of consumer protection, ~~and~~ market confidence and financial stability.

...

## Annex H

### Amendments to the Supervision manual (SUP)

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

- 1.1.3 G The design of these arrangements is shaped by the *regulatory objectives*. These are set out in section 2 of the *Act* (The Authority's general duties) and are:
- (1) maintaining confidence in the UK financial system;
  - (1A) contributing to the protection and enhancement of the stability of the UK financial system;
  - (2) promoting public understanding of the UK financial system;
  - ...
- ...
- 1.3.3 G The impact of a *firm* is assessed by reference to a range of factors derived from the *regulatory objectives*, including:
- (1) ...
  - (1A) the extent to which the *firm* may pose risks to the stability of the UK financial system;
  - ...
- ...
- 2.1.3 G Achieving the *regulatory objectives* involves the *FSA* informing itself of developments in *firms* and in markets. The *Act* requires the *FSA* to monitor a *firm's* compliance with requirements imposed by or under the *Act* (paragraph 6 (1) of Schedule 1). The *Act* also requires the *FSA* to take certain steps to cooperate with other relevant bodies and regulators (section 354). For these purposes, the *FSA* needs to have access to a broad range of information about a *firm's* business.
- ...
- 2.1.5 G Part XI of the *Act* (Information Gathering and Investigations) gives the *FSA* statutory powers, including:
- (1) to require the provision of information (see ~~section~~ sections 165, 165A, and EG 3 and FINMAR 1);
  - ...

...

2.3.12 G In complying with *Principle 11*, the *FSA* considers that a *firm* should cooperate with it in providing information for other regulators. ~~Section~~ Sections 169 of the Act (Investigations etc. in support of overseas regulator) and 169A (Support of overseas regulator with respect to financial stability) of the Act ~~gives~~ give the *FSA* certain statutory powers to obtain information and appoint investigators for *overseas regulators* if required (see *DEPP 7*, ~~and~~ *EG 3* and *FINMAR 1*).

...

6.3.28 G (1) The *FSA* is required by section 41(2) of the *Act* to ensure that a *firm* applying to vary its *Part IV permission* satisfies and will continue to satisfy the *threshold conditions* in relation to all the regulated activities for which the *firm* has or will have *Part IV permission* after the variation. However, the *FSA's* duty under the *Act* does not prevent it, having regard to that duty, from taking such steps as it considers necessary in relation to a particular *firm*, to ~~secure its consumer protection objective~~ meet any of its regulatory objectives. This may include granting a *firm's* application for variation of *Part IV permission* when it wishes to wind down (run off) its business activities and cease to carry on new business as a result of no longer being able to satisfy the *threshold conditions*.

(2) In addition, the *FSA* may refuse the application if it appears that ~~the interests of consumers, or a group of consumers,~~ any of its regulatory objectives would be adversely affected if the application were to be granted and it is desirable ~~in the interests of consumers, or that group of consumers,~~ in order to meet any of its regulatory objectives for the application to be refused.

...

6.4.2 G Under section 44(3) of the *Act*, the *FSA* may refuse an application from a *firm* to cancel its *Part IV permission* if it appears that: it is desirable for the application to be refused in order to meet any of the FSA's regulatory objectives.

(1) ~~the interests of consumers, or potential consumers, would be adversely affected if the application were to be granted; and~~

(2) ~~it is desirable in the interests of consumers, or potential consumers, for the application to be refused.~~

...

**6 Annex 4.1G Additional guidance for a firm winding down (running off) its business**

...	
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3.	If appropriate, in the interests of <del>consumer protection</del> <u>its regulatory objectives</u> , the FSA will require details of the <del>firm's</del> <u>firm's</u> plans and will discuss them with the <i>firm</i> and monitor the winding down or transfer of the <i>firm's</i> business. During the period in which it is winding down, a <i>firm</i> will also be required to notify the FSA of any material changes to the information provided such as, for example, receipt of new complaints and changes to plans.
4.	...
<b>Use of own-initiative powers</b>	
5.	If, for example, the FSA has <del>consumer protection</del> concerns <u>relating to any of the regulatory objectives</u> , it may, however, use its <i>own-initiative power</i> under section 45 of the <i>Act</i> (Variation etc. on the Authority's own initiative) (see <i>SUP 7</i> (Individual requirements) and <i>EG 8</i> (Variation and cancellation of permission on the FSA's own initiative and intervention against incoming firms)), to vary the <i>Part IV permission</i> of a <i>firm</i> which is winding down or transferring its <i>regulated activities</i> .
...	

...

- 7.1.5 G By waiving or modifying the requirements of a *rule* or imposing an additional *requirement* or *limitation*, the FSA can ensure that the *rules*, and any other *requirements* or *limitations* imposed on a *firm*, take full account of the *firm's* individual circumstances, and so assist the FSA in meeting the *regulatory objectives* (for example, to protect *consumers*, ~~and~~ maintain market confidence and contribute to financial stability).

...

- 7.2.2 G The circumstances in which the FSA may vary a *firm's Part IV permission* on its own initiative under section 45 of the *Act* include where it appears to the FSA that:
- (1) ...
  - (2) it is desirable to vary a *firm's permission* in order to ~~protect the interests of consumers or potential consumers~~ meet any of the FSA's regulatory objectives.

...

- 7.3.4 G The FSA will seek to give a *firm* reasonable notice of an intent to vary its *permission* and to agree with the *firm* an appropriate timescale. However, if the FSA considers that a delay may ~~be prejudicial to the interest of consumers~~ create a risk to any of the FSA's regulatory objectives, the FSA may need to act immediately using its powers under section 45 of the *Act* to

vary a *firm's Part IV permission* with immediate effect.

...

15.3.1 R A *firm* must notify the *FSA* immediately it becomes aware, or has information which reasonably suggests, that any of the following has occurred, may have occurred or may occur in the foreseeable future:

...

(4) any matter in respect of the *firm* which could result in serious financial consequences to the UK financial system or to other *firms*.

...

18.2.2 G The *FSA's regulatory objectives* include market confidence, financial stability and the protection of *consumers*. ~~Either or both~~ Any or all of these might be impaired if a transfer were approved that led to loss, or perceived loss, to *consumers* or other market participants. On the other hand a transfer that led to improved security or benefits for *consumers* would promote the *FSA's regulatory objectives*. When considering a transfer, the *FSA* needs to take into account the interests of existing *consumers* of the transferee and of *consumers* remaining with the transferor as well as of those whose contracts are being transferred. The *guidance* in this section is intended to protect *consumers*. By so doing it promotes the market confidence objective.

...

**Sch 2 Notification requirements**

...

Sch 2.2 G

Handbook reference	Matter to be notified	Contents of notification	Trigger event	Time allowed
...				
<i>SUP</i> 15.3.1R	Notification s - matters having a serious regulatory impact.	The fact of any of the trigger events occurring.	Becoming aware or having information which reasonably suggests, that any of the following has occurred, may have occurred or may occur in the foreseeable future:	Immediately.
			...	

			(4) any matter in respect of the <i>firm</i> which could result in serious financial consequences to the <u>UK</u> <i>financial system</i> or to other <i>firms</i> .	
...				



## Annex I

### Amendments to the Compensation sourcebook (COMP)

In this Annex, underlining indicates new text.

1.1.9 G This sourcebook is one of the means by which the *FSA* will meet its *regulatory objectives* of securing the appropriate degree of protection for *consumers*, contributing to the protection and enhancement of the financial stability of the *United Kingdom* and maintaining confidence in the *UK* financial system.

...

15.1.1 G When a *relevant person* is *in default* with claims against it for *protected deposits*, it may be desirable for the *FSCS* to make accelerated payments of compensation, for the protection of consumers, to contribute to financial stability and to maintain market confidence.

**Annex J**

**Amendments to the Credit Unions sourcebook (CRED)**

In this Annex, underlining indicates new text.

14.1.4 G The design of these arrangements is shaped by the *regulatory objectives*. These are set out in section 2 of the *Act* (The Authority's general duties) and are:

- (1) maintaining confidence in the UK financial system;
- (1A) contributing to the protection and enhancement of the stability of the UK financial system;
- (2) promoting public understanding of the UK financial system;
- ...

14.6.4 G The *FSA* may vary a *credit union's Part IV permission* on its own initiative where:

- (1) one or more of the *threshold conditions* is, or is likely to be, no longer satisfied;
- (2) it is desirable in order to protect members;
- (3) it is otherwise desirable in order to meet any of the *FSA's regulatory objectives*.

14.9.3 G *SUP 15.3.1R* states that a *credit union* must notify the *FSA* immediately it becomes aware, or has information which reasonably suggests, that any of the following has occurred, may have occurred or may occur in the foreseeable future:

- (4) any matter in respect of the *credit union* which could result in serious financial consequences to the UK financial system or to other *firms*.

**App 1.1 This is the table referred to in CRED 2.2.2G.**

	<b>Sourcebook or manual</b>	<b>Reference code</b>
	...	

<b>High Level Standards</b>	The Fit and Proper test for Approved persons	<i>FIT</i>
	<u>Financial Stability and Market Confidence sourcebook</u>	<u><i>FINMAR</i></u>
	...	

## Annex K

## Amendments to the Electronic Money sourcebook (ELM)

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

1.2.4 G The *rules and guidance* in *ELM* will help the *FSA* to meet the *regulatory objectives* of protecting *consumers*, ~~and~~ maintaining market confidence and protecting financial stability. They do so by setting standards about the backing of *e-money* issued by an *ELMI* with high quality liquid assets. They also do so by setting minimum capital and other risk management standards. This mitigates the risk that *ELMIs* will be unable to meet their liabilities and commitments to *consumers*. *ELM* also protects *consumers* by regulating the relationship between issuers of *e-money* and those who hold their *e-money*.

...

5.4.4 G The risks referred to in *SYSC* 7.1.4R and *SYSC* 7.1.5R relating to *e-money* include the following risks:

...

(4) use of the system referred to in (2) for *financial crime* or in a way that may harm or misuse any part of the *UK financial system*.

...

8.7.9 G The information or documents referred to in *ELM* 8.7.6G must be provided or produced before the end of the reasonable period, and at the place, specified by the *FSA*. The *FSA* may require the information to be provided in such form as it may reasonably require. The *FSA* may require the information to be verified, and the document authenticated, in such manner as it may reasonably require (see article 9G(6) of the *Regulated Activities Order* (Obtaining information from certified persons etc.) and section 165 of the *Act* (Authority's power to require information: authorised persons etc.)) (~~Obtaining information from certified persons etc.~~). The *FSA* may use the power to require information and documents from *small e-money issuers* in support of its enforcement functions.

## Annex L

### Amendments to the Professional Firms sourcebook (PROF)

In this Annex, underlining indicates new text.

- 1.1.6 G The *rules* and *guidance* in this sourcebook are intended to:
- (1) ...
  - (2) promote public understanding of the UK *financial system* by ensuring that the *clients* of an *exempt professional firm* are made aware that the firm is not an *authorised person*;
- ...

## Annex M

**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.

- 2.3.5 G In assessing whether a *UK recognised body* has sufficient financial resources in relation to counterparty and market risks, the *FSA* may have regard to:
- (1) the amount and liquidity of its financial assets and the likely availability of liquid financial resources to the *UK recognised body* during periods of major market turbulence or other periods of major stress for the *UK financial system*; and
- ...
- ...
- 2.13.3 G In determining whether a *UK recognised body* is able and willing to promote and maintain high standards of integrity and fair dealing in the carrying on of *regulated activities*, the *FSA* may have regard to the extent to which the *UK recognised body* seeks to promote and encourage, through its rules, practices and procedures, conduct in *regulated activities* which is consistent with the *Code of Market Conduct* (see *MAR 1*) and with any other codes of conduct, rules or principles relating to behaviour in *regulated activities* which users of the *UK financial system* ~~in the United Kingdom~~ would normally expect to apply to the *regulated activity* and the conduct in question.
- ...
- 3.18.1 G ...
- (3) The information required under *REC 3.18* is relevant to the *FSA's* supervision of the *UK recognised body's* obligations in relation to the enforceability of compliance with the *UK recognised body's* ~~rules~~ rules. It is also relevant to the *FSA's* broader responsibilities concerning market confidence and financial stability and, in particular, its functions in relation to *market abuse* and *financial crime*. It may also be necessary in the case of *members* based outside the *United Kingdom* to examine the implications for the enforceability of *default rules* or collateral and the settlement of transactions, and thus the ability of the *UK recognised body* to continue to meet the *recognition requirements*. It follows that the admission of a *member* from outside the *United Kingdom* who is not an *authorised person* could require notification under both *REC 3.18.2R* and *REC 3.18.3R*, although a single report from the *UK recognised body* covering both notifications would be acceptable to

the *FSA*.

...

- 4.6.4 G Under section 298(7) of the *Act* (Directions and revocation: procedure), the *FSA* need not follow the consultation procedure set out in the rest of section 298 (see *REC* 4.8), or may cut short that procedure, if it considers it essential to do so. The *FSA* is likely to consider it essential to cut short the procedure if, in the absence of immediate action, there would be:

...

- (2) a serious threat to market confidence or to the stability of the *UK* *financial system*; or

...