

Form of Waiver: Energy Market Participant

Power

1. This *waiver* is given by the FSA under section 148 of the Act (Modification and waiver of rules).

Authorised person to whom this waiver applies

2. This *waiver* applies to (the “firm”).

Guidance Note

In addition to the provisions of this *waiver*, the following special application provisions in the *Handbook* will apply to the firm because it is an *energy market participant*: COBS 18.2 and SUP 3.1.2R, SUP 10.1.21R and SUP 10.1.22G.

Term

3. (1) This *waiver* takes effect from the date of this notice.
- (2) However, if the firm is not then an *energy market participant*, this *waiver* takes effect only when the firm becomes one.
- (3) This *waiver* ends when the firm first stops being an *energy market participant*.

Waiver: Capital and financial reporting requirements¹

4. The FSA directs that the parts of the *Handbook* mentioned in the table do not apply to the firm, if the firm satisfies both the following conditions:
 - (1) the firm’s main business consists of the generation, production, storage, distribution, or transmission of *energy*; and
 - (2) the firm does not engage in *oil market activity* as a member of a *recognised investment exchange* or *designated investment exchange* which is under the rules of that exchange entitled to trade with other members.

Table:

Part of Handbook	Waiver
IPRU(INV) 3	IPRU(INV) 3 (Financial resources for Securities and Futures Firms which are not Investment Firms) does not apply to the firm if the firm satisfies both the conditions in this clause.
¹ For whether this clause would be inserted in a particular case see SUP 21.1.4.	
Part of Handbook	Waiver
SUP 16.7	SUP 16.7 (Financial reports) does not apply to the firm if the firm satisfies both the conditions in this clause.

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Guidance Notes

An *energy market participant* to which *IPRU(INV) 3* does not apply is still subject to the requirement of *Principle 4* to have adequate financial resources.

The conditions in this clause are imposed under s. 148(5) of the *Act*. For *guidance* on the effect of conditions attached to a *waiver*, see *SUP 8.4.1G(2)*.

Modification: Transaction reports

5. The *FSA* directs that the part of the *Handbook* mentioned in the table apply to a firm which is not a *MiFID investment firm* or a *third country investment firm* with the modifications specified in the table.

Table:

Part of Handbook	Modification
<i>SUP 17</i>	<i>SUP 17</i> (Transaction reports) does not apply to the firm in relation to its <i>energy market activity</i> .

Interpretation

6. Unless the contrary intention appears, interpretative provisions in *GEN 2* (Interpreting the Handbook) apply to this *waiver* in the same way they apply to the *Handbook*.

Guidance Note

Defined terms in this *waiver* (other than the term "the firm") are italicised.