

**PERIMETER GUIDANCE (HANDBOOK AMENDMENT) INSTRUMENT 2005****Powers exercised**

- A. The Financial Services Authority makes this instrument in the exercise of its powers under section 157(1) (Guidance) of the Financial Services and Markets Act 2000 (“the Act”).

**Commencement**

- B. This instrument comes into force on 1 July 2005.

**Amendments to the Handbook**

- C. 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
Conduct of Business sourcebook (COB)	Annex B
Insurance: Conduct of Business sourcebook (ICOB)	Annex C
Mortgages: Conduct of Business sourcebook (MCOB)	Annex D
Authorisation manual (AUTH)	Annex E
New Collective Investment Schemes sourcebook (COLL)	Annex F

**Citation**

- D. This instrument may be cited as the Perimeter Guidance (Handbook Amendment) Instrument 2005.

By order of the Board  
16 June 2005

**Annex A**  
**Amendments to the Glossary of definitions**

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

Add or amend, in the correct alphabetical position, the following definitions.

PERG            the Perimeter Guidance manual.

*sending dematerialised instructions*            the *regulated activity*, specified in article 45(1) of the *Regulated Activities Order*, of sending, on behalf of another *person*, dematerialised instructions relating to a *security*, where those instructions are sent by means of a relevant system in respect of which an operator is approved under the ~~1995~~ 2001 Regulations;

in this definition:

(a)        "the ~~1995~~ 2001 Regulations" means the Uncertificated Securities Regulations ~~1995 (SI 1995/3272)~~ 2001 (SI 2001/3755);

(b)        "dematerialised instruction" and "operator" have the meaning given by regulation 3 of the ~~1995~~ 2001 Regulations.

**Annex B**  
**Amendments to the Conduct of Business sourcebook**

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

- 3.2.1 G (1) The *rules* in this chapter adopt various concepts from the restriction on *financial promotion* by *unauthorised persons* in section 21(1) of the *Act* (Restrictions on financial promotion). *Guidance* on that restriction is contained in ~~AUTH App 1~~ PERG 8 (Financial promotion and related activities) and that *guidance* will be relevant to interpreting these *rules*. In particular, *guidance* on the meaning of:
- (a) "*communicate*" is in ~~AUTH App 1.6~~ PERG 8.6 (Communicate);
  - (b) "*invitation or inducement*" and "*engage in investment activity*" (two elements which, with "*communicate*", make up the definition of "*financial promotion*") is in ~~AUTH App 1.4~~ PERG 8.4 (Invitation and inducement) and ~~AUTH App 1.7~~ PERG 8.7 (Engage in investment activity).
- ...
- 3.2.7 G (1) Under *COB 3.2.5R(1)* a *financial promotion* which is *communicated* only to *market counterparties* or *intermediate customers* is exempt. See *COB 3.5.6R* and *COB 3.5.7R* which amplify this exemption. A *firm* will need to take particular note of the conditions in *COB 3.5.7R* when designing *financial promotions* for trade publications which may be available also to *private customers*.
- ...
- (2) (a) A table summarising some of the main exemptions contained in the *Financial Promotion Order*, and therefore relevant to *COB 3.2.5R(2)*, is in *COB 3 Ann 1*. *Guidance* on certain exemptions is contained in ~~AUTH App 1~~ PERG 8 (Financial promotion and related activities).
  - (b) ...
  - (3) In *COB 3.2.5R*:
    - (a) ... Such mailshots must meet the requirements of this chapter. ~~AUTH App 1.14.3G~~ PERG 8.14.3G (One-off financial promotions (articles 28 and 28A)) provides further *guidance* on the scope of the exemption in article

28.

- (b) ... In addition a *firm* or its *appointed representative* may include its name, address and telephone number in accordance with items 5(a) and (c). ~~AUTH App 1.4.20G~~ PERG 8.4.20G (Image advertising) provides *guidance* on when image advertising may involve a *financial promotion*.
  - (c) ... In addition a *firm* may include its name, address and telephone number in accordance with items (5)(a) and (c). ~~AUTH App 1.4.13G~~ PERG 8.4.13G (Publication or broadcast of prices of investments (historic or live)) provides *guidance* on when the display of prices may involve a *financial promotion*.
  - (d) Item (8) exempts *financial promotions* that are decision trees if the decision tree satisfies the requirements of *COB 6.5.8R*. A decision tree will not be a *financial promotion* if it is neither an invitation nor an inducement to engage in investment activity; for example, when it is prepared for training or educational purposes.
- (4) A company's annual report and accounts issued in accordance with a requirement of the Companies Act 1985 (or corresponding Northern Ireland or *EEA* provisions) are exempt under item (2) and article 59 of the *Financial Promotion Order*. But this exemption does not extend to the report and accounts of *ICVCs*, other types of *OEIC*, and *unit trust schemes*. ~~AUTH App 1.21.11G~~ PERG 8.21.11G (Article 59: Annual accounts and directors' report) provides further *guidance* on the scope of the exemption in article 59.
- (5) A *financial promotion* included in a newspaper, magazine or periodical which is printed and published overseas, but which may be brought into the *United Kingdom* and made available to *persons* in the *United Kingdom*, will be exempt provided that the *financial promotion* is not *communicated* to *persons* inside the *United Kingdom* (see *COB 3.3* and ~~AUTH App 1.12.2G~~ PERG 8.12.2G (Financial promotions to overseas recipients (article 12))).
- (6) This chapter does not apply in relation to a *financial promotion* the *communication* of which by a *firm* would contravene section 238(1) of the *Act* (Restrictions on promotion of unregulated collective investment schemes) (see *COB 3.11.4R* and ~~AUTH App 1.20~~ PERG 8.20 (Additional restriction on the promotion of collective investment schemes)).

...

- 3.3.2 G (1) ...
- (2) The exemptions in *COB 3.2.5R* (Application: what?; Exemptions) also incorporate some territorial elements. In particular, the exemption for *financial promotions* originating outside the *United Kingdom* (section 21(3) of the *Act* (Restrictions on financial promotion)) (see *COB 3.2.5R(2)* and ~~*AUTH App 1.12.2G*~~ *PERG 8.12.2G* (Financial promotions to overseas recipients (article 12)), the exemptions for overseas communicators (see *COB 3.2.5R(3)* and ~~*AUTH App 1.14.14G*~~ *PERG 8.14.14G* (Overseas communications (articles 30 to 33)) and the exemption for *incoming electronic commerce communications* (see ~~*AUTH App 1.12.38G*~~ *PERG 8.12.38G* (article 20B)).
- ...
- ...
- 3.4.1 G ...
- (3) Sections 238 and 240 of the *Act* (Restrictions on promotion/approval) impose restrictions on the *communication* and *approval* by *firms* of *financial promotions* relating to *unregulated collective investment schemes*. See further *COB 3.11* (Unregulated collective investment schemes) and ~~*AUTH App 1.20*~~ *PERG 8.20* (Additional restriction on the promotion of collective investment schemes).
- 3.4.2 G (1) The purpose of this chapter is to provide *rules* and *guidance* for a *firm* which wishes to *communicate* or *approve* a *financial promotion*. *COB 3.5.2G* provides a guide to the topics covered in this chapter. ~~*AUTH App 1*~~ *PERG 8* (Financial promotion and related activities) provides further detailed *guidance* on the *financial promotion* regime under section 21 of the *Act* (Financial promotion) which will be relevant in interpreting these *rules*.
- ...
- ...
- 3.5.4 G This chapter draws a distinction between a *real time* and a *non-real time financial promotion*. *Guidance* on the meaning of those expressions, which are based on article 7 of the *Financial Promotion Order*, is contained in ~~*AUTH App 1.10*~~ *PERG 8.10* (Types of financial promotion).
- ...
- 3.10.2 G *COB 3.10.1R* is based on article 8 of the *Financial Promotion Order*. *Guidance* on whether a *real time financial promotion* is

solicited is contained in ~~AUTH App 1.10~~ PERG 8.10 (Types of financial promotion).

...

3.11.1 G ...

(5) ~~AUTH App 1.20~~ PERG 8.20 (Additional restriction on the promotion of collective investment schemes) provides further *guidance* on the restriction under section 238(1) of the *Act* (Restrictions on promotion).

...

3.12.1 G (1) Section 21(1) of the *Act* (Restrictions on financial promotion) prohibits an *unauthorised person* from *communicating a financial promotion*, in the course of business, unless an exemption applies or the *financial promotion* is *approved* by a *firm*. An overview of the main exemptions in the *Financial Promotion Order* is in *COB 3 Ann 1* and further *guidance* is provided in ~~AUTH App 1~~ PERG 8 (Financial promotion and related activities), in particular, ~~AUTH App 1.9~~ PERG 8.9 (Circumstances where the restriction in section 21 does not apply).

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...

3.14.2 G Any material which meets the definition of a *financial promotion*, including any video or moving image material incorporated in any website containing a *financial promotion*, should comply with the *rules* in this chapter. See ~~AUTH App 1.1.22~~ PERG 8.1.22G (The Internet) for further *guidance* on *financial promotions* on the internet, including the treatment of hyperlinks and banners.

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COB Ann 1 G An overview of some of the main exemptions contained in the Financial Promotion Order

Article no. and name of exemption	Type of promotion: Unsolicited real time, solicited real time, non-real time	Controlled activity/control led investment	Other conditions

...			
48 Certified high net worth individuals	Solicited real time Non-real time	Note 2	(1) Made to a <i>person</i> who the <u>communicator</u> reasonably believes to be a certified high net worth individual (as defined by article 48(2)); and <del>(2) does not invite or induce the recipient to engage in investment activity with the person who signed the certificate of high net worth;</del> and (3 <u>2</u> ) accompanied by an <del>indication of the matters</del> <u>the giving of a warning as specified by article 48(4)</u>
...			
50 Sophisticated investors	...	...	...
<u>50A Self-certified sophisticated investors</u>	<u>All</u>	<u>Note 2</u>	(1) Made to a <i>person</i> who the <u>communicator</u> reasonably believes to be a self-certified sophisticated investor (as defined by article 50A (1)); and <u>(2) accompanied by the giving of a warning as specified by article 50A (4)</u>
...			

## Annex C

### Amendments to the Insurance: Conduct of Business sourcebook

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

Application to insurers where the intermediary is unauthorised or where the sale involves a connected contract

- 1.2.7 G (1) An *insurer* must comply with the following *ICOB* requirements, which are applicable to *insurers* as *product providers*, if its *non-investment insurance contracts* are sold through an intermediary to whom *ICOB* does not apply (because the intermediary is not a *firm*) or if its *non-investment insurance contracts* are *connected contracts*:
- (a) *ICOB* 2 (General rules (including unfair inducements));
  - (b) *ICOB* 3 (Financial promotion) if the *insurer communicates* or *approves a financial promotion*;
  - (c) *ICOB* 4.7 (Unsolicited services);
  - (d) *ICOB* 5 (Product disclosure) as explained in *ICOB* 5.2;
  - (e) *ICOB* 6 (Cancellation) except for *general insurance contracts* and *connected contracts* that are not *distance contracts* *ICOB* 6.1.5R(5) and (6)); and
  - (f) *ICOB* 7 (Claims handling).
- (2) The circumstances in (1) may occur where article 72B of the *Regulated Activities Order* excludes certain *regulated activities* from regulation when carried on by providers of non-motor goods and services related to travel in relation to *connected contracts*. Guidance on the conditions that need to be satisfied by *connected contracts* is contained in ~~*AUTH App 5.11.13G*~~ *PERG 5.11.13G* to ~~*AUTH App 5.11.15G*~~ *PERG 5.11.15G*.

...

- 3.1.2 G Financial Promotion Order exemptions.

This table belongs to <i>ICOB</i> 3.1.1G(2). In this table references to 'relevant insurance activity' are to <i>effecting</i> and <i>carrying out a non-investment insurance contract as principal</i> .	
Financial Promotion Order article no. and name of exemption	Summary of exemption

Article 17 (Generic promotions)	... For further <i>guidance</i> see <del>AUTH App 1.12.14</del> <u>PERG 8.12.14G</u> to <del>AUTH App 1.12.17</del> <u>PERG 8.12.17G</u> .
Article 24 (Relevant insurance activity: non-real time communications)	...
Article 25 (Relevant insurance activity: non-real time communications: reinsurance and large risks)	...
Article 26 (Relevant insurance activity: real time communications)	... For further <i>guidance</i> see <del>AUTH App 1.10.2</del> <u>PERG 8.10.2G</u> .

...

What do "communicate" and "non-investment financial promotion" mean?

3.3.1 G The *rules* in this chapter adopt various concepts from the restriction on *financial promotion* by *unauthorised persons* in section 21(1) of the Act (Restrictions on financial promotion). *Guidance* on that restriction is contained in ~~AUTH App 1~~ PERG 8 (Financial promotion and related activities) and that *guidance* will be relevant to interpreting these *rules*. In particular, *guidance* on the meaning of:

- (1) "communicate" is in ~~AUTH App 1.6~~ PERG 8.6 (Communicate);
- (2) "invitation or inducement" and "*engage in investment activity*" (two elements which, with "communicate", make up the definition of "*financial promotion*") are in ~~AUTH App 1.4~~ PERG 8.4 (Invitation and inducement) and ~~AUTH App 1.7~~ PERG 8.7 (Engage in investment activity).

...

3.3.4 G *Guidance* on the use of the Internet for *communicating non-investment financial promotions* is in *ICOB 3.9* (The Internet and other electronic media) and ~~AUTH App 1.22~~ PERG 8.22 (The Internet).

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3.3.8 G Guidance on the exemptions

- (1) ...

- (2) ...Such mailshots must meet the requirements of *ICOB* 3. ~~*AUTH App 1.14.3G*~~ *PERG 8.14.3G* (One-off financial promotions (articles 28 and 28A)) provides further *guidance* on the scope of the exemption in article 28.
- (3) ...In addition a *firm* or its *appointed representative* may include its name, address and telephone number in accordance with *ICOB* 3.3.6R(5)(a) and (d). ~~*AUTH App 1.4.20G*~~ *PERG 8.4.20G* (Image advertising) provides *guidance* on when image advertising may involve a *financial promotion*.
- (4) A *non-investment financial promotion* included in a newspaper, magazine or periodical which is printed and published overseas, but which may be brought into the *United Kingdom* and made available to *persons* in the *United Kingdom*, will be exempt provided that the *non-investment financial promotion* is not *communicated to persons* inside the *United Kingdom* (see *ICOB* 3.4 and ~~*AUTH App 1.12.2G*~~ *PERG 8.12.2G* (Financial promotions to overseas recipients (article 12))).

...

- 3.4.2 G (1) ...
- (2) The exemptions in *ICOB* 3.3.6 R (Application: what?; Exemptions) also incorporate some territorial elements. In particular, the exemption for *financial promotions* originating outside the *United Kingdom* (section 21(3) of the *Act* (Restrictions on financial promotion)) (see *ICOB* 3.3.6R(2)) and ~~*AUTH App 1.12.2G*~~ *PERG 8.12.2G* (Financial promotions to overseas recipients (article 12)), the exemptions for overseas communicators (see *ICOB* 3.3.6 R(3)) and the exemption for *incoming electronic commerce communications* (see ~~*AUTH App 1.12.38G*~~ *PERG 8.12.38G* (article 20B)).

...

...

- 3.5.2 G (1) The purpose of this chapter is to provide rules and guidance for a firm that wishes to *communicate* or *approve* a *non-investment financial promotion*. ~~*AUTH App 1*~~ *PERG 8* (Financial promotion and related activities) provides further detailed *guidance* on the *financial promotion* regime under section 21 of the *Act* (Financial promotion) which will be relevant in interpreting these *rules*.

...

...

### Approach and general guidance

- 3.9.2 G Any material which meets the definition of a *non-investment financial promotion*, including any video or moving image material incorporated in any website containing a *non-investment financial promotion*, should comply with the *rules* in this chapter. See ~~AUTH App 1.22~~ PERG 8.22 (The Internet) for further *guidance* on *non-investment financial promotions* on the Internet, including the treatment of hyperlinks and banners.

## Annex D

### Amendments to the Mortgages: Conduct of Business sourcebook

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

#### Firm types and the regulated mortgage activities

1.2.2 G ... A single *firm* may fall into more than one of these types. *Guidance* on these *firm* types, the *regulated mortgage activities* which they carry on, a description of what those activities cover and what is excluded is set out in *MCOB 1 Annex 1*. ~~*AUTH App 4*~~ *PERG 4* contains detailed *guidance* on those activities.

...

1.6.1 G *MCOB* applies to *regulated mortgage contracts* entered into on or after 31 October 2004. Variations made on or after that date to contracts entered into before that date are not subject to *FSA* regulation but may be subject to the Consumer Credit Act 1974. ~~*AUTH App 4.4.13*~~ *PERG 4.4.13G* contains *guidance* on the variation of contracts entered into before 31 October 2004.

...

*MCOB 1 Annex 1G* Summary of firm types and of the regulated mortgage activities

G This annex belongs to *MCOB 1.2.2G* and summarises the four *firm* types which are used in *MCOB*, the *regulated mortgage activities* which they carry on, what those activities cover and what is excluded. (See ~~*AUTH App 4*~~ *PERG 4* for detailed *guidance* on *regulated mortgage activities*). References to articles are to articles of the *Regulated Activities Order*.

The exclusions listed in this table are only a summary of the exclusions in the *Regulated Activities Order*. This summary is not a complete explanation of the exclusions and should not be relied on as if it were.

Type of firm	Regulated activity	Description of activity	Summary of exclusions
<i>mortgage lender</i>	...	...	unless: (1) the <i>person</i> providing credit is acting in the capacity of trustee or personal representative (article 66). See <del><i>AUTH App 4.10.5G</i></del> <u><i>PERG 4.10.5G</i></u> to <u><i>4.10.8G</i></u> ; or (2) both the lender and

			borrower are overseas ( <del>AUTH App 4.11</del> <u>PERG 4.11</u> (Link between activities and the United Kingdom)).
<i>mortgage administrator</i>	...	...	...or (4) the <i>person</i> administering the contract is acting in the capacity of trustee or personal representative (article 66). See <del>AUTH App 4.10.5G—4.10.8G</del> <u>PERG 4.10.5G to PERG 4.10.8G</u> ; or (5) both the administrator and borrower are overseas ( <del>AUTH App 4.11</del> <u>PERG 4.11</u> (Link between activities and the United Kingdom)).
<i>mortgage adviser</i>	...	... or (2) varying the terms of a <i>regulated mortgage contract</i> entered into on or after 31 October 2004 in such a way as to vary the borrower's obligations under the contract (see <del>AUTH App 4.6</del> <u>PERG 4.6</u> (Advising on regulated mortgage contracts)).	...or (3) the advice is given by a <i>person</i> carrying on a profession or business (other than a regulated activity) (article 67). See <del>AUTH App 4.10</del> <u>PERG 4.10</u> (Exclusions applying to more than one <i>regulated activity</i> ); or (4) the <i>person</i> giving the advice is acting in the capacity of trustee or personal representative (article 66). See <del>AUTH App 4.10.5G—4.10.8G</del> <u>PERG 4.10.5G to PERG 4.10.8G</u> .
<i>mortgage arranger</i>	...	...or (b) the variation of the terms of a regulated mortgage contract entered into after 31 October 2004, for example brokers making arrangements on behalf of a borrower which go	...or (3) the arrangements are made between a borrower and an <i>authorised person</i> by an <i>unauthorised person</i> if specified conditions as to advice and remuneration are satisfied (article 29) (see

		beyond merely introducing. See <u>AUTH App 4.5.2G PERG 4.5.2G</u> .	<del>AUTH App 4.5.8G PERG 4.5.8G</del> ; or (4) the arrangements are made in the course of administration by an <i>authorised person</i> (article 29A); or (5) the arrangements are made by a <i>person</i> in the course of carrying on a profession or business (other than a <i>regulated activity</i> ) (see <u>AUTH App 4.10 PERG 4.10</u> ) (Exclusions applying to more than one regulated activity); or (6) where the arranger and borrower are overseas ( <del>AUTH App 4.11 PERG 4.11</del> (Link between activities and the United Kingdom)).
	...	... (for example introducing potential borrowers to brokers or lenders). See <u>AUTH App 4.5.3G PERG 4.5.3G</u> .	... (See <del>AUTH App 4.5.10G—4.5.18G PERG 4.5.10G to PERG 4.5.18G</del> ); or (2) ...

...

What do "communicate", "approve" and "financial promotion" mean?

- 3.2.1 G (1) The *rules* in this chapter adopt various concepts from the restriction on *financial promotion by unauthorised persons* in section 21(1) of the *Act* (Restrictions on financial promotion). *Guidance* on that restriction is contained in ~~AUTH App 1 PERG 8~~ (Financial promotion and related activities) and that *guidance* will be relevant to interpreting these *rules*. In particular, *guidance* on the meaning of:
- (a) '*communicate*' is in ~~AUTH App 1.6 PERG 8.6~~ (Communicate); and
  - (b) '*invitation or inducement*' and '*engage in investment activity*' (two elements which, with '*communicate*', make up the definition of '*financial promotion*') is in ~~AUTH App 1.4 PERG 8.4~~ (Invitation or inducement) and ~~AUTH App 1.7 PERG 8.7~~ (Engage in investment

activity).

...

...

3.2.3 G *Guidance* on the use of the Internet for *communicating qualifying credit promotions* is in ~~AUTH App 1.22~~ PERG 8.22 (The Internet)

...

3.3.2 G (1) ...

(2) The exemptions in *MCOB 3.2.5R* (Application: what?; Exemptions) also incorporate some territorial elements. In particular, the exemption for *financial promotions* originating outside the *United Kingdom* (section 21(3) of the *Act* (Restrictions on financial promotion)) (see *MCOB 3.2.5R(4)*) and the exemptions for overseas communicators (see *MCOB 3.2.5R(4)*) and the exemption for incoming *electronic commerce communications* (see ~~AUTH App 1.12.38G~~ PERG 8.12.38G (Incoming electronic commerce communication (article 20B))).

...

...

'Real time' and 'non-real time' qualifying credit promotions

3.5.4 G This chapter draws a distinction between *real time* and *non-real time qualifying credit promotions*. *Guidance* on the meaning of those expressions, which are based upon article 7 of the *Financial Promotion Order*, is contained in ~~AUTH App 1.10.2G~~ PERG 8.10.2G (Real time v. non-real time promotions).

...

3.7.2 G ~~MCOB 3.7.1 R~~ is based on article 8 of the ~~Financial Promotion Order~~ *Financial Promotion Order*. *Guidance* on whether a ~~real time qualifying credit promotion~~ real time qualifying credit promotion is solicited is contained in ~~AUTH App 1.10.8G~~ PERG 8.10.8G (Solicited v unsolicited real-time promotions). ~~AUTH App 1.10.11G~~ PERG 8.10.11G to ~~AUTH App 1.10.14G~~ PERG 8.10.14G also give *guidance* on who will be considered the 'recipient' of a communication.

...

Approach and general guidance

3.12.2 G Any material, which meets the definition of a *qualifying credit promotion*, including any video or moving image material

incorporated in any website containing a *qualifying credit promotion*, should comply with the *rules* in this chapter. See *AUTH App 4 PERG 8* (The Internet) for further *guidance on financial promotions* on the Internet, including the treatment of hyperlinks and banners.

...

MCOB TP 1 MCOB Transitional Provisions

MCOB TP 1.1 Transitional Provisions

(1)	(2) Material to which the transitional provision applies	(3)	(4) Transitional provision	(5) Transitional provision: dates in force	(6) Handbook provision: coming into force
1	...	R	...	...	...
2		G	...		
3		G	<p><i>MCOB</i> applies to <i>regulated mortgage contracts</i> entered into on or after 31 October 2004. Variations made on or after that date to mortgage contracts entered into before that date are not subject to <i>FSA</i> regulation but may be subject to the Consumer Credit Act 1974. <i>AUTH App 4.4.13G PERG 4.4.13G</i> contains <del>guidance</del> <u>guidance</u> on the variation of contracts entered into before 31 October 2004.</p>		

...

**Annex E**  
**Amendments to the Authorisation manual**

In this Annex, underlining indicates new text and striking through indicates deleted text. Where entire sections are deleted, these are not shown struck through.

- 1.1.3 G The purpose of this manual is to give *guidance* about:
- (1) the circumstances in which *authorisation* is required, or *exempt person* status is available, including *guidance* on the activities which are regulated under the *Act* and the exclusions which are available; see ~~AUTH 2~~ PERG 2 (Authorisation and regulated activities);
- ...
- 1.2.1 G (1) ...
- (2) ... In general terms, a *regulated activity* is an activity, specified in the Order, carried on in relation to one or more of the *investments* specified in the Order. ~~AUTH 2~~ PERG 2 gives further *guidance* on *regulated activities* and *specified investments*.
- ...
- 1.2.3 G *Exempt persons* are *persons* falling within the following groups:
- ...
- Further information on *exempt persons* is given in ~~AUTH 2.10G~~ PERG 2.10G (Persons carrying on regulated activities who do not need authorisation).
- 1.2.4 G Members of the Society of Lloyd's are not required to obtain *authorisation* to carry out certain insurance market activities unless so directed by the *FSA* (see ~~AUTH 2.10.9G~~ PERG 2.10.9G). In addition, certain *professional firms* (solicitors, accountants and actuaries) are allowed under Part XX of the *Act* (Provision of Financial Services by Members of the Professions) to carry on certain *regulated activities* without *authorisation* subject to their complying with specified conditions (see ~~AUTH 2.10.12G~~ PERG 2.10.12G and *PROF*).
- 1.2.5 G Before any *person* carries on in the *United Kingdom*, by way of business, activities that are *regulated activities*, it will generally need to be an *authorised person* (see ~~AUTH 2.2~~ PERG 2.2). ...
- ...

- 1.2.6 G (1) ... The provider does not require *authorisation* if it does not carry on any other *regulated activities* in the *United Kingdom* (see ~~AUTH 2.9.18G~~ PERG 2.9.18G).
- (2) An *outgoing ECA provider* providing *electronic commerce activities* that are *regulated activities* from an *establishment* in the *United Kingdom* is regarded as carrying on such activities in the *United Kingdom* regardless of whether they are provided to an *EEA ECA recipient* or a *UK ECA recipient* (see ~~AUTH 2.4.3G(5)~~ PERG 2.4.3G(5)). The provider should be *authorised* before it starts providing the services.

...

- 1.3.7 G *AUTH 1.3.9G* summarises *AUTH* and parts of *PERG*.

...

- 1.3.9 G Summary of *AUTH* and parts of *PERG*

This table belongs to *AUTH 1.3.7G*

Chapter:	Applicable to:	On:
<del>AUTH 2</del> <u>PERG 2</u> : Authorisation and regulated activities	...	...
...		
<i>AUTH 5</i> : Qualifying for authorisation under the <del>Act</del> <u>Act</u>	...	...
...		
<del>AUTH 7</del> <u>PERG 7</u> : Periodical publications, news services and broadcasts: application for certification	...	...
...		

...

1.6.6 G The first stage in the application process is to establish whether the proposed business will carry on *regulated activities* requiring *permission* under Part IV of the *Act* (Permission to carry on regulated activities). ~~AUTH 2~~ PERG 2 gives a high-level guide to the activities that are regulated under the *Act* and those that are excluded (but this is not a substitute for consulting the legislation itself); further queries may be referred to the *FSA's* Authorisation Enquiries team (see *AUTH 1.9.2G*).

...

1.6.9 G Among other things, the applicant will need to:

- (1) determine the precise scope of the *permission* it wishes to apply for; this should include the *regulated activities* (the *specified activities* and the *specified investments* in respect of which the activities are carried on: see ~~AUTH 2 Annex 2G~~ PERG 2 Annex 2G) and any *limitations* and *requirements* the applicant wishes to apply for to refine the scope of the *regulated activities*; an example includes a *limitation* on the types of *client* it wishes to carry on business with or a *requirement* not to hold or control *client money*;

...

...

1.8.2 G The Authorisation Enquiries team gives assistance by:

- (1) producing *guidance* for *persons* who wish to find out whether they need to be *authorised* (see ~~AUTH 2~~ PERG 2);

...

...

AUTH Chapter 2 is deleted in its entirety.

AUTH 2            [deleted]

...

3.2.1 G (1) ...

- (2) *Authorisation* gives a *firm* the ability to carry on *regulated activities* without breaching the *general prohibition* and incurring criminal liability (see ~~AUTH 2.2.1G~~ PERG 2.2.1G).

...

...

3.3.1 G A *person* will, broadly speaking, be treated as carrying on a *regulated activity* in the *United Kingdom* (and so, under section 20(1), need *permission*), where it is carried on in the circumstances described in [AUTH 2.4 PERG 2.4](#) (Link between activities and the United Kingdom). A *Part IV permission* under Part IV of the *Act* is required before the person carries on *regulated activities* unless the *person* has *permission* resulting from any other provisions in the *Act* (see [AUTH 2.10 PERG 2.10](#) (Persons carrying on regulated activities who do not need authorisation)).

...

3.4.1 G (1) The activities for which an applicant may apply for *Part IV permission* are listed in [AUTH 2 PERG 2 Annex 2G](#) (Regulated activities and the permission regime). The *FSA* has described these activities in the same way as *regulated activities* are specified in the *Regulated Activities Order* (see [AUTH 2.7 PERG 2.7](#) to [AUTH 2.8 PERG 2.8](#)) but with three sub-divisions.

...

...

3.5.1 G The *specified investments* for which an applicant may apply for *Part IV permission* are listed in [AUTH 2 Annex 2 PERG 2 Annex 2G](#). In general, the *FSA* has described these *specified investments* in a way that mirrors the activities specified in the *Regulated Activities Order* (see [AUTH 2.6 PERG 2.6](#)). ...

...

5.1.1 G ...

(3) The provisions implementing the *Single Market Directives* are within the coordinated field (see [AUTH 2.9.18G\(1\) PERG 2.9.18G\(1\)](#)). So, where an *incoming ECA provider* intends to provide *electronic commerce activity* that consists of activities that fall within one of the *Single Market Directives*, the passporting requirements on exercising an *EEA right* in this chapter will apply.

...

5.3.12 G (1) The guidance in [AUTH 2 PERG 2](#) (Authorisation and regulated activities) is relevant to *Treaty firms* to help them determine if they require *authorisation* under the *Act*.

...

...

AUTH 5 G Application of the Handbook to Incoming EEA Firms  
Annex  
3G

1. ...

2. ...

3. For an *incoming EEA firm* which has *permission* for *cross-border services* only, many parts of the *Handbook* apply only if the *firm* carries on *regulated activities* in the *United Kingdom*. Those parts of the *Handbook* will therefore not apply if the *firm* confines its activities to those within the *overseas persons* exclusions in article 72 of the *Regulated Activities Order*, or which would not be regarded as carried on in the *United Kingdom*. Further *guidance* may be found in ~~AUTH 2.4~~ PERG 2.4 (Link between activities and the United Kingdom) and ~~AUTH 2.9.15G~~ PERG 2.9.15G to ~~AUTH 2.9.17G~~ PERG 2.9.17G (Overseas persons).

...

AUTH Chapter 7 and AUTH Appendices 1 to 6 are deleted in their entirety.

AUTH 7 [deleted]

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AUTH App 1 [deleted]

AUTH App 2 [deleted]

AUTH App 3 [deleted]

AUTH App 4 [deleted]

AUTH App 5 [deleted]

AUTH App 6 [deleted]

## Annex F

### Amendments to the New Collective Investment Schemes sourcebook

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

- 6.2.20 G The conditions for *limited redemption arrangements* in *COLL 6.2.19R* should be considered, for *AUTs* as well as for *ICVCs*, in conjunction with ~~*AUTH App 2*~~ *PERG 9* (Meaning of an open-ended investment company) and ~~*AUTH App 2.8*~~ *PERG 9.8* (The investment condition: the ‘expectation test’ (section 236(3)(a) of the *Act*)).