

EU WITHDRAWAL (MISCELLANEOUS AMENDMENTS) INSTRUMENT 2024

Powers exercised

- A. The Financial Conduct Authority (“the FCA”) 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 137A (The FCA’s general rules);
 - (b) section 137T (General supplementary powers); and
 - (c) section 139A (Power of the FCA to give guidance); and
 - (2) the other powers and related provisions listed in Schedule 4 (Powers exercised) to the General Provisions sourcebook of the FCA’s Handbook.
- B. The rule-making provisions listed above are specified for the purposes of section 138G(2) (Rule-making instruments) of the Act.

Commencement

- C. This instrument comes into force on 4 October 2024.

Amendments to the Handbook

- D. The modules of the FCA’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
General Provisions sourcebook (GEN)	Annex D
Supervision manual (SUP)	Annex E

Amendments to material outside the Handbook

- E. The Perimeter Guidance manual (PERG) is amended in accordance with Annex F to this instrument.

Citation

- F. This instrument may be cited as the EU Withdrawal (Miscellaneous Amendments) Instrument 2024.

By order of the Board
3 October 2024

Annex A

Amendments to the Glossary of definitions

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

Amend the following definitions as shown.

<i>participant firm</i>	(1) a <i>firm</i> (including a <i>TP firm</i>) other than: ... (1) a <i>TP AIFM qualifier</i> ; <u>[deleted]</u>
<i>permission</i>	... (2) the authorisation that a <i>TP AIFM qualifier</i> has under regulation 78B of the <i>AIFMD UK regulation</i> . <u>[deleted]</u>
<i>temporary EMI authorisation</i>	(in accordance with paragraph 2 of Part 1 of Schedule 3 and paragraph 12B of Part 1A of Schedule 3 to the <i>E-money and Payments Transitional Provisions Regulations</i>), as the case may be , authorisation as an <i>authorised electronic money institution</i> under the <i>Electronic Money Regulations 2011</i> , that a <i>person</i> is to be taken as having under paragraph 2 of Part 1 of Schedule 3 to the <i>E-money and Payments Transitional Provisions Regulations</i> or under paragraph 12B of Part 1A of Schedule 3 to those Regulations.
<i>temporary permission</i>	(in accordance with regulation 8, 11, 28 or 34 of the EEA Passport Rights (Amendment, etc., and Transitional Provisions) (EU Exit) Regulations 2018), as the case may be, <i>Part 4A permission</i> (or variation to that <i>permission</i>) that a <i>person</i> is treated as having under regulation 8, 11, 28 or 34 of those Regulations.
<i>temporary PI authorisation</i>	(in accordance with paragraph 14(2)(a)(i) of Part 2 of Schedule 3 or paragraph 26(4)(a)(i) of Part 3 of Schedule 3 to the <i>E-money and Payments Transitional Provisions Regulations</i>), as the case may be , authorisation as an <i>authorised payment institution</i> under the <i>Payment Services Regulations 2017</i> , that a <i>person</i> is taken as having under paragraph 14(2)(a)(i) of Part 2 of Schedule 3 to the <i>E-money and Payments Transitional Provisions Regulations</i> , or under paragraph 26(4)(a)(i) of Part 3 of Schedule 3 to those Regulations.
<i>temporary RAISP registration</i>	(in accordance with paragraph 14(2)(a)(ii) of Part 2 of Schedule 3 and paragraph 26(4)(a)(ii) of Part 3 of Schedule 3 to the <i>E-money and Payments Transitional Provisions Regulations</i>), as the case may be ,

registration as a *registered account information service provider* under the *Payment Services Regulations 2017*, that a *person* is taken as having ~~under paragraph 14(2)(a)(ii) of Part 2 of Schedule 3 to the *E-money and Payments Transitional Provisions Regulations*, or~~ under paragraph 26(4)(a)(ii) of Part 3 of Schedule 3 to those Regulations.

TP firm

(in accordance with regulation ~~8, 11,~~ 28 or 34 of the EEA Passport Rights (Amendment, etc., and Transitional Provisions) (EU Exit) Regulations 2018), as the case may be, a *person* who has *temporary permission* under regulation ~~8, 11,~~ 28 or 34 of those Regulations.

Delete the following definition. The text is not shown struck through.

*TP AIFM
qualifier*

an *EEA AIFM* which is *marketing*, or has *marketed*, an *AIF* in the *UK* by:

- (a) exercising its right to *market* in relation to funds referred to in paragraph (2) of regulation 78A of the *AIFMD UK regulation*; and
- (b) is not exercising a right to manage a *UK AIF* under *temporary permission*.

Annex B

Amendments to the Principles for Businesses (PRIN)

In this Annex, striking through indicates deleted text.

3 Rules about application

3.1 Who?

...

- 3.1.10 R (1) Only *Principles* 1, 2, 3, 9, 11, 12 and *PRIN* 2A apply to a *TP UCITS* *qualifier* ~~and a *TP AIFM* *qualifier*~~, and only with respect to the activities in *PRIN* 3.2.2R (Communication and approval of financial promotions).
- (2) Where *Principle* 12 and *PRIN* 2A do not apply, *Principle* 7 also applies to a *TP UCITS* *qualifier* ~~and a *TP AIFM* *qualifier*~~ with respect to the activities in *PRIN* 3.2.2R.

...

3.3 Where?

...

- 3.3.4 R Notwithstanding *PRIN* 3.3.1R, *PRIN* applies to:

...

- (3) ~~a *TP AIFM* *qualifier*~~ or a *TP UCITS* *qualifier* with respect to the *firm's* activities in relation to the *AIF* or *scheme* in question, in the *United Kingdom*.

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.

23 Senior managers and certification regime: Introduction and classification

...

23 Definition of SMCR firm and different types of SMCR firms

Annex 1

...		
Part Three: Definition of exempt firm		
...		
3.6	R	A TP AIFM qualifier is an exempt firm. [deleted]
...		

Annex D

Amendments to the General Provisions sourcebook (GEN)

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

2 Interpreting the Handbook

...

2.2 Interpreting the Handbook

...

Amendments to rules applied by the General Rules

2.2.27 R ...

- (3) ~~Except where paragraph (4) applies, a *TP firm* does not have to comply with paragraph (1)(a) while and to the extent that the *FCA* directs that where the same *rule*:~~
- (a) ~~begins to apply to a *firm* other than a *TP firm* (A) as a result of an exit instrument, the *rule* is not to apply to A; or~~
 - (b) ~~applies to A differently from how it would but for an exit instrument, the obligation is modified so that A does not breach it if A complies with the *rule* as it applied immediately before *IP completion day*. [deleted]~~
- (4) ~~In relation to a matter subject to the *FCA*'s prudential transitional direction, paragraph (1)(a) does not apply while and to the extent that the *FCA* directs that where the same *rule*:~~
- (a) ~~begins to apply to a *firm* other than a *TP firm* (A) as a result of an exit instrument, the *rule* is not to apply to A; or~~
 - (b) ~~applies to A differently from how it would but for an exit instrument, the *rule* shall apply to A as it would have applied immediately before *IP completion day*. [deleted]~~
- (5) ~~In this *rule*:~~
- (a) ~~the reference to the “*FCA* directs” refers to a direction made by the *FCA* under Part 7 of the Financial Services and Markets Act 2000 (Amendment) (EU Exit) Regulations 2019;~~

- (b) ~~the expressions “exit instrument” and “relevant obligation” have the meanings in Part 7 of those regulations;~~
- (c) ~~the reference to the “FCA’s prudential transitional direction” is to a direction made under Part 7 of those regulations covering prudential matters set out in the direction. [deleted]~~

...

MiFID technical standards

2.2.29 R ...

- (2) The provisions referred to in (1) are technical standards deriving from previously adopted *EU regulations* under *MiFID* which are ~~retained EU~~ assimilated law, except:

...

...

...

Rules applying while a firm has temporary recognition – general – TP UCITS qualifiers ~~and TP AIFM qualifiers~~

2.2.32 R (1) Unless the contrary intention appears, a *rule* does not apply to a *TP UCITS qualifier* ~~or a TP AIFM qualifier~~, except that in relation to a *scheme* or a *sub-fund* a *rule* which imposed an obligation on a *person* immediately before *IP completion day* who becomes a *TP UCITS qualifier* ~~or a TP AIFM qualifier~~ continues to apply to that *person* to the same extent and to the same activities to which the *rule* applied at that time.

...

Amendments to rules applied to ~~TP AIFM qualifiers and~~ TP UCITS qualifiers

2.2.33 R ...

- (2) Where a *rule* (or paragraph of a *rule*) applied by *GEN 2.2.32R*:
 - (a) only applied to a *person* who was an ~~authorised person~~ authorised person by virtue of paragraph 1(1) of Schedule 5 to the *Act*; and
 - (b) is deleted on *IP completion day*;

deletion is disregarded and it continues to apply to the *TP UCITS qualifier* ~~or TP AIFM qualifier~~; and references in the *rule* (or

paragraph of the *rule*) to the *EU* or to an *EU* matter or thing are deemed to be references to the *UK* or a *UK* matter or thing, as the case may be.

- (3) ~~A *TP UCITS qualifier* or a *TP AIFM qualifier* does not have to comply with paragraph (1)(a) while and to the extent that the *FCA* directs that where the same *rule*:~~
- ~~(a) begins to apply to a *firm* other than a *TP firm*, *TP UCITS qualifier* or a *TP AIFM qualifier* (A) as a result of an exit instrument, it is not to apply to A; or~~
 - ~~(b) applies to A differently from how it would have but for an exit instrument, the obligation is modified so that A does not breach it if it complies with the *rule* as it applied immediately before *IP completion day*. [deleted]~~
- (4) In paragraph (3):
- ~~(a) the reference to the “*FCA* directs” is to a direction made by *FCA* under Part 7 of the Financial Services and Markets Act 2000 (Amendment) (EU Exit) Regulations 2019;~~
 - ~~(b) the expressions “exit instrument” and “relevant obligation” have the meanings in Part 7 of those regulations. [deleted]~~

Modification of rules applied to ~~TP AIFM qualifiers and~~ TP UCITS qualifiers

- 2.2.34 R (1) Where a *rule* in GEN 2.2.32R applies and:
- (a) as a result of an amendment which comes into force on *IP completion day* which removes a reference to a matter in relation to the *EEA*; and
 - (b) it is no longer practicable for the *TP UCITS qualifier* ~~or the *TP AIFM qualifier*~~ to comply with the *rule* because of the amendment,
- the *TP UCITS qualifier* ~~or the *TP AIFM qualifier*~~ may treat the *rule*, to the extent necessary, as if it continued to refer to a matter in relation to the *EEA*.
- (2) If as a result of:
- (a) the *UK*'s withdrawal from the *EU*; and
 - (b) complying with a *rule* applied by GEN 2.2.32R,

a *TP UCITS qualifier* ~~or a *TP AIFM qualifier*~~ would contravene a provision in its *Home State*, the *rule* applied by *GEN 2.2.32R* which caused the contravention, to the extent necessary, does not apply.

Guidance applying while a firm has temporary permission

- 2.2.35 R Unless the contrary intention appears, *guidance* does not apply to a *TP firm*, or a *TP UCITS qualifier* ~~or a *TP AIFM qualifier*~~ except that:
- ...
- (3) *guidance* on or in connection with a *rule* applied by *GEN 2.2.32R* applies to a *TP UCITS qualifier* ~~and a *TP AIFM qualifier*~~ to the same extent as that *rule*; and
- (4) to the extent that an enactment, other than a *rule*, applies to both a *TP firm* and a *firm* with a *Part 4A permission* granted by the *FCA* or *PRA*, *guidance* on, or in connection with, that enactment (or relevant part of that enactment) applies to a *TP firm* to the same extent as it applies to a *firm* with ~~Part 4A permission~~ *Part 4A permission* granted by the *FCA* or *PRA*. To the extent an enactment is modified for the purposes of the *EU Exit Passport Regulations*, *guidance* on, or in connection with, that enactment must be read subject to those modifications. This provision applies mutatis mutandis to *guidance* which applies to a *TP UCITS qualifier* ~~or a *TP AIFM qualifier*~~.

...

Purpose

- 2.2.36 G ...
- (2) The Glossary definitions of *TP firm* and *temporary permission* each ~~include both *firms* that enter the temporary permission or temporary variation regime set out in Part 3 of the *EU Exit Passport Regulations* and now apply in practice only to *firms* that enter *have entered* the financial services contracts regime set out in Part 6 of the *EU Exit Passport Regulations* on or after *IP completion day*.~~
- ...
- (5) The application of *rules* and *guidance* to *TP firms* ~~under Part 3 of the *EU Exit Passport Regulations*~~ must be read in the light of the purpose of *temporary permission* under Part ~~3~~ 6 of those Regulations, which is to allow *TP firms* to continue to carry on *regulated activities* in the *United Kingdom*, or of the purpose of the temporary recognition regime for *TP UCITS qualifiers* ~~or for *TP AIFM qualifiers*~~ to continue to market funds in the *United Kingdom*. In each case that purpose takes into account that the legal framework

underpinning cross border financial services has changed because the *Treaty*, EU regulations and EU directives no longer apply in the *United Kingdom* by virtue of EU law.

- (6) For a *TP firm* under Part 3 ~~6~~ of the *EU Exit Passport Regulations* the scope of authorisation of an *EEA-based firm* which qualified for authorisation under Schedule 3 or 4 to the *Act* is preserved, but is now limited by what is permitted under regulation 33 or 40 of those Regulations (that is, activity necessary for the performance of a pre-existing contract). Those Regulations do not extend the means by which a *TP firm* can carry on *regulated activities* in the *United Kingdom*, which remain limited (leaving aside top-up permission) to those which were available under the *Treaty* on the Functioning of the European Union, for example, a *firm* carrying on *regulated activities* in the *United Kingdom* from an establishment outside of the *EEA* cannot rely upon this means to do so. ~~For a *TP firm* under Part 6 of the *EU Exit Passport Regulations*, the scope of the *firm's* permission is further limited by what is permitted under regulation 33 or 40 of those Regulations.~~

...

- (10) A person with *temporary EMI authorisation* is deemed to be an *authorised electronic money institution* in accordance with ~~regulation 2(a) of Part 1~~ paragraph 12B of Part 1A of Schedule 3 ~~of~~ to the *E-money and Payments Transitional Provisions Regulations*. As such, the provisions of the *Electronic Money Regulations* as amended by the *E-money and Payments Transitional Provisions Regulations* and subject to the exclusions set out in ~~regulation 7 of paragraph 7 of Part 1 and paragraph 12H of Part 1A~~ of paragraph 7 of Part 1 and paragraph 12H of Part 1A of Schedule 3 ~~of~~ to the *E-money and Payments Transitional Provisions Regulations* apply to such persons.
- (11) This paragraph applies to persons with *temporary PI authorisation* and ~~*temporary RAISP authorisation*~~ *temporary RAISP registration*:
- (a) a person with *temporary PI authorisation* is deemed to be an *authorised payment institution* in accordance with ~~regulation 14(2)(a)(i) of Part 2~~ paragraph 26(4)(a)(i) of Part 3 of Schedule 3 ~~of~~ to the *E-money and Payments Transitional Provisions Regulations*.
- (b) a person with ~~*temporary RAISP authorisation*~~ *temporary RAISP registration* is deemed to be a *Registered Account Information Service Provider* in accordance with ~~regulation 2(2)(a)(ii) of Part 2~~ paragraph 26(4)(a)(ii) of Part 3 of Schedule 3 ~~of~~ to the *E-money and Payments Transitional Provisions Regulations*.

- (12) As such, the provisions of the *Payment Services Regulations* as amended by the *E-money and Payments Transitional Provisions Regulations* and subject to the exclusions set out in ~~regulation 19 of paragraph 19 of Part 2 and paragraph 32 of Part 3 of Schedule 3 to the *E-money and Payments Transitional Provisions Regulations*~~ apply to persons to whom paragraph (11) applies.
- (13) The ~~Glossary~~ *Glossary* definitions of *temporary EMI authorisation*, *temporary PI authorisation* and ~~*temporary RAISP authorisation*~~ *temporary RAISP registration* each ~~include both persons that enter the temporary permission regime set out in Parts 1 and 2 of Schedule 3 of the *E-money and Payments Transitional Provisions Regulations* and now apply in practice only to persons that enter~~ have entered the financial services contracts regime in accordance with regulation 12B and 26 of Parts 1A and 3 of Schedule 3 ~~of to the *E-money and Payments Transitional Provisions Regulations*~~.

The effect of the General Rules

2.2.37 G ...

- (11) ~~*GEN 2.2.27R(3)* concerns the use of the *FCA's* standstill direction to disapply or modify certain obligations as a result of the operation of exit instruments. That direction does not apply to *rules* applied to *TP firms* by the general approach *rules*. *GEN 2.2.27R(3)* therefore achieves a similar result to the direction by disapplying the requirement in *GEN 2.2.27R(1)(a)* to comply with changes made to a *rule* in question which comes into force on *IP completion day* to address an issue resulting from the *UK's* withdrawal from the *European Union*. Since *GEN 2.2.27R(3)* states that, where it applies, a *TP firm* does not have to comply with a *rule* as amended referred to in *GEN 2.2.27R(1)(a)*, it is open to the *TP firm* to comply with such a *rule* while the *FCA's* standstill direction is in force. *GEN 2.2.33R(3)* has the same effect in relation to *TP UCITS qualifiers* and *TP AIFM qualifiers*. In contrast, *GEN 2.2.27R(4)*, where it applies, has the effect that a *TP firm* has to comply with a prudential *rule* which applies to it as the *rule* was immediately before *IP completion day*. [deleted]~~

...

4 Statutory status disclosure

...

4.3 Letter disclosure

Disclosure in letters to retail clients

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4.3.1-A R A *TP firm* must take reasonable care to ensure that every letter (or electronic equivalent) which it or its *employees* send to a *retail client*, with a view to or in connection with the *TP firm* carrying on a *regulated activity*, includes the disclosure in, as the case may be:

- (1) ~~for a *TP firm* under Part 3 of the *EU Exit Passport Regulations*, *GEN 4 Annex 1B 1.1R* or *1.2R* (firms that are not PRA authorised persons) or, *GEN 4 Annex 1B 2.1R* or *2.2R* (PRA authorised persons); or [deleted]~~

...

...

GEN 4 Annex 1B (Statutory status disclosure (TP firms)) is deleted in its entirety. The deleted text is not shown but the annex is marked [deleted] as shown below.

**4 Annex Statutory status disclosure (TP firms) [deleted]
1B**

Amend the following as shown.

TP 5 Transitional provisions applying across the FCA Handbook and Technical Standards relating to the UK’s exit from the EU

...

Table 2: Transitional provisions applying across the FCA Handbook and Technical Standards

(1)	(2) Material to which the transitional provision applies	(3)	(4) Transitional provision	(5) Transitional provision: dates in force.	(6) Handbook provision: coming into force
...					
4	Every provision in the <i>FCA Handbook</i> , unless the context otherwise requires and subject to any more specific	R	Deemed references to pre-IP completion day provisions Any	From <i>IP completion day</i>	<i>IP completion day</i>

	transitional provision relating to the matter		reference (express or implied) in a provision in the <i>FCA Handbook</i> to a provision of or made under the <i>Act</i> or of retained EU <u>assimilated</u> law is to be read (so far as the context permits and according to the context) as being or including, in relation to times, circumstances and purposes before <i>IP completion day</i> , a reference to any substantially similar pre- <i>IP completion day</i> provision.		
...					

GEN TP 6 (Transitional provisions applying to GEN only – status disclosure for temporary permission firms) is deleted in its entirety. The deleted text is not shown but the chapter is marked [deleted] as shown below.

TP 6 Transitional provisions applying to GEN only – status disclosure for temporary permission firms [deleted]

Annex E

Amendments to the Supervision manual (SUP)

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

16 Reporting requirements

...

16.30 Baseline Financial Resilience Report

Application

16.30.1 R This section applies to any *firm* except:

...

(4) a *PRA-authorised person*; and

(5) a *supervised run-off firm*; ~~and~~

(6) ~~a *TP firm*~~. [deleted]

...

Annex F

Amendments to the Perimeter Guidance manual (PERG)

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

13 Guidance on the scope of the UK provisions which implemented MiFID

13.1 Introduction

...

Transitional onshoring provisions

The effect of section 3 of the European Union (Withdrawal) Act 2018 is that “direct EU legislation” became part of *UK* law, as at IP completion day (and is ~~known as “retained EU law” in accordance with section 6 of the same legislation~~ now known as “assimilated law” by virtue of section 5 of the Retained EU Law (Revocation and Reform) Act 2023). As such, MiFIR and all directly applicable regulations made under MiFID and MiFIR including the MiFID Org Regulation (Commission Delegated Regulation 2017/565), the MiFIR Delegated Regulation (Commission Delegated Regulation 2017/567) and technical standards became part of *UK* law, as at IP completion day.

...

13.2 General

Q1. Why does it matter whether or not we fall within the scope of MiFID?

Depending on whether or not you fall within the scope of MiFID, you may be subject to:

- domestic legislation implementing MiFID (for example, FCA rules);
- “direct EU legislation”, which became part of *UK* law as at IP completion day in accordance with section 3 of the European Union (Withdrawal) Act 2018, and is ~~known as “retained EU law” in accordance with section 6 of the same legislation.~~ now known as “assimilated law” by virtue of section 5 of the Retained EU Law (Revocation and Reform) Act 2023 (such as, *MiFIR* and all directly applicable regulations made under it or under MiFID); and
- other FCA *rules* or legislation whose scope is drawn by reference to MiFID (for example, the Prudential sourcebook for MiFID investment firms (*MIFIDPRU*)).

...