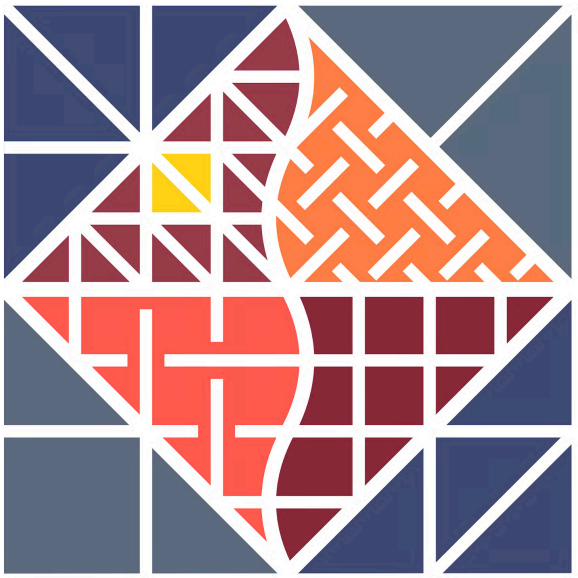

CONDUCT OF BUSINESS RULEBOOK (“COBS”) 2026

(Version 1.0)

1. INTRODUCTION

1.1 Application

This Rulebook applies to every Licensed Firm with respect to the carrying on, in or from Gelephu Mindfulness City ("**GMC**"), of any:

(a) Regulated Activity where this involves provision of a service to a Client; or

(b) activity which is carried on, or held out as being carried on, in connection with or for the purposes of such a Regulated Activity;

except to the extent that a provision provides for a narrower application.

2. CLIENT CLASSIFICATION

2.1 Application

2.1.1 This chapter applies to a Licensed Firm carrying on or intending to carry on any Regulated Activity with or for a Person.

2.1.2 For the purposes of this chapter, a Person includes any organisation (including outside of GMC) whether or not it has a separate legal personality.

2.1.3 This chapter does not apply to:

(a) a Credit Rating Agency in so far as it carries on, or intends to carry on, the Regulated Activity of Operating a Credit Rating Agency; or

(b) [*Not in use*]

(c) a Licensed Firm in so far as it carries on, or intends to carry on, the Regulated Activity of Providing Money Services.

(d) [*Not in use*]

Guidance

1. A Licensed Firm undertaking the Regulated Activity of Providing Money Services, as described in Chapter 8 of Schedule 1 of the GMC Financial Services Act ("**FSA**") does not have a client relationship with a Person to whom it Provides Money Services, either as Payer or Payee, so the client classification requirements in this chapter do not apply to that Licensed Firm.

2.2 Client Categorisation

2.2.1 A Licensed Firm must categorise each of its Clients into an appropriate Client category. There are two Client categories:

(a) Retail Client; and

(b) Professional Client.

2.2.2 A Licensed Firm must ensure that a Client is appropriately and correctly classified with respect to each Regulated Activity, service, product or Transaction.

Guidance

1. The point at which a Person becomes a Client of a Licensed Firm is a question of fact that needs to be addressed by the Licensed Firm in light of the nature of the relevant Regulated Activity (or Specified Investment) involved, and the relations and interactions which the Licensed Firm has with that Person.

2. The Client classification must take place before a Licensed Firm carries on a Regulated Activity where this involves provision of a service to a Client. However, this does not preclude marketing prior to such classification being documented and notified.

3. The Regulator expects Licensed Firms to adopt practices which are consistent with the underlying intent of the client classification provisions, which is to provide Clients with an appropriate level of regulatory protection in light of the resources and expertise available to such Clients. Therefore, as soon as it is reasonably apparent that a Licensed Firm is likely to carry on a Regulated Activity where this involves provision of a service to a potential Client, it should undertake the client classification process relating to that Person.

4. For example, a Licensed Firm is not expected to undertake advising or arranging activities relating to a Regulated Activity or Specified Investment which is suited to Professional Clients (e.g. complex derivatives) with a potential customer without having a reasonable basis to consider that such a customer has sufficient knowledge and experience relating to the relevant activity or product. Whilst a formal client classification may not be needed at the early stages of interaction, a Licensed Firm is expected to form a reasonable view about the professional status of a potential Client when exposing such a customer to Regulated Activities or Specified Investment (such as investments in a Qualified Investor Fund) which are intended for Professional Clients.

5. A Person may be classified into one category of Client in relation to the carrying on of a Regulated Activity where this involves provision of a Regulated Activity, service or Product to a Client, but another category in relation to another Regulated Activity and corresponding service, product or Transaction.

2.2.3 If a Licensed Firm is aware that a Client, with or for whom it is intending to carry on a Regulated Activity where this involves provision of a service to a Client, is acting as an agent for another Person (the "second person") in relation to a particular Transaction, then unless the Client is another Licensed Firm, a Licensed Body, or a Regulated Financial Institution, the Licensed Firm must also treat that second person as its Client in relation to that Transaction.

2.2.4 If a Licensed Firm intends to carry on any Regulated Activity where this involves provision of a service or product to a Client which is a trust, it must unless otherwise provided in the Rules, treat the trustee of the trust, and not the beneficiaries of the trust, as its Client.

2.3 Retail Clients

A Person who cannot be classified as a Professional Client in accordance with these Rules is a Retail Client. If a Licensed Firm chooses to provide Regulated Activities to a Person as a Retail Client, it may do so by simply classifying that Person as a Retail Client without having to follow any further procedures as compared to those required for classifying Persons as Professional Clients.

2.4 Professional Clients

2.4.1 There are two routes through which a Person may be classified as a Professional Client:

(a) "deemed" Professional Clients; and

(b) "assessed" Professional Clients.

Guidance

1. A Professional Client, whether a “deemed” Professional Client or an “assessed” Professional Client is a Client who possesses the experience, knowledge and expertise to make its own investment decisions and properly assess the risks that it incurs.

2. An “assessed” Professional Client should not be presumed to possess market knowledge and experience comparable to a “deemed” Professional Client.

2.4.2 "Deemed" Professional Clients

(a) A Person is a "deemed" Professional Client if that Person is:

(i) a Person which, as at the date of its most recent financial statements, met at least two of the following requirements:

(A) a balance sheet total of US$20 million;

(B) a net annual turnover of US$40 million; or

(C) own funds or called up capital of at least US$2 million (a

"Large Undertaking");

(ii) a supranational organisation whose members are either countries, central banks or national monetary authorities;

(iii) a properly constituted government, government agency, central bank or other national monetary authority of any country or jurisdiction;

(iv) a public authority or state investment body;

(v) a Recognised Body or Remote Body;

(vi) a Licensed Firm;

(vii) a Regulated Financial Institution;

(viii) a Collective Investment Fund or a regulated pension fund;

(ix) a Body Corporate whose shares are listed or admitted to trading on any exchange of an IOSCO member country;

(x) any other institutional investor whose main activity is to invest in Financial Instruments, including an entity dedicated to the securitisation of assets or other financial transactions;

(xi) a trustee of a trust which has, or had during the previous twelve months, assets of at least US$10,000,000. An individual trustee on the board of such a

trust is only a "deemed" Professional Client in relation to that particular trust;

(xii) a Subsidiary or a Parent of any of the Persons described in Rules 2.4.2(a)(i)-(xi); or

(xiii) deemed to be a Professional Client for the purposes of Rule 4.3.3.

(b) A Licensed Firm must have a reasonable basis for classifying a Person as falling within the list of "deemed" Professional Clients above, including by inspecting copies of any necessary supporting documentation and keeping records of the same.

2.4.3 [Deleted]

2.4.4 "Assessed" Professional Clients

Individuals

(a) [Deleted]

(b) An individual may be treated as an "assessed" Professional Client (instead of a Retail Client); if:

(i) the individual has net assets of at least US$1,000,000 (including any assets held directly or indirectly by that person), the calculation of which must exclude:

(A) the value of property which is that person's primary residence net of any loan secured on that residence;

(B) any rights of that person under a qualifying Contract of Insurance within the meaning of FSA; and

(C) any benefits (in the form of pensions or otherwise) which are payable on the termination of that person's service or on death or retirement and to which that person or that person's dependents are, or may be, entitled;

(ii) either:

(A) the individual is, or has been, in the previous twelve months, or two years in the case of the Promotion of a Passported Fund, an Employee in a professional position of a Licensed Firm, a Licensed Body, Remote Body; or Regulated Financial Institution; or

(B) the individual appears, on reasonable grounds, to have sufficient experience and understanding of relevant financial markets, products or transactions and any associated risks, following the analysis set out in Rule 2.6.2; and

(iii) the individual has not opted to be classified as a Retail Client.

(c) A Licensed Firm may classify any legal structure or vehicle, such as an Undertaking, trust or foundation, which is set up solely for the purpose of facilitating the management of an investment portfolio of an individual assessed as meeting the requirements in Rule 2.4.4(b), as a Professional Client.

(d) A Licensed Firm may classify as a Professional Client an individual (a "joint account holder") who has a joint account with an individual assessed as meeting the requirements in Rule 2.4.4(b) (the "primary account holder") if:

(i) the joint account holder is a family member of the primary account holder;

(ii) the account is used for the purposes of managing investments for the primary account holder and the joint account holder; and

(iii) the joint account holder has confirmed in writing (or, in the case of a joint account operated by a primary account holder who is a parent or legal guardian of a minor, that parent or guardian exercises its authority to act for the minor in accordance with any necessary formalities) that investment decisions relating to the joint account are generally made for, or on behalf of, him by the primary account holder.

(e) An individual acting as a primary account holder who has been classified as a Professional Client may operate a joint account with more than one family member. Provided that each such family member meets the requirements set out in Rule 2.4.4(d), they may all be classified as Professional Clients.

Undertakings

(f) A Licensed Firm may classify an Undertaking as an "assessed" Professional Client if the Undertaking, or (as assessed by the Licensed Firm) its Controller (provided that if such controller is a natural person, it meets the Professional Client criteria in Rule 2.4.4(b)), Holding Company, Subsidiary or joint venture partner:

(i) has own funds or called up capital of at least US$1,000,000

(ii) appears, on reasonable grounds, to have sufficient experience and understanding of relevant financial markets, products or transactions and any associated risks, following the analysis set out in Rule 2.6.2; and

(iii) has opted not to be classified as a Retail Client.

Guidance

1. A legal structure or vehicle established for investment purposes for an individual who are themselves a Professional Client may not opt to be treated as a Retail Client, as that right belongs to the Professional Client for whose purposes the legal structure or vehicle is set up.

2. A joint account holder for whom investment decisions are being made by a primary account holder who is a Professional Client does not per se have a right to opt to be classified as a Retail Client with regard to the operation of the joint account, but may withdraw confirmation given to have decisions on behalf of him made by the Professional Client who is the primary account holder of the joint account. In such event, the Licensed Firm must ensure that the withdrawing individual is no longer classified as a Professional Client, and that the operating of the joint account will not reflect treatment as a Professional Client until such time as the assets of the withdrawing joint account holder are withdrawn from the joint account.

3. In the calculation of net assets in Rule 2.4.4(b)(i), the reference to "assets held directly or indirectly" is designed to include assets held by direct legal ownership, by beneficial

ownership (e.g. as a beneficiary in a trust), or by both legal and beneficial ownership. Such assets may be held, for instance, through a special purpose or personal investment vehicle, a foundation, or similar. Similarly, any real property held subject to an Islamic mortgage, where the lender has the legal title to the property, may be counted as indirectly held property of a Client, less the amount owing on the mortgage, where it is not a primary residence. As the test is to determine the net assets (not gross assets) of an individual, any mortgages or other charges held over the property to secure any indebtedness of the individual should be deducted from the value of the assets. If an individual who is an expatriate has a primary residence in his home country, such a residence should not generally be counted for the purposes of meeting the net asset test. However, if the current residence in the host country is owned by the individual, then that may be treated as their primary residence and the value of the residence in the home country of the individual may be counted for the purposes of meeting the net asset test, provided there is sufficient evidence of ownership and an objective valuation of the relevant premises. A Licensed Firm should be able to demonstrate that it has objective evidence of the ownership and valuation of any assets taken into account for the purposes of meeting the net asset test.

4. Joint ventures may be in the form of contractual arrangements under which parties contribute their assets and expertise to develop or to undertake specified business activities. Where an Undertaking is set up by participants in such a joint venture for the purposes of their joint venture, the Undertaking itself can be treated as a Professional Client provided a joint venture partner meets the Professional Client criteria. To be able to rely on a joint venture partner's Professional Client status, such a partner should generally be a key decision maker with respect to the business activities of the joint venture, and not just a silent partner.

5. An Undertaking which meets the criteria to be a "deemed" Professional Client in accordance with the criteria in Rule 2.4.2 does not need to meet the criteria in this Rule to qualify as a Professional Client.

6. An Undertaking which does not otherwise qualify as a Professional Client may be deemed to be a Professional Client only for the purposes of the Regulated Activities of Providing Credit, Advising on Investments or Credit, Arranging Credit or Arranging Deals in Investments for the purpose of Corporate Structuring and Finance, in accordance with Rule 4.3.3.

2.5 Market Counterparties

(a) A Licensed Firm may classify a Person as a Market Counterparty if:

(i) that Person qualifies as a "deemed" Professional Client in accordance with Rule 2.4.2; and

(ii) the requirements in Rule 2.5(b) have been met.

(b) A Licensed Firm must, before classifying a Professional Client as a Market Counterparty, ensure that such a Person has:

(i) been given a prior written notification of the classification as a Market Counterparty in relation to a particular Regulated Activity or Transaction, or in respect of all Regulated Activities and Transactions; and

(ii) not requested to be classified otherwise within the period specified in the notice.

Guidance

In the case of a Market Counterparty which is a fund, trust or is otherwise managed or held by a Person which qualifies as a "deemed" Professional Client, notification under Rule 2.5(b)(i) must be given to the Person which manages or holds the assets of the Market Counterparty.

2.6 Client Classification Procedures

2.6.1 Option for a Professional Client to be classified as a Retail Client

(a) A Professional Client has the right to elect to be classified as a Retail Client. A Licensed Firm must, when first establishing a relationship with such a Person as a Professional Client, inform that Person of:

(i) that Person's right to be classified as a Retail Client;

(ii) the higher level of protection available to Retail Clients;

(iii) the time within which the Person may elect to be classified as a Retail Client; and

(iv) the Client is responsible for keeping the Licensed Firm informed about any change which could affect their current classification.

(b) If the Person does not expressly elect to be classified as a Retail Client within the time specified by the Licensed Firm, the Licensed Firm may classify that Person as a Professional Client.

(c) If such a Person already classified as a Professional Client by a Licensed Firm expressly requests the Licensed Firm to be re-classified as a Retail Client, the Licensed Firm must re-classify such a Person as a Retail Client.

(d) If a Licensed Firm does not provide Regulated Activities to Retail Clients, it must inform the Person of this fact and any relevant consequences.

Guidance

1. The obligation in Rule 2.6.1(a) applies to a Person when it first carries on or intends to carry on a Regulated Activity where this involves provision of a service to a Professional Client.

2. Once a Licensed Firm has first classified a Person as a Professional Client, that Professional Client has a right at any time thereafter to ask to be re-classified as a Retail Client to obtain a higher level of protection either generally, or in respect of a specific Regulate Activity or Transaction. Although the right to ask the Licensed Firm to be re-classified as a Retail Client is available to the Professional Client, as a matter of good practice:

(i) the Licensed Firm should also periodically review whether the circumstances relating to the particular Client remain the same; and

(ii) if the Licensed Firm becomes aware of any circumstances which would warrant a reclassification of the Client, initiate the process with the Client to give that Client a more appropriate classification.

3. A Licensed Firm cannot provide Regulated Activities to a Retail Client unless it is

permitted to do so in accordance with its Financial Services Licence. However, such a Licensed Firm may refer any Person who opts to be treated as a Retail Client to another Licensed Firm with the appropriate Financial Services Licence.

2.6.2 Assessment of knowledge and experience

(a) For the purpose of the analysis required to classify a Person as an "assessed" Professional Client, a Licensed Firm must include, where applicable, consideration of the following matters:

(i) the Person's knowledge and understanding of the relevant financial markets, types of financial products or arrangements and the risks involved either generally or in relation to a proposed Transaction;

(ii) the length of time the Person has participated in relevant financial markets, the frequency of dealings and the extent to which the Person has relied on professional financial advice;

(iii) the size and nature of transactions that have been undertaken by, or on behalf of, the Person in relevant financial markets;

(iv) the Person's relevant qualifications relating to financial markets;

(v) the composition and size of the Person's existing financial investment portfolio;

(vi) in the case of credit or insurance transactions, relevant experience in relation to similar transactions to be able to understand the risks associated with such transactions; and

(vii) any other matters which the Licensed Firm considers relevant.

(b) Where the analysis is being carried out in respect of an Undertaking, the analysis must be applied to those individuals, officers or directors who are authorised to undertake transactions on behalf of the Undertaking.

2.6.3 Reliance on a classification made elsewhere

(a) A Licensed Firm may rely on a client classification made, if it is a Branch, by its head office or any other branch of the same legal entity, or if it is a member of a Group, by any other member of its Group, if it has reasonable grounds to believe that such a client classification is substantially similar to the client classification required under these Rules and such client classification was undertaken in consideration of the Regulated Activity and associated product or service which the Licensed Firm intends to provide.

(b) If any gaps are identified between the requirements applicable to the a Licensed Firm under these Rules and the requirements under which the client classification is carried out by such other entity, the Licensed Firm may rely on such a client classification only if it has effectively addressed the identified gaps.

Guidance

1. Generally, a Licensed Firm relying on this Rule should be able to demonstrate to the Regulator the due diligence process that it had undertaken to assess whether the client classification made by its head office or other branch of the same legal entity or a

member of its Group substantially meets the client classification requirements in these Rules (e.g. documents verified and available) and, if any gaps are identified, how those gaps are effectively addressed.

2. If a Licensed Firm wishes to use any client classification undertaken by any third party other than its head office or another branch of the same legal entity, or a member of its Group, such an arrangement is generally treated as an outsourcing arrangement. In such case, the Licensed Firm would need to meet the requirements in GEN 3.3.32 relating to outsourcing.

2.6.4 Group clients

A Licensed Firm that is a member of a Group and carries out one or more Regulated Activities where the Regulated Activities carried out by the Licensed Firm form part of a bundle of Regulated Activities carried out for the benefit of that Client by Group members of the Licensed Firm must ensure that:

(i) the client classification it adopts for any Regulated Activity carried on which involves the provision of a service to a Client is both consistent with the requirements in these Rules and appropriate for the overall bundle of Regulated Activities which involve the provision of services to a Client;

(ii) the Client has a clear understanding of the arrangement under which Regulated Activities are carried out for the Client's benefit by the Licensed Firm in conjunction with the other members of the Group; and

(iii) any risks arising from such arrangements are identified and appropriately and effectively addressed.

Guidance

1. Different entities in a Group may have different arrangements under which they provide to their Clients one or more Regulated Activities. Such arrangements may involve, instead of each member within a Group carrying on a discrete stand- alone Regulated Activity, different members of the Group carrying on different aspects of the bundle of Regulated Activities carried on for the Client's benefit. An example is where a number of members within a Group provide discrete aspects of expertise that facilitate merger and acquisition activity of a Client. In such a situation, different members of the Group could prepare and provide:

   (i) Advice relating to a proposed restructure;

   (ii) Advice relating to financing of the restructure; and

   (iii) Arranging Credit for financing the restructure.

2. In order to provide flexibility for Licensed Firms which are members of a Group to provide such services to their Clients in a manner that suits the Client's needs and the nature of the service, this Rule 2.6.4 sets out the overarching objectives that must be achieved, rather than any detailed requirements.

3. Depending on the nature of the arrangement under which Group members choose to carry on Regulated Activities for the benefit of the same Client, and the nature of the Regulated Activities involved, the risks associated with such arrangements may vary. Some of the common risks that could arise, and therefore would need to be addressed, include:

(i) conflicting legal requirements applicable to the carrying on of the Regulated Activities, particularly if the members of the Group are located in different jurisdictions; and

(ii) a Client not being able to clearly identify the actual service provider or providers and resulting exposure to legal accountability to the Client that may arise for all members of the Group.

4. A Licensed Firm must comply with, and must be able to demonstrate compliance with, the systems and controls requirements set out in GEN when relying on this Rule 2.6.4.

2.7 Record Keeping

2.7.1 In addition to any applicable rules under GEN relating to record keeping, and the remainder of these Rules, a Licensed Firm must keep records of:

(a) the procedures which it has followed under these Rules, including any documents which evidence the Client's classification; and

(b) any notice sent to the Client pursuant to these Rules and evidence of despatch.

2.7.2 The records must be kept by a Licensed Firm for at least six years from the date on which the business relationship with a Client has ended.

2.7.3 A Licensed Firm may, if the date on which the business relationship with the Client ended is unclear, treat the date of the completion of the last Transaction with the Client as the date on which the business relationship ended.

2.7.4 A Licensed Firm must ensure that in relation to reliance on a classification made elsewhere (Rule 2.6.3) and in relation to Group Clients (Rule 2.6.4), the Regulator has unrestricted access to all the records required for the Licensed Firm to be able to demonstrate to the Regulator its compliance with the applicable requirements, including any records maintained by or at its head office or any other branch of the same legal entity, or a member of its Group.

2.7.5 A Licensed Firm must notify the Regulator immediately if, for any reason, it is no longer able to provide unrestricted access to records.

3. CORE RULES – INVESTMENT BUSINESS, ACCEPTING DEPOSITS, PROVIDING CREDIT AND PROVIDING TRUST SERVICES

3.1 Application

3.1.1 This chapter applies to a Licensed Firm which carries on or intends to carry on:

(a) Investment Business;

(b) Accepting Deposits;

(c) Providing Credit; or

(d) Providing Trust Services

except where it is expressly provided otherwise.

3.2 Communication of Information and Marketing Material

General

3.2.1 When communicating information to a Person in relation to a Specified Investment or Regulated Activity, a Licensed Firm must take reasonable steps to ensure that the communication is clear, fair and not misleading.

Guidance

A communication addressed to a Professional Client may not need to include the same information, or be presented in the same way, as a communication addressed to a Retail Client.

3.2.2 A Licensed Firm must not, in any form of communication with a Person, attempt to limit or avoid any duty or liability it may have to that Person or any other Person under the FSA.

3.2.3 Where a Rule requires information to be sent to a Client, the Licensed Firm must provide that information directly to the Client and not to another Person, unless it is on the written instructions of the Client.

Marketing Material

3.2.4 (a) A Licensed Firm must ensure that any Marketing Material communicated to a Person contains the following information:

(i) the name of the Licensed Firm communicating the Marketing Material or, on whose behalf the Marketing Material is being communicated;

(ii) the Licensed Firm's regulatory status; and

(iii) if the Marketing Material is intended only for Professional Clients, a clear statement to that effect and that no other Person should act upon it.

(b) A Licensed Firm which communicates Marketing Material must:

(i) ensure that the Marketing Material complies with the applicable Rules and any legislation administered by the Regulator;

(ii) not distribute such Marketing Material if it becomes aware that the Person offering to carry on the Regulated Activity or offering the Specified Investment to which the Material relates is in breach of the regulatory requirements that apply to that Person in relation to that Specified Investment or Regulated Activity; and

(iii) ensure that Marketing Material which is intended for Retail Clients is identified as Marketing Material and is identified as not being intended as investment advice.

Guidance

Marketing Material includes any invitation or inducement to Engage in Investment Activity.

3.2.5 A Licensed Firm must:

(a) ensure that any Marketing Material intended for Professional Clients is not sent or directed to any Persons who are not Professional Clients; and

(b) take reasonable steps to ensure that no Person communicates or otherwise uses the Marketing Material on behalf of the Licensed Firm in a manner that amounts to a breach of the requirements in this section.

Past Performance and Forecasts

3.2.6 A Licensed Firm must ensure that any information or representation relating to past performance, or any future forecast based on past performance or other assumptions, which is provided to or targeted at Retail Clients:

(a) presents a fair, balanced and up-to-date view of the Specified Investments or Regulated Activities to which the information or representation relates;

(b) identifies, in an easy to understand manner, the source of information from which the past performance is derived and any key facts and assumptions used in that context are drawn;

(c) contains comparable data for each year and at least 5 years' data where available; and

(d) contains a prominent warning that past performance is not necessarily a reliable indicator of future results.

3.3 Key Information and Client Agreement

3.3.1 Application

The Rules in this section do not apply to a Licensed Firm when it is:

(a) carrying on a Regulated Activity where this involves provision of a service to a Professional Client which is a Market Counterparty;

(b) Accepting Deposits;

(c) Providing Credit;

(d) carrying on an activity of the kind described in paragraph 67 of Chapter 14 of Schedule 1 of FSA that constitutes marketing; or

(e) a Fund Manager of a Fund Offering the Units of a Fund it manages.

3.3.2 Requirements

(a) Subject to Rule 3.3.2(b), a Licensed Firm must not carry on a Regulated Activity where this involves provision of a service to a Client unless:

(i) there is a Client Agreement entered into between the Licensed Firm and that Person containing the key information specified in Chapter 12 which is entered into either between the Licensed Firm and that Person or in accordance with the requirements in Rule 3.3.2(c); and

(ii) before entering into the Client Agreement with the Person, the Licensed Firm has provided to that Person the key information referred to in Chapter 12 in good time to enable him to make an informed decision relating to the relevant

Regulated Activity.

(b) A Licensed Firm may carry on a Regulated Activity where this involves provision of a service to a Client without having to comply with the requirement in Rule 3.3.2(a);

(i) where it is, on reasonable grounds, impracticable to comply, in which case a Licensed Firm carrying on the Regulated Activity must:

(A) first explain to the Person why it is impracticable to comply; and

(B) enter into a Client Agreement as soon as practicable thereafter.

(ii) where the Client has expressly agreed to dispense with the requirement in regard to a legal structure or vehicle the Client has established for investment purposes.

(c) A Licensed Firm may rely on a Client Agreement executed other than by the Licensed Firm in the following circumstances:

(i) A Licensed Firm which is a Branch may rely on a Client Agreement executed by its head office or any other branch of the same legal entity if:

(A) the Client Agreement adequately and clearly applies to the Regulated Activities carried out the Branch; and

(B) the Licensed Firm ensures that the Client Agreement is available to the Regulator on request.

(ii) A Licensed Firm may rely on a Client Agreement executed by a member of its Group if:

(A) it is carrying on a Regulated Activity where this involves provision of a service to a Client pursuant to Rule 2.6.4;

(B) the Client Agreement clearly sets out the Regulated Activity carried on where this involves provision of a service to a Client by the Licensed Firm and that the Client's rights in respect of the carrying on of the Regulated Activity are enforceable against the Licensed Firm; and

(C) the Licensed Firm ensures that the Client Agreement is available to the Regulator on request.

3.3.3 [Deleted]

Guidance

1. Chapter 12 sets out the core information that must be included in every Client Agreement and additional disclosure for certain types of activities to which this chapter applies.

2. A Licensed Firm may either provide a Person with a copy of the proposed Client Agreement, or give that information in a separate form. If there are any changes to the terms and conditions of the proposed agreement, the Licensed Firm must ensure that the Client Agreement to be signed with the Person accurately incorporates those changes.

3. A Licensed Firm may consider it is reasonably impracticable to provide the key

information to a Person if that Person requests the Licensed Firm to execute a Transaction on a time critical basis. Where a Licensed Firm has explained why it is impracticable to comply with the requirement to enter into a Client Agreement orally, it must maintain records to demonstrate to the Regulator that it has provided that information to the Client.

3.3.4 Changes to the Client Agreement

If the Client Agreement provided to a Retail Client allows a Licensed Firm to amend the Client Agreement without the Client's prior written consent, the Licensed Firm must give at least fourteen days' notice to the Client before carrying on a Regulated Activity where this involves provision of a service to a Client on any amended terms, unless it is impracticable to do so.

3.4 Suitability

3.4.1 Application

The Rules in this section do not apply where the Licensed Firm undertakes:

(a) a Transaction with a Professional Client which is a Market Counterparty;

(b) an Execution-Only Transaction;

(c) the Regulated Activities of Accepting Deposits, Providing Credit, Operating a Private Financing Platform, Operating a Multilateral Trading Facility, Operating an Organised Trading Facility or Providing Custody;

(d) an activity of the kind described in section 67 of Chapter 14 of Schedule 1 of FSA that constitutes marketing.

3.4.2 Suitability Assessment

(a) Subject to Rule 3.4.2(b), a Licensed Firm must not recommend to a Client a Specified Investment or the carrying on of a Regulated Activity where this involves provision of a service to a Client, or execute a Transaction on a discretionary basis for a Client, unless the Licensed Firm has a reasonable basis for considering the recommendation or Transaction to be suitable for that particular Client. For this purpose, the Licensed Firm must:

(i) undertake an appropriate assessment of the particular Client's needs, objectives, and financial situation, and also, to the extent relevant, risk tolerance, knowledge, experience and understanding of the risks involved; and

(ii) take into account any other relevant requirements and circumstances of the Client of which the Licensed Firm is, or ought reasonably to be aware.

(b) A Licensed Firm may, subject to Rule 3.4.2(c), limit the extent to which it will consider suitability when making a recommendation to, or undertaking a Transaction on a discretionary basis for or on behalf of, a Professional Client if, prior to carrying on that activity, the Licensed Firm:

(i) has given a written warning to the Professional Client in the form of a notice clearly stating either that the Licensed Firm will not consider suitability, or

will consider suitability only to the extent specified in the notice; and

(ii) the Professional Client has given his express consent, after a proper opportunity to consider the warning, by signing that notice.

(c) Where a Licensed Firm is managing investments under a Discretionary Portfolio Management Agreement for a Professional Client for more than 12 months, it must consider whether or not to ensure that the account remains suitable for the particular Professional Client every 12 months, having regard to the matters specified in (a)(i) and (ii).

(d) A Licensed Firm Providing Trust Services does not have to undertake an assessment of the factors such as risk tolerance, knowledge and experience of a Client when assessing the suitability of the service to a particular Client.

Guidance

The extent to which a Licensed Firm needs to carry out a suitability assessment for a Professional Client depends on its agreement with such a Client. The agreement may limit the suitability assessment to a specified extent, or may dispense with the suitability assessment completely. To the extent a limited suitability assessment is agreed upon, the Licensed Firm must carry out the suitability assessment as agreed. Limitations may, for example, relate to the objectives of the Client or the product range in respect of which the recommendations are to be made.

3.4.3 A Licensed Firm must take reasonable steps to ensure the information it holds about a Client is accurate, complete and up to date.

3.5 Conflicts of Interest

3.5.1 Fair Treatment

A Licensed Firm must take reasonable steps to ensure that conflicts of interest and potential conflicts of interest between itself and its Clients and between one Client and another Client are identified and then prevented or managed in accordance with this Rule 3.5.

3.5.2 **Record of Conflicts**

A Licensed Firm must keep and regularly update a record of the kinds of service or activity carried out by or on behalf of that Licensed Firm in which a conflict of interest entailing a material risk of damage to the interests of one or more Clients has arisen or, in the case of an ongoing service or activity, may arise.

3.5.3 Managing Conflicts

A Licensed Firm must maintain and operate effective organisational and administrative arrangements with a view to taking all reasonable steps to prevent conflicts of interest from constituting or giving rise to a material risk of damage to the interests of its Clients, including establishing and maintaining effective information barriers to restrict the communication of relevant information.

3.5.4 Disclosure of Conflicts

(a) If arrangements made by a Licensed Firm under Rule 3.5.3 to manage conflicts of interest are not sufficient to ensure, with reasonable confidence, that risks of damage

to the interests of a Client will be prevented, the Licensed Firm must clearly disclose the general nature and/or sources of conflicts of interest to the Client before undertaking business for the Client.

(b) The disclosure must:

(i) be made in a durable medium; and

(ii) include sufficient detail, taking into account the nature of the Client, to enable that Client to take an informed decision with respect to the service in the context of which the conflict of interest arises.

3.5.5 Conflicts Policy

(a) A Licensed Firm must establish, implement and maintain an effective conflicts of interest policy that is set out in writing and is appropriate to the size and organisation of the Licensed Firm and the nature, scale and complexity of its business.

(b) Where the Licensed Firm is a member of a Group, the policy must also take into account any circumstances of which the Licensed Firm is or should be aware, which may give rise to a conflict of interest arising as a result of the structure and business activities of other members of the Group.

Guidance

Conflicts of interest include conflicts arising from Soft Dollar Agreements entered into by the Licensed Firm.

3.5.6 If a Licensed Firm is unable to prevent or manage a conflict or potential conflict of interest, it must decline to act for that Client.

3.5.7 Attribution of Knowledge

When a Rule applies to a Licensed Firm that acts with knowledge, the Licensed Firm will not be taken to act with knowledge for the purposes of that Rule as long as none of the relevant individuals involved for on behalf of the Licensed Firm acts with that knowledge as a result of an information barrier arrangement.

3.5.8 Inducements

(a) A Licensed Firm must have systems and controls including policies and procedures to ensure that neither it, nor an Employee or Associate of it, offers, gives, solicits or accepts inducements such as commissions or other direct or indirect benefits where such inducements are reasonably likely to conflict with any duty that it owes to its Clients.

(b) Subject to Rule 3.5.8(c), a Licensed Firm must, before recommending a Specified Investment to, or Executing a Transaction for, a Retail Client, disclose to that Client any commission or other direct or indirect benefit which it, or any Associate or Employee of it, has received or may or will receive, in connection with or as a result of the Licensed Firm making the recommendation or executing the Transaction.

(c) A Licensed Firm may provide the information required under Rule 3.5.8(b) in summary form, provided it informs the Client that more detailed information will be provided to the Client upon request and the Licensed Firm complies with such a

request.

Guidance

In relation to Rule 3.5.8(a), in circumstances where a Licensed Firm believes on reasonable grounds that the Client's interests are better served by a Person to whom the referral is to be made, any commission or other benefit which the Licensed Firm or any of its Employees or Associates receives in respect of such a referral would not be a prohibited inducement under this Rule.

3.6 Soft Dollar Agreements

3.6.1 A Licensed Firm may accept goods and services under a Soft Dollar Agreement only if the goods and services are reasonably expected to:

(a) assist in the provision of Investment Business services to the Licensed Firm's Clients by means of:

(i) specific advice on dealing in, or on the value of, any Investment;

(ii) research or analysis about Investments generally; or

(iii) use of computer or other information facilities to the extent that they are associated with specialist computer software or research services, or dedicated telephone lines;

(b) provide custody services relating to Investments belonging to, or managed for, Clients;

(c) provide services relating to portfolio valuation or performance measurement services; or

(d) provide market price services.

3.6.2 A Licensed Firm must undertake a thorough assessment of the nature of the goods and services and the terms upon which they are to be provided under a Soft Dollar Agreement to ensure that the receipt of such goods and services provide commensurate value notifying in particular if any costs of such goods and services are to be passed through to Clients. Where the Client bears the cost of the goods and services, the disclosure obligation relating to costs and charges under Rule 3.3.2 will apply to such costs.

3.6.3 A Licensed Firm must not Deal in Investments as agent for a Client, either directly or indirectly, through any broker under a Soft Dollar Agreement, unless:

(a) the agreement is a written agreement for the supply of goods or services described in Rule 3.6.1, which do not take the form of, or include, cash or any other direct financial benefit;

(b) Transaction execution by the broker is consistent with any best execution obligations owed to the Client;

(c) the Licensed Firm has taken reasonable steps to ensure that the services provided by the broker are competitive, with no comparative price disadvantage, and take into account the interests of the Client;

(d) for Transactions in which the broker acts as principal, the Licensed Firm has taken

reasonable steps to ensure that Commission paid under the agreement will be sufficient to cover the value of the goods or services to be received and the costs of execution; and

(e) the Licensed Firm makes adequate disclosure in accordance with Rules 3.6.4 and 3.6.5.

3.6.4 Before a Licensed Firm enters into a Transaction for or on behalf of a Client, either directly or indirectly, with or through the agency of another Person, in relation to which there is a Soft Dollar Agreement which the Licensed Firm has, or knows that another member of its Group has, with that other Person, it must disclose to its Client:

(a) the existence of a Soft Dollar Agreement; and

(b) the Licensed Firm's or its Group's policy relating to Soft Dollar Agreements.

3.6.5 If a Licensed Firm or member of its Group has a Soft Dollar Agreement under which either the Licensed Firm or member of its Group deals for a Client, the Licensed Firm must provide that Client with the following information:

(a) the percentage paid under Soft Dollar Agreements of the total Commission paid by or at the direction of:

(i) the Licensed Firm; and

(ii) any other member of the Licensed Firm's Group which is a party to those agreements;

(b) the value, on a cost price basis, of the goods and services received by the Licensed Firm under Soft Dollar Agreements, expressed as a percentage of the total Commission paid by or at the direction of:

(i) the Licensed Firm; or

(ii) other members of the Licensed Firm's Group;

(c) a summary of the nature of the goods and services received by the Licensed Firm under the Soft Dollar Agreements; and

(d) the total Commission paid from the portfolio of that Client.

3.6.6 The information in Rule 3.6.5 must be provided to that Client at least once a year, covering the period since the Licensed Firm last reported to that Client.

3.7 Record Keeping

3.7.1 A Licensed Firm must, for a minimum of six years, maintain sufficient records in relation to each activity and function of the Licensed Firm. These must include, where applicable, the following:

(a) any Marketing Material issued by, or on behalf of, the Licensed Firm;

(b) any Financial Instruments provided to or Regulated Activities carried out for the benefit of a Client and each advice or recommendation made to a Client;

(c) documents regarding Client classification under Chapter 2;

(d) a record of each Client Agreement including any subsequent amendments to it as agreed with the Client;

(e) records relating to the suitability assessment undertaken by the Licensed Firm to demonstrate compliance with these Rules;

(f) records to demonstrate compliance with the requirements relating to inducements, including any disclosure made to Clients under that rule and if any goods and services are received by the Licensed Firm under a Soft Dollar Agreement, the details relating to those agreements;

(g) financial promotions under Schedule 2 of FSA; and

(h) any other disclosures made to Clients.

3.7.2 For the purposes of Rule 3.7.1, the six year period commences:

(a) in the case of the requirement in Rule 3.7.1(a), from the date on which the Marketing Material was last provided to a Person;

(b) in the case of the requirement in Rule 3.7.1(b) to Rule 3.7.1(d), from the date the Client ceases to be a Client of the Licensed Firm;

(c) in the case of the requirement in Rule 3.7.1(e), from the date on which the relevant inducements were last received; and

(d) in the case of the requirement in Rule 3.7.1(g), from the date on which the relevant financial promotion was made.

3.8 [Not in use]

4. ADDITIONAL RULES – ACCEPTING DEPOSITS AND PROVIDING CREDIT

4.1 Application

4.1.1 The Rules in this chapter apply to a Licensed Firm with respect to Accepting Deposits or Providing Credit through an establishment maintained by it in GMC.

4.2 Accepting Deposits

4.2.1 [*Not in use*]

4.3 Providing Credit

4.3.1 A Licensed Firm may Provide Credit to a Professional Client.

4.3.2 A Licensed Firm may Provide Credit to a Retail Client only where:

(a) the Retail Client is an Undertaking; and

(b) the Credit Facility is provided to the Retail Client for a business purpose.

4.3.3 (a) An Undertaking is deemed to be a Professional Client for the purposes of the Regulated Activities of Providing Credit, Advising on Investments or Credit, Arranging Credit or Arranging Deals in Investments if such services are being provided to:

(i) the Undertaking;

(ii) the Controller of the Undertaking, which is also an Undertaking;

(iii) any member of a Group to which the Undertaking belongs; or

(iv) a joint venture involving the Persons described in 4.3.3(a)(i)-(iii).

for the purpose of Corporate Structuring and Financing.

(b) An Undertaking which does not otherwise qualify as a Professional Client under Chapter 2 must be treated as a Retail Client in respect of all other Regulated Activities and Transactions not identified in this Rule.

Guidance

Pursuant to Rule 4.3.3, Undertakings which engage a Licensed Firm for the purpose of engaging in any of the Regulated Activities of Providing Credit, Advising on Investments or Credit, Arranging Credit or Arranging Deals in Investments may be considered by the Licensed Firm as a Professional Client for such Regulated Activities and Transactions only, provided such services have been obtained for the purpose of Corporate Structuring and Financing.

4.4 Depositor Protection

4.4.1 (a) In the event of:

(i) the appointment of a provisional liquidator, liquidator, receiver or administrator, or trustee in bankruptcy over a Bank which is a GMC Firm; or

(ii) a direction by the Regulator to a Bank which is a GMC Firm to deal with all or substantially all its Deposits in a specified manner, eligible depositors of the Bank have priority over, and must be paid in priority to, all other unsecured creditors of the Bank.

(b) In Rule 4.4.1(a), an "eligible depositor" means a Person (other than a Professional Client which is Market Counterparty or a Bank) who, at the relevant time, is a creditor of a Bank referred to in Rule 4.4.1(a) by virtue of being owed an amount of Money held by the Bank as a Deposit.

5. ADDITIONAL RULES — PROVIDING TRUST SERVICES

5.1 Application

5.1.1 This chapter applies to a Trust Service Provider with respect to the conduct of Providing Trust Services.

5.2 General

5.2.1 For the purposes of this chapter, a settlor, a trustee or a named beneficiary of a trust in respect of which the Trust Service Provider is engaged in Providing Trust Services may be treated as a Client of the Licensed Firm.

5.2.2 A Trust Service Provider must maintain adequate knowledge of, and comply with, all applicable GMC laws, Rules and Regulations relevant to Providing Trust Services.

5.2.3 A Trust Service Provider must be able to demonstrate that it is in compliance with appropriate standards of corporate governance.

5.2.4 A Trust Service Provider must transact its business (including the establishing, transferring or closing of business relationships with its Clients) in an expeditious manner where appropriate unless there are reasonable grounds to do otherwise.

5.3 Exercise of Discretion

5.3.1 Where a Trust Service Provider is responsible for exercising discretion for, or in relation to, its Clients, it must take all reasonable steps to obtain sufficient information in order to exercise its discretion or other powers in a proper manner and for a proper purpose.

5.3.2 The Trust Service Provider must ensure that its understanding of a Client's business is refreshed by means of regular reviews.

5.3.3 The Trust Service Provider must ensure that any trustee exercises his discretion in accordance with his fiduciary and other duties under the laws governing the trust of which he is a trustee.

5.4 Delegation of Duties or Powers

5.4.1 Any delegation of duties or powers by a Trust Service Provider, whether by Power of Attorney or otherwise, must only be entered into for a proper purpose, permissible by law and limited and monitored as appropriate.

5.5 Reviews

5.5.1 A Trust Service Provider must ensure that adequate procedures are implemented to ensure that regular reviews at appropriate intervals are conducted in respect of Providing Trust Services to its Clients.

5.6 Professional Indemnity Insurance Cover

5.6.1 A Trust Service Provider must maintain professional indemnity insurance cover appropriate to the nature and size of the Trust Service Provider's business.

5.6.2 A Trust Service Provider must:

(a) provide the Regulator with a copy of its professional indemnity insurance cover; and

(b) notify the Regulator of any changes to the cover including termination and renewal.

5.6.3 A Trust Service Provider must provide the Regulator on a yearly basis, with the details of the arrangements in force together with evidence of the cover. Any claims in excess of US$10,000 or changes to the arrangements previously notified to the Regulator under this Rule must be notified to the Regulator as they arise.

5.7 Dual Control

5.7.1 The Trust Service Provider must have adequate internal controls, including having two Persons with appropriate skills and experience managing the business.

5.7.2 While a Trust Service Provider may have a single Person with overall responsibility, at least another Person must have the skills and experience to be able to run the business of the Trust Service Provider in the absence of the senior Person and must be in a position to challenge the actions of the senior Person where they consider that those actions may be contrary to the provisions of GMC Laws, Rules or Regulations or any other applicable legislation, may not be in the interests of the Client, or

may be contrary to sound business principles.

5.8 Internal Reporting

A Trust Service Provider must have arrangements for internal reporting to ensure that the directors or the partners can satisfy themselves that:

(a) the requirements of the relevant legislation are being met on an on-going basis;

(b) the Trust Service Provider's business is being managed according to sound business principles and, in particular, that it can meet its financial commitments as they fall due;

(c) the affairs of its Clients are being managed in accordance with the service agreements;

(d) the trustees are acting in accordance with their fiduciary and other duties;

(e) the affairs of its Clients are being properly monitored and in particular that the Client is not using the trust structure to hide assets from legitimate enquiry, to avoid proper obligations in other jurisdictions or to engage in illegal activities in other jurisdictions;

(f) the assets of its Clients are properly managed and safeguarded; and

(g) the recruitment, training and motivation of staff is sufficient to meet the obligations of the business.

5.9 Recording of Selection Criteria

5.9.1 Where the Trust Service Provider seeks the advice of a third party in connection with a Client's affairs, for example to advise on or manage investments, the Trust Service Provider must record the criteria for selection of the adviser and the reasons for the selection made.

5.9.2 The Trust Service Provider must monitor the performance of the adviser and ensure that it is in a position to change advisers if it is in the interests of the Client.

5.10 Qualification and Experience of Trust Service Provider Staff

5.10.1 Staff employed or Persons recommended by the Trust Service Provider must have appropriate qualifications and experience.

5.10.2 A Trust Service Provider must ensure that all transactions or decisions entered into, taken by or on behalf of Clients are properly authorised and handled by Persons with an appropriate level of knowledge, experience, qualifications and status according to the nature and status of the transactions or decisions involved (this applies also to decisions taken by trustees who are recommended by, but not employed by, a Trust Service Provider).

5.10.3 A Trust Service Provider must ensure that each of its officers and Employees, agents, Persons acting with its instructions and Persons it recommends to act as trustees have an appropriate understanding of the fiduciary and other duties of a trustee and any duties arising under the laws relevant to the administration and affairs of Clients for which they are acting in the jurisdictions in which they are carrying on business and in which the assets being managed are held.

5.10.4 A Trust Service Provider must ensure that staff competence is kept up to date through training

and continuous professional development as appropriate.

5.11 Books and Records

5.11.1 The books and records of a Trust Service Provider must be sufficient to demonstrate adequate and orderly management of Clients' affairs.

5.11.2 A Trust Service Provider must prepare proper accounts, at appropriately regular intervals on the trusts and underlying companies administered for its Clients.

5.11.3 Where trusts and underlying companies are governed by the laws of a jurisdiction that require accounts to be kept in a particular form, the Trust Service Provider must meet those requirements.

5.11.4 The Trust Service Provider's books and records must be sufficient to allow the recreation of the transactions of the business and its Clients and to demonstrate what assets are due to each Client and what liabilities are attributable to each Client.

5.12 Due Diligence

5.12.1 A Trust Service Provider must, at all times, have verified documentary evidence of the settlors, trustees (in addition to the Trust Service Provider itself) and principal named beneficiaries of trusts for which it Provides Trust Services. In the case of discretionary trusts with the capacity for the trustee to add further beneficiaries, a Trust Service Provider must also have verified, where reasonably possible, documentary evidence of any Person who receives a distribution from the trust and any other Person who is named in a memorandum or letter of wishes as being a likely recipient of a distribution from a trust.

5.12.2 A Trust Service Provider must demonstrate that it has knowledge of the source of funds that have been settled into trusts or have been used to provide capital to companies or have been used in transactions with which the Trust Service Provider has an involvement.

5.13 Fitness and Propriety of Persons Acting as Trustees

5.13.1 Where a Trust Service Provider arranges for a Person who is not an Employee of the Trust Service Provider to act as trustee for a Client of the Trust Service Provider, the Trust Service Provider must ensure that such Person is fit and proper.

5.13.2 A Trust Service Provider must notify the Regulator of the appointment of a Person under Rule 5.13.1, including the name and business address if applicable and the date of commencement of the appointment.

5.13.3 Prior to the appointment of such a Person to act as a trustee, the Trust Service Provider must take reasonable steps to ensure that the Person has the required skills, experience and resources to act as a trustee for a Client of the Trust Service Provider.

5.13.4 A Trust Service Provider must notify the Regulator immediately if the appointment of such a Person is or is about to be terminated, or on the resignation of such Person, giving the reasons for the resignation and the measures which have been taken to ensure that a new trustee has been appointed.

5.13.5 A Person appointed to act as trustee for a Client of a Trust Service Provider who is not an Employee of the Trust Service Provider, must agree in writing to be bound by and comply with the same legal and regulatory requirements as if he were an Employee of the Trust Service Provider.

6. ADDITIONAL RULES – INVESTMENT BUSINESS

6.1 Application

The Rules in this chapter apply to a Licensed Firm when conducting Investment Business. The requirements in this chapter apply to a Licensed Firm regardless of the classification of the Client, unless expressly provided otherwise.

6.2 Personal Account Transactions

6.2.1 A Licensed Firm must establish and maintain adequate policies and procedures so as to ensure that:

(a) an Employee does not undertake a Personal Account Transaction unless:

(i) the Licensed Firm has, in a written notice, drawn to the attention of the Employee the conditions upon which the Employee may undertake Personal Account Transactions and that the contents of such a notice are made a term of his contract of employment or services;

(ii) the Licensed Firm has given its written permission to that Employee for that transaction or to transactions generally in Investments of that kind; and

(iii) the transaction will not conflict with the Licensed Firm's duties to its Clients;

(b) it receives prompt notification or is otherwise aware of each Employee's Personal Account Transactions; and

(c) if an Employee's Personal Account Transactions are conducted with the Licensed Firm, each Employee's account must be clearly identified and distinguishable from other Clients' accounts.

6.2.2 The written notice in Rule 6.2.1(a)(i) must make it explicit that, if an Employee is prohibited from undertaking a Personal Account Transaction, he must not, except in the proper course of his employment:

(a) procure another Person to enter into such a Transaction; or

(b) communicate any information or opinion to another Person if he knows, or ought to know, that the Person will as a result, enter into such a Transaction or procure some other Person to do so.

6.2.3 Where a Licensed Firm has taken reasonable steps to ensure that an Employee will not be involved to any material extent in, or have access to information about, the Licensed Firm's Investment Business, then the Licensed Firm need not comply with the requirements in Rule 6.2.1 in respect of that Employee.

6.2.4 A Licensed Firm must establish and maintain procedures and controls so as to ensure that an Investment Analyst does not undertake a Personal Account Transaction in an Investment if the Investment Analyst is preparing Investment Research:

(a) on that Investment or its Issuer; or

(b) on a related investment, or its Issuer,

until the Investment Research is published or made available to the Licensed Firm's Clients.

6.3 Record Keeping

6.3.1 (a) A Licensed Firm must maintain and keep a record of:

(i) the written notice setting out the conditions for Personal Account Transactions under Rule 6.2.1(a)(i);

(ii) each permission given or denied by the Licensed Firm under Rule 6.2.1(a)(ii);

(iii) each notification made to it under Rule 6.2.1(b); and

(iv) the basis upon which the Licensed Firm has ascertained that an Employee will not be involved in to any material extent, or have access to information about, the Licensed Firm's Investment Business for the purposes of Rule 6.2.3.

(b) The records in Rule 6.3.1(a) must be retained for a minimum of six years from the date of:

(i) in Rule 6.3.1(a)(i) and Rule 6.3.1(a)(iv), termination of the employment contract of each Employee;

(ii) in Rule 6.3.1(a)(ii), each permission given or denied by the Licensed Firm; and

(iii) in Rule 6.3.1(a)(iii), each notification made to the Licensed Firm.

Guidance

Where a Licensed Firm holds a mandate, or similar authority over an account established by a Client for the purpose of holding Client Money or Client Investments, it must maintain those records mandated by Chapter 14, in respect of Client Money, and those records mandated by Chapter 15, and, if applicable, Chapter 17, in respect of Client Investments.

6.4 Investment Research and Offers of Securities

6.4.1 Application

This section applies to a Licensed Firm preparing or publishing Investment Research.

6.4.2 Procedures and Controls for Investment Research

(a) A Licensed Firm that prepares and publishes Investment Research must have adequate procedures and controls to ensure:

(i) the effective supervision and management of Investment Analysts;

(ii) that the actual or potential conflicts of interest are proactively managed in accordance with Rule 3.5;

(iii) that the Investment Research issued to Clients is impartial; and

(iv) that the Investment Research contains the disclosures described under Rules 6.4.3 and 6.4.5.

(b) A Licensed Firm's procedures, controls and internal arrangements, which may include Information Barriers, should limit the extent of Investment Analysts' participation in Corporate Finance Business and sales and trading activities, and ensure remuneration structures do not affect their independence.

Guidance

Investment Research is seen as a significant potential source of conflicts of interest within a Licensed Firm and therefore a Licensed Firm preparing or publishing investment research must have adequate procedures, systems and controls to manage effectively and conflicts that arise.

6.4.3 Disclosures in Investment Research

(a) When a Licensed Firm publishes Investment Research, it must take reasonable steps to ensure that the Investment Research:

(i) clearly identifies the types of Clients for whom it is principally intended;

(ii) distinguishes fact from opinion or estimates, and includes references to sources of data and any assumptions used;

(iii) specifies the date when it was first published;

(iv) specifies the period the ratings or recommendations are intended to cover;

(v) contains a clear and unambiguous explanation of the rating or recommendation system used;

(vi) includes a distribution of the different ratings or recommendations, in percentage terms:

(A) for all Investments;

(B) for Investments in each sector covered; and

(C) for Investments, if any, where the Licensed Firm has undertaken Corporate Finance Business with or for the Issuer over the past twelve months; and

(vii) if intended for use only by a Professional Client, contains a clear warning that it should not be relied upon by or distributed to Retail Clients.

(b) A Licensed Firm must consider whether it would be appropriate to include a price chart or line graph depicting the performance of the Investment for the period that the Licensed Firm has assigned a rating or recommendation for that investment, including any dates on which the ratings were revised.

(c) For the purposes of this section, a Licensed Firm must take reasonable steps to ensure that when it publishes Investment Research, and in the case where a representative of the Licensed Firm makes a public appearance, disclosure is made of the following matters:

(i) any financial interest or material interest that the Investment Analyst or a Close Relative of the analyst has, which relates to the Investment;

(ii) the reporting lines for Investment Analysts and their remuneration arrangements where such matters give rise to any conflicts of interest which may reasonably be likely to impair the impartiality of the Investment Research;

(iii) any shareholding by the Licensed Firm or its Associate of 1% or more of the total issued share capital of the Issuer;

(iv) if the Licensed Firm or its Associate acts as corporate broker for the Issuer;

(v) any material shareholding by the Issuer in the Licensed Firm;

(vi) any Corporate Finance Business undertaken by the Licensed Firm with or for the Issuer over the past twelve months, and any future relevant Corporate Finance Business initiatives; and

(vii) that the Licensed Firm is a Market Maker in the Investment, if that is the case.

Guidance

The requirements in this Rule 6.4.3 apply to a Licensed Firm in addition to other requirements under FSA and any rules made thereunder. For example, a Licensed Firm is required to take reasonable steps to identify actual or potential conflicts of interest and then prevent or manage them under GEN 3.3.21-3.3.24. A Licensed Firm must also have adequate procedures and controls when it prepares or publishes Investment Research, in accordance with GEN 3.3 and COBS 3.5.

6.4.4 Restrictions on Publication

If a Licensed Firm acts as a manager or co-manager of an initial public offering or a secondary offering, it must take reasonable steps to ensure that:

(i) it does not publish Investment Research relating to the Investment during a Quiet Period; and

(ii) an Investment Analyst from the Licensed Firm does not make a public appearance relating to that Investment during a Quiet Period.

Guidance

The same conflicts of interest mentioned in this section do not arise if an Investment Analyst prepares Investment Research solely for a Licensed Firm's own use and not for publication. For example, if the research material is prepared solely for the purposes of the Licensed Firm's proprietary trading then the use of this information would fall outside the restrictions placed on publications.

6.4.5 Restriction on Own Account Transactions

(a) A Licensed Firm or its Associate must not knowingly execute a Transaction for its own account in an Investment or related Investments, which is the subject of Investment Research, prepared either by the Licensed Firm or its Associate, until the Clients for whom the Investment Research was principally intended have had a reasonable opportunity to act upon it.

(b) The restriction in Rule 6.4.5(a) does not apply if:

(i) the Licensed Firm or its Associate is a Market Maker in the relevant Investment;

(ii) the Licensed Firm or its Associate undertakes an Execution-Only Transaction for a Client; or

(iii) it is not expected to materially affect the price of the Investment.

Guidance

The exceptions in Rule 6.4.5(b) allow a Licensed Firm to continue to provide key services to the market and to its Clients even if the Licensed Firm would be considered to have knowledge of the timing and content of the Investment Research which is intended for publication to Clients, for example when it is impractical for a Licensed Firm to put in place an information barrier because the Licensed Firmhas few Employees or cannot otherwise separate its functions.

6.4.6 Offers of Securities

When Licensed Firm carries out a mandate to manage an Offer of Securities, it must implement adequate internal arrangements, in accordance with Rule 3.5, to manage any conflicts of interest that may arise as a result of the Licensed Firm's duty to two distinct sets of Clients namely the corporate finance Client and the investment Client. A Licensed Firm’s primary duty in relation to the pricing of any Offer of or for Securities in the context of Corporate Finance Business is to its corporate finance Client.

6.4.7 Disclosure

(a) When a Licensed Firm accepts a mandate to manage an Offer, it must take reasonable steps to disclose to its corporate finance Client:

(i) the process the Licensed Firm proposes to adopt in order to determine what recommendations it will make about allocations for the Offer;

(ii) details of how the target investor group, to whom it is planned to Offer the Securities, will be identified;

(iii) the process through which recommendations are prepared and by whom; and

(iv) (if relevant) that it may recommend placing Securities with a Client of the Licensed Firm for whom the Licensed Firm provides other services, with the Licensed Firm's own proprietary book, or with an Associate, and that this represents a potential conflict of interest.

Guidance

It is the Regulator's expectation that a Licensed Firm's procedures to identify and manage conflicts of interest should extend to the allocation process for an offering of Securities.

6.5 Best Execution

6.5.1 Application

(a) The Rules in this section do not apply to a Licensed Firm with respect to any Transaction which:

(i) it undertakes with a Professional Client which is a Market Counterparty;

(ii) it carries out for the purposes of managing a Fund of which it is the Fund Manager; or

(iii) is an Execution-Only Transaction.

(b) Where a Licensed Firm undertakes an Execution-Only Transaction with or for a Client, the Licensed Firm is not relieved from providing best execution in respect of any aspect of that Transaction which lies outside the Client's specific instructions.

6.5.2 Providing Best Execution

When a Licensed Firm agrees, or decides in the exercise of its discretion, to Execute any Transaction with or for a Client in an Investment, it must provide best execution.

Guidance

A Licensed Firm provides best execution if it takes reasonable care to determine the best execution available for that Investment under the prevailing market conditions and deals at a price and other conditions which are no less advantageous to that Client.

6.5.3 Requirements

In determining whether a Licensed Firm has taken reasonable care to provide the best overall price for a Client in accordance with Rule 6.5.2 the Regulator will have regard to whether a Licensed Firm has:

(a) discounted any fees and charges previously disclosed to the Client;

(b) not taken a Mark-up or Mark-down from the price at which it Executed the Transaction, unless this is disclosed to the Client; and

(c) had regard to price competition or the availability of a range of price sources for the execution of its Clients' Transactions. In the case where the Licensed Firm has access to prices of different Licensed Investment Exchanges, Remote Investment Exchanges, MTFs or OTFs or its own available proprietary prices, it must Execute the Transaction at the best overall price available having considered other relevant factors.

6.5.4 If another Person is responsible for the execution of a Transaction, a Licensed Firm may rely on that Person to provide best execution where that Person has undertaken to provide best execution in accordance with this section.

6.5.5 When determining best execution, a Licensed Firm must consider the direct costs and indirect costs and the relevant order type and size, clearing and settlement arrangements and costs, margin costs, third-party Fees and timing of a Client's order and its settlement that could affect decisions on when, where and how to trade.

6.6 Non-market Price Transactions

6.6.1 General Prohibition

Except in relation to:

(a) a non-market price Transaction subject to the Rules of a Lincensed Investment

Exchange or Remote Investment Exchange; or

(b) Fund Investment Managers pursuing a strategy that involves the buying, selling or holding of securities that are not publicly listed or traded or readily saleable,

a Licensed Firm must not enter into a non-market price Transaction in any capacity, with or for a Client, unless it has taken reasonable steps to ensure that the Transaction is not being entered into by the Client for an improper purpose.

Guidance

1. A non-market price Transaction is a Transaction where the dealing rate or price paid by the Licensed Firm or its Client differs from the prevailing market rate or price (after taking into account all costs) to a material extent or the Licensed Firm or its Client gives materially more or less in value than it receives in return.

2. Licensed Firms must undertake transactions at the prevailing market price. Failure to do this may result in a Licensed Firm participating, whether deliberately or unknowingly, in the concealment of a profit or loss, or in the perpetration of a fraud.

6.7 Aggregation and Allocation

6.7.1 Application

The Rules in this section do not apply to a Licensed Firm with respect to any Transaction which:

(a) it undertakes with a Professional Client which is Market Counterparty; or

(b) it carries out for the purposes of managing a Fund of which it is the Fund Manager.

6.7.2 Aggregation of Orders

A Licensed Firm may aggregate an order for a Client with an order for other Clients or with an order for its own account only where:

(a) it is unlikely that the aggregation will operate to the disadvantage of any of the Clients whose Transactions have been aggregated;

(b) the Licensed Firm has disclosed in writing to the Client that his order may be aggregated and that the effect of the aggregation may operate on some occasions to his disadvantage;

(c) the Licensed Firm has made a record of the intended basis of allocation and the identity of each Client before the order is effected; and

(d) the Licensed Firm has in place written standards and policies on aggregation and allocation which are consistently applied and must include the policy that will be adopted when only part of the aggregated order has been filled.

6.7.3 Allocation of Investments

Where a Licensed Firm has aggregated a Client order with an order for other Clients or with an order for its own account, and part or all of the aggregated order has been filled, it must:

(a) promptly allocate the Investments concerned;

(b) allocate the Investments in accordance with the stated intention;

(c) ensure the allocation is done fairly and uniformly by not giving undue preference to itself or to any of those for whom it dealt; and

(d) make and maintain a record of:

(i) the date and time of the allocation;

(ii) the relevant Investments;

(iii) the identify of each Client concerned; and

(iv) the amount allocated to each Client and to the Licensed Firm recorded against the intended allocation as required in Rule 6.7.3(b).

6.8 Record Keeping

6.8.1 Record Keeping – Voice and Electronic Communications

(a) Subject to Rule 6.8.1(b), a Licensed Firm must take reasonable steps to ensure that it makes and retains recordings of voice and electronic communications that are:

(i) with a Client or with another Person in relation to a Transaction, including communications relating to the receipt, execution, arrangement of execution of Client orders and passing of related instructions; and

(ii) made with, sent from or received on equipment either provided by the Licensed Firm to an Employee or contractor or use of which by an Employee or contractor has been sanctioned or permitted by the Licensed Firm.

(b) The obligation in Rule 6.8.1(a) does not apply to the following:

(i) Corporate Finance Business;

(ii) corporate treasury functions;

(iii) communications between Fund Managers, or between Fund Managers and Eligible Custodians of the same Fund (when acting in that capacity); and

(iv) voice and electronic communications which are not intended to lead to the conclusion of a specific Transaction and are general conversations or communications about market conditions.

(c) To comply with Rule 6.8.1(b), a Licensed Firm must:

(i) be able to demonstrate prompt accessibility of all records;

(ii) maintain records in comprehensible form or must be capable of being promptly so reproduced;

(iii) make and implement appropriate procedures to prevent unauthorised alteration of its records; and

(iv) retain all records of voice or electronic communication for a minimum of two years.

Guidance

1. The effect of this Rule 6.8.1 is that a Licensed Firm may conduct business over a mobile phone or other handheld electronic communication device but only if the Licensed Firm is able to record such communications. Further, mere transmission of instructions by front office personnel to back office personnel within a Licensed Firm would not ordinarily be subject to this Rule.

2. The effect of Rule 6.8.1(b)(iv) is to exclude from Rule 6.8.1(a) conversations or communications made by Investment Analysts, retail financial advisers, and persons carrying on back office functions.

6.8.2 Records of Orders and Transactions

(a) When a Licensed Firm receives a Client order or in the exercise of its discretion decides upon a Transaction, it must promptly make a record of the information set out in Rule 11.1.1.

(b) When a Licensed Firm Executes a Transaction, it must promptly make a record of the information set out in Rule 11.1.2.

(c) When a Licensed Firm passes a Client order to another Person for Execution, it must promptly make a record of the information set out in Rule 11.1.3.

(d) A Licensed Firm must retain the records required in Rules 6.8.2 for six years from the date on which the order is allocated.

6.9 Other Dealing Rules

6.9.1 Application

Rule 6.9 does not apply to a Licensed Firm with respect to any Transaction which it:

(a) undertakes with a Professional Client which is a Market Counterparty; or

(b) carries out for the purposes of managing a Fund of which it is the Fund Manager.

6.9.2 Churning

(a) A Licensed Firm must not Execute a Transaction for a Client in its discretion or advise any Client to transact with a frequency or in amounts to the extent that those Transactions have no commercial purpose other than to obtain a benefit from transaction volumes.

(b) The onus will be on the Licensed Firm to ensure that such Transactions were fair and reasonable at the time they were entered into.

6.9.3 Timely Execution

(a) Once a Licensed Firm has agreed or decided to enter into a Transaction for a Client, it must do so as soon as reasonably practical.

(b) A Licensed Firm may postpone the execution of a Transaction if it has taken reasonable steps to ensure that it is in the best interests of the Client.

6.9.4 Fairly and in Due Turn

A Licensed Firm must deal with Transactions for its own account and Client Transactions fairly and in due turn.

6.9.5 Averaging of Prices

(a) A Licensed Firm may execute a series of Transactions on behalf of a Client within the same trading day or within such other period as may be agreed in writing by the Client, to achieve one investment decision or objective, or to meet Transactions which it has aggregated.

(b) If the Licensed Firm does so, it may determine a uniform price for the Transactions executed during the period, calculated as the weighted average of the various prices of the Transactions in the series.

6.9.6 Timely Allocation

(a) A Licensed Firm must ensure that a Transaction it Executes is promptly allocated.

(b) The allocation must be:

(i) to the account of the Client on whose instructions the Transaction was executed;

(ii) in respect of a discretionary Transaction, to the account of the Client or Clients with or for whom the Licensed Firm has made and recorded, prior to the Transaction, a decision in principle to execute that Transaction; or

(iii) in all other cases, to the account of the Licensed Firm.

6.10 Confirmation Notes

6.10.1 Application

The Rules in this section do not apply to a Licensed Firm with respect to any Transaction which it:

(a) undertakes with a Professional Client which is a Market Counterparty; or

(b) carries out for the purposes of managing a Fund of which it is the Fund Manager.

6.10.2 Sending Confirmation Notes

(a) When a Licensed Firm Executes a Transaction in an Investment for a Client or with a counterparty, it must ensure a confirmation note is sent to the Client or counterparty as soon as possible and in any case no later than two days following the date of Execution of the Transaction.

(b) Where a Licensed Firm has executed a Transaction or series of Transactions in accordance with Rule 6.9.5, the Licensed Firm must send a confirmation note relating to those Transactions as soon as possible, but no later than two days following the last Transaction.

(c) The confirmation note must include the details of the Transaction in accordance with Rule 13.1.

6.10.3 Record Keeping

A Licensed Firm must retain a copy of each confirmation note sent to a Client or counterparty and retain it for a minimum of six years from the date of despatch.

6.11 Periodic Statements

6.11.1 Application

The Rules in this section do not apply to a Licensed Firm with respect to any Transaction which it:

(a) undertakes with a Professional Client which is a Market Counterparty; or

(b) carries out for the purposes of managing a Collective Investment Fund of which it is the Fund Manager.

6.11.2 Investment Management and Contingent Liability Investments

(a) When a Licensed Firm:

(i) acts as an Investment Manager for a Client; or

(ii) operates a Client's account containing uncovered open positions in a Contingent Liability Investment;

it must promptly and at suitable intervals in accordance with Rule 6.11.2(b) provide the Client with a written statement ("a periodic statement") containing the matters referred to in Rule 13.1.

(b) For the purposes of Rule 6.11.2, a "suitable interval" is:

(i) six-monthly;

(ii) monthly, if the Client's portfolio includes an uncovered open position in Contingent Liability Investments; or

(iii) at any alternative interval that a Client has on his own initiative agreed with the Licensed Firm but in any case at least annually.

6.11.3 Record Keeping

A Licensed Firm must make a copy of any periodic statement provided to a Client and retain it for a minimum of six years from the date on which it was provided.

6.12 Information to prime brokerage Clients

6.12.1 A Licensed Firm must make available to each of its Clients to whom it provides prime brokerage services a statement in a durable medium:

(a) showing the value at the close of each day of the items in Rule 6.12.3 below; and

(b) detailing any other matters which that Licensed Firm considers are necessary to ensure that a Client has up-to-date and accurate information about the amount of

Client Money and the value of Safe Custody Assets held by that Licensed Firm for it.

6.12.2 The statement must be made available to those Clients not later than the close of the next day to which it relates.

6.12.3 The statement must include:

(a) the total value of Safe Custody Assets and the total amount of Client Money held by that prime brokerage firm for a Client;

(b) the cash value of each of the following;

(i) cash loans made to that Client and accrued interest;

(ii) securities to be redelivered by that Client under open short positions entered into on behalf of that Client;

(iii) current settlement amount to be paid by that Client under any futures contracts;

(iv) short sale cash proceeds held by the Licensed Firm in respect of short positions entered into on behalf of that Client;

(v) cash margin held by the Licensed Firm in respect of open futures contracts entered into on behalf of that Client;

(vi) mark-to-market close-out exposure of any OTC transaction entered into on behalf of that Client secured by Safe Custody Assets or Client Money;

(vii) total secured obligations of that Client against the prime brokerage firm; and

(viii) all other Safe Custody Assets held for that Client.

(c) total collateral held by the Licensed Firm in respect of secured transactions entered into under a prime brokerage agreement, including where the Licensed Firm has exercised a right of use in respect of that Client's Safe Custody Assets;

(d) the location of all of a Client's Safe Custody Assets, including assets held with a sub-custodian; and

(e) a list of all the institutions at which the Licensed Firm holds or may hold Client Money, including money held in Client Accounts.

Guidance

The reports required under this section must be provided to each Client in addition to any other reporting required under the Client Money Rules or the Safe Custody Rules.

7. CORE RULES – INSURANCE

7.1 Application

The Rules in this chapter:

(a) apply to a Licensed Firm with respect to the conduct in or from GMC of Insurance Business, Insurance Intermediation or Insurance Management to the extent specified

in any Rule; and

(b) do not apply to an Insurer that is an Authorised ISPV with the exception of Rule 7.2.

7.2 Insurance Business and Intermediation Restrictions

7.2.1 A Licensed Firm may conduct Insurance Business or Insurance Intermediation with or for a Client only to the extent specified in this section.

7.2.2 [Deleted]

7.2.3 [Deleted]

7.2.4 [Deleted]

7.2.5 An Insurer which is a Protected Cell Company must ensure that all Insurance Business is attributable to a particular Cell of that Insurer.

7.2.6 An Insurer must not carry on any activity other than Insurance Business unless it is an activity in direct connection with or for the purposes of such business. For the purposes of this Rule, Managing Assets is not an activity in connection with or for the purposes of Insurance Business.

Guidance

1. The classes of Contracts of Insurance are set out in Chapter 1 of Part 4 of Schedule 1 of FSA.

2. The following activities will normally be considered in direct connection with or for the purposes of Insurance Business carried on by an Insurer:

   (a) [Deleted];

   (b) rendering other services related to Insurance Business operations including, but not limited to, actuarial, risk assessment, loss prevention, safety engineering, data processing, accounting, claims handling, loss assessment, appraisal and collection services;

   (c) acting as agent for another insurer in respect of Contracts of Insurance in which both Insurers participate; and

   (d) establishing Subsidiaries or Associates engaged or organised to engage exclusively in one or more of the businesses specified above.

3. The regulator may give individual guidance on other business activities that may be determined to be in direct connection with Insurance Business.

7.3 Communication of Information and Marketing Material

7.3.1 General Obligation

(a) When communicating any information in relation to Insurance Business, Insurance Intermediation or Insurance Management to a Person, a Licensed Firm must take reasonable steps to ensure that the communication is clear, fair and not misleading.

(b) An Insurer, Insurance Intermediary or Insurance Manager must not, in any form of communication with a Person, attempt to limit or avoid any duty or liability it may have to that Person under FSA.

(c) An Insurer or Insurance Intermediary must, when providing or directing Marketing Material to a Retail Client, comply with the requirements in Rule 3.2, if the Marketing Material relates to a Direct Long-Term Insurance Contract.

Guidance

A communication addressed to a Professional Client may not need to include the same information, or be presented in the same way as, a communication addressed to a Retail Client.

7.4 Client's Duty of Disclosure

7.4.1 An Insurer or Insurance Intermediary must explain to a Client:

(a) the Client's duty to disclose all circumstances material to the insurance both before the insurance commences and during the continuance of the policy; and

(b) the consequence of any failure by the Client to make such disclosures.

7.4.2 An Insurance Intermediary must explain to a Client that all answers or statements given on a proposal form, claim form or any other relevant document are the Client's own responsibility and that the Client is responsible for checking the accuracy of such information.

7.4.3 If an Insurance Intermediary believes that any disclosure of material facts by a Client is not true, fair or complete, it must request the Client to make the necessary true, fair or complete disclosure, and if this is not forthcoming must consider declining to continue acting on that Client's behalf.

7.5 Licensed Firm's Duty of Disclosure

7.5.1 An Insurer or Insurance Intermediary must disclose to a Client:

(a) the name and address of the insurer or insurers effecting the Contract of Insurance;

(b) its own name and address where different; and

(c) contact details of the Person to whom a claim is to be notified.

7.5.2 The disclosures in Rule 7.5.1 must be made before effecting or placing the Contract of Insurance, or as soon as reasonably practicable thereafter.

7.5.3 An Insurance Intermediary must, before providing any Insurance Intermediation service to a Person as a Retail Client, disclose whether any advice or information is or will:

(a) be provided on the basis of a fair analysis of the market;

(b) not be provided on the basis of a fair analysis of the market because of any contractual agreement it has with any particular insurer or insurers to deal with only their products; or

(c) even if there are no contractual agreements of the type referred to in Rule 7.5.3(b), not be provided on the basis of a fair analysis of the market.

7.5.4 If Rule 7.5.3(b) or 7.5.3(c) applies, the Insurance Intermediary must, if requested by the Retail Client, provide to that Client a list of insurers with whom it deals or may deal in relation to the relevant Contracts of Insurance.

7.5.5 An Insurance Intermediary must, before providing any Insurance Intermediation service to a Client, disclose to that Client whether it acts on behalf of an insurer or any other Person or acts independently on behalf of Clients.

7.5.6 An Insurance Intermediary must not represent itself as providing advice or information on the basis of a fair analysis of the market unless it has considered a sufficiently broad range of Contracts of Insurance and based its decision on an adequate analysis of those contracts.

7.6 Disclosure of Costs and Remuneration

7.6.1 An Insurer, Insurance Intermediary or Insurance Manager must provide details of the costs of each Contract of Insurance or Insurance Intermediation service or Insurance Management service offered to a Client. The disclosure required by this Rule must include any premiums, fees, charges or taxes payable by the Client, whether or not these are payable to the Licensed Firm. The disclosure must be made in terms readily understandable by the Client, taking into account the knowledge held by that Client in relation to the type of insurance in question.

7.6.2 An Insurer or Insurance Intermediary must, where any premium is payable through a Credit Facility made available to a Retail Client, disclose any interest, profit rate or charges payable by the Client for using that facility.

7.6.3 An Insurer, Insurance Intermediary or Insurance Manager must ensure that it does not impose any new costs, Fees or charges without first disclosing the amount and the purpose of those charges to the Client.

7.6.4 An Insurer, Insurance Intermediary or Insurance Manager must, on the request of any Client, disclose to that Client all commissions and other economic benefits accruing to the Licensed Firm or any member of the same Group from:

(a) any Insurance Intermediation business;

(b) any Insurance Management business; or

(c) any other business connected to or related to the provision of such business;

transacted by the Licensed Firm on behalf of that Client.

7.6.5 The requirement to disclose the information under Rule 7.6.4 does not apply where an Insurance Intermediary acts solely on behalf of a single insurer, and this fact has been disclosed to the Client.

7.7 Information about the Proposed Insurance

7.7.1 An Insurer or Insurance Intermediary must provide adequate information in a comprehensive and timely manner to enable a Client to make an informed decision about the Contract of Insurance that is being proposed.

7.7.2 Without limiting the generality of the disclosure obligation under Rules 7.5 and 7.6, an Insurer or Insurance Intermediary must, for the purpose of complying with the obligation under that section:

(a) provide to a Client information about the key features of any insurance proposed including the essential cover and benefits, any significant or unusual restrictions, exclusions, conditions or obligations, and the applicable period of cover; and

(b) explain, except where the insurance cover is sourced from a single insurer, the

differences in and the relative costs of similar types of insurance as proposed.

7.7.3 When deciding to what extent it is appropriate to explain the terms and conditions of a particular insurance the Insurer or Insurance Intermediary must take into consideration the knowledge held by the Client in relation to the type of insurance in question.

7.7.4 Specific Disclosure for Long-Term Insurance

Where an Insurer or an Insurance Intermediary proposes Direct Long-Term Insurance to a Retail Client, the disclosure for the purposes of this section must include:

(a) the method of calculation of any bonuses;

(b) an indication of surrender values and paid-up values, and the extent to which any such values are guaranteed;

(c) for unit-linked insurance contracts, definition of the units to which they are linked, and a description of the underlying assets;

(d) the basis of any projections included in the information; and

(e) any facts that are material to the decision to invest, including risks associated with the investment and factors that may adversely affect the performance of the Investments.

7.8 Suitability

7.8.1 An Insurer or an Insurance Intermediary must comply with the suitability requirement set out in Rule 3.4 when conducting any Insurance or Insurance Intermediation Business with or for a Retail Client in respect of Direct Long-Term Insurance.

7.8.2 (a) The Insurer or Insurance Intermediary must obtain from a Retail Client such information as is necessary to identify the Client's circumstances and objectives, and consider whether the terms of the particular contract of General Insurance meet the requirements identified.

(b) An Insurer and an Insurance Intermediary may recommend to a Client a contract of General Insurance that does not meet all the Client's requirements only if it clearly explains to the Client, at the point of making the recommendation, that the contract does not fully meet the Client's requirements and the differences in the insurance recommended and the Client instructs the Insurer or Insurance Intermediary to proceed in writing under Rule 7.8.4.

7.8.3 When deciding what level of explanation is appropriate for a Client to whom a contract of insurance that does not fully meet that Client's requirements is required, the Insurer or Insurance Intermediary must take into consideration the knowledge held by the Client in relation to the type of insurance in question.

7.8.4 Where an Insurance Intermediary is instructed to obtain insurance which is contrary to the advice that it has given to a Client, the Insurance Intermediary must obtain from the Client written confirmation of the Client's instructions before arranging or buying the relevant insurance.

7.9 Placement of Insurance

7.9.1 Instructions

An Insurance Intermediary must not place a Contract of Insurance with or on behalf of an insurer unless it has satisfied itself on reasonable grounds that the insurer may lawfully effect

that Contract under the laws of the jurisdictions in which the insurer and the risk are located.

7.9.2 Quotations

When giving a quotation, an Insurance Intermediary must take due care to ensure the accuracy of the quotation and its ability to obtain the insurance at the quoted terms.

7.9.3 Confirmation of Cover

(a) An Insurer, in Effecting Contracts of Insurance, must promptly document the principal economic and coverage terms and conditions agreed upon under any Contract of Insurance and finalise such contract in a timely manner.

(b) An Insurer or Insurance Intermediary must, as soon as reasonably practicable, provide a Client with written confirmation and details of the insurance which it has effected for the Client or has obtained on behalf of the Client, including any changes to an existing Contract of Insurance.

(c) An Insurer or Insurance Intermediary must, as soon reasonably practicable, provide the Client with the full policy documentation where this was not included with the confirmation of cover.

7.10 Providing an Ongoing Service

7.10.1 Amendments to and Renewal of Insurance

(a) An Insurer or Insurance Intermediary must deal promptly with a Client's request for an amendment to the insurance cover and provide the Client with full details of any premium or charges to be paid or returned.

(b) An Insurer or Insurance Intermediary must provide a Client with written confirmation when the amendment is made and remit any return premium or charges due to the Client without delay.

7.10.2 An Insurer or Insurance Intermediary must give adequate advance notification to a Client of the renewal or expiration date of an existing insurance policy so as to allow the Client sufficient time to consider whether continuing cover is required.

7.10.3 On expiry or cancellation of the insurance, at the request of the Client, an Insurer or Insurance Intermediary must promptly make available all documentation and information to which the Client is entitled.

Claims

7.10.4 Where an Insurance Intermediary handles insurance claims it must:

(a) on request, give the Client reasonable guidance, inform the Client of applicable procedures and provide the Client with the relevant forms in pursuing a claim under the relevant policy;

(b) handle claims fairly and promptly and keep the Client informed of progress;

(c) inform the Client in writing, with an explanation, if it is unable to deal with any part of a claim; and

(d) forward settlement of any claim, as soon as reasonably practicable, once it has been agreed.

7.10.5 An Insurer must:

(a) handle claims fairly and promptly;

(b) keep the Client informed of the progress of the claim;

(c) not reject a claim unreasonably;

(d) if only part of a claim is accepted:

(i) provide a clear statement about the part of the claim that is accepted; and

(ii) give clear reasons for rejecting that part of the claim that has not been accepted; and

(e) settle the claim promptly.

7.11 Insurance Monies

7.11.1 Application

This section applies to an Insurance Intermediary and an Insurance Manager.

7.11.2 General

(a) Insurance Monies are any monies arising from Insurance Intermediation or the Insurance Management business which are any of the following:

(i) premiums, additional premiums and return premiums of all kinds;

(ii) claims and other payments due under Contracts of Insurance;

(iii) refunds and salvages;

(iv) Fees, charges, taxes and similar fiscal levies relating to Contracts of Insurance payable to a Person other than the Insurance Intermediary or Insurance Manager;

(v) discounts, commissions and brokerage payable to a Person other than the Insurance Intermediary or Insurance Manager; or

(vi) monies received from or on behalf of a Client of an Insurance Manager, in relation to his Insurance Management business.

(b) Monies are not Insurance Monies where there is a written agreement in place between the Insurance Intermediary or Insurance Manager and the insurer to whom the relevant monies are to be paid (or from whom they have been received) under which the insurer agrees that:

(i) the Insurance Intermediary or Insurance Manager, as the case may be, holds as agent for the insurer all monies received by it in connection with Contracts of Insurance effected or to be effected by the insurer;

(ii) insurance cover is maintained for the Client once the monies are received by

the Insurance Intermediary or the Insurance Manager, as the case may be; and

(iii) the insurer's obligation to make a payment to the Client is not discharged until actual receipt of the relevant monies by the Client.

7.11.3 In this section, a Client of an Insurance Manager means:

(a) any insurer for which the Insurance Manager provides Insurance Management;

(b) any shareholder of an insurer mentioned in Rule 7.11.3(a); or

(c) any Person on whose behalf the Insurance Manager undertakes to establish that Person as an insurer.

7.11.4 For the purposes of Rule 7.11.3:

(a) an Insurer includes a Cell of a Protected Cell Company which is an Insurer; and

(b) a shareholder includes a holder of Cell Shares.

7.11.5 Pooling Event

Following a Pooling Event, an Insurance Intermediary and Insurance Manager must comply with the Client Money Distribution Rules in Rule 14.13 and all Money will also be subject to such Rules in the same way as Client Money.

7.11.6 Insurance Money Segregation

An Insurance Intermediary or Insurance Manager when dealing with Insurance Monies must:

(a) maintain one or more separate Insurance Bank Accounts with an Eligible Bank in GMC;

(b) ensure that each Insurance Bank Account contains in its title the name of the Licensed Firm, together with the designation “Insurance Bank Account” (or IBA);

(c) prior to operating an Insurance Bank Account, give written notice to, and receive written confirmation from, the Eligible Bank that the bank is not entitled to combine the Insurance Bank Account with any other account unless that account is itself an Insurance Bank Account held by the Licensed Firm, or to any charge, encumbrance, lien, right of set-off, compensation or retention against monies standing to the credit of the Insurance Bank Account;

(d) pay all Insurance Monies directly and without delay into an Insurance Bank Account;

(e) use an Insurance Bank Account only for the following purposes:

(i) the receipt of Insurance Monies;

(ii) the receipt of such monies as may be required to be paid into the Insurance Bank Account to ensure compliance by the Licensed Firm with any conditions or requirements prescribed by the Regulator;

(iii) the payment to Clients or to insurers of monies due under Insurance Intermediation Business transactions;

(iv) the payment of all monies payable by the Licensed Firm in respect of the

acquisition of or otherwise in connection with Approved Assets;

(v) the withdrawal of brokerage, management Fees and other income related to Insurance Intermediation Business, either in cash or by way of transfer to an account in the name of the Insurance Intermediary which is not an Insurance Bank Account, provided that no such sum may be withdrawn from the Insurance Bank Account before the time at which that amount may be brought into account as income of the Insurance Intermediary;

(vi) the withdrawal of monies paid into the Insurance Bank Account in error; and

(vii) the withdrawal of any monies credited to the Insurance Bank Account in excess of those required by any conditions and requirements prescribed by the Regulator;

(f) ensure that any amount held in the Insurance Bank Account or other Approved Assets, together with any amount due and recoverable from insurance debtors, is equal to, or greater than the amount due to insurance creditors; and

(g) take immediate steps to restore the required position if at any time it becomes aware of any deficiency in the required segregated amount.

7.11.7 An Insurance Intermediary or Insurance Manager may not obtain a loan or overdraft for any purpose relating to an Insurance Bank Account unless that advance:

(a) is on a bank account which is designated as an Insurance Bank Account, and the loan or overdraft is used for payment to Clients or to insurers of monies due under Insurance Intermediation transactions;

(b) does not give rise to a breach of the requirements of Rule 7.11.6(e); and

(c) is of a temporary nature and is repaid as soon as reasonably practicable.

7.11.8 An Insurance Intermediary or Insurance Manager must hold Insurance Monies either in an Insurance Bank Account or in Approved Assets.

7.11.9 An Insurance Intermediary must ensure that Approved Assets are:

(a) registered in the name of the Insurance Intermediary or Insurance Manager and designated "Insurance Bank Account"; or

(b) held for the Insurance Bank Account of the Insurance Intermediary or Insurance Manager at the bank at which such Insurance Bank Account is held.

7.11.10 An Insurance Intermediary or Insurance Manager must ensure that monies, other than interest, arising from Approved Assets or their realisation, sale or disposal are paid into an Insurance Bank Account.

7.11.11 An Insurance Intermediary or Insurance Manager may not hold Insurance Monies in Approved Assets until it has given written notice to and received written notice from the bank referred to in Rule 7.11.9(b) that the bank is not entitled to any charge, encumbrance, lien, right of set-off, compensation or retention against Approved Assets held for the Insurance Intermediary's or Insurance Manager's Insurance Bank Account.

7.11.12 An Insurance Intermediary or Insurance Manager may only use Approved Assets as security for a loan or overdraft where that loan or overdraft is for a purpose relating to an Insurance

Bank Account as permitted by Rule 7.11.7.

7.11.13 Where Insurance Monies are held in Approved Assets whose rating drops below the minimum stipulated within the definitions, that investment or asset will cease to be an Approved Asset and the Insurance Intermediary or Insurance Manager must dispose of the investment or asset as soon as possible and no later than within thirty days of the rating change.

7.11.14 An Insurance Intermediary or Insurance Manager may not use derivatives in the management of Insurance Monies except for the prudent management of risks.

7.11.15 An Insurance Intermediary who has a credit balance for a Client who cannot be traced must not take credit for such an amount except where:

(a) he has taken reasonable steps to trace the Client and to inform him that he is entitled to the money;

(b) at least six years has passed from the date the credit was initially notified to the Client; and

(c) Rule 7.11.6(f) will continue to be satisfied after the withdrawal of such money.

7.11.16 An Insurance Intermediary must keep records of all sums withdrawn from the Insurance Bank Account or realised Approved Assets as a result of credit taken under Rule 7.11.15 for at least six years from the date of withdrawal or realisation.

8. ADDITIONAL RULES: OPERATING AN MTF OR OTF

8.1 Application and interpretation

8.1.1 This chapter applies to a Licensed Firm which Operates a Multilateral Trading Facility ("MTF") or an Organised Trading Facility ("OTF").

8.2 Rules Applicable to MTF and OTF Operators – General

8.2.1 In addition to the general requirements applicable to Licensed Firms in COBS, GEN and elsewhere in the Rules, a Licensed Firm carrying on the Regulated Activity of Operating an MTF (an "MTF Operator") or a Licensed Firm carrying on the Regulated Activity of Operating an OTF (an “OTF Operator”) must comply with the following requirements applicable to a Licensed Body or Licensed Investment Exchange set out in the MIR rulebook, reading references to Licensed Bodies or Licensed Investment Exchanges in the relevant rules as if they were references to the MTF Operator or OTF Operator:

(a) MIR 2.6 *(Operational systems and controls)*;

(b) MIR 2.7.1 and 2.7.2 (*Transaction recording*);

(c) MIR 2.8 (*Membership criteria and access*);

(d) MIR 2.9 (*Financial crime and market abuse*);

(e) MIR 2.11 (*Rules and consultation*);

(f) MIR 3.3 (*Fair and orderly trading*);

(g) MIR 3.5 (*Pre-trade transparency obligations*);

(h) MIR 3.6 (*Post-trade transparency obligations*);

(i) MIR 3.7 (*Public disclosure)*;

(j) MIR 3.8 (*Settlement and Clearing Services*);

(k) MIR 3.10 (*Default Rules*); and

(l) MIR 3.11 (*Use of Price Reporting Agencies*).

Guidance

1. Depending upon an MTF Operator's or OTF Operator's model, the operation of MIR 3.8 (for the purposes of its settlement arrangements) may significantly extend into considerations related to MIR 4.3 (as provided for in MIR 3.8).

2. In assessing whether an MTF Operator or OTF Operator complies with the requirements set out above, the Regulator will take into account the general principle that users of an MTF anticipate less comprehensive regulatory protections, and users of an OTF less again.

8.2.2 An MTF that admits to trading Securities that are offered by way of an Exempt Offer under MKT Rule 4.3.1 (13) shall ensure that it has effective systems and controls in place to:

(a) admit only Securities of such Exempt Offers that are made on its own platform;

(b) identify those Persons to whom the Exempt Offer was made;

(c) restrict trading of the Securities, to no more than 200 Persons who are not Professional Clients;

(d) comply with MIR rule 3.9.1 (Admission to trading), as applicable in relation to the relevant Securities; and

(e) allow users of its market to obtain Inside Information, including any Offer documents pursuant to MKT Rule 4.3.5 relevant to the Securities.

Guidance

MKT Rule 4.3.1(13) provides for the specific circumstance where an Exempt Offer can be directed to no more than 200 Persons who do not qualify as Professional Clients, where the Securities are to be admitted to trading on a MTF. An Issuer seeking admission to trading of its Securities on an MTF in accordance with MKT Rule 4.3.1(13) may also, pursuant to MKT Rule 4.3.3, utilise an Exempt Offer that relies on one or more of the circumstances within MKT Rule 4.3.1, with the exception of MKT Rule 4.3.1(2). For example, an Issuer may make a simultaneous Exempt Offer to 200 Persons under MKT rule 4.3.1(13), and an unlimited number of Professional Clients under MKT Rule 4.3.1(1).

8.3 [Deleted]

8.4 Rules Applicable to MTF and OTF Operators and rules on Liquidity providers.

8.4.1 An MTF Operator or OTF Operator must not introduce a liquidity incentive scheme unless

(a) participation of such a scheme is limited to members or any other Persons where:

(i) the MTF Operator or OTF Operator has undertaken due diligence to ensure that the Person is of sufficient good repute and has adequate competencies and organisational arrangements; and

(ii) the Person has agreed in writing to comply with the MTF Operator or OTF Operator's operating rules so far as those rules are applicable to that Person's activities; and

(b) the MTF Operator or OTF Operator has obtained the prior approval of the Regulator.

8.4.2 For the purposes of this section, a "liquidity incentive scheme" means an arrangement designed to provide liquidity to the market in relation to Investments traded on the MTF or OTF.

8.4.3 Where an MTF Operator or OTF Operator proposes to introduce or amend a liquidity incentive scheme, it must lodge with the Regulator, at least ten days before the date by which it expects to obtain the Regulator approval, a statement setting out:

(a) the details of the relevant scheme, including benefits to the MTF or OTF and members arising from that scheme; and

(b) the date on which the scheme is intended to become operative.

8.4.4 The Regulator must within ten days of receiving the notification referred to in 8.4.3, approve a proposed liquidity incentive scheme unless it has reasonable grounds to believe that the introduction of the scheme would be detrimental to the MTF or OTF or to markets in general. Where the Regulator does not approve the proposed liquidity incentive scheme, it must notify the MTF Operator or OTF Operator of its objections to the introduction of the proposed liquidity incentive scheme, and its reasons for that decision.

8.4.5 An MTF Operator or OTF Operator must sufficiently prior to launch, to enable any interested parties to participate in it, announce the introduction of the liquidity incentive scheme, specify the date on which the scheme becomes operative and the contracts to which it relates.

8.5 Rules Applicable to MTF Operators

8.5.1 The following rules shall not apply to MTF Operators in respect of transactions concluded under the MTF's rules between:

(a) its members or participants; or

(b) the MTF and its members or participants in relation to the use of the MTF:

(i) Rule 3.4 (*Suitability*);

(ii) Rule 6.5 (*Best Execution*);

(iii) Rule 6.7 (*Aggregation and Allocation*); and

(iv) Rule 12 (*Key Information and Client Agreement*),

except that members of, or participants in, the MTF must comply with such obligations with respect to their Clients when, acting on behalf of their Clients, they execute their orders through the systems of the MTF.

8.5.2 MTF Operators may not execute Client orders against proprietary capital, or engage in matched principal trading.

8.6 Rules Applicable to OTF Operators

8.6.1 An OTF Operator may:

(a) operate an OTF for Derivatives, Debentures, Structured Products, Environmental Instruments, and other investments as specified by the Regulator; and

(b) engage in Dealing as Matched Principal trading in the investments referred to in (a) only where the Client has, or all its Clients have, consented to the process.

8.6.2 An OTF Operator must not use matched principal trading to execute Client orders in an OTF in Derivatives pertaining to a class of derivatives that has been declared subject to the Clearing obligation in accordance with the Regulations.

8.6.3 OTF Operators may engage in dealing on own account other than matched principal trading only with regard to sovereign debt instruments for which there is not a liquid market.

8.6.4 OTF Operators may engage another Licensed Firm to carry out market making on that OTF on an independent basis, provided that such other Licensed Firm does not have Close Links with the OTF Operator.

8.6.5 Execution of orders on an OTF must be carried out on a discretionary basis.

8.6.6 An OTF Operator must exercise discretion only in the following circumstances:

(a) when deciding to place or retract an order on the OTF they operate; and/or

(b) when deciding not to match a specific Client order with other orders available in the systems at a given time, provided it is in compliance with specific instructions received from a Client and with its "best execution" obligations in accordance with these Rules.

8.6.7 With a system that crosses Client orders, the OTF Operator may decide if, when and how much of two or more orders it wants to match within the system. With regard to a system that arranges transactions in non-equities, the OTF Operator may facilitate negotiation between Clients so as to bring together two or more potentially compatible trading interests in a transaction.

8.6.8 OTF Operators must, on request, provide the Regulator with a detailed explanation why the system does not correspond to and cannot operate as a Licensed Investment Exchange or MTF, a detailed description as to how discretion will be exercised, in particular when an order to the OTF may be retracted and when and how two or more Client orders will be matched within the OTF. In addition, the OTF Operator must provide the Regulator with information explaining its use of matched principal trading.

9. CORE RULES – OPERATING A CREDIT RATING AGENCY

9.1 Application

9.1.1 This chapter applies to every Person who carries on, or intends to carry on, the Regulated Activity of Operating a Credit Rating Agency in or from GMC.

9.1.2 For the purposes of this chapter:

(a) a Regulated Activity of Operating a Credit Rating Agency means undertaking one or more activities that involve data and information analysis relating to a Credit Rating or the evaluation, approval, issue or review of a Credit Rating;

(b) a Credit Rating is an opinion expressed using an established and defined ranking system of rating categories regarding the creditworthiness of a Rating Subject;

(c) a Rating Subject means a Person other than a natural person, a credit commitment or a debt or debt-like instrument; and

(d) where a reference is made to a Rating Subject which is a credit commitment, a debt or a debt-like Investment, that reference is to be read, where the context requires, as a reference to the Person responsible for obtaining the Credit Rating.

9.1.3 This chapter contains the specific conduct requirements that apply to Persons carrying on the Regulated Activity of Operating a Credit Rating Agency.

Guidance

1. Not all Rating Subjects are bodies corporates. For example, Credit Ratings can be provided in respect of a credit commitment given by a Person, or a debt or debt- like Investment. In such instances, where a Rule in this chapter requires the Rating Subject to carry out some activity, such a reference is to be read as a reference to the Person who is responsible for obtaining the Credit Rating. Such a Person would generally be the originator, arranger or Sponsor of the relevant financial product which is being rated. The Credit Rating Agency should clearly identify the Person responsible for a Rating Subject before proceeding with its Credit Rating activities relating to that Rating Subject.

2. However, there is no restriction against more than one Person being identified as Persons responsible for obtaining a Credit Rating relating to a Rating Subject. In such cases, a Credit Rating Agency should clearly identify those Persons as responsible Persons relating to the relevant Rating Subject.

9.2 Quality of the rating process

9.2.1 A Credit Rating Agency must adopt, implement and enforce written procedures to ensure that the opinions it disseminates are based on a thorough analysis of all information known to the Credit Rating Agency that is relevant to its analysis according to the Credit Rating Agency's published rating methodology.

9.2.2 A Credit Rating Agency must use rating methodologies that are rigorous, systematic, and, where possible, result in ratings that can be subjected to some form of objective validation based on historical experience.

9.2.3 In assessing an issuer's creditworthiness, analysts involved in the preparation or review of any rating action must use methodologies established by the Credit Rating Agency. Analysts must apply a given methodology in a consistent manner, as determined by the Credit Rating Agency.

9.2.4 Credit ratings must be assigned by the Credit Rating Agency and not by any individual analyst employed by the Credit Rating Agency; ratings must reflect all information known, and believed to be relevant, to the Credit Rating Agency, consistent with its published methodology; and the Credit Rating Agency must use people who, individually or collectively (particularly where rating committees are used) have appropriate knowledge and experience in developing a rating opinion for the type of credit being applied.

9.2.5 A Credit Rating Agency and its analysts must take steps to avoid issuing any credit analyses or reports that contain misrepresentations or are otherwise misleading as to the general creditworthiness of an issuer or obligation.

9.2.6 A Credit Rating Agency must ensure that it has and devotes sufficient resources to carry out high-quality credit assessments of all obligations and issuers it rates. When deciding whether to rate or continue rating an obligation or issuer, it must assess whether it is able to devote sufficient personnel with sufficient skill sets to make a proper rating assessment, and whether its personnel likely will have access to sufficient information needed in order to make such an assessment. A Credit Rating Agency must adopt reasonable measures so that the information it uses in assigning a rating is of sufficient quality to support a credible rating. If the rating involves a type of financial product presenting limited historical data (such as an innovative financial vehicle), the Credit Rating Agency must make clear, in a prominent place, the limitations of the rating.

9.2.7 A Credit Rating Agency must establish a review function made up of one or more senior managers with appropriate experience to review the feasibility of providing a credit rating for a type of structure that is materially different from the structures the Credit Rating Agency currently rates.

9.2.8 A Credit Rating Agency must establish and implement a rigorous and formal review function responsible for periodically reviewing the methodologies and models and significant changes to the methodologies and models it uses. Where feasible and appropriate for the size and scope of its credit rating services, this function must be independent of the business lines that are principally responsible for rating various classes of issuers and obligations.

9.2.9 A Credit Rating Agency must assess whether existing methodologies and models for determining credit ratings of structured finance products are appropriate when the risk characteristics of the assets underlying a structured finance product change materially. In cases where the complexity or structure of a new type of structured finance product or the lack of robust data about the assets underlying the structured finance product raise serious questions as to whether the Credit Rating Agency can determine a credible credit rating for the security, Credit Rating Agency must refrain from issuing a credit rating.

9.2.10 A Credit Rating Agency must structure its rating teams to promote continuity and avoid bias in the rating process.

9.3 Application to Groups and Branches

9.3.1 Where a Credit Rating Agency is a member of a Group, the Credit Rating Agency may rely on the policies, procedures and controls adopted at the group-wide level. Where this is the case, the Credit Rating Agency must ensure that the group-wide policies, procedures and controls are consistent with the requirements applicable to it and do not constrain its ability to comply with the applicable requirements in GMC.

9.3.2 In the case of Branch operations, the Regulator will grant an authorisation to carry on the Regulated Activity of Operating a Credit Rating Agency only where it is satisfied with the adequacy of the home jurisdiction regulation of the relevant legal entity.

9.4 Monitoring and Updating

9.4.1 A Credit Rating Agency must ensure that adequate personnel and financial resources are allocated to monitoring and updating its ratings. Except for ratings that clearly indicate they do not entail ongoing surveillance, once a rating is published the Credit Rating Agency must monitor on an ongoing basis and update the rating by:

(a) regularly reviewing the issuer's creditworthiness;

(b) initiating a review of the status of the rating upon becoming aware of any information

that might reasonably be expected to result in a rating action (including termination of a rating), consistent with the applicable rating methodology; and

(c) updating on a timely basis the rating, as appropriate, based on the results of such review.

Subsequent monitoring must incorporate all cumulative experience obtained. Changes in ratings criteria and assumptions must be applied where appropriate to both initial ratings and subsequent ratings.

9.4.2 If a Credit Rating Agency uses separate analytical teams for determining initial ratings and for subsequent monitoring of structured finance products, each team must have the requisite level of expertise and resources to perform their respective functions in a timely manner.

9.4.3 Where a Credit Rating Agency makes its ratings available to the public, the Credit Rating Agency must publicly announce if it discontinues rating an issuer or obligation. Where a Credit Rating Agency's ratings are provided only to its subscribers, the Credit Rating Agency must announce to its subscribers if it discontinues rating an issuer or obligation. In both cases, continuing publications by the Credit Rating Agency of the discontinued rating must indicate the date the rating was last updated and the fact that the rating is no longer being updated.

9.5 Integrity of the Rating Process

9.5.1 A Credit Rating Agency and its Employees must comply with all applicable laws and regulations governing its activities in each jurisdiction in which it operates.

9.5.2 A Credit Rating Agency and its Employees must deal fairly and honestly with issuers, investors, other market participants, and the public.

9.5.3 A Credit Rating Agency's analysts must be held to high standards of integrity, and a Credit Rating Agency must not employ individuals with demonstrably compromised integrity.

9.5.4 A Credit Rating Agency and its Employees must not, either implicitly or explicitly, give any assurance or guarantee of a particular rating prior to a rating assessment. This does not preclude a Credit Rating Agency from developing prospective assessments used in structured finance and similar transactions.

9.5.5 A Credit Rating Agency must prohibit its analysts from making proposals or recommendations regarding the design of structured finance products that a Credit Rating Agency rates.

9.5.6 A Credit Rating Agency must institute policies and procedures that clearly specify a person responsible for a Credit Rating Agency's and its Employees' compliance with the provisions of a Credit Rating Agency's code of conduct and with applicable laws and regulations. This person's reporting lines and compensation must be independent of a Credit Rating Agency's rating operations.

9.5.7 Upon becoming aware that another Employee or entity under common control with the Credit Rating Agency is or has engaged in conduct that is illegal, unethical or contrary to the Credit Rating Agency's code of conduct, a Credit Rating Agency Employee must report such information immediately to the individual in charge of compliance or an officer of the Credit Rating Agency, as appropriate, so proper action may be taken.

Guidance

A Credit Rating Agency's Employees are expected to report the activities that a reasonable

person would question. Any Credit Rating Agency officer who receives such a report from a Credit Rating Agency Employee is obligated to take appropriate action, as determined by applicable laws and regulations and the rules and guidelines set forth by the Credit Rating Agency Credit Rating. Agency management must prohibit retaliation by other Credit Rating Agency staff or by the Credit Rating Agency itself against any Employees who, in good faith, make such reports.

9.6 Credit Rating Agency Independence – General

9.6.1 A Credit Rating Agency must not forbear or refrain from taking a rating action based on the potential effect (economic, political, or otherwise) of the action on the Credit Rating Agency, an issuer, an investor, or other market participant.

9.6.2 A Credit Rating Agency and its analysts must use care and professional judgment to maintain both the substance and appearance of independence and objectivity.

9.6.3 The determination of a credit rating must be influenced only by factors relevant to the credit assessment.

9.6.4 The credit rating a Credit Rating Agency assigns to an issuer or security must not be affected by the existence of or potential for a business relationship between the Credit Rating Agency (or its affiliates) and the issuer (or its affiliates) or any other party, or the non-existence of such a relationship.

9.6.5 A Credit Rating Agency must separate, operationally and legally, its credit rating business and Credit Rating Agency analysts from any other businesses of the Credit Rating Agency, including consulting businesses that may present a conflict of interest. A Credit Rating Agency must ensure that ancillary business operations which do not necessarily present conflicts of interest with the Credit Rating Agency's rating business have in place procedures and mechanisms designed to minimize the likelihood that conflicts of interest will arise. A Credit Rating Agency must also define what it considers, and does not consider, to be an ancillary business and why.

9.7 Credit Rating Agency Independence – Procedures and Policies

9.7.1 A Credit Rating Agency must adopt written internal procedures and mechanisms to
(a) identify, and (b) eliminate, or manage and disclose, as appropriate, any actual or potential conflicts of interest that may influence the opinions and analyses a Credit Rating Agency makes or the judgment and analyses of the individuals a Credit Rating Agency employs who have an influence on ratings decisions. A Credit Rating Agency's code of conduct must also state that the Credit Rating Agency will disclose such conflict avoidance and management measures.

9.7.2 A Credit Rating Agency's disclosures of actual and potential conflicts of interest must be complete, timely, clear, concise, specific and prominent.

9.7.3 A Credit Rating Agency must disclose the general nature of its compensation arrangements with rated entities.

(a) Where a Credit Rating Agency receives from a rated entity compensation unrelated to its ratings service, such as compensation for consulting services, a Credit Rating Agency must disclose the proportion such non-rating Fees constitute against the Fees the Credit Rating Agency receives from the entity for ratings services.

(b) A Credit Rating Agency must disclose if it receives 10% or more of its annual revenue from a single issuer, originator, arranger, client or subscriber (including any

affiliates of that issuer, originator, arranger, client or subscriber).

(c) Credit Rating Agencies must encourage structured finance issuers and originators of structured finance products to publicly disclose all relevant information regarding these products so that investors and other Credit Rating Agencies can conduct their own analyses independently of the Credit Rating Agency contracted by the issuers and/or originators to provide a rating. A Credit Rating Agency must disclose in its rating announcements whether the issuer of a structured finance product has informed it that it is publicly disclosing all relevant information about the product being rated or if the information remains non- public.

9.7.4 A Credit Rating Agency and its Employees must not engage in any securities or derivatives trading presenting conflicts of interest with the Credit Rating Agency's rating activities.

9.7.5 In instances where rated entities have, or are simultaneously pursuing, oversight functions related to the Credit Rating Agency, the Credit Rating Agency must use different Employees to conduct its rating actions than those Employees involved in its oversight issues.

9.8 Analyst and Employee Independence

9.8.1 Reporting lines for Credit Rating Agency Employees and their compensation arrangements must be structured to eliminate or effectively manage actual and potential conflicts of interest.

(a) A Credit Rating Agency's code of conduct must state that a Credit Rating Agency analyst will not be compensated or evaluated on the basis of the amount of revenue that the Credit Rating Agency derives from issuers that the analyst rates or with which the analyst regularly interacts.

(b) A Credit Rating Agency must conduct formal and periodic reviews of compensation policies and practices for Credit Rating Agency analysts and other Employees who participate in or who might otherwise have an effect on the rating process to ensure that these policies and practices do not compromise the objectivity of the Credit Rating Agency's rating process.

9.8.2 A Credit Rating Agency must not have Employees who are directly involved in the rating process initiate, or participate in, discussions regarding Fees or payments with any entity they rate.

9.8.3 No Credit Rating Agency Employee may participate in or otherwise influence the determination of the Credit Rating Agency's rating of any particular entity or obligation if the Employee:

(a) owns securities or derivatives of the rated entity, other than holdings in diversified collective investment schemes;

(b) owns securities or derivatives of any entity related to a rated entity, the ownership of which may cause or may be perceived as causing a conflict of interest, other than holdings in diversified collective investment schemes;

(c) has had a recent employment or other significant business relationship with the rated entity that may cause or may be perceived as causing a conflict of interest;

(d) has an immediate relation (i.e., a spouse, partner, parent, child, or sibling) who currently works for the rated entity; or

(e) has, or had, any other relationship with the rated entity or any related entity thereof

that may cause or may be perceived as causing a conflict of interest.

9.8.4 A Credit Rating Agency's analysts and anyone involved in the rating process (or their spouse, partner or minor children) must not buy or sell or engage in any transaction in any security or derivative based on a security issued, guaranteed, or otherwise supported by any entity within such analyst's area of primary analytical responsibility, other than holdings in diversified collective investment schemes.

9.8.5 Credit Rating Agency Employees must be prohibited from soliciting money, gifts or favours from anyone with whom the Credit Rating Agency does business and must be prohibited from accepting gifts offered in the form of cash or any gifts exceeding fifty U.S.Dollars.

9.8.6 Any Credit Rating Agency analyst who becomes involved in any personal relationship that creates the potential for any real or apparent conflict of interest (including, for example, any personal relationship with an Employee of a rated entity or agent of such entity within his or her area of analytic responsibility), must disclose such relationship to the appropriate manager or officer of the Credit Rating Agency, as determined by the Credit Rating Agency's compliance policies.

9.8.7 A Credit Rating Agency must establish policies and procedures for reviewing the past work of analysts that leave the employ of the Credit Rating Agency and join an issuer the Credit Rating Agency analyst has been involved in rating, or a financial firm with which the Credit Rating Agency analyst has had significant dealings as part of his or her duties at the Credit Rating Agency.

9.9 Transparency and Timeliness of Ratings Disclosure

9.9.1 A Credit Rating Agency must distribute in a timely manner its ratings decisions regarding the entities and securities it rates.

9.9.2 A Credit Rating Agency must publicly disclose its policies for distributing ratings, reports and updates.

9.9.3 A Credit Rating Agency must indicate with each of its ratings when the rating was last updated. Each rating announcement must also indicate the principal methodology or methodology version that was used in determining the rating and where a description of that methodology can be found. Where the rating is based on more than one methodology, or where a review of only the principal methodology might cause investors to overlook other important aspects of the rating, the Credit Rating Agency must explain this fact in the ratings announcement, and indicate where a discussion of how the different methodologies and other important aspects factored into the rating decision.

9.9.4 Except for "private ratings" provided only to the issuer, the Credit Rating Agency must disclose to the public, on a non-selective basis and free of charge, any rating regarding publicly issued securities, or public issuers themselves, as well as any subsequent decisions to discontinue such a rating, if the rating action is based in whole or in part on material non-public information.

9.9.5 A Credit Rating Agency must publish sufficient information about its procedures, methodologies and assumptions (including financial statement adjustments that deviate materially from those contained in the issuer's published financial statements and a description of the rating committee process, if applicable) so that outside parties can understand how a rating was arrived at by the Credit Rating Agency. This information will include (but not be limited to) the meaning of each rating category and the definition of default or recovery, and the time horizon the Credit Rating Agency used when making a

rating decision.

(a) Where a Credit Rating Agency rates a structured finance product, it must provide investors and/or subscribers (depending on the Credit Rating Agency's business model) with sufficient information about its loss and cash-flow analysis so that an investor allowed to invest in the product can understand the basis for the Credit Rating Agency's rating. A Credit Rating Agency must also disclose the degree to which it analyses how sensitive a rating of a structured finance product is to changes in the Credit Rating Agency's underlying rating assumptions.

(b) A Credit Rating Agency must differentiate ratings of structured finance products from traditional corporate bond ratings, preferably through a different rating symbology. A Credit Rating Agency must also disclose how this differentiation functions. A Credit Rating Agency must clearly define a given rating symbol and apply it in a consistent manner for all types of securities to which that symbol is assigned.

(c) A Credit Rating Agency must assist investors in developing a greater understanding of what a credit rating is, and the limits to which credit ratings can be put to use vis-à-vis a particular type of financial product that the Credit Rating Agency rates. A Credit Rating Agency must clearly indicate the attributes and limitations of each credit opinion, and the limits to which the Credit Rating Agency verifies information provided to it by the issuer or originator of a rated security.

9.9.6 When issuing or revising a rating, the Credit Rating Agency must explain in its press releases and reports the key elements underlying the rating opinion.

9.9.7 Where feasible and appropriate, prior to issuing or revising a rating, the Credit Rating Agency must inform the issuer of the critical information and principal considerations upon which a rating will be based and afford the issuer an opportunity to clarify any likely factual misperceptions or other matters that the Credit Rating Agency would wish to be made aware of in order to produce an accurate rating. A Credit Rating Agency must duly evaluate the response. Where in particular circumstances the Credit Rating Agency has not informed the issuer prior to issuing or revising a rating, the Credit Rating Agency must inform the issuer as soon as practical thereafter and explain the reason for the delay.

9.9.8 In order to promote transparency and to enable the market to best judge the performance of the ratings, the Credit Rating Agency, where possible, must publish sufficient information about the historical default rates of Credit Rating Agency rating categories and whether the default rates of these categories have changed over time, so that interested parties can understand the historical performance of each category and if and how rating categories have changed, and be able to draw quality comparisons among ratings given by different Credit Rating Agencies. If the nature of the rating or other circumstances make a historical default rate inappropriate, statistically invalid, or otherwise likely to mislead the users of the rating, the Credit Rating Agency must explain this. This information must include verifiable, quantifiable historical information about the performance of its rating opinions, organized and structured, and, where possible, standardized in such a way to assist investors in drawing performance comparisons between different Credit Rating Agencies.

9.9.9 For each rating, the Credit Rating Agency must disclose whether the issuer participated in the rating process. Each rating not initiated at the request of the issuer must be identified as such. A Credit Rating Agency must also disclose its policies and procedures regarding unsolicited ratings. As users of credit ratings rely on an existing awareness of Credit Rating Agency methodologies, practices, procedures and processes, the Credit Rating Agency must fully and publicly disclose any material modification to its methodologies and significant practices, procedures, and processes. Where feasible and appropriate, disclosure of such material

modifications must be made prior to becoming effective. A Credit Rating Agency must carefully consider the various uses of credit ratings before modifying its methodologies, practices, procedures and processes.

9.10 Confidential Information

9.10.1 A Credit Rating Agency must adopt procedures and mechanisms to protect the confidential nature of information shared with them by issuers under the terms of a confidentiality agreement or otherwise under a mutual understanding that the information is shared confidentially. Unless otherwise permitted by the confidentiality agreement and consistent with applicable laws or regulations, the Credit Rating Agency and its Employees must not disclose confidential information in press releases, through research conferences, to future employers, or in conversations with investors, other issuers, other persons, or otherwise.

9.10.2 A Credit Rating Agency must use confidential information only for purposes related to its rating activities or otherwise in accordance with any confidentiality agreements with the issuer.

9.10.3 A Credit Rating Agency and its Employees must take all reasonable measures to protect all property and records belonging to or in possession of the Credit Rating Agency from fraud, theft or misuse.

9.10.4 Credit Rating Agency Employees must be prohibited from engaging in transactions in securities when they possess confidential information concerning the issuer of such security.

9.10.5 In preservation of confidential information, Credit Rating Agency Employees must familiarise themselves with the internal securities trading policies maintained by their employer, and periodically certify their compliance as required by such policies.

9.10.6 Credit Rating Agency Employees must not selectively disclose any non-public information about rating Credit Rating Agencies or possible future rating actions of the Credit Rating Agency, except to the issuer or its designated agents.

9.10.7 Credit Rating Agency Employees must not share confidential information entrusted to the Credit Rating Agency with Employees of any affiliated entities that are not Credit Rating Agencies. Credit Rating Agency Employees must not share confidential information within the Credit Rating Agency except on an "as needed" basis.

9.10.8 Credit Rating Agency Employees must not use or share confidential information for the purpose of trading securities, or for any other purpose, except the conduct of the Credit Rating Agency's business.

9.11 Communication with Market Participants

9.11.1 A Credit Rating Agency must disclose to the public its code of conduct. A Credit Rating Agency must also describe generally how it intends to enforce its code of conduct and must disclose on a timely basis any changes to its code of conduct or how it is implemented and enforced.

9.11.2 A Credit Rating Agency must establish a function within its organisation charged with communicating with market participants and the public about any questions, concerns or complaints that the Credit Rating Agency may receive. The objective of this function must be to help ensure that the Credit Rating Agency's officers and management are informed of those issues that the Credit Rating Agency's officers and management would want to be made aware of when setting the organisation's policies.

9.11.3 A Credit Rating Agency must publish in a prominent position on its home webpage links to (a) its code of conduct; (b) a description of the methodologies it uses; and (c) information about its historic performance data.

9.12 Provision of consultancy and ancillary services

9.12.1 A Credit Rating Agency must not provide to a Rating Subject or a Related Party of a Rating Subject consultancy or advisory services relating to the corporate or legal structure, assets, liabilities or activities of such Rating Subject or Related Party. This prohibition includes, for example, making proposals or recommendations regarding the design or structure of Rating Subjects, including suggestions as to how a desired rating could be achieved. Some of the activities which are prohibited may constitute carrying on a Regulated Activity other than Operating a Credit Rating Agency. Even if a Credit Rating Agency has an authorisation to carry on such a Regulated Activity, it is prevented from providing such services to a Rating Subject or a Related Party.

9.12.2 For the purposes of this prohibition, a Related Party of a Rating Subject is:

(a) an undertaking which is in the same Group as the Rating Subject;

(b) any Person who interacts with the Credit Rating Agency in respect of the Credit Rating; or

(c) any Person who has a significant business or other relationship with the Rating Subject or any Person referred to above.

9.12.3 A Credit Rating Agency may carry out activities which are ancillary to its Credit Rating activities to a Rating Subject or a Related Party of the Rating Subject where it:

(a) has a clear definition of what services it considers as ancillary activities;

(b) documents why the carrying on of such activities are considered not to raise any conflicts of interest with its Credit Rating activities; and

(c) has in place adequate mechanisms to minimise the potential for any conflicts of interest arising.

9.12.4 Ancillary activities include, for example, market forecasts, estimates of economic trends, pricing analysis and other general data analysis, as well as related distribution services. These ancillary activities can be carried out for the benefit of Rating Subjects and their Related Parties where the requirements in this provision are met. These activities are also unlikely to constitute Regulated Activities.

9.12.5 A Credit Rating Agency must separate operationally its Credit Rating activities from any ancillary services it provides. For example, rating analysts and other key individuals involved in Credit Rating activities must not also be involved in the provision of such services. Where a Group member provides to a Rating Subject of a Credit Rating Agency any ancillary services, the Credit Rating Agency and the Group member must not share Employees or premises to ensure operational separation.

9.12.6 If a member of the Group, in which the Credit Rating Agency is also a member, provides services of the kind referred to in Rule 9.12.1 to a Rating Subject of the Credit Rating Agency or a Related Party of such a Rating Subject, such services must be operationally and functionally separated from the business of the Credit Rating Agency.

9.13 Credit Rating Agency Fees

A Credit Rating Agency must not enter into Fee arrangements for providing Credit Ratings where the Fee depends on the rating outcome or on any other result or outcome of the Credit Rating activities.

9.14 Remuneration and reporting lines

9.14.1 A Credit Rating Agency must have remuneration structures and strategies which, amongst other things, are consistent with the business objectives and identified risk parameters within which the Licensed Firm operates, and provide for effective alignment of risk outcomes and the roles and functions of the relevant Employees. The requirements set out in this section are designed to augment those remuneration requirements set out in GEN (in particular, Appendix 1.2 of GEN).

9.14.2 A Credit Rating Agency must ensure that Employees involved in the provision of Credit Ratings have reporting lines and remuneration arrangements that are designed to eliminate, or effectively manage, actual and potential conflicts of interest.

9.14.3 A Credit Rating Agency must ensure that its Employees are not remunerated, or their performance evaluated, based on the amount of revenue generated or expected from the Credit Ratings in which the Employee was involved.

9.14.4 [Deleted]

9.14.5 A Credit Rating Agency must conduct formal and periodic reviews of its remuneration policies and practices relating to Employees who participate in, or who might otherwise have an effect on, the rating process to ensure that those policies and practices do not compromise the objectivity of the Credit Rating activities.

Guidance

The Employees intended to be covered by this Rule are rating analysts and other Employees who are directly involved in producing or reviewing a Credit Rating, or who are able to influence the credit rating process (such as the senior management).

9.15 Record keeping

9.15.1 A Credit Rating Agency must, for a minimum of six years, maintain sufficient records in relation to each activity and function of the Credit Rating Agency and, where appropriate, audit trails of its Credit Rating activities. These must include, where applicable, the following:

(a) for each Credit Rating:

(i) the identity of the rating analysts participating in the determination of the Credit Rating;

(ii) the identity of the individuals who have approved the Credit Rating;

(iii) information as to whether the Credit Rating was solicited or unsolicited;

(iv) information to support the Credit Rating;

(v) the Accounting Records relating to Fees and charges received from or in respect of the Rating Subject;

(vi) the internal records and files, including non-public information and working papers, used to form the basis of any Credit Rating; and

(vii) credit analysis and credit assessment reports including any internal records and non-public information and working papers used to form the basis of the opinions expressed in such reports;

(b) the Accounting Records relating to Fees received from any Person in relation to services provided by the Credit Rating Agency;

(c) the Accounting Records for each subscriber to the Credit Rating Agency's services;

(d) the records documenting the established procedures, methodologies, models and assumptions used by the Credit Rating Agency to determine Credit Ratings; and

(e) copies of internal and external communications, including electronic communications, received and sent by the Credit Rating Agency and its Employees that relate to Credit Rating activities.

9.15.2 For the purposes of Rule 9.15.1(a), the six-year period commences from the date the Credit Rating is disclosed to the public or distributed by subscription.

9.15.3 Information to support a Credit Rating includes information received from the Rating Subject or information obtained through publicly available sources or third parties and verification procedures adopted in relation to information such as those obtained from public sources or third parties. In accordance with GEN 3.3.34-3.3.37, records must be kept in such a manner as to be readily accessible.

9.15.4 Where a Credit Rating is subject to on-going surveillance and review, the Credit Rating Agency must retain records required under Rule 9.15.1 in relation to the initial Credit Rating as well as subsequent updates where such records are required to support the latest Credit Rating.

10. CORE RULES – OPERATING A CENTRAL SECURITIES DEPOSITORY

10.1 Application and interpretation

10.1.1 This chapter applies to a Licensed Firm which operates a Central Securities Depository ("CSD").

10.1.2 Such a Licensed Firm is referred to in this chapter as a CSD.

10.1.3 A Licensed Firm that is permitted to carry on the Regulated Activity of Providing Custody may apply in addition for permission to perform the activity of operating a CSD.

10.2 [Deleted]

10.3 Additional requirements for CSDs

10.3.1 A CSD must have rules and procedures, including robust accounting practices and controls that:

(a) ensure the integrity of the securities issues;

(b) ensure it has a definitive record of title to relevant securities at all times; and

(c) minimise and manage risks associated with the safekeeping and transfer of securities.

10.3.2 A CSD must ensure that securities are recorded in book-entry form prior to the trade date.

10.3.3 A CSD's systems and controls must ensure that:

(a) the unauthorised creation or deletion of records relating to securities is prevented;

(b) appropriate intraday reconciliation is conducted to verify that the number of securities making up a securities issue or part of a securities issue submitted to the CSD is equal to the sum of securities recorded on the securities accounts of the members and other participants of the CSD;

(c) where entities other than the CSD are involved in the reconciliation process for a securities issue, such as the issuer, registrars, issuance agents, transfer agents or other CSDs, the CSD has adequate arrangements for cooperation and information exchange between all involved parties so that the integrity of the issue is maintained; and

(d) there are no securities overdrafts or debit balances in securities accounts.

10.4 CSD links

10.4.1 A CSD must not establish any link with another CSD (a "CSD link") unless it:

(a) has, prior to establishing the CSD link, identified and assessed potential risks, for itself and its members and other participants using its facilities, arising from establishing such a link;

(b) has adequate systems and controls effectively to monitor and manage, on an on- going basis, the following risks:

(i) the link arrangement between the CSD and all linked CSDs adequately mitigates against possible risks taken by the relevant CSDs, including credit, concentration and liquidity risks, as a result of the link arrangement;

(ii) each linked CSD has robust daily reconciliation procedures to ensure that its records are accurate;

(iii) if it or another linked CSD uses an intermediary to operate a link with another CSD, the CSD or the linked CSD has adequate systems and controls to measure, monitor, and manage the risks arising from the use of the intermediary;

(iv) to the extent practicable and feasible, linked CSDs provide for Delivery Versus Payment (DVP) settlement of transactions between participants in linked CSDs and, where such settlement is not practicable or feasible, reasons for non-DVP settlement are notified to the Regulator; and

(v) where interoperable securities settlement systems and CSDs use a common settlement infrastructure, there are times specified for the entry, irrevocability, finality and settlement of transfer orders into the system; and

(c) is able to demonstrate to the Regulator, prior to the establishment of the CSD link, that the CSD link satisfies the requirements referred to in Rule 10.4.1(b).

10.4.2 A CSD must include in its notification to the Regulator relating to the establishment of CSD

links the results of due diligence undertaken in respect of the matters specified in Rule 10.4.1(b) to demonstrate that those requirements are met. Where a CSD changes any existing CSD arrangements, a further notification relating to such changes, along with details of its due diligence relating to the new CSD link, must be provided to the Regulator in advance of the proposed change.

11. RECORDS OF ORDERS AND TRANSACTIONS

11.1 Minimum Contents of Transaction Records

11.1.1 Receipt of Client Order or Discretionary Decision to Transact

A Licensed Firm must, pursuant to Rule 6.8.2(a), make a record of the following in respect of each Client order:

(a) the identity and account number of the Client;

(b) the date and time when the instructions were received or the decision was taken by the Licensed Firm to deal;

(c) the identity of the Employee who received the instructions or made the decision to deal;

(d) the Investment, including the number of Instruments or their value and any price limit; and

(e) whether the instruction relates to a purchase or sale, long, short, buyer, seller or other relevant position.

11.1.2 Executing a Transaction

A Licensed Firm must, pursuant to Rule 6.8.2(b), make a record of the following in respect of each Transaction:

(a) the identity and account number of the Client for whom the Transaction was Executed, or an indication that the Transaction was for its own account;

(b) the name of the counterparty;

(c) the date and time where the Transaction was Executed;

(d) the identity of the Employee executing the Transaction;

(e) the Investment, including the number of instruments or their value and price; and

(f) whether the Transaction was a purchase or a sale, long, short, buyer, seller or other relevant position.

11.1.3 Passing a Client Order to another Person for Execution

A Licensed Firm must, pursuant to Rule 6.8.2(c), make a record of the following:

(a) the identity of the Person instructed;

(b) the terms of the instruction; and

(c) the date and time that the instruction was given.

11.1.4 Sending Confirmation Notes

1. For the purposes of Rule 6.10.2, a Licensed Firm must include the following information in its confirmation notes:

(a) the Licensed Firm's name and address;

(b) whether the Licensed Firm Executed the Transaction as principal or agent;

(c) the Client's name, account number or other identifier;

(d) a description of the Investment or Fund, including the amount invested or number of units involved;

(e) whether the Transaction is a sale or purchase;

(f) the price or unit price at which the Transaction was Executed, or where the order is executed in tranches the average price of the Transaction as a whole supplemented by, at the request of the Client, information about the price of each tranche of the Transaction;

(g) if applicable, a statement that the Transaction was Executed on an Execution- Only basis;

(h) the date and time of the Transaction;

(i) the total amount payable and the date on which it is due;

(j) the amount the Licensed Firm charges in connection with the Transaction, including Commission charges and the amount of any Mark-up or Mark-down, Fees, taxes or duties;

(k) the amount or basis of any charges shared with another Person or statement that this will be made available on request; and

(l) for Collective Investment Funds, a statement that the price at which the Transaction has been Executed is on a historic price or forward price basis, as the case may be.

2. A Licensed Firm must combine items (f) and (j) in respect of a Transaction where the Client has requested a confirmation showing a single price combining both of these items.

11.1.5 Additional Information: Derivatives

For the purposes of Rule 6.10.2, and in relation to Transactions in Derivatives, a Licensed Firm must include the following additional information:

(a) the maturity, delivery or expiry date of the Derivative;

(b) in the case of an Option, the date of exercise or a reference to the last exercise date;

(c) whether the exercise creates a sale or purchase in the underlying asset;

(d) the strike price of the Option; and

(e) if the Transaction closes out an open Futures position, all essential details required in respect of each contract comprised in the open position and each contract by which it

was closed out and the profit or loss to the Client arising out of closing out that position (a difference account).

12. KEY INFORMATION AND CLIENT AGREEMENT

12.1 Key Information and Content of the Client Agreement

12.1.1 General

The key information which a Licensed Firm is required to provide to a Client and include in the Client Agreement with that Client pursuant to Rule 3.3.2 must include:

(a) the information set out in:

(i) Rule 12.1.2(a) if it is a Retail Client; and

(ii) Rule 12.1.2(b) if it is a Professional Client; and

(b) where relevant, the additional information required under Rules 12.1.3 and 12.1.4.

12.1.2 Core Information

(a) In the case of a Retail Client, the information for the purposes of Rule 12.1.1(a) is:

(i) the name and address of the Licensed Firm, and if it is a Subsidiary, the name and address of the ultimate Holding Company;

(ii) the regulatory status of the Licensed Firm;

(iii) when and how the Client Agreement is to come into force and how the agreement may be amended or terminated;

(iv) details of Fees, costs and other charges and the basis upon which the Licensed Firm will impose those Fees, costs and other charges;

(v) sufficient details of the service that the Licensed Firm will provide, including where relevant, information about any product or other restrictions applying to the Licensed Firm in the provision of its services and how such restrictions impact on the service offered by the Licensed Firm; or if there are no such restrictions, a statement to that effect;

(vi) details of any conflicts of interests for the purposes of disclosure under Rule 3.5;

(vii) details of any Soft Dollar Agreement required to be disclosed under Rule 3.6;

(viii) key particulars of the Licensed Firm's Complaints handling procedures and a statement that a copy of the procedures is available free of charge upon request in accordance with GEN 7.2.11; and

(ix) where investment advice is provided:

(A) whether or not the advice is provided on an independent basis;

(B) whether the advice is based on a broad or on a more restricted analysis of different types of Financial Instruments and, in particular, whether the range is limited to Financial Instruments issued or

provided by entities having Close Links with the Licensed Firm or any other legal or economic relationships, such as contractual relationships, so close as to pose a risk of impairing the independent basis of the advice provided;

(C) whether the Licensed Firm will provide the Client with a periodic assessment of the suitability of the Financial Instruments recommended to that Client.

Guidance

For (a)(ix), investment advice is considered to be the provision of personal recommendations by a Licensed Firm to a Client, either at the initiative of the Licensed Firm or at the request of the Client, in respect of one or more transactions relating to Financial Instruments.

(b) In the case of a Professional Client, the information for the purposes of Rule 12.1.1(a) is the information referred to in Rule 12.1.2(a)(i) to Rule 12.1.2(a)(iv).

12.1.3 Additional Information for Investment Business

The additional information required under Rule 12.1.1(b) for Investment Business is:

(a) the arrangements for giving instructions to the Licensed Firm and acknowledging those instructions;

(b) information about any agreed investment parameters;

(c) the arrangements for notifying the Client of any Transaction Executed on his behalf;

(d) if the Licensed Firm may act as principal in a Transaction, when it will do so;

(e) the frequency of any periodic statements and whether those statements will include some measure of performance, and if so, what the basis of that measurement will be;

(f) when the obligation to provide best execution can be and is to be waived, a statement that the Licensed Firm does not owe a duty of best execution or the circumstances in which it does not owe such a duty; and

(g) where applicable, the basis on which assets comprised in the portfolio are to be valued.

12.1.4 Additional Information for Investment Management Activities

The additional information required under Rule 12.1.1(b) where a Licensed Firm acts as an Investment Manager is:

(a) the initial value of the managed portfolio;

(b) the initial composition of the managed portfolio;

(c) the period of account for which periodic statements of the portfolio are to be provided in accordance with Rule 6.11; and

(d) in the case of discretionary investment management activities:

(i) the extent of the discretion to be exercised by the Licensed Firm, including any restrictions on the value of any one Investment or the proportion of the portfolio which any one Investment or any particular kind of Investment may constitute; or that there are no such restrictions;

(ii) whether the Licensed Firm may commit the Client to supplement the funds in the portfolio, and if it may include borrowing on his behalf:

(A) the circumstances in which the Licensed Firm may do so;

(B) whether there are any limits on the extent to which the Licensed Firm may do so and, if so, what those limits are;

(C) any circumstances in which such limits may be exceeded; and

(D) any margin lending arrangements and terms of those arrangements;

(iii) that the Licensed Firm may enter into Transactions for the Client, either generally or subject to specified limitation; and

(iv) where the Licensed Firm may commit the Client to any obligation to underwrite or sub-underwrite any issue or offer for sale of Securities:

(A) whether there are any restrictions on the categories of Securities which may be underwritten and, if so, what these restrictions are; and

(B) whether there are any financial limits on the extent of the underwriting and, if so, what these limits are.

13. PERIODIC STATEMENTS

13.1 Content of Periodic Statements: Investment Management

13.1.1 General Information

(1) Pursuant to Rule 6.11, a periodic statement, as at the end of the period covered, must contain the following general information:

(a) the number, description and value of each Investment;

(b) the amount of cash held;

(c) the total value of the portfolio;

(d) a statement of the basis on which the value of each Investment has been calculated; and

(e) if provided to a Retail Client, the total amount of fees and charges incurred during the reporting period, itemising at least total management fees and total costs associated with execution, and including, where relevant, a statement that a more detailed breakdown will be provided upon request.

(2) Where requested by a Retail Client pursuant to Rule 13.1.1(1)(e), a Licensed Firm must provide detailed information concerning management fees and costs incurred on a per

Transaction basis.

13.1.2 Additional Information: Discretionary Investment Management Activities

In addition to Rule 13.1.1, where a Licensed Firm acts as an Investment Manager on a discretionary basis, the periodic statement must also include the following additional information:

(a) a statement of which Investments, if any, were at the closing date loaned to any third party and which Investments, if any, were at that date charged to secure borrowings made on behalf of the portfolio;

(b) the aggregate of any interest payments made and income received during the account period in respect of loans or borrowings made during that period;

(c) details of each Transaction which has been entered into for the portfolio during the period;

(d) the aggregate of Money and details of all Investments transferred into and out of the portfolio during the period;

(e) the aggregate of any interest payments, including the dates of their application and dividends or other benefits received by the Licensed Firm for the portfolio during that period;

(f) a statement of the aggregate Fees and charges of the Licensed Firm and its Associates; and

(g) a statement of the amount of any Remuneration received by the Licensed Firm or its Associates or both from a third party.

13.1.3 Additional Information: Contingent Liability Investments

In the case where Contingent Liability Investments are involved, a Licensed Firm must include the following additional information:

(a) the aggregate of Money transferred into and out of the portfolio during the valuation period;

(b) in relation to each open position in the account at the end of the account period, the unrealised profit or loss to the Client (before deducting or adding any Commission which would be payable on closing out);

(c) in relation to each Transaction Executed during the account period to close out a Client's position, the resulting profit or loss to the Client after deducting or adding any Commission;

(d) the aggregate of each of the following in, or relating to, the Client's portfolio at the close of business on the valuation date:

(i) cash;

(ii) Collateral value;

(iii) management fees; and

(iv) commissions;

(e) Option account valuations in respect of each open Option contained in the account on the valuation date stating:

(i) the Share, Future, index or other Investment involved;

(ii) the trade price and date for the opening Transaction, unless the valuation statement follows the statement for the period in which the Option was opened;

(iii) the market price of the contract; and

(iv) the exercise price of the contract.

14. CLIENT MONEY AND RELEVANT MONEY PROVISIONS

14.1 Application

14.1.1 The provisions of this chapter are referred to as the Client Money Rules.

14.1.2 For the purposes of this Chapter:

(a) all references to Client Money include Relevant Money;

(b) all references to Clients include Payment Service Users; and

(c) all references to Client Accounts include Payment Accounts;

unless otherwise expressly stated.

14.1.3 References in this Chapter which require the safekeeping of Relevant Money in a Client Account do not result in a Payment Service User becoming a Client of a Payment Service Provider, or a holder of a Fiat-Referenced Token becoming a Client of a Licensed Firm which has issued the Fiat-Referenced Token.

14.1.4 A Licensed Firm in Category 4, other than a Licensed Firm engaged in the Regulated Activity of Operating a Private Financing Platform, must not hold or control Client Money.

Guidance

1. Principle 9 of the Principles for Licensed Firms (Customer assets and money) in GEN 2.2.9 requires a Licensed Firm to arrange proper protection for Clients' Assets, including Client Money and Relevant Money where the Licensed Firm is responsible for them. An essential part of that protection is that a Licensed Firm must properly safeguard Client Money held or controlled on behalf of a Client in the course of, or in connection with, the carrying on of Investment Business, or properly safeguard Relevant Money held in the course of the delivery of Payment Services.

2. A Licensed Firm must introduce adequate organisational arrangements to minimise the risk of the loss or diminution of Client Money and Relevant Money as a result of, for example, the Licensed Firm's or a third party's insolvency, fraud, poor administration, inadequate recordkeeping or negligence.

3. A Licensed Firm that holds or controls Client Investments, or Fiat-Referenced Tokens on behalf of another Person, Provides Custody or Arranges Custody must also comply with Chapter 15.

4. A Fund Manager, Fund Administrator, Custodian or Trustee that holds Fund Property must comply with the Fund Rules rather than the Client Money Rules.

5. A Licensed Firm carrying on Payment Services in respect of Fiat-Referenced Tokens must safeguard Fiat-Referenced Tokens belonging to a Payment Service User in compliance with Chapters 15, 17 and 19.

6. A Licensed Firm carrying on the Regulated Activity of Issuing a Fiat-Referenced Token must also comply with Chapters 15, 16, 17 and 19A.

14.2 General Requirements

14.2.1 A Licensed Firm which holds or controls Client Money must comply with, and be able to demonstrate compliance with, the Client Money Rules in relation to that Client Money and have systems and controls in place to ensure that Client Money is identifiable and secure at all times.

14.2.2 Where the Client is a Professional Client which is a Market Counterparty, a Licensed Firm engaging in Investment Business may exclude the application of the Client Money Rules but only where it has obtained the prior written consent of the Client to do so.

14.2.3 A Licensed Firm which holds or controls Client Money must inform the Regulator in writing without delay if it has not complied with, or is unable in any material respect to comply with, the Client Money Rules.

Guidance

1. Client Money is held by a Licensed Firm if it is:

   (a) directly held by the Licensed Firm;

   (b) held in an account in the name of the Licensed Firm; or

   (c) held by a Person, or in an account in the name of a Person, controlled by the Licensed Firm.

2. The Regulator would consider an account to be controlled by a Licensed Firm if that account may be operated in accordance with the instructions of the Licensed Firm, despite the account not being established in the name of the Licensed Firm.

14.3 Client Money and Money controlled by a Licensed Firm

14.3.1 All Money held on behalf of a Client in the course of, or in connection with, the carrying on of Investment Business in or from GMC is Client Money, except Money which is:

(a) held by a Licensed Firm which is a Bank as a Deposit, provided the Licensed Firm notifies the Client in writing that the Client Money is held by it as a Deposit and not as Client Money;

(b) due and payable by the Client to the Licensed Firm;

(c) in an account in the Client's name over which the Licensed Firm has a mandate or similar authority for the purpose of managing Money for such Client on a

discretionary basis;

(d) received in the form of a cheque, or other payable order, made payable to a third party other than a Person or account controlled by the Licensed Firm, provided the cheque or other payable order is intended to be forwarded to the third party within one day of receipt;

(e) Cash received under a Title Transfer Collateral Agreement from a Professional Client; or

(f) Fund Property.

14.3.2 Where the Licensed Firm holds a mandate, or similar authority over an account established in the Client's own name with a third party, its systems and controls must:

(a) include a current list of all such mandates and any conditions placed by the Client or by the Licensed Firm on the use of the mandate;

(b) include the details of the procedures and authorities for the giving and receiving of instructions under the mandate; and

(c) ensure that all instructions related to Transactions entered into using such a mandate are recorded and are within the scope of the authority of the Employee and the Licensed Firm under the mandate.

Guidance

1. All Money held or controlled by a Payment Service Provider on behalf of a Payment Service User in the course of carrying on of Payment Services is Relevant Money from the time of its receipt, except Money which is due and payable to the Licensed Firm from the Payment Service User. Chapter 19 contains additional specific provisions relating to the handling of Relevant Money.

2. Pursuant to Rule 15.11.A.1, a Licensed Firm may not enter into a Title Transfer Collateral Agreement with a Retail Client.

14.4 Payment of Client Money into Client Accounts

14.4.1 Where a Licensed Firm holds or controls Client Money it must ensure, except where otherwise provided in these Rules, that the Client Money is paid into a Client Account held with a Third Party Agent pursuant to rule 14.7, within one day of receipt.

14.4.2 A Licensed Firm must have procedures for identifying Client Money received by the Licensed Firm, and for promptly recording the receipt of the Money either in the books of account or a register for later posting to and recording in the Client Account. The procedures must cover Client Money received by the Licensed Firm through any means.

14.4.3 Where a Licensed Firm is aware that a Person may make a payment of Client Money to the Licensed Firm, it must take reasonable steps:

(a) to ensure that the Person has sufficient information of the relevant account details to be able to transfer Client Money directly to a Client Account; and

(b) to ensure that the Licensed Firm is notified of such payment as soon as reasonably practicable.

14.4.4 A Licensed Firm must maintain systems and controls for identifying Money which must not

be in a Client Account and for transferring it out of the Client Account without delay.

14.4.5 A Licensed Firm must not hold or deposit its own Money into a Client Account, except where:

(a) it is a minimum sum required to open the account or to keep it open;

(b) the Money is received by way of mixed remittance, provided that Money owed to the Licensed Firm is transferred out of the Client Account within one day of the day upon which the payment to the Licensed Firm was due and payable;

(c) interest credited to the account exceeds the amount payable to Clients, provided that the Money is removed within twenty days; or

(d) it is to meet a shortfall in Client Money.

14.4.6 Where a Licensed Firm deposits any Money into a Client Account, such Money is Client Money until such time as:

(a) if it is Client Money, the Client Money is withdrawn from the Client Account in accordance with the Client Money Rules; or

(b) if it is Relevant Money, the Relevant Money is withdrawn from the Client Account in accordance with Chapter 19.

Guidance

1. For the purposes of Rule 14.4.1, the Regulator would consider one day to expire at the close of business on the next business day.

2. Regardless of what time during the day the Client Money was received by the Licensed Firm, a Licensed Firm which remits all Client Money to the Client or as the Client may direct within one day is not obligated to maintain a Client Money Account.

3. A Licensed Firm may establish separate Client Accounts for individual Clients, a single Client Account where Client Money is pooled, or both.

4. Whenever possible the Licensed Firm should seek to split a mixed remittance before crediting the Client Account.

5. A Licensed Firm holding or controlling Relevant Money in connection with the conduct of Payment Services is expected to identify, record and reconcile such amounts in accordance with the requirements of Chapter 19.

14.5 Exceptions to holding Client Money in Client Accounts

14.5.1 The requirement for a Licensed Firm to hold Client Money in a Client Account does not, subject to Rule 14.5.2, apply with respect to such Client Money:

(a) received in the form of cheque, or other payable order, until the Licensed Firm, or a Person or account controlled by the Licensed Firm, is in receipt of the proceeds of that cheque;

(b) temporarily held by a Licensed Firm before forwarding to the Client or a Person nominated by the Client; or

(c) in connection with a Delivery Versus Payment Transaction where:

(i) in respect of a Client purchase, Client Money from the Client will be due to the Licensed Firm within one day upon the fulfilment of a delivery obligation; or

(ii) in respect of a Client sale, Client Money will be due to the Client within one day following the Client's fulfilment of a delivery obligation.

14.5.2 A Licensed Firm must pay Client Money received by it of the type described in 14.5.1(b) or (c) into a Client Account where the Licensed Firm has not fulfilled its delivery or payment obligation within three days of receipt of the Money or the Investments, unless, in the case of the Client's sale of Investments, the Licensed Firm instead safeguards equivalent Client Investments at least equal to the value of such Client Money.

14.5.3 A Licensed Firm must maintain adequate records of all cheques and payment orders received in accordance with Rule 14.5.1(a) including, in respect of each payment:

(a) The date of receipt;

(b) The name of the Client for whom payment is to be credited; and

(c) The date when the cheque or payment order was presented to the Licensed Firm's Third-Party Agent.

14.5.4 The records referred to in Rule 14.5.3 must be kept for a minimum of six years.

14.5.5 Rules 14.5.1 to 14.5.3 do not apply to Licensed Firms holding Relevant Money.

Guidance

1. A Licensed Firm holding Relevant Money must maintain Relevant Money in a Payment Account in compliance with Chapter 19.

2. In accordance with Rule 15.11.A.2 Money received under the Title Transfer Collateral Agreement from a Professional Client is not Client Money.

14.6 Client Accounts

14.6.1 A Client Account is an account which:

(a) is held with a Third-Party Agent, pursuant to Rule 14.7;

(b) is established to hold Client Money; and

(c) is maintained in the name of:

(i) if a Domestic Firm, the Licensed Firm; or

(ii) if a non-Domestic Firm, a Nominee Company controlled by the Licensed Firm.

14.6.2 A Licensed Firm must maintain a master list of all Client Accounts. The master list must detail:

(a) the name of the account;

(b) the account number;

(c) the location of the account;

(d) the Third-Party Agent, its address and contact information;

(e) the account terms and conditions;

(f) whether the account is currently open or closed; and

(g) the date of opening or closure.

14.6.3 The details of the master list referred to in Rule 14.6.2 must be maintained for at least six years following the closure of a Client Account.

14.7 Appointment of Third-Party Agent to hold Client Accounts

14.7.1 A Licensed Firm may pay, or permit to be paid, Client Money to a Third-Party Agent only where it has undertaken a prior assessment of the suitability of that Third-Party Agent and concluded on reasonable grounds that the Third-Party Agent is suitable to hold Client Money in a Client Account.

14.7.2 When assessing the suitability of the Third-Party Agent, the Licensed Firm must ensure that the Third-Party Agent will provide protections equivalent to the protections conferred by this section.

14.7.3 A Licensed Firm must ensure that a Client Account maintained with a Third-Party Agent includes the words “Client Account” in its title or, where this impracticable, includes in its title an appropriate description to clearly distinguish the Money in the Client Account from the Licensed Firm’s Money.

14.7.4 Before depositing Client Money in a Client Account established with a Third-Party Agent, a Licensed Firm must obtain a written acknowledgment from the Third-Party Agent stating that all Money standing to the credit of the account is held by the Licensed Firm on behalf of its Clients and that the Third-Party Agent is not entitled to combine the account with any other account, or exercise any charge, mortgage, security, lien, right of set-off or combination or counterclaim against Money in that account in respect of any sum owed to it by the Licensed Firm.

14.7.5 If the Third-Party Agent does not provide the acknowledgment referred to in Rule 14.7.4 within the time specified in that Rule, the Licensed Firm must refrain from making further deposits of Client Money into that account maintained by the Third-Party Agent and withdraw all Client Money standing to the credit of that Client Account.

14.7.6 A Licensed Firm must have systems and controls in place to ensure that the Third- Party Agent remains suitable.

14.7.7 A Licensed Firm must be able to demonstrate to the Regulator's satisfaction the grounds upon which the Licensed Firm considers the Third-Party Agent to be suitable to hold that Client Money or Relevant Money, as applicable.

Guidance

For the purposes of the Client Money Rules, a Third-Party Agent is a Financial Institution as defined in the Glossary Rulebook (GLO), which maintains a Client Account in the name of the Licensed Firm, but such account is identified as a Client Account to distinguish client money from money belonging to the Licensed Firm. When assessing the suitability of a Third-Party Agent with which to maintain a Client Account, a Licensed Firm should, at a minimum, have regard to:

(a) its credit rating;

(b) its capital and financial resources in relation to the amount of Client Money or Relevant Money, as applicable, held;

(c) the insolvency regime of the jurisdiction in which it is located;

(d) its regulatory status and history;

(e) its Group structure;

(f) if the Third-Party Agent is a Related Party, whether applicable insolvency laws would result in the subordination of the Licensed Firm's claims in the event of the failure of the Third-Party Agent;

(g) the amount of Client Money to be placed with the Third-Party Agent, the availability of alternative Third-Party Agents and concentration risk; and

(h) its use of agents and service providers.

14.8 Payment of Client Money from Client Account

14.8.1 A Licensed Firm must have procedures for ensuring all withdrawals from a Client Account are authorised.

14.8.1 A Subject to Rule 14.8.2, Client Money that is not Relevant Money must remain in a Client Account until it:

(a) is due and payable to the Licensed Firm;

(b) is paid to the Client on whose behalf the Client Money is held;

(c) is paid in accordance with a Client instruction on whose behalf the Client Money is held;

(d) is required to meet the payment obligations of the Client on whose behalf the Client Money is held;

(e) becomes held by the Licensed Firm pursuant to a title transfer collateral arrangement;

(f) becomes held by the Licensed Firm in its capacity as a bank as a Deposit; or

(g) is paid out in circumstances that are otherwise authorised by the Regulator.

14.8.2 Client Money paid out by way of cheque or other payable order under Rule 14.8.1A(b) or (c) must remain in a Client Account until the cheque or payable order is presented to and cleared by the recipient's bank.

14.8.3 A Licensed Firm must not use Client Money belonging to one Client to satisfy an obligation of another Client.

14.8.4 A Licensed Firm must have systems and controls to ensure that no off-setting or debit balances occur on Client Accounts.

Guidance

The effect of Rule 14.8.3 is that a Licensed Firm seeking to remedy a shortfall arising from a

client debit balance would be required to address any shortfall with its own money.

14.8.5 Relevant Money must remain in a Client Account until it is to be paid out:

(a) in compliance with Chapter 19 if the Licensed Firm is Providing Money Services by operating a Payment Account; or

(b) in compliance with Chapter 19A if the Licensed Firm has issued a Fiat- Referenced Token.

14.9 Client Disclosure

14.9.1 Before, or as soon as reasonably practicable after, a Licensed Firm receives Client Money that is not Relevant Money, it must disclose to that Client in writing:

(a) the basis and any terms governing the way in which the Client Money will be held, including whether it is to be pooled or held in a separate Client Account;

(b) that the Client is subject to the protection conferred by the Client Money Rules and as a consequence:

(i) this Money will be held separate from Money belonging to the Licensed Firm; and

(ii) in the event of the Licensed Firms insolvency, winding up or other Pooling Event stipulated by the Regulator, the Client's Money will be subject to the Client Money Distribution Rules;

(c) that the Licensed Firm or its Nominee Company, as applicable, will hold the Client's Money in trust, in accordance with the terms set out in Rule 14.12;

(d) whether interest is payable to the Client and, if so, on what terms;

(e) if applicable, that the Client Money may be held in a jurisdiction outside GMC, the identity of that jurisdiction;

(f) if applicable, that market practices, insolvency and the legal regime applicable in the jurisdiction identified in (e) may differ from the regime applicable in GMC;

(g) the identity of the Third-Party Agent;

(h) [*Not in use]*

(i) if applicable, that the Licensed Firm holds or intends to hold the Client Money in a Client Account with a Third-Party Agent which is in the same Group as the Licensed Firm; and

(j) details of any rights which the Licensed Firm may have to realise Client Money held on behalf of the Client in satisfaction of a default by the Client or otherwise.

14.9.2 In the event of a material change to the information provided to the Client in accordance with Rule 14.9.1, a Licensed Firm must disclose the details of such change to the Client in writing.

14.9.3 Before a Licensed Firm holds or controls Client Money on behalf of a Professional Client which is a Market Counterparty that will not be subject to these Client Money Rules, it must disclose to the Client in writing, and obtain the Client's written acknowledgment, that:

(a) the protections conferred by the Client Money Rules do not apply to such Money;

(b) such Client Money may be comingled with Money belonging to the Licensed Firm and may be used by the Licensed Firm in the course of the Licensed Firm's business; and

(c) following any Pooling Event it will be an unsecured creditor.

Guidance

1. A Licensed Firm carrying on Payment Services as a Payment Service Provider must provide periodic reporting in respect of the Relevant Money it holds as required by Chapter 19.

2. A Licensed Firm carrying on the Regulated Activity of Issuing a Fiat- Referenced Token must make the periodic disclosures in relation to Reserve Assets, including Relevant Money, as required by Rule 19A.9.2.

14.10 Client Reporting

14.10.1 In relation to a Client to whom the Client Money Rules are applicable, a Licensed Firm conducting Investment Business must send a statement:

(a) to a Retail Client at least monthly; or

(b) to a Professional Client, at other intervals as agreed in writing with the Professional Client.

14.10.2 The statement required by Rule 14.10.1 must include:

(a) the Client's total Client Money balances held by the Licensed Firm reported in the currency in which the Client Money is held, or the relevant exchange rate if not reported in the currency in which the Money is held;

(b) the amount, date and value of each credit and debit paid into and out of the account since the previous statement; and

(c) any interest earned or charged on the Client Account since the previous statement.

14.10.3 The statement sent to the Client in accordance with Rule 14.10.2 must be prepared within one calendar month of the statement date.

Guidance

A Licensed Firm conducting the Regulated Activity of Payment Services as a Payment Service Provider must report to Payment Service Users in accordance with Chapter 19.

14.11 Reconciliation

14.11.1 A Licensed Firm conducting Investment Business must maintain adequate systems and controls to ensure that accurate reconciliations of Client Accounts are carried out as regularly as necessary but at least every calendar month.

14.11.2 The reconciliation called for in Rule 14.11.1 must include:

(a) a full list of individual Client credit ledger balances, as recorded by the Licensed Firm;

(b) a full list of individual Client debit ledger balances, as recorded by the Licensed Firm;

(c) a full list of unpresented cheques and outstanding lodgements;

(d) a full list of Client Account cash book balances; and

(e) formal statements from Third-Party Agents showing account balances as at the date of reconciliation.

14.11.3 A Licensed Firm must:

(a) reconcile the individual Client credit ledger balances, Client Account cash book balances, and the Third-Party Agent Client Account balances;

(b) check that the balance in the Client Accounts as at the close of business on the previous day was at least equal to the aggregate balance of individual Client credit ledger balances as at the close of business on the previous day; and

(c) ensure that all shortfalls, excess balances and unresolved differences, other than differences arising solely as a result of timing differences between the accounting systems of the Third-Party Agent and the Licensed Firm, are investigated and, where applicable, corrective action is taken as soon as possible.

14.11.4 A Licensed Firm must perform the reconciliations in Rule 14.11.3 within ten days of the date to which the reconciliation relates.

14.11.5 When performing reconciliations, a Licensed Firm must maintain a clear separation of duties to ensure that an Employee with responsibility for operating Client Accounts, or an Employee that has the authority to make payments, does not perform the reconciliations under Rule 14.11.3.

14.11.6 Reconciliation performed in accordance with Rule 14.11.3 must be reviewed by a member of the Licensed Firm who has adequate seniority.

14.11.7 The individual referred to in Rule 14.11.6 must provide a written statement confirming the reconciliation has been undertaken in accordance with the requirements of this section.

14.11.8 A Licensed Firm must notify the Regulator without undue delay where there has been a material discrepancy with the reconciliation which has not been rectified.

14.11.9 Records under Rule 14.11 must be kept for a minimum of six years.

Guidance

1. A material discrepancy includes multiple small discrepancies which occur over time which have a cumulative effect of being material.

2. A Licensed Firm engaged in Investment Business whose Financial Service Licence entitles them to hold Client Money must also arrange for a Client Money Auditor's Report to be submitted to the Regulator on an annual basis in accordance with GEN 6.6.6.

14.12 Deemed Trusts

14.12.1 A Licensed Firm receives and holds Client Money as trustee in accordance with the following trusts:

(a) where a Licensed Firm has established one or more separate Client Accounts to hold Client Money for one or more individual Clients, subject to (c), the Client Money in each separate Client Account is held for the Clients of the Licensed Firm for whom such money is held, according to their respective interests in it;

(b) for each Client Account which a Licensed Firm maintains a general pool of Client Money, subject to (c), the Licensed Firm holds such Client Money in trust for the Clients for whom that pooled money is held, according to their respective interests in it;

(c) for each trust, for the payment of the costs properly attributable to the distribution of the Client Money in accordance with (a) or (c); and

(d) after all valid claims and costs under (a) to (c) have been met, for the Licensed Firm itself.

14.13 Client Money Distribution Rules

14.13.1 To the extent that the rules in this section ("the Client Money Distribution Rules") are inconsistent with section 225 of the Insolvency Regulations, these Rules will prevail.

14.13.2 If a Licensed Firm becomes insolvent, or a Pooling Event Occurs, the available funds in each Client Account must be distributed in accordance with Rule 14.13.5.

14.13.3 A Pooling Event occurs:

(a) on the Failure of a Licensed Firm;

(b) on the Failure of a Third-Party Agent;

(c) where the Licensed Firm has failed to perform reconciliations as required under Rule 14.11, or claims of Client against Money held in the Client Account cannot be identified and allocated in the records of the Licensed Firm;

(d) on the vesting of assets in a trustee in accordance with an Assets Requirement imposed under section 38 of FSMR; or

(e) where the Regulator makes an order or decision to this effect under FSA.

14.13.4 A pooling event under Rule 14.13.3(c) does not occur when the Licensed Firm has notified the Regulator in accordance with Rule 14.11.8 and the Licensed Firm is taking steps, in consultation with the Regulator, to rectify those records and there are reasonable grounds to conclude that the records will be capable of reconciliation within a reasonable period.

Guidance

Where multiple Third-Party Agents have been engaged by a Licensed Firm, the Failure of one Third-Party Agent will not trigger the obligation to distribute all Client Money to Clients in respect of Client Accounts operated by Third-Party Agents which have not Failed, unless the Licensed Firm has also failed.

14.13.5 Following a Pooling Event, a Licensed Firm must liquidate all Collateral held by the Licensed Firm and distribute Client Money in the following order of priorities:

(a) first, in relation to Client Money held in a Client Account, or Client Money that should be held in a Client Account, claims relating to that Money must be paid to each Client for whom Money was placed, or intended to be placed, in that Client Account, in full or, where insufficient funds are held in the Client Account, proportionately, in accordance with each Client's valid claim over that Money;

(b) second, upon satisfaction of all claims in (a), in the event of:

(i) the appointment of a liquidator, receiver or administrator, or trustee in bankruptcy over the Licensed Firm, payment must be made in accordance with the Insolvency Regulations; or

(ii) all other Pooling Events where no liquidator, receiver or administrator has been appointed in respect of the Licensed Firm, payment must be made in accordance with the direction of the Regulator.

14.13.6 Where, after the Failure of a Licensed Firm, the amount of Client Money in a Client Account is insufficient to satisfy the claims of all Clients in full in respect of that Money, or not being immediately available to satisfy such claims, a Client may claim for any shortfall against all other Money held by the Licensed Firm in its own account. For that claim, the Client will be an unsecured creditor of the Licensed Firm.

Guidance

1. This section seeks to facilitate the timely return of Client Money to Clients in the event of the Failure of a Licensed Firm or a Third-Party Agent at which the Licensed Firm holds Client Money.

2. A Pooling Event triggers a notional pooling of all Client Money in every type of Client Account, and the obligation to distribute it in accordance with Rule 14.13.5. In such event, Clients for whom Money was placed into a specific Client Account will only be entitled to a claim against Money held in such account, and not in any other account. Money held in one Client Account may not be used to fund shortfalls of Money which may exist in respect of other Client Accounts.

3. Following a Pooling Event, a Licensed Firm must use the balance in each Client Account to satisfy claims of Deemed Trust beneficiaries made in accordance with Rule 14.12. To the extent that following the Failure of the Licensed Firm there remains a shortfall with which to satisfy claims of Clients for whom Money had been held by the Licensed Firm, the Licensed Firm is liable to fund such shortfall from its own Money.

4. When Client Money is transferred to a Third-Party Agent, a Licensed Firm continues to owe a fiduciary duty to the Client. However, a Licensed Firm will not be held responsible for a shortfall in Client Money arising from the Failure of the Third-Party Agent if it has complied with those duties by showing proper care and complying with Rules 14.6 and 14.7.

5. Relevant Money held by a Licensed Firm conducting Payment Services must be treated in the same manner as Client Money pursuant to the Client Money Distribution Rules, in terms of its segregation for the purposes of distribution to Payment Service Users following a Pooling Event. Distribution of Relevant Money subject to a Deemed Trust is intended to occur either in accordance with the balances in the respective Payment Accounts of Payment Service Users, or alternatively to be used for the purpose of redemption of Stored Value held by Payment Service Users.

15. SAFE CUSTODY RULES

15.1 Application

15.1.1 Subject to Rule 15.1.2, this chapter applies to Licensed Firms holding or controlling Safe Custody Assets, including Licensed Firms which are engaged in the Regulated Activity of Providing Custody.

15.1.2 This chapter does not apply to Fund Managers, who are subject to the provisions of section 15.3 and Appendix A1.3 of the Fund Rules.

Guidance

1. The provisions of this chapter are referred to as the Safe Custody Rules and a Client Investment, Reserve Investment and a Fiat-Referenced Token that is not the property of the Licensed Firm, and which is held or to be held for safekeeping by such Licensed Firm or Third-Party Agent, is referred to in this chapter as a Safe Custody Asset and they are required to be held in accordance with these Rules.

2. As the scope of the Regulated Activity of Providing Custody excludes safekeeping of Money, Licensed Firms which hold or control Client Money are subject to chapter 14.

3. In accordance with Rules 17.2.1 and 17.2A.1, Licensed Firms which Provide Custody in respect of Virtual Assets and/or Fiat-Referenced Tokens are restricted to safekeeping Accepted Virtual Assets and/or Accepted Fiat-Referenced Tokens only and are also subject to the requirements set out in chapter 17.

15.1.3 This chapter applies to Licensed Firms engaged in Issuing a Fiat-Referenced Token in respect of all Reserve Investments.

15.2 General Requirements

15.2.1 The provisions of this chapter are referred to as the Safe Custody Rules.

15.2.2 A Licensed Firm must:

(a) comply with the Safe Custody Rules; and

(b) have adequate systems and controls in place to be able to evidence compliance with the Safe Custody Rules.

15.3 Recording, Registration and Holding Requirements

15.3.1 A Licensed Firm which Provides Custody, or holds or controls Safe Custody Assets must ensure that such Safe Custody Assets are recorded, registered and held in an appropriate manner to safeguard and control such property.

15.3.2 Subject to Rule 15.4.1, a Licensed Firm which Provides Custody, or holds Safe Custody Assets must record, register and hold such Safe Custody Assets separately from its own Investments.

15.3.3 Where the Licensed Firm controls Safe Custody Assets by holding a mandate, or similar authority over an account established in the Client's own name with a third party, its systems and controls must.

(a) include a current list of all such mandates and any conditions placed by the Client or

by the Licensed Firm on the use of the mandate;

(b) include the details of the procedures and authorities for the giving and receiving of instructions under the mandate;

(c) ensure that all instructions relating to Transactions entered into using such a mandate are recorded and are within the scope of the authority of the Employee and the Licensed Firm under the mandate.

15.4 Client Accounts in relation to Safe Custody Assets

15.4.1 A Licensed Firm which holds Safe Custody Assets must register or record all Safe Custody Assets in an account that is a Client Account, which, in the case of a Licensed Firm holding Reserve Investments, must be a segregated Reserve Account.

15.4.2 For the purposes of the Safe Custody Rules, a Reserve Account or a Client Account is an account which:

(a) is established with a Licensed Firm which is authorised under its Financial Services Licence to Provide Custody or a Third-Party Agent outside GMC to hold Client Investments or Reserve Investments;

(b) is maintained in the name of:

(i) if a Licensed Firm is a Domestic Firm, the Licensed Firm or a Nominee Company;

(ii) if a Licensed Firm is a Branch, a Nominee Company controlled by the Licensed Firm; or

(iii) in the name of the Client, unless the Client is a Licensed Firm, in which case Safe Custody Assets held in the Client Account must be registered in the name of the Client of that Licensed Firm; and

(c) includes the words "Client Account" in its title, unless it is a Reserve Account, in which case the words "Reserve Account" must be included in its title.

15.4.2 (A) Prior to placing Reserve Investments in a Reserve Account established with a Third-Party Agent a Licensed Firm must:

(a) provide to the Regulator written details concerning the identity, jurisdiction and financial resources of the proposed Third-Party Agent, details of the proposed Reserve Account, as well as the Reserve Investments proposed to be held in such Reserve Account; and

(b) have received written notification of non-objection to the proposed Third-Party Agent from the Regulator.

15.4.3 A Licensed Firm must maintain a current master list of all Client Accounts or Reserve Accounts, as applicable.

(a) The master list must detail:

(i) the name of each account;

(ii) each account number;

(iii) the custodian, sub-custodian or depository (if the Licensed Firm itself is not Providing Custody);

(iv) whether the account is currently open or closed; and

(v) the date of opening or closure.

(b) The details of the master list must be documented and maintained for a minimum period of six years following the closure of an account.

15.4.4 A Licensed Firm must not use a Client's Safe Custody Assets for its own purpose or that of another Person without that Client's prior written permission.

15.4.5 A Licensed Firm which intends to use a Client's Safe Custody Assets for its own purpose or that of another Person, must have systems and controls in place to ensure that:

(a) it obtains that Client's prior written permission;

(b) adequate records are maintained to protect Safe Custody Assets which are applied as collateral or used for stock lending activities;

(c) the equivalent assets are returned to the Client Account of the Client; and

(d) the Client is not disadvantaged by the use of his Safe Custody Assets.

Guidance

1. A Licensed Firm may record, register or hold a Client's Safe Custody Assets in a Client Account solely for that Client. Alternatively, a Licensed Firm may choose to pool that Client's Safe Custody Assets in a Client Account containing the Safe Custody Assets of more than one Client.

2. The purpose of recording, registering or holding Safe Custody Assets in a Client Account is to ensure that Safe Custody Assets belonging to Clients are readily identifiable from assets belonging to the Licensed Firm such that, following a Pooling Event, any subsequent distribution of Safe Custody Assets may be made reflecting each Client’s valid claim over those assets.

3. For the purposes of Rule 15.4.4, the Regulator would consider the use of Virtual Assets for the purpose of “staking” to be used for the purposes of the Licensed Firm.

15.4.6 Unless permitted in accordance with Chapter 19A, a Licensed Firm must not use Reserve Investments for its own purposes in any circumstances.

15.5 Holding or Arranging Custody with Third-Party Agents

15.5.1 Before a Licensed Firm places a Safe Custody Asset with a Third-Party Agent or Arranges Custody through a Third-Party Agent, it must:

(a) undertake an assessment of that Third-Party Agent and have concluded on reasonable grounds that the Third-Party Agent is suitable to hold those Safe Custody Assets;

(b) have systems and controls in place to ensure that the Third-Party Agent remains suitable; and

(c) ensure that the Third-Party Agent will provide protections equivalent to the

protections conferred in this section.

15.5.2 A Licensed Firm must be able to demonstrate to the Regulator's satisfaction the grounds upon which the Licensed Firm considers the Third-Party Agent to be suitable to hold Safe Custody Assets.

15.5.3 When assessing the suitability of a Third-Party Agent to hold a Client Account or Reserve Account, a Licensed Firm must have regard to:

(a) its credit rating;

(b) its capital and financial resources in relation to the amount of Safe Custody Assets held;

(c) the insolvency regime of the jurisdiction in which it is located;

(d) its arrangements for holding the Safe Custody Assets;

(e) its regulatory status, expertise, reputation and history;

(f) its Group structure;

(g) if the Third-Party Agent is a Related Party, whether applicable insolvency laws would result in the subordination of the Licensed Firm’s claims in the event of the failure of the Third-Party Agent;

(h) the quantity of Safe Custody Assets to be placed with the Third-Party Agent, the availability of alternative Third-Party Agents and concentration risk;

(i) its use of agents and service providers; and

(j) any other activities of the Third-Party Agent.

Guidance

For the purposes of a Client Account established in accordance with the Safe Custody Rules, a Third-Party Agent is a Financial Institution which may be a bank, custodian, an intermediate broker, a settlement agent, a clearing house, or an “over-the-counter” counterparty acting in the capacity of Third-Party Agent.

15.5.4 Before a Licensed Firm Arranges Custody for a Client, it must disclose to that Client, if applicable, that the Client's Safe Custody Assets may be held in a jurisdiction outside GMC and the market practices, insolvency and legal regime applicable in that jurisdiction may differ from the regime applicable in GMC.

15.6 Safe Custody Agreements with Third-Party Agents

15.6.1 Before a Licensed Firm passes, or permits to be passed, Safe Custody Assets to a Third-Party Agent it must have procured a written acknowledgement from the Third-Party Agent stating:

(a) that the title of the account sufficiently distinguishes that account holding those Safe Custody Assets from any account containing Investments or Fiat- Referenced Tokens belonging to the Licensed Firm, and is in the form requested by the Licensed Firm;

(b) that the Safe Custody Assets will only be credited and withdrawn in accordance with the instructions of the Licensed Firm;

(c) that the Third-Party Agent will hold the Safe Custody Assets separately from assets belonging to the Third-Party Agent;

(d) the arrangements for recording and registering Safe Custody Assets, claiming and receiving dividends and other entitlements and interest and the giving and receiving of instructions;

(e) that the Third-Party Agent will deliver a statement to the Licensed Firm(including the frequency of such statement), which details the Safe Custody Assets deposited to the account;

(f) in the case of Reserve Investments, that the Safe Custody Assets are subject to a lien in favour of the holders of the associated Fiat-Referenced Tokens issued by the Licensed Firm;

(g) that the Third-Party Agent is not entitled to combine the account with any other account or to exercise any charge, mortgage, lien, right of set-off or counterclaim against the Safe Custody Assets in that account in respect of any sum owed to it on any other account of the Licensed Firm; and

(h) the extent of liability of the Third-Party Agent in the event of default.

15.6.2 A Licensed Firm must maintain for at least six years, records of all Safe Custody Assets held by the Third-Party Agent, all agreements between the Licensed Firm and the Third-Party Agent related to those Safe Custody Assets and all instructions given by the Licensed Firm to the Third-Party Agent under the terms of the agreement.

15.7 Client Disclosure

15.7.1 [Deleted].

15.7.2 Before a Licensed Firm provides Custody for a Client it must disclose to the Client in writing on whose behalf the Safe Custody Assets will be held:

(a) a statement that the Client is subject to the protections conferred by the Safe Custody Rules;

(b) the arrangements for recording and registering Safe Custody Assets, claiming and receiving dividends and other entitlements and interest and the giving and receiving instructions relating to those Safe Custody Assets;

(c) the obligations the Licensed Firm will have to the Client in relation to exercising rights on behalf of the Client;

(d) the basis and any terms governing the way in which Safe Custody Assets will be held, including any rights which the Licensed Firm may have to realise Safe Custody Assets held on behalf of the Client in satisfaction of a default by the Client;

(e) the method and frequency upon which the Licensed Firm will report to the Client in relation to his Safe Custody Assets;

(f) if applicable, a statement that the Licensed Firm intends to mix Safe Custody Assets with those of other Clients;

(g) if applicable, a statement that the Client's Safe Custody Assets may be held in a jurisdiction outside GMC and the market practices, insolvency and legal regime

applicable in that jurisdiction may differ from the regime applicable in GMC;

(h) if applicable, a statement that the Licensed Firm holds or intends to hold Safe Custody Assets in a Client Account with a Third-Party Agent which is in the same Group as the Licensed Firm; and

(i) the extent of the Licensed Firm's liability in the event of default by a Third-Party Agent.

15.8 Client Reporting

15.8.1 A Licensed Firm which provides Custody or which otherwise holds or controls any Safe Custody Assets for a Client must send a regular statement to its Client:

(a) if it is a Retail Client at least every six months; or

(b) if it is a Professional Client at other intervals as agreed in writing with the Professional Client.

15.8.2 The statement must include:

(a) a list of that Client's Safe Custody Assets as at the date of reporting; and

(b) if applicable, a list of that Client's Collateral and the market value of that Collateral as at the date of reporting.

15.8.3 The statement sent to the Client must be prepared within one calendar month of the statement date.

Guidance

If a Licensed Firm also holds or controls Client Money for a Client, it must comply with the reporting requirements set out in section 14.10.

15.8.4 Rules 15.8.1 to 15.8.3 do not apply to a Licensed Firm which has issued Fiat- Referenced Tokens in respect of Reserve Investments.

15.9 Reconciliation

15.9.1 A Licensed Firm must:

(a) at least every calendar month, reconcile its records of Client Accounts held with Third-Party Agents with monthly statements received from those Third-Party Agents;

(b) at least every six months, count all Safe Custody Assets physically held by the Licensed Firm, or its Nominee Company, and reconcile the result of that count to the records of the Licensed Firm; and

(c) at least every six months, reconcile individual Client ledger balances with the Licensed Firm's records of Safe Custody Assets balances held in Client Accounts.

15.9.2 A Licensed Firm must ensure that the process of reconciliation does not give rise to a conflict of interest.

15.9.3 A Licensed Firm must maintain a clear separation of duties to ensure that an employee with responsibility for operating Client Accounts, or an employee that has authority over Safe

Custody Assets, must not perform the reconciliations under Rule 15.9.1.

15.9.4 A reconciliation performed in accordance with Rule 15.9.1 must be reviewed by a member of the Licensed Firm who has adequate seniority.

15.9.5 The individual referred to in Rule 15.9.4 must provide a written statement confirming that the reconciliation has been undertaken in accordance with the requirements of this section.

15.9.6 A Licensed Firm must notify the Regulator without undue delay where there have been material discrepancies with the reconciliation that have not been rectified.

Guidance

1. If a Licensed Firm holds or controls Safe Custody Assets which are Virtual Assets, the Licensed Firm must conduct reconciliations at intervals in compliance with Rule 17.8.3.

2. A material discrepancy includes discrepancies which have the cumulative effect of being material, such as longstanding discrepancies.

3. In accordance with GEN 6.6.7, a Licensed Firm whose Financial Service Permission entitles them to hold Client Investments or Fiat-Referenced Tokens must arrange for a Safe Custody Auditor's Report to be submitted to the Regulator on an annual basis.

15.9.7 Rules 15.9.1 to 15.9.6 do not apply to a Licensed Firm which has issued Fiat- Referenced Tokens in respect of Reserve Investments.

15.10 [Deleted]

15.11 Holding Collateral

15.11.1 Before a Licensed Firm holds Collateral on behalf of a Client it must disclose to that Client:

(a) the basis and any terms governing the way in which the Collateral will be held, including any rights which the Licensed Firm may have to realise the Collateral;

(b) if applicable, that the Collateral will not be registered in that Client's own name;

(c) if applicable, that the Licensed Firm proposes to return to the Client Collateral other than the original Collateral or original type of Collateral; and

(d) that in the event of the Licensed Firm's Failure:

(i) of a GMC Firm, any excess Collateral will be sold and the resulting Client Money shall be distributed in accordance with the Client Money Distribution Rules; or

(ii) of a Non-GMC Firm, that Collateral will be subject to a regime which may differ from the regime applicable in GMC.

(e) Before a Licensed Firm deposits Client's Collateral with a third party it must notify and obtain the agreement of the third party that:

(i) the Collateral does not belong to the Licensed Firm and must therefore be held by the third party in a segregated Client Account in a name that clearly identifies it as belonging to the Licensed Firm's Clients; and

(ii) the third party is not entitled to claim any lien or right of retention or sale over the Collateral except to cover the obligations owed to the third party arising on the segregated Client Account and no other account.

(f) A Licensed Firm may permit Client's Collateral to be held by a third party only where it has reasonable grounds to believe that the third party is, and remains, suitable to hold that Collateral.

(g) A Licensed Firm must be able to demonstrate to the Regulator's satisfaction the grounds upon which it considers the third party to be suitable to hold Client's Collateral.

(h) A Licensed Firm must take reasonable steps to ensure that the Collateral is properly safeguarded.

(i) A Licensed Firm must withdraw the Collateral from the third party where the Collateral is not being properly safeguarded unless the Client has indicated otherwise in writing.

(j) A Licensed Firm holding Client's Collateral must send a statement every six months to the Client.

(k) A Licensed Firm must reconcile the Client's Collateral in accordance with Rule 15.9.1 in the case of Collateral which is not a Virtual Asset, and Rule 17.8.3 in the case of Collateral which is a Virtual Asset.

15.11A Title Transfer Collateral Agreements

15.11A.1 A Licensed Firm must not enter into a Title Transfer Collateral Agreement in respect of an asset belonging to a Retail Client.

15.11A.2 The Client Money Rules and Safe Custody Rules do not apply in respect of Client Money or a Safe Custody Asset which is held by a Licensed Firm pursuant to a Title Transfer Collateral Agreement.

15.11A.3 A Licensed Firm must ensure that any Title Transfer Collateral Agreement entered into with a client is written and a copy is provided to the Client. A Title Transfer Collateral Agreement must include within its terms:

(a) the terms of the agreement relating to the transfer of full ownership of the asset to the Licensed Firm or its Nominee Company;

(b) the terms of the agreement by which full ownership of the asset will be returned to the Client;

(c) to the extent not covered in (a) or (b), any provisions governing the termination of the Title Transfer Collateral Agreement.

15.11A.4 All notices given by a Licensed Firm to a Client in relation to the termination of, or exercise of rights of the Licensed Firm in relation to, a Title Transfer Collateral Agreement must be in writing.

15.11 A.5 A Licensed Firm must keep records of all Title Transfer Collateral Agreement, including all instructions given by, or notifications given to, Clients in respect of Title Transfer Collateral Agreements for not less than six years after the agreement is

terminated.

15.12 Record Keeping

15.12.1 A Licensed Firm must maintain records which enable the Licensed Firm to demonstrate compliance with the Safe Custody Rules; and which enable the Licensed Firm to demonstrate and explain all entries of Safe Custody Assets and any Collateral held or controlled in accordance with this chapter.

15.12.2 Records must be kept for a minimum of six years following the date of closure of a Client Account.

15.13 Notification of Failure to Comply

15.13.1 A Licensed Firm must inform the Regulator in writing without delay if it has not complied with, or is unable, in any material respect, to comply with the requirements in the Safe Custody Rules.

16. RESOLUTION PLANNING FOR CLIENT MONEY, RELEVANT MONEY AND SAFE CUSTODY ASSETS

Guidance

This chapter contains Rules which ensure that a Licensed Firm maintains and is able to retrieve information that would, in the event of its insolvency, assist an insolvency practitioner in achieving a timely return of Client Money, Relevant Money and Safe Custody Assets (Chapters 14 and 15) held by the Licensed Firm to Clients or Payment Service Users, as applicable.

16.1 This chapter applies to a Licensed Firm where it:

(a) holds, safeguards or administers Financial Instruments or Virtual Assets for a Client;

(b) acts as Trustee, Eligible Custodian or Fund Manager of Fund; or

(c) otherwise holds Client Money, Relevant Money or Safe Custody Assets in accordance with Chapters 14, 15, 16, 19 or 19A, as appropriate.

16.2 General provisions

16.2.1 A Licensed Firm falling within Rule 16.1 must maintain at all times and be able to retrieve, in the manner described in this chapter, the documents and records specified in Rule 16.3.1 and Rule 16.4.1 (the "Resolution Pack").

Guidance

1. A Licensed Firm falling within the scope of Rule 16.1 should keep the component documents of the Resolution Pack up-to-date so they can be retrieved in accordance with Rule 16.2.6, and the Licensed Firm should not use the retrieval period to start producing or revising these documents.

2. The contents of the documents that constitute the Resolution Pack should be reviewed periodically or where there is a material change in the matters they cover and updated appropriately, such as when reconciliations are undertaken in accordance with chapters 14, 15 or 17.

16.2.2 [Deleted]

16.2.3 [Deleted]

16.2.4 A Licensed Firm is required to retrieve the Resolution Pack only in the circumstances prescribed in Rule 16.2.6.

16.2.5 For the purpose of this chapter, a Licensed Firm will be treated as satisfying Rule 16.2.1 requiring it to include a document in its Resolution Pack if a member of that Licensed Firm's Group includes that document in its own Resolution Pack, provided that:

(a) that Group member is subject to Rule 16.2.6; and

(b) the Licensed Firm is still able to comply with Rule 16.2.6.

16.2.6 In relation to each document in a Licensed Firm's Resolution Pack a Licensed Firm must:

(a) put in place adequate arrangements to ensure that an administrator, receiver, trustee, liquidator or analogous officer appointed in respect of it or any material part of its property is able to retrieve each document as soon as practicable and in any event within forty-eight hours of that officer's appointment; and

(b) ensure that it is able to retrieve each document as soon as practicable, and in any event within forty-eight hours, where it has taken a decision to do so or as a result of a request by the Regulator.

16.2.7 Where documents are held by members of a Licensed Firm's Group in accordance with Rule 16.2.5, the Licensed Firm must have adequate arrangements in place with its Group members which allow for delivery of the documents within the timeframe referred to in Rule 16.2.6.

16.2.8 For the purpose of Rule 16.2.6, the following documents and records must be retrievable immediately:

(a) the document identifying the institutions referred to in Rule 16.3.1(b);

(b) the document identifying individuals pursuant to Rule 16.3.1(d); and

(c) the most recent reconciliations relating to Client Money, Relevant Money and Safe Custody Assets.

16.2.9 Where a Licensed Firm is reliant on the continued operation of certain systems for the provision of component documents in its Resolution Pack, it must have arrangements in place to ensure that these systems will remain operational and accessible to it after its insolvency.

Guidance

1. Contravention of either Rule 16.2.8 or 16.2.9 may be relied upon as tending to establish contravention of Rule 16.2.6.

2. Where a Licensed Firm anticipates that it might be the subject of an insolvency order, it is likely to have sought advice from an external adviser. The Licensed Firm should make the Resolution Pack available promptly, on request, to such an adviser.

16.2.10 [Deleted]

16.2.11[Deleted]

16.2.12 A Licensed Firm must ensure that it reviews the content of its Resolution Pack on an ongoing basis to ensure that it remains accurate. In relation to any change of circumstances that has the effect of rendering inaccurate, in any material respect, the content of a document specified in Rule 16.2.1, a Licensed Firm must ensure that any inaccuracy is corrected promptly and in any event no more than five days after the change of circumstances arose.

16.2.13 [Deleted]

16.2.14 A Licensed Firm may hold in electronic form any document in its Resolution Pack provided that it continues to be able to comply with Rule 16.2.6 in respect of that document.

16.2.15 A Licensed Firm must notify the Regulator in writing immediately if it has not complied with or is unable to comply with Rule 16.2.1.

16.3 Core Content Requirements

16.3.1 A Licensed Firm must include within its Resolution Pack:

(a) a master document containing information sufficient to retrieve each document in the Licensed Firm's Resolution Pack;

(b) a document which identifies the institutions the Licensed Firm has appointed:

(i) in the case of Client Money or Relevant Money, to hold and maintain Client Accounts or Payment Accounts, respectively; and

(ii) in the case of Safe Custody Assets, for the deposit of those assets in accordance with Rule 15.5.1;

(c) a document which identifies each tied agent, field representative or other agent of the Licensed Firm which receives Client Money, Relevant Money or Safe Custody Assets in its capacity as the Licensed Firm's agent in accordance with Rule 15.5.1 and Rule 15.6;

(d) a document which identifies all senior manager, directors and other individuals, and the nature of their responsibility within the Licensed Firm or elsewhere, that are critical or important to the performance of operational functions related to any of the obligations imposed on the Licensed Firm by this chapter;

(e) for each institution identified in Rule 16.3.1 (b) a copy of each executed agreement, including any side letters or other agreements used to clarify or modify the terms of the executed agreement, between that institution and the Licensed Firm that relates to the holding of Client Money, Relevant Money or Safe Custody Assets;

(f) a document which:

(i) identifies each member of the Licensed Firm's Group involved in operational functions related to any obligations imposed on the Licensed Firm under this chapter, including, in the case of a member that is a nominee company, identification as such; and

(ii) identifies each third party which the Licensed Firm uses for the performance of operational functions related to any of the obligations imposed on the

Licensed Firm by this chapter;

(g) for each Group member identified in Rule 16.3.1(b), the type of entity (such as branch, subsidiary and/or nominee company) the Group member is, its jurisdiction of incorporation if applicable, and a description of its related operational functions;

(h) a copy of each executed agreement, including any side letters or other agreements used to clarify or modify the terms of the executed agreement, between the Licensed Firm and each third party identified in Rule 16.3.1(b);

(i) where the Licensed Firm relies on a third party identified in Rule 16.3.1(c), a document which describes how to:

(i) gain access to relevant information held by that third party; and

(ii) effect a transfer of any of the Client Money, Relevant Money or Safe Custody Assets held by the Licensed Firm, but controlled by that third party; and

(j) a copy of the Licensed Firm's manual which records its procedures for the management, recording and transfer of the Client Money, Relevant Money or Safe Custody Assets that it holds.

Guidance

For the purpose of Rule 16.3.1(d), examples of individuals within the Licensed Firm or elsewhere who are critical or important to the performance of operational function include:

(a) those necessary to carry out both internal and external Client Money, Relevant Money and Safe Custody Asset reconciliations; and

(b) those in charge of client documentation involving Client Money, Relevant Money and Safe Custody Assets.

16.3.2 For the purpose of Rule 16.3.1(b) the document must record:

(a) the full name of the individual institution in question;

(b) the postal, physical and email addresses and telephone number of that institution; and

(c) the numbers and names of all accounts opened by that Licensed Firm with that institution.

16.3.3 [Deleted]

16.4 Existing records to be included in the Resolution Pack

16.4.1 The following records must be included in the Resolution Pack of a Licensed Firm conducting Investment Business:

(a) Rules 2.7.1 and 3.7.1(d) (*records of Client classification and Client agreements*);

(b) Rules 14.6.2 and 15.4.3 (*master lists of all Client Accounts in relation to Client Money and Client investments*);

(c) Rule 15.4.4 and Rule 15.4.5 (*adequate records and Client's written permission re use of Client Investments*);

(d) Rules 14.7.1 and 14.7.4 (*assessment of appropriateness of Third-Party Agent and*

acknowledgement by Third-Party agent in respect of Client Money); and

(e) Rule 15.5.1 and 15.6.1 (*assessment of appropriateness of Third-Party Agent and acknowledgement by Third-Party Agent in respect of Client Investments*); and

(f) Rule 14.11.1 and 15.9.1 *(most recent reconciliations of Client Money and Client Investments*).

Guidance

Rule 16.4.1 does not change the record keeping requirements of the Rules referred to therein.

16.4.2 The Resolution Pack of a Licensed Firm that has issued Fiat-Referenced Tokens must include those records set out in Rule 16.4.1(b), (d), (e) and (f).

17. ADDITIONAL RULES – LICENSED FIRMS CONDUCTING A REGULATED ACTIVITY IN RELATION TO VIRTUAL ASSETS OR FIAT-REFERENCED TOKENS

17.1 Application and Interpretation

17.1.1 This chapter applies to:

(a) A Licensed Firm conducting one or more of the Regulated Activities of

(i) Dealing in Investments as Principal;

(ii) Dealing in Investments as Agent;

(iii) Advising on Investments or Credit;

(iv) Arranging Deals in Investments;

(v) Managing Assets;

(vi) Providing Custody;

(vii) Operating a Multilateral Trading Facility where done so in relation to

Virtual Assets, or

(b) A Licensed Firm conducting a Regulated Activity in relation to Fiat- Referenced Tokens, where specifically indicated in this chapter.

17.1.2 A Licensed Firm carrying on a Regulated Activity in relation to Virtual Assets or Fiat-Referenced Tokens must comply with all requirements applicable to Licensed Firms in the following Rulebooks, unless the requirements in this chapter expressly provide otherwise:

(a) this Conduct of Business Rulebook (COBS);

(b) the General Rulebook (GEN);

(c) the Anti-Money Laundering and Sanctions Rules and Guidance (AML); and

(d) [Not in use]

(e) the Code of Market Conduct (CMC), made by the Regulator in accordance with section 96 of FSMR.

17.1.3 For the purposes of a Licensed Firm carrying on a Regulated Activity in relation to Virtual Assets, all references to "Client Investments" and "Investments" in Chapter 15 of COBS and in GEN must be read as encompassing "Virtual Asset" or "Virtual Assets", as applicable.

17.1.4 The following COBS Rules must be read as applying to all Transactions undertaken by a Licensed Firm conducting a Regulated Activity in relation to Virtual Assets, irrespective of any restrictions on application or any exception to these Rules elsewhere in this Rulebook. All references to Specified Investments or Investments in such Rules must be read as encompassing "Virtual Asset" or "Virtual Assets", as applicable:

(a) Rule 3.4 (Suitability);

(b) Rule 6.5 (Best Execution);

(c) Rule 6.7 (Aggregation and Allocation);

(d) Rule 6.10 (Confirmation Notes);

(e) Rule 6.11 (Periodic Statements); and

(f) Chapter 12 (Key Information and Client Agreement).

17.2 Accepted Virtual Assets

17.2.1 A Licensed Firm conducting a Regulated Activity in relation to Virtual Assets must not conduct such Regulated Activity with a Virtual Asset which is not an Accepted Virtual Asset.

17.2.2 For the purposes of determining whether a Virtual Asset meets the requirements of being an Accepted Virtual Asset, a Licensed Firm conducting a Regulated Activity must adequately assess the following criteria:

(a) Traceability / monitoring: whether the Licensed Firm is able to demonstrate the origin and destination of the specific Virtual Asset, the Virtual Asset enables the identification of counterparties to each transaction, and on-chain transactions in the Virtual Asset can be adequately monitored;

(b) Security: whether the Virtual Asset is able to withstand, adapt, respond to, and improve on its specific risks and vulnerabilities, including relevant factors and risks relating to its use, including testing, maturity, and ability to allow the appropriate safeguarding of secure private keys;

(c) Market Profile: the duration the Virtual Asset has been in existence, the sufficiency, depth and breadth of market demand, the proportion of the Virtual Asset that is in circulation , the controls/processes to manage volatility of such Virtual Asset and all sanctions and adverse media in respect of the parties associated with the Virtual Asset, including founders, contributors, foundation members, investors and key decision-makers. This extends to establishing whether there is any association of the Virtual Asset with illegal activities or any serious concerns that its use may circumvent sanctions restrictions;

(d) Exchange connectivity: whether there are exchanges that support the Virtual Asset; the jurisdictions of these exchanges and whether such exchanges are suitably

regulated;

(e) DLT infrastructure and ecosystem ("**DLT**"): whether there are issues relating to the security and/or usability of the DLT used for the purposes of the Virtual Asset; whether the Virtual Asset leverages an existing DLT for network and other synergies, and, if not, whether a new DLT has been demonstrably stress tested;

(f) Innovation / efficiency: whether the Virtual Asset demonstrates utility by, for instance, helping to solve a fundamental problem, addressing an unmet market need or creating value for network participants; and

(g) Practical application / functionality: whether the Virtual Asset possesses quantifiable functionality.

17.2.3 Prior to commencing a Regulated Activity in relation to a Virtual Asset, a Licensed Firm must satisfy themselves that the Virtual Asset meets the assessment criteria set out in Rule 17.2.2.

17.2.4 A Licensed Firm must notify the Regulator of its intention to conduct a Regulated Activity with a Virtual Asset not later than five Business Days prior to commencing such Regulated Activity. Notification under this Rule must be in such form as the Regulator may prescribe.

17.2.5 In the absence of written direction given under Section 5B of FSA, a Licensed Firm may consider a Virtual Asset for which it has submitted the notification required under Rule 17.2.4 as an Accepted Virtual Asset and, subject to Rule 17.2.6, may commence the conduct of a Regulated Activity with such Accepted Virtual Asset.

17.2.6 A Licensed Firm conducting a Regulated Activity in relation to an Accepted Virtual Asset must:

(a) maintain upon its website a current list of all Accepted Virtual Assets with which it it is permitted to conduct a Regulated Activity; and

(b) continuously monitor all Accepted Virtual Assets with which it conducts a Regulated Activity to ensure its continuing satisfaction of the criteria specified in Rule 17.2.2.

Guidance

When conducting an assessment of a Virtual Asset in accordance with Rule 17.2.2, a Licensed Firm should consider the Regulator's published guidance: "GMC Virtual Asset Guidance".

17.2 A Accepted Fiat-Referenced Tokens

17.2A.1 A Licensed Firm carrying on a Regulated Activity involving a Fiat-Referenced Token, must only use Accepted Fiat-Referenced Tokens.

Guidance

1. For the purposes of Rule 17.2A.1, the prohibition concerning the use of Fiat-Referenced Tokens which are not Accepted Fiat-Referenced Tokens applies to all Licensed Firms for all transactions including, but not limited to, transactions involving the transfer of Fiat-Referenced Tokens where the Licensed Firm or Recognised Body is an intermediary, the safekeeping of Fiat-Referenced Tokens by the Licensed Firm or Recognised Body, or payment being made to or by the Licensed Firm or Recognised Body.

2. For the purposes of determining whether a Fiat-Referenced Token meets the

requirements of being an Accepted Fiat-Referenced Token, the Regulator will consider the following matters.

(i) Whether the Fiat-Referenced Token proposed for acceptance possesses the general characteristics of a Fiat-Referenced Token as defined in section 258 of FSA. Based on this definition, tokens that are asset-backed, based upon a basket of currencies or where the redemption right is contingent or uncertain, are not eligible for acceptance for use as Fiat-Referenced Tokens within GMC.

(ii) Whether the Fiat-Referenced Token proposed for acceptance will enable Licensed Firms to satisfy their obligations under the AML Rules. This can be demonstrated by:

(a) the issuer's ability to monitor transactions, freeze assets and reject transfer instructions; and

(b) the ability of Licensed Firms to adequately trace the Fiat- Referenced Token proposed for acceptance by means such as blockchain data analytics systems.

(iii) The adequacy and liquidity of the issuer's reserves available to facilitate the redemption of the Fiat-Referenced Token proposed for acceptance.

(iv) The jurisdiction in which the issuer of the Fiat-Referenced Token proposed for acceptance is established as well as the relationship between the regulator in such jurisdiction and the Regulator.

3. As some Fiat-Referenced Tokens may operate on multiple blockchains, not all of which may adequately facilitate tracing, the Regulator reserves the ability to accept a Fiat-Referenced Token but qualify such acceptance by indicating that such status is limited to those tokens as recorded on blockchains specified by the Regulator.

4. [Deleted]

17.3 Capital Requirements

17.3.1 The capital requirements set out in MIR Rule 3.2 (Capital Requirements) must apply to a Licensed Firm conducting the Regulated Activity of Operating a Multilateral Trading Facility in relation to Virtual Assets.

17.3.2 For the purposes of Rule 17.3.1, all references in MIR Rule 3.2 to "Licensed Investment Exchange" shall be read as references to "Licensed Firm".

Guidance

Licensed Firms conducting a Regulated Activity other than Operating a Multilateral Trading Facility in relation to Virtual Assets are required to satisfy the requirements relevant to such Regulated Activity as set out in PRU.

17.4 [Not in use]

17.4.1 [Not in use]

17.5 Technology Governance and Controls

17.5.1 A Licensed Firm carrying on a Regulated Activity in relation to Virtual Assets or Fiat-

Referenced Tokens must, as a minimum, have in place systems and controls with respect to the following:

Virtual Asset / Fiat-Referenced Token Wallets

(a) Procedures describing the creation, management and controls of Virtual Asset or Fiat-Referenced Token wallets, including:

(i) wallet setup/configuration/deployment/deletion/backup and recovery;

(ii) wallet access privilege management;

(iii) wallet user management;

(iv) wallet rules and limit determination, review and update; and

(v) wallet audit and oversight.

Private and public keys

(b) Procedures describing the creation, management and controls of private and public keys, including, as applicable:

(i) private key generation;

(ii) private key exchange;

(iii) private key storage;

(iv) private key backup;

(v) private key destruction;

(vi) private key access management;

(vii) public key sharing; and

(viii) public key re-use.

Origin and destination of Virtual Asset funds or, as applicable, funds transferred in relation to the issuance, purchase and sale or redemption of Fiat-Referenced Tokens.

(c) Systems and controls to mitigate the risk of misuse of Virtual Assets or Fiat-Referenced Tokens, as applicable, setting out how:

(i) the origin of Virtual Assets or Fiat-Referenced Tokens, as applicable, is determined, in case of an incoming transaction; and

(ii) the destination of Virtual Assets or Fiat-Referenced Tokens, as applicable, is determined, in case of an outgoing transaction.

Security

(d) A security plan describing the security arrangements relating to:

(i) the privacy of sensitive data;

(ii) networks and systems;

(iii) cloud based services;

(iv) physical facilities; and

(v) documents, and document storage.

Risk management

(e) A risk management plan containing a detailed analysis of likely risks with both high and low impact, as well as mitigation strategies. The risk management plan must cover, but is not limited to:

(i) operational risks;

(ii) technology risks, including 'hacking' related risks;

(iii) market risk for each Accepted Virtual Asset; and

(iv) risk of Financial Crime.

Guidance

GEN 3.5 contains additional requirements that apply to Licensed Firms in relation to Cyber risk management.

17.6 Additional disclosure requirements

17.6.1 Prior to entering into an initial Transaction for, on behalf of, or with a Client, a Licensed Firm carrying on a Regulated Activity in relation to Virtual Assets or Fiat-Referenced Tokens must disclose in a clear, fair and not misleading manner all material risks associated with:

(a) its products, services and activities;

(b) Virtual Assets and/or Fiat-Referenced Tokens generally; and

(c) the Accepted Virtual Asset or Accepted Fiat-Referenced Token that is the subject of the Transaction.

17.7 Additional Rules Applicable to a Licensed Firm Operating a Multilateral Trading Facility in relation to Virtual Assets

17.7.1 In addition to the general requirements applicable to a Licensed Firm carrying on a Regulated Activity in relation to Virtual Assets and/or Fiat-Referenced Tokens as set out in Rules 17.1 – 17.6, a Licensed Firm Operating a Multilateral Trading Facility in relation to Virtual Assets and/or Fiat-Referenced Tokens must comply with the requirements set out in:

(a) COBS, MIR and GEN, as set out in Rules 17.7.2 – 17.7.6; and

(b) Rule 17.8 if also Providing Custody in relation to Virtual Assets and/or Fiat-Referenced Tokens.

17.7.2 A Licensed Firm that is Operating a Multilateral Trading Facility in relation to Virtual Assets must comply with the requirements set out in COBS, Chapter 8.

17.7.3 For the purposes of Rule 17.7.2, the following references in COBS, Chapter 8 should be read as follows:

(a) references to "Investment" or "Investments" shall be read as references to "Virtual Asset" or "Virtual Assets", as applicable; and

(b) references to "Financial Instrument" or "Financial Instruments" (including those in MIR as incorporated by virtue of COBS Rule 8.2.1) shall be read as references to "Virtual Asset" or "Virtual Assets", as applicable.

17.7.4 A Licensed Firm that is Operating a Multilateral Trading Facility in relation to Virtual Assets must comply with the following requirements set out in MIR, Chapter 5:

(a) Rules 5.1 - 5.3; and

(b) Rule 5.4.1, in the circumstances identified in Items 19, 20, 24 (a) and (b), 27, 28, 32, 33, 35, 37, 38, 39, 40, 41, 43, 45, 46, 47, 48, 49, 50, 52, 53, 54, 55, 57, 58, 59, 60, 61 and 62.

17.7.5 For the purposes of Rule 17.7.4, all references in MIR to:

(a) "Licensed Body" or "Licensed Bodies" shall be read as references to "Licensed Firm"; and

(b) "Financial Instrument" or "Financial Instruments" shall be read as references to "Virtual Asset" or "Virtual Assets", as applicable.

17.7.6 GEN Rule 5.2.14 shall apply to a Licensed Firm Operating a Multilateral Trading Facility in relation to Virtual Assets, and all references to "Investment" shall be read as references to "Virtual Asset".

17.8 Additional Rules Applicable to a Licensed Firm Providing Custody or Arranging Custody in relation to Virtual Assets and Fiat-Referenced Tokens

17.8.1 In addition to the general requirements applicable to a Licensed Firm carrying on a Regulated Activity in relation to Virtual Assets or Fiat-Referenced Tokens as set out in Rules 17.1 – 17.6, a Licensed Firm that is Providing Custody in relation to Virtual Assets or Fiat-Referenced Tokens must comply with the requirements set out in COBS, Chapters 15 and 16.

Guidance

A Licensed Firm carrying on a Regulated Activity in relation to Virtual Assets or Fiat-Referenced Tokens which holds or controls Client Money must comply with the Client Money Rules set out in Chapter 14, as amended by the requirements set out in Rule 17.9.1.

17.8.2 For the purposes of Rule 17.8.1, "Investment" or "Investments" and, as a result, the corresponding references to "Client Investment" or "Client Investments", must be read as encompassing "Virtual Asset" or "Virtual Assets", as applicable.

17.8.3 For the purposes of Rule 17.8.1 the following requirements in COBS, Chapter 15 shall be read as follows:

(a) the statements required under COBS Rule 15.8.1(a) must be sent to a Retail Client at least monthly; and

(b) all reconciliations required under COBS Rule 15.9.1 must be conducted at least every week.

17.8.4 [Deleted]

17.8.5 Before a Licensed Firm arranges for a Client to engage a custodian for the purpose of the safekeeping of Virtual Assets or Fiat-Referenced Tokens, the Licensed Firm must undertake an assessment of that custodian and have concluded on reasonable grounds that such custodian is suitable to hold the Virtual Assets or Fiat-Referenced Tokens of the Client. When assessing the suitability of a custodian to hold Virtual Assets or Fiat-Referenced Tokens belonging to a Client, a Licensed Firm must have regard to the criteria set out in Rules 15.5.3 and 17.5.

17.9 Client Money

17.9.1 For the purposes of a Licensed Firm that carries on a Regulated Activity in relation to Virtual Assets or Fiat-Referenced Tokens which holds or controls Client Money, the reconciliations of Client Accounts required under Section 14.11 shall be read as follows:

(a) Rule 14.11.1 must be carried out at least every week; and

(b) Rule 14.11.4 must be carried out within five days of the date to which the reconciliation relates.

18. [Not in use]

19. PAYMENT SERVICES

19.1 Application

19.1.1 Chapter 19 of these Rules applies to Payment Service Providers.

Guidance

1. Payment Service Providers are distinct from other Licensed Firms undertaking the Regulated Activity of Providing Money Services as they offer to their customers one or more of Payment Accounts, Payment Instruments and Stored Value, or agree to buy or sell Fiat-Referenced Tokens by way of business.

2. Payment Service Users are not considered to be Clients of Payment Service Providers insofar as Chapter 19 does not distinguish between Retail Clients and Professional Clients in relation to the conduct of Payment Services so Chapter 2 does not therefore apply to Payment Services Providers.

3. Chapters 14 and 16 are applicable to the safekeeping of Relevant Money by Payment Service Providers, being either Money retained in the Payment Account of the Payment Service User, or Money held in a segregated manner by the Payment Service Provider for the purpose of funding the redemption of Stored Value issued to the Payment Service User in connection with the conduct of Payment Services.

4. Other Licensed Firms undertaking the Regulated Activity of Providing Money Services that offer only one or more of currency exchange and Money Remittance to their customers, but not Payment Services, and are considered not to hold Client Money or Relevant Money.

5. Chapters 15 and 17 are applicable to Payment Service Providers which maintain

Payment Accounts for the purpose of holding Fiat-Referenced Tokens belonging to Payment Service Users.

19.2 Framework Contracts

Guidance

Framework Contracts are contracts between Payment Service Providers and Payment Service Users enabling future execution of individual and successive Payment Transactions, using the payment service platform offered by the Payment Service Provider. Such contracts are often used to establish Payment Accounts or the terms upon which Stored Value will be issued and redeemed, and typically govern the operation of the payment service, including the rights and obligations of Payment Service Providers and their respective Payment Service Users. A Payment Service Provider that only sells and/or buys Fiat-Referenced Tokens must comply with Rule 19.24 but does not need to enter into a Framework Contract with its customers.

General information to be included in Framework Contracts

19.2.1 Unless otherwise agreed in writing by a Payment Service Provider and a Payment Service User which is not a Natural Person in accordance with Rule 19.6.1, a Framework Contract between a Payment Service Provider and a Payment Service User must include the following information.

(a) About the Payment Service Provider:

(i) the name of the Payment Service Provider;

(ii) the address and contact details of the Payment Service Provider's office in GMC;

(iii) the name of the Regulator of the Payment Service Provider, and details of the Payment Service Provider's Financial Services Licence;

(b) About the Payment Service:

(i) a description of the main characteristics of the Payment Service to be provided;

(ii) the information or unique identifier that must be provided by the Payment Service User in order for a Payment Order to be properly initiated and executed;

(iii) the form and procedure for giving consent to the initiation of a Payment Order or execution of a Payment Transaction and for the withdrawal of consent in accordance with Rule 19.10.1(3);

(iv) the time of receipt of a Payment Order, in accordance with Rule 19.14.1, and the cut-off time for the processing of a Payment Order, if any, established by the Payment Service Provider;

(v) the maximum execution time for the Payment Services to be provided; and

(vi) any spending limits for the use of a Payment Instrument as agreed in accordance with Rule 19.10.2(1);

(c) About charges and exchange rates:

(i) details of all charges payable by the Payment Service User to the Payment Service Provider, including those connected to information which is provided or made available and, where applicable, a breakdown of the amounts of all charges;

(ii) where relevant, details of the exchange rates to be applied or, if Reference Exchange Rates are to be used, the method of calculating the relevant date for determining such Reference Exchange Rates;

(iii) where relevant and if agreed, the application of changes in Reference Exchange Rates and information requirements relating to any such changes, in accordance with Rule 19.2.5;

(d) About communication:

(i) the means of communication agreed between the parties for the transmission of information or notifications including, where relevant, any technical requirements for the Payment Service User's equipment and software for receipt of the information or notifications;

(ii) the manner in which and frequency with which information under Chapter 19 is to be provided or made available;

(iii) the Payment Service User's right to receive the revised terms of the Framework Contract and any other information in accordance with Rule 19.2.4;

(e) About safeguards and corrective measures:

(i) where relevant, a description of the steps that the Payment Service User must to take in order to keep safe a Payment Instrument and how to notify the Payment Service Provider of loss of the Payment Instrument for the purposes of Rule 19.11.1(3);

(ii) how and within what period of time the Payment Service User must notify the Payment Service Provider of any unauthorised or incorrectly initiated or executed Payment Transaction under Rule 19.17.1;

(iii) the secure procedure by which the Payment Service Provider will contact the Payment Service User in the event of suspected or actual fraud or security threats;

(iv) where relevant, the conditions under which the Payment Service Provider proposes to reserve the right to stop or prevent the use of a Payment Instrument in accordance with Rule 19.14.2;

(v) the Payer's liability under Rule 19.20.1 including details of any limits on such liability;

(vi) the Payment Service Provider's liability for unauthorised Payment Transactions under Rule 19.20.1;

(vii) the Payment Service Provider's liability for the initiation or execution of Payment Transactions under Rule 19.21.2 or Rule 19.21.3; and

(viii) the conditions for the payment of any refund to the Payment Service User under this Chapter.

(f) About changes to and termination of the Framework Contract:

(i) where relevant, the proposed terms under which the Payment Service User will be deemed to have accepted changes to the Framework Contract in accordance with Rule 19.2.5, unless they notify the Payment Service Provider that they do not accept such changes before the proposed date of their entry into force;

(ii) the duration of the Framework Contract;

(iii) where relevant, the right of the Payment Service User to terminate the Framework Contract and any agreements relating to termination in accordance with Rule 19.2.8.

(g) About redress:

(i) any contractual clauses on the law applicable to the Framework Contract and the competent courts; and

(ii) the availability of any alternative dispute resolution procedures, if applicable, for the Payment Service User and the methods for having access to them.

(h) If the Payment Service involves the issuance of Stored Value, about the redemption of Stored Value, including the conditions of redemption and any related Fees.

(i) If the Payment Service involves the holding or transfer of Fiat-Referenced Tokens, an explanation of the arrangements whereby the Fiat-Referenced Tokens will be held and the details of the specific Fiat-Referenced Token being held or transferred as well as a link to the issuer's website where the details of the issuer and its reserves may be found.

19.2.2 A Payment Service Provider must provide to a Payment Service User the information specified in Rule 19.2.1 before the Payment Service User is bound by the Framework Contract.

Guidance

Where the Payment Service involves the safekeeping of Fiat-Referenced Tokens belonging to Payment Service Users, the disclosure required under Rule 19.2.1(i) may be combined with the disclosures required to be provided to a Payment Service User in relation to Safe Custody Assets and Fiat-Referenced Tokens as required by Chapters 15 and 17.

Information provision during period of the Framework Contract

19.2.3 If the Payment Service User so requests at any time during the term of the Framework Contract, the Payment Service Provider must provide the information specified in Rule 19.2.1 as well as any other terms of the Framework Contract.

Changes in contractual information

19.2.4 Subject to Rule 19.2.7, any proposed changes to:

(a) the existing terms of the Framework Contract; or

(b) the information specified in Rule 19.2.1,

must be provided by the Payment Service Provider to the Payment Service User no later than two months before the date on which they are to take effect.

19.2.5 Where the Framework Contract allows for any proposed changes to be made unilaterally by the Payment Service Provider in the event that the Payment Service User does not, before the proposed date of entry into force of the changes, notify the Payment Service Provider to the contrary, the Payment Service Provider must inform the Payment Service User that:

(a) the Payment Service User will be deemed to have accepted the changes communicated to it under Rule 19.2.4; and

(b) the Payment Service User has the right to terminate the Framework Contract without charge at any time before the proposed date of their entry into force.

19.2.6 Changes in exchange rates may be applied immediately and without notice where:

(a) such a right is agreed under the Framework Contract and any such changes in exchange rates are based on the Reference Exchange Rate information which has been provided to the Payment Service User in accordance with Rule 19.2.1; or

(b) the changes are more favourable to the Payment Service User.

19.2.7 Any change in the exchange rate used in Payment Transactions must be implemented and calculated in a neutral manner that does not discriminate collectively against Payment Service Users.

Termination of a Framework Contract

19.2.8 The Payment Service User may terminate the Framework Contract at any time unless the parties have agreed on a period of notice not exceeding one month.

19.2.9 Any charges for the termination of the Framework Contract must not exceed the actual costs to the Payment Service Provider of termination.

19.2.10 The Payment Service Provider may not charge the Payment Service User for the termination of a Framework Contract after the Framework Contract has been in force for six months.

19.2.11 The Payment Service Provider may terminate a Framework Contract concluded for an indefinite period by giving at least two months' notice, if the Framework Contract so provides.

Information prior to execution of individual Payment Transaction under a Framework Contract

19.2.12 Where an individual Payment Transaction under a Framework Contract is initiated by the Payer, at the Payer's request the Payer's Payment Service Provider must provide the Payer with a breakdown of all charges payable by the Payer in respect of the Payment Transaction.

Information for the Payer on individual Payment Transactions under a Framework Contract

19.2.13 The Payer's Payment Service Provider under a Framework Contract must provide to the Payer the following information in respect of each Payment Transaction at least once per month free of charge:

(a) a reference enabling the Payer to identify the Payment Transaction and, where appropriate, information relating to the Payee;

(b) the amount of the Payment Transaction in the currency in which the Payer's Payment Account is debited or in the currency used for the Payment Order;

(c) the amount of any charges for the Payment Transaction and, where applicable, a breakdown of the amounts of such charges, or the interest payable by the Payer;

(d) where applicable, the exchange rate used in the Payment Transaction by the Payer's Payment Service Provider and the amount of the Payment Transaction after that currency or Fiat-Referenced Token conversion; and

(e) the Debit Value Date or the date of receipt of the Payment Order.

Information for the Payee on individual Payment Transactions under a Framework Contract

19.2.14 The Payee's Payment Service Provider under a Framework Contract must provide to the Payee the following information in respect of each Payment Transaction at least once per month free of charge:

(a) a reference enabling the Payee to identify the Payment Transaction and the Payer, and any information transferred with the Payment Transaction;

(b) the amount of the Payment Transaction in the currency in which the Payee's Payment Account is credited;

(c) the amount of any charges for the Payment Transaction and, where applicable, a breakdown of the amounts of such charges;

(d) where applicable, the exchange rate used in the Payment Transaction by the Payee's Payment Service Provider, and the amount of the Payment Transaction before that currency or Fiat-Referenced Token conversion; and

(e) the Credit Value Date.

Charges for information under a Framework Contract

19.2.15 A Payment Service Provider may not charge for providing or making available information which is required to be provided or made available under the provisions of Section 19.2.

19.2.16 The Payment Service Provider and the Payment Service User may agree on charges for any information which is provided at the request of the Payment Service User where such information is:

(a) additional to the information required to be provided or made available by Section 19.2;

(b) provided more frequently than is specified in Section 19.2; or

(c) transmitted by means of communication other than those specified in the Framework Contract.

19.2.17 Any charges imposed under Rule 19.2.16 must not exceed the Payment Service Provider's actual costs of providing such information.

Common provisions: communication of information

19.2.18 Any information provided or made available by a Payment Service Provider in accordance with Section 19.2 must be provided or made available in English, using easily understandable language, and in a clear and comprehensible form.

19.3 Low-Value Payment Instruments governed by a Framework Contract

19.3.1 In respect of Low-Value Payment Instruments governed by a Framework Contract:

(a) Section 19.2 compelling disclosure under the terms of a Framework Contract of general information concerning the Payment Service Provider and the relevant Payment Service does not apply and the Payment Service Provider is only required to provide the Payer with information about the main characteristics of the Payment Service, including but not limited to:

(i) the way in which the Payment Instrument can be used;

(ii) the liability of the Payer, as set out in Rule 19.20.1;

(iii) charges levied;

(iv) any other material information the Payer might need to make an informed decision; and

(v) an indication of where the general information concerning the Framework Contract specified in Rule 19.2.1 is made available in an easily accessible manner;

(b) the parties may agree that information to be provided to a Payer or Payee concerning individual Payment Transactions as specified in Rules 19.2.13 and 19.2.14 do not apply and instead:

(i) the Payment Service Provider must provide or make available a reference enabling the Payment Service User to identify the Payment Transaction, the amount of the Payment Transaction and any charges payable in respect of the Payment Transaction;

(ii) in the case of several Payment Transactions of the same kind made to the same Payee, the Payment Service Provider must provide or make available to the Payment Service User information about the total amount of the Payment Transactions and any charges for those Payment Transactions; or

(iii) where the Payment Instrument is used anonymously or the Payment Service Provider is not otherwise technically able to provide or make available the information specified in (i) or (ii), the Payment Service Provider must enable the Payer to verify the amount of Money stored.

Guidance

Low-Value Payment Instruments referred to under Rule 19.3.1 encompass those used in relation to both Payment Accounts and Stored Value.

19.4 Single Payment Service Contracts

Guidance

A Single Payment Service Contract is a contract between a Payment Service Provider and a user of the Payment Service Provider's platform formed at the time of usage of the platform, which governs a single transaction and are thus not governed by a Framework Contract and no Payment Account has been established.

Information required prior to the conclusion of a Single Payment Service Contract

19.4.1 A Payment Service Provider must provide or make available to a Payment Service User the following information in relation to the Payment Service, whether by supplying a copy of the draft Single Payment Service Contract or a copy of the draft Payment Order or otherwise, before the Payment Service User is bound by the Single Payment Service Contract:

(a) the information or unique identifier that has to be provided by the Payment Service User in order for a Payment Order to be properly initiated or executed;

(b) the maximum time in which the Payment Service will be executed;

(c) the charges payable by the Payment Service User to the its Payment Service Provider and, where applicable, a breakdown of such charges;

(d) where applicable, the actual or Reference Exchange Rate to be applied to the Payment Transaction; and

(e) such of the information specified in Rule 19.2.1 as is relevant to the Single Payment Service Contract in question.

19.5 Information required after the initiation of a Payment

Order Guidance

This information is required whether a Payment Order is initiated under a Framework Contract or a Single Payment Service Contract, or through a Payment Initiation Service Provider, whether it is a Low Value Payment Instrument or not.

19.5.1 Subject to Rule 19.5.3, a Payment Service Provider must provide or make available to the Payer and, where applicable, to the Payee, immediately after the initiation of a Payment Order:

(a) confirmation of the successful initiation of the Payment Order with the Payer's Payment Service Provider;

(b) a reference enabling the Payer and the Payee to identify the Payment Transaction, including the Payer and Payee, and, where appropriate, any information transferred with the Payment Order;

(c) the amount of the Payment Transaction, in the currency or Fiat-Refereced Token used in the Payment Order;

(d) the amount of any charges payable in relation to the Payment Transaction and, where applicable, a breakdown of the amounts of such charges expressed in the currency of the Payment Order;

(e) where an exchange rate is used in the Payment Transaction the actual rate used or a reference to it, and the amount of the Payment Transaction after that currency or Fiat-Referenced Token conversion;

(f) the date on which the Payment Service Provider received the Payment Order; and

(g) the Credit Value Date.

19.5.2 Where a Payment Order is initiated through a Payment Initiation Service Provider, the Payment Service Provider must obtain and disclose the reference for the Payment Transaction from the Payment Initiation Service Provider in order to fulfil its obligations under Rule 19.5.1, unless otherwise excluded by Rule 19.6.2.

Avoidance of duplication of information under a Framework Contract

19.5.3 Where a Payment Order for an individual Payment Transaction is transmitted by way of a Payment Instrument issued under a Framework Contract, the Payment Service Provider in respect of that single Payment Transaction need not provide or make available under Rule 19.5.1 the general information which has been provided or will be provided under Section 19.2 by another Payment Service Provider in respect of a Framework Contract.

19.6 Disapplication of requirements for non-Natural Persons

19.6.1 Where the Payment Service User is not a Natural Person, the Payment Service User and the Payment Service Provider may agree in writing the following Rules do not apply:

(a) Rules 19.2.16 and 19.2.17 (charges for information);

(b) Rule 19.10.1 (3) and (4) (withdrawal of consent);

(c) Rule 19.18.1 (evidence on authentication and execution);

(d) Rule 19.20.1 (Payer or Payee's liability for unauthorised transactions);

(e) Rules 19.17.1 and 19.17.2 (requests for refund);

(f) Rule 19.14.3 (revocation of a Payment Order);

(g) Rule 19.21.2 (defective execution of Payer-initiated transactions);

(h) Rule 19.21.3 (defective execution of Payee-initiated transactions);

(i) Rule 19.21.5 (liability for charges); and

the parties may agree that a different time period applies concerning unauthorised or incorrectly executed Payment Transactions for the purposes of Rule 19.17.1.

Disapplication of certain Rules in the case of Low Value Payment Instruments

19.6.2 (1) The parties may agree that the following Rules do not apply where a Low Value Payment Instrument does not allow for the stopping or prevention of its use:

(a) Rule 19.11.1 (3) (notification of loss of Payment Instrument); and

(b) Rule 19.20.1(4) (Payer not liable for certain losses).

(2) Where a Low Value Payment Instrument is used anonymously or the Payment Service Provider is not in a position, for other reasons concerning the Low Value Payment Instrument, to prove that a Payment Transaction was authorised, the following Rules do not apply:

(a) Rule 19.18.1 (Evidence on authentication and execution of Payment Transactions);

(b) Rule 19.19.1 (Payment Service Provider's liability for unauthorised Payment Transactions); and

(c) Rule 19.20.1 (Payer's or Payee's liability for unauthorised Payment Transactions).

(3) In the case of a Payment Order relating to a Low Value Payment Instrument:

(a) a Payment Service Provider is not required to notify the Payment Service User of the refusal of a Payment Order relating to such Low Value Payment Instrument and the reasons for such refusal in accordance with Rule 19.14.2(1) if the non-execution is apparent from the context;

(b) the Payer may not revoke the Payment Order under Rule 19.14.3 after transmitting the Payment Order or giving its consent to execute the Payment Transaction to the Payee;

(c) execution periods other than those provided by Rule 19.15.2 may apply.

19.7 Safeguarding requirements

19.7.1 (1) Subject to (2), a Payment Service Provider is prohibited from accepting physical cash in the form of banknotes and coins from any Payment Service User, whether directly of indirectly via another Person.

(2) The prohibition in (1) does not apply to a Payment Service Provider receiving physical cash from any Payment Service User indirectly via a Financial Institution that is regulated and supervised for anti-money laundering compliance by the Regulator or a Non-GMC Financial Services Regulator or other competent authority under rules and regulations equivalent to those applying in GMC.

(3) A Payment Service Provider is prohibited from distributing physical cash in the form of banknotes and coins to any Payment Service User other than via a Financial Institution that is regulated and supervised for anti-money laundering compliance by the Regulator or a Non-GMC Financial Services Regulator or other competent authority under rules and regulations equivalent to those applying in GMC.

(4) A Payment Service Provider must safeguard Relevant Money placed in one or more Payment Accounts, as necessary in accordance with Chapter 14.

(5) A Payment Service Provider must safeguard all Fiat-Referenced Tokens placed in one or more Payment accounts, as necessary, in accordance with Chapter 15.

Guidance

A Payment Service Provider must safeguard Money or Fiat-Referenced Tokens which they may be responsible for the transmission of, as well as any Money or Fiat-Referenced Tokens which they may hold or control on behalf of a Payment Service User, or which may be required to fund the redemption of Stored Value issued to a Payment Service User.

19.7.2 A Payment Account in which Relevant Money is held, must:

(a) be designated in such a way as to demonstrate that it is an account which is held for

the purpose of safeguarding Relevant Money in accordance with Chapter 14 of these Rules;

(b) be used only in relation to Payment Transactions; and

(c) be used only for holding Relevant Money.

19.7.2 A A Payment Account in which Fiat-Referenced Tokens are held must:

(a) be designated in such a way as to demonstrate that it is an account which is held for the purpose of safeguarding Fiat-Referenced Tokens in accordance with Chapter 15;

(b) be used only in relation to Payment Transactions; and

(c) be used only for holding Fiat-Referenced Tokens belonging to Payment Service Users.

19.7.3 No person other than the Payment Service Provider may have any interest in or right over the Relevant Money or Fiat-Referenced Tokens placed in a Payment Account in accordance with Rule 19.7.2 or Rule 19.7.2A, as applicable, except as provided by these Rules.

19.7.4 The Payment Service Provider must keep records of all Relevant Money or Fiat- Referenced Tokes segregated in accordance with Rule 19.7.2 or Rule 19.7.2A, as applicable.

19.7.5 A Payment Service Provider must maintain organisational arrangements sufficient to minimise the risk of any loss of Relevant Money or Fiat-Referenced Tokens through fraud, misuse, negligence or poor administration.

19.8 Record keeping

19.8.1 A Payment Service Provider must maintain relevant records of all Relevant Money or Fiat-Referenced Tokens received, including all records of agreements with Payment Service Users, and all Payment Transactions and keep those records for a period of at least six years from the date on which the record was created.

19.9 Payment Accounts and outsourcing of operational functions

19.9.1 Where a Payment Service Provider relies on a third party for the performance of operational functions it must take all reasonable steps to ensure that these Rules are complied with.

Guidance

GEN 3.3.31 and 3.3.32 and PRU 6.8 also govern outsourcing of functions and activities by a . A Payment Service Provider is required to comply with those Rules.

19.10 Authorisation of Payment Transactions

Consent and withdrawal of consent

19.10.1 (1) A Payment Transaction is to be regarded as having been authorised by the Payer for the purposes of this Rule only if the Payer has given its consent to:

(a) the execution of the Payment Transaction; or

(b) the execution of a series of Payment Transactions of which that Payment

Transaction forms part.

(2) Such consent:

(a) may be given before or, if agreed between the Payer and its Payment Service Provider, after the execution of the Payment Transaction;

(b) must be given in the form, and in accordance with the procedure, agreed between the Payer and its Payment Service Provider; and

(c) may be given via the Payee or a Payment Initiation Service Provider.

(3) The Payer may withdraw its consent to an individual Payment Transaction at any time before the point at which the Payment Order can no longer be revoked under Rule 19.14.3.

(4) Subject to Rule 19.14.3(2) and (3) concerning time limits, the Payer may withdraw consent to the execution of a series of Payment Transactions at any time with the effect that any future Payment Transactions previously consented to are not regarded as authorised for the purposes of this Chapter.

Limits on the use of Payment Instruments and access to Payment Accounts

19.10.2 (1) Where a specific Payment Instrument is used for the purpose of giving consent to the execution of a Payment Transaction, the Payer and its Payment Service Provider may agree on spending limits for any Payment Transactions executed through that Payment Instrument.

(2) A Framework Contract may provide for the Payment Service Provider to have the right to stop the use of a Payment Instrument on reasonable grounds relating to the security of the Payment Instrument or the suspected unauthorised or fraudulent use of the Payment Instrument.

(3) The Payment Service Provider must inform the Payer that it intends to stop the use of the Payment Instrument and provide its reasons for doing so, in the manner agreed between the Payment Service Provider and the Payer, before carrying out any measures to stop the use of the Payment Instrument, or, if not possible, as soon as reasonably possible thereafter.

(4) The Payment Service Provider must immediately report any incident arising under (2) to the Regulator in such form as the Regulator may direct, and such report must include the details of the case and the reasons for taking action.

(5) The Payment Service Provider must restore access to the Payment Account once the reasons for denying access no longer justify such denial of access.

19.11 Obligations of the Payment Service Provider in relation to Payment Instruments

19.11.1 (1) A Payment Service Provider issuing a Payment Instrument must ensure that the Personalised Security Credentials are not accessible to persons other than the Payment Service User to whom the Payment Instrument has been issued.

(2) The Payment Service Provider bears the risk of sending to the Payment Service User a Payment Instrument or any Personalised Security Credentials relating to it.

(3) The Payment Service Provider must ensure that appropriate means are available at all

times to enable a Payment Service User to notify the Payment Service Provider of the loss, theft, misappropriation or unauthorised use of the Payment Instrument.

19.12 Payment Transactions where the transaction amount is not known in advance

19.12.1 Where a card-based Payment Transaction is initiated by or through the Payee and the amount of the transaction is not known when the Payer authorises the Payment Transaction:

(a) the Payer's Payment Service Provider may not block Money or Fiat-Referenced Tokens on the Payer's Payment Account unless the Payer has authorised the exact amount of the Money or Fiat-Referenced Tokens to be blocked; and

(b) the Payer's Payment Service Provider must release the blocked Money or Fiat-Referenced Tokens without undue delay after becoming aware of the amount of the Payment Transaction, and in any event immediately after receipt of the Payment Order.

19.13 Requests for refunds for Payment Transactions initiated by or through a Payee

19.13.1 (1) The Payer is entitled to a refund from its Payment Service Provider of the full amount of any authorised Payment Transaction initiated by or through the Payee if requested within eight weeks from the date on which the Money or Fiat- Referenced Token was debited, if:

(a) the authorisation did not specify the exact amount of the Payment Transaction when the authorisation was given in accordance with Rule 19.10.1; and

(b) the amount of the Payment Transaction exceeded the amount that the Payer could reasonably have expected taking into account the pattern of the Payer's previous transactions, the conditions of the Framework Contract and the circumstances of the case.

(2) The Payment Service Provider may require the Payer to provide such information as is reasonably necessary to prove that the conditions in (1) are satisfied.

(3) When crediting a Payment Account under (1), a Payment Service Provider must ensure that the Credit Value Date is no later than the date on which the amount of the unauthorised payment transaction was debited.

(4) The Payer and Payment Service Provider may agree in the Framework Contract that the right to a refund does not apply where:

(a) the Payer has given consent directly to the Payment Service Provider for the Payment Transaction to be executed; and

(b) if applicable, information on the Payment Transaction was provided or made available in an agreed manner to the Payer at least four weeks before the due date by the Payment Service Provider or by the Payee.

Guidance

A Payment Service Provider is expected to engage in risk analysis when considering whether a transaction is legitimate. Consideration should be given to all relevant factors, identifying and investigating where any of the following characteristics are atypical of the previous pattern of transactions of the Payer:

(i) whether this is the first instance of a Payment Transaction with the Payee;

(ii) the location(s) of the Payer and the Payee, where these are identifiable, and whether they are in high-risk jurisdictions; and

(iii) in the case of a Payment Account, the means of access to it and authentication of the transaction by the Payer.

19.13.2 (1) Upon receipt of a request for a refund in accordance with Rule 19.13.1 the Payment Service Provider must either:

(a) refund the full amount of the Payment Transaction; or

(b) provide justification for refusing to refund the Payment Transaction, indicating the dispute settlement forum to which the Payer may refer the matter if the Payer does not accept the justification provided.

(2) Any refund or justification for refusing a refund must be provided within ten days of receiving a request for a refund or, where applicable, within ten days of receiving any further information requested under Rule 19.13.1(2).

(3) If the Payment Service Provider requires further information under Rule 19.13.1(2), it must not dismiss the request for a refund until it has received further information from the Payer.

19.14 Execution of Payment Transactions

Receipt of Payment Orders

19.14.1 (1) A Payer's Payment Service Provider must not debit the Payment Account before receipt of a Payment Order.

(2) If the time of receipt of a Payment Order specified in the Framework Contract or the Single Payment Service Contract does not fall on a Business Day, the Payment Order is deemed to have been received on the first Business Day thereafter.

(3) The Payment Service Provider may set a cut-off time towards the end of a Business Day after which any Payment Order received will be deemed to have been received on the following day.

Refusal of Payment Orders

19.14.2 (1) Where a Payment Service Provider refuses to execute a Payment Order or to initiate a Payment Transaction, it must notify the Payment Service User at the earliest opportunity in the agreed manner of the refusal, and, if possible, the reasons for such refusal, including, if applicable, the procedure for rectifying any factual errors that led to the refusal.

(2) For the purposes of Rules 19.21.2 and 19.21.3 a Payment Order of which execution has been refused is deemed not to have been received.

Revocation of a Payment Order

19.14.3 (1) Subject to (2) to (4), a Payment Service User may not revoke a Payment Order after it has been received by the Payer's Payment Service Provider.

(2) In the case of a Payment Transaction initiated by a Payment Initiation Service Provider, or by or through the Payee, the Payer may not revoke the Payment Order after giving consent to the Payment Initiation Service Provider to initiate the Payment Transaction or giving consent to execute the Payment Transaction to the Payee.

(3) In the case of a Direct Debit, the Payer may not revoke the Payment Order after the end of the day preceding the day agreed for debiting the Money or Fiat- Referenced Token.

(4) At any time after the time limits for revocation set out in Rules 19.14.3(1) to (3), the Payment Order may only be revoked if the revocation is:

(a) agreed between the Payment Service User and the relevant Payment Service Provider(s); and

(b) in the case of a Payment Transaction initiated by or through the Payee, including in the case of a Direct Debit, also agreed with the Payee.

Amounts transferred and amounts received

19.14.4 (1) Subject to (2), the Payment Service Providers of the Payer and Payee must ensure that the full amount of the Payment Transaction is transferred and that no charges are deducted from the amount transferred.

(2) The Payee and its Payment Service Provider may agree for the relevant Payment Service Provider to deduct its charges from the amount transferred before crediting it to the Payee provided that the full amount of the Payment Transaction and the amount of the charges are clearly stated in the information provided to the Payee.

19.15 Execution time and Credit Value Date

19.15.1 (1) Rule 19.15.2 applies where a Payment Transaction:

(a) is in U.S. Dollars; or

(b) [Deleted]

(c) [Deleted]

(d) is executed in one type of Fiat-Referenced Token.

(2) In respect of any Payment Transaction not described in (1), the Payment Service User may agree with the Payment Service Provider that Rule 19.15.2 does not apply.

Payment Transactions to a Payment Account

19.15.2 (1) The Payer's Payment Service Provider must ensure that the amount of the Payment Transaction is credited to the Payee's Payment Service Provider's account no later than the end of the day following the time of receipt of the Payment Order by the Payer's Payment Service Provider.

(2) The Payee's Payment Service Provider must value date and credit the amount of the Payment Transaction to the Payee's Payment Account following its receipt of the Money or Fiat-Referenced Tokens.

(3) The Payee's Payment Service Provider must transmit a Payment Order initiated by or

through the Payee to the Payer's Payment Service Provider within the time limits agreed between the Payee and its Payment Service Provider, enabling settlement in respect of a Direct Debit to occur on the agreed due date.

Money or Fiat-Referenced Tokens placed on a Payment Account

19.15.3 Where a Payment Service User transfers Money in the same currency as that Payment Account or Fiat-Referenced Tokens of the same type held in its Payment Account with a Payment Service Provider, the Payment Service Provider must:

(a) if the user is a Natural Person, ensure that the amount is made available and value dated immediately after the receipt of the Money or Fiat-Referenced Tokens;

(b) in any other case, ensure that the amount is made available and value dated no later than the end of the next day after the receipt of the Money or Fiat-Referenced Tokens.

Value date and availability of Money or Fiat-Referenced Tokens

19.15.4 (1) The Credit Value Date for the Payee's Payment Account must be no later than the day on which the amount of the Payment Transaction is credited to the account of the Payee's Payment Service Provider.

(2) Where:

(a) the transaction does not involve a currency conversion; or

(b) [Deleted]

(c) the transaction involves only one Payment Service Provider;

the Payee's Payment Service Provider must ensure that the full amount of the Payment Transaction is at the Payee's disposal immediately after that amount has been credited to that Payment Service Provider's account.

(3) The Debit Value Date for the Payer's Payment Account must be no earlier than the time at which the amount of the Payment Transaction is debited from that Payment Account.

Stored Value

19.15.5 (1) A Payment Service Provider which issues Stored Value must:

(a) on receipt of Money from a Payment Service User issue without delay Stored Value at par value; and

(b) at the request of the Payment Service User, redeem:

(i) at any time; and

(ii) at par value;

the monetary value of the Stored Value held.

(2) Redemption of Stored Value may be subject to a Fee which is proportionate and commensurate with the costs actually incurred by the Payment Service Provider only where the Fee is stated in the Framework Contract and:

(a) redemption is requested before the termination of the Framework Contract;

(b) the Framework Contract provides for a termination date and the Payment Service User has terminated the Framework Contract before that date; or

(c) redemption is requested more than twelve months after the date of termination of the Framework Contract.

(3) Where before the termination of the Framework Contract a Payment Service User that is a Natural Person makes a request for redemption of Stored Value, the Payment Service User may request redemption of the monetary value of the Stored Value in whole or in part, and the Payment Service Provider must redeem the amount so requested, subject to any Fee imposed in accordance with Rule 19.15.5(2).

(4) Where a Payment Service User makes a request for redemption of Stored Value on, or up to one year after the date of the termination of the Framework Contract, the Payment Service Provider must redeem the total monetary value of the Stored Value held.

(5) (3) and (4) shall not apply in the case of a Payment Service User which is not a Natural Person, and, in such a case, the redemption rights of that Payment Service User shall be subject to the Framework Contract between that Payment Service User and the Payment Service Provider.

(6) A Payment Service Provider is not required to redeem the monetary value of Stored Value where the Payment Service User makes a request for redemption more than six years after the date of termination of the Framework Contract.

(7) A Payment Service Provider which issues Stored Value must not award:

(a) interest in respect of the holding of Stored Value; or

(b) any other benefit, monetary or otherwise, related to the length of time during which an Payment Service User holds Stored Value.

(8) For the purposes of this Rule, a Framework Contract between a Payment Service Provider and a Payment Service User terminates when the right to use Stored Value for the purpose of making Payment Transactions ceases.

19.16 Authentication

19.16.1 (1) A Payment Service Provider must employ Strong Customer Authentication where a Payment Service User:

(a) accesses its Payment Account online, whether directly or through an Account Information Service Provider;

(b) initiates an Electronic Remote Payment Transaction; or

(c) carries out any action through a remote means of communication which may permit a risk of payment fraud or other abuses.

(2) Where a Payer initiates an Electronic Remote Payment Transaction directly or through a Payment Initiation Service Provider, the Payer's Payment Service Provider must apply Strong Customer Authentication that includes elements that dynamically link the transaction to a specific amount and a specific Payee.

(3) A Payment Service Provider must maintain adequate security measures to protect the confidentiality and integrity of Payment Service Users' Personalised Security Credentials.

19.17 Notification and rectification of unauthorised or incorrectly executed Payment Transactions

19.17.1 A Payment Service User is entitled to redress under this Chapter only if it notifies its Payment Service Provider without undue delay, and in any event no later than twelve months after the debit date, on becoming aware of any unauthorised or incorrectly executed Payment Transaction.

19.17.2 Where the Payment Service Provider has failed to provide or make available information concerning the Payment Transaction in accordance with Section 19.5, the Payment Service User is entitled to redress under the Rules in this Chapter notwithstanding that the Payment Service User has failed to notify the Payment Service Provider within the time period stated in Rule 19.17.1.

19.18 Evidence on authentication and execution of Payment Transactions

19.18.1 (1) Where a Payment Service User:

(a) denies having authorised an executed Payment Transaction; or

(b) claims that a Payment Transaction has not been correctly executed;

it is for the Payment Service Provider to prove that the Payment Transaction was authenticated, accurately recorded, entered in the Payment Service Provider's accounts and not affected by a technical breakdown or some other deficiency in the service provided by the Payment Service Provider or any third party it relies upon for the performance of operational functions.

(2) Where a Payment Service User denies having authorised an executed Payment Transaction, the use of a Payment Instrument recorded by the Payment Service Provider, including a Payment Initiation Service Provider where appropriate, is not in itself necessarily sufficient to prove either that:

(a) the Payment Transaction was authorised by the Payer; or

(b) the Payer acted fraudulently or failed with intent or gross negligence to take all reasonable steps to keep safe Personalized Security Credentials relating to a Payment Instrument.

(3) If a Payment Service Provider, including a Payment Initiation Service Provider where appropriate, alleges that a Payer acted fraudulently or failed with intent or gross negligence to take all reasonable steps to keep safe Personalized Security Credentials relating to a Payment Instrument, the Payment Service Provider must provide supporting evidence to the Payer.

Liability

19.19 Payment Service Provider's liability for unauthorised Payment Transactions

19.19.1 (1) Subject to Rules 19.17.1, 19.17.2 and 19.18.1, where an executed Payment Transaction was not authorised in accordance with Rule 19.10.1, the Payment Service Provider must:

(a) refund the amount of the unauthorised Payment Transaction to the Payer; and

(b) where applicable, restore the debited Payment Account to the state it would have been in had the unauthorised Payment Transaction not taken place.

(2) The Payment Service Provider must provide a refund under (1) as soon as practicable, and in any event no later than the end of the day following the day on which it becomes aware of the unauthorised Payment Transaction.

(3) The requirement to provide a refund in accordance with (2) does not apply where the Payment Service Provider has reasonable grounds to suspect fraudulent behaviour by the Payment Service User.

(4) When crediting a Payment Account under (1), a Payment Service Provider must ensure that the Credit Value Date is no later than the date on which the amount of the unauthorised Payment Transaction was debited.

(5) Where an unauthorised Payment Transaction was initiated through a Payment Initiation Service Provider, the account servicing Payment Service Provider must comply with (1).

19.20 Payer or Payee's liability for unauthorised Payment Transactions

19.20.1 (1) Subject to (2) and (3), a Payment Service Provider which is liable under Rule 19.19.1 may require that the Payer be liable up to a maximum of US$50 for any losses incurred in respect of unauthorised Payment Transactions arising from the use of a lost or stolen Payment Instrument, or from the misappropriation of a Payment Instrument.

(2) The liability in (1) does not apply if:

(a) the loss, theft or misappropriation of the Payment Instrument was not detectable by the Payer prior to the unauthorised Payment Transaction; or

(b) the loss was caused by acts or omissions of an Employee, agent or branch of a Payment Service Provider or of an entity which carried out activities on behalf of the Payment Service Provider.

(3) The Payment Service Provider is not liable for any losses incurred by the Payer in respect of an unauthorised Payment Transaction where the Payer:

(a) has acted fraudulently; or

(b) has with intent or gross negligence failed to ensure that the Personalised Security Credentials are not accessible to persons other than the Payer to whom the Payment Instrument has been issued.

(4) Subject to (1), except where the Payer has acted fraudulently, the Payer is not liable for any losses incurred in respect of an unauthorised Payment Transaction:

(a) arising after notification to the Payment Service Provider in the agreed manner on becoming aware of the loss, theft, misappropriation or unauthorised use of the Payment Instrument;

(b) where the Payment Service Provider has failed at any time to provide, in accordance with Rule 19.11.1(3), appropriate means for notification;

(c) where the Payer's Payment Service Provider has failed to apply Strong Customer Authentication; or

(d) where the Payment Instrument has been used in connection with an Electronic Remote Payment Transaction.

(5) Where Rule 19.16.1 requires the application of Strong Customer Authentication, but the Payee or the Payee's Payment Service Provider does not use Strong Customer Authentication, the Payee or the Payee's Payment Service Provider, or both (on a joint and several basis, as the case may be), must compensate the Payer's Payment Service Provider for the losses incurred or sums paid as a result of complying with Rule 19.19.1.

19.21 Non-execution or defective or late execution of Payment Transactions

Incorrect Unique Identifiers

19.21.1 (1) Where a Payment Order is executed using a Unique Identifier provided by the Payment Service User, the Payment Order is deemed to have been correctly executed by each Payment Service Provider involved in executing the Payment Order with respect to the Payee specified by the Unique Identifier.

(2) Where the Unique Identifier provided by the Payment Service User is incorrect, the Payment Service Provider is not liable under Rule 19.21.2 or 19.21.3 for non-execution or defective execution of the Payment Transaction, but the Payment Service Provider:

(a) must make reasonable efforts to recover the Money or Fiat-Referenced Tokens involved in the Payment Transaction; and

(b) may, if agreed in the Framework Contract, charge the Payment Service User for any such recovery.

(3) The Payee's Payment Service Provider must co-operate with the Payer's Payment Service Provider in its efforts to recover the Money or Fiat-Referenced Tokens, in particular by providing to the Payer's Payment Service Provider all relevant information for the collection of the Money or Fiat-Referenced Tokens.

(4) If the Payer's Payment Service Provider is unable to recover the Money or Fiat-Referenced Tokens it must, on receipt of a written request, provide to the Payer all available relevant information in order for the Payer to claim repayment of the Money or Fiat-Referenced Tokens.

Non-execution or defective or late execution of Payment Transactions initiated by the Payer

19.21.2 (1) This Rule applies where a Payment Order is initiated directly by the Payer.

(2) The Payer's Payment Service Provider is liable to the Payer for the correct execution of the Payment Transaction unless it can prove to the Payer and, where relevant, to the Payee's Payment Service Provider, that the Payee's Payment Service Provider

received the amount of the Payment Transaction in accordance with Rule 19.15.2(1) and (2).

(3) Where the Payer's Payment Service Provider is liable under (2), it must without undue delay refund to the Payer the amount of the non-executed or defective Payment Transaction and, where applicable, restore the debited Payment Account to the state in which it would have been had the defective Payment Transaction not taken place.

(4) The Credit Value Date for a credit under (3) must be no later than the date on which the amount was debited.

(5) If the Payer's Payment Service Provider proves that the Payee's Payment Service Provider received the amount of the Payment Transaction in accordance with Rule 19.15.2, the Payee's Payment Service Provider is liable to the Payee for the correct execution of the Payment Transaction and must:

(a) immediately make available the amount of the Payment Transaction to the Payee; and

(b) where applicable, credit the corresponding amount to the Payee's Payment Account.

(6) The Credit Value Date for a credit under (5)(b) must be no later than the date on which the amount would have been value dated if the Payment Transaction had been executed correctly.

(7) Where a Payment Transaction is executed late, the Payee's Payment Service Provider must, on receipt of a request from the Payer's Payment Service provider on behalf of the Payer, ensure that the Credit Value Date for the Payee's Payment Account is no later than the date the amount would have been value dated if the Payment Transaction had been executed correctly.

(8) Regardless of liability under this Rule, the Payer's Payment Service Provider must, on request by the Payer, immediately and without charge:

(a) make efforts to trace any non-executed or defectively executed Payment Transaction; and

(b) notify the Payer of the outcome.

Non-execution or defective or late execution of Payment Transactions initiated by the Payee

19.21.3 (1) This Rule applies where a Payment Order is initiated by the Payee.

(2) The Payee's Payment Service Provider is liable to the Payee for the correct transmission of the Payment Order to the Payer's Payment Service Provider in accordance with Rule 19.15.2(4).

(3) Where the Payee's Payment Service Provider is liable under (2), it must immediately re-transmit the Payment Order in question to the Payer's Payment Service Provider.

(4) The Payee's Payment Service Provider must also ensure that the Payment Transaction is handled in accordance with Rule 19.15.4, such that the amount of the Payment Transaction:

(a) is at the Payee's disposal immediately after it is credited to the Payee's Payment Service Provider's account; and

(b) is value dated on the Payee's Payment Account no later than the date the amount would have been value dated if the Payment Transaction had been executed correctly.

(5) The Payee's Payment Service Provider must, on request by the Payee and free of charge, make immediate efforts to trace the Payment Transaction and notify the Payee of the outcome.

(6) Subject to (8), if the Payee's Payment Service Provider proves to the Payee and, where relevant, to the Payer's Payment Service Provider, that it is not liable under (2) in respect of a non-executed or defectively executed Payment Transaction, the Payer's Payment Service Provider is liable to the Payer and must, as appropriate and immediately:

(a) refund to the Payer the amount of the Payment Transaction; and

(b) restore the debited Payment Account to the state in which it would have been had the defective Payment Transaction not taken place.

(7) The Credit Value Date for a credit under (6)(b) must be no later than the date on which the amount was debited.

(8) If the Payer's Payment Service Provider proves that the Payee's Payment Service Provider has received the amount of the Payment Transaction, (6) does not apply and the Payee's Payment Service Provider must value date the amount on the Payee's Payment Account no later than the date the amount would have been value dated if the Payment Transaction had been executed correctly.

Non-execution or defective execution of Payment Transactions initiated through a Payment Initiation Service Provider

19.21.4 (1) Where a Payment Order is initiated by the Payer through a Payment Initiation Service Provider, the account servicing Payment Service Provider must refund to the Payer the amount of a non-executed or defective Payment Transaction and, where applicable, restore the debited Payment Account to the state in which it would have been had the defective Payment Transaction not taken place.

(2) Where the Payment Initiation Service Provider suffers a technical breakdown or other deficiency linked to the non-execution, defective or late execution of the Payment Transaction, (1) does not prevent the account servicing Payment Service Provider from seeking compensation from the Payment Initiation Service Provider for the losses incurred or sums paid as a result of the refund to the Payer.

Liability of Payment Service Provider for charges and interest

19.21.5 A Payment Service Provider is liable to its Payment Service User for any charges for which the Payment Service User is responsible and any interest which the Payment Service User must pay as a consequence of the non-execution, defective or late execution of a Payment Transaction by the Payment Service Provider.

19.22 Dispute resolution

19.22.1 (1) A Payment Service Provider must put in place and utilise adequate and effective complaint resolution procedures for the settlement of complaints from Payment Service Users about the rights and obligations arising under this Chapter.

(2) All complaints must be recorded, investigated and resolved within an adequate timeframe and at the latest fifteen days after the day on which the Payment Service Provider received the complaint.

(3) A Payment Service Provider must make available to the Payment Service User the details of the dispute resolution services able to deal with disputes concerning the rights and obligations arising under this Chapter in a clear, comprehensive and easily accessible form.

(4) The information to be made available under (3) must be made available:

(a) on the website of the Payment Service Provider;

(b) at the main office and any branches of the Payment Service Provider; and

(c) in the general terms and conditions of the Framework Contract between the Payment Service Provider and the Payment Service User.

19.23 Risk mitigation and Reporting

Management of operational and security risks

19.23.1 (1) A Payment Service Provider must establish a framework with appropriate mitigation measures and control mechanisms to manage the operational and security risks relating to the Payment Services it provides.

(2) As part of that framework, the Payment Service Provider must establish and maintain effective incident management procedures, including for the detection and classification of major operational and security incidents.

(3) A comprehensive assessment of operational and security risks must be undertaken by the Payment Service Provider relating to the Payment Services it provides, at least annually or more frequently if requested by the Regulator, and provided to the Regulator on request.

(4) The assessment must address the adequacy of the mitigation measures and control mechanisms implemented in response to those risks in such form and manner, and contain such information, as the Regulator may direct.

Guidance

1. The GFSO may require a Payment Service Provider to engage technical experts to generate an audit report addressed to the GFSO, in order to provide independent assurance that the systems and controls employed by the Payment Service Provider comply with the requirements imposed by this Chapter.

2. Payment Service Providers are expected to provide a summary of the information required by Rule 19.23.1 as part of the periodic IRAP assessments undertaken in accordance with PRU 10.3.

3. GEN 3.5 contains additional requirements that apply to Licensed Firms in relation to Cyber Risk management.

Incident reporting

19.23.2 (1) If a Payment Service Provider becomes aware of a major operational or security incident, the Payment Service Provider must, without undue delay, notify the Regulator.

(2) A notification under (1) must be in such form and manner, and contain such information, as the Regulator may direct.

(3) If the incident has or may have an impact on the financial interests of its Payment Service Users, the Payment Service Provider must, without undue delay, inform its Payment Service Users of the incident and of all measures that they can take to mitigate the adverse effects of the incident.

Guidance

1. [Deleted]

2. [Deleted]

3. GEN 3.5.18 and 8.10.6 also require Licensed Firm to notify the Regulator in certain circumstances.

19.24 Purchase and Sale of Fiat-Referenced Tokens

19.24.1 A Licensed Firm that is carrying on Payment Services and which offers to buy and/or sell a Fiat Referenced Token, must, prior to entering into such Transaction:

(a) establish a non-discriminatory commercial policy that identifies the type of Customers it agrees to transact with and any preconditions that shall be met by such Customers and disclose same to its Customers; and

(b) disclose:

(i) the price at which the Licensed Firm will buy or sell the Fiat-Referenced Token which is the subject of the Transaction, or the method by which the Licensed Firm will determine the price of the Fiat-Referenced Token that it proposes to exchange for funds or other Fiat-Referenced Tokens;

(ii) all fees charged by the Licensed Firm in respect of the Transaction; and

(iii) any applicable limits on the amount of Fiat-Referenced Tokens to be exchanged.

19.24.2 Where the Licensed Firm intends to enter into Transactions with Customers, the information set out in Rule 19.24.1 must be published on its website.

19.24.3 Rule 19.24.1 does not apply to a Transaction entered into with a person that has issued the Fiat-Referenced Token that is the subject of the Transaction.

19A. FIAT-REFERENCED TOKENS

19A.1 Application

19A.1.1 Chapter 19A of these Rules applies to Licensed Firms which propose to issue or have issued Fiat-Referenced Tokens.

19A.2 White Paper

19A.2.1 No later than twenty days prior to the issuance of a Fiat-Referenced Token, a Licensed Firm must submit a white paper to the Regulator which must be clear, fair, not misleading, concise and comprehensible and not promote the Fiat-Referenced Token as an alternative form of investment. The white paper must, at a minimum, contain information:

(a) about the issuer of the Fiat-Referenced Token;

(b) about the Fiat-Referenced Token including, but not limited to, the rights of the holder of a token and the responsibilities of the issuer of same, including, but not limited to:

(i) redemption rights at par, rights to interest or other time-based payments; and

(ii) in the event of a Pooling Event, any differing treatment of claims to redemption at par from claims for interest or time-based payments;

(c) concerning the process whereby the Fiat-Referenced Token may be redeemed by a holder, including any extension of the redemption period due to circumstances such as market stresses;

(d) concerning the operations of the issuer, including the mechanism by which the stability of the value of the Fiat-Referenced Token may be maintained;

(e) concerning the proposed composition of the Reserve Investments and Relevant Money held;

(f) concerning the risks inherent in holding Fiat-Referenced Tokens, including circumstances under which a loss of value might occur; and

(g) concerning the underlying technology employed by the issuer and the relevant applicable standards applied by the issuer to monitor same.

19A.2.2 The white paper must contain a clear and prominent statement that it has not been approved by the Regulator, and that the Licensed Firm is solely responsible for the content of the white paper.

19A.2.3 A Licensed Firm which intends to issue a Fiat-Referenced Token must publish the white paper on its website prior to any issuance and maintain such publication there for as long as the relevant Fiat-Referenced Token remains in circulation, unless the white paper is replaced in accordance with Rule 19A.2.4.

19A.2.4 The white paper prepared in accordance with Rules 19A.2.1 to 19A.2.3 must be updated:

(a) in the event the information provided in accordance with Rule 19A.2.1 becomes materially inaccurate; or

(b) where one calendar year has passed since the publication of the current published version of the white paper.

19A.3 Restricted Activities

19A.3.1 A Licensed Firm that has issued a Fiat-Referenced Token is prohibited from carrying on any additional Regulated Activities not incidental to the issuance of a Fiat- Referenced Token.

19A.3.2 [Deleted]

19A.4 Redemption

19A.4.1 (1) A Licensed Firm which has issued a Fiat-Referenced Token must:

(a) on receipt of Money, issue Fiat-Referenced Tokens at the par value expressed in the white paper to the intended holder without delay; and

(b) at the request of a person holding a Fiat-Referenced Token, redeem the Fiat-Referenced Tokens presented for redemption:

(i) no later than T+2 following the completion of Customer Due Diligence, if required; and

(ii) at par value.

(2) Redemption payments must be made in the fiat currency to which the Fiat-Referenced Token is referenced.

(3) The redemption period specified by Rule 19A.4.1(1)(b)(i) may be extended following notification to or upon direction from the Regulator.

(4) Redemption of Fiat-Referenced Tokens may be subject to a Fee which is proportionate and commensurate with the costs actually incurred for the purposes of such redemption by the Licensed Firm which has issued the Fiat- Referenced Token, only where the charging of such a Fee is stated in the white paper.

Guidance

For the purposes of Rule 19A.4.1(1)(b)(i), T+2 excludes weekends and holidays in GMC as well as any time required for funds to be transferred from the Issuer's bank account to the redeeming holder's bank account.

19A.5 Reserves arising from the issuance of Fiat-Referenced Tokens

19A.5.1 (1) References to "Client Account" in Chapter 15 must be read using the term "Reserve Account".

(2) The following Rules do not apply to a Licensed Firm which has issued a Fiat-Referenced Token:

(a) Rule 14.13.5

(b) Rule 14.13.6

(c) Rule 15.4.4

(d) Rule 15.4.5

(e) Rule 15.7

(f) Rule 15.8

(g) Rule 15.9

(h) Rule 15.11

(i) Rule 15.11A.

19A.5.2 Payment received by a Licensed Firm in exchange for the issuance of Fiat- Referenced Tokens must be considered Relevant Money and must either be:

(a) maintained in a Client Account, in compliance with the Client Money Rules set out in Chapter 14; or

(b) invested in Reserve Investments which are held in one or more Reserve Accounts maintained with one or more Third-Party Agents.

Guidance

Before placing Reserve Investments in a Reserve Account maintained by a Third-Party Agent, in accordance with Rule 19A.5.2, a Licensed Firm must have obtained written confirmation of non-objection to the use of such Third-Party Agent from the Regulator, in accordance with Rule 15.4.2A.

19A.5.3 All Relevant Money and Reserve Investments held in accordance with Rule 19A.5.2 must be denominated in the fiat currency to which the par value of the Fiat-Referenced Token is referenced.

19A.5.4 Upon receipt of a direction from the Regulator, a Licensed Firm which has issued a Fiat-Referenced Token may be required to divest such Reserve Investments as may directed by the Regulator within the time period specified in such direction and place the proceeds from such divestiture in a Client Account.

19A.5.5 Prior to materially changing the composition of the Reserve Investments held in respect of a Fiat-Referenced Token it has issued, a Licensed Firm must provide the Regulator with written notice describing the nature of the material change to the allocation amongst investments and the rationale for such change.

19A.6 Segregation

19A.6.1 A Licensed Firm which has issued two or more Fiat-Referenced Tokens must segregate all Reserve Assets for each Fiat-Referenced Token from every other Fiat- Referenced Token issued by that Licensed Firm.

19A.7 Minimum Value

19A.7.1 A Licensed Firm which has issued a Fiat-Referenced Token must ensure at all times that the combined market value of all Reserve Assets held in respect of such Fiat- Referenced Token is equal to or exceeds the total value of all outstanding redemption claims in respect of such Fiat-Referenced Token as may be issued and outstanding as of such date.

19A.7.2 A Licensed Firm which has issued a Fiat-Referenced Token must, on or before the conclusion of each day, conduct a valuation of all Reserve Assets determining the current market value of such Reserve Assets to verify compliance with Rule 19A.7.1.19A.7.3

In the event a valuation conducted in accordance with Rule 19A.7.2 discloses that the Licensed Firm is, or has reasonable grounds to suspect it may be, in breach of Rule 19A.7.1 the Licensed

Firm must notify the Regulator immediately.

19A.8 Stress Testing

19A.8.1 A Licensed Firm which has issued a Fiat-Referenced Token must have systems in place to enable it to regularly stress test the composition of Reserve Investments and the market and counterparty risks to which they are exposed that may result in a breach of Rule 19A.7.1.

19A.8.2 The stress testing required in accordance with Rule 19A.8.1 must:

(a) be performed at least annually, or more frequently upon written notification from the Regulator and;

(b) consider scenarios of liquidity stress, such as large-scale redemptions of each Fiat-Referenced Token.

19A.8.3 A written summary of the results of the stress testing performed in accordance with Rule 19A.8.2 must be provided to the Regulator when that is completed.

19A.9 Attestation

19A.9.1 A Licensed Firm which has issued a Fiat-Referenced Token must prepare a monthly written attestation. An attestation prepared in compliance with this Rule must:

(a) be provided by an independent third party for whom the Licensed Firm has received written confirmation of non-objection from the Regulator; and

(b) state at the expiry of the period for which the attestation has been prepared and at the close of business on one randomly selected day during such attestation period for each Fiat-Referenced Token issued:

(i) the amount of Relevant Money held;

(ii) the market value of all Reserve Investments, both in aggregate and by type of investment;

(iii) the total par value of the issued and outstanding Fiat-Referenced Tokens as at close of business on such day;

(iv) whether the total market value of all Reserve Investments and Relevant Money held by the Licensed Firm in respect of the Fiat-Referenced Token equals or exceeds the total redemption value of the issued and outstanding Fiat-Referenced Tokens as at the close of business on such day; and

(v) whether the investments acquired with the proceeds from the sale of Fiat-Referenced Tokens are either held as Relevant Money or alternatively invested in investments which qualify as Reserve Investments.

19A.9.2 The attestation required in accordance with Rule 19A.9.1 must be published on the website of the Licensed Firm and submitted to the Regulator by the end of the month following the expiry of the period covered by such attestation.

19A.10 Audit

19A.10.1 A Licensed Firm which has issued a Fiat-Referenced Token must perform an annual audit of:

(a) the composition and valuation of Reserve Investments; and

(b) the Licensed Firm's internal controls and compliance arrangements in relation to the Rules governing the management of Reserve Investments.

19A.10.2 The audit required in accordance with Rule 19A.10.1 must be performed by an independent external auditor approved by the Regulator. The results of such audit must be addressed to the Licensed Firm and the Regulator and be submitted by the Licensed Firm to the Regulator no later than four months following the end of the Licensed Firm's financial year.

19A.11 Treatment of claims of holders of a Fiat-Referenced Token

19A.11.1 All holders of issued and outstanding Fiat-Referenced Tokens have a pro-rata claim against the Relevant Money and Reserve Investments held by the Licensed Firm in respect of such issued and outstanding Fiat-Referenced Tokens, in accordance with the redemption rights set out in the relevant white paper.

19A.11.2 Where a Licensed Firm has issued a Fiat-Referenced Token and has placed Relevant Money or Reserve Investments with one or more Third-Party Agents located outside GMC, the Licensed Firm must take such additional steps as may be required in the jurisdiction of each Third-Party Agent to ensure that interests of the holders of the issued and outstanding Fiat-Referenced Tokens, as set out in Rule 19A.11.1, rank in priority to interests of any other creditor of the Licensed Firm.

19A.11.3 Where a Licensed Firm has breached Rule 19A.7.1, or in circumstances where the Regulator has reason to consider that such Rule has been or may be breached or that there may be a Failure of the Licensed Firm, the Regulator may direct that all or a portion of the Reserve Investments be liquidated and maintained as Relevant Money, in accordance with Rule 19A.5.4.

19A.11.4 Where a Licensed Firm has breached Rule 19A.7.1 or a Pooling Event has occurred in accordance with Rule 14.13.3, a Licensed Firm which has issued a Fiat-Referenced Token must liquidate all Reserve Investments and distribute all Relevant Money in the following order of priorities:

(a) first, to all holders of all issued and outstanding Fiat-Referenced Tokens on a pro-rata basis to an amount not to exceed the par value of the Fiat-Referenced Token as expressed in the relevant white paper;

(b) secondly, in the event that the holders of the issued and outstanding Fiat- Referenced Tokens are entitled to interest or any other monetary benefit, to satisfy such claims, as calculated in accordance with the relevant white paper, on a pro rata basis; and

(c) thirdly, to the general creditors of the Licensed Firm.

19A.11.5 Where:

(a) a liquidator, receiver or administrator has been appointed over the Licensed Firm, payment must be made in the order of priorities established by Rule 19A.11.4, in accordance with the Insolvency Regulations; or

(b) no liquidator, receiver or administrator has been appointed in respect of the Licensed Firm and a Pooling Event has occurred, payment must be made in accordance with Rule 19A.11.4 as directed by the Regulator.

19A.11.6 Where, after the Failure of a Licensed Firm, the Reserve Assets are insufficient to satisfy in full the claims of all holders of the issued and outstanding Fiat-Referenced Tokens, or are not immediately available to satisfy such claims, a holder of an issued and outstanding Fiat-Referenced Token may claim for any shortfall against the Licensed Firm as an unsecured creditor of the Licensed Firm.

20. **[Not in use]**

21. ADDITIONAL RULES FOR ADMINISTERING A SPECIFIED BENCHMARK OR PROVIDING INFORMATION IN RELATION TO A SPECIFIED BENCHMARK

21.1 Application

21.1.1 This chapter applies to a Licensed Firm conducting the Regulated Activity of Administering a Specified Benchmark or the Regulated Activity of Providing Information in Relation to a Specified Benchmark.

21.1.2 In addition to the general requirements applicable to Licensed Firm set out elsewhere in the Rules, a Licensed Firm carrying on the Regulated Activity of Administering a Specified Benchmark (for the purposes of this chapter, a "Benchmark Administrator") or a Licensed Firm carrying on the Regulated Activity of Providing Information in Relation to a Specified Benchmark (for the purposes of this chapter, a "Specified Benchmark Information Provider") must comply with this chapter, as applicable.

21.2 Specifying a Specified Benchmark

21.2.1 The Regulator may determine and maintain a list of Benchmarks which are Specified Benchmarks. When determining whether a Benchmark is a Specified Benchmark, the Regulator will have regard to, amongst other factors, the size of the underlying market relevant to the Benchmark and the total value of contracts which reference the Benchmark.

21.3 Administering a Specified Benchmark

21.3.1 Application

This section applies to a Benchmark Administrator.

Organisational and governance requirements

21.3.2 A Benchmark Administrator must:

(a) maintain effective organisational and governance arrangements that enable it to carry out the activity of Administering a Specified Benchmark;

(b) maintain the integrity of the market, including by way of contractual certainty of contracts which reference the Specified Benchmark it administers;

(c) maintain effective organisational and administrative arrangements for:

(i) ensuring the confidentiality and integrity of the information used and processes followed in the course of determining the Specified Benchmark it administers; and

(ii) identifying and managing any conflicts of interest that arise, or may arise,

from the process of administering the Specified Benchmark it administers; and

(d) appoint a benchmark administration manager with adequate resources and expertise for the purposes of managing the oversight of the Benchmark Administrator's compliance with these Rules.

21.3.3 Information used by a Benchmark Administrator for the purposes of determining a Specified Benchmark

A Benchmark Administrator must:

(a) ensure that a Specified Benchmark it administers is determined using adequate information, including to the extent that such information is:

(i) representative of the state of the market that the Specified Benchmark references; and

(ii) made available by reputable, reliable and resilient data sources;

(b) be able to identify, at any stage, all Persons providing information in relation to the Specified Benchmark it administers;

(c) be able to provide to the Regulator all information (including in (b) above) used to determine a Specified Benchmark it administers, on a daily basis, or as often as such determinations are made; and

(d) provide to the Regulator information pertaining to the activity in the underlying markets relevant to a Specified Benchmark it administers, on a quarterly basis, or as otherwise requested by the Regulator.

21.3.4 Monitoring, surveillance and reporting

A Benchmark Administrator must have effective arrangements:

(a) that enable the regular monitoring and surveillance of the information, and source of information, used in the process of determining the Specified Benchmark it administers;

(b) for the monitoring, and reporting, of any conduct that influences, or attempts to influence, the value, or process for the determination, of the Specified Benchmark it administers, including in circumstances where such conduct is false, misleading or manipulative;

Guidance

1. A Benchmark Administrator should consider the reporting and escalation mechanisms between itself and its benchmark administration manager, as well as its process for the internal reporting of such conduct to its senior management.

(a) for taking appropriate action against any Person providing information in relation to the Specified Benchmark it administers, where it suspects, or has formed a view that, a Person has engaged in any conduct that influences, or attempts to influence, the value, or process of the determination of the Specified Benchmark administered by the Benchmark Administrator, including in circumstances where such conduct is false, misleading or manipulative;

(b) to report to the Regulator, as soon as reasonably practicable, the details of:

(i) any conduct identified in Rule 21.3.4(b); and

(ii) any action it has taken under Rule 21.3.4(c);

(c) that enable it to restrict or suspend any Person providing information in relation to the Specified Benchmark it administers, pursuant to any action it takes under Rule 21.3.4(c).

2. For the purposes of this Rule, any conduct that influences, or attempts to influence, the value, or process for the determination, of a Specified Benchmark in a manner that is false, misleading or manipulative, includes conduct referred to in section 104 of FSMR.

21.3.5 Benchmark Administrator rules and practice standards

The Benchmark Administrator must:

(a) in relation to the Specified Benchmark it administers, develop rules and practice standards which set out the responsibilities, including those applicable under the Rules for:

(i) Specified Benchmark Information Providers;

(ii) other Persons providing information in relation to a Specified Benchmark from outside GMC; and

(iii) the Benchmark Administrator;

Guidance

1. For the purposes of this Rule 21.3.5(a), a Benchmark Administrator should note the requirements set out in section 104 of FSA, and, as applicable, Rules 21.4.2, 21.4.3 and 21.4.4.

(a) undertake regular periodic reviews of:

(i) the rules and practice standards referred to under Rule 21.3.5(a);

(ii) the setting, and definition of, the Specified Benchmark it administers; and

(iii) where applicable, the composition of any panel of Persons that provide information in relation to the Specified Benchmark it administers, and the process for providing such information;

(b) before making any changes as a result of a review referred to under Rule 21.3.5(b):

(i) obtain written consent from the Regulator to make such changes;

(ii) after obtaining written consent from the Regulator, publish a draft of the proposed changes and a notice that representations relating to the proposed changes may be submitted to the Benchmark Administrator within a specified period of time; and

(iii) have appropriate regard to any such representations so made;

(c) ensure that it can, with reasonable certainty, contractually enforce the rules and practice standards referred to under Rule 21.2.5(a).

2. Where:

(a) a Specified Benchmark is determined solely on the basis of information obtained from a market operated by a Recognised Body, a Multilateral Trading Facility or an Organised Trading Facility; and

(b) the Benchmark Administrator for that Specified Benchmark is also that Recognised Body, Multilateral Trading Facility, or Organised Trading Facility;

(c) the Benchmark Administrator may choose to incorporate the rules and practice standards required under Rule 21.3.5 into the rules of that Recognised Body, Multilateral Trading Facility, or Organised Trading Facility, provided that this does not affect the Benchmark Administrator's ability to comply with its regulatory obligations.

21.3.6 Fair and non-discriminatory access to Specified Benchmarks

(a) A Benchmark Administrator must ensure that a user of a Specified Benchmark it administers (a "user") is granted non-discriminatory access to:

(i) relevant price and data feeds and information on the composition, methodology and pricing of the Specified Benchmark; and

(ii) licenses or other arrangements to use the Specified Benchmark.

(b) Where a Benchmark Administrator charges a fee for access to the Specified Benchmark, access must be granted on reasonable commercial terms, and commensurate to the price at which access is granted to, or at which the intellectual property rights are licensed to, other users or related persons, for the purposes of pricing, trading and clearing.

(c) A Benchmark Administrator can charge different fees for access to the Specified Benchmark to different users, or related persons, only where this can be objectively justified on reasonable terms, including consideration of the quantity, scope, or field of use requested.

21.4 Specified Benchmark Information Providers

21.4.1 Application

This section applies to a Specified Benchmark Information Provider.

21.4.2 General Rules

A Specified Benchmark Information Provider must:

(a) have adequate governance arrangements to ensure that the information it provides in relation to a Specified Benchmark is not affected by any existing or potential conflict of interest, including, but not limited to, the Specified Benchmark Information Provider's exposure to any Specified Investment or Virtual Asset that uses the

Specified Benchmark as a reference;

(b) have adequate and effective systems and controls for ensuring that the integrity, accuracy and reliability of the information it provides in relation to the Specified Benchmark is maintained at all times;

(c) have adequate arrangements in place for keeping records of communications of all information provided in relation to the Specified Benchmark, including, but not limited to, the provision of trade and order data, where applicable; and

(d) fully cooperate with the Licensed Firm administering a Specified Benchmark, with the Regulator and with any other person receiving information from the Information Provider, in respect of matters relating to the administration of a Specified Benchmark, and make available upon request any relevant information and records.

21.4.3 Exercise of judgment or discretion

Where a Specified Benchmark Information Provider exercises judgment or discretion when providing information in relation to a Specified Benchmark, it must:

(a) have adequate arrangements, including policies and procedures, guiding such use of judgement or exercise of discretion; and

(b) retain records detailing the rationale for the exercise of any such judgement or discretion, whenever exercised.

21.4.4 Specified Benchmark Information Providers – Price Reporting Agencies

Where a Specified Benchmark Information Provider is also a Price Reporting Agency, the Licensed Firm must comply with the requirements of MIR Rule 3.11.2, in addition to the Rules specified under this section 21.4.

22. ADDITIONAL RULES – LICENSED FIRMS CONDUCTING A REGULATED ACTIVITY IN RELATION TO SPOT COMMODITIES

22.1 Application and Interpretation

22.1.1 This chapter applies to a Licensed Firm conducting a Regulated Activity in relation to Spot Commodities.

22.1.2 For the purposes of a Licensed Firm conducting a Regulated Activity in relation to Spot Commodities, all references to "Client Investments" in GEN shall be read as references to "Spot Commodity" or "Spot Commodities", as applicable.

22.2 Accepted Spot Commodities

22.2.1 A Licensed Firm conducting a Regulated Activity in relation to Spot Commodities must only allow Accepted Spot Commodities.

22.2.2 For the purposes of determining whether in its opinion, a Spot Commodity meets the requirements of being an Accepted Spot Commodity, the Regulator will consider –

(a) the Licensed Firm's requirements for, and standards used, in relation to responsible and sustainable sourcing, including adherence to internationally recognised

certification standards, as applicable, to the relevant Spot Commodity (as set out in Rule 22.3);

(b) the market fundamentals in respect of the relevant Spot Commodity's market, including -

(i) its market practice and characteristics;

(ii) its liquidity, and depth and breadth of demand and supply;

(iii) the number of active participants;

(iv) market transparency; and

(v) its fair and orderly operation; and

(c) any other factors that, in the opinion of the Regulator, are to be taken into account in determining whether or not a Spot Commodity is appropriate for the purpose of the Licensed Firm conducting a Regulated Activity in relation to a Spot Commodity.

22.2.3 For the purposes of this chapter, an Environmental Instrument under paragraph 99B(b) of Part 3 of Schedule 1 of FSA may be deemed by the Regulator to be an Accepted Spot Commodity.

22.3 Responsible and Sustainable Sourcing

22.3.1 A Licensed Firm must ensure compliance with appropriate standards for responsible and sustainable sourcing in regard to (i) its products, services and activities,
(ii) activities of its users, and (iii) Accepted Spot Commodities.

22.3.2 A Licensed Firm must –

(a) have arrangements in place to ensure that it, and its market participants, are certified as compliant with:

(i) ISO 14001 (Environmental Management Systems (EMS));

(ii) OHSAS 18001 / ISO 45001 (Health C Safety Management); or

(iii) equivalent certification standards; and

(b) ensure its arrangements are aligned with the OECD's Due Diligence Guidance for Responsible Mineral Supply Chains (as applicable).

22.4 Delivery and Storage Facilities

22.4.1 A Licensed Firm, and its participants, must only use delivery and/or storage facilities for Accepted Spot Commodities from:

(a) within GMC, or

(b) other appropriate jurisdictions that can meet the requirements of Rule 22.4.2.

22.4.2 For the purposes of Rule 22.4.1, any delivery and/or storage facility used by a Licensed Firm must be a facility in relation to which –

(a) where the delivery and/or storage facility operates from outside GMC, it operates under rules and regulations equivalent to those applying in GMC;

(b) the delivery and/or storage facility will, at all times, comply with all applicable laws in the relevant jurisdiction or elsewhere, including in particular and without limitation:

(i) local port conditions;

(ii) local, national and global customs requirements;

(iii) local, national and global anticorruption laws;

(iv) local, national and global taxation requirements; and

(v) any other applicable rules and regulations;

(c) the delivery and/or storage facility adheres to:

(i) appropriate international standards for storage and delivery mechanisms, including with regard to IOSCO's Good and Sound Practices; and

(ii) OHSAS 18001 Health C Safety Management or equivalent certification standards;

(d) it has appropriate audit and control arrangements in place, in relation to inventories, deliveries and physical infrastructure; and

(e) ithas appropriate insurance arrangements in place to cover operational, security, fraud, natural disasters and other applicable risks.

Storage Facilities

22.4.3 A Licensed Firm must have arrangements in place for the approval, management, monitoring and control for Accepted Spot Commodities and the storage facilities operated by itself or by third parties, including in relation to:

(a) security arrangements;

(b) periodic stock reports;

(c) periodic inventory audits;

(d) dispute resolution procedures where the storage facility materially fails to meet any of its obligations to the title holder;

(e) storage or other fees; and

(f) rights and obligations in the event of storage facility insolvency, as per the rules, terms, conditions and other obligations of the Licensed Firm.

Sound Delivery Arrangements

22.4.4 A Licensed Firm must have arrangements in place, including with any delivery and/or storage facility it is using, for the approval, management, monitoring and controls for the delivery of Accepted Spot Commodities, including in relation to the:

(a) testing techniques and protocols used to determine contractual performance of the Accepted Spot Commodity properties and characteristics;

(b) mechanism for adjusting the delivery (settlement) price depending on testing (a), if applicable;

(c) inclusion or exclusion of taxes and other levies or costs;

(d) commercial terms of delivery, such as FOB (Free On Board), CIF (Cost, Insurance, Freight), CFR (Cost and Freight), DES (Delivered ex-Ship) and DAP (Delivered-at-Place);

(e) audit process for accepted product origins and authentication requirements;

(f) delivery rules and limit determination, review and update; and

(g) delivery audit and oversight.

Delivery Disruption or Dispute

22.4.5 A Licensed Firm must have arrangements in place, including with any delivery and/or storage facility it is using, to mitigate the risks of disruption to, or dispute over, the delivery of Accepted Spot Commodities, including in relation to:

(a) late delivery or loading of the Accepted Spot Commodity;

(b) the method for resolution of a delay in delivery, including alternative loadings, dates or book outs;

(c) resolution mechanisms for force majeure events; and

(d) a dispute over the quality or condition of the Commodity, that results from a deviation in the Accepted Spot Commodity deliverable specifications.

Delivery Underperformance

22.4.6 A Licensed Firm must have arrangements in place to determine fair and reasonable compensation due to underperformance against the terms of the Accepted Spot Commodity delivery, in accordance with the terms of the relevant contract or specification, including for parameters such as:

(a) logistics, and the inconvenience for the buyer, in the case of a seller failing to perform; or

(b) logistics and the inconvenience for the seller in the case of a buyer not performing.

22.5 Spot Commodity Title

22.5.1 Where applicable, a Licensed Firm must have arrangements in place for the approval, management, monitoring and control for the holding, delivery, and recording of a Spot Commodity Title, including:

(a) title specifications;

(b) title issuance;

(c) title transfer, and history of transfer;

(d) record keeping and periodic reconciliation; and

(e) audit and oversight of the Spot Commodity Title arrangements.

22.6 [Not in use]

22.7 Additional Rules applicable to Operating a Recognised Investment Exchange, Multilateral Trading Facility or an Organised Trading Facility in relation to Accepted Spot Commodities

22.7.1 A Licensed Firm that is Operating a Licensed Investment Exchange or Multilateral Trading Facility in relation to Accepted Spot Commodities must comply with the requirements set out in COBS, Chapter 8, save for Rule 8.6.

22.7.2 A Licensed Firm that is Operating an Organised Trading Facility in relation to Accepted Spot Commodities must comply with the requirements set out in COBS, Chapter 8, save for Rule 8.5.

22.7.3 For the purposes of Rules 22.7.1 and 22.7.2, the following references in COBS, Chapter 8 should be read as follows:

(a) references to "Investment" or "Investments" shall be read as references to "Spot Commodity" or "Spot Commodities", and

(b) references to "Financial Instrument" or "Financial Instruments" (including those in MIR as incorporated by virtue of COBS Rule 8.2.1) shall be read as references to "Accepted Spot Commodity" or "Accepted Spot Commodities" as applicable.

22.7.4 A Licensed Firm that is Operating a Recognised Investment Exchange, Multilateral Trading Facility or an Organised Trading Facility in relation to Accepted Spot Commodities must comply with the following requirements set out in MIR, Chapter 5 -

(a) Rules 5.1 - 5.3; and

(b) Rule 5.4.1, in the circumstances identified in Items 19, 20, 24 (a) and (b), 27, 28, 32, 33, 35, 37, 38, 39, 41, 43, 45, 46, 47, 48, 49, 50, 52, 53, 54, 55, 57, 58, 59, 60, 61 and 62.

22.7.5 For the purposes of Rule 22.7.4, all references in MIR to:

(a) "Licensed Body" or "Licensed Bodies" shall be read as references to "Licensed Firms"; and

(b) "Financial Instrument" or "Financial Instruments" shall be read as references to "Accepted Spot Commodity" or "Accepted Spot Commodities", as applicable.

22.7.6 GEN Rule 5.2.14 shall apply to a Licensed Body operating a Licensed Investment Exchange, and a Licensed Firm Operating a Multilateral Trading Facility or an Organised Trading Facility in relation to Accepted Spot Commodities, and all references to "Investment" shall be read as references to "Accepted Spot Commodities".

22.8 Additional Rules applicable to Providing Custody in relation to Accepted Spot Commodities

22.8.1 A Licensed Firm that is Providing Custody in relation to Accepted Spot Commodities must comply with the requirements set out in COBS, Chapters 14, 15 and 16.

22.8.2 For the purposes of Rule 22.8.1, the following references in Chapters 14, 15 and 16 should be read as follows –

(a) references to "Client Assets" shall be read as encompassing "Accepted Spot Commodities"; and

(b) references to "Investment" or "Investments", (and, a result, the corresponding references to "Client Investments") shall be read as encompassing "Accepted Spot Commodity" or "Accepted Spot Commodities", as applicable.

22.8.3 For the purposes of a Licensed Firm that is Providing Custody in relation to Accepted Spot Commodities, the following requirements in COBS, Chapters 14 and 15 shall be read as follows –

(a) the reconciliations of the Client Accounts required under COBS Rule:

(i) 14.2.12(a) shall be carried out at least every week; and

(ii) 14.2.12(d) shall be carried out within 5 days of the date to which the reconciliation relates;

(b) all reconciliations required under COBS Rule 15.9.1 shall be conducted at least every week.

22.9 Additional Rules for Operating an Accepted Spot Commodity Auction Platform

22.9.1 A Licensed Firm may operate a Spot Commodity Auction Platform for the purposes of periodic price discovery of an Accepted Spot Commodity or Spot Commodity Title, subject to the approval of the Regulator and where the Licensed Firm satisfies Rules 21.9.2 and 22.9.3.

Systems and Controls

22.9.2 A Licensed Firm must have adequate arrangements demonstrating that it:

(a) can operate a Spot Commodity Auction Platform;

(b) can assess, mitigate and manage the risks relating to the performance of a Spot Commodity Auction Platform;

(c) monitors bids made by, and transactions effected by, participants on the Spot Commodity Auction Platform;

(d) is responsible for, and performs, the full technical operation of the Spot Commodity Auction Platform, including in relation to contingency arrangements for disruption to the Spot Commodity Auction Platform; and

(e) is responsible for, and operates, the arrangements set out in Rule 22.9.3.

Safeguards for Participants

22.9.3 A Licensed Firm must ensure that business conducted on a Spot Commodity Auction Platform is conducted in an orderly manner and affords proper protection to participants, including:

(a) by way of transparent rules and procedures:

(i) to provide for fair and orderly auctions;

(ii) to establish objective criteria for the efficient execution of transactions; and

(iii) for the settlement of the Accepted Spot Commodity or transfer of the Spot Commodity Title;

(b) in regards to the arrangements made for relevant information to be made available to participants on the Spot Commodity Auction Platform;

(c) in regards to the arrangements made for recording transactions executed by participants on the Spot Commodity Auction Platform;

(d) in regards to the measures adopted to reduce the extent to which the Spot Commodity Auction Platform's facilities can be used for a purpose connected with Market Abuse or Financial Crime, and to facilitate their detection and monitor their influence; and

(e) details of fees, costs and other charges, and the basis upon which the Licensed Firm will impose those fees, costs and other charges.

22.10 Capital Requirements

22.10.1 Where a Licensed Firm is conducting:

(a) the Regulated Activity of Operating a Multilateral Trading Facility or the Regulated Activity of Operating an Organised Trading Facility in relation to Accepted Spot Commodities, the capital requirements set out in MIR 3.2 (Capital Requirements) shall apply to all the Regulated Activities undertaken by the Licensed Firm in relation to Spot Commodities; and

(b) For the purposes of this Rule, all references in MIR 3.2 to a "Licensed Investment Exchange" shall be read as references to a "Licensed Firm".

Guidance

For any one or more Regulated Activities in relation to Spot Commodities, other than Operating a Multilateral Trading Facility or Operating an Organised Trading Facility, the

capital requirements applicable to such Regulated Activity, or Regulated Activities, as relevant, shall apply.

23. CORE RULES – LICENSED FIRMS DEALING IN OTC LEVERAGED PRODUCTS

23.1 Application

The Rules in this Chapter apply to every Licensed Firm with respect to the conduct of any Regulated Activity in relation to an OTC Leveraged Product.

23.2 Interpretation

In this Chapter, the following terms have the following meanings attributed to them:

"major currency" means any of the following:

(i) U.S. Dollar;

(ii) Euro;

(iii) Japanese Yen;

(iv) Pound Sterling;

(v) Swiss Franc;

(vi) Canadian Dollar;

(vii) Australian Dollar; or

(viii) New Zealand Dollar;

"major equity indices" means any index identified in the table below

Country	**Index**
Australia	All Ordinaries
Austria	Austrian Traded Index
Belgium	BEL 20
Canada	TSE 35, TSE 100, TSE 300
France	CAC 40, SBF 250
Germany	DAX

Country	Index
European Union	Dos Jones Stoxx 50 Index, FTSE Eurotop 300, MCSI Euro Index
Hong Kong	Hang Seng
Italy	MIB 30
Japan	Nikkei 225, Nikkei 300, TOPIX
Korea	Kospi
Netherlands	AEX
Singapore	Straits Times Index
Spain	IBEX 35
Sweden	OMX
Switzerland	SMI
United Kingdom	FTSE 100, FTSE Mid 250, FTSE All Share
United States of America	SCP 500, Dow Jones Industrial Average, NASDAQ Composite, Russell 2000

"margin" means the means the amount of Money a Retail Client has agreed to pay to the Licensed Firm in order to open a position in relation to an OTC Leveraged Product;

"non-major currency" means any currency which is not a major currency. "relevant

sovereign debt" means an issue of public debt by or on behalf of:

(i) the United Kingdom;

(ii) the United States of America;

(iii) France;

(iv) Australia;

(v) Germany;

(vi) Japan;

(vii) Canada;

(viii) Switzerland; or

(ix) a member state of the EU that has adopted the Euro as its currency.

"rolling spot forex contract" means a contract for difference where the value of the contract is ultimately determined by reference, wholly or in part, to fluctuations in an exchange rate or the value of a currency.

23.3 Marketing Materials

A Licensed Firm must include sufficiently prominent and clear links to the risk disclosure statement containing the information set out in Rule 23.4(3) on the main page of its website, in all marketing and educational materials, other communications channels and as part of each risk warning or disclaimer that appears on its website.

23.4 Risk disclosure Statement

23.4.1. Before a Licensed Firm opens a trading account enabling a Retail Client to buy and sell OTC Leveraged Products, it must:

(a) provide a separate risk disclosure statement, as described in Rule 23.4.3, to Retail Clients as part of the onboarding process in good time before the Licensed Firm carries on any business for a Retail Client;

(b) obtain a documented acknowledgement from such Retail Client that they have received and reviewed the risk disclosure statement and fully understand and accept the risks involved in trading in OTC Leveraged Products;

(c) provide a duplicate copy of the documented acknowledgement to each Retail Client; and

(d) maintain a record of the acknowledgment in (b) in accordance with applicable record keeping requirements.

23.4.2 The risk disclosure statement must also be:

(a) provided on an annual basis to each Retail Client; and

(b) published and available at all times on the website of the Licensed Firm.

23.4.3 A risk disclosure statement provided by a Licensed Firm to a Retail Client in accordance with Rule 23.4.1 must include a prominent warning that investing in OTC Leveraged Products involves the risk of losing substantially more than the initial margin posted by the Retail Client, and further state that:

(a) the risk disclosure statement may not identify or address all risks associated with OTC Leveraged Products;

(b) the Retail Client is at risk of losing all of their capital outlay and any profits not

redeemed;

(c) the Retail Client is at risk of losing money and accumulating losses rapidly;

(d) margin trading and use of leverage amplifies losses when they occur;

(e) margin-trading limits, stop-loss limits, or other systems and controls designed to mitigate or limit loss exposures may not be effective or may fail. Where relevant, an explanation of stop-loss orders, which must include clear information about whether or not a stop-loss is "guaranteed" (i.e. it would operate whatever the market circumstances are), and that in the case that it is not guaranteed, it may not limit Retail Client losses in the event of highly volatile trading conditions in an underlying asset or reference price;

(f) the risk of slippage, i.e. a divergence between the price at which a trade was approved and the price at which it was executed; and

(g) most Retail Clients transacting in OTC Leveraged Products lose money.

23.4.4. The risk disclosure statement must include a prominent display of performance data for each relevant OTC Leveraged Product that clearly identifies the percentage of active Retail Client accounts that were profitable. For the purposes of this disclosure:

(a) active accounts include the total number of Retail Client accounts in which that specific OTC Leveraged Product was traded or held during that period;

(b) profitable accounts include each active account for which net trading activity involving only that specific OTC Leveraged Product resulted in a realised profit, excluding any bonus or promotional amount, for that period; and

(c) the performance data must state separately each of the four most recently completed calendar quarters or, where the Licensed Firm has not yet completed four calendar quarters of offering OTC Leveraged Products to Retail Clients, those calendar quarters that have been completed.

23.4.5 The risk disclosure statement must state that it is the responsibility of the Retail Client:

(a) to consider whether the products are suitable for them and whether they can afford to risk all of their capital outlay; and

(b) to consult with their own legal and other professional advisors before committing to any transaction, signing any documents and/or entering into any legally binding arrangement in relation to these products.

23.4.6. The risk disclosure statement must state whether the Licensed Firm has any actual or potential conflicts of interest with their Retail Clients, including placing the interests of the Retail Client first, and clearly identify:

(a) what those conflicts of interest are, or may be;

(b) any potential, associated benefits for the Licensed Firm;

(c) the right of the Retail Client to object to those conflicts of interest; and

(d) the Licensed Firm's obligation to request a positive written affirmation from the Retail Client as to whether or not they accept the actual or potential conflicts of interest.

23.4.7 The risk disclosure statement must provide details of the Regulator of the Licensed Firm.

23.4.8 All information provided or made available by the Licensed Firm to a Retail Client in accordance with this Chapter must be provided or made available in English or the language they are most likely to comprehend, using easily understandable language and in a clear and comprehensible form.

Guidance

1. The requirements in this section specify the minimum information that a Licensed Firm must communicate to its Retail Clients and it should consider whether there is any additional information that should be disclosed to them.

2. The risk disclosure statement should not be longer than three A4 size pages, including any diagram or numerical illustration, but excluding the Retail Client's acknowledgement. Information in the short-form disclosure fact sheet (including footnotes) shall be presented in a font size of at least 10-point Calibri or Times New Roman.

23.5 Appropriateness Assessment

23.5.1 A Licensed Firm must not offer OTC Leveraged Products to a Retail Client, or provide any advice or make arrangements on behalf of a Retail Client relating to OTC Leveraged Products unless it has first completed an assessment of the skill, experience, knowledge, financial resources and risk tolerance of the Retail Client, such that the Licensed Firm may reasonably conclude that the Retail Client has:

(a) adequate experience and skill enabling them to understand the potential risk of loss involved in investing in OTC Leveraged Products; and

(b) liquid financial resources sufficient to absorb potential losses resulting from trading in OTC Leveraged Products.

Guidance

1. In order to satisfy the requirements imposed by Rule 23.5.1, the Licensed Firm should, prior to establishing a business relationship with a Retail Client, consider whether such Retail Client demonstrates an understanding of the risks and potential magnitude of losses which they may be exposed to.
2. In order to gain such understanding, the Licensed Firm should consider the trading history of the Retail Client, including the volume of that trading, as well as any relevant professional qualifications the Retail Client might have. The Licensed Firm

should also seek information concerning the liquid financial resources of the Retail Client, which will enable them to absorb losses which may result from trading in OTC Leveraged Products, including whether the Retail Client may be able to absorb losses arising from their contemplated investments without needing to resort to credit facilities.

23.5.2 The assessment required by Rule 23.5.1 must be reassessed by a Licensed Firm:

(a) on an annual basis; or

(b) where there is any material change in the financial situation or risk tolerance of the Retail Client, if that change occurs prior to the annual reassessment.

23.5.3 A Licensed Firm must maintain a record of the assessment required by Rule 23.5.1, in accordance with applicable record keeping requirements.

23.6 Margin Requirements for Retail Clients

A Licensed Firm must require a Retail Client to have posted margin, in the form of Money, before it opens a position in an OTC Leveraged Product for that Retail Client of at least the following proportion of the value of the exposure of the Retail Client:

(a) 3.33% for major currency pairs and relevant sovereign debt;

(b) 5% for non-major currency pairs, gold and major equity indices;

(c) 10% for commodities, excluding gold, and non-major equity indices;

(d) 20% for individual equities; or

(e) 50% for Virtual Assets.

Guidance

1. The funds in the account of a Retail Client consist of the margin deposited in the account for the purpose of trading OTC Leveraged Products plus unrealised net profits from open positions in them, the latter taken as the sum of unrealised gains and losses of all open positions recorded in the account. Any cash or other assets in the account for purposes other than trading OTC Leveraged Products do not represent funds available to meet the above margin requirements.

2. Margin deposited in the account of a Retail Client to meet a margin requirement above in relation a position in an OTC Leveraged Product may not be used to meet a margin requirement in relation to any other OTC Leveraged Products.

23.7 Margin close-out Requirements for Retail Clients

23.7.1 A Licensed Firm must ensure that “net equity” of a Retail Client in an account used to trade OTC Leveraged Products does not fall below 50% of the margin requirement, as outlined in COBS 23.6, required to maintain the Retail Client’s open positions.

23.7.2 Where the net equity of a Retail Client falls below 50% of the margin requirement, the Licensed Firm must close the Retail Client's open position(s) in OTC Leveraged Products as soon as market conditions allow.

Guidance

In this Rule, "net equity" means the sum of the deposited margin and the unrealised net profit and loss on open positions in that account.

23.8 Negative Balance Protection

The liability of a Retail Client for all their investments in OTC Leveraged Products connected to their account is limited to the funds in that account maintained for the purpose of trading OTC Leveraged Products.

Guidance

1. Funds in the account of a Retail Client are limited to the then current amount of deposited margin in the account plus all unrealised net profits from open positions.

2. Any cash or other assets in the account for purposes other than trading OTC Leveraged Products do not represent funds available to meet the liability.

23.9 Prohibition of Incentives

A Licensed Firm must not offer promotions, bonuses or other inducements to Retail Clients in connection with the offer or sale of OTC Leveraged Products, whether monetary or non-monetary in nature.

23.10 Promotion by Third Parties and Referrals

23.10.1 A Licensed Firmn must have systems and controls in place to ensure that introducing brokers are not actively promoting OTC Leveraged Products and that Retail Client acquisition does not involve the provision of investment advice or portfolio management on behalf of the Licensed Firm.

23.10.2 A Licensed Firm must not accept a referral of a Retail Client made by an unregulated Person where doing so involves the disbursement of a reward, whether monetary or non-monetary in nature, from the Licensed Firm to the unregulated Person.

23.10.3 A Licensed Firm must have adequate systems and controls to ensure compliance with Rule 23.10.2.

Guidance

For the purposes of Rule 23.10.2, an "unregulated Person" means a Person that is not a Licensed Firm or a Regulated Financial Institution.

23.11 Liquidity Providers

A Licensed Firm must, in relation to liquidity providers:

(a) undertake an assessment and conclude that the liquidity providers used are suitable to provide liquidity to its Retail Clients;

(b) ensure that the best price is available from liquidity providers for its Retail Clients, including under extreme market conditions;

(c) at all times retain more than one liquidity provider in order to better discharge the requirement stated in (b); and

(d) undertake independent monitoring of the quality of the orders executed by liquidity providers on behalf of its Retail Clients.

23.12 Additional Restrictions relating to OTC Leveraged Products

23.12.1 The Applicant must not offer or sell to Retail Clients OTC Leveraged Products which:

(a) relate to underlying non-financial instruments or non-commodities, binary options or analogous products;

(b) do not have a transparent pricing mechanism available for determining the price movement of the underlying reference, by which the profit or loss of each party to the OTC Leveraged Product may be determined;

(c) do not have a two-way pricing mechanism that permits the Retail Client to trade at the prices quoted during the currency of the OTC Leveraged Product.

23.12.2 A must not offer or arrange for Retail Clients to subscribe to "copy trading," "mirror trading," or similar services unless it holds a Financial Services Licence to undertake the Regulated Activity of Managing Assets and has implemented, to the satisfaction of the Regulator, effective systems and controls and governance to identify and manage all related material risks.

23.12.3 A Licensed Firm must ensure, to the extent possible, that a Retail Client does not fund its account through the use of a credit card or a third party credit facility.