

Handbook Notice No.49

November 2017

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1 Overview

Legislative changes

- 1.1 On 9 November 2017, the Board of the Financial Conduct Authority made changes to the Handbook in the instruments listed below.

CP	Title of instrument	Instrument No.	Changes effective
<u>15/43;</u> <u>16/19</u>	MiFID 2 Guide Instrument 2017	2017/63	3.1.18
<u>17/32</u>	Capital Requirements Directive IV (Amendment) Instrument 2017	2017/64	10.11.17

Summary of changes

- 1.2 The legislative changes referred to above are listed and briefly described in Chapter 2 of this Notice.

Feedback on responses to consultations

- 1.3 Consultation feedback is published in Chapter 3 of this Notice or in a separate Policy Statement.

FCA Board dates for 2017 and 2018

- 1.4 The table below lists forthcoming FCA board meetings. These dates are subject to change without prior notice.

December	6 and 7
January	18
February	22
March	22
April	26
May	24
June	28



July	26
September	27
October	25
November	15
December	13

2 Summary of changes

- 2.1 This chapter briefly describes changes to the FCA Handbook and other material made by the Financial Conduct Authority (FCA) Board on 9 November 2017. Where relevant, it also refers to the development stages of that material, enabling readers to look back at developmental documents if they wish. For information on changes made by the Prudential Regulation Authority (PRA) please see www.bankofengland.co.uk/pru/Pages/publications/default.aspx

MiFID 2 Guide Instrument 2017 (FCA 2017/63)

- 2.2 Following consultation in CP15/43¹ and CP16/19², the FCA Board has made a new Regulatory Guide. This MiFID 2 Guide (M2G) will sit on the FCA Handbook website but will not form part of the Handbook.
- 2.3 The instrument also adds a new definition for M2G to the Handbook Glossary.
- 2.4 In summary this instrument makes available to users of the Handbook a Guide which helps them navigate the complexities of MiFID 2.
- 2.5 This instrument comes into force on **3 January 2018**. Feedback is published in Chapter 3 of this Notice.

Capital Requirements Directive IV (Amendment) Instrument 2017 (FCA 2017/64)

- 2.6 Following consultation in CP17/32³, the FCA Board has made changes to the FCA Handbook section listed below:

1 [CP15/43 'Markets in Financial Instruments Directive II Implementation – Consultation Paper I' \(December 2015\)](#)

2 [CP16/19 'Markets in Financial Instruments Directive II Implementation' \(July 2016\)](#)

3 [CP17/32 'Quarterly Consultation Paper No 18' \(September 2017\)](#)



IFPRU 2.2

- 2.7 In summary this instrument makes changes to the Handbook to help ensure full implementation of article 83(3) of the Capital Requirements Directive.
- 2.8 This instrument comes into force on **10 November 2017**. Feedback is published in Chapter 3 of this Notice.

3 Consultation feedback

- 3.1 This chapter provides feedback on consultations that will not have a separate Policy Statement published by the FCA.

CP15/43 and CP16/19: Markets in Financial Instruments Directive II Implementation – MiFID 2 Guide

MiFID 2 Guide Instrument 2017

Background

- 3.2 In Consultation Paper (CP)15/43 we sought feedback on a MiFID 2 Handbook Guide for trading venues and data reporting service providers, to sit alongside the Handbook changes, as part of transposition. The aim of the navigation guide was to clarify how our approach to implementing MiFID 2 fitted in with the EU and domestic regulatory structure. We noted that the guide could be expanded to cover other firms and other areas of MiFID 2, when we issued further consultations, if respondents thought it helpful. Following a positive response to CP15/43, the prototype guide was followed by a similar guide in CP16/19. This guide related to firms' organisational requirements and how these are addressed in the FCA's Systems and Controls (SYSC) sourcebook, taking account of new EU requirements.

Feedback

- 3.3 In Policy Statement (PS)17/5 we noted that both of the guides were well received by respondents who thought that they were useful in understanding how MiFID 2 had been implemented in the UK and we said that we would go ahead and make the guides. In total for CP15/43, there were 12 responses to the question of whether you found the proposed MiFID 2 Guide helpful. 11 respondents agreed that the guide was helpful, while one suggested that its creation represented a departure from the Handbook providing a single definitive repository of regulation. In total for CP16/19, there were seven responses to

the question of whether stakeholders found the navigation guide to the implementation of the MiFID requirements in SYSC helpful. Six respondents said that they found the guide helpful and one suggested that it was not particularly helpful.

- 3.4 The main suggestions we received for improving the guides included clarifying their status and including a correlation table to MiFID 2 requirements. There were also suggestions to extend the guidance to make clear the position of authorised professional firms and to create a tailored 'reader's guide' enabling the lay person to navigate SYSC across different firm types and services.

Our response

- 3.5 We have clarified the status of the guides as general guidance by including the material in a Handbook instrument and will provide a link to a MiFID 2 transposition table in due course. We have broadened the scope of the guidance relating to SYSC to capture specialist firms such as authorised professional firms, UCITS managers and alternative investment fund managers and added signposts in organograms to key rules and regulations. We have decided to create a composite MiFID 2 Handbook Guide, comprising the two guides above, to sit alongside other FCA Regulatory Guides, accessible from the FCA Handbook homepage.

Cost benefit analysis and compatibility statement

- 3.6 As noted in CP15/43 and CP16/19, the guides constitute guidance only and not guidance on rules so there are no FSMA obligations on us to conduct a cost benefit analysis or produce a compatibility statement. That said, we consider that the Guide has positive benefits in assisting market participants to have greater clarity about their obligations and so advances our strategic objective and operational objectives.

Equality and diversity issues

- 3.7 As noted in PS17/5 and the previous equality impact assessments, we consider that the Guide does not adversely affect any of the groups with protected characteristics (ie age, disability, gender, pregnancy and maternity, race, religion and belief, sexual orientation and transgender).
- 3.8 The changes made by this instrument are listed in Chapter 2 of this Notice.



CP17/32 'Quarterly Consultation Paper No. 18' (Chapter 5 - Change to IFPRU 2.2)

Capital Requirements Directive IV (Amendment) Instrument 2017

Background

- 3.9 The instrument makes a change to a rule in Chapter 2 of the Prudential sourcebook for Investment Firms (IFPRU 2). The change is to help ensure full implementation of the Capital Requirements Directive (CRD).
- 3.10 The change adds a new sentence to IFPRU 2.2.28R(2). This will complement the existing text of the rule and help ensure full implementation of article 83(3) of CRD.

Feedback and our response

- 3.11 No feedback was received on the proposal so we have made the proposed change to the Handbook as consulted on.

Cost benefit analysis

- 3.12 As set out in Consultation Paper (CP)17/32⁴, CP13/6 'Capital requirements for investment firms' already included an analysis of the incremental impact of the overall CRD IV package in terms of its effect on firms and markets within our remit. The change to IFPRU 2.2 was originally consulted on as part of this package so we do not consider that a further cost benefit analysis is required.

Equality and diversity issues

- 3.13 We consider that our proposal does not adversely impact any of the groups with protected characteristics.
- 3.14 The changes made by this instrument are listed in Chapter 2 of this Notice.

4 CP17/32 'Quarterly Consultation Paper No 18' (September 2017)



4 Additional information

Making corrections

- 4.1 The FCA reserves the right to make correctional or clarificatory amendments to the instruments made at the Board meeting without further consultation should this prove necessary or desirable.

Publication of Handbook material

- 4.2 This Notice is published on the FCA website and is available in hardcopy.
- 4.3 The formal legal instruments (which contain details of the changes) can be found on the FCA's website listed by date, reference number or module at www.handbook.fca.org.uk/instrument. The definitive version of the Handbook at any time is the version contained in the legal instruments.
- 4.4 The changes to the Handbook are incorporated in the consolidated Handbook text on the website as soon as practicable after the legal instruments are published.
- 4.5 The consolidated text of the Handbook can be found on the FCA's website at www.handbook.fca.org.uk/. A print version of the Handbook is available from The Stationery Office's shop at www.tsoshop.co.uk/Financial-Conduct-Authority-FCA/.
- 4.6 Copies of the FCA's consultation papers referred to in this Notice are available on the FCA's website.

Obligation to publish feedback

- 4.7 This Notice, and the feedback to which Paragraph 1.3 refers, fulfil for the relevant text made by the Board the obligations in sections 138I(4) and (5) and similar sections of the Financial Services and Markets Act 2000 (the Act). These obligations are: to publish an account of representations received in response to consultation and the FCA's response to them; and to publish (where applicable) details of any significant differences between the provisions consulted on and the provisions made by the Board, with a cost benefit analysis and a



statement under section 138K(4) of the Act if a proposed altered rule applies to authorised persons which include mutual societies.

Comments

- 4.8 We always welcome feedback on the way we present information in the Handbook Notice. If you have any suggestions, they should be sent to handbookproduction@fca.org.uk (or see contact details on the back cover).

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This Handbook Notice describes the changes to the Handbook and other material made by the Financial Conduct Authority (FCA) Board under its legislative and other statutory powers on 9 November 2017.

It also contains information about other publications relating to the Handbook and, if appropriate, lists minor corrections made to previous instruments made by the Board.

Contact names for the individual modules are listed in the relevant Consultation Papers and Policy Statements referred to in this Notice.

General comments and queries on the Handbook can be addressed to:

Emily How

Tel: 020 7066 2184

Email: emily.how@fca.org.uk

However, queries on specific requirements in the Handbook should be addressed first to your normal supervisory contact in the FCA. For most firms this will be the FCA's Contact Centre:

Tel: 0300 500 0597

Fax: 0207 066 0991

Email: firm.queries@fca.org.uk

Post: Contact Centre

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All our publications are available to download from www.fca.org.uk. If you would like to receive this paper in an alternative format, please call 020 7066 0790 or email publications_graphics@fca.org.uk or write to Editorial and Digital Department, Financial Conduct Authority, 25 The North Colonnade, Canary Wharf, London E14 5HS

