



No.18

Handbook Notice

January 2015

Financial Conduct Authority



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Handbook Notice 018

This Handbook Notice introduces the Handbook and other material made by the Financial Conduct Authority (FCA) Board under its legislative powers on 22 December 2014, and 15 and 29 January 2015. 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

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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 Firm Contact Centre:

Tel: 0845 606 9966

Fax: 020 7066 0991

Email: firm.queries@fca.org.uk

Post: Customer Contact Centre
Financial Conduct Authority
25 The North Colonnade
Canary Wharf
London E14 5HS

1.

Overview

Legislative changes

- 1.1** On 22 December 2014, the FCA Board made changes to the Handbook in the instrument listed below.

CP	Title of instrument	Instrument No.	Changes effective
14/17	Disclosure and Transparency Rules (Reports on Payments to Governments) Instrument 2014	2014/63	22.12.14

- 1.2** On 15 January 2015, the FCA Board made changes to the Handbook in the instrument listed below.

CP	Title of instrument	Instrument No.	Changes effective
14/15	Recovery and Resolution Directive Instrument 2015	2015/1	19.1.15; 1.1.16

- 1.3** On 29 January 2015, the FCA Board made changes to the Handbook in the instrument listed in the table below.

CP	Title of instrument	Instrument No.	Changes effective
14/18 Ch 3	Listing, Prospectus and Disclosure and Transparency Rules (Miscellaneous Amendments No 3) Instrument 2015	2015/3	1.2.15; 1.4.15

- 1.4** FCA 2015/2 was also made by the FCA Board and will be published at a later date. The changes will be summarised in the next Handbook Notice.

Summary of changes

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

Feedback on responses to consultations

- 1.6** Feedback to consultations are either set out in Chapter 3 of this Notice or published in separate Policy Statements.

FCA Board dates for 2015

- 1.7** The table below contains a list of forthcoming FCA board meetings for 2015. These dates are subject to change without prior notice.

February	26
March	26
April	23
May	No Board
June	4 and 18
July	2 and 30
August	No Board
September	24
October	22
November	4 and 5
December	3

2. Summary of changes

- 2.1** This chapter briefly describes FCA Handbook changes and changes outside the Handbook made by the Board on 14 December 2014, and 15 and 29 January 2015. 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 PRA please see <http://www.bankofengland.co.uk/pr/Pages/publications/default.aspx>

Disclosure and Transparency Rules (Reports on Payments to Governments) Instrument 2014 (FCA 2014/63)

- 2.2** Following consultation in CP14/17¹, the FCA Board has made changes to the FCA Handbook sections listed below:

Glossary of definitions
PR 2
DTR 4, 6, 8 and TPs

- 2.3** In summary, the instrument implements the new Transparency Directive requirement for issuers active in the extractive or logging of primary forest industries to report annually on payments made to governments in the countries in which they operate.
- 2.4** This instrument came into force on **22 December 2014**. Feedback to this consultation was published in a separate policy statement.²

Recovery and Resolution Directive Instrument 2015 (FCA 2015/1)

- 2.5** Following consultation in CP14/15³, the FCA Board has made changes to the FCA Handbook sections listed below:

Glossary of definitions
IFPRU 2, 11 (new chapter), Sch 2
SUP 16

- 2.6** In summary, the instrument implements the Recovery and Resolution Directive into the UK regulatory regime for FCA solo-regulated investment firms (IFPRU 730k firms), as well as certain group entities that fall within the scope of the Directive.
- 2.7** Part of this instrument came into force on **19 January 2015** and the remainder of the instrument comes into force on **1 January 2016**. Feedback to this consultation was published in a separate policy statement.⁴

¹ CP14/17 *Early implementation of the Transparency Directive's requirements for reports on payments to governments* (August 2014)

² PS15/1 *Early implementation of the Transparency Directive's requirements for reports on payments to governments* (January 2015)

³ CP14/15 *Recovery and Resolution Directive* (August 2014)

⁴ PS15/2 *Recovery and Resolution Directive, including feedback on CP14/15 and final rules* (January 2015)

Listing, Prospectus and Disclosure and Transparency Rules (Miscellaneous Amendments No 3) Instrument 2015 (FCA 2015/3)

- 2.8** Following consultation in Chapter 3 of CP14/18⁵, the FCA Board has made changes to the FCA Handbook sections listed below.

Glossary of definitions

FEES 3

LR 6, 9, 10, 11, 13, 15, App 1 and TR 13 (new TR)

PR 1, 5 and App 1.1

DTR 6, 7 and TP 1

- 2.9** In summary, this instrument makes amendments to:

- narrow the scope of circulars requiring prior FCA approval
- update the definition within LR and DTR of the UK Corporate Governance Code
- clarify or update a number of other existing rules and guidance, and
- propose a new fee for reviewing a material change to a published investment policy.

- 2.10** Part of this instrument comes into force on **1 February 2015** and the remainder of the instrument comes into force on **1 April 2015**. Feedback to this consultation is provided in Chapter 3 of this Notice.

⁵ CP14/18 *Quarterly consultation (No 6)* (September 2014)

3.

Consultation feedback

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

Chapter 3 of CP14/18, Quarterly Consultation (No 6)

Listing, Prospectus and Disclosure and Transparency Rules (Miscellaneous Amendments No 3) Instrument 2015 (FCA 2015/3)

Background

- 3.2** In September 2014, we consulted on some minor changes to the Listing Rules (LR), Prospectus Rules (PR), Disclosure Rules and Transparency Rules (DTR) and the Fees manual (FEES). The proposed amendments were to narrow the scope of circulars requiring prior FCA approval, clarify or update various existing rules and guidance and propose a new fee for reviewing a material change to a published investment policy.

Feedback and our response

- 3.3** The consultation closed on 5 November 2014. We received four responses.
- 3.4** We received full support in relation to Q3.4, Q3.5, Q3.6, Q3.7, Q3.10, Q3.12 and Q3.13. Therefore, we have made the amendments on the basis set out in the consultation. In relation to Q3.11 (proposed amendments to the PR), we noted in paragraph 3.61 of CP14/18 that, if ESMA published a new version of the 'Prospectus Questions and Answers', we would update the proposed definition. During the consultation period, ESMA published a revised version and so we have updated this definition in both the Glossary and PR Appendix 1.
- 3.5** We set out below the areas of our consultation where respondents raised issues and our responses to those.
- 3.6** The final rules will be effective from 1 February 2015, except those which relate to (a) narrowing the scope of circular vetting and (b) introducing the new investment policy vetting arrangements and fee, which will become effective from 1 April 2015.

Approval of circulars (Q3.1)

- 3.7** In CP14/18 we proposed to narrow the scope of circulars requiring prior approval by the FCA. All four respondents agreed with the proposal and we intend to proceed as we proposed. One respondent also suggested that LR 13.8.8R(2) should be deleted, given that it refers to circulars convening an annual general meeting which would no longer require prior approval. We agree with this suggestion and, as we consider this to be a consequential change arising from our proposed policy, we have deleted LR 13.8.8R(2).

- 3.8** Our rule changes relating to narrowing the scope of circular vetting and introducing the new investment policy vetting arrangements and fee will become effective on 1 April 2015. We consider that this effective date gives those affected by the new arrangements, including issuers and their advisers, sufficient time to consider and assess the impact of these amendments.

Insignificant subsidiary undertaking (Q3.2)

- 3.9** In CP14/18, we consulted on some changes to the insignificant subsidiary exemption within LR 11 Annex 1R. Within LR 11 Annex 1R, paragraph 9(4a) we proposed to clarify that an insignificant subsidiary would have to be consolidated within the listed company's group for more than one full financial year. Some respondents suggested that our draft amendment was not sufficiently clear and proposed alternative wording to describe the relevant time period.
- 3.10** We have amended the wording in 9(4a) so that it now refers to 'one full financial year or more' as we believe this better reflects our policy intention and ensures the wording used in 9(3) and (4) is consistent.

Acquisition or disposal of mineral resources (Q3.3)

- 3.11** In CP14/18 we explained that the text contained in LR 13.4.6R could be read to suggest that, in certain circumstances, a mineral expert's report with accompanying glossary of technical terms is not required. We said this was because the text in LR 13.4.6R refers merely to mineral resources rather than rights to any such resources and we therefore proposed to amend LR 13.4.6R so that it also referred to 'rights to' mineral resources. All respondents agreed and we will proceed as we proposed.
- 3.12** One respondent also suggested that a similar clarification to LR 10.7.5R should be made, so that the class tests undertaken include not just the mineral resources but also the rights to mineral resources. We agree with this suggestion and, as we consider this to be a consequential change arising from our proposed policy, we have changed LR 10.7.5R so that it also refers to 'rights to significant mineral resources'.

Definition of the Code (Q3.8)

- 3.13** Here we proposed a change to the LR Appendix 1 and Glossary definitions of the UK Corporate Governance Code (the Code) to update it from the 2010 Code to the 2012 Code. We explained in CP14/18 that to do this, we were partitioning the definition of the Code in the Glossary so that where the Code is used in relation to the LR and DTR, it is defined by reference to the 2012 Code. The effect of the partitioning is that where the Code is used in the remainder of the Handbook, the definition remains unchanged and continues to refer to the 2010 Code.
- 3.14** Two respondents suggested that we instead refer to the Code without referring to a specific version, for example, 'the UK Corporate Governance Code published by the Financial Reporting Council that applies to the listed company in the relevant accounting period as specified by the Financial Reporting Council'. These respondents commented that this would remove the need for consultation whenever new versions of the Code are published.
- 3.15** We are not able to make general references to third-party publications in the Handbook in this way as this would be an unauthorised sub-delegation of the rule making powers of the FCA Board. If, for example, we had a general reference to the Code in our Handbook, then when the Financial Reporting Council (FRC) made any changes to the substance of the Code, this would change the scope of the relevant rules and issuers would automatically have to comply without the FCA first considering the impact and the Board approving the relevant rule change.
- 3.16** One respondent commented that it was unhelpful for the FCA to consult separately on updating separate parts of the Handbook each time the FRC revises the Code. We agree that

it would have been preferable to have consulted on a revised definition that applied to the whole Handbook, but considered that the benefits to stakeholders of promptly updating the key 'comply and explain' obligation for the purposes of the LRs outweighed this.

- 3.17** As such, we have made the amendments on the basis set out in the consultation. However, we had always intended that the 'partitioning' of the definition of the Code would be a temporary measure. We plan to consult in due course on proposals to update this definition to reflect the 2014 Code (which was published in late 2014 and applies to financial years starting on or after 1 October 2014) and remove the partitioned definition from the Handbook.
- 3.18** One respondent raised the question of whether the auditor review provisions under the listing rules are still of significant value given the evolution of auditing standards. This is a matter which we expect to consider in due course. However, we intend to consult in due course on the implications for relevant listing rules requirements of the introduction of revised FRC Guidance on Risk Management, Internal Control and Related Financial and Business Reporting and the associated changes in UK Corporate Governance Code provisions.

Transitional provisions for LR and DTR (Q3.9)

- 3.19** We proposed the introduction of a transitional provision which was designed to facilitate the application of the 2012 Code and to ensure that companies and other relevant stakeholders are clear about which edition of the Code is relevant to a specific provision of the LR or the DTR.
- 3.20** Two respondents suggested that wording should refer to 'accounting periods beginning on or after the effective date', rather than 'ending before the effective date', as we had proposed. We have not made any changes to our original drafting as we consider that the current terminology is necessary for the effective application of the transitional provision.
- 3.21** One respondent suggested that the reference to the May 2010 Code is deleted as it is no longer applicable to listed companies. We have kept the reference to the May 2010 Code as it is necessary for the proper application of the transitional provisions.

Cost benefit analysis and compatibility statement

- 3.22** The cost benefit analysis and compatibility statement published in CP14/18 remain unchanged.

Equality and diversity issues

- 3.23** We did not receive any feedback on our statement in CP14/18 that these proposals are of low relevance to the equality and diversity agenda. We continue to believe that this is the case.
- 3.24** The changes made by this instrument are listed in Chapter 2 of this Notice.

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 and reference number at <http://fshandbook.info/FS/InstrumentsByDate.jsp> or listed by module at <http://fshandbook.info/FS/InstrumentsByModule.jsp>. 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 <http://fshandbook.info>.
- 4.6** Copies of the FCA's consultation papers referred to in this Notice are available on the FCA's website or on request in hardcopy form.

Obligation to publish feedback

- 4.7** This Notice, and the feedback to which paragraph 1.6 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 Saira Hussain or Melanie Purdie (see contact details at the front of this Notice).

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