



No.25

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# Handbook Notice

September 2015

Financial Conduct Authority





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## Handbook Notice 25

This Handbook Notice introduces the Handbook and other material made by the Financial Conduct Authority (FCA) Board under its legislative powers on 4 June, 10 August 2015 and 24 September 2015, and rules also made by the Financial Ombudsman Service Ltd on 23 September 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 Customer Contact Centre:

Tel: 0300 500 0597

Fax: 020 7066 0991

Email: [firm.queries@fca.org.uk](mailto: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 4 June 2015, the FCA Board made changes to the Handbook in the instrument listed below.

CP	Title of instrument	Instrument No.	Changes effective
14/14	Senior Management Arrangements, Systems and Controls (Remuneration Code) (No 6) Instrument 2015	2015/27	1.7.15

- 1.2** On 10 August 2015, the FCA Board made changes to the Handbook in the instrument listed below.

CP	Title of instrument	Instrument No.	Changes effective
15/16	Individual Accountability (Solvency II and Consequentials) Instrument 2015	2015/43	19.8.15; 1.1.16; 7.3.16; 21.3.16; 7.3.17

- 1.3** On 24 September 2015, the FCA Board made changes to the Handbook in the instruments listed below.

CP	Title of instrument	Instrument No.	Changes effective
N/A	Fees (Alternative Dispute Resolution Competent Authority) (Financial Ombudsman Service) Instrument 2015	2015/44	25.9.15
15/19	Consumer Rights Act Instrument 2015	2015/45	1.10.15
15/13	Conduct of Business (Optional Additional Products) Instrument 2015	2015/47	1.4.16

- 1.4** On 24 September 2015, the FCA Board made changes to the Handbook in the instrument listed below. The Board also consented to and approved the standard terms fixed and varied by the Board of the Financial Services Ombudsman (the ombudsman service) in the instrument listed below.

CP	Title of instrument	Instrument No.	Changes effective
15/6	Consumer Credit (Amendment No 2) Instrument 2015	FOS 2015/9; FCA 2015/49	28.9.15; 2.11.15

- 1.5** The FCA Board has also made the instruments numbered FCA 2015/46 and FCA2015/48. These instruments will be published at a later date and summarised in the next Handbook Notice.

### Summary of changes

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

### Feedback on responses to consultations

- 1.7** Feedback to consultations are published in Chapter 3 of this Notice or in a separate Policy Statement.

### FCA Board dates for 2015 and 2016

- 1.8** The tables below contain a list of forthcoming FCA board meetings. These dates are subject to change without prior notice.

- 1.9** Board meetings scheduled for 2015:

October	22
December	3

- 1.10** Board meetings scheduled for 2016:

January	28
February	25
March	17
April	21
May	26
June	23
July	21
September	22
October	20
November	2 and 3
December	8

## 2. Summary of changes

- 2.1** This chapter briefly describes FCA Handbook changes made by the Board on 4 June, 30 July and 24 September 2015. It also describes changes made by the Financial Ombudsman Service Board on 23 September 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 Prudential Regulation Authority (PRA) please see <http://www.bankofengland.co.uk/pr/Pages/publications/default.aspx>

### ***Senior Management Arrangements, Systems and Controls (Remuneration Code) (No 6) Instrument 2015 (FCA 2015/27)***

- 2.2** Following consultation in CP14/14<sup>1</sup>, the FCA Board has made changes to the FCA Handbook sections listed below:

**SUP 13A,15  
SYSC 1, 4, 6, 7, 12, 19A, 19D, 21, Sch 5**

- 2.3** In summary, this instrument makes changes in response to recommendations made by the Parliamentary Commission on Banking Standards in respect of remuneration, in order to more closely align long-term risk and reward. The key changes include the extension of deferral periods for variable pay, and the introduction of specific clawback provisions. These changes are applicable to all UK banks, building societies and dual-regulated investment firms.

- 2.4** This instrument comes into force on **1 July 2015**. Feedback to this consultation was published in a separate policy statement.<sup>2</sup>

### ***Individual Accountability (Solvency II and Consequentials) Instrument 2015 (FCA 2015/43)***

- 2.5** Following consultation in CP15/16<sup>3</sup>, the FCA Board has made changes to the FCA Handbook sections listed below:

**Glossary  
SYSC 1, 1A, 2, 3, 4, 5, 13, 14, 18, 21, TP 6, Sch 1, Sch 6  
COND 2  
APER 1, 2, 3, 4, Sch 2, Sch 5, Sch 6  
TC 2, Appendix 6, Sch 2  
GEN 2  
COCON 1, 4  
MIPRU 2**

<sup>1</sup> CP14/14 *Strengthening the alignment of risk and reward: new remuneration rules* (July 2014)

<sup>2</sup> PS15/16 *Strengthening the alignment of risk and reward: new remuneration rules* (June 2015)

<sup>3</sup> CP15/16 *Changes to the Approved Persons Regime for Solvency II firms: forms, consequential changes and transitional arrangements & governance proposals and feedback to CP14/25* (March 2015)

**CASS 1, 1A, 11**  
**SUP 6, 10A, 10C, 12, 13A, TP 7, Sch 5, Sch 6**  
**DISP 1**  
**CONC 12**  
**FIT 1**

**2.6** The FCA Board also made the following changes outside the FCA Handbook:

**BENCH 2**  
**FC 1**  
**PERG 13**

**2.7** In summary, this instrument makes changes to the Handbook to implement reforms to our Approved Persons Regime for Solvency II firms as part of the accountability regime.

**2.8** Different parts of the instrument come into force on **19 August 2015**, **1 January 2016**, **7 March 2016**, **21 March 2016** and **7 March 2017**. Feedback to this consultation was published in a separate Policy Statement.<sup>4</sup>

***Fees (Alternative Dispute Resolution Competent Authority) (Financial Ombudsman Service) Instrument 2015 (FCA 2015/44)***

**2.9** The FCA Board has made changes to the FCA Handbook sections listed below:

**Glossary**  
**FEES 1, 2, 12**

**2.10** In summary, this instrument makes changes to the FEES section of the Handbook. The new rules enable us to charge the Financial Ombudsman Service (the ombudsman service) an annual levy to fund our functions as Competent Authority under the Alternative Dispute Resolution for Consumer Disputes (Competent Authorities and Information) Regulations 2015, 'the ADR Regulations'. Under the rules we are able to charge the ombudsman service for expenses we have incurred in performing our functions under the ADR Regulations, including setting up, certifying and monitoring the ombudsman service. We shall invoice the ombudsman service in arrears in April, to cover charges for the previous fee year, and will charge the ombudsman service the first ADR levy in April 2016 to cover costs incurred in the FCA fee year 2015-2016.

**2.11** We have not consulted on these rules. Treasury and the Department for Business, Innovation & Skills included a provision in the ADR Regulations enabling us to make the first set of fee rules without consultation (Reg 15A(c) of the ADR Regulations). We have discussed these rules with the ombudsman service.

**2.12** This instrument comes into force on **25 September 2015**.

***Consumer Rights Act Instrument 2015 (FCA 2015/45)***

**2.13** Following consultation in CP15/19<sup>5</sup>, the FCA Board has made changes to the FCA Handbook sections listed below:

**Glossary**  
**COBS 2**  
**ICOBS 2, 6**  
**MCOB 2, 11, 12, 13**  
**BCOBS 1, 4**  
**SUP 2, 13A**  
**CREDS 10**  
**CONC 2, 8**

<sup>4</sup> PS15/21 *Changes to the Approved Persons Regime for Solvency II firms: Final rules (including feedback on CP14/25, CP15/5 and CP15/6), and consequentials relating to CP22/15 on strengthening accountability in banking* (August 2015)

<sup>5</sup> CP15/19 *Quarterly Consultation Paper No 9* (June 2015)

- 2.14** The FCA Board also made the following changes outside the FCA Handbook:  
**EG 1, 3, 10, 19**  
**UNFCOG 1, 2, TP 1**
- 2.15** In summary, this instrument aligns our Handbook Rules and Regulatory Guides with legislative requirements under the CRA.
- 2.16** These changes come into force on **1 October 2015**. The feedback to this consultation is published in Chapter 3 of this Notice.

### ***Conduct of Business (Optional Additional Products) Instrument 2015 (FCA 2015/47)***

- 2.17** Following consultation in CP15/13<sup>6</sup>, the FCA Board has made changes to the FCA Handbook sections listed below:  
**COBS 2, TP 2**  
**ICOBS 6, 6A, TP 2**  
**MCOB 2, TP 1, TP 4**  
**BCOBS 1, 2A, TP 1**  
**CONC 2, TP 7**
- 2.18** In summary, this instrument makes final rules on the ban on opt-out selling and Handbook Guidance on improved information for add-on buyers.
- 2.19** This instrument comes into force on **1 April 2016**. Feedback to this consultation will be published in a separate Policy Statement<sup>7</sup>.

### ***Consumer Credit (Amendment No 2) Instrument 2015 (FOS 2015/9; FCA 2015/49)***

- 2.20** Following consultation in CP15/6<sup>8</sup>, the FCA Board has made changes to the FCA Handbook sections listed below:  
**PRIN 3**  
**COND 1**  
**SUP 16**  
**DISP 1**  
**CONC 2, 3, 4, 5, 6, 7, 8, 12, 13, Appendix 1, TP 7, Sch 1**
- 2.21** The FCA Board also made the following changes outside the FCA Handbook:  
**PERG 2, 8**
- 2.22** In summary, this instrument makes final rules to advance the FCA's consumer protection objective.
- 2.23** Part of the instrument comes into force on **28 September 2015** and the remainder on **2 November 2015**. Feedback to this consultation has been published in a separate Policy Statement.<sup>9</sup>

<sup>6</sup> CP15/13 *General Insurance Add-ons Market Study – Proposed Remedies: Banning opt-out selling across financial services and supporting informed decision-making for add-on buyers* (March 2015)

<sup>7</sup> PS15/22 *General Insurance Add-Ons Market Study – Remedies: banning opt-out selling across financial services and supporting informed decision-making for add-on buyers* (September 2015)

<sup>8</sup> CP15/6 *Consumer credit – proposed changes to our rules and guidance* (February 2015)

<sup>9</sup> PS15/23 *Consumer credit – feedback on CP15/6 and final rules and guidance* (September 2015)

## 3.

# Consultation feedback

- 3.1** This chapter provides feedback on consultations that will not have a separate policy statement published by the FCA.

### **CP15/19 Quarterly Consultation (No 9)**

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#### ***Consumer Rights Act Instrument 2015 (FCA 2015/45)***

##### ***Background***

- 3.2** In CP15/19<sup>10</sup> dated 5 June 2015 we proposed amendments to various parts of the Handbook and to two Regulatory Guides: the Enforcement Guide (EG) and the Unfair Contract Terms Regulatory Guide (UNFCOG). The proposed amendments reflect the changes being brought in by the Consumer Rights Act 2015 (CRA) which comes into force on 1 October 2015. The CRA will replace the provisions of the Unfair Terms in Consumer Contracts Regulations 1999 (UTCCRs) and introduce changes to the law on unfair contract terms.

##### ***Summary of proposals***

- 3.3** The following amendments were proposed:
- to change the title of UNFCOG so that it becomes the Unfair Contract Terms and Consumer Notices Regulatory Guide
  - to reflect the new definition of consumer under the CRA in the Handbook
  - to replace all references to the UTCCRs with references to the CRA and all references to provisions under the UTCCRs to corresponding or new provisions under the CRA
  - to explain that the UTCCRs will still apply to contracts entered into before 1 October 2015
  - to explain that we may review terms, whether or not they have been individually negotiated
  - to clarify that we can also assess consumer notices for fairness under the CRA
  - to explain that core terms relating to price and subject matter are only exempt from a review of fairness if they are transparent and prominent
  - to clarify that the subject matter and price exemption does not apply to consumer notices
  - to provide that a written term of a contract, or a consumer notice in writing, must be transparent

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<sup>10</sup> CP15/19 *Quarterly Consultation No 9* (June 2015)

- to explain that the FCA has investigatory powers to require the production of information from firms under the CRA
- to state that the FCA has powers to enforce the law on unfair contract terms and notices under the CRA

**3.4** In CP15/19 we set out our proposals and consulted on revised wording for the Handbook and the two Regulatory Guides. The wording reflects the provisions concerning unfair terms and notices, enforcement of the law on unfair contract terms and notices, and investigatory powers in the CRA.

**3.5** We asked:

**Q1: Do you have any comments on our proposed amendments to the Handbook in light of the CRA?**

**Q2: Do you have any comments on our proposed amendments to EG in the light of the CRA?**

**Q3: Do you have any comments on our proposed amendments to UNFCOG in the light of the CRA?**

#### ***Feedback***

**3.6** The consultation period closed on 5 July 2015. Only one industry response was received. It suggested that, while the proposed amendments highlighted the changes that need to be made to UNFCOG given the new provisions in the CRA, the amendments did not effectively replace guidance and documents on unfair terms that were removed by the FCA in March 2015. The respondent acknowledged the reference in CP15/19 to the draft CMA guidance on unfair terms. However, they also suggested that the amendments to UNFCOG should be strengthened by the publication of separate FCA guidance on unfair terms, to clarify other areas of the Consumer Rights Act 2015, which affect financial services.

#### ***Our response***

**3.7** We consider that the response does not raise any substantial issues which would affect the changes proposed within CP15/19. No changes have been made to the amendments on which we consulted as a consequence of this response.

**3.8** When CP15/19 published, the CMA was in the process of finalising its own guidance on the key changes to unfair terms as a result of the CRA. We stated that we would take the CMA's finalised guidance into account in deciding whether to issue our own guidance and, if so, its contents. The CMA's consultation has closed and final guidance was published on 31 July 2015. We are taking this guidance into consideration in making our decision.

#### ***Cost benefit analysis (CBA) and compatibility statement***

**3.9** The cost benefit analysis and compatibility statement remain unchanged from those published in paragraphs 5.16-5.20 of CP15/19.

#### ***Equality and diversity issues***

**3.10** The equality and diversity statement published in paragraphs 5.21-5.22 of CP15/19 remains valid and does not require amendment. We do not believe that there are any equality and diversity implications arising from this instrument.

**3.11** The changes made by this instrument are listed in Chapter 2 of this Notice.

## 4. Additional information

### Making corrections

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- 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

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- 4.2** This Notice is published on the FCA website.
- 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 <https://www.handbook.fca.org.uk/>. 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 <https://www.handbook.fca.org.uk>.
- 4.6** Copies of the FCA's consultation papers are available on the FCA's website.

### Obligation to publish feedback

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- 4.7** This Notice, and the feedback to which paragraph 1.6 refers, fulfil the FCA Board's obligations under 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 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 rule applies to authorised persons, including mutual societies.

### Comments

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- 4.8** We always welcome feedback on the way we present information in the Handbook Notice. If you have any suggestions, please use the contact details at the front of this Notice.

Financial Conduct Authority



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