



No.33

Handbook Notice

May 2016

Financial Conduct Authority



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Handbook Notice 33

This Handbook Notice introduces the Handbook and other material made by the Financial Conduct Authority (FCA) Board under its legislative powers on 21 April and 26 May 2016. 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 Contact Centre:

Tel: 0300 500 0597

Fax: 020 7066 0991

Email: firm.queries@fca.org.uk

Post: Contact Centre
Financial Conduct Authority
25 The North Colonnade
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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.

1.

Overview

Legislative changes

- 1.1** On 21 April 2016, the Board of the Financial Conduct Authority made changes to the Handbook in the instrument listed below.

CP	Title of instrument	Instrument No.	Changes effective
15/33	Consumer Credit (High-Cost Short-Term Credit Price Comparison Website) Instrument 2016	2016/35	1.12.16

- 1.2** On 26 May 2016, the Board of the Financial Conduct Authority made changes to the Handbook in the instrument listed below.

CP	Title of instrument	Instrument No.	Changes effective
N/A	Handbook Administration (No 41) Instrument 2016	2016/37	1.6.16; 30.6.16; 3.7.16; 10.10.16; 31.10.16
15/42	Controllers Instrument 2016	2016/38	27.5.16
15/42	Consumer Credit (Amendment No 3) Instrument 2016	2016/39	31.5.16; 1.7.16

Summary of changes

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

Feedback on responses to consultations

- 1.4** Consultation feedback is published in Chapter 3 of this Notice or in separate Policy Statements.

FCA Board dates for 2016

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

June	23
July	27
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 21 April and 26 May 2016. 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/pru/Pages/publications/default.aspx>

Consumer Credit (High-Cost Short-Term Credit Price Comparison Website) Instrument 2016 (FCA 2016/35)

- 2.2** Following consultation in CP15/33¹, the FCA Board has added a new section to the FCA Handbook as listed below:

CONC 2.5A

- 2.3** In summary, this instrument makes changes to ensure that high-cost short-term credit price comparison websites act in a fair and transparent way, enabling consumers to compare loans and shop around more effectively.
- 2.4** This instrument comes into force on **1 December 2016**. Feedback to this consultation is published in a separate Policy Statement.²

Handbook Administration (No 41) Instrument 2016 (FCA 2016/37)

- 2.5** The FCA Board has made minor administrative changes to various modules of the FCA Handbook, as listed below. These correct or clarify existing provisions. They were not consulted on because they are regarded either as falling within the scope of previous consultations or as being so minor that they do not warrant consultation. None of these changes represents any alteration in FCA policy.

Glossary

SYSC 13 and 18

FEES 2 and 3

IPRU(INV) 13

COBS 4 and 12

CASS 12

MAR 1

SUP 5, 12 and 16

COMP 1 and 4

COLL TPs

DTR 2 and TPs

¹ CP15/33 *Consumer credit: proposals in response to the CMA's recommendations on high-cost short-term credit* (October 2015)

² PS16/15 *Feedback on CP15/33 - Consumer credit: proposals in response to the CMA recommendations on high-cost short-term credit* (May 2016)

EG

2.6 In summary, the amendments made this month are as follows:

- a new definition of “PRA Rulebook”, and corresponding amendments to the definition of its predecessor “PRA Handbook”
- a duplicated term “ADR Directive” has now been merged and all cross references directed to the correct definition
- general updating of terms still containing references to the PRA Handbook, and clarification that terms relate to FCA Handbook definitions
- the correct citation for the UCITS level 2 Regulation has now been inserted in the relevant place in the Glossary, along with a link to EUR-LEX
- deletion of outdated references in the Glossary to deleted terms in the PRA Rulebook
- a change to SYSC 13.3.7G(1)(c) to reinstate an inadvertently omitted word in 2016/15
- a correction of the in force date stated by 15/46 in SYSC 18.4.6G for the provisions for a whistleblowers’ champion under SYSC 18
- correction of minor drafting errors in 2016/18 relating to FEES 2.2.3G(1) and the numbering in the table at FEES 3.2.7R
- similarly, a minor correction to FEES 3 Annex 12R to align the text of 2016/13 with the intended definition for “open-ended investment company”
- expired transitional provisions in IFPRU have now been marked as such
- erroneous italicisation of terms in IPRU(INV)13 originating in 2015/57 has now been reversed
- incorrectly numbered subparagraphs from 2013/46 at COBS 4.12.6R have now been corrected
- an erroneous reference to a Glossary term at COBS 12.4.1AEU from 2016/31 has now been corrected
- cross references at CASS 12.2.2G have been updated to the appropriate provisions in CASS 7
- a minor drafting error in 2016/31 to the title of MAR 1.3 (insider dealing) has been corrected
- SUP 5 has had all references to “appropriate regulator” updated to “FCA” where appropriate, along with other minor administrative corrections
- drafting errors arising in 2004/9 referring to “Appointed Representative Regulations” in SUP 12.5 have been corrected to “Appointed Representatives Regulations”
- all references to “appropriate regulator” in SUP 16 which are no longer current have been updated to “FCA” where appropriate
- drafting errors and other corrections to forms at SUP 16 Annex 32R, SUP 16 Annex 38AR and SUP 16 Annex 41R are now made

- expired transitional provisions in COLL have now been marked as such
- an incorrect address at COMP 1.3.1G is now brought into line with the new FSCS office
- a term incorrectly italicised by 2016/33 in COMP 4.2.2R has been updated
- terms incorrectly italicised by 2016/31 in a note to DTR 2.3 have been updated
- expired transitional provisions in DTR have now been marked as such
- the provisions in the Enforcement Guide, renumbered in 2016/40 have now been brought into line with recent changes to enhance navigation of the guidance

2.7 This instrument comes into force on **1 June 2016**, except as follows:

- the changes to IPRU(INV) 13 come into force on **30 June 2016**
- the changes to COBS 12.4.1AEU, MAR 1.3 and DTR 2.3 come into force on **3 July 2016**
- the changes to COBS 4.12.6R come into force on **10 October 2016**
- the changes to SUP 16 Annex 41R come into force on **31 October 2016**

Controllers Instrument 2016 (FCA 2016/38)

2.8 Following consultation in CP15/42³, the FCA Board has made changes to the FCA Handbook sections listed below:

Glossary SUP 11

2.9 In summary, this instrument makes changes to maintain consistency between the FSMA definition of ‘controllers’ and our Handbook.

2.10 This instrument comes into force on **27 May 2016**. Feedback to this consultation is published in Chapter 3 of this Notice.

Consumer Credit (Amendment No 3) Instrument 2016 (FCA 2016/39)

2.11 Following consultation in CP15/42⁴, the FCA Board has made changes to the FCA Handbook sections listed below:

CONC 2 to 4, 6, 11 and App 1 PERG 2

2.12 In summary, this instrument makes changes to correct or clarify anomalies or gaps in existing provisions and make deregulatory changes to some financial promotion rules.

2.13 Part of this instrument comes into force on **31 May 2016**, and the remainder on **1 July 2016**. Feedback to this consultation is published in Chapter 3 of this Notice.

³ CP15/42 *Quarterly Consultation Paper No.11* (December 2015)

⁴ CP15/42 *Quarterly Consultation Paper No.11* (December 2015)

3.

Consultation feedback

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

CP15/42 Quarterly Consultation Paper No 11 – Amendments to rules and guidance relating to controllers

Controllers Instrument 2016

Background

- 3.2** In Quarterly Consultation Paper No 11 (CP15/42⁵), we proposed a number of consequential amendments to certain rules and guidance in SUP 11 relating to controllers, as part of our transposition of the Transparency Directive Amending Directive (TDAD).
- 3.3** These were technical changes to ensure that the FCA Handbook aligns with FSMA. Notably Regulation 6 of the UK Transparency Regulations 2015 (2015/1755) makes amendments to sections 184, 301E and 422A of FSMA to include a new stabilisation exemption. It also makes changes to the FSMA wording for the trading book exemption in those sections (i.e. those disregarded trading book holdings as provided for in s. 442A(5)(b)).
- 3.4** Regulation 6 comes into force on 31 May 2016 and therefore these changes are required to ensure the TDAD is fully transposed in our Handbook.

Feedback

- 3.5** We received one formal response to the consultation.
- 3.6** The respondent considered the changes to be unobjectionable as they increase consistency between FSMA and FCA rules. However, the respondent also noted that:
- the introduction of a link to the FCA glossary definitions has brought about typos in relation to Q5
 - the addition of Q7A to SUP 11 Annex 6G is not mentioned in the text of the QCP

Our response

- 3.7** The errors in Q5 have been amended as a result of the feedback.

⁵ CP15/42 *Quarterly Consultation Paper No 11* (December 2015)

Cost benefit analysis and compatibility statement

- 3.8** We have made only minor changes to policy as consulted on in CP15/42 to ensure full functionality and accuracy of the proposed amendments. As such, our cost benefit analysis in CP15/42 remains valid.

Equality and diversity issues

- 3.9** As only minor changes to policy have been made since consultation in CP15/42, we have not identified any new equality or diversity issues arising as a result of these changes.
- 3.10** We continue to consider that these rules will have a very limited effect on consumers in general and we do not consider these proposals to adversely impact any of the groups with protected characteristics i.e. age, disability, sex, marriage or civil partnership, pregnancy and maternity, race, religion and belief, sexual orientation and gender reassignment.
- 3.11** In preparing the final rules as described in this chapter, we have considered the FCA's duty to promote effective competition in the interests of consumers. It is our opinion that making changes to the data requested from firms and accredited bodies has no negative impact on competition, as it ensures ongoing unique identification of advisers.
- 3.12** The changes made by this instrument are listed in Chapter 2 of this Notice.

CP15/42 Quarterly Consultation Paper No 11 – Consumer credit amendments

Consumer Credit (Amendment No 3) Instrument 2016

Background

- 3.13** We proposed some minor amendments to our Consumer Credit sourcebook (CONC) and the Perimeter Guidance manual (PERG). In the majority of cases they corrected anomalies or gaps in existing provisions or clarified their operation. We also proposed some deregulatory changes to our financial promotion rules including to the representative annual percentage rate of charge (APR).
- 3.14** The changes covered amendments to our rules and guidance on:
- distance marketing
 - financial promotions: representative example
 - financial promotions: representative APR
 - financial promotions: community finance organisations (CFOs)
 - peer-to-peer platforms
 - credit cards and store cards
 - credit broker fees
 - high net worth exemption

- self-employed agents

Feedback

- 3.15** We received five, mostly positive, responses to the consultation. However, one respondent expressed some concern that our proposal to exempt CFOs from the CONC 3.5.7R requirement to display a representative APR would provide such firms with an unfair competitive advantage.

Our response

- 3.16** We do not feel that sufficient arguments have been put forward to cause us to change our views on CFOs. They are already treated differently (they are exempt from the price cap and risk warning requirements) from high-cost short-term credit lenders as they serve a social purpose which makes them subject to additional scrutiny by their respective registering authority or regulator. Further, they are potentially at a disadvantage compared with other (commercial) lenders who can rely more easily on brand awareness or general product recognition.
- 3.17** Our proposal would not exempt CFOs from needing a representative example (including a representative APR) if triggered under CONC 3.5.3R, and an APR will still be required in pre-contractual credit information.
- 3.18** We have therefore implemented the changes consulted upon.
- 3.19** We do not consider the instrument differs significantly from that consulted on in CP15/42.

Cost benefit analysis and compatibility statement

- 3.20** The cost benefit analysis and compatibility statement for our consultation in CP15/42 remain unchanged and remain valid.

Equality and diversity issues

- 3.21** We continue to believe that the changes do not raise concerns in terms of equality and diversity issues and that they do not adversely impact any of the groups with protected characteristics i.e. age, disability, sex, marriage or civil partnership, pregnancy and maternity, race, religion and belief, sexual orientation and gender reassignment.
- 3.22** 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's 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

- 4.7** This Notice, and the feedback to which paragraph 1.4 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

- 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.

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