



No.28

Handbook Notice

December 2015

Financial Conduct Authority



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This Handbook Notice introduces the Handbook and other material made by the Financial Conduct Authority (FCA) Board under its legislative powers on 3 December 2015, and rules also made by the Financial Ombudsman Service Ltd on 25 November 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 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 Canary Wharf London E14 5HS

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1. Overview

Legislative changes

- 1.1** On 3 December 2015, the FCA Board made changes to the Handbook in the instruments listed below.

CP	Title of instrument	Instrument No.	Changes effective
15/25	Individual Accountability (Non-Solvency II Firms) Instrument 2015	2015/55	16.12.15; 1.1.16; 7.3.16
15/28	Training and Competence Sourcebook (Qualifications Amendments No 13) Instrument 2015	2015/56	4.12.15
15/17	Capital Resources and Professional Indemnity Insurance Requirements for Personal Investment Firms (No 2) Instrument 2015	2015/57	30.6.16; 1.9.16
15/19	Personal Pension Scheme Operators (Capital Requirements) (Amendment) Instrument 2015	2015/58	1.9.16
15/24	Banking: Conduct of Business Sourcebook Instrument 2015	2015/59	1.12.16
15/28	Mortgage Credit Directive (Amendment No 2) Instrument 2015	2015/60	4.12.15; 21.3.16
15/28	Supervision Manual (Amendment No 21) Instrument 2015	2015/62	31.12.15; 21.3.16; 31.3.16
15/29	Supervision Manual (Notification Forms) (Amendment) Instrument 2015	2015/63	16.12.15; 7.3.16
14/13	Individual Accountability (Enforcement) Instrument 2015	2015/64	7.3.16
15/27	European Long-Term Investment Funds Regulation Instrument 2015	2015/66	9.12.15
15/10	Accountability (Foreign Branches) Instrument 2015	2015/67	7.3.16
15/28	General Provisions (Amendment) Instrument 2015	2015/68	4.12.15

- 1.2** On 25 November 2015, the Financial Ombudsman Service Ltd made changes to the standard terms for Voluntary Jurisdiction participants set out in the FCA Handbook in the instrument

listed below. The FCA approved these changes at its Board on 3 December 2015. This instrument also revokes amendments to the FCA Handbook which were made by the FCA Board in the Complaints Handling and Call Charges Instrument 2015 (FCA 2015/39).

CP	Title of instrument	Instrument No.	Changes effective
15/28	Dispute Resolution: Complaints Sourcebook (Amendment No 5) Instrument 2015	FCA 2015/65 FOS 2015/9	Day of making; 1.1.16; 30.6.16

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** Feedback to consultations are published in Chapter 3 of this Notice or in separate Policy Statements.

FCA Board dates for 2016

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

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 3 December 2015. It also describes changes made by the Financial Ombudsman Service Board on 25 November 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>

Individual Accountability (Non-Solvency II Firms) Instrument 2015 (FCA 2015/55)

- 2.2** Following consultation in CP15/25¹, the FCA Board has made changes to the FCA Handbook sections listed below:

Glossary
SYSC 1, 2, TP 6, Sch 1
APER 1
COCON 1, 4
GEN 2
SUP 10A, TPs 7 and 8

- 2.3** In summary, this instrument makes final rules to further the FCA's objective of making markets work well for consumers. We are seeking to ensure that smaller insurance companies are run with integrity and that these firms provide consumers with appropriate products and services.
- 2.4** Different parts of the instrument come into force on **16 December 2015**, **1 January 2016** and **7 March 2016**. Feedback to this consultation will be published in a separate Policy Statement.

Training and Competence Sourcebook (Qualifications Amendments No 13) Instrument 2015 (FCA 2015/56)

- 2.5** Following consultation in CP15/28², the FCA Board has made changes to the FCA Handbook section listed below:

TP App 4

- 2.6** In summary, this instrument updates the list of appropriate qualifications in Appendix 4E of the Training and Competence sourcebook.
- 2.7** This instrument comes into force on **4 December 2015**. Feedback to this consultation is published in Chapter 3 of this Notice.

¹ CP15/25 *Changes to the Approved Persons Regime for insurers not subject to Solvency II: reforms for larger Non-Directive Firms, feedback on CP15/15, forms, consequential and transitional aspects* (August 2015)

² CP15/28 *Quarterly Consultation Paper No.10* (September 2015)

Capital Resources and Professional Indemnity Insurance Requirements for Personal Investment Firms (No 2) Instrument 2015 (FCA 2015/57)

- 2.8** Following consultation in CP15/17³, the FCA Board has made changes to the FCA Handbook sections listed below:

Glossary
MIPRU 4
IPRU(INV) 1, 13, TPs
SUP 16

- 2.9** In summary, this instrument revises our capital resources requirements for PIFs to ensure they better give firms the financial resources to recompense consumers for an average number of legitimate claims and are proportional across firms with different business models.
- 2.10** Part of the instrument comes into force on **30 June 2016** and the remainder on **1 September 2016**. Feedback to this consultation will be published in a separate Policy Statement.

Personal Pension Scheme Operators (Capital Requirements) (Amendment) Instrument 2015 (FCA 2015/58)

- 2.11** Following consultation in CP15/19⁴, the FCA Board has made changes to the FCA Handbook section listed below:

IPRU(INV) 5

- 2.12** In summary, this instrument improves the clarity of our rules regarding SIPP operators.
- 2.13** This instrument comes into force on **1 September 2016**. Feedback to this consultation is published in Chapter 3 of this Notice.

Banking: Conduct of Business Sourcebook Instrument 2015 (FCA 2015/59)

- 2.14** Following consultation in CP15/24⁵, the FCA Board has made changes to the FCA Handbook sections listed below:

Glossary
COBS 4
BCOBS 1, 2, 4, 5, TP 1

- 2.15** In summary, this instrument makes changes to the Handbook to increase consumer awareness of the interest rates on their savings accounts, increase shopping around by consumers, improve competition in the cash savings market, and make it easier for consumers to compare and switch cash savings accounts.
- 2.16** This instrument comes into force on **1 December 2016**. Feedback to this consultation will be published in a separate Policy Statement.

Mortgage Credit Directive (Amendment No 2) Instrument 2015 (FCA 2015/60)

³ CP15/17 *Capital resources requirements for Personal Investment Firms (PIFs)* (May 2015)

⁴ CP15/19 *Quarterly Consultation Paper No.10* (September 2015)

⁵ CP15/24 *Cash savings remedies* (July 2015)

- 2.17** Following consultation in CP15/28⁶, the FCA Board has made changes to the FCA Handbook sections listed below:

Glossary
TC 2, App 2
MCOB 5, 7, TP 1
SUP 13, 16
CONC 4, 11 and 15

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

PERG 2

- 2.19** In summary, this instrument implements the mortgage credit directive (MCD), reflects legislative changes and addresses some minor issues as identified in the rules made in March 2015.

- 2.20** Part of this instrument comes into force on **4 December 2015** and the remainder on **21 March 2016**. Feedback to this consultation is published in Chapter 3 of this Notice.

Supervision Manual (Amendment No 21) Instrument 2015 (FCA 2015/62)

- 2.21** Following consultation in CP15/28⁷, the FCA Board has made changes to the FCA Handbook section listed below:

SUP 16

- 2.22** In summary, this instrument improves the clarity of guidance notes, makes small amendments to data items in GABRIEL, changes submission methods and clarifies, for some specific regulatory returns, which firms need to submit them.

- 2.23** Different parts of this instrument come into force on **31 December 2015**, **21 March 2016** and **31 March 2016**. Feedback to this consultation is published in Chapter 3 of this Notice.

Supervision Manual (Notification Forms) (Amendment) Instrument 2015 (FCA 2015/63)

- 2.24** Following consultation in CP15/29⁸, the FCA Board has made changes to the FCA Handbook sections listed below:

SUP 10A and 15

- 2.25** In summary, this instrument makes changes to improve the guidance and clarity of our forms, improve the quality of data we receive and how we process it and provide an additional method of communication with firms via GABRIEL should any issues arise with the data firms submit.

- 2.26** Part of the instrument comes into force on **16 December 2015** and the remainder on **7 March 2016**. Feedback to this consultation will be published in a separate Policy Statement.

Individual Accountability (Enforcement) Instrument 2015 (FCA 2015/64)

⁶ CP15/28 *Quarterly Consultation Paper No.10* (September 2015)

⁷ CP15/28 *Quarterly Consultation Paper No.10* (September 2015)

⁸ CP15/29 *Amendments to Various Forms* (September 2015)

- 2.27** Following consultation in CP14/13⁹ and CP15/9, the FCA Board has made changes to the FCA Handbook section listed below:

Glossary
DEPP 1, 2, 6, 6A, 8, Sch 4

- 2.28** The FCA Board also made the following changes outside the FCA Handbook:
EG 1, 2, 4 to 7, 9 and 12

- 2.29** In summary, this instrument makes changes to the Handbook and the Enforcement Guide (EG) to enforce the new accountability regime and use the new powers created by the Banking Reform Act.

- 2.30** This instrument comes into force on **7 March 2016**. Feedback to this consultation will be published in a separate Policy Statement.

Dispute Resolution: Complaints Sourcebook (Amendment No 5) Instrument 2015 (FCA 2015/65) (FOS 2015/9)

- 2.31** Following consultation in CP15/28¹⁰, the Financial Ombudsman Service Ltd has made, and the FCA Board has approved, changes to the standard terms for Voluntary Jurisdiction participants set out in the FCA Handbook sections listed below:

DISP 1 and 4

- 2.32** The FCA Board also revokes the following amendments made to the FCA Handbook by Parts 3 and 5 of Annex C to the Complaints Handling and Call Charges Instrument 2015 (FCA 2015/39):

DISP 1 and TP 39 (in DISP TP 1)

- 2.33** In summary, this instrument makes rules to clarify the commencement dates for when firms need to start implementing our new requirements for collecting, reporting, and publishing complaints. The instrument also makes amendments to the complaints form and associated guidance to improve the complaints return and the quality of the data we receive. The instrument also proposed to re-make rules relating to complaints recording and complaints reporting to ensure that the correct rule-making powers are cited.

- 2.34** Different parts of the instrument come into force on **the day the instrument is made, 1 January 2016** and **30 June 2016**. Feedback to this consultation is published in Chapter 3 of this Notice.

European Long-Term Investment Funds Regulation Instrument 2015 (FCA 2015/66)

- 2.35** Following consultation in CP15/27¹¹, the FCA Board has made changes to the FCA Handbook sections listed below:

Glossary
FEES 1, 3, 4
COBS 18
FUND 1, 3, 4, 10, TP 1

⁹ CP14/13 *Strengthening accountability in banking: a new regulatory framework for individuals* (July 2014)

¹⁰ CP15/28 *Quarterly Consultation Paper No.10* (September 2015)

¹¹ CP15/27 *UCITS V implementation and other changes to the Handbook affecting investment funds* (September 2015)

- 2.36** In summary, this instrument adapts the UK Regulatory Framework so that the ELTIF Regulation can function properly in the UK. The instrument will also ensure that our consumer protection objective continues to be met.
- 2.37** This instrument comes into force on **9 December 2015**. Feedback to this consultation is published in Chapter 3 of this Notice.

Accountability (Foreign Branches) Instrument 2015 (FCA 2015/67)

- 2.38** Following consultation in CP15/10¹², the FCA Board has made changes to the FCA Handbook sections listed below:

Glossary
SYSC 4 and 5
FIT 1
COCON 1 and 4
CASS 1 and 11
SUP 10A, 10C, 13A, 15, TP 6

- 2.39** The FCA Board also made the following changes outside the FCA Handbook:
PERG 13
- 2.40** In summary, this instrument makes changes to the Handbook and the Perimeter Guidance manual as part of the individual accountability regime. This regime is designed to encourage senior individuals to take responsibility for their actions, and to make it easier for both firms and regulators to hold these individuals to account whilst ensuring that the regime is appropriate and proportionate.
- 2.41** This instrument comes into force on **7 March 2016**. Feedback to this consultation will be published in a separate Policy Statement.

General Provisions (Amendment) Instrument 2015 (FCA 2015/68)

- 2.42** Following consultation in CP15/28¹³, the FCA Board has made changes to the FCA Handbook section listed below:
GEN 2
- 2.43** In summary, this instrument makes changes to the Handbook's General Provisions (GEN) to help ensure that cross references continue to work, including cross references to PRA provisions that are now deleted by the PRA. The instrument also includes an amendment to GEN to ensure that the provisions in the FCA Handbook continue to be within its regulatory scope.
- 2.44** This instrument comes into force on **4 December 2015**. Feedback to this consultation is published in Chapter 3 of this Notice.

¹² CP15/10 *Strengthening accountability in banking: UK branches of foreign banks* (March 2015)

¹³ CP15/28 *Quarterly Consultation No. 10* (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.

CP15/28 Quarterly Consultation (No.10) Chapter 4

Training and Competence sourcebook (Qualifications Amendments No 13) Instrument 2015 (FCA 2015/56)

Background

- 3.2** The Training and Competence sourcebook (TC) sets out the qualification requirements for individuals carrying out certain retail activities, for example, advising on retail investment products. We consult for one month each time a qualification is added or amended on the list of appropriate qualifications.

Summary of proposals

- 3.3** In CP15/28¹⁴ we proposed the following amendment to the list of appropriate qualifications in TC Appendix 4E:

- adding the following qualification to the appropriate qualifications list:

University of South Wales - BSc (Hons) Financial Planning, Investment and Risk

Feedback

- 3.4** We received no responses to the proposal.

Our response

- 3.5** We will go ahead and make the change to our appropriate qualifications list.

Cost benefit analysis (CBA) and compatibility statement

- 3.6** Both the cost benefit analysis and compatibility statement remain as published in CP15/28.

Equality and diversity issues

- 3.7** We continue to believe these changes do not give rise to any equality and diversity issues and that they do not give rise to unfair discrimination against protected groups as set out in CP15/28 (Chapter 4).

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

¹⁴ CP15/28 Quarterly Consultation No.10 (September 2015)

CP15/19 Quarterly Consultation (No.9) Chapter 3

Personal Pension Scheme Operators (Capital Requirements) (Amendment) Instrument 2015

Background

- 3.9** We published PS14/12¹⁵ (the PS) in 2014 to introduce new capital requirements for Self-Invested Personal Pension (SIPP) operators, which will come into force in September 2016. Under the new framework the amount of regulatory capital required will generally be determined by the total value of assets under administration (AUA) by the SIPP operator.
- 3.10** The feedback we received in response to our PS prompted us to make further technical changes to our agreed Handbook provisions. We consulted on these amendments in Chapter 3 of CP15/19¹⁶ (the CP). These proposals were related to:
- the frequency of asset valuations for AUA calculation purposes
 - technical changes to the standard asset list, and
 - guidance on the requirement for standard assets to be realisable within 30 days

Feedback

- 3.11** We received 18 responses to our CP, including from trade bodies, SIPP operators, and consultancy firms. Although industry agreed with our proposals, the feedback we received highlighted several areas where further clarification was requested.
- 3.12** Where questions raised by respondents were within the scope of our consultation, we have addressed them and, where appropriate, made technical changes to our Handbook provisions. However, there remain a number of issues which, although outside the scope of our consultation, relate to our agreed policy in the PS. As part our response below we clarify these issues as far as possible.

Our response

Commercial property

- 3.13** We have removed the provision that defined the date of land registry notification as the end date for realising a commercial property transaction. Industry feedback questioned whether this date met the intended purpose and we agreed with their comments.
- 3.14** Under IPRU(INV) 5.2.3(4A) G(2)(c)(i), when determining whether an asset is capable of being readily realised within 30 days, a firm should consider whether the transaction can be concluded within that time limit in the ordinary course of business. For example, such a date can be the date of exchange of contracts or any other date when both parties have unconditionally agreed to undertake their contractual obligations to realise the asset.
- 3.15** The count of 30 days starts and ends on the dates when the transaction is initiated and concluded, respectively. We have decided not to clarify this further in the Handbook, because

¹⁵ PS14/12 *A new capital framework for Self-Invested Personal Pension (SIPP) operators* (August 2014)

¹⁶ CP15/19 *Quarterly Consultation Paper No. 9* (June 2015)

we believe the right policy principle has been set, and it should be for the firms to consider this within common practices for the specific asset market.

- 3.16** Moreover, assets can still be considered standard if the realisation time period goes beyond the permitted 30 days due to delays in receiving information from third parties. Feedback suggested that not only outstanding information but also third-party permissions can be the major causes for such delays (and in the example of commercial property, delays can occur due to waiting for the consent of mortgage lenders, joint owners or lease holders). Therefore we have amended IPRU(INV) 5.2.3(4A) G(2)(c)(i) to include these examples for delays due to outstanding third-party permissions.
- 3.17** Many respondents asked how they should apply the 'capable of being realised within 30 days' criterion to commercial property. We explained in the CP that 'realisability' should not be considered separately from 'capable'. It is the question of whether the asset is 'capable of being realised' that should be assessed, independent of the various external factors – as clarified in the previous paragraph – that can extend the permitted 30-day criterion for commercial property.
- 3.18** Another point raised with regard to commercial property was the use of indices for valuation estimates. We have removed the provision from Table 5.2.3(4)(a) where the use of a commercial property index was meant only as an example of an estimation method, as it clearly sent mixed signals to industry, some of whom interpreted it as our regulatory preference.

Asset valuations

- 3.19** As set out in Table 5.2.3(4)(a), firms are required to obtain valuation estimates where it is reasonable to assume that asset values have changed by more than 15% since the most recent valuation. The method of arriving at a reasonable estimate will be the choice of the SIPP operator and will depend on the specific asset class. Therefore, we do not suggest any particular method in our Handbook provisions beyond setting a regulatory principle that firms should arrive at a reasonable estimate, whether by using an index, historical price curves, recent transaction records or any other relevant method.
- 3.20** In two places in the Handbook provisions consulted on in the CP we described our supervisory expectations around the general principles to conduct valuations. We have merged these into one provision in IPRU(INV) 5.2.3(4A) G(2)(a) without changing the principles.
- 3.21** Following industry feedback, we have amended the AUA definition in Table 5.2.3(4)(a) to clarify that valuations no older than 12 months should be used for the AUA calculation (reflecting all assets that are currently under administration at the calculation reference date) adjusted, where applicable, to include available valuation updates. Without these changes the 12-month requirement could be wrongly interpreted to apply to the period when the assets were under administration by the SIPP operator.
- 3.22** We are aware of situations where there can be a short time window when the most recent annual valuations have not been provided by third parties and the only valuation available to the SIPP operator is over 12 months old at the time of the AUA calculation. Where this is outside the firm's control, then the text in Table 5.2.3(4)(a) clarifies that SIPP operators can use the most recent valuations available.

Standard assets

- 3.23** Respondents asked for clarification as to whether discretionary fund management (DFM) portfolios are standard assets. Our Handbook provisions suggest that an asset can be considered standard if it is on the standard asset list (first condition), and is capable of being accurately and fairly valued on an ongoing basis and readily realised within 30 days, whenever required (second condition).
- 3.24** Provided the second condition is met, a DFM portfolio can be standard when the SIPP operator has arrangements in place to ensure that the portfolio comprises standard assets only. These arrangements may vary across different firms and business models, and therefore we cannot prescribe any regulatory preference: it should be the choice and responsibility of the firm.
- 3.25** The most commonly cited arrangement by the industry was the reliance on contractual agreements with the investment manager around the classes of assets that make up the portfolio. We think these arrangements can achieve the regulatory purpose given that SIPP operators can themselves rely on and prove the effectiveness of such arrangements.
- 3.26** We received industry proposals to include crowdfunding and peer-to-peer assets in the standard asset list. Although outside the consultation scope, we explored this possibility for future reference, but did not obtain convincing evidence that these markets will generally have the necessary characteristics that standard assets should have for this specific policy purpose.
- 3.27** Nevertheless, it was only last year that these markets came under the FCA's regulatory scope, and we expect to conduct a full market review of the industry in 2016. Therefore, we may review this issue again after the review and will consider any new market evidence that potentially disproves what we have observed.
- 3.28** A common issue raised by some respondents is the absence of a definition or a specific list for 'regulated venues'. This is because there is no such list that would satisfy our policy intention of capturing the widest range of regulated venues – those being exchanges and multilateral trading facilities (MTFs), including the LSE, AIM and all other venues/operators that have functions similar to an exchange or an MTF – that are authorised by a regulator or a governmental agency either in the EEA or in any third country.
- 3.29** We considered referring to the definition of 'trading venues' in the Handbook, but this will be updated in the future as a result of amendments following the implementation of MiFID II, so it would not capture the policy intention mentioned above. Another alternative is to refer to a combination of lists (e.g. those maintained by the HM Revenue and Customs and the FCA), but these are still restrictive and intended for other purposes that do not coincide with our policy intention.
- 3.30** Some respondents were concerned as to whether unbreakable deposits could qualify as standard assets. Our policy is clear that this can be the case if both criteria described in paragraph 3.23 above are met. Unfortunately, the industry practice in this area is too varied for us to provide guidance beyond our policy intention.
- 3.31** There are examples of unbreakable deposits capable of being realised within 30 days because, for example, the deposit provider has flexible practices which would allow realisation of the deposit, regardless of penalties or charges. Equally, there may be cases with obvious obstacles to realisation, where the deposit will not be capable of being realised within 30 days.

Cost benefit analysis and compatibility statement

- 3.32** The cost benefit analysis and compatibility statement remain unchanged from those published in the CP.

Equality and diversity issues

- 3.33** We still believe these changes do not give rise to any discrimination. We received no comments in response to the CP on any equality issues.
- 3.34** The changes made by this instrument are listed in Chapter 2 of this Notice.

CP15/28 Quarterly Consultation (No.10) Chapter 3**Mortgage Credit Directive (Amendment No 2) Instrument 2015****Background**

- 3.35** In CP15/28 we consulted on minor changes across our Handbook to complete the implementation of the Mortgage Credit Directive (MCD), to reflect legislative changes and to address some minor issues identified in the rules that we published in PS15/9.¹⁷

Summary of proposals

- 3.36** Our proposals include changes to:
- our Training and Competence sourcebook (TC), to specify the minimum standards for firms passporting into the UK under the Directive
 - the forms which firms will need to complete to submit an application to passport under the Directive
 - the Glossary definition of 'regulated mortgage contract' to reflect the proposed amendment to the Regulated Activities Order (RAO) relating to equitable bridging loans
 - the Glossary definition of a 'credit-related regulated activity' to incorporate the new activity of 'advising on regulated credit agreements for the acquisition of land' (article 53DA of the RAO – '53DA activity')
 - our Perimeter Guidance Manual (PERG) and Consumer Credit Sourcebook (CONC) to reflect the treatment of investment property loan brokers and introducers under the RAO
 - the Glossary, CONC and PERG to reflect the treatment of residential renovation agreements under the MCD
 - Mortgages and Home Finance : Conduct of Business Sourcebook (MCOB) 5, removing from the Key Facts Illustration (KFI) template a reference to the Money Advice Service (MAS) providing comparative tables
 - MCOB 7.6.7R to ensure that firms making a further advance that varies an existing non-MCD contract will have the choice to issue either a European Standardised Information

¹⁷ PS15/9 *Implementation of the Mortgage Credit Directive and the new regime for second charge mortgages, feedback to CP14/20 and final rules* (March 2015)

Sheet (ESIS) or a KFI.

Feedback

- 3.37** We received two responses to our proposed changes. The feedback we received was largely positive, with one exception outlined below. There were two requests for further clarity on our proposals.
- 3.38** A trade body raised concerns about the timing of our proposed change to MCOB 5 Annex 1 (to remove a reference to the MAS comparison tables as these are no longer available), despite agreeing with the change in principle. The respondent noted that firms are currently changing their KFIs to introduce additional components for the MCD, and that this further change would pose a significant challenge for firms to have accurate KFIs in place in time for 21 March 2016. The respondent requested that we take account of the late stage of firms' MCD development programmes and allow them to introduce the proposed change in line with their usual update cycle.
- 3.39** The trade body also asked whether the exemption for equitable bridging loans from regulation was limited to the firms listed at CONC App 1.3, or inclusive of any firms that have permission to accept deposits.
- 3.40** We also received a query from a mortgage broker in response to our proposed changes to PERG and CONC to reflect the treatment of investment property loan brokers and introducers under the RAO. The respondent questioned whether changes to PERG 17.7 are needed in order to reflect what they saw as changes to the RAO around debt counselling.

Our response

- 3.41** As the majority of the feedback to our proposals was positive we will proceed with our proposals as consulted upon with one minor exception. We recognise the issues around the timing of the proposed change to MCOB 5 Annex 1. We have therefore amended our final rules to allow firms to adopt the proposed change on any date from 4 December 2015 to 3 December 2016 inclusive. We understand that this should allow firms to make the change to their KFI template in line with their usual update cycle.
- 3.42** We can confirm that the exemption for equitable bridging loans extends to any firm that has permission to accept deposits as per CONC App 1.3.1.
- 3.43** We will not make further amendments to PERG as a result of consultation feedback. The new RAO Article 36E provides an exclusion for investment property loans from credit broking, and does not relate to debt counselling, which is the subject of PERG 17.7.

Cost benefit analysis and compatibility statement

- 3.44** We consider that providing a transitional period during which firms can make the required change to their KFIs will allow firms sufficient flexibility to ensure that any costs incurred remain of minimal significance. The compatibility statement and statement on the impact on mutual societies from CP15/28 remain unchanged.

Equality and diversity issues

- 3.45** We continue to believe these changes do not give rise to any equality and diversity issues and that they do not give rise to unfair discrimination against protected groups as set out in CP15/28 (Chapter 3).
- 3.46** The changes made by this instrument are listed in Chapter 2 of this Notice.

CP15/28 Quarterly Consultation (No.10) Chapter 6

Supervision Manual (Amendment No 21) Instrument 2015

Background

- 3.47** In September 2015 we set out proposed amendments to several parts of Chapter 16 of the Supervision manual (SUP). These amendments intend to improve the clarity of guidance notes, make small alterations to data items, change submission methods and clarify which firms need to complete sections L and M of the Mortgage Lenders and Administrators Return (MLAR).

Feedback

- 3.48** We received two consultation responses. One pointed to an issue in the SUP sourcebook where a provision, included in the consultation instrument, referred to an old system known as ONA that is no longer in place. The second response was supportive of our proposals for RMA-C and we propose no alterations to the instrument as a result.

Our response

- 3.49** As a consequence of the consultation feedback we have changed the instrument text to read 'the appropriate system' rather than 'ONA'. This will future-proof the provision by ensuring that any subsequent system changes will not require an amendment to be made to the Handbook. As the other consultation response was broadly supportive, we intend to proceed with the proposal as set out in CP 15/28 Chapter 6 with the reference to the 'ONA' system being the only change.

Cost benefit analysis and compatibility statement

- 3.50** The cost benefit analysis and compatibility statement from CP 15/28 Chapter 6 remain unchanged.

Equality and diversity issues

- 3.51** We continue to believe these changes do not give rise to any equality and diversity issues nor do they give rise to unfair discrimination against protected groups as set out in CP 15/28 Chapter 6.
- 3.52** The changes made by this instrument are listed in Chapter 2 of this Notice.

CP15/28 Quarterly Consultation (No.10) Chapter 7

Dispute Resolution: Complaints Sourcebook (Amendment No 5) Instrument 2015

Background

- 3.53** We proposed changes to clarify our complaints handling requirements for firms, including the commencement of our new complaints recording, reporting and publication rules, which were made by our Board in July. These amendments should be read in conjunction with PS15/19¹⁸ and apply to firms that are subject to our complaints handling rules in the Dispute Resolution: Complaints sourcebook (DISP).

¹⁸ PS15/19 *Improving complaints handling, feedback on CP14/30 and final rules* (July 2015)

- 3.54** Changes were also proposed to the Voluntary Jurisdiction (VJ) of the Financial Ombudsman Service (the ombudsman service). As the standard terms for participants in the VJ are made by the ombudsman service (subject to FCA approval), this feedback is issued jointly by both organisations.
- 3.55** We proposed changing the commencement dates for complaints reporting and publication to provide additional clarity about when firms need to report, by referring firms to the start of the relevant reporting period. This was in light of feedback we received following PS15/19. We also proposed adding some additional guidance and minor amendments to the complaints reporting form.
- 3.56** Additionally, we proposed removing the application of DISP 1.6.1R(1) (Keeping the complainant informed), which requires respondents to send a complainant a written acknowledgement for complaints which are resolved by the close of the third business day. We considered this unnecessary given the new requirement to send a 'summary resolution communication'.
- 3.57** Lastly, we proposed remaking the complaints recording and complaints reporting rules in their entirety to correctly cite two specific powers under which the rules are made.

Feedback

- 3.58** We received eight responses to Chapter 7 of the consultation paper, including three from membership associations and four from authorised firms.
- 3.59** One membership association raised concerns about the requirement commencing on 1 January 2016 (for firms to report all complaints they receive) appearing without an accompanying requirement to report how many of these complaints are closed within three business days (which commences on 30 June 2016). The membership association said that this could result in a significant increase in the number of complaints reported (due to insufficient context or the ability to compare how quickly firms resolve complaints). Another respondent said that some firms do not formally record complaints handled less formally by the close of the next business day, which would require them to implement new systems to achieve this at relatively short notice.
- 3.60** Some respondents also raised concerns about the commencement dates for the new reporting requirements and argued that more time should be permitted for firms to make necessary systems changes, contract third parties and train staff. The time between when we expect to make the new rules and the commencement date of 1 January 2016, for many firms, leaves limited time for implementation. Concerns were also raised about the stepped commencement of some of the reporting requirements, which will mean that the number of complaints resolved within three business days does not have to be reported for the first reporting period in 2016. A number of respondents asked for further clarification about the reporting requirements.
- 3.61** Further, we received a number of specific comments on aspects of the complaints reporting forms, including on how various product categories are defined.

Our response

- 3.62** We recognise that some firms will need to make significant systems changes to meet our new reporting requirements when they commence next year. In PS15/19 we stated that the new reporting and complaints publication rules would come into force in respect of reporting periods ending on 30 June 2016, along with the rules amending the complaints return and complaints publication report. In order to comply with this requirement, the majority of firms would have needed to start collecting any new complaints data in January 2016 to be ready to report it to us using the new form, after 30 June. It became apparent to us that these

rules were not sufficiently clear to all firms. The amendments we proposed in CP15/28 were introduced to clarify this.

- 3.63** However, in light of additional feedback we have now received from respondents and concerns raised about the time available to implement necessary changes, we have decided to delay the commencement of the complaints reporting and publication rules to reporting periods which start on or after 30 June 2016.
- 3.64** The date on which a firm's reporting period begins will determine whether they need to use the current or the new complaints reporting form. For complaints reporting periods which start on or before 29 June 2016, firms will report and publish information using the current rules and forms and will not need to report complaints which they consider to be resolved by close of the business day following receipt (as is currently the case). However, in all other respects firms will need to comply with the new rules which apply from 30 June 2016 to complaints resolved by close of the third business day following receipt, including sending eligible complainants a summary resolution communication.
- 3.65** For reporting periods which start on or after 30 June 2016, firms will need to complete the new complaints return and use the new complaints publication report. They will also need to comply with the new rules which will apply to complaints resolved by close of the third business day.
- 3.66** The rules which will apply to complaints resolved by close of the third business day are discussed further in PS15/19.
- 3.67** Additionally, we expect to make necessary changes to our own GABRIEL reporting system by March 2016, allowing individual firms to see the relevant form which applies to them online, before they come to complete it (from the summer onwards).
- 3.68** We have made a number of other minor amendments to the reporting forms and accompanying guidance, in light of specific comments received:
- The contextualisation metric for investment complaints now refers to 'the number of client accounts', rather than the 'number of distinct funds or investments' (in Tables 3 and 6 in Part A, DISP 1 Annex 1R, the 'complaints form' and in Annex 1BR - Complaints publication report). We intend this to better reflect business practice by investment firms. Additionally, we have added related guidance on contextualisation outlining that any underlying funds should not be counted in the number of client accounts. For example, an ISA wrapper should be counted, but the individual funds held within it should not be.
 - We have changed the heading for Column O of Table 4 in Part A-2, DISP 1 Annex 1R from 'Of which claims related' to 'Number of complaints in columns B to N which are claims related'. This makes clear that we are seeking the proportion of insurance complaints for claims and we have also added accompanying guidance to this effect.
 - In the notes on completion of the return, we have added additional examples to emphasise that a complaint should be reported against the product/service element complained about, which may be different to the main policy itself.
 - For contextualisation, we have added additional guidance to clarify that when completing a group report (covering more than one entity) a group should choose the metric which best reflects whether the business for all firms included predominantly involves intermediation, or the provision of products or services.

- 3.69** DISP 1.6.1R(1) - Keeping the complainant informed, which requires respondents to send a complainant a written acknowledgement, will not apply to complaints which are resolved by the close of the third business day. We believe that this written acknowledgement is now unnecessary given the new requirement to send a 'summary resolution communication'. This change is being made by the FCA for complaints that fall within the Compulsory Jurisdiction (CJ). It is also being made by the ombudsman service as a change to the standard terms for complaints falling within the VJ.
- 3.70** The ombudsman service is making a minor change to the standards terms for VJ participants to clarify that the complaints data publication rules do not apply to them. This is already the effect of the rules so the proposed changes are for clarification only. This proposed change is contained in Part 2 of the Annex to the draft instrument.
- 3.71** As explained in CP 15/28, we are remaking the complaints recording and complaints reporting rules and accompanying forms to specify two further powers under which the rules are made, in addition to our general rule-making power in section 137A of the Financial Services and Markets Act 2000 (FSMA) and paragraph 13 of Schedule 17 to FSMA. These two powers are in paragraph 15 of FSMA (Transitional Provisions) (Ombudsman Scheme and Complaints Scheme) Order 2001 and paragraph 9 of FSMA (Transitional Provisions) (Complaints relating to General Insurance and Mortgages) Order 2004.
- 3.72** We have also made a number of minor typographical and consequential corrections.

Cost benefit analysis and compatibility statement

- 3.73** We believe that the cost to firms of implementing these changes will be less due to the postponed start date. Correspondingly, the benefits as explained in the cost-benefit analysis will start approximately six months later. In other respects we believe our cost-benefit analysis and compatibility statement in CP15/28 continue to remain valid.

Equality and diversity issues

- 3.74** We have considered our obligations under the public sector equality duty and the requirement that we have due regard to the need to eliminate unlawful discrimination, advance equality of opportunity between people who share a protected characteristic and those who do not, and foster good relations between people who share a protected characteristic and those who do not. As stated in CP15/28 (Chapter 7), we do not consider that the proposals have any implications in relation to these issues, because they are mainly intended to provide further clarity to the operation of the rules.
- 3.75** The changes made by this instrument are listed in Chapter 2 of this Notice.

Expected effect on mutual societies

- 3.76** Section 138K(4) requires us to set out whether we think the rules as made are going to have a significantly different impact from the ones that were proposed on mutual societies as oppose to other authorised persons. As explained above, the main difference in the rules as made to the rules as proposed is delaying the commencement of the new complaints reporting and complaints publication rules and forms.
- 3.77** The complaints reporting and complaints data publication rules do not apply to credit unions (who are a form of mutual society) but do apply to mutual societies who are not credit unions. Credit unions will not, therefore, be impacted by the delay to commencement of the new rules and forms and we do not expect the impact of the rules as made to be significantly different from the proposed rules on mutual societies to which the rules do apply as compared to the impact on other authorised persons. The other rules we are amending apply equally to all firms

and we do not expect the impact of the new rules to be significantly different from the impact of the proposed rules on mutual societies as compared to other authorised persons.

CP15/27 UCITS V implementation and other changes to the Handbook affecting investment funds

European Long-Term Investment Funds Regulation Instrument 2015

Background

- 3.78** We are publishing the Handbook changes for the European Long Term Investment Funds Regulation (the ELTIF Regulation). The ELTIF Regulation is directly applicable under EU law and does not require implementation by the FCA. However, with the Treasury, we have identified areas of the UK Regulatory Framework that require adaptation. The UK Regulatory Framework requires adaptations so that the ELTIF Regulation can function properly in the UK, while also ensuring our objective of consumer protection continues to be met.

Summary of proposals

- 3.79** We proposed to:

- create a new section of the Investment Funds sourcebook (FUND) called 'European AIF (Alternative Investment Fund) Regimes', to include rules and guidance for ELTIF and interactions between the ELTIF Regulation and FCA rules (FUND 4.2)

Managers and depositaries

- require managers and depositaries of ELTIFs to have the Part 4A permission of, respectively, acting as the manager and as the depositary of an authorised AIF
- adapt our rules to reflect that, when ELTIFs may be marketed to retail investors, stricter requirements apply to the appointment of depositaries and the limitations on the re-use of assets
- require a UK ELTIF to have a depositary established in the UK

Other consequential changes

- remove the definition of closed-ended corporate AIF from the Glossary
- amend COBS 4.12.4R by moving EuSEF (European Social Entrepreneurship Fund) and EuVECA (European Venture Capital Fund) from category 3 (enterprise and charitable funds) to category 11 (excluded communications)
- specify that COBS 18.5.10AR will not apply to ELTIFs as it specifies certain disclosures that a full-scope UK AIFM must provide to a retail investor when it markets an unauthorised AIF that is not a collective investment scheme

Redress

- bring managers and depositaries of ELTIFs, including closed-ended investment companies that are set up as ELTIFs, within the scope of the Financial Ombudsman Service (the

ombudsman service) and the FSCS (Financial Services Compensation Scheme) to also include the activities of an EU AIFM (European Alternative Investment Fund Manager) that manages a UK ELTIF, in line with our current application for other UK-authorized AIFs

- amend the definition of an authorised fund for the Compensation sourcebook (COMP) and the Dispute Resolution: Complaints sourcebook (DISP) to include ELTIFs

Fees

- for the authorisation of an AIF as an ELTIF we proposed to charge an application fee of £2,400 for a single fund and £4,800 for an umbrella fund
- we also proposed to include ELTIFs in the 'C' fee block for periodic fees purposes, so that they are charged the same fees as other authorised funds

Feedback

3.80 We received five responses from trade associations and a consultancy firm. The feedback received was generally supportive of our proposals. In particular, respondents agreed with the need to ensure an appropriate level of protection for retail investors.

3.81 However, respondents also made a few comments:

- One respondent asked us to consider reviewing our rules and guidance after a reasonable period to ensure that there are no unintended consequences which may act against the development of an ELTIF market in the UK. They also asked for the link to the regulation and further guidance, for example around setting appropriate vehicles for UK ELTIFs or investment in loans, to be added to FUND 4.2.
- One respondent said AIFMs of ELTIFs that will not be marketed to retail investors should not have to change their Part 4A permission to include 'managing an authorised AIF'.
- One respondent felt that not allowing depositaries of ELTIF to benefit from the transitional provision allowed under AIFMD (Alternative Investment Fund Managers Directive) could prevent UK depositaries from competing as custodians and dissuade retail investors from investing in these funds.
- For fees, one respondent supported the proposal to charge ELTIFs the same application and periodic fees as we do for other authorised funds. They also suggested that we periodically benchmark these fees with those applied by regulators in other EU jurisdictions. A consultancy firm proposed that we should not charge a periodic fee, so as to encourage the take-up of ELTIFs.
- Respondents suggested the proposed amendment to COBS 4.12.4R(3) may lead to confusion amongst fund managers, who might believe EuSEFs and EuVECAs could no longer be promoted to semi-professional investors.
- One respondent said that managers and depositaries of ELTIFs set up as investment companies should not fall within the scope of the ombudsman service and the FSCS as, in their view, this would have an adverse impact on self-managed ELTIFs set up as investment companies. They also stated that there is no mechanism to compensate an individual shareholder without compromising the interests of other holders of the same class of security, which would have potential implications for company law. Another respondent asked for a clear distinction between ELTIFs that could be marketed to retail investors and those that could

not, to exempt purely professional ELTIFs from the scope of COMP and DISP.

Our response

- 3.82** ELTIF is a new regulation and we recognise the challenges firms may face in applying it. While we cannot currently provide formal guidance, we will monitor the development of the market to assess the impact of our proposed rules and consider whether further guidance may be required.
- 3.83** Part 4A permissions: in our view professional ELTIFs are more similar to authorised AIFs than unauthorised AIFs since they must be authorised by a national regulator and must meet specific requirements to use the ELTIF label. Requiring ELTIFs, their managers and depositaries to follow similar requirements to other types of authorised fund should result in fair treatment of all authorised investment vehicles.
- 3.84** AIFMD and depositaries: the ELTIF Regulation makes no specific reference to the transitional provision allowed under the AIFMD and it remains our view that ELTIFs should be subject to similar principles as other authorised AIFs. We have not, however, prohibited UK depositaries from acting as the depositary for EEA-ELTIF if other Member States decide to allow the transitional provision under the AIFMD to apply for ELTIFs based in their jurisdiction.
- 3.85** COBS 4.12.4R amendment: as this is not required by the ELTIF Regulation, we will not proceed with the proposal.

Wider review and fees

- 3.86** We do not believe there is a need for further guidance before any ELTIFs are launched, but will continue to monitor the development of the market to consider whether any guidance or changes may be useful in the future.
- 3.87** Our fees are set at a level to enable us to recover our costs, as we are entirely funded by the organisations we regulate. Regulators across the EU have different structures, objectives and funding models, so we do not believe that benchmarking our fees for ELTIFs against those in other jurisdictions would be appropriate. However, we will include fees as part of our 'ongoing market monitoring'. If we did not charge ELTIF periodic fees then the costs of their ongoing supervision would have to be met by other authorised funds. This could potentially place other authorised funds at a competitive disadvantage compared to ELTIFs, which would effectively have lower fees subsidised by other funds.
- 3.88** Redress: the issues raised in feedback require our further consideration. Since we are not required by the ELTIF Regulation to provide for the ombudsman service and FSCS coverage, it is not essential to have those rules in place by December 2015. We will consider the issues further and engage with interested parties to provide a response when we publish the Policy Statement on the UCITS V implementation.

Cost benefit analysis and compatibility statement

- 3.89** We did not receive any feedback to suggest that the proposals we are implementing represent anything more than minimal costs for firms. We believe our cost-benefit analysis in CP15/27 remains valid.
- 3.90** With respect to redress, we do not believe that a delay in finalising our rules and guidance will lead to any consumer detriment, since it is likely to be some time before any ELTIFs are authorised and launched.

Equality and diversity issues

- 3.91** We continue to believe these changes do not give rise to any equality and diversity issues nor do they give rise to unfair discrimination against protected groups as set out in CP 15/27.
- 3.92** The changes made by this instrument are listed in Chapter 2 of this Notice.

CP15/28 Quarterly Consultation (No 10) Chapter 9

General Provisions (Amendment) Instrument 2015***Background***

- 3.93** In CP12/24, the FSA consulted on a number of rule changes to help users understand how provisions that appear in both the FCA and PRA Handbooks would apply and how they should be interpreted. The final rules were published in FSA PS13/5.

Summary of proposals

- 3.94** The instrument makes the following changes:
- an amendment to GEN to help ensure that cross references continue to work, including cross references to PRA provisions that are now deleted by the PRA
 - an amendment to GEN to ensure that the provisions in the FCA's Handbook continue to be within its regulatory scope

Feedback

- 3.95** We received no responses to the proposal.

Our response

- 3.96** We will go ahead and make the changes to GEN as outlined in CP15/28 (Chapter 9). We have also added some guidance to clarify the purpose of GEN 2.2.13AR as amended.

Cost benefit analysis and compatibility statement

- 3.97** Both the cost benefit analysis and compatibility statement remain as published in CP15/28 (Chapter 9).

Equality and diversity issues

- 3.98** We continue to believe these changes do not give rise to any equality and diversity issues and that they do not give rise to unfair discrimination against protected groups as set out in CP15/28 (Chapter 9).
- 3.99** 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.
- 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 1.6 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

- 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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