

Quarterly Consultation

CP23/6

No 39

March 2023

How to respond

The Financial Conduct Authority invites comments on this Consultation Paper. Comments should reach us by 27 March 2023 for Chapter 2.

Comments may be sent by electronic submission using the form on the FCA's [website](#).

Alternatively, please send comments in writing to:

Chapter 2: Paul Allan, Redress and CMC Policy Telephone: 020 7066 4221

All responses should be sent to:
Financial Conduct Authority
12 Endeavour Square
London E20 1JN

Email: cp23-6@fca.org.uk



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Chapter 1

Overview

Chapter No	Proposed changes to Handbook	Consultation Closing Period
2	To provide additional guidance in SUP 16 for completing the Annual Claims Management Report form (CMC001) and minor amendments to the numbering of the fields in the form.	3 weeks

Chapter 2

Changes to guidance and numbering in the Annual Claims Management Report form

Introduction

- 2.1** Claims management companies (CMCs) are required to submit an Annual Claims Management Report form (CMC001) as set out in the Supervision manual (SUP) in SUP 16 Annex 45A. This is part of CMCs' regulatory reporting requirements and provides us with regulatory data to inform and support the supervision of the sector. Guidance for completion of CMC001 is provided in SUP 16 Annex 45B.
- 2.2** Following the publication of our Policy Statement (PS) [22/6](#) in June 2022, some additional reporting requirements for CMCs came into force in July 2022. Additional questions were added to CMC001 to reflect this, although no corresponding guidance was added.
- 2.3** This chapter sets out proposed additional guidance in SUP 16 Annex 45B to assist firms in completing the additional fields. We also propose adding minor additions to the existing guidance on 2 other fields in CMC001.
- 2.4** To assist firms with referencing the relevant parts of SUP 16 Annex 45A and SUP 16 Annex 45B set out below, it should be noted that in December 2022, some minor administrative changes to the requirements were published to come into force on 1 April 2023. The amendments were to headings and the numbering/ordering of questions in SUP 16 Annex 45A and the corresponding data points in SUP 16 Annex 45B. The numbering references below correspond to the numbering that will apply as at 1 April 2023. These versions can be found at: [SUP 16 Annex 45A](#) and [SUP 16 Annex 45B](#) (for example, the current questions 53 to 54 will become 35 to 37).
- 2.5** We are also now proposing some minor changes to the guidance and numbering of fields at the end of the form, following on from these administrative changes.

Summary of proposals

- 2.6** In July 2022, new rules came into force prohibiting CMCs from carrying out regulated claims management activity on claims and potential claims to the Financial Services Compensation Scheme (FSCS), where the CMCs have relevant connections to the claims (as set out in [PS22/6](#)). As part of these rules, we require CMCs to routinely notify us of connections they have to financial services (FS) firms that could be relevant to this, as set out in CMC001 2.1.21R. As such, additions were made to CMC001, requiring firms to notify us annually of relevant connections.

- 2.7** To assist with signposting which CMCs need to complete these additional fields in CMC001, we propose to add guidance in the 'General notes' section in SUP 16 Annex 45B.
- 2.8** We propose to also add similar signposting under the heading 'Relevant Connections' before data point 35 to assist firms in knowing if the upcoming section in CMC001 is relevant to them.
- 2.9** For questions 35 to 37 in CMC001, we propose adding corresponding guidance for each. This is to assist firms in answering each question in line with the requirements on relevant connections. In summary, the proposed additional guidance provides clarification on which individuals at the firm we would need to be notified of, and what information needs to be provided on them, in relation to any FSCS-eligible activity at another firm.
- 2.10** Separately, we propose making minor additions to the guidance notes to help with signposting firms elsewhere in CMC001.
- 2.11** Further to the minor administrative changes to SUP 16 Annex 45A that come into force on 1 April 2023, we propose a minor change to guidance and the numbering of some of the fields at the end of the form.
- 2.12** The proposed changes are set out in Appendix 2.

Q2.1 Do you agree with the proposed amendments to SUP 16 Annex 45A and SUP 16 Annex 45B?

Cost benefit analysis

- 2.13** Section 138I of the Financial Services and Markets Act 2000 (FSMA) requires us to publish a cost benefit analysis (CBA) unless, in accordance with section 138L, we consider that there will be no increase in costs from the proposed amendments or that the increase will be of minimal significance.
- 2.14** We are satisfied that the proposed amendments do not increase costs to firms or consumers, or any increase will be of minimal significance, as they do not create any new obligations. It will have the general benefit of providing additional guidance and signposting to firms.

Impact on mutual societies

- 2.15** Section 138K(2) of FSMA requires us to provide an opinion on whether the impact of proposed rules on mutual societies is significantly different to the impact on other authorised persons. We are satisfied that the proposed changes in this chapter do not have a significantly different impact on mutual societies compared to other authorised persons.

Compatibility statement

- 2.16** Section 1B of FSMA requires us, so far as is reasonably possible, to act in a way that is compatible with our strategic objective and advances one or more of our operational objectives. We also need to carry out our general functions in a way that promotes effective competition in the interests of consumers.
- 2.17** We are satisfied that the proposed amendments are compatible with our objectives and regulatory principles. The proposed amendments provide additional guidance to assist firms with their reporting requirements. In turn, this should allow for more effective and efficient supervision of firms which will help us to advance our consumer protection objective. We do not believe that the proposed changes will have an impact on competition. The changes are expected to impose no or minimal costs on firms and do not affect firms' incentives or ability to compete in the market.

Equality and diversity

- 2.18** We have considered the equality and diversity issues that may arise from the proposed amendments. We have not identified any adverse impact that the proposals in this chapter would have on any of the groups with protected characteristics under the Equality Act 2010 (ie, age, disability, sex, marriage or civil partnership, pregnancy and maternity, race, religion and belief, sexual orientation and gender reassignment).
- 2.19** We will continue to consider the equality and diversity implications of the proposals during the consultation period and will revisit them when publishing the final rules. In the meantime, we welcome comments on any equality and diversity considerations respondents believe may arise.

Annex 1

Abbreviations used in this paper

Abbreviation	Description
CBA	Cost benefit analysis
CMC	Claims management company
CMC001	Annual Claims Management Report form
CMCOB	Claims Management Conduct of Business sourcebook
FS	Financial services
FSCS	Financial Services Compensation Scheme
FSMA	Financial Services and Markets Act 2000
PS	Policy Statement
SUP	Supervision manual

We make all responses to formal consultation available for public inspection unless the respondent requests otherwise. We will not regard a standard confidentiality statement in an email message as a request for non-disclosure.

Despite this, we may be asked to disclose a confidential response under the Freedom of Information Act 2000. We may consult you if we receive such a request. Any decision we make not to disclose the response is reviewable by the Information Commissioner and the Information Rights Tribunal.

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Appendix 1

List of questions

- Q2.1** Do you agree with the proposed amendments to SUP 16 Annex 45A and SUP 16 Annex 45B?

Appendix 2

Changes to guidance and numbering in the Annual Claims Management Report form

**CLAIMS MANAGEMENT FORM GUIDANCE AND NUMBERING INSTRUMENT
2023**

Powers exercised by the Financial Conduct Authority

- A. The Financial Conduct Authority (“the FCA”) makes this instrument in the exercise of the following powers and related provisions in or under the Financial Services and Markets Act 2000 (“the Act”):
- (1) section 137A (The FCA’s general rules);
 - (2) section 137B (FCA general rules: clients’ money, right to rescind etc);
 - (3) section 137T (General supplementary powers); and
 - (4) section 139A (Power of the FCA to give guidance).
- B. The rule-making powers listed above are specified for the purpose of section 138G(2) (Rule-making instruments) of the Act.

Commencement

- C. This instrument comes into force on [*date*].

Amendments to the FCA Handbook

- D. The Supervision manual (SUP) is amended in accordance with the Annex to this instrument.

Citation

- E. This instrument may be cited as the Claims Management Form Guidance and Numbering Instrument 2023.

By order of the Board
[*date*]

Annex

Amendments to the Supervision manual (SUP)

In this Annex, underlining indicates new text and striking through indicates deleted text.

16 Reporting requirements

...

**16 Annex Annual Claims Management Report form
45AR**

CMC001: Key data for Claims Management

Currency: Sterling only

Units: integers

...									
Relevant Connections									
<p>For firms with These questions are for <i>firms</i> carrying on or which have <i>permission</i> to carry on: <i>seeking out, referrals and identification of claims or potential claims; or and/or advice, investigation or representation in relation to a financial services or financial product claim.</i></p>									
...									
<u>74</u>	<i>housing disrepair claims</i>								
<u>75</u>	<i>claims for a specified benefit</i>								
<u>76</u>	<i>criminal injury claims</i>								
<u>77</u>	<i>employment-related claims</i>								
	Of the above types of <i>claim</i> , which three saw the largest percentage change in number of successful <i>claims</i> ? Please complete 78 to 80 below:								

	Type of <i>claim</i>	Percentage change
<u>74</u> <u>78</u>		
<u>75</u> <u>79</u>		
<u>76</u> <u>80</u>		

16 Annex 45BG Guidance notes for completion of the Annual Claims Management Report form

Guidance for CMC001

General notes

...

Questions 35 to 37 are currently left blank. Questions 35 to 37 apply to firms carrying on, or with permission to carry on, seeking out, referrals and identification of claims or potential claims and/or advice, investigation or representation in relation to a financial services or financial product claim.

...

	Question	Notes	B
...			
34	What was the amount of the prudential surplus or deficit at the end of the reporting period?	Enter positive figures only (irrespective of whether the amount was a surplus or deficit.)	
<u>Relevant Connections</u>			
<u>These questions are for firms carrying on, or which have permission to carry on: seeking out, referrals and identification of claims or potential claims; and/or advice, investigation or representation in relation to a financial services or financial product claim.</u>			
35	This row is left blank intentionally. <u>Is the firm providing a notification of individuals, as per CMC0B 2.1.21R?</u>	<u>Answer “yes” or “no”.</u> <u>Firms should answer “yes” if there are any individuals at their firm (including employees,</u>	

		<p><u>controllers or members of the firms governing body) who are/were directly involved in, or responsible for, the carrying on of an FSCS-eligible activity at another firm; or if any controller or member of the firms governing body is related to someone who is/was directly involved in, or responsible for, the carrying on of an FSCS-eligible activity at another firm.</u></p> <p><u>In summary, an FSCS-eligible activity is an activity in connection with which a claim could be made to the FSCS; it is defined in CMC OB 2.1.17R(6) and CMC OB 2.1.18G.</u></p>	
	<p><u>If the answer to question 35 is yes, please complete the following information:</u></p>		
36	<p><u>This row is left blank intentionally. Where CMC OB 2.1.21R(3) applies to the individual, complete the information required in the following table.</u></p>		
	<p><u>Name of the individual</u></p>	<p><u>The individual is an employee or controller of your firm, or any member of its governing body, who is or was directly involved in or responsible for the carrying on of an FSCS-eligible activity at another firm.</u></p>	
	<p><u>Individual’s role in the firm providing the notification</u></p>	<p><u>Please state the individual’s role at your firm.</u></p>	
	<p><u>Name of the firm at which the FSCS-eligible activity was carried on by the individual</u></p>	<p><u>Please provide the name of the other firm where the individual is or was directly involved in or directly responsible for carrying on an FSCS-eligible activity.</u></p>	
	<p><u>Individual’s role at the firm at which the FSCS-eligible activity was carried on</u></p>	<p><u>Please provide the individual’s role at the other firm where that individual is or was directly involved in or directly responsible for carrying on an FSCS-eligible activity.</u></p>	

	<u>Date that role started</u>	Please provide the date the <u>individual's role at the other firm started.</u>	
	<u>Date that role ended</u>	Please provide the date the <u>individual's role at the other firm ended (if it has ended).</u>	
37	This row is left blank intentionally. Where <u>CMCOB 2.1.21R(5)</u> applies to the individual, complete the information required in the following table.		
	<u>Name of individual A</u>	<p><u>Individual A is any controller or member of your firm's governing body who is related to a person (individual B) who is or was directly involved in or responsible for the carrying on of an FSCS-eligible activity at another firm.</u></p> <p><u>Under CMCOB 2.1.17R(5), A is related to B for these purposes if:</u></p> <p><u>(a) A is B's spouse or civil partner;</u></p> <p><u>(b) A's relationship to B has the characteristics of the relationship between spouses or civil partners; or</u></p> <p><u>(c) A is B's parent, brother, sister, child, grandparent or grandchild (including step-relations in these categories).</u></p>	
	<u>Individual A's role in the relation to the firm providing the notification</u>	Please provide individual A's role at your <i>firm</i> .	
	<u>Name of individual B</u>	<u>Individual B is the person who is or was directly involved in or is or was responsible for the carrying on of an FSCS-eligible activity at another firm, who is related to individual A.</u>	
	<u>Relationship between individual A and individual B</u>	<u>Describe how individual A is related to individual B (see CMCOB 2.1.17R(5)).</u>	

	<u>Name of the <i>firm</i> at which the FSCS-eligible activity was carried on by individual B</u>	<u>Please provide the name of the <i>firm</i> at which individual B is or was directly involved in, or directly responsible for carrying on an FSCS-eligible activity.</u>	
	<u>Individual B’s role at the <i>firm</i> at which the FSCS-eligible activity was carried on</u>	<u>Please provide individual B’s role at the other <i>firm</i> where they are or were directly involved in, or directly responsible for carrying on an FSCS-eligible activity.</u>	
	<u>Date that role started and date that role ended</u>	<u>Please provide the date the individual’s role at the other <i>firm</i> started and the date it ended.</u>	
...			
Professional Indemnity Insurance			
...			
39	Did the <i>firm</i> have a professional indemnity insurance policy in place for <i>advice, investigation or representation in relation to a personal injury claim</i> as at the end of the reporting period?	Answer “yes” or “no”. If yes, please complete questions 40 to 46. <u>If no, go to question 47.</u>	
...			
Third-party Lead Generators			
52	How many leads did the <i>firm</i> purchase from <i>lead generators</i> during the reporting period?	State “0” or provide a positive figure. <u>If your answer to question 52 is “0”, go to question 56.</u>	
...			

