



No.10

Handbook Notice

March 2014

Financial Conduct Authority



Contents

1.	Overview	3
2.	Summary of changes	5
3.	Consultation feedback	11
4.	Additional information	17

Handbook Notice 010

This Handbook Notice introduces the Handbook and other material made by the Financial Conduct Authority (FCA) Board under its legislative powers on 27 February and 27 March 2014. 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:

Saira Hussain
Tel: 020 7066 0334
Email: saira.hussain@fca.org.uk

Melanie Purdie
Tel: 020 7066 9066
Email: mel.purdie@fca.org.uk

However, queries on specific requirements in the Handbook should be addressed first to your normal supervisory contact in the FCA. For most firms this will be the FCA's Firm Contact Centre:

Tel: 0845 606 9966
Fax: 020 7066 0991
Email: fcc@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 27 February 2014, in addition to the instruments listed in the last Handbook Notice, the FCA Board made changes to the Handbook in the instrument listed in the table below.

CP	Title of instrument	Instrument No.	Changes effective
13/13	Crowdfunding and the Promotion of Non-Readily Realisable Securities Instrument 2014	2014/13	1.4.2014

- 1.2** On 27 March 2014, the FCA Board made changes to the Handbook in ten instruments which are listed in the table below.

CP	Title of instrument	Instrument No.	Changes effective
N/A	Handbook Administration (No 33) Instrument 2014	2014/21	1.4.2014/ 26.4.2014/ 1.1.2015
14/1	Financial Services Compensation Scheme (Management Expenses Levy Limit 2014/2015) (FCA) Instrument 2014	2014/22	1.4.2014
13/6 and 13/12	Capital Requirements Directive IV (Capital Buffers) Instrument 2014	2014/23	1.5.2014/ 1.1.2016
12/38	Conduct of Business Sourcebook (Mutuals) Instrument 2014	2014/24	28.3.2014
13/5 and 13/10	Consumer Credit (Debt Management Client Money Supplementary Amendments) Instrument 2014	2014/25	1.4.2014
13/13	Client Assets Sourcebook (Amendment No 4) Instrument	2014/26	1.4.2014
13/18 (Ch 5)	Supervision Manual (Waiver Process) (Amendment) Instrument 2014	2014/27	1.4.2014
CP14/3	Consumer Credit (Statutory Notices) Instrument 2014	2014/28	1.4.2014

- 1.3** The FCA also approved the following changes, as made by the Financial Ombudsman Service Board.

CP	Title of instrument	Instrument No.	Changes effective
NA	FEES Manual (Financial Ombudsman Service Case Fees 2014/15) Instrument 2014	2014/15	1.4.2014

- 1.4** The FCA Board also approved FCA 2014/18, FCA 2014/19 and FCA 2014/20 which will be published at a later date. The changes will be summarised in the May Handbook Notice.

Summary of changes

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

Feedback on responses to consultations

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

Forthcoming FCA board meetings

- 1.7** The table below contains a list of forthcoming FCA board meetings for 2014. These dates are subject to change without prior notice.

May	Thursday 1 May
June	Thursday 5 June
	Thursday 26 June
July	Thursday 24 July
September	Thursday 25 September
November	Wednesday 5 or Thursday 6 November (date TBC)
December	Thursday 11 December

2. Summary of changes

- 2.1** This chapter briefly describes FCA Handbook changes and changes outside the Handbook made by the Board on 27 February and 27 March 2014. Where relevant, it also refers to the development stages of that material, enabling readers to look back at developmental documents if they wish. For information on changes made by the PRA please see <http://www.bankofengland.co.uk/pr/Pages/publications/default.aspx>

Crowdfunding and the Promotion of Non-Readily Realisable Securities Instrument 2014 (FCA 2014/13)

- 2.2** Following consultation in CP13/13¹, the FCA Board has made changes to the FCA Handbook sections listed below:
- Glossary of definitions**
 - SYSC 4 and TP2**
 - IPRU(INV) TP**
 - COBS 2, 4, 10, 14 and TP2**
 - CASS TP1**
 - SUP 16 and TP1**
- 2.3** In summary, these changes will introduce regulation to firms operating loan-based crowdfunding (including peer-to-peer (P2P) lending)) platforms and amend our regulation of firms that operate investment-based crowdfunding platforms or promote non-readily realisable securities.
- 2.4** This instrument comes into force on **1 April 2014**. Feedback to this consultation was set out in PS14/4.²

Handbook Administration (No 33) Instrument 2014 (FCA 2014/21)

- 2.5** The 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 of definitions**
 - SYSC 18, 19C**
 - BIPRU 1**
 - IFPRU 4**
 - MIPRU 4**
 - IPRU(INV) 13**

¹ CP13/3 *The FCA's regulatory approach to crowdfunding (and similar activities)* (October 2013)

² PS14/4 *The FCA's regulatory approach to crowdfunding over the internet, and the promotion of non-readily realisable securities by other media* (March 2014)

COBS 6
MCOB 6, 7
CASS 11, Sch 2
SUP 2, 6, 10A, 12, 13, 15, 16
DISP TP
CONC 3, 6, 7, 8, 15, TP
REC 2
PERG 2, 13, 17

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

- amendments to the definitions of ‘matched principal exemption conditions’ and paragraph (1) of the definition of ‘deal on own account’, following the reinstatement of BIPRU 1.1.23R(2); both terms are needed to give proper effect to that provision and have been amended to ensure that their scope is clear
- insertion of a new definition of ‘ONA’; this is to cover a possible future change in the name of the FCA’s ‘online notifications and applications system’ by making the term generic rather than specific; minor typographical changes (by italicising ‘ONA’) have been made to those provisions in SUP where this term currently appears
- typographical corrections to the definitions of ‘continuous payment authority’ and ‘credit token’
- correction of cross-reference in the definition of ‘ILAS BIPRU firm’
- changes to SYSC 18.2.1G and REC 2.5A.5G, these being made necessary as a result of changes made by sections 17 and 18 of the Enterprise and Regulatory Reform Act 2013, which amended Part 4A of the Employment Rights Act 1996
- amendment to SYSC 19C.2.2G by deleting the words ‘common platform’ (in relation to ‘firm’) because the expression is not used elsewhere in SYSC 19C
- deletion within SYSC 19C.3.6G of the reference to ‘deal on own account’ as this is not relevant to BIPRU firms
- reinstatement of BIPRU 1.1.23R (with minor amendments), which defines ‘deal on own account’; this provision was inadvertently deleted by the Capital Requirements Directive IV (GENPRU and BIPRU Amendments) Instrument 2013 (FCA 2013/76)
- deletion of references in BIPRU 1.2.35G, BIPRU 4.1.23R and BIPRU 8.2.1R to the large exposures regime, as this no longer applies to BIPRU firms and as a consequence of the deletion of BIPRU 10 in its entirety by the Capital Requirements Directive IV (GENPRU and BIPRU Amendments) Instrument 2013 (FCA 2013/76)
- a minor change to IFPRU 4.2.3R to be consistent with the PRA, by making clearer the application to exposures located in the UK
- a correction within MIPRU 4.2A.5R to insert an operative commencement date within the text of this provision; this was inadvertently missed out of the changes made by the Prudential Sourcebook for Mortgage and Home Finance Firms, and Insurance Intermediaries (Non-Bank Lenders) Instrument 2012 (FSA 2012/47) which comes into force on 26 April 2014; the operative date in MIPRU 4.2A.R should correspond with that commencement date
- reinstatement of four definitions within IPRU(INV) Appendix 13, which were inadvertently deleted at the time of ‘legal cutover’ to the FCA
- confirmation of changes previously made administratively to the Combined initial disclosure document (in COBS 4 Annex 2); these are to make clear that the amendments to this

document made by the Mortgage Market Review (Conduct of Business) Instrument 2012 (FSA 2012/46) are still intended to come into force on 26 April 2014, notwithstanding amendments made more recently by the FCA and PRA Handbook Designation (General Modifications) Instrument (FCA 2013/9)

- amendments to MCOB 6.7.1R and MCOB 7.6.7R by inserting references to 'high net worth', both of which should have been included in the Mortgage Market Review (Conduct of Business) Instrument 2012 (FSA 2012/46)
- corrections and minor changes to various provisions in CASS, CONC and PERG, in relation to the new regime for consumer credit
- minor change to the title of SUP 2 to conform with a change recently made by the PRA
- correction of an error in the Variation of Permission form in relation to consumer credit firms, in SUP 6 Annex 5D
- confirmation of changes to SUP 16.11.1R, by restating the text of this provision to make its content clearer, following recent competing amendments
- clarificatory change to Note 13 of SUP 16.12.11R
- correction of error in the field relating to 'annual report and accounts' in SUP 16.12.25AR
- change to Note 2 of SUP 16.12.33R to make it clearer that it only applies to FCA firms
- minor amendments to various provisions in SUP 16.12 to reflect the removal of data item FSA008 and other amendments made previously
- a correction to one of the reporting codes within section 2(c) (Mortgages) of SUP 16 Annex 21R (Reporting Fields) as a result of an error in the Supervision Manual (Product Sales Data and Mortgage Lenders and Administrators Return) (Amendment) Instrument 2013 (FCA 2013/83)
- amendments to data items FIN066, FIN067 and FIN068, in SUP 16 Annex 24R, to make clear that these items apply only to FCA firms
- renumbering of Annexes to SUP 16, and a correction and minor change to the notes to form CCR003 in relation to pawnbroking
- new transitional provisions in DISP in relation to consumer credit
- deletion of CONC 7.16.2G and
- reinstatement of the guidance in PERG 13 on 'deal on own account' in relation to BIPRU firms.

2.7 One part of this instrument comes into force on **26 April 2014**, another part on **1 January 2015** and the remainder on **1 April 2014**.

Financial Services Compensation Scheme (Management Expenses Levy Limit 2014/2015) (FCA Instrument 2014 (FCA 2014/22))

2.8 Following consultation in CP14/1³, the FCA Board has made changes to the FCA Handbook section listed below:

FEES 6

2.9 In summary, these changes set a management expenses levy limit (MELL) of £80m for 2014/15 consisting of:

- FSCS management expenses (or budget) of £74.7m: this is the minimum amount that will be levied for 2014/15 and
- a contingency reserve of £5.3m: this allows the FSCS to levy additional funds most likely at relatively short notice, without formal consultation by the FCA and the PRA, to meet contingencies that were not expected when the annual levy was raised.

2.10 This instrument comes into force on **1 April 2014**. Feedback on this consultation is set out in Chapter 3.

Capital Requirements Directive IV (Capital Buffers) Instrument 2014 (FCA 2014/23)

2.11 Following consultation in CP13/6⁴ and CP13/12⁵, the FCA Board has made changes to the FCA Handbook sections listed below:

**Glossary of definitions
IFPRU 1, 10 TP7, TP8, Schedule 2**

2.12 The instrument also introduces a new chapter (IFPRU 10) and transitional provisions (TP 7 and TP 8) in the Prudential sourcebook for Investment Firms (IFPRU) to implement the relevant provisions on capital buffers under Directive 2013/36/EU (Capital Requirements Directive). The buffer framework is intended to ensure that firms maintain a sufficient amount of capital above their regulatory minimum, so they can withstand periods of stress.

2.13 Part of this instrument comes into force on **1 May 2014** and the remainder on **1 January 2016**. Feedback to this consultation was set out in PS13/10.⁶

Conduct of Business Sourcebook (Mutuals) Instrument 2014 (FCA 2014/24)

2.14 Following consultation in CP12/38⁷, the FCA Board has made changes to the FCA Handbook section listed below:

COBS 20

2.15 In summary, these changes establish that the relevant rules (in COBS 20) that would otherwise require with-profits mutual to run off and close, might be considered to apply only to part of the mutual's common fund.

³ CP14/1 *Financial Services Compensation Scheme – management expenses levy limit 2014/15* (January 2014)

⁴ CP13/6 *CRD IV for Investment Firms* (July 2013)

⁵ CP13/12 *CRD IV for Investment Firms 2 – Implementation* (October 2013).

⁶ PS13/10 *CRD IV for Investment Firms: Feedback and final rules for CP13/6, CP13/9 (Chapter 16) and CP13/12* (December 2013)

⁷ CP12/38 *Mutuality and with-profits funds: a way forward* (December 2012)

- 2.16** This instrument comes into force on **28 March 2014**. Feedback on this consultation will be provided in a separate policy statement published by the FCA.

Consumer Credit (Debt Management Client Money Supplementary Amendments) Instrument 2014 (FCA 2014/25)

- 2.17** Following consultation in CP13/10 and as signposted in PS14/3⁸, the Board has made the following changes to the FCA Handbook section listed below:

CASS 11

- 2.18** In PS14/3 we stated our intention to take forward our policy proposed in CP13/10 to introduce acknowledgement letters for debt management firms, but that we would publish the letter template and associated guidance at a later date. The reason for this was to give us further time to consider if any further drafting changes were needed further to feedback received to CP13/5⁹ on the comparable acknowledgement letters for investment firms.
- 2.19** Having considered if any further changes are necessary, we have made some drafting amendments to the template, but the policy remains unchanged and no changes affect the way firms will use the letters. The template letter and associated guidance will be inserted into CASS 11 Annex 1R and Annex 2R.
- 2.20** These changes add a template acknowledgement letter for debt management firms and set the requirement that any new entrants to the market must use this template when opening a client bank account. Existing firms under the Office of Fair Trading (OFT) regime with interim permissions will benefit from transitional provisions so that they do not have to apply these rules immediately.
- 2.21** This instrument comes into force on **1 April 2014**. Feedback to this consultation was set out in PS14/3.

Client Assets Sourcebook (Amendment No 4) Instrument 2014 (FCA 2014/26)

- 2.22** Following consultation in CP13/13¹⁰ and as signposted in PS14/4, the FCA Board has made changes to the FCA Handbook section listed below:

CASS 7

- 2.23** In PS14/4, we stated that we still intend to make an amendment to our rules to prevent firms from using the individual client balance method as part of a standard method of internal reconciliation for loan-based crowdfunding business. However, we recognised that we needed to reconsider the drafting in the light of the later than anticipated publication of our feedback and final rules following CP13/5.
- 2.24** As stated in PS14/4, after careful consideration of the feedback, we have decided to maintain the same policy but, instead of a new provision as foreseen in CP13/13, we have integrated the change into existing CASS 7 Annex 1G. This means that firms doing loan-based crowdfunding business will not be able to use the individual client balance method as part of a standard method of internal reconciliation.

⁸ PS14/3 *Detailed rules for the FCA regime for consumer credit: Including feedback on FCA QCP 13/18 and 'made rules'* (February 2014)

⁹ CP13/5 *Review of the client assets regime for investment business* (July 2013)

¹⁰ CP13/13 *The FCA's regulatory approach to crowdfunding (and similar activities)* (October 2013)

- 2.25** Should a firm wish to use the individual client balance method, it may approach us directly and we will consider any points raised. Alternatively, firms will still be able to use the individual client balance method or another method as part of a non-standard method of internal reconciliation (requiring auditor sign off).
- 2.26** This instrument comes into force on **1 April 2014**. Feedback to this consultation was set out in PS14/4.

Supervision Manual (Waiver Process) (Amendment) Instrument 2014 (FCA 2014/27)

- 2.27** Following consultation in Chapter 5 of CP13/18¹¹, the FCA Board has made changes to the FCA Handbook section listed below:
SUP 8
- 2.28** In summary, these changes amend SUP 8.3.5G by removing our stated aim of giving a waiver decision within 20 business days, as we believe this does not usefully service firms.
- 2.29** This instrument comes into force on **1 April 2014**. Feedback on this consultation is set out in Chapter 3.

Consumer Credit (Statutory Notices) Instrument 2014 (FCA 2014/28)

- 2.30** Following consultation in CP14/3, the FCA Board has made changes to the FCA Handbook and non-Handbook sections listed below:
DEPP 2
EG 19
- 2.31** In summary, these changes amend DEPP 2 Annex 1G and 2G to set out the decision making procedure and nominate the relevant decision maker when we exercise our new powers to prohibit or restrict the carrying out of certain regulated activities by EEA authorised payment institutions and electronic money institutions, or when we consider applications to vary or remove prohibitions or restrictions already imposed pursuant to these powers.
- 2.32** EG 19.92A and EG 19.104A are also inserted to note our new powers to prohibit or restrict the carrying out of certain regulated activities by EEA authorised payment institutions and by EEA authorised electronic money institutions respectively.
- 2.33** This instrument comes into force on **1 April 2014**. Feedback on this consultation is set out in Chapter 3.

FEES Manual (Financial Ombudsman Service Case Fees 2014/15) Instrument 2014

- 2.34** The FCA Board has approved the following changes to the FCA Handbook as made by the Financial Ombudsman Service:
FEES 5
- 2.35** In summary, these changes amend the Financial Ombudsman Services case fee arrangements. Consumer credit activities have been moved into the compulsory jurisdiction. The supplementary

¹¹ CP13/8 *Arrangements for the Disclosure of Regulated Information* (August 2013)

case fee for PPI cases will be reduced to £0 but the ombudsman service will retain the flexibility to increase it at a later date if necessary. Lastly, the ombudsman service will retain the group account fee arrangement introduced last year for the four largest banking groups firms with the largest number of complaints (which account for approximately 60% of its income) and extend it to four further groups.

2.36 This instrument comes into force on **1 April 2014**.

3. Consultation feedback

CP14/1 Financial Services Compensation Scheme – management expenses levy limit 2014/2015

Financial Services Compensation Scheme (Management Expenses Levy Limit 2014/2015) (FCA Instrument 2014 [FCA 2014/22])

Background

- 3.1** In CP14/1, we and the Prudential Regulation Authority (PRA) proposed setting the FSCS management expenses levy limit (MELL) at £80m for 2014/15 and set out an indicative breakdown of this figure. The management expenses of the FSCS are the non-compensation costs that the FSCS incurs, or expects to incur, in connection with delivering its functions.
- 3.2** The proposed MELL of £80m included FSCS management expenses (or budget) of £74.7m and a contingency reserve of £5.3m. This would allow the FSCS to levy additional funds for management expenses up to this limit, to meet contingencies that were not expected when the annual levy was raised.

We asked:

Q1: Do you have any comments on the proposed FSCS MELL for 2014/15?

Feedback and our response

- 3.3** We received responses from four trade bodies and firms. Some respondents welcomed the reduction in the contingency reserve element of the MELL from the £20m in 2013/14.
- 3.4** Respondents were concerned about the cost of the FSCS and it was suggested that the FSCS budget represented a 26% increase on the forecast for 2013/14. However, the 26% figure results from a comparison of the 2014/15 MELL of £80m (including the contingency reserve) with the £63.5m forecast for 2013/14 (with no reserve). So the comparison is not valid. The forecast is an update on the budgeted costs but is only an early indication of where the year will end.
- 3.5** Respondents were particularly concerned with the costs of the FSCS's strategic change programme, up by £2.9m from the 2013/14 forecast, mainly due to the Connect project (online claims processing) – the costs of this are now likely to be incurred in 2014/15 than 2013/14 – and the verification project for the single customer view (SCV) for deposits. Also, the Keydata expenses for 2013/14 have been less than budgeted (£3m) due to lower than anticipated activity in the litigation. However, in 2014/15 this is predicted to increase to the 2013/14 budgeted level of £7.2m as the cases get closer to trial.

- 3.6** It was suggested that we need to apply more rigour in our oversight of the FSCS and ensure that costs do not increase. It was also suggested that the consultation paper should contain more detail and not leave this for the FSCS Plan and Budget. However, the Plan and Budget were published the day after the CP so the documents can easily be read together.
- 3.7** The level of Keydata recovery costs were a cause of concern and the question was raised as to whether a full cost benefit analysis, including consideration of wider market implications, had been done before the legal actions were launched. However, recoveries are expected to exceed the costs of legal proceedings.
- 3.8** Other suggestions included:
- more sharing of services between the FCA, the Financial Ombudsman Service, FSCS and the Money Advice Service
 - the introduction of a product levy so that providers contribute to the costs of FSCS and that levies take account of the different risks presented by firms
 - a three-year budget cycle for management expenses, as had been introduced for compensation costs expenses and
 - industry expert panels to help identify where a failed firm had caused the investor's losses.
- 3.9** We are always looking for ways in which we can work more closely together with these other bodies. In the review of the FSCS funding model completed in 2013, the Financial Services Authority (FSA) identified a number of downsides to a product levy, including the difficulty of risk-adjusting levies to differentiate the risk of various types of products and transactions. It is not clear that a three-year budget cycle is needed for management expenses which account for a far smaller proportion of FSCS costs than compensation costs. We do not consider that industry panels would facilitate the process of assessing claims which, under the Financial Services and Markets Act 2000, is FSCS's responsibility.
- Cost benefit analysis and compatibility statement***
- 3.10** The cost benefit analysis and compatibility statement set out in Annexes 1 and 2 to CP14/1 remain valid and do not require amendment.
- Equality and diversity issues***
- 3.11** The equality and diversity statement in Chapter 1 of CP14/1 remains valid and does not require amendment. We received no comments on this statement.
- 3.12** We have made the rule changes to FEES on which we consulted. The changes made by this instrument are listed in Chapter 2 of this Notice.

Chapter 5 of CP13/18 Quarterly Consultation (No 3)

Supervision Manual (Waiver Process) (Amendment) Instrument 2014 [FCA 2014/27]

Background

- 3.13** On 6 December 2013, we consulted on the proposal to amend SUP 8.3.5G by removing our stated aim of giving waiver decisions within 20 business days, as we believe this does not usefully serve firms for the following reasons.
- When firms seek a waiver extension, they consider the expiry date of a previous waiver to be the prime factor in the timing, not our standard of giving a decision within 20 business days.
 - The date on which a new rule or directive comes into effect commonly sets the timeframe in which a waiver decision is needed, eg the Retail Distribution Review.
 - Firms can place the greatest emphasis upon waiver decisions being fit for their specific purposes, with the time taken to reach that decision being of secondary importance.
- 3.14** In addition, by adhering to the standard of giving decisions within 20 business days, we are constrained in our ability to prioritise and respond to firm requests for rapid turnaround times in line with their commercial requirements.
- 3.15** The change allows us to utilise our resources more effectively and efficiently to meet the needs of firms and, thereby, those of their customers.
- 3.16** By removing the aim of giving waiver decisions within 20 business days, we will now publish more information on our website to help firms understand the turnaround times for decisions on waivers.

Feedback

- 3.17** The consultation closed on 7 February 2014 and we received three responses.
- 3.18** One respondent was in support of the intent to make changes to the Handbook and reiterated the importance of publishing information on the website to help firms understand the turnaround times for decisions on waivers.
- 3.19** One respondent raised an issue that SUP 8.3.5G already gives sufficient flexibility to use resources effectively to respond to faster turnaround times which are commercially required. The respondent was concerned that by removing a long-stop date for decisions, even if only an aim, may lead to longer turnaround times.
- 3.20** The final respondent supported the stated aim of responding more quickly to firms in line with their commercial requirements, but raised a concern that an open-ended process will lead to greater uncertainty for firms in regards to planning timeframes and drive firms to set nominal target dates in their submissions.

Our response

- 3.21** We recognise concerns arising about removing a long-stop for decisions that may lead to longer turnaround times. We intend to publish information on our website to increase transparency to firms. We believe that this information will be an indicator of FCA performance on the waivers

process, as well as giving firms clear turnaround times when submitting a waiver application. Examples of such information may include:

- average turnaround time to give a waiver decision
- average processing time for the FCA to process a waiver and
- turnaround times for a precedent case or a new directive.

3.22 By publishing figures, uncertainty for firms in planning timeframes will be reduced.

3.23 We have amended SUP 8.3.5G as consulted, removing our stated aim of giving waiver decisions within 20 business days. The proposed changes will allow us to utilise our resources more effectively and efficiently to meet the needs of firms, and thereby those of their customers.

Cost benefit analysis and compatibility statement

3.24 We are not required to publish a cost benefit analysis for our proposal as it relates to guidance under section 139A of the Financial Services and Markets Act 2000 (FSMA).

3.25 The proposed amendment will not entail an increase in costs and will enable us to respond more effectively to firms' waiver applications.

3.26 We have had regard to the principles of good regulation as set out in FSMA and the proposed change does not undermine any of these principles.

3.27 The proposed amendment removes an unnecessary procedural measure and enables us to use our resources in the most effective and efficient way. It is also compatible with our approach of being more transparent about our regulatory activities.

3.28 The proposed change is not expected to have a significantly different impact on mutual societies.

Equality and diversity issues

3.29 We have considered whether equality and diversity issues arise from our proposal and have concluded that it does not give rise to discrimination and is of low relevance to the equality agenda.

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

CP14/3 Consumer credit: Further amendments to DEPP and EG

Consumer Credit (Statutory Notices) Instrument 2014 [FCA 2014/28]

Background

3.31 The Financial Services and Markets Act 2000 (Regulated Activities) (Amendment) Order 2014 No 366 made amendments to the Payment Services Regulations 2009 and the Electronic Money Regulations 2011 by giving the power to prohibit or restrict the carrying out of certain activities by EEA-authorized payment institutions and electronic money institutions. These regulated activities generally correspond with activities that were considered consumer credit business under the CCA.

- 3.32** In CP14/3 we consulted on amendments to the Decision Procedure and Penalties Manual (DEPP) and the Enforcement Guide (EG) to provide for decision-making processes and our enforcement approach in respect of the exercise of these powers.
- 3.33** In relation to DEPP, we proposed to adopt our current decision-making procedure for supervisory notices when exercising our power to impose a prohibition or restriction on an EEA-authorised payment institution or electronic money institution, or when varying a restriction imposed on such a firm, under our new powers. We proposed that our Regulatory Decisions Committee (RDC) will be the primary decision maker in these cases.
- 3.34** We also proposed to amend DEPP to adopt our current decision-making procedure for warning notices and decision notices when proposing or deciding to refuse an application to vary the period, event or condition of a prohibition or to remove a prohibition, or to vary or remove a restriction, imposed on an EEA-authorised payment institution or electronic money institution pursuant to these new powers. We proposed that FCA staff under executive procedures will be the decision maker in these cases, unless representations are made in response to a warning notice given by us. Where such representations are made, the RDC would decide whether to give a decision notice.
- 3.35** In relation to EG, we proposed to apply our current enforcement approach to the exercise of these new prohibition and restriction powers.

Feedback and our response

- 3.36** No responses were received to our consultation and so we will proceed with the proposed amendments.

Cost benefit analysis and compatibility statement

- 3.37** The cost benefit analysis in Annex 1 and compatibility statement in Annex 2 of CP14/3 remain valid and do not require amendment.

Equality and diversity issues

- 3.38** The equality and diversity statement in Annex 4 of CP14/3 remains valid and does not require amendment.
- 3.39** The changes made by this instrument are listed in Chapter 2 of this Notice.

4. Additional information

Making corrections

- 4.1** The FCA reserves the right to make correctional or clarificatory amendments to the instruments made at the Board meeting without further consultation should this prove necessary or desirable.

Publication of Handbook material

- 4.2** This Notice is published on the FCA website and is available in hardcopy.
- 4.3** The formal legal instruments (which contain details of the changes) can be found on the FCA's website listed by date and reference number at <http://fshandbook.info/FS/InstrumentsByDate.jsp> or listed by module at <http://fshandbook.info/FS/InstrumentsByModule.jsp>. The definitive version of the Handbook at any time is the version contained in the legal instruments.
- 4.4** The changes to the Handbook are incorporated in the consolidated Handbook text on the website as soon as practicable after the legal instruments are published.
- 4.5** The consolidated text of the Handbook can be found on the FCA's website at <http://fshandbook.info>.
- 4.6** Copies of the FCA's consultation papers referred to in this Notice are available on the FCA's website or on request in hardcopy form.

Obligation to publish feedback

- 4.7** This Notice, and the feedback to which paragraph 1.3 refers, fulfil for the relevant text made by the Board the obligations in sections 138I(4) and (5) and similar sections of the Financial Services and Markets Act 2000 ('the Act'). These obligations are: to publish an account of representations received in response to consultation and the FCA's response to them; and to publish (where applicable) details of any significant differences between the provisions consulted on and the provisions made by the Board, with a cost-benefit analysis and a statement under s138K(4) of the Act if a proposed altered rule applies to authorised persons which include mutual societies.

Comments

- 4.8** We always welcome feedback on the way we present information in the Handbook Notice. If you have any suggestions, they should be sent to Saira Hussain or Melanie Purdie (see contact details at the front of this Notice).

Financial Conduct Authority



PUB REF: 004869

© Financial Conduct Authority 2014
25 The North Colonnade Canary Wharf
London E14 5HS
Telephone: +44 (0)20 7066 1000
Website: www.fca.org.uk
All rights reserved