



No.24

Handbook Notice

August 2015

Financial Conduct Authority



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Handbook Notice 024

This Handbook Notice introduces the Handbook and other material made by the Financial Conduct Authority (FCA) Board under its legislative powers on 2 and 30 July 2015, and rules also made by the Financial Ombudsman Service Ltd on 21 and 29 July 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 Firm Contact Centre:

Tel: 0845 606 9966

Fax: 020 7066 0991

Email: firm.queries@fca.org.uk

Post: Customer Contact Centre
Financial Conduct Authority
25 The North Colonnade
Canary Wharf
London E14 5HS

1. Overview

Legislative changes

- 1.1** On 2 July 2015, the FCA Board made changes to the Handbook in the instruments listed below.

CP	Title of instrument	Instrument No.	Changes effective
15/1	Competition Law Infringement (Disclosure) Instrument 2015	2015/38	1.8.15
14/30	Complaints Handling and Call Charges Instrument 2015	2015/39	23.7.15; 1.10.15; 26.10.15; 30.6.16

- 1.2** On 30 July 2015, the FCA Board made changes to the Handbook in the instruments listed below.

CP	Title of instrument	Instrument No.	Changes effective
15/20	Retail Distribution Review (Platforms) (Amendment No 3) Instrument 2015	2015/40	31.7.15
15/19	Mortgage Credit Directive (Amendment) Instrument 2015	2015/41	21.3.16
15/6	Consumer Credit (Mortgage Credit Directive) Instrument 2015	2015/42	21.3.15; 21.3.16

- 1.3** On 21 July 2015, the Board of the Financial Services Ombudsman made changes to their section of the Handbook in the instrument listed below. This instrument was approved by the FCA Board on 30 July 2015.

CP	Title of instrument	Instrument No.	Changes effective
N/A	Complaints Handling (Financial Ombudsman Service) Instrument 2015 (approved by the FCA)	FOS 2015/7	31.7.15; 1.10.15; 26.10.15; 30.6.16

- 1.4** On 29 July 2015, the Board of the Financial Services Ombudsman made changes to their section of the Handbook in the instrument listed below. This instrument was approved by the FCA Board on 30 July 2015.

CP	Title of instrument	Instrument No.	Changes effective
N/A	Fees Manual (Financial Ombudsman Service Case Fees 2015/16) Instrument 2015 (approved by the FCA)	FOS 2015/8	31.7.15

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 published in Chapter 3 of this Notice or in a separate Policy Statement.

FCA Board dates for 2015

- 1.7** The table below contains a list of forthcoming FCA board meetings for 2015. These dates are subject to change without prior notice.

August	No Board
September	24
October	22
December	3

2. Summary of changes

- 2.1** This chapter briefly describes FCA Handbook changes made by the Board on 2 and 30 July 2015. It also describes changes made by the Financial Ombudsman Service Board on 21 and 29 July 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>

Competition Law Infringement Disclosure Instrument 2015 (FCA 2015/38)

- 2.2** Following consultation in CP15/1¹, the FCA Board has made changes to the FCA Handbook section listed below:
SUP 15
- 2.3** In summary, this instrument reinforces the obligations of firms to disclose breaches of competition law, or related investigations.
- 2.4** This instrument comes into force on **1 August 2015**. Feedback to this consultation was published in a separate policy statement.²

Complaints Handling and Call Charges Instrument 2015 (FCA 2015/39)

- 2.5** Following consultation in CP14/30³, the FCA Board has made changes to the FCA Handbook sections listed below:
Glossary
GEN 7
DISP 1, 2, TP 1, Sch 1, Sch 2
CONC 2, 3, 7 and 8
- 2.6** In summary, this instrument makes amendments to our complaints handling rules by extending the timeframe for firms to handle complaints less formally, requiring firms to inform complainants about their right to refer a complaint to the ombudsman service and introducing new complaints reporting requirements. It also introduces a maximum call charge for existing customers who wish to telephone a firm for assistance or to complain.

¹ CP15/1 *FCA Competition Concurrency Guidance and Handbook Amendments 2015/16* (January 2015)

² PS15/18 *Competition Concurrency Guidance and Handbook amendments: Feedback on CP15/01, finalised guidance and rules* (July 2015)

³ CP14/30 *Improving complaints handling 2014/15* (December 2014)

- 2.7** Different parts of the instrument come into force on **23 July 2015**, **1 October 2015**, **26 October 2015** and **30 June 2016**. Feedback to this consultation was published in a separate policy statement.⁴

Retail Distribution Review (Platforms) (Amendment No 3) Instrument 2015 (FCA 2015/40)

- 2.8** Following consultation in CP15/20⁵, the FCA Board has made changes to the FCA Handbook section listed below:

COBS 14

- 2.9** In summary, this instrument stops rules coming into force that relate to the passing on of disclosures and notifications of general meetings.

- 2.10** This instrument comes into force on **31 July 2015**. Feedback to this consultation is published in Chapter 3 of this Notice.

Mortgage Credit Directive (Amendment) Instrument 2015 (FCA 2015/41)

- 2.11** Following consultation in CP15/19⁶, the FCA Board has made changes to the FCA Handbook sections listed below:

**TC TP 9
MCOB 1, TP 1**

- 2.12** In summary, these changes are to make minor amendments to the rules as made back in March 2015 to implement the Mortgage Credit Directive, namely:

- to permit firms to use the APR calculation method when providing an additional figure as part of the 'top up' information to the key facts illustration
- a clarification of the application of MCOB to second charge mortgages entered into before 21 March 2016, and
- to correct the availability of the transitional provision delaying the 'in force' dates of the TC requirements to those firms carrying out MCD activities before 20 March 2014.

- 2.13** These changes come into force **21 March 2016**. The feedback to this consultation is published in Chapter 3 of this Notice.

Consumer Credit (Mortgage Credit Directive) Instrument 2015 (FCA 2015/42)

- 2.14** Following consultation in CP15/6⁷, the FCA Board has made changes to the FCA Handbook sections listed below:

**MCOB 14, TP 1
CONC 1, 2, 4, 7, 15, Appendix 1
PERG 4**

⁴ PS15/19 *Improving complaints handling, feedback on CP14/30 and final rules* (July 2015)

⁵ CP15/20 *Investing in authorised funds through nominees* (June 2015)

⁶ CP15/19 *Quarterly consultation (No 9)* (June 2015)

⁷ CP15/6 *Consumer credit - proposed changes to our rules and guidance 2015/16* (February 2015)

- 2.15** In summary, this instrument makes changes to the Handbook, further to general implementation of the Mortgage Credit Directive (MCD), to include MCD requirements for some niche forms of lending; it also clarifies guidance in the Perimeter Guidance manual (PERG) on contingent liabilities.
- 2.16** Part of this instrument comes into force on **21 September 2015** and the remainder on **21 March 2016**. Feedback to this consultation will be published in a separate Policy Statement.

Complaints Handling (Financial Ombudsman Service) Instrument 2015 (FOS 2015/7)

- 2.17** The FOS have made changes to their sections in the FCA Handbook, as listed below, and approved by the FCA:
- Glossary**
DISP 1, 2, 3
- 2.18** In summary, this instrument makes changes to the Handbook to bring the standard terms for voluntary jurisdiction participants into alignment with the rules for firms subject to the compulsory jurisdiction (to the extent applicable).
- 2.19** Part of this instrument comes into force on **31 July 2015**, part on **1 October 2015**, part on **26 October 2015** and the remainder of the instrument comes into force on **30 June 2016**.

Fees Manual (Financial Ombudsman Service Case Fees 2015/16) Instrument 2015 (FOS 2015/8)

- 2.20** The FOS have made changes to their sections in the FCA Handbook, as listed below, and approved by the FCA:
- Glossary**
DISP 1, 2, 3
- 2.21** In summary, this instrument implements rule changes made by the Financial Ombudsman Service to the group fee arrangement in the Fees manual (FEES) that were omitted from instruments made in March 2015.
- 2.22** This instrument comes into force on **31 July 2015** but should be read as having had effect from **1 April 2015**.

3.

Consultation feedback

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

CP15/20 Investing in authorised funds through nominees

Retail Distribution Review (Platforms) (Amendment No 3) Instrument 2015 (FCA 2015/40)

Background

- 3.2** In CP15/20⁸ we proposed to revoke the rules and guidance in COBS 14.4.1R to COBS 14.4.9R inclusive (part of the Conduct of Business sourcebook (COBS)), so that they do not come into effect on 31 December 2015 as originally planned. These rules would have required nominee companies (defined as 'intermediate unitholders') to pass on certain notifications sent by authorised fund managers and depositaries, as required by the Collective Investment Schemes sourcebook (COLL). Two separate pieces of work are likely to affect the rationale for most of the COBS 14.4 rules (a discussion paper published earlier this year (DP15/5) and a forthcoming asset management market study).⁹ Given that DP15/5 calls into question the effectiveness of certain disclosures which would be passed on by COBS 14.4, we consider it disproportionate to require firms to introduce procedures and systems which may only be in place for a short time.
- 3.3** We said we would reconsider the substance of these rules and guidance in 2016 in the light of feedback from DP15/5 and the market study on asset management which will begin later this year.

Feedback

- 3.4** In total, we received 21 responses to our consultation, 6 submitted by trade associations and 15 by regulated firms. All respondents agreed with the proposal to revoke COBS 14.4.1R to COBS 14.4.9R, and the majority did not have further comments on our conclusion that a cost benefit analysis (CBA) was not necessary.
- 3.5** One respondent agreed reluctantly with the proposal to revoke the rules. Two respondents drew attention to the fact that firms had already incurred costs in beginning implementation of the rules.
- 3.6** Many respondents made additional comments about the substance of the rules which were outside the scope of this consultation. For example, some pointed to the lack of investor demand for access to additional information about investments and the risk that large amounts

⁸ CP15/20 *Investing in authorised funds through nominees* (June 2015)

⁹ DP15/5 *Smarter consumer communications* (June 2015) and the market study on asset management which we have announced and will begin later this year.

of information might be counter-productive, as they might hinder consumers' ability to identify the information which was of particular importance. There were also comments about the need for FCA policy in this area to be aligned with European initiatives, such as MiFID II (the Markets in Financial Instruments Directive), the Shareholder Rights Directive and PRIIPs (the Regulation on key information documents for packaged retail and insurance-based investment products). Two respondents pointed to operational constraints with passing on information to end-investors where there is a chain of multiple intermediate unitholders.

- 3.7** Three respondents actively expressed support for the principle that direct and indirect investors should have equal and timely access to information, but felt the rules as written would have resulted in an unduly onerous requirement on intermediate unitholders.
- 3.8** While these comments were outside the scope of the consultation, all submissions are useful to us in considering how we could take future policy forward in this area.

Our response

- 3.9** We will revoke the rules and guidance in COBS 14.4.1R to COBS 14.4.9R inclusive, in line with our proposal.
- 3.10** We will reconsider the substance of these rules and guidance in 2016 in the light of feedback from CP15/20, DP15/5 and the market study on asset management which will begin later this year.

Cost benefit analysis (CBA) and compatibility statement

- 3.11** CP15/20 contained an analysis which concluded that a CBA was not required, as we considered that there would be no increase in costs for firms or the FCA. Given that DP15/5 calls into question the effectiveness of some of the disclosures to be passed on to consumers under these rules, we also considered that those benefits to consumers that would have occurred from the implementation of COBS 14.4 are now likely to be of minimal significance.
- 3.12** We received comments from nine respondents on the CBA analysis. Only one respondent disagreed with our analysis that a CBA was not needed because there would be no increase in costs for firms or the FCA. We consider that the revocation of the rules does not create costs for firms or the FCA, but we appreciate that some firms have already incurred one-off costs associated with implementation. We said in CP15/20 that we will take account of those costs as part of any future consultations to make rules which provide for intermediated investors' rights to information and voting in respect of their investments.
- 3.13** Two respondents noted that if investor demand for ad hoc information about investments is low, then the costs of implementing the rules as written would outweigh any consumer benefit. One of these respondents also noted that these costs would ultimately fall on investors.
- 3.14** We believe that our original conclusion, that no CBA is required for this rule change, remains valid. We have not made any changes of substance to our final instrument from the one consulted on, but have slightly modified it to include an annex detailing the rules and guidance in COBS 14.4 that are being revoked by the instrument coming into force.
- 3.15** We received no comments on the compatibility statement, which remains as stated in the consultation paper.

Equality and diversity issues

- 3.16** We continue to believe that these changes do not give rise to discrimination and are of low relevance on the equality agenda. We received no comments during consultation on any equality issues that respondents could foresee.

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

Minor amendments to MCOB and TC

Mortgage Credit Directive (Amendment) Instrument 2015 (FCA 2015/41)

Background

3.18 In CP15/19¹⁰ we consulted on some minor amendments to our final rules implementing the Mortgage Credit Directive (MCD). We proposed:

- an amendment to our Mortgages and Home Finance: Conduct of Business sourcebook (MCOB) transitional provision allowing firms to use the current calculation method for the annual percentage rate (APR) when providing an additional figure as part of the 'top up' information to the key facts illustration (KFI)
- a clarification of the application of MCOB to second charge mortgages entered into before 21 March 2016, and
- an amendment to the Training and Competence sourcebook (TC) correcting the availability of the transitional provisions delaying the 'in-force' dates of the TC requirements to those firms carrying out MCD activities before 20 March 2014.

Feedback

3.19 We received two responses, which were both from trade bodies. Both agreed with the majority of changes, while making suggestions for minor wording amendments which they felt would improve clarity.

3.20 One of the responses asked whether the guidance (on the application of MCOB 1.2.20G) should apply to all mortgage back books regulated under the Consumer Credit Act and not just second charge.

3.21 The other response asked us to leave our transitional provisions in TC (as included in our final MCD rules in PS15/9) unchanged, believing the change would result in increased complexity for firms who will be implementing MCD on 21 March 2016.

3.22 A question was also raised on the scope of the TC transitional about whether it will apply to firms who were outside the scope of regulation prior to 20 March 2014, and firms that were part of group structures prior to 20 March 2014 but have subsequently become separately regulated entities.

Our response

3.23 We intend to proceed with the changes to MCOB 1.2.20R as consulted on in CP15/19 to provide clarification in respect of the second charge back book. We are aware that the Government intends to legislate so that the administration of first charge loans less than £25,000 taken out before 31 October 2004 will be a regulated mortgage activity, and we will consult later this year on any further changes we consider necessary as a result.

¹⁰ CP15/19 *Quarterly consultation (No 9)* (June 2015)

- 3.24** Regarding the TC transitional provision, this change is required to apply MCD correctly. Therefore, we will proceed with the amendment. We have made a minor revision to the wording of the transitional provision in response to feedback, which we hope improves the clarity.
- 3.25** In response to the questions on the scope of the TC transitional provision, we confirm that firms carrying out MCD creditor or MCD credit intermediary activities before 20 March 2014 will be able to take advantage of the transitional provision, even if they were not regulated entities at that point.
- 3.26** As both respondents supported our amendment to the transitional provision on APRC calculation, we will proceed with this change.

Cost benefit analysis and compatibility statement

- 3.27** The cost benefit analysis and compatibility statement from CP15/19 remain unchanged.

Equality and diversity issues

- 3.28** We continue to believe these changes do not give rise to any equality and diversity issues and do not adversely impact any of the groups with protected characteristics, i.e., age, disability, sex, pregnancy and maternity, race, religion and belief, sexual orientation and transgender.
- 3.29** 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 are available on the FCA's website or on request in hardcopy.

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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