



No.32

Handbook Notice

April 2016

Financial Conduct Authority



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Handbook Notice 32

This Handbook Notice introduces the Handbook and other material made by the Financial Conduct Authority (FCA) Board under its legislative powers on 21 April 2016. It also contains information about other publications relating to the Handbook and, if appropriate, lists minor corrections made to previous instruments made by the Board.

Contact names for the individual modules are listed in the relevant Consultation Papers and Policy Statements referred to in this Notice.

General comments and queries on the Handbook can be addressed to:

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

Tel: 0300 500 0597

Fax: 020 7066 0991

Email: firm.queries@fca.org.uk

Post: Contact Centre
Financial Conduct Authority
25 The North Colonnade
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All our publications are available to download from www.fca.org.uk. If you would like to receive this paper in an alternative format, please call 020 7066 0790 or email publications_graphics@fca.org.uk or write to Editorial and Digital Department, Financial Conduct Authority, 25 The North Colonnade, Canary Wharf, London E14 5HS.

1. Overview

Legislative changes

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

CP	Title of instrument	Instrument No.	Changes effective
15/42	Financial Conglomerates (Consequential Amendments) Instrument 2016	2016/28	22.4.16
15/42	Prudential Sourcebook for Investment Firms (Pillar 2 Amendments) Instrument 2016	2016/29	22.4.16
15/30	Conduct of Business (Pensions Supplementary Rules) Instrument 2016	2016/30	25.4.16; 10.10.16; 6.4.17
15/35	Market Abuse Regulation Instrument 2016	2016/31	3.7.16
15/28	Consumer Redress Schemes (General Material) Instrument 2016	2016/32	22.4.16
15/40	Compensation Sourcebook (Amendment No 10) Instrument 2016	2016/33	29.4.16
15/42	Enforcement Guide (Transparency Regulations 2015) Instrument 2016	2016/36	22.4.16

- 1.2** FCA 2016/34 and FCA 2016/35 were also made by the FCA Board and will be published at a later date. The changes will be summarised in a future Handbook Notice or supplement to this Notice.

Summary of changes

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

Feedback on responses to consultations

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

FCA Board dates for 2016

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

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 21 April 2016. Where relevant, it also refers to the development stages of that material, enabling readers to look back at developmental documents if they wish. For information on changes made by the Prudential Regulation Authority (PRA) please see <http://www.bankofengland.co.uk/pr/Pages/publications/default.aspx>

Financial Conglomerates (Consequential Amendments) Instrument 2016 (FCA 2016/28)

- 2.2** Following consultation in CP15/42¹, the FCA Board has made changes to the FCA Handbook sections listed below:

Glossary
SYSC 12
GENPRU 1 to 3

- 2.3** In summary, as GENPRU 3 has not been shared with the PRA since 1 January 2016, this instrument makes changes to remove any overlap of the FCA rules in GENPRU 3 with the PRA's Rulebook in the identification of a financial conglomerate. It also makes changes to narrow the population of insurance and reinsurance undertakings to those authorised under Solvency II as a consequence of the PRA's implementation of that Directive and FiCoD (as amended by Solvency II).
- 2.4** This instrument comes into force on **22 April 2016**. Feedback to this consultation is published in Chapter 3 of this Notice.

Prudential Sourcebook for Investment Firms (Pillar 2 Amendments) Instrument 2016 (FCA 2016/29)

- 2.5** Following consultation in CP15/42², the FCA Board has made changes to the FCA Handbook sections listed below:

IFPRU 2

- 2.6** In summary, this instrument makes changes to enhance our ability to demonstrate compliance with the common procedures and methodologies to be followed by supervisors undertaking the Supervisory Review and Evaluation Process (SREP).
- 2.7** This instrument comes into force on **22 April 2016**. Feedback to this consultation is published in Chapter 3 of this Notice.

¹ CP15/42 *Quarterly Consultation Paper No.11* (December 2015)

² CP15/42 *Quarterly Consultation Paper No.11* (December 2015)

Conduct of Business (Pensions Supplementary Rules) Instrument 2016 (FCA 2016/30)

- 2.8** Following consultation in CP15/30³, the FCA Board has made changes to the FCA Handbook sections listed below:

Glossary
COBS 4, 9, 13, 14, 16, 19, 22, TP 2
CONC 7 and 8

- 2.9** In summary, this instrument makes changes to ensure our rules are fit for purpose in light of the pension reforms.
- 2.10** Part of this instrument comes into force on **25 April 2016**, part on **10 October 2016** and the remainder on **6 April 2017**. Feedback to this consultation will be published in a separate Policy Statement.

Market Abuse Regulation Instrument 2016 (FCA 2016/31)

- 2.11** Following consultation in CP15/35⁴, the FCA Board has made changes to the FCA Handbook sections listed below:

Glossary
SYSC 10 and 18
COCON 4
APER 4
GEN 2, TP 2 and Sch 4
FEES 1 and 4
COBS 11, 12 and 18
MAR 1, 8, TP 1 and Sch 1
SUP 9, 13A, 15 and Sch 4
REC 2
LR 1, 5, 7 to 10, 12, 14, 15, 17 to 20, and Appendices 1 and 2
DTR 1, 1A, 2 and 3
SERV 1
BENCH 2
FC Annex 1

- 2.12** In summary, this instrument makes changes to secure our statutory objective to protect and enhance the integrity of the UK financial markets and ensure that the domestic market abuse regime conforms to EU MAR and takes account of developments around the disclosure of inside information. It also makes changes to maintain our guidance for firms on market abuse to provide continuity, as the introduction of EU MAR does not in itself change our views on many of the issues covered.
- 2.13** This instrument comes into force on **3 July 2016**. Feedback to this consultation will be published in a separate Policy Statement.

³ CP15/30 *Pension reforms – proposed changes to our rules and guidance* (October 2015)

⁴ CP15/35 *Policy proposals and Handbook changes related to the implementation of the Market Abuse Regulation (2014/596/EU)* (November 2015)

Consumer Redress Schemes (General Material) Instrument 2016 (FCA 2016/32)

2.14 Following consultation in CP15/28⁵, the FCA Board has made changes to the FCA Handbook sections listed below:

CONRED 1

2.15 In summary, this instrument makes changes to the Handbook to clarify for firms and other stakeholders as to how we will use the powers in sections 404, 404B and 404F(7) FSMA.

2.16 This instrument comes into force on **22 April 2016**. Feedback to this consultation is published in Chapter 3 of this Notice.

Compensation Sourcebook (Amendment No 10) Instrument 2016 (FCA 2016/33)

2.17 Following consultation in CP15/40⁶, the FCA Board has made changes to the FCA Handbook sections listed below:

Glossary

COMP INTRO 1A, 1 to 12, TP 1.1, Sch 2

2.18 In summary, this instrument increases Financial Services Compensation Scheme (FSCS) protection for certain types of claim, clarifies our compensation rules in relation to successor firms and will assist the FSCS in handling claims.

2.19 This instrument comes into force on **29 April 2016**. Feedback to this consultation will be published in a separate Policy Statement.

Enforcement Guide (Transparency Regulations 2015) Instrument 2016 (FCA 2016/36)

2.20 Following consultation in CP15/42⁷, the FCA Board has made changes to the FCA Handbook sections listed below:

EG 7

2.21 In summary, this instrument makes changes to the Handbook to provide a decision-making mechanism for the process of applying to the Court for a voting rights suspension order (for shareholders who do not comply with certain TD requirements).

2.22 This instrument comes into force on **22 April 2016**. Feedback to this consultation is published in Chapter 3 of this Notice.

⁵ CP15/28 *Quarterly Consultation Paper No.10* (September 2015)

⁶ CP15/40 *Financial Services Compensation Scheme: changes to the Compensation sourcebook* (November 2015)

⁷ CP15/42 *Quarterly Consultation Paper No.11* (December 2015)

3. Consultation feedback

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

CP15/42 Quarterly Consultation Paper No 11 – Clarifications on financial conglomerates

Financial Conglomerates (Consequential Amendments) Instrument 2016

Background

- 3.2** In December 2015 we consulted on changes to our Handbook relating to the implementation of the requirements in the Financial Conglomerates Directive (FiCoD). The instrument amends provisions in Chapter 3 of the General Prudential sourcebook (GENPRU 3) on cross sector groups, and makes related, consequential amendments to our Handbook on the topic of financial conglomerates. The amendments are necessary to reflect the separation of this part of the Handbook from the PRA Rulebook.

Summary of proposals

- 3.3** Since 1 January 2016 GENPRU 3 has not been shared with the Prudential Regulation Authority (PRA). The changes to GENPRU 3 remove any provisions for the identification of a financial conglomerate that applied only to firms authorised by the PRA.
- 3.4** The population of insurance and reinsurance undertakings falling within the scope of GENPRU 3 has changed as a consequence of the PRA's implementation of the Solvency II Directive (2009/138/EC). The amendments to GENPRU 3 narrow the population to those undertakings which are authorised under Solvency II.

- 3.5** Additionally, consequential changes to other parts of GENPRU, the Senior Management Arrangements, Systems and Controls sourcebook (SYSC) and the Glossary have been made.

Feedback and our response

- 3.6** We did not receive any feedback on our proposals, so we have implemented the amendments to our Handbook as proposed.

Cost benefit analysis and compatibility statement

- 3.7** As outlined in CP15/42, we believe that the changes made to our Handbook will not result in firms incurring additional costs, as they will enable the relevant firms to better understand the applicable provisions following the separation of our Handbook and the PRA Rulebook.

Equality and diversity issues

- 3.8** We continue to believe that the changes do not raise concerns in terms of equality and diversity issues and that they do not adversely impact any of the groups with protected characteristics i.e. age, disability, sex, marriage or civil partnership, pregnancy and maternity, race, religion and belief, sexual orientation and gender reassignment.
- 3.9** The changes made by this instrument are listed in Chapter 2 of this Notice.

CP15/42 Quarterly Consultation Paper No 11 – Clarifications of CRD IV Pillar 2

Prudential Sourcebook for Investment Firms (Pillar 2 Amendments) Instrument 2016**Background**

- 3.10** In December 2015 we consulted on amendments to provisions in the Prudential sourcebook for Investment Firms (IFPRU) that relate to the supervisory review and evaluation process (SREP). The amendments clarify our existing guidance relating to the SREP, following the implementation of guidelines (GLs) issued by the European Banking Authority (EBA) on common procedures and methodologies for the SREP.⁸
- 3.11** We confirmed to the EBA that we would comply with the GLs with effect from 1 January 2016, the date on which they were implemented. We have not identified any inconsistencies between our Handbook and the GLs, but we have taken this opportunity to clarify the relevant provisions and to make a material amendment to a rule.

Summary of proposals

- 3.12** The rule change extends the period within which 'significant IFPRU firms' must submit the results of their stress and scenario testing from three to six months. This will allow those firms to better align the separate stress testing exercises that they are required to undertake for the purposes of (i) IFPRU 2.2.37R and (ii) the Individual Capital Adequacy Assessment Process (ICAAP).

Feedback and our response

- 3.13** We did not receive any feedback on the proposals, so we have implemented the amendments to our Handbook as proposed.

Cost benefit analysis and compatibility statement

- 3.14** As outlined in CP15/42, we believe that the amendments will result in cost savings for 'IFPRU investment firms', not additional costs, through providing greater clarity around our stress testing requirements and allowing 'significant IFPRU firms' to undertake synchronised stress testing for the purposes of IFPRU 2.2.37R and the ICAAP.

⁸ EBA/GL/2014/13 *Guidelines on common procedures and methodologies for the supervisory review and evaluation process (SREP)* (December 2014)

Equality and diversity issues

- 3.15** We continue to believe that the changes do not raise concerns in terms of equality and diversity issues and that they do not adversely impact any of the groups with protected characteristics i.e. age, disability, sex, marriage or civil partnership, pregnancy and maternity, race, religion and belief, sexual orientation and gender reassignment.
- 3.16** The changes made by this instrument are listed in Chapter 2 of this Notice.

CP15/28 Quarterly Consultation Paper No 10 – Consumer Redress Schemes: Updating our guidance on section 404

Consumer Redress Schemes (General Material) Instrument 2016**Background and summary of proposals**

- 3.17** The FSA previously published a guidance note on consumer redress schemes (GN10⁹). We have reviewed this guidance and are proposing to update it. In CP15/28¹⁰ we proposed changes which:
- updated our interpretation of the triggers for a consumer redress scheme
 - provided more detail about the role of the Financial Ombudsman Service ('the ombudsman service') in such schemes
 - set out our views about the use of our section 404F(7) FSMA power to vary a person's permission or authorisation in order to impose requirements on them to implement a scheme similar or corresponding to a section 404 FSMA consumer redress scheme
 - reflected the changes made to FSMA since 2010, and
 - incorporated the guidance into the CONRED part of our Handbook
- 3.18** We also proposed a number of minor and editorial changes.

Feedback

- 3.19** We received two responses to Chapter 5 of CP15/28, one response from an authorised firm and one from a consumer body. Respondents were generally supportive of our proposals but raised a small number of questions.
- 3.20** In question 5.1 of CP15/28 we asked respondents if they had any comments on our proposed amendments to our guidance on the triggers for establishing a section 404 FSMA scheme. The authorised firm raised concerns regarding the proposal that when we look for relevant evidence to determine if the tests for a consumer redress scheme have been met, the evidence does not need to prove that all or most of the firms who may be subject to the scheme have, or may have, failed to meet the relevant requirements in respect of all consumers.
- 3.21** When imposing a scheme under section 404F(7) FSMA, we explained in CP15/28 that we may decide to include provisions that bind the ombudsman service to determine complaints

⁹ GN10 *Consumer Redress Schemes* (July 2010)

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

by reference to what the determination should be or should have been under the scheme. In question 5.2 we asked respondents if they had any comments on the proposed changes to our guidance relating to the role of the ombudsman service.

- 3.22** The consumer body took the view that the ombudsman service should have the discretion to depart from the terms of a redress scheme where it considers doing so would provide a consumer with fairer compensation. The authorised firm considered that the clarifications made to our guidance did not address a scenario where the ombudsman service considers a complaint is outside the scope of a scheme but the firm or we consider that the complaint falls within the scope of the scheme.

Our response

- 3.23** We intend to proceed with the text of the instrument as consulted upon, but have made some minor editorial amendments.
- 3.24** As we explain in our guidance, the purpose of section 404(1)(a) FSMA is to require us to establish whether there may have been a widespread or regular failure. The purpose is not to prove that all or most firms involved have failed (or may have failed) to comply with requirements in respect of all or most consumers affected. We will not need to have specific evidence of failure by each of the firms subject to the scheme and will be entitled to extrapolate reasonably from the evidence we have to determine whether the failure appears to be 'widespread or regular'. If the evidence available indicates that the failure is not widespread or regular we will consider if it might be more appropriate to use other supervisory tools or powers to address the failure.
- 3.25** Binding the ombudsman service to determine complaints by reference to what the determination should be, or should have been, under the scheme helps to ensure consistency of outcomes for affected consumers and certainty in terms of liability for firms. As we explained in CP15/28, a key consideration is likely to be whether we consider that binding the ombudsman service is desirable in order to advance our consumer protection objective. If a firm is unhappy with the decision that the ombudsman service reaches in an individual case at the adjudicator stage it can request a review of the decision by an ombudsman. If the firm remains dissatisfied with the ombudsman's decision it is ultimately able to challenge that decision by going to court.

Cost benefit analysis and compatibility statement

- 3.26** As explained in CP15/28, the aim of our updated guidance is to clarify how consumer redress schemes are set up and how they work. This will in turn reduce the number of queries. The proposed updates do not impose incremental compliance costs on firms as the changes will not increase how often we decide to implement consumer schemes or the way that consumer redress schemes are set up and run. The proposed updates do not extend the remit of what a consumer redress scheme can cover.
- 3.27** Consumer redress schemes are one of our regulatory tools for dealing with cases of mass detriment and can help us to further our consumer protection objective. In finalising the proposals we have had regard to our duty to promote effective competition in the interests of consumers. It is our opinion that updating the guidance on section 404 FSMA has no impact on competition, as the guidance simply explains how consumer redress schemes are set up and work. The changes to our rules are intended to align with the changes made to FSMA. We have also had regard to the regulatory principles set out in section 3B FSMA and consider, in particular, that the proposed guidance will assist us in exercising our powers as transparently as possible.

Equality and diversity issues

- 3.28** We continue to believe that the changes do not raise concerns in terms of equality and diversity issues and that they do not adversely impact any of the groups with protected characteristics i.e. age, disability, sex, marriage or civil partnership, pregnancy and maternity, race, religion and belief, sexual orientation and gender reassignment.
- 3.29** The changes made by this instrument are listed in Chapter 2 of this Notice.

CP15/42 Quarterly Consultation Paper No 11 – Changes resulting from the implementation of the Transparency Directive Amending Directive (TDAD)

Enforcement Guide (Transparency Regulations 2015) Instrument 2016***Background***

- 3.30** In March 2015, the FCA published CP15/11 which set out joint proposals between the Treasury and the FCA on implementing the Transparency Directive Amending Directive 2013/50/EU (TDAD), which amends the Transparency Directive (TD), the Transparency Directive Implementing Directive (TDID) and the Prospectus Directive (PD). The final rules were published in November 2015.
- 3.31** The TDAD requires that Member States provide competent authorities with the power to suspend voting rights for shareholders who do not comply with certain TD requirements. The new Transparency Regulations 2015 transpose the TDAD's requirement by amending FSMA and giving the FCA the ability to apply to the Court for an order suspending voting rights.
- 3.32** On 4 December 2015, we consulted on amendments to our Enforcement Guide (EG) in light of this new power, adding EG 7.3A to reflect the FCA's ability to apply to the Court to suspend a person's voting rights and EG 7.20-7.22 to describe how the FCA decides whether to apply to the Court for such an order.

Feedback

- 3.33** We received one feedback response from the Investment Association. It agreed with all of our proposals.

Our response

- 3.34** No response is needed.

Cost benefit analysis and compatibility statement

- 3.35** The CBA and compatibility statement in CP15/42 Chapter 4 remain unchanged.

Equality and diversity issues

- 3.36** We continue to believe that the changes do not raise concerns in terms of equality and diversity issues and that they do not adversely impact any of the groups with protected characteristics i.e. age, disability, sex, marriage or civil partnership, pregnancy and maternity, race, religion and belief, sexual orientation and gender reassignment.
- 3.37** The changes made by this instrument are listed in Chapter 2 of this Notice.

4. Additional information

Making corrections

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

Publication of Handbook material

- 4.2** This Notice is published on the FCA's website.
- 4.3** The formal legal instruments (which contain details of the changes) can be found on the FCA's website listed by date, reference number or module at <https://www.handbook.fca.org.uk/>. The definitive version of the Handbook at any time is the version contained in the legal instruments.
- 4.4** The changes to the Handbook are incorporated in the consolidated Handbook text on the website as soon as practicable after the legal instruments are published.
- 4.5** The consolidated text of the Handbook can be found on the FCA's website at <https://www.handbook.fca.org.uk>.
- 4.6** Copies of the FCA's consultation papers are available on the FCA's website.

Obligation to publish feedback

- 4.7** This Notice, and the feedback to which paragraph 1.4 refers, fulfil the FCA Board's obligations under sections 138I(4) and (5) and similar sections of the Financial Services and Markets Act 2000 ('the Act'). These obligations are to publish an account of representations received in response to consultation and the FCA's response to them, and to publish details of any significant differences between the provisions consulted on and the provisions made by the Board, with a cost benefit analysis and a statement under section 138K(4) of the Act if a proposed rule applies to authorised persons, including mutual societies.

Comments

- 4.8** We always welcome feedback on the way we present information in the Handbook Notice. If you have any suggestions, please use the contact details at the front of this Notice.



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