

Handbook Notice No 101

July 2022

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1 Overview

Legislative changes

- 1.1 On 23 June 2022, the Board of the FCA made the relevant changes to the Handbook as set out in the instrument listed below.

CP	Title of instrument	Instrument No	Changes effective
CP22/7	Periodic Fees (2022/2023) and Other Fees Instrument 2022	FCA 2022/27	01/07/2022
CP22/8	Collective Investment Schemes Sourcebook (Side Pockets) (Russia) Instrument 2022	FCA 2022/28	11/07/2022

- 1.2 On 15 July 2022, the Board of the FCA made the relevant changes to the Handbook as set out in the instruments listed below.

CP	Title of instrument	Instrument No	Changes effective
CP22/10	Funeral Plans (No 5) Instrument 2022	FCA 2022/29	29/07/2022
CP22/9	Dormant Assets Instrument 2022	FCA 2022/30	01/08/2022

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 2022

- 1.5 The table below lists forthcoming FCA board meetings. These dates are subject to change without prior notice.

FCA board meetings		
September	29	2022
October	28	2022
November	24	2022
December	15	2022

2 Summary of changes

- 2.1 This Handbook Notice describes the changes to the FCA Handbook and other material made by the FCA Board under its legislative and other statutory powers on 23 June 2022 and 15 July 2022. 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 please see <https://www.bankofengland.co.uk/news/prudential-regulation>.

Periodic Fees (2022/2023) and Other Fees Instrument 2022

- 2.2 The FCA Board has made changes to the Handbook sections listed below:

FEES 3.2, 3 Annex 2, 3 Annex 13, 3 Annex 15, 4 Annex 1A, 4 Annex 2A, 4 Annex 4, 4 Annex 5, 4 Annex 11, 4 Annex 14, 4 Annex 15, 4 Annex 16, 4A Annex 1, 4A Annex 2, 5 Annex 1, 7A Annex 1, 7A Annex 2, 7A Annex 3, 7B Annex 1, 7C Annex 1, 7C Annex 2, 7C Annex 3, 7D Annex 1, 13 Annex 1, 13A Annex 1, App 2 Annex 2, App 3.1, App 4 Annex 2

- 2.3 In summary, this instrument publishes the 2022/23 periodic regulatory fees and levies for:

- the Financial Conduct Authority
- the Financial Ombudsman Service
- the Money and Pensions Service (referred to in our FEES manual as the Single Financial Guidance Body SFGB)
- the devolved authorities
- the Treasury's expenses in funding the teams that tackle illegal money lending

- 2.4 This instrument came into force on 1 July 2022. Feedback has been published in a separate [Policy Statement](#).

Collective Investment Schemes Sourcebook (Side Pockets) (Russia) Instrument 2022

- 2.5 The FCA Board has made changes to the Handbook sections listed below:

**Glossary
COLL 6.6, 7.1, 7.8, 7 Annex 1R, Sch 1.1, Sch 1.2**

- 2.6 In summary, this instrument finalises Handbook rules to address the potential harm caused by the exposure that UK authorised retail funds have to affected investments. So that these funds can operate fairly and efficiently in the interests of all investors, the rules allow these funds to use side pockets where their Russian, Belarusian and Ukrainian exposures are subject to financial sanctions, or cannot be valued or traded.
- 2.7 This instrument came into force on 11 July 2022. Feedback has been published in a separate [Policy Statement](#).

Funeral Plans (No 5) Instrument 2022

- 2.8 The FCA Board has made changes to the Handbook sections listed below:
- Glossary**
FPCOB 1.2, 10.1, 12.1, 12.2, 12.3, 12.4
FPCOB 10.2
COMP 12A.6
- 2.9 In summary, the amendments to the Compensation rules relating to the Financial Services Compensation Scheme in relation to funeral plans and to the Funeral Plan: Conduct of Business sourcebook aim to ensure that the funeral plan market can operate effectively and that customers are protected in the event of the failure of a funeral plan provider.
- 2.10 This instrument comes into force on 29 July 2022. Feedback has been published in Chapter 3 of this Handbook Notice.

Dormant Assets Instrument 2022

- 2.11 The FCA Board has made changes to the Handbook sections listed below:
- Glossary**
SYSC 1 Annex 1
FEES 3 Annex 1, 3 Annex 16, 4 Annex 1A, 4 Annex 2A,
5 Annex 1, 6 Annex 3A
BCOBS 5.1
SUP 3.1, 6.2, 6.4, 6 Annex 4.1, 15.3, 16.1, 16.7A, 16.10, 16.12,
App 2.1, App 2.2, App 2.7
DISP 2.5, 2.7, 2 Annex 1, 4.2
PERG 2.5, 2.7
- 2.12 In summary, this instrument ensures that the definitions relating to dormancy capture the widening of the Dormant Asset Scheme (DAS) to include insurance and pensions assets. In addition, amendments to DISP will provide customers of insurers and pension providers with the same access to a dispute resolution service.

- 2.13 This instrument comes into force on 1 August 2022. Feedback has been published in Chapter 3 of this Handbook Notice.

3 Consultation feedback

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

CP22/10: Funeral Plans (No 5) Instrument 2022

Background

- 3.2 We will become a statutory regulator of the pre-paid funeral plans market from 29 July 2022. Following 2 consultations during 2021 (CP21/4 and CP21/20) we have announced the following rules:
- On 5 July 2021, we published [PS21/8: Feedback to CP21/4 and final rules](#) confirming the rules for the regulation of the pre-paid funeral plans market.
 - On 5 November 2021, we published [PS21/15: Regulation of funeral plans: Feedback to CP21/20 and final rules](#) confirming further rules in relation to the resolution of regulated funeral plan firms and Financial Services Compensation Scheme (FSCS) protection, and our requirements for the structure of funeral plan providers' trust and insurance arrangements.
 - On 24 June 2022, we published [Handbook Notice 100](#) confirming that, following the introduction of relevant legislation, certain near-final rules that had been announced in PS21/15 had now been made. The rules will allow the FSCS to secure continuity of funeral plan contracts and to vary existing rights or obligations in connection with the underlying trust or insurance arrangements so that it can seek recoveries.
- 3.3 On 21 April 2022, the Government [announced](#) further legislation in connection with funeral plans. The Government's further legislation will:
- place a statutory duty of cooperation on insolvency practitioners
 - make it easier for funeral plan providers that seek to exit the market to transfer their existing funeral plan undertakings to another funeral plan provider for regulatory purposes
- 3.4 The Government also confirmed that it would make a further amendment to Financial Services and Markets Act 2000 (FSMA) to give the FCA the power to make rules enabling the FSCS to provide discretionary funding in respect of any costs that have been reasonably and exclusively incurred for the purposes of the insolvency practitioner complying with a request for assistance by the FSCS under the new duty.

3.5 In light of this further legislation, on 10 June 2022, we consulted on further proposed rules (as part of [Quarterly Consultation No 36](#)) that aim to ensure that the funeral plan market can operate effectively and that customers are protected in the event of the failure of a funeral plan provider.

Summary of proposals

3.6 We consulted on the following proposed rules:

- Changes to the Compensation sourcebook (COMP)
- Changes to the Funeral Plan: Conduct of Business sourcebook (FPCOB)

3.7 Our changes to COMP relate to the ability of the FSCS to provide funding in certain circumstances relating to costs incurred for the purpose of the insolvency practitioner complying with the new cooperation duty.

3.8 We consider that the proposed funding mechanism is necessary to maintain an appropriate degree of consumer protection in cases where the FSCS requires assistance from an insolvency practitioner to enable the FSCS to respond efficiently and effectively to the default of a funeral plan provider, particularly where there may be minimal available resources in the estate of the failed funeral plan provider to meet the insolvency practitioner's costs.

3.9 Our changes to FPCOB relate to the transfer of funeral plans for regulatory purposes where legislative criteria are met which allow such a transfer without customer consent (deemed transfer). These contain steps required of firms accepting plans by deemed transfer to give, and to publicise, a new binding undertaking to customers in replacement of the customer's original funeral plan contract.

3.10 We consider that a suitable format for this new undertaking would be a deed poll in favour of these customers or another form of undertaking which does not require customer acceptance for it to be binding on the new provider. We consider this necessary because, in this context, the original contract itself would not be transferred, so the new provider would not have a contractual relationship with the customer. The legally binding undertaking will need to be in place from the time of the transfer. The provider taking on the plans will also be required to notify the customer and nominated representative of the transfer within 30 days and of any changes to the funeral arrangements within around 32 days of the completion of the transfer.

3.11 A further change to FPCOB was proposed to permit a firm engaged in funeral plan distribution to accept cheques payable to the funeral plan provider, when received from customers as part of the sales process.

3.12 This is to ensure access to funeral plans is not limited for the substantial minority of consumers who wish to pay by cheque. The proposed change reflects feedback raised by plan providers who are currently seeking authorisation.

Feedback

- 3.13 We received 6 responses to the consultation. All respondents generally supported the proposed changes, although we received suggestions about the change to COMP to allow the FSCS to fund an insolvency practitioner in certain circumstances, and also in relation to the change to FPCOB to permit a firm engaged in funeral plan distribution to accept cheques from customers payable to the funeral plan provider.
- 3.14 With regard to the proposed change to COMP, all 6 respondents were in favour of the change. However, 1 respondent (a funeral plan provider) suggested that it would be appropriate to include prescribed limits to the payment that the FSCS could make to an insolvency practitioner, to ensure the insolvency practitioner is not incentivised to draw out the process.
- 3.15 With regard to the changes to FPCOB, all respondents were in favour of the proposals in relation to the transfer of funeral plans for regulatory purposes where legislative criteria are met which allow such a transfer without customer consent (deemed transfer).
- 3.16 Whilst respondents were in favour of our proposed change to FPCOB to permit funeral plan distributors to accept cheques from customers payable to the funeral plan provider, we received the following comments:
- One respondent (a trade association) suggested that it was important that customers were given clear information about when their funeral plan would commence, and that there should be no undue delay in posting a cheque to a funeral plan provider.
 - One respondent (a funeral plan provider) considered that the requirement for funeral plan distributors to pay the amount received from the customer to the funeral plan provider, or to forward the cheque to the funeral plan provider, promptly and, in any event, no later than the next business day after receipt, did not provide sufficient time for firms to complete this process. The respondent considered that 5 working days was a more appropriate timescale.

Our response

- 3.17 We do not consider it necessary to include a limit on the amount that the FSCS could fund an insolvency practitioner. This is because, in line with the new rule, we would expect the FSCS to make payments only in cases where the FSCS is satisfied that the fees, costs, charges or other expenses are reasonably and exclusively incurred for the purpose of ensuring that the insolvency practitioner can assist the FSCS and only to the extent that such expenses could not otherwise be met. Accordingly, we would not expect the FSCS to meet excessive costs. This is consistent with the requirement in COMP that, in carrying out its functions, the FSCS uses its resources in an efficient and economical way.
- 3.18 We agree it should be clear to the customer when their cover commences, including those who pay by cheque to an intermediary or directly to a funeral

plan provider. Our existing rules already require either the intermediary or funeral plan provider to make clear to the customer (or covered individual) when their cover begins. This includes the requirement at FPCOB 9.2.1R that the customer should be provided with the full terms of the funeral plan contract in good time before conclusion of the contract.

- 3.19 We also agree with the respondent that there should be no undue delay to the forwarding of customers' cheques by the intermediary. We note, however, the representation from a funeral plan provider that our proposed timeline of sending cheques no later than the next business day may pose significant logistical challenges for intermediaries such as funeral directors. On that basis, the final rules will require cheques to be paid in or forwarded within 3 business days. We believe this strikes an appropriate balance between ensuring cheques are promptly dealt with and the requirements on intermediaries. It also takes account of the low-risk customers encounter when paying by cheque, as the cheque is payable directly to the plan provider.
- 3.20 Given the support we received following our consultation, we have now made the rules as consulted on in Quarterly Consultation No 36, subject to the minor amendments mentioned above.
- 3.21 In addition, we also made a small technical change, to restate the Glossary definitions of 'Regulated Activities Order' and 'Exemption Order' to ensure that it is clear that such definitions refer to the versions of those statutory instruments which are in force at the time the instrument is made.
- Cost benefit analysis**
- 3.22 Section 138I(2)(a) of FSMA requires us to publish a cost benefit analysis (CBA) when making rules unless, in accordance with section 138L(3) of FSMA, we believe that there will be no increase in costs or that the increase will be of minimal significance. Further, under section 138I(8) of FSMA, we are not required to publish an estimate of costs and benefits if these cannot be reasonably estimated or it is not reasonably practicable to estimate them.
- 3.23 As explained in Quarterly Consultation No 36, having assessed the individual changes consulted on, we consider the exemption under section 138I(8)(a) and/or 138I(8)(b) of FSMA applies as it is not reasonably practicable to produce an estimate of the costs or benefits arising from the proposed changes. Therefore, no CBA was required.
- 3.24 We are satisfied that the proposed amendments are compatible with our strategic objective and advance our operational objectives of securing an appropriate degree of consumer protection and promoting market integrity, by helping to ensure consumers have confidence to transact with firms. We are also satisfied that, so far as is compatible with advancing these operational objectives, the proposed amendments are compatible with our duty to promote effective competition in the interests of consumers.

Equality and diversity statement

- 3.25 We continue to consider that the rules we have made will not have a negative impact on any of the groups with protected characteristics under the Equality Act 2010 and no concerns were raised during consultation.

CP22/9: Dormant Assets Instrument 2022

Background

- 3.26 Under the Dormant Assets Scheme (DAS), bank accounts are deemed dormant when they have been untouched for a minimum of 15 years and the bank or building society has been unable to trace the owner. Banks and building societies can voluntarily channel funds from dormant accounts to the DAS via an Authorised Reclaim Fund (ARF). The ARF is responsible for meeting any reclaims from customers who return for their money, and the distribution of dormant funds to good causes. At present, the ARF in the UK is Reclaim Fund Ltd (RFL).
- 3.27 The Dormant Assets Act 2022 (which came into force on 6 June 2022) expanded the current DAS to facilitate the inclusion of assets from new sectors. These are:
- insurance
 - pensions
 - securities
 - investment assets
 - client money
- 3.28 One of the key principles of the DAS is full restitution of assets in perpetuity. It is therefore important that the funds and records needed to enable this are in place.

Summary of proposals

- 3.29 With HM Government and RFL, we have agreed a staggered approach to facilitating expansion of the DAS. This is to reflect differences between the different asset classes when it comes to the risks around RFL facilitating refunds. As part of this phase, we published [CP22/9](#) on 13 May 2022 on specific changes to FCA rules in order to facilitate expansion of the DAS in 3 of 5 asset classes: insurance, pensions and securities. The CP also contained a section that described proposals to amend the rules relating to the jurisdiction of the Financial Ombudsman Service to hear relevant DAS complaints. This included proposals to exclude activities relating to the DAS from FOS's voluntary jurisdiction. The proposals in this section were jointly consulted on with the FOS.

Record keeping for insurance and pensions assets

3.30 As per the CP, we did not propose to introduce any additional rules or guidance for insurance and pensions firms in relation to record keeping.

3.31 We encourage all firms that participated in the DAS to work with RFL to mitigate any risk of harm to customers. This includes keeping sufficient records to identify customers whose assets have been transferred to the scheme and working with RFL to manage records in the event of winddowns or insolvency.

Amendments to our Glossary

3.32 We proposed several changes to the Handbook Glossary to reflect the amendments brought on by the Dormant Assets Act 2022. These changes will ensure that the definitions relating to dormancy in our Handbook capture the widening of the DAS to include insurance, pensions and securities.

Amendments to DISP

3.33 We proposed to amend rules in our Dispute resolution: Complaints sourcebook (DISP) by adding a couple of new provisions so that customers (or former customers) of insurers and pension providers that transfer assets to RFL are also eligible to complain to the Financial Ombudsman Service about RFL. This is consistent with the existing scheme, whereby a customer who is (or was) a customer of a bank or building society which transferred any balance from a dormant account to RFL is eligible to refer a complaint about RFL to the Financial Ombudsman Service.

Securities

3.34 We do not regulate companies that may contribute securities assets to the DAS except insofar as these are regulated financial services firms. We therefore proposed no new rules in this area.

Feedback

3.35 We received 13 responses to our consultation, including from firms, consumer groups and trade associations. From the feedback received, respondents were broadly supportive of our proposed approach. Firms welcomed the proposal to not introduce any additional rules or guidance for scheme participants around record keeping. Consumer groups highlighted the need for adequate records being kept, to allow the identification of the customer whose assets have been transferred.

Minor amendments

3.36 Overall, we received broad agreement with our amendments to the Glossary, with only minor changes being suggested.

3.37 The amendments to DISP also received broad agreement, particularly as RFL is already subject to the Compulsory Jurisdiction of the Financial Ombudsman Service, which contains rules and guidance on how firms should deal promptly and fairly with complaints from eligible complainants. There was also agreement amongst respondents with the Financial Ombudsman Service's proposal not to mirror changes to the compulsory jurisdiction in the voluntary jurisdiction.

Outside consultation

- 3.38 Several firms and trade associations noted the staggered approach to scheme expansion, arguing that client money and investment assets should be brought within scope as soon as possible.

Our response

Minor amendments

- 3.39 In light of the feedback received, we have made some clarificatory and drafting approach changes. This includes changes to some Handbook Glossary terms to reflect the scope of the Dormant Assets Act 2022 and moving some defined terms from DISP to the Handbook Glossary. Apart from these, we have decided to proceed with the proposal as consulted on, as there is no strong objection from any respondents.
- 3.40 As consulted upon, the Financial Ombudsman Service proceeded with its proposal not to mirror the changes to the compulsory jurisdiction in the voluntary jurisdiction. The Financial Ombudsman Service therefore amended its voluntary jurisdiction rules and the standard terms for the voluntary jurisdiction to exclude from the voluntary jurisdiction's scope complaints relating to the DAS.

Staggard approach rather than full expansion to all assets

- 3.41 One of the FCA's statutory objectives is to protect consumers from poor outcomes and we need to consider the risks of this happening. The FCA is concerned that some participant firms may fail in insolvency in a way that would impact on RFL's capacity to deal with reclaims from former clients of those firms without adequate records of contributions to the scheme. In this situation, a customer whose assets had been transferred to RFL may have no effective ability to reclaim. This is because after a firm enters into insolvency proceedings, RFL may not be able to access the records from the participant firm or its insolvency practitioner. Were a customer to seek reclaim, there is a risk that a lack of records would make verifying claims and calculating what may be owed impossible. This is not something we can necessarily resolve through FCA rules.
- 3.42 As the risks vary by sector, our approach allows expansion in some sectors whilst we continue to work with HM Government, RFL and industry to facilitate expansion in the remaining 2 assets: client money and investment assets.

General clarification points

- 3.43 The responses to the consultation included a few general clarification questions. We can respond to these points directly with respondents. On the definition of client money (where we received some queries), we note that some eligible pensions assets could be client money under the Client Assets sourcebook (CASS). As part of this phase of expansion, no assets that are client money under CASS will be transferred to the DAS.

Next steps

3.44 Following our rule changes coming into force, RFL will be able to accept contributions from the securities, insurance and pensions sectors (provided they are not client money under CASS). Further work with HM Government, RFL and Industry is required to facilitate expansion in the investment and client money sectors.

Cost benefit analysis

3.45 Section 138I(2)(a) of FSMA requires us to publish a cost benefit analysis (CBA) when making rules unless, in accordance with section 138L(3) of FSMA, we believe that there will be no increase in costs or that the increase will be of minimal significance. Further, under section 138I(8) of FSMA, we are not required to publish an estimate of costs and benefits if these cannot be reasonably estimated or it is not reasonably practicable to estimate them.

3.46 We believe that our proposed changes will lead to no increase in costs or that the increase will be of minimal significance. We are not introducing any additional requirements for DAS participants but are instead making amendments to reflect the fact that firms in the insurance and pensions sectors will now be able to voluntarily participate in the DAS and to ensure that clients of those firms will have recourse to the Financial Ombudsman Scheme.

Equality and diversity statement

3.47 We continue to consider that the rules we have made will not have a negative impact on any of the groups with protected characteristics under the Equality Act 2010 and no concerns were raised during consultation.

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, reference number or module at www.handbook.fca.org.uk/instrument. 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 www.handbook.fca.org.uk/. A print version of the Handbook is available from The Stationery Office's shop at www.tsoshop.co.uk/Financial-Conduct-Authority-FCA/.
- 4.6 Copies of the FCA's consultation papers referred to in this Notice are available on the FCA's website.

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 section 138K(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 handbookproduction@fca.org.uk (or see contact details at the front of this Notice).

Handbook Notice 101

This Handbook Notice describes the changes to the Handbook and other material made by the Financial Conduct Authority (FCA) Board under its legislative and other statutory powers on 23 June 2022 and 15 July 2022.

It also may contain 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:

Lisa Oceró

Tel: 020 7066 0198

Email: Lisa.Ocero@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 Contact Centre:

Tel: 0300 500 0597

Fax: 0207 066 0991

Email: firm.queries@fca.org.uk

Post: Contact Centre
Financial Conduct Authority
12 Endeavour Square
London E20 1JN

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