



No.41

Handbook Notice

February 2017

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1. Overview

Legislative changes

- 1.1** On 8 February 2017, the Board of the Financial Ombudsman Service made changes to their rules, guidance and standard terms as set out in the instrument listed below. On 23 February 2017, the FCA Board made changes to the Handbook as set out in that instrument, and approved the changes made by the Financial Ombudsman Service to their rules, guidance and standard terms.

CP	Title of instrument	Instrument No.	Changes effective
<u>FOS</u>	Handbook Administration (No 45) Instrument 2017	FCA 2017/5; FOS 2017/1	24.2.17

- 1.2** On 23 February 2017, the Board of the Financial Conduct Authority also made changes to the Handbook in the instruments listed below.

CP	Title of instrument	Instrument No.	Changes effective
<u>16/33</u>	Fees (Miscellaneous Amendments) (No 9) Instrument 2017	FCA 2017/6	24.2.17
<u>16/38</u>	Disclosure Guidance and Transparency Rules Sourcebook (Delayed Disclosure) Instrument 2017	FCA 2017/7	24.2.17
<u>16/39</u>	Enforcement (Money Laundering Regulations 2007) Instrument 2017	FCA 2017/8	24.2.17
<u>16/39</u>	Enforcement (Co-operative and Community Benefit Societies Act 2014) Instrument 2017	FCA 2017/9	24.2.17

- 1.3** These instruments can be found online here: www.handbook.fca.org.uk/instrument.

Summary of changes

- 1.4** The legislative changes referred to above are listed and briefly described in [Chapter 2](#) of this Notice.

Feedback on responses to consultations

- 1.5 Consultation feedback is published in Chapter 3 of this Notice or in a separate Policy Statement.

FCA Board dates for 2017

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

March	30
April	27
May	25
June	22
July	20
September	11 and 12
October	19
November	8 & 9
December	6 and 7

2. Summary of changes

- 2.1 This chapter briefly describes FCA Handbook changes made by the Board on 23 February 2017. It also describes changes made by the Board of the Financial Ombudsman Service to their rules, guidance and standard terms on 8 February 2017. 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/PRA/Pages/publications/default.aspx>

Handbook Administration (No 45) Instrument 2017 (FCA 2017/5; FOS 2017/1)

- 2.2 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 by the FCA 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
FEES 2 and 5
DISP 2

- 2.3 In summary, the amendments made this month are as follows:
- italicise 'person' in the definition of 'CBTL firm'

- remove reference to the consumer credit jurisdiction in the Glossary definition of ‘respondent’ and rectify the insertion of two paragraphs both numbered (e) into that definition, and
- to correct a typographic error in FEES 5.1.1-AG

2.4 These changes come into force on **24 February 2017**.

Fees (Miscellaneous Amendments) (No 9) Instrument 2017 (FCA 2017/6)

2.5 Following consultation in CP16/33¹, the FCA Board has made changes to the FCA Handbook sections listed below:

Glossary FEES 3, 4 and 13

2.6 In summary, this instrument introduces an illegal money lending levy. It also makes minor changes to clarify and revise provisions in the Fees manual.

2.7 This instrument comes into force on **24 February 2017**. Feedback to this consultation is published in Chapter 3 of this Notice.

Disclosure Guidance and Transparency Rules Sourcebook (Delayed Disclosure) Instrument 2017 (FCA 2017/7)

2.8 Following consultation in CP16/38², the FCA Board has made changes to the FCA Handbook sections listed below:

Glossary DTR 2

2.9 In summary, this instrument makes changes to the FCA Handbook to comply with ESMA’s guidelines on delay in the disclosure of inside information.

2.10 This instrument comes into force on **24 February 2017**. Feedback to this consultation will be published in a separate Policy Statement.

Enforcement (Money Laundering Regulations 2007) Instrument 2017 (FCA 2017/8)

2.11 Following consultation in CP16/39³, the FCA Board has made changes to the FCA Handbook section listed below:

DEPP 2 Annex 1

2.12 In summary, this instrument makes changes to provide a decision-making mechanism for proposing or deciding to cancel a registration of a relevant person or impose a civil penalty under the Money Laundering Regulations 2007.

2.13 This instrument comes into force on **24 February 2017**. Feedback to this consultation is published in Chapter 3 of this Notice.

¹ CP16/33 ‘Regulatory fees and levies: policy proposals for 2017/18’ (November 2016)

² CP16/38 ‘Proposed changes to DTR 2.5 on delay in disclosure of inside information’ (November 2016)

³ CP16/39 ‘Quarterly Consultation Paper No. 15’ (December 2016)

Enforcement (Co-operative and Community Benefit Societies Act 2014) Instrument 2017 (FCA 2017/9)

- 2.14** Following consultation in CP16/39⁴, the FCA Board has made changes to the FCA Handbook sections listed below:
- Glossary**
DEPP 2 Annex 1
EG 12 and 19
- 2.15** In summary, this instrument provides firms with guidance as to how enforcement investigations will be carried out, and provides a decision-making mechanism for cancelling or suspending registrations for registered societies under the Co-operative and Community Benefit Societies Act 2014.
- 2.16** This instrument comes into force on **24 February 2017**. Feedback to this consultation is published in Chapter 3 of this Notice.

3. Consultation feedback

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

CP16/33 Regulatory fees and levies: policy proposals for 2017/18, Chapters 2 and 5

Fees (Miscellaneous Amendments) (No 9) Instrument 2017

Background

- 3.2** We have made rules relating to the following proposals that we consulted on in CP16/33:
- **Introduction of a levy to recover HM Treasury's costs of tackling illegal money lending (IML levy).** S333T of FSMA, introduced by the Bank of England and Financial Services Act 2016, gives us the duty to introduce a levy to recover the expenses that HM Treasury incur in providing funding for the teams that combat IML. We will pay the money to the Treasury according to a service level agreement that will be agreed between us, after deducting our costs of collection. We will have no other involvement in the finances of the teams. The Treasury's costs in taking action against IML will be collected from consumer credit firms under the following structure:
 - Limited permission (fee-block CC1): £5 flat rate
 - Full permission (fee-block CC2):
 - Up to £250,000 consumer credit income: £10
 - Over £250,000 consumer credit income: £10 + variable rate per £1,000
 - The variable rate for 2017/18 will be consulted on in the consultation paper on fee rates

⁴ CP16/39 'Quarterly Consultation Paper No. 15' (December 2016)

that we will be publishing in April.

- **Community finance organisations (CFOs) applying for limited consumer credit permission.** We charge CFOs a concessionary application fee of £200 for all credit-related permissions. We are bringing them into line with other firms by charging them the standard fee of £100 if they apply for limited credit-related permission and have an income of up to £50,000.
- **Use of Bank of England base rate in calculating proxy consumer credit income.** We are amending the Fees manual to clarify that firms applying for consumer credit authorisation should calculate their proxy income using the Bank of England base rate that is in force when they submit their application. Credit brokers use the proxy when they do not receive commission from lenders.
- **Valuation date for fee-block A.9.** We are restating the valuation date for fee-block A9 in FEES 4 Annex 1A Part 5 as 'up to' 31 December rather than 'before' 31 December to bring it in line with other fee-blocks.
- **Firms registered under the Money Laundering Regulations – MLRs.** We are adding fee-block G1 to FEES 4 Annex 11 to cover firms registered under the MLRs. At present the Annex starts with G2 and the MLR fees in G1 do not appear in the Handbook.
- **UK Listing Authority (UKLA) transaction fees.** We are amending the table of UKLA transaction fees in FEES 3.2.7R to clarify that they are payable by any person whose securities are the subject of an eligibility application for admission to listing.
- **Firms authorised part-way through a fee year and transfers of business between new firms.** We are clarifying our rules on fees paid by newly authorised firms in FEES 4.2.7 and firms transferring business in FEES 4.3.17 since firms have told us they are difficult to follow.

- 3.3** We also consulted in CP16/33 on proposals affecting market operators in the B fee-block and on the fee-blocks from which we intend to recover the costs of implementing MiFID II. We will respond to the comments received on these through the CP on FCA fee rates for 2017/18 that we intend to publish in April.

Feedback

- 3.4** We received four comments on the introduction of the IML levy in CP16/33. We received no comments on the other proposals.

- 3.5** All four of the responses on the IML levy were concerned about the additional cost of regulatory compliance, one of them pointing out that consumer credit firms would face further costs if they were required to contribute towards the funding of the Financial Services Compensation Scheme (FSCS). One respondent argued that the IML costs should be recovered through the normal funding routes for criminal justice. The following modifications to our levy proposals were suggested:

- The levy should not apply to firms with limited consumer credit permissions.
- The minimum levy of £10 should not apply where there was no credit-related income. This respondent was especially concerned about the position of mortgage brokers who are charged minimum consumer credit fees even though the only reason they take on consumer credit permissions is to allow them to provide debt consolidation advice for which they do not charge.
- There should be a banded variable rate fee.

Our response

- 3.6** Funding the teams combating IML through a levy on authorised firms is a legislative requirement. The levy has been applied to firms with limited permission as well as those with full permission because all firms in the consumer credit market benefit from effective policing of the perimeter. The minimum fee has been set at the low rate of £10 to minimise the impact on firms with low levels of credit-related activity. A banded rate above the minimum does not achieve a fair distribution of fees across all firms.

Cost benefit analysis and compatibility statement

- 3.7** Under s.138I of FSMA, we are exempt from carrying out a cost benefit analysis of fees and levy rules. The compatibility statement in CP16/33 remains unchanged.

Equality and diversity issues

- 3.8** We continue to believe the changes do not have any equality or diversity implications as stated in the first chapter of each CP.

- 3.9** The changes made by this instrument are listed in Chapter 2 of this Notice.

CP16/39 Quarterly Consultation No. 15, Chapter 3

Enforcement (Money Laundering Regulations 2007) Instrument 2017**Background**

- 3.10** In 2007 the FSA published an approach document⁵ about the Money Laundering Regulations 2007 (MLR 07). Guidance about enforcement action taken under the MLR 07 is set out in our Enforcement Guide (EG).

- 3.11** We published CP16/39⁶ in December 2016. It set out our proposed changes to the Decision Procedure and Penalties manual (DEPP) in relation to the MLR 07.

- 3.12** We are changing DEPP 2 Annex 1 to outline the decision-making procedure for persons registered under the MLR 07.

Feedback

- 3.13** We received no feedback.

Our response

- 3.14** No response is needed as no feedback was received.

Cost benefit analysis and compatibility statement

- 3.15** The cost benefit analysis and compatibility statement in our Quarterly Consultation Paper No. 15, Chapter 3, remain unchanged.

Equality and diversity issues

- 3.16** We continue to believe the changes do not give rise to discrimination as stated in our Quarterly Consultation Paper No. 15, Chapter 3.

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

⁵ 'The FSA's new role under the Money Laundering Regulations 2007' (September 2007)

⁶ CP16/39 'Quarterly Consultation Paper No. 15' (December 2016)

CP16/39 Quarterly Consultation No. 15, Chapter 4

Enforcement (Co-operative and Community Benefit Societies Act 2014) Instrument 2017

Background

- 3.18** In November 2015 we published Finalised Guidance (FG15/12⁷) relating to the Co-operative and Community Benefit Societies Act 2014 (the CCBS Act). This set out our approach to the role of registering authority and provided guidance about the societies' obligations. Our role as registering authority is different and separate from our role as a financial services regulator. Companies House is the registering authority for companies and we are the registering authority for societies.
- 3.19** The CCBS Act sets out the conditions that all societies must satisfy to become registered. As part of our registration process, societies must show that they meet these conditions. Under the CCBS Act, we have powers to cancel or suspend societies' registration if we are satisfied that the conditions are no longer met.
- 3.20** As proposed in CP16/39⁸, we are changing the Enforcement Guide (EG) and the Decision Procedure and Penalties manual (DEPP) to align them with our powers under the CCBS Act.

Feedback

- 3.21** We received no feedback.

Our response

- 3.22** No response is needed as no feedback was received.

Cost benefit analysis and compatibility statement

- 3.23** The cost benefit analysis and compatibility statement in our Quarterly Consultation Paper No. 15, Chapter 4, remain unchanged.

Equality and diversity issues

- 3.24** We continue to believe the changes do not give rise to discrimination as stated in our Quarterly Consultation Paper No. 15, Chapter 4.
- 3.25** The changes made by this instrument are listed in Chapter 2 of this Notice.

4. Additional information

CP16/43 Markets in Financial Instruments Directive II (MiFID II) implementation - Consultation Paper IV, Chapter 7

- 4.1** The fees that we will charge for applications for MiFID II permissions will be finalised when the MiFID II transitional regime that enables us to receive and determine them before 3 January 2018 comes into force. This will be implemented through a statutory instrument (SI) now expected in March or April.

⁷ FG15/12 'Guidance on the FCA's registration function under the Co-operative and Community Benefit Societies Act 2014' (November 2015)

⁸ CP16/39 'Quarterly Consultation Paper No. 15' (December 2016)

- 4.2** In CP16/43⁹ we consulted on a transitional rule relating to application fees for MiFID II permissions. When firms submit a single application to the FCA for more than one permission they are usually only charged one fee, which is for the most expensive permission. An application for new MiFID II permissions under the transitional regime made together with an application for permissions relating to existing regulated activities will be treated as two separate applications. The proposed transitional rule ensures that such firms are treated for fees purposes as having made a single application and are charged no more than the difference between the two application fees. The rule also applies this benefit to firms who submit draft applications ahead of the SI coming into effect.
- 4.3** We received only one comment, in support of the proposal, and it is our intention to recommend the FCA Board make the transitional rule as consulted on.

Making corrections

- 4.4** 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

- 4.5** This Notice is published on the FCA website and is available in hardcopy.
- 4.6** 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/instrument>. The definitive version of the Handbook at any time is the version contained in the legal instruments.
- 4.7** 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.
- 4.8** The consolidated text of the Handbook can be found on the FCA's website at <https://www.handbook.fca.org.uk/>. A print version of the Handbook is available from The Stationery Office's shop at <https://www.tsoshop.co.uk/Financial-Conduct-Authority-FCA/>.
- 4.9** Copies of the FCA's consultation papers referred to in this Notice are available on the FCA's website.

Obligation to publish feedback

- 4.10** This Notice, and the feedback to which paragraph 1.4 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.

⁹ CP16/43 'Markets in Financial Instruments Directive II Implementation - Consultation Paper IV' (December 2016)

Comments

- 4.11** 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 back of this Notice).

Handbook Notice 41

This Handbook Notice introduces the Handbook and other material made by the Financial Conduct Authority (FCA) Board under its legislative powers on 23 February 2017. It also introduces changes made by the Financial Ombudsman Service on 8 February 2017 to its rules, guidance and standard terms. Additionally, this Notice contains information about other publications relating to the Handbook.

Contact names for the individual modules are listed in the relevant Consultation Papers and Policy Statements referred to Chapter 1 of this Notice.

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

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Emma Elder

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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

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