


Handbook Notice No.45

June 2017

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1 Overview

Legislative changes

- 1.1 On 22 June 2017, 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
<u>17/12</u>	Periodic Fees (2017/2018) and Other Fees Instrument 2017	2017/32	3.7.17
<u>16/31</u>	Future Service Restrictions Instrument 2017	2017/33	3.1.18
<u>17/6</u>	Market Conduct Sourcebook (Commodity Derivatives Inside Information) Instrument 2017	2017/34	23.6.17
<u>16/39;</u> <u>16/41</u> and <u>17/6</u>	Supervision Manual (Reporting No 5) Instrument 2017	2017/35	1.7.17 and 31.10.17

Summary of changes

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

Feedback on responses to consultations

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

FCA Board dates

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

July	20
September	11 and 12
October	19



November	8 and 9
December	6 and 7

2 Summary of changes

- 2.1 This chapter briefly describes FCA Handbook changes made by the Board on 22 June 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 www.bankofengland.co.uk/pru/Pages/publications/default.aspx

Periodic Fees (2017/2018) and Other Fees Instrument 2017 (FCA 2017/32)

- 2.2 Following consultation in CP17/12¹, the FCA Board has made changes to the FCA Handbook sections listed below:

Glossary FEES 4, 5, 7, 10, 11, 13 and App 1

- 2.3 In summary, this instrument makes changes to:
- raise fees and levies in 2017/18 to provide funding to enable the FCA, the Financial Ombudsman Service and the Money Advice Service (MAS) to meet their statutory objectives
 - raise levies in 2017/18 on behalf of the Department for Work and Pensions to fund its Pension Wise service, to enable the FCA to recover its pensions guidance costs and to recover the expenses HM Treasury incur in providing funding for the teams tackling illegal money lending
- 2.4 This instrument comes into force on **3 July 2017**. Feedback to this consultation will be published in a separate Policy Statement.

¹ CP17/12 'FCA Regulated fees and levies: Rates proposals 2017/18' (April 2017) <https://www.fca.org.uk/publications/consultation-papers/fca-regulated-fees-levies-rates-proposals-2017-18-cp17-12>



Future Service Restrictions Instrument 2017 (FCA 2017/33)

- 2.5 Following consultation in CP16/31², the FCA Board has made changes to the FCA Handbook sections listed below:

Glossary COBS 11A and 18

- 2.6 In summary this instrument makes changes to help clients be able to exercise greater freedom of choice when selecting their suppliers. This in turn will stimulate competition in primary market services.
- 2.7 This instrument comes into force on **3 January 2018**. Feedback to this consultation will be published in a separate Policy Statement.

Market Conduct Sourcebook (Commodity Derivatives Inside Information) Instrument 2017 (FCA 2017/34)

- 2.8 Following consultation in CP17/6³, the FCA Board has made changes to the FCA Handbook section listed below:

MAR 1

- 2.9 In summary this instrument makes changes to ensure consistency with Level 1 of the Market Abuse Regulation and ESMA guidelines.
- 2.10 This instrument comes into force on **23 June 2017**. Feedback to this consultation is published in Chapter 3 of this Notice.

Supervision Manual (Reporting No 5) Instrument 2017 (FCA 2017/35)

- 2.11 Following consultation in CP16/39⁴, CP16/41⁵ and CP17/6⁶ the FCA Board has made changes to the FCA Handbook section listed below:

SUP 16

- 2.12 In summary this instrument makes changes to provide more clarity for firms on what data should be reported to us, improve data quality

2 CP16/31 'Investment and corporate banking: prohibition of restrictive contractual clauses' (October 2016) <https://www.fca.org.uk/publications/consultation-papers/investment-corporate-banking-prohibition-restrictive-clauses>

3 CP17/6 'Quarterly Consultation Paper No. 16' (March 2017) www.fca.org.uk/publications/consultation-papers/cp17-6-quarterly-consultation-paper-no-16

4 CP16/39 'Quarterly Consultation Paper No. 15' (December 2016) <https://www.fca.org.uk/publications/consultation-papers/quarterly-consultation-paper-no-15-cp16-39>

5 CP16/41 'Amendments to Notes for completion of the Mortgage Lenders and Administrators Return (MLAR)' (December 2016) <https://www.fca.org.uk/publications/consultation-papers/cp16-41-amendments-notes-completion-mortgage-lenders-administrators>

6 CP17/6 'Quarterly Consultation Paper No. 16' (March 2017) www.fca.org.uk/publications/consultation-papers/cp17-6-quarterly-consultation-paper-no-16



though form changes and remove an unnecessary duplication of prudential reporting rules between the FCA and PRA.

- 2.13 Part 1 of this instrument comes into force on **1 July 2017** and Part 2 on **31 October 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.

CP17/6 Quarterly Consultation Paper No. 16, Chapter 3

Market Conduct Sourcebook (Commodity Derivatives Inside Information) Instrument 2017

Background

- 3.2 The European Securities and Markets Authority (ESMA) was mandated under article 7(5) of the Market Abuse Regulation to issue commodity derivative guidelines establishing a non-exhaustive indicative list of information which is reasonably expected or required to be disclosed in accordance with legal or regulatory provisions in EU or national law, market rules, contract, practice or custom, on the relevant commodity derivatives markets or spot markets (commodity derivative guidelines).
- 3.3 In consultation CP17/6 we proposed adding two signposts to the commodity derivative guidelines in the Market Conduct sourcebook (MAR 1) adjacent to the provisions which refer to the definition of 'inside information' in the context of commodity derivatives (MAR 1.2.19AG and MAR 1.3.24G).
- 3.4 We also proposed updating two guidance provisions (MAR 1.3.21G and MAR1.3.23G) so that they mirror the definition of 'inside information' in article 7(1)(b) of the Market Abuse Regulation, as well as amending MAR 1.3.21G to reflect that the London Metal Exchange's (LME) stock levels are reasonably expected to be disclosed in accordance with the LME's practice and custom.



Feedback

- 3.5 We received three responses to our consultation from industry associations. The respondents considered that the drafting changes proposed to MAR 1.2.19AG and MAR 1.3.24G did not accurately reflect the scope of the commodity derivatives guidelines. Respondents noted that the proposed changes referred to 'issuers' while the guidelines applied to competent authorities and to market participants, being investors, financial intermediaries, operators of trading venues and persons professionally **arranging and** executing transactions in commodity derivatives.
- 3.6 Respondents therefore proposed that we amend our drafting by replacing the word 'issuers' with 'persons'.

Our response

- 3.7 We saw merit in the proposals received in relation to the scope of our signposting and to ensure consistency with the commodity derivative guidelines. We have therefore removed the word 'issuers' from our proposed amendments to the Market Conduct sourcebook (MAR 1.2.19AG and MAR 1.3.24G).
- 3.8 We have not included the word 'persons' as suggested by respondents, as the commodity derivative guidelines already provide a list of persons to whom the commodity derivative guidelines apply.

Cost benefit analysis and compatibility statement

- 3.9 This is not applicable. When consulting on guidance we are not required by section 139A(5) of FSMA to include a cost benefit analysis.

Equality and diversity issues

- 3.10 We considered the equality and diversity issues that may arise from our proposals prior to consultation. Following the consultation we continue to believe that our proposals do not raise concerns with regard to equality and diversity issues.
- 3.11 The changes made by this instrument are listed in Chapter 2 of this Notice.

CP16/39 Quarterly Consultation Paper No. 15 - Changes to reporting requirements in the Supervision manual (SUP), CP16/41 Amendments to Notes for completion of the MLAR and CP17/6 Quarterly Consultation Paper No 16 - Changes to reporting requirements in the Supervision manual (SUP)

Supervision Manual (Reporting No 5) Instrument 2017



Background

- 3.12 These rule changes consist of three items consulted on in separate papers. The changes include:
- those set out in CP17/6 in Chapter 8, which relate to consumer credit reporting requirements, updating rule references, improving forms' guidance notes and correcting an error in our prudential reporting requirements
 - removing the prudential reporting requirements for regulated activity group 1 (RAG 1) in Chapter 8, Paragraph 8.5 (first bullet point) of CP16/39
 - aligning the completion notes for Mortgage Lenders and Administrators Return with the PRA MLAR guidance (CP16/41)

Feedback

- 3.13 **CP17/6** A respondent highlighted that the change described in Chapter 8 paragraph 8.7 (changes to the guidance notes for the Retail Mediation Activity Return (RMAR)) was not included in the legal instrument. As a consequence, we have decided to remove the item from our rule changes and will instead consider this change for inclusion in a future Consultation Paper.
- 3.14 **CP16/39** We received no responses to this consultation.
- 3.15 **CP16/41** We received no responses to this consultation.
- 3.16 We will, however, change when the new MLAR guidance *(as consulted on in CP16/41) comes into force so that it is aligned with the reporting period. Firms will now need to apply the revised guidance to data collected from 1 July 2017 rather than 30 June 2017.
- 3.17 We will also align when the MLA-D1 amendments come into force with other planned changes to the Gabriel reporting system. The amendments will now apply from the 31 October 2017.

Our response

- 3.18 We are going ahead with no changes to the instruments consulted on in CP16/39 and CP17/6. We will however make the minor changes described above to the instrument consulted on in CP16/41.

Cost benefit analysis and compatibility statement

- 3.19 The cost benefit analysis and compatibility statement from the consultation papers have not changed because we have either made no changes or minor alterations to the instruments as consulted on.



Equality and diversity issues

- 3.20 We continue to believe these changes do not give rise to any equality and diversity issues nor do they give rise to unfair discrimination against protected groups as set out in the consultation papers.
- 3.21 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, 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 on the back cover).

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This Handbook Notice introduces the Handbook and other material made by the Financial Conduct Authority (FCA) Board under its legislative powers on 22 June 2017.

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:

Emily How

Tel: 020 7066 2184

Email: emily.how@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

25 The North Colonnade

Canary Wharf

London E14 5HS

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

