


# Handbook Notice No.52

February 2018

## Contents

1.	<u>Overview</u>	<u>2</u>
2.	<u>Summary of changes</u>	<u>3</u>
3.	<u>Consultation feedback</u>	<u>5</u>
4.	<u>Additional information</u>	<u>10</u>

### How to navigate this document onscreen

 returns you to the contents list



# 1 Overview

## Legislative changes

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- 1.1 On 22 February 2018, 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>18/1</u>	Financial Services Compensation Scheme (Transitional Levy Provisions) Instrument 2018	2018/4	(23.2.18 for FEES TP 18); 1.4.18
<u>17/39</u>	Supervision Manual (Financial Crime Report) (Amendment) Instrument 2018	2018/5	23.2.18
<u>17/39</u>	Decision Procedure and Penalties Manual (Amendment) Instrument 2018	2018/6	23.2.18
<u>17/28</u>	Advising on Investments (Article 53(1) of the Regulated Activities Order) (Perimeter Guidance) Instrument 2018	2018/8	23.2.18

## Summary of changes

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

## Feedback on responses to consultations

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

## FCA Board dates for 2018

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

March	22
April	26



May	24
June	28
July	26
September	27
October	25
November	15
December	13

## 2 Summary of changes

- 2.1 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 22 February 2018. 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](http://www.bankofengland.co.uk/pru/Pages/publications/default.aspx)

### ***Financial Services Compensation Scheme (Transitional Levy Provisions) Instrument 2018 (FCA 2018/4)***

- 2.2 Following consultation in CP18/1,<sup>1</sup> the FCA Board has made changes to the FCA Handbook sections listed below:

#### **Glossary FEES 6 and TP 18**

- 2.3 In summary, this instrument makes changes to the Handbook to ensure that the life and pensions intermediation class will continue to benefit from support from the retail pool over the next few months, consistent with the Financial Services Compensation Scheme's (FSCS's) public messaging on this matter.

<sup>1</sup> [CP18/1 'Aligning the Financial Services Compensation Scheme levy time period' \(January 2018\)](#)



- 2.4 This instrument comes into force on **1 April 2018**, except for FEES TP 18 which comes into force on **23 February 2018**. Feedback is published in Chapter 3 of this Notice.

***Supervision Manual (Financial Crime Report) (Amendment) Instrument 2018 (FCA 2018/5)***

- 2.5 Following consultation in CP17/39,<sup>2</sup> the FCA Board has made changes to the FCA Handbook section listed below:

**SUP 16**

- 2.6 In summary, this instrument makes changes to the Handbook to align the Financial Crime Annual Return (REP-CRIM) to both the Money Laundering Terrorist Financing and Transfer of Funds (Information on the Payer) Regulations (MLRs) and the politically exposed persons (PEPs) Guidance<sup>3</sup> to avoid different interpretations emerging between firms; and to reduce the risk of firms reporting information about non-high risk relationships.
- 2.7 This instrument comes into force on **23 February 2018**. Feedback is published in Chapter 3 of this Notice.

***Decision Procedure and Penalties Manual (Amendment) Instrument 2018 (FCA 2018/6)***

- 2.8 Following consultation in CP17/39,<sup>4</sup> the FCA Board has made changes to the FCA Handbook section listed below:

**DEPP 4**

- 2.9 In summary, this instrument makes changes to the Handbook in order to update the wording of DEPP 4 to reflect the change made to our governance structure in January 2018.
- 2.10 This instrument comes into force on **23 February 2018**. Feedback is published in Chapter 3 of this Notice.

***Advising on Investments (Article 53(1) of the Regulated Activities Order) (Perimeter Guidance) Instrument 2018 (FCA 2018/8)***

- 2.11 Following consultation in CP17/28,<sup>5</sup> the FCA Board has made changes to the FCA Handbook sections listed below:

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2 CP17/39 'Quarterly Consultation Paper No 19' (December 2017)  
3 FG17/6 'The treatment of politically exposed persons for anti-money laundering purposes' (July 2017)  
4 CP17/39 'Quarterly Consultation No 19' (December 2017)  
5 CP17/28 'Financial Advice Market Review (FAMR): implementation Part II and insistent clients' (August 2017)



## COBS 6 SUP 12

- 2.12 It also makes changes to **PERG 2, 5, 7, 8** and **13**.
- 2.13 In summary, this instrument makes changes to the Handbook to meet the Financial Advice Market Review (FAMR) recommendation to produce new Guidance on what constitutes a personal recommendation.
- 2.14 This instrument comes into force on **23 February 2018**. Feedback will be published in a separate Policy Statement.

## 3 Consultation feedback

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

### **CP18/1 Aligning the Financial Services Compensation Scheme levy time period**

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#### ***Financial Services Compensation Scheme (Transitional Levy Provisions) Instrument 2018***

##### ***Background***

- 3.2 In 2017, we launched a review of the funding arrangements of the Financial Services Compensation Scheme (FSCS). Following extensive consultation, we brought forward a series of proposals and confirmed our intention to proceed with a series of initial changes in Consultation Paper (CP) 17/36.<sup>6</sup> One of the changes was to align the FSCS compensation levy year with the financial year.
- 3.3 We have since become aware that a practical implication of this change is a different allocation of costs to the life and pensions intermediation class for the 2017/18 compensation year, which was not intended. We therefore, decided to consult on transitional provisions which delay the effect of this change, meaning in effect that we maintain the status quo for one year longer. The provisions will ensure that the life and pensions intermediation class will continue to benefit from support from the

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<sup>6</sup> CP17/36 'Reviewing the funding of the Financial Services Compensation Scheme (FSCS): feedback from CP16/42, final rules, and new proposals for consultation' (October 2017)



retail pool over the next few months, consistent with the FSCS's public messaging on this.

- 3.4 In CP18/1,<sup>7</sup> published in January 2018, we consulted on transitional provisions to:
- allow the 2017/18 compensation year to run to its original timeframe
  - require the FSCS to run a nine-month compensation levy year for the period 1 July 2018 to 31 March 2019 with pro-rated class thresholds, and
  - delay the introduction of arrangements for firms who pay fees on account by one year until April 2019.
- 3.5 We also consulted on minor clarifications to the new rule about levy paying arrangements for firms who pay fees on account.

### **Feedback**

- 3.6 We received 7 responses to CP18/1. Respondents were supportive of our proposals and did not provide any alternative suggestions.

### **Our response**

- 3.7 Respondents generally supported our proposals so we intend to make the rules we consulted on.

### **Cost benefit analysis and compatibility statement**

- 3.8 The compatibility statement in CP18/1 remains valid.
- 3.9 The proposed transitional provisions are aimed at addressing unintended consequences to the allocation of compensation and specific costs to the retail pool in this and the next financial year, but do not affect the overall amount of compensation (or specific) costs which the FSCS incurs or funds through levies. We consider that any increase in costs will be of minimal significance. On that basis, under section 138L(3) of the Financial Services and Markets Act (FSMA) we are exempt from the requirement to carry out and publish a cost benefit analysis.

### **Equality and diversity issues**

- 3.10 As explained in CP18/1, we do not consider that the proposals adversely impact any of the groups with protected characteristics under the Equality Act 2010. We did not receive any comments from respondents on equality and diversity implications of the proposals.
- 3.11 The changes made by this instrument are listed in Chapter 2 of this Notice.

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7 [CP18/1 'Aligning the Financial Services Compensation Scheme levy time period' \(January 2018\)](#)



## CP17/39: Quarterly Consultation Paper No 19 – Chapter 7, Financial Crime Reporting

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### ***Supervision Manual (Financial Crime Report) (Amendment) Instrument 2018***

#### ***Background***

- 3.12 In December 2017, in Chapter 7 of CP17/39,<sup>8</sup> we proposed amendments to SUP 16 Annex 42BG of the Supervision manual (SUP). These changes sought to update the guidance notes to the Financial Crime Annual Return (REP-CRIM) and incorporate consequential changes brought about by The Money Laundering, Terrorist Financing and Transfer of Funds (Information on the Payer) Regulations 2017 (MLRs) which came into force on 26 June 2017. The MLRs update the UK Anti-Money Laundering (AML) framework to transpose the EU's 4th Money Laundering Directive.
- 3.13 The MLRs changed the scope of the definitions of 'politically exposed person' (PEP) and 'correspondent banking relationships'. This impacts on how we collect information from certain firms under the reporting requirements in the REP-CRIM. We also identified a number of questions in the REP-CRIM where we think additional guidance would assist firms in submitting the report and improve the quality of the data we receive.
- 3.14 Specifically, we consulted on changes to SUP 16 Annex 42BG in relation to a number of REP-CRIM questions on:
- 'politically exposed person' (PEP) and our proposal that firms only report to us those PEPs, family members or known close associates who they have identified as being high risk in accordance with guidance issued by the FCA in July 2017 (the PEPs Guidance)<sup>9</sup>
  - 'non-EEA correspondent banks' and our proposal to require firms to provide only information about high risk correspondent banking relationships as defined under Regulation 34(4)(a)(i) of the MLRs, and not correspondent trading relationships, and
  - other parts of the existing guidance in SUP 16 Annex 42BG to improve the accuracy and consistency of returns, as well as the addition of some new guidance notes to clarify that firms should submit nil responses to questions where applicable.

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8 CP17/39 'Quarterly Consultation Paper No. 19' (December 2017)

9 FG17/6 'The treatment of politically exposed persons for anti-money laundering purposes' (July 2017)



### **Feedback**

- 3.15 We received four responses, three of which were in support of our changes. One respondent raised concerns around the timing of the changes, particularly for firms with an Accounting Reference Date (ARD) of 31 December 2017 who may be part way through preparing their response when the changes take effect.
- 3.16 The same respondent also raised concerns that the revisions could add to the complexity of reporting preparations, and queried the proposed revised guidance in question 25 clarifying the definition of 'financial crime roles'.
- 3.17 Another respondent sought additional clarification on the circumstances in which a UK PEP would need to be reported.

### **Our response**

- 3.18 Although the changes to the guidance reflect legislative changes brought in by the MLRs we do not want the new requirements to be unnecessarily burdensome, and recognise, for larger firms in particular, that the timing of the changes could be problematic.
- 3.19 To address this, firms with an ARD of 31 December 2017 can choose to submit their REP-CRIM using the previous guidance where they do not believe it is possible to compile the figures using the definitions in the revised guidance in time. There is no requirement for a firm to let us know which method they have used in their REP-CRIM submission.
- 3.20 We believe the proposals are consistent with a risk-based approach and that they will align the REP-CRIM to both the MLRs and the PEPs Guidance. In turn we consider they should not add any additional reporting complexity.
- 3.21 We have clarified the existing guidance to make it clear that UK PEPs will not need to be reported. However, where a UK PEP has other risk factors that make them higher risk, they should be reported in the 'other high risk customer' category.
- 3.22 Proposed changes to the definition of 'financial crime roles' in question 25 were made in response to firm queries when the REP-CRIM was first introduced. The purpose of the revision is to include those that deal with financial crime issues to ensure that firms do not restrict their submission to decision makers only. This is therefore a clarification rather than an expansion of the requirement, and is not designed to capture additional types of role, e.g. employees involved in restructuring or enhancement projects.





### ***Cost benefit analysis and compatibility statement***

- 3.23 The cost benefit analysis remains as published in Chapter 7 of CP17/39. Also, our view on the compatibility statement remains unchanged.

### ***Equality and diversity issues***

- 3.24 We continue to believe that these changes 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.
- 3.25 The changes made by this instrument are listed in Chapter 2 of this Notice.

## **CP17/39: Quarterly Consultation Paper No 19 – Chapter 2**

### ***Decision Procedure and Penalties Manual (Amendment) Instrument 2018***

#### ***Background***

- 3.26 The Decision Procedure and Penalties manual (DEPP) sets out our decision-making policies and procedures for giving statutory notices, imposing penalties, suspensions, restrictions and disciplinary prohibitions, conducting certain interviews and varying a Senior Management Function (SMF) manager's approval. Chapter 4 (DEPP 4) deals with decisions by FCA staff under executive procedures and refers to 'the FCA's senior executive committee', which has previously referred to our most senior executive committee, the Executive Committee.
- 3.27 A change to our governance structure in January 2018 meant that one of our 'senior staff committees' referred to in DEPP has been elevated in status to become a second 'senior executive committee'. This has resulted in the FCA having two, rather than one, 'senior executive committees'. As a result, in Quarterly Consultation Paper (QCP) 17/39,<sup>10</sup> we consulted on replacing the seven references in DEPP 4 to 'the FCA's senior executive committee' to 'an FCA senior executive committee'.

#### ***Feedback***

- 3.28 No feedback was received in response to Chapter 2 of QCP17/39.

#### ***Our response***

- 3.29 We intend to proceed with the amendments as originally proposed in the QCP.

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10 [CP17/39 'Quarterly Consultation No 19' \(December 2017\)](#)



### ***Cost benefit analysis and compatibility statement***

- 3.30 As stated in the QCP, this proposal does not incur any costs as it is simply a consequential amendment to reflect the change in status of one of the FCA's senior staff committees to become a second senior executive committee. Similarly, this proposal simply reflects an administrative change to the FCA's governance structure and is therefore compatible with our general duties under section 1B of the Financial Services and Markets Act 2000 (FSMA), having regard to the matters set out in section 1C(2) of FSMA and the regulatory principles in section 3B.

### ***Equality and diversity issues***

- 3.31 As stated in Chapter 2 of the QCP, we have considered the equality and diversity issues that may arise from our proposals. We continue to believe that the proposals 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.
- 3.32 The changes made by this instrument are listed in Chapter 2 of this Notice.

## **4 Additional information**

### **Making corrections**

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- 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**

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- 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](http://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/](http://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/](http://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**

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- 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**

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- 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](mailto:handbookproduction@fca.org.uk) (or see contact details on the back cover).

## Handbook Notice 52

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 22 February 2018.

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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Gabby Stephenson

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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: 0207 066 0991

Email: [firm.queries@fca.org.uk](mailto:firm.queries@fca.org.uk)

Post: Contact Centre

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