


Handbook Notice No 58

September 2018

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1 Overview

Legislative changes

- 1.1 On 26 July 2018, the Board of the Financial Conduct Authority made the relevant changes to the Handbook as set out in the instrument listed below.

CP	Title of instrument	Instrument No	Changes effective
<u>17/27</u>	Consumer Credit (Creditworthiness) Instrument 2018	FCA 2018/44	1.11.18

- 1.2 On 27 September 2018, the Board of the Financial Conduct Authority made the relevant changes to the Handbook as set out in the instruments listed below.

CP	Title of instrument	Instrument No	Changes effective
<u>17/26</u> <u>17/41</u>	Individual Accountability (Dual-Regulated Firms) Instrument 2018	FCA 2018/45	See Chapter 2.
<u>18/14</u>	Fees (Miscellaneous Amendments) (No 12) Instrument 2018	FCA 2018/46	1.10.18
<u>17/39</u>	Supervision Manual (Reporting No 9) Instrument 2018	FCA 2018/48	28.9.18

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 a separate Policy Statement.



FCA Board dates for 2018

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

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 26 July and 27 September 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

Consumer Credit (Creditworthiness) Instrument 2018 (FCA 2018/44)

- 2.2 Following consultation in CP17/27,¹ the FCA Board has made changes to the FCA Handbook sections listed below:

Glossary
CONC 2, 3, 4, 5, 6, 15

- 2.3 In summary, this instrument makes changes to the Handbook to clarify our expectations in relation to the assessment of creditworthiness in consumer credit.
- 2.4 This instrument comes into force on **1 November 2018**. Feedback has been published in a separate Policy Statement.²

1 [CP17/27 'Assessing creditworthiness in consumer credit: Proposed changes to our rules and guidance' \(July 2017\)](#)

2 [PS18/19 'Assessing creditworthiness in consumer credit – Feedback on CP17/27 and final rules and guidance' \(July 2018\)](#)



Individual Accountability (Dual-Regulated Firms) Instrument 2018 (FCA 2018/45)

- 2.5 Following consultation in Consultation Papers (CP) 17/26 and 17/41,³ the FCA Board has made changes to the FCA Handbook sections listed below:

Glossary

SYSC: this instrument makes extensive changes throughout SYSC. For an account of the renumbering and deletions in SYSC see Annex A to the published instrument.

COCON 1, 1 Annex 1G, 2, 4

COND 2

APER 1, 3, 4

FIT: FIT is renamed as the 'Fit and Proper test for Employees and Senior Personnel sourcebook'. The following sections are modified: 1, 2

TC 2, App 6, Sch 2

GEN Sch 4

IFPRU 2

MIPRU 2

COBS 19

CASS 1A, 11

MAR 8

SUP 6; 10A; 10A Annex 1G, 2G, 5R, 6R and 7R; 10C; 12; 13; 13A Annex 1G; and 15. Extensive changes are made to SUP 10C's Annexes. For an account of the deletions and renumbering made there see Annex A to the published instrument.

DEPP 6, 8

DISP 1

CREDS 2, 8, 10

CONC 12

- 2.6 This instrument adds the following new sections to the Handbook: **SUP TP 11, 10C Annex 1, 3D, 4R, 5R, 6R, 7D, 8D, 9D, 10D and 11D.**
- 2.7 This instrument also makes changes to material outside the Handbook, namely the Energy Market Participants guide (**EMPS 1**), the Oil Market Participants guide (**OMPS 1**), the Service companies guide (**SERV 1**), the General guidance on Benchmark Submission and Administration (**BENCH 2**) and the Enforcement Guide (**EG 9, 15 and App 3**).
- 2.8 In summary, this instrument makes changes to our Handbook to enhance and embed a culture of individual accountability and personal responsibility within firms by reinforcing governance requirements, encouraging clear articulation by firms of their allocations

³ [CP17/26 'Individual Accountability: Extending the Senior Managers & Certification Regime to insurers' \(July 2017\)](#)
[CP17/41 'Individual Accountability: Transitioning insurers and individuals to the Senior Managers & Certification Regime' \(December 2017\)](#)



of responsibilities, and establishing fitness and propriety as a responsibility of each firm.

2.9 These changes come into force on **10 December 2018**, except as follows:

- Part 1 of Annex O comes into force on **28 September 2018**
- Part 1 of Annex Y comes into force on **28 September 2018**
- Part 1 of Annex C comes into force on **1 November 2018**
- Part 2 of Annex O comes into force on **1 November 2018**
- Part 2 of Annex Y comes into force on **1 November 2018**
- Part 2 of Annex B comes into force on **10 December 2019**
- Part 2 of Annex D comes into force on **10 December 2019**

2.10 We published Policy Statements (PS) 18/14 and 18/15 in July 2018.⁴ These contained our near-final rules and feedback to previous accountability consultations. There have been some minor changes to the versions of the new rules published in the policy statements, particularly in the transitional provisions, to reflect the fact that statutory instruments made by HM Treasury now provide for some matters that in the near-final rules were dealt with by FCA rules. The changes to the near-final rules do not alter our underlying policy position as set out then.

Fees (Miscellaneous Amendments) (No 12) Instrument 2018 (FCA 2018/46)

2.11 Following consultation in Consultation Paper (CP) CP18/14,⁵ the FCA Board has made changes to the FCA Handbook sections listed below:

**FEES 4, 4 Annex 1AR
FEES 5**

2.12 In summary, this instrument makes changes to our Handbook to ensure that the tariff data used to calculate periodic fees and levies for:

- insurers will continue to be aligned to that used for PRA fees, and

4 [PS18/14 'Extending the Senior Managers & Certification Regime to FCA firms – Feedback to CP17/25 and CP17/40, and near-final rules' \(July 2018\)](#)
[PS18/15 'Extending the Senior Managers & Certification Regime to insurers – Feedback to CP17/26 and CP17/41 and near-final rules' \(July 2018\)](#)

5 [CP18/14 'Quarterly Consultation No 21' \(June 2018\)](#)



- newly authorised firms take account of changes in the level of business firms carry out

2.13 These changes came into force on **1 October 2018**. Feedback to CP18/14 is published in Chapter 3 of this Notice.

Supervision Manual (Reporting No 9) Instrument 2018 (FCA 2018/48)

2.14 Following consultation in Consultation Paper (CP) 17/39,⁶ the FCA Board has made changes to the FCA Handbook sections listed below:

ICOBS 8, Sch 2 SUP 16

2.15 In summary, this instrument makes changes to our Handbook to standardise the reporting timeframes and submission methods by which insurance firms that maintain an Employers' Liability Register submit their director's certificate and auditor's report to us. These changes will improve data quality.

2.16 This instrument comes into force on **28 September 2018**. Feedback to CP17/39 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.

CP18/14: Quarterly Consultation No 21 –Chapter 3

Fees (Miscellaneous Amendments) (No 12) Instrument 2018 (FCA 2018/46)

Background

Newly authorised firms – tariff data used

3.2 The periodic fees for firms in their first few years of authorisation are calculated based on the tariff data provided as part of their applications

⁶ CP17/39 'Quarterly Consultation No 19' (December 2017)



for authorisation (projected valuation). We proposed the following changes:

- **Firms authorised during a fee year.** If the projected valuation is not provided during the application process, we will use the projected valuation provided subsequently.
- **Calculation of fees in the second fee year where firm was authorised between 1 January and 31 March.** The firm will have the option of providing annualised tariff data based on the period from the date of authorisation up to the firm's financial year end, or 31 March (whichever is sooner). This puts these firms in the same position as firms authorised earlier in the first fee year.
- **Firms in the second and subsequent fee years.** If trading has not commenced by the relevant valuation date the firm can report non-cumulative tariff data as nil (rather than using projected data at application). This brings the treatment of non-cumulative tariff data in line with that of cumulative tariff data.

Insurers' tariff data from fee year 2018/19

3.3 We proposed the following changes to the tariff data used for calculating periodic fees for insurers:

- **Non-directive firms⁷ in the A.3 fee-block (Insurers - general).** The change relates to these firms where they do not report data to the Prudential Regulation Authority (PRA) under item 11 of form 11 of their regulatory returns. This data is generally used to determine firms' gross written premium (GWP) for fees purposes. The change allows the GWP of those firms to be determined by using the entry at sheet 1, line 1, column 1 of form 20A. This is the same data item used to determine GWP for Swiss general insurers.
- **All firms in the A.3 fee block (Insurers – general) and A.4 fee block (Insurers – life).** Where the tariff data source specified in our rules is not provided by firms, we will introduce a new rule that enables the use of alternative data sources (such as equivalent data items or returns) for the purposes of calculating their fees.

3.4 Both these changes bring our tariff data rules in line with those of the PRA.

Feedback

Newly authorised firms – tariff data used

3.5 We did not receive any responses to these proposals.

Insurers' tariff data from fee year 2018/19

7 Firms not subject to the Solvency II Directive



3.6 We did not receive any responses to these proposals.

Our response

Newly authorised firms – tariff data used

- 3.7 We have proceeded to make the changes to FEES 4.2 covering FCA periodic fees for newly authorised firms.
- 3.8 FEES 4.2 are mirrored in FEES 7, covering the Money Advice Service⁸ levies; FEES 10, covering Pension Wise levies; FEES 7A, covering the Single Financial Guidance Body (SFGB) levies; and FEES 13, covering the Illegal Money Lending levy. They are also cross-referenced in FEES 5.8 covering the Financial Ombudsman Service general levy, and FEES 6.4 covering base costs for the Financial Services Compensation Scheme. The changes to FEES 4.2 will also be mirrored in FEES 7, FEES 10 and FEES 7A, and read across to FEES 5.8.

Insurers' tariff data from 2018/19

- 3.9 We have proceeded to make the changes to FEES 4.4, FEES 4 Annex 1AR and FEES 5.4, covering insurers' tariff data used for calculating FCA periodic fees and the Financial Ombudsman Service Compulsory Jurisdiction levies.
- 3.10 The FCA FEES 4 periodic fees rules for insurers' tariff data are mirrored in FEES 7, covering the Money Advice Service levies; FEES 10, covering Pension Wise levies; and FEES 7A, covering the SFGB levies. The changes to FEES 4 will also be mirrored in FEES 7, FEES 10 and FEES 7A.

Cost benefit analysis and compatibility statement

- 3.11 Under section 138I of the Financial Services and Markets Act 2000 (FSMA), the FCA and the Financial Ombudsman Service are exempt from the requirement to carry out and publish a cost benefit analysis regarding proposals on fees and levy rules.
- 3.12 The compatibility statement in Chapter 3 of CP18/14 is unchanged.

Equality and diversity issues

- 3.13 The equality and diversity statement in Chapter 3 of CP18/14 is unchanged.
- 3.14 The changes made by this instrument are listed in Chapter 2 of this Notice.

⁸ The Money Advice Service is referred to in the legislation and our FEES manual as the Consumer Financial Education Body (CFEB).



CP17/39: Quarterly Consultation Paper No 19 – Chapter 8

Supervision Manual (Reporting No 9) Instrument 2018

Background

- 3.15 In Consultation Paper (CP) 17/39 released in December 2017, we proposed changes to parts of Chapter 8 of the Insurance: Conduct of Business sourcebook and Chapter 16 of the Supervision manual (SUP) in our Handbook. The changes related mainly to the timeframe and method for firms to submit their director's certificates and auditor's reports (Employers' Liability Register compliance data) to us.
- 3.16 Specifically, we consulted on:
- Setting a single annual reporting period and submission period for all firms to provide this data to us. The reporting period will be from 1 April to 31 March each year. The submission period will start on 1 August and end on 31 August.
 - Changing the method by which firms submit Employers' Liability Register compliance data to us. We proposed to contact all firms required to submit this data ahead of the submission period to provide them with access to an online form (the Employers' Liability Register compliance return). A draft of the return is set out in the draft Handbook text in Appendix 8 of CP17/39.
 - Moving the relevant FCA Handbook rules and guidance from ICOBS 8.4 to SUP 16.23A and updating the text to reflect the proposed changes, including guidance on completing the Employers' Liability Register compliance return (please see Appendix 8 of CP17/39 for the proposed Handbook text). As a result of this change, firms will - as set out in SUP 16.3.14R - become subject to the late administration fee if they fail to submit the return by the end of the submission period.

Feedback

- 3.17 We received four responses to our proposals in CP17/39. All the responses were supportive of the proposals, and they provided further feedback on three areas:
- the proposals did not set out the treatment for waivers or modifications in place for ICOBS 8.4
 - the proposals did not outline transitional arrangements, and
 - the proposals did not make it clear whether the new return would cover all policies submitted to the Employers' Liability Register



between 1 April and 31 March, or all policies written between these dates

Our response

3.18 As a result of feedback to the consultation, we are making three alterations to our proposed changes as set out in CP17/39.

- We will use our powers, under section 138A(7) of the Financial Services and Markets Act 2000 (FSMA), to vary waivers or modifications with the consent of the relevant firms. We will contact all firms with existing waivers or modifications to seek their consent to the variation.
- We are implementing two transitional provisions:
 - Firms that, on the date the new rules come into force, have submitted Employers' Liability Register compliance data by reference to a version of the register which is dated prior to 1 April 2018, are required to submit their first return under the new rules for the reporting period running from that earlier date to 31 March 2019.
 - Firms that, on the date the new rules come into force, have submitted Employers' Liability Register compliance data by reference to a version of the register which is dated after 1 April 2018, are required to submit their first return under the new rules for the reporting period running from that later date to 31 March 2019.
- We have altered the wording at SUP 16.23A.3R(2) and SUP 16.23A.2G to clarify that there is no change to the rules covering the production of the Employers' Liability Register. The updating requirements set out in ICOBS 8.4.11R(2) remain in force. The return must cover the period of the production of the register between 1 April and 31 March, so that the return will only have to cover the policies which, as at 31 March, have been submitted to the Employers' Liability Register in accordance with the updating requirements. As indicated in CP17/39, the changes made by this instrument to the timeframe and method for submitting the Employers' Liability Register compliance data do not require the collection of new or additional data. For the avoidance of doubt, the changes do not affect the scope of the director's certificate or the auditor's report either.

Cost benefit analysis and compatibility statement

3.19 Our comments on the cost benefit analysis and our compatibility statement in CP17/39 remain valid because the instrument does not significantly differ from the draft we consulted on.



Equality and diversity issues

- 3.20 As stated in Chapter 8 of CP17/39, we have considered the equality and diversity issues that may arise from our proposals. We continue to believe that these changes do not adversely impact any of the groups with protected characteristics, ie age, disability, sex, marriage or civil partnership, pregnancy and maternity, race, religion and belief, sexual orientation and gender.
- 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 1.4 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.

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 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 26 July and 27 September 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:

Colin Shields

Tel: 020 7066 0671

Email: colin.shields@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

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