


Handbook Notice No 61

December 2018

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1 Overview

Legislative changes

- 1.1 On 15 November 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>18/12</u>	High Cost Credit (Rent to Own Warranties) Instrument 2018	FCA 2018/51	22.02.19

- 1.2 On 7 December 2018, the Board of the Financial Ombudsman Service Ltd made the relevant changes to the Handbook in the instruments listed below, subject to the consent and approval of the FCA. On 13 December 2018, the FCA Board also made changes to the Handbook in the instruments listed below, and consented to the making and amendment of the scheme rules by the Financial Ombudsman Service Ltd, and approved the fixing and variation of standard terms as made by the Board of the Financial Ombudsman Service Ltd.

CP	Title of instrument	Instrument No	Changes effective
<u>18/15</u>	Claims Management Instrument 2018	FCA 2018/56 FOS 2018/6	1.1.19; 1.4.19
<u>18/23</u>	Fees (Claims Management Companies) Instrument 2018	FCA 2018/59 FOS 2018/8	1.1.19
<u>18/16</u>	Dispute Resolution: Complaints (Authorised Push Payment Fraud) Instrument 2018	FCA 2018/60 FOS 2018/5	14.12.18; 31.1.19

- 1.3 On 13 December 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>18/10</u>	Periodic Fees (2018/19) and Other Fees (No 2) Instrument 2018	FCA 2018/55	14.12.18



<u>18/22</u>	Securitisation Regulation Implementation Instrument 2018	FCA 2018/58	1.1.19
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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

- 1.6 The table below lists forthcoming FCA board meetings for 2019. These dates are subject to change without prior notice.

January	24
February	28
March	28
April	25
May	30
June	27
July	25
September	26
October	24
November	21
December	12



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 15 November and 13 December 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 <https://www.bankofengland.co.uk/news/prudential-regulation>.

High Cost Credit (Rent to Own Warranties) Instrument 2018 (FCA 2018/51)

- 2.2 Following consultation in Consultation Paper (CP) 18/12,¹ the FCA Board has made changes to the FCA Handbook sections listed below:

Glossary PROD 1

- 2.3 This instrument adds the following new section to the Handbook: **PROD 5**.
- 2.4 In summary, this instrument amends our Handbook to introduce new protections for consumers at the point of sale of extended warranties sold by rent-to-own (RTO) firms. As a result of these changes, RTO firms will need to give consumers additional information when they offer them an extended warranty, and the sale cannot be completed until the conclusion of a period of time during which consumers are given a chance to consider whether or not they need to buy an extended warranty.
- 2.5 This instrument comes into force on **22 February 2019**. Feedback has been published in a separate Consultation Paper.²

Periodic Fees (2018/19) and Other Fees (No 2) Instrument 2018 (FCA 2018/55)

- 2.6 Following consultation in Chapter 4 of CP18/10,³ the FCA Board has made changes to the FCA Handbook sections listed below:

1 [CP18/12 'High-cost Credit Review: Consultation on rent-to-own, home-collected credit, catalogue credit and store cards, and alternatives to high-cost credit; Discussion on rent-to-own pricing' \(May 2018\)](#)

2 [CP18/35 'Rent-to-own and alternatives to high-cost credit – feedback on CP18/12 and consultation on a price cap' \(November 2018\)](#)

3 [CP18/10 'FCA regulated fees and levies: Rates proposals 2018/19' \(April 2018\)](#)



FEES 4

- 2.7 In summary, this instrument finalises the 2018/19 regulated benchmark administrators (RBAs) variable fee-rate so that we can complete raising the funding required to undertake work on our key priorities and ongoing activities set out in our 2018/19 Business Plan.

FEES 4 Appendix 2

- 2.8 This instrument also corrects a typographical error in FEES Appendix 2 Part 3 to confirm that, as reported in consultation paper CP18/32,⁴ the minimum fee threshold for OPBAS fee-payers is 6,000 supervised individuals. At present, one column correctly states that the variable fee is payable where the number of supervised individuals is 6,000 or more, while the adjacent column incorrectly refers to 'the threshold of [tbc].'
- 2.9 This instrument came into force on **14 December 2018**. Feedback relating to the RBA final 2018/19 fee-rate is published in Chapter 3 of this Notice.

Claims Management Instrument 2018 (FCA 2018/56) (FOS 2018/6)

- 2.10 Following consultation in Consultation Paper (CP) 18/15,⁵ the FCA Board has made changes to the FCA Handbook sections listed below:

Glossary

PRIN 1 and 3

SYSC 1, 4 and 5

GEN 4, 6 and 7

CASS 1A, 13, TP1, Sch 1 and Sch 2

SUP 1A, 2, 3, 6, 10A, 12, 15, 16 and TP 1

DISP 1, 2, 3 and TP 1

CONC 2 and 3

- 2.11 This instrument adds the **Claims Management: Conduct of Business sourcebook (CMCOB)** to the Business Standards block within the Handbook, immediately after the Banking: Conduct of Business sourcebook (BCOBS).
- 2.12 This instrument also makes changes to the following material outside the Handbook: **FC, PERG, WDPG, RG**.
- 2.13 In summary, this instrument sets out the conduct and prudential rules that will apply to claims management companies when we take over regulation of that sector, and amends other parts of the Handbook to reflect the fact that we will regulate that sector.

⁴ [CP18/32 'Recovering the costs of the Office for Professional Body Anti-Money-laundering Supervision \(OPBAS\): proposed fee rates for 2018/19' \(October 2018\)](#)

⁵ [CP18/15 'Claims management: how we propose to regulate claims management companies' \(June 2018\)](#)



- 2.14 This instrument comes into force on **1 April 2019**, except for Part 1 of Annex A, which comes into force on **1 January 2019**. Feedback will be published in a separate Policy Statement.

Securitisation Regulation Implementation Instrument 2018 (FCA 2018/58)

- 2.15 Following consultation in Consultation Paper (CP) 18/22,⁶ the FCA Board has made changes to the FCA Handbook sections listed below:

Glossary
IFPRU 4, TP 1 and Sch 2
COLL 5
FUND 3

- 2.16 In summary, this instrument ensures that our Handbook is consistent with the directly applicable Securitisation Regulation, the CRR amendment and the implementing SI.
- 2.17 This instrument comes into force on **1 January 2019**. Feedback will be published in a separate Policy Statement.

Fees (Claims Management Companies) Instrument 2018 (FCA 2018/59) (FOS 2018/8)

- 2.18 Following consultation in Consultation Paper (CP) CP18/23,⁷ the FCA Board has made changes to the FCA Handbook sections listed below:

Glossary
FEES 3, 4 and 5

- 2.19 This instrument adds the following new section to the Handbook: **FEES TP 20**.
- 2.20 In summary, this instrument makes changes to the Handbook to implement the proposals that we consulted on in CP18/23 for recovering the FCA set up costs and ongoing supervisory costs associated with regulating CMCs when regulatory responsibility passes to the FCA. Responsibility for considering complaints about CMCs will transfer from the Legal Ombudsman Service (LeO) to the Financial Ombudsman Service, so it also makes changes to the Handbook to enable the Financial Ombudsman Service to recover the associated transfer costs and ongoing costs.

6 [CP18/22 'Handbook changes to reflect the application of the EU Securitisation Regulation and the amendment to the Capital Requirement Regulation' \(August 2018\)](#)

7 [CP18/23 'Claims management companies: recovering the costs of FCA regulation and the Financial Ombudsman Service' \(August 2018\)](#)



- 2.21 Please note that we will not consolidate FEES TP 20 into the Handbook website until a numbering error has been corrected in January 2019. In the interim, readers should refer to the text of the legal instrument published to the Handbook website.⁸
- 2.22 This instrument comes into force on **1 January 2019**. Feedback will be published in a separate Policy Statement.

Dispute Resolution: Complaints (Authorised Push Payment Fraud) Instrument 2018 (FCA 2018/60) (FOS 2018/5)

- 2.23 Following consultation in Consultation (CP) 18/16,⁹ the FCA Board has made changes to the FCA Handbook sections listed below:

Glossary DISP 2 and TP 1

- 2.24 In summary, this instrument requires payment service providers (PSPs) receiving allegedly fraudulent authorised push payments (APPs) to consider complaints about alleged APP fraud in line with our complaint handling rules in DISP, and to bring these complaints into the Financial Ombudsman Service's jurisdiction.
- 2.25 The instrument also implements the requirements of the Payment Services Directive 2, by giving payers access to dispute resolution through the Financial Ombudsman Service in cases of insufficient cooperation between paying and receiving PSPs in recovering funds that were mistakenly sent to the wrong account due to the payment details being incorrect.
- 2.26 This instrument comes into force on **31 January 2019**, except for Part 1 of Annex B, which came into force on **14 December 2018**. Feedback has been published in a separate Policy Statement.¹⁰

3 Consultation feedback

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

⁸ https://www.handbook.fca.org.uk/instrument/2018/FOS_2018_8.pdf

⁹ CP18/16 'Authorised push payment fraud – extending the jurisdiction of the Financial Ombudsman Service' (June 2018)

¹⁰ PS18/22 'Authorised push payment fraud – extending the jurisdiction of the Financial Ombudsman Service - Feedback to CP18/16 and final rules' (December 2018)



CP18/10 'FCA regulated fees and levies: Rates proposals 2018/19'

Periodic Fees (2018/19) and Other Fees (No 2) Instrument 2018 (FCA 2018/55)

Background

- 3.2 In Chapter 4 of CP18/10 (April 2018), we consulted on the proposed 2018/19 fee-rates for regulated benchmark administrators (RBAs). The fee-rates we proposed were a minimum fee of £1,128 and a variable fee-rate of £19.70 for every £1,000 of income over £100,000. We provided feedback on the responses received to that consultation and finalised the minimum fee of £1,128 in Chapter 3 of PS18/13 (July 2018).¹¹
- 3.3 In our feedback there, we noted that some respondents to CP18/10 raised concerns over the potential for RBAs not to report their income on a consistent basis, and some felt that the level of the fee-rate at 2% of income from RBA activities was excessive.
- 3.4 We stated that we believed the definition of 'income' for RBAs in the existing rules and guidance should allow RBAs to report their income on a consistent basis. However, given the concerns raised by respondents and our own queries with some of the income data that had been submitted, we reported that we would carry out a validation exercise before finalising the variable fee-rate. This would include working with RBAs to review the methodologies they have used to apportion their income. This would enable us to ensure that RBAs have adopted methodologies which are robust, proportionate and consistent with the income definition rules in FEES 4 Annex 11AR¹² and the guidance in FEES 4 Annex 13G.¹³
- #### Outcome of income validation exercise
- 3.5 We have completed the income validation exercise. RBAs have reported revised income figures, with some reporting substantially more income than reported previously. This reflects two key issues with the way firms were previously calculating their income from RBA activities. Some firms had not been reporting their global income from RBA activities – ie income from sales of regulated benchmarks to non-UK customers. In addition, the same or other firms were not reporting income from sales of regulated benchmarks undertaken by separate entities, including entities based outside the UK.

11 [PS18/13 'FCA regulated fees and levies 2018/19: Including feedback on CP18/10 and 'made rules'' \(July 2018\)](#)

12 <https://www.handbook.fca.org.uk/handbook/FEES/4/Annex11A.html>

13 <https://www.handbook.fca.org.uk/handbook/FEES/4/Annex13.html>



- 3.6 We have reviewed the definition of 'RBA income', as set out in FEES 4 Annex 11AR, and have concluded that it is clear that global income should be reported. The first part of the definition refers to 'the gross inflow of economic benefits (ie cash, receivables and other assets) recognised in the *firm's* accounts ... in respect of, or in relation to activities in the *UK* that comprise a necessary part of its business as a *regulated benchmark administrator* [RBA]'. The definition therefore covers the income arising from the activities of a firm as an RBA, wherever that income comes from - whether from UK customers or non-UK customers.
- 3.7 The second part of the fees rule definition seeks to capture income from the sale and marketing of a benchmark where undertaken by a separate legal entity, requiring the RBA to be responsible for identifying the relevant income and reporting it to us as its own income. That separate legal entity can be located anywhere and, again, it is income arising from the activities of the firm as an RBA, wherever that income comes from, which needs to be reported. The inclusion of 'in the UK' to this second part of the definition has confused some firms. We plan to consult on removing this text to clarify our policy intention in our annual fees-rates consultation paper, next scheduled for publication in April 2019.
- 3.8 Overall, we believe the current income definition can be applied consistently. Firms have told us that they do not gather the relevant information in the way that we have asked for it, and have expressed significant dissatisfaction about the definition itself (ie that it captures global rather than just UK or EU income). However, all of the firms have come back to us with revised income figures, after we helped them arrive at a better understanding of the definition of 'RBA income'.
- 3.9 Based on the revised RBA income reported by firms, the variable fee-rate has been finalised at £2.0408, which represents 0.2% of income from RBA activities. In the first fee-year (1 April to 31 March) of their authorisation, the periodic fee firms pay is prorated based on the number of months they are authorised. We refer to these firms as 'newly authorised'. For example, if a newly authorised firm was authorised during September 2018 it would pay 7/12ths of the periodic fee it would have paid if it had been authorised during April 2018 (FEES 4.2.7FR).¹⁴ The revised RBA fee-rate takes account of the number of newly authorised RBAs during 2018/19 to date and when they were authorised.

Cost benefit analysis and compatibility statement

- 3.10 Under section 138I of the Financial Services and Markets Act 2000 (FSMA), the FCA is exempt from the requirement to carry out and

14 <https://www.handbook.fca.org.uk/handbook/FEES/4/2.html>



publish a cost benefit analysis regarding proposals on fees and levy rules. The compatibility statement in Annex 2 of CP18/10 is unchanged.

Equality and diversity issues

- 3.11 The equality and diversity statement in Chapter 1 of CP18/10 is unchanged.
- 3.12 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 section 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 15 November and 13 December 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

Financial Conduct Authority

12 Endeavour Square

London E20 1JN

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