

Handbook Notice No 69

September 2019

Contents

1.	<u>Overview</u>	<u>2</u>
2.	<u>Summary of changes</u>	<u>3</u>
3.	<u>Consultation feedback</u>	<u>8</u>
4.	<u>Additional information</u>	<u>12</u>

How to navigate this document onscreen



returns you to the contents list



1 Overview

Legislative changes

- 1.1 On 26 September, 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>N/A</u>	Handbook Administration (No 51) Instrument 2019	<u>FCA 2019/85</u>	27.09.2019, 30.09.2019, 09.12.2019
<u>CP19/19</u>	Waiver Application Form (Amendments) Instrument 2019	<u>FCA 2019/87</u>	30.09.2019
<u>CP19/19</u>	Reporting of Changes to the Management Body (FCA-Authorised Firms) Instrument 2019	<u>FCA 2019/89</u>	09.12.2019
<u>CP19/19</u>	Non-UCITS Retail Schemes Investing in Illiquid Assets Instrument 2019	<u>FCA 2019/90</u>	20.09.2020

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 separate Policy Statements.



FCA Board dates for 2019/20

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

October	24	2019
November	21	2019
December	12	2019
January	30	2020
February	27	2020
March	26	2020
April	30	2020
May	21	2020
June	25	2020
July	23	2020
September	30	2020
October	22	2020
November	26	2020
December	17	2020

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 September 2019. 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>.

Handbook Administration (No 51) Instrument 2019

- 2.2 The Board has made minor changes to various modules of the FCA Handbook, as listed below. These changes were not consulted on



separately because they are minor amendments which correct or clarify existing provisions which have previously been consulted on. None of these changes represents any alteration in FCA policy.

Glossary

SYSC 4, 5 and 25 Annex 1G

FIT 1

TC App 4

GEN 5 and TP 4

FEES 4 Annex 1AR

COBS 6 and 13

ICOB 6

MCOB 1, 4 and 15

SUP 10C Annex 10D, 12, 15, 16, 16 Annex 18BG, 16

Annex 19BG, 16 Annex 21R, 16 Annex 27G and 16

Annex 47BG

DISP 1

COLL 4 and 8

CREDS 9 Annex 1R

CONC 1

RCB 2 and 4, 2 Annex 1D, 3, 3 Annex 1D, 2D, 3D, 4D,

5D, 6D, 7AD and Sch 2

PR 1

BENCH 2

2.3 This instrument also makes changes to material outside the Handbook, namely the Perimeter Guidance manual (PERG 5).

2.4 Annex A to the Individual Accountability (Dual-Regulated Firms) Instrument 2018 (FCA 2018/45) (Renumbering and deletions in the Senior Management Arrangements, Systems and Controls sourcebook (SYSC) and the Supervision manual (SUP)) is amended in accordance with Annex A to this administration instrument. It is confirmed that the renumbering made by that Annex has always been in accordance with the amendments made by this instrument.

2.5 In summary, the amendments this month are as follows:

- Change to the Glossary definition of 'distributor' to remove reference to an out-of-date cross reference.
- Change to remove the hyphen from the Glossary term 'credit-worthiness assessment'.
- Changes to the Glossary definition of 'accredited body', the Training and Competence (TC) sourcebook and SUP 16 Annex 47BG to reflect the renaming of 'The Chartered Institute of Bankers in Scotland' to 'The Chartered Banker Institute'.



- Consequential updates to cross references in SYSC, FIT and SUP 10C Annex 10D in line with amendments made by the Individual Accountability (Dual-Regulated Firms) Instrument 2018 (FCA 2018/45).
- Change to GEN 5.1.2G to update a reference to the FCA logo's registered UK service mark number.
- Changes to remove outdated transitional provisions from GEN TP 4 (Transitional Provision on early compliance with the Insurance Distribution Directive applying across the Handbook).
- Consequential changes in line with the Insurance Distribution Directive Instrument 2018 (FCA 2018/25) to replace instances of 'insurance mediation' with 'insurance distribution', 'insurance mediation activity' with 'insurance distribution activity', 'IMD' with 'IDD' and 'IPID Regulation' with 'IDD IPID Regulation'.
- Consequential changes to update cross references, fix typographical errors and remove out-of-date material in line with amendments made by the Insurance Distribution Directive Instrument 2018 (FCA 2018/25).
- Changes to update guidance in COBS 4.7.1AG and COLL 13.1.1BG in line with the amendment to article 32(1) of the PRIIPs Regulation by article 17(1) of Regulation (EU) 2019/1156 of the European Parliament and of the Council of 20 June 2019 (the extension to the UCITS exemption from PRIIPs requirements).
- Changes to fix cross-referencing and typographical errors in the Mortgage Credit Directive Instrument 2015 (FCA 2015/18) and the Mortgages and Home Finance (Peer to Peer) Instrument 2019 (FCA 2019/75).
- Change to delete an out-of-date reference to SUP 17 in SUP 15.6.2G(4) in line with the deletion of SUP 17 by the Markets and Organisational Requirements (MiFID 2) Instrument 2017 (FCA 2017/38).
- Change to SUP 16 Annex 27G to address a numbering issue which should have been made in line with the addition of a new Question 10 to this form in the Payment Services (Amendment) Instrument 2018 (FCA 2018/57).
- Change to DISP 1.4.2G to replace 'guidance', which as italicised is a term in the Handbook Glossary defined as guidance issued by the FCA only, with 'guidance' (not italicised) to ensure DISP 1.4.2G captures guidance issued by all the bodies referred to in the provision, as is the clear intention.



- Change to COLL 8.3.5AR(5) relating to qualified investor schemes to replace the reference to a 'value for money assessment' with 'assessment of value'. This reflects the language used in the cross-referenced provisions and is consistent with the equivalent provision at COLL 4.5.7R(8) relating to UCITS schemes and non-UCITS retail schemes.
- Change to update an incorrect cross reference at RCB 2.2.5G to instead signpost to the relevant provision in the Fees (FEES) manual where information relating to registration fees can be located.
- Changes to CREDS 9 Annex 1R and the Regulated Covered Bonds (RCB) sourcebook to update the FCA's address to reflect our Stratford location in line with amendments previously made in the Financial Conduct Authority (Change of Address) Instrument) 2018 (FCA 2018/21) and also to replace references to 'Capital Markets Sector' or 'Markets Division' in the address with the 'Prudential Specialists Department' in line with the renaming of the relevant area within the FCA.
- Changes in RCB 4.2 and Sch 2 to replace out-of-date references to the 'FSA' with the 'FCA'.
- Drafting to ratify a change to PR 1.2.1UK(1)(e) made in line with an earlier amendment made to section 86 of FSMA. This change was in force from 21 July 2018 to 20 July 2019.
- Changes to BENCH 2.3(guidance for benchmark users) to clarify cross references to article 28(2) and 29(1) of the Benchmarks Regulation.

2.6 These changes come into force on 27 September 2019, save for:

- Part 2 of of Annex M, which comes into force on 30 September 2019, immediately after the Collective Investment Schemes Sourcebook (Miscellaneous Amendments) Instrument 2018 (FCA 2018/17); and
- Annex D, which comes into force on 9 December 2019, immediately after the coming into effect of the changes made by the Individual Accountability (FCA-Authorised Firms) Instrument 2019 (FCA 2019/4) that come into effect on 9 December 2019.

Waiver Application Form (Amendments) Instrument 2019

2.7 Following consultation in Consultation Paper CP19/19¹, the FCA Board has made changes to the FCA Handbook sections listed below:

SUP 8.3 and 8 Annex 2D

1 [CP19/19 'Quarterly Consultation Paper No 24' \(June 2019\)](#)



- 2.8 In summary, this instrument makes changes to Handbook form SUP 8 Annex 2D (Application form for a waiver or modification of rules) to make it consistent with current data protection legislation in line with GDPR requirements and latest FCA guidance links. This instrument also makes changes to the layout and general style of the form.
- 2.9 This instrument comes into force on 30 September 2019. Feedback has been published in Chapter 3 of this Handbook Notice.

Reporting of Changes to the Management Body (FCA-Authorised Firms) Instrument 2019

- 2.10 Following consultation in Consultation Paper CP19/19², the FCA Board has made changes to the FCA Handbook sections listed below:
- SYSC 1 Annex 1 and 4.3A**
SUP 10C Annex 10D, 10C Annex 11D, 15.1, 15.16, 15 Annex 1R
- 2.11 This instrument adds the following new sections to the Handbook: 15 Annex 14R.
- 2.12 In summary, this instrument makes changes to the Handbook to ensure that solo-regulated and optional exemption MiFID firms can continue to comply with MiFID and CRD requirements after the extension of the SM&CR. It will also allow us to continue to demonstrate compliance with our Directive obligations to be able to object to all Board roles.
- 2.13 This instrument's rules will also support firms in providing us with accurate information on changes to their management body as well as prescribed responsibilities their senior managers are to perform.
- 2.14 This instrument comes into force on 9 December 2019. Feedback has been published in Chapter 3 of this Notice.

Non-UCITS Retail Schemes Investing in Illiquid Assets Instrument 2019

- 2.15 Following consultation in Consultation Paper CP18/27³, the FCA Board has made changes to the FCA Handbook sections listed below:
- Glossary**
COBS 4.5 and 4.5A
COLL 4.2, 5.6, 6.3, 6.6, 7.1, 7.2 and 8.4

² CP19/19 'Quarterly Consultation Paper No 24' (June 2019)

³ CP 18/27 'Consultation on illiquid assets and open-ended funds and feedback to Discussion Paper' (October 2018)



- 2.16 In summary, this instrument makes changes to reduce the potential for harm to investors in funds that hold inherently illiquid assets, particularly under stressed market conditions.
- 2.17 This instrument comes into force on 20 September 2020. Feedback has been 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.
- 3.2 This chapter provides feedback on consultations that will not have a separate policy statement published by the FCA.

CP19/19: Quarterly Consultation Paper No 24

Reporting of Changes to the Management Body (FCA-Authorised Firms) Instrument 2019

Background

- 3.3 Reporting of Changes to the Management Body (FCA-Authorised Firms) Instrument 2019 includes our proposals that we consulted on in the following chapters of CP19/19:
- Chapter 3 New notification procedures for changes to the management body and
 - Chapter 4 changes to Handbook form SUP 10C Annex 10D: Statement of Responsibilities
- 3.4 The proposals we consulted on in both chapters were to:
- amend handbook supplementary MiFID forms SUP 10A Annex 10 and SUP 10C Annex 11 to allow solo-regulated and optional exemption MiFID firms⁴ to continue to comply with MiFID and CRD requirements after the commencement of the extension of the SM&CR.

⁴ [FCA Handbook Glossary: "MiFID optional exemption firm"](#) (January 2018)



- add a guidance section, including a link to the EBA/ESMA template and suitability guidelines, to FCA-only and shared MiFID supplementary forms to support firms in complying with the MiFID requirement of notifying us whenever firms reassess their management body. It also enables firms to notify us in a clear and consistent way, and assists them in submitting accurate information.
- make minor amendments to SUP 10C Annex 10D: Statement of Responsibilities to make it more consistent with FCA and PRA rules. This aims to support firms in providing us and the PRA with accurate information.

Feedback

- 3.5 New notification procedures for changes to the management body
- 3.6 We received 2 responses to our consultation. Both respondents agreed with the proposed changes. One respondent sought clarity on whether solo-regulated non-MiFID firms are required to notify us of newly appointed non-SMF Directors following the extension of SM&CR to solo-regulated firms.
- 3.7 Another requested further guidance on what qualifies an individual as a member of the management body as well as what information firms should disclose within MiFID supplementary forms and how detailed this information should be. This respondent also asked for further guidance on whether MiFID supplementary forms should still be completed as part of SUP 10A Annex 4D⁵ (application to perform controlled functions) and SUP 10C Annex 5R⁶ (notice of ceasing to perform controlled functions) in instances where the firm does not consider that submission of these forms will result in a change to the management body.

Our response

- 3.8 In CP19/19, we set out that changes to SUP 10A Annex 10 MiFID Article 4 APER Information Form will only affect solo-regulated and optional exemption MiFID firms⁷.
- 3.9 Firms should refer to the definition of management body⁸ in the FCA handbook for further guidance on what qualifies an individual as a member of the management body. As referenced in both MiFID supplementary forms, guidance on how firms should complete both

5 ['FCA Handbook: Long Form A – UK and Overseas Firms \(not Incoming EEA\) for MiFID authorisation applications*' \(June 2018\)](#)

6 ['FCA Handbook: Form C - Notice of ceasing to perform controlled functions including senior management functions' \(October 2018\)](#)

7 ['FCA Handbook Glossary: "MiFID optional exemption firm"' \(January 2018\)](#)

8 ['FCA Handbook Glossary: "management body"' \(January 2018\)](#)



forms and what information they should disclose is detailed in the MiFID II Regulatory Technical Standards (RTS) and Implementing Technical Standards (ITS). We have also included a link to EBA suitability guidelines on collective suitability in both forms to support firms in completing this section accordingly. Firms should not complete MiFID supplementary forms if they think that the result of submitting SUP 10A Annex 4D (application to perform controlled functions), SUP 10C Annex 5R (notice of ceasing to perform controlled functions) or SUP 10A Annex 8D (Internal transfer of an approved person) does not result in a change to the firm's management body.

Cost benefit analysis and compatibility statement

- 3.10 Section 138I of Financial Services and Markets Act (FSMA) requires us to perform a cost benefit analysis of our proposed requirements and to publish the results, unless we consider the proposal will not give rise to any cost or to an increase in costs of minimal significance. We do not expect there to be additional costs for firms and the FCA, other than what we have already consulted on in Chapter 4 of CP19/19. The compatibility statement we published in Chapter 4 of CP19/19 remains unchanged.

Equality and diversity issues

- 3.11 We continue to believe that the rules we have made will not have a negative impact on any of the groups with protected characteristics under the Equality Act 2010 and no concerns were raised during consultation.

Feedback

- 3.12 Changes to Handbook form SUP 10C Annex 10D: Statement of Responsibilities
- 3.13 We received 2 responses to our consultation. Both respondents agreed with the proposed changes.
- 3.14 Both firms requested that a wider review of the discrepancies between the regulatory definitions of prescribed responsibilities should be carried out given the differing definitions in the FCA Handbook, the PRA Rulebook and on the Statement of Responsibilities form.

Our response

- 3.15 We acknowledge that there are stylistic differences between FCA and PRA SM&CR rules about the precise wording of the prescribed responsibilities, while the definitions in the Statement of Responsibilities form are a simplified explanation of both regulators' definitions of prescribed responsibilities. This matter was not consulted on in



CP19/19, and it would therefore require us (alongside the PRA) to undertake a new consultation to bring about such an alignment. As the differences are stylistic, we do not propose to make further changes to this form at this time.

Cost benefit analysis and compatibility statement

- 3.16 Under section 138I of FSMA, the FCA is exempt from the requirement to undertake a cost benefit analysis for changes to Handbook form SUP 10C Annex 10D: Statement of Responsibilities. The compatibility statement we published in CP19/19 remains unchanged.

CP19/19 Quarterly Consultation Paper No 24

Waiver Application Form (Amendments) Instrument 2019

Background

- 3.17 In chapter 5 of CP19/19, we proposed making changes to Handbook Form SUP 8 Annex 2 - Application form for a waiver or modification of rules⁹ to make it consistent with current legislation and ensure it contains links to the latest FCA guidance. We also consulted on updating the style and layout of this form to make it more consistent with other FCA forms.

Feedback

- 3.18 We received 2 responses to our consultation. Both respondents were in favour of our proposals and did not raise any issues. As a result, we are not making any changes to the draft rules we consulted on.

Cost benefit analysis and compatibility statement

- 3.19 Under section 138I of FSMA, the FCA is exempt from the requirement to undertake a cost benefit analysis for changes to Handbook form SUP 8 Annex 2 - Application form for a waiver or modification of rules. The compatibility statement in Chapter 5 of CP19/19 is unchanged.

Equality and diversity issues

- 3.20 As it relates to this instrument, the equality and diversity statement in Chapter 5 of CP19/19 is unchanged.

9 'FCA Handbook: Waiver - Application Form' (January 2019)



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 <https://www.handbook.fca.org.uk/instrument>. The definitive version of the Handbook at any time is the version contained in the legal instruments.
- 4.4 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 <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/>.
- 4.6 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 1.2 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 at the front of this Notice).

Handbook Notice 69

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 September 2019.

It also contains information about other publications relating to the Handbook and Technical Standards 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 and Technical Standards can be addressed to:

Ayesha Dayaji

Tel: 020 7066 0575

Email: Ayesha.Dayaji@fca.org.uk

However, queries on specific requirements in the Handbook and Technical Standards 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

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, 12 Endeavour Square, London E20 1JN.