


Handbook Notice No 75

March 2020

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1 Overview

Legislative changes

- 1.1 On 26 March 2020, the Board of the Financial Conduct Authority (FCA) made the relevant changes to the Handbook as set out in the instruments listed below.

CP	Title of instrument	Instrument No	Changes effective
<u>N/A</u>	Handbook Administration (No 52) Instrument 2020	FCA 2020/11	27/03/2020
<u>20/2</u>	Financial Services Compensation Scheme (Management Expenses Levy Limit 2020/2021) Instrument 2020	FCA 2020/12	01/04/2020
<u>19/33</u>	Listing Rules (Contents of Circulars) (Amendment) Instrument 2020	FCA 2020/13	27/04/2020
<u>19/33</u>	Listing Rules (Disclosure of Rights of Securities) Instrument 2020	FCA 2020/14	27/04/2020

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 2020

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

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 March 2020. 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 52) Instrument 2020

- 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.

COBS 18
SUP 15B, 16, 16 Annex 30HD to 30KG, 16 Annex 47AR
and 47BG
PRR 1 and 2

- 2.3 This instrument also makes changes to material outside the Handbook, namely the Perimeter Guidance manual (**PERG 2**).



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

- Change to COBS 18.12.35R to reflect the FCA's policy decision that the rule was to be made as consulted on in CP18/20, and therefore firms are not required to provide the contingency fund policy on every page of their websites and mobile applications available to lenders (but firms are required to provide the contingency fund policy on each website and mobile application in a way that meets the conditions in COBS 18.12.35R(3)).
- Changes to SUP 15B.5 to reflect the changes made by the Financial Services and Markets Act 2000 (Benchmarks) (Amendment) Regulations 2019 to the Financial Services and Markets Act 2000 (Benchmarks) Regulations 2018 (2018 SI). The effect of the change was to limit the scope of our power to impose requirements under regulation 6(1)(b) of the 2018 SI.
- Changes to SUP 16.13 (Reporting under the Payment Services Regulations) to clarify that EEA authorised credit institutions do not need to submit a REP018 form and statistical fraud reports to the FCA but should instead submit to their home state.
- Changes to SUP 16 Annex 30HD to 30KG to reflect that e-money firms are required to report in Gabriel rather than in Excel format.
- Changes to SUP 16 Annexes 47AR and 47BG to remove out-of-date material in line with amendments made by the Benchmarks Regulation (Amendment) Instrument 2018 (FCA 2018/29) and the Training and Competence (Amendment No 8) Instrument 2019 (FCA 2019/95).
- Changes to PRR 1.2, 2.5 and 2.6 to reflect the amendments made to the Prospectus Regulation, (EU) 2017/1129, by the SME Regulation, (EU) 2019/2115, from 31 December 2019.
- Consequential amendments to PERG 2.8 to reflect the Financial Services and Markets Act 2000 (Regulated Activities)(Amendment) Order 2019 and corresponding updates made to FG18/6 'Helping tenants find alternatives to high-cost credit and what this means for social housing landlords' in October 2019.

2.5 These changes come into force on 27 March 2020.

Financial Services Compensation Scheme (Management Expenses Levy Limit 2020/2021) Instrument 2020

2.6 Following consultation in Consultation Paper CP20/2, the FCA Board has made changes to the FCA Handbook section listed below:

FEES 6 Annex 1R



- 2.7 In summary, this instrument makes changes to the Handbook to ensure that the FSCS has sufficient funds in order to operate and manage the compensation scheme, and have a contingency to do so in the event of an unexpected increase in the number and value of claims against firms which are unable, or likely to be unable, to satisfy claims against them.
- 2.8 This instrument will come into force on 1 April 2020. Feedback has been published in Chapter 3 of this Notice.

Listing Rules (Contents of Circulars) (Amendment) Instrument 2020

- 2.9 Following consultation in Consultation Paper [CP19/33](#), the FCA Board has made changes to the FCA Handbook section listed below:

LR 13 Annex 1

- 2.10 In summary, this instrument makes changes to the Handbook to rectify an unintended consequence that arose out of consequential amendments we made to the Listing Rule. The instrument will affect our original intention which was for the Sale and Purchase agreement not to be required to be made available online.
- 2.11 This instrument will come into force on 27 April 2020. Feedback has been published in Chapter 3 of this Notice.

Listing Rules (Disclosure of Rights of Securities) Instrument 2020

- 2.12 Following consultation in Consultation Paper [CP19/33](#), the FCA Board has made changes to the FCA Handbook sections listed below:

LR 9.2, 14.3, 16.4, 17.3, 18.4, 19.4, 20.4 and 21.8

- 2.13 In summary, this instrument makes changes to the Handbook to ensure investors can have ready access to information that allows them to understand the rights attached to the listed securities they own.
- 2.14 The requirement is not intended to require listed issuers to produce or maintain a consolidated version of all information related to the rights and obligations attached to all issued securities, as this would be an onerous requirement. Issuers should not need to produce anything new if the information is available in other sources. It is intended to require all relevant documents to be placed on the NSM, where an investor can piece together information from those documents.
- 2.15 This instrument will come into force on 27 April 2020. Feedback has been 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.

Financial Services Compensation Scheme (Management Expenses Levy Limit 2020/21) Instrument 2020

Background

- 3.2 In CP20/2, we consulted on the MELL for the Financial Services Compensation Scheme (FSCS). The MELL is the maximum amount which the FSCS may levy for its management expenses in a year, and is proposed to be £83,167,893 for 2020/21. This includes a management expenses budget of £78.2m and an unlevied contingency reserve of £5m. The proposed MELL limit of £83,167,893 would apply from 1 April 2020. The FCA and PRA can decide to increase the MELL but a further formal consultation would be required.
- 3.3 The proposed management expenses of £78.2m covers the FSCS' ongoing operating expenses and includes the FSCS' IT, outsourcing, legal and claims handling costs. This is an increase of 4.8% (£3.6m) over the 2019/20 budget of £74.6m.
- 3.4 The proposed unlevied contingency reserve for 2020/21 is £5m, the same as last year. The FSCS has reviewed the level required and considers that a £5m reserve is sufficient. The contingency reserve is an important part of the FSCS' contingency planning and allows the FSCS to raise additional funds at short notice to meet costs that were not foreseen when the management expenses levy was raised. The contingency reserve can be levied without further formal consultation by the PRA and the FCA.

Feedback

- 3.5 There were 7 responses to the consultation but only 2 touched on the MELL. One supported the MELL, especially the work on the prevent pillar and one raised some concerns about it, particularly the rise in the MELL over the last 4 years. The cost of the MELL has risen but so has the number of claims that the FSCS has had to handle. The change in claims volumes over the same period has seen a rise of 136%.

Our response

- 3.6 There was nothing in the responses that would cause us to amend the level of the MELL and we are taking forward our proposals as consulted on.



Cost benefit analysis and compatibility statement

- 3.7 The cost benefit analysis and compatibility statement as set out in CP20/02 remains valid and unchanged.

Equality and diversity issues

- 3.8 The equality and diversity statement in CP20/02 remains valid and unchanged.
- 3.9 We have made changes to FEES on which we consulted. The final instrument does not differ in any material way from that consulted on and the changes made by this instrument are listed in Chapter 2 of this Notice.

Listing Rules (Contents of Circulars) (Amendment) Instrument 2020

Background

- 3.10 Earlier this year, we made consequential amendments to the Listing Rules sourcebook (LR) to take account of the introduction of the EU Prospectus Regulation, which replaced the Prospectus Directive.
- 3.11 One of the chapters that was updated is Chapter 13 of the LR. This chapter sets out what information has to be provided by premium listed issuers to investors in connection with the production of the circular.
- 3.12 When an issuer produces a circular, the circular has to contain all information necessary to allow the investor to make a properly informed decision. In addition, for certain transactions, other documents have to be made available for inspection or 'put on display'. The LR specify what documents have to be put on display by making reference to the Prospectus Regulation requirements for 'documents on display'. In addition, the LR specify that the Sale and Purchase agreement must be put on display.
- 3.13 The LR requirements for how that information has to be put on display is also determined by reference to prospectus requirements.
- 3.14 The method for how to meet the 'on display documents available' requirement changed when the Prospectus Regulation was introduced. Whereas previously issuers had a choice of making information available electronically or in hard copy, the Prospectus Regulation now prescribes inspection on a website. When we updated our LR to refer to the new amended 'documents available' requirements in the Prospectus Regulation,



we also effectively changed how documents can be put on display for the purpose of the LR.

- 3.15 In relation to most items that have to be put on display, this change of requirement in practice has no material effect, because the information is readily available electronically for other reasons and/or not commercially sensitive. For example, the up to date memorandum and articles of association of the issuer has to be capable of inspection on a website but would usually be available through public filings.
- 3.16 However, this is not the case for the Sale and Purchase agreement. The Sale and Purchase Agreement always had to be 'put on display' for LR purposes, but this document was normally available in hard copy only. Our change earlier this year means the Sale and Purchase Agreement needs to also be made available online, and this was not our intention when updating the rules.
- 3.17 In December 2019, we proposed to amend the requirements relating to 'documents on display' to make clear that the Sale and Purchase agreement does not have to be made available online. A copy will still need to be made available in hard copy for inspection, and the issuer will need to specify where it can be found.
- 3.18 The proposed amendment reverses the changes introduced in July, and reinstates the ability to rely on the previous, established practice in relation to Sale and Purchase agreements.

Feedback

- 3.19 We received one response to Chapter 3 of [CP19/33](#) which supported and welcomed our proposed amendment.

Our response

- 3.20 We are making no alterations to our proposed change as set out in [CP19/33](#) as the feedback supported our proposal and we continue to consider that this amendment reinstates the ability to rely on the previous, established practice in relation to Sale and Purchase agreements.

Cost benefit analysis and compatibility statement

- 3.21 The cost benefit analysis and compatibility statement from the consultation paper has not changed because we have made no alterations following the consultation process.

Equality and diversity issues

- 3.22 In the CP, we said that we had assessed the likely equality and diversity impacts of the proposals and did not consider that the proposals gave



rise to any concerns. Our analysis on this remains valid because we have not made any changes to the proposal set out in the CP.

Listing Rules (Disclosure of Rights of Securities) Instrument 2020

Background

- 3.23 Where investors do not have access to information about the rights attached to the securities they hold, there is a risk of market disruption if the issuer announces an action that security holders were not aware was within the issuer's rights to take. Accurate and relevant information about a security's rights should be, and remain, publicly available throughout the life of the security.
- 3.24 Many issuers already keep such information available. Since July 2005, pursuant to the Prospectus Directive, and more recently the Prospectus Regulation, issuers would have had to publish a prospectus that included a description of the rights attached to the securities. The prospectus would also have to include information on any limitations of those rights, and the procedure for exercising them. Often, but not always, such prospectuses will remain publicly available. However, for securities issued before then, and for securities where the prospectus is not publicly available, this information may not be available at all.
- 3.25 Our objective is to make sure that, regardless of when a security was first admitted to the Official List, holders and potential holders of listed securities have ready access to information in relation to the rights attached to them. This will provide better transparency to the market, allow investors to make more informed decisions and avoid potential market disruption.
- 3.26 In December 2019, we proposed an amendment to the Listing Rules sourcebook (LR) to require issuers with securities admitted to the UK's Official List to keep publicly available in the National Storage Mechanism (NSM) at least one of the below:
- The securities' approved prospectus or listing particulars;
 - The relevant agreement or document that sets out the terms and conditions of the securities;
 - A description of the rights attached to the securities, including any limitations of those rights, and the procedure for the exercise of those rights, in accordance with the relevant Annex of the Prospectus Regulation that would have to be applied if the issuer was required to produce a prospectus for the securities in question.



3.27 We proposed that the information needed to be kept available at all times whilst the securities remain admitted to the Official List.

Feedback

3.28 Chapter 4 of [CP19/33](#) received 3 responses in total.

3.29 One respondent questioned the justification for the proposed rule, considering that the current rules were sufficient. The same respondent also made a case for the rule to be applied to listed open-ended investment companies, were it to be adopted. The respondent further recommended that a company's articles of association, or a summary that linked to them, could be used to fulfil the requirements of the proposal.

3.30 Two respondents questioned whether a company should be required to file a document containing rights attached to its shares with the National Storage Mechanism (NSM) where the information is already publicly available elsewhere.

3.31 One of the respondents queried the statement in the consultation that the FCA considers that the document 'filed' under these provisions would constitute regulated information for 'many' but not 'all' issuers who are subject to the new requirement and the effect of the proposed exemption for those companies that have already filed the information previously. They also suggested a correction to our proposal to clarify that a listed company must file a new document containing the information relating to the rights attached to the securities if the existing document is no longer accurate.

Our response

3.32 We have carefully considered the feedback and suggestions provided by respondents and have decided to proceed with implementing our proposal with minor amendments.

3.33 The intended outcome of our proposal is to mitigate the risk of market disruption where investors do not have access to information about the rights attached to the securities they hold. Our proposed new rules are designed to require that issuers provide better transparency to the market, allowing investors to make more informed decisions. The information should be available and accurate. If a firm has already forwarded for publication the information to us via the NSM, there is no need to do so again, unless the information changes.

3.34 One of the respondents suggested that we make amendments to the new requirements to clarify that a listed company must only forward for publication a new document if the information relating to the rights attached to the securities is no longer accurate. Their reasoning was that the wording of the draft instrument would mean that, if information in the



document in relation to some extraneous matter was no longer accurate but the information relating to the share rights remained accurate, the company would still be required to forward for publication a new document. We have considered these amendments and have updated the instrument to reflect these suggestions accordingly.

- 3.35 Further, in relation to the application to depositary receipts, we have clarified that the information in relation to rights should relate to both the rights attached to the certificates themselves as well as the rights attached to the underlying securities. This is consistent with the approach taken in the Prospectus Regulation regime which recognises the importance of the indirect link between the investor and the underlying shares represented by the depositary receipts.
- 3.36 In response to the query that the FCA considers that the document 'filed' under these provisions would constitute regulated information for 'many' but not 'all' issuers;, this is because in most cases the information will already have been regulated information if it had been part of a document that was already considered regulated information.
- 3.37 We have also amended the instrument to replace use of the term 'filed' with 'forwarded for publication'. This will clarify that any information forwarded for publication will be regulated information.
- 3.38 We have considered whether our proposal should also be applied to open-ended investment companies (OEICs). We note LR 16.1.1R provides that LR 16 applies to OEICs which are either authorised investment companies with variable capital, or overseas collective investment schemes that are recognised schemes. Therefore, we have decided not to apply these new rules to such OEICs because those OEICs are already required to comply with similar disclosure requirements under the relevant funds regulation.
- 3.39 In response to comments raised by one of the respondent's regarding using articles of association to fulfil the new requirements, we believe this respondent has misunderstood the intention of our proposal. To clarify, if the relevant information is included in the articles of association, these can be filed in the NSM. In line with existing practice, we will not accept electronic links to these documents in other locations.
- 3.40 We have considered comments raised by two respondents that suggest that where the relevant information is available on the Companies House Beta site and/or, on the company's own website it should not be necessary to file the information in the NSM. We consider the NSM to be the regulatory filing system where investors are most likely to look to find information regarding the rights attached to securities and is therefore the most appropriate place to store this information.
- 3.41 One respondent queried how the exemption from the requirements for companies that have already filed existing documents would function



when such information changes. We have therefore clarified that for both issuers providing new documents and those that are subject to the exemption, should the information change, they should forward to the NSM:

- either a new document;
- or a document which describes or sets out the changes that have occurred.

Cost benefit analysis and compatibility statement

- 3.42 The cost benefit analysis and compatibility statement from the consultation paper has not changed because we have made no impactful alterations following the consultation process.

Equality and diversity issues

- 3.43 We continue to believe these changes do not give rise to any equality and diversity issues.

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 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 that the FCA amends 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 (TSO) 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 1.5 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).

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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 March 2020.

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:

Ayesha Dayaji

Tel: 020 7066 0575

Email: Ayesha.Dayaji@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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