


Handbook Notice No 79

July 2020

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1 Overview

Legislative changes

- 1.1 On 30 June, 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>	COVID-19 Credit Cards and Personal Loans (No 2) Instrument 2020	FCA 2020/30	03/07/2020

- 1.2 On 13 July, 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>	COVID-19 Motor Finance and High Cost Credit (No 2) Instrument 2020	FCA 2020/31	17/07/2020

- 1.3 On 23 July, 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>CP20/4</u>	Glossary Amendment (Multilateral Development Banks) Instrument 2020	FCA 2020/32	24/07/2020
<u>CP20/7</u>	Financial Services Compensation Scheme (Determination of Default) Instrument 2020	FCA 2020/35	24/07/2020
<u>CP20/4</u>	Enforcement (Fifth Money Laundering Directive) Instrument 2020	FCA 2020/37	24/07/2020



<u>CP20/7</u>	Consumer Credit (Bounce Back Loans) Instrument 2020	FCA 2020/38	24/07/2020
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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 separate Policy Statements.

FCA Board dates for 2020

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

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 30 June, 13 July and 23 July 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>.

COVID-19 Credit Cards and Personal Loans (No 2) Instrument 2020

- 2.2 The Board has made changes to the Consumer Credit sourcebook (CONC) in the Handbook. These changes were part of a non-statutory consultation and we published a draft of the instrument for comment. Responses to the consultation were taken into account but did not require any changes to the instrument.

CONC 6.7, 7.3

- 2.3 This instrument came into force on 3 July 2020. Further information has been published in a [final guidance](#).

COVID-19 Motor Finance and High Cost Credit (No 2) Instrument 2020

- 2.4 The Board has made changes to the Consumer Credit sourcebook (CONC) in the Handbook. These changes were part of a non-statutory consultation and we published a draft of the instrument for comment. Responses to the consultation were taken into account but did not require any changes to the instrument.

CONC 6.7, 7.3

- 2.5 This instrument came into force on 17 July 2020. Further information has been published in a [final guidance](#).

Glossary Amendment (Multilateral Development Banks) Instrument 2020

- 2.6 Following consultation in Consultation Paper [CP20/4](#), the FCA Board has made changes to the FCA Handbook sections listed below:

Glossary



- 2.7 In summary, this instrument makes changes to the FCA Handbook Glossary terms for 'multilateral development bank' and 'designated multilateral development bank' in line with Article 117 of the Capital Requirements Regulation No. 575/2013 (CRR). It expands the scope of both terms in line with the CRR ensuring that our list of eligible multilateral development banks is consistent with international standards.
- 2.8 This instrument comes into force on 24 July 2020. Feedback has been published in Chapter 3 of this Handbook Notice.

Financial Services Compensation Scheme (Determination of Default) Instrument 2020

- 2.9 Following consultation in Consultation Paper [CP20/7](#), the FCA Board has made changes to the FCA Handbook sections listed below:

COMP 6.3, 6.3A

- 2.10 In summary, this instrument makes changes to the FCA Handbook to clarify FSCS's ability to declare a firm or successor that is subject of a moratorium in default, notwithstanding FSCS's ability to declare such a company in default under other existing rules (such as COMP 6.3.2R and COMP 6.3A.2R).
- 2.11 This instrument comes into force on 24 July 2020. Feedback has been published in Chapter 3 of this Handbook Notice.

Enforcement (Fifth Money Laundering Directive) Instrument 2020

- 2.12 Following consultation in Consultation Paper [CP20/4](#), the FCA Board has made changes to the FCA Handbook sections listed below:

Glossary DEPP 2.5, 2 Annex 2 EG 6.2, 19.14, 19.15

- 2.13 In summary, this instrument makes final rules and guidance to extend the FCA's existing investigative and sanctioning powers under the Money Laundering Regulations (MLRs) to cryptoasset exchange providers and custodian wallet providers (cryptoasset businesses).
- 2.14 This instrument comes into force on 24 July 2020. Feedback has been published in Chapter 3 of this Handbook Notice.

Consumer Credit (Bounce Back Loans) Instrument 2020

- 2.15 Following consultation in Consultation Paper [CP20/7](#), the FCA Board has made changes to the FCA Handbook sections listed below:



CONC 7.1, 7.3, 7.12

- 2.16 In summary, this instrument makes changes to the FCA Handbook to ensure that CONC 7 applies to lenders in relation to credit agreements that are exempt agreements by virtue of the amendments to the RAO. It also excludes the guarantor under such agreements (i.e. the Secretary of State for Business, Energy and Industrial Strategy) from the extended meaning of customer and borrower in CONC 7.
- 2.17 This instrument comes into force on 24 July 2020. Feedback has been published in Chapter 3 of this Handbook Notice.



3 Consultation feedback

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

CP20/4: Quarterly Consultation Paper No 27

Glossary Amendment (Multilateral Development Banks) Instrument 2020

Background

- 3.2 The FCA Handbook Glossary terms 'multilateral development bank' and 'designated multilateral development bank' list entities recognised by the FCA as eligible multilateral development banks. In CP20/4, Chapter 9, we consulted on updates to both terms to bring the FCA list of entities recognised as multilateral development banks in line with Article 117 of the CRR.
- 3.3 The changes aim to ensure that our list of eligible multilateral development banks is consistent with international standards.

Feedback

- 3.4 No feedback was submitted regarding our proposed updates to the two Glossary terms.

Our response

- 3.5 We are making no alterations to our proposed updates as set out in CP20/4 because we received no feedback to the consultation, and consider that these updates will improve the consistency of our Handbook with international standards.

Cost benefit analysis and compatibility statement

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

Equality and diversity issues

- 3.7 In the CP, we said that our proposals do not give rise to discrimination and are of low relevance to the equality agenda. Our conclusion remains



valid because we have not made any changes to the proposal set out in the CP.

- 3.8 The changes made by this instrument are listed in Chapter 2 of this Notice.

Enforcement (Fifth Money Laundering Directive) Instrument 2020

Background

- 3.9 In March 2020, we consulted on some minor changes to parts of the FCA Handbook, including:

- Adding new definitions to the Glossary
- Amending the Decision Procedure and Penalties manual (DEPP)
- Amending the Enforcement Guide (EG)

- 3.10 The amendments to DEPP provided decision making procedures for the imposition of a direction under Regulation 74C on a cryptoasset business. In particular, we proposed making amendments to DEPP 2 Annex 2 and DEPP 2.5.

- 3.11 We also proposed making minor amendments to EG 19.14 to reflect the extension of our investigative and sanctioning powers to cryptoasset businesses. In EG 19.15, we intended to explain where we expect to use our direction power to impose a direction on a cryptoasset business. In EG 6.2, we proposed setting out our power to publish information about a notice relating to a direction. We also proposed reflecting the requirements on the FCA, where it has already published information about a direction, to publish additional information as required by Regulation 74C.

Feedback

- 3.12 No feedback was submitted regarding our proposed changes.

Our response

- 3.13 Though we received no feedback to the consultation, we removed the requirement to issue a Supervisory Notice where a decision to impose, vary or rescind a direction is made at the request of the cryptoasset business.



Cost benefit analysis and compatibility statement

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

Equality and diversity issues

- 3.15 We continue to believe the changes do not give rise to discrimination as stated in the CP.
- 3.16 The changes made by this instrument are listed in Chapter 2 of this Notice.

CP20/7: Quarterly Consultation Paper No 28

Financial Services Compensation Scheme (Determination of Default) Instrument 2020

Background

- 3.17 The Corporate Insolvency and Governance Act 2020, which received Royal Assent on 25 June 2020, has introduced a series of measures designed to help certain UK businesses to ease the burden on them and help them avoid insolvency during the period of economic uncertainty caused by the COVID-19 pandemic. The changes included an amendment to the Insolvency Act 1986 to introduce a new free-standing moratorium for certain struggling eligible UK companies which is intended to give them breathing space to explore options for rescue or restructure ('the new moratorium').
- 3.18 In Chapter 2 of CP20/7, we consulted on changes to the Compensation sourcebook (COMP) in the FCA Handbook to make it clear that, in accordance with those rules, the Financial Services Compensation Scheme (FSCS) could declare a firm or a successor that is subject to the new moratorium to be in default where it is unable, or likely to be unable, to satisfy protected claims against it and so could therefore pay compensation to eligible customers of the firm or successor, if it considered it appropriate to do so. This would help ensure that the FSCS was able to pay compensation to protect customers of the firm or successor from financial losses they may have suffered even when a firm is subject to the new moratorium.

Feedback

- 3.19 We received one response from a trade body in response to the consultation on the proposed changes to COMP. It was supportive of the proposed change to the COMP rules.



Our response

- 3.20 In light of the positive consultation feedback, we are making no alterations to our proposed changes as set out in CP20/7. We continue to consider that the changes are required to clarify the ability of FSCS to declare a firm or a successor that is subject to the new moratorium to be in default.

Cost benefit analysis and compatibility statement

- 3.21 The cost benefit analysis and compatibility statement published in CP20/7 has not changed because we have made no alterations following the consultation process.

Equality and diversity issues

- 3.22 In CP20/7, we said we do not consider that our proposal adversely impacts any of the groups with protected characteristics specified in legislation, i.e. age, disability, sex, marriage or civil partnership, pregnancy and maternity, race, religion and belief, sexual orientation and gender reassignment. Our CP20/7 analysis of equality and diversity issues remains unchanged.
- 3.23 The changes made by this instrument are listed in Chapter 2 of this Notice.

Consumer Credit (Bounce Back Loans) Instrument 2020

Background

- 3.24 On 4 May 2020, the Bounce Back Loan Scheme (BBLs) was formally launched by the government to offer small businesses facing significant financial difficulties additional support through the Covid-19 crisis.
- 3.25 Due to amendments to the Financial Services and Markets Act 2000 (Regulated Activities) Order 2001 (RAO) made by the Financial Services and Markets Act 2000 (Regulated Activities) (Coronavirus) (Amendment) Order 2020, certain lending through the BBLs that would otherwise have been under regulated credit agreements will instead be under exempt agreements. However, the effect of the amendments also means that the taking of steps by the lenders to procure the payment of debts due under these exempt agreements will constitute regulated debt collecting.
- 3.26 In light of these amendments to the RAO, we proposed to amend Chapter 7 (Arrears, default and recovery (including repossessions)) of the Consumer Credit sourcebook (CONC) to ensure that the chapter applies to lenders in relation to credit agreements that are exempt agreements by virtue of the amendments to the RAO. Had the amendments not been made,



these credit agreements would have been regulated credit agreements and therefore subject to the CONC 7 provisions.

- 3.27 We understood that firms lending under BBLs should be aware that changes to CONC 7 would be proposed as part of the overall package of regulation that supports the scheme.

Feedback

- 3.28 We received 2 responses which both raised the need to clarify that a customer and a borrower, when used in relation to a newly exempt BBLs loan in CONC 7, will not include the guarantor (i.e. the Secretary of State for Business, Energy and Industrial Strategy).

Our response

- 3.29 Following the responses, the Instrument has been amended to state that any reference to a customer or borrower in CONC 7, does not include the guarantor under a credit agreement that is an exempt agreement by virtue of article 60C(4A) of the RAO.
- 3.30 Consequential guidance has also been added to CONC 7 to make clear where this gloss applies.

Cost benefit analysis and compatibility statement

- 3.31 The cost benefit analysis and compatibility statement from the CP has not changed following the amendments made to the Instrument. Had the changes to the RAO referred to not been made, the credit agreements that are exempt by virtue of the amendments to the RAO would have been regulated credit agreements in relation to which CONC 7 would have applied.

Equality and diversity issues

- 3.32 In the CP, we said that we did not consider that the proposals 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. Our analysis on these points remains valid because we have not made any changes to the proposal set out in the CP.



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).

Handbook Notice 79

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 30 June, 13 July and 23 July 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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