

Handbook Notice No 81

October 2020

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1 Overview

Legislative changes

- 1.1 On 23 July, the Board of the Financial Conduct Authority made the relevant changes to the FCA Handbook as set out in the instrument listed below.

CP	Title of instrument	Instrument No	Changes effective
<u>CP19/22</u>	Conduct of Business (Cryptoasset Products) Instrument 2020	FCA 2020/34	06/01/2021 (as amended by FCA 2020/46)

- 1.2 On 30 September, the Board of the Financial Conduct Authority made the relevant changes to the FCA Handbook as set out in the instrument listed below.

CP	Title of instrument	Instrument No	Changes effective
<u>N/A</u>	Conduct of Business (Cryptoasset Products) (Amendment) and Associated Exiting the European Union Amendments Instrument 2020	FCA 2020/46	Annex A comes into force on 06/10/2020; Annex B comes into force on: 06/01/2021 immediately after FCA 2020/34, as amended by Annex A comes into force; or IP completion day as defined in the European Union (Withdrawal Agreement) Act 2020.



1.3 On 22 October, the Board of the Financial Conduct Authority made the relevant changes to the FCA Handbook as set out in the instruments listed below.

CP	Title of instrument	Instrument No	Changes effective
<u>CP19/27</u>	Technical Standards (Securities Financing Transactions Regulation) (EU Exit) (No 1) Instrument 2020	FCA 2020/51	IP completion day as defined in the European Union (Withdrawal Agreement) Act 2020
<u>CP19/27</u>	Technical Standards (Securities Financing Transactions Regulation) (EU Exit) (No 2) Instrument 2020	FCA 2020/52	IP completion day as defined in the European Union (Withdrawal Agreement) Act 2020
<u>CP19/33</u>	Technical Standards (Markets in Financial Instruments Regulation) (EU Exit) (No 3) Instrument 2020	FCA 2020/56	IP completion day as defined in the European Union (Withdrawal Agreement) Act 2020
<u>N/A</u>	Handbook Administration (No 54) Instrument 2020	FCA 2020/61	23/10/2020; except Annex A which comes into force on 01/01/2021; Part 2 of Annex B comes into force on 26/10/2020; Part 3 of Annex B comes into force on 22/01/2021; Part 4 of Annex B comes into force on 1 July 2021, immediately after FCA 2020/40 comes into force.
<u>N/A</u>	COVID-19 Mortgages Instrument (No. 2) 2020	FCA 2020/62	23/10/2020



<u>CP20/13</u>	Mortgages (Intra-Group Switching) Instrument 2020.	FCA 2020/63	23/10/2020
<u>CP20/18</u>	Fees (Credit Rating Agencies, Trade Repositories and Securitisation Repositories) Instrument 2020	FCA 2020/67	23/10/2020, IP completion day as defined in the European Union (Withdrawal Agreement) Act 2020

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.

November	26	2020
December	17	2020



2 Summary of changes

- 2.1 This Handbook Notice describes the changes to the FCA Handbook and other material made by the Financial Conduct Authority (FCA) Board under its legislative and other statutory powers on 23 July 2020, 30 September 2020 and 22 October 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>.

Conduct of Business (Cryptoasset Products) Instrument 2020

- 2.2 Following consultation in Consultation Paper [CP19/22](#), the FCA Board has made changes to the FCA Handbook sections listed below:

Glossary
COBS 4.7, 22.5

- 2.3 This instrument adds the following new section to the FCA Handbook:

COBS 22.6

- 2.4 In summary, this instrument makes changes to the FCA Handbook to make final rules prohibiting derivatives and exchange traded notes (ETNs) referencing certain cryptoassets from being sold, distributed or marketed to retail clients.

- 2.5 This instrument comes into force on 6 January 2021, as amended by FCA 2020/46. Further information has been published in a separate [Policy Statement](#).

Conduct of Business (Cryptoasset Products) (Amendment) and Associated Exiting the European Union Amendments Instrument 2020

- 2.6 The FCA Board has made changes to the FCA Handbook section listed below:

COBS 22.6

- 2.7 In summary, this instrument makes changes to the coming into force date of FCA 2020/34, and makes various onshoring changes to the FCA Handbook to ensure that the rules in FCA 2020/34 operate effectively after the end of the transition period.

- 2.8 Annex A of this instrument came into force on 6 October 2020. Annex B will come into force on the later of: 6 January 2021, immediately



after the Conduct of Business (Cryptoasset Products) Instrument 2020 (FCA 2020/34) comes into force; or IP completion day as defined in the European Union (Withdrawal Agreement) Act 2020.

European Union Withdrawal Instruments

- 2.9 The FCA Board has made changes to the FCA Handbook via the instruments listed in Chapter 1 of this Notice. The FCA Board has additionally made 3 instruments amending Binding Technical Standards (BTS) to ensure the BTS operate effectively in UK law. These are also listed in the table in Chapter 1.
- 2.10 We have proceeded to make the Fees (Credit Rating Agencies, Trade Repositories and Securitisation Repositories) Instrument 2020 as consulted on in CP20/18 Chapter 4.
- 2.11 We have proceeded with amendments to the following BTS largely as proposed and consulted on in CP19/27 Chapter 7 and CP19/33 Chapter 8:
- the Technical Standards (Securities Financing Transactions Regulation) (EU Exit) (No 1) Instrument 2020,
 - the Technical Standards (Securities Financing Transactions Regulation) (EU Exit) (No 2) Instrument 2020; and
 - the Technical Standards (Markets in Financial Instruments Regulation) (EU Exit) (No 3) Instrument 2020.

Impact of the Withdrawal Agreement

- 2.12 Since the instruments were consulted on, the European Union (Withdrawal Agreement) Act 2020 (the 'EUWAA') has been enacted and the Withdrawal Agreement has been approved. Under the Withdrawal Agreement, the UK left the EU on 31 January 2020 at 11pm, and the European Union (Withdrawal) Act 2018 (the 'EUWA') defines "exit day" by reference to this time. The UK is now in a transition period (also known as the implementation period (IP)) which will last until 31 December 2020 at 11pm, and the EUWAA defines "IP completion day" by reference to this time. During the transition period, EU law continues to apply in and to the UK.
- 2.13 The amendments made to the BTS in connection with the UK's exit from the EU will therefore come in effect on IP completion day rather than exit day. Instruments included in Consultation Papers CP19/27 and CP19/33 on the basis that they would come into effect on exit day have been updated to reflect that they will now come into effect on IP completion day instead.



Summary

- 2.14 In summary, the instruments listed in Chapter 1 make changes to the FCA Handbook and to BTS for which we, or we and the Bank of England, are responsible to ensure that a functioning regulatory and legal framework for financial services will be in place after the transition period. The proposed changes will ensure the proper functioning of the respective provisions once the UK is no longer subject to EU law and, as a result, also support firms in complying with these provisions.
- 2.15 We have proceeded with the Fees (Credit Rating Agencies, Trade Repositories and Securitisation Repositories) Instrument 2020 as consulted on in CP20/18.
- 2.16 We made a minor change to the date when fees are due, as fees will not be required before an application is made.
- 2.17 Annex A, Part 1 of Annex B and the revocations in paragraph D of this instrument come into force on 23 October 2020 and Part 2 of Annex B comes into force on IP completion day as defined in the EUWAA (that is, 31 December 2020 at 11pm).
- 2.18 We have proceeded with the majority of the amendments to the relevant BTS as set out in CP19/27 and CP19/33, except for minor consequential and drafting amends. We made changes to the commencement date of all the instruments (from exit day to IP completion day) to reflect the effect of the Withdrawal Agreement and the EUWAA.
- 2.19 These instruments come into force on IP completion day as defined in the EUWAA.
- 2.20 We have made amendments to the Technical Standards (Securities Financing Transactions Regulation) (EU Exit) (No 1) Instrument 2020 and Technical Standards (Securities Financing Transactions Regulation) (EU Exit) (No 2) Instrument 2020. In order to reflect developments since the consultation, we have redrafted our proposed amendments to Commission Delegation Regulation (EU) 2019/356 with regard to regulatory technical standards specifying the details of securities financing transactions to be reported to trade repositories, to take account of the fact that Securities Financing Transactions Regulation (SFTR) reporting obligations relating to non-financial counterparties will not be in application as at IP completion day and so will not form part of retained EU law, to be onshored.
- 2.21 Feedback to the instruments as consulted on in CP19/27, CP19/33 and CP20/18 has been published in Chapter 3 of this Handbook Notice.



Temporary Transitional Power

- 2.22 To help firms adapt to their new or changed regulatory requirements, the Treasury has given UK financial regulators the power to make transitional provisions in relation to financial services legislation for a temporary period. This is known as the Temporary Transitional Power (TTP).
- 2.23 We intend to apply the TTP on a broad basis from the end of the transition period until 31 March 2022. This means firms and other regulated persons do not generally need to prepare now to meet the changes to their UK regulatory obligations brought about by onshoring. Where the TTP applies, we expect firms to use the duration of the TTP period to prepare for full compliance with the onshored UK regime by 31 March 2022.
- 2.24 There are some areas, where it would not be consistent with our statutory objectives to grant transitional relief, or where it would not otherwise be appropriate to do so. In some key areas, we expect firms and other regulated persons to be preparing to comply with their changed obligations, ready for 11pm on 31 December 2020.
- 2.25 With respect to the BTS instruments listed in Chapter 1, please note that the TTP does not apply to onshoring changes for firms, to central securities depositories or central clearing counterparties subject to the reporting obligation under the onshored SFTR regime, or to the onshored requirements for trade repositories.
- 2.26 However, the TTP will apply to securities financing transactions where one of the counterparties is a member of the European System of Central Banks. For these transactions, the status quo is retained and counterparties will not need to report these transactions under the onshored SFTR until 31 March 2022.
- 2.27 We provide more details on the TTP and how it is applied on [this page](#).

Handbook Administration (No 54) Instrument 2020

- 2.28 The FCA 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.

**PROD 4.5
SUP 10C Annex 3D, 10C Annex 7D, 10C Annex 10D,
15 Annex 4, 16.1, 16.2, 16.27 and 16 Annex 18BG**

- 2.29 In summary, the amendments this month are as follows:



- Changes to PROD 4.5.4R(4) to insert a full stop that is missing in a cross reference; instead of 'PROD 4.234' it should be 'PROD 4.2.34R'.
- Changes to SUP 10C Annex 3D Form A: Application to perform senior management functions (Long and Short form A: Solo regulated firms) and SUP 10C Annex 7D Form E: Internal transfer of a person performing a controlled function (for solo regulated firms) to address minor typos, including changing SMF4 (AR) to SMF27 (AR).
- Changes to SUP 10C Annex 10D Statement of responsibilities for dual-regulated SMCR firms to reflect already published policy where 3 PRs are applicable to Credit Unions.
- Changes to SUP 15 Annex 4 to reflect previously agreed GDPR text (which already exists in dual-regulation firms' forms) and also administrative alterations.
- Changes to SUP 16.1.3R to amend an inconsistency in the provision as SUP 16.27 should not appear in the bracket which lists the exceptions to the rule. SUP16.27 is listed as applying in the rule.
- Changes to SUP 16.2.1G(4). The purpose of a chapter in SUP 16 is generally reflected in the chapter itself. Therefore for consistency with the rest of SUP 16 we moved SUP16.2.1G(4) to the purpose provision in SUP 16.27.5G.
- Changes to SUP 16 Annex 18BG to Question 17 of the new SUP 16 Annex 18BG (notes for completion of the RMAR) to fix a minor factual error which will improve the readability and understanding of the Conduct of Business Sourcebook (Pension Transfers) (No 3) Instrument 2020.

2.30 This instrument comes into force on 23 October 2020, except for Annex A which comes into force on 1 January 2021; Part 2 of Annex B which comes into force on 26 October 2020; Part 3 of Annex B which comes into force on 22 January 2021; and Part 4 of Annex B which comes into force on 1 July 2021, immediately after the Value Measures Reporting and Monitoring Instrument 2020 (FCA 2020/40) comes into force.

COVID-19 Mortgages Instrument (No. 2) 2020

2.31 The FCA Board has made changes to the FCA Handbook section listed below:

MCOB 11.9

2.32 In summary, this instrument extends the communications deadline to enable firms to stagger their sending out of communications to relevant mortgage borrowers, albeit still with all communications being completed within a reasonable period.



2.33 This instrument comes into force on 23 October 2020.

Mortgages (Intra-Group Switching) Instrument 2020

2.34 Following consultation in Consultation Paper [CP20/13](#), the FCA Board has made changes to the FCA Handbook sections listed below:

MCOB 11.6

2.35 In summary, this instrument makes changes to the FCA Handbook to make it easier for some borrowers to switch to a new, potentially better deal with the active lender within their current firm's wider group, where they meet that lender's risk appetite.

2.36 This instrument comes into force on 23 October 2020. Further information has been published in a separate [Policy Statement](#).



3 Consultation feedback

CP19/27: Quarterly Consultation Paper No 25

Technical Standards (Securities Financing Transactions Regulation) (EU Exit) (No 1) Instrument 2020

Technical Standards (Securities Financing Transactions Regulation) (EU Exit) (No 2) Instrument 2020

Background

- 3.1 In Chapter 7 ('Further Brexit-related changes to Handbook & BTS following extension of Article 50') of Quarterly Consultation No 25 (CP19/27), we asked:
- Q7.1 Do you have any comments on the proposed Handbook amendments?
 - Q7.2 Do you have any comments on the proposed BTS amendments?
 - Q7.3 Do you have any comments on our TTP approach, including on its application to the further changes proposed in this chapter, or its application to the changes in relevant draft statutory instruments that have been laid or published since 29 March 2019 (Annex 1 - Part C)?

Feedback and our response

- 3.2 We received no responses to Q7.1 or Q7.3.
- 3.3 For Q7.2, we received 2 responses relating to the SFTR BTS. The issues raised included certain legal definitions in the SFTR BTS, specifically 'company', 'takeover bid', and 'offeror'. We have amended these definitions to align with Schedule 1C to the Companies Act 2006. We also received some further technical comments on the wording of the BTS and have made minor amendments in the Technical Standards (Securities Financing Transactions Regulation) (EU Exit) (No 1) Instrument 2020 and Technical Standards (Securities Financing Transactions Regulation) (EU Exit) (No 2) Instrument 2020.



Cost benefit analysis and compatibility statement

- 3.4 Under the powers to address deficiencies in our rules and BTS in the Financial Regulators' Powers (Technical Standards) (Amendment etc.) (EU Exit) Regulations 2018 there is no obligation to conduct a cost benefit analysis (CBA). We have therefore not produced a CBA for the proposed amendments to rules and BTS where we have used those powers.
- 3.5 For the rule changes where we used our powers in the Financial Services and Markets Act 2000 ('FSMA'), the cost benefit analysis and compatibility statement set out in Chapter 7 of CP19/27 has not changed because we have made no material alterations following the consultation process.

Equality and diversity issues

- 3.6 We believe these changes do not give rise to any equality and diversity issues nor do they give rise to unfair discrimination against protected groups, as set out in the consultation paper.

CP19/33: Quarterly Consultation Paper No 26

Technical Standards (Markets in Financial Instruments Regulation) (EU Exit) (No 3) Instrument 2020

Background

- 3.7 Following the extension of the expiry of the Article 50 notification period to 31 January 2020, we also consulted in Chapter 8 of Quarterly Consultation No 26 (CP19/33) 'Further Brexit-related changes to Handbook & BTS'. We asked:
- Q8.1 Do you have any comments on the proposed Handbook amendments?
 - Q8.2 Do you have any comments on the proposed BTS amendments?

Feedback and our response

- 3.8 We did not receive any responses relating to these BTS.

Cost benefit analysis and compatibility statement

- 3.9 Under the powers to address deficiencies in our rules and BTS in the Financial Regulators' Powers (Technical Standards) (Amendment etc.) (EU Exit) Regulations 2018 there is no obligation to conduct a cost benefit



analysis (CBA). We have therefore not produced a CBA for the proposed amendments to rules and BTS where we have used those powers.

- 3.10 For the rule changes where we used our powers in the Financial Services and Markets Act 2000 ('FSMA'), the cost benefit analysis and compatibility statement set out in Chapter 8 of CP19/33 has not changed because we have made no material alterations following the consultation process.

Equality and diversity issues

- 3.11 We believe these changes do not give rise to any equality and diversity issues nor do they give rise to unfair discrimination against protected groups, as set out in the consultation paper.

CP20/18: Quarterly Consultation Paper No 29

Fees (Credit Rating Agencies, Trade Repositories and Securitisation Repositories) Instrument 2020

Background

- 3.12 We consulted on further changes to ensure that an operable legal framework is in place after IP completion day in Chapter 4 of Quarterly Consultation No 29 (CP20/18) 'Proposals to reflect further onshoring changes over the transition period for EU withdrawal'. This consultation closes on 4 November 2020, except for comments on the Fees (Credit Rating Agencies, Trade Repositories and Securitisation Repositories) Instrument 2020, which closed on 5 October 2020. In relation to this instrument, we asked:

- Q4.1: Do you have any comments on the proposed Handbook amendments?

Feedback and our response

- 3.13 We received 2 responses to Q4.1. The first respondent asked for further clarification on the tariff base for each fee-block for the periodic calculation of fees for Securitisation Repositories. This information is marked as [tbc] in the instrument because we are not intending to charge a periodic fee for registered securitisation repositories in the current fee year (2020/21). We ordinarily consult in April and make rules in July in relation to each fee year. We will therefore finalise the costs to be recovered and fill out the [tbc] for 2021/22 when we consult on the FCA fee-rates next April.
- 3.14 The second respondent questioned the estimated level of annual running and set-up costs which we are proposing to recover from regulated firms.



We have noted those concerns. The figures are estimates and we will finalise them when we consult on the fee-rate in April. By that time, we will have greater information on the number of fee-payers who will be sharing the costs, so will take a view on the period over which to spread recovery of the set-up costs.

Cost benefit analysis and compatibility statement

- 3.15 Under the powers to address deficiencies in our rules and BTS in the Financial Regulators' Powers (Technical Standards) (Amendment etc.) (EU Exit) Regulations 2018 there is no obligation to conduct a cost benefit analysis (CBA). We have therefore not produced a CBA for the proposed amendments to BTS where we have used those powers.
- 3.16 Further, the changes to the Fees (Credit Rating Agencies, Trade Repositories and Securitisation Repositories) Instrument 2020 do not affect the Compatibility Statement in Chapter 4 of CP20/18.

Equality and diversity issues

- 3.17 We believe these changes do not give rise to any equality and diversity issues nor do they give rise to unfair discrimination against protected groups, as set out in the consultation paper.



4 Additional Information

Making corrections

- 4.1 The FCA reserves the right to make correctional or clarificatory amendments to the instruments made at the FCA 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 FCA 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 FCA Handbook and other material made by the Financial Conduct Authority (FCA) Board under its legislative and other statutory powers on 23 July 2020, 30 September 2020 and 22 October 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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