

Handbook Notice No 87

April 2021

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1 Overview

Legislative changes

- 1.1 On 25 March 2021, 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
CP20/17	Supervision Manual (Financial Crime Report) (Amendment No 2) Instrument 2021	2021/13	30/03/2022
CP20/17	Annual Financial Crime Reporting Requirements for Cryptoasset Businesses Registered under the Money Laundering Regulations	N/A	30/03/2022
CP19/32	Operational Resilience Instrument 2021	2021/14	31/03/2022

- 1.2 On 29 April 2021, 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
CP21/6	UK Emission Trading Scheme Instrument 2021	2021/15	30/04/2021
CP21/6	Technical Standards (Market Abuse Regulation) (UK Emissions Trading Scheme) Instrument 2021	2021/16	30/04/2021
CP20/23	Collective Investment Schemes Sourcebook (Bearer Certificates) Instrument 2021	2021/17	30/04/2021; 02/01/2022

Summary of changes

- 1.3 The legislative changes referred to above are listed and briefly described in Chapter 2 of this Notice.

Feedback on responses to consultations

- 1.4 Consultation feedback is published in Chapter 3 of this Notice or in separate Policy Statements.

FCA Board dates for 2021

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

FCA board meetings		
May	27	2021
June	24	2021
July	22	2021
September	30	2021
October	21	2021
November	25	2021
December	16	2021

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 25 March 2021 and 29 April 2021. 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 www.bankofengland.co.uk/pru/Pages/publications/default.aspx.

Supervision Manual (Financial Crime Report) (Amendment No 2) Instrument 2021

Annual Financial Crime Reporting Requirements for Cryptoasset Businesses Registered Under the Money Laundering Regulations

- 2.2 Following consultation in [CP20/17](#), the FCA Board has made changes to the Handbook sections listed below:

GEN Sch 4.8G SUP 16.13, 16.15, 16.23 and 16 Annex 42BG

- 2.3 In summary, this instrument makes changes to the Handbook to increase our collection of REP-CRIM data. REP-CRIM provides us information on a range of indicators that reflect the potential money laundering risks of firms based on their regulated activity and helps us to supervise firms.
- 2.4 The new rules will be part of fulfilling our commitment made in the Government's [National Economic Crime Plan 2019](#). We committed to consider how we can have the greatest impact across the range of firms we supervise through greater use of intelligence and data, including through the expanded use of the information collected in our annual data return.
- 2.5 This instrument comes into force on 30 March 2022. Feedback has been published in a separate [Policy Statement](#).

Operational Resilience Instrument 2021

- 2.6 Following consultation in [CP19/32](#), the FCA Board has made changes to the Handbook sections listed below:

Glossary SYSC 1.1A and 1.4 SUP 16.13

REC 2.5

- 2.7 This instrument adds the following new chapter to the Handbook:
SYSC 15A
- 2.8 In summary, this instrument makes changes to the Handbook to help firms and the UK financial sector prevent, adapt, respond to, recover and learn from operational disruptions. Ensuring the sector is operationally resilient is important for consumers, firms and financial markets.
- 2.9 This instrument comes into force on 31 March 2022. Feedback has been published in a separate [Policy Statement](#).

Collective Investment Schemes Sourcebook (Bearer Certificates) Instrument 2021

- 2.10 Following consultation in Chapter 3 of [CP20/23](#), the FCA Board has made changes to the Handbook sections listed below:
Glossary
COBS 18.5 and 18.5A
COLL 3.2, 4.2, 4.4, 9.4 and TP1
FUND 3.2
- 2.11 In summary, this instrument makes changes to the Handbook to reflect [legislation](#) that has abolished the rights of certain UK collective investment schemes to issue units or shares represented by bearer certificates.
- 2.12 This instrument came into force on 30 April 2021. Feedback has been published in Chapter 3 of this Handbook Notice.

UK Emission Trading Scheme Instrument 2021

- 2.13 Following consultation in [CP21/6](#), the FCA Board has made changes to the Handbook sections listed below:
Glossary
PRIN 3.1
SYSC 23 Annex 1 and 27.8
TC Appendix 1.1
FEES 1.1, 3.2, 3 Annex 1R, 3 Annex 3R, 4.2, 4 Annex 1AR and 4 Annex 2AR
IPRU-INV 3-60 and 3-72, Appendix 1
COBS 1.1
MAR 1.2 and 10.4
SUP 10C Annex 1, 12.2, 15.3, 16.12 and 16 Annex 32R
DEPP 2 Annex 1 and 6A.1
DISP 1.1, 2.3, 2.5 and 2 Annex 1G

REC 1.1, 1.2, 2.1, 3.1, 3.4, 3.13, 3.14, 3.14A, 3.15, 3.18, 3.22, 3.24, 3.25, 4.1, 4.2A, 4.2C, 4.4, 4.6, 4.7, 4.8, 5.1, 5.2, Sch 1 and Sch 2
LR App 1.1
EG 7.2, 11.5, 19.14, 19.25 and App 3.1
PERG 2.6, 2.7, 2.8, 2.9, 2 Annex 2, 13.4, 13.5 and 13 Annex 2

2.14 This instrument also adds the following new chapter, section and provision to the Handbook:

REC 2A, 3.27 and 4.8.10

2.15 In summary, this instrument makes changes to the FCA Handbook to reinstate provisions previously deleted as a consequence of the UK's departure from the EU Emissions Trading Scheme (ETS) at the end of the EU withdrawal Transition Period.

2.16 There are adaptations of certain provisions to take account of the creation of the UK scheme but the overall regulatory framework is designed to provide continuity for bidding firms and their clients and the auction platform provider.

2.17 This instrument came into force on 30 April 2021. Feedback has been published in Chapter 3 of this Handbook Notice.

Technical Standards (Market Abuse Regulation) (UK Emissions Trading Scheme) Instrument 2021

2.18 We also consulted in [CP21/6](#) on the Technical Standards (Market Abuse Regulation) (UK Emissions Trading Scheme) Instrument 2021. This proposes consequential changes to certain technical standards under UK Market Abuse Regulations (MAR), which derive from the Treasury's legislative amendments to UK MAR.

2.19 In summary, these changes clarify the application of technical standards (where relevant) to auction platforms and auctioneers under the UK ETS and/or to UK Emission Allowance Market Participants.

2.20 This instrument came into force on 30 April 2021. 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.

CP20/23: Chapter 3 – Collective Investment Schemes Sourcebook (Bearer Certificates) Instrument 2021

Background

- 3.2 The Government has recently introduced new regulations to remove any remaining provisions in UK legislation that allow the issue or use of bearer certificates for units or shares of collective investment schemes (CIS). This brings the UK in line with international standards to prevent money laundering or tax evasion. We need to make consequential changes to the Handbook to reflect the new law.
- 3.3 In the past, very few UK-authorized CIS ever made use of bearer certificates and we are not aware of any that do so now. The standard practice is for the name of the unitholder to be entered on the register maintained by the authorized fund manager as evidence of title, and certificates for registered units are no longer issued.

Summary of proposals

- 3.4 We proposed to delete any remaining references in the Handbook that state bearer certificates may be issued by a UK-established CIS. We also proposed to add guidance in certain places to draw attention to the fact that the law has changed in this respect. We said some references would be retained where they could relate to bearer certificates issued by a CIS established outside the UK, as we do not have the power to compel such CIS to cancel those certificates.
- 3.5 The Government regulations provide a transitional period until the end of 2 January 2022, to allow enough time for the operator of any existing CIS with bearer certificates to either redeem them or replace them with registered units. We proposed a transitional rule in the Collective Investment Schemes sourcebook (COLL) to mirror the effect of this provision.
- 3.6 We asked:
- Do you have any comments on our proposals concerning UK collective investment schemes?
- 3.7 We explained that the Government legislation does not apply to CIS established outside the UK, and that we would exempt EEA UCITS

registered under the temporary marketing permissions regime from this measure. We considered that schemes individually recognised under section 272 of FSMA would need to comply with the UK requirement in order to meet the conditions of recognition and proposed a transitional provision for any such schemes affected by the measure.

3.8 We asked:

- Do you have any comments on our proposals for EEA UCITS in the temporary marketing permissions regime?
- Do you agree with our proposals for schemes individually recognised under section 272?

Feedback

3.9 We received no responses that commented on the proposals.

Our response

3.10 We have slightly modified the instrument consulted on by making additional consequential changes to defined terms in the Glossary.

Cost benefit analysis and compatibility statement

3.11 The Financial Services and Markets Act 2000 (FSMA) requires us to publish a cost benefit analysis (CBA) of our proposed rules. Specifically, section 138I requires us to publish a CBA of proposed rules, defined as 'an analysis of the costs, together with an analysis of the benefits that will arise if the proposed rules are made'.

3.12 We said we believed that there are currently no authorised funds or CIS recognised under section 272 that have issued bearer certificates to UK-based investors. Consequently, we believe that there will be no costs to the managers or operators of such funds in complying with the rule changes.

3.13 We received no responses commenting on the cost benefit analysis or the compatibility statement. The cost benefit analysis and compatibility statement from Chapter 3 of CP20/23 have not changed.

Equality and diversity issues

3.14 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.

3.15 The changes made by this instrument are listed in Chapter 2 of this Handbook Notice.

CP21/6: UK Emission Trading Scheme Instrument 2021 Technical Standards (Market Abuse Regulation) (UK Emissions Trading Scheme) Instrument 2021

Background and summary of proposals

- 3.16 In [CP21/6](#), we consulted on how we will authorise and supervise certain firms intending to bid for emission allowances on the UK auction platform.
- 3.17 We consulted on the UK Emission Trading Scheme Instrument 2021 which contains amendments to a number of Handbook modules including PRIN, SYSC, TC, FEES, IPRU-INV, COBS, MAR, SUP, DEPP, DISP, REC and LR together with the Glossary, Perimeter Guide and Enforcement Guide. These amendments reinstate provisions and definitions previously deleted as a consequence of the UK's departure from the EU Emissions Trading Scheme at the end of the EU withdrawal Transition Period.
- 3.18 We are modifying some provisions to reflect the fact that the new scheme is domestic to the UK and is made under UK legislation. These changes are essentially technical in nature and reflect a continuity of approach to the regulation of emission allowances, platforms and trading.
- 3.19 Additionally, the amendments to the UK MAR Technical Standards will clarify the application of this material to auction platforms and auctioneers under the UK ETS and/or to UK Emission Allowance Market Participants.

Feedback

- 3.20 We received no responses to the questions that we asked in our consultation.

Our response

- 3.21 We are making no alterations to our proposals as a consequence of responses made to us. The instruments referred to in this Handbook Notice are based on the legislation in force at the time of the making of these instruments. The effect of the [Recognised Auction Platforms and Greenhouse Gas Emissions Trading Scheme Auctioning \(Amendment\) Regulations 2021](#), which comes into force on 19 May 2021, is to broaden the category of eligible auction participants to include, amongst others, third country investment firms and credit institutions with Part 4A permissions corresponding to equivalent UK eligible participants. We will update, in due course, our perimeter guidance and where necessary the application of Handbook rules to reflect these increases in the scope of eligibility.

Cost benefit analysis and compatibility statement

- 3.22 The Financial Services and Markets Act 2000 (FSMA) requires us to publish a cost benefit analysis (CBA) of our proposed rules. Specifically, section 138I requires us to publish a CBA of proposed rules, defined as 'an analysis of the costs, together with an analysis of the benefits that will arise if the proposed rules are made'.
- 3.23 As we have made no alterations to our proposals, the cost benefit analysis in Annex 2 and compatibility statement in Annex 3 of CP21/6 have not changed.

Equality and diversity issues

- 3.24 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.
- 3.25 The changes made by these instruments are listed in Chapter 2 of this Handbook 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 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 25 March 2021 and 29 April 2021.

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
Financial Conduct Authority
12 Endeavour Square
London E20 1JN

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