

Handbook Notice No 89

June 2021

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1 Overview

Legislative changes

- 1.1 On 24 June 2021, the Board of the Financial Conduct Authority (FCA) made the relevant changes to the Handbook as set out in the instrument listed below.

| CP | Title of instrument | Instrument No | Changes effective |
|------------------------|---|---------------|------------------------|
| CP21/5 | Training and Competence Sourcebook (Amendment No 9) Instrument 2021 | 2021/20 | 25/06/2021, 25/06/2022 |
| CP21/5 | Financial Services Compensation Scheme (Miscellaneous Amendments) Instrument 2021 | 2021/24 | 25/06/2021 |
| N/A | Handbook Administration (No 56) Instrument 2021 | 2021/25 | 25/06/2021 |

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 2021

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

| FCA board meetings | | |
|--------------------|----|------|
| July | 22 | 2021 |
| September | 30 | 2021 |

FCA board meetings

| | | |
|----------|----|------|
| 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 24 June 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.

Training and Competence Sourcebook (Amendment No 9) Instrument 2021

- 2.2 Following consultation in [CP21/5](#), the FCA Board has made changes to the Handbook sections listed below:

TC 2.1, App 4.1 and App 6.1

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

TC 2.1.31AR

- 2.4 In summary, this instrument makes changes to the FCA Handbook to keep our Training and Competence sourcebook (TC) requirements up to date to make sure retail investment advisers are appropriately trained and qualified. In turn, this will ensure relevant markets function well and secure an appropriate level of protection for consumers.
- 2.5 This instrument comes into force on 25 June 2021. Feedback is published in Chapter 3 of this Notice.

CP21/5: Financial Services Compensation Scheme (Miscellaneous Amendments) Instrument 2021

- 2.6 Following consultation in [CP21/5](#), the FCA Board has made changes to the FCA Handbook sections listed below:

Glossary COMP 1.3, 5.2, 8.2 and 9.2

- 2.7 In summary, this instrument makes changes to the FCA Handbook to:
- provide additional guidance to clarify rules relating to protected debt management business claims (COMP 1.3.3G and COMP 5.2.4G);

- amend the rule at COMP 8.2.4 to extend the FSCS's power to also disregard the defence of limitation for claims made in connection with protected debt management business;
- amend the rule at COMP 8.2.5 to extend the FSCS's power to also treat claims against dissolved companies as if such companies had not been dissolved to claims made in connection with protected home finance mediation and protected debt management business;
- amend the rule at COMP 9.2.2 to extend the FSCS's power to also postpone payment of compensation where a claim is made in connection with protected non-investment insurance distribution or protected debt management business; and
- link the reference to 'compensation scheme' in the definition of 'protected non-investment insurance distribution' to the Glossary definition of 'compensation scheme'.

2.8 We did not receive any feedback in relation to the FSCS proposals consulted on in CP21/5. Accordingly, the changes to COMP and the Glossary of definitions have been made as consulted on. This instrument comes into force on 25 July 2021. Feedback is published in Chapter 3 of this Notice.

Handbook Administration (No 56) Instrument 2021

2.9 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 represent any alteration in FCA policy.

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

- GEN: To delete provision GEN 1.1.2G which should have been revoked by a previous instrument, as it provides guidance for GEN 1.1.1R(2), which was itself deleted by FCA 2019/20. This is therefore a drafting error / consequential change.
- ICOBS: To adjust the entry into force date of the premium finance disclosure rules is a correction to reflect the policy intention as announced in March 2021 and approved by the Board in the making of the final rules (May 2021).
- SUP: To amend four references in SUP from "UK MiFID investment firm" to "MiFID investment firm" to align with the earlier amendment to the Glossary term.

- CREDS: To update guidance to reflect a change in the Credit Unions (Northern Ireland) Order since the guidance was originally drafted, and in one instance, to make a minor clarificatory change to better reflect the legislation being summarised. The amendments bring the text of the guidance into line with what was originally intended.
- RCB: Changes to amend directions made under the made under the Regulated Covered Bonds Regulations 2008 which do not require consultation or other specific procedure. The changes made are minor, in particular:
 - updating one form to simplify and align the wording of two lists within a form, which lists were substantially the same but should be identical, and to update the payment method; and
 - deleting references to “Prudential Specialists Department” in RCB and various forms, as the department is no longer known by that name.

2.11 This instrument comes into force on 25 June 2021.

3 Consultation feedback

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

CP21/5: Chapter 3 – Training and Competence Sourcebook (Amendments No 9) Instrument 2021

Background

- 3.2 Our training and competence regime protects consumers by ensuring that those working in financial services are appropriately trained and qualified. The regime includes detailed requirements for individuals carrying on certain retail activities (such as retail investment advice), including competence and qualification requirements.
- 3.3 In Chapter 3 of CP21/5, we consulted on changes to certain parts of the Training and Competence sourcebook (TC), including:
- Requiring accredited bodies to:
 - share information relevant to the ongoing professional standards of retail investment advisers with the FCA as soon as reasonably practicable, and do so subject to any legal constraints arising from relevant data protection legislation;
 - have well-balanced governance structures, including utilising a broad set of qualities and competences;
 - withdraw a Statement of Professional Standing (SPS) where a retail investment adviser becomes subject to a prohibition order, arising from a breach of our rules, including breaching the Statements of Principle and Code of Practice for Approved Persons (APER) or the Code of Conduct (COCON) rules; and
 - submit a report to us, prepared by an independent auditor, assessing the organisation’s effectiveness in meeting our standards every 24 months.
 - Making other changes relevant to FCA authorised firms – specifically:
 - requiring firms to notify the relevant accredited bodies when notifying the FCA of a retail investment adviser’s failure to comply with SPS and APER or COCON;

- correcting a cross-reference in TC 2.1.9R to clarify when the exemption from appropriate qualification requirements applies; and
- adding 2 new qualifications to the appropriate qualifications table in TC App 4 offered by the Chartered Institute for Securities and Investment (CISI).

3.4 In CP21/5, we asked:

Do you have any comments on the proposed changes to TC?

Feedback

3.5 We received 5 substantive responses to our consultation from trade associations, accredited bodies and a banking firm. They generally supported our proposals.

Feedback on firm notifications to accredited bodies

3.6 Most of the feedback focused on our proposal to require firms to notify the relevant accredited bodies when notifying the FCA of a retail investment adviser's failure to comply with APER or COCON (as applicable).

3.7 A number of respondents asked about the appropriate level of information sharing. This included a request for us to:

- consider the possible operational risks and consequences of sharing this sensitive information;
- provide guidance on whether firms should provide other information to accredited bodies; and
- provide guidance on whether accredited bodies should also share concerns relating to an individual's professional standing with firms.

3.8 A number of respondents asked us to clarify when Conduct Rule breach notifications should be sent to the accredited bodies. They asked us to specify the format and standard of these notifications, as well as how accredited bodies and firms should manage a situation where a breach has been overturned after it has been reported.

3.9 A number of respondents asked about the interaction with existing requirements, including:

- whether the FCA might be better placed to share relevant information directly with accredited bodies;

- the interaction with regulatory references; and
- our expectations for existing Conduct Rules breach reporting.

3.10 A number of respondents requested more time to implement the new notification requirements, including a suggestion for a one-year period to allow firms and accredited bodies to update systems and processes for the transmission of information.

Feedback on other aspects of the proposals

- 3.11 Respondents to the consultation supported the inclusion of 2 qualifications offered by CISI in TC App 4. One respondent proposed changes to how one of the qualifications is described to more closely align with the qualification provider modules and qualification prospectus.
- 3.12 One respondent did not support our proposal to require accredited bodies to submit audits every 24 months rather than every 12 months. They felt that this would likely reduce the timeliness of information passed from accredited bodies to the FCA and may increase the risk of consumer harm.
- 3.13 Some respondents pointed out an error in our consultation paper where we had incorrectly referred to 'retail financial advisers' instead of 'retail investment advisers'.

Our response

- 3.14 We have implemented the changes we consulted on, subject to a minor modification to take account of the feedback and suggestions received. This is explained in our response to each area of feedback below.

Response to feedback on changes to firm notification requirements

Extent of information sharing between firms and accredited bodies

- 3.15 We have considered the risks of requiring firms to provide accredited bodies with information about advisers' APER or COCON breaches and remain of the view that it is appropriate for this information to be shared with accredited bodies.
- 3.16 In order to be recognised as accredited bodies by the FCA, relevant organisations must meet certain FCA standards, including maintaining adequate systems and controls. We expect this to include maintaining high standards of data protection under relevant data protection legislation. Their effectiveness in meeting our standards must be assessed by an independent auditor and a report must be submitted

to the FCA every 24 months under these rules. We have also discussed data protection with the Information Commissioner's Office.

- 3.17 Our rules currently require firms to share a broader range of information with accredited bodies other than APER or COCON breaches. For example, in order to meet the requirements in TC 2.1 on independent verification, a firm must obtain independent verification of the competence of its retail investment advisers from an accredited body. This includes information on the appropriate qualifications they hold and the completion of continuous professional development. For this reason, we do not consider it necessary to introduce additional requirements to specify the sharing of additional information.
- 3.18 We welcome the views that accredited bodies should also notify the relevant firm when they become aware of adverse information relating to the professional standards of one of the firm's retail investment advisers – for example, in relation to conduct issues, complaints or falsification of qualifications. This expectation is already set out in TC App 6.1.1G.

Timing and format of APER and COCON breach reports to accredited bodies

- 3.19 Firms must report APER and COCON breaches to accredited bodies within the same timeframe as reporting these to us. Consistent with TC 2.1.31R, such reports must be made as soon as reasonably practicable after firms become aware of or have information which reasonably suggests that a retail investment adviser has failed to comply with APER or COCON and the event is significant. This includes cases where there is risk of consumer detriment or events, or a pattern of events, indicating recurrent issues. In such cases, we consider it important that all necessary information is shared with accredited bodies and the FCA even before a final determination has been made on the individual's culpability for the breach. Where it is later determined that no breach has occurred, this outcome should be communicated to accredited bodies so it can be considered when subsequently assessing the individual's professional standing.

Interaction with existing FCA requirements and alternative role for the FCA in sharing data with accredited bodies

- 3.20 The notifications that the FCA receives from firms concerning APER or COCON breaches are used to inform our supervisory activity. The nature, extent and basis of this information is broader than the information to be shared with accredited bodies under these rules. As such, we consider it is more appropriate for firms to disclose only the required information directly to the accredited bodies in line with our rules.

- 3.21 Under our existing requirements, regulatory references are shared between previous and prospective employers using a standard template to help firms make better-informed decisions about candidates. Our proposed TC changes do not impact our regulatory reference rules in our Senior Management Arrangements, Systems and Controls sourcebook.
- 3.22 We note the request for the FCA to consider providing industry feedback on the Conduct Rule Breach Reports made to us in REP008. We have [published](#) information on our website to explain our rules and expectations on Conduct Rule Reporting more broadly.

Implementation deadline for new notification requirements

- 3.23 Consistent with the feedback received, we agree it would be beneficial to give firms and accredited bodies more time to adjust to the new notification requirements. We have therefore decided to provide a one-year implementation period for firms and accredited bodies to implement the TC 2.1.31AR requirements. This will give firms and accredited bodies time to agree a suitable format and process for the notifications.

Responses to other areas of feedback

Updating our appropriate qualification tables

- 3.24 We have made minor alterations to the way in which one of the new qualifications (the CISI Level 4 Certificate in International Advanced Wealth Management) is described in our list of appropriate qualifications in line with the feedback received. This is to more closely align our description with the qualification provider's modules and qualification prospectus.

Frequency of audit reports and engagement with the FCA

- 3.25 Having considered the feedback, we believe that it is appropriate to proceed with reducing the frequency of the accredited bodies audit reports. This aims to better balance the benefits of regular formal reporting with the costs for accredited bodies of carrying out the necessary independent audits and reporting the results to us.
- 3.26 This amendment will not affect our existing framework for receiving timely information from the accredited bodies outside of the audit reports cycle for the purpose of carrying out our supervisory functions. We will expect accredited bodies to continue submitting relevant information to the FCA without delay.

Definition of 'retail investment adviser'

- 3.27 We have corrected a cross-referencing error we made in CP21/5, Chapter 3 to a non-FCA Handbook Glossary term, 'retail financial adviser', which should have read as 'retail investment adviser'. We confirm that we do not intend to introduce a new Handbook definition as part of these proposals.

Commencement date

- 3.28 We have set out in the final instrument 2 commencement dates for the proposed Handbook changes, including a one-year implementation period for the new rule. The other changes will come into effect on 25 June 2021.

Cost benefit analysis and compatibility statement

- 3.29 Section 138I of Financial Services and Markets Act (FSMA) requires us to perform a cost benefit analysis (CBA) of our proposed requirements and to publish the results, unless we consider the proposal will not give rise to any cost or that the increase in costs will be of minimal significance (section 138L(3) FSMA). We expect firms to incur minimal or no additional costs as a result of these proposals. As such, we have not conducted a CBA as per the exemption under FSMA. The compatibility statement we published in [CP21/5](#) remains unchanged.

Equality and diversity issues

- 3.30 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.
- 3.31 The changes made by this instrument are listed in Chapter 2 of this Handbook Notice.

CP21/5: Chapter 2 – Financial Services Compensation Scheme (Miscellaneous Amendments) Instrument 2021

Background

- 3.32 In Chapter 2 of [CP21/5](#), we consulted on proposed changes to rules and guidance in the Compensation sourcebook (COMP) relating to the Financial Services Compensation Scheme (FSCS) which required amendment to ensure that the intent of the provisions were clear to both firms and consumers, and to ensure consistent and efficient treatment of claims by the FSCS across different categories of claims.

3.33 The changes consulted on are summarised at paragraph 2.7.

Feedback

3.34 We did not receive any feedback in relation to the FSCS proposals consulted on in CP21/5. Accordingly, the changes to COMP and the Glossary of definitions have been made as consulted on.

Cost benefit analysis and compatibility statement

3.35 As we received no feedback to the proposals consulted on in CP21/5 and have made no alterations to our proposals, the cost benefit analysis and compatibility statement included in Chapter 2 of CP21/5 have not changed.

Equality and diversity issues

3.36 In Chapter 2 of CP21/5, we set out our equality and diversity considerations. We said that we had not identified any adverse impact that the proposals would have on any of the groups with protected characteristics under the Equality Act 2010. Our analysis on equality and diversity has not changed as we did not receive feedback on this, and we are proceeding with the proposals as set out in Chapter 2 of CP21/5.

3.37 The changes made by this instrument 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 1.3 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 89

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 24 June 2021.

It also may contain 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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