

Handbook Notice No 91

September 2021

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1 Overview

Legislative changes

- 1.1 On 30 September 2021, 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
CP21/16	Consumer Credit (Fixed Instalment Plan Repayment Allocation) (Amendment) Instrument 2021	FCA 2021/35	01/10/2021
N/A	Handbook Administration (No 57) Instrument 2021	FCA 2021/37	01/10/2021

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		
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 30 September 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/prd/Pages/publications/default.aspx.

Consumer Credit (Fixed Instalment Plan Repayment Allocation) (Amendment) Instrument 2021

Following consultation in [CP21/16](#), the FCA Board has made changes to the Handbook sections listed below:

CONC 6.7

- 2.2 In summary, this instrument makes changes to the FCA Handbook to offer firms a greater variety of fixed instalment plans as a feature of their credit card products, to support innovation and competition in the credit card market.
- 2.3 This instrument comes into force on 1 October 2021. Feedback is published in Chapter 3 of this Notice.

Handbook Administration (No 57) Instrument 2021

- 2.4 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.
- 2.5 In summary, the amendments this month are as follows:
- Amendment to the Glossary definition of 'execution-only transaction' to insert a reference to COBS 10A that was inadvertently omitted during MiFID II implementation.
 - Amendment to the Glossary definition of 'higher paid material risk taker' to ensure that our rules and guidance on remuneration for dual-regulated firms remain consistent with the PRA.

- Amendments to SUP to change references of 'Contact Centre' to 'Supervision Hub' for clarity externally and internally, and for consistency in our approach to all of our public documents.

2.6 This instrument comes into force on 1 October 2021.

3 Consultation feedback

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

CP21/6: Chapter 2 – Consumer Credit (Fixed Instalment Plan Repayment Allocation) (Amendment) Instrument 2021

Background

- 3.2 Our rule in Consumer Credit sourcebook (CONC) 6.7.4R requires firms providing credit card and retail revolving credit facilities to allocate repayments received to the debt subject to the highest rate of interest first (and then to the next highest rate of interest and so on).
- 3.3 Over the last 5 years, a number of firms have been granted a modification of the allocation of payments rule in CONC 6.7.4R(3) when offering an instalment plan within a credit card facility. Instalment plans allow customers to pay off eligible purchases made using their credit card over a fixed term (commonly 6 to 24 months) with fixed monthly payments, while remaining within the existing credit limit.
- 3.4 These modifications enable customers to spread payments and budget for larger purchases. It is designed for customers who can pay more than the monthly minimum card payments, thus enabling such customers to clear balances quicker.
- 3.5 Firms do not charge interest on instalment plans. Instead, they charge the customer a fee which varies according to the chosen term of the instalment plan. The equivalent interest rate of the fee charged on instalment plans will normally be lower than the standard rate of interest for purchases on the credit card.
- 3.6 The granted modifications to CONC 6.7.4R(3) allow monthly payments to be allocated first to sums due under the instalment plan, notwithstanding the fact that the equivalent interest rate for instalment plans is lower than that applying to other types of transactions on the credit card. Without this modification to CONC 6.7.4(3)R, firms would be in breach of this rule in offering an instalment plan on a credit card.
- 3.7 In Chapter 2 of CP21/16 we consulted on a proposal to amend CONC 6.7.4R(3), making it unnecessary for firms to apply for modifications to the rule.

Feedback

- 3.8 We received 3 responses to the consultation. Two respondents supported our proposal, with the third respondent raising a number of questions for our consideration.
- 3.9 Respondents noted that the proposed wording of the rule and supporting guidance differed from the wording of existing modifications of CONC 6.7.4R. We were asked whether the proposed wording would provide adequate protection for consumers.
- 3.10 We were also asked if the wording altered the nature of the obligation on firms – in particular, the requirement for firms not to offer a customer an instalment plan unless the firm has concluded, acting reasonably, that it is likely to be in the customer’s best interests. One respondent said the ‘best interests’ wording appears to follow one of the proposals for a new consumer Principle on which we consulted as part of the new Consumer Duty proposals in [CP21/13](#). They said it would be premature to use this wording before the consultation process for the new Consumer Duty is finalised, which is expected to be in July 2022.
- 3.11 One respondent suggested that the wording of CONC 6.7.4C could unnecessarily restrict the potential use of instalment plans.
- 3.12 We were also asked to confirm if this rule amendment would lead to consequential changes in affordability rules and credit card persistent debt remedies.

Our response

- 3.13 *Comparison with wording of existing modifications of CONC 6.7.4R*
Existing modification directions have included a number of conditions to ensure that an appropriate level of consumer protection is attached to the product offered by each firm. In our revised rules we replace the detailed modification conditions with a new requirement on firms and new guidance which reflect some of the modification conditions. Under the new requirement, firms must not offer instalment plans unless they have concluded that this is likely to be in the best interests of the customer. The new rule will also require firms to take reasonable steps to ensure that the customer is put in a position to make an informed decision regarding the exercise of an instalment plan option.
- 3.14 We believe that this new rule will provide the required level of consumer protection, while also providing some flexibility to firm on the steps they may take to ensure that offering a plan will be in a customer’s best interests.

- 3.15 If a firm has any questions or concerns about the impact of this rule amendment on a product currently offered under an existing modification, they should contact us.

Obligation on firms to act in the best interests of customers: interaction with our proposed new consumer Principle

- 3.16 The new rule in CONC 6.7.4BR obliges a firm not to offer a customer a fixed instalment plan (as defined in the new guidance set out in CONC 6.7.4AG), unless the firm has concluded, acting reasonably, that it is likely to be in the customer's best interests.
- 3.17 Our new rule in CONC 6.7.4BR is not intended to mirror the wording of our proposed new Consumer Duty and we do not consider it is essential for the wording to be aligned. There are a number of existing requirements in CONC for firms to act in customers' best interests in different contexts and the new CONC rule is intended to take the same approach.
- 3.18 The new CONC rule is intended to ensure that customers are appropriately protected by only being offered a fixed instalment plan option when it is in their best interests. We consider that the wording of the new CONC rule will be consistent with the new Consumer Duty, if it is introduced and regardless of the final wording, just as it is consistent with Principle 6, which does not use the 'best interests' wording.
- Restriction on the potential use of instalment plans*
- 3.19 The wording in CONC 6.7.4AG is deliberately left wide to permit a firm to include different types of credit card transactions (eg, balance transfers or cash transactions) on fixed instalment plans. CONC 6.7.4CG(a) sets out 2 examples where it would not be considered reasonable for a firm to conclude that a fixed instalment plan is likely to be in the customer's best interests.
- 3.20 We have made a minor amendment to CONC 6.7.4CG(a) to clarify that the first example in this guidance does not apply where the offer of a fixed instalment plan includes a significant outstanding cash transactions balance. We recognise that the inclusion of an outstanding cash transactions balance on a fixed instalment plan is likely to benefit the customer as the cost of repaying a cash transactions balance on an instalment plan is likely to be lower than the standard interest rate applicable to cash transactions on the credit card.
- 3.21 We have also made a minor amendment to CONC 6.7.4AG to clarify that multiple purchases or other types of credit card transactions can be combined into one instalment plan.

Need for consequential rule changes

- 3.22 Regarding consequential changes, we can confirm that this rule amendment does not impact our responsible lending rules (CONC 5) or our credit card persistent debt rules (CONC 6.7.27 onwards).
- 3.23 With regard to affordability rules, an instalment plan will sit within an existing credit limit where a credit worthiness assessment will have been already undertaken using reasonable assumptions on the level of repayment. Instalment plans provide the customer with an option to repay at least part of their balance more quickly than if minimum payments are made. Customers will also be able to make informed decisions about taking out an instalment plan. Our new guidance at CONC 6.7.4DG sets out examples of reasonable steps a firm should take to ensure that a customer is put in a position to make an informed decision before taking out an instalment plan. These examples include the firm providing customers with information, clearly and in plain language, about the features, costs and implications of an instalment plan.
- 3.24 With regard to persistent debt rules, our view is that the provision of instalment plans by firms should not itself lead to escalating debt. Firms should offer instalment plans only when they conclude that putting the plan in place is in the customer's best interests. Customers themselves are likely to opt for an instalment plan when they consider that they are able to afford to repay the balance more quickly rather than making minimum payments. If the plan fails, then the usual credit card terms will apply and persistent debt remedies would be available to customers who make minimum monthly payments for a sustained period. Firms would also follow the usual requirements to sign post borrowers to sources of free debt advice.
- 3.25 We will make the rule changes as consulted on subject to some minor drafting clarifications as detailed in paragraphs 3.20 and 3.21.

Cost benefit analysis and compatibility statement

- 3.26 We are satisfied that this amendment is compatible with our objectives and regulatory principles. The amendment advances our operational objectives of securing an appropriate degree of consumer protection and promoting market integrity and helps to promote effective competition in the interests of consumers. We are also satisfied that the proposed amendment either does not increase costs to firms or consumers, or that any increase will be of minimal significance.

Equality and diversity issues

- 3.27 We continue to believe that the amendment does not raise concerns regarding equality and diversity, or adversely impact any of the groups with protected characteristics under the Equality Act 2010.

3.28 The changes made by this instrument are listed in Chapter 2 of this 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).

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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 30 September 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:

Meghan Beller

Tel: 020 7066 2111

Email: Meghan.Beller@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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