

Handbook Notice No 102

September 2022

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1 Overview

Legislative changes

- 1.1 On 15 July 2022, the Board of the FCA made the relevant changes to the Handbook as set out in the instrument listed below.

| CP | Title of instrument | Instrument No | Changes effective |
|-------------------------|--|---------------|--|
| CP21/36 | Consumer Duty Instrument 2022 | FCA 2022/31 | 31/07/2023 |
| CP21/34 | Appointed Representatives Instrument 2022 | FCA 2022/32 | 29/07/2022; 04/08/2022; 08/12/2022 |
| CP22/2 | Financial Promotions and High-Risk Investments Instrument 2022 | FCA 2022/33 | 01/12/2022; 01/02/2023 |

- 1.2 On 29 September 2022, the Board of the FCA made the relevant changes to the Handbook as set out in the instruments listed below.

| CP | Title of instrument | Instrument No | Changes effective |
|-------------------------|--|---------------|-------------------|
| CP22/10 | Decision Procedure and Penalties Manual (Amendment) Instrument 2022 | FCA 2022/34 | 30/09/2022 |
| N/A | Handbook Administration (No 61) Instrument 2022 | FCA 2022/35 | 30/09/2022 |
| CP22/10 | Investment Firms Prudential Regime (Amendment) (No. 2) Instrument 2022 | FCA 2022/36 | 30/09/2022 |

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 2022

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

| FCA board meetings | | |
|--------------------|----|------|
| October | 28 | 2022 |
| November | 24 | 2022 |
| December | 15 | 2022 |

2 Summary of changes

2.1 This Handbook Notice describes the changes to the FCA Handbook and other material made by the FCA Board under its legislative and other statutory powers on 15 July 2022 and 29 September 2022. 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 please see <https://www.bankofengland.co.uk/news/prudential-regulation>.

Consumer Duty Instrument 2022

2.2 The FCA Board has made changes to the Handbook sections listed below:

Glossary

PRIN 1.2, 2.1, 2A.1-2A.11, 3.1-3.4, 4.1, TP 1.1

COCON 1.1, 2.1, (2.4), 4.1, 4.2

GEN 2.2

PROD 1.3

2.3 In summary, this instrument introduces rules comprising:

- A new Consumer Principle that requires firms to act to deliver good outcomes for retail customers.
- Cross-cutting rules providing greater clarity on our expectations under the new Principle and helping firms interpret the four outcomes (see below).
- Rules relating to the four outcomes we want to see under the Consumer Duty. These represent key elements of the firm-consumer relationship which are instrumental in helping to drive good outcomes for customers.

2.4 These outcomes relate to:

- products and services
- price and value
- consumer understanding
- consumer support

2.5 This instrument comes into force on 31 July 2023. Feedback has been published in a separate [Policy Statement](#).

Appointed Representatives Instrument 2022

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

Glossary

**SUP 2.1, 12.1, 12.2, 12.4, 12.5, 12.6, 12.6A, 12.7, 12.8, 12.9,
12 Annex 3R, 12 Annex 4R, 12 Annex 6R, 12 Annex 7G, 15.3,
16.1, 16.3, 16.10, 16 Annex 16A, 16 Annex 18B, TP 13, Sch 1**

2.7 In summary, this instrument makes changes to protect consumers and address harms across all the sectors where principals and Appointed Representatives (ARs) operate. We are requiring principals to provide more information on ARs, and clarifying and strengthening the responsibilities and expectations of principals.

2.8 This instrument comes into force in 3 parts. Part 1 of Annex B came into force on 29 July 2022, part 2 of Annex B came into force on 4 August 2022 and all other parts come into force on 8 December 2022. Feedback has been published in a separate [Policy Statement](#).

Financial Promotions and High-Risk Investments Instrument 2022

2.9 The FCA Board has made changes to the Handbook sections listed below:

Glossary

GEN 2.2

**COBS 1.1, 2.2, 4.1, 4.5, 4.7, 4.10, 4.11, 4.12, 4.12B, 4.14,
4 Annex 1, 4 Annex 2, 4 Annex 3, 4 Annex 4, 4 Annex 5, 9.3,
9A.2, 10.1, 10.2, 10 Annex 1, 10 Annex 2, 10A.2, 22.2, 22.3,
Sch 1**

BCOBS 2.2

**COLL 8.1, 8.2, 8.3, 8.5, 8 Annex 2, 15.1, 15.3, 15.4, 15.8,
15 Annex 1**

CREDS 3A.5, 10.1

LR App 1.1

PERG 8.20, 9.10

2.10 In summary, this instrument makes changes in the following areas:

- Our classification of high-risk investments. We are rationalising our rules in COBS 4 under the terms 'Restricted Mass Market Investments' and 'Non-Mass Market Investments'.
- The consumer journey into high-risk investments. We are implementing a package of measures to strengthen the consumer journey such as: strengthening risk warnings, banning inducements to invest, introducing positive frictions, improving client categorisation and introducing stronger appropriateness tests.

- Strengthening the role of firms approving and communicating financial promotions. We are introducing a package of measures to strengthening the role of a section 21 (s21) approver. We are also introducing a rule that firms communicating financial promotions must have the relevant competence and expertise in the product being promoted.

2.11 This instrument comes into force in 2 parts. Part 1 of Annex A and part 1 of Annex C comes into force on 1 December 2022, and all other parts come into force on 1 February 2023. Feedback has been published in a separate [Policy Statement](#).

Decision Procedure and Penalties Manual (Amendment) Instrument 2022

2.12 The FCA Board has made changes to the Handbook sections listed below:

DEPP 2.5

2.13 In summary, this instrument makes changes to move the decision maker from the Regulatory Decisions Committee (RDC) to FCA staff under executive procedures, in cases relating to the discontinuance of listing of securities on the FCA's own initiative. This change aligns this category of decision with other areas of DEPP.

2.14 This instrument comes into force on 30 September 2022. Feedback has been published in Chapter 3 of this Handbook Notice.

Handbook Administration (No 61) Instrument 2022

2.15 The FCA Board has made minor changes to various modules of the FCA Handbook, as listed below.

2.16 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 change in FCA policy.

2.17 In summary, the amendments this month consist of amendments to:

- CASS to delete a reference to a rule that no longer exists.
- SUP to correct drafting errors.
- SUP to align the Handbook text with the RegData terminology/provisions.
- DEPP to correct a missing reference to a new cancellation power under Schedule 6A FSMA.

2.18 This instrument comes into force on 30 September 2022.

Investment Firms Prudential Regime (Amendment) (No. 2) Instrument 2022

- 2.19 The FCA Board has made changes to the Handbook sections listed below:
MIFIDPRU 9 Annex 1R, 9 Annex 2G
- 2.20 In summary, we proposed some updates to our reporting forms, MIF001, MIF002, MIF003, MIF004 and MIF007, in Prudential sourcebook for MiFID Investment Firms (MIFIDPRU) 9 Annex 1R and their accompanying guidance in MIFIDPRU 9 Annex 2G. These updates are intended to help firms complete the forms to ensure that the forms are fully consistent with their equivalents within our RegData system and to enact some minor corrections.
- 2.21 This instrument comes into force on 30 September 2022. 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.

CP22/10: Decision Procedure and Penalties Manual (Amendment) Instrument 2022

Background

- 3.2 In [Consultation Paper \(CP\) 21/25](#), we consulted on moving some decision making on statutory notices from the Regulatory Decisions Committee (RDC) to executive procedures so that the RDC would focus on contentious enforcement cases. In [Policy Statement \(PS\) 21/16](#), we confirmed that we were going to introduce the proposed changes. The consequential changes to the Decision Procedure and Penalties manual (DEPP) and Enforcement Guide (EG) were implemented on 26 November 2021.
- 3.3 Decisions in certain authorisations, interventions, straightforward cancellation cases, and decisions to commence civil and criminal proceedings are now made under executive procedures. Decisions like this focus on areas where we need to prevent or stop harm to consumers or the market occurring or increasing, by preventing firms from offering financial services in the first place or intervening to restrict the financial services offers. In [Quarterly Consultation Paper No 36 \(CP22/10\)](#), we proposed making 1 minor amendment to the decision maker in DEPP 2.5.10.
- 3.4 Due to an administrative error, DEPP 2.5.10 was incorrectly showing as deleted. This error was corrected by a [non-legal change](#) to the Handbook and in CP22/10 we proposed amending DEPP 2.5.10 to make FCA staff under executive procedures the relevant decision maker in cases relating to the discontinuance of listing of securities on FCA's own initiative. We proposed this change to bring DEPP 2.5.10 in to line with other areas of DEPP.

Summary of proposals

- 3.5 Following the consultation, we have amended DEPP 2.5.10 to make FCA staff under executive procedures the relevant decision maker in cases relating to the discontinuance of listing of securities on the FCA's own initiative. This change has aligned the category of decision with other areas of DEPP.

Feedback

We received no feedback during the consultation period.

Our response

- 3.6 We implemented the proposal as consulted on.

Cost benefit analysis

- 3.7 As set out in [CP22/10](#), the amendment does not impose additional obligations on firms. It does not relate to rule changes or guidance on rules. Under section 138I of the Financial Services and Markets Act 2000 (FSMA), when we wish to introduce any new rules, we must publish a cost benefit analysis along with the proposed rules. Since the requirements under section 138I are not applicable, we are not required to carry out a cost benefit analysis. In any event, we do not expect that the change to DEPP 2.5.10 will lead to any increase in costs, or the cost increase will be of minimal significance.

Equality and diversity statement

- 3.8 We continue to consider 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.

CP22/10: Investment Firms Prudential Regime (Amendment) (No. 2) Instrument 2022

Background

- 3.9 The Investment Firms Prudential Regime (IFPR) came into force on 1 January 2022. It is our new prudential regime for Markets in Financial Instruments Directive (MiFID) investment firms.
- 3.10 We consulted on new reporting requirements within Consultation Paper (CP) [20/24](#) and [CP21/7](#). Our intention was to collect an appropriate amount of data to supervise Financial Conduct Authority (FCA) investment firms against the requirements of the IFPR. We published our final reporting rules in Policy Statement (PS) [21/6](#) and [PS21/9](#).
- 3.11 In [CP22/10](#), we proposed some updates to our reporting forms in 9 Annex 1R of the Prudential sourcebook for MiFID Investment Firms (MIFIDPRU) and their accompanying guidance in MIFIDPRU 9 Annex 2G. We proposed alterations to MIF001, MIF002, MIF003, MIF004 and MIF007. These updates are intended to help firms complete the forms to ensure that the forms are fully consistent with their equivalents within our [RegData](#) system and to enact some minor corrections.

Summary of proposals

MIF001 – updates to the reporting form

- 3.12 We proposed updates to the MIF001 reporting form. Cells 17A and 19A are in use within our RegData system. However, these cells were labelled as '[Not Used]' in the MIF001 form. We proposed new names for these cells to reflect their use in RegData.

3.13 While we published rules on how to calculate an adjusted coefficient to use when calculating the K-factor related to a firm's daily trading flow (K-DTF) in [PS21/9](#), we did not require the reporting of it. We have now proposed that any firm that uses an adjusted K-DTF coefficient must report the value of that adjusted coefficient in the relevant cell. Further information on how to calculate K-DTF can be found in MIFIDPRU 4.15.

MIF001 – updates to the reporting guidance

3.14 We proposed updates to the reporting guidance accompanying the MIF001 reporting form. We proposed an update to the guidance for cell 8A permanent minimum requirement (PMR). We also proposed new guidance to accompany cells 17A and 19A for the adjusted K-DTF coefficients.

3.15 We also proposed additional guidance for cell 24A (transitional requirement) to clarify that where a firm is making use of more than 1 transitional own funds requirement, it should enter the highest resulting value in this cell.

3.16 Further, we proposed an update to guidance under the 'Own funds threshold requirement/wind-down trigger' heading and for cells 26A (own funds threshold requirement) and 27A (own funds wind-down trigger) where the MIF001 return is being completed on a consolidated basis.

3.17 Where MIF001 is being completed on a consolidated basis, the new guidance states that cells in this section should be left blank unless the FCA has specifically required the investment firm group to undertake the internal capital adequacy and risk assessment (ICARA) process on a consolidated basis. The ICARA process is covered in MIFIDPRU 7.5 to MIFIDPRU 7.9. The revised guidance clarifies that where the FCA has specifically required the investment firm group to operate a consolidated ICARA process, this cell should contain the higher of:

- the group's own assessment of its consolidated own funds threshold requirement as determined through the consolidated ICARA process (ie, in accordance with MIFIDPRU 7.6 as applied on a consolidated basis); or
- the amount specified by the FCA to be the consolidated own funds threshold requirement.

3.18 The revised guidance also clarifies that where MIF001 is being completed on a consolidated basis, this cell should be left blank.

MIF002 – updates to the reporting form

3.19 We proposed an amendment to the MIF002 reporting form to rename the existing cell 6A. This cell is relevant to firms other than non-SNI MIFIDPRU investment firms that deal on own account and/or carrying on underwriting or placing on a firm commitment basis.

MIF002 – updates to the reporting guidance

- 3.20 We proposed an amendment to the MIF002 reporting guidance in relation to trade receivables. The amendment includes new guidance stating that the firm should enter the total value of receivables from trade debtors that are receivable within 30 days – that is, before applying any of the adjustments set out in MIFIDPRU 6.3.3R(3) to (5).
- 3.21 We also proposed updates to our MIF002 guidance to clarify how consolidated MIF002 returns should be completed. However, we did not propose any amendments to the format of the MIF002 return itself.

MIF003 – updates to the reporting form

- 3.22 We proposed updated row titles within the MIF003 form to give firms a better understanding. This also brings the forms into full alignment with the current wording used in our RegData system. The amended cell titles do not change the underlying information that we are seeking for each of these cells.

MIF003 – updates to the reporting guidance

- 3.23 We proposed updates to the general guidance on metrics in the MIF003 reporting guidance and new examples.

MIF004 – updates to the reporting form

- 3.24 We proposed a series of amendments to the MIF004 form to separate the firm reference number (FRN) from the legal entity identifier (LEI) number (or the firm's internal reference number, where the counterparty does not have an FRN or LEI).

MIF004 – updates to the reporting guidance

- 3.25 We proposed an update to the accompanying MIF004 reporting guidance to explain the introduction of the new column in the return and to explain the above proposed approach to reporting LEIs and FRNs of counterparties. We also proposed to update reporting guidance to explain what a firm should input where a section or particular rows within a section do not apply to it.

MIF007 – update to reporting guidance

- 3.26 Finally, we proposed an update to the guidance for section B1 of our MIF007 form. This guidance stated that the sum of the values in cells 18A to 27A should be equal to the value entered in cell 11A. This was incorrect, as there may be additional risks reported in cell 28A that also contribute to the figure in cell 11A that represents the own funds necessary to address risks from the firm's ongoing activities.

Feedback

- 3.27 We received 3 pieces of feedback on Chapter 6 of [CP22/10](#).
- 3.28 The first respondent agreed with our proposed clarifications. They also raised an issue with MIF007 cells 11A and the breakdown cells 18A to 28A. The respondent stated that the guidance for the breakdown fields said that they are a breakdown as to how the value in cell 11A has been reached. However, the

guidance for cell 11A says: "For non-SNI firms this amount cannot be lower than the K-Factor requirement."

- 3.29 The second respondent welcomed our proposed changes. The third respondent made the following 3 points regarding MIF001, MIF002 and MIF003 reporting guidance:
- MIF001 reporting guidance: the respondent stated that revised guidance is mentioned for 8A but the consultation appendix did not provide the guidance.
 - MIF002 reporting guidance: the respondent proposed additional guidance for 5A on the definition of a firm's own funds (CET1).
 - MIF003 reporting guidance: the respondent suggested that we clarify that that all the figures for MIF003 should exclude portfolios of MIFID instruments managed on a discretionary basis but held within a pension or investment bond wrapper. The respondent also suggested that we clarify that assets safeguarded and administered is not relevant for SNI firms without the permission to safeguard and administer client assets. Finally, the respondent asked us to clarify that the concession provided for in MIFIDPRU 4.10.28R does not apply to client orders handles.

Our response

- 3.30 We note that a majority of respondents stated that they agreed with and welcomed our proposals.
- 3.31 It is correct that the value of cell 11A in MIF007 should not be lower than the K-factor requirement for non-SNI firms. This has been reflected in the updated guidance.
- 3.32 The revised guidance for 8A was included in error. The revision was consulted on in [CP21/26](#) and confirmed in [PS21/17](#). We did not propose any further changes.
- 3.33 We will consider the additional guidance suggested for MIF002 and MIF003 by 1 respondent and may consider including it in a potential future form update.

Cost benefit analysis

- 3.34 Section 138I(2)(a) of FSMA requires us to publish a cost benefit analysis (CBA) when making rules unless, in accordance with section 138L(3) of FSMA, we believe that there will be no increase in costs or that the increase will be of minimal significance. Further, under section 138I(8) of FSMA, we are not required to publish an estimate of costs and benefits if these cannot be reasonably estimated or it is not reasonably practicable to estimate them.
- 3.35 We consulted on the costs and benefits of our reporting requirements within [CP20/24](#) and [CP21/7](#). We do not believe that our proposed changes will alter the costs and benefits of reporting for firms. The cost benefit analysis within [CP20/24](#) and [CP21/7](#) remains unchanged and is applicable to this Handbook Notice.

Equality and diversity statement

- 3.36 We continue to consider 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.

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 102

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 15 July 2022 and 29 September 2022.

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:

Lisa Oceró

Tel: 020 7066 0198

Email: Lisa.Ocero@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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12 Endeavour Square
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