FINANCIAL CONDUCT AUTHORITY

Handbook Notice No 63

February 2019

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1 Overview

Legislative changes

1.1 On 24 January 2019, the Board of the Financial Conduct Authority made the relevant changes to the Handbook as set out in the instrument listed below.

CP	Title of instrument	Instrument No	Changes effective
18/17	Conduct of Business Sourcebook (Retirement Outcomes Review) Instrument 2019	2019/4	1.11.19; 6.4.20

1.2 On 28 February 2019, 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
18/34	Fees (Devolved Authorities Debt Advice Levies) Instrument 2019	2019/8	1.3.19
18/34	Fees (Miscellaneous Amendments) (No 13) Instrument 2019	2019/10	1.4.19

Summary of changes

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

1.4 *Editor's note*: this Notice was amended on 6 March 2019, to correct a production error which led to a misstatement regarding the Handbook sections changed by the Fees (Miscellaneous Amendments) (No 13) Instrument 2019 (2019/10). Paragraphs 2.9 and 2.10 are therefore amended in this version. The error affected this Notice only, and the Handbook text on handbook.fca.org.uk, and in the legal instrument, was shown correctly and has not been amended.

Feedback on responses to consultations

1.5 Consultation feedback is published in Chapter 3 of this Notice or in a separate Policy Statement.

FCA Board dates

1.6 The table below lists forthcoming FCA board meetings for 2019. These dates are subject to change without prior notice.

March	28
April	25
May	30
June	27
July	25
September	26
October	24
November	21
December	12

2 Summary of changes

2.1 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 January and 28 February 2019. 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 Sourcebook (Retirement Outcomes Review) Instrument 2019 (2019/4)

2.2 Following consultation in Consultation Paper (CP) 18/17,[1] the FCA Board has made changes to the FCA Handbook sections listed below:

Glossary
COBS 13, 13 Annex 2, 14, 16, 19, 19 Annex 2G and 19 Annex 3R

2.3 In summary, this instrument requires firms to provide consumers with more impactful information in the lead-up to, and after, accessing their pension savings. Our changes aim to increase consumer engagement with retirement income decisions, promote competition and protect against poor outcomes.

2.4 This instrument comes into force on **1 November 2019** - except for Part 2 of Annex B, which comes into force on **6 April 2020**. Feedback has been published in a separate Policy Statement.[2]

Fees (Devolved Authorities Debt Advice Levies) Instrument 2019 (2019/8)

2.5 Following consultation in Chapter 4 of Consultation Paper (CP) 18/34,[3] the FCA Board has made changes to the FCA Handbook sections listed below:

Glossary
FEES 1 and 2
CREDS Sch 3

2.6 This instrument adds the following new material to the Handbook: **FEES 7B and 7B Annex 1R**.

2.7 In summary, this instrument introduces a Devolved Authorities' debt advice levy, to give us a mechanism to collect funding for the Devolved Authorities as required by statute. Together with the new Single Financial Guidance Body debt advice levy (for which the Board has already made rules), this new levy will replace the Money Advice Service debt advice levy under which we collected funds for debt advice in the UK.

2.8 This instrument comes into force on **1 March 2019**. Feedback is published at Chapter 3 of this Notice.

1 CP18/17 'Retirement Outcomes Review: Proposed changes to our rules and guidance' (June 2018)
2 PS19/1 'Retirement Outcomes Review: feedback on CP18/17 and our final rules and guidance' (January 2019)
3 CP18/34 'Regulatory fees and levies: policy proposals for 2019/20' (November 2018)

Fees (Miscellaneous Amendments) (No 13) Instrument 2019 (2019/10)

2.9 Following consultation in Consultation Paper (CP) 18/34,[4] the FCA Board has made changes to the FCA Handbook sections listed below:

FEES 1, 4 Annex 1AR, 7A, 13, App 1, App 1 Annex 1R, App 1 Annex 2G and App 1 Annex 3

2.10 This instrument inserts the following new section into the Handbook: **FEES App 1 Annex 5**.

2.11 In summary, this instrument exempts mutual societies which are not authorised under the Financial Services and Markets Act 2000 from payment of fees, and removes the current charges for inspecting the Mutuals Register, except where a personal visit is requested, in which case we will recover our costs in escorting visitors.

2.12 This instrument comes into force on **1 April 2019**. Feedback is published at Chapter 3 of this Notice.

3 Consultation feedback

3.1 This chapter provides feedback on consultations that will not have a separate Policy Statement published by the FCA.

CP18/34: FCA regulated fees and levies: Rates proposals 2018/19: Chapter 6: Debt advice levy for devolved authorities

Fees (Devolved Authorities Debt Advice Levies) Instrument 2019 (2019/8)

Background

3.2 In Chapter 6 of CP18/34 (November 2018), we consulted on the proposal that firms who previously contributed to the funding of debt advice delivered by the Money Advice Service across the across the UK will, on the same basis, contribute to the funding of debt advice

4 CP18/34 'Regulatory fees and levies: policy proposals for 2019/20' (November 2018)

delivered by the Devolved Authorities in Scotland, Wales and Northern Ireland.

3.3 We asked:

> Do you agree with our proposal that firms who currently contribute to the debt advice levy across the UK will contribute to the debt advice levy for the Devolved Authorities? If not, please tell us why not?

Feedback

3.4 We received six responses to this question. Five agreed with the proposal. Of those, one commented that any alternative approach would cause additional complexity. Another said we had not made clear whether the Devolved Authorities' debt advice levy was intended to increase overall funding for debt advice across the UK. The respondent who disagreed with the proposal did so because, they said, we did not indicate how the fees would be allocated to firms, in particular whether we would allocate costs according to the location of the firm's head office.

Our response

3.5 We confirm that the Devolved Authorities' debt advice levy is not intended to increase the overall funding of debt advice in the UK. Previously, debt advice in the UK was provided by a single body, the Money Advice Service (MAS). Now, debt advice is provided by the Single Financial Guidance Body (SFGB) in England, and the Devolved Authorities in Scotland, Wales and Northern Ireland. The purpose of this levy is to provide funding to the Devolved Authorities for a function that was previously provided by MAS.

3.6 As we said in CP18/34, we will allocate costs to firms for the Devolved Authorities' debt advice levy on the same basis as we allocate costs to firms for the SFGB debt advice levy. No matter where in the UK they are based, firms will contribute to both the SFGB debt advice levy and the Devolved Authorities' debt advice levy in the same way they previously contributed to the MAS levy for the whole of the UK.

3.7 We will implement the Devolved Authorities' debt advice levy as consulted on.

Cost benefit analysis and compatibility statement

3.8 Under section 138I of the Financial Services and Markets Act 2000 (FSMA), the FCA is exempt from the requirement to carry out and publish a cost benefit analysis regarding proposals on fees and levy rules. As it relates to this instrument, the compatibility statement in Annex 2 of CP18/34 is unchanged.

Equality and diversity issues

3.9 As it relates to this instrument, the equality and diversity statement in Chapter 1 of CP18/34 is unchanged.

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

CP18/34: Regulatory fees and levies: policy proposals for 2019/20: Chapter 3: Charges for mutual societies

Fees (Miscellaneous Amendments) (No 13) Instrument 2019 (2019/10)

Background

3.11 In CP18/34, we consulted on the proposals summarised below.

Recovering the costs of the Mutuals Register

3.12 The Mutuals Register lists bodies registered with the FCA, covering building societies, credit unions, friendly societies, co-operatives and community benefit societies. About 700 of the 9,000 societies on the Register are also authorised by us for Part 4A activities and pay fees in their appropriate fee-blocks. The rest are registrants only, run mostly by volunteers. They have no FCA authorisations and we have no regulatory responsibility towards them. As Registering Authority, we maintain the register as a public good. Our role is restricted to maintaining the register and ensuring public access to it.

3.13 These 'unauthorised' mutuals pay tiered annual fees in fee-block F of between £67 - £495, depending on the value of their assets. Recovering fees from voluntary-run bodies has proved resource-intensive and inefficient. Many rely on paper invoicing and we have no power to require them to pay online. This restricts our ability to introduce cost efficiencies for ourselves and firms by extending online invoicing.

3.14 The proposals we consulted on were to:

- exempt mutual societies from contributing towards the maintenance of the Mutuals Register by closing fee-block F, and instead share the costs among the general population of FSMA fee-payers (overall impact around 0.32%)
- maintain application fees for organisations seeking to be included on the register, and
- remove all charges for public inspection of the register, except where a personal visit is requested. In that case we will cover our costs through an hourly charge, applying the rate set for an associate in FEES 3 Annex 9 (Special Project Fees - currently £75), instead of the current charge of £26.50 per society file.

Exempting community finance organisations (CFOs) and credit unions (CUs) from consumer credit fees

3.15 CFOs are registered charities, community benefit societies or community interest companies. They and CUs are exempt from paying consumer credit fees on regulated income up to £250,000. Identifying the firms eligible for exemption is an inefficient additional administrative procedure. We proposed to extend the existing concession by exempting them from consumer credit fees altogether. This would be equivalent to an increase of 0.28% on the remaining population of consumer credit fee-payers.

Insurers tariff data weightings from 2019/20.

3.16 The tariff data (measure of size of business) used to calculate the fees for insurers takes account of the levels of both their gross written premium (GWP) and best estimate liabilities (BEL). Following our review of the current weightings attributed to each, we proposed:

- for general insurers (fee-block A.3), to keep the weightings unchanged, and
- for life insurers (fee-block A.4), to change the weightings from 75% GWP:25% BEL to 60% GWP:40% BEL. This revised weighting better reflect the long-term nature of life insurers' business, the risks they pose to our objectives and the activity we undertake.

3.17 The Prudential Regulation Authority (PRA) also consulted on the same proposed weightings.

On-account payment rules

3.18 If a firm pays at least £50,000 for a particular fee or levy in one year they are required to pay 50% of that fee or levy as an on-account payment towards their fees or levies for the following year.

3.19 We proposed clarifying these rules to reflect that we do collect on-account payments in relation to the illegal money lending levy and the Single Financial Guidance Body levies.

Feedback

3.20 We summarise the feedback below.

Costs of the Mutuals Register

3.21 We received 83 responses, mainly from mutual societies, supporting our proposals. Only three respondents expressed reservations about the increase in regulatory fees. One suggested that we should consider targeting cost recovery on the larger mutuals authorised under FSMA.

3.22 Several respondents argued that removing charges would enhance the value of the register as a public service, on a number of grounds.

- The current high fees, compared to those charged by Companies House, deter cash-poor organisations from seeking mutual status even when it would be the best option for them.
- Societies run by volunteers face difficulty finding the cash for fees.

- Some societies are liable to higher charges because of the nominal value of their assets, but they do not necessarily have more cash than other societies which do not own assets.

- Our high search charges deter investors, lenders and credit agencies from carrying out due diligence on mutual societies. Because it is so difficult to corroborate records, one society said it had been unable to obtain a bank account and several said they had to make higher pension levy payments.

- And, finally, easier access to the records would improve the public accountability of mutual societies.

Exempting CFOs and CUs from fees

3.23 We received 22 responses, all but one of which supported the proposal.

3.24 A trade body and four firms repeated earlier suggestions made to us that the exemption be extended to cover:

- parent/subsidiary situations – where the finance provider, whilst not a CFO itself, is the subsidiary of a CFO, and

- golden share situations - where the finance provider is subject to a golden share arrangement, with the golden shareholder being a CFO.

Golden share arrangements grant the golden shareholder the right of veto and control over the mission statement upon which the enterprise is founded. The respondents were of the view that golden share arrangements could be used by a CFO shareholder to enshrine a social purpose within the corporate entity.

3.25 One other respondent, whilst noting the sums involved were relatively small, queried whether the loss of revenue resulting from the proposed fee concessions for CFOs and CUs would be covered by the saving of administrative costs at the FCA. If it wasn't, then there was concern that additional costs would be passed on to other consumer credit fee-payers.

Insurers tariff data weightings

3.26 We received two responses. An insurance firm supported the proposed weightings for both fee-blocks. A trade association representing mutual insurers also supported the proposed weightings for both fee-blocks, but wanted us to keep the revised weightings for life insurers in the A.4 fee-block unchanged for smaller firms. They believed that for larger firms any increase in fees arising from the shift in weightings from GWP to BEL was justifiable. This was because these firms, falling within our supervisory fixed portfolio, represent a higher risk and the resources we would apply to them would also be more likely to increase. However, this respondent did not accept this to be the case for smaller firms in our flexible portfolio. They believe such firms, being lower risk, are not subject to any significant regulatory attention unless they are, for example, part of a thematic review.

3.27 The insurance firm commented that we had not followed the PRA in proposing a scaling factor for unit-linked business and asked that we consider doing so.

On-account payment rules

3.28 We received one response, which supported the proposals.

Our response

3.29 We are proceeding with our proposals as consulted on.

Costs of the Mutuals Register

3.30 We received considerable support for the removal of charges from the Mutuals Register.

3.31 We did consider passing the charges to the larger societies. We rejected it because it would create a new administrative procedure, conflicting with the cost efficiencies we were pursuing. Most of the large societies are already authorised by us, so will be contributing towards the register along with other fee-payers.

Exempting CFOs and CUs from fees

3.32 CFOs and CUs are identified through robust definitions based on compliance with statutory requirements outside FSMA. This gives us (and other fee-payers) comfort that the concessions we have given them are targeted on firms which genuinely have a social purpose. Non-statutory arrangements do not provide sufficiently robust guarantees against firms reinterpreting their mission statements to downgrade the importance of their social purpose.

3.33 We are therefore of the view that restricting the concessions to CFOs and CUs meets our requirement for the criteria to be objective, consistent, transparent and simple, whilst also allowing us to continue to support the government's policy of improving the range of socially responsible choices available to vulnerable consumers.

3.34 CFOs and CUs with annual income under £250,000 are currently exempt from consumer credit fees. The process of exempting them in this way is an inefficient additional administrative procedure and we believe that exempting them fully from consumer credit fees is justified in terms of the streamlining of processes and removing a relatively inefficient cost. All fee-payers would benefit from us streamlining our administrative process.

Insurers' tariff data weightings

3.35 Our annual funding requirement (AFR) allocated to a fee-block represents the cost of mitigating the risks to our objectives of all the firms within that fee-block. Recovery of the allocated AFR from firms in the fee-block is based on a measure of their size (tariff base) relative to other firms in the fee-block. Size is a proxy for the impact on our objectives should those firms fail. This ensures that larger firms pay more than smaller firms. Applying the weightings consistently to all insurers continues to ensure that larger insurers pay more than smaller insurers. We also already make concessions for smaller insurers in the A.4 fee-block:

- non-directive life insurers only pay a minimum fee and therefore the weightings do not affect the fees they pay, and
- smaller friendly societies pay lower minimum fees.

3.36 We plan to consider a scaling factor for unit-linked business and consult on any proposals in our October/November 2019 fees policy Consultation Paper.

Cost benefit analysis and compatibility statement

3.37 Under section 138I of FSMA, the FCA is exempt from the requirement to undertake a cost benefit analysis for fees proposals. The compatibility statement we published in CP18/34 remains unchanged.

Equality and diversity issues

3.38 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.

3.39 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 1.4 refers, fulfil for the relevant text made by the Board the obligations in section 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 on the back cover).

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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 24 January and 28 February 2019.

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:

Colin Shields
Tel: 020 7066 0671
Email: colin.shields@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
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