

HANDBOOK ADMINISTRATION (NO 39) INSTRUMENT 2015**Powers exercised**

- A. The Financial Conduct Authority makes this instrument in the exercise of the powers and related provisions listed in Schedule 4 (Powers exercised) to the General Provisions of the Handbook.
- B. The rule-making powers referred to above are specified for the purpose of section 138G(2) (Rule-making instruments) of the Financial Services and Markets Act 2000.

Commencement

- C. This instrument comes into force on 1 November 2015 except as provided below:
- (1) Part 1 of Annex H (MCOB) comes into force on 23 October 2015;
 - (2) Part 2 of Annex A (Glossary), Annex B (APER), Annex C (COCON), Part 2 of Annex I (CASS) and Part 2 of Annex J (SUP) come into force on 7 March 2016;
 - (3) Annex F (MIPRU) and Part 3 of Annex H (MCOB) come into force on 21 March 2016; and
 - (4) Annex K (CONC) comes into force on 1 April 2016.

Amendments to the Handbook

- D. The modules of the Handbook of rules and guidance listed in column (1) below are amended in accordance with the Annexes to this instrument listed in column (2).

(1)	(2)
Glossary of definitions	Annex A
Statements of Principle and Code of Conduct for Approved Persons (APER)	Annex B
Code of Conduct sourcebook (COCON)	Annex C
Fees manual (FEES)	Annex D
Prudential sourcebook for Banks, Building Societies and Investment Firms (BIPRU)	Annex E
Prudential sourcebook for Mortgage and Home Finance Firms, and Insurance Intermediaries (MIPRU)	Annex F
Conduct of Business sourcebook (COBS)	Annex G
Mortgages and Home Finance: Conduct of Business sourcebook (MCOB)	Annex H
Client Assets sourcebook (CASS)	Annex I
Supervision manual (SUP)	Annex J
Consumer Credit sourcebook (CONC)	Annex K
Listing Rules sourcebook (LR)	Annex L

Amendments to material outside the Handbook

- E. The Perimeter Guidance manual (PERG) is amended in accordance with Annex M to this instrument.

Citation

- F. This instrument may be cited as the Handbook Administration (No 39) Instrument 2015.

By order of the Board
22 October 2015

Annex A

Amendments to the Glossary of definitions

In this Annex, underlining indicates new text and striking through indicates deleted text.

Part 1: Comes into force on 1 November 2015

<i>actuarial function</i>	(in the PRA Handbook) PRA controlled function CF12 in the table of PRA controlled functions, described more fully in SUP 4.3.13R and SUP 10B.8.1R. [deleted]
<i>Handbook</i>	the <i>FCA Handbook</i> or the PRA Handbook as appropriate.
<i>IFPRU 730k firm</i>	has the meaning in <i>IFPRU</i> 1.1.11R (Types of investment firm: IFPRU 730k firm) which in summary is an <i>IFPRU investment firm</i> that is not a <i>collective portfolio management investment firm</i> , a BIPRU <u>IFPRU 50k firm</u> or a BIPRU <u>IFPRU 125k firm</u> .
<i>Immigration Regulations</i>	the Immigration Act 2014 (Bank Account) Regulations 2014 (SI 2014/3085).
<i>Lloyd's actuary function</i>	(in the PRA Handbook) PRA controlled functions CF12B in the table of controlled functions, described more fully in SUP 10B.8.3R. [deleted]

Part 2: Comes into force on 7 March 2016

<i>accountable higher management function</i>	(in <i>APER</i>) any <i>accountable function</i> that is: <ul style="list-style-type: none"> (1) <u>(a)</u> an <i>FCA controlled function</i> that is a <i>significant influence significant-influence function</i>; or (2) <u>(b)</u> a <i>PRA controlled function</i>.
<i>senior conduct rules staff member</i>	(in <i>COCON</i>) a person who is: <ul style="list-style-type: none"> ... <u>(c)</u> an <i>approved person</i> performing a <i>significant influence significant-influence function</i> (including a <i>PRA controlled function</i>) in a <i>Solvency II firm</i>.

Annex B

Amendments to the Statements of Principle and Code of Practice for Approved Persons (APER)

In this Annex, underlining indicates new text and striking through indicates deleted text.

Comes into force on 7 March 2016

4.1 Statement of Principle 1

...

4.1.2 ~~E~~ G In the opinion of the *FCA*, conduct of the type described in ... does not comply with *Statement of Principle 1*.

...

4.1.8 ~~R~~ G Deliberately preparing inaccurate or inappropriate records or returns in connection with an *accountable function*, falls within *APER 4.1.2G*.

...

4.5 Statement of Principle 5

...

4.5.7 ~~G~~ Behaviour of the type referred to in *APER 4.5.4G* 4.5.6G includes ...

...

4.5.9 ~~G~~ Behaviour of the type referred to in *APER 4.5.4G* 4.5.8G includes ...

...

4.6 Statement of Principle 6

...

4.6.1A ~~G~~ The *Statement of Principle 6* (see *APER 2.1A.3R*) is in the following terms: “An *approved person* performing an *accountable higher management function* must exercise due skill, care and diligence in managing the business of the *firm* for which they are responsible in ~~his~~ their *accountable function*.”

...

4.7 Statement of Principle 7

...

- 4.7.2 E In the opinion of the *FCA*, conduct of the type described in ... does not
G comply with *Statement of Principle 7*.

Annex C

Amendments to the Code of Conduct sourcebook (COCON)

In this Annex, underlining indicates new text and striking through indicates deleted text.

Comes into force on 7 March 2016

1.1 Application

...

1.1.10 R *COCON* only applies to the conduct ... if that conduct:

(1) is performed ... by:

...

(b) ... the *firm* in relation to whom that *person* carries out *controlled functions*; or

...

Annex D**Amendments to the Fees manual (FEES)**

In this Annex, underlining indicates new text and striking through indicates deleted text.

4 Annex 2AR FCA Fee rates and EEA/Treaty firm modifications for the period from 1 April 2015 to 31 March 2016

...

Part 1 This table shows the tariff rates applicable to each of the fee blocks set out in Part 1 of *FEES* 4 Annex 1AR.

...

(3) For a *firm* which has not complied with *FEES* ~~4.2.2G~~ 4.4.2R (Information on which fees are calculated) for this period:

...

...

Annex E

Amendments to the Prudential sourcebook for Banks, Building Societies and Investment Firms (BIPRU)

In this Annex, underlining indicates new text and striking through indicates deleted text.

8.4 CAD Article 22 groups and investment firm consolidation waiver

...

The effect of an investment firm consolidation waiver and the conditions for getting one

- 8.4.2 G A BIPRU ~~investment~~ firm may apply for a waiver of the requirement in this chapter to apply capital requirements on a consolidated basis. Such a waiver is called an *investment firm consolidation waiver*.

...

- 8.4.4 G The FCA will not grant an *investment firm consolidation waiver* unless:

...

- (2) the FCA is satisfied that each BIPRU firm in the UK consolidation group or non-EEA sub-group will be able to meet its capital requirements using the calculation of *capital resources* in GENPRU 2 Annex 6R (Capital resources table for a BIPRU ~~investment~~ firm with a waiver from consolidated supervision); and

...

...

Definition of a CAD Article 22 group

- 8.4.9 R ...

- (2) There must be no bank, building society, or credit institution ~~or investment firm~~ in the UK consolidation group or non-EEA sub-group and any investment firm in the UK consolidation group or non-EEA sub-group must not be subject to consolidated supervision under the EU CRR.

...

...

Capital adequacy obligations relating to a CAD Article 22 group: Capital resources

- 8.4.12 R A *firm* must calculate the capital resources of the *parent financial holding company in a Member State* for the purpose of BIPRU 8.4.11R as follows:
- (1) the capital resources are the sum of *capital resources* calculated at stages D (Total tier one capital before deductions) and I (Total tier two capital) of the version of the *capital resources table* in GENPRU 2 Annex 4R (Capital resources table for a BIPRU ~~investment~~ firm deducting material holdings) as adjusted in accordance with this *rule*;

...

Capital adequacy obligations relating to a CAD Article 22 group: Capital resources requirement

...

- 8.4.14 R A *firm* must exclude *material holdings* in the notional calculation of the *credit risk capital requirement* for the purposes of BIPRU 8.4.13R. A *firm* must identify whether it has any *material holdings* and the amount of them in accordance with GENPRU 2.2 (Capital resources) and GENPRU 2 Annex 4R (Capital resources table for a BIPRU ~~investment~~ firm deducting material holdings).

Annex F

Amendments to the Prudential sourcebook for Mortgage and Home Finance Firms, and Insurance Intermediaries (MIPRU)

In this Annex, underlining indicates new text and striking through indicates deleted text.

Comes into force on 21 March 2016

1.3 Remuneration and property valuation requirements for MCD creditors

...

Property valuation requirements

...

1.3.3 G For the purposes of *MIPRU* 1.3.2R:

- (1) reliable standards for the valuation of residential immovable property include internationally recognised valuation standards, in particular those developed by the International Valuation Standards ~~Committee~~ Council (IVSC), ...

...

Annex G

Amendments to the Conduct of Business sourcebook (COBS)

In this Annex, underlining indicates new text and striking through indicates deleted text.

22 **Restrictions on the distribution of ~~contingent convertible~~ certain regulatory capital instruments**

Annex H

**Amendments to the Mortgages and Home Finance: Conduct of Business sourcebook
(MCOB)**

In this Annex, underlining indicates new text and striking through indicates deleted text.

Part 1: Comes into force on 23 October 2015

TP1.1 Transitional provisions

(1)	(2) Material to which the transitional provision applies	(3)	(4) Transitional provisions	(5) Transitional provision: dates in force	(6) Handbook provision: coming into force
...					
42	<i>MCOB</i> (all)	R	<p>A second charge lender who elects, for any particular agreement or proposed agreement, under Where article 31(2) of the Mortgage Credit Directive Order 2015 to comply with the provisions of <i>MCOB</i> that will apply to that firm's activities from 21 March 2016 <u>applies, a relevant firm:</u></p> <p>(1) must comply with all the provisions of <i>MCOB</i> that will apply to that <i>firm</i> in respect of the agreement from 21 March 2016;</p> <p>(2) except as provided in (3), need not comply with the provisions of <i>CONC</i> or <i>MCOB</i> that would otherwise apply in respect of the agreement;</p> <p>(3) a second charge lender with interim permission <u>must, if the firm has interim permission,</u></p>	21 September 2015 to 20 March 2016	21 September 2015 to 20 March 2016

			<p>continue to comply with <u>the other provisions of the <i>FCA Handbook</i> as modified by <i>CONC</i> 12.</u></p> <p><u>In this rule, a “relevant firm” means a <i>second charge lender</i> and a <i>firm</i> carrying on a <i>regulated activity</i> of a kind specified in article 36A(1)(a) to (c) of the <i>Regulated Activities Order</i> (disregarding the effect of paragraph (2) of that article).</u></p>		
43	...				
44	<i>MCOB</i> TP 42	G	<p><u>Article 31 of the Mortgage Credit Directive Order 2015 applies to agreements which, if entered into before 21 March 2016, would be a <i>regulated credit agreement</i> but which, if entered after 20 March 2016, would be a <i>regulated mortgage contract</i>, where neither the <i>lender</i> nor any <i>credit broker</i> has complied with <i>CCA</i> requirements in respect of the agreement and both the <i>lender</i> and any <i>credit broker</i> comply with <i>MCOB</i> (as it will apply from 21 March 2016). The effect of article 31(2) is that the agreement is treated as a <i>regulated mortgage contract</i> rather than as a <i>regulated credit agreement</i>. <i>MCOB</i> TP 42 allows a <i>second charge lender</i> and a <i>credit broker</i> to comply, before 21 March 2016, with <i>MCOB</i> early as it will apply from that date without at the same time needing to comply with <i>CONC</i> or with pre-21 March 2016 provisions of <i>MCOB</i>, provided that the <i>second charge lender</i> complies with all provisions of <i>MCOB</i> that will apply in respect of the</u></p>		

			agreement for which the <i>second charge lender</i> has made the election under article 31 of the Mortgage Credit Directive Order 2015.		
...					

Part 2: Comes into force on 1 November 2015

2.6A Protecting customer’s interests: regulated mortgage contracts, home purchase plans, home reversion plans and regulated sale and rent back agreements

...

Protecting customer’s interests: ~~regulated mortgage contracts~~, home purchase plans, home reversion plans and regulated sale and rent back agreements

2.6A.1 R ...

...

Part 3: Comes into force on 21 March 2016

5A MCD Pre-application disclosure

...

5A Annex 2R Instructions to complete the ESIS

...			
6			Section ‘4. Interest rate’ and other costs
...			
6.6	R	...	
		(6)	The <i>firm</i> must accompany the warning required by (5) with by an additional illustrative <i>APRC</i> calculated in accordance with MCOB 10A.1.4R <u>10A.1.5R</u> .
...			

Annex I

Amendments to the Client Assets sourcebook (CASS)

In this Annex, underlining indicates new text and striking through indicates deleted text.

Part 1: Comes into force on 1 November 2015

6 Custody rules

6.1 Application

...

Delivery versus payment transaction exemption

6.1.12 R ...

- (4) Where a *firm* intends to segregate *money* as *client money* instead of the *client's safe custody* asset under (3) it must, before doing so, ensure that this would result in *money* being held for the relevant *client* in respect of the *shortfall* under CASS ~~7.12.2R~~ 7.17.2R (statutory trust).

...

6.6 Records, accounts and reconciliations

...

Notification requirements

6.6.57 R A *firm* must inform the *FCA* in writing without delay if:

...

- (5) it will be unable, or materially fails, to conduct a *physical asset reconciliation* in compliance with CASS ~~6.6.2R~~ 6.6.22R to CASS 6.6.30R; or

...

...

7.11 Treatment of client money

...

Discharge of fiduciary duty

7.11.34 R *Money* ceases to be *client money* (having regard to CASS 7.11.40R where

applicable) if:

...

- (3) subject to ~~CASS 7.11.38R~~ 7.11.39R, it is paid into a bank account of the *client* (not being an account which is also in the name of the *firm*); or

...

...

7.19 Clearing member client money sub-pools

- 7.19.1 G (1) Under ~~CASS 7.7.2R(2)~~ 7.17.2R(2), a *firm*, acts as *trustee* for all *client money* received or held by it for the benefit of the *clients* for whom that *client money* is held, according to their respective interests in it.

...

...

Segregation and operation of sub-pools

- 7.19.12 R Where a *firm* establishes one or more *sub-pools*, ~~CASS 7.4 7.13~~ (Segregation of client money) ~~shall~~ is to be read as applying separately to the *firm's general pool* and each *sub-pool*.

...

7A Client money distribution

7A.1 Application and purpose

...

- 7A.1.1A R The *client money distribution rules* do not apply to any *client money* held by a *trustee firm* under ~~CASS 7.1.15FR~~ 7.10.34R to ~~CASS 7.1.15LG~~ 7.10.40G.

...

7A.2 Primary pooling events

...

Client money received after the failure of the firm

...

- 7A.2.7A G If a *firm* opens a *client bank account* after a *primary pooling event*, it must

comply with ~~CASS 7.8.14R~~ 7.18.15R regarding *acknowledgement letters*.

...

10 CASS resolution pack

10.1 Application, purpose and general provisions

...

10.1.9 E (1) For the purpose of *CASS 10.1.7R*, the following documents and records should be retrievable immediately:

...

(g) the most recent *external client money reconciliations* referred to in ~~CASS 10.3.1R(9)~~ 10.3.1R(7A).

...

...

10.3 Existing records forming part of the CASS resolution pack

10.3.1 R *A firm* must include, as applicable, within its *CASS resolution pack* the records required under:

...

(5) ~~CASS 6.6.34R (External custody reconciliations); [deleted]~~

...

(11) ... ~~...~~

...

Schedule 2 Notification requirements

Sch 2.1G

Handbook reference	Matter to be notified	Contents of notification	Trigger event	Time allowed
...				
CASS 5.5.84R <u>5.5.61R</u>	Failure of <i>bank, broker or settlement agent</i>	Full details including whether it intends to make good any <i>shortfall</i> that may have arisen in the amounts involved	As soon as the <i>firm</i> becomes aware	Immediately
CASS 5.5.84R	Inability to perform the calculation required by <i>CASS</i>	Inability to perform	Inability to perform the	Immediately

<u>5.5.76R</u>	5.5.84R <u>5.5.63R(1)</u>	the calculation	calculation	
CASS 5.5.84R <u>5.5.77R</u>	Inability to make good any <i>shortfall</i> identified by <i>CASS 5.5.84R 5.5.63R(1)</i>	Inability to make good any <i>shortfall</i> in <i>client money</i>	Inability to make good any <i>shortfall</i>	Immediately
CASS 5.5.84R	Inability to comply with the requirements in CASS 5.5.84R; CASS 5.5.84R; CASS 5.5.84R; CASS 5.5.84R; CASS 5.5.84R	Inability to comply with the requirements of the <i>rules</i> listed	Inability to comply with the requirements of the <i>rules</i> listed	As soon as reasonably practicable
...				

Part 2: Comes into force on 7 March 2016

1A.3 Responsibility for CASS operational oversight

...

1A.3.1B G (1) (a) ... The table of *FCA controlled functions* in *SUP 10A.4.4R* together with *SUP 10A.7.9R* specify the *CASS operational oversight function* as ~~a required~~ an FCA required function for a *firm* to which *CASS 1A.3.1AR* applies.

...

...

Annex J

Amendments to the Supervision manual (SUP)

In this Annex, underlining indicates new text and striking through indicates deleted text.

Part 1: Comes into force on 1 November 2015

10A Annex 9 Form G: The Retail Investment Adviser Complaints Alerts Form

The Retail Investment Adviser Complaints Alerts Form G approved by the ~~FSA~~ FCA for notifications under ~~SUP 10.13.20AR~~ 10A.14.24R may be found at the *FCA's* website

...

15.3 General notification requirements

...

15.3.8 G Compliance with *Principle 11* includes, but is not limited to, giving the *appropriate regulator* notice of:

- (1) any proposed restructuring, reorganisation or business expansion which could have a significant impact on the *firm's* risk profile or resources, including, but not limited to:

...

- (e) entering into, or significantly changing, a *material outsourcing* arrangement (a *bank*, a *building society* and a *dormant account fund operator* should also see ~~SYSC 3.2.4G~~ and SYSC 8, and an insurer should also see SYSC 13.9 for further details); or

...

...

...

16.12 Integrated Regulatory Reporting

...

16.12.12 R The applicable reporting frequencies for *data items* referred to in SUP 16.12.4R are set out in the table below according to *firm* type. Reporting frequencies are calculated from a *firm's accounting reference date*, unless indicated otherwise.

Data item	<i>IFPRU 730k firm</i>	<i>IFPRU 125k firm and collective portfolio management firm</i>	<i>IFPRU 50k firm</i>	<i>BIPRU firm</i>	<i>UK consolidation group or defined liquidity group</i>	<i>Firm other than BIPRU firms or IFPRU investment firms</i>
...						
FSA055	Annually (Note 5)			<u>Annually (Note 5)</u>	Annually (Note 5)	
...						

...

16 Annex 29AG Guidance notes for the data item in SUP 16 Annex 29R

...

Section 7 Safe custody assets records checks and reconciliations

26 *Safe custody assets* unresolved items

...

CASS 6.6.48G provides that a discrepancy should not be considered to be resolved until it is fully investigated and corrected, and any associated *shortfall* is made good.

...

...

Part 2: Comes into force on 7 March 2016

10A FCA Approved Persons

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10A.4 Specification of functions

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10A.4.4 R FCA controlled functions

...

<p>Part 2 (FCA controlled functions for PRA-authorised persons) (see Note 1)</p>
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Type	CF	Description of FCA controlled function
<i>FCA governing functions*</i>
	5	<i>Director of an unincorporated association function</i> (see Note 2)
...		

...

10A.11 Minimising overlap with the PRA approved persons regime

...

10A.11.8 G ...

- (3) The *FCA* functions disapplied in accordance with the *FCA governing functions overlap rule* for *Solvency II firms* ...

Annex K

Amendments to the Consumer Credit sourcebook (CONC)

In this Annex, underlining indicates new text and striking through indicates deleted text.

Comes into force on 1 April 2016

TP 7 **Transitional provisions in relation to the Consumer Credit (Amendment No 2) Instrument 2015**

...

~~**TP 7**~~ **Other transitional provisions**

TP 8

...

Annex L

Amendments to the Listing Rules sourcebook (LR)

In this Annex, underlining indicates new text and striking through indicates deleted text.

**9.7A Preliminary statement of annual results, and statement of dividends ~~and~~
~~half-yearly reports~~**

Annex M

Amendments to the Perimeter Guidance manual (PERG)

In this Annex, underlining indicates new text and striking through indicates deleted text.

1.5 What other guidance about the perimeter is available from the FCA?

...

- 1.5.3 G In addition, the *FCA* has established a team to provide general assistance and guidance to persons generally about the scope of the *Act*. Enquiries of this kind may be made:

...

- (2) by individuals or non-authorised firms, to the Consumer Contact Centre (email ccc@fca.org.uk, Tel 0800 111 6768), ~~or the Perimeter Enquiries Team (email authorisationenquiries@fca.org.uk)~~

...

15 Ann 1 Flowchart 1 – Payment institutions established in the UK – do PSD regulations apply to us?

...

<p>I. You may apply for registration as a small payment institution. You may apply for authorisation as an authorised payment institution instead, e.g. if you wish to acquire passport rights. For transitional arrangements, see Annex 1 Flowchart 2.</p>
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...

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