



FINANCIAL CONDUCT AUTHORITY COMMUNICATION DOCUMENTS

Quarterly Review: October-December 2018

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Consultation Papers

CP 18/27: Consultation on illiquid assets and open-ended funds and feedback to Discussion Paper 17/1

Published: 08/10/2018

<https://www.fca.org.uk/publications/consultation-papers/cp-18-27-consultation-illiquid-assets-and-open-ended-funds-and-feedback-discussion-paper-17-1>

Open-ended funds that invest in illiquid assets can encounter difficulties if many investors simultaneously try to withdraw their money at short notice. This happened following the result of the UK referendum on EU membership in June 2016, when a number of property funds had to suspend dealing temporarily.

The FCA considers that suspensions and other liquidity management tools worked as they were intended to, and helped to prevent wider market disruption. The results of supervisory work carried out following the property fund suspensions and feedback to Discussion Paper 17/1 confirmed that a major overhaul of the regulatory framework in this area was not needed. However, they consider that improvements should be made in the use of suspensions and other liquidity management tools, contingency planning, oversight arrangements and disclosure to retail clients.

This is of no relevance to the general insurance broker/intermediary.

Consultation Papers

CP18/28: Brexit: proposed changes to the Handbook and Binding Technical Standards – first consultation

Published: 10/10/2018

<https://www.fca.org.uk/publications/consultation-papers/cp18-28-brexit-proposed-changes-handbook-bts-first-consultation>

The FCA is planning for a variety of outcomes to the Brexit negotiations. One of these outcomes is the UK leaving the EU on 29 March 2019 without an implementation period. If this happens, the FCA must ensure there is a functioning regulatory framework in place.

For this scenario, they will need to amend the Handbook in line with the Government's legislative changes and to reflect the UK's new position outside the EU. In the same way, they will need to amend EU binding technical standards, which are detailed EU rules, for which the FCA will gain responsibility.

For the most part, the amendments proposed are straightforward changes that update references to:

- EU legislation
- UK law which relates to or refers to the EU
- EU institutions and concepts
- the European Economic Area (EEA)

In a small number of cases the FCA has found more than one solution to resolve an issue. Where this is the case they set out their chosen proposal and welcome feedback on the proposed approach.

All the proposals are aimed at ensuring the Handbook continues to function when the UK is no longer a member of the EU.

They do not propose wider policy changes and are not making other changes unrelated to Brexit to the Handbook.

This has some relevance to the general insurance broker/intermediary.

Consultation Papers

CP18/29: Temporary permissions regime for inbound firms and funds

Published: 10/10/2018

<https://www.fca.org.uk/publications/consultation-papers/cp18-29-temporary-permissions-regime-inbound-firms-and-funds>

The FCA is planning for a variety of outcomes to the Brexit negotiations. One of these outcomes is the UK leaving the EU on 29 March 2019 without an implementation period. If this happens, the passporting regime will no longer be in place and EEA-based firms might experience an abrupt loss of permission and may need to seek authorisation in the UK to continue to carry on a regulated activity in the UK.

Similarly, EEA-domiciled investment funds would need to seek recognition in the UK to continue to be marketed here. To address this, the Government has legislated for a temporary permissions regime to allow relevant EEA firms and investment funds to continue to access the UK market while seeking full authorisation or recognition in the UK.

This paper sets out:

- details of the regime for both firms and fund marketing activities, including which firms and investment funds can use the regime
- how the regime will operate for firms including what the FCA expect from firms and how they will supervise them
- the rules the FCA propose to apply to firms and fund marketing activities during the regime
- additional information for Electronic Money Institutions, Payment Institutions and Registered Account Information Service Providers
- how the regime will operate for investment funds
- FCA proposals for how the regime will be funded

They have tried to balance several factors in putting together the proposals including consumer protection, designing a regime that is proportionate and that firms and fund managers can reasonably comply with from exit day which will therefore minimise disruption for consumers and other market participants.

This has some relevance to the general insurance broker/intermediary.

Consultation Papers

CP18/30: EU Securitisation Regulation Implementation (DEPP and EG)

Published: 12/10/2018

<https://www.fca.org.uk/publications/consultation-papers/cp18-30-eu-securitisation-regulation-implementation-depp-and-eg>

The EU Securitisation Regulation and related amendment to the Capital Requirements Regulation (CRR) came into effect on 17 January 2018. Most of their provisions will come into force on 1 January 2019. The FCA is consulting on a number of changes to ensure that the Handbook is consistent with the directly applicable EU Securitisation Regulation and CRR amendment. It is important that they have guidance in place prior to the EU Securitisation Regulation coming into force, which is why they are consulting before Her Majesty's Treasury (HMT) publishes the Statutory Instrument (SI) implementing the regulations in the UK.

This is of no relevance to the general insurance broker/intermediary.

Consultation Papers

CP18/31: Increasing the award limit for the Financial Ombudsman Service

Published: 16/10/2018

<https://www.fca.org.uk/publications/consultation-papers/cp18-31-increasing-award-limit-financial-ombudsman-service>

The FCA is proposing that, on 1 April 2019, the ombudsman service's £150,000 award limit should change to:

- £350,000 for complaints about acts or omissions by firms on or after 1 April 2019
- £160,000 for complaints about acts or omissions by firms before 1 April 2019, and which are referred to the ombudsman service after that date

They also propose that, from 1 April 2020 onwards, both award limits should be automatically adjusted on 1 April to ensure they keep pace with inflation, as measured by the Consumer Prices Index (CPI). For any complaints referred to the ombudsman service before 1 April 2019 the limit will remain at £150,000.

The proposed changes to the ombudsman service's award limit will ensure more complainants receive fair compensation when the ombudsman service upholds their complaint against a firm.

Analysis presented in the Consultation Paper indicates that there could be around 2,000 complaints upheld by the ombudsman service each year where the amount of compensation the service determines is due is above the current award limit. If firms do not voluntarily pay compensation above the award limit then complainants could be suffering an aggregate financial harm of around £113m per year.

While the number of these 'high value' complaints is relatively low (just over 1% of all complaints upheld by the ombudsman service), there is a risk of very significant financial harm to complainants if they do not receive the full amount of fair compensation the ombudsman service considers is due. They consider it unlikely that the individuals and businesses who are eligible to complain to the ombudsman service would have the means to pursue firms for unpaid compensation through the courts.

This is relevant to the general insurance broker/intermediary.

Consultation Papers

CP18/32: Recovering the costs of the Office for Professional Body Anti-Money-laundering Supervision (OPBAS): proposed fee rates for 2018/19

Published: 18/10/2018

<https://www.fca.org.uk/publications/consultation-papers/cp18-32-recovering-costs-office-professional-body-anti-money-laundering-supervision-opbas-proposed>

The FCA is consulting on the fee-rate they propose to charge professional body supervisors (PBSs) in 2018/19 to recover the costs of establishing and running the Office for Professional Body Anti-Money Laundering Supervision (OPBAS). They are also consulting on the timetable for reporting data in the future and confirming the minimum fee structure. This follows the consultation in October 2017 on the framework of OPBAS fees (CP17/35) and the policy statement (PS18/9) published in April 2018.

This is of no direct interest to the general insurance broker or intermediary.

Consultation Papers

CP18/33: Regular premium PPI complaints and recurring non-disclosure of commission – feedback on CP18/18, final guidance, and consultation on proposed mailing requirements

Published: 07/11/2018

<https://www.fca.org.uk/publications/consultation-papers/cp18-33-regular-premium-ppi-complaints-recurring-non-disclosure-commission>

In March 2017, the FCA made rules and guidance in relation to the Supreme Court judgment in Plevin which say that a lender's failure to disclose at point of sale a large commission payable out of the PPI premium can make the lender's relationship with the consumer unfair under the Consumer Credit Act.

The new guidance deals with an uncertainty that has emerged since they made the Plevin framework. The guidance clarifies that firms should assess PPI commission disclosures not only at the point of sale but on an on-going basis, and that this should be assessed under general (non-PPI specific) complaint handling rule (DISP 1.4.1R). The guidance also explains that it may often be reasonable for firms handling PPI complaints involving ongoing non-disclosure of commission to draw from existing rules and guidance on handling PPI complaints in light of Plevin.

The guidance will help ensure fair and consistent outcomes for regular premium PPI complaints.

The proposed mailing requirements would help previously rejected complainants who may have disengaged from the PPI issue and our campaign, but who can make a new complaint about undisclosed commission, to consider doing so before the deadline.

This is of no direct interest to the general insurance broker or intermediary.

Consultation Papers

CP18/34: Regulatory fees and levies: policy proposals for 2019/20

Published: 15/11/2018

<https://www.fca.org.uk/publications/consultation-papers/cp18-34-regulatory-fees-and-levies-policy-proposals-2019-20>

This paper sets out the proposed policy changes to the way that the regulator will raise FCA fees from 2019/20.

This is of interest to the general insurance broker or intermediary.

CP18/35: Rent-to-own and alternatives to high-cost credit – feedback on CP18/12 and consultation on a price cap

Published: 22/11/2018

<https://www.fca.org.uk/publications/consultation-papers/cp18-35-rent-own-alternatives-high-cost-credit-feedback-cp18-12-consultation-price-cap>

This paper sets out the FCA's proposed price cap on the rent-to-own market, summarises feedback to CP18/12 on the questions they asked about rent-to-own, and sets out the final rules on a point-of-sale ban on extended warranties alongside the sale of an RTO agreement. It also includes an update on FCA work on alternatives to high-cost credit.

This is of no direct interest to the general insurance broker or intermediary.

Consultation Papers

CP18/36: Brexit: proposed changes to the Handbook and Binding Technical Standards – second consultation

Published: 23/11/2018

<https://www.fca.org.uk/publications/consultation-papers/cp18-36-brexit-proposed-changes-handbook-and-binding-technical-standards-second-consultation>

In this paper, the FCA publish further proposals on how they will amend the Handbook and EU derived binding technical standards (BTS) if the UK leaves the EU without an implementation period in place. They also consult on their proposed approach to non-Handbook guidance and to forms which appear in the Handbook.

This is of interest to the general insurance broker or intermediary.

CP18/37: Product intervention measures for retail binary options

Published 07/12/2018

<https://www.fca.org.uk/publications/consultation-papers/cp18-37-product-intervention-measures-retail-binary-options>

In this paper, the FCA proposes permanent rules to prohibit the sale, marketing and distribution of binary options to retail consumers by firms that carry out activity in, or from, the UK.

This is of no direct interest to the general insurance broker or intermediary.

CP18/38: Restricting contract for difference products sold to retail clients and a discussion of other retail derivative products

Published: 07/12/2018

<https://www.fca.org.uk/publications/consultation-papers/cp18-38-restricting-contract-difference-products-sold-retail-clients-and-discussion-other-retail>

In this paper, the FCA propose permanent rules to restrict how CFDs and CFD-like options are marketed, distributed, and sold to retail consumers. This paper also includes a discussion on whether other complex derivative products may pose similar risks of harm when sold to retail consumers and could benefit from similar measures.

This is of no direct interest to the general insurance broker or intermediary.

Consultation Papers

CP18/39: Quarterly Consultation Paper No 23

Published: 07/12/2018

<https://www.fca.org.uk/publications/consultation-papers/cp18-39-quarterly-consultation-paper-no-23>

The FCA is seeking views on two candidates for FCA Code recognition. They are proposing to make changes to:

SUP 16, to ensure compliance and increase accuracy of Firm Details reporting, and

CONC App 1, to add the Association of Accounting Technicians (AAT) to the list of bodies whose members can provide a statement of high net worth to individuals, for certain credit and consumer hire agreements with them to be exempt from regulation

This is of no direct interest to the general insurance broker or intermediary.

CP18/40: Consultation on proposed amendment of COBS 21.3 permitted links rules

Published: 12/12/2018

<https://www.fca.org.uk/publications/consultation-papers/cp18-40-consultation-proposed-amendment-cobs-213-permitted-links-rules>

In this paper, the FCA is consulting on potential changes to the permitted links rules in the Conduct of Business (COBS) sourcebook. The purpose is to address any unjustified barriers these may present to investment by retail investors in a broader range of long-term assets in unit-linked funds, while continuing to offer an appropriate degree of investor protection.

This is of no direct interest to the general insurance broker or intermediary.

Consultation Papers

CP18/41: FCA and PRA changes to mortgage reporting requirements

Published: 13/12/2018

<https://www.fca.org.uk/publications/consultation-papers/cp18-41-fca-and-pra-changes-mortgage-reporting-requirements>

In this consultation paper (CP), the FCA and the Prudential Regulation Authority (PRA) set out proposals for new reporting requirements that would apply to mortgage lenders and home finance administrators.

This is of no direct interest to the general insurance broker or intermediary.

CP18/42: High-Cost Credit Review: Overdrafts consultation paper and policy statement

Published: 18/12/2018

<https://www.fca.org.uk/publications/consultation-papers/cp18-42-high-cost-credit-review-overdrafts-consultation-paper-and-policy-statement>

This paper sets out the FCA proposals to radically reform the ways banks and building societies charge for overdrafts. It also sets out the rules they have made to address low awareness and engagement in this market.

This is of no direct interest to the general insurance broker or intermediary.

Consultation Papers

CP18/43: High-Cost Credit Review: Feedback on CP18/12 with final rules and guidance and consultation on Buy Now Pay Later offers

Published: 18/12/2018

<https://www.fca.org.uk/publications/consultation-papers/cp18-43-high-cost-credit-review-feedback-cp18-12-final-rules-and-guidance-and-consultation-buy-now>

As part of the review of high-cost credit products, the FCA has published their feedback to CP18/12 and final rules and guidance in relation to home-collected credit, catalogue credit and store cards.

This is of no direct interest to the general insurance broker or intermediary.

CP18/44: Brexit – Regulatory Technical Standards for Strong Customer Authentication and Common and Secure Open Standards of Communication

Published: 19/12/2018

<https://www.fca.org.uk/publications/consultation-papers/cp18-44-brexit-regulatory-technical-standards-strong-customer-authentication>

In this Consultation Paper the FCA propose to make regulatory technical standards for strong customer authentication and common and secure open standards of communication, which will apply in the UK from 14 September 2019 in the event of a no-deal exit by the UK from the EU.

This is of no direct interest to the general insurance broker or intermediary.

Discussion Papers

DP18/9: Fair Pricing in Financial Services

Published: 31/10/2018

<https://www.fca.org.uk/publications/discussion-papers/dp18-9-fair-pricing-financial-services>

The FCA is launching a public debate on the fairness of certain pricing practices in financial services. This is a complex issue and they want to take into account stakeholder views on their approach so that they are confident that whatever action they take on difficult cases is in the public interest. That is why they are publishing this Discussion Paper and launching a public debate on the topic.

They are focusing the debate on the following pricing practices:

- firms charging different prices to different consumers based solely on differences in consumers' price sensitivity (also known as 'price discrimination')
- firms charging existing customers higher prices than new customers (sometimes referred to as 'loyalty pricing' or 'inertia pricing')
- FCA has concerns that these pricing practices can potentially disadvantage some consumers significantly, in particular the most vulnerable and least resilient consumers.

This discussion paper is published alongside the findings of the diagnostic work on pricing practices in the retail general insurance sector and the terms of reference for a market study on general insurance pricing practices.

This is of some interest to the general insurance broker or intermediary.

DP18/10: Patient Capital and Authorised Funds

Published: 12/12/2018

<https://www.fca.org.uk/publications/discussion-papers/dp18-10-patient-capital-and-authorised-funds>

The FCA is launching a discussion with industry, consumers and their representatives, in order to explore the impact of the regulatory regime on investment in patient capital through authorised funds.

This is of some interest to the general insurance broker or intermediary.

Policy Statements

PS18/20: Improving the quality of pension transfer advice

Published: 04/10/2018

<https://www.fca.org.uk/publications/policy-statements/ps18-20-improving-quality-pension-transfer-advice>

The FCA has published new rules and guidance on improving the quality of pension transfer advice. The new rules set out how advice should be provided to consumers on pension transfers where consumers are considering giving up safeguarded benefits, primarily for transfers from defined benefit (DB) to defined contribution pension schemes.

This is of no relevance to the general insurance broker/intermediary.

Policy Statements

PS18/21: SME access to the Financial Ombudsman Service - near-final rules

Published: 16/10/2018

<https://www.fca.org.uk/publications/policy-statements/ps18-21-sme-access-financial-ombudsman-service-near-final-rules>

In January 2018, the FCA published a Consultation Paper (CP18/3) proposing that SMEs with fewer than 50 employees, annual turnover of under £6.5m and an annual balance sheet total of under £5m should be able to access the ombudsman service on the same terms as individual consumers and micro-enterprises (the smallest SMEs). They proposed broadly equivalent eligibility criteria for charities and trusts. Finally, they proposed that personal guarantors of loans to a business they are involved in should also be able to complain to the ombudsman service.

Following consultation, the FCA has made some changes to our approach. They explain these changes in more detail in the Policy Statement, but, in summary, they have:

- relaxed proposed eligibility criteria for SMEs so that they would only have to meet the turnover test and one of either the headcount or balance sheet total tests, rather than all three
- allowed the ombudsman service more time to prepare for the changes and allowed ourselves more time to consider the changes as part of a wider consideration of the ombudsman service's business plan and budget for 2019-20

The changes to this approach, which the FCA believe are supported by the consultation feedback received, will mean around 210,000 additional SMEs will have access to the ombudsman service.

The changes to ombudsman service's eligibility criteria will come into force on 1 April 2019. The FCA will confirm the commencement date when they publish final rules, which they intend to do before the end of 2018, following consideration of the ombudsman service's business plan and budget.

This is relevant to the general insurance broker/intermediary.

Policy Statements

PS18/22: Authorised push payment fraud – extending the jurisdiction of the Financial Ombudsman Service

Published: 14/12/2018

<https://www.fca.org.uk/publications/policy-statements/ps18-22-authorised-push-payment-fraud-extending-jurisdiction-financial-ombudsman-service>

The policy changes intend to provide victims of alleged authorised push payment (APP) fraud (where they are eligible complainants, see DISP 2.7 in the handbook) with prompt and fair complaints resolution, and access to dispute resolution through the Financial Ombudsman Service for complaints against payment service providers (PSPs) who receive payments relating to the alleged fraud.

These final rules will take effect on 31 January 2019.

To meet the Payment Services Directive 2 (PSD2) requirements, the FCA also extended the Financial Ombudsman Service's compulsory jurisdiction to include complaints by a payer about a payee's PSP's cooperation with the payer's PSP to recover funds from a payment transaction where incorrect details had been provided.

These requirements on misdirected payments will take effect upon publication on 14 December 2018. They apply to complaints about acts or omissions from 13 January 2018.

This is of no direct relevance to the general insurance broker/intermediary.

PS18/23: Claims management: how we will regulate claims management companies

Published 17/12/2018

<https://www.fca.org.uk/publications/policy-statements/ps18-23-claims-management-how-we-will-regulate-claims-management-companies>

This Policy Statement sets out the conduct, rules and fees that the FCA will apply to claims management companies (CMCs) from April 2019. The Policy Statement confirms the approach they will take to regulation following consultations (CP18/15) and (CP18/23) earlier this year.

This is of no direct relevance to the general insurance broker/intermediary.

Policy Statements

PS18/24: Approach to final Regulatory Technical Standards and EBA guidelines under the revised Payment Services Directive (PSD2)

Published: 19/12/2018

<https://www.fca.org.uk/publications/policy-statements/ps18-24-approach-final-regulatory-technical-standards-and-eba-guidelines-under-revised-payment>

This policy statement confirms the revised Payment Services and Electronic Money Approach Document and Handbook changes following consultation feedback.

This is of no direct relevance to the general insurance broker/intermediary.

PS18/25: EU Securitisation Regulation

Published: 19/12/2018

<https://www.fca.org.uk/publications/policy-statements/ps18-25-eu-securitisation-regulation>

This Policy Statement outlines the final and near-final rules that implement the EU Securitisation Regulation and Capital Requirements Regulation (CRR) Amendment. This Policy Statement follows Consultation Papers CP18/22 (August 2018) and CP18/30 (October 2018) on the changes to the Handbook, to ensure it is consistent with the directly applicable EU Securitisation Regulation and CRR Amendment, as well as the implementing Statutory Instrument (SI 2018/1288).

This is of no direct relevance to the general insurance broker/intermediary.

Guidance Consultations

GC18/4: Senior Managers and Certification Regime – Proposed guidance on statements of responsibilities for FCA firms

Published: 11/10/2018

<https://www.fca.org.uk/publications/guidance-consultations/gc18-4-senior-managers-and-certification-regime-proposed-guidance-statements-responsibilities-firms>

The guidance aims to give practical assistance and information to firms preparing SoRs and Responsibilities Maps.

The proposed guidance builds on the information published in the Guides to the SM&CR for solo-regulated firms. The guidance aims to help all FCA firms clearly set out Senior Managers' responsibilities through SoRs. 'Enhanced' firms will also be able to use it to produce Responsibilities Maps which show how their firm is managed and governed.

This is relevant to the general insurance broker/intermediary.

Finalised Guidance

FG18/6: Helping tenants find alternatives to high-cost credit and what this means for social housing landlords

Published: 18/12/2018

<https://www.fca.org.uk/publications/finalised-guidance/fg18-6-helping-tenants-find-alternatives-high-cost-credit-and-what-means-social-housing-landlords>

The FCA has published final guidance for registered social landlords to provide greater clarity about the activities for which they are likely to require authorisation as credit brokers.

This is of no direct relevance to the general insurance broker/intermediary.

FG18/7: Fairness of variation terms in financial services consumer contracts under the Consumer Rights Act 2015

Published: 19/12/2018

<https://www.fca.org.uk/publications/finalised-guidance/fg18-7-fairness-variation-terms-financial-services-consumer-contracts-under-consumer-rights-act-2015>

This final guidance outlines factors financial services firms should consider under the Consumer Rights Act 2015 when drafting and reviewing variation terms in their consumer contracts.

This may have some direct relevance to the general insurance broker/intermediary.
