

# Applying our conduct rules to non-executive directors in the banking and insurance sectors

**Policy Statement**

PS17/8\*\*\*

3 May 2017

## This relates to

Consultation Paper 16/27 which is available on our website at [www.fca.org.uk/publications](http://www.fca.org.uk/publications)

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# 1 Overview

## Introduction

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- 1.1** This Policy Statement (PS) introduces final rules to extend our conduct rules in the Code of Conduct sourcebook (COCON) to standard non-executive directors (NEDs) in banks, building societies, credit unions and dual-regulated investment firms ('banks') and insurance firms<sup>1</sup>.
- 1.2** 'Standard NEDs' are defined in our Handbook as those NEDs who don't hold Senior Management Functions and, therefore, are not subject to regulatory pre-approval under:
- the Senior Managers & Certification Regime (SM&CR) for the banking sector
  - the Prudential Regulation Authority's (PRA) Senior Insurance Managers Regime (SIMR)
  - the FCA's revised Approved Persons Regime for insurance firms
- 1.3** The PRA refers to standard NEDs in banks and insurers as 'notified NEDs' as they are subject to notification requirements under PRA rules<sup>2</sup>.

## Who this affects

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- 1.4** This paper affects banks and insurance firms subject to the PRA SIMR and the FCA-revised Approved Persons Regime, as well as standard NEDs in those firms.

## Interest to consumers

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- 1.5** Applying COCON to standard NEDs will help raise standards of conduct and reduce the risk of future misconduct and mis-selling in firms.

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1 Insurance firms means Solvency II firms, as defined in the FCA Glossary (including large non-Directive firms), and small non-Directive firms.

2 PRA PS16/15 Strengthening individual accountability in banking: responses to CP14/14, CP28/14 and CP7/15 of July 2015 [www.bankofengland.co.uk/pradocuments/publications/ps/2015/ps1615.pdf](http://www.bankofengland.co.uk/pradocuments/publications/ps/2015/ps1615.pdf) and PRA PS22/15 Strengthening individual accountability in insurance: responses to CP26/14, CP7/15 and CP13/15 August 2015 [www.bankofengland.co.uk/pradocuments/publications/ps/2015/ps2215.pdf](http://www.bankofengland.co.uk/pradocuments/publications/ps/2015/ps2215.pdf)



## Context

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- 1.6** In May 2016, the Government introduced the Bank of England and Financial Services Act 2016 which made changes to the SM&CR for banks and extended it to all Financial Services and Markets Act (FSMA) authorised firms.
- 1.7** One of the key changes is the new power for the Regulators (the FCA and the PRA) to apply individual rules of conduct to all directors, irrespective of whether they perform a Senior Manager role or another Controlled Function.
- 1.8** As a result, in September 2016 we consulted on extending the application of COCON to standard NEDs in banks and insurance firms.
- 1.9** We proposed:
- that standard NEDs would be subject to the five FCA Individual Conduct rules set out in COCON 2.1 and to the Senior Conduct rule 4 requiring individuals to 'disclose appropriately any information of which the FCA or PRA would reasonably expect notice'
  - that Senior Conduct rules 1<sup>3</sup>, 2<sup>4</sup> and 3<sup>5</sup> will not apply to a standard NED unless, as well as being a standard NED, they are also a 'senior conduct rules staff member' (as defined in the Glossary)
  - to introduce additional guidance to Individual Conduct rule 2 (ie the requirement to act with due skill, care and diligence) to clarify that this rule applies to a director (whether executive or non-executive) when acting as a member of the Board or other governing body or of its committees
  - to extend to insurance firms the scope of the guidance to COCON 1 (Annex 1) on the role and responsibilities of NEDs
  - to amend the form firms use to report breaches to us, to allow us to recognise which of these breaches relate to standard NEDs in banks
- 1.10** We will publish:
- A CP on the extension of the individual accountability regime to solo-regulated firms. This will include some changes that will impact all firms subject to the SM&CR, including banks.
  - A CP on the extension of the individual accountability regime to insurance firms, which will also include proposals on reporting requirements for breaches of COCON under section 64C of FSMA.

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3 Requiring Senior Managers to take reasonable steps to ensure that the business of the firm for which they are responsible is controlled effectively.

4 Requiring Senior Managers to take reasonable steps to ensure that the business of the firm for which they are responsible complies with regulatory requirements.

5 Requiring Senior Managers to take reasonable steps to ensure that any delegation is i) to an appropriate person and, ii) overseen effectively.

## Summary of feedback and our response

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- 1.11** We received 14 responses, all supportive of our proposals except for one.
- 1.12** The feedback we received focused on three main areas:
- Some respondents noted that the different terminology used by the FCA ('standard NEDs') and PRA ('notified NEDs') is potentially confusing.
  - Some respondents asked for clarity on COCON breach reporting, as NEDs may not be employees of the firm.
  - Some respondents noted that the different FCA and PRA rules on timeframes for reporting requirements for COCON breaches by standard NEDs in banks could create confusion: the FCA consulted on annual notifications, while the PRA consulted on notifications within 7 business days of the relevant internal disciplinary action.
- 1.13** Chapter 2 summarises this feedback in more detail and explains how we considered this as part of making our final rules.
- 1.14** Given we're not making changes to the rules that were consulted on, the cost-benefit analysis in CP16/27 remains valid.
- 1.15** Affected firms should also refer to the PRA's PS on amendments and optimisations to the SM&CR and SIMR, which includes the PRA's final rules about the application of conduct rules to NEDs.

## Equality and diversity considerations

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- 1.16** We have considered the equality and diversity implications of this paper.
- 1.17** Standard NEDs will be subject to the additional duties under COCON. However, how firms apply these requirements will depend on individuals' roles and responsibilities rather than their age, disability status, gender (including transgender), maternity, pregnancy, race, religion and belief or sexual orientation.
- 1.18** So we do not expect the final rules to result in direct discrimination against any protected groups.

## Next steps

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- 1.19** If your firm is affected by these new rules, you will need to ensure that you are ready for their coming into force on 3 July 2017.



## What you need to do next

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**1.20** If your firm is affected by these changes, you will need to:

- Ensure that standard NEDs receive appropriate training on COCON and how it applies to them.
- Report to the FCA any breaches of COCON by standard NEDs resulting in disciplinary action, using Form H<sup>6</sup> (note that this requirement only applies to banks at this stage). For the first reporting period, the notification must cover breaches occurring between 3 July 2017 and the last day of August 2017. This must be submitted to the FCA within two months of the end of the reporting period<sup>7</sup>. As clarified in CP16/27, insurers will still be subject to reporting requirements in SUP 15.3.11R(1) and must notify us in line with SUP 15.7.

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6 Banks must use the version of Form H (named REP008 – Notification of Disciplinary Actions) made available on our electronic systems, which is based on the version found in SUP15 Annex 7R.

7 For the following notification periods, the notification must cover the 12-month period ending on the last day of August (SUP 15.11.13R).

## 2 Feedback on responses to CP16/27

- 2.1** In this section, we summarise the feedback we received to our proposals and explain how we have taken this feedback into account in the final rules.

### Terminology: standard vs notified NEDs

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- 2.2** Some respondents said they would like the PRA and the FCA to use the same term when referring to NEDs not holding Senior Management Functions to alleviate any confusion.

#### Our response

'Standard' NEDs under FCA rules and 'notified' NEDs under PRA requirements both refer to the same group of people: those NEDs not holding Senior Management Functions.

We will keep the different terminology in the short term but we will update it to match PRA when we consult on introducing notification requirements for standard NEDs in FCA solo regulated firms.

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### What triggers reporting of breaches

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- 2.3** Some respondents pointed out that not all NEDs are employees of firms and so firms are limited in their ability to take internal disciplinary action. As such, they suggested that the triggers for reporting breaches should be adapted to reflect the different employment status of NEDs.

#### Our response

Our reporting requirements for COCON breaches are based on section 64C of FSMA defining 'disciplinary action' as the issuing of a formal written warning, the suspension or dismissal of the person, or the reduction or recovery of any of the person's remuneration.

Section 64C of FSMA applies to individuals holding Senior Management Functions, employees and directors.



We recognise that for individuals who are not employees, certain human resources and/or employment law procedures may not apply. For example, as NEDs in banks cannot be awarded variable remuneration, they cannot have such remuneration reduced or recovered<sup>8</sup>.

However, regardless of their employment status, directors may face the equivalent of disciplinary actions in respect of breaches of duties and obligations under statute (such as the Companies Act 2006 in the UK) or provisions set out in other documents or arrangements, such as those set out in the Company's Articles of Association. These may lead to actions being taken against the director, such as their dismissal from office.

Firms should notify us if any (equivalent) disciplinary action is taken against standard NEDs as a result of a COCON breach, whether or not those NEDs are employees of the firm.

Firms are also required to:

- act in an open and cooperative way and to appropriately disclose to the regulator anything relating to the firm the regulator would reasonably expect notice (under PRIN 2.1.1.R(11) – Principle 11).
- notify the FCA as soon as they become aware, or have information that reasonably suggests, that a serious breach of COCON has occurred, may have occurred or may occur in the foreseeable future (under SUP15.3.11R(1)).

Given NEDs sit on a firm's governing body, when misconduct occurs involving a standard NED, firms should consider notification requirements and make appropriate disclosures to the FCA if necessary.

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## Timeframes for reporting breaches

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- 2.4** One respondent encouraged the Regulators to adopt a consistent approach to timeframes for reporting breaches: while the FCA consulted on annual notification for breaches of COCON by standard NEDs (via Form H), the PRA consulted on notifications within seven business days of the relevant internal disciplinary action (via Form L).

### Our response:

Given the number and diversity of firms the FCA regulates, we believe annual reporting remains appropriate in the light of the extension of the SM&CR to all FSMA authorised firms. The reporting requirements in SUP15.11 on notification of COCON breaches and disciplinary actions complement and do not override existing rules in PRIN 11 and in SUP15.3 outlined above.

Also, staff subject to COCON who aren't Senior Managers (for example, material risk takers – MRTs)<sup>9</sup> are already subject to annual notification requirements, unlike MRTs in the PRA's Certification Regime who must report breaches of COCON within seven business days of the relevant internal disciplinary action.

As stated in CP16/27, the PRA will share information with us, where needed.

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<sup>9</sup> But also the wider population of certification employees under the Certification Regime and other 'employees' listed in section 1.1.2.R of COCON 1.



# Annex 1

## List of non-confidential respondents

Association of British Credit Unions

Association of British Insurers (ABI)

Association of Financial Mutuals

Building Societies Association

Company Worksmart Limited

Company Retail Banking Academy: Chartered Banker Institute

Financial Services Consumer Panel

Irish league of credit unions

## Annex 2

# Abbreviations used in this paper

<b>The Bank of England Act</b>	Bank of England and Financial Services Act 2016
<b>COCON</b>	Code of Conduct sourcebook
<b>CP</b>	Consultation Paper
<b>FCA</b>	Financial Conduct Authority
<b>FSMA</b>	Financial Services and Markets Act 2000
<b>MRTs</b>	Material Risk Takers
<b>NED</b>	Non-Executive Director
<b>PRA</b>	Prudential Regulation Authority
<b>PS</b>	Policy Statement
<b>The Regulators</b>	The FCA and the PRA
<b>SIMR</b>	Senior Insurance Managers Regime
<b>SM&amp;CR</b>	Senior Managers & Certification Regime
<b>SMR</b>	Senior Managers Regime

We have developed the policy in this Policy Statement in the context of the existing UK and EU regulatory framework. The Government has made clear that it will continue to implement and apply EU law until the UK has left the EU. We will keep the proposals under review to assess whether any amendments may be required in the event of changes in the UK regulatory framework in the future.

We make all responses to formal consultation available for public inspection unless the respondent requests otherwise. We will not regard a standard confidentiality statement in an email message as a request for non-disclosure.

Despite this, we may be asked to disclose a confidential response under the Freedom of Information Act 2000. We may consult you if we receive such a request. Any decision we make not to disclose the response is reviewable by the Information Commissioner and the Information Rights Tribunal.

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# Appendix

## Made rules (legal instrument)

**INDIVIDUAL CONDUCT RULES (NON-EXECUTIVE DIRECTORS)  
INSTRUMENT 2017**

**Powers exercised**

- A. The Financial Conduct Authority makes this instrument in the exercise of the following powers and related provisions in the Financial Services and Markets Act 2000 (“the Act”):
- (1) section 64A (Rules of conduct);
  - (2) section 64C (Requirements for relevant authorised persons to notify regulator of disciplinary action);
  - (3) section 137A (The FCA’s general rules);
  - (4) section 137T (General supplementary powers); and
  - (5) section 139A (Power of the FCA to give guidance).
- B. The rule-making powers listed above are specified for the purpose of section 138G(2) (Rule-making instruments) of the Act.

**Commencement**

- C. This instrument comes into force on 3 July 2017.

**Amendments to the Handbook**

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

(1)	(2)
Glossary of definitions	Annex A
Code of Conduct sourcebook (COCON)	Annex B
Supervision manual (SUP)	Annex C

**Citation**

- E. This instrument may be cited as the Individual Conduct Rules (Non-Executive Directors) Instrument 2017.

By order of the Board  
27 April 2017

## Annex A

## Amendments to the Glossary of definitions

Insert the following new definitions in the appropriate alphabetical position. The text is not underlined.

- board director* (in relation to a *firm*) has the same meaning as “director” in section 64A(7) of the *Act* (Rules of conduct).
- standard non-executive director* (in relation to a *firm*) any of the following:
- (1) a *board director* of that *firm* who:
    - (a) has no responsibility for implementing the decisions or the policies of the board of *directors*, or if there is no such board, of the equivalent body responsible for the management of the *firm*; and
    - (b) is not:
      - (i) an *SMF manager*; or
      - (ii) an *approved person* whose approval is to perform an *FCA significant-influence function*; or
      - (iii) an *approved person* whose approval is to perform a senior insurance management function as defined in the *PRA Rulebook*;
  - of that *firm*; or
  - (2) a *non-executive director* of that *firm* who is an *employee* (as defined in paragraph (4) of the *Glossary* definition of *employee*) of that *firm*.

Amend the following definition as shown. Underlining indicates new text and striking through indicates deleted text.

- senior conduct rules staff member* (in *COCON*) a *person* who ~~is~~:
- (a) comes within row (1) of the table in *COCON* 1.1.2R (an *SMF manager*);

- (b) comes within row (2) of the table in COCON 1.1.2R (an employee of a relevant authorised person who performs the function of an SMF manager as specified in COCON 1.1.2R(1)(b); or
- (c) meets the following conditions:
  - (i) they come within row (7) of the table in COCON 1.1.2R (an approved person performing a controlled significant-influence function (including a PRA controlled function) in a Solvency II firm (including a large non-directive insurer) or a small non-directive insurer); and
  - (ii) that controlled function is a significant-influence function; or
- (d) comes within row (8) of the table in COCON 1.1.2R (a standard non-executive director of a relevant authorised person, a Solvency II firm (including a large non-directive insurer) or a small non-directive insurer).

Delete the following definition. The text is not shown struck through.

*other conduct rules  
staff*

a person who:

- (a) meets the requirement in COCON 1.1.2R(1)(b) (*employee of a relevant authorised person who performs the function of an SMF manager*);
- (b) meets the requirement in COCON 1.1.2R(1)(c) (*employee of a relevant authorised person who would be an SMF manager but for SUP 10C.3.13R (The 12-week rule)*);
- (c) meets the requirement in COCON 1.1.2R(1)(e) (*employee of a relevant authorised person who would be a certification employee but for SYSC 5.2.27R(1) (Scope: emergency appointments)*); or
- (d) comes within COCON 1.1.2R(1)(f).

## Annex B

## Amendments to the Code of Conduct sourcebook (COCON)

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

## 1 Application and purpose

### 1.1 Application

- 1.1.1 G Under section 64A of the *Act*, the *FCA* may make *rules* about the conduct of approved certain persons and ~~persons who are employees of relevant authorised persons~~ working in firms.

To whom does it apply?

- 1.1.1A R COCON applies to the persons set out in the table in COCON 1.1.2R.

- 1.1.2 R ~~(1) COCON applies to:~~ Table: To whom does COCON apply?

<u>Persons to whom COCON applies</u>	<u>Comments</u>
<del>(a)</del> <u>(1)</u> <del>an An SMF manager;</del> <u>;</u>	
<del>(b)</del> <u>(2)</u> <del>an An employee (“P”) of a relevant authorised person who:</del>  <del>(i)</del> <u>(a)</u> performs the function of an <i>SMF manager</i> ;  <del>(ii)</del> <u>(b)</u> is not an <i>approved person</i> to perform the function in question; and  <del>(iii)</del> <u>(c)</u> is required to be an <i>approved person</i> at the time P performs that function; <del>and</del> <u>;</u>	
<del>(c)</del> <u>(3)</u> <del>an An employee of a relevant authorised person who would be an SMF manager but for SUP 10C.3.13R (The 12-week rule);</del> <u>;</u>	
<del>(d)</del> <u>(4)</u> <del>a A certification employee employed by a relevant authorised person;</del> <u>;</u>	<u>This applies</u> even if the <i>certification employee</i> has not been notified that <i>COCON</i> applies to them or notified



	of the <i>rules</i> that apply to them; 2
<p>(e) <del>an</del> <u>An</u> <i>employee of a relevant authorised person</i> who would be a <i>certification employee</i> but for SYSC 5.2.27R(1) (Scope: emergency appointments) or SYSC 5.2.28AR (Scope: temporary UK role); 2</p>	
<p>(f) <del>any other</del> <u>Any</u> <i>employee of a relevant authorised person not coming within another row of this table, except: one listed in column (2).</i></p> <p>(i) <del>a non-executive director other than a senior conduct rules staff member; and</del></p> <p>(ii) <del>an employee whose role is listed under COCON 1.1.2R(2); and</del></p>	<p>(2) <del>For Swiss general insurers, references in this sourcebook to parts of the PRA Rulebook for ‘Solvency II firms’ are to be read as references to the corresponding parts of the PRA Rulebook applying to large non-directive insurers.</del>  <b>COCON</b> <u>This row</u> does not apply to an <i>employee of a relevant authorised person</i> who only performs functions falling within the scope of the following roles:</p> <p>(a) receptionists;</p> <p>(b) switchboard operators;</p> <p>(c) post room staff;</p> <p>(d) reprographics/print room staff;</p> <p>(e) property/facilities management;</p> <p>(f) events management;</p> <p>(g) security guards;</p> <p>(h) invoice processing;</p> <p>(i) audio visual technicians;</p> <p>(j) vending machine staff;</p> <p>(k) medical staff;</p>

	<ul style="list-style-type: none"> <li>(l) archive records management;</li> <li>(m) drivers;</li> <li>(n) corporate social responsibility staff;</li> <li>(o) data controllers or processors under the Data Protection Act 1998;</li> <li>(p) cleaners;</li> <li>(q) catering staff;</li> <li>(r) personal assistant or secretary;</li> <li>(s) information technology support (ie, helpdesk); and</li> <li>(t) human resources administrators /processors.</li> </ul>
<p><del>(g)</del> <u>(7)</u> <del>an</del> <u>An FCA-approved person or PRA-approved person approved to perform a controlled function in a Solvency II firm (including a large non-directive insurer) or a small non-directive insurer.</u></p>	<p><del>(3)</del> <u><del>COCON</del> This row does not apply to approved persons approved to perform a controlled function in SUP 10A.1.15R to SUP 10A.1.16BR (appointed representatives).</u></p>
<p><u>(8) A standard non-executive director of:</u></p> <ul style="list-style-type: none"> <li><u>(a) a relevant authorised person;</u></li> <li><u>(b) a Solvency II firm; or</u></li> <li><u>(c) a small non-directive insurer.</u></li> </ul>	<p><u>This row only applies to a UK domestic firm.</u></p>
<p><u><b>Note:</b> In accordance with the Glossary, Solvency II firm includes a large non-directive insurer.</u></p>	

1.1.2A

R For Swiss general insurers, references in this sourcebook to parts of the PRA Rulebook for ‘Solvency II firms’ are to be read as references to the corresponding parts of the PRA Rulebook applying to large non-directive insurers.

...

- 1.1.4 R (1) *Rules SC1 to SC4 in COCON 2.2 apply to all senior conduct rules staff members (subject to (2)).*
- (2) *SC1 to SC3 in COCON 2.2 do not apply to a standard non-executive director unless, as well as being a standard non-executive director, they also fall into one of the other categories of senior conduct rules staff member.*

- 1.1.5 G ...
- (2) *The persons in COCON 1.1.2R(1)(a) and (b) are referred to as senior conduct rules staff members. An approved person performing a significant influence function (including a PRA controlled function) in a Solvency II firm or in a small non-directive insurer is also a senior conduct rules staff member. [deleted]*

...

To what conduct does it apply?

- ...
- 1.1.7 R For a person (P) subject to COCON who is not an approved person, COCON applies to the conduct of P in relation to the performance by P of functions relating to the carrying on of activities (whether or not regulated activities) by:

- (1) (in the case of a board director of a firm) that firm; or
- (2) (in any other case) P's employer.

[Note: sections 64A(4), (5)(ab) and (5)(b) of the Act (Rules of conduct)]

- ...
- 1.1.14 G COCON 1 Annex 1 has guidance on the role and responsibilities of non-executive directors of ~~relevant authorised persons~~ to whom COCON applies.

**1 Annex 1G Guidance on the role and responsibilities of NEDs for relevant authorised persons subject to COCON**

<b>1</b>	<b>Introduction</b>
1.1	This annex applies to non-executive directors (NEDs) <del>of: who are performing a designated senior management function. It only applies where the individual performing that function is also a NED.</del>
	(1) <u>a relevant authorised person;</u>

	(2)	<u>a Solvency II firm (including a large non-directive insurer); or</u>
	(3)	<u>a small non-directive insurer.</u>
...		
3.3		<i>SYSC 4.3A.8R and SYSC 4.3A.9R deal with the nomination committee for relevant authorised persons. <u>There is no equivalent material for Solvency II firms. Although being the chair of the nomination committee is not a controlled function for a small non-directive insurer, paragraph 3.2 of this annex is still relevant to a small non-directive insurer if it has such a committee.</u></i>
...		
4.3		<i>Although NEDs who are subject to the senior management regime for <u>SMF managers</u> or the <u>approved persons regime for insurers</u> have individual duties under that regime, the <i>FCA</i> views the regime and its application as consistent with the principle of collective decision-making.</i>

...

#### **4.1 Specific guidance on individual conduct rules**

...

Rule 2: You must act with due skill, care and diligence

...

##### 4.1.3 G ...

Acting with due skill, etc as a manager (rule 2)

...

##### 4.1.8 G ...

Acting with due skill, etc as a member of the Board (rule 2)

4.1.8A G Rule 2 in COCON 2.1.3R applies to a director (whether executive or non-executive) when taking part in the activities of the Board, other governing body or of its committees. This includes, for example, participating in meetings, preparing papers or other submissions for meetings and reporting to the body or committee.

...

## Annex C

## Amendments to the Supervision manual (SUP)

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

## 15.11 Notification of COCON breaches and disciplinary action

Reasons for making a notification to the FCA

- 15.11.1 G Under section 64A of the *Act*, the *FCA* may make *rules* about the conduct of *approved persons* and certain other persons who ~~are employees of relevant authorised persons~~ work for a firm.
- 15.11.2 G *COCON* sets out *rules* under section 64A of the *Act* and ~~guidance about the conduct of~~ conduct rules staff on those *rules* for relevant authorised persons and insurers.
- 15.11.4 G Under section 64C of the *Act*, a *firm* must notify the *FCA* if it takes disciplinary action against ~~any conduct rules staff~~ certain people working for a relevant authorised person and the reason for this action is a reason specified in *rules* made by the *FCA* (those rules are set out in SUP 15.11.6R).
- 15.11.5 G Disciplinary action against a person is defined in section 64C of the *Act* as the issuing of a formal written warning, the suspension or dismissal of a that person who is a member of a relevant authorised person's conduct rules staff or the reduction or recovery of any of such *person's* remuneration.
- 15.11.6 R If a reason for taking the disciplinary action is any action, failure to act or circumstance that amounts to a breach of *COCON*, then the ~~firm~~ relevant authorised person is required to notify the *FCA* of the disciplinary action.
- 15.11.6A G The effect of section 64C of the *Act* and SUP 15.11.6R is that the reporting obligation in section 64C of the *Act* and in this section:
- (a) only applies to relevant authorised persons; and
  - (b) only covers persons who are subject to COCON (who are called conduct rules staff in the FCA Handbook) rather than to the whole workforce of a relevant authorised person.

...

Timing and form of notifications: ~~certification employees and other~~ conduct rules staff other than SMF managers

- 15.11.13 R (1) A *firm* must make any notifications required pursuant to section 64C of the *Act* relating to ~~a certification employee or other~~

*conduct rules staff other than SMF managers* in accordance with SUP 15.11.13R to SUP 15.11.15R.

...

...

- 15.11.14 R (1) A *firm* other than a *credit union* must make each notification pursuant to SUP 15.11.13R (notifications about section 64C of the Act relating to ~~a *certification employee* or other *conduct rules staff*~~ *conduct rules staff other than SMF managers*) by submitting it online through the FCA's website using the electronic system made available by the FCA for this purpose.
- (2) A *firm* must use the version of Form H (named REP008 – Notification of Disciplinary Action) made available on the electronic system referred to in (1), which is based on the version found in SUP 15 Annex 7R.

...

...

- 15.11.15 R A *credit union* must make each notification pursuant to SUP 15.11.13R (notifications about section 64C of the Act relating to ~~a *certification employee* or other *conduct rules staff*~~ *conduct rules staff other than SMF managers*) in accordance with the *rules* and *guidance* in SUP 15.7, using Form H as set out in SUP 15 Annex 7R.

General guidance on notifications of rule breaches and disciplinary action

- 15.11.16 G A *firm* is required to submit nil return notifications about section 64C of the Act in the case of ~~*certification employees* and other *conduct rules staff*~~ (see SUP 15.11.13R(5)). However, a *credit union* is not required to make a nil return. [deleted]

...

15 Annex 7R **Form H: The Notification of Conduct rules Breaches and Disciplinary Action-Form for the notification of disciplinary action relating to conduct rules staff (other than SMF managers) in relevant authorised persons**



Application number  
(for FCA/PRA use only)

**Form H**

**Notification of ~~Conduct~~  
~~Rules Breaches and~~  
Disciplinary Action relating  
to ~~certification employees~~  
~~and other~~ conduct rules  
staff (other than SMF  
managers) in relevant  
authorised persons**

*FCA Handbook Reference: SUP 15 Annex 7R*  
*30 September 2016 3 July 2017*

...

**Disciplinary Action Details**

**Section 4**

For each individual that is the subject of a notification under this Form, please provide the details requested below, in so far as applicable.

A	B	C	D	E	F	G	H	I	J	K	L	M
Title	Surname	Forename(s)	IRN <i>(See note 1)</i>	Date of Birth <i>(See note 1)</i>	National Insurance Number <i>(See note 1)</i>	Passport Number <i>(See note 1)</i>	Nationality <i>(See note 1)</i>	Job Title / Position And Department / Division	Has the person, at any time during the reporting period, been <u>(a) certified for FCA-specified significant-harm function (7) (material risk takers) or (b) a standard non-executive director?</u> <i>(See note 2)</i>	Please identify the relevant conduct rule(s) that have been breached which form the basis of the disciplinary action taken <i>Refer to Conduct Rules</i>	Please provide more information in relation to the conduct rule(s) breached. Please also state here whether the firm is updating a previous notification or is making a new notification. <i>Free text description (2000 characters only. Anything greater than this please provide an attachment.) (See note 2 3)</i>	Please provide information as to the disciplinary action taken: <ul style="list-style-type: none"> <li>• issuing of a formal written warning</li> <li>• suspension or dismissal of the person</li> <li>• reduction or recovery of any of the person's remuneration</li> </ul> <i>Free text description (2000 characters only. Anything greater than this please provide an attachment.) (See note 3 4)</i>

Note 1:  
...

Note 2: If the answer is Yes, please state which of the listed functions the person performed. The term “standard non-executive director” is defined in the Glossary. If your answer to the question in column J is yes, please state which of the listed functions the person performed. The term “standard non-executive director” is defined in the Glossary of definitions section within the Handbook.

Note 2 3: If the firm is updating a previous notification, please confirm this in this column but include the details in column M (see note 3 4).



Note 3 4:

(a) If the person about whom the notification is being made is appealing against the firm's decision, please include details here.

(b) If the firm is updating a previous notification, please include the details in this column. This includes (1) any appeal made by the subject of the notification subsequent to a previous notification or (2) the outcome of any appeal previously notified.

(c) The firm should specify which of the listed types of disciplinary action it has taken.

