



BANK OF ENGLAND
PRUDENTIAL REGULATION
AUTHORITY



Consultation Paper | FCA CP15/29**
| PRA CP35/15

Amendments to Various Forms

18 September 2015

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Appendix 1 Forms amended with immediate effect under powers of direction

Part 1: Shared FCA/PRA Forms amended by direction or requirement with effect from 18th September 2015

- 1** Long Form A – UK Firms (Relevant Authorised Persons only)
- 2** Long Form A – Solvency II firms only
- 3** Long Form A – UK and Overseas Firms (not Incoming EEA)
- 4** Long Form A – Incoming EEA only
- 5** Application for Authorisation Controllers appendices – Partnership
- 6** Application for Authorisation Controllers appendices – Individual
- 7** Application for Authorisation Controllers appendices – Corporate
- 8** Application for Authorisation – Disclosure of significant events appendix
- 9** Notification for Change in Controller (Section 178 notice) – Partnership
- 10** Notification for Change in Controller (Section 178 notice) – Individual
- 11** Notification for Change in Controller (Section 178 notice) – Corporate
- 12** Notification for Change in Controller (Section 178 notice) – Intragroup transactions

Appendix 1 Forms amended with immediate effect under powers of direction (continued)

Part 2: FCA Forms amended by direction or requirement with effect from 18th September 2015

- 1 Sole Trader Appendix
- 2 PSD Individual Form: Application Form for an individual responsible for the management of a Payment Institution
- 3 Application for a Payment Institution Qualifying Holding (Controller) – Individual Form
- 4 Application for a Payment Institution Qualifying Holding (Controller) – Corporate Form
- 5 Application for a Payment Institution Qualifying Holding (Controller) – Partnership Form
- 6 Notification for a ‘Change in Qualifying Holding’ Individual (Controller) Form for a Payment Institution
- 7 Add a PSD agent form: Application under regulation 29 of The Payment Services Regulations 2009
- 8 Application Form for an individual responsible for the management of an Electronic Money Institution
- 9 Application for Authorisation as an Authorised Electronic Money Institution Qualifying holding (Controller) Individual
- 10 Application for Authorisation as an Authorised Electronic Money Institution Qualifying holding (Controller) Corporate
- 11 Application for Authorisation as an Authorised Electronic Money Institution Qualifying holding (Controller) - partnership
- 12 Add an EMD Agent Form: Application under regulation 34 of the Electronic Money Regulations 2011
- 13 Application for Registration as a Small Electronic Money Institution (SEMI) form
- 14 Form 272: Application for an order declaring an overseas collective investment scheme to be recognised in the UK
- 15 Application for registration as a consumer buy-to-let mortgage firm

Appendix 2 Draft Handbook text and PRA Rulebook text – proposed changes to forms made under rulemaking powers

This Appendix contains the following draft rules (in Parts One to Three) amending forms. Those amendments are the subject of this CP.

Part One: Draft FCA instrument amending Forms D and F;

Part Two: Draft PRA Handbook Instrument amending Form D;

Part Three: Draft PRA Rulebook Instrument amending Forms D, F and M.

We are asking for comments on this Consultation Paper by 19 October 2015.

You can send them to us in writing to:

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Canary Wharf
London E14 5HS
Telephone: 020 7066 4834
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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.

You can download this Consultation Paper from our website: www.fca.org.uk.

The Bank of England and the Prudential Regulation Authority (PRA) reserve the right to publish any information which it may receive as part of this consultation.

Information provided in response to this consultation, including personal information, may be subject to publication or release to other parties or to disclosure, in accordance with access to information regimes under the Freedom of Information Act 2000 or the Data Protection Act 1998 or otherwise as required by law or in discharge of our statutory functions.

Please indicate if you regard all, or some of, the information you provide as confidential. If the Bank of England or the PRA receives a request for disclosure of this information, the Bank of England or the PRA will take your indication(s) into account, but cannot give an assurance that confidentiality can be maintained in all circumstances. An automatic confidentiality disclaimer generated by your IT system on emails will not, of itself, be regarded as binding on the Bank of England and the PRA.

This Consultation Paper proposes changes to the PRA Rulebook.

Please address responses, comments or enquiries by 19 October 2015 to:

CP35/15@bankofengland.co.uk

Abbreviations used in this document

CBA	Cost benefit analysis
CP	Consultation paper
FCA	Financial Conduct Authority
FSMA	Financial Services and Markets Act 2000
PRA	Prudential Regulation Authority
SIMR	Senior Insurance Managers Regime
SMR	Senior Managers Regime

1. Overview

- 1.1** The Financial Conduct Authority (FCA) and the Prudential Regulation Authority (PRA), together ‘the regulators’, are introducing a new accountability regime for deposit-takers, insurers and PRA-designated investment firms.
- 1.2** As part of implementing the new regime, the regulators have consulted on amendments to a series of forms used by firms and individuals relating to regulatory approval for certain roles. During this exercise, we received feedback regarding the necessity of some of the questions asked in these forms.
- 1.3** Reflecting on that feedback, this paper sets out proposed amendments to two forms for the new regime and to two forms used in the current Approved Persons Regimes. These changes alter the questions to ensure we only require necessary disclosures from those we regulate, while ensuring the regulators remain able to properly assess the fitness and propriety of those we are required to approve.

Who does this consultation affect?

- 1.4** This paper will be of interest to all FCA and PRA-authorized firms and individual candidates for approval as approved persons, notified non-executive directors and key function holders.

Is this of interest to consumers?

- 1.5** This paper will primarily be of interest to firms.

Competition

- 1.6** The regulators do not consider these amendments are likely to have any adverse impact on effective competition.

Equality and diversity considerations

- 1.7** The regulators do not believe that the proposals in this paper introduce any adverse effects on any protected characteristics as the same questions will be asked of all applicants regardless of their background or circumstances. However, as with the whole consultation, we welcome feedback on this.

Next steps

What do you need to do next?

- 1.8** The regulators want to know what you think of our proposals. Please send us your comments by 19 October 2015.

How?

- 1.9** Please send your responses to both regulators at the following addresses:

CP35/15@bankofengland.co.uk

cp15-29@fca.org.uk

Next Steps

- 1.10** The regulators will consider your feedback and intend to publish our rules adopting the revised forms in a policy statement before the end of 2015.

2. Amendments to various forms

- 2.1** As part of introducing the new accountability regimes, the regulators have consulted on a series of consequential amendments to the forms used by firms and individuals in relation to roles that require pre-approval from us.
- 2.2** Large sections of the forms were not altered by these consultations as they were unaffected by the Senior Managers (SMR) or Senior Insurance Managers (SIMR) Regimes. This included questions contained in a series of forms relating to the fitness and propriety of prospective candidates¹ for roles requiring pre-approval. We received feedback that some questions sought unnecessary disclosure from firms and candidates.
- 2.3** We have considered this feedback and propose to alter the relevant questions in those forms accordingly. As these questions are asked in a wide range of forms, we consider it appropriate to make these changes wherever the relevant questions are asked. This includes forms relating to the approved persons regime, sole traders, change in control and e-money, funds and payment services firms.
- 2.4** For some SMR and SIMR forms effective from 7 March 2016, this involves reinstating questions that were removed as part of the initial response to previous consultations on the new regimes. The questions are being reinstated as the regulators consider them necessary in order to assess fitness and propriety. The reinstated questions use revised wording that reduces the scope of the current regulatory requirement on firms and individuals. The regulators plan to issue guidance notes to firms, later in the year, on how to complete the revised forms for the SMR and SIMR (this will include, for example, guidance on how to interpret question 5.01.5d, requested by some insurance firms).
- 2.5** A substantial majority of the forms containing questions relating to fitness and propriety are shared forms made under the regulators' powers of direction under FSMA. Where forms are made under such powers, there is no statutory duty on the regulators to consult when changing them. The regulators have today made changes to those forms under a power of direction with immediate effect. These changes respond to the feedback received to previous consultations, harmonise the disclosure across firms and, in contrast to versions of the forms used by firms and candidates currently, reduce the scope of the information sought. The revised questions are more targeted to ensure that the regulators are aware of any ongoing investigations and any past convictions (whether or not spent) that are not protected under the Rehabilitation of Offenders Act.
- 2.6** Please see Appendix 1 to this paper for the forms made today by the regulators.
- 2.7** In practice many firms access these forms online. Accordingly, we have also changed the online versions. These changes may take a few days to take effect in the system.

¹ See e.g. section 5 of Long Form A - UK Firms (Relevant Authorised Persons only) Approval to perform senior management functions.

2.8 There are also two shared forms, and a PRA-only form, made under rulemaking powers that contain questions that mirror the questions in the forms amended today. Where forms are made under rulemaking powers, there is a statutory requirement on the regulators to consult on any proposed changes to them. The regulators will review the directions made today in light of the responses to this consultation, but on balance considered that it was in the interest of candidates and firms to amend the forms made under the directions power first, and then to consult on similar amendments to the following forms made under rulemaking powers. The forms are as follows:

- Form D is a shared form used by firms to notify the regulators of any changes in circumstances for approved persons.
- Form F is a shared form and relates to overseas firms.
- Form M is a PRA-only form that applies from 7 March 2016 and relates to the appointment of Non-Executive Directors and Key Function Holders.

2.9 We believe the proposed changes to these forms are straightforward and so we are consulting for a period of one month. Appendix 2 contains the proposed changes to Forms D, F and M.

2.10 If firms are submitting a Form D or F to the regulators online before the publication of our final policy they will see that the wording will reflect the position we are consulting on. Should firms be submitting these forms in this period on paper, they should answer the relevant questions as if they were phrased as we propose in the appendices to this paper. If firms are at all unsure about this, they can contact the regulators via the contact details in this consultation paper and we will assist them.

2.11 Please note that the amendments made today to Long Form A, and those proposed to Form M, will also be relevant to equivalent forms for non-Solvency II insurance firms, which are currently subject to open consultation.² Accordingly, we welcome feedback from these firms on the proposed changes for the full duration of this consultation.

2.12 The regulators may conduct a fuller review of the disclosures sought through the forms in their respective rulebooks. This review may lead to future amendments or consultations, as appropriate (including as a response to the Fair and Effective Markets Review report).

Q1: Do you agree with the FCA and PRA's proposed amendments to the questions in Forms D and F?

Q2: Do you agree with the PRA's proposed amendments to the questions in Form M?

² Please see PRA CP26/15 and FCA CP 15/25 – which close on 12 October 2015.

Annex 1:

FCA Cost benefit analysis

1. FSMA, as amended by the Financial Services Act 2012, requires us to publish a cost benefit analysis (CBA) of our proposed rules. Specifically, section 138I requires us to publish 'an analysis of the costs, together with an analysis of the benefits' that will arise if the proposed rules are made. It also requires us to include estimates of those costs and benefits, unless they cannot reasonably be estimated or it is not reasonably practicable to produce an estimate.

Market failure analysis

2. The potential failure in the market that we are seeking to address is a regulatory issue. It stems primarily from the requirement on firms to disclose information as part of the application process associated with becoming a controlled function, or as part of certain transaction. The current requirements are broader than is necessary.

Compliance costs for firms

3. We believe that the costs to firms of these proposals will be negligible and may even represent a slight overall reduction. The amended questions narrow the scope of disclosures, which should make the forms simpler for firms and individuals to complete.

FCA costs

4. We believe there will be negligible costs to the FCA incurred by these proposals, and possibly a slight reduction. The amended questions ensure only necessary disclosure, making the authorisations process more efficient.

Benefits

5. These proposals should ensure only necessary disclosures are made by firms when completing forms for the approval of individuals or transactions by the regulators. Firms will have a narrower range of potential information to consider reducing the associated burden of sourcing required data. In addition, only necessary disclosures will be received by the FCA, thereby enabling more efficient assessment of the information submitted.
6. The proposals support the overall aim of ensuring appropriate standards of conduct from individuals in important roles in financial services firms, by improving the FCA's assessment of the fitness and propriety of these individuals. We may review the questions in future to consider if there is a need to introduce additional changes.

Annex 2: PRA Cost benefit analysis

1. The PRA is required to perform an analysis of the economic impact in respect of proposed rule amendments.

Compliance costs for firms

2. The PRA believe that the costs to firms of these proposals are negligible, if not they represent a slight overall reduction. Focusing the questions in the relevant forms narrows the scope of disclosures, which should make the forms simpler for firms and individuals to complete.

PRA costs

3. The PRA believe there will be negligible costs to the regulators incurred by these proposals, and possibly a slight reduction. Focusing the questions in the forms means that any disclosures made in response to them will better align with the information the PRA needs to make its decisions.

Benefits

4. These proposals should focus the disclosures made by firms when completing forms for the approval of individuals or transactions by the regulators. Altering the disclosures sought in the manner proposed should bring about benefits for both firms, who will have a narrower range of potential information to consider, and the PRA, who will receive answers that better align with the information needed to make the relevant decisions.
5. The PRA is not of the view that amendments being made will reduce the PRA's ability to make appropriate assessment of the fitness and propriety of these individuals. The PRA and FCA may review the questions in future to consider if there is a need to introduce additional changes.

Annex 3: FCA Compatibility statement

Compatibility with the FCA’s general duties

1. This appendix sets out how the proposals in this CP are compatible with the general duties and regulatory principles of the FCA. The FCA is required, by section 138I of FSMA, to explain why making the proposed rules is compatible with its strategic objective, advances its operational objectives, and has regard to the regulatory principles in section 3B of FSMA.

The FCA’s strategic objective and regulatory principles

2. The proposals set out in this CP are compatible with our strategic objective of ensuring that the relevant markets function well. This CP supports our proposals, already consulted on, to clarify the lines of responsibility at the top of firms and enhance the FCA’s ability to hold senior and other individuals in such firms to account. This should, over time, result in improved governance within the industry.
3. In preparing these proposals, we have had regard to the regulatory principles set out in s.3B FSMA. We set out below how our proposals demonstrate such regard for each of the regulatory principles:

Regulatory principle	Compatibility
<p>Efficiency and economy</p> <p>The need to use FCA resources in the most efficient and economical way</p>	<p>The FCA and PRA have collaborated in order to take a consistent approach to amending these shared forms. This ensures that they are able to continue to take advantage of synergies and promote efficient use of both regulators’ resources.</p>
<p>Proportionality</p> <p>A burden or restriction should be proportionate to the benefits, considered in general terms, which are expected to result from the imposition of that burden or restriction.</p>	<p>The proposals in this CP are directly relevant to this principle as they seek to reduce requirements on individuals and firms submitting these forms.</p>
<p>Sustainable growth</p> <p>The desirability of sustainable growth in the UK economy in the medium or long term.</p>	<p>We do not consider this principle to be directly relevant to the proposals in this CP.</p>
<p>Consumer responsibility</p> <p>Consumers should take responsibility for their decisions</p>	<p>The proposals we have made concern the internal organisation of firms and requirements applying to their staff. These are not matters over which consumers can have any influence.</p>

Regulatory principle	Compatibility
<p>Senior management responsibility</p> <p>The responsibilities of senior management of persons subject to requirements imposed by or under FSMA, including those affecting consumers, in relation to compliance with those requirements</p>	<p>The proposals in this CP support our overall objective that senior managers within relevant firms are clear about the responsibilities they hold and can therefore be more effectively held accountable for the performance of those responsibilities.</p>
<p>Recognising the differences in the businesses carried on by different regulated persons</p> <p>The desirability of exercising our function that recognises differences in the nature of the businesses carried on by different persons we regulate</p>	<p>The proposals in this CP amend questions wherever they are asked to ensure that for all firms only necessary disclosures are sought.</p>
<p>Openness and disclosure</p> <p>The desirability of publishing information relating to persons</p>	<p>We will not normally make public the fact that we are or are not investigating a particular matter or any of our findings or conclusions of an investigation public except as set out in chapter 6 of the Enforcement Guide. The proposals contained in this CP do not change that position.</p>
<p>Transparency</p> <p>The FCA should exercise its functions as transparently as possible.</p>	<p>We are an open and transparent regulator and welcome feedback on the proposals outlined in this CP.</p>

The FCA's operational objectives

Consumer protection and market integrity

4. The objective of the proposals contained in this CP is to support our overall objective that senior persons in relevant firms are held accountable for the roles they perform. This is intended to create a structure that will make it more likely that individuals and roles are appropriately matched and that high standards of conduct are observed. We therefore consider that these aims and objectives support our consumer protection and market integrity objectives.

Promoting competition

5. In preparing the proposals set out in this CP, we have had regard to our duty to promote effective competition in the interests of consumers under section 1B(4) FSMA. The proposals in this CP relate to disclosures sought from all firms for certain roles and transactions and the FCA do not believe they are likely to have any adverse impact on effective competition.

Mutuals

6. The FCA also has a statutory requirement under section 138K(2) of FSMA to state whether the impact on mutual societies will be significantly different from the impact on other firms. The FCA considers that mutuals are not expected to be affected differently, or in a disproportionate way, from other firms by these proposals.

Annex 4: PRA Compatibility statement

1. This appendix sets out how the proposals in this CP are compatible with the general duties and regulatory principles of the PRA. The PRA is required, by section 138J(2)(d) of FSMA, to explain its reasons for believing that making the proposed amendments is compatible with:
 - Its duty to act, so far as is reasonably possible, in a way which advances its general objective (i.e. to promote the safety and soundness of PRA-authorized persons and to contribute to the securing of an appropriate degree of protection for those who are or may become insurance policyholders).
 - Its duty to act, so far as is reasonably possible, in a way which, as a secondary objective, facilitates effective competition in the markets and services provided by PRA authorized persons in carrying on regulated activities.
2. The amendments in this CP are compatible with the PRA's general objective in that they provide for the operation of the wider accountability regime and help to promote safety and soundness of firms.
3. The PRA does not consider that these amendments are likely to have any adverse impact on effective competition.
4. In developing the proposals in this CP, the PRA has had regard to the eight Regulatory Principles, which are set out in section 3B of FSMA.

a) ***The need to use the resources of each regulator in the most efficient and economic way***

The PRA and FCA have collaborated in order to take a consistent approach to amending these shared forms. This ensures that they are able to continue to take advantage of synergies and promote efficient use of both regulators' resources.

b) ***The principle that a burden or restriction which is imposed on a person, or on the carrying on of an activity, should be proportionate to the benefits, considered in general terms, which are expected to result from the imposition of that burden or restriction***

The amendments in this CP are directly relevant to this principle as they seek to reduce requirements on individuals and firms submitting these forms.

c) ***The desirability of sustainable growth in the economy of the United Kingdom in the medium or long term***

The PRA does not consider this to be directly relevant for this CP.

d) ***The general principle that consumers should take responsibility for their decisions***

The PRA does not consider this to be relevant for this CP.

e) ***The responsibilities of the senior management of persons subject to requirements imposed by or under this Act, including those affecting consumers, in relation to compliance with those requirements***

The rationale of the proposal in this CP is to improve forms that contribute towards the operation and implementation of the existing and future individual accountability regimes.

f) ***The desirability where appropriate of each regulator exercising its functions in a way that recognises differences in the nature of, and objectives of, businesses carried on by different persons subject to requirements imposed by or under this Act [FSMA]***

The PRA has given recognition to the varying nature and objectives of activities carried out by PRA-authorized persons. The PRA does not believe the proposal in this CP has implications for this principle.

g) ***The desirability in appropriate cases of each regulator publishing information relating to persons on whom requirements are imposed by or under this Act, or requiring such persons to publish information, as a means of contributing to the advancement by each regulator of its objectives***

The PRA has the power to publish certain information relating to investigations into firms and individuals. The Statement of the PRA's Approach to Publicity of Regulatory Action (April 2013) deals with the PRA's approach to publication of disciplinary and other enforcement actions. The proposals contained in this consultation do not provide for any changes in this regard.

h) ***The principle that the regulators should exercise their functions as transparently as possible***

This CP gives respondents the opportunity to comment on the amendments being made, including those that are being implemented with immediate effect where formal consultation is not required.

Impact on mutuals

5. The PRA has a statutory requirement under section 138K(2) of FSMA to state whether the impact on mutuals societies will be significantly different from the impact on other firms. The PRA does not believe that the impact of the proposed changes on mutual will be different from the impact on other firms. The proposed amendments have the same implications for applications relating to mutuals as they have for applications relating to other types of regulated firms.

Annex 5: List of questions

- Q1:** Do you agree with the FCA and PRA's proposed amendments to the questions in Forms D and F?
- Q2:** Do you agree with the PRA's proposed amendments to the questions in Form M?



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