

FCA Handbook changes: New depositary breach reporting rules

New rules and reporting templates are to be introduced for depositaries from 1st January 2017. Monthly reporting of FUND and COLL breaches, along with a new template for quarterly reporting of monitoring visits, will now be required.

Regulatory Background

The UK Financial Conduct Authority (FCA) is making changes to Section 6 of Chapter 16 of its Supervision manual (SUP 16.6) concerning requirements for depositaries to report certain breaches of COLL and FUND rules by authorised fund managers (AFMs).

The FCA reached an informal agreement with members of the Depositary and Trustee Association (DATA) in November 2014 that depositaries would voluntarily begin reporting full details of all COLL and FUND breaches they record on behalf of the funds they oversee, together with any findings that arise from their monitoring programs. This information is already collected on a regular basis by depositaries.

To incorporate the enhanced reporting measures on a permanent basis the FCA proposed changes to the the quarterly reporting regime in Consultation Paper 15/27 of 3rd September 2015. A monthly and quarterly report will both now be required from 1st January 2017.

Current reporting requirements

SUP 16.6 currently dictates that depositaries must submit quarterly returns to the FCA that include:

- instances where the AFM has sold more units than are in existence but does not take prompt action to make up the deficit (“negative boxes”);
- material and immaterial pricing errors; and
- instances where the depositary did not consider the AFM’s controls to be adequate.

Although the current reporting regime contained valuable information, the FCA found that the reported data was limited in scope and did not detail the nature of the breaches, focusing mainly on material pricing errors and negative boxes.

The existing requirements also give the depositary the flexibility to not report breaches it considers isolated. The lack of a definition of ‘isolated’ has led to inconsistent reporting.

Monthly Breach Report

A *Monthly Breach Report* will now be required concerning COLL and FUND breaches recorded by an authorised fund’s depositary for each authorised fund for which it is a depositary, as set out in the proposed new SUP 16.6.8R(1A) rule.

The monthly report is **due 30 business days after the month end** and must include:

- details of all COLL and FUND breaches which came to the depositary’s attention or were reported to the depositary by the AFM during the previous month;
- details of any changes to the reported details of an existing breach;
- details of all breaches that were reported and that have been closed during the previous month; and
- whether the AFM has, in the opinion of the depositary, adequate controls over (a) the issue and cancellation of units; and (b) valuation and pricing.

A depositary must complete the *Monthly Breach Report* in accordance with SUP 16.6.8R(1A) using the new template form REPO11 in SUP 16 Annex 12AR.

Quarterly Oversight Report

A revised *Quarterly Oversight Report* on the monitoring of AFMs' operations by the depositary will also be required by the FCA, as set out in the new SUP16.6.8R(1B) Handbook rule.

The quarterly report is **due 30 days after the quarter end** and should include:

- details of each AFM visited during the previous quarter; and
- for each area reviewed:
 - the findings and conclusions of the depositary;
 - its recommendations; and
 - the authorised fund manager's response and comments, where available.

A depositary must complete the *Quarterly Oversight Report* in accordance with SUP 16.6.8R(1B) using the new template form REPO12 in SUP 16 Annex 12AR.

Method of Reporting

Both the *Monthly Breach Report* and *Quarterly Oversight Report* should be submitted online by AFMs to the FCA via the GABRIEL system.

If GABRIEL is unavailable, then the report should be submitted via email to fundssupervision@fca.org.uk

Links to further information

The changes to be made to the FCA Handbook from 1st January 2017, as well as the new reporting templates, can be found by [following this link](#)

How can we help?

The new reporting rules will be fully supported by the Funds-Axis FundWare™ solution.

Funds-Axis provides comprehensive investment compliance, regulatory reporting (including AIFMD Annex IV) and shareholder disclosures monitoring to the asset management industry.

Please contact a member of our dedicated team below for further support and information.



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