

Consumer Redress Schemes sourcebook

Schedule 1 Record keeping requirements

Sch 1.1 G

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|---|---|
| 1 | The aim of the <i>guidance</i> in the following table is to give the reader a quick overall view of the relevant record-keeping requirements. |
| 2 | It is not a complete statement of those requirements and should not be relied on as if it were. |

Sch 1.2 G

Handbook reference	Subject of record	Contents of record	When record must be made	Retention period
CONRED 2.10.1R(1)(a)	Arch cru consumer redress scheme	Certificate of posting for each letter sent	When letter sent	Five years
CONRED 2.10.1R(1)(b)	Arch cru consumer redress scheme	Copy of each letter sent	When letter sent	Five years
CONRED 2.10.1R(1)(c)	Arch cru consumer redress scheme	Record of attempts to contact consumer or obtain further information	When attempts made	Five years
CONRED 2.10.1R(1)(d)	Arch cru consumer redress scheme	Completed template for each opted-in scheme case	When template completed	Five years
CONRED 2.10.1R(1)(e)	Arch cru consumer redress scheme	All information on the consumer file and information received from the consumer	When located on consumer file or obtained	Five years

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Handbook reference	Subject of record	Contents of record	When record must be made	Retention period
CONRED 4.9.1R(1)(a)	BSPS consumer redress scheme	Evidence of posting for each letter sent	When letter sent	5 years
CONRED 4.9.1R(1)(b)	BSPS consumer redress scheme	Copy of each letter sent	When letter sent	5 years

Handbook reference	Subject of record	Contents of record	When record must be made	Retention period
CONRED 4.9.1R(1)(c)	BSPS consumer redress scheme	Record of attempts to contact <i>consumer</i> , any other relevant <i>firm</i> or obtain further information	When attempts made	5 years
CONRED 4.9.1R(1)(d)	BSPS consumer redress scheme	A copy of the Excel spreadsheet containing a completed BSPS DBAAT or FCA DBAAT for each scheme case	When BSPS DBAAT completed	5 years
CONRED 4.9.1R(1)(e)	BSPS consumer redress scheme	A record of the redress calculation performed by the BSPS calculator in Excel Spreadsheet format	When the redress calculation carried out	5 years
CONRED 4.9.1R(1)(f)	BSPS consumer redress scheme	Information on the <i>consumer</i> file and information received from the <i>consumer</i>	When located on <i>consumer</i> file or obtained	5 years

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Schedule 2 Notification requirements

Sch 2.1 G

Handbook reference	Matters to be notified	Contents of notification	Trigger event	Time allowed
CONRED 2.4.9R	Information on the total number of scheme cases; opted-in scheme cases, and investments in Arch cru funds	(1) total number of scheme cases; (2) The number of such investments resulting from the <i>regulated activities</i> for a <i>customer</i> in CONRED 2.1.3R; and the number of such investments falling outside the scheme with an explanation of the reason why, in each case; (3) the total number of opted-in scheme cases.	None: notification required in all cases	Until 29 July 2013
CONRED 2.9.2R	Information on the number of opted-in scheme cases; completed and incomplete templates and the results of such; the total number of redress cases; the total number of <i>redress determinations</i> sent to <i>consumers</i> ; the total number of con-	(1) the total number of opted-in scheme cases; (2) the total number of completed templates; (3) the total number of incomplete templates, with an explanation as to why the templates have not	None: notification required in all cases	Until 9 December 2013

Handbook reference	Matters to be notified	Contents of notification	Trigger event	Time allowed
	<i>sumers</i> paid redress and the amount of such; and the total amount of redress unpaid to date.	<p>been completed;</p> <p>(4) the total number of redress cases;</p> <p>(5) the total number of redress determinations sent to <i>consumers</i>;</p> <p>(6) the total number of <i>consumers</i> paid redress to date;</p> <p>(7) the total amount of redress paid to date; and</p> <p>(8) the total amount of redress unpaid to date.</p>		

Sch 2.1A G

Handbook reference	Matters to be notified	Contents of notification	Time allowed
CONRED 3.2.7R(1), (1A) and (4)	Outcome of the financial resilience assessment in CONRED 3.2.2R	Outcome of the financial resilience assessment in CONRED 3.2.2R	Before the end of 27 May 2022 or 28 February 2023, and immediately if the outcome changes
CONRED 3.2.7R(7)	That N and CL, as calculated under CONRED 3.2.4AR and CONRED 3.2.6AR, are both zero	That N and CL, as calculated under CONRED 3.2.4AR and CONRED 3.2.6AR, are both zero	Promptly

Handbook reference	Matters to be notified	Contents of notification	Time allowed
CONRED 3.3.6R	Where the <i>firm</i> wishes to obtain prior express consent from the <i>FCA</i> for payment of dividends or LLP members drawings	<ul style="list-style-type: none"> (a) the value of the proposed dividend(s); (b) the date on which the <i>firm</i> intends to pay the proposed dividend(s); (c) the recipients of the proposed dividend(s); (d) a clear statement of the quantified effect of the payment of the proposed dividend(s) on the <i>firm's</i> regulatory capital position; (e) a copy of the <i>firm's</i> latest management accounts; (f) an express confirmation that the payment of the proposed dividend(s) is lawful under applicable company or partnership law and insolvency law; (g) demonstration that the dividend(s) will be paid in connection with services provided for or on behalf of the <i>firm</i> by a natural person; and (h) demonstration that the timing of the proposed payment and the value of the dividend(s) are consistent with the historical pattern of the payment of dividends for equivalent purposes over the immediately preceding 12 months. 	In advance (express consent required)
CONRED 3.3.10R	<p>Transactions in the ordinary course of business which do not fall within CONRED 3.3.5R</p> <p>Any contract change with <i>connected persons</i> which could result in payments above the de minimis threshold</p>	<ul style="list-style-type: none"> (a) an explanation of the transaction or contract change; (b) an explanation of the quantifiable impact on the <i>firm's</i> financial resilience assessment under CONRED 3.2.2R; (c) an explanation of why the <i>firm</i> considers that the transaction or contract change occurs in the ordinary course of business and is therefore permitted; 	At least 15 <i>business days</i> in advance, unless urgent situation

Handbook reference	Matters to be notified	Contents of notification	Time allowed
		(d) reference to any comparable historic payments or contract changes which support the <i>firm's</i> view that this occurs in the ordinary course of business; and	
		(e) in the case of a notification on an urgent basis under CONRED 3.3.10R(2), an explanation of the nature of the urgency and why it has not been possible to comply with the normal 15-business day notification requirement in CONRED 3.3.10R(1).	

Sch 2.2 G

Handbook reference	Matters to be notified	Contents of notification	Time allowed
CONRED 4.8.2R(1) and (2) and CONRED 4.8.3R	Information about each case the <i>firm</i> has taken scheme steps for	(1) <i>consumer</i> identifier;	By 6 weeks after the scheme effective date and then every 2 weeks
		(2) the date the letter at CONRED 4 Annex 2R was sent;	
		(3) whether the <i>consumer</i> receiving the letter in (2) has opted out of the scheme and the date a <i>firm</i> received notification from the <i>consumer</i> of their decision to opt-out;	
		(4) where the <i>firm</i> has carried out the case review at CONRED 4.3.2R:	
		(a) the date the case review was completed;	
		(b) a copy of the completed FCA or BSPS DBAAT;	
		(c) whether the scheme case was rated suitable, unsuitable or 'non-compliant due to a material information gap(s)' or 'not-compliant-unclear' (in the case of the FCA DBAAT);	
		(d) for scheme cases rated as unsuitable, the result of the causation assessment;	
	(5)	in a case where a <i>firm</i> has concluded that the advice was suitable:	

Handbook reference	Matters to be notified	Contents of notification	Time allowed
		(a) the date a <i>firm</i> sent the letter at CONRED 4 Annex 9R;	
		(b) the <i>consumer's</i> name, address, telephone number(s) and, where available, email address (in the BPS DBAAT or, where using an FCA DBAAT, in the Reg Data report);	
		(c) whether a <i>firm</i> is aware that the consumer has complained to the <i>Financial Ombudsman Service</i> about the determination communicated in (a);	
		(d) the date a <i>firm</i> became aware of any complaint in (c); and	
		(e) the outcome of the complaint (both suitability and causation as applicable) as notified to the <i>firm</i> by the <i>Financial Ombudsman Service</i> in accordance with DISP 3.6.6R(5);	
	(6)	in a case where a <i>firm</i> has concluded that the advice was unsuitable and answered 'no' to the causation question, the date a <i>firm</i> sent the letter at CONRED 4 Annex 8R;	
	(7)	in a case where a <i>firm</i> has concluded that the advice was unsuitable and answered 'yes' to the causation question the date a <i>firm</i> sent the letters at:	
		(a) CONRED 4 Annex 7R; and	
		(b) CONRED 4 Annex 10R;	
	(8)	where a <i>firm</i> has completed the redress assessment as required by CONRED 4.4.2R, the following in respect of the latest offer of redress made pursuant to the <i>consumer redress scheme</i> created by this chapter:	
		(a) the date on which the redress calculation was completed;	
		(b) the redress amount rounded to the nearest pound sterling;	

Handbook reference	Matters to be notified	Contents of notification	Time allowed
CONRED 4.8.2R(3) and CONRED 4.8.4R	Information about BSPS cases excluded from the scheme, <i>consumer</i> opt outs	(c) the date the letter at CONRED 4 Annex 13R was sent to the <i>consumer</i> ;	By 6 weeks after the scheme effective date
		(d) a copy of the redress calculation from the BSPS calculator;	
		(e) whether the <i>consumer</i> has accepted the offer of redress in (c); and	
		(f) the date on which any redress was paid.	
	(1)	the number of cases in relation to which a <i>firm</i> has sent a <i>consumer</i> a letter pursuant to:	
		(a) CONRED 4 Annex 1R;	
		(b) CONRED 4 Annex 2R; and	
	(2)	in respect of (1)(a), a breakdown of the reasons such cases were excluded from the scheme with reference to the relevant condition or conditions at CONRED 4.2.2R.	

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Schedule 3 Fees and other required payments

Sch 3

There are no provisions for fees in CONRED. As noted in CONRED 2.5.19G and CONRED 4.5.9G, a fee is payable in any case where the *FCA* exercises its powers under CONRED 2.5.12R or CONRED 4.5.1R to take steps instead of a firm, or appoint one or more competent persons to do so. This fee is as specified in the table at FEES 3.2.7 R.

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Schedule 4 Powers exercised

Sch 4.1 G
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Sch 4.2 G
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Schedule 5 Rights of action for damages

Sch 5.1 G

The table below sets out the *rules* in CONRED contravention of which by an *authorised person* may be actionable under section 138D of the Act (Actions for damages) by a *person* who suffers loss as a result of the contravention.

Sch 5.2 G

If a "Yes" appears in the column headed "For private person?", the rule may be actionable by a *private person* under section 138D (or, in certain circumstances, his fiduciary or representative; see article 6(2) and (3)(c) of the Financial Services and Markets Act 2000 (Rights of Action) Regulations 2001 (SI 2001/2256)). A "Yes" in the column headed "Removed" indicates that the FCA has removed the right of action under section 138D(3) of the Act. If so, a reference to the *rule* in which it is removed is also given.

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The column headed "For other person?" indicates whether the *rule* may be actionable by a *person* other than a *private person* (or his fiduciary or representative) under article 6(2) and (3) of those Regulations. If so, an indication of the type of *person* by whom the *rule* may be actionable is given.

Sch 5.4 G

Rule	Right of action under section 138D		
	For private person?	Removed?	For other person?
All <i>rules</i> in CONRED with the status letter 'E'	No	No	No
All other <i>rules</i> in CONRED	Yes	No	No

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Schedule 6 Rules that can be waived

Sch 6.1 G

As a result of section 138A of the *Act* the *FCA* has power to waive its *rules*.

