

## FCA RECOGNISED INDUSTRY CODES (DEPP AND EG) INSTRUMENT 2018

### Powers exercised

- A. The Financial Conduct Authority makes this instrument in the exercise of:
- (1) the following powers and related provisions of the Financial Services and Markets Act 2000 (“the Act”):
    - (a) section 69 (Statement of policy);
    - (b) section 139A (Power of the FCA to give guidance); and
    - (c) section 210 (Statement of Policy).
- 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 18 July 2018.

### Amendments to the Handbook

- D. The Glossary of definitions is amended in accordance with Annex A to this instrument.
- E. The Decision Procedure and Penalties manual (DEPP) is amended in accordance with Annex B to this instrument.

### Material outside the Handbook

- F. The Enforcement Guide (EG) is amended in accordance with Annex C to this instrument.

### Citation

- G. This instrument may be cited as the FCA Recognised Industry Codes (DEPP and EG) Instrument 2018.

By order of the Board  
28 June 2018

**Annex A****Amendments to the Glossary of definitions**

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

*FCA-recognised industry code* A market code prepared by a *private person* that prescribes or prohibits forms of conduct or behaviour in relation to activities in financial markets, recognised by the FCA under its industry code recognition process and procedures and listed on the FCA website.

## Annex B

### Amendments to the Decision Procedure and Penalties manual (DEPP)

In this Annex, underlining indicates new text.

## 6 Penalties

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### 6.2 Deciding whether to take action

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- 6.2.1 G The *FCA* will consider the full circumstances of each case when determining whether or not to take action for a financial penalty or *public censure*. Set out below is a list of factors that may be relevant for this purpose. The list is not exhaustive; not all of these factors may be applicable in a particular case, and there may be other factors, not listed, that are relevant.

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(4A) *FCA-recognised industry codes:*

Behaviour that is in line with a *FCA-recognised industry code* will tend to indicate compliance, in carrying out *unregulated activities*, with applicable *FCA rules* that reference ‘proper standards of market conduct’. In such cases, the *FCA* will usually not take action against a person for behaviour, in relation to *unregulated activities*, that it considers to be in line with the relevant *FCA-recognised industry code*.

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## Annex C

### Amendments to the Enforcement Guide (EG)

In this Annex, underlining indicates new text.

## 2 The FCA's Approach to Enforcement

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### **2.10A FCA-recognised industry codes**

2.10A.1 The FCA believes that industry codes of conduct have an important part to play in a principles-based regulatory environment. Individuals may choose to follow, and firms have regard to, such codes as a means of seeking to meet the FCA's requirements to conform to proper standards of market conduct. This will be true especially where industry codes of conduct have been 'recognised' by the FCA. DEPP 6.2.1G(4A) confirms that behaviour that is in line with an FCA-recognised industry code will tend to indicate compliance, in carrying out unregulated activities, with applicable FCA rules that reference 'proper standards of market conduct'.

2.10A.2 Equally, however, FCA-recognised industry codes, and codes that have not been recognised, are not mandatory. The FCA does not regard adherence to industry or market codes as the only means of complying with applicable FCA rules. Rather, they may provide an articulation of proper standards of market conduct which meets the FCA's requirements.