

**INDIVIDUAL ACCOUNTABILITY (CONDUCT RULES) (BREACHES REPORTING)  
INSTRUMENT 2016**

**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 60 (Applications for approval);
  - (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);
  - (5) section 139A (Power of the FCA to give guidance); and
  - (6) The Financial Services (Banking Reform) Act 2013 (Commencement No. 9) (Amendment) Order 2015.
- 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 7 March 2016.

**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)
Senior Management Arrangements, Systems and Controls sourcebook (SYSC)	Annex A
Code of Conduct sourcebook (COCON)	Annex B
Supervision manual (SUP)	Annex C

**Citation**

- E. This instrument may be cited as the Individual Accountability (Conduct Rules) (Breaches Reporting) Instrument 2016.

By order of the Board  
25 February 2016

## Annex A

## Amendments to the Senior Management Arrangements, Systems and Controls sourcebook (SYSC)

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

### 5.2 Certification regime

...

Issuing and renewing certificates

...

- 5.2.14 G If, after having considered whether a *person* is fit and proper to perform an *FCA-specified significant-harm function*, a *firm* decides not to issue a certificate to that *person*, it should consider if the circumstances warrant making a notification to the *FCA* for a breach of the *rules* in *COCON* pursuant to ~~section 64B(5) of the Act~~ SUP 15.3.11R (Breaches of rules and other requirements in or under the Act or the CCA).

...

### TP 5 Financial Services (Banking Reform) Act 2013: Certification

...

The transitional period

...

- 5.3.4 G Table: How the certification regime applies in the transitional period

Provision in the Act or the Handbook	What that provision is about	How it applies in the transitional period
...		
Section 64B of the <i>Act</i>	...	
<del>Section 64B of the Act and SUP 15.11</del> <u>The parts of SUP 15.3 that deal with COCON breaches</u>	Notifying a <u>significant</u> breach of <i>COCON</i> to the <i>FCA</i>	Applies to everyone who would need a certificate to perform their job if the obligation to issue certificates was in force.
...		

## Annex B

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

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

## 2 Individual conduct rules

...

### 2.3 Firms: training and breaches

...

- 2.3.3 G ~~Section 64B(5) of the Act requires a relevant authorised person to notify the FCA if it knows, or suspects, that any member of its *conduct rules staff* has failed to comply with any of the *rules in COCON*. Further~~ There are rules and guidance on notifications to the FCA by a relevant authorised person can be found in SUP 15.3 (General notification requirements) and SUP 15.11 (Notification of COCON breaches and disciplinary action) that deal with reporting by a relevant authorised person of COCON breaches to the FCA.

## Annex C

### Amendments to the Supervision manual (SUP)

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

[*Editor's Note:* The changes to Form C shown below replace the corresponding changes in the new version of Form C made by the *Individual Accountability Instrument 2015* (FCA 2015/31) which was also due to come into force on 7 March 2016.]

#### 10A FCA Approved Persons

...

#### 10A Form C: Notice of ceasing to perform controlled functions (including senior management functions) Annex 6R

...

The *FCA* and *PRA* have produced notes which will assist both the applicant and the approved person...Please read these notes, which are available on the *FCA* and *PRA* website at

<http://fshhandbook.info/FS/html/SUP/10A/Annex6>

<https://www.handbook.fca.org.uk/handbook/SUP/10A/Annex6.html>

...

Form C – Notice of ceasing to perform controlled functions (including senior management functions)

Version ~~May 2015~~ February 2016

...

#### List of controlled functions

#### Section 3

...

**3.03:** For Relevant Authorised Persons, does the firm also seek to notify the *FCA* and/or *PRA* under one or more both of section 63(2A) (Duty to notify regulator of grounds for withdrawal of approval), ~~section 64B(5) (Breach of conduct rules)~~ and ~~or~~ section 64C (Requirement for Relevant Authorised Persons to notify regulator of disciplinary action) of the Financial Services and Markets Act 2000-?

YES  NO

If the firm has answered "No", please go to section 4

If the firm has answered "Yes", please complete the below:

**3.04** If the firm is making a notification of under question 3.03 based on any ~~known or suspected~~ breach(es) of the individual or senior manager conduct rules set out in the *FCA*'s COCON or *PRA*'s Conduct Rules, please complete the relevant boxes below. -

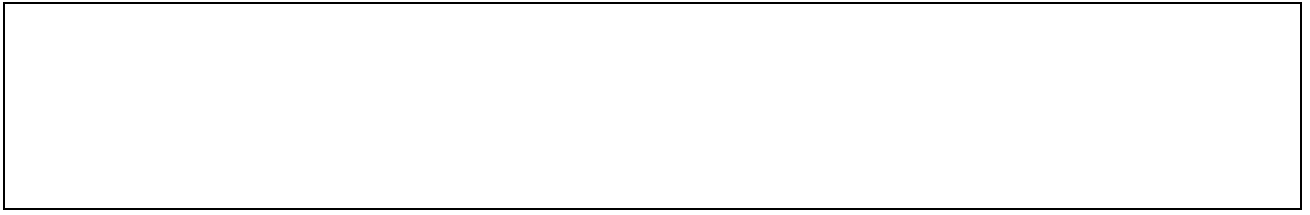
	Tick the rule(s) relevant to this notification	Tick if this is a known breach	Tick if this is a suspected breach
Individual Conduct Rules			
Rule 1: You must act with integrity.	<input checked="" type="checkbox"/>		
...			

**3.05** For each breach please provide the following information. Please attach additional sheets as necessary.

Details of the ~~known or suspected~~ breach:

**3.06** If the firm is making a notification under section 64C (Requirement for relevant authorised persons to notify regulator of disciplinary action) of the Financial Services and Markets Act 2000, please provide details below of disciplinary action taken and the reasons for this action. Please do not repeat information already included in the answers to Questions 3.04 and 3.05 above. If necessary please cross refer to the answers provided.

**3.07** If the firm is making a notification under section 63(2A) (Duty to notify regulator of grounds for withdrawal of approval) of the Financial Services and Markets Act 2000, please provide details below. Please do not repeat information already included in the answers to Questions 3.04 and 3.05 above. If necessary please cross refer to the answers provided.



...

[*Editor’s Note:* The changes to Form D shown below replace the corresponding changes in the new version of Form D made by the *Supervision Manual (Notification Forms) (Amendment) Instrument 2015* (FCA 2015/63) which was also due to come into force on 7 March 2016.]

**10A Form D: Notification of changes to personal information or  
Annex 7R application details and conduct breaches/disciplinary action related  
to conduct**

...

Form D – Notification: Change to personal information/application details and conduct breaches/disciplinary action related to conduct. Version 7.8: March 2016

...

**What sections should you complete?**

The question below will help you determine the sections of the form you must complete

Please select the outcome

...

...

Notifications under ~~Section section~~ section 64B(5) or 64C of the Financial Services and Markets Act 2000

YES  You must complete sections 1, 2, 6 & 7

...

**Fitness and Propriety – Notifications under ~~Section 64B(5) or section~~ section 64C of the  
Financial Services and Markets Act 2000 **Section 6****

This section should be completed by a firm that is a relevant authorised person to:

- ~~(a) make a notification under section 64B(5) (Breach of conduct rules) of the Financial Services and Markets Act 2000 of known or suspected breach of the individual or senior manager conduct rules set out in the FCA’s COCON or PRA Conduct Rules;~~
- ~~(b) (a) make a notification of disciplinary action (as defined in section 64C (Requirement for relevant authorised persons to notify regulator of disciplinary action) of the Financial Services and Markets Act 2000) due to any action, failure to act or circumstance that amounts to a breach of the individual or senior manager conduct rules set out in the FCA’s COCON or PRA Conduct Rules;~~
- ~~(c) (b) make a follow up notification to update a determination that has previously been the subject of a notification that has been made by the firm in relation to (a) or (b) (as appropriate and to the extent required by, in the case of the FCA FCA, SUP 10C, SUP 15.6.4R and SUP 15.11.8G, or in the case of the PRA PRA, Notifications 11.4 and 11.5 in the PRA’s Rulebook).~~

**6.01** Initial or update on previous notification

**6.01.1** Is the firm updating a previous notification made under ~~section 64B(5) or~~ section 64C of the Financial Services and Markets Act 2000?

YES  NO

If the firm has answered “No”, please go to section 6.02

If the firm has answered “Yes”, please complete the below:

Date of previous notification:

Please provide brief details of prior notification including reference number:
Description of the update to the previous notification ( <del>this includes updates to previous notifications made under section 64B(5) (Breach of Conduct Rules) and 64C (Requirement for relevant authorised persons to notify regulator of disciplinary action) of the Financial Services and Markets Act 2000</del> ):

**6.02** Notification of ~~breaches of the individual or senior manager conduct rules and /or disciplinary action~~ where the reason for taking the disciplinary action is any action, failure to act or circumstance that amounts to a breach of the individual or senior manager conduct rules.

**6.02.1** ~~If the firm is making a notification under section 64B(5) of the Financial Services and Markets Act 2000 of any known or suspected breach(es)~~ Please include details in the relevant boxes below of the individual or senior manager conduct rules set out in the FCA's COCON or PRA Conduct Rules, ~~please complete the relevant boxes below~~ relevant to this notification.

	Tick the rule(s) relevant to this notification	Tick if this is a known breach	Tick if this is a suspected breach
...			

**6.02.2** For each breach of an individual or senior manager conduct rule please provide the following information. Please attach additional sheets as necessary.

Relevant rule(s): Date when <del>known or suspected</del> breach came to the attention of the firm: Date or period of <del>known or suspected</del> breach:
<del>Details</del> Further details of the <del>known or suspected</del> breach:

**6.02.3** ~~If the firm is making a notification under section 64C of the Financial Services and Markets Act 2000, please~~ Please provide details below of disciplinary action taken and the reasons for this action. Please do not repeat information already included in the answers to Questions 6.02.1 and 6.02.2 above. If necessary please cross refer to the answers provided.





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**10C FCA senior management regime for approved persons in relevant authorised persons**

...

**10C.10 Application for approval and withdrawing an application for approval**

...

How to apply for approval

...

10C.10.9 D ...

(4) A *firm* must not use Form E if:

(a) ...

(b) a notification has been made or should be made to the *FCA* or *PRA* under any of the following:

(i) section 63(2A) of the *Act* (Duty to notify regulator of grounds for withdrawal of approval); or

(ii) ~~section 64B(5) (Notification of non-compliance with *COCON* or equivalent *PRA rules*); or [deleted]~~

(iii) ...

...

...

**10C.14 Changes to an FCA-approved person's details**

...

Ceasing to perform an FCA-designated senior management function

...

10C.14.7 R ...

(2) Form C is qualified if the information it contains:

...

(d) includes a notification about the *FCA-approved SMF manager* under one of the provisions of the *Act* listed in *SUP 10C.14.22R* (notification of grounds for withdrawal of approval, ~~breach of conduct rules~~ and disciplinary action).

...

Notifications about fitness, disciplinary action and breaches of COCON

...

10C.14.22 R If a *firm* is required to notify the *FCA* about an *FCA-approved SMF manager* under any of the following:

(1) section 63(2A) of the *Act* (Duty to notify regulator of grounds for withdrawal of approval); or

(2) ~~section 64B(5) of the *Act* (Breach of conduct rules); or [deleted]~~

...

...

10C.14.24 G Table: Explanation of the sections of the *Act* mentioned in *SUP 10C.12.22G*

Section	Summary of relevant parts	Other Handbook material	Comments
...			
Section 64B(5) (Breach of conduct rules)	If a <i>firm</i> knows or suspects that an <i>approved person</i> has failed to comply with <i>COCON</i> , the <i>firm</i> should notify the <i>FCA</i> of that fact.	<i>SUP 15.11</i> (Notification of <i>COCON</i> breaches and disciplinary action)	
...			

...

**10C Annex 1G Summary of forms and their use in the senior management regime for SMF managers**

Function	Form	Submission
...		
<p>(8) <i>Firm</i> obliged to notify the <i>FCA</i> under:</p> <p>(a) section 63(2A) of the <i>Act</i> (Duty to notify regulator of grounds for withdrawal of approval); <u>or</u></p> <p>(b) <del>section 64B(5) of the <i>Act</i> (Breach of conduct rules); or [deleted]</del></p> <p>(c) section 64C of the <i>Act</i> (Requirement for relevant authorised persons to notify regulator of disciplinary action).</p>	...	...
...		

...

**15 Notifications to the FCA or PRA**

...

**15.2 Purpose**

...

15.2.5 G *SUP* 15.11 (Notification of COCON breaches and disciplinary action) provides *rules* and *guidance* on notifications to the *FCA* by a *relevant authorised person* where ~~it knows or suspects that any *conduct rules staff* has failed to comply with *COCON* or it~~ the *relevant authorised person* takes disciplinary action in relation to any *conduct rules staff* and the reason for taking that action is a reason specified in *rules* made by the *FCA*. ~~These are requirements~~ This is a requirement imposed under *sections 64B* and *section 64C* of the *Act*.

...

**15.3 General notification requirements**

...

Breaches of rules and other requirements in or under the Act or the CCA

...

15.3.14B G (1) ...

(2) If the same thing has to be notified under *SUP* 15.11 and *SUP* 15.3.11R, a *firm* should make separate notifications under both. This is because:

~~notification under SUP 15.11 is annual and notification under SUP 15.3.11R is immediate.~~

- (a) notification under SUP 15.11 is annual and notification under SUP 15.3.11R is immediate; and
- (b) the details of what has to be notified under those requirements are different.

...

## 15.11 Notification of COCON breaches and disciplinary action

...

Reasons for making a notification to the FCA

...

15.11.3 G ~~Under section 64B of the Act, if a firm knows or suspects that any conduct rules staff has failed to comply with COCON, it must notify the FCA. [deleted]~~

...

15.11.7 G A firm should make a separate notification about a person under section 64C of the Act where:

- (1) it has made a notification to the FCA about a person pursuant to ~~section 64B of the Act~~ SUP 15.3.11R(1)(a) because of a breach of COCON; and
- (2) it subsequently takes disciplinary action against the person for the action, failure to act, or circumstance, that amounted to a breach of COCON.

15.11.8 G If, after a firm has made a notification for a person (A) pursuant to:

- (1) ~~section 64B of the Act~~; or
- (2) ~~section 64C of the Act~~;

section 64C of the Act, it becomes aware of facts or matters which cause it to change its view that A has breached COCON, or cause it to determine that A has breached a provision of COCON other than the provision to which the notification related, the firm should inform the FCA of those facts and matters and its revised conclusion in line with a firm's obligation to comply with Principle 11, SUP 15.6.4R and, if applicable, SUP 10C.

15.11.9 G ~~A firm that is considering whether to make a notification in respect of a suspected breach of COCON should satisfy itself that it has reasonable grounds for its suspicion before making the notification. If a firm has made a notification about a person pursuant to section 64B of the Act based on a suspicion, the firm should inform the FCA of any subsequent determination it makes in relation to~~

~~that matter.~~

If a firm takes disciplinary action as a result of a conduct breach (see SUP 15.11.6R) against an employee but the employee has appealed or plans to appeal, the firm should still report the disciplinary action under section 64C of the Act but should include the appeal in the notification. The firm should update the FCA on the outcome of any appeal.

15.11.10 G ~~A firm should make a notification pursuant to section 64B of the Act even if the matter giving rise to the notification relates to a person who is no longer a member of the conduct rules staff of the firm, including where that person is no longer an employee of the firm. [deleted]~~

15.11.11 G In relation to any *conduct rules staff*, the FCA does not expect a firm to notify it pursuant to ~~section 64B or~~ section 64C of the Act if the ~~known or suspected~~ breach of COCON occurred before the application of COCON to that firm.

Timing and form of notifications: SMF managers

15.11.12 G Where a firm is required to notify the FCA pursuant to ~~section 64B or~~ section 64C of the Act and that notification relates to an *SMF manager*, SUP 10C sets out how and when the notification must be made, and the relevant *notification rules* in SUP 10C apply.

Timing and form of notifications: certification employees and other conduct rules staff

15.11.13 R A firm must make any notifications required pursuant to ~~section 64B or~~ section 64C of the Act relating to a *certification employee* or *other conduct rules staff* annually. That notification should be made in October each year and cover the year up to the first day of that month.

15.11.14 R A firm must make any notifications required pursuant to ~~section 64B or~~ section 64C of the Act relating to a *certification employee* or *other conduct rules staff* on Form H (SUP 15 Annex 7R).

15.11.15 R A firm must make notifications pursuant to ~~section 64B or~~ section 64C of the Act relating to a *certification employee* or *other conduct rules staff* in accordance with the *rules* and *guidance* in SUP 15.7.

General guidance on notifications of rule breaches and disciplinary action

15.11.16 G A firm is not required to: submit nil return notifications pursuant to section 64C of the Act.

(1) ~~submit nil return notifications pursuant to section 64B or section 64C of the Act;~~

(2) ~~submit a notification pursuant to section 64B of the Act in respect of a suspected breach of COCON where the firm no longer has reasonable grounds for the suspicion at the time of the notification.~~

- 15.11.17 G The obligation to notify pursuant to ~~section 64B~~ or section 64C of the *Act* does not replace or limit a *firm's* obligation to comply with *Principle 11*.
- 15.11.18 G When considering whether to make a notification pursuant to ~~section 64B~~ or section 64C of the *Act*, a *firm* should also consider whether a notification should be made under any *notification rules*, including, without limitation, any *notification rules* that require a notification to be made to the *PRA*.
- 15.11.19 G The obligations to make a notification pursuant to ~~section 64B~~ or section 64C of the *Act* apply notwithstanding any agreement (for example a 'COT 3' Agreement settled by the Advisory, Conciliation and Arbitration Service (ACAS)) or any other arrangements entered into by a *firm* and an *employee* upon termination of the *employee's* employment. A *firm* should not enter into any such arrangements or agreements that could conflict with its obligations under this section.

...

The form in the following annex is deleted and is replaced with the text shown on the following pages. The deleted text is not shown and the new text is not shown underlined.

[*Editor's Note*: The version of Form H shown below replaces the version of Form H created by the *Individual Accountability Instrument 2015* (FCA 2015/31) which was also due to come into force on 7 March 2016.]

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**15 Annex 7R Form H: The notification of disciplinary action relating to certification employees and other conduct rules staff form**



Application number  
(for FCA/PRA use only)

## Form H

# Notification of Disciplinary Action relating to certification employees and other conduct rules staff

*FCA Handbook* Reference: SUP 15 Annex 7R  
7 March 2016

Name of *firm*  
(as entered in 2.01)

Financial Conduct Authority  
25 The North Colonnade  
Canary Wharf  
London E14 5HS  
United Kingdom  
Telephone +44 (0) 845 606 9966  
Facsimile +44 (0) 207 066 0017  
E-mail [iva@fca.org.uk](mailto:iva@fca.org.uk)  
Website <http://www.fca.org.uk>

**Contact Details****Section 1**

Contact for this notification

<b>1.01</b>	Title	
<b>1.02</b>	First Name	
<b>1.03</b>	Surname	
<b>1.04</b>	Job Title	
<b>1.05</b>	Business address	
<b>1.06</b>	Post code	
<b>1.07</b>	Phone number (including STD code)	
<b>1.08</b>	Email address	
<b>1.09</b>	Mobile No	
<b>1.10</b>	Fax No.	



**Firm Identification Details****Section 2**

2.01 Name of *firm*

2.02 Firm Reference Number (FRN)

**Fitness and Propriety - Notifications under section 64C of the Financial Services and Markets Act 2000** **Section 3**

This section should be completed by a firm to:

- (a) make an annual notification of disciplinary action (as defined in section 64C (Requirement for relevant authorised persons to notify regulator of disciplinary action) of the Financial Services and Markets Act 2000) if the reason for taking the disciplinary action is any action, failure to act or circumstance that amounts to a breach of the individual conduct rules set out in the *FCA's* Code of Conduct (COCON); or
- (b) make a follow up notification to update a notification that has been previously made by the firm in relation to (a).

# 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
Title	Surname	Forenames	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	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 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)</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)</i>

Note 1:

- (a) If an IRN is available for a person about whom a notification is being made, please complete column D but do not complete columns E, F, G or H.
- (b) If an IRN is not available for a person about whom a notification is being made, but that person has a national insurance number, please complete columns E and F but do not complete columns G or H.
- (c) If neither an IRN nor a national insurance number is available for a person about whom a notification is being made, please complete columns E, G and H.

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

Note 3:

(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.



**Declaration**

It is a criminal offence, knowingly or recklessly, to give us information that is materially false, misleading or deceptive. Even if you believe information has been provided to us before (whether as part of another notification or otherwise) or is in the public domain, you must nonetheless disclose it clearly and fully in this form and as part of this notification. If there is any doubt about the relevance of information, it should be included.

The firm confirms that the information provided is accurate and complete to the best of the firm's knowledge. The firm will notify the *FCA* immediately if there is a material change to the information provided.

The firm authorises the *FCA* and *PRA*, as applicable, to make such enquiries and seek such further information as it thinks appropriate to verify information that it considers relevant to this notification.

The firm understands that the *FCA* and/or *PRA* may require it to provide further information or documents at any time.

For the purpose of complying with the Data Protection Act 1998, personal data about an individual that is the subject of a notification under this Form will be used by the *FCA* and/or *PRA* to discharge its statutory functions under the Financial Services and Markets Act 2000 and other relevant legislation, and will not be disclosed for other purposes without the permission of the firm.

In addition to other regulatory responsibilities, *firms* have a responsibility to disclose to the *FCA* and/or *PRA* matters of which it or they would reasonably expect to be notified. Failure to notify the *FCA* and/or *PRA* of such information may lead to the *FCA* and/or *PRA* taking disciplinary or other action against the firm.

By signing below, the person submitting this form on behalf of the firm confirms that this form is accurate and complete to the best of his or her knowledge and he or she has read and understood the notes to this form.

Name of the *firm*

Name of *person* signing on behalf of the *firm*

Position

Signature

Date