

Quarterly Consultation

No 18

Consultation Paper

CP17/32**

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How to respond

We are asking for comments on this Consultation Paper (CP) by 2 October 2017 for Chapters 4, 5 and 6, and 1 November 2017 for Chapters 2,3,7, 8 and 9.

You can send them to us using the form on our website at: www.fca.org.uk/cp17-32-response-form.

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If you are responding in writing to several chapters please send your comments to Emily How in the Handbook Editorial Team, who will pass your responses on as appropriate

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1 Overview

Chapter No	Proposed changes to Handbook	Consultation Closing Period
2	Changes to FEES 3: variations of permission to provide payment initiation and account information services	Two months
3	Changes to DEPP and EG to reflect the transposition of the PRIIPs Regulation	Two months
4	Changes to COBS 16 and also to forms and associated parts of the Handbook related to the Insurance Distribution Directive	One month
5	Change to IFPRU 2.2 to ensure full implementation of the Capital Requirements Directive (CRD)	One month
6	Change to clarify how firms may provide personal projections in addition to the PRIIPs KID	One month
7	Changes to the economic assumptions in COBS 13 Annex 2 following periodic review	Two months
8	Changes to regulatory reporting requirements	Two months
9	Changes to address a potential barrier to consumers accessing retirement interest-only mortgages and correct an error in the definition of 'lifetime mortgage'	Two months

2 Payment Services Directive 2: changes to fees for varying permission

Introduction

- 2.1** In this chapter, we set out our proposals for charging authorised payment institutions (APIs) and authorised electronic money institutions (AEMIs) which wish to vary their permissions to provide payment initiation services (PIS) and account information services (AIS). These services are being brought into the scope of FCA regulation under the second Payment Services Directive (PSD2). PSD2 comes into effect in the UK for most purposes from 13 January 2018 through the UK's Payment Services Regulations 2017 (PSRs) and parts of the Handbook.
- 2.2** APIs and AEMIs will have to apply for reauthorisation if they wish to continue to provide payment services under PSD2 and in April 2017 we consulted on the application fees they would have to pay.¹ It has subsequently become clear that applications to vary permission to provide the new services of AIS and PIS will demand more of our resources than conventional variations of permission (VoPs), and so we need to introduce additional charges to recover our costs. Applications to vary a permission to provide the new services for the first time will be charged separately from applications to continue providing the payment services for which APIs and AEMIs are already authorised and firms will have to have been successfully reauthorised before they can add PIS or AIS activities. The proposals do not affect small payment institutions or small e-money institutions which will not be permitted under the PSRs to offer these services.

Summary of proposals

- 2.3** APIs and AEMIs need to apply to us for authorisation if they wish to offer AIS or PIS. The PSRs impose a requirement on all e-money institutions to stop providing AIS or PIS activities, so AEMIs will first have to apply to have this restriction removed.
- 2.4** However, because many APIs and AEMIs are already providing AIS and PIS as unregulated activities, the PSRs include transitional arrangements to allow those which were already providing these services before 12 January 2016 and continued to provide such services before 12 January 2018, to continue to provide them until the Regulatory Technical Standards (RTS) are introduced in 2019, without the need for new authorisation, registration or variation of permission.² They will have to apply prior to the RTS coming into force if they wish to maintain these services after that date and we would encourage them to do so as soon possible.

¹ CP17/12 'FCA regulated fees and levies: Rates proposals 2017/18' (April 2017).

² Regulation 154 of the Payment Services Regulations 2017 (SI 2017/752).



- 2.5** The PSRs require applications for AIS and PIS to be accompanied by supporting information beyond the information usually provided for a VoP. This is set out in detail in our approach document on implementing PSD2.³ The additional information includes:
- professional indemnity insurance (PII) details and evidence of how it complies with the PII Guidelines
 - security policy document including a detailed risk assessment and mitigation measures taken to adequately protect payment service users against risks identified including fraud and illegal; use of sensitive and personal data
 - procedures to monitor, handle and follow up a security incident and security related customer complaints
 - processes to file, monitor, track and restrict access to sensitive payment data
 - principles and definitions for the collection of statistical data on performance, transactions and fraud, and
 - arrangements for business continuity and procedures for testing and review
- 2.6** Given the additional resources we will have to put into reviewing applications for AIS and PIS, which otherwise will be picked up by the annual fees of other firms, we believe all applicants for variation of permission should make a contribution towards our costs and both AEMIs and APIs should pay the same fee.
- 2.7** We consulted in CP17/12 on an application fee of £1,500 for AIS and PIS. Most VoPs across the FCA are charged at 50% of the full application fee so we believe it would be reasonable to apply the same formula for these services. Our proposal is therefore to charge AEMIs and APIs £750 if they apply to vary their permission to offer AIS or PIS. If they apply for both categories at the same time then, applying our standard policy, they will just pay one fee.
- 2.8** The charges will come into effect from 13 January 2018 but firms will be able to apply from 13 October 2017. We accordingly propose transitional arrangements to cover the period between the Gateway opening and the rules being introduced.
- 2.9** Firms will be required to pay within one month of the rule being made an additional fee equivalent to the difference between the £750 VoP fee and the amount they were charged when they made the application. Under the current rules, APIs will pay £250 and there is no fee for AEMIs, so the balance to be paid in January 2018 will be £500 for APIs and £750 for AEMIs.

Q2.1: Do you have any comments on our proposal to charge authorised payment institutions (APIs) and authorised e-money institutions (AEMIs) £750 if they apply to vary their permission to provide payment initiation services (PIS) or account information services (AIS)?

³ CP17/11 'Implementation of the revised Payment Services Directive (PSD2): draft Approach Document and draft Handbook changes' (April 2017).

Cost benefit analysis

2.10 Under s138I of the Financial Services and Markets Act (FSMA), the FCA is not required to carry out a cost benefit analysis in relation to fees rules.

Impact on mutual societies

2.11 These proposals are not expected to have any impact on mutual societies.

Compatibility statement

2.12 Section 1B of FSMA requires the FCA, when discharging its general functions, to act in a way that is compatible with its strategic objective and advances one or more of its operational objectives. The FCA also needs, so far as is compatible with acting in a way that advances the consumer protection objective or the integrity objective, to carry out its general functions in a way that promotes effective competition in the interests of consumers.

2.13 We are satisfied that these proposals are compatible with our general duties under section 1B of FSMA, having regard to the matters set out in 1C(2) FSMA and the regulatory principles in section 3B. The proposed VoP fees will ensure that applicants for the relevant permissions will make a reasonable contribution towards our additional costs in reviewing their applications. By applying the existing structure of VoP charges, we aim to avoid imposing unnecessary barriers on entry to the market.

Equality and diversity

2.14 We have considered the equality and diversity issues that may arise from the proposals in this chapter.

2.15 Overall, we do not consider that the proposals adversely impact any of the groups with protected characteristics ie age, disability, sex, marriage or civil partnership, pregnancy and maternity, race, religion and belief, sexual orientation and gender reassignment.

2.16 We will continue to consider the equality and diversity implications of the proposal during the consultation period, and will revisit them when publishing the final rules.

2.17 In the interim we welcome any feedback to this consultation.



3 Our enforcement approach to breaches of the PRIIPs Regulation

Introduction

- 3.1** In our Policy Statement (PS) 17/6 (Disclosure rules following application of PRIIPs Regulation) published on 2 May 2017⁴, we set out how our disclosure requirements will change to reflect the introduction of the PRIIPs key information document (KID). The PS also set out final rules and guidance to reflect the direct application of the PRIIPs Regulation.⁵
- 3.2** The PRIIPs Regulation requires firms to prepare, publish and provide a KID for each PRIIP manufactured. The purpose behind the PRIIPs Regulation is to help retail investors compare products and make informed decisions before investment. It is anticipated that this improvement of transparency is an important investor protection measure and a pre-condition for rebuilding the confidence of retail investors.
- 3.3** The PRIIPs Regulation creates directly applicable legal requirements for persons who manufacture, advise on, sell or market a PRIIP. Although it is anticipated that typically the persons will be FSMA-authorized, the PRIIPs Regulation also applies to unauthorised persons. This will mean that it applies directly to authorised firms as well as to persons who do not require FCA authorisation or registration.
- 3.4** The draft statutory instrument, the Packaged Retail and Insurance-based Investment Products Regulations 2017 (PRIIPs SI):
- extends our powers over authorised firms, and
 - adds new provisions of powers we have over unauthorised entities that are necessary to supervise and enforce compliance with the PRIIPs Regulation
- 3.5** Under the PRIIPs SI, we have a power to issue a person who manufacturers, advises on, sells or markets a PRIIP with an order:
- prohibiting it from marketing a PRIIP
 - requiring it to suspend the marketing of a PRIIP
 - prohibiting it from providing a KID which does not comply with specified requirements in the PRIIPs Regulation, and
 - requiring it to publish a new version of a KID

4 PS17/6 'Disclosure rules following application of PRIIPs Regulation' (May 2017) www.fca.org.uk/publication/policy/ps17-06.pdf

5 <http://eur-lex.europa.eu/eli/reg/2014/1286/oj>

- 3.6** We also have the power to publish a statement or impose a financial penalty on a person if it has contravened the PRIIPs Regulation or requirements imposed under the PRIIPs SI.
- 3.7** In this consultation, we are proposing to make the following changes to the Enforcement Guide (EG) and the Decision Procedure and Penalties manual (DEPP):
- add a new section EG 19.34 to refer to the PRIIPs Regulation and set out our enforcement approach to be followed in investigations under the PRIIPs Regulation, and
 - change DEPP to set out the decision-making procedure relating to decisions made under the PRIIPs Regulation
- 3.8** Our proposed changes to DEPP and EG take account of the Treasury's proposed changes to FSMA, other secondary legislation and the PRIIPs SI.

Summary of proposals

Changes to EG

- 3.9** We are proposing to add a new section to Chapter 19 of EG (Non-FSMA powers) to deal with how we will exercise our powers against an unauthorised firm alleged to have breached the PRIIPs Regulation. This chapter describes many of the powers that we have to enforce requirements imposed under legislation other than FSMA. Our proposed approach for unauthorised firms will broadly mirror our, the FCA's, approach to conducting investigations, sanctioning and the use of regulatory powers under FSMA.

Q3.1: Do you have any comments on our proposal to add a new EG 19.34?

Changes to DEPP

- 3.10** We are proposing to change DEPP 2 Annex 1 to set out the decision-making procedure as follows for proposals and decisions about:
- The imposition of administrative penalties and issuing of statements under Regulation 6 of the PRIIPs SI – the decision will be taken by the FCA under the Regulatory Decisions Committee (RDC) procedure in accordance with DEPP 3.2 or 3.3 rather than through our executive procedures.
 - The imposition of restitution⁶ – the decision will be taken by the FCA under the RDC procedure
- 3.11** We are proposing to change DEPP 2 Annex 2 to set out the decision-making procedure as follows for proposals and decisions about:
- making an order to prohibit or suspend the marketing of a PRIIP and an order that the suspension has an immediate effect

6 Section 384(5) FSMA



- prohibiting a person from providing a KID which does not comply with the PRIIPs Regulation
- requiring a person to publish a new version of a KID, and
- increasing the period of a suspension of marketing a PRIIP and an order that this measure has an immediate effect

3.12 The decision will be taken by the FCA under the RDC procedure in accordance with DEPP 3.2 or 3.3.

Q3.2: Do you have any comments on our proposal to change DEPP 2 Annexes 1 and 2?

3.13 We are proposing to apply the existing penalties policy as the statement of policy regarding the use of sanctioning powers for authorised and unauthorised persons engaged in a breach of the PRIIPs Regulation. We do not consider that there are any special circumstances or features of these regimes which require or merit any different policy. Accordingly the relevant decision-makers will apply the methodology set out in the existing DEPP 6 as applicable. This involves taking into account all the relevant circumstances of the case.

3.14 We consider that our existing policy already sets out factors embodying the substance of those set out in article 25 of the PRIIPs Regulation. Overlaying the express language of article 25 onto our existing policy would in our view be unnecessarily complex. We therefore do not consider that article 25 requires any change to our existing policy on sanctions as set out in chapters 6 and 6A of DEPP.

Q3.3: Do you have any comments on our proposal to apply the existing policy as set out in DEPP 6 and 6A?

Cost benefit analysis

3.15 Section 138I(2)(a) of FSMA requires us to publish a cost benefit analysis (CBA) when proposing draft rules. Section 138L(3) of FSMA provides that section 138I(2)(a) does not apply where we consider that there will be no increase in costs or the increase will be of minimal significance.

3.16 We do not plan to issue a CBA as we believe the costs of compliance with the final rules will be of minimal significance.

Impact on mutual societies

3.17 Section 138K of FSMA requires us to state whether, in our opinion, our proposed rules have a significantly different impact on authorised persons who are mutual societies, compared to other authorised persons. The proposed changes do not have a negative impact on this.

Compatibility statement

- 3.18** Section 138I(2)(d) of FSMA requires us to explain why we believe our proposed rules are compatible with our strategic objective, advance one or more of our operational objectives and have regard to the regulatory principles in section 3B of FSMA.
- 3.19** A compatibility statement was previously set out in in Annex 3 of CP16/18 and we are satisfied that the proposed amendments to EG and DEPP, contained in this consultation, did not have an impact on this statement. We are satisfied that the proposed changes are compatible with our objectives and regulatory principles.

Equality and diversity

- 3.20** In developing our proposals, we have considered any potential equality and diversity implications, and take the view that they do not adversely impact any of the groups with protected characteristics, ie age, disability, gender, pregnancy and maternity, race, religion and belief, sexual orientation and transgender.
- 3.21** We will continue to consider the equality and diversity implications of the proposals during the consultation period, and will revisit them when publishing the final rules.
- 3.22** In the interim we welcome any feedback to this consultation.

4 Changes relating to the Insurance Distribution Directive and also COBS 16

Introduction

- 4.1** As part of our implementation of the Insurance Distribution Directive (IDD) we need to make consequential changes to a number of forms and parts of the Supervision manual (SUP).
- 4.2** We are also using this as an opportunity to revise a change made as part of the MiFID II implementation for the application of COBS 16 (Reporting information to clients)
- 4.3** This chapter will be of interest to firms within the insurance sector who are subject to COBS 16 and SUP requirements. The text of the proposed changes and the statutory powers under which they will be made are set out in Appendix 4.

Our proposals

COBS 16 proposal

- 4.4** In PS17/14 we confirmed our intention to make a consequential change to COBS 16 (Reporting information to clients (non-MiFID provisions)) so the rules in this chapter would only apply to firms carrying on non-MiFID business with the rules applying to firms carrying on MiFID and related business moving into COBS 16A. The unintended effect of the proposed consequential change to COBS 16 would be dis-apply the rules in COBS 16.5 and COBS 16.6 to firms (insurers) doing long-term insurance business in relation to life policies. To ensure that the rules in COBS 16.5 and COBS 16.6 continue to apply to insurers doing long-term insurance business in relation to life policies we propose changing COBS 16.1.1R to clarify that only COBS 16.2, COBS 16.3 and COBS 16.4 will apply to firms carrying on non-MiFID business, e.g. designated investment business (other than MIFID, equivalent third country or optional exemption business).
- 4.5** The change we are now proposing will ensure that the COBS 16.5 requirements in relation to quotations for surrender values and communication requirements related to life policies, long term care insurance and income withdrawals in COBS 16.6 will apply, as intended, to insurers carrying on long-term insurance business in relation to life policies.
- #### Proposal relating to the Insurance Distribution Directive
- 4.6** We propose to make consequential changes to a number of forms in SUP and also the associated Handbook SUP annex relating to the implementation of the IDD. These include changes to references to:
- The Insurance Mediation Directive or IMD. We propose to change these so that they refer to the Insurance Distribution Directive or IDD.

- *Insurance mediation and Insurance mediation activities*. We propose to change these to *insurance distribution and insurance distribution activities* respectively.

4.7 This is in line with the changes to the Glossary which we proposed in CP17/7.⁷

4.8 We are proposing to make changes to:

- SUP 6 Annex 5D
- SUP 10A Annex 4D (including consequential changes to the 'guidance notes: application for authorisation')
- SUP 10A Annex 8D
- SUP 12 Annex 3R
- SUP 12 Annex 4R
- SUP 13 Annex 5R
- SUP 16 Annex 18BG, and
- the forms set out in the table below:

Handbook Annex	Form name as referred to in the relevant Handbook Annex
SUP 6 Annex 5D Variation of permission application form	Variation of Permission Application - Home Finance & General Insurance Mediation Activities
SUP 8 Annex 2D Application form for a waiver or modification of rules	Waiver Application form
SUP 10A Annex 4D Application to perform controlled functions under the approved person regime	Form A: Notes for completion for Long Form A – UK and Overseas Firms (not Incoming EEA) for MiFID authorisations application (January 2017)
	Long Form A – UK and Overseas Firms (not Incoming EEA)
	Long Form A – Solvency II firms only
	Short Form A – Solvency II firms only
	Short Form A – UK and Overseas Firms (not incoming EEA) (March 2016)
	Short Form A – Incoming EEA firms (March 2016)
	Long Form A – large non-directive insurers
	Short Form A – large non-directive insurers
	Long Form A – small non-directive insurers
	Short Form A – small non-directive insurers
	Long Form A – Incoming EEA only

⁷ CP17/7 'Insurance Distribution Directive implementation – consultation paper I' (March 2017)
www.fca.org.uk/publications/consultation-papers/cp17-7-insurance-distribution-directive-implementation



SUP 10A Annex 8D Internal transfer of an approved person	Form E – Internal transfer of an approved person (for Solvency II firms only)
	Form E – small non-directive insurers
	Form E – large non-directive insurers
	Form E – for firms which are not Solvency II firms (including large non-directive insurers) or small non-directive insurers
SUP 10C Annex 2D Application to perform senior management functions	Long Form A – UK Relevant Authorised Persons and Thirds Country Relevant Authorised Persons only
	Short Form A – UK Relevant Authorised Persons and Third Country Relevant Authorised Persons only
	Short Form A – (EEA Relevant Authorised Persons only)
	Long Form A – (EEA Relevant Authorised Persons only)
SUP 12 Annex 3R Appointed representative appointment form	Appointed representative appointment form
SUP 12 Annex 4R Appointed representative appointment or tied agent – change details	Appointed representative or tied agent – change details
SUP 13 Annex 1R Passporting: Notification of intention to establish a branch in another EEA state	Passporting: Notification of intention to establish a branch in another EEA state
SUP 13 Annex 5R Passporting: Insurance Mediation Directive	Passporting: Notification of intention to establish a branch in another EEA state
	Passporting: Notification of intention to provide cross border services in another EEA state Insurance Mediation Directive
SUP 16 Annex 18AR Retail Mediation Activities Return ('RMAR')	Retail Mediation Activities Return ('RMAR')
SUP 16 Annex 29AG Guidance notes for the data item in SUP 16 Annex 29R	Guidance notes for the data item in SUP 16 Annex 29R

Q4.1: Do you have any comments on our proposed amendments to COBS 16.1?

Q4.2: Do you have any comments on our proposed amendments to the forms and SUP?

Cost benefit analysis

4.9 We are proposing only consequential changes required to ensure that the forms in SUP refer to the correct Directive and definitions. The change to COBS 16 will ensure the requirements in that chapter continue to apply in line with current policy intention. We do not expect that any additional costs to authorised firms will arise as a result of these changes. We also do not expect that these changes will have any different impact on mutual societies.

Compatibility statement

- 4.10** Section 1B of FSMA requires the FCA, when discharging its general functions, as far as is reasonably possible, to act in a way that is compatible with its strategic objective and advances one or more of its operational objectives.
- 4.11** The FCA also needs to, so far as is compatible with acting in a way that advances the consumer protection objective or the integrity objective, carry out its general functions in a way that promotes effective competition in the interests of consumers.
- 4.12** We are satisfied that these proposals are compatible with our general duties under section 1B of FSMA, having regard to the matters set out in 1C(2) FSMA and the regulatory principles in section 3B.
- 4.13** These proposals are relevant to our operational objectives of securing an appropriate degree of protection for consumers and ensuring market integrity, including by ensuring that the forms reflect the changes relevant to Insurance Distribution Directive.
- 4.14** In preparing the proposals as set out in this consultation, we have had regard to the recommendations made by the Treasury under s. 1JA FSMA about aspects of the economic policy of Her Majesty's Government in connection with our general duties. It is our opinion that making the consequential changes has no impact on the Treasury's recommendations.
- 4.15** The proposed changes are not expected to have a significantly different impact on mutual societies.

Equality and diversity

- 4.16** We have considered the equality and diversity issues that may arise from the proposals in this chapter.
- 4.17** Overall, we do not consider that the proposals adversely impact any of the groups with protected characteristics ie age, disability, sex, marriage or civil partnership, pregnancy and maternity, race, religion and belief, sexual orientation and gender reassignment.
- 4.18** We will continue to consider the equality and diversity implications of the proposal during the consultation period, and will revisit them when publishing the final rules.
- 4.19** In the interim we welcome any feedback to this consultation.



5 Change to IFPRU 2.2

Introduction

- 5.1** We are proposing to change a rule in Chapter 2 of the Prudential sourcebook for Investment Firms (IFPRU 2). This is to help ensure full implementation of the Capital Requirements Directive (CRD).
- 5.2** This change, to IFPRU 2.2 – Internal capital adequacy assessment process, will promote clarity for firms and groups within the scope of IFPRU 2 and ensure continued compliance with the CRD.

Summary of the proposal

IFPRU 2.2 – Internal capital adequacy assessment process

- 5.3** IFPRU 2.2.28R, which implements Article 83(3) of the CRD, requires firms to hold adequate financial resources and internal capital for material market risks that are not subject to an own funds requirement and, more specifically, against potential losses which may arise as a consequence of position risk.
- 5.4** We propose adding a sentence to IFPRU 2.2.28R(2) to complement the existing rule and help ensure full implementation of article 83(3) of the CRD. In outline, the addition requires firms to have adequate financial resources and internal capital where they hold opposite positions in stock-index futures which are not identical in respect of either their maturity or their composition or both.

Q5.1: Do you agree with this proposed change to IFPRU 2.2?

Cost-benefit analysis

- 5.5** When proposing new rules, we are required under section 138I of FSMA to publish an analysis of costs and benefits, unless we believe the rules will lead to insignificant or no costs at all.
- 5.6** Our Consultation Paper CP13/6 'Capital requirements for investment firms'⁸ already included an analysis of the incremental impact of the overall CRD package in terms of its effect on firms and markets within our remit. The proposed change to IFPRU 2.2 is part of this package, and we therefore do not consider that a further cost-benefit analysis is required.

⁸ CP13/6 'Capital requirements for investment firms' (July 2013) <http://www.fca.org.uk/publications/consultation-papers/cp13-6-capital-requirements-investment-firms>

Compatibility statement

- 5.7** We believe that the proposed change is in line with our objectives as the proposal ensures full transposition of article 83(3) of the CRD in accordance with our obligations under EU law.

Equality and diversity

- 5.8** We have considered the equality and diversity issues that may arise from the proposal in this chapter.
- 5.9** Overall, we do not consider that this proposal raises any concerns. Moreover, we do not consider that the proposal adversely impacts any of the groups with protected characteristics, ie age, disability, sex, pregnancy and maternity, race, religion and belief, marriage/civil partnership, sexual orientation and gender reassignment.
- 5.10** We will continue to consider the equality and diversity implications of the proposal during the consultation period, and will revisit them when publishing the final rules.
- 5.11** In the interim we welcome any feedback to this consultation.



6 The PRIIPs key information document and personal projections

Introduction

- 6.1** From 1 January 2018 the Packaged Retail and Insurance-based Investment Products (PRIIPs) Regulation will require firms that advise on or sell PRIIPs to give retail clients a key information document (KID). The PRIIPs KID gives consumers information about the key product features in a standardised format. This will help consumers compare the key features of different PRIIPs.
- 6.2** The KID includes 'performance scenarios' which are either calculated for a standardised single investment of £10,000 or annual premiums of £1,000.
- 6.3** This new requirement will change the disclosure regime for firms that manufacture, advise on or sell PRIIPs. Firms previously had to produce a key features illustration (KFI), which included standardised deterministic projections. These often took the form of personalised projections.
- 6.4** In Consultation Paper (CP) 16/18⁹, we proposed removing the requirement to produce a KFI for PRIIPs and therefore the obligation to provide personalised projections.
- 6.5** We also proposed that firms would have the option, but not the obligation, to continue to provide 'standardised deterministic projections', if they were produced in line with the relevant Conduct of Business sourcebook (COBS) rules.
- 6.6** Policy Statement (PS) 17/18¹⁰ updated our rules to reflect the requirement for firms to provide the PRIIPs KID instead of a KFI. However, in PS17/18, we did not finalise our approach to providing other projections alongside the PRIIPs KID for PRIIPs (that are not in-force PRIIPs).
- 6.7** Under our proposals, firms could, if they chose to, provide personal projections alongside the KID. We imagine that some firms may want to provide personalised projections when, for example:
- clients have specific investment objectives and are making non-standardised investments, or
 - the standardised performance scenarios in the KID are of limited relevance
- 6.8** We also recognise that some clients are used to receiving personalised projections and may continue to request them.

9 CP16/18 'Changes to disclosure rules in the FCA Handbook to reflect the direct application of PRIIPs Regulation' (July 2016) www.fca.org.uk/publication/consultation/cp16-18.pdf

10 PS17/18 'FCA's disclosure rules following application of the PRIIPs Regulation: Feedback to CP16/18 and final rules' (May 2017) www.fca.org.uk/publications/policy-statements/ps17-6-disclosure-rules-following-application-priips-regulation

- 6.9** This chapter sets out a further consultation on what projections can be provided in addition to the PRIIPs KID.
- 6.10** We advise stakeholders interested in this chapter to read Chapter 7 of this document. Chapter 7 sets out proposals relating to the economic assumptions in COBS 13 Annex 2 (and consequential changes to COBS 19.2) that follow a recent review of the assumptions, informed by an Expert Report.
- 6.11** We also advise stakeholders interested in this chapter to read Chapter 3 of this document. Chapter 3 sets out proposals to change the Enforcement Guide (EG) and Decision Procedure and Penalties manual (DEPP), to reflect the introduction of the directly applicable PRIIPs Regulation.

Summary of proposal: Optional disclosure in addition to the PRIIPs KID

- 6.12** Following further consideration of the various options, we are re-consulting on allowing firms to provide consumers with standardised deterministic projections for PRIIPs that are not financial instruments. These projections may be provided alongside the PRIIPs KID, so long as they are prepared in accordance with the relevant rules set out in COBS 13 Annex 2.
- 6.13** We imagine that in most situations firms will only provide the performance scenarios in the PRIIPs KID. However, we recognise that some firms may want to provide an additional personalised projection if it is clear that the client either wants or needs a personal projection. For example, clients may ask for a personalised projection when they are making non-standard investments or have specific investment objectives.
- 6.14** If provided, we expect firms to clarify to clients how personal projections differ from the performance scenarios in the KID. We would also expect firms to make it clear the personal projections are not better or more accurate than the standardised performance scenarios in the KID, which would always need to be provided.
- 6.15** While we appreciate that some firms may want to provide this extra personalised projection, we have no expectation that firms should provide one.
- 6.16** For PRIIPs that are also MiFID financial instruments, any projections will need to comply with the future performance rules set out in the MiFID Org Regulation or COBS 4.6.
- 6.17** We considered whether firms could prepare personal performance scenarios using the methodologies set out in the PRIIPs Regulatory Technical Standards (RTS). If feasible, these personal performance scenario figures may be more consistent with the performance scenarios in the KID.
- 6.18** However, we believe that firms would face practical challenges in transposing the assumptions and calculations in the PRIIPs RTS to non-standard individual investments. We believe that, given the various PRIIPs RTS methodologies that may be used, firms would be unlikely to achieve consistency between the personalised projection and the performance scenarios in the KID. We are not proposing this approach, but would appreciate respondents' views on our alternative option.



- 6.19** Our proposal primarily affects retail investment firms that will manufacture, advise on, or sell PRIIPs. If a firm chooses to provide projections alongside the PRIIPs KID, this proposal would impact on the systems and controls that firm will need to have in place. It also affects consumers who will buy PRIIPs as it determines how firms will be able to provide them with projections that supplement the KID.
- 6.20** We have already consulted on this proposal in CP16/18, so are only consulting on these changes for a period of one month, to 2 October 2017. This is so we can make the final rules before the PRIIPs Regulation takes effect on 1 January 2018.

Cost benefit analysis

- 6.21** Our view is that the costs involved in changing our rules as proposed will be of no or minimal significance if compared with any reasonable counterfactual. Firms will not need to provide personal projections in addition to the KID; they will be optional. If firms choose to provide personal projections they will be able to use the systems they already have in place to provide them. So, we consider that no cost benefit analysis is required.
- 6.22** We do not expect these proposals to impact on mutual societies in a way that is significantly different to the impact on other authorised persons.
- 6.23** The proposed approach will ensure that consumers, where it is clear they either want or need to have personal projections provided in addition to the PRIIPs KID, may have these made available.

Q6.1: Do you agree that, where it is clear clients either want or need to have a personal projection, firms should be able to provide personalised projections alongside the PRIIPs KID?

Q6.2: Do you agree that, if provided, firms should prepare personalised projections in accordance with our rules in COBS 13.5 on projections or the MiFID future performance rules (as relevant)?

Q6.3: Or, alternatively, do you think that firms should be able to prepare personalised performance scenarios in line with the methodologies set out in the PRIIPs RTS?

Compatibility statement

- 6.24** Section 138I(2)(d) of FSMA requires us to explain why we believe our proposed rules are compatible with our strategic objective, advance one or more of our operational objectives, and have regard to the regulatory principles in section 3B of FSMA. In addition, section 138K(2) of FSMA requires us to state where the proposed rules will have a significantly different impact on mutual societies as opposed to other authorised persons.

- 6.25** We believe the proposals set out in this chapter are compatible with our duties under FSMA, section 1B. Further, the FCA has had regards to the regulatory principles set out in FSMA, sections 3B.

Equality and diversity

- 6.26** We have considered the equality and diversity issues that may arise from the proposals in this chapter.
- 6.27** Overall, we do not consider that the proposals adversely impact any of the groups with protected characteristics ie age, disability, sex, marriage or civil partnership, pregnancy and maternity, race, religion and belief, sexual orientation and gender reassignment.
- 6.28** We will continue to consider the equality and diversity implications of the proposal during the consultation period, and will revisit them when publishing the final rules.
- 6.29** In the interim we welcome any feedback to this consultation.



7 Our projection rates – changes to the Conduct of Business sourcebook

Introduction

- 7.1** Our disclosure rules currently require firms to prepare and provide a key features illustration (KFI) for packaged products, including personal pension schemes. KFIs include 'standardised deterministic projections'¹¹. We also expect firms to provide projections for certain in-force packaged products in line with our rules.
- 7.2** These projections must be prepared using standardised economic assumptions. The assumptions include the maximum rate of return and inflation, and are set out in our Conduct of Business sourcebook (COBS) 13 Annex 2. We review these assumptions periodically; this was last done in 2012.
- 7.3** We are aware that these disclosure rules have been in place for some time. Due to the introduction of the Packaged Retail and Insurance-based Investment Products (PRIIPs) Regulation and other competing priorities, we have not undertaken a full review of these rules. However, we have reviewed the economic assumptions used in the preparation of the projections. This chapter summarizes the findings of our recent review and consults on some small changes to the economic assumptions.
- 7.4** In line with previous reviews, our 2017 review has been informed by the 2017 Expert Report (the Report), which assesses:
- historical and anticipated future returns on key asset classes
 - asset allocations for products subject to the regime, and
 - key economic variables, such as gross domestic product (GDP) growth, earnings growth and inflation
- 7.5** We will be publishing the full Report and the peer reviewers' comments in due course at www.fca.org.uk/publication/research/rates-return-fca-prescribed-projections.pdf. The report was produced by our Competition and Economics Department with support from PricewaterhouseCoopers (PwC) on the analysis of tax effects.
- 7.6** This chapter proposes updating the assumptions in COBS 13 Annex 2 to reflect the findings of the Report.¹² In summary, we are proposing to:
- keep the cap on the nominal intermediate rate of return for tax-exempt business at 5% and for all other products at 4.5%

11 A projection which is either a generic projection or a personal projection produced in accordance with the assumptions contained in COBS 13 Annex 2.

12 Some of the economic assumptions in COBS 13 Annex 2 also feature in COBS 19.1 (pension transfers and opt-outs), so any changes to COBS 13 Annex 2 will be reflected in COBS 19.1.

- keep the current 'lower' and 'higher' flanking rates at $\pm 3\%$
- base our price inflation rate assumption on the consumer prices index (CPI), rather than the retail prices index (RPI), which will reduce the price inflation rate from 2.5% to 2%, and
- reduce the assumption for earnings inflation from 4% to 3.5%

7.7 Finally, we advise stakeholders interested in this chapter to also read Chapter 6 of this document. Chapter 6 sets out our proposal for how our rules will treat personal projections for products that will become PRIIPs after 1 January 2018, following application of the PRIIPs Regulation.

Summary of proposals

Keeping maximum rates of return at current levels

7.8 Firms must provide three investment projections at 'lower', 'intermediate' and 'higher' nominal rates of return. The lower and higher rates of return must be 3% either side of the intermediate rate to illustrate the uncertainty of potential outcomes. The flanking rates are intended to be a rough guide and do not represent the actual variability of different assets.

7.9 Our rules require firms to use an intermediate rate that accurately reflects the investment potential of each of the product's underlying investments. However, the intermediate rate is also subject to a cap (currently 5%), which is intended to reduce the risk of consumers being misled by speculative projections.

7.10 The intermediate rate cap reflects our best estimate of investment returns over the next 10 to 15 years.¹³ To model investment returns, the Report assessed the typical holdings of pension and life companies and assumed a similar representative portfolio to the one used in 2012. The proposed investment portfolio comprises:

- 60% in equity
- 20% in government bonds
- 10% in corporate bonds
- 7% in property, and
- 3% in cash and money markets funds¹⁴

7.11 The Report assessed the likely return for each asset classes and concluded that the best estimate for the single intermediate rate of return is 5% in nominal terms, with a range around this figure of 4.4% to 5.7%.

13 10 to 15 years is the investment time horizon assumed by the Expert Report because this reflects a standard investment period for many of the products in scope.

14 The main differences between the proposed representative portfolio and the portfolio used in 2012 are that the proposed portfolio has slightly more investment in equity and slightly less in government bonds.



- 7.12** We propose adopting the 5% figure recommended in the Report as the intermediate rate cap. This means there is no change to the current figure in COBS 13 Annex 2.

Tax-disadvantaged products

- 7.13** The Report concluded that taxation reduces the rate of return on the representative portfolio by around 30 basis points. However, we propose rounding this figure to 50 basis points to maintain a maximum nominal intermediate rate of return for tax-disadvantaged products of 4.5%. We consider that rounding to the nearest 0.5% is appropriate for projections, which are intended to be a rough guide to potential returns. More precise figures could lead to consumer overconfidence in the accuracy of projections, which would not be desirable.

Q7.1: Do you agree with our proposal to keep the maximum nominal intermediate rate of return in COBS 13 Annex 2 at 5% for tax-exempt products and 4.5% for all other products?

Reducing price and earnings inflation assumptions by 50 basis points ***Price inflation***

- 7.14** Firms must show personal projections for pensions in accumulation in real terms. This allows consumers to see their projected incomes after future price inflation or changes in the cost of living are taken into account. We set a standard level of price inflation for these calculations. Although not explicitly stated in our rules, we have historically based this assumption on the RPI.
- 7.15** The recent independent review of UK consumer price statistics published by the UK Statistics Authority in 2015 concluded that the RPI is a flawed statistical measure of inflation. The report recommended that government and regulators work towards ending the RPI's use as soon as practicable.¹⁵ The RPI also lost its status as a National Statistic in 2013. We therefore propose basing our price inflation on the CPI, which the review considered a better measure of consumer price inflation. This would mean adopting the Report's long-run central CPI estimate of 2%, reducing the current (RPI-based) figure of 2.5% by 50 basis points.
- 7.16** We do propose retaining a RPI assumption for use by firms where contributions, benefits or charges are linked to this index. We propose setting this at 3%¹⁶, in line with the Report's recommendation.

Earnings inflation

- 7.17** For pension products, we set an earnings inflation assumption to enable firms to estimate consumers' future contributions. We propose following the Report's recommendation and reducing our earnings inflation assumption from its current level of 4% to 3.5% (rounded down from 3.75%). We also propose to update the corresponding figure in COBS 19.1.

¹⁵ See: www.statisticsauthority.gov.uk/wp-content/uploads/2015/12/images-excecutive-summary_tcm97-44339.pdf (p22).

¹⁶ Rounded down from 3.25%.

Pension transfers and opt-outs

7.18 For COBS 19.1 we will keep the CPI figure at 2%, and increase the RPI figure by 50 basis points (from 2.5% to 3%).

7.19 We also propose consistent consequential changes for annuity interest rates linked to the CPI which result from the change in the differential between the RPI and the CPI from 0.5% to 1%.¹⁷ In CP17/16¹⁸ we asked for views on the approach taken to limited price indexation increases which could reflect the caps and collars more appropriately.

GDP deflator

7.20 We note that the Report used the GDP deflator, rather than the CPI or RPI, as the measure of price inflation embedded in its rate of return calculations. This follows an approach developed by PwC for the 2012 review.¹⁹

7.21 The Report estimated that annual price inflation, as measured by the GDP deflator, will average 2.5% over the next 10 to 15 years. This compares to the Report's central forecasts for average CPI growth of 2% and RPI growth of 3.25% over the same period. This puts the GDP deflator close to the midpoint of the CPI and RPI.

7.22 Many economists consider the GDP deflator a more stable measure of inflation than the CPI or RPI. However, we are concerned it may not always reflect the type of price inflation experienced by household consumers who receive personal projections.

7.23 While all statistical measures of price inflation are imperfect, a particular issue with the GDP deflator compared with the RPI or CPI is that it directly tracks GDP, rather than the price of goods purchased by consumers. So the GDP deflator excludes some things that consumers buy (notably imported goods, which are not part of GDP), but includes other items that they don't (such as equipment used in industrial production).

7.24 The Report considered the impact on the maximum intermediate rate of return where the CPI, rather than the GDP deflator, is used as the measure of inflation. The impact appeared to be minimal.²⁰ Using the GDP deflator as the measure of inflation, the Report's best estimate for the rate was 5.01%, whereas using the CPI gives 5.13%. However, this difference is eliminated by rounding to the nearest 0.5%, which we do to all of the assumptions used in the regime (see paragraph 7.13 of this chapter).

Q7.2: Do you agree with our proposal to base our price inflation assumption in COBS 13 Annex 2 on the CPI (rather than the RPI), resulting in a reduction from 2.5% to 2%?

Q7.3: Do you agree with our proposal to retain an RPI-based price inflation assumption in COBS 13 Annex 2 for benefits, contributions or charges linked to the RPI, and to set this at 3%?

17 See COBS 19.1.4(h)(i). The current differential is 0.5%, based on the RPI at 2.5% and CPI at 2%. Changing the RPI (3%) and CPI (2%) assumptions in line with the Expert Report will increase the differential to 1%.

18 CP17/16 'Advising on pension transfers' (June 2017)

www.fca.org.uk/publications/consultation-papers/cp17-6-quarterly-consultation-paper-no-16

19 The view of the authors of the PwC report was that the GDP deflator is a more stable and representative measure of inflation than the main alternatives, the CPI and RPI.

20 For the reasons set out in paragraph 15 of the Report we discount using RPI-based assumptions, except in the scenario described in paragraph 18.



- Q7.4:** Do you agree with our proposal to update the RPI and earnings inflation figures in COBS 19.1 to 3% and 3.5% respectively, and leave the current CPI figure of 2% unchanged?
- Q7.5:** Do you agree with our proposal to reduce our earnings inflation assumption in COBS 13 Annex 2 from 4% to 3.5%?
- Q7.6:** Do you have any other comments on our proposals, the underlying analysis, or any other related issues (including how we could improve our projections regime in the future)?

Cost benefit analysis

7.25 We believe the current disclosure regime provides the following benefits to consumers:

- providing illustrative information about the upside potential and downside risks of life and pension investments that consumers hold or are considering buying
- ensuring consumers are not misled by speculative projections that could give them an unrealistic impression of future returns, and
- in conjunction with our rules on charges disclosure, increasing competitive pressure on industry costs by showing consumers how firms' charges affect returns on their investments

7.26 We consider our proposals will result in only minimal costs for firms. This is not the first time we have changed our assumptions and providers should therefore already have the capacity to change their systems and processes in response to our proposed updates.

Compatibility statement

7.27 Section 138I(2)(d) of FSMA requires us to explain why we believe our proposed rules are compatible with our strategic objective, advance one or more of our operational objectives, and have regard to the regulatory principles in section 3B of FSMA. In addition, section 138K(2) of FSMA requires us to state where the proposed rules will have a significantly different impact on mutual societies as opposed to other authorised persons.

7.28 Our proposals promote:

- consumer protection, by ensuring consumers receive projections that reflect reasonable assumptions about future investment returns and inflation, and
- competition, by helping to increase competitive pressure on charges

- 7.29** We do not believe that the changes described in this chapter will have a different impact on mutual societies compared to other authorised persons.

Equality and diversity

- 7.30** We have considered the equality and diversity issues that may arise from the proposals in this chapter.
- 7.31** Overall, we do not consider that the proposals adversely impact any of the groups with protected characteristics ie age, disability, sex, marriage or civil partnership, pregnancy and maternity, race, religion and belief, sexual orientation and gender reassignment.
- 7.32** We will continue to consider the equality and diversity implications of the proposal during the consultation period, and will revisit them when publishing the final rules.
- 7.33** In the interim we welcome any feedback to this consultation.



8 Changes to reporting requirements in the Supervision manual

Introduction

- 8.1** We collect regulatory data to inform and support our supervision of firms. Our data reporting requirements are set out in the FCA Handbook, mainly in the Supervision manual (SUP). We use feedback from firms and FCA colleagues to clarify and improve these requirements. This chapter provides details of two proposed changes to regulatory reporting returns and supporting guidance.
- 8.2** This consultation will be of interest to:
- mutual insurers, and
 - all firms required to report form FIN-A to us alongside an upload of their annual report and accounts
- 8.3** The proposed changes to the Handbook text itself, and the statutory powers they will be made under, are set out in Appendix 8 of this Consultation Paper (CP).

Summary of proposals

Adding new questions to form FIN-A and updating the associated guidance in SUP 16 Annex 1BG

- 8.4** We propose to introduce five new questions for firms using Gabriel to complete form FIN-A, which is submitted alongside an upload of firms' annual report and accounts.
- 8.5** This will enhance our prudential supervision of firms by allowing us to set up a number of automated alerts on specific aspects of each firm's annual report and accounts, to ensure they meet our prudential requirements and trigger risk alerts if not. Currently this has to be done manually by checking each firm's individual portable document format (PDF) submissions – this is time consuming and can result in errors.
- 8.6** The questions we propose to ask will not require the collection of new or additional data from firms but will be easily extracted from their annual report and accounts by those who have been involved in preparing these. The additional questions should require minimal resource from firms to complete but will significantly enhance the efficiency of our prudential supervision of solo-regulated firms.
- 8.7** We are aware that changes are due to be made to form FIN-A to amend the Immigration Act attestation question²¹ and that this change is due to come into force on 1 January 2018. We aim to make the changes we propose in this CP come into force and be available

21 See Handbook Notice No.46 www.fca.org.uk/publication/handbook/handbook-notice-46.pdf

in the Gabriel system simultaneously. This will ensure cost savings for the FCA and avoids the need for two separate updates to the form.

- 8.8** We will also update the guidance notes in SUP 16 Annex 1BG associated with FIN-A, to include information on the new questions and to improve sense and consistency within the guidance.

Q8.1: Do you have any comments on our proposals to add questions to form FIN-A and to update its accompanying guidance notes?

Introduction of a new exception from controllers reporting (form REP002) for some mutual insurers

- 8.9** We propose to extend the exemption from controllers reporting (form REP002) that is currently available for friendly societies in SUP 16.4.10R, to include mutual insurers. This change will mean the reporting requirements will more accurately reflect our data needs and avoid firms having to undertake a workaround in Gabriel for this form.

- 8.10** The PRA intends to consult on making similar changes to the equivalent rules in their Rulebook at a future date. This potential change to reporting requirements would, if taken forward, come into legal effect simultaneously in both the FCA Handbook and PRA Rulebook.

Q8.2: Do you have any comments on our proposals to remove the need for controllers reporting (form REP002) from some mutual insurers?

Cost benefit analysis

- 8.11** Sections 138I(2)(a) of the Financial Services and Markets Act 2000 (FSMA) requires us to publish a cost benefit analysis when proposing draft rules. Section 138L(3) of FSMA provides that section 138I(2)(a) does not apply where we consider that there will be no increase in costs or the increases will be of minimal significance. Having assessed the changes proposed in this chapter and having considered previous estimates of similar reporting changes, we believe this exemption applies to the items proposed in this chapter.

Adding new questions to form FIN-A

- 8.12** This change will likely have cost implications of only minimal significance for firms as it requires no additional data to be collected and reported. Firms will need to answer a series of five additional questions. The answers will need to be selected from a drop-down box in the form. The questions do not require firms to provide us with additional data, the information is already held within the annual report and accounts. The change will allow more accurate and efficient analysis by supervisors.



Introduction of a new exception from controllers reporting (form REP002) for some mutual insurers

- 8.13** This change will likely have a minor cost reduction for firms as it removes reporting requirements from mutual insurers and removes the need for these firms to undertake a workaround in Gabriel.

Q8.3: Do you have any comments on our cost benefit analysis?

Impact on mutual societies

- 8.14** Section 138K(2) of FSMA requires us to provide an opinion on whether the impact of proposed rules on mutual societies is significantly different to the impact on other authorised persons. The proposed changes do impact mutual insurers differently from other authorised persons. The proposed change will likely result in a reduction in reporting requirements for these firms.

Compatibility statement

- 8.15** Section 1B of FSMA requires us, so far as is reasonably possible, to act in a way that is compatible with our strategic objective and advances one or more of our operational objectives. We also need to carry out our general functions in a way that promotes effective competition in the interests of consumers.
- 8.16** The proposed changes in this chapter will allow us to collect more accurate firm data and process it more efficiently. In turn, this will allow more effective supervision of firms and will help us to advance our consumer protection objective.
- 8.17** We do not believe that the proposed changes will have an impact on competition. The changes are expected to impose no or minimal costs on firms and do not affect firms' incentives or ability to compete in the market.

Equality and diversity

- 8.18** Overall, we do not believe that the proposals in this chapter adversely impact any of the groups with protected characteristics specified in legislation ie age, disability, sex, marriage or civil partnership, pregnancy and maternity, race, religion and belief, sexual orientation and gender reassignment.
- 8.19** We will continue to consider the equality and diversity implications of the proposals during the consultation period, and, if necessary, will revisit them when we publish the final rules.
- 8.20** In the interim we welcome any feedback to this consultation.

9 Retirement interest-only mortgages

Introduction

- 9.1** Work for our forthcoming Occasional Paper on the Ageing Population has identified a regulatory barrier to a form of mortgage lending that could meet the needs of some older borrowers; in particular, older consumers with maturing interest-only mortgages and no repayment vehicle, and those seeking to release equity from their homes without the cost of interest roll-up. As a result we are setting out in this chapter a number of measures to facilitate 'retirement interest-only mortgages'. These are interest-only mortgages for older consumers where, assuming there is no default, the loan is only repaid on a specified life event (usually the customer's death or move into residential care). Customers must still be able to afford the ongoing interest payments, but ultimately the loan is repaid through the sale of the property.
- 9.2** The proposals in this chapter address the consequence of our policy decision to pass on to the market the full benefit of exemptions negotiated from the Mortgage Credit Directive (MCD). As part of this, we redefined retirement interest-only mortgages as lifetime mortgages.²² We are revisiting this position because it may be restricting consumer access to retirement interest-only mortgages. For example, firms may be reluctant to complicate systems and staff arrangements set up for standard mortgage lending.
- 9.3** Retirement interest-only mortgages have significantly different risks compared to lifetime mortgages. In particular, they do not feature the roll-up of interest, meaning that consumers are not at risk of rapid equity erosion and the subsequent reduction of funds available for a bequest. Consumers are also more likely to be familiar with the product features of a mortgage involving interest payments. However, we do consider that there are some risks associated with lending with no fixed term and we are proposing to add a small number of additional requirements for the sale of these loans.
- 9.4** We are also looking to correct a second inadvertent consequence of our MCD implementation. One part of our regulatory approach to lifetime mortgages has always been to require them to be restricted to older customers above a specified age. Inadvertently, we partially disappplied this requirement when making the MCD changes, and we propose now to correct this.
- 9.5** This consultation will be of interest to mortgage lenders and their trade bodies. It may also be of interest to older consumers looking for interest-only mortgages.

22 PS15/9 'Implementation of the Mortgage Credit Directive and the new regime for second charge mortgages, feedback to CP14/20 and final rules' (March 2015)
www.fca.org.uk/publications/policy-statements/ps15-9-implementation-mortgage-credit-directive-and-new-regime-second



Summary of proposals

9.6 Restoring the pre-MCD regulatory treatment of retirement interest-only mortgages requires Glossary changes. We propose to:

- create a new defined term – a ‘retirement interest-only mortgage’. This is an interest-only mortgage restricted to older consumers in which the lender will not seek repayment until the occurrence of one or more specified life events, and
- exclude a retirement interest-only mortgage from the definition of a lifetime mortgage

9.7 Our existing rules already recognise that, in certain circumstances, it may be appropriate to treat the sale of the mortgaged property as a reasonable repayment strategy for an interest-only mortgage.²³ However, we propose to amend the guidance provided in MCOB 11.6 (on acceptable repayment strategies) to add a retirement interest-only mortgage as an example of where sale of the property at the occurrence of one or more specified life events could be an acceptable repayment strategy. We also propose to disapply, for retirement interest-only mortgages, a clause in MCOB 11.6.3R which requires lenders to take into account the customer’s ability to purchase a cheaper property as part of their assessment of the mortgaged property as a reasonable repayment strategy. We currently require that annual statements for interest-only mortgages contain a message encouraging consumers to check the status of any savings plans or investments. This reminder would not be relevant to those consumers holding retirement interest-only mortgages and so for these mortgages we propose to disapply the rules in MCOB 7.5 that specify these communications.

9.8 As well as restoring the previous regulatory treatment, which will remove the need for irrelevant disclosures, we have considered the potential detriment to the consumer from retirement interest-only mortgages and propose a small number of additional requirements for any retirement interest-only sale. These are:

- Disclosure of any restriction on other people living in the property, such as family members or a new spouse or civil partner, through a new rule in MCOB 5.4 (pre-application disclosure).
- A new rule in MCOB 5.4 applied in cases where the retirement interest-only mortgage is to be used for drawing income. This would require disclosure that using the retirement interest-only mortgage to draw income may affect the consumer’s tax position and entitlement to benefits, and that the consumer should consider getting advice on this before taking out the mortgage.
- For advised sales we propose a new rule in MCOB 4.7A applied in cases where the retirement interest-only mortgage is to be used for drawing income. This would require the suitability assessment to address the tax and benefits implications, or require that the customer be referred to a source of information on those matters, for example HMRC. Our rules mean that although advice is required in the great majority of mortgage sales, it is compulsory only in certain specified cases.²⁴ We do

²³ See MCOB 11.6.46E(3)

²⁴ In general, advice is required other than where the customer rejects advice, identifies the product they wish to purchase and positively elects to proceed on an execution-only basis; or if the customer is a high net worth mortgage customer or a professional customer, or the loan is solely for a business purpose (see MCOB 4.8A.2G).

not think there is a case for making advice compulsory in all cases for retirement interest-only mortgages, as this would unnecessarily raise costs for consumers and potentially limit access to them. As with all mortgages, advice will be required in some circumstances for retirement interest-only sales, such as where the customer has impaired credit or the mortgage is to be used for debt consolidation.

- Disclosure that a lifetime mortgage may be available and more appropriate for the customer through a new rule and associated guidance in MCOB 4.4A (alternative finance options).

9.9 Finally, we also propose to correct the Glossary definition of a lifetime mortgage, by re-ordering the text, to restore the intention that entry into all lifetime mortgages should be restricted to older consumers above a certain age.

Q9.1 Do you agree with our proposed approach to retirement interest-only mortgages?

Q9.2 Do you agree with our approach to correcting the inadvertent partial disapplication of the age criterion in the lifetime mortgage definition?

Cost benefit analysis

9.10 Section 138I(2)(a) of FSMA requires us to publish a cost benefit analysis (CBA) when proposing draft rules. Section 138L(3) of FSMA states that section 138I(2)(a) does not apply if we consider that there will be no increase in costs or the increase will be of minimal significance. We consider that our proposed changes will not result in an increase in costs, or that where they do this will be of minimal significance. The disclosure changes are not anticipated to give rise to significant cost because they only clarify existing expectations for product disclosure that is clear, fair and not misleading. The alternative finance disclosure is also not anticipated to lead to significant costs for firms. When a similar alternative finance options disclosure was introduced in CP14/20, this was considered to have no significant cost to firms.²⁵

Compatibility statement

9.11 Section 1B of FSMA requires the FCA, when discharging its general functions, so far as is reasonably possible, to act in a way that is compatible with its strategic objective and advances one or more of its operational objectives. Also, so far as is compatible with acting in a way that advances the FCA's consumer protection integrity objectives, the FCA needs to carry out its general functions in a way that promotes effective competition in the interests of consumers.

9.12 We are satisfied that these proposals are compatible with our general duties under section 1B of FSMA, having regard to the matters set out in section 1C(2) of FSMA and the regulatory principles in section 3B. In this case our proposals are intended

²⁵ CP14/20 'Implementation of the Mortgage Credit Directive and the new regime for second charge mortgages' (September 2014) www.fca.org.uk/publication/consultation/cp14-20.pdf



to advance our operational objectives of securing appropriate levels of consumer protection, and to promote effective competition in the interests of consumers by making it easier for providers to offer access to loans that better suit the needs of some borrowers.

- 9.13** In preparing the proposals set out in this consultation, we have had regard to the recommendations made by the Treasury under section 1JA of FSMA relating to aspects of the economic policy of Her Majesty's Government in connection with our general duties. It is our opinion that making changes to facilitate retirement interest-only mortgages supports the Treasury's recommendation of securing better outcomes for consumers and having regard to the needs of different consumers who use financial services.
- 9.14** The proposed changes are not expected to have a significantly different impact on mutual societies.

Equality and diversity

- 9.15** Guidance on the Equality Act (2010)²⁶ states that providers of financial services may take age into account when designing, pricing and offering financial services products provided that any risk assessment that takes age into account is based on relevant data from a reliable source. Lenders offering retirement interest-only mortgages will need to have regard to the Equality Act in deciding where to set their age restrictions for this product.
- 9.16** We are required under the Equality Act 2010 to have due regard to the need to eliminate discrimination and to promote equality of opportunity in carrying out our policies, services and functions. Retirement interest-only mortgages are potentially well suited to the needs of older consumers. However, for younger consumers the very long potential term length would make it extremely difficult for lenders and consumers to gauge the plausibility of the repayment strategy over the borrower's lifetime, for example in judging likely long-term movements in house prices. We do not think the proposals have any particular impacts on other groups with protected characteristics, but would welcome input on this during the consultation.

²⁶ www.equalityhumanrights.com/sites/default/files/what_equality_law_means_for_your_business.pdf

Annex 1

List of questions

- Q2.1:** Do you have any comments on our proposal to charge authorised payment institutions (APIs) and authorised e-money institutions (AEMIs) £750 if they apply to vary their permission to provide payment initiation services (PIS) or account information services (AIS)?
- Q3.1:** Do you have any comments on our proposal to add a new EG 19.34?
- Q3.2:** Do you have any comments on our proposal to change DEPP 2 Annexes 1 and 2?
- Q3.3:** Do you have any comments on our proposal to apply the existing policy as set out in DEPP 6 and 6A?
- Q4.1:** Do you have any comments on our proposed amendments to COBS 16.1?
- Q4.2:** Do you have any comments on our proposed amendments to the forms and SUP?
- Q5.1:** Do you agree with this proposed change to IFPRU 2.2?
- Q6.1:** Do you agree that, where it is clear clients either want or need to have a personal projection, firms should be able to provide personalised projections alongside the PRIIPs KID?
- Q6.2:** Do you agree that, if provided, firms should prepare personalised projections in accordance with our rules in COBS 13 on projections or the MiFID future performance rules (as relevant)?
- Q6.3:** Or, alternatively, do you think that firms should be able to prepare personalised performance scenarios in line with the methodologies set out in the PRIIPs RTS?
- Q7.1:** Do you agree with our proposal to keep the maximum nominal intermediate rate of return in COBS 13 Annex 2 at 5% for tax-exempt products and 4.5% for all other products?
- Q7.2:** Do you agree with our proposal to base our price inflation assumption in COBS 13 Annex 2 explicitly on the CPI (rather than the RPI), resulting in a reduction from 2.5% to 2%?



- Q7.3:** Do you agree with our proposal to retain an RPI-based price inflation assumption in COBS 13 Annex 2 for benefits and contributions linked to the RPI, and to set this at 3%?
- Q7.4:** Do you agree with our proposal to update the RPI and earnings inflation figures in COBS 19.1 to 3% and 3.5% respectively, and leave the current CPI figure of 2% unchanged?
- Q7.5:** Do you agree with our proposal to reduce our earnings inflation assumption in COBS 13 Annex 2 from 4% to 3.5%?
- Q7.6:** Do you have any other comments on our proposals, the underlying analysis, or any other related issues (including how we could improve our projections regime in the future)?
- Q8.1:** Do you have any comments on our proposals to add questions to the form FIN-A and update its accompanying guidance notes?
- Q8.2:** Do you have any comments on our proposals to remove controllers reporting (form REP002) from some mutual insurers?
- Q8.3:** Do you have any comments on our cost benefit analysis?
- Q9.1:** Do you agree with our proposed approach to retirement interest-only mortgages?
- Q9.2:** Do you agree with our approach to correcting the inadvertent partial disapplication of the age criterion in the lifetime mortgage definition?

Appendix 1

Abbreviations used in this paper

AEMI	authorised electric money institution
AIS	account information services
API	authorised payment institution
CRD	Capital Requirements Directive (No 2013/36/EU)
COBS	Conduct of Business sourcebook
CP	Consultation Paper
CBA	cost benefit analysis
DEPP	Decision Procedure and Penalties manual
EG	Enforcement Guide
FSMA	Financial Services and Markets Act
GDP	gross domestic product
HMRC	Her Majesty's Revenue and Customs
IDD	the Insurance Distribution Directive
IMD	the Insurance Mediation Directive
KFI	key features illustration
KID	key information document
MiFID	Markets in Financial Instruments Directive
MCD	Mortgage Credit Directive
MCOB	Mortgages and Home Finance: Conduct of Business sourcebook
PRIIP	packaged retail and insurance-based investment product
PRIIPs Regulation	Packaged Retail and Insurance-based Investment Products Regulation
PRIIPs SI	Packaged Retail and Insurance-based Investment Products Regulations 2017



PIS	payment initiation services
PSRs	Payment Services Regulations
PS	Policy Statement
PDF	portable document format
PII	professional indemnity insurance
IFPRU	Prudential sourcebook for Investment Firms
RDC	Regulatory Decisions Committee
RTS	Regulatory Technical Standards
RPI	retail prices index
PwC	Pricewaterhouse Coopers
PSD 2	Second Payment Services Directive
SUP	the Supervision manual
VoP	variation of permission

We have developed the policy in this Consultation Paper in the context of the existing UK and EU regulatory framework. The Government has made clear that it will continue to implement and apply EU law until the UK has left the EU. We will keep the proposals under review to assess whether any amendments may be required in the event of changes in the UK regulatory framework in the future.

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.

All our publications are available to download from www.fca.org.uk. If you would like to receive this paper in an alternative format, please call 020 7066 9644 or email: publications_graphics@fca.org.uk or write to: Editorial and Digital team, Financial Conduct Authority, 25 The North Colonnade, Canary Wharf, London E14 5HS



Appendix 2

Payment Services Directive 2: changes to fees for varying permission

[*Editor's note:* The text in this instrument takes into account the changes suggested by CP17/11 'Implementation of the revised Payment Services Directive (PSD2): draft Approach Document and draft Handbook changes' and in 'Fees (Payment Services) Instrument 2017' in CP17/12 'FCA Regulated fees and levies: Rates proposals 2017/18' as if they were made.]

FEES (PAYMENT SERVICES) (No 2) INSTRUMENT 2017

Powers exercised

- A. The Financial Conduct Authority makes this instrument in the exercise of:
- (1) the following powers and related provisions in or under the Financial Services and Markets Act 2000 ("the Act"):
 - (a) section 73A (Part 6 Rules) ;
 - (b) section 137A (The FCA's general rules), as applied by paragraph 3 of Schedule 6 to the Payment Services Regulations 2017 (SI 2017/752) and paragraph 2A of Schedule 3 to the Electronic Money Regulations 2011 (SI 2011/99);
 - (c) section 137T (General supplementary powers) as applied by paragraph 3 of Schedule 6 to the Payment Services Regulations 2017 (SI 2017/752) and paragraph 2A of Schedule 3 to the Electronic Money Regulations 2011 (SI 2011/99);
 - (d) section 139A (Power of the FCA to give guidance);
 - (e) section 213 (The scheme);
 - (f) section 214 (Provisions of the scheme);
 - (g) section 234 (Industry funding);
 - (h) paragraph 23 (Fees) in Part 3 (Penalties and Fees) of Schedule 1ZA (The Financial Conduct Authority); and
 - (i) paragraph 12 in Part 2 (Funding) of Schedule 1A (Further provision about the Consumer Financial Education Body);
 - (2) regulation 35 (Costs of supervision) of the Money Laundering Regulations 2007(SI 2007/2157);
 - (3) regulation 92 (Costs of supervision) of the Payment Services Regulations 2009 (SI 2009/209);
 - (4) regulation 59 (Costs of supervision) of the Electronic Money Regulations 2011 (SI 2011/99); and
 - (5) regulation 118 (Costs of supervision) of the Payment Services Regulations 2017 (SI 2017/752).
- 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 [13 January 2018] except for FEES TP 17 which comes into force on [tbc].

Amendments to the Handbook

- D. The Fees manual (FEES) is amended in accordance with the Annex to this instrument.

Citation

- E. This instrument may be cited as the Fees (Payment Services) (No 2) Instrument 2017.

By order of the Board
[date]

Annex

Amendments to the Fees manual (FEES)

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

3 Application, Notification and Vetting Fees

...

3.2 Obligation to pay fees

...

3.2.7R Table of application, notification, vetting and other fees payable to the FCA

Part 1: Application, notification and vetting fees		
(1) Fee payer	(2) Fee payable (£)	Due date
...
(zb) An <i>authorised payment institution</i> applying to vary its authorisation under regulation 5 of the <i>Payment Services Regulations</i> .	(1) If the payment services carried on by the authorised payment institution prior to the variation <u>the authorised payment institution only fall is authorised to carry on any one or more of the payment services falling within paragraph (f), (g) or (h) of Part 1 of Schedule 1 to the Payment Services Regulations and any of the payment services in paragraphs (a) to (e) of that Schedule will apply after variation and the authorised payment institution is applying to extend its authorisation to include any one or more of the payment services in (a) to (e),</u> the fee is 50% of the highest of the tariffs set out in <i>FEES 3 Annex 8R</i> which apply to	On or before the date the application is made.

	<p>that application.</p> <p>(2) Where the <i>authorised payment institution</i>:</p> <p>(i) already has authorisation to provide <i>payment services</i> within any one or more of paragraphs (a) to (e) of Part 1 of Schedule 1 to the <i>Payment Services Regulations</i> and wishes to add one or more other services in (a) to (h-f); or</p> <p>(ii) has authorisation to provide <i>payment services</i> in paragraph (f), (g) or (h) of Part 1 of Schedule 1 to the <i>Payment Services Regulations</i> and wishes to extend its authorisation to include any other services in paragraphs (f) to (h);</p> <p>the fee payable is £250 irrespective of the number of <i>agents</i> it has.</p> <p><u>(3) Where the <i>authorised payment institution</i> already has authorisation to provide <i>payment services</i> within any one or more of paragraphs (a) to (f) of Part 1 of Schedule 1 to the <i>Payment Services Regulations</i> and wishes to add one or both of the services in (g) and (h) the fee payable is £750, irrespective of the number of <i>agents</i> it has.</u></p> <p>(3 4) In cases where the variation involves only the reduction (and no increases) of the types of <i>payment services</i> to be carried on after the</p>	
--	--	--

	variation, no fee is payable.	
...
(zj) An <i>authorised electronic money institution</i> applying to vary its authorisation under regulation 8 of the <i>Electronic Money Regulations</i> .	<p>The amount set out in FEES 3 Annex 10 R.</p> <p>(1) <u>Subject to (2) below, the fee is 50% of the tariff for an <i>electronic money institution</i> authorisation application set out in <i>FEES 3 Annex 10R</i>.</u></p> <p>(2) <u>Where the <i>authorised electronic money institution</i> applies to vary its permission so as to be able to provide one or both of the payment services in paragraphs (g) and (h) of Part 1 of Schedule 1 to the <i>Payment Services Regulations</i> the fee payable is £750.</u></p>	On or before the date the application is made.
...

...

3 Annex 8R Fees payable for authorisation as an authorised payment institution or registration as a small payment institution, including notification fees, in accordance with the Payment Services Regulations

Authorisation and registration fees payable

Application type for authorisation, registration and notification under Part 2 of the <i>Payment Services Regulations</i>	Amount payable (£)
...	...
<p>Note: See <i>FEES TP 46 17</i> for transitional provisions relating to fees payable for authorisation as an authorised payment institution or registration as a small payment institution under the Payment Services Regulations 2017 (SI 2017/1161) and <i>Electronic Money Regulations 2011</i>.</p>	

Insert the new *FEES* TP 17 after *FEES* TP 16 Transitional Provisions for Market Data Processor System Connectivity Fees.

TP 16 **Transitional provisions relating to fees payable for authorisation as an**
17 **authorised payment institution or registration as a small payment institution**
under the Payment Services Regulations 2017 and Electronic Money
Regulations 2011

(1)	(2) Material to which the transitional provision applies	(3)	(4) Transitional Provision	(5) Transitional Provision: dates in force	(6) Handbook provision: coming into force
Interpretation					
1.	<i>FEES</i> TP 16 <u>17</u>	R	In these transitional provisions:	From commencement	[tbc]
			(1) references to the Payment Services Regulations 2009 are to the Payment Services Regulations 2009 (SI 2009/209);		
			(2) references to the Payment Services Regulations 2017 are to the Payment Services Regulations 2017 (SI 2017/752); and		
			(3) references to the Electronic Money Regulations 2011 are to the Electronic Money Regulations 2011 (SI 2011/99) as amended by the Payment Services Regulations 2017.		

Fees for authorisation and registration applications submitted prior to 13 January 2018					
2.	FEES 3 Annex 8	R	<p>If, prior to 13 January 2018, an applicant: submits an application for authorisation as an <i>authorised payment institution</i> under regulation 5 of the Payment Services Regulations 2017, the fee for that application will be the highest of the tariffs in (i) and (ii) below which apply to that application.</p> <p>(a) (i) where the applicant is applying to provide the payment services in one or more of paragraphs (f) (money remittance), (g) (payment initiation services) and (h) (account information services) of Part 1 of Schedule 1 to the Payment Services Regulations 2017 the fee is £1,500.</p> <p>(b) (ii) where the applicant is applying to provide the payment services in any one or more of the paragraphs of Part 1 of Schedule 1 to the Payment Services Regulations 2017 of:</p> <p>(a) (enabling cash to be placed on payment account and all operations required for operating a payment account);</p> <p>(b) (enabling cash withdrawals from a payments account and</p>	From [tbc] until 13 January 2018	N/A

			<p>all operations required for operating a payment account);</p> <p>(c) (execution of direct debts, payment transactions executed through a payment card or similar device, credit transfers);</p> <p>(d) (execution of payment transactions where the funds are covered by a credit line for the payment service user);</p> <p>(e) (issuing payment instruments or acquiring payment transactions)</p> <p>the fee is £5,000.</p> <p>This fee is due on or before the date the application is made.</p>		
3.	<i>FEES 3</i> Annex 8	R	<p>Where an applicant submits an application for authorisation as an authorised payment institution under regulation [5] of the Payment Services Regulations 2017 prior to 13 January 2018 and that applicant intends to use <i>agents</i> there will be a fee of £3 for each agent registered with the <i>FCA</i> at the time of application.</p> <p>This fee is in addition to any fee due under <i>FEES TP 167(2)</i>.</p>	From [tbc] until 13 January 2018	N/A
...
6	<i>FEES 3</i>	R	¶ <u>Subject to paragraph</u>	From [tbc] until	N/A

	Annex 8		<p>[7] below, if, prior to 13 January 2018, an applicant submits an application to vary:</p> <p>(i) its authorisation under regulation [5] of the Payment Services Regulations; or</p> <p>(ii) its registration under regulation [13] of the Payment Services Regulations</p> <p>the fee is 50% of the highest of the tariffs set out in FEES TP167 which apply to that application.</p> <p>In cases where the variation involves only the reduction (and no increases) of the types of payment services to be carried on after the variation, no fee is payable.</p> <p>If a fee is payable this fee is due on or before the date the application is made.</p>	13 January 2018	
<u>Fees for variation of authorisation applications submitted prior to 13 January 2018</u>					
<u>7.</u>	<u>FEES 3 Annex 8</u>	<u>R</u>	<p><u>If, prior to 13 January 2018, an applicant submits an application to vary its authorisation under regulation 5 of the Payment Services Regulations 2017 so as to be able to provide one or both of the payment services in paragraphs (g) (payment initiation services) and (h)</u></p>	<p><u>From [tbc] until 13 January 2018</u></p>	<u>N/A</u>

			<u>(account information services) of Part 1 of Schedule 1 to those Regulations, the applicant will be required to pay an additional fee within one month of 13 January 2018. That additional fee is the difference in the fee payable at the date of the application and the fee payable for such an application made on or after 13 January 2018.</u>		
8.	<u>FEES 3 Annex 10</u>	<u>R</u>	<u>If, prior to 13 January 2018, an applicant: submits an application to vary its authorisation under regulation 8 of the Electronic Money Regulations 2011 so as to be able to provide one or both of the payment services in paragraphs (g) (payment initiation services) and (h) (account information services) of Part 1 of Schedule 1 to Payment Services Regulations 2017, the applicant will be required to pay an additional fee within one month of 13 January 2018. That additional fee is the difference in the fees payable at the date of the application and the amount payable for such an application made on or after 13 January 2018.</u>	<u>From [tbc] until 13 January 2018</u>	<u>N/A</u>
Fees for re-authorisation and re-registration					

7. <u>9.</u>	...	...	...	...	...
8. <u>10.</u>	...	...	...	...	...
9. <u>11</u>	...	...	...	...	...
10. <u>12</u>	...	...	...	...	...



Appendix 3

Our enforcement approach to breaches of the PRIIPs Regulation

ENFORCEMENT (PACKAGED RETAIL AND INSURANCE-BASED INVESTMENT PRODUCTS REGULATIONS 2017) INSTRUMENT 2017

Powers exercised

- A. The Financial Conduct Authority makes this instrument in the exercise of:
the following powers:
- (1) the following powers and related provisions in the Financial Services and Markets Act 2000 (“the Act”):
 - (a) section 139A (Power of the FCA to give guidance);
 - (b) section 395 (The Authority’s procedures);and
 - (2) the following powers and related provisions in the Packaged Retail and Insurance-based Investment Products Regulations 2017:
 - (a) paragraph 3 of Schedule 1; and
 - (b) paragraph 6 of Schedule 1.

Commencement

- B. This instrument comes into force on *[date]*.

Amendments to the Handbook

- C. The Decision Procedure and Penalties manual (DEPP) is amended in accordance with Annex A to this instrument.

Amendments to material outside the Handbook

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

Citation

- E. This instrument may be cited as the Enforcement (Packaged Retail and Insurance-based Investment Products Regulations 2017) Instrument 2017.

By order of the Board
[date]

Annex A

Amendments to the Decision Procedure and Penalties manual (DEPP)

In this Annex, underlining indicates new text.

2 Statutory notices and the allocation of decision making

...

2 Annex 1 Warning notices and decision notices under the Act and certain other enactments

...

<u>Packaged Retail and Insurance-based Investment Products Regulations 2017</u>	<u>Description</u>	<u>Handbook reference</u>	<u>Decision maker</u>
<u>Regulations 10(1) and 10(4)</u>	<u>when the FCA is proposing or deciding to take action against a person under regulation 6*</u>		<u>RDC</u>
<u>Paragraph 5(7) of Schedule 1</u>	<u>when the FCA is proposing or deciding to exercise the power under section 384(5) of the Act to require a person to pay restitution*</u>		<u>RDC</u>

...

2 Annex 2 Supervisory Notices

2

...

<u>Packaged Retail and Insurance-based Investment Products Regulations 2017</u>	<u>Description</u>	<u>Handbook reference</u>	<u>Decision maker</u>

<u>Regulations 9(3)(a) and (c)</u>	<u>when the FCA is proposing to make an order under regulation 4 or makes an order under regulation 4 with immediate effect</u>		<u>RDC</u>
<u>Regulations 9(3)(b) and (d)</u>	<u>when the FCA is proposing to increase the period of a suspension under regulation 5(2) or increases the period of a suspension under regulation 5(2) with immediate effect</u>		<u>RDC</u>
<u>Regulation 9(6)(a)</u>	<u>when the FCA is deciding to make or vary an order made under regulations 4 or 5(2) in the way proposed</u>		<u>RDC</u>
<u>Regulation 9(6)(b)</u>	<u>when the FCA is deciding not to revoke an order made under regulations 4 and 5(2) or not to rescind the variation of an order made under regulations 4 and 5(2)</u>		<u>RDC</u>
<u>Regulation 9(7)(b)</u>	<u>when the FCA is deciding to make an order under regulations 4 or 5(2) in different terms or to vary an order made under regulations 4 or 5(2) in a different way</u>		<u>RDC</u>

...

Schedule 4 Powers Exercised

...

Sch 4.2G

...

Paragraph 3 (Statements of Policy) of Schedule 1 of the Packaged Retail and Insurance-based Investment Products Regulations

Paragraph 6 (Application of Part 26 of the Act) of Schedule 1 to the Packaged Retail and Insurance-based Investment Products Regulations

Annex B

Amendments to the Enforcement Guide (EG)

After EG 19.33 (The Small and Medium Sized Business (Finance Platforms) Regulations) insert the following new section EG 19.34. The text is not underlined.

19.34 The Packaged Retail and Insurance-based Investment Products Regulations 2017

19.34.1 The Packaged Retail and Insurance-based Investment Products Regulations implement the *PRIIPs Regulation*. The *FCA* has investigative and enforcement powers in relation to both criminal and civil breaches of the Packaged Retail and Insurance-based Investment Products Regulations, *PRIIPs Regulation* and any directly applicable *EU* regulation made under the *PRIIPs Regulation*. The *PRIIPs Regulation* imposes requirements on both authorised and unauthorised *persons* who manufacture, advise on, market or sell a *PRIIP*.

19.34.2 The *FCA*'s approach to enforcing the Packaged Retail and Insurance-based Investment Products Regulations, whether the *person* is authorised or not, will mirror our general approach to enforcing the *Act*, as set out in *EG 2*. We will seek to exercise our enforcement powers in a manner that is transparent, proportionate, responsive to the issue, and consistent with our publicly stated policies. We will also seek to ensure fair treatment when exercising our enforcement powers. Finally, we will aim to change the behaviour of the *person* who is the subject of our action, to deter future non-compliance by others, to eliminate any financial gain or benefit from non-compliance, and where appropriate, to remedy the harm caused by the non-compliance.

19.34.3 The regulatory powers which the Packaged Retail and Insurance-based Investment Products Regulations provide to the *FCA* include:

- (1) the power to appoint investigators and require information;
- (2) powers of entry and inspection;
- (3) the power of *public censure*;
- (4) the power to impose financial penalties;
- (5) the power to impose a limitation, restriction or requirement;
- (6) the power to apply for an *injunction* or restitution order;
- (7) the power to require restitution; and
- (8) the power of prohibition and suspension.

19.34.4 In addition, the *PRIIPs Regulation* imposes requirements directly on *appointed*

representatives for, amongst other things, regulated activity which their *principal* may have accepted responsibility. We would expect to usually take enforcement action against the *principal*, rather than the *appointed representative*, in these circumstances.

- 19.34.5 The Packaged Retail and Insurance-based Investment Products Regulations, for the most part, mirror the *FCA's* investigative, sanctioning and regulatory powers under the *Act*. The *FCA* has decided to adopt procedures and policies in relation to the use of those powers akin to those it has under the *Act*. Key features of the *FCA's* approach are described below.

Conduct of investigations under the Packaged Retail and Insurance-based Investment Products Regulations

- 19.34.6 The Packaged Retail and Insurance-based Investment Products Regulations apply to much of Part 11 of the *Act*. The effect of this is to apply the same procedures under the *Act* for appointing investigators and requiring information when investigating breaches of the Packaged Retail and Insurance-based Investment Products Regulations.

- 19.34.7 For example, the *FCA* will notify the subject of the investigation that we have appointed investigators to carry out an investigation under the Packaged Retail and Insurance-based Investment Products Regulations and the reasons for the appointment, unless notification is likely to prejudice the investigation or otherwise result in it being frustrated. The *FCA* expects to carry out a scoping visit early on in the enforcement process in most cases. The *FCA's* policy in civil investigations under the Packaged Retail and Insurance-based Investment Products Regulations is to use powers to compel information in the same way as it would in the course of an investigation under the *Act*.

Decision-making under the Packaged Retail and Insurance-based Investment Products Regulations

- 19.34.8 The decision making procedure for those decisions under the Packaged Retail and Insurance-based Investment Products Regulations requiring the giving of a *warning notice*, *decision notice* or a *supervisory notice* are dealt with in *DEPP*.
- 19.34.9 The Packaged Retail and Insurance-based Investment Products Regulations do not require the *FCA* to have published procedures for commencing criminal prosecutions. However, in these situations the *FCA* expects that it will normally follow its decision-making procedures for the equivalent decisions under the *Act*, as set out in *EG 12*.
- 19.34.10 The Packaged Retail and Insurance-based Investment Products Regulations do not require the *FCA* to have published procedures to apply to the court for an *injunction* or restitution order. However, the *FCA* will normally follow its decision-making procedure for the equivalent decisions under the *Act*, as set out in *EG 10* and *EG 11*.
- 19.34.11 The Packaged Retail and Insurance-based Investment Products Regulations require the *FCA* to give third party rights as set out in section 393 of the *Act* and

to give access to certain material as set out in section 394 of the *Act*.

- 19.34.12 Certain *FCA* decisions (for example making an order prohibiting a *person* from marketing a *PRIIP*; making an order requiring a *person* to suspend the marketing of a *PRIIP*) may be referred to the *Tribunal* by an aggrieved party.

Imposition of penalties under the Packaged Retail and Insurance-based Investment Products Regulations

- 19.34.13 When determining whether to take action to impose a penalty or to issue a public censure under the Packaged Retail and Insurance-based Investment Products Regulations the *FCA* will have regard to the relevant factors in *DEPP* 6.2 and *DEPP* 6.4. The *FCA*'s policy in relation to determining the level of financial penalty includes having regard, where relevant, to *DEPP* 6.5 to *DEPP* 6.5D.

- 19.34.14 As with cases under the *Act*, the *FCA* may settle or mediate appropriate cases involving civil breaches of the Packaged Retail and Insurance-based Investment Products Regulations to assist it exercise its functions under the Packaged Retail and Insurance-based Investment Products Regulations in the most efficient and economic way.

[**Note:** See *DEPP* 5, *DEPP* 6.7 and *EG* 5 for further information on the settlement process and the *settlement discount scheme*.]

- 19.34.15 The *FCA* will apply the approach to publicity that is outlined in *EG* 6.

Statement of policy in section 169(9) (as implemented by the Packaged Retail and Insurance-based Investment Products Regulations)

- 19.34.16 The Packaged Retail and Insurance-based Investment Products Regulations apply section 169 of the *Act* which requires the *FCA* to publish a statement of policy on the conduct of certain interviews in response to requests from overseas regulators. For the purposes of the Packaged Retail and Insurance-based Investment Products Regulations the *FCA* will follow the procedures described in *DEPP* 7.



Appendix 4

Changes relating to the Insurance Distribution Directive and also COBS 16

**MISCELLANEOUS INSURANCE AMENDMENTS (INSURANCE DISTRIBUTION
DIRECTIVE FORMS AND COBS 16) INSTRUMENT 2017**

Powers exercised

- A. The Financial Conduct Authority makes this instrument in the exercise of the powers and related provisions in or under:
- (1) the following sections of the Financial Services and Markets Act 2000 (“the Act”):
 - (a) section 55U (Applications under this Part)
 - (b) section 60 (Application for approval)
 - (c) section 137A (The FCA’s general rules);
 - (d) section 137T (General supplementary powers);
 - (e) section 138A (Modification or waiver of rules)
 - (f) section 139A (Power of the FCA to give guidance);
 - (g) section 250 (Modification or waiver of rules); and
 - (h) paragraphs 19 (Establishment) and 20 (Services) of Schedule 3 (EEA Passport Rights);
 - (2) the other powers and related provisions listed in Schedule 4 (Powers exercised) to the General Provisions of the Handbook.
- B. The rule-making powers listed above are specified for the purpose of section 138G (Rule-making instruments) of the Act.

Commencement

- C. Annex A to this instrument comes into force on 3 January 2018.
- D. Annex B to this instrument comes into force on 23 February 2018.

Amendments to the Handbook

- E. The Conduct of Business sourcebook (COBS) is amended in accordance with Annex A to this instrument
- F. The Supervision manual (SUP) is amended in accordance with Annex B to this instrument.

Notes

- G. In this instrument, the “notes” (indicated by “**Note:**”) are included for the convenience of readers but do not form part of the legislative text.

Citation

- H. This instrument may be cited as the Miscellaneous Insurance Amendments (Insurance Distribution Directive Forms and COBS 16) Instrument 2017.

By order of the Board
[*date*]

Annex A**Amendments to the Conduct of Business sourcebook (COBS)****Comes into force 3 January 2018**

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

16 Reporting information to clients (non-MiFID provisions)**16.1 Application**

...

- 16.1.2 R ~~This chapter~~ COBS 16.2 to COBS 16.4 ~~applies~~ apply in relation to *designated investment business* other than *MiFID*, *equivalent third country* or *optional exemption business*.

Annex B

Amendments to the Supervision manual (SUP)

Comes into force 23 February 2018

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

6 Applications to vary and cancel Part 4A permission and to impose, vary or cancel requirements

...

6 Annex 5D Variation of permission application form

This annex consists only of one or more forms.

...

*Variation of Permission Application – ~~Home Finance & General Insurance~~
~~Mediation Activities~~ Home Finance Mediation and General Insurance
Distribution Activities*

...

The form (Variation of Permission Application – Home Finance and General Insurance Distribution Activities) referred to in SUP 6 Annex 5D is amended as shown.

...

Variation of Permission (VOP) Application

Home Finance Mediation and General Insurance Mediation Distribution Activities

...

Purpose of this form

This form is **only** for firms wishing to change the scope of their permission for **Home Finance Mediation and/or General Insurance Mediation Distribution Business**. You must answer all sections.

...

2

Variation of Permission – Home Finance Mediation and General Insurance Mediation Distribution activities

Tell us what it is you wish to do to change your firm's permission.

2.1 Answer this section if you wish to do the following:

...

2

Variation of Permission – Home Finance Mediation and General Insurance Mediation Distribution activities (cont'd)

Tell us what it is you wish to do to change your firm's permission.

Limitation(s) on your firm's activity(ies)

...

...

3

Variation of Permission – Client Money

Tell us what it is you wish to do to change your firm's client money permission.

3.1 ...

3.2 What is the firm able to do now, and how does it wish to change its permission for client money?

Firm is currently able to:	Firm wishes to be able to:
<input type="checkbox"/> Hold and control client money for home finance business only	<input type="checkbox"/> Hold and control client money for home finance business only
<input type="checkbox"/> Hold and control client money for Insurance Mediation Distribution only	<input type="checkbox"/> Hold and control client money for Insurance Mediation Distribution
<input type="checkbox"/> Control but not hold client money	<input type="checkbox"/> Control but not hold client money
<input type="checkbox"/> Not hold and not control client money	<input type="checkbox"/> Not hold and not control client money

3.3 ...

- Or, if you are applying to cease holding client money for Insurance ~~Mediation Distribution~~ as you have Risk Transfers in place, and you have NEVER held or controlled client money, please tick here to confirm the Risk Transfer Agreement in place with your Insurer covers ALL Client Money. This includes any claims monies received by your firm and any refund of premiums.

...

5

Threshold Conditions

We need to know whether the firm will continue to satisfy the threshold conditions as a result of the change in its permission.

...

5.7 Conduct of Business Requirements – Mortgage Business (MCOB) and Insurance ~~Mediation~~ (ICOB ICOPS) Sourcebooks

5.7.1 Is the firm ready, willing and organised to comply with the relevant provisions in MCOB and/or ICOB ICOPS (delete as appropriate), and, if relevant to this application, does the firm have in place the relevant customer documentation, such as Key Facts, and Initial Disclosure Requirements Documentation and the Insurance Product Information Document, for the permission you are applying for?

- Yes > Continue to next question.
 No > Explain why below.

...

Insurance ~~Mediation~~ Distribution Applications only:

5.9 Firms A firm carrying on insurance ~~mediation business distribution activities~~ are required to establish on reasonable grounds must ensure that certain people are of good repute. These are all the people in its management structure and any staff directly involved in their insurance mediation distribution activity(ies) and those within the management structure responsible for any staff directly involved in those activities are of good repute. And they must It must also ensure that a reasonable proportion of people within their certain employees and persons possess appropriate knowledge and ability in order to complete their tasks and perform their duties adequately. These are persons and employees within the management structure who are responsible for its insurance mediation activity distribution activities, and all other people employees and other persons that are directly involved in it, and those within the management structure responsible for such employees and persons demonstrate the knowledge and ability necessary to perform their duties. Is the firm compliant with the Insurance ~~Mediation~~ Distribution Directive requirements?

...

6

Approved Persons

If a firm changes its permission it may need new Controlled Functions and Approved Persons or it may no longer require certain Controlled Functions.

...

- 6.1 Each firm that carries on Insurance ~~Mediation~~ Distribution business must appoint an approved person who will be responsible for insurance ~~mediation~~ distribution at the firm. This responsibility must be allocated to a director or senior manager performing a governing function; or the apportionment and oversight function; or the significant management (other business operations) function.

What is the name of the individual the firm has appointed to be responsible for insurance ~~mediation~~ distribution?

- 6.2 Have any individual(s) proposed to perform a new role, for the firm's Home Finance business or Insurance ~~Mediation~~ Distribution business, been assessed as competent to apply the knowledge and skills necessary to engage in or oversee the activities without supervision? And do they have the necessary qualifications (where relevant) and experience?

The form (Waiver Application Form) referred to in SUP 8 Annex 2D (see SUP 8.3.3D) is amended as shown.

Waiver Application number
(for FCA/PRA use only)

Waiver - Application Form

...

Additional Details	Section A1
--------------------	------------

3 Group applications

...

4 What types of client would be affected if we granted your application? (tick all that apply) †

Retail Clients

Professional Clients

Eligible Counterparty

Retail Customers (insurance ~~mediation~~ distribution activities only)

Commercial Customers (insurance ~~mediation~~ distribution activities only)

...

...

10A Annex 4D Form A: Application to perform controlled functions under the approved person regime

This annex consists only of one or more forms. Note that there are separate forms for *Solvency II firms*, *large and small non-directive insurers*, *incoming EEA firms*, applicants for a *Part 4A permission* or variation of *permission* that would result in an initial authorisation under *MiFID*, applicants for a *Part 4A permission* that would result in the applicant becoming exempt under article 3 of *MiFID* and other *firms*.

...

Firm Specific questions

...

you will be asked to select a box if the individual is responsible for insurance ~~mediation~~ distribution.

This is not a *controlled function* in its own right. However, every *firm* that carries on ~~insurance mediation activities~~ insurance distribution activities must appoint an approved person(s) who will be responsible for ~~insurance mediation activities~~ insurance distribution activities at the *firm* (as detailed in *MIPRU 2.2*).

...

Please note that ~~insurance mediation~~ insurance distribution is not applicable to *appointed representatives*.

...

Insurance Mediation Distribution

This is not a controlled function in its own right. However, every *firm* that carries on ~~insurance mediation activities~~ insurance distribution activities must appoint an approved person(s) who will be responsible for ~~insurance mediation activities~~ insurance distribution activities at the *firm* (*MIPRU 2.2*).

...

Please note that ~~insurance mediation~~ insurance distribution is not applicable to *appointed representatives*.

Where a *firm* has appointed an ~~appointed representative~~ appointed representative to carry on ~~insurance mediation activity~~ insurance distribution activities on its behalf, the person responsible for the *firm's* ~~insurance mediation activity~~ insurance distribution activities will also be responsible for the ~~insurance mediation activity~~ insurance distribution activities carried on by an *appointed representative*.

The form (Form A: Notes for completion for Long Form A – UK and Overseas Firms (not Incoming EEA) for MiFID authorisation applications (January 2017)) referred to in SUP 10A Annex 4D is amended as shown.

Application for Authorisation

...

Apply for controlled functions

this section contains the notes you will need for Section 3 – Arrangement and controlled functions.

...

Insurance ~~mediation~~ distribution

This is not a controlled function in its own right. However, every firm that carries on insurance ~~mediation~~ distribution activities must appoint an approved person(s) who will be responsible for insurance ~~mediation~~ distribution activities at the firm (as detailed at MIPRU 2.2: <https://www.handbook.fca.org.uk/handbook/MIPRU/2/2.html>).

...

Please note that insurance ~~mediation~~ distribution is not applicable to appointed representatives. Where a firm has appointed an appointed representative to carry on insurance ~~mediation~~ distribution activity on its behalf, the person responsible for the firm's insurance ~~mediation~~ distribution activity will also be responsible for the insurance ~~mediation~~ distribution activity carried on by an appointed representative.

...

The form (Long Form A – UK and Overseas Firms (not Incoming EEA)) referred to in SUP 10A Annex 4D is amended as shown.

...

Long Form A – UK and Overseas Firms (not Incoming EEA)

Application to perform controlled functions under the approved persons regime

FCA Handbook Reference: SUP 10A Annex 4D

PRA Handbook Reference: SUP 10B Annex 4D

Arrangements and controlled functions

Section 3

...

3.04

Job title (mandatory for *controlled functions* 28 & 29)

Please refer to notes on the requirements for submitting a CV

Insurance ~~mediation~~ distribution

Will the candidate be responsible for Insurance ~~mediation~~ distribution at the firm? †

(Note: Yes can only be selected if the individual is applying for (CF1, 3-8 or 29)

YES NO

...

The form (Long Form A – Solvency II firms only) referred to in SUP 10A Annex 4D is amended as shown.

...

Long Form A – Solvency II firms only¹

Application to perform controlled functions

FCA Handbook Reference: SUP 10A Annex 4D

PRA Rulebook Reference: Solvency II firms: Senior Insurance Managers Regime - Applications and Notifications

...

New arrangements and controlled functions **Section 3**

...

3.03 Job title

Insurance ~~mediation~~ distribution

Will the *candidate* be responsible for ~~mediation~~ distribution at the *firm*? YES NO

...

The form (Short Form A – Solvency II firms only) referred to in SUP 10A Annex 4D is amended as shown.

...

Short Form A – Solvency II firms only¹

Application to perform controlled functions

FCA Handbook Reference: SUP 10A Annex 4D

PRA Rulebook Reference: Solvency II firms: Senior Insurance Managers Regime - Applications and Notifications...

Arrangements and controlled functions **Section 3**

...

3.03 Job title

Insurance ~~mediation~~ distribution

Will the *candidate* be responsible for ~~mediation~~ distribution at the *firm*? YES NO

...

The form (Short Form A: UK and Overseas Firms (not incoming EEA) (March 2016)) referred to in SUP 10A Annex 4D is amended as shown.

...

Short Form A – UK and Overseas Firms (not Incoming EEA)

Application to perform controlled functions under the approved persons regime

FCA Handbook Reference: SUP 10A Annex 4D

PRA Handbook Reference: SUP 10B Annex 4D

...

Arrangements and controlled functions Section 3

...

- 3.04** Job title (mandatory for *controlled function* 28 & 29)[†]
 Please refer to notes on the requirements for submitting a CV
- Insurance ~~mediation~~ distribution**
 Will the candidate be responsible for Insurance ~~mediation~~ distribution at the firm?
 (Note: Yes can only be selected if the individual is applying for (CF1, 3-8 or 29))

YES NO

...

The form (Short Form A: Incoming EEA firms (March 2016)) referred to in SUP 10A Annex 4D is amended as shown.

...

Short Form A - Incoming EEA Only Application to perform controlled function under the approved persons regime

FCA Handbook Reference: SUP 10A Annex 4D
21 March 2016

...

Arrangements and controlled functions Section 3

...

- 3.04** Job title (mandatory for *controlled functions 29*)
Please refer to notes on the requirements for submitting a CV
- Insurance ~~mediation~~ distribution**
Will the candidate be responsible for **Insurance ~~mediation~~ distribution** at the firm? †
(Note: Yes can only be selected if the individual is applying for (CF29))

YES	<input type="checkbox"/>	NO	<input type="checkbox"/>
-----	--------------------------	----	--------------------------

...

The form (Long Form A – large non-directive insurers) referred to in SUP 10A Annex 4D is amended as shown.

...

Long Form A – Large non-directive insurers only¹

Application to perform controlled functions

FCA Handbook Reference: SUP 10A Annex 4D

PRA Rulebook Reference: Large Non-Solvency II Firms: Senior Insurance Managers Regime – Applications and Notifications

7 March 2017

...

New arrangements and controlled functions Section 3

...

3.03 Job title

Insurance ~~mediation~~ distribution

Will the *candidate* be responsible for Insurance ~~mediation~~ distribution at the *firm*? YES NO

...

The form (Short Form A – large non-directive insurers) referred to in SUP 10A Annex 4D is amended as shown.

...

Short Form A – Large non-directive insurers only¹ Application to perform controlled functions

FCA Handbook Reference: SUP 10A Annex 4D

PRA Rulebook Reference: Large Non-Solvency II Firms – Senior Insurance Managers Regime – Applications and Notifications

7 March 2017

...

New arrangements and controlled functions **Section 3...**

3.03 Job title

Insurance ~~mediation~~ distribution

Will the *candidate* be responsible for Insurance ~~mediation~~ distribution at the *firm*? YES NO

...

The form (Long Form A – small non-directive insurers) referred to in SUP 10A Annex 4D is amended as shown.

Long Form A – Small non-directive insurers only¹ Application to perform controlled functions

FCA Handbook Reference: SUP 10A Annex 4D

PRA Rulebook Reference: Non-Solvency II Firms - Senior Insurance Managers Regime - Application and Notifications

7 March 2016

...

New arrangements and controlled functions **Section 3**

...

3.03 Job title

Insurance ~~mediation~~ distribution

Will the *candidate* be responsible for Insurance ~~mediation~~ distribution at the *firm*? YES NO

...

The form (Short Form A – small non-directive insurers) referred to in SUP 10A Annex 4D is amended as shown.

...

Short Form A – Small non-directive insurers only¹

Application to perform controlled functions

FCA Handbook Reference: SUP 10A Annex 4D

PRA Rulebook Reference: Non-Solvency II Firms - Senior Insurance Managers Regime - Applications and Notifications

7 March 2016

...

Arrangements and controlled functions Section 3

...

3.03 Job title

Insurance ~~mediation~~ distribution

Will the *candidate* be responsible for Insurance ~~mediation~~ distribution at the *firm*? YES NO

...

The form (Long Form A – Incoming EEA only) referred to in SUP 10A Annex 4D is amended as shown.

...

Long Form A – Incoming EEA only

Application to perform controlled functions under the approved person regime
FCA Handbook Reference: SUP 10A Annex 4D

21 March 2016

...

Arrangements and controlled functions Section 3

...

- 3.04** Job title (mandatory for *controlled function* 28 & 29)
Please refer to notes on the requirements for submitting a CV
- Insurance ~~mediation~~ distribution**
Will the candidate be responsible for Insurance ~~mediation~~ distribution at the firm? †
(Note: Yes can only be selected if the individual is applying for (CF29))

YES NO

...

Amend the following text as shown.

...

10A Annex 8D Form E: Internal transfer of an approved person

~~This annex consists only of one or more forms.~~ This annex consists only of one or more forms. Note that there are separate forms for *Solvency II firms*, *large and small non-directive insurers* and other *firms*.

...

Form E for Solvency II firms:

...

Form E for firms which are not Solvency II firms (including large non-directive insurers) or small non-directive insurers (and are not Relevant Authorised persons):

Form E for firms which are not Solvency II firms (including large non-directive insurers) or small non-directive insurers ~~(and are not Relevant Authorised persons)~~

...

SECTION 4 – ARRANGEMENTS AND CONTROLLED FUNCTIONS

...

...

4.04 Insurance ~~mediation~~ distribution

This is not a *controlled function* in its own right. However, every *firm* that carries on ~~*insurance mediation activities*~~ *insurance distribution activities* must appoint an *approved person(s)* who will be responsible for ~~*insurance mediation activities*~~ *insurance distribution activities* at the *firm* (as detailed at *MIPRU 2.2*).

...

Where a *firm* has appointed an *appointed representative* to carry on ~~*insurance mediation activity*~~ *insurance distribution activities* on its behalf, the person responsible for the *firm's* ~~*insurance mediation activity*~~ *insurance distribution activities* will also be responsible for the ~~*insurance mediation activity*~~ *insurance distribution activities* carried on by an *appointed representative*.

The form (Form E – Internal transfer of an approved person (for Solvency II firms only)) referred to in SUP 10A Annex 8D is amended as shown.

...

Form E Internal transfer of an approved person (for Solvency II firms only¹)

FCA Handbook Reference: SUP 10A Annex 8D

PRA Rulebook Reference: Solvency II firms: Senior Insurance Managers Regime – Applications and Notifications

...

New ~~arrangement~~ arrangements and controlled functions **Section 4**

...

4.03 Job title

Insurance ~~mediation~~ distribution

Will the *candidate* be responsible for Insurance ~~mediation~~ distribution at the firm? YES NO

...

The form (Form E – small non-directive insurers) referred to in SUP 10A Annex 8D is amended as shown.

...

Form E

Internal transfer of an approved person (small non-directive insurers only¹)

FCA Handbook Reference: SUP 10A Annex 8D

PRA Rulebook Reference: Non-Solvency II Firms - Senior Insurance Managers Regime - Applications and Notifications

...

New arrangements and controlled functions Section 4

...

4.03 Job title

Insurance ~~mediation~~ distribution

Will the *candidate* be responsible for Insurance ~~mediation~~ distribution at the firm? YES NO

...

The form (Form E – large non-directive insurers) referred to in SUP 10A Annex 8D is amended as shown.

...

Form E

Internal transfer of an approved person (for large non-directive insurers only¹)

FCA Handbook Reference: SUP 10A Annex 8D

PRA Rulebook Reference: Large Non-Solvency II Firms – Senior Insurance Managers Regime – Applications and Notifications

New arrangements and controlled functions **Section 4**

...

4.03 Job title

Insurance ~~mediation~~ distribution

Will the *candidate* be responsible for Insurance ~~mediation~~ distribution at the firm? YES NO

...

The form (Form E for firms which are not Solvency II firms (including large non-directive insurers) or small non-directive insurers) referred to in SUP 10A Annex 8D is amended as shown.

...

Form E

Internal transfer of an approved person

FCA Handbook Reference: SUP 10A Annex 8D

PRA Handbook Reference: SUP 10B Annex 8D

21 March 2016

4.04

Job title (mandatory for *controlled function* 28 & 29)†

**Insurance ~~mediation~~
distribution**

Will the candidate be responsible for **Insurance ~~mediation~~
distribution** at the firm?
(Note: Yes can only be selected if the individual is applying for (CF1,3-8 or 29)

YES NO

...

The form (Long Form A – UK Relevant Authorised Persons and Third Country Relevant Authorised Persons only) referred to in SUP 10C Annex 2D is amended as shown.

...

Long Form A – UK Relevant Authorised Persons and Third Country Relevant Authorised Persons only

Application to perform senior management functions

FCA Handbook Reference: SUP 10C Annex 2D

PRA Rulebook Reference: Senior Managers Regime - Applications and Notifications

7 March 2017

...

Arrangement Arrangements and Senior Management Functions

Section 3

...

3.03 Job title

Insurance ~~mediation~~ distribution

Will the *candidate* be responsible for Insurance ~~mediation~~ distribution at the firm? YES NO

...

The form (Short Form A – UK Relevant Authorised Persons and Third Country Relevant Authorised Persons only) referred to in SUP 10C Annex 2D is amended as shown.

...

Short Form A – UK Relevant Authorised Persons and Third Country Relevant Authorised Persons only

Application to perform senior management functions

FCA Handbook Reference: SUP 10C Annex 2D

PRA Rulebook Reference: Senior Managers Regime - Applications and Notifications

7 March 2016

...

Arrangement Arrangements and Senior Management Functions

Section 3

...

3.03 Job title

Insurance ~~mediation~~ distribution

Will the *candidate* be responsible for Insurance ~~mediation~~ distribution at the firm? YES NO

...

The form (Short Form A (EEA Relevant Authorised Persons only) referred to in SUP 10C Annex 2D is amended as shown.

...

Short Form A – EEA Relevant Authorised Persons Only

Application to perform senior management functions

FCA Handbook Reference: SUP 10C Annex 2D

7 March 2017

...

Arrangements and Senior Management Functions Section 3

...

3.03 Job title

Insurance ~~mediation~~ distribution

Will the *candidate* be responsible for Insurance ~~mediation~~ distribution at the firm? YES NO

...

The form (Long Form A (EEA Relevant Authorised Persons only) referred to in SUP 10C Annex 2D is amended as shown.

...

Long Form A – EEA Relevant Authorised Persons only

Application to perform senior management functions

FCA Handbook Reference: SUP 10C Annex 2D

7 March 2017

...

Arrangements and senior management functions Section 3

...

3.03 Job title

Insurance ~~mediation~~ distribution

Will the *candidate* be responsible for Insurance ~~mediation~~ distribution at the firm? YES NO

...

...

12 Annex 3R Appointed representative appointment form

This annex consists of only one or more forms. Forms can be completed online now by visiting:

<https://www.fca.org.uk/firms/authorisation>

The forms are also to be found through the following address: -

~~Appointed representative appointment form~~ – Add an appointed representative or tied agent form - SUP 12 Annex 3

...

The form (Add an appointed representative or tied agent form) referred to in SUP 12 Annex 3R is amended as shown.

...

Add an appointed representative or tied agent form

Notification under *SUP 12.7.1R* (i.e. the form in *SUP 12 Ann 3R*)

...

New Appointed Representative Details

Section B

...

9 Date of appointment (if an appointed representative carrying on insurance ~~mediation~~ distribution activities or a tied agent) or commencement of activities (if any other kind of appointed representative) † §

...

13 Is the application in respect of: † §

(1) an appointed representative who will carry on insurance ~~mediation~~ distribution activities?

...

The form (Appointed representative or tied agent form – change details) referred to in SUP 12 Annex 4R is amended as shown.

...

Appointed representative or tied agent - change details

Notification under *SUP 12.7.7R* (i.e. the form in *SUP 12 Ann 4R*)

...

Change Details of an Existing Appointed Representative

Section B

...

- 14 Is the change in respect of an appointed representative who is carrying on or proposes to carry on insurance ~~mediation~~ distribution activities or a tied agent? [†]

...

The form (Passporting: Notification of intention to establish a branch in another EEA state) referred to in SUP 13 Annex 1R is amended as shown.

...

Passporting

Notification of intention to establish a branch in another EEA state (excluding the Payment Services Directive and Electronic Money Directive)

(SUP 13 Annex 1R – Notification under SUP 13.5.1R)

...

3 Insurance Mediation Distribution Directive (IMD IDD)

3.1 Please confirm that the *UK firm* wishes to passport under the ~~IMD~~ IDD by ticking the box below.

The <i>firm</i> intends to carry on <i>insurance mediation distribution</i> in the <i>EEA State</i> identified in section 2 by establishing a <i>branch</i> .	<input type="checkbox"/>
--	--------------------------

...

12 Declaration

...

I enclose the following sections (mark the appropriate section)

...	
Section 3 – Insurance Mediation <u>Distribution</u> Directive	
...	

...

...

13 Annex 5R **Passporting: Insurance ~~Mediation~~ Distribution Directive**

This annex consists of only one or more forms. ~~Forms can be completed online now by:~~

~~<http://www.fsa.gov.uk/Pages/doing/index.shtml>~~

The ~~forms are also~~ form can to be found through the following address:

Passporting: *Insurance Mediation Directive—SUP 13 Annex 5*

Passporting Notification of intention to provide cross border services in another EEA State Insurance Distribution Directive (SUP 13 Annex 5R - Notification under SUP 13.5.2R)

...

The form (Passporting Notification of intention to provide cross border services in another EEA state Insurance Mediation Directive (SUP 13 Annex 5R – Notification under SUP 13.5.2R) referred to in SUP 13 Annex 5R is amended as shown.

EEA ~~IMD~~ IDD Cross Border Services Form



BANK OF ENGLAND
PRUDENTIAL REGULATION
AUTHORITY

Passporting Notification of intention to provide cross border services in another EEA state ~~INSURANCE MEDIATION~~ DISTRIBUTION DIRECTIVE (SUP 13 Annex 5R – Notification under SUP 13.5.2R)

...

Purpose of this form

You should complete this form if you are a *UK firm* that wishes to exercise a passport right to provide *cross border services* in another *EEA State* under the *Insurance ~~Mediation~~ Distribution Directive*.

If you are an Appointed Representative ('AR') then this form **must** be completed by the sponsoring firm on your behalf.

Important information you should read before completing this form

A *UK firm* can only use this form if it is entitled to provide *cross border services* into another *EEA*

State subject to the conditions of the *Insurance ~~Mediation~~ Distribution Directive* (see Schedule 3 of the Financial Services and Markets Act 2000 (FSMA)). By completing this form, you are confirming this is the case. *UK firms* should consult the legislation or take legal advice both in the *UK* and in the relevant *EEA State(s)* if they are in any doubt.

...

3 Insurance ~~Mediation~~ Distribution Directive (~~IMD~~ IDD)

3.1 You must confirm that the *UK firm* wishes to passport under the ~~IMD~~ IDD by ticking the box below.

The <i>firm</i> intends to carry on <i>insurance mediation distribution</i> in the <i>EEA State(s)</i> identified in section 2 by providing <i>cross border services</i> .	<input type="checkbox"/>
---	--------------------------

4 Declaration

...

I enclose the following sections (mark the appropriate section)*

...	
Section 3 – Insurance Mediation <u>Distribution</u> Directive	<input type="checkbox"/>
...	

...

The form (Retail Mediation Activities Return ('RMAR') referred to in SUP 16 Annex 18AR is amended as shown.

...

SECTION C: Client money and assets

		A	B	C
11	Does your firm receive or hold money in the course of or in connection with its insurance mediation <u>distribution</u> activity?			

...

13	How does your firm hold money received in the course of or in connection with its insurance mediation <u>distribution</u> activity? (select all that apply)	CASS 5 client money	As agent of insurer

...

SECTION E: PII Self-Certification

...

4 Professional Indemnity Insurance Details

...	I	J	O	K
IMD firms insurance intermediaries should state their indemnity limits in Euros				
	Indemnity Limit (Single) in: Euros/Sterling/Unlimited	Limit of Indemnity: Single	Indemnity Limit (Aggregate) in: Euros/Sterling/Unlimited	Limit of Indemnity: Aggregate

...

...

16 Annex
18BG

Notes for completion of the Retail Mediation Activities Return ('RMAR')

Introduction: General notes on the RMAR

1. ...

...

5. The following table summarises the key abbreviations that are used in these notes:

...	
<i>IDD</i>	<i>The Insurance Distribution Directive</i>
<i>IMD</i>	<i>The Insurance Mediation Directive</i>
...	

Scope

6. The following *firms* are required to complete the sections of the *RMAR* applicable to the activities they undertake as set out in *SUP* 16.12:

- (a) *firms* with *permission* to carry on ~~*insurance mediation activity*~~ *insurance distribution activity* in relation to *non-investment insurance contracts*.

...

EEA firms

...

11. ~~Firms~~ *Firms* that only carry on reinsurance ~~mediation~~ *distribution* are not required to complete sections C or K.

Authorised professional firms

12. *Authorised professional firms* ('APFs') that are subject to *IPRU-INV* 2.1.3R (for their investment activity) or *MIPRU* 4.1.10R (for ~~*insurance mediation activity*~~ *insurance distribution activity* or *home finance mediation activity*) are not required to complete sections A, B2 or D. APFs that are members of the Law Society of England and Wales, the Law Society of Scotland or the Law Society of Northern Ireland are also not required to complete section C (see below).

13. The application of the capital requirements to APFs is set out in *IPRU-INV* 2.1.2R (for *retail investment activity*) and *MIPRU* 4.1.10R (for

home finance mediation activity and ~~insurance mediation activity~~ insurance distribution activity).

...

NOTES FOR COMPLETING THE RMAR

...

Section B: Profit & loss account

...

Guide for completing of individual fields

...	
Regulated business revenue	<p>This is the total of the <i>firm's</i> income during the reporting period in relation to its relevant <i>regulated activities</i>.</p> <p>For an <i>insurance intermediary</i> or a <i>home finance intermediary</i>, this should be calculated in the same way as 'annual income', as specified in <i>MIPRU 4.3.3R</i> (although in this context the period is not generally annual).</p> <p>This <i>rule</i> states: "For a <i>firm</i> which carries on <i>insurance mediation activity</i> <i>insurance distribution activity</i> or <i>home finance mediation activity</i>, annual income... is the amount of all brokerage, fees, <i>commissions</i> and other related income (for example, administration charges, overrides, profit shares) due to the <i>firm</i> in respect of or in relation to those activities".</p>
...	

Section C Client money and assets

...

Note 2: ~~*firms that only carry on insurance mediation activity in respect of reinsurance contracts are exempt from the client money rules, and are not therefore required to complete section C of the RMAR. However, a firm may make an election under CASS 5.1.1R(3) to comply with CASS 5.1 to CASS 5.6 in respect of client money it receives in the course of carrying on insurance mediation activity in relation to reinsurance contracts. Where a firm has made*~~

~~such an election it should also complete section C of the RMAR. [Deleted]~~

Note 3: a firm that receives or holds money for its ~~MiFID~~ *MiFID business* or ~~designated investment business~~ *designated investment business* that is not *MiFID business* and holds money to which CASS 5 applies, may make an election under CASS 7.10.3R(1) or (2) to comply with CASS 7 for money it receives in the course of, or in connection with, its ~~insurance mediation activity~~ *insurance distribution activities*. Where a firm has made such an election, it should not complete section C of the RMAR, except to confirm that it holds money in connection with ~~insurance mediation activities~~ *insurance distribution activities* and has elected to comply with CASS 7.

...

Guide for completion of individual fields

Question	Guidance notes
Does your firm receive or hold money in the course of, or in connection with, its insurance mediation activity <i>insurance distribution activity</i> ?	...
...	...
How does your firm hold money received in the course of, or in connection with, its insurance mediation activity <i>insurance distribution activity</i> ?	...
...	

Section D Regulatory Capital

...

‘Higher of’ requirements

In this section there are separate calculations of regulatory capital and capital resources requirements for the different types of business covered by the data requirements. The calculations are the same, however, for both *home finance mediation activity* and ~~insurance mediation activity~~ *insurance distribution activity* relating to *non-investment insurance contracts*.

- (i) The left column of the form covers the appropriate capital resources and connected requirements in MIPRU 4 for firms carrying on *home finance mediation activity* (save for firms carrying on *home finance mediation activities* exclusively in relation to *second charge regulated mortgage contracts* or *legacy CCA mortgage contracts*, or both) or ~~insurance mediation activity~~ *insurance distribution activity* relating to *non-investment insurance contracts* (the requirements have to be completed

for all applicable categories), or both.

...

Guide for completion of individual fields

<p>Is the <i>firm</i> exempt from these capital resources requirements in relation to any of its retail mediation activities?</p>	<p>The <i>firm</i> should indicate here if any <i>Handbook</i> exemptions apply in relation to the capital resources requirements in <i>MIPRU</i> or <i>IPRU-INV</i> 13. Examples of <i>firms</i> that may be subject to exemptions include:</p> <ul style="list-style-type: none"> • Lloyd's <i>managing agents</i> (<i>MIPRU</i> 4.1.11R); • solo consolidated subsidiaries of banks or <i>building societies</i>; • small <i>credit unions</i> (as defined in <i>MIPRU</i> 4.1.8R); and • <i>investment firms</i> not subject to <i>IPRU-INV</i> 13 (unless they additionally carry on <i>home finance mediation activity</i> or <i>insurance mediation activity</i> <i>insurance distribution activity</i> relating to <i>non-investment insurance contracts</i>).
<p><u>Home finance mediation and non-investment insurance mediation distribution</u></p>	
<p>Base requirement</p>	<p>The minimum capital requirements for <i>firms</i> carrying on <i>home finance mediation activity</i> and for <i>insurance mediation activity</i> <i>insurance distribution activity</i> relating to <i>non-investment insurance contracts</i> are set out in <i>MIPRU</i> 4.2.11R.</p>
<p>5% of annual income (firms holding client money)</p>	<p>For <i>firms</i> that hold <i>client money</i> or other <i>client</i> assets in relation to <i>insurance mediation activity</i> <i>insurance distribution activity</i> or <i>home finance mediation activity</i>, this should be calculated as 5% of the annual income (see <i>MIPRU</i> 4.2.11R(2)) from the <i>firm's</i> <i>insurance mediation activity</i> <i>insurance distribution activity</i>, <i>home finance mediation activity</i>, or both.</p>

2.5% of annual income (firms not holding client money)	For <i>firms</i> that do not hold <i>client money</i> or other <i>client assets</i> in relation to <i>insurance mediation activity</i> <i>insurance distribution activity</i> or <i>home finance mediation activity</i> , this should be calculated as 2.5% of the annual income (see <i>MIPRU</i> 4.2.11R(1)) from the <i>firm's</i> <i>insurance mediation activity</i> <i>insurance distribution activity</i> , <i>home finance mediation activity</i> , or both.
...	
Other <i>FCA</i> capital resources requirements (if applicable)	<p>The <i>FCA</i> may from time to time impose additional requirements on individual <i>firms</i>. If this is the case for your <i>firm</i>, you should enter the relevant amount here. This excludes capital resources requirements in relation to PII, which are recorded below.</p> <p>If the <i>firm</i> carries on <i>designated investment business</i> as well as <i>home finance mediation activity</i>, <i>insurance mediation activity</i> <i>insurance distribution activity</i> or both, requirements under <i>IPRU(INV)</i>, <i>IFPRU</i>, <i>GENPRU</i> or <i>BIPRU</i> and <i>MIPRU</i> must be considered to determine the appropriate requirement (see general notes (i) to (iii) above). If the resulting requirement for a firm is higher than the base <i>MIPRU</i> requirement then you should include the difference here.</p>
...	
Capital resources per <i>MIPRU</i> 4 (home finance <u>mediation activity</u> and non-investment insurance intermediation <u>distribution activity</u>)	
...	

Section E Professional indemnity insurance

...

The PII requirements for *authorised professional firms* ('APFs') that carry on *retail investment activities* are set out in *IPRU-INV* 2.3. APFs that carry on *home finance mediation activity* or ~~*insurance mediation activity*~~ *insurance*

distribution activity are subject to the full requirements of *MIPRU 3*.

...

Guide for completion of individual fields

Part 1

Does your firm hold a comparable guarantee or equivalent cover in lieu of PII, or is it otherwise exempt from holding PII in respect of any regulated activities (tick as appropriate)?	This question will establish whether a <i>firm</i> is exempt from the requirements and so is not required to hold PII. The conditions for comparable guarantees and exemptions from the PII requirements for <i>firms</i> carrying on insurance <u>distribution</u> or home finance mediation are set out in <i>MIPRU 3.1.1R</i> paragraphs (3) to (6). ...
...	

Part 2

...	
Limit of indemnity	You should record here the indemnity limits on the <i>firm's</i> PII policy or policies, both in relation to single claims and in aggregate. Those firms subject to the Mortgage Credit Directive (<i>MCD</i>) (see <i>MIPRU 3.2.9AR</i>) or the <i>Insurance Mediation Directive Insurance Distribution Directive (IMD IDD)</i> requirements should state their limit in Euros; those that are not subject to the <i>MCD</i> or <i>IMD IDD</i> should select 'Sterling' from the drop-down list. ...
...	

Section F Threshold conditions

Close links

...

Sole traders, firms which have permission to carry on retail investment activities only, firms with permission only to advise on P2P agreements (unless that activity is carried on exclusively with or for professional clients)

or *firms* which have *permission* to carry on only one, or only both of:

- (a) ~~*insurance mediation activity*~~ *insurance distribution activity*; or
- (b) *home finance activity*;

and are not subject to the requirements of *SUP* 16.4 or *SUP* 16.5 (requirement to submit annual controllers report; or annual close links reports), will submit these reports in *RMAR* section F instead.

Controllers

...

Section G Training and Competence

...

Section G: guide for completion of individual fields

General information		
...		
Non-investment insurance (retail customers)		
20	Which types of non-investment insurance advice were provided by the firm in the reporting period?	<p>For each type of advice, the <i>firm</i> should indicate whether or not advice has been provided on that basis / business type.</p> <p>Fair Analysis of the Market</p> <p>If an <i>insurance intermediary</i> informs a <i>customer</i> that it gives advice (<u>including a <i>personal recommendation</i></u>) on the basis of a fair analysis of the market, it must give that advice (<u>including a <i>personal recommendation</i></u>) on the basis of an analysis of a sufficiently large number of <i>contracts of insurance</i> available on the market to enable it to make a recommendation, in accordance with professional criteria, regarding which <i>contract of insurance</i> would be adequate to meet the <i>customer's</i> needs. (See <i>ICOBS</i> 5.3.3R, <i>ICOBS</i> 4.1.6R, <u><i>ICOBS</i> 4.1.7R</u> and <i>ICOBS</i> 4.1.8G).</p>
...		

...

Section H Conduct of ~~business~~ Business ('COBS') Data

...

Guide for completion of individual fields

General COBS data	
...	
Of which, number of 'secondary' ARs as at the end of the reporting period	An AR is a secondary AR if: <ul style="list-style-type: none"> • the activities for which it is exempt are limited to insurance mediation activities <u>insurance distribution activities</u> only; and • its principal purpose is to carry on activities other than insurance mediation activities <u>insurance distribution activities</u>.
...	

...

Section J Data required for calculation of fees

...

Personal investment firms and *firms* whose regulated activities are limited to one or more of: ~~insurance mediation activity~~ insurance distribution activity, *home finance mediation activity*, or *retail investment activity*, are required to complete section J of the *RMAR*.

...

The *guidance* in the following table sets out the *rules* which related to the data required in Section J of *SUP 16 Annex 18AR*.

	FCA Annual Regulated Income (£s)	FOS Relevant annual Income (£s)
...		
Non-investment insurance mediation <u>distribution</u>		
Life <u>distribution</u> and pensions mediation		
...		

...

...

The form (Guidance notes for the data item in SUP 16 Annex 29R) referred to in SUP 16 Annex 29AG is amended as shown.

Client Money and Asset Return (CMAR)

...

General

...

A *firm* is reminded that the effect of *SUP* 16.14.4R is that in relation to a *firm* to which *CASS* 5 (Client money: insurance ~~mediation~~ distribution activity) and *CASS* 7 (Client money rules) apply, that *firm* should not report in the *data item* shown in *SUP* 16 Annex 29R any *client money* that it holds in accordance with *CASS* 5.

...



Appendix 5

Change to IFPRU 2.2

CAPITAL REQUIREMENTS DIRECTIVE IV (AMENDMENT) INSTRUMENT 2017

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 137A (General rule-making power); and
 - (2) section 137T (General supplementary powers).
- 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 [*date*].

Amendments to the Handbook

- D. The Prudential sourcebook for Investment Firms (IFPRU) is amended in accordance with the Annex to this instrument.

Citation

- E. This instrument may be cited as the Capital Requirements Directive IV (Amendment) Instrument 2017.

By order of the Board
[*date*] 2017

Annex

Amendments to the Prudential sourcebook for Investment Firms
(IFPRU)

In this Annex, underlining indicates new text.

2 Supervisory processes and governance

...

2.2 Internal capital adequacy assessment process

...

Market risk

...

2.2.28 R ...

- (2) A *firm* which has, in calculating *own funds requirements* for position risk in accordance with Part Three, Title IV, Chapter 2 of the *EU CRR* (Own funds requirements for position risk), netted off its positions in one or more of the equities constituting a stock-index against one or more positions in the stock_index future or other stock-index product, must have adequate financial resources and internal capital to cover the basis risk of loss caused by the future's or other product's value not moving fully in line with that of its constituent equities. A firm must also have such adequate financial resources and internal capital where it holds opposite positions in stock-index futures which are not identical in respect of either their maturity or their composition or both.

...

[Note: article 83(3) of *CRD*]

...



Appendix 6

The PRIIPs key information document and personal projections

**CONDUCT OF BUSINESS SOURCEBOOK (PACKAGED RETAIL AND
INSURANCE-BASED INVESTMENT PRODUCTS REGULATION) (AMENDMENT)
INSTRUMENT 2017**

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 137A (The FCA’s general rules);
 - (2) section 137T (General supplementary powers); and
 - (3) section 139A (Power of the FCA to give guidance).
- B. The rule-making provisions listed above are specified for the purposes of section 138G(2) (Rule-making instruments) of the Act.

Commencement

- C. This instrument comes into force on 1 January 2018.

Amendments to the Handbook

- D. The Conduct of Business sourcebook (COBS) is amended in accordance with the Annex to this instrument.

Citation

- E. This instrument may be cited as the Conduct of Business Sourcebook (Packaged Retail and Insurance-based Investment Products Regulation) (Amendment) Instrument 2017.

By order of the Board
[*date*]

Annex

Amendments to the Conduct of Business sourcebook (COBS)

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

13 Preparing product information

...

13.5 Preparing product information: other projections

...

Projections: other situations

13.5.2 R (1) A firm that communicates a projection for a packaged product which falls within (2) must ensure that the projection is either a standardised deterministic projection or a stochastic projection in accordance with COBS 13 Annex 2. ~~is not a financial instrument.~~

(2) This rule applies to a packaged product which is:

(a) not a financial instrument or an in-force packaged product; and

(b) either:

(i) a non-PRIIP packaged product for which a key features illustration is not required to be provided; or

(ii) a PRIIP where the projection is not in the key information document.

~~(1) for which a key features illustration is not required to be provided; and~~

~~(2) which is not an in force packaged product;~~

~~must ensure that such a projection is either a standardised deterministic projection or a stochastic projection in accordance with COBS 13 Annex 2.~~

...

13.5.2B G Where a firm communicates a projection for a packaged product that is a financial instrument, the firm should consider the future performance rule (COBS 4.6.7R).

...



Appendix 7

Our projection rates - changes to the Conduct of Business sourcebook

**CONDUCT OF BUSINESS SOURCEBOOK (PROJECTIONS) (AMENDMENT No 2)
INSTRUMENT 2017**

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 137A (The FCA’s general rules);
 - (2) section 137T (General supplementary powers); and
 - (3) section 139A (Power of the FCA to give guidance).
- B. The rule-making provisions listed above are specified for the purposes of section 138G(2) (Rule-making instruments) of the Act.

Commencement

- C. This instrument comes into force on 1 August 2018.

Amendments to the Handbook

- D. The Conduct of Business sourcebook (COBS) is amended in accordance with the Annex to this instrument.

Citation

- E. This instrument may be cited as the Conduct of Business Sourcebook (Projections) (Amendment No 2) Instrument 2017.

By order of the Board
[date]

Annex

Amendments to the Conduct of Business sourcebook (COBS)

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

13 Projections

Annex 2

...

2 Assumptions to follow when calculating projections.

...

Assumptions: inflation

- 2.5 R If inflation is taken into account, the *standardised deterministic projection* must be calculated using the following rates:

	Lower rate	Inter-mediate rate	Higher rate
Price inflation	0.50% <u>0.00%</u>	2.50% <u>2.00%</u>	4.50% <u>4.00%</u>
Earnings inflation	≥2% <u>≥1.5%</u>	≥4% <u>≥3.5%</u>	≥6% <u>≥5.5%</u>

- 2.5A R If inflation is taken into account, and the level of future contributions, charges or benefits is linked to RPI, the *standardised deterministic projection* must be calculated using the following rates in respect of those future contributions, charges or benefits:

	<u>Lower rate</u>	<u>Inter-mediate rate</u>	<u>Higher rate</u>
<u>RPI price inflation</u>	<u>1.00%</u>	<u>3.00%</u>	<u>5.00%</u>

...

19 Pensions supplementary provisions

19.1 Pension transfers, conversions and opt-outs

...

19.1.4 R When a *firm* compares the benefits likely to be paid under a *defined benefits pension scheme* or other pension scheme with *safeguarded benefits* with the benefits afforded by a *personal pension scheme, stakeholder pension scheme* or other pension scheme with *flexible benefits* (COBS 19.1.2R(1)), it must:

(1) assume that:

...	...	
(b)	the <i>RPI</i> is	2.5% <u>3.0%</u>
(c)	the average earnings index and the rate for section 21 orders is	4.0% <u>3.5%</u>
(d)	for benefits linked to the <i>RPI</i> , the pre-retirement limited price indexation revaluation is	2.5% <u>3.0%</u>
...
(i)	the index linked annuity interest rate for pension benefits linked to the <i>CPI</i> is the intermediate rate of return in COBS 13 Annex 2 3.1R(6) for annuities linked to the <i>RPI</i> plus 0.5% <u>1.0%</u> unless COBS 19.1.4BR applies in which case it is the annuity rate in COBS 19.1.4BR plus 0.5% <u>1.0%</u> ;	
(j)	the annuity interest rate for post-retirement <i>limited price indexation</i> based on the <i>CPI</i> with maximum pension increases less than or equal to 3.0% <u>2.5%</u> or with minimum pension increases more than or equal to 3.5% is the rate in (a) above allowing for increases at the maximum rate of pension increase; where minimum pension increases are more than or equal to 3% <u>2.5%</u> but less than 3.5% the annuity rate is the rate in (a) above allowing for increases at the minimum rate of pension increase otherwise it is the rate in (i) above;	

or use more cautious assumptions;

- (2) calculate the interest rate in deferment; and
- (3) have regard to benefits which commence at different times.



Appendix 8

Changes to reporting requirements in the Supervision manual

**SUPERVISION MANUAL (REPORTING No [X])
INSTRUMENT 2017**

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 137A (The FCA’s general rules);
 - (2) section 137T (General supplementary powers); and
 - (3) section 139A (Power of the FCA to give guidance).
- 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 [*date*].

Amendments to the Handbook

- D. The Supervision manual (SUP) is amended in accordance with the Annex to this instrument.

Citation

- E. This instrument may be cited as the Supervision Manual (Reporting No [X]) Instrument 2017.

By order of the Board
[*date*]

Annex

Amendments to the Supervision manual (SUP)

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

16 Reporting requirements

...

16.4 Annual controllers report

...

Exceptions: ~~friendly societies~~ mutuals and building societies

- 16.4.10 R If a *firm* is a ~~friendly society~~ mutual or a *building society*, then it is required to submit a report under SUP 16.4.5R only if it is aware that it has a *controller*.

...

SUP 16 Annex 1AR FIN-A Annual Report and Accounts is deleted in its entirety and replaced with the following. The deleted text is not shown and the new text is not shown underlined.

16 Annex FIN-A Annual Report and Accounts
1AR

FIN-A Annual Report and Accounts

Annual Accounts

A

- 1 On what basis have the firm's accounts been prepared?
- 3 Did the firm generate income from regulated activities in the accounting period?
- 4 Are the firm's net assets positive?
- 5 Are the firm's annual report and accounts prepared on a going concern basis?
- 6 Does the firm have any contingent liabilities?
- 7 If the firm's submitted annual report and accounts have been subject to an audit, has the auditor qualified their opinion, added an explanatory paragraph and/or provided written comment on internal controls?

IFRS / UK GAAP / Other / N/A
Yes / No / N/A

[Upload functionality]

Immigration Act 2014

- 2 Has the firm complied with the prohibition in section 40 of the Immigration Act 2014, the requirements in section 40A, 40B and 40G of the Immigration Act 2014 and any requirements imposed by or under the Immigration Act 2014 (Bank Accounts) Regulations 2014?

Yes / No / N/A

Amend the following as shown.

16 Annex 1BG **Guidance notes for the completion of FIN-A in SUP 16 Annex 1A**

General Notes

The form Form FIN-A in SUP 16 Annex 1A should only be completed by *firms* subject to the reporting requirements ~~in~~ under SUP 16.7A and/or by *firms* who are required to provide attestations of compliance with requirements under the Immigration Act 2014 under SUP 16.19.

General Notes

~~The FIN A form in SUP 16 Annex 1A~~ Form FIN-A is designed to allow *firms* to:

- upload the *annual report and accounts* documentation required by SUP 16.7A;
- extract information from the firm's annual report and accounts; and
- (where applicable) ~~to~~ attest to compliance with requirements under the Immigration Act 2014 under SUP 16.19.

Firms not subject to the Immigration Act 2014 should answer 'N/A' to question 2A.

UK *branches of EEA banks* and *dual regulated firms* are not required to submit copies of their *annual report and accounts* to the FCA, and should ~~therefore~~ answer 'N/A' to ~~question 1A~~ questions listed under 'Annual Accounts'.

Firms who wish to make a notification to the FCA to comply with Principle 11 should review the guidance set out in SUP 15 (Notifications to the FCA).

...

Main Details

<u>Annual Accounts</u>	
1A	On what basis have the firm's accounts been prepared?
	<i>Firms</i> who are subject to the reporting requirements in SUP 16.7A should select one of 'IFRS', 'UK GAAP' or 'Other'. Once selected, the <u>person submitting the data</u> can upload the <i>annual report and accounts</i> using FIN-A . If the <i>firm</i> is not subject to the reporting requirements in SUP 16.7A they should select 'N/A'.
<u>3</u>	<u>Did the firm generate income from regulated activities in the accounting period?</u>
	<i>Firms</i> should indicate whether they have generated an income from <i>regulated activities</i> by selecting 'Yes' or 'No'.

<u>4</u>	<u>Are the firm's net assets positive?</u>
	<i>Firms</i> should indicate whether the total value of their assets is <u>greater or equal to the total value of their liabilities</u> by selecting 'Yes'. Where <i>firms'</i> assets are less than the total value of their liabilities they should select 'No'.
<u>5</u>	<u>Are the firm's annual report and accounts prepared on a going concern basis?</u>
	<i>Firms</i> should indicate whether the <i>annual report and accounts</i> were prepared on a going concern basis by selecting 'Yes' or 'No'.
<u>6</u>	<u>Does the firm have any contingent liabilities?</u>
	<i>Firms</i> should indicate whether the most recent <i>annual report and accounts</i> or accompanying notes make reference to contingent liabilities by selecting 'Yes' or 'No'.
<u>7</u>	<u>If the firm's submitted annual report and accounts have been subject to an audit, has the auditor qualified their opinion, added an explanatory paragraph and/or provided written comment on internal controls?</u>
	<p><i>Firms</i> should select 'Yes' if the <i>firm's</i> most recent <i>annual report and accounts</i> have been subject to an audit and the auditor:</p> <ul style="list-style-type: none"> (a) <u>qualified the report on the audited annual report and accounts, and/or</u> (b) <u>added an explanatory paragraph; and/or</u> (c) <u>provided written comment on internal controls.</u> <p><i>Firm's</i> should select 'No' if:</p> <ul style="list-style-type: none"> (d) <u>the annual report and accounts have been subject to an audit, but none of the matters at (a) to (c) apply.</u> <p><i>Firms</i> should select 'N/A' if:</p> <ul style="list-style-type: none"> (e) <u>the firm is not subject to an audit requirement; or</u> (f) <u>the firm is not required to submit their annual report and accounts.</u>
<u>Immigration Act 2014</u>	
2A	...



Appendix 9

Retirement interest-only mortgages

RETIREMENT INTEREST-ONLY MORTGAGES INSTRUMENT 2017

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 137A (The FCA’s general rules);
 - (2) section 137T (General supplementary powers); and
 - (3) section 139A (Power of the FCA to give guidance).
- 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 [*date*].

Amendments to the Handbook

- D. The Glossary of definitions is amended in accordance with Annex A to this instrument.
- E. The Mortgages and Home Finance: Conduct of Business sourcebook (MCOB) is amended in accordance with Annex B to this instrument.

Citation

- F. This instrument may be cited as the Retirement Interest-Only Mortgages Instrument 2017.

By order of the Board
[*date*]

Annex A

Amendments to the Glossary of definitions

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

Amend the following definition as shown.

<i>lifetime mortgage</i>	<p>(1) an MCD exempt lifetime mortgage; or</p> <p>(2) (other than in (1)); <u>an article 3(1)(b) agreement or a regulated mortgage contract which is not a retirement interest-only mortgage, or an article 3(1)(b) agreement</u> under which:</p> <p>(a) entry into the mortgage is restricted to older <i>customers</i> above a specified age; and</p> <p>(b) the lender may or may not specify a mortgage term, but will not seek full repayment of the loan (including interest, if any, outstanding) until the occurrence of one or more of the <i>specified life events</i>; and</p> <p>(c) while the <i>customer</i> continues to occupy the mortgaged land as his main residence:</p> <p>(i) no instalment repayments of the capital and no payment of interest on the capital (other than interest charged when all or part of the capital is repaid voluntarily by the <i>customer</i>); are due or capable of becoming due; or</p> <p>(ii) although interest payments may become due, no full or partial repayment of the capital is due or capable of becoming due; or</p> <p>(iii) although interest payments and partial repayment of the capital may become due, no full repayment of the capital is due or capable of becoming due- ; <u>or</u></p> <p>(<u>2</u>) <u>an MCD exempt lifetime mortgage which is not a retirement interest-only mortgage.</u></p>
--------------------------	--

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

retirement interest-only mortgage

an *interest-only* mortgage

- (1) which is not an *interest roll-up mortgage*;
- (2) entry into which is restricted to older *customers* above a specified age; and
- (3) under which the lender is not entitled to seek full repayment of the loan until the occurrence of one or more of the *specified life events*, unless the customer breaches their contractual obligations (including any obligation to pay interest during the term) in a way which allows the lender to terminate the agreement.

Annex B

Amendments to the Mortgages and Home Finance: Conduct of Business sourcebook (MCOB)

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

4 Advising and selling standards

...

4.4A Initial disclosure requirements

...

Alternative finance options

...

4.4A.8A B R Where a customer is looking to take out a *retirement interest-only mortgage*, the *firm* must inform the *customer*, either orally or in writing, that a *lifetime mortgage* may be available and more appropriate for the customer.

4.4A.8B G *Firms* are not obliged to explore whether ~~a further advance with the existing lender, a new first charge regulated mortgage contract with another lender, a second charge regulated mortgage contract or unsecured lending~~ an alternative finance option is more appropriate for the customer where that is not the service offered to the customer.

...

4.7A Advised sales

...

Retirement interest-only mortgages

4.7A.10 A R (1) In considering whether a *retirement interest-only mortgage* that will be used to draw income is appropriate to the needs and circumstances of the *customer* for the purposes of *MCOB 4.7A.2R*, a *firm* must consider, in addition to the factors set out in *MCOB 4.7A.6R*, whether the benefits to the *customer* outweigh any adverse effect on:

(a) the *customer's* entitlement (if any) to means-tested benefits; and

(b) the *customer's* tax position (for example the loss of an Age Allowance).

- (2) In considering the factors set out in MCOB 4.7A.10AR(1), where a firm has insufficient knowledge of means-tested benefits and tax allowances to reach a conclusion, the firm must refer a customer to an appropriate source or sources such as the Pension Service, HM Revenue and Customs or a Citizens Advice Bureau (or other similar agency) to establish the required information.
- (3) If a customer declines to seek further information on means-tested benefits, tax allowances or the scope for local authority (or other) grants, a firm can advise the customer (in accordance with the remaining requirements of this chapter) to enter into a retirement interest-only mortgage where there is a retirement interest-only mortgage that is appropriate to the needs and circumstances of the customer, but must confirm to the customer, in a durable medium, the basis on which the advice has been given.

...

5 Pre-application disclosure

...

5.4 Information on regulated mortgage contracts: general

...

Retirement interest-only mortgages

- 5.4.25 R When a firm issues an illustration for a retirement interest-only mortgage that will be used to draw income, the firm must inform the customer that taking out the mortgage may affect the customer's tax position and entitlement to benefits, and that the customer should consider taking advice on these issues before applying.
- 5.4.26 R If the terms of the retirement interest-only mortgage include any restrictions as to who may live in the property, these restrictions must be disclosed to the customer before an application is made.
- 5.4.27 G The information referred to in MCOB 5.4.25R and MCOB 5.4.26R may be given to the customer either in the illustration or in a separate document provided at the same time as the illustration.

...

5.6 Content of illustrations

...

Content: required information

- 5.6.5 R The illustration provided to customers must:

- (1) contain only material prescribed in *MCOB 5.6* and no other material except where provided for elsewhere in *MCOB 5.6 5*; and
- (2) be in a document separate from any other material that is provided to the *customer*.

...

7 Disclosure at the start of contract and after sale

...

7.5 Mortgages: statements

...

Annual statement: content

...

7.5.3B **R** *MCOB 7.5.3R(1)(b) and MCOB 7.5.3R(1)(c) do not apply where the regulated mortgage contract is a retirement interest-only mortgage.*

...

11 Responsible lending, and responsible financing of home purchase plans

...

11.6 Responsible lending and financing

...

Entering into interest-only mortgages

...

11.6.45 **G** The following are examples of repayment strategies that may, subject to the circumstances of the *customer*, be acceptable for the purposes of *MCOB 11.6.41R(1)*:

...

- (4) for a *shared equity credit agreement* or a retirement interest-only mortgage, the sale of the property which is the subject of the agreement.

...

11.6.46 **R** *MCOB 11.6.46E(3)(b) does not apply in relation to a retirement interest-*

A only mortgage.



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