

# **Insurance Distribution Directive Implementation – Consultation Paper 2**

**Consultation Paper**

CP17/23\*\*\*

July 2017

## How to respond

We are asking for comments on this Consultation Paper (CP) by 20 October 2017.

You can send them to us using the form on our website at:  
[www.fca.org.uk/cp17-23-response-form](http://www.fca.org.uk/cp17-23-response-form)

**Or in writing to:**

Robert Robinson  
Insurance Policy  
Financial Conduct Authority  
25 The North Colonnade  
Canary Wharf London E14 5HS

**Telephone:**

020 7066 0438

**Email:**

CP17-23@fca.org.uk

**How to navigate this document onscreen**

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# 1 Summary

## Why we are consulting

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- 1.1** Following on from Consultation Paper (CP) 17/7<sup>1</sup>, these are our further proposals on how we plan to implement the Insurance Distribution Directive (IDD) in the UK.

## Who this applies to

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- 1.2** This consultation will interest firms (including insurance and reinsurance companies, and insurance intermediaries), customers in the insurance market, and bodies representing these groups. It will also be of interest to designated professional bodies whose members conduct insurance distribution activities.
- 1.3** Some aspects of this consultation will be of interest to firms categorised under the IDD as ancillary insurance intermediaries (AII), such as motor vehicle dealers, travel agents and electrical goods retailers. For example, our proposals in Chapter 11 (Organisational requirements), Chapter 12 (Professional requirements) and Chapter 13 (Additional Handbook changes for General Insurance business).
- 1.4** Consumers have a clear interest in financial markets that operate fairly and transparently. The new requirements that will apply to firms following the implementation of the IDD are likely to be of interest to consumers, for example the rules about conduct of business and disclosure.

## The wider context of this consultation

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- 1.5** The IDD replaces the Insurance Mediation Directive (IMD). It aims to enhance consumer protection when buying insurance (including general insurance, life insurance and insurance-based investment products) and to support competition between insurance distributors by creating a level playing field. Further detail can be found in Chapter 2.

## What we want to change

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- 1.6** We need to change various parts of our Handbook to implement the IDD in the UK. We are seeking views on the following proposals:

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<sup>1</sup> CP17/7: Insurance Distribution Directive Implementation – Consultation Paper 1, March 2017 – <https://www.fca.org.uk/publication/consultation/cp17-07.pdf>



- Changes to our rules to implement the IDD requirements for life insurance business, including information provision requirements, and additional requirements related to the distribution of insurance-based investment products (IBIPs):
  - firms' general obligations (Chapter 4),
  - information disclosure to customers (Chapter 5),
  - inducements (Chapter 6),
  - suitability (Chapter 7), and
  - appropriateness (Chapter 8).
- Changes to our rules to implement requirements in the IDD that apply to life and non-investment insurance business, including product oversight and governance, and professional and organisational requirements provisions:
  - conflicts of interest (Chapter 9),
  - product oversight and governance (Chapter 10),
  - organisational requirements relating to the protection of customers' money (Chapter 11), and
  - professional requirements relating to the good repute of employees of insurance distributors (Chapter 12).
- Additional Handbook changes relating only to non-investment insurance business, including product information (Chapter 13).
- Consequential amendments to other parts of the Handbook (Chapter 14).

## Outcome we are seeking

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- 1.7** Our proposed approach to implementing the IDD builds on the rules and guidance already in place and is consistent with the approach we took to implementing IMD. Generally we have sought to introduce the minimum standards of the IDD into our Handbook through intelligent copy-out, though in places we have gone beyond the minimum, as noted in Chapter 3.
- 1.8** This should provide an enhanced regime that meets the objectives of the IDD, ensures a level playing field for sellers of insurance and better protection for consumers when buying insurance. This should ultimately result in:
- consistent consumer protections across different distribution channels, preventing regulatory distortions of competition, and
  - products being sold to consumers that better meet their needs, alongside improved product information, enabling consumers to have greater confidence in their insurance purchasing decisions.

## Measuring success

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- 1.9** Successful outcomes will include products being sold that better meet consumer needs, supported by improved product information enabling consumers to make better-informed purchasing decisions. We expect to be able to assess this through better consumer outcomes seen in our supervision process and a reduction in complaints.

## Next steps

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- 1.10** We want to know what you think of our proposals. We ask questions throughout this CP which are also collated in Annex 1. Please send us your comments by 20 October 2017 using the online response form on our website or by writing to us at the address on page 2.
- 1.11** We will consider all feedback and aim to publish a summary of responses and a Policy Statement in December 2017.
- 1.12** We will be consulting separately, in the next few months, on our remaining proposals for implementing the IDD. This will include our proposals to reflect the Level 2 delegated acts in our Handbook. It will also address any Handbook changes arising from Her Majesty's Treasury (the Treasury's) consultation on implementing the IDD, including any changes to our regulatory processes and the Perimeter Guidance Manual (PERG).
- 1.13** Given the timeframe for implementation set out in the IDD, and the timing of the adoption of the delegated acts, it is likely that the next consultation will be issued while this consultation remains open for comments. The next consultation may have a shorter period for responses. However, we are seeking to make this manageable for respondents by signposting in the chapters of this CP policy issues we are considering and propose to cover in the next CP (subject to the final content of the delegated acts).

## 2 The wider context

- 2.1** The IMD became law in the UK on 15 January 2005. Following a review of the IMD by the European Commission (the Commission), the directive was amended and recast as the IDD. The IDD entered into force on 23 February 2016 and firms must follow its requirements from 23 February 2018. The IDD aims to ensure a level playing field between insurance distributors and to strengthen consumer protection.
- 2.2** Like the IMD, the IDD covers the initial authorisation, passporting arrangements and ongoing regulatory requirements for insurance and reinsurance intermediaries. However, the application of the IDD is wider, covering organisational and conduct of business requirements for insurance and reinsurance undertakings. The IDD also introduces requirements in new areas. These include product oversight and governance, and enhanced conduct rules for insurance-based investment products (IBIPs), where its stated intention is to more closely align the customer protections with those provided by the Markets in Financial Instruments Directive II (MiFID II).
- 2.3** The UK is required to implement the IDD by 23 February 2018. This is our second CP setting out our proposals for implementing the IDD.

### European legislation

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- 2.4** Where we refer in this CP to our expectations regarding the final content of the Level 2 delegated acts, our view is based on the European Insurance and Occupational Pensions Authority (EIOPA)'s technical advice to the Commission.<sup>2</sup> The draft delegated regulations have just been published for consultation by the Commission, on 20 July 2017, and we will be considering their content in advance of our third consultation paper.
- 2.5** The Insurance Product Information Document (IPID) will be supported by a directly applicable Commission Implementing Regulation, which has not yet been adopted by the Commission. Therefore we have relied upon the draft Implementing Technical Standards for the IPID published by EIOPA in developing our proposals.<sup>3</sup>

### UK legislation

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- 2.6** The Treasury has also consulted on legislative changes to enable IDD implementation.<sup>4</sup> Some FCA Handbook changes are contingent on changes being made to legislation by the Treasury, in relation to registration (including any necessary revisions to our Perimeter Guidance), passporting, and sanctions. While we indicated in CP17/7 that

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<sup>2</sup> EIOPA, *Technical Advice on possible delegated acts concerning the Insurance Distribution Directive*, 1 February 2017: <https://eiopa.europa.eu/Publications/Consultations/EIOPA%20Technical%20Advice%20on%20the%20IDD.pdf>

<sup>3</sup> See EIOPA Draft Implementing Technical Standards on the Insurance Product Information Document at: <https://eiopa.europa.eu/publications/submissions-to-the-ec>

<sup>4</sup> HM Treasury, *Transposition of the Insurance Distribution Directive*, 27 February 2017: <https://www.gov.uk/government/consultations/transposition-of-the-insurance-distribution-directive>.

this second CP would consider matters based on the draft legislation in the Treasury consultation, we have now decided to include that consideration in our third CP (see paragraph 2.9), as there should be more certainty regarding the content of the legislation by then.

## How it links to our objectives

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### Consumer protection

- 2.7** We expect our proposals to maintain or raise existing consumer protection standards for the sale of insurance products. For example, the IDD aims to reinforce our existing consumer protection standards by requiring firms to design products that meet consumer needs, and to provide all insurance customers with relevant product information to enable them to make an informed purchasing decision.

### Competition

- 2.8** The proposals will promote effective competition in the interests of consumers by ensuring an appropriate regulatory regime across the market, preventing distortions arising from a different regulatory burden on some firms. Improved information disclosures should lead to improved ability by consumers to compare products.

## What we are doing

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- 2.9** We had originally intended to publish our remaining proposals for implementing the IDD in this CP. However, as the draft Level 2 delegated regulations<sup>5</sup> were only published by the Commission on 20 July 2017 we now intend to publish three CPs. We are doing this to give firms as much time as possible to consider changes to their processes as a result of the new requirements.
- The first CP dealt with conduct requirements for general insurance business and, for all insurance business, various requirements including those relating to training and competence, professional indemnity insurance, complaints handling and out-of-court redress.<sup>6</sup>
  - This CP covers implementation of most outstanding Level 1 matters and the IPID disclosure requirements. As the delegated acts will take the form of directly-applicable regulations, our priority in this CP is to publish our proposals for transposing the remaining Level 1 aspects of the IDD. For those areas to which the Level 2 delegated regulations relate, firms should read this CP in conjunction with the draft delegated regulations that were published by the Commission on 20 July 2017 to consider the full scope of their obligations under the IDD.
  - The third CP, which we intend to publish in late September, will cover our approach to the Level 2 delegated regulations and any proposals designed to achieve better alignment with MiFID II standards. It will also include our proposals relating to areas

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<sup>5</sup> The draft regulations can be found on the European Commission website: [http://ec.europa.eu/info/law/better-regulation/initiatives/ares-2017-3675955\\_en](http://ec.europa.eu/info/law/better-regulation/initiatives/ares-2017-3675955_en) and [http://ec.europa.eu/info/law/better-regulation/initiatives/ares-2017-3675955\\_en](http://ec.europa.eu/info/law/better-regulation/initiatives/ares-2017-3675955_en)

<sup>6</sup> CP17/7, *Insurance Distribution Directive Implementation – Consultation Paper I*, March 2017: <https://www.fca.org.uk/publication/consultation/cp17-07.pdf>.



subject to the Treasury's consultation on changes to UK legislation to transpose the IDD (see paragraph 2.6).

- 2.10** To assist firms, we indicate in this paper our current intentions regarding our approach to reflecting the final content of the delegated regulations in the Handbook. These proposals will be included in the third CP, by which time we will have conducted a full analysis of the content of the Level 2 delegated regulations, including the extent to which we propose to align requirements with those of MiFID II.

## Equality and diversity considerations

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- 2.11** We have considered the equality and diversity issues that may arise from our proposals. Overall, we do not consider that the proposals adversely impact any of the groups with protected characteristics under the Equality Act 2010. But 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. In the meantime, we welcome any input to this consultation on such matters.



## 3 Additional requirements

- 3.1** Primarily we propose to introduce the minimum standards of the IDD into our Handbook through intelligent copy-out.<sup>7</sup> However, in some cases we are proposing changes that go beyond the IDD minimum requirements. These are where we are proposing to:
- apply the IDD standards to a wider range of firms or business than required by the directive, so that we promote effective competition in the interests of consumers, by achieving consistency of regulatory standards and avoiding arbitrage,
  - maintain standards above the IDD minimum requirements to preserve existing UK regulatory standards, and
  - introduce standards above the IDD minimum requirements as a result of policy decisions, particularly in relation to alignment with MiFID II.
- 3.2** Where we are proposing to apply additional requirements we consider that this will help to promote consumer protection and avoid distorting competition between different firms.
- 3.3** There will be some additional costs for firms arising from going beyond the minimum requirements of the IDD. However, we consider that the benefits outweigh the costs and so these costs will not impair the attractiveness of the UK as a location for financial services. Customers will want to use firms that are adhering to regulatory standards that support those firms' efforts to act in their customer's best interests, focus on good outcomes for customers and to act with integrity.
- 3.4** In this chapter we explain our overall proposed approach. Further information about the proposed additional requirements which go beyond the IDD minimum requirements is set out in each chapter and the cost benefit analysis (CBA) annex of this CP.

### Application to a wider range of firms

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- 3.5** The Financial Services Authority (FSA, our predecessor regulatory organisation) sought to have consistent regulatory standards and to avoid arbitrage across key areas of the financial services market. Standards were applied to firms dealing with similar products, even where not required by the directive minimum.
- 3.6** We plan to carry this approach forward in our implementation of the IDD. For example, our existing conflicts of interest requirements apply to distribution of insurance

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<sup>7</sup> An 'intelligent copy out' approach means adhering closely to the wording of the IDD when drafting the relevant provisions in the Handbook, but using alternative wording where appropriate to align with UK law and practice.



generally, while the IDD conflict provisions apply only to the distribution of IBIPs.<sup>8</sup> We propose to keep our current wider application.

## Maintaining existing standards

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- 3.7** In some areas, we already have in place existing rules which set higher standards of consumer protection than are required by the IDD. For example, the rules for adviser charging for retail investment products go further than the IDD inducements rules. The approach on which we are consulting aims to maintain our existing consumer protection standards.

## Markets in Financial Instruments Directive (MiFID) II alignment

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- 3.8** IBIPs and pensions within scope of the IDD are generally viewed as being in the same relevant market as, and therefore often substitutable for, MiFID II investment products. Historically, although they are not subject to MiFID I, we applied many of our Conduct of Business Sourcebook (COBS) rules, which were derived from MiFID I, to these other products.
- 3.9** Applying a broadly consistent regulatory regime helps maintain an appropriate level of protection for consumers and a consistent framework for firms, therefore promoting effective competition in the interests of consumers. IBIPs and pension products are also within the scope of our definition of a 'retail investment product' (RIP) and are therefore subject to the rules put in place by the Retail Distribution Review (RDR).
- 3.10** We indicated in DP15/3<sup>9</sup> that our intention was to apply MiFID II standards to IBIPs and pensions when we implemented the IDD and there were mixed responses to this. Some respondents felt it was important to have a single set of rules applying to substitutable types of business, while others raised concerns about the specific application of certain MiFID II rules to IBIPs and pensions. The general view was that decisions regarding harmonisation could not be taken until the IDD proposals were clear.
- 3.11** We have considered this feedback when developing the proposals set out in this CP. In general, we have decided to broadly align the regime for IBIPs with the MiFID II standards<sup>10</sup>, where appropriate, and indicate in this CP where we propose to do this.
- 3.12** Our aim is to ensure the Handbook is as user-friendly for firms as possible. Therefore, we generally propose to incorporate the IDD requirements that need to be implemented in COBS alongside equivalent MiFID II requirements. This should help firms doing mixed business to consult single sections of the Handbook, so they can more easily understand the rules. In the main, we are proposing that the new rules will appear within the new COBS 'A' chapters that have been created to implement MiFID

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8 An IBIP is an insurance product that offers a maturity or surrender value that is exposed to market fluctuations. Examples include endowment policies and insurance bonds. The IBIP definition in the IDD excludes most term life assurance, general insurance and pension products.

9 DP15/3, Developing our approach to implementing MiFID II conduct of business and organisational requirements, March 2015: <https://www.fca.org.uk/publication/discussion/dp15-03.pdf>.

10 See also PS17/14, *Markets in Financial Instruments Directive II Implementation – Policy Statement II*, July 2017: <https://www.fca.org.uk/publication/policy/ps17-14.pdf> for further discussion on this point.

II requirements (and we have proposed amending the application of those sections in order that they cover insurance distribution of life policies generally or just IBIPs). Where we see material differences between the IDD and MiFID II, we signpost these in each chapter of this CP.

### Pensions

**3.13** For pensions, where we have discretion, in general we are not consulting on applying any additional standards at the current time, given the significant changes in the pension landscape and broader work we have planned in this area.<sup>11</sup>

**3.14** This CP will still be relevant for firms selling insurance-based pensions, however. While these pensions are not IBIPs, they will be subject to the other requirements in the directive. Firms selling insurance-based pensions should consider the following chapters of this CP:

- firms' general obligations (Chapter 4),
- assessment of demands and needs (Chapter 7),
- product oversight and governance (Chapter 10),
- organisational requirements relating to the protection of customers' money (Chapter 11), and
- professional requirements relating to the good repute of employees of insurance distributors (Chapter 12).

**3.15** We are also proposing to apply a level playing field for the management of conflicts of interest (see Chapter 9) for all types of insurance business, including insurance-based pensions.

**3.16** In addition, we propose to maintain existing standards that go beyond the IDD minimum standards in some areas which are relevant to firms selling insurance-based pensions. The relevant chapters of this CP are:

- information disclosure to customers (Chapter 5),
- inducements (Chapter 6), and
- suitability (Chapter 7).

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11 See, for example CP17/16, *Advising on Pension Transfers*, June 2017: <https://www.fca.org.uk/publication/consultation/cp17-16.pdf> and our work on MS16/1, *Retirement Outcomes Review*, July 2016: <https://www.fca.org.uk/publication/market-studies/retirement-outcomes-review.pdf>



## Part I – Conduct of business requirements for life business

## 4 Conduct of business requirements for life insurance firms

**4.1** This chapter sets out proposed changes to COBS to implement the conduct of business and information provision requirements contained in Chapter V of the IDD.

### Overall life insurance requirements

**4.2** Chapter V of the IDD contains conduct of business rules that apply to all types of insurance business. Currently, many of the conduct of business rules from the IMD are implemented in COBS 7. We are proposing to move away from this structure where we have similar requirements within the Handbook and, instead, implement these IDD conduct rules alongside other related COBS rules. This is to improve the ease of reference for firms that distribute both products covered by MiFID and those covered by the IDD.

**4.3** In CP17/7 we set out our proposals for implementing these requirements for insurance business covered by the Insurance: Conduct of Business sourcebook (ICOBS). We propose to implement rules in COBS which are broadly similar to those in ICOBS, maintaining consistency in the way we have transposed the IDD requirements. Where we have existing rules which implement the IDD requirements (for example, rules brought in to implement the IMD) we will rely on these; albeit that some will be moved from COBS 7 into other COBS chapters. A summary of our proposals is set out below, where we have sought to give an indication about the key obligations required in these areas but without an exhaustive list of what is being done to avoid duplicating the explanation we have already provided. This detail is included in CP 17/7 and so this chapter should be read alongside Chapters 5 and 6 of CP17/7.

Topic	Details
The <i>IDD general principles</i> (Article 17)	<p>We propose to extend the following existing rules to apply to all clients:</p> <ul style="list-style-type: none"> <li>• client's best interests rule<sup>11</sup></li> <li>• communications to be fair, clear, not misleading<sup>12</sup> and for</li> <li>• marketing materials to be clearly identifiable<sup>13</sup></li> </ul> <p>The IDD prohibits remuneration of the firm or its employees (or assessing those employees' performance in a way) which would conflict with the duty to act in the client's best interests. In CP17/7 we proposed introducing a rule in SYSC 19F for general insurance and pure protection contracts and propose to extend this rule for all life policies.</p>
Remuneration disclosures	<p>We propose introducing new rules in COBS to cover disclosure by intermediaries of the 'nature and basis' of remuneration they receive and by insurers of the 'nature' of remuneration paid to their employees. We set out our view on these requirements in CP17/7.</p>
	<p>Some insurance business is already covered by our existing rules requiring remuneration to be in the form of adviser charges.</p>

<sup>12</sup> COBS 2.1.1R.

<sup>13</sup> COBS 4.2.1R.

<sup>14</sup> COBS 4.3.1R.

Topic	Details
Standards for advised and non-advised sales (e.g. demands and needs)	<p>We propose to introduce new rules in COBS 7.3 (for non-advised sales), COBS 9A (for advised sale of IBIPs) and COBS 9 (for advised sale of other life policies) to cover the enhanced IDD requirements on demands and needs for both advised and non-advised sales. These are:</p> <ul style="list-style-type: none"> <li>• That firms must identify and specify the customer's demands and needs, on the basis of information obtained from the customer. Additionally, all insurance contracts proposed, including those sold on a non-advised basis, must be consistent with the customer's insurance demands and needs.</li> <li>• Where advice is provided, the firm must provide a personalised recommendation explaining why a particular product best meets the customer's needs.</li> <li>• Following the approach taken for IMD, where a firm gives a personal recommendation these requirements have been incorporated in the chapters dealing with suitability (see Chapter 7 below).</li> </ul> <p>The IDD requires that where advice is given on the basis of a fair and personal analysis of the market, the firm must base this on a sufficiently large number of products to enable it to make a personal recommendation. We will introduce this requirement within COBS 6.1ZA.</p>
Cross-selling	<p>We propose to introduce rules in COBS 6.1ZA similar to those which we proposed in CP17/7<sup>15</sup> for ICOBS 6A.3. In summary, these requirements are:</p> <ul style="list-style-type: none"> <li>• Where insurance is a primary product sold with a non-insurance ancillary product, the firm must inform the customer whether the ancillary product is optional. If it is, they must give an adequate description of the products (including costs).</li> <li>• Where insurance is sold ancillary to a non-insurance primary product it must be optional.</li> </ul>
Distribution through exempt ancillary insurance intermediaries (AIs)	<p>In CP17/7 we explained our view that the IDD sets out certain minimum conduct requirements which must be met by all firms, including where firms distribute through those persons who are exempted from the scope of FSMA authorisation. These standards include the IDD general principles, the demands and needs test and certain information disclosures. Responsibility for ensuring that sales through those exempt firms adhere to these standards rests with the authorised insurer or intermediary using the exempt firm to distribute products on their behalf. We propose to implement new rules in COBS 7.3 for firms using exempt ancillary insurance intermediaries to distribute their products.</p>
Other changes	<p>We propose amending our existing rules that implement the IMD to incorporate the other changes required for the IDD:</p> <ul style="list-style-type: none"> <li>• We propose introducing new rules in COBS that specify the way in which information required by the IDD is to be provided. This will replace the rules currently in COBS 7.2.6R. This will include a requirement that information be provided on paper, free of charge, where requested by the customer. In CP17/7 we proposed to include guidance in ICOBS on the requirement for the customer to be given an active choice between paper or another medium. However, based on responses to that consultation we plan to make changes to this guidance in ICOBS. As such, we do not propose to replicate this guidance in COBS at present. We are likely to propose replicating the revised ICOBS guidance in COBS once it has been finalised.</li> <li>• We propose to move and amend the rules currently in COBS 7.2.1R to COBS 6.1ZA covering general pre-contract disclosures concerning the firm's identity, scope of service, complaints process and include new rules to cover the obligations on insurers that distribute products directly to customers.</li> <li>• We also propose to move to COBS 6.1ZA and amend the disclosures required of intermediaries concerning transparency and links between the firm and insurers with which they place business (which are currently in COBS 7.2.1R (1) to (2)).</li> </ul>

**Q1: Do you agree with our proposals to amend COBS to implement the conduct of business requirements in Chapter V of the IDD?**

## 5 Information and product disclosure

- 5.1** This chapter sets out our proposed changes to COBS to implement the IDD requirements regarding information disclosures for insurance-based investment products (IBIPs).

### Information disclosure to customers

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#### IDD requirements

- 5.2** The IDD introduces a range of new requirements for firms distributing IBIPs including providing appropriate information, providing adequate periodic reports to customers and keeping a record of customer agreements.
- 5.3** Article 29(1) of the IDD requires appropriate information to be provided to the customer including, at least, all costs and charges, risk warnings and whether the firm will conduct periodic assessments of suitability. This information may be provided in a standardised format to customers, and the obligation applies in addition to the general requirements of the IDD which are covered in Chapter 4 of this paper.
- 5.4** Article 30(4) of the IDD requires firms to establish and keep a record of a document that includes the rights and obligations agreed with customers and any other relevant terms of service. These are usually referred to as client agreements.
- 5.5** Article 30(5) of the IDD requires that adequate reports on the firm's service are provided to customers in a durable medium. These periodic reports must include, where applicable, the costs associated with the transactions and services undertaken on behalf of the customer.

#### Existing provisions

- 5.6** Our current COBS disclosure rules require firms to:
- provide fair, clear and not misleading information,
  - produce information in a comprehensible format (which may be standardised),
  - provide general and specific information about the firm and its services, and
  - provide general and specific information on all costs and associated charges, including timing and ongoing disclosure requirements.
- 5.7** These requirements relate to firms distributing life policies and apply differently depending on customer type. In a number of places our current rules do not require that information is provided to professional customers and/or in relation to eligible counterparty business.
- 5.8** As part of our MiFID II implementation, we introduced new chapters to COBS in relation to MiFID business including the new COBS 2.2A, COBS 6.1ZA, COBS 8A and COBS



16A. These new chapters contain requirements similar to those introduced by the IDD for IBIPs and are similar to our current rules in relation to non-IBIP life business.

### Proposals

**5.9** We propose to implement the new IBIP disclosure requirements alongside their MiFID II counterparts in the Handbook and, in some cases, relocate current standards in order to consolidate rules into one location. We propose to retain our existing rules for non-IBIP life business and make the necessary amendments to implement the IDD minimum requirements.

**5.10** In particular, we are proposing amendments to:

- **COBS 2.2 and COBS 2.2A**

These changes will implement most of the appropriate information requirements of IDD Article 29(1) into COBS 2.2A. In addition, the existing requirements for life policies are relocated into the new COBS 2.2A to consolidate rules while retaining existing standards.

- **COBS 6.1ZA**

These changes implement the costs and charges disclosure for IBIPs of IDD Article 29(1)(c).

- **COBS 8 and COBS 8A**

These changes implement the requirement of IDD Article 30(4) to establish and keep a record of documents agreed between the firm and customer setting out rights and obligations.

- **COBS 16A**

These changes implement the requirement of IDD Article 30(5) for firms distributing IBIPs to provide adequate reports on the service provided in a durable medium to customers.

**5.11** These disclosure requirements will apply in relation to all customers purchasing or receiving advice on an IBIP, including professional clients and eligible counterparties (ECPs). In line with the approach taken in MiFID II PS 17/14, we are not proposing to prescribe a standardised format for these disclosures at the current time. We continue to encourage firms to consider our Smarter Consumer Communications initiative when updating their disclosure documents and ensure information is presented in a way that reflects the needs of their target customers.

### Approach to future consultation

**5.12** It is important to note that, as part of MiFID II implementation, some requirements in our current COBS rules have, for firms within scope of MiFID II, moved to the directly applicable MiFID II Implementing Regulation.<sup>16</sup> For example, the current COBS 6.1.9R contains disclosure requirements related to foreign currency costs, including the obligation to disclose relevant exchange rates. The new COBS 6.1ZA does not include this requirement as a rule, as it is instead addressed through Article 50 of the MiFID II Implementing Regulation.

**5.13** We will review the final IDD delegated acts against our current COBS rules and consult on any necessary changes in our third CP. Where our current COBS requirements

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<sup>16</sup> The MiFID II implementing regulation is Commission Regulation (EC) 2017/565.



contain additional obligations, or greater detail, compared to the IDD, we envisage retaining these requirements in order to maintain current levels of consumer protection. This follows our general approach of retaining current COBS requirements where there are no equivalent measures within the IDD.

**5.14** We expect that the final IDD delegated acts will differ from some MiFID II requirements, to reflect the differences between holding a direct investment and an IBIP. In particular, periodic reporting is required every three or six months for MiFID business, whereas the IDD delegated acts are likely to require periodic reports annually. We consider this difference in periodic reporting to be appropriate and, as a result, we do not anticipate any significant changes to our approach arising from the IDD delegated acts.

**Q2:** Do you agree with our proposals to implement the IDD information disclosure obligations? Where possible, please distinguish between the minimum directive requirements and areas where we have exercised discretion.

## 6 Inducements

- 6.1** This chapter sets out our proposed changes to our rules to implement the IDD requirements regarding inducements.

### IDD requirements

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- 6.2** There are a number of IDD Level 1 requirements that relate to inducements:
- In relation to the distribution of an IBIP only, firms must ensure that the payment of any fee, commission or non-monetary benefit by any person except the customer or a person acting on behalf of the customer (a) does not have a detrimental impact on the quality of the service provided and (b) does not impair compliance with the duty to act honestly fairly and professionally in the best interests of customers<sup>17</sup>, and
  - Member States are also empowered by the IDD to limit or prohibit fees, commissions or other monetary and non-monetary benefits paid to insurance distributors and to impose stricter requirements on distributors in respect of certain specific matters covered in Article 29 than those in the IDD.<sup>18</sup>

### Existing provisions

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- 6.3** The current inducements rules in COBS 2.3 apply to designated investment business which includes life policies. These are largely derived from MiFID I requirements and, regardless of whether advice is provided, these rules prevent firms from paying or receiving fees, commissions or non-monetary benefits except in certain prescribed circumstances.
- 6.4** Following MiFID II implementation, the core inducement rules for MiFID, equivalent third country and Article 3 firm (optional exemption) business will be found in the new COBS 2.3A from 3 January 2018.
- 6.5** In December 2012, as part of the RDR, we introduced new adviser charging rules in COBS 6 for the retail investment advice market. Building on the inducements regime, these rules were designed to remove the potential for adviser remuneration to distort the advice that consumers receive. The rules require that advisers providing advice to retail clients in the UK on RIPs are remunerated by adviser charges agreed with, and paid by, clients (rather than through commissions or other types of monetary or non-monetary benefit) and that provider firms may not offer or pay inducements to adviser firms.<sup>19</sup> In addition to this there are other rules within the Handbook which limit how firms remunerate or are remunerated in relation to their business.<sup>20</sup>

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<sup>17</sup> Article 29(2).

<sup>18</sup> Article 22(3) and Article 29(3).

<sup>19</sup> COBS 6.1.

<sup>20</sup> Examples of wider requirements which could apply to firms doing insurance distribution include COBS 6.1B relating to product provider requirements, platform charges etc.

## Proposals

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### 6.6 We propose to:

- apply the high level inducement rule in COBS 2.3A to firms doing insurance distribution activities in relation to IBIPS, and within that section include new requirements as necessary to implement the Article 29(2) requirement (and for this business we will disapply COBS 2.3),
- maintain the existing requirements in COBS 2.3 for other life policies without changes; and
- continue to apply the RDR rules in COBS 6.

### 6.7 Where IDD requirements differ from those in MiFID II or our current rules, we propose to copy out those requirements in addition to existing requirements. We consider that there is only one provision in the IDD Level 1 inducements requirements where this is necessary. The IDD requires that the payment of inducements by a third party must not have a detrimental impact on the quality of the service. This differs from the MiFID II requirement that inducements must be designed to enhance the quality of the service. We consider the concepts are aligned to an extent; however, they can be viewed as setting different standards. We recognise the Commission's apparent intention to set a specific minimum standard for the insurance sector under the IDD. However, we do consider that there are circumstances in which the MiFID II test may deliver better consumer outcomes and so we intend to retain this and to include the additional IDD wording in our rules. In many cases, the two requirements should lead to similar outcomes, so we do not consider that this is a significant change.

### 6.8 We plan to exercise the empowerments in the IDD to limit or prevent certain types of remuneration in order to maintain our current inducement rules for non-IBIP life policies and enable us to continue to apply the RDR adviser charging rules for all RIPs. We have consulted<sup>21</sup> on amending these rules from 3 January 2018 to apply more widely than at present. Rather than merely covering personal recommendations, the rules will apply to advice to retail clients more generally, whether or not it amounts to a personal recommendation. Providers will be unable to provide any benefits to advisory firms apart from permitted 'minor non-monetary benefits'.

## Approach to future consultation

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### 6.9 In general, our current thinking is to reflect the final content of the delegated acts as appropriate and, to the extent that this does not apply directly to insurance distributors subject to our rules, consider whether this should be applied.

### 6.10 We are also considering whether to level up to MiFID II requirements.<sup>22</sup>

- In some areas, the MiFID II delegated acts include additional detail compared to the IDD with regard to inducements. For example, MiFID II includes additional

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21 CP16/29, *Markets in Financial Instruments Directive II Implementation – Consultation Paper III*, September 2016: <https://www.fca.org.uk/publication/consultation/cp16-29.pdf> and PS17/14, *Markets in Financial Instruments Directive II Implementation – Policy Statement II*, July 2017: <https://www.fca.org.uk/publication/policy/ps17-14.pdf>.

22 Including those additional requirements consulted on as part of MiFID II which have been applied more broadly than MiFID business.



requirements relating to sales involving more than one distributor firm, record keeping and that firms must make ongoing assessments that inducements enhance the quality of services. Our current intention is to apply these requirements for IBIPs.

- We are considering whether or not it is appropriate in relation to IBIPs to apply MiFID II delegated act requirements for inducements relating to investment research, which primarily relate to the use of dealing commission by portfolio managers and other investment firms carrying on MiFID II or third country business, in connection with receipt of investment research. We believe that these provisions may be more relevant for MiFID business.

**Q3:** Do you agree with our proposals to implement the inducements-related requirements of the IDD? Where possible, please distinguish between the minimum directive requirements and areas where we have exercised discretion.

## 7 Suitability

- 7.1** This chapter sets out our proposed changes to our rules to implement the IDD requirements relating to suitability as well as the assessment of demands and needs where advice is provided in relation to life policies.

### IDD requirements

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- 7.2** The IDD contains suitability requirements where advice (a personal recommendation) is provided in relation to an IBIP. These requirements are similar to those contained in MiFID II and our current COBS requirements.<sup>23</sup> When providing a personal recommendation, firms are required to:
- assess whether the product recommended is suitable for that person, particularly in relation to their risk tolerance and ability to bear losses,
  - collect information about the customer including their investment knowledge and experience, financial situation, ability to bear losses, investment objectives and risk tolerance,
  - assess the suitability of the overall package where advice is provided on a package of bundled services or products,
  - provide a suitability statement, in a durable medium, to the customer to specify the advice provided and how that advice meets the preferences, objectives and other characteristics of the customer<sup>24</sup>, and
  - update the suitability statement where the customer has been informed that a periodic assessment of suitability will occur.

### Existing provisions

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- 7.3** Our current rules on suitability are set out in COBS 9 and apply to firms when giving a personal recommendation on all life policies, including IBIPs. These suitability rules also implement the IMD requirements related to the assessment of demands and needs for advised sales. Where a firm makes a personal recommendation to a professional client in relation to a life policy, then rules which implement requirements of the IMD also apply.<sup>25</sup> However, COBS 9 does not apply to an insurer when it is making a personal recommendation to a professional client to take out a life policy.<sup>26</sup> Records are required to be retained for a minimum period of five years. The recently introduced COBS 9A chapter contains the equivalent MiFID II suitability requirements.

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<sup>23</sup> See Article 30(1) of the IDD.

<sup>24</sup> See Article 30(1) and (5) of the IDD.

<sup>25</sup> See COBS 9.1.5R.

<sup>26</sup> See COBS 9.1.7G.



## Proposals

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- 7.4** We propose integrating the IDD requirements for suitability into the new COBS 9A for IBIPs. Our current suitability requirements in COBS 9 will continue to apply to other life policies.
- 7.5** We propose the demands and needs requirements for advised sales of IDD Article 20 be implemented alongside the suitability test in COBS 9A for IBIPs and in COBS 9 for other life policies. We also propose that the demands and needs requirements of IDD be applied to insurance undertakings as well as insurance intermediaries. We also propose changes to the basic advice rules of COBS 9 to implement the IDD minimum requirements.
- 7.6** We propose to relocate the current minimum five-year record retention period requirements of COBS 9 to SYSC 9 for intermediaries and SYSC 3 for insurers.
- 7.7** The IDD allows Member States to provide that certain information does not need to be provided to professional clients.<sup>27</sup> We propose to exercise this derogation so that firms advising professional clients in relation to an IBIP do not have to provide a suitability statement. A demands and needs statement will still be required in relation to professional clients. As a result, while insurance intermediaries and insurance undertakings are required to assess suitability for professional clients, they will have greater flexibility about how to communicate the outcome of the assessment to professional clients. However, we propose that the requirement to tell customers whether or not a periodic assessment will be conducted will apply to all customers, including professional clients.

## Approach to future consultation

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- 7.8** We will review the final IDD delegated acts and cover any further proposals as necessary in our third CP. For example, we will review our current guidance in COBS 9A (which was developed in relation to MiFID II) and consider extending this guidance to include IBIPs in order to ensure alignment. Our overall approach will be to align the IDD requirements with our implementation of MiFID II where appropriate.
- 7.9** We note that the Commission is empowered to adopt delegated acts in relation to the suitability requirements, including what information needs to be obtained from professional clients. Similar MiFID II provisions allow firms to assume the knowledge and experience of professional clients for the suitability test. This matter was not included in the EIOPA technical advice for the IDD so it is possible this will not be addressed in the IDD delegated acts. In the absence of any specific provisions in the IDD, the ability to assume professional client knowledge and experience for the purposes of the suitability test would not apply to IBIPs. However, where possible under the final delegated acts, our current intention is to align the IDD obligations for professional clients to MiFID II.

**Q4: Do you agree with our proposals to implement the suitability and record-keeping-related requirements of the IDD? Where possible, please distinguish between the**

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<sup>27</sup> See Article 22(1) of the IDD.

**minimum directive requirements and areas where we have exercised discretion.**

**Q5:** Do you agree with our approach to exercising the Member State derogation for professional clients in order to align information disclosure requirements for the suitability statement with MiFID II?

## 8 Appropriateness

- 8.1** This chapter sets out our proposed changes to our rules to implement the IDD requirements regarding appropriateness for IBIPs.

### IDD requirements

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- 8.2** For non-advised sales, the customer's investment knowledge and experience should be assessed to determine whether the IBIP provided is appropriate for them.<sup>28</sup> This is known as an appropriateness test, under which the firm must gather information about the customer's knowledge and experience of the investment considered. It enables a firm to assess whether a particular product or service is appropriate for that customer.
- 8.3** Where an IBIP is not considered to be appropriate, or where there is not sufficient information available about the customer's knowledge and experience to make the assessment, a warning must be provided to the customer. For packaged sales, the overall package should be assessed as appropriate for the customer.
- 8.4** The IDD also provides a Member State derogation regarding the sale of IBIPs without an appropriateness test where certain conditions are met. This is often referred to as an 'execution-only' sale. The IDD conditions for an execution-only sale are:
- the IBIP is a non-complex product (see below for discussion on complexity),
  - the firm complies with the conflicts of interest requirements of the IDD (and the IDD overall),
  - the sale is carried out at the initiative of the customer, and
  - there is a warning to the customer that appropriateness has not been assessed.<sup>29</sup>
- 8.5** The range of products regarded as non-complex for the purposes of execution-only sales is limited under both the IDD and MiFID II. Non-complex IBIPs under the IDD<sup>30</sup> are defined as those which:
- only provide exposure to financial instruments deemed non-complex under MiFID II, and
  - do not incorporate a structure which makes it difficult for the customer to understand the risks involved.
- 8.6** Further products may be deemed complex or non-complex based on criteria set out in the IDD delegated acts or based on EIOPA developed guidelines.<sup>31</sup>

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<sup>28</sup> See Article 30(2) of the IDD.

<sup>29</sup> See Article 30(3) of the IDD.

<sup>30</sup> See Article 30(3) of the IDD.

<sup>31</sup> See Article 30(6) to (8) of the IDD.



## Existing provisions

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- 8.7** Our current rules for the appropriateness test are set out in COBS 10. However, these do not currently apply in relation to the sale of life policies, including IBIPs. The equivalent MiFID II requirements for appropriateness are contained in the new COBS 10A.
- 8.8** Our current rules related to execution-only sales and product complexity are set out in COBS 10.4 (assessing appropriateness: when it need not be done). The MiFID II requirements are contained in the new COBS 10A.4.

## Proposals

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- 8.9** We propose integrating the IDD appropriateness requirements into the new COBS 10A and to apply these to IBIPs only. The associated record-keeping requirements, including a minimum retention period of five years, will be integrated into SYSC 9 for intermediaries and SYSC 3 for insurers in line with our approach to suitability and MiFID II.
- 8.10** We propose to exercise the derogation to allow non-complex IBIPs to be sold under the execution-only process and integrate the IDD execution-only requirements into the new COBS 10A. A range of other IDD requirements will still apply to execution-only sales, including enhanced requirements around demands and needs and the customer's best interest duty. We consider these other IDD requirements are sufficient to secure an appropriate degree of consumer protection for the risks of execution-only business.
- 8.11** We propose to integrate the IDD requirements on product complexity into the new COBS 10A.4. Our proposals follow the IDD minimum requirements on complexity in order to maximise the scope for execution-only sales.

## Approach to future consultation

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- 8.12** We will review the final IDD delegated acts and cover any further amendments in our third CP. For example, we will review our current guidance in COBS 10A (which was developed in relation to MiFID II) and consider extending this guidance to include IBIPs in order to ensure alignment. Our overall approach will be to align the IDD requirements with our implementation of MiFID II where possible.
- 8.13** In addition, we will review the final delegated acts adopted by the Commission in relation to what information needs to be obtained from professional clients for the appropriateness test. Again, the Commission is empowered to adopt delegated acts in relation to this but the matter was not covered in EIOPA's technical advice on the IDD.
- 8.14** We do not currently have any discretion over the criteria for assessing product complexity. However, should the delegated acts or Level 3 EIOPA guidelines provide any Member State discretion, we will consider how this may be used to maximise the scope for execution-only sales of IBIPs in our third CP.



- Q6:** Do you agree with our proposals about how to implement the appropriateness-related requirements of the IDD? Where possible, please distinguish between the minimum directive requirements and areas where we have exercised discretion.
- Q7:** Do you agree with our proposal to exercise the Member State derogation related to execution-only sales in order to maximise the scope for this type of IBIP sale?



## Part II – Other matters

## 9 Conflicts of interest

- 9.1** This chapter sets out our proposed changes to our rules to implement the IDD requirements regarding conflicts of interest.

### IDD requirements

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- 9.2** The IDD has a set of provisions designed to stop conflicts of interests leading to consumer harm in the distribution of IBIPs. Articles 27 and 28 of the IDD focus on the need for effective organisational and administrative arrangements by insurance intermediaries and undertakings to avoid conflicts leading to consumer detriment in relation to IBIP distribution. Firms are, amongst other things, required to:
- take all appropriate steps to identify conflicts of interest between themselves and their customers, or between one customer and another,
  - take all reasonable steps to prevent conflicts of interest, and
  - where the arrangements put in place to manage conflicts of interest are not sufficient to ensure that the risks of damage to customer interest will be prevented, disclose to the customer the general nature or sources of any conflicts.

### Existing provisions

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- 9.3** Existing FCA conflicts of interest requirements in SYSC 10 apply to intermediaries of all types of insurance (as well as other products). These are largely consistent with the proposed IDD measures but are not limited only to IBIP distribution.
- 9.4** Insurers are subject to the high-level requirements in SYSC 3 rather than the more detailed conflicts of interest requirements in SYSC 10. These require a firm to establish and maintain such systems and controls as are appropriate to its business.

### Proposals

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- 9.5** We propose to maintain the current approach in our rules of applying conflict of interest requirements to distributors of all types of insurance (including all life and general insurance business) rather than limiting the application to IBIP business only. The IDD requirements are broadly consistent with existing rules in SYSC 10, so the impact on firms should be low, while maintaining existing consumer protections.
- 9.6** Whilst the IDD requirements in Articles 27 and 28 are not expressed in identical terms to the MiFID II conflicts requirements, we consider that, in many respects, the substance of the obligations are the same. Where the MIFID II requirements go beyond the IDD Level 1 requirements (for example, in relation to the disclosure of conflicts)

we propose to level up to the MIFID II requirements to create a level playing field of consumer protections and to avoid competitive distortions. We therefore propose to apply relevant existing rules (as amended following MIFID II implementation) to firms carrying on insurance distribution.

**9.7** Where IDD requirements go beyond those in MiFID II or our current rules, we propose to copy out those requirements. For example, the IDD specifies that the arrangements put in place to prevent conflicts of interest should be proportionate to the activities performed, the insurance products sold and the type of distributor. We intend to include this additional provision in SYSC 10.

**9.8** As explained above, at present, insurers are subject to existing requirements in SYSC 3. We propose to include a new section in SYSC 3 dealing with the conflicts of interest requirements for insurers. The proposal in this CP is to implement the IDD minimum requirements in relation to conflicts save that, as with other insurance distributors, the rules will apply to all types of insurance rather than IBIP business only. For the third CP, we will consider whether to make further amendments to SYSC 3 so as to apply some of the additional conflicts requirements in SYSC 10 to insurers.

### Approach to future consultation

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**9.9** We note that the Commission is empowered to adopt delegated acts in order to, amongst other things, define the steps insurance distributors might reasonably be expected to take to identify, prevent, manage and disclose conflicts of interest when carrying out insurance distribution activities. We will review the final IDD delegated acts and cover any further proposals for amendments to our rules as necessary in our third CP. In particular, we will review the current provisions in SYSC 10 which go beyond the IDD level 1 requirements and make any necessary amendments to our rules.

**Q8: Do you agree with our proposals to implement the conflicts of interest-related requirements of the IDD? Where possible, please distinguish between our proposals in respect of the minimum directive requirements and areas where we have exercised discretion.**

## 10 Product oversight and governance

- 10.1** In this chapter we propose changes to our rules to implement the product oversight and governance provisions in the IDD that apply to all insurance, including general insurance and life insurance business, including IBIPs.

### IDD requirements

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- 10.2** Product governance relates to the systems and controls firms must have in place for the design, approval, marketing and ongoing management of products throughout their lifecycle.
- 10.3** In summary, the IDD Level 1 provisions require firms that manufacture insurance products to:
- maintain, operate and review a product approval process for new products, and existing products to which significant adaptations have been made, before such products are marketed or distributed,
  - specify a target market for each product,
  - ensure all relevant risks to the target market are assessed,
  - develop a distribution strategy consistent with the target market,
  - take reasonable steps to ensure the product is distributed to the target market,
  - regularly review products, at least to ensure the product remains consistent with the needs of the target market and the distribution strategy remains appropriate, and
  - make available all appropriate information on products and the product approval process to distributors.
- 10.4** Firms that distribute products which they do not manufacture are required to have in place adequate arrangements to obtain information about the product and the product approval process, and to understand the identified target market.

### Existing provisions

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- 10.5** The FCA looks at how firms design products and at their ongoing governance procedures to ensure that products function as intended and reach the right customers. At present there is guidance on firms' obligations in the Responsibilities of

Providers and Distributors for the Fair Treatment of Customers (RPPD), based on high-level rules in the Principles for Businesses sourcebook (PRIN) and SYSC.<sup>32</sup>

- 10.6** We consider that this guidance covers broadly similar matters as the IDD provisions. Therefore, we do not expect the introduction of the new provisions to require significant change for UK firms in practice.
- 10.7** MiFID II is also introducing product governance requirements for MiFID business. We are introducing new rules to implement these requirements in the UK within a new sourcebook: the Product Intervention and Product Governance sourcebook (PROD). In general, the IDD and MiFID II product governance requirements are similar, though not fully aligned. The MiFID II requirements go further than the IDD in a number of areas. For example, they cover considerations for firms in assessing product charging structure and value for money, development of the target market and distribution strategy, multi-firm product development and information that manufacturers provide to distributors.
- Proposals**
- 10.8** We are consulting only on introducing rules to implement the high-level measures in Article 25 of the IDD. We propose to introduce a new chapter to the PROD sourcebook to implement the provisions for insurance business. These new rules will replace broadly equivalent existing RPPD guidance for firms within scope of PROD.
- 10.9** To assist firms, we propose to make use of definitions drawn from MiFID II for 'manufacturer' and 'distributor' with necessary adaptations to give effect to the IDD scope and to help explain the concepts of manufacturing and distributing. For example the IDD clarifies that distributing, for the purposes of the product governance requirements, covers the activities of advising and proposing. The IDD delegated acts are expected to provide more explanation as to the activities which would be regarded as manufacturing a product.<sup>33</sup>
- 10.10** We are proposing to apply the product governance provisions to all insurers and insurance intermediaries where those firms manufacture or distribute insurance products. This will include applying the requirements to all insurers, whether they distribute products directly or via intermediaries. We will also apply these requirements to firms which may not be within scope of the directive. We consider that these new requirements should apply to all firms involved in insurance product manufacture and distribution to create a level playing field of consumer protections, and to promote effective competition in the interests of consumers by avoiding competitive distortions.

### Approach to future consultation

- 10.11** Many of the detailed IDD provisions for product governance appear in the IDD delegated acts, which will be dealt with in the third CP.
- 10.12** In general, we are planning to consult on replicating provisions from the delegated acts in the Handbook and applying those provisions as rules for those firms manufacturing or distributing insurance products which fall outside the IDD.

<sup>32</sup> *Responsibilities of Providers and Distributors for the Fair Treatment of Customers:*  
[https://www.handbook.fca.org.uk/handbook/document/rppd/RPPD\\_Full\\_20160321.pdf](https://www.handbook.fca.org.uk/handbook/document/rppd/RPPD_Full_20160321.pdf).

<sup>33</sup> Where intermediary firms are acting as product manufacturers, it may not always be clear which regulated activity they are performing. We note that we are able to make rules applying to the unregulated activities of authorised persons under s.137A FSMA as part of our general rule-making power.



**10.13** We will consider how the detail of the delegated acts compares to the MiFID II requirements, implemented in the UK in PROD 3, which comes into force on 3 January 2018. In particular, we will look at the MiFID provisions that go beyond those in the IDD or impose additional obligations. At present we are considering applying these provisions as guidance to firms conducting insurance business, adapted where necessary for the sector.

**10.14** While the RPPD and IDD product governance provisions are similar, there are some differences. For example, the RPPD includes guidance covering considerations firms should take into account when reviewing products. As the RPPD guidance already applies and its removal could lead to consumer harm, we propose to copy such relevant parts of the RPPD to PROD, as guidance on the rules to which it relates. The RPPD will remain applicable to firms that are not within the scope of PROD. We will consult on this in the third CP.

**Q9:** **Do you agree with our proposed approach to the implementation of product oversight and governance rules for insurance products?**



## 11 Organisational requirements

- 11.1** In this chapter we propose changes to our rules to implement organisational requirements in the IDD regarding the protection of customers' money. The proposed rules apply to all insurance intermediaries.

### Protection of customers' money

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#### IDD requirements

- 11.2** The IDD requires that, in order to protect customers against the inability of insurance and reinsurance intermediaries to i) transfer premiums to the insurance undertaking or ii) transfer claim monies or iii) return premiums to the insured, one or more of the following options should be implemented:
- risk transfer whereby premiums paid by the customer to the intermediary are treated as having been paid to the insurance undertaking, and monies paid by the insurance undertaking are not treated as having been paid to the customer until they receive them,
  - customers' monies are kept in a strictly segregated customer account,
  - intermediaries have financial capacity of 4% of annual premiums received, and/or
  - a guarantee fund is set up.
- 11.3** There are no delegated acts with respect to protection of customers' money.
- #### Existing provisions
- 11.4** The IDD requirements reprise those of the IMD (with an increased minimum financial capacity requirement) and extend requirements to reinsurance intermediaries. Our current rules give intermediaries the option between risk transfer and segregation of customer accounts (through CASS 5). In addition, firms are permitted to apply the CASS 5 rules to reinsurance contracts on an optional basis.
- 11.5** Current capital requirements are in force for insurance and mortgage intermediaries, based on 5% of commission rather than 4% of annual premiums.
- #### Proposals
- 11.6** We do not propose to amend the current capital regime for insurance intermediaries or require a guarantee fund to be set up. Our view is that the existing FCA capital requirement (based on 5% of commission income rather than 4% of premiums) that applies to both insurance and mortgage intermediaries is sufficient to provide adequate protection to customers because:
- we do not consider that basing the capital requirement on 4% of premiums would be proportionate as it would result in significant costs for little additional benefit, and

- we consider that the current approach works satisfactorily and that the establishment of a guarantee fund would be costly and difficult, and would provide little additional benefit.

**11.7** Therefore, we consider that the most appropriate options to apply the IDD requirements on protection of customers' money are through the existing options of segregation and risk transfer contained in CASS 5. We asked questions in CP17/7 about our intended approach for customers' money.

### Feedback to discussion questions in CP17/7

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**11.8** In order to inform our approach for consultation, in CP17/7 we asked:

- Q4:** *Do you have any comments on our intended approach to implementing the IDD requirements concerning the protection of client assets, in particular:*
- a. The mandatory application of CASS 5 to reinsurance mediation?*
  - b. Narrowing the scope of available options for reinsurance contracts, for example only allowing risk transfer?*
  - c. The potential application of CASS 5.8 to reinsurance mediation?*

**11.9** The overwhelming majority of respondents (19 of 20) agreed with the approach to making reinsurance distribution subject to CASS 5, while one suggested that, although they did not have concerns, we should maintain the voluntary opt-in. A number of respondents suggested that this was already business practice through the opt-in provision and that this approach would not cause any operational difficulties.

**11.10** A number of respondents raised concerns about the approach of restricting reinsurance distribution to risk-transfer. While a number agreed or raised no objections, the majority of respondents disagreed, citing various reasons. These included capital implications for insurers, a preference for segregation among some participants, a possible reduction in providers if insurers will not grant risk transfer, and that some reinsurance carriers may be discouraged from trading within the UK market thus reducing capacity. Further, some respondents commented that they consider reinsurance distribution is so similar in nature to insurance distribution that it does not warrant a different treatment or extra protection.

**11.11** Of the 19 respondents addressing the suggestion to apply CASS 5.8 to reinsurance distribution, the majority considered CASS 5.8 unlikely to be relevant to reinsurance distribution – regardless of whether or not they agreed with the suggestion of applying it to reinsurance distribution. Some commented that existing provisions regarding documents were sufficient and that extra protection would be disproportionate given that the clients of reinsurers are insurers who are likely to have a clear understanding of the processes and risks involved.

### Proposal

**11.12** We agree with feedback that reinsurance distribution is not sufficiently different from insurance distribution to warrant narrowing the set of options for implementation. Therefore, we propose to change the application of CASS 5 to make it mandatory instead of optional, for reinsurance mediation. This is required in order to implement the IDD.

**11.13** Reinsurance mediation will become subject to the parts of CASS 5 that firms can already opt into. This means that firms will be able to choose between the available options of segregation and risk transfer that they are currently able to comply with on an optional basis. We note that, while there is some support for restriction to risk transfer, there are also concerns. Concerns raised similar themes to those raised in our CASS 5 review and associated industry consultation, and we do not consider that the overall position has changed. We do not propose to apply CASS 5.8 to reinsurance mediation.

**Q10:** Do you agree with our proposal to change the application of CASS 5 to make it mandatory instead of optional for reinsurance mediation? If not please provide reasons.

## 12 Professional requirements

- 12.1** In this chapter we propose changes to our rules to implement professional requirements in the IDD regarding the good reputation of employees of insurance distributors.

### IDD requirements

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- 12.2** The IDD good reputation requirements are similar to the previous requirements under the IMD. The IDD requires that natural persons working in an insurance or reinsurance undertaking, or insurance or reinsurance intermediary, who pursue insurance or reinsurance distribution shall be of good reputation. This includes persons within the management structure responsible for, and any staff that are directly involved in, insurance or reinsurance distribution.
- 12.3** For Alls the IDD requires that persons responsible for ancillary insurance distribution fulfil the good reputation requirements.
- 12.4** In addition to the good reputation requirements, the IDD requires that insurance and reinsurance undertakings establish, maintain and keep appropriate records to demonstrate their compliance with the good reputation requirements.

### Existing provisions

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- 12.5** Following the IMD the FSA introduced good reputation requirements in the MIPRU sourcebook applying to all persons<sup>34</sup>, including both natural and corporate persons, in the firm's management structure and any staff directly involved in insurance mediation activity. The requirements apply to all firms with permission to carry on insurance mediation activity under Part 4A of FSMA, other than connected travel providers.

### Proposals

- 12.6** We propose to:
- retain the good reputation rules with some modifications to implement the IDD good reputation requirements,
  - move the rules from MIPRU to SYSC so the relevant professional requirements are all in the same sourcebook,
  - maintain the application of the provisions, applying them to all firms with a Part 4A permission to carry on insurance mediation activity, other than connected travel providers, in order to minimise any potential regulatory distortion and ensure that customers continue to benefit from consistent consumer protection,

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34 'Person' is defined in the FCA Handbook as: '(in accordance with the Interpretation Act 1978) any person, including a body of persons corporate or unincorporate (that is, a natural person, a legal person and, for example, a partnership)': <https://www.handbook.fca.org.uk/handbook/glossary/G869.html?starts-with=P>.

- introduce a good reputation requirement for in scope AIs<sup>35</sup> in relation to natural persons responsible for ancillary insurance distribution, in line with the minimum relevant requirement in the IDD, and
- transpose the relevant IDD record-keeping requirements into SYSC 23 and apply the requirement to all firms to which the good reputation requirements apply, as we consider this an appropriate way to demonstrate compliance with the rules.

**12.7** We also propose to retain the existing carve-out for connected travel providers from the good reputation requirements. This is consistent with our approach under the IMD and reflects our proportionate, risk-based approach to regulation of connected travel insurance. We do not consider there is sufficient evidence to change this approach.

**Q11: Do you agree with our proposals for implementing the IDD good reputation requirements?**

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35 See Chapter 6 of CP17/7 for further information about AIs.

## 13 Additional Handbook changes for GI business

**13.1** In our consultation paper CP17/7<sup>36</sup> we consulted on the majority of the changes required to ICOBS. However, there are some additional changes required. This chapter sets out those changes including:

- product information disclosure requirements,
- the Insurance Product Information Document (IPID), and
- the use of third-party processors.

**13.2** This chapter only covers our implementation proposals for non-investment insurance products (general insurance and protection). Where the IDD applies to life insurance, these requirements are discussed in Chapters 4 to 9 of this CP.

### Product information disclosure requirements

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#### IDD requirements

**13.3** The IDD requires firms to provide customers with objective and relevant information about the product, prior to conclusion of the insurance contract.<sup>37</sup> This information should be presented in a comprehensible form in order to allow the customer buying insurance to make an informed decision.

#### Existing provisions

**13.4** ICOBS 6 currently requires firms to provide appropriate product information. In particular, the appropriate information rule, ICOBS 6.1.5R, requires firms to take reasonable steps to ensure a customer is given appropriate information about a policy in good time and in a comprehensible form so that the customer can make an informed decision.

**13.5** Firms distributing protection policies are also required to provide a policy summary to consumers.<sup>38</sup> Our guidance on the appropriate information rule for all non-investment insurance contracts also includes that firms may wish to provide a policy summary or key features document as set out in ICOBS 6 Annex 2.

#### Proposals

**13.6** We propose to:

- retain the current appropriate information rule in ICOBS 6.1.5R with some additions and clarifications to implement the IDD product information requirements. This rule will continue to apply to sales of non-investment insurance contracts (general

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<sup>36</sup> <https://www.fca.org.uk/publication/consultation/cp17-07.pdf>

<sup>37</sup> See Article 20(4) of the IDD.

<sup>38</sup> See ICOBS 6.4.4R.

insurance and protection) to all customers (retail consumers and commercial customers),

- relocate the Producing and Providing Product Information section to ICOBS 6.1A that contains the responsibilities of insurers and intermediaries, and add the new obligation that the IPID must be drawn up by the product manufacturer.<sup>39</sup> There is also a new requirement that product information must be provided in a durable medium in accordance with the new means of communication rules in ICOBS 4.1A<sup>40</sup>,
- introduce Handbook guidance that firms need to consider their product governance arrangements when producing and providing product information. In particular, firms are expected to provide information at the point in time where the information will be most useful to customers, and
- introduce Handbook guidance that firms need to consider the merits of providing a short summary of the policy including information set out in the IPID information requirements, even where not required by the IDD, for *commercial customers*. This reflects Recital 16 of the IDD which emphasises that the same level of consumer protection applies to all customers. It may be that in some cases firms elect to provide an IPID or similar summary document to better meet the information needs of their customers. For *retail consumers*, the IPID is required under the IDD as discussed below.

**13.7** We consider that the current appropriate information rule in ICOBS 6.1.5 requires that product information be objective, relevant and presented in a comprehensible form. The IDD complements and clarifies our current rules by specifying this.

**13.8** Although this means our current requirements are not changing substantively under the IDD, we believe that product information can be improved for all customers. We continue to observe instances where product information is difficult to comprehend for customers, and particularly for small and medium enterprise (SME) customers that purchase more complex commercial products but behave in ways similar to retail consumers. Our proposals, therefore, emphasise our expectations that firms provide product information that is objective, relevant and in a comprehensible form to customers.

**13.9** When producing and providing product information under the appropriate information rule, we remind firms to:

- develop product information in line with our Smarter Consumer Communications initiative. It is important that product information assists all customers to understand and compare their insurance options<sup>41</sup>,
- consider the information needs of their customers including at which point of the sales process the information would be most useful to the customer to make an informed decision<sup>42</sup>,
- review their product information, and any potential improvements, in connection with their product governance review process and ensure this meets the IDD

39 The definition of product manufacturer is discussed in Chapter 10 of this CP.

40 See CP17/7, page 24.

41 See: <https://www.fca.org.uk/publications/discussion-papers/smarter-consumer-communications-further-step-journey>

42 See: current guidance of ICOBS 6.1.8 G and proposed guidance of ICOBS 6.1.11 G.

requirement to act in the best interests of the customer. This should include cooperating with all partners in the distribution chain to ensure that the information needs of the end customer are being met. Product manufacturers should make all appropriate product information available to distributors to enable the on-delivery of this information to end customers<sup>43</sup>,

- provide information in a targeted and balanced fashion to ensure it has relevance for customers<sup>44</sup>,
- ensure product information is honest and fair about the limitations of the product itself, and<sup>45</sup>
- design product information to be mindful of the cumulative effects of package sales where the product is commonly sold as part of a package. Firms should ensure the overall information needs of the end customer are being met in the context of the overall package.<sup>46</sup>

**Q12: Do you agree with our proposed changes to the product information rules of ICOBS 6, including retaining the current policy summary document in relation to pure protection contracts?**

## Insurance Product Information Document (IPID)

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### IDD requirements

- 13.10** The IDD introduces a new document called the Insurance Product Information Document (IPID).<sup>47</sup> The IPID is a short summary of a policy and presents relevant information about the insurance policy in a standardised format. It applies as part of the requirement to provide appropriate product information and must be provided on paper or a durable medium prior to the conclusion of the contract.
- 13.11** The IPID requirements are set out at Articles 20(5) to (9) of the IDD and the standardised IPID format and template are expected to be set out in a directly applicable Commission Implementing Regulation. The Implementing Regulation for the IPID is expected to set out a common design, structure and format to ensure that product information is presented in a standardised way. As the Implementing Regulation has not yet been adopted by the Commission, we have relied upon the draft Implementing Technical Standards for the IPID published by EIOPA in developing our proposals.<sup>48</sup>
- 13.12** The product manufacturer is required to draw up the IPID and must focus on the key information a consumer needs to make an informed decision about the product. An IPID is required for each new insurance policy, including renewals and those policies distributed as part of a package sale.

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43 Note: our detailed proposals on the IDD product oversight and governance requirements will be included in our third CP.

44 See ICOBS 6.1.5 R (3) in this CP and IDD Article 20 (4) which requires relevant product information.

45 See ICOBS 6.1.7G in this CP and ICOBS 2.5.-1 in CP17/7. IDD Article 17 (1) requires distributors to always act honestly, fairly and in the best interests of customers. See also the clear, fair and not misleading rule ICOBS 2.2.2 R.

46 See IDD Article 24 cross-selling requirements and CP17/7, page 19.

47 See Article 20(5) – (8) and Article 1 (4)(c) of the IDD.

48 See EIOPA Draft Implementing Technical Standards on the Insurance Product Information Document at: <https://eiopa.europa.eu/publications/submissions-to-the-ec>



### Existing provisions

- 13.13** The IPID is similar to the current policy summary document set out in ICOBS 6 Annex 2. The policy summary contains mandated requirements for payment protection and pure protection policies.

### Proposals

- 13.14** We propose to:

- introduce a new rule requiring an IPID to be provided to *consumers* in relation to general insurance contracts (that is, not including pure protection contracts) as set out in the new ICOBS 6.1.10A,
- introduce a rule to retain the current requirement that, in relation to payment protection contracts, a firm must provide information about complaints processes and access to compensation schemes such as the Financial Services Compensation Scheme (FSCS),
- retain the current requirement to provide a policy summary document in relation to pure protection contracts. This will maintain current requirements for pure protection contracts that fall outside the new IPID requirements,
- exclude contracts in relation to 'large risks' from the IPID requirements as enabled by Article 22(1) of the IDD<sup>49</sup>,
- copy-out the IPID requirements of IDD Article 20(7) and (8) which specify the content of the IPID. The IPID format and template is expected to be directly applicable under the Commission Implementing Regulation for the IPID,
- reproduce the Implementing Regulation for the IPID, when it is adopted by the Commission, in our Handbook and apply format and template requirements as rules to firms to which the Regulation is not directly applicable.<sup>50</sup> The draft instrument in this CP contains a copy of the draft Implementing Technical Standards developed by EIOPA and will be amended to reflect the final Implementing Regulation for the IPID as adopted by the Commission, and
- introduce new Handbook guidance clarifying that other pre-contractual disclosures may be required in addition to the IPID such as the Demands and Needs statement and our existing requirements related to Guaranteed Asset Protection (GAP) products.

### Stakeholder views on the types of customers to receive an IPID

- 13.15** In CP17/7 we sought stakeholder views regarding the product information needs of *commercial customers* and the types of customers to receive an IPID. In ICOBS we define *consumer* as any natural person who is acting for purposes which are outside his trade or profession and *commercial customer* as those who are not *consumers*.<sup>51</sup>

- 13.16** We set out three potential options for *commercial customers* including no change to our current product information rules, extending the IPID requirements to *commercial customers* or introducing a modified format of standardised disclosure. In total we

49 For a full definition of 'large risks' see Article 13 point 27 of Directive 2009/138/EC (Solvency II) available: <http://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX:32009L0138>

50 We have consulted on the scope of application for new IDD rules in CP17/7.

51 See ICOBS 2.1 Client Categorisation

received 52 responses to these discussion questions. 30 respondents opposed extending the IPID to *commercial customers*, seven supported the extension of the IPID to *commercial customers* and six supported the development of a modified template to summarise product information for *commercial customers*. We would like to thank all those who responded to these questions as stakeholder views play an important role in developing our proposals.

**13.17** Those supporting no change to our current product information rules strongly opposed the extension of IPID to *commercial customers*. These respondents thought that the IPID template is impractical for the products purchased by *commercial customers* and that information needs should be addressed with less prescriptive requirements in line with our Smarter Consumer Communications initiative.<sup>52</sup> Respondents pointed to the risk that the strict IPID requirements could over-simplify product information and lead to misleading and potentially detrimental disclosures. It was also suggested that, given the prevalence of package sales to *commercial customers*, the IPID requirement would generate a multitude of additional documents and result in information overload.

**13.18** Those supporting the unmodified IPID for *commercial customers* thought that summary information would be useful for all customers and that a full policy wording can be lengthy and difficult to digest. It was also said that applying the same IPID requirements across all customer types may simplify compliance processes and reduce costs.

**13.19** Those supporting a modified format of disclosure for *commercial customers* acknowledged the potential benefits of summary disclosure, but also acknowledged the prescriptive IPID template was not practical for commercial insurance products. It was said that a modified format would better target the needs of micro-enterprises and small businesses and allow firms to ensure complex offerings are appropriately summarised.

### ***Our proposals on product information for commercial customers***

**13.20** *Commercial customers* can range from sole trader micro-enterprises through to much larger businesses, for example with an average of 250 employees or more.<sup>53</sup> These customers tend to purchase insurance in packages consisting of several individual policies that are often customised to meet their specific business needs. *Commercial customers* are also more likely to purchase insurance via an insurance broker or advised sales channel with the associated benefits of receiving professional advice on their insurance purchase.<sup>54</sup>

**13.21** We recognise that a form of summary information may be useful for some *commercial customers*, particularly smaller micro-enterprises. However, we consider that the prescriptive requirements of the standardised IPID may not be the best method of summarising these potentially more complex purchases. We acknowledge that the standardised IPID format, which was developed for simpler retail consumer products, could risk over-simplification of product information for more complex commercial insurance products. Our proposals, therefore, retain the current appropriate

<sup>52</sup> For more information on our Smarter Consumer Communications initiative see: <https://www.fca.org.uk/publications/discussion-papers/smarter-consumer-communications-further-step-journey>

<sup>53</sup> An IPID is not required where the definition of 'large risks' is met. For the definition of large risks please see Article 13 point 27 of Directive 2009/138/EC (Solvency II): <http://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX:32009L0138>.

<sup>54</sup> See FCA Sector Views Chapter 4 for more information: <https://www.fca.org.uk/publication/corporate/sector-views-2017.pdf>

information rules for *commercial customers* and do not extend the IPID template beyond *consumers*.

- 13.22** Importantly, we are not suggesting our proposals create a lower standard of expectations in relation to *commercial customers*. We consider our proposals provide firms with greater flexibility regarding product information for *commercial customers* which will allow them to better customise and target the information needs of their customers. We continue to expect that *commercial customers* receive appropriate product information and are proposing additional Handbook guidance emphasising that this information be relevant and comprehensible.

### **Continuing European transposition of the IPID**

- 13.23** It is important for stakeholders to be aware that IDD transposition work with the Commission is ongoing. The IDD is not clear about which customers must receive an IPID. Our proposal is to apply the IPID requirement to retail customers given the policy rationale of the IPID and that the template format may not be the best method of summarising the more complex insurance purchases made by *commercial customers*. As European transposition work is ongoing, we will need to consider any European developments before making our rules.

### **Q13: Do you agree with our proposed rules implementing the IPID?**

### **Key aspects of the IPID requirements**

- 13.24** To assist stakeholders in understanding the new IPID requirement, we have developed the below frequently asked questions table based on early stakeholder discussions regarding the IPID. The answers are in summary form and reflect our proposals included in this consultation paper.

Question	Summary Answer	Notes and References
<b>What are the timing requirements of the IPID? Will the Distance Marketing Directive (DMD) rules apply?</b>	The IPID is required to be provided prior to the conclusion of the contract and in a durable medium (see the new ICOBS 4.1A).  The Distance Marketing Disclosure (DMD) rules set out in ICOBS 3 will apply to the IPID.	IDD Articles 1(4)(c) and 23(7).  ICOBS 4.1A (consulted on in CP17/7)  ICOBS 3 (distance communications).  Our proposed guidance ICOBS 6.1.10C G.
<b>At what point in the sales journey should the IPID be provided in a durable medium? Is the IPID expected to be presented on a price-comparison website result table?</b>	The IPID is required to be provided prior to the conclusion of the contract. Firms should consider at which point in the sales process the information will be most useful to the customer to enable them to make an informed decision.  Where appropriate to the sales journey, the IPID may be provided after the click-through from Price Comparison Website (PCW) to insurer or intermediary provided the IPID is still provided prior to conclusion of the contract.	IDD Article 20(5), Article 1(4)(c) and Article 23(7).  ICOBS 6.1.8 G  Our proposed guidance 6.1.11 G

Question	Summary Answer	Notes and References
How does the IPID apply to add-on policies?	<p>An IPID is required for each policy sold.</p> <p>Where an add-on represents a policy in its own right, an IPID for that policy is required. For example, a motor insurance sale with the add-on of legal expenses cover (as a separate policy) would require two IPIDs.</p>	<p>IDD Article 1(4)(c).</p> <p>See also our glossary definition of Policy, being '<i>a contract of insurance, including one under which an existing liability has already accrued...</i>'</p> <p>See also PS15/22 and our related guidance on optional covers and add-ons in our <a href="#">expectations and case studies</a>.</p>
How should optional covers within a policy be presented?	<p>The draft standards for the IPID state 'the use of sub-headings is permitted, where necessary' and that '... information provided about add-ons and optional covers, if any, shall not be preceded by ticks, crosses or exclamation marks'.</p> <p>As one potential example of presenting optional covers, accidental damage within a contents policy could be included in an IPID under a sub-heading.</p>	<p>Article 5(2) and 7 (2) of the EIOPA Draft Implementing Technical Standards for the IPID.</p> <p>Note: the FCA glossary definition of "add-on" was not used by EIOPA when drafting the IPID Implementing Technical Standards.</p> <p>See also PS15/22 and our related guidance on optional covers and add-ons in our <a href="#">expectations and case studies</a>.</p>
What information should be considered 'main' information and prioritised for inclusion on the IPID?	<p>The IPID must contain a summary of the main risks covered and a summary of excluded risks. The IPID is limited in length and we expect that firms will need to carefully prioritise information of most importance to consumers.</p> <p>Information obtained as part of the product governance process may be useful when determining the importance of information to consumers.</p> <p>Firms may wish to consider developing more than one IPID per product, in order to reflect to the varying importance of particular product terms to different consumer segments. For example, consumers exposed to flood risks may benefit from a slightly modified IPID emphasising important flood exclusions.</p>	<p>IDD Article 20(8).</p> <p>Our proposed ICOBS 6.1.5 R (3) R and ICOBS 6 Annex 2.</p> <p>Our proposed guidance ICOBS 6.1.11 G.</p>

Question	Summary Answer	Notes and References
<b>How will the IPID impact dispute decisions of the Financial Ombudsman Service (FOS)?</b>	<p>The IPID is just one part of the overall product and contractual information required to be provided to consumers. We believe the IPID should be consistent with the underlying policy terms and work in conjunction with other documents provided.</p> <p>The IPID is required to contain a 'disclaimer' that complete pre-contractual and contractual information about the product is provided in other relevant documents. Firms may wish to consider using their own wording for this disclaimer and reference particular documents provided and the importance of considering them in full.</p> <p>The Financial Ombudsman Service is an independent body which was set up by Parliament to resolve complaints based on what is fair and reasonable in the circumstances of a particular case. The IPID will form part of the evidence to be considered.</p>	<p>IDD Article 20(7)(g).</p> <p>Article 3 of the EIOPA Draft Implementing Technical Standards for the IPID.</p>
<b>How can personalised information like the date and sum insured be incorporated, given the IPID is intended to be a standardised document?</b>	<p>The sum insured, start date and end date of the contract is required to be included within the IPID. Our proposals reflect this requirement.</p> <p>As part of the continuing European transposition of the IPID, the possibility that this personalised information could be incorporated by reference to other documents (such as a quote summary or policy schedule) could be considered. We will consider the outcome of this continuing European work prior to making our final rules.</p>	<p>See IDD Article 20(8) (b) and (h).</p>
<b>Can the IPID be delivered via website or app?</b>	<p>The IPID will be required to be provided under the new means of communications rules. These rules do permit electronic communication where certain conditions are met.</p> <p>The draft standards for the IPID provide that where the dimensions "...are such that a layout using two columns is not feasible, a presentation using a single column may be used ..., as long as the sequence of the sections..." is as specified.</p> <p>More generally, firms are reminded that information displayed digitally will need to comply with requirements of the IPID regulation, i.e. be set out in a manner consistent with a paper hardcopy of the IPID.</p> <p>We continue to encourage the use of hyperlinks and interactivity where possible to improve consumer communications.</p> <p>Our web page on '<a href="#">durable medium</a>' explains the origin and intention of the durable medium regime.</p>	<p>IDD Article 23.</p> <p>Article 5 of the EIOPA Draft Implementing Technical Standards for the IPID.</p> <p>See also the new ICOBS 4.1A (means of communication to customers) consulted on in CP 17/7.</p>
<b>Is an IPID required on renewal?</b>	<p>The IPID must be provided prior to conclusion of a contract. This includes where a new contract is concluded at renewal. However, ICOBS 6.1.7G sets guidance in relation to the level of information that is required to be provided and includes consideration of matters such as whether the same information was provided to the customer before (and when).</p>	<p>IDD Article 1 (4) (c) and Article 20 (4).</p> <p>ICOBS 6.1.7G.</p>



### Approach to future consultation

- 13.25** The IPID implementing technical standards are expected to be adopted on a directly-applicable basis so there is no further consultation required of the FCA on these delegated acts.

### Use of third-party processors

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- 13.26** ICOBS 1 provides that where a firm uses a third-party processor to provide services to customers, information provided to the customer by that third party must be as if it has come from the authorised firm. For example, if an insurer uses an outsourced call centre to sell products, the call centre operative would provide disclosures relating to the identity of the insurer, not themselves, as outsourced provider. The fact that the service has been outsourced is, in effect, hidden from the customer.
- 13.27** We propose to amend ICOBS Annex 1 to apply this principle to the IDD disclosures concerning remuneration.<sup>55</sup> A third-party processor acting for an insurer would be subject to the disclosure regime required of the insurer. This means they would need to disclose information concerning the remuneration of the employee.

**Q14:** Do you agree with our proposed amendment to the disclosure requirements for third-party processors? If not, please explain why.

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55 The requirements in our proposed rules ICOBS 4.3.-7R to 4.3.-1G. See Chapter 5 of CP17/7.

## 14 Consequential changes to the Handbook

### Introduction

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- 14.1** This chapter sets out our proposals for implementing consequential changes to the Handbook derived from the proposed amendments outlined in this CP to implement the IDD in the UK.

### Existing provisions

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- 14.2** The proposed consequential changes are largely administrative and do not reflect any change in policy. They generally consist of incorporating cross-references to IDD requirements.

### Proposal

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- 14.3** We propose to amend the Handbook modules listed below:
- Principles for Businesses (PRIN),
  - Threshold Conditions (COND),
  - Senior Management Arrangements, Systems and Controls (SYSC),
  - The Fit and Proper test for Approved Persons and specified significant-harm functions (FIT),
  - Interim Prudential Sourcebook for Investment Businesses (IPRU-INV),
  - Prudential sourcebook for Mortgage and Home Finance Firms, and Insurance Intermediaries (MIPRU) Conduct of Business Sourcebook (COBS),
  - Supervision manual (SUP); and
  - Credit Unions sourcebook (CREDS).

**Q15:** Do you agree with our proposed consequential changes to these Handbook modules?

## Annex 1

### Questions in this paper

- Q1:** Do you agree with our proposals to amend COBS to implement the conduct of business requirements in Chapter V of the IDD?
- Q2:** Do you agree with our proposals to implement the IDD information disclosure obligations? Where possible, please distinguish between the minimum directive requirements and areas where we have exercised discretion.
- Q3:** Do you agree with our proposals to implement the inducements-related requirements of the IDD? Where possible, please distinguish between the minimum directive requirements and areas where we have exercised discretion.
- Q4:** Do you agree with our proposals to implement the suitability and record-keeping-related requirements of the IDD? Where possible, please distinguish between the minimum directive requirements and areas where we have exercised discretion.
- Q5:** Do you agree with our approach to exercising the Member State derogation for professional clients in order to align information disclosure requirements for the suitability statement with MiFID II?
- Q6:** Do you agree with our proposals about how to implement the appropriateness-related requirements of the IDD? Where possible, please distinguish between the minimum directive requirements and areas where we have exercised discretion.
- Q7:** Do you agree with our proposal to exercise the Member State derogation related to execution-only sales in order to maximise the scope for this type of IBIP sale?
- Q8:** Do you agree with our proposals to implement the conflicts of interest-related requirements of the IDD? Where possible, please distinguish between our proposals in respect of the minimum directive requirements and areas where we have exercised discretion.
- Q9:** Do you agree with our proposed approach to the implementation of product oversight and governance rules for insurance products?



- Q10:** Do you agree with our proposal to change the application of CASS 5 to make it mandatory instead of optional for reinsurance mediation? If not please provide reasons.
- Q11:** Do you agree with our proposals for implementing the IDD good repute requirements?
- Q12:** Do you agree with our proposed changes to the product information rules of ICOBS 6 , including retaining the current policy summary document in relation to pure protection contracts?
- Q13:** Do you agree with our proposed rules implementing the IPID?
- Q14:** Do you agree with our proposed amendment to the disclosure requirements for third-party processors? If not, please explain why.
- Q15:** Do you agree with our proposed consequential changes to these Handbook modules?

## Annex 2

# Cost benefit analysis

### Introduction

1. The IDD extends the application of EU insurance regulatory requirements to all distributors of insurance products, with the objective of enhancing undistorted competition, consumer protection and market integration. This consultation covers a range of proposals relating to life and GI business.
2. FSMA, as amended by the Financial Services Act 2012, requires us to publish a cost benefit analysis (CBA) of our proposed rules. Specifically, s.138I requires us to publish a CBA of proposed rules, defined as 'an analysis of the costs, together with an analysis of the benefits that will arise if the proposed rules are made'. We provide monetary values for the impacts where we believe it is reasonably practicable to do so or estimates can reasonably be made. For others, we provide estimates of outcomes in other dimensions. Our proposals are based on carefully weighing up these multiple dimensions and reaching a judgement about the appropriate level of consumer protection, taking into account other impacts we foresee. We are required to include estimates of those costs and benefits, unless these cannot reasonably be estimated or it is not reasonably practicable to produce an estimate.
3. Our proposals cover two main approaches, and we have taken different CBA approaches to analyse these proposals:

IDD implementation	CBA approach	Proposals primarily applicable to
The IDD minimum or retaining existing super-equivalence or proposed rules similar to existing rules. These will include proposals which are directly linked to the IDD requirements and are predominantly proposed to be implemented through copy out of the IDD provisions.	Where we have taken steps to minimise the impact of the IDD, including retaining existing rules where appropriate or the new rules are similar to existing rules, we have conducted a high level CBA analysis and do not consider it reasonably practicable to produce estimates.	<b>Life insurance</b> <ul style="list-style-type: none"><li>– Overall life insurance requirements</li><li>– Suitability</li><li>– Appropriateness</li><li>– Execution only/ product complexity</li><li>– Reporting to customers and record-keeping</li></ul> <b>Life and general insurance</b> <ul style="list-style-type: none"><li>– Protection of customers money</li></ul> <b>General insurance</b> <ul style="list-style-type: none"><li>– The IPID</li><li>– Product information disclosure</li><li>– Third-party processors</li></ul>

IDD implementation	CBA approach	Proposals primarily applicable to
Levelling up the IDD requirements to MiFID II requirements or applying the IDD requirements to a wider scope of firms or business. These include proposed rule changes which go beyond the IDD minimum requirements or existing requirements.	Where we expect that these proposals will result in significant costs for firms we have gathered information about expected costs and have conducted a more detailed analysis and estimates of the potential costs and benefits. However, where we consider that these changes will only result in low costs for firms we do not consider it to be reasonably practicable to produce estimates.	<b>Life insurance</b> <ul style="list-style-type: none"> <li>– Information disclosure to customers</li> <li>– Conflicts of interest</li> <li>– Inducements</li> </ul> <b>Life and general insurance</b> <ul style="list-style-type: none"> <li>– Good reputation record keeping</li> <li>– Product governance</li> </ul>

4. To inform our CBA we issued a compliance cost survey to firms. The responses to this survey have been taken into account when developing our proposals and in conducting this CBA.

## Life insurance business

5. Our proposals seek to apply broadly consistent conduct standards across sectors to which COBS applies, including MiFID II requirements for investment business, and non-MiFID investments such as IBIPs, since IBIPs are potentially capable of being substituted for MiFID II investment products. Where this results in levelling up of the IDD requirements to MiFID II requirements, we do not expect this to result in significant additional costs for many firms, as they are likely to implement the higher MiFID II requirements to non-MiFID II business. This view was confirmed by a number of firms responses to our firm cost survey. This approach has the benefit of creating consistent regulatory standards, a competitive level playing field and improved customer understanding.
6. We expect that our proposals for implementing the Level 1 requirements will not, in most cases, generate significant costs for firms.
- Overall life insurance requirements – IDD chapter V**
7. We are proposing to introduce the requirements of the IDD Chapter V into COBS in the same way as we proposed to do for ICOBS in CP17/7. In that consultation we set out the costs and benefits of our proposed approach. In our view, the costs and benefits are likely to be the same for firms and customers covered by COBS as they were for those covered by ICOBS.
- Information and product disclosure to customers**
8. We are proposing to amend our current rules to incorporate the IDD requirement to provide product information to all customers purchasing a life insurance policy. We are retaining the current scope of existing provisions, which apply broadly to all types of life insurance, rather than limit application to IBIP business only (the minimum IDD requirement). We expect some minor one-off transitional costs to firms as they amend their existing documents to meet the revised standards. We do not anticipate a substantial change to ongoing costs as we expect firms will be able to incorporate these requirements into documentation and processes already established to comply with our current COBS disclosure rules. We expect that customers will receive

information that is more relevant and useful to them under these rules and that this will provide both competition and consumer protection benefits.

### **Conflicts of interest**

9. The IDD sets out requirements on firms to identify and manage conflicts of interest and disclose to customers the general nature or sources of any conflicts in the distribution of IBIPs.
10. We propose to retain the current scope of our existing conflicts of interest provisions, which apply broadly to all types of insurance, including life and GI business, rather than limit application to IBIPs business only (i.e. the IDD minimum). We are aligning with the MiFID II conflicts of interest requirements to preserve a level playing field which will provide the benefits of having a single compliance regime for distributor firms. There are also competition and consumer protection benefits to our alignment with MiFID II.
11. We consider that the IDD and MiFID II requirements are broadly consistent with our existing SYSC 10 rules and so the impact on firms is expected to be low. We do not expect firms to incur significant additional costs from the Level 1 provisions consulted on in this paper. Further detail is expected in the Level 2 delegated acts which will be consulted on later this year.

### **Inducements**

12. The IDD requires that remuneration for insurance distribution does not conflict with firms' duty to act in the best interests of customers and that firms must disclose the nature of remuneration.
13. We propose to maintain a consistent inducements regime where possible for substitutable products to ensure appropriate consumer protection and provide a simpler compliance regime. We propose to:
  - level up to MiFID II standards where higher than existing COBS rules or the IDD where appropriate,
  - retain existing COBS rules not included in the IDD for IBIPs and non-IBIPs life policies,
  - retain existing stricter RDR requirements, above the IDD minimum, for non-IBIPs life policies and non-MiFID business, including pensions, and
  - apply the IDD minimum requirement that for the distribution of IBIPs the payment of any fee, commission or non-monetary benefit must not have a detrimental impact on the service quality and customers' best interest duty.
14. As far as possible, our proposals seek to apply consistent inducement standards across the market. This will mitigate the risk of regulatory arbitrage and provide an appropriate degree of consumer protection and reduction of potential harm. Where levelling up to MiFID II standards, we expect that most firms will already be looking to apply MiFID II standards to relevant business. Therefore, we do not expect that levelling up in this way will generate additional costs and it will maintain a level playing field as far as possible for substitutable products.
15. Where we are proposing to maintain existing super-equivalence (e.g. by applying existing RDR requirements above the IDD minimum) we do not consider that retaining

these requirements will result in additional costs for firms, as they should already be meeting these standards, but will retain existing customer protection.

16. The IDD requirement for protecting against the detrimental impact on the service quality for IBIPs is different from any requirements under MiFID II. Therefore we have proposed to implement the IDD minimum and copy out the IDD requirement. However, we do not expect that the Level 1 implementation of this requirement will result in significant costs for firms. It is expected that implementation of the Level 2 delegated acts may result in higher costs for firms as the requirements are more detailed.

### **Suitability**

17. We are proposing to incorporate the IDD minimum requirements on suitability into our current rules, but are retaining our current scope of application rather than reducing the application of this rule (the IDD minimum requirement). As our current rules are similar in substance and scope, we expect only minor one-off costs to firms. Customers may benefit from there being clearer obligations on firms regarding the assessment of suitability when advice is provided in relation to an IBIP.

### **Appropriateness**

18. We are proposing to incorporate the IDD minimum requirements on appropriateness into our current rules. However, we are retaining our current scope of application rather than reducing the application of this rule. The minimum requirements of the IDD may differ from MiFID II when finalised delegated acts are published in relation to assessing appropriateness for professional clients. We expect this may impose additional costs to firms where they distribute both MiFID II products and IBIPs to professional clients and may be required to operate two separate processes. This is however the minimum requirement of the IDD and we have sought to minimise costs wherever possible. We understand from discussions with industry to date that distribution of IBIPs to professional clients is relatively limited which minimises the impact of this potential cost. We expect that customers overall may benefit from enhanced appropriateness tests conducted by firms under the IDD requirements.

### **Execution-only sales and product complexity**

19. We are proposing to exercise the derogation available to us in relation to execution-only sales of IBIPs. We have sought to maximise the scope for execution-only sales, but we do not have discretion over the criteria for assessing the complexity of IBIPs, which is an important prerequisite to execution-only sales. By maximising the scope for execution-only sales our proposals minimise the costs for industry. We expect that firms may incur costs, in terms of reduced profits, where IBIPs products currently sold on an execution-only basis are removed due to the stricter complexity criteria contained in the IDD delegated acts. However, we expect that these costs will primarily relate to the Level 2 requirements on which we will consult later this year. We expect that access to execution-only sales will benefit customers who are seeking a particular non-complex product. We expect that the requirement for sales of complex products to be subject to a suitability or appropriateness test (as execution-only sales will not be permitted) will improve levels of consumer protection for complex products and reduce consumer detriment associated with inappropriate risk taking.

### **Reporting to customers and record-keeping**

20. We are proposing to incorporate the IDD minimum requirements on reporting to customers and record-keeping for suitability and appropriateness into our current rules. We are, however, retaining our current scope of application rather than reducing the application of this rule (the IDD minimum requirement). As our current



rules are similar in substance and scope, we expect only minor one-off costs to firms. Customers may benefit from clearer obligations regarding the assessment of suitability when advice is provided in relation to an IBIP.

## General and life insurance business

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### Product oversight and governance

21. Within IDD scope, we propose to copy out IDD Level 1 product governance provisions without applying any additional, discretionary requirements. We also plan to apply these rules to firms that manufacture or distribute insurance products which fall outside of the directive.

### Costs

22. We expect the cost of implementing the Level 1 requirements to be fairly low for many firms, particularly those that are not involved in product manufacture. Existing rules and guidance should mean that firms are already meeting many of the required aspects.<sup>56</sup>
23. Where manufacturer firms do not already have sufficient product governance processes in place, there will be costs for compliance, including in the development of new processes and managing those processes each year. For firms that do incur costs we expect that the greatest contributor to one-off costs will be legal and compliance costs, followed by setting up arrangements to manage relationships with other firms, such as distributors, and training staff about the new procedures. The greatest expected ongoing costs will be in managing relationships with other firms about the product design and distribution process. Other notable ongoing costs include product testing and compliance monitoring.
24. We have used information from the survey conducted for MiFID II implementation to give an indication of the likely costs for the IDD product governance requirements. On this basis, we expect that, where manufacturer firms do not have adequate product governance processes, there could be average one-off costs of £11,000 for small firms and £70,000 for large firms, and ongoing annual costs ranging from £25,000 to £31,000 per firm.
25. We expect only minimal costs as a result of the new Rules for distributor firms. In order to meet the existing high-level requirements in the Principles for Businesses, we already expect firms that distribute insurance products which they do not manufacture to obtain information about products. The IDD requirements specify certain information that must be gathered on the product approval process and target market as part of this process. We do not expect the cost of these additional requirements to be significant. Product manufacturers will also be required to make this information available so costs for distributor firms should be low.

### Benefits

26. We expect the IDD product governance rules to lead to benefits for consumers, primarily by reducing consumer harm. Some examples of insurance products where

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56 In preparation for the MiFID II consultation on product governance requirements we issued a compliance cost survey to firms, including some involved in the manufacture and distribution of insurance products. Approximately half of respondents said that they already undertake some of the product governance processes set out in the new provisions.

improved assessment of target markets, distribution strategies and product reviews may have helped reduce harm include:

- in the review of the governance of unit-linked insurance products, we found specific material problems in individual firms which may have led to consumer harm if left unchecked, including in relation to the management of outsource service providers and controls over permitted assets which could lead to investment in riskier assets than allowed<sup>57</sup>, and
- payment protection insurance (PPI) sold to people who could not claim on the product (for example self-employed customers or people with pre-existing medical conditions).

**27.** To provide an estimate of possible benefits, we consider there could be a reduction in mis-selling of insurance products and an increase in products better targeted to consumer needs for the firms that do not have adequate product governance processes at present.

**28.** In 2014, the GI add-ons market study found that firm profits on some add-on products were high. For example, intermediaries reported that profits in excess of 70% were being earned on add-on home emergency insurance, and the market study estimated consumer overpayment for five products of £108m or more.<sup>58</sup> Stronger product governance measures could have reduced this overpayment in these and other insurance product markets. There has been £27.1bn in redress and compensation paid to date as a result of PPI mis-selling.<sup>59</sup> If the product governance measures had been in place at the time, for each 0.1% reduction in mis-selling as a result of improved product design and target market focus, there would have been a reduction in consumer loss of £27.1m.

### **Protection of customers' money**

**29.** The IDD requires the implementation of at least one of the same four methods of protecting customers' money as required under the IMD. Of the available options, we implement these requirements through a combination of segregation of customer's money and risk transfer. A customer's money is deemed to have been received by the insurer when received by the intermediary, and any claims monies flowing from insurer to client via the intermediary are not deemed to be received by the client until received by the client. We are not proposing any change to the existing rules in CASS 5 that implement the IDD's reprise of the same requirements, so we do not anticipate any additional costs, and that the benefits of protection of clients' premiums and claims monies will remain.

**30.** The IDD extends these requirements to reinsurance distribution, where we currently allow firms to opt this business into the CASS 5 rules that implement the existing IMD requirements for insurance distribution. Responses to our discussion questions in CP17/7 indicated that reinsurance distribution is not fundamentally different to insurance distribution and we already allow firms to follow the insurance distribution rules for reinsurance distribution so we are proposing to change the application of CASS 5 to include reinsurance mediation. In line with this, responses to our

57 TR13/8, *The governance of unit-linked funds*, October 2013: <https://www.fca.org.uk/publication/thematic-reviews/tr13-08.pdf>

58 MS14/1, *General insurance add-ons: provisional findings or market study and proposed remedies*, March 2014: <https://www.fca.org.uk/publication/market-studies/ms14-01.pdf>

59 Monthly PPI refunds and compensation: <https://www.fca.org.uk/consumers/payment-protection-insurance/monthly-ppi-refunds-and-compensation>

discussion questions indicated that many firms already follow existing CASS 5 rules for reinsurance mediation. Accordingly, we do not anticipate this change to bring any significant change in costs for industry and to retain the existing benefits of protection of clients' premiums and claims monies. This was confirmed by the compliance cost survey where firms did not identify any material costs associated with the application of CASS 5 rules to reinsurance mediation.

### **Good repute (including record keeping requirements)**

**31.** The IDD requires that natural persons working in an insurance or reinsurance undertaking, or insurance or reinsurance intermediary, who pursue insurance or reinsurance distribution shall be of good repute. Our proposed approach is to retain existing super-equivalent rules for good repute and adopt the IDD minimum for Alls by applying the good repute requirements to persons responsible for ancillary insurance distribution.

**32.** The IDD also requires that insurance and reinsurance undertakings establish, maintain and keep records demonstrating their compliance with the good repute requirements. We propose to extend these requirements to include insurance intermediaries.

### **Costs**

**33.** Almost half of the firms that responded to the firm survey reported that the good repute and good repute record-keeping requirements would not result in additional costs. As firms undertaking insurance mediation activity (including intermediaries and insurers, where applicable) are already required to comply with the existing MIPRU good repute requirements a number of firms considered that there would be no further costs incurred as both good repute checks and record keeping were already being performed.

**34.** Most of the intermediaries which identified that the requirements would result in additional costs considered that the one-off costs would be low or zero. Of the few intermediaries that identified potential one-off costs one estimate was around £60,000 for the implementation of a new record system. One large intermediary identified one-off costs of £600,000 in relation to IT changes to source systems and data warehousing. For the ongoing costs some firms provided estimates for performing the good repute checks rather than only the record-keeping requirement. Estimates for costs of the good repute checks themselves were around £30 to £55 per person for police checks and less than £5 for credit checks. Where firms specifically referenced the record-keeping costs the estimates for additional costs were low. One large intermediary estimates that its ongoing costs would be £8,000 for additional scanning of records. Two other large firms estimated that the record keeping cost would be between £4,000 and £10,000 per annum. Hence, we consider that the good repute record keeping requirement will not result in material additional costs for most intermediaries, and we expect that the record keeping costs will be proportionate with the size of the business.

### **Benefits**

**35.** We expect that the good repute requirements, including record keeping requirements, will lead to ongoing and consistent consumer protection benefits across different distribution channels. Applying these requirements to intermediaries and Alls will help ensure that relevant staff are of good repute and will reduce the risk of insurance mis-selling.



## General insurance business

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### Product information

- 36.** We are proposing to introduce the IDD minimum requirements for the general obligation to provide objective and relevant product information to all customers including commercial customers. We expect some limited one-off transitional costs to firms as they amend documents to meet the revised standards. We do not anticipate a substantial change to ongoing costs as we expect firms will be able to incorporate these requirements into documents and processes already established to comply with our current product information rules. We expect that customers will receive product information that is more relevant and useful to them under these rules and that this will provide both competition and consumer protection benefits.

### Insurance Product Information Document (IPID)

- 37.** We are introducing the IDD minimum requirements for the IPID and have sought to minimise the costs of this requirement by deleting our guidance on the Policy Summary document. We expect the IPID will result in high costs to firms with responses to our CBA survey indicating that one-off costs could range from £0 to £1.5m. However, some larger firms reported that one-off costs would be below £150,000. The types of costs that firms identified included development and IT system costs. Estimates for ongoing costs were typically lower with certain firms indicating that ongoing costs would not be dissimilar to the costs of existing disclosure requirements. However, some firms identified high costs from the annual production and distribution of IPIDs with estimates for ongoing costs ranging from £0 to £1.3m per annum. The IPID is intended to enhance consumer understanding of insurance products and allow them to better compare products. We expect the IPID will provide both competition and consumer protection benefits.

### Third-party processors

- 38.** In CP17/7 we set out the costs and benefits of the new disclosures required to be made concerning remuneration. We do not anticipate any additional costs arising from our proposed amendment to the rules on third-party processors. These firms would need to comply with the disclosures in any event.
- 39.** The benefit of our proposed amendment to the third-party processors rule is that it ensures consistency with the existing principle that customers need not be aware that they are dealing with an outsourced service provider. This recognises common market practice and prevents confusion in the customer journey.

## Annex 3

# Compatibility statement

### Compliance with legal requirements

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1. This annex records the FCA's compliance with a number of legal requirements applicable to the proposals in this consultation, including an explanation of the FCA's reasons for concluding that our proposals in this consultation are compatible with certain requirements under the Financial Services and Markets Act 2000 (FSMA).
2. When consulting on new rules, the FCA is required by s.138I(2)(d) FSMA to include an explanation of why it believes making the proposed rules is (a) compatible with its general duty, under s.1B(1) FSMA, so far as reasonably possible, to act in a way which is compatible with its strategic objective and advances one or more of its operational objectives, and (b) its general duty under s.1B(5)(a) FSMA to have regard to the regulatory principles in s.3B FSMA. The FCA is also required by s.138K(2) FSMA to state its opinion on whether the proposed rules will have a significantly different impact on mutual societies as opposed to other authorised persons.
3. This annex also sets out the FCA's view of how the proposed rules are compatible with the duty on the FCA to discharge its general functions (which include rule-making) in a way which promotes effective competition in the interests of consumers (s.1B(4)). This duty applies in so far as promoting competition is compatible with advancing the FCA's consumer protection and/or integrity objectives.
4. In addition, this annex explains how we have considered the recommendations made by the Treasury under s.1JA FSMA about aspects of the economic policy of Her Majesty's Government to which we should have regard in connection with our general duties.
5. This annex includes our assessment of the equality and diversity implications of these proposals.
6. Under the Legislative and Regulatory Reform Act 2006 (LRRRA) the FCA is subject to requirements to have regard to a number of high-level 'Principles' in the exercise of some of our regulatory functions and to have regard to a 'Regulators' Code' when determining general policies and principles and giving general guidance (but not when exercising other legislative functions like making rules). This annex sets out how we have complied with requirements under the LRRRA.

### The FCA's objectives and regulatory principles: Compatibility statement

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7. The proposals set out in this consultation are primarily intended to advance the FCA's operational objective of securing an appropriate degree of protection for consumers.

They are also relevant to the FCA's operational objective of promoting effective competition in the interests of consumers.

8. The proposals will advance the objective of securing an appropriate degree of protection for consumers by:
- requiring firms to prevent conflicts of interests from adversely affecting the interests of customers,
  - requiring firms to ensure that products meet the needs of their target market,
  - requiring that customers be given relevant information about the product before the conclusion of the contract, to enable the customer to make an informed decision, and
  - requiring that, where advice is given in relation to an IBIP, the advice is suitable.
9. In preparing the proposals as set out in this consultation, we have had regard to the FCA's duty to promote effective competition in the interests of consumers. The proposals will also promote effective competition by ensuring consistency of regulation across the market, preventing distortions arising from a lower regulatory burden on some firms.
10. We consider these proposals are compatible with the FCA's strategic objective of ensuring that the relevant markets function well because they are aimed at providing appropriate protections for customers, and promoting competition between firms. For the purposes of the FCA's strategic objective, 'relevant markets' are defined by s.1F FSMA.
11. In preparing the proposals set out in this consultation, the FCA has had regard to the regulatory principles set out in s.3B FSMA.
- The need to use our resources in the most efficient and economic way**
12. For the proposals in this CP, in the areas where we have discretion regarding how we implement the IDD, we have had regard to the burden on us in assessing how best to implement the requirements of the directive.
- The principle that a burden or restriction should be proportionate to the benefits**
13. As these proposals are primarily intended to implement the requirements of the IDD, we have limited discretion over them. However, where possible we have sought to implement the requirements in a way which is proportionate (for example, by using guidance to provide proportionate ways in which firms can comply with the requirements). We have also limited instances of going beyond the IDD minimum requirements to those where we believe the benefits will outweigh the costs of regulation. The cost benefit analysis sets out our reasoning.
- The desirability of sustainable growth in the economy of the United Kingdom in the medium or long term**
14. We do not consider that the proposals are inconsistent with this principle.



**The general principle that consumers should take responsibility for their decisions**

15. Our proposals include enhancements to the disclosure regime for insurance business. We believe this will enable customers to make more informed decisions about their insurance arrangements.

**The responsibilities of senior management**

16. We propose enhanced requirements to assess the good reputation of natural and corporate persons in the management structure and any staff directly involved in insurance mediation activity. We expect these requirements to reduce the risk of insurance mis-selling.

**The desirability of recognising differences in the nature of, and objectives of, businesses carried on by different persons including mutual societies and other kinds of business organisation**

17. We do not believe that our proposals discriminate against any particular business model or approach.

**The desirability of publishing information relating to persons subject to requirements imposed under FSMA, or requiring them to publish information**

18. We have the power to publish information relating to investigations into firms and individuals. However, as set out in the Enforcement Guide (EG), we will not normally make public our investigations, findings or conclusions, except in exceptional circumstances.

**The principle that we should exercise of our functions as transparently as possible**

19. We believe that by consulting on our proposals we are acting in accordance with this principle.
20. In formulating these proposals, the FCA has had regard to the importance of taking action intended to minimise the extent to which it is possible for a business carried on (i) by an authorised person or a recognised investment exchange; or (ii) in contravention of the general prohibition, to be used for a purpose connected with financial crime (as required by s.1B(5)(b) FSMA). However, we do not believe these proposals impact these areas.

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**Expected effect on mutual societies**

21. The FCA does not expect the proposals in this paper to have a significantly different impact on mutual societies.

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**Equality and diversity**

22. 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. As part of this, we conduct an equality impact assessment to ensure that the equality and diversity implications of any new policy proposals are considered.
23. The outcome of the assessment in this case is stated in paragraph 2.11 of the CP.

## Legislative and Regulatory Reform Act 2006 (LRRRA)

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24. We have had regard to the principles in the LRRRA for the parts of the proposals that consist of general policies, principles or guidance and consider that the proposals will be effective in helping firms understand and meet regulatory requirements more easily, in a manner that leads to improved outcomes for consumers and addresses the issues identified in the market. We also believe the proposals are proportionate and will result in an appropriate level of consumer protection when balanced with impacts on firms and competition.
25. We have had regard to the Regulators' Code for the parts of the proposals that consist of general policies, principles or guidance, but this duty does not apply to regulatory functions exercisable through our rules.

## Treasury recommendations about economic policy

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26. We have had regard to the Treasury's recommendations under s.1JA FSMA. Our proposals are consistent with these recommendations as they aim to improve outcomes for consumers who buy insurance products, while also supporting competition between firms operating in this market.

## Annex 4

### Abbreviations in this document

<b>All</b>	Ancillary Insurance Intermediary
<b>CASS</b>	Client Assets Sourcebook
<b>CBA</b>	Cost benefit analysis
<b>COBS</b>	Conduct of Business Sourcebook
<b>CP</b>	Consultation Paper
<b>DMD</b>	Distance Marketing Directive
<b>ECPs</b>	Eligible counterparties
<b>the Commission</b>	European Commission
<b>EG</b>	Enforcement Guide
<b>EIOPA</b>	European Insurance and Occupational Pensions Authority
<b>EU</b>	European Union
<b>FCA</b>	Financial Conduct Authority
<b>FOS</b>	Financial Ombudsman Service
<b>FSA</b>	Financial Services Authority
<b>FSMA</b>	Financial Services and Markets Act 2000
<b>GAP</b>	Guaranteed Asset Protection
<b>GI</b>	General insurance
<b>the Treasury</b>	Her Majesty's Treasury
<b>IBIP</b>	Insurance-based investment product
<b>ICOBS</b>	Insurance Conduct of Business Sourcebook
<b>IDD</b>	Insurance Distribution Directive
<b>IMD</b>	Insurance Mediation Directive

<b>IPID</b>	Insurance Product Information Document
<b>LRRA</b>	Legislative and Regulatory Reform Act 2006
<b>MiFID</b>	Markets in Financial Instruments Directive
<b>MiFID II</b>	Markets in Financial Instruments Directive II
<b>MIPRU</b>	Prudential sourcebook for Mortgage and Home Finance Firms, and Insurance Intermediaries
<b>PCW</b>	Price Comparison Website
<b>PPI</b>	Payment Protection Insurance
<b>PRIIPs</b>	Regulation on Packaged Retail and Insurance-based Investments
<b>PROD</b>	Product Intervention and Product Governance sourcebook
<b>RDR</b>	Retail Distribution Review
<b>RIP</b>	Retail Investment Product
<b>RPPD</b>	The Responsibilities of Providers and Distributors for the Fair Treatment of Customers
<b>SYSC</b>	Senior Management Arrangements, Systems and Controls

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.

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# Appendix 1

## Draft Handbook text



**INSURANCE DISTRIBUTION DIRECTIVE (CONDUCT OF BUSINESS FOR LIFE POLICIES, NON INVESTMENT INSURANCE PRODUCT INFORMATION, PRODUCT OVERSIGHT, ORGANISATION AND OTHER REQUIREMENTS)  
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 137A (The FCA’s general rules);
    - (b) section 137B (FCA general rules: clients’ money, right to rescind, etc);
    - (c) section 137R (Financial promotion rules);
    - (d) section 137T (General supplementary powers);
    - (e) section 138C (Evidential provisions);
    - (f) section 138D (Action for damages); and
    - (g) section 139A (Power of the FCA to give guidance);
  - (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. This instrument comes into force on 23 February 2018.

**Amendments to the Handbook**

- D. The modules of the FCA’s Handbook of rules and guidance listed in column (1) below are amended in accordance with the Annexes to this instrument listed in column (2) below:

(1)	(2)
Glossary of definitions	Annex A
Principles for Businesses (PRIN)	Annex B
Senior Management Arrangements, Systems and Controls sourcebook (SYSC)	Annex C
Threshold Conditions (COND)	Annex D
The Fit and Proper test for Approved Persons and specified significant-harm functions (FIT)	Annex E
Prudential sourcebook for Mortgage and Home Finance Firms, and Insurance Intermediaries (MIPRU)	Annex F

Interim Prudential sourcebook for Investment Businesses (IPRU(INV))	Annex G
Conduct of Business sourcebook (COBS)	Annex H
Insurance: Conduct of Business sourcebook (ICOBS)	Annex I
Client Assets sourcebook (CASS)	Annex J
Product Intervention and Product Governance sourcebook (PROD)	Annex K
Supervision manual (SUP)	Annex L
Credit Unions sourcebook (CREDS)	Annex M

## Notes

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

## European Union Legislation

- F. Although European Union legislation is reproduced in this instrument, only European Union legislation reproduced in the electronic Official Journal of the European Union is deemed authentic.

## Citation

- G. This instrument may be cited as the Insurance Distribution Directive (Conduct of Business for Life Policies, Non-Investment Insurance Contracts Information, Product Oversight, Organisation and Other Requirements) Instrument 2017.

By order of the Board  
[date]

[*Editor's note*: the text in this Annex takes into account changes suggested by CP17/7 'Insurance Distribution Directive Implementation – Consultation I' (March 2017) as if they were made. This Annex includes text based on the on the EIOPA 'Draft implementing Technical Standards concerning a standardised presentation format for the Insurance Product Information Document of the Insurance Distribution Directive' dated 7 February 2017]

## Annex A

### Amendments to the Glossary of definitions

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

Insert the following new definitions in the appropriate alphabetical positions. The text in this section is not underlined.

<i>insurance based investment product</i>	<p>a <i>contract of insurance</i> which offers a maturity or surrender value and where that maturity or surrender value is wholly or partially exposed, directly or indirectly, to market fluctuations, and does not include:</p> <ul style="list-style-type: none"> <li>(a) non-life insurance products as listed in Annex I to Directive 2009/138/EC (Classes of non-life insurance);</li> <li>(b) life insurance contracts where the benefits under the contract are payable only on death or in respect of incapacity due to injury, sickness or disability;</li> <li>(c) pension products which, under national law, are recognised as having the primary purpose of providing the investor with an income in retirement, and which entitle the investor to certain benefits;</li> <li>(d) officially recognised occupational pension schemes falling under the scope of Directive 2003/41/EC or Directive 2009/138/EC;</li> <li>(e) individual pension products for which a financial contribution from the employer is required by national law and where the employer or the employee has no choice as to the pension product or provider.</li> </ul> <p>[<b>Note:</b> article 2(1)(17) of the <i>IDD</i>]</p>
<i>insurance product information document</i>	the standardised presentation format as specified in the <i>IPID Regulation</i> and in <i>ICOBS 6 Annex 3R</i> paragraph 1.1.
<i>IPID</i>	<i>insurance product information document.</i>

*IPID information* (in *ICOBS*) the *IDD* information to be included in the *IPID* as required by *ICOBS* 6 Annex 3R, paragraph 2.1R

*IPID Regulation* [Commission Implementing Regulation (EU) [to follow]]

Amend the following definitions as shown.

*contracts of large risks* (in ~~*ICOB*~~ *ICOBS* and *PROD*) *contracts of insurance* covering risks within the following categories, in accordance with article 13(27) of the *Solvency II Directive*:

...

*customer* (A) in the *PRA Rulebook*:

...

(B) in the *FCA Handbook*:

- (1) (except in relation to *SYSC* 19F.2, *ICOBS*, a *credit-related regulated activity*, *MCOB* 3A, an *MCD credit agreement*, *CASS* 5, and *PRIN* in relation to *MiFID* or equivalent third country business, *DISP* 1.1.10-BR and *PROD* 4) a *client* who is not an *eligible counterparty* for the relevant purposes.

...

- (3) (in relation to *SYSC* 19F.2, *ICOBS*, *PROD* 4 and *DISP* 1.1.10-BR) a *person* who is a *policyholder*, or a prospective *policyholder* but (except in *ICOBS* 2 and (in respect of that chapter) *ICOBS* 1 (application)) excluding a *policyholder* or prospective *policyholder* who does not make the arrangements preparatory to the conclusion of the *contract of insurance*.

...

*director* (1) ...

(a) ...

(b) ...

- (c) (in *SYSC*, *MIPRU* 2 (Responsibility for insurance ~~Insurance~~ distribution and *MCD* credit intermediation activity ~~responsibility, knowledge, ability and good~~

~~repute~~), SUP 10A (FCA Approved persons) and SUP 10C (FCA senior management regime for approved persons in relevant authorised persons) a *partnership*;

(d) ...

...

- distribute*
- (1) (in relation to PROD 1.1.3R, PROD 1.3 and PROD 3) offering, recommending or selling an investment or providing an investment service to a client.
- (2) (in relation to PROD 4) advising on or proposing a contract of insurance to a customer.

[Note: recital 15 to the *MiFID Delegated Directive*]

- distributor*
- (1) (in relation to PROD 1.1.3R, PROD 1.3 and PROD 3) a firm which offers, recommends or sells investments or provides investment services to clients.
- (2) (in relation to PROD 4) a firm which advises on or proposes contracts of insurance which it does not manufacture.

[Note: recital 15 to the *MiFID Delegated Directive*]

*durable medium*

(a) ...

(b) ...

In *ICOBS* and in *COBS* in relation to *life policies*:

- (i) the instrument used must be appropriate in the context of the business conducted between the *insurance distributor* and (for ICOBS) the customer or (for COBS) the client; and
- (ii) the *customer or client* must be given the choice between information on paper and the instrument used, and must specifically choose the latter medium.

For the purposes of this definition, the provision of information by means of electronic communications shall be treated as appropriate to the context in which the business between the *firm* and the *client* is, or is to be, carried on if there is evidence that the *client* has regular access to the internet. The provision by the *client* of an e-mail address for the purposes of the carrying on of that business is sufficient.

[Note: article 2(f) and Recital 20 of the *Distance Marketing Directive*, articles 23(4) and ~~24~~23(6) of the *IDD*, articles 2(2), 3(1) and 3(3) of the *MiFID implementing Directive*, articles 75(2) and 81(1) of the *UCITS*

*Directive*, article 20(3) of the *UCITS implementing Directive* and article 7 of the *UCITS implementing Directive No 2*]

*fee*

- (1) (except in *ICOBS* and, in relation to a *life policy*, in *COBS 6.1ZA*) any payment or *remuneration* offered or made by a *client* to a *firm* in connection with *designated investment business* or with any other business of the *firm*, including (where applicable) any *mark-up or mark-down*;
- (2) (in *ICOBS* and, in relation to a *life policy*, in *COBS 6.1ZA*) *remuneration* payable directly by a *customer* in relation to *insurance distribution activities* carried on for the *customer* that is not:
  - (a) a commission of any kind, that is the *remuneration* included in the *insurance premium*; or
  - (b) any other type of *remuneration* (i.e. that is not directly payable by the *customer*), including an economic benefit of any kind or any other financial or non-financial advantage or incentive offered or given in connection with the *insurance contract*.

[Note: article 19(1)(e)(i),(ii) and (iii) of the *IDD*]

*financial  
promotion*

...

- (4) (in *ICOBS* and in relation to a *life policy*, in *COBS 3.2.1R(3)* and *4.3.1R*), in addition to (1), any marketing communication within the meaning of article 17(2) of the *IDD*.

[Note: articles 10 and 11 of the *MCD* and article 17(2) of the *IDD*]

*manufacture*

- (1) (in relation to *PROD 1.3*, *PROD 3* and *PROD 4*) creating, developing, issuing and/or designing an *investment*, including when advising corporate *issuers* on the launch of new *investments*.

[Note: recital 15 to the *MiFID Delegated Directive*]

*manufacturer*

- (1) (in relation to *PROD 1.3* and *PROD 3*) a *firm* which creates, develops, issues, and/or designs *investments*, including when advising corporate *issuers* on the launch of new *investments*.
- (2) (in relation to *PROD 4*) a *firm* which *manufactures contracts of insurance* for sale to *customers*.

[Note: recital 15 to the *MiFID Delegated Directive*]

*reinsurance contract* (in *COBS 21*, *ICOBS*, *CASS 1*, *CASS 5* and *COMP*) a *contract of insurance* covering all or part of a risk to which a *person* is exposed under a *contract of insurance*.

*remuneration* (1) (except where (2) ~~or (3) applies~~ apply) any form of remuneration, including salaries, *discretionary pension benefits* and benefits of any kind;

[Note: article 92(2) of the *CRD*]

(2) ...

[Note: article 2(5) of the *MiFID Org Regulation*]

(3) (in *ICOBS* and, in relation to a life policy, in *COBS 6.1ZA*) any commission, *fee*, charge or other payment, including an economic benefit of any kind or any other financial or non-financial advantage or incentive offered or given in respect of *insurance distribution activities*.

[Note: article 2(1)(9) of the *IDD*]

...

*suitability report* a report which a *firm* must provide to its *client* which, among other things, explains why the *firm* has concluded that a recommended transaction is suitable for the *client* and which is provided pursuant to:

- (a) *COBS 9.4* (suitability reports) where the *firm* is carrying on *designated investment business* other than any *MiFID*, *equivalent third country or optional exemption business* or in relation to an insurance based investment product;
- (b) article 54(12) of the *MiFID Org Regulation* where the *firm* is carrying on *MiFID business*;
- (c) *GEN 2.2.22AR* and *COBS 9A.3.3EU* where the *firm* is carrying on the *equivalent business of a third country investment firm*;
- (d) *COBS 9A.1.2R* and *COBS 9A.3.3EU* where the *firm* is carrying on *optional exemption business*; or
- (e) *COBS 9A.3.2R* where the *firm* is carrying on *insurance distribution activities in relation to an insurance based investment product*.

[Note: article 4(1)(43) of *MiFID*]

[*Editor's note*: the text in this Annex takes into account the changes proposed by CP17/7 'Insurance Distribution Directive implementation – Consultation paper I' (March 2017), as if they were made]

## Annex B

### Amendments to the Principles for Businesses sourcebook (PRIN)

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

### 3 Rules about application

...

#### 3.2 What?

3.2.1A R *PRIN* applies with respect to the carrying on of:

...

- (3) *ancillary activities* in relation to *designated investment business*, *home finance activity*, *credit-related regulated activity*, ~~*insurance mediation activity*~~ *insurance distribution activity* and *accepting deposits*.

...



[*Editor's note*: the text in this Annex takes into account the changes proposed by CP17/7 'Insurance Distribution Directive implementation – Consultation paper I' (March 2017), as if they were made]

## Annex C

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

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

#### 1 Application and purpose

...

#### 1 Annex 1 Detailed application of SYSC

Part 1		Application of SYSC 2 and SYSC 3 to an insurer, a managing agent and the Society	
...			
		What?	
1.3	R	SYSC 2 and SYSC 3 apply with respect to the carrying on of:	
		(1)	<i>regulated activities</i> ;
		(2)	activities that constitute <i>dealing in investments as principal</i> , disregarding the exclusion in <i>article 15</i> of the <i>Regulated Activities Order</i> (Absence of holding out etc); and
		(3)	<i>ancillary activities</i> in relation to <i>designated investment business</i> , <i>home finance activity</i> and <i>insurance <del>mediation</del> distribution activity</i> ;
		except that <u>SYSC 3.3 applies as described in SYSC 1 Annex 1.1.3AR and SYSC 3.2.6AR</u> to SYSC 3.2.6JG do not apply as described in SYSC 1 Annex 1.1.4R.	
<u>1.3A</u>	<u>R</u>	<u>SYSC 3.3 only applies in relation to the carrying on of insurance distribution activities.</u>	
1.4	R	SYSC 3.2.6AR to SYSC 3.2.6JG do not apply:	
		(1)	...

		(2)	in relation to the following <i>regulated activities</i> :	
		(a)	...	
		(b)	<i>insurance <del>mediation</del> <u>distribution</u></i> activity in relation to a <i>general insurance contractor pure protection contract</i> ;	
		...		
...				
	What?			
...				
2.10	R	The provisions on record-keeping in SYSC 9 and articles 21 and 72 of the <i>MiFID Org Regulation</i> apply as set out in SYSC 1 Annex 1.2.8R and SYSC 1 Annex 1.2.8AR, except that they only apply to the carrying on of <i>ancillary activities</i> that are performed in relation to:		
		...		
		(3)	<i>insurance <del>mediation</del> <u>distribution</u></i> activity;	
		...		
2.11	R	The <i>common platform requirements on financial crime</i> apply as set out in SYSC 1 Annex 1.2.8R, except that they do not apply:		
		(1)	...	
		(2)	in relation to the following <i>regulated activities</i> :	
		(a)	...	
		(b)	<i>insurance <del>mediation</del> <u>distribution</u></i> activity in relation to a <i>general insurance contractor pure protection contract</i> ;	
		...		
...				

Table A: Application of the common platform requirements in SYSC 4 to SYSC 10

...

Provision SYSC 4	COLUMN A Application to a common platform firm other than to a UCITS investment firm	COLUMN A+ Application to a UCITS management company	COLUMN A++ Application to a full- scope UK AIFM of an authorised AIF	COLUMN B Application to all other firms apart from insurers, managing agents, the Society, full- scope UK AIFMs of unauthorised AIFs, MiFID optional exemption firms and third country firms
...				
SYSC 4.4.1AR	Not applicable	Not applicable	Not applicable	Rule applies this section only to: (1)... (2) activities carried on by a <i>firm</i> whose principal purpose is to carry on activities other than <i>regulated activities</i> and which is: (a) an <i>oil market participant</i> ; (b) a <i>service company</i> ; (c) an <i>energy market</i>

				<p><i>participant;</i></p> <p>(d) a wholly owned subsidiary of: (i) a local authority; (ii) a registered social landlord;</p> <p>(e) a <i>firm</i> with <i>permission</i> to carry on <i>insurance mediation distribution</i> activity in relation to <i>non-investment insurance contracts</i> but no other <i>regulated activity</i> except <i>advising on P2P agreements</i>;</p> <p>(2A)...</p> <p>...</p>
...				

Provision SYSC 9	COLUMN A Application to a common platform firm other than to a UCITS investment firm	COLUMN A+ Application to a UCITS management company	COLUMN A++ Application to a full-scope UK AIFM of an authorised	COLUMN B Application to all other firms apart from insurers, managing
---------------------	---	--	--	--

			AIF	agents, the Society, full-scope UK AIFMs of unauthorised AIFs, MiFID optional exemption firms and third country firms
...				
9.1.2R	...	...	...	...
<u>SYSC 9.1.2AR</u>	<u>Rule</u>	<u>Rule</u>	<u>Rule</u>	<u>Rule</u>
...				

Provision SYSC 10	COLUMN A Application to a common platform firm other than to a UCITS investment firm	COLUMN A+ Application to a UCITS management company	COLUMN A++ Application to a full-scope UK AIFM of an authorised AIF	COLUMN B Application to all other firms apart from insurers, managing agents, the Society, full-scope UK AIFMs of unauthorised AIFs, MiFID optional exemption firms and third country firms
SYSC 10.1.2G	Guidance, but not applicable in relation to <u>insurance distribution</u>	Guidance, but not applicable in relation to <u>insurance distribution</u>	Not applicable	Guidance, but not applicable in relation to <u>insurance</u>

	<u>activities.</u>	<u>activities.</u>		<u>distribution activities.</u>
...				
<u>SYSC 10.1.7A R</u>	<u>Rule</u>	<u>Rule</u>	<u>Rule</u>	<u>Rule</u>
SYSC 10.1.8R	Rule in relation to <u>insurance distribution activities.</u> Otherwise, <del>Not</del> not applicable	Rule	Not applicable	Rule
<u>SYSC 10.1.8AR</u>	<u>Not applicable</u>	<u>Rule</u>	<u>Not applicable</u>	<u>Rule</u>
...				

Insert the following new section after SYSC 3.2 (Areas covered by systems and controls). The text is not underlined.

### 3 Systems and controls

...

#### 3.3 Additional requirements for insurance distribution

##### Application

- 3.3.1 R SYSC 3.3 applies to an *insurer* in the course of it carrying on any *insurance distribution activities*.

##### Identifying conflicts

- 3.3.2 R A *firm* must take all appropriate steps to identify conflicts of interest that arise between:
- (1) the *firm*, including its managers, employees and *appointed representatives* (or where applicable, *tied agents*), or any *person* directly or indirectly linked to them by *control*, and a *client* of the *firm*; or
  - (2) one *client* of the *firm* and another *client*.

[**Note:** article 28(1) of the *IDD*]

#### Managing conflicts

- 3.3.3 R A *firm* must maintain and operate effective organisational and administrative arrangements with a view to taking all reasonable steps designed to prevent conflicts of interest identified under SYSC 3.3.2R from adversely affecting the interests of its *clients*.

[**Note:** article 27 of the *IDD*]

#### Proportionality

- 3.3.4 R The arrangements in SYSC 3.3.3R must be proportionate to the activities performed, the *policies* sold and the type of *insurance distributor* the *firm* is or uses.

[**Note:** article 27 of the *IDD*]

#### Disclosure of conflicts

- 3.3.5 R (1) If arrangements made under SYSC 3.3.3R are not sufficient to ensure, with reasonable confidence, that risks of damage to the interests of a *client* will be prevented, the *firm* must:
- (a) clearly disclose to the *client* the general nature or sources of the conflicts of interest (or both); and
  - (b) include sufficient detail in the disclosure, taking into account the nature of the *client*, to enable that *client* to take an informed decision with respect to the *insurance distribution activities* in the context of which the conflict of interest arises.
- (2) The disclosure must be made:
- (a) in a *durable medium*; and
  - (b) in good time before the conclusion of the *contract of insurance*.

[**Note:** article 28(2) and (3) of the *IDD*]

#### Record keeping for insurance based investment product distribution

- 3.3.6 R A *firm* carrying on *insurance distribution activities* in relation to *insurance based investment products* must retain its records relating to:
- (1) suitability (*COBS 9A*); and
  - (2) appropriateness (*COBS 10A*);

for a period of at least five years.

Amend the following as shown.

## **4 General organisational requirements**

...

### **4.4 Apportionment of responsibilities**

Application

...

4.4.1A R This section applies to:

- (1) ...
- (2) activities carried on by a *firm* whose principal purpose is to carry on activities other than *regulated activities* and which is:
  - (a) ...
  - ...
  - (e) a *firm* with *permission* to carry on *insurance ~~mediation~~ distribution* activity in relation to *non-investment insurance contracts* but no other *regulated activity* (except *advising on P2P agreements*);

...

...

## **9 Record-keeping**

### **9.1 General rules on record-keeping**

Application to a common platform firm

9.1.-2 G For a *common platform firm*:

- (1) the *MiFID Org Regulation* applies, as summarised in SYSC 1 Annex 1 3.2G, SYSC 1 Annex 1 3.2-AR and SYSC 1 Annex 1 3.2-BR; and



- (2) the *rules* and *guidance* apply as set out in the table below:

Subject	Applicable rule or guidance
General requirements	SYSC 9.1.1AR
<u>Specific requirement for insurance distribution</u>	<u>SYSC 9.1.2AR</u>
Guidance on record-keeping	SYSC 9.1.4G, SYSC 9.1.5G, SYSC 9.1.6G, SYSC 9.1.6AG

General requirements

...

Specific requirement for the distribution of insurance based investment products

9.1.2A R A firm carrying on insurance distribution activities in relation to insurance based investment products must retain its records relating to:

- (1) suitability (COBS 9A); and  
 (2) appropriateness (COBS 10A);  
for a period of at least five years.

...

## 10 Conflicts of interest

### 10.1 Application

Application to a common platform firm

10.1.-2 G For a *common platform firm*:

- (1) the *MiFID Org Regulation* applies, as summarised in SYSC 1 Annex 1 3.2G, SYSC 1 Annex 1 3.2-AR and SYSC 1 Annex 1 3.2-BR; and  
 (2) the *rules* and *guidance* in the table below apply:

Subject	Applicable rule or guidance
Provision of services	SYSC 10.1.2G

Identifying conflicts	SYSC 10.1.3R
Types of conflicts	SYSC 10.1.5G
Managing conflicts	SYSC 10.1.7R
Conflicts policy	SYSC 10.1.12G

- (3) SYSC 10.1.7AR (Proportionality – insurance distribution activities) and SYSC 10.1.8R (Disclosure of conflicts) also apply in relation to the carrying on of insurance distribution activities.

#### General application

- 10.1.1 R (1) This section applies to a *firm* which provides services to its *clients* in the course of carrying on *regulated activities* or *ancillary activities* or providing *ancillary services* (but only where the *ancillary services* constitute *MiFID business*).

- (2) This section also applies to a *management company*.

[**Note:** The provisions in SYSC 10.1 also implement articles 27 and 28 of the IDD, articles 74(1) and 88 of *CRD* and as applied under the discretion in the third paragraph of article 95(2) of the *EU CRR*, *BCD* article 22 and *BCD* Annex V paragraph 1]

...

#### Identifying conflicts

- 10.1.3 R A *firm* must take all appropriate steps to identify and to prevent or manage conflicts of interest between:

- (1) the *firm*, including its managers, employees and *appointed representatives* (or where applicable, *tied agents*), or any *person* directly or indirectly linked to them by *control*, and a *client* of the *firm*; or
- (2) one *client* of the *firm* and another *client*;

that arise or may arise in the course of the *firm* providing any service referred to in SYSC 10.1.1R including those caused by the receipt of inducements from third parties or by the *firm's* own remuneration and other incentive structures.

[**Note:** article 23(1) of *MiFID* and articles 27 and 28(1) of the IDD]

...

## Managing conflicts

- 10.1.7 R A *firm* must maintain and operate effective organisational and administrative arrangements with a view to taking all reasonable steps to prevent conflicts of interest as defined in SYSC 10.1.3R from adversely affecting the interests of its *clients*.

[**Note:** article 16(3) of *MiFID* and article 27 of the *IDD*]

- 10.1.7A R Proportionality – insurance distribution activities

Where a *firm* carries on *insurance distribution activities*, the arrangements in SYSC 10.1.7R must be proportionate to the activities performed, the *policies* sold and the type of *insurance distributor* the *firm* is or uses.

[**Note:** article 27 of the *IDD*]

## Disclosure of conflicts

- 10.1.8 R (1) If arrangements made by a *firm* under SYSC 10.1.7R are not sufficient to ensure, with reasonable confidence, that risks of damage to the interests of a *client* will be prevented, the *firm* must clearly disclose the following to the *client* before undertaking business for the *client*:
- (a) the general nature or sources of conflicts of interest, or both; and
  - (b) the steps taken to mitigate those risks.
- (2) The disclosure must:
- (a) be made in a *durable medium*;
  - (b) clearly state that the organisational and administrative arrangements established by the *firm* to prevent or manage that conflict are not sufficient to ensure, with reasonable confidence, that the risks of damage to the interests of the *client* will be prevented;
  - (c) include specific description of the conflicts of interest that arise in the provision of *investment services* or *ancillary services*;
  - (d) explain the risks to the *client* that arise as a result of the conflicts of interest; and
  - (e) include sufficient detail, taking into account the nature of the *client*, to enable that *client* to take an informed decision with respect to the service in the context of which the conflict of

interest arises.

(3) This *rule* does not apply to the extent that SYSC 10.1.21R applies.

[**Note:** article 23(2) and (3) of *MiFID* and article 28(2) and (3) of the *IDD*]

10.1.8A ~~The obligation in SYSC 10.1.8R(2)(a) does not apply to a firm when carrying on insurance mediation activity. [deleted]~~

...

## 13 Operational risk: systems and controls for insurers

...

### 13.3 Other related Handbook sections

...

13.3.1A G The following is a non-exhaustive list of *rules* and *guidance* in the *Handbook* that are relevant to a firm's management of operational risk:

- (1) *COBS* contains *rules* and *guidance* that can relate to the management of operational risk; for example, *COBS* 2 (Conduct of business obligations), *COBS* 4 (Communicating with clients, including financial promotions), *COBS* 6 (Information about the firm, its services and remuneration), *COBS* 7 (Insurance ~~mediation~~ distribution), *COBS* 9 (Suitability (including basic advice) ~~(other than MiFID and insurance based investment products)~~), *COBS* 9A (Suitability (MiFID, equivalent third country or optional exemption business and insurance based investment products)), *COBS* 10A (Appropriateness (for non-advised services) (MiFID provisions and insurance based investment products)), *COBS* 11 (Dealing and managing), *COBS* 12 (Investment research), *COBS* 14 (Providing product information to clients) and *COBS* 19 (Pensions: supplementary provisions).

...

## 19F.2 IDD remuneration incentives

Application

19F.2.1 R This section applies to *insurance distributors* carrying on *insurance distribution activities* ~~in relation to a non-investment insurance contract~~ from an establishment maintained by it, or its *appointed representative*, in the *United Kingdom*.

[**Note:** article 7(2) of the *IDD*]

Remuneration and the customer's best interests

- 19F.2.2 R (1) *Insurance distributors* must not:
- (a) be *remunerated*; or
  - (b) *remunerate* or assess the performance of their *employees*;
- in a way that conflicts with their duty to comply with the ~~*customer's best interests rule*~~ *customer's best interests rules (ICOBs 2.5.-1R, in relation to a non-investment insurance contract, or COBS 2.1.1R, in relation to a life policy).*
- (2) In particular, an *insurance distributor* must not make any arrangements by way of *remuneration*, sales target or otherwise that could provide an incentive to itself or its *employees* to recommend a particular *contract of insurance* to a *customer* when the *insurance distributor* could offer a different *insurance contract* which would better meet the *customer's* needs.

[Note: article 17(3) of the *IDD*]

...

## 23 Insurance distribution: specific knowledge, ability and good repute requirements

### 23.1 Minimum knowledge ~~and~~, ability and good repute requirements for carrying out insurance distribution activities

#### Application

- 23.1.1 R This chapter applies to a *firm* with *Part 4A permission* to carry on *insurance distribution activities*.

...

...

- 23.1.4 G ~~Rules specified in this section~~ sections SYSC 23.2 (knowledge and ability), SYSC 23.4 (record keeping with reference to knowledge and ability) and SYSC 23. 5 (other requirements with reference to knowledge and ability) relate to the requirements in:

...

...

### 23.3 Good repute

#### Good repute requirements

- 23.3.1 R *A firm (other than a connected travel insurance intermediary) must ensure that all the persons in its management structure and any staff*

directly involved in *insurance distribution activities* are of good repute.

[Note: article 10(3) paragraphs 1 to 3 of the *IDD*]

23.3.2 G This includes but is not limited to those natural persons:

- (1) that are directly involved in *insurance distribution activities*;
- (2) within the management structure responsible for *insurance distribution activities*; or
- (3) within the management structure responsible for any staff directly involved in *insurance distribution activities*.

[Note: article 10(3) paragraphs 1 and 3 of the *IDD*]

23.3.3 R An *IDD* ancillary insurance intermediary must ensure that natural persons working in the *firm*, responsible for ancillary *insurance distribution activities*, are of good repute.

[Note: article 10(3) paragraph 4 of the *IDD*]

23.3.4 R In considering a *person's* repute the *firm* must as a minimum ensure that the *person*:

- (1) has a clean criminal record or any other national equivalent in relation to serious criminal offences linked to crimes against property or other crimes related to financial activities; and
- (2) has not previously been declared bankrupt

unless they have been rehabilitated in accordance with national law.

[Note: article 10(3) paragraph 1 of the *IDD*]

23.3.5 G (1) In the *United Kingdom* the following *persons* will be considered to have been rehabilitated:

- (a) in relation to a serious criminal offence where the conviction is considered 'spent' under the Rehabilitation of Offenders Act 1974;
- (b) in relation to bankruptcy, where the bankruptcy has been discharged.
- (2) References to serious criminal offences is not restricted to offences considered to have been committed in or under the law of the *United Kingdom*.
- (3) A *firm* should give particular consideration to offences of dishonesty, fraud, financial crime or other offences under legislation relating to banking and financial services, companies,

insurance and consumer protection.

- 23.3.6      G      A firm's systems and controls should enable it to satisfy itself of the suitability of anyone who acts for it (SYSC 3.2.13G and SYSC 5.1.2G). This includes, amongst other things, the assessment of an individual's honesty.

### **23.3 23.4 Record-keeping requirements**

Record keeping requirements

- 23.3.1      R      A firm must:  
23.4.1

- (1) establish, maintain and keep appropriate records to demonstrate compliance with this chapter; and
- (2) be in a position to provide to the *FCA*, on request, the name of the person responsible for the record keeping requirement in (1).

[**Note:** article 10(8) last paragraph of the *IDD*]

- 23.3.2      R      (1) ...  
23.4.2

...

...

- 23.3.3      R      A firm must not prevent a relevant employee from obtaining a copy of the records relating to that relevant employee which are maintained by the firm for the purposes of ~~SYSC 23.1.5R(1) and (2)~~ SYSC 23.4.1R and SYSC 23.4.2R.  
23.4.3

### **23.4 23.5 Other requirements**

- 23.4.1      G      ...  
23.5

...

### **Sch 1 Record keeping requirements**

...

Handbook reference	Subject of record	Contents of record	When record must be	Retention period

			made		
SYSC 9.1.1R	...	...	...		...
SYSC 9.1.2AR, SYSC 3.3.6R	<u>Suitability or appropriateness in relation to an insurance based investment product</u>	(1)	<u>In relation to suitability:</u>		<u>5 years</u>
			(a)	<u>why the recommendation is considered suitable; and</u>	
				(a) <u>recommendation;</u>	
			(b)	<u>client information for suitability report and suitability report.</u>	(b) <u>the suitability report.</u>
		(2)	<u>In relation to appropriateness, client information obtained in making assessment of appropriateness and the appropriateness assessment</u>		(2) <u>Date of assessment.</u>
...					



<u><i>SYSC</i></u> <del>23.3.1R</del> <u>23.4.1R</u>	Arrangements made to demonstrate compliance with knowledge and competence, ability and good reputation requirements in relation to the carrying out of <i>insurance distribution activities</i>	As required to demonstrate compliance.	As required to demonstrate compliance	As required to demonstrate compliance
<u><i>SYSC</i></u> <del>23.3.2R</del> <u>23.4.2R</u>	...			

[*Editor's note*: this section is based on the assumption that there will be legislative amendments to paragraph 2B of Schedule 6 (Threshold conditions) to the Financial Services and Markets Act 2000 which will substitute 'mediation' with 'distribution' in paragraphs (4) and (5). The text in this Annex takes into account the changes proposed by CP17/7 'Insurance Distribution Directive implementation – Consultation paper I' (March 2017), as if they were made]

## Annex D

### Amendments to the Threshold Conditions (COND)

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

## 2 The threshold conditions

...

### 2.2 Location of offices

#### 2.2.1A UK Paragraph 2B of Schedule 6 to the Act

...

- (4) If A is seeking to carry on, or is carrying on, an insurance ~~mediation~~ distribution activity -

...

- (5) “insurance ~~mediation~~ distribution activity” means any of the following activities -

...

...

...

2.2.2 G Paragraph 2B(1) of Schedule 6 to the *Act* implements article 7(1)(d) of the *UCITS Directive*, paragraphs 2B(1) to 2B(23) of Schedule 6 to the *Act* implement article 5(4) of *MiFID*, paragraph 2B(4) of Schedule 6 to the *Act* implements article ~~2.9~~ 2(1)(10) of the ~~*Insurance Mediation Directive*~~ *IDD* and paragraph 2B(7) of Schedule 6 to the *Act* implements article 8(1)(e) of *AIFMD*, although the *Act* extends the *threshold condition* set out in paragraph 2B of Schedule 6 of the *Act* to *authorised persons* that are not *PRA-authorised persons* who are outside the scope of these *Single Market Directives*.

2.2.3 G Neither the *UCITS Directive*, *MiFID*, the ~~*Insurance Mediation Directive*~~ *IDD*, *AIFMD* nor the *Act* define what is meant by a *firm's* 'head office'. This is not necessarily the *firm's* place of incorporation or the place where

its business is wholly or mainly carried on. Although the *FCA* will judge each application on a case-by-case basis, the key issue in identifying the head office of a *firm* is the location of its central management and control, that is, the location of:

...

...

## 2.5 Suitability

...

2.5.1C UK Paragraph 3D to Schedule 6 of the Act

(1) ...

...

...

2.5.6 G Examples of the kind of particular considerations to which the *FCA* may have regard when assessing whether a *firm* will satisfy, and continue to satisfy, this *threshold condition* include, but are not limited to, whether:

(1) ...

...

(18) in the case of a *firm* that carries on insurance ~~mediation~~ distribution activity :

(a) ~~a reasonable proportion of the persons~~ employees or other persons within its management structure who are responsible for the ~~insurance mediation activity~~ firm's insurance distribution activities; and

(b) ~~all employees or other persons~~ directly involved in its ~~insurance mediation activity~~ the carrying on of the firm's insurance distribution activities; and

(ba) employees or other persons responsible for the supervision of a relevant employee acting in the capacity as set out in (b);

demonstrate the appropriate knowledge and ability necessary in order to complete their tasks and for the performance of perform their duties adequately (see competent employee rule and SYSC 23 (Insurance distribution: specific knowledge; ability and good repute requirements)); and

- (c) all the *persons* in the *firm's* management structure and any staff directly involved in insurance ~~mediation~~ distribution activity are of good repute (see ~~*MIPRU 2.3.1R (Knowledge and ability and good repute)*~~ *SYSC 23.3 (Good repute)*); and
- (d) natural persons working in the *firm*, responsible for ancillary insurance distribution activities are of good repute (see *SYSC 23.3.3R*); and

...

...

[*Editor's note*: the text in this Annex takes into account the changes proposed by CP17/7 'Insurance Distribution Directive implementation – Consultation paper I' (March 2017), as if they were made]

## Annex E

### Amendments to The Fit and Proper test for Approved Persons and specified significant-harm functions (FIT)

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

#### 1 General

...

#### 1.2 Introduction

...

1.2.4A G (1) ...

(2) Where the function relates to:

(a) ...

(b) business outside the scope of the *MiFID* business of an *incoming EEA firm*, for example ~~*insurance mediation activities*~~ *insurance distribution activities* in relation to *life policies*; or

(c) ...

...

...

1.2.4C G Under article 10(1) and (2) of the *IDD* appropriate knowledge and ability is reserved to the *firm's Home State*. (See *SUP* 13A Annex 2G).

[*Editor's note*: the text in this Annex takes into account changes suggested by CP17/7 'Insurance Distribution Directive Implementation – Consultation I' (March 2017) as if they were made]

## Annex F

### Amendments to the Prudential sourcebook for Mortgage and Home Finance Firms, and Insurance Intermediaries (MIPRU)

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

For “*Insurance Mediation Directive*”, substitute “*IDD*” in the following provisions. The text in this section is not underlined.

4.1.2G                                      one instance

For “*mediation*”, substitute “*distribution*” in the following provisions. The text in this section is not underlined.

1.1.1R(1)	one instance
2.1.1R	one instance
2.2.2R	one instance
2.2.3G(1)	one instance
2.2.3G(1B)	two instances
2.2.3G(2)	two instances
2.2.3G(3)	one instance
2.2.4G	three instances
3.1.1R(1A)	one instance
3.1.1R(3)	one instance
3.1.2G	one instance
3.2.2G	two instances
3.2.4R(5)	one instance
4.1.1R(1)	one instance
4.1.3G	one instance
4.2.10R(1)	one instance
4.2.10R(4)	one instance
4.2.20R, heading	one instance
4.2.20R	two instances
4.4.8R(1)(a)(i)	one instance

## 2                      **Insurance Responsibility for insurance distribution and MCD mediation credit intermediation activity**~~responsibility and good repute~~

### 2.1                    **Application and purpose**

...

Purpose

- 2.1.2 G The main purpose of this chapter is to implement in part the provisions of the *Insurance Mediation directive* IDD and the *MCD* as these apply to *firms* regulated by the *appropriate regulator*.

## 2.2 Allocation of the responsibility for insurance ~~mediation~~ distribution activity or MCD credit intermediation activity

Responsibility for insurance ~~mediation~~ distribution activity or MCD credit intermediation activity

- 2.2.1 R A *firm*, other than a sole trader, must allocate the responsibility for the *firm's insurance* ~~mediation~~ distribution activity or *MCD credit intermediation activity* to a director or senior manager.

[**Note:** ~~Article 3(1), fourth paragraph, of the *Insurance Mediation Directive*~~ article 3(1), eighth paragraph of the IDD and article 29(4)(a), first sentence, of the *MCD*.]

...

- 2.2.5 G The *FCA* will specify in the *Financial Services Register* the name of the *persons* to whom the responsibility for the *firm's insurance* ~~mediation~~ distribution activity or *MCD credit intermediation activity* has been allocated by inserting after the relevant controlled function the words “(insurance ~~mediation~~ distribution)” or “(MCD intermediation)”. In the case of a sole trader, the *FCA* will specify in the *Financial Services Register* the name of the sole trader as the ‘contact person’ in the *firm*.

## 2.3 Good repute [deleted]

- 2.3.1 R ~~A *firm* (other than a connected travel insurance intermediary) must establish on reasonable grounds that all the *persons* in its management structure and any staff directly involved in *insurance mediation activity* are of good repute. [deleted]~~
- 2.3.2 G [deleted]
- 2.3.3 R ~~In considering a *person's* repute the *firm* must ensure that the *person*:~~
- ~~(1) has not been convicted of any serious criminal offences linked to crimes against property or other crimes related to financial activities (other than spent convictions under the Rehabilitation of Offenders Act 1974 or any other national equivalent); and~~
  - ~~(2) has not been adjudged bankrupt (unless the bankruptcy has been discharged);~~

~~under the law of any part of the *United Kingdom* or under the law of a country or territory outside the *United Kingdom*. [deleted]~~

~~[Note: Article 4(2) of the *Insurance Mediation Directive*]~~

- 2.3.4 G ~~The *firm* should give particular consideration to offences of dishonesty, fraud, financial crime or other offences under legislation relating to banking and financial services, companies, insurance and consumer protection. [deleted]~~
- 2.3.5 G ~~*Firms* are reminded that *Principle 3* requires *firms* to take reasonable care to organise and control their affairs responsibly and effectively. *Principle 3* is amplified by the *rule* which requires *firms* to take reasonable care to establish and maintain such systems and controls as are appropriate to its business (SYSC 3.1.1R and SYSC 4.1.1R). A *firm's* systems and controls should enable it to satisfy itself of the suitability of anyone who acts for it (SYSC 3.2.13G and SYSC 5.1.2G). This includes the assessment of an individual's honesty and competence. [deleted]~~

...

## 4 Capital resources

...

### 4.2 Capital resources requirements

...

- 4.2.8 G If a *social housing firm* is carrying on *home financing* or *home finance administration* (and no other *regulated activity*), its net tangible assets must be greater than zero. However, if it carries on *insurance mediation distribution* activity or *home finance mediation* activity, there is no special provision and the capital resources requirement for *firms* carrying on *designated investment business*, ~~or *insurance distribution* activity or *home finance mediation* activity~~ activities only applies to it as appropriate.

...

Capital resources requirement: insurance distribution activity or home finance mediation activity only

- 4.2.11 (1) If a *firm* carrying on *insurance mediation distribution* activity or *home finance mediation* activity (and no other *regulated activity*) does not hold *client money* or other *client* assets in relation to these activities, its capital resources requirement is the higher of:
- (a) ...
- (b) 2.5% of the *annual income* from its *insurance mediation distribution* activity or *home finance mediation* activity (or both).



- (2) If a *firm* carrying on *insurance ~~mediation~~ distribution* activity or *home finance mediation* activity (and no other *regulated activity*) holds *client money* or other *client* assets in relation to these activities, its capital resources requirement is the higher of:
- (a) ...
  - (b) 5% of the *annual income* from its *insurance ~~mediation~~ distribution* activity or *home finance mediation* activity (or both).

...

Capital resources requirement: home finance mediation activity and home financing or home finance administration

- 4.2.21 R (1) ...
- (2) If the *firm* holds *client money* or other *client* assets in relation to its *home finance mediation* activity, the capital resources requirement is:
- (a) ...
  - (b) the amount which is applied to a *firm* carrying on *insurance ~~mediation~~ distribution* activity or *home finance mediation* activity (and no other *regulated activity*) that holds *client money* or other *client* assets in relation to these activities (see *MIPRU* 4.2.11R(2)).

...

### 4.3 Calculation of annual income

...

- 4.3.3 R For a *firm* which carries on *insurance ~~mediation~~ distribution* activity or *home finance mediation* activity, *annual income* is the amount of all brokerage, fees, *commissions* and other related income (for example, administration charges, overrides, profit shares) due to the *firm* in respect of or in relation to those activities. But it does not include income generated from carrying on any *home finance mediation* activity for:
- (1) ...

...

### 4.4 Calculation of capital resources

Subordinated loans

- 4.4.7 R A subordinated debt must not form part of the capital resources of the *firm* unless it meets the following conditions:
- (1) (for a *firm* which carries on *insurance ~~mediation~~ distribution activity, home finance mediation activity* (or both) but not *home financing* or *home finance administration*) it has an original maturity of:
- (a) ...
- ...

[*Editor's note*: the text in this Annex takes into account changes suggested by CP17/7 'Insurance Distribution Directive Implementation – Consultation I' (March 2017) as if they were made]

## Annex G

### Amendments to the Interim Prudential sourcebook for Investment Business (IPRU(INV))

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

#### 13 Financial Resource Requirements for Personal Investment Firms

...

##### 13.13 Capital resources requirement for an exempt CAD firm and a category B firm

...

Requirement

...

13.13.3 R ...

...

Table 13.13.3(2)(b)(ii)

This table forms part of *IPRU-INV* 13.13.3R.

Activity	Provision	Fixed amount
<i>Insurance <del>mediation</del> distribution activity or home finance mediation activity</i>	<i>MIPRU 4.2.11R(1)(a) (firm not holding client money or assets)</i>	£5,000
	<i>MIPRU 4.2.11R(2)(a) (firm holding client money or assets)</i>	

...

##### 13.14 Calculation of annual income for an exempt CAD firm and a category B firm

...

13.14.6 G A *firm* should not include in its *annual income* those amounts due to it that

are used in the calculation of its capital resources requirement under *MIPRU* 4.2.11R (Capital resources requirement: insurance distribution activity or home finance mediation activity only) or *MIPRU* ~~4.2.19R~~ 4.2.20R (Capital resources requirement: insurance ~~mediation~~ distribution activity and home financing, or home finance administration).

[*Editor's note*: the text in this Annex takes into account changes suggested by CP17/7 'Insurance Distribution Directive Implementation – Consultation I' (March 2017) as if they were made]

## Annex H

### Amendments to the Conduct of Business sourcebook (COBS)

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

#### 1 Annex 1 Application (see COBS 1.1.2R)

Part 1: What?

Modifications to the general application of COBS according to activities

1.	Eligible counterparty business	
1.1	R	The <i>COBS</i> provisions shown below do not apply to <i>eligible counterparty business</i> <del>except</del> , where <u>the <i>eligible counterparty business</i> is in scope of the <i>IDD</i></u> , those provisions which implement the <i>IDD</i> continue to apply..
	COBS provision	Description
	<i>COBS</i> 2 (other than <i>COBS</i> 2.1.1AR, <i>COBS</i> 2.2A and <i>COBS</i> 2.4)	Conduct of business obligations
	<i>COBS</i> 4 (other than <i>COBS</i> 4.2, <i>COBS</i> 4.4.1R, <i>COBS</i> 4.5A.9EU and <i>COBS</i> 4.7.-1AEU)	Communicating with clients, including financial promotions
	<i>COBS</i> 6.1	Information about the firm, its services and remuneration (non-MiFID <u>and non insurance distribution</u> provisions)
	...	
	<i>COBS</i> 10	Appropriateness (for non-MiFID <u>and non-insurance based investment products</u> non-advised services)
	<i>COBS</i> 10A	Appropriateness (for non-advised services) (MiFID provisions <u>and insurance based investment products</u> )
	...	

...				
6.	<b>Use of third party processors in life insurance <del>mediation</del> <u>distribution</u> activities</b>			
		If a <i>firm</i> (or its <i>appointed representative</i> or, where applicable, its <i>tied agent</i> ) outsources <i>insurance <del>mediation</del> <u>distribution</u> activities</i> to a <i>third party processor</i> :		
		...		
...				
Part 2: Where?				
Modifications to the general application according to location				
...				
Part 3: Guidance				
1.	<b>The main extensions, modifications and restrictions to the general application</b>			
...				
1.3	G	In particular, certain chapters of this sourcebook apply only to <i>firms</i> in relation to their <i>MiFID</i> , <i>equivalent third country</i> or <i>optional exemption business</i> and, in some of these chapters, <u>specified insurance distribution activities</u> (sometimes only in relation to <i>insurance based investment products</i> ) while others apply only to <i>firms' designated investment business</i> which is not <i>MiFID</i> , <i>equivalent third country</i> or <i>optional exemption business</i> or, in some of these chapters, certain <i>insurance distribution activities</i> .		
...				
2.	<b>The Single Market Directives and other directives</b>			
...				
4.	<b><del>Insurance Mediation Directive</del> <u>Insurance Distribution Directive</u>: effect on territorial scope</b>			
4.1	G	The <i>Insurance Mediation Directive's</i> <u>IDD's</u> scope covers most <i>firms</i> carrying on most types of <i>insurance <del>mediation</del> <u>insurance distribution</u> in relation to risks and commitments located in an EEA State</i> .		
4.1A	G	The <i>rules</i> in this sourcebook within the Directive's scope are those relating to <i>life policies</i> <del>that require the provision of pre-contract information or the provision of advice on the basis of a fair analysis</del> . The <i>rules</i> implementing		

		the minimum <del>information and other</del> requirements in articles <del>12 and 13</del> 1(4), 17, 18, 19, 20, 23, 24(1) to (4) and (6), 29, and 30 of the <del>Directive</del> <u>IDD</u> are set out in:	
		(1)	<u>COBS 2.1.1R, COBS 2.2A and COBS 2.3A (Conduct of business obligations);</u>
		(2)	<u>COBS 4 (Communicating with clients, including financial promotions);</u>
		(3)	<u>COBS 6.1ZA (Information about the firm and compensation information (MiFID and insurance distribution provisions));</u>
		(4)	<u>COBS 7 (Insurance <del>mediation</del> distribution); and</u>
		(5)	<u>COBS 8 (Client agreements);</u>
		(6)	<u>COBS 9 (Suitability (including basic advice) (other than MiFID and insurance based investment products provisions)) and COBS 9A (Suitability (MiFID, equivalent third country or optional exemption business and insurance based investment products));</u>
		(7)	<u>COBS 10A (Appropriateness (for non-advised services));</u>
		(8)	<u>COBS 14.2 (Providing product information to clients); and</u>
		(9)	<u>COBS 16A.2 (General client reporting and record keeping requirements).</u>
4.1B	G	<u>A Member State is entitled to impose additional requirements within the IDD's scope in the 'general good'. (See recital 52 to, and article 22 of, the IDD).</u>	
4.2	G	<u>In the FCA's view, the responsibility for these minimum requirements rests with the Home State, but a Host State is entitled to impose additional requirements within the Directive's scope in the 'general good'. The IDD places responsibility for requirements in this sourcebook within the Directive's scope (both minimum and additional requirements) on the Home State, except:</u>	
		(1)	<u>in relation to business conducted through a branch, in which case the responsibility rests with the EEA State in which the branch is located (this is sometimes referred to as a 'country of origin' or 'country of establishment' basis) (see recital 22 to, and article 7(2) of, the IDD); and</u>
		(2)	<u>where a Host State has:</u>
		(a)	<u>introduced the stricter requirements in art 29(3) of the IDD; or</u>
		(b)	<u>not made use of the derogation in article 30(3) of the IDD to</u>

			allow <i>firms</i> not to carry out an appropriateness assessment in relation to a non advised sale of an <i>insurance based investment product</i> ;
			<i>firms</i> operating under the freedom to provide services or the freedom of establishment, when concluding contracts with customers having their habitual residence or establishment in the <i>Host State</i> , must adhere to the requirements in force in that <i>Host State</i> .
		(3)	For <i>firms</i> operating under the freedom of establishment in the <i>UK</i> , paragraph 4.2G(1) has the effect that they must adhere to the requirements in the <i>Host State</i> , regardless of the habitual residence of the customer. This is because the <i>UK</i> has not chosen to limit scope to just habitual residence in the <i>UK</i> but other <i>Member States</i> may limit scope in this way.
4.3	G	Accordingly, the general <i>rules</i> on territorial scope are <u>not</u> modified <del>so that</del> by the <i>IDD</i> except:	
		(1)	<del>for a <i>UK firm</i> providing <i>passport</i>ed activities through a branch in another <i>EEA State</i> under the Directive, the <i>rules</i> implementing the Directive's minimum requirements apply but the territorial scope of the additional <i>rules</i> within the Directive's scope is not modified;</del>
		(2)	for an <i>EEA firm</i> providing <i>passport</i> ed activities under the Directive in the <i>United Kingdom</i> , <del>the <i>rules</i> implementing the Directive's minimum requirements do not apply,</del> but the additional <i>rules</i> within the Directive's scope have their unmodified territorial scope unless the <i>Home State</i> imposes measures of like effect. (See recital 19 and article 12(5) of the <i>Insurance Mediation Directive</i> )
		(2)	<u>for insurance distribution business carried on by <i>insurers</i>:</u>
		(a)	<u>minimum and additional requirements apply to a <i>UK firm</i> unless responsibility for any matter it covers is reserved by the <i>Solvency II Directive</i> to the <i>firm's Host State regulator</i>; and</u>
		(b)	<u>paragraph (1), and paragraphs (3), (4) and 4.4G, below, apply in the same way unless the responsibility for any matter it covers is reserved by the <i>Solvency II Directive</i> to the <i>firm's Home State regulator</i>.</u>
		(3)	<u>for a <i>UK firm</i> providing <i>passport</i>ed activities under the <i>IDD</i> or an insurance undertaking <i>passport</i>ing under the <i>Solvency II directive</i> in another <i>Member State</i> it must comply with the <i>Host State</i> requirements falling within 4.2G(2);</u>
		(4)	<u>for an <i>EEA firm</i> providing <i>passport</i>ed activities in the <i>United Kingdom</i> under the <i>IDD</i> the rules in <i>COBS</i> which give effect to article 29(3) apply, where the <i>client</i> has their habitual residence in</u>



			<u>the UK, when it is operating under the freedom to provide services.</u>
4.4	G	<u>An EEA firm acting as the principal of an appointed representative carrying on insurance distribution activities from an establishment in the UK is required to ensure that its appointed representative complies with this sourcebook.</u>	
5.	Solvency II Directive: effect on territorial scope		
5.1	G	The <i>Solvency II Directive's</i> scope covers <i>long-term insurers</i> . The rules in this sourcebook within the <del>Directive</del> <i>Solvency II Directive's</i> scope are the cancellation rules ( <i>COBS 15</i> ) and those rules requiring the provision of pre-contract information or information during the term of the contract concerning the <i>insurer</i> or the <i>contract of insurance</i> . The <del>Directive</del> <i>Solvency II Directive</i> specifies minimum information and cancellation requirements and permits <i>EEA States</i> to adopt additional information requirements that are necessary for a proper understanding by the <i>policyholder</i> of the essential elements of the commitment.	
5.2	G	If the <i>State of the commitment</i> is an <i>EEA State</i> , the <del>Directive</del> <i>Solvency II Directive</i> provides that the applicable information rules and cancellation rules shall be laid down by that state. Accordingly, if the <i>State of the commitment</i> is the <i>United Kingdom</i> , the relevant rules in this sourcebook apply. Those rules do not apply if the <i>State of the commitment</i> is another <i>EEA State</i> . The territorial scope of other rules, in particular the <i>financial promotion rules</i> , is not affected since the <del>Directive</del> <i>Solvency II Directive</i> explicitly permits <i>EEA States</i> to apply rules, including advertising rules, in the 'general good'. (See articles 156, 180, 185 and 186 of the <i>Solvency II Directive</i> )	
6.	Distance Marketing Directive: effect on territorial scope		
...			
6.5	G	In the <i>FCA's</i> view:	
			the 'country of origin' basis of the Directive is in line with that of the <i>Electronic Commerce Directive</i> <u>and the IDD</u> ; (See recital 6 of the <i>Distance Marketing Directive</i> )
			...
			<del>for business within the scope of both the <i>Distance Marketing Directive</i> and the <i>Insurance Mediation Directive</i>, the minimum information and other requirements in the <i>Insurance Mediation Directive</i> continue to be those applied by the 'Home State', but the minimum requirements in the <i>Distance Marketing Directive</i> and any additional pre-contract information requirements are applied on a 'country of origin' basis. (The basis for this is that the <i>Insurance Mediation Directive</i> was adopted after the <i>Distance Marketing Directive</i> and is not expressed to be subject to it.)</del>

7.	<b>Electronic Commerce Directive: effect on territorial scope</b>		
...			
7.3	G	The effect of the Directive on this sourcebook is subject to the ‘insurance derogation’, which is the only ‘derogation’ in the Directive that the <i>FCA</i> has adopted for this sourcebook. The derogation applies to an <i>insurer</i> that is authorised under and carrying on an <i>electronic commerce activity</i> within the scope of the <i>Solvency II Directive</i> and permits <i>EEA States</i> to continue to apply their advertising rules in the ‘general good’. Where the derogation applies, the <i>financial promotion rules</i> continue to apply for incoming <i>electronic commerce activities</i> (unless the <i>firm’s</i> ‘country of origin’ applies rules of like effect) but do not apply for outgoing <i>electronic commerce activities</i> . (See article 3(3) and Annex, fourth indent of the <i>Electronic Commerce Directive</i> ; Annex to European Commission Discussion Paper MARKT/2541/03)	
7.4	G	In the <i>FCA’s</i> view, the Directive’s effect on the territorial scope of this sourcebook (including the use of the ‘insurance derogation’):	
		(1)	is in line with the <i>Distance Marketing Directive</i> <u>and the <i>IDD</i></u> ; and
		(2)	overrides that of any other Directive discussed in this Annex to the extent that it is incompatible.
7.5	G	The ‘derogations’ in the Directive may enable other <i>EEA States</i> to adopt a different approach to the <i>United Kingdom</i> in certain fields. (See recital 19 of the <del><i>Insurance Mediation Directive</i></del> <i>IDD</i> , recital 6 of the <i>Distance Marketing Directive</i> , article 3 and Annex of the <i>Electronic Commerce Directive</i> )	
...			

...

## 2 Conduct of business obligations

### 2.1 Acting honestly, fairly and professionally

The client’s best interests rule

- 2.1.1 R (1) A *firm* must act honestly, fairly and professionally in accordance with the best interests of its *client* (the *client’s best interests rule*).
- (2) This *rule* applies in relation to *designated investment business* carried on:
- (a) for a *retail client*; ~~and~~

- (b) in relation to *MiFID*, *equivalent third country or optional exemption business*, for any other *client*; and
- (c) in relation to *insurance distribution*, for any other *client*.

...

[**Note:** article 24(1) of *MiFID*, article 17(1) of the *IDD* and article 14(1)(a) and (b) of the *UCITS Directive*]

...

## 2.2 **Information disclosure before providing services (~~non-~~ other than MiFID provisions and insurance distribution)**

Application

2.2.-1 R ...

(2) This section applies in relation to *designated investment business* (other than *MiFID*, *equivalent third country or optional exemption business* or *insurance distribution activities*), carried on for a *retail client*:

- (a) in relation to a *derivative*, a *warrant*, a *non-readily realisable security*, a *P2P agreement*, or *stock lending activity*, but as regards the matters in COBS 2.2.1R(1)(b) only; and
- (b) in relation to a *retail investment product*, but as regards the matters in COBS 2.2.1R(1)(a) and (d) only.

2.2.-1A G COBS 2.2A (Information disclosure before providing services (MiFID provisions and insurance distribution)) contains the information disclosure requirements applying to a *firm* carrying on *MiFID*, *equivalent third country or optional exemption business* and *insurance distribution activities*.

...

## 2.2A **Information disclosure before providing services (MiFID and insurance distribution provisions)**

Application

2.2A.1 R This section applies to a *firm*:

- (a) in relation to its *MiFID*, *equivalent third country or optional exemption business*;
- (b) carrying on *insurance distribution activities* in relation to:

- (i) an insurance based investment product for any client;
- (ii) any other life policy for a retail client but as regards the matters in COBS 2.2A.2R(1)(a) and (d) only.

Information disclosure in good time

- 2.2A.2 R (1) A *firm* must provide appropriate information in good time to a *client* with regard to:
- (a) the *firm* and its services;
  - (b) (for financial instruments) the financial instruments and, proposed investment strategies and execution venues;
  - (c) execution venues (for insurance based investment products) the distribution of insurance based insurance products including at least appropriate guidance on, and warnings of, the risks associated with the insurance based investment product or in respect of particular investment strategies proposed; and
  - (d) all costs and related charges.

[**Note:** article 24(4) of *MiFID* and article 29(1)(b) of the *IDD*]

- (2) That information may be provided in a standardised format.

- 2.2A.2A R For an insurance based investment product, a firm must provide the information in good time prior to the conclusion of the contract.

[**Note:** first paragraph of article 29(1) of the *IDD*]

- 2.2A.3 R (1) A *firm* must provide the information required by this section in a comprehensible form in such a manner that a *client* is reasonably able to understand the nature and risks of the *investment service* and of the specific type of *financial instrument or life policy* that is being offered and, consequently, to take investment decisions on an informed basis.

- (2) That information may be provided in a standardised format.

[**Note:** article 24(5) of *MiFID* and last paragraph of article 29(1) the *IDD*]

Related rules

- 2.2A.4 G A *firm* to which the *rule* on providing appropriate information (*COBS 2.2A.2R*) applies should also consider the *rules* on disclosing information about a *firm*, its services, costs and associated charges, ~~and financial instruments~~ and life policies in *COBS 6.1ZA*, *COBS 9A.3*, *COBS 14.3* and *COBS 14.3A*.

## 2.3 Inducements relating to business other than MiFID, equivalent third country or optional exemption business and insurance based investment products

...

Application

- 2.3.-1A R This section does not apply to:
- (1) giving advice, or providing services, to an employer in connection with a *group personal pension scheme* or *group stakeholder pension scheme* where that scheme is a *qualifying scheme*; ~~or~~
  - (2) a *firm* in relation to *MiFID, equivalent third country or optional exemption business* (but see COBS 2.3A (Inducements relating to MiFID, equivalent third country or optional exemption business)); or
  - (3) a firm carrying on an insurance distribution activity in relation to an insurance based investment product.

...

## 2.3A Inducements relating to MiFID, equivalent third country or optional exemption business and insurance based investment products

Application

- 2.3A.1 R This section applies to a *firm*:
- (1) in relation to its *MiFID, equivalent third country or optional exemption business*; or
  - (2) carrying on insurance distribution activities in relation to an insurance based investment product.
- Relationship with the adviser charging, product provider and platform service provider rules in COBS 6.1A, COBS 6.1B and COBS 6.1E
- 2.3A.2 G A *firm* which makes a *personal recommendation* to a *retail client* in the *United Kingdom* in relation to:
- (a) a *retail investment product* in the course of carrying on *MiFID, equivalent third country or optional exemption business* with or for that *client*; or
  - (b) an insurance based investment product.
- is also required to comply with the *rules* in COBS 6.1A (Adviser charging and remuneration).

- 2.3A.3 G COBS 6.1A provides, amongst other things, that a *firm* must only be

remunerated for a *personal recommendation* (and any other related services provided by the *firm*) by *adviser charges*.

2.3A.4 G Where:

(1) the *firm*:

- (a) is a *retail investment product* provider or a *platform service provider*; and
- (b) carries on *MiFID*, *equivalent third country* or *optional exemption business*, or carries on *insurance distribution activities*, in relation to those activities; and

(2) the *client* is a *retail client* in the *United Kingdom*,

the *firm* is required to comply with the *rules* in this section and in *COBS* 6.1B (Retail investment product provider, operator of an electronic system relating to lending, and platform service provider requirements relating to adviser charging and remuneration) and, where relevant, *COBS* 6.1E (Platform services: platform charges using a platform service for advising).

~~Rules on inducements relating to the provision of investment services and ancillary services~~

2.3A.5 R Except where *COBS* 2.3A.6R applies, a *firm* must not:

- (1) pay to or accept from any party (other than the *client* or a *person* on behalf of the *client*) any fee or commission ~~in connection with the provision of an investment service or an ancillary service~~;
- (2) provide to or receive from any party (other than the *client* or a *person* on behalf of the *client*) any non-monetary benefit;
- (3) (1) and (2) only apply in relation to fees, commissions or non-monetary benefits paid or accepted, or provided or received, in connection with:
  - (a) the provision of an *investment service* or an *ancillary service*; or
  - (b) the distribution of an *insurance based investment product* or an *ancillary service*.

[**Note:** article 24(9) of *MiFID*, articles 22(3), 29(2) and 29(3) of the *IDD*]

2.3A.6 R (1) *COBS* 2.3A.5R does not apply to:

- (a) a fee, commission or non-monetary benefit which:
  - (i) (I) is designed to enhance the quality of the relevant service to the *client* (see *COBS* 2.3A.8R);

- (II) (for an *insurance based investment product*) in addition to (I), does not have a detrimental impact on the quality of the relevant service to the *client*; and
- (ii) does not impair compliance with the *firm's* duty to act honestly, fairly and professionally in the best interests of the *client*;
  - (b) a payment or benefit which enables or is necessary for the provision of an *investment service* by the *firm*, such as custody costs, settlement and exchange fees, regulatory levies or legal fees and which, by its nature, cannot give rise to conflicts with the *firm's* duty to act honestly, fairly and professionally in the best interests of the *client*; or
  - (c) third party *research* received in accordance with COBS 2.3B (see COBS 2.3B.3R).
- (2) Where a *firm* pays, provides, accepts or receives, a fee, commission or non-monetary benefit which falls within (1)(a), the *firm* must clearly disclose to the *client*:
- (a) the existence and nature of the payment or benefit; and
  - (b) the amount of the payment or benefit or, where the amount cannot be ascertained, the method for calculating that amount.
- (3) That information must be disclosed:
- (a) prior to the provision of the relevant service; and
  - (b) in a manner that is comprehensive, accurate and understandable (see also COBS 2.3A.10R (Disclosure of payments or benefits received from, or paid to, third parties)).
- (4) Where applicable, a *firm* must inform a *client* of the mechanisms for transferring to the *client* the fee, commission, monetary or non-monetary benefit received in relation to the provision of the relevant service.

[**Note:** article 24(9) of *MiFID*, article 22(3) and 29(3) of the *IDD*]

- 2.3A.7 E A *firm* which fails to comply with COBS 2.3A.5R is to be regarded as not fulfilling its obligations in relation to:
- (1) conflicts of interest (see SYSC 3.3 (for insurers and managing agents) and SYSC 10 (for other *firms*)); and
  - (2) acting honestly, fairly and professionally in accordance with the best interests of its *clients* (see COBS 2.1.1R).

[**Note:** article 24(9) of *MiFID*, article 29(2) and 29(3) of the *IDD*]

...

## **4 Communicating with clients, including financial promotions**

### **4.1 Application**

...

- 4.1.4 G (1) In *COBS* 4.3.1R, the defined term “*financial promotion*” includes;
- (a) in relation to *MiFID*, *equivalent third country or optional exemption business*, all communications that are marketing communications within the meaning of *MiFID*; and
  - (b) in relation to *insurance distribution*, all communications that are marketing communications within the meaning of *IDD*.

...

...

### **4.2 Fair, clear and not misleading communications**

The fair, clear and not misleading rule

- 4.2.1 R (1) A *firm* must ensure that a communication or a *financial promotion* is fair, clear and not misleading.
- (2) This *rule* applies to:
- (a) a communication by the *firm* to a *customer* in relation to *designated investment business* other than a *third party prospectus*;
  - (aa) a communication to an *eligible counterparty* that is in relation to:
    - (i) *MiFID or equivalent third country business* other than a *third party prospectus*; or
    - (ii) *insurance distribution*;
  - (b) a *financial promotion* communicated by the *firm* that is not:
    - (i) an *excluded communication*;
    - (ii) a *non-retail communication*;
    - (iii) a *third party prospectus*; and



(c) a *financial promotion* approved by the *firm*.

(3) As part of complying with (1), a *firm* must take into account the nature of the *client*.

[**Note:** article 24(3) and article 30(1) of *MiFID*, article 17(2) of the *IDD* and article 77 of the *UCITS Directive*]

- 4.2.2 G (1) The *fair, clear and not misleading rule* applies in a way that is appropriate and proportionate taking into account the means of communication, the information the communication is intended to convey and, the nature of the *client* and of its business, if any. So a communication addressed to a *professional client* or an *eligible counterparty* may not need to include the same information, or be presented in the same way, as a communication addressed to a *retail client*.
- (2) *COBS* 4.2.1R(2)(b) does not limit the application of the *fair, clear and not misleading rule* under *COBS* 4.2.1R (2)(a). So, for example, a communication in relation to *designated investment business* that is both a communication to a *professional client* and a *financial promotion*, will still be subject to the *fair, clear and not misleading rule*.

[**Note:** article 30(1) of *MiFID* and recital 65 to the *MiFID Org Regulation*, article 17(2) of the *IDD*]

...

### 4.3 Financial promotions to be identifiable as such

- 4.3.1 R (1) A *firm* must ensure that a *financial promotion* addressed to a *client* is clearly identifiable as such.

[**Note:** article 24(3) of *MiFID*, article 17(2) of the *IDD* and article 77 of the *UCITS Directive*]

...

- (3) ...
- (e) ~~to the extent that it relates to a pure protection contract that is a long-term care insurance contract~~ [deleted].
- (4) In the case of a marketing communication that relates to:
- (a) a *UCITS scheme* or an *EEA UCITS scheme*, or
- (b) insurance distribution;
- (2) and (3) do not limit the application of this *rule*.

...

**6 Information about the firm, its services and remuneration****6.1 Information about the firm and compensation information (non-MiFID and non-insurance distribution provisions)****Application**

- 6.1.1 R (1) This section applies to a *firm* that carries on *designated investment business*, other than *MiFID*, *equivalent third country* or *optional exemption business* or insurance distribution activities, for a retail client.

...

...

**6.1ZA Information about the firm and compensation information (MiFID and insurance distribution provisions)****6.1ZA.1 Application**

- 6.1ZA.1. R (1) Subject to (2) and (3), this section applies to a *firm*:

1

(a) in relation to its *MiFID*, *equivalent third country* or *optional exemption business*; or

(b) carrying on insurance distribution activities.

- (2) *COBS* 6.1ZA.2.12R does not apply to a *firm* in respect of its *MiFID optional exemption business*.

- (3) Where a *firm* is carrying on insurance distribution activities for a professional client only those rules which implement the requirements of the *IDD* apply.

- 6.1ZA.1.1A G For *COBS* 6.1ZA.1.1R(3) if a *rule* implements a requirement of the *IDD*, a note (“**Note:**”) follows the *rule* indicating which provision is being implemented.

- 6.1ZA.1. G This section imposes requirements relating to disclosure of information to  
2 *clients* that are additional to the general requirements in *COBS* 2.2A.

...

**6.1ZA.2 Information about a firm and its services**Information about a firm and its services: MiFID business

- 6.1ZA.2. EU ...

1

...

Status disclosure general information: insurance distribution

- 6.1ZA.2. 4A    R    In good time before the conclusion of a *life policy* and, if necessary, on its amendment:
- (1)    a *firm* must provide the *client* with at least the following information:
    - (a)    its identity, address and whether it is an *insurance intermediary* or an *insurance undertaking*;
    - (b)    whether it provides a *personal recommendation* about the insurance products offered;
    - (c)    the procedures allowing *clients* and other interested parties to register *complaints* about the *firm* with the *firm* and the *Financial Ombudsman Service* or, if the *Financial Ombudsman Service* does not apply, information about the out-of-court complaint and redress procedures available for the settlement of disputes between the *firm* and its *clients*; and
  - (2)    an *insurance intermediary* must also provide the *client* with the following information:
    - (a)    the fact that it is included in the *Financial Services Register* (or if it is not on the *Financial Services Register*, the register in which it has been included) and the means for verifying this;
    - (b)    whether it has a direct or indirect holding representing 10% or more of the voting rights or capital in a given *insurance undertaking* (that is not a *pure reinsurer*);
    - (c)    whether a given *insurance undertaking* (that is not a *pure reinsurer*) or its *parent undertaking* has a direct or indirect holding representing 10% or more of the voting rights or capital in the *firm*; and
    - (d)    whether it is representing the *client* or is acting for and on behalf of the *insurer*.

[Note: articles 18 and 19(1)(a) and (b) of the *IDD*]

- 6.1ZA.2. 4B    R    Where an *insurance intermediary* proposes or advises on a *life policy*, in good time before the conclusion of a *life policy* and, if necessary, on its amendment, an *insurance intermediary* must provide the *client* at least with

information on whether:

- (1) it gives a *personal recommendation*, on the basis of a fair and personal analysis; or
- (2) it is under a contractual obligation to conduct *insurance distribution* exclusively with one or more *insurance undertakings*, in which case it must provide the names of those *insurance undertakings*; or
- (3) (a) it is not under a contractual obligation to conduct *insurance distribution* exclusively with one or more *insurance undertakings*; and  
 (b) it does not give a *personal recommendation* on the basis of a fair and personal analysis;

in which case it must provide its *client* with the name of those *insurance undertakings* with which the *insurance intermediary* may and does conduct business.

**[Note:** article 19(1)(c) of the *IDD*]

6.1ZA.2. R If an *insurance intermediary* informs a *client* that it gives a *personal*  
 4C *recommendation* on the basis of a fair and personal analysis, it must give that *personal recommendation* on the basis of an analysis of a sufficiently large number of insurance contracts available on the market to enable it to make a *personal recommendation* in accordance with professional criteria, regarding which *life policy* would be adequate to meet the *client's* needs.

**[Note:** article 20(3) of the *IDD*]

...

Information about costs and associated charges: MiFID and insurance distribution

6.1ZA.2. R ~~COBS 2.2A.2R requires a~~ A firm to must provide a *client* with at least the  
 7 following information about all costs and related charges (see also *COBS 2.2A.2R*). That information must include:

- (1) information relating to:
  - (a) both *investment services* and *ancillary services*; and
  - (b) the distribution of an *insurance based investment product*;
- (2) where relevant, the cost of any *investment advice*;
- (3) the cost of the *financial instrument* or *insurance based investment product* recommended or marketed to the *client*;
- (4) information on how the *client* may pay; and

- (5) details of any third party payments.

[**Note:** article 24(4)(c) of *MiFID*, article 29(1)(c) of the *IDD*]

- 6.1ZA.2. R (1) A *firm* must aggregate the information about costs and charges  
8 required by *COBS* 2.2A.2R and *COBS* 6.1ZA.2.7R, where those costs and charges are not caused by the occurrence of underlying market risk. This is to allow the *client* to understand the overall cost, and the cumulative effect on the return, of the investment.
- (2) A *firm* must provide the *client* with an itemised breakdown of the costs and charges information required by (1) and *COBS* 6.1ZA.2.7R when requested by the *client*.
- (3) The information must, where applicable, be provided to the *client* on a regular basis, and at least annually, during the life of the investment.

[**Note:** article 24(4) of *MiFID*, second paragraph of article 29(1) of the *IDD*]

- 6.1ZA.2. R (1) A *firm* must provide the information required by *COBS* 6.1ZA.2.7R  
9 and *COBS* 6.1ZA.2.8R in a comprehensible form in such a manner that the *client* is reasonably able to understand the nature and risks of the *investment service* and of the specific type of *financial instrument or insurance based investment product* that is being offered and, consequently, to take investment decisions on an informed basis.
- (2) That information may be provided in a standardised format.

[**Note:** article 24(5) of *MiFID*, third paragraph of article 29(1) of the *IDD*]

#### Costs and associated charges disclosure: MiFID

6.1ZA.2. EU ...  
10

...

#### Remuneration received by firm disclosure: insurance intermediaries

6.1ZA.2. R In good time before the conclusion of the *life policy* and if necessary, on its  
11A amendment, an *insurance intermediary* must provide the *client* with  
information:

- (1) on the nature of the *remuneration* received in relation to the *life policy*;
- (2) about whether in relation to the *life policy* it works on the basis of:
- (a) a *fee*, that is *remuneration* paid directly by the *client*; or

- (b) a commission of any kind, that is the remuneration included in the premium; or
- (c) any other type of remuneration, including an economic benefit of any kind offered or given in connection with the contract; or
- (d) on the basis of a combination of any type of remuneration set out above in (a), (b) and (c).

**[Note: article 19(1)(d) and (e) of the IDD]**

Remuneration of employees disclosure: insurers

- 6.1ZA.2.11B R In good time before the conclusion of a life policy, an insurance undertaking must provide the client with information on the nature of the remuneration received by its employees in relation to the life policy.

**[Note: article 19(4) of the IDD]**

General remuneration disclosure: insurance distributors

- 6.1ZA.2.11C R The remuneration referred to in this section includes remuneration that is not guaranteed or which is contingent on meeting certain targets.
- 6.1ZA.2.11D G The information required to be disclosed in COBS 6.1ZA.2.11A and COBS 6.1ZA.2.11B includes the type of the remuneration and taking into account the clear, fair and not misleading rule (COBS 4.1), should also include the source of the remuneration.
- 6.1ZA.2.11E G When considering what information to provide about the remuneration, a firm should include all remuneration which the firm (or its employee) receives or may receive in relation to the distribution of the life policy. This includes remuneration:
- (1) provided indirectly by the insurer or another firm within the distribution chain; or
  - (2) provided by way of a bonus (whether financial or non-financial) paid to the firm by the insurer or another firm or provided by the firm to its employees where this bonus is contingent on the achievement of a target to which the distribution of the particular life policy could contribute. For example, this can include cash bonuses paid for achieving a sales target and additional annual leave for achieving a high customer service score on sales calls, profit share arrangements, overrides or other enhanced commissions.
- 6.1ZA.2.11F R If any payments, other than ongoing premiums and scheduled payments, are made by the client under the life policy after its conclusion, a firm must make the disclosures under COBS 6.1ZA.2.11A or COBS 6.1ZA.2.11B, for each such payment.

[Note: articles 19(3) and (5) of the IDD]

- 6.1ZA.2. 11G    G    Examples of the type of payments made are those for mid-term adjustments, administration fees and cancellation fees.

Insurance distributors fee disclosure: additional requirements

- 6.1ZA.2. 11H    R    (1)    Where a *fee* is payable in relation to a *life policy*, the *firm* must inform its *client* of the amount of the *fee*.
- (2)    The information in paragraph (1) must be given before the *client* incurs liability to pay the *fee*, or before conclusion of the *life policy*, whichever is earlier.
- (3)    To the extent that it is not possible for an amount to be given, a *firm* must give the basis for its calculation.

[Note: articles 19(2) and (5) of the IDD]

- 6.1ZA.2. 11I    R    The *fee* disclosure requirement extends to all such *fees* that may be charged during the life of a *policy*.

[Note: article 19(3) of the IDD]

Information about costs and charges of different services or products: MiFID business

- 6.1ZA.2. 12    R    (1)    This *rule* applies to a *firm* that offers an *investment service* with another service or product or as part of a package or as a condition of the same agreement or package.
- (2)    The *firm* must inform the *client* whether it is possible to buy the different components separately and must provide information on the costs and charges of each component.
- (3)    If the agreement or package is offered to a *retail client*, the *firm* must:
- (a)    inform that *retail client* if the risks resulting from the agreement or package are likely to be different from the risks associated with the components when taken separately; and
- (b)    provide that *retail client* with an adequate description of the different components of the agreement or package and the way in which its interaction modifies the risks.

[Note: article 24(11) of MiFID]

Cross selling requirements where insurance is the primary product

- 6.1ZA.2.    R    When offering a non-insurance ancillary product or service as part of a

12Apackage or the same agreement with a *life policy*, a *firm* must:

- (1) inform the *client* whether it is possible to buy the different components separately; and if so
- (2) provide the *client* with an adequate description of:
  - (a) the different components;
  - (b) where applicable, any way in which the risk or *insurance* coverage resulting from the agreement or package differs from that associated with the components taken separately; and
  - (c) the separate evidence of the costs and charges of each component.

**[Note:** article 24(1) and (2) of the *IDD*]Cross selling requirements where insurance is the ancillary product

6.1ZA.2.12B    **R**    When offering a *life policy* ancillary to and as part of a package or in the same agreement with a non-insurance product or service, a *firm* must offer the *client* the option of buying the non-insurance goods or services separately.

6.1ZA.2.12C    **R**    The requirement to offer components separately in *COBS* 6.1ZA.2.12B does not apply where the non-insurance product or service is any of the following:

- (1) *investment services or activities*; or
- (2) a credit agreement as defined in point 3 of article 4 of the *MCD* which is:
  - (i) an *MCD credit agreement*; or
  - (ii) an *exempt MCD credit agreement*; or
  - (iii) a *CBTL credit agreement*; or
  - (iv) a credit agreement referred to in articles 72G(3B) and (4) of the *Regulated Activities Order*; or
- (4) a payment account as defined in regulation 2(1) of the *Payment Accounts Regulations*.

**[Note:** article 24(3) of the *IDD*]

6.1ZA.2.12D    **R**    *COBS* 6.1ZA.2.12A to *COBS* 6.1ZA.2.12C do not prevent the distribution of insurance products which provide coverage for various types of risks (multi-risk insurance policies).



[Note: article 24(5) of the IDD]

- 6.1ZA.2. G In addition to the *rules* in COBS 6.1ZA.2.12A and 6.1ZA.2.12B *firms* shall still comply with the other *rules* in COBS relating to the offer and sale of *insurance* products that form part of the package or agreement, such as COBS 2.5 (Optional additional products).

[Note: article 24(6) of the IDD]

Timing of disclosure: MiFID business

...

Medium of disclosure: MiFID business

...

Medium of disclosure: insurance distribution

- 6.1ZA.2. R Where this section requires an *insurance distributor* to provide information to *clients* in relation to a *life policy* it must do so in accordance with COBS 7.4 (Means of communication to clients).

[Note: article 23 of the IDD]

Keeping the client up to date: MiFID business

...

Existing clients: MiFID business

...

Compensation information: MiFID business

...

Record keeping: information about the firm and compensation information: MiFID business and insurance distribution

- 6.1ZA.2. G *Firms* are reminded of the general record-keeping requirements in SYSC 3.2 (for insurers and managing agents) and SYSC 9 (for other *firms*).

...

## **7 Insurance ~~mediation~~ distribution**

### **7.1 Application**

- 7.1.1 R This chapter applies to a *firm* carrying on *insurance-~~mediation~~ distribution activities* in relation to a *life policy*, but only if the *State of the commitment* is an *EEA State*.

[**Note:** articles 1 and 12 (4) and (5) , 20(1) and 23 of the *Insurance Mediation Directive IDD*]

COBS 7.2 (Information to be provided by an insurance intermediary) is deleted in its entirety. The deleted text is not shown.

## **7.2 Information to be provided by an insurance intermediary [deleted]**

After the deleted COBS 7.2 (Information to be provided by an insurance intermediary) insert the following new section. The text is not underlined.

## **7.3 Additional insurance distribution obligations**

### Demands and needs

- 7.3.1 R (1) Prior to the conclusion of a *life policy*, a *firm* must specify on the basis of the information obtained from the *client*, the demands and needs of that *client*.
- (2) The details must be modulated according to the complexity of the *life policy* proposed and the type of *client*.
- (3) A statement of the demands and needs must be communicated to the *client* prior to the conclusion of a *life policy*.
- (4) This *rule* does not apply when a *firm* makes a *personal recommendation* in relation to a *life policy*.

[**Note:** first paragraph of article 20(1) and article 20(2) of the *IDD*]

- 7.3.2 G *Firms* are reminded that they are obliged to take reasonable steps to ensure that a *personal recommendation* is suitable for the *client* and that, whenever a *personal recommendation* relates to a *life policy*, a *suitability report* is required (see *COBS* 9 or 9A).

- 7.3.3 G A *firm* may obtain information from the *client* in a number of ways including, for example, by asking the *client* questions in person or by way of a questionnaire prior to any *life policy* being proposed.

- 7.3.4 R When proposing a *life policy* a *firm* must ensure it is consistent with the *client's* insurance demands and needs.

[**Note:** recital 44 to, and second paragraph of article 20(1) of, the *IDD*]

- 7.3.5 R The sale of a *life policy* must always be accompanied by a demands and

needs test on the basis of information obtained from the *client*.

[**Note:** recital 44 to, and article 20(1) of, the *IDD*]

#### Distribution of connected contracts through exempt persons

- 7.3.6 R (1) Where an *insurance distributor* is distributing through a *person* relying on the connected contracts exemption in article 72B of the *Regulated Activities Order* the *insurance distributor* must ensure that the requirements in (2) are met.
- (2) The requirements referred to in (1) are:
- (a) SYSC 19F.2 (IDD remuneration incentives)
  - (b) COBS 4 (Communicating with clients, including fair financial promotions);
  - (c) COBS 2.1.1R (client's best interests);
  - (d) COBS 6.1ZA.2.4AR(1)(a) and (c);
  - (e) COBS 7.3.1R to COBS 7.3.5R (Additional insurance distribution obligations: demands and needs); and
  - (f) COBS 6.1ZA.2.12A to 6.1ZA.2.12D (cross-selling).

[**Note:** article 1(4) of the *IDD*]

- 7.3.7 G To comply with the relevant chapter of SYSC or *Principle 3*, an *insurance distributor* will need to have appropriate arrangements in place to ensure compliance with COBS 7.3.6R.

After COBS 7.3 (Additional insurance distribution obligations) insert the following new section. The text is not underlined.

#### **7.4 Insurance distribution: Means of communication to customers**

- 7.4.1 R This section applies to all information required to be provided to a *client* in COBS 7.3 and where it is stated to apply in other sections or chapters.

##### Means of communication to customers: Non-telephone sales

- 7.4.2 R (1) A *firm* must communicate information to a *client* using any of the following:
- (a) paper; or
  - (b) a *durable medium* other than paper; or

- (c) a website (where it does not constitute a *durable medium*) where the *website conditions* are satisfied.
- (2) The *firm* must communicate the information in (1):
  - (a) in a clear and accurate manner, comprehensible to the *client*;
  - (b) in an official language of the *State of the risk* or in any other language agreed by the parties; and
  - (c) free of charge.

[**Note:** article 23(1), (2), (4) and (5) of the *IDD*]

- 7.4.3 R Where the information is communicated using a *durable medium*, other than paper or by means of a website, the *firm* must, upon request and free of charge, also send the *customer* a paper copy.

[**Note:** article 23(3) of the *IDD*]

Means of communications to clients: Telephone sales

- 7.4.4 R In the case of telephone selling:
- (1) the information must be given in accordance with the distance marketing disclosure *rules* (see *COBS 5*); and
  - (2) if prior to the conclusion of the contract the information is provided:
    - (a) orally; or
    - (b) on a *durable medium* other than paper;

the *firm* must also provide the information to the *client* in accordance with *COBS 7.4.2R* and *COBS 7.4.3R* immediately after the conclusion of the *life policy*.

[**Note:** article 23(7) of the *IDD*]

...

## **8 Client agreements (non-MiFID provisions)**

### **8.1 Client agreements: non-MiFID designated investment business**

Application

- 8.1.1 R (1) This chapter applies to a *firm* in relation to *designated investment business* carried on for a *retail client*.

...

- (2A) COBS 8.1.4R and COBS 8.1.5R also apply to a *firm* carrying on insurance distribution in relation to insurance based investment products for a professional client.

...

...

#### Record keeping: client agreements

- 8.1.4 R (1) A *firm* must establish a record that includes the document or documents agreed between it and a *client* which set out the rights and obligations of the parties, and the other terms on which it will provide services to the *client*.

...

[Note: article 30(4) of the IDD]

- 8.1.5 R For the purposes of this chapter, a *firm* may incorporate the rights and duties of the parties into an agreement by referring to other documents or legal texts.

[Note: article 30(4) of the IDD]

- 8.1.6 G When considering its approach to client agreements, a *firm* should be aware of other obligations in the *Handbook* which may be relevant. These include the *fair, clear and not misleading rule*, the *rules* on disclosure of information to a *client* before providing services, the *rules* on distance communications (principally in *COBS 2.2, 5, 6 and 13*) and the provisions on record keeping (principally in *SYSC 3, for insurers and managing agents, and SYSC 9, for other firms*).

...

## 9 **Suitability (including basic advice) (~~non-~~ other than MiFID and insurance based investment products provisions)**

### 9.1 **Application and purpose**

#### Application

- 9.1.1 R This chapter applies to a *firm* which:
- (a) makes a *personal recommendation* to a *retail client* in relation to a *designated investment*; or
  - (b) *manages investments* of a *retail client* of the *firm*;

- (c) manages the assets of an *occupational pension scheme, stakeholder pension scheme or personal pension scheme*,

other than in relation to its *MiFID, equivalent third country or optional exemption business or to an insurance based investment product*.

- 9.1.1A G *COBS 9A contains suitability requirements which apply in respect of insurance based investment products, or in respect of a firm's MiFID, equivalent third country or optional exemption business involving the provision of investment advice or portfolio management.*

Providing basic advice on a stakeholder product

- 9.1.2 R If a firm makes a *personal recommendation* in relation to a *stakeholder product*, other than in the course of *MiFID or equivalent third country business or in relation to an insurance based investment product*, it may choose to give *basic advice* under the *rules* in section 9.6 of this chapter instead of the *rules* in the remainder of this chapter.

...

Life policies for professional clients

- 9.1.5 R If the firm makes a *personal recommendation* to a *professional client* to take out a *life policy* which is not an insurance based investment product, this chapter applies, but only those *rules* which implement the requirements of the *Insurance Mediation Directive IDD*.

- 9.1.6 G If a *rule* implements a requirement of the *Insurance Mediation Directive IDD*, a note (“**Note:**”) follows the *rule* indicating which provision is being implemented. *COBS 7 (Insurance mediation) 2.1 (acting honestly fairly and professionally)*, *COBS 2.6 (additional insurance distribution obligations)*, *COBS 4 (communicating with clients)*, *COBS 6 (information about the firm, its services and remuneration)* and *COBS 14 (product information)* contains further *rules* implementing the *Insurance Mediation Directive IDD*.

- 9.1.7 G ~~The effect of these application rules and the fact that the Insurance Mediation Directive does not apply to an insurer (unless it is involved in mediation activities) is that this chapter does not apply applies to an insurer when it is making a personal recommendation to a professional client to take out a life policy. [deleted]~~

...

- 9.1.9 G ~~COBS 7 (Insurance mediation) 6.1ZA~~ contains requirements relating to the basis on which certain recommendations may be made, including requirements relating to fair analysis and range and scope.

## 9.2 Assessing suitability

Assessing suitability: the obligations

- 9.2.1 R (1) A *firm* must:
- (a) take reasonable steps to ensure that a *personal recommendation*, or a decision to trade, is suitable for its *client*; and
  - (b) ensure that any *life policy* proposed is consistent with the *client's* insurance demands and needs.
- (2) When making the *personal recommendation* or *managing* his *investments*, the *firm* must obtain the necessary information regarding the *client's*:
- (a) knowledge and experience in the investment field relevant to the specific type of *designated investment* or service;
  - (b) financial situation; and
  - (c) investment objectives;
- so as to enable the *firm* to make the recommendation, or take the decision, which is suitable for him and for a *life policy*, to propose a contract that is consistent with the *client's* insurance demands and needs.

[**Note:** ~~article 12(2) of the *Insurance Mediation Directive*~~ recital 44 to, and second paragraph of article 20(1), of the *IDD*]

- 9.2.1A G A *client's* insurance demands and needs are those which would need to be obtained under *COBS* 7.3 where a contract is sold without the provision of a *personal recommendation*.

...

- 9.2.7 G Although a *firm* may not be permitted to make a *personal recommendation* or take a decision to trade because it does not have the necessary information, its *client* may still ask the *firm* to provide another service such as, for example, to arrange a deal or to deal as agent for the *client*. If this happens, the *firm* should ensure that it receives written confirmation of the instructions. The *firm* should also bear in mind the *client's best interests rule* and any obligation it may have under the *rules* relating to appropriateness when providing the different service (see *COBS* 10, Appropriateness (for non-advised services)) and *COBS* 10A, Appropriateness (for non-advised services) (MiFID provisions and insurance based investment products)).

...

- 9.4.2 R If a *firm* makes a *personal recommendation* in relation to a *life policy*, it must provide the *client* with a *suitability report*.

**[Note: article 12(3) of the *Insurance Mediation Directive* first and third paragraphs of article 20(1) of the *IDD*]**

- 9.4.3 R The obligation to provide a *suitability report* does not apply:

...

- (3) ~~to any *personal recommendation* by a *friendly society* for a small *life policy* sold by it with a *premium* not exceeding £50 a year or, if payable weekly, £1 a week~~ [deleted];
- (4) if the *personal recommendation* is to increase a regular *premium* to an existing contract;
- (5) if the *personal recommendation* is to invest additional single *premiums* or single contributions to an existing *packaged product* to which a single *premium* or single contribution has previously been paid.

#### Timing

- 9.4.4 R A *firm* must provide the *suitability report* to the *client*:

- (1) in the case of a *life policy*, before the contract is concluded ~~unless the necessary information is provided orally or immediate cover is necessary~~;
- (2) in the case of a *personal pension scheme* or *stakeholder pension scheme* that is not a *life policy*, where the *rules* on cancellation (*COBS 15*) require notification of the right to cancel, no later than the fourteenth day after the contract is concluded; or
- (3) in any other case, when or as soon as possible after the transaction is effected or executed.

**[Note: article 12(3) of the *Insurance Mediation Directive* first and third paragraphs of article 20(1) of the *IDD* of the *IDD*]**

- 9.4.5 R ~~If, in respect of a *life policy*, the *firm* gives necessary information orally or gives immediate cover, it must provide a *suitability report* to the *client* in a *durable medium* immediately after the contract is concluded.~~  
[deleted]

**[Note: article 13(2) of the *Insurance Mediation Directive*]**

- 9.4.6 R In the case of telephone selling of a *life policy* (when the only contact between a *firm* and its *client* before conclusion of a contract is by telephone), the *suitability report* must be given in accordance with *COBS*



7.4.:

- (1) ~~comply with the distance marketing disclosure rules (COBS 5.1);~~
- (2) ~~be provided immediately after; and~~
- (3) ~~be in a durable medium.~~

[**Note:** ~~article 13(3) of the Insurance Mediation Directive~~ article 23(7) of the IDD]

## Contents

- 9.4.7 R The *suitability report* must, at least:
- (1) specify, on the basis of the information obtained from the *client*, the *client's* demands and needs;
  - (2) explain why the *firm* has concluded that the recommended transaction is suitable for the *client* having regard to the information provided by the *client*; and
  - (3) explain any possible disadvantages of the transaction for the *client*; and
  - (4) in the case of a *life policy*, include a personalised recommendation explaining why a particular *life policy* would best meet the *client's* demands and needs.

[**Note:** ~~article 12(3) of the Insurance Mediation Directive~~ first and third paragraphs of article 20(1) of the IDD]

- 9.4.8 G A *firm* ~~should~~ must ~~give the *client* such details as are appropriate~~ ensure  
 R the details are modulated according to the complexity of the transaction or the proposed *contract of insurance* and the type of *client*.

[**Note:** ~~article 12(3) of the Insurance Mediation Directive~~ article 20(2) of the IDD]

- 9.4.8A R Where a *friendly society* has given a *personal recommendation* on a small *life policy* in COBS 9.2.9R(2), the *suitability report* must include, at least, the information in COBS 9.4.7R(1) and (4).

[**Note:** first and third paragraphs of article 20(1) of the IDD]

Means of communication (life policies)

- 9.4.9 R If a *firm* is providing a *suitability report* in the course of *insurance mediation distribution activity*, the information must be provided in accordance with COBS 7.4.:

- (1) ~~in a durable medium which is available and accessible to the *client*;~~

- (2) ~~in a clear and accurate manner, comprehensible to the *client*; and~~
- (3) ~~in an official language of the *State of the commitment* in which the *contract of insurance* is made or in any other language agreed by the parties.~~

[~~Note: article 13 of the *Insurance Mediation Directive*~~ article 23 of the *IDD*]

...

## 9.6 Special rules for giving basic advice on a stakeholder product

...

9.6.18A R (1) A firm providing basic advice on a stakeholder product that is a life policy must, in addition to providing the statement of demands and needs required under COBS 7.3.1R, provide the *client* with a personalised explanation of why a particular life policy would best meet the *client's* demands and needs.

(2) The details must be modulated according to the complexity of the life policy proposed and the type of *client*.

(3) The information in (1) must be provided in accordance with COBS 7.4.

[~~Note: third paragraph of article 20(1) and 20(2) of the *IDD*~~]

...

## 9 Annex Basic advice initial disclosure information 1

This Annex belongs to COBS 9.6.5R(1)

Information that comprises the following:	
...	...
[ <del>Note: in respect of 1, 2, 4, 5, and 6, Articles 12 and 13 of the <i>Insurance mediation directive</i> and in respect of 7, Article article10 of the <i>Investors compensation directive</i></del> ]	

### 9A.1 Suitability (MiFID, equivalent third country or optional exemption business and insurance based investment products)

Application and purpose

...

## Application

- 9A.1.1 R This chapter applies to a *firm* which provides:
- (1) *investment advice or portfolio management in the course of MiFID, equivalent third country or optional exemption business; or*
  - (2) *investment advice in relation to an insurance based investment product.*

...

**9A.2 Assessing suitability**

## Assessing suitability: the obligations

- 9A.2.1 R When providing *investment advice or portfolio management* a *firm* must:
- (1) obtain the necessary information regarding the *client's*:
    - (a) knowledge and experience in the investment field relevant to the specific type of *financial instrument, insurance based investment product* or service;
    - (b) financial situation including his ability to bear losses; and
    - (c) investment objectives including his risk tolerance,
 so as to comply with (2);
  - (2) only recommend investment services, and financial instruments and insurance based investment products, or take ~~the decision~~ decisions to trade, which ~~is~~ are suitable for the *client* and, in particular, in accordance with the *client's* risk tolerance and ability to bear losses.

[**Note:** first paragraph of article 25(2) of *MiFID*, first paragraph of article 30(1) of the *IDD*]

...

- 9A.2.3A R When proposing an *insurance based investment product* a *firm* must ensure it is consistent with the *client's* insurance demands and needs.

[**Note:** recital 44 to, and second paragraph article 20(1) of, the *IDD*]

...

Insufficient information

- 9A.2.14 G Although a *firm* may not be permitted to ~~make a personal recommendation~~

provide investment advice or take a decision to trade because it does not have the necessary information, its *client* may still ask the *firm* to provide another service such as, for example, to arrange a deal or to deal as agent for the *client*. If this happens, the *firm* should ensure that it receives written confirmation of the instructions. The *firm* should also bear in mind the *client's best interests rule* and any obligation it may have under the *rules* relating to appropriateness when providing the different service (see COBS 10A (Appropriateness (for non-advised services in relation to MiFID provisions or non-advised sales of insurance based investment products))).

...

#### Bundled packages

- 9A.2.16 R Where a *firm* provides a ~~personal recommendation~~ investment advice recommending a package of services or products bundled pursuant to COBS 6.1ZA.2.12R (for MiFID business) or COBS 6.1ZA.2.12AR to COBS 6.1ZA.2.12ER (for *insurance based investment products*), the *firm* must ensure that the overall bundled package is suitable for the *client*.

[**Note:** second paragraph of article 25(2) of *MiFID*, second paragraph of article 30(1) IDD]

- 9A.2.17 G When considering the suitability of a particular *financial instrument* or *insurance based investment product* which is linked directly or indirectly to any form of loan, mortgage or *home reversion plan*, a *firm* should take account of the suitability of the overall transaction. The *firm* should have regard to any applicable suitability *rules* in MCOB.

...

#### Investments subject to restrictions on retail distribution: MiFID business and insurance based investment products

- 9A.2.22 G (1) *Firms* should note that restrictions and specific requirements apply to the retail distribution of certain ~~financial instruments~~ investments:
- (a) *non-mainstream pooled investments* are subject to a restriction on *financial promotions* (see section 238 of the Act and COBS 4.12);
  - (b) *non-readily realisable securities* are subject to a restriction on *direct offer financial promotions* (see COBS 4.7);
  - (c) *mutual society shares* are subject to specific requirements in relation to dealing and arranging activities (see COBS 22.2);
  - (d) *contingent convertible instruments and CoCo funds* are subject to a restriction on sales and on promotions (see COBS 22.3).

- (2) A *firm* should be satisfied that an exemption is available before recommending a ~~*financial instrument*~~ *an investment* subject to a restriction on distribution to a *retail client*, noting in particular that a *personal recommendation* to invest will generally incorporate a *financial promotion*.
- (3) In addition to assessing whether the promotion is permitted, a *firm* giving advice on a ~~*financial instrument*~~ *an investment* subject to a restriction on distribution should comply with their obligations in COBS 9A and ensure any *personal recommendation* is suitable for its *client*.
- (4) In considering its obligations under COBS 9A, a *firm* purchasing a ~~*financial instrument*~~ *an investment* subject to a restriction on distribution on behalf of a *retail client* as part of a discretionary management agreement should exercise particular care to ensure the transaction is suitable and in the *client's* best interests, having regard to the *FCA's* view that such ~~*financial instruments*~~ *investments* pose particular risks of inappropriate distribution.
- (5) A restriction on promotion does not affect a transaction where there has been no prior communication with the *client* in connection with the investment by the *firm* or a person connected to the *firm*. Nonetheless, if promotion of a ~~*financial instrument*~~ *an investment* to a *retail client* would not have been permitted, then the discretionary manager's decision to purchase it on behalf of the *retail client* should be supported by detailed and robust justification of his assessment of suitability.

...

### 9A.3 Information to be provided to the client

...

#### Suitability reports

- 9A.3.2 R (1) This *rule* applies in relation to *investment advice* given to a *retail client*.
- (2) When providing *investment advice*, a *firm* must, before the transaction is concluded, provide the *client* with a *suitability report* in a *durable medium*;
- (a) specifying the advice given and how that advice meets the preferences, objectives and other characteristics of the *client*;
  - (b) for an insurance based investment product:
    - (i) specify, on the basis of the information obtained from

the client, the client's demands and needs; and

- (ii) include a personalised recommendation explaining why a particular insurance based investment product would best meet the client's demands and needs.

The details in (i) and (ii) must be modulated according to the complexity of the contract of insurance proposed and the type of client.

- (3) Where the ~~agreement to buy or sell a financial instrument~~ transaction is concluded using a means of distance communication which prevents the prior delivery of the *suitability report*, the firm may provide the *suitability report* in a *durable medium* immediately after the *client* is bound by ~~any such agreement~~ the transaction, provided both the following conditions are met:
  - (a) the *client* has consented to receiving the *suitability report* without undue delay after the conclusion of the transaction; and
  - (b) the *firm* has given the *client* the option of delaying the transaction in order to receive the *suitability report* in advance.
- (4) Where a *firm* provides a *portfolio management* service or has informed the *client* that it will carry out periodic assessment of suitability, the periodic report, provided under COBS 16A.2.1R, must contain an updated statement of how the *client's* investments meet the preferences, objectives and other characteristics of the *client*.

[**Note:** second, third and fourth paragraphs of article 25(6) of, and recital (82) to, *MiFID*; article 20(1), article 20(2), second paragraph of article 22(1) and second and third paragraphs of article 30(5) of the *IDD*]

9A.3.2A R Where a firm gives a personal recommendation to a professional client on an insurance based investment product it must, prior to the conclusion of the contract, provide to the client the information in COBS 9A.3.2R(2)(b) in accordance with COBS 7.4.

[**Note:** article 20(1) and 20(2) of the *IDD*]

...

Periodic assessments: MiFID business and insurance based investment products

9A.3.6 R A firm must;

- (1) in relation to an insurance based investment product, at least in good time prior to the conclusion of the contract;

(2) otherwise, in good time before it provides its *investment advice*;

inform the *client* whether it will provide the *client* with a periodic assessment of the suitability of the *financial instruments* or the insurance based investment products recommended to the *client*.

[**Note:** article 24(4)(a)(iii) of *MiFID*, article 29(1)(a) of the *IDD*]

9A.3.7 G *COBS* 9A.3.6R supplements *COBS* 2.2A.2R (information disclosure before providing services (MiFID provisions and insurance distribution)).

...

## 9A.4 Record keeping and retention periods for suitability records

### Record keeping

9A.4.1 G A *firm* to which SYSC 9 applies is required to keep orderly records of its business and internal organisation (see SYSC 9, General rules on recording-keeping). The records may be expected to reflect the different effect of the requirements in this chapter depending on whether the *client* is a *retail client* or a *professional client*; for example, in respect of information about the *client* which the *firm* must obtain and whether the *firm* is required to provide a *suitability report*.

9A.4.2 G A *firm* should refer to SYSC 3.2 and SYSC 3.3 (for insurers and managing agents) and SYSC 9 (for other firms) for its obligations in relation to record keeping.

...

## 10 Appropriateness (for non-MiFID and non-insurance based investment products non-advised services) (non-MiFID provisions and non-insurance based investment products)

...

## 10A Appropriateness (for non-advised services) (MiFID provisions and insurance based investment products)

### 10A.1 Application

...

#### Application

10A.1.1 R This chapter applies to a *firm* which;

(1) provides *investment services* in the course of *MiFID* or equivalent *third country business*; or

(2) carries on insurance distribution in relation to an insurance based

investment product:

other than ~~making~~ when the *firm* ~~carries~~ makes a *personal recommendation* or *portfolio management*.

...

**10A.2 Assessing appropriateness: the obligations**

- 10A.2.1 R ~~When providing a service to which this chapter applies, a~~ A *firm* must ask the *client* to provide information regarding that *client's* knowledge and experience in the investment field relevant to the specific type of product or service offered or demanded to enable the *firm* to assess whether the service or product envisaged is appropriate for the *client*.

[**Note:** article 25(3) of *MIFID*, first paragraph of article 30(2) of the *IDD*]

- 10A.2.1 A G A *firm* carrying on *insurance distribution* is also required to comply with the requirements in *COBS* 7.3 (additional insurance distribution obligations: demand and needs).

[**Note:** first paragraph of article 30(2) of the *IDD*]

## Bundled packages

- 10A.2.2 R Where a bundle of services or products is envisaged pursuant to *COBS* 6.1ZA.2.12R (for MiFID business) or *COBS* 6.1ZA.2.12AR to *COBS* 6.1ZA.2.12E (for *insurance based investment products*), the assessment made pursuant to *COBS* 10A.2.1R must consider whether the overall bundled package is appropriate.

[**Note:** article 25(3) of *MiFID*, first paragraph of article 30(2) of the *IDD*]

...

## No duty to communicate firm's assessment of knowledge and experience

- 10A.2.1 G If a *firm* is satisfied that the *client* has the necessary experience and knowledge in order to understand the risks involved in relation to the product or service, there is no duty to communicate this to the *client*. If the *firm* does so, it must not do so in a way that amounts to making a *personal recommendation* unless it complies with the rules in *COBS* 9A (MiFID provisions and insurance based investment products)).

**10A.3 Warning the client**

- 10A.3.1 R (1) If a *firm* considers, on the basis of information received to enable it to assess appropriateness, that the product or service is not appropriate for the *client*, the *firm* must warn the *client*.



- (2) This warning may be provided in a standardised format.

[**Note:** article 25(3) of *MiFID*, second paragraph of article 30(2) of the IDD]

- 10A.3.2 R (1) If the *client* does not provide the information to enable the *firm* to assess appropriateness, or if the *client* provides insufficient information regarding their knowledge and experience, the *firm* must warn the *client* that the *firm* is not in a position to determine whether the service or product envisaged is appropriate for the *client*.

- (2) This warning may be provided in a standardised format.

[**Note:** article 25(3) of *MiFID*, third paragraph of article 30(2) of the IDD]

...

#### 10A.4 Assessing appropriateness: when it need not be done due to type of investment

- 10A.4.1 R (1) A *firm* is not required to ask its *client* to provide information or assess appropriateness if either (a) or (aa), and both (b) and (c), are met:
- (a) the service:
    - (i) only consists of execution or reception and transmission of *client* orders, with or without *ancillary services*, excluding *ancillary service* (2) in section B of Annex I to *MiFID* (granting of credits or loans), where the relevant credits or loans do not comprise existing credit limits of loans, current accounts and overdraft facilities of *clients*;
    - (ii) relates to particular *financial instruments* (see (2)); and
    - (iii) is provided at the initiative of the *client*; or
  - (aa) the insurance distribution activity:
    - (i) relates to particular types of insurance based investment products (see (2A)); and
    - (ii) is carried out at the initiative of the client; and
  - (b) the *client* has been clearly informed (whether in a standardised format or not) that, in the provision of this service or insurance distribution activity, the *firm* is not required to assess the appropriateness of the *financial instrument* or service or insurance based investment product provided or offered and that therefore the *client* does not benefit from the protection of the *rules* on assessing appropriateness; and

- (c) the *firm* complies with its obligations in relation to conflicts of interest.
- (2) The *financial instruments* referred to in (1)(a)(ii) are any of the following:
- (a) shares in companies admitted to trading on:
    - (i) a *regulated market*; or
    - (ii) an equivalent third country market; or
    - (iii) an *MTF*,
 except shares that embed a derivative and *units* in a collective investment undertaking that is not a *UCITS*; or
  - (b) bonds or other forms of securitised debt admitted to trading on:
    - (i) a *regulated market*; or
    - (ii) an equivalent third country market; or
    - (iii) an *MTF*,
 except those that embed a derivative or incorporate a structure which makes it difficult for the *client* to understand the risk involved; or
  - (c) *money market instruments*, excluding those that embed a derivative or incorporate a structure which makes it difficult for the *client* to understand the risk involved; or
  - (d) shares or *units* in a *UCITS*, excluding structured *UCITS* as referred to in the second subparagraph of article 36(1) of the *KII Regulation*; or
  - (e) *structured deposits*, excluding those that incorporate a structure which makes it difficult for the *client* to understand the risk of return or the cost of exiting the product before term; or
  - (f) other non-complex *financial instruments*.
- (2A) The *insurance based investment products* referred to in (1)(aa) are:
- (a) *insurance based investment products* which only provide investment exposure to *financial instruments* referred to in (2) and do not incorporate a structure which makes it difficult for the *client* to understand the risks involved; or
  - (b) other non-complex *insurance based investment products*.

(3) ...

[**Note:** article 25(4) of *MIFID*, article 30(3) of the *IDD*]

~~Non-complex~~ Other non-complex financial instruments

...

## **10A.5 Assessing appropriateness: guidance**

The initiative of the client

- 10A.5.1 G A service should be considered to be provided at the initiative of a *client* (see *COBS* 10A.4.1R(1)(a)(iii) and (aa)(ii)), unless the *client* demands it in response to a personalised communication from or on behalf of the *firm* to that *client* which contains an invitation or is intended to influence the *client* in respect of a specific *financial instrument*, *insurance based investment product* or specific transaction.

[**Note:** recital 85 to *MIFID*]

- 10A.5.2 G A service can be considered to be provided at the initiative of a *client* notwithstanding that the *client* demands it on the basis of any communication containing a promotion for, or offer of, *financial instruments* or *insurance based investment products* made by any means and that by its very nature is general and addressed to the public or a larger group or category of *clients*.

[**Note:** recital 85 to *MIFID*]

...

## **10A.6 When a firm need not assess appropriateness due to suitability assessment**

- 10A.6.1 G A *firm* need not assess appropriateness if it is receiving or transmitting an order ~~in relation to which~~ or carrying on *insurance distribution* in relation to an *insurance based investment product*, for which it has assessed suitability under *COBS* 9A (Suitability (MiFID, equivalent third country and optional exemption business)).
- 10A.6.2 G A *firm* may not need to assess appropriateness if it is able to rely on a recommendation made by an *investment firm* (see *COBS* 2.4.5G (Reliance on other investment firms: MiFID<sub>2</sub> and equivalent business)).

## **10A.7 Record keeping and retention periods for appropriateness records**

- 10A.7.1 G A *firm* is required to keep orderly records of its business and internal organisation, including all services and transactions undertaken by it. The

records may be expected to include the *client* information a *firm* obtains to assess appropriateness and should be adequate to indicate what the assessment was.

Record keeping: MiFID business

...

Record keeping: MiFID business and insurance based investment products

- 10A.7.3 G A *firm* should refer to SYSC 3.3 (for insurers and managing agents) and SYSC 9 (for other firms) for its obligations in relation to record keeping. This requires records kept for the purposes of this chapter to be retained for a period of at least five years.

...

## 14 Providing product information to clients

...

### 14.2 Providing product information to clients

Providing information about PRIIPs

- 14.2.-1 G (1) ...
- ...
- (3) A *firm* that sells a *life policy* that is also a *PRIIP* must provide the ~~*Solvency II Directive information*~~ information, as required by *COBS* 14.2.1R(2). Some or all of this information may be included in a *key information document* if this is required to be provided by, and such inclusion is permitted under, the *PRIIPs Regulation*.

The provision rules for products other than PRIIPS

- 14.2.1 R A *firm* that sells:
- (1) ...
- (2) a *life policy* to a *client*, must provide:
- (a) the *Solvency II Directive information* to that *client*;
- (b) a *client* with objective and relevant information about the *policy*:
- (i) in a comprehensible form to allow the *client* to make an informed decision;

- (ii) modulated in a way that takes into account the complexity of the *policy* and the type of *client*;
- (iii) whether or not the *firm* gives a *personal recommendation*;
- (iv) irrespective of whether the *policy* is part of a package pursuant to COBS 6.1ZA.2.12AR to COBS 6.1ZA.2.12ER;
- (c) The information in (b) must be provided prior to the conclusion of the *life policy* and in accordance with COBS 7.4, rather than in accordance with the other rules in this section.

[**Note:** in respect of (2)(a) article 185(1) of the *Solvency II Directive* and in respect of (2)(b) articles 20(1) first paragraph, 20(2), 20(4) and 23 of the *IDD*]

...

...

## **16A Reporting information to clients (MiFID and insurance based investment products provisions)**

### **16A.1 Application**

16A.1.1 R This ~~section~~ chapter applies to a *firm* in relation to:

- (1) its *MiFID*, *equivalent third country* or *optional exemption business*; or
- (2) carrying on *insurance distribution activities* in relation to an *insurance based investment product*.

...

### **16A.2 General client reporting and record keeping requirements**

- 16A.2.1 R
- (1) A *firm* must provide a *client* with adequate reports on the service provided in a *durable medium*.
  - (2) The reports must include:
    - (a) periodic communications to the *client*, taking into account the type and the complexity of the *financial instruments* or *insurance based investment products* involved and the nature of the service provided to the *client*; and

- (b) where applicable, the costs associated with the transactions and services undertaken on behalf of the *client*.

[**Note:** article 25(6) of *MIFID*, article 30(5) of the *IDD*]

- 16A.2.2 G A *firm* should refer to *SYSC* 3.2 (for insurers and managing agents) and *SYSC* 9 (~~Record keeping~~) (for other *firms*) for the requirements that apply in relation to the retention of records

...

### 16A.3 Occasional reporting: MiFID business

...

### 16A.4 Periodic reporting

Provision by a firm and contents: MiFID business

...

## TP 2 Other Transitional Provisions

(1)	(2)	(3)	(4)		(5)	(6)
	Material to which the transitional provision applies		Transitional provision		Transitional provision: dates in force	Handbook provisions: coming into force
...						
2.-2B	<i>COBS</i> 2.3A	R	The <i>rules</i> and <i>guidance</i> on inducements in <i>COBS</i> 2.3A:		From 3 January 2018	3 January 2018 ( <u>and in relation to an insurance based investment product, 23 February 2018</u> )
			(1)	apply to fees, commission, monetary and non-monetary benefits which are paid, provided or received by a <i>firm</i> in respect of:		

				(a)	(unless (b) applies) services that are provided to a <i>client</i> on or after 3 January 2018;		
				(b)	(in relation to an <i>insurance based investment product</i> ) services that are provided to a <i>client</i> on or after 23 February 2018; and		
			(2)	do not apply to fees, commission, monetary or non-monetary benefits which are paid, provided or received in respect of:			
				(a)	(unless (b) applies) services that are provided to a <i>client</i> before 3 January 2018		
				(b)	(in relation to an <i>insurance based investment product</i> ) services that are provided to a <i>client</i> on or after 23 February 2018.		
...							

[*Editor's note*: the text in this Annex takes into account changes suggested by CP17/7 *Insurance Distribution Directive Implementation – Consultation I* (March 2017) as if they were made. This Annex includes text based on the EIOPA 'Draft implementing Technical Standards concerning a standardised presentation format for the Insurance Product Information Document of the Insurance Distribution Directive' dated 7 February 2017]

## Annex I

### Amendments to the Insurance: Conduct of Business sourcebook (ICOBS)

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

#### 1 Annex 1 Application (see ICOBS 1.1.2R)

Part 1: Who?			
Modifications to the general application rule according to type of firm			
1	Third party processors		
1.1	R	(1)	This <i>rule</i> applies where a <i>firm</i> (or its <i>appointed representative</i> ) (“A”) has outsourced <i>insurance distribution activities</i> to a <i>third party processor</i> .
		(2)	Any <i>rule</i> in this sourcebook which requires the <i>third party processor</i> , when acting as such, to disclose its identity to a <i>customer</i> must be read as applying to the <i>third party processor</i> only to the extent that it applies to A and as requiring disclosure of A’s identity.
		(3)	<u>To the extent that <i>ICOBS</i> 4.3.-6R (Remuneration disclosure: insurers) applies to A, the <i>third party processor</i>, when acting as such, must also provide the <i>customer</i> with information on the nature of the remuneration received by its <i>employees</i>.</u>
...			
Part 2: What?			
Modifications to the general application rule according to activities			
...			
2	Contracts of large risks		
2.1	R	Subject to Part 3 of this Annex:	
		(1)	this sourcebook does not apply to a <i>firm</i> distributing a <i>contract of large risks</i> where the risk is located outside the <i>European Economic Area</i> ; <del>and</del>



		(2)	only <i>ICOBS</i> 2 (General matters) and <i>ICOBS</i> 6A.3 (Cross-selling) apply to a <i>firm</i> distributing a <i>contract of large risks</i> for a <i>commercial customer</i> where the risk is located within the <i>European Economic Area</i> ; <u>and</u>
		(3)	<u>the product information and <i>IPID</i> requirements in <i>ICOBS</i> 6.1 (Providing product information to customers: general) and <i>ICOBS</i> 6 Annex 3 (Providing product information by way of a standardised insurance information document) do not apply to a <i>firm</i> distributing a <i>contract of large risks</i>.</u>
		[ <b>Note:</b> article 22(1) of the <i>IDD</i> ]	
...			
Part 4: Guidance			
1	The main extensions and restrictions to the general application rule		
...			
3.2	G	The <i>rules</i> in this sourcebook within the Directive’s scope are those implementing the minimum requirements in articles <u>1(4)</u> , 17, 18, 19,20, <u>21</u> , 23 and 24(1) to (4) <u>and (6)</u> of the <i>IDD</i> set out in:	
		(1)	...
		...	
		(3A)	<u><i>ICOBS</i> 6.1 (Providing product information to customers: general) and <i>ICOBS</i> 6 Annex 3 (Providing product information by way of a standardised insurance information document); and</u>
		(4)	<i>ICOBS</i> 6A.1.4R (Ensuring the customer can make an informed decision) and <i>ICOBS</i> 6A.3 (Cross-selling).
3.2A	...		
3.2B	G	The additional requirements within the <i>IDD</i> ’s scope in this sourcebook are those that:	
		...	
		(2)	require the <u>production and</u> provision of pre-contract information or the provision of advice on the basis of a fair and personal analysis (see

			<i>ICOB</i> S 4 (Information about the firm, its services and remuneration), <i>ICOB</i> S 5.2 (Demands and needs), <i>ICOB</i> S 5.3.3R (Advice on the basis of a fair analysis), <u><i>ICOB</i>S 6.1A.5R (Responsibility for producing the standardised insurance product information document)</u> , <u><i>ICOB</i>S 6.1 (Providing product information to customers: general)</u> ; <i>ICOB</i> S 6A.1.4R (Ensuring the customer can make an informed decision) and <i>ICOB</i> S 6A.3 (Cross-selling)).
...			

## 2.6 Distribution of connected contracts through exempt persons

2.6.1 R (1) Where:

(1) an *insurance distributor* is distributing through a *person* relying on the connected contracts exemption in article 72B of the *RAO*, the *insurance distributor* must ensure that the requirements in (2) are met.; and

(2) ~~except for that exemption the *person* would have been:~~

(a) ~~subject to the requirements in *ICOB*S 2.6.2R; and~~

(b) ~~*carrying on insurance distribution activities*;~~

~~then the *insurance distributor* must instead ensure that those requirements are met.~~

~~[Note: article 1(4) first paragraph and sub-paragraphs (a) and (b) of the *IDD*]~~

2.6.2 R (2) The requirements referred to in ~~*ICOB*S 2.6.1R~~ (1) are:

(1) (a) *SYSC* 19F.2 (remuneration and insurance distribution activities);

(2) (b) *ICOB*S 2.2.2R and *ICOB*S 2.2.2AR (clear, fair and not misleading rule and marketing communication);

(3) (c) *ICOB*S 2.5.-1R (customer's best interests);

(4) (d) *ICOB*S 4.1.2R(1)(a) and (c) (Status disclosure: general information provided by insurance intermediaries or insurers).; ~~to provide information about:~~

(a) ~~the *insurance distributor*'s identity, address and whether it is an insurance intermediary or an *insurance undertaking*; and~~

(b) ~~its complaints procedures;~~

(5) (e) *ICOB*S 5.2 (Demands and needs); and

(f) ICOB 6.1.5R(4) (Ensuring customers can make an informed decision: the appropriate information rule);

(g) ICOB 6.1.10AR (How must IPID information be provided?);  
and

(h) ICOB 6A.3 (Cross-selling).

**[Note: article 1(4) the IDD]**

...

### 3 Distance communications

#### 3.1 Distance marketing

...

Guidance on the Distance Marketing Directive

3.1.2 G *Guidance on expressions derived from the Distance Marketing Directive and on the Directive's application in the context of ~~insurance mediation activity~~ insurance distribution activity can be found in ICOB 3 Annex 1G.*

...

### 3 Annex 1 Guidance on the Distance Marketing Directive

This Annex belongs to ICOB 3.1.2G

...

Q7. How does the Directive apply to insurance intermediaries services?

The FCA expects the *Distance Marketing Directive* to apply to *insurance intermediaries'* services only in the small minority cases where:

- the firm concludes a *distance contract* with a *consumer* covering its ~~*insurance mediation activities*~~ *insurance distribution activities* which is additional to any insurance contract which it is marketing; and
- ...

Q8. Can you give examples of when the Directive would and would not apply to insurance intermediaries services?

The rules implementing the *Distance Marketing Directive* will not apply in the typical case where an *insurance intermediary* sells an insurance contract to a *consumer* on a one-off basis, even if the *insurance intermediary* is involved in the *renewal* of that contract and handling claims under it.

Nor will the Directive apply if an *insurance intermediary*, in its terms of business, makes clear that it does not, in conducting ~~*insurance mediation activities*~~ *insurance distribution activities*, act contractually on behalf of, or for, the *consumer*.

...

...

Insert, as the first section of chapter 6 (Product information) the following new section *ICOBS* 6.1A. The new section amends the text formerly in *ICOBS* 6.1.1R to *ICOBS* 6.1.4R. All the text is re-stated in this position and is not underlined. The underlining indicates new text. .

## **6 Product information**

### **6.1A Producing and providing product information**

Responsibilities for producing and providing information as between insurers and insurance intermediaries: general

- 6.1A.1 R An *insurer* is responsible for producing, and an *insurance intermediary* for providing to a *customer*, the information required by this chapter and by the distance communication *rules* (see *ICOBS* 3.1). However, an *insurer* is responsible for providing information required on mid-term changes, and an *insurance intermediary* is responsible for producing price information if it agrees this with an *insurer*.
- 6.1A.2 R If there is no *insurance intermediary*, the *insurer* is responsible for producing and providing the information.
- 6.1A.3 R An *insurer* must produce information in good time to enable the *insurance intermediary* to comply with the *rules* in this chapter, or promptly on an *insurance intermediary's* request.
- 6.1A.4 R These general *rules* on the responsibilities of *insurers* and *insurance intermediaries* are modified by *ICOBS* 6 Annex 1 if one of the *firms* is not based in the *United Kingdom*, and in certain other situations.

Responsibility for producing the standardised insurance product information document

- 6.1A.5 R The *IPID* must be drawn up by the *manufacturer of the policy*.

[Note: article 20(6) of the *IDD*]

## **6.1 General Providing product information to customers: general**

### ~~Responsibilities on insurers and insurance intermediaries~~

- 6.1.1 R ~~An insurer is responsible for producing, and an insurance intermediary for providing to a customer, the information required by this chapter and by the distance communication rules (see ICOBS 3.1). However, an insurer is responsible for providing information required on mid-term changes, and an insurance intermediary is responsible for producing price information if it agrees this with an insurer. [deleted]~~
- 6.1.2 R ~~If there is no insurance intermediary, the insurer is responsible for producing and providing the information. [deleted]~~
- 6.1.3 R ~~An insurer must produce information in good time to enable the insurance intermediary to comply with the rules in this chapter, or promptly on an insurance intermediary's request. [deleted]~~
- 6.1.4 R ~~These general rules on the responsibilities of insurers and insurance intermediaries are modified by ICOBS 6 Annex 1 if one of the firms is not based in the United Kingdom, and in certain other situations. [deleted]~~

### Ensuring customers can make an informed decision: the appropriate information rule

- 6.1.5 R (1) ~~A firm must take reasonable steps to ensure that a customer is given appropriate information about a policy in good time and in a comprehensible form so that the customer can make an informed decision about the arrangements proposed.~~
- (2) The information must be provided to the customer:
- (a) whether or not a personal recommendation is given; and
- (b) irrespective of whether a policy is offered as part of a package with:
- (i) a non-insurance product or service (see ICOBS 6A.3 (Cross-selling)); or
- (ii) another policy.
- (3) Appropriate information is both objective and relevant information, and includes IPID information.
- (4) Where the firm is proposing a policy (including if appropriate on renewal) 'in good time' means in good time prior to the conclusion of the policy.

[Note: articles 20(1) first paragraph and 20(4) of the IDD]

- 6.1.6 G The appropriate information rule applies;

- (1) at all of the different stages of a contract and includes pre-conclusion and post-conclusion, and so includes matters such as and also when mid-term changes and renewals are proposed. It also applies to the price of the policy;
- (2) in the same way to any policy, regardless of whether that policy is sold on its own, in connection with another policy, or in connection with other goods or services; and
- (3) to the price of the policy.

6.1.6A G ~~The appropriate information rule applies in the same way to any policy, regardless of whether that policy is sold on its own, in connection with another policy, or in connection with other goods or services. [deleted]~~

Level What level of information needs to be provided?

6.1.6B R A firm must ensure that the level of appropriate information provided takes into account the complexity of the policy and the type of customer.

[Note: article 20(4) of the IDD]

6.1.7 G The level of information required will vary according to matters such as:

- (1) the knowledge, experience and ability of a typical *customer* for the *policy*;
- (2) the *policy* terms, including its main benefits, exclusions, limitations, conditions and its duration;
- (3) the *policy*'s overall complexity;
- (4) whether the *policy* is bought in connection with other goods and services including another policy (also see ICOBS 6A.3 (cross selling));
- (5) distance communication information requirements (for example, under the distance communication rules less information can be given during certain telephone sales than in sales made purely by written correspondence (see ICOBS 3.1.14R))
- (6) whether the same information has been provided to the *customer* previously and, if so, when.

Appropriate information for commercial customers

6.1.7A G A firm dealing with a commercial customer:

- (1) may choose to provide some of or all of the appropriate information in an IPID (see ICOBS 6.1.10AR), a policy summary or a similar summary if it considers this to be a comprehensible form in which to provide that

information; and

(2) should include the *IPID* information (regardless of whether an *IPID* is provided).

6.1.8 G ~~In determining what is “in good time”, a *firm* should consider the importance of the information to the *customer*’s decision-making process and at the point at which the information may be most useful. Distance communication timing requirements are also relevant (for example the distance communication *rules* enable certain information to be provided post conclusion in telephone and certain other sales (see *ICOBS* 3.1.14R and *ICOBS* 3.1.15R)).~~ [deleted]

6.1.10 G ~~A *firm* dealing with a *consumer* may wish to provide information in a *policy summary* or as a *key feature document* (see *ICOBS* 6 Annex 2).~~ [deleted]

How must *IPID* information be provided?

6.1.10A R A *firm*, when dealing with a *consumer* must provide the *IPID* information by way of an *IPID* for each *policy* (other than a *pure protection contract*).

[Note: articles 20(4) and 20(5) of the *IDD*]

6.1.10B G The *IPID* information:

(1) needs to be provided on paper or on another *durable medium*;

(2) in the case of telephone selling, a *firm* may provide the *IPID* in accordance with the distance communication timing requirements and provide the *IPID* to the *customer* immediately after the conclusion of the *policy*,

in accordance with *ICOBS* 6.6 (Means of communication)

[Note: article 23(7) of the *IDD*]

How must appropriate information other than *IPID* information be provided?

6.1.10C G (1) Appropriate information other than *IPID* information includes amongst other matters, any other information required by the appropriate information rule (*ICOBS* 6.1.5R), specific price disclosure requirements (*ICOBS* 6.1.13R), guaranteed assets protection (GAP) products (*ICOBS* 6A.1.4G), *Solvency II Directive* disclosure requirements (*ICOBS* 6.2.2R) and renewals (*ICOBS* 6.5).

(2) A *firm* needs to consider the form in which it provides appropriate information (see *ICOBS* 6.1.5R).

(3) A *firm* can provide the other information in (1) together with the *IPID* as long as the *IPID* remains a stand-alone document.

[Note: article 20(4) and article 20(7) last paragraph of the IDD]

Providing evidence of cover Interaction between information provision requirements and the customer's best interests rule and Principle 7

- 6.1.11 G To comply with the *customer's best interest rule* and *Principle 7* (communication with clients) a *firm* should:
- (1) include consideration of the information needs of the *customers* including:
    - (a) what they need to understand the relevance of any information provided by the *firm*; and
    - (b) at which point in the sales process will the information be most useful to the *customer* to enable them to make an informed decision;
  - (2) Under *Principle 7* a *firm* should provide evidence of cover promptly after inception of a *policy*. ~~Firms will need to take into account the type of customer and the effect of other information requirements, for example those under the distance communication rules (ICOBS 3.1).~~  
taking into account the type of *customer* and the effect of other information requirements, for example, those under the distance communication rules (ICOBS 3.1); and
  - (3) in relation to a *group policy*, provide appropriate information to the *customer* to pass on to other *policyholders*. It should tell the *customer* to give the information to each *policyholder*.

#### Group policies

- 6.1.12 G Under *Principle 7*, a *firm* that sells a *group policy* should provide appropriate information to the *customer* to pass on to other *policyholders*. It should tell the *customer* that he should give the information to each *policyholder*. [deleted]

[Editor's note: The renewal provisions in ICOBS 6.1.12AR and ICOBS 6.1.12BG are moved to a new section, ICOBS 6.5.]

#### Renewals

- 6.1.12A R (1) This rule applies when a *firm* proposes to a *consumer* the renewal of a *general insurance contract*, which is not a *group policy*, and which has a duration of 10 months or more.
- (2) In this rule, 'renewal' means carrying forward a *policy*, at the point of expiry and as a successive or separate operation of the same nature and duration as the *policy*, with the same *insurance intermediary* or the same *insurer*.



- (3) ~~The *firm* must provide to the *consumer* the following information in good time before the renewal:~~
- ~~(a) the *premium* to be paid by the *consumer* on renewal;~~
  - ~~(b) in a way that is consistent with the presentation of (a) so that they can be easily compared:~~
    - ~~(i) except where (ii) applies, the *premium* for the *policy* which the *firm* proposes to renew, as set out at the inception of that *policy*;~~
    - ~~(ii) where one or more mid-term changes were made to the *policy* which the *firm* proposes to renew, an amount calculated by annualising (or otherwise adjusting as appropriate to the duration of the proposed policy) the *premium* in effect following the most recent mid-term change, excluding all fees or charges associated with those mid-term changes;~~
  - ~~(c) a statement alongside (a) and (b) indicating that the *consumer*:~~
    - ~~(i) should check that the level of cover offered by the renewal is appropriate for their needs; and~~
    - ~~(ii) is able, if they so wish, to compare the prices and levels of cover offered by alternative providers.~~
- (4) ~~Where the proposed renewal will be the fourth or subsequent renewal the *consumer* has entered into in respect of the policy, the *firm* must include the following statement, to appear alongside the matters required by (3)(a), (b) and (c)(i) (but omitting (c)(ii)): “You have been with us a number of years. You may be able to get the insurance cover you want at a better price if you shop around.”~~
- (5) ~~The *firm* must communicate the information in (3) and (4): [deleted]~~
- ~~(a) clearly and accurately;~~
  - ~~(b) in writing or another *durable medium*; and~~
  - ~~(c) in a way that is accessible and which draws the *consumer’s* attention to it as key information.~~

6.1.12B G ~~A *firm* should have regard to the record keeping obligations referred to in ICOBS 2.4.1G and ensure that it has appropriate systems and controls in place with respect to: [deleted]~~

- ~~(a) the adequacy of its records so it may fulfil its regulatory and statutory obligations; and~~

- (b) ~~the sufficiency of its records to enable the FCA to monitor the firm's compliance with the requirements under the regulatory system.~~

~~Price disclosure: connected goods and services~~ What additional information must be disclosed for packaged products and other relevant requirements?

- 6.1.13 R (1) If a *policy* is bought by a *consumer* in connection with other goods or services a *firm* must, before conclusion of the contract, disclose its *premium* separately from any other prices and whether buying the *policy* is compulsory.
- (2) In the case of a *distance contract*, disclosure of whether buying the *policy* is compulsory may be made in accordance with the timing requirement under the distance communication *rules* (see *ICOBS* 3.1.8R, *ICOBS* 3.1.14R and *ICOBS* 3.1.15R).
- (3) This *rule* does not apply to policies bought in connection with other goods or services provided as part of a *packaged bank account*.

6.1.13A G ~~*Firms*~~ In addition to the requirements in *ICOBS* 6.1 (Product information) *firms* are reminded that:

- (1) when offering a *policy* as part of a *packaged bank account* the *firm* may be subject to the requirements of regulation 13 (payment accounts packages with another product or service) of the *Payment Accounts Regulations*;
- (2) *ICOBS* 6A.3 (Cross-selling) contains *rules* in relation to packages which include both *insurance* and non-insurance products or services.

...

~~Exception to the timing rules: distance contracts and voice telephony communications~~

- 6.1.14 R ~~Where a rule in this chapter requires information to be provided in writing or another durable medium before the conclusion of a contract, a *firm* may instead provide that information in accordance with the distance communication timing requirements (see *ICOBS* 3.1.14R and *ICOBS* 3.1.15R). [deleted]~~

...

## 6.4 Pre- and post-contract information: protection policies

...

Policy summary

- 6.4.4 R A *firm* must provide a *consumer* with a *policy summary* in good time before the conclusion of a ~~contract~~ *pure protection contract*..

...

#### Complaints and compensation information

- 6.4.4A R A *firm* in relation to a *payment protection contract*, must provide a *consumer* with information about:

- (1) how the *consumer* can complain to the *insurance undertaking* and that complaints may subsequently be referred to the *Financial Ombudsman Service* (or other applicable named complaints scheme); and
- (2) the *consumer's* entitlement to compensation from the *compensation scheme* (or other applicable compensation scheme), or that there is no compensation scheme, in the event where the *insurance undertaking* is unable to meet its liabilities;

in good time before the conclusion of the *policy*.

...

After *ICOBS* 6.4 (Pre-and post-contract information: protection policies) insert the following new section *ICOBS* 6.5. The new section amends the text formerly in *ICOBS* 6.1.12AR and *ICOBS* 6.1.12BG. All the text is re-stated in this position and is not underlined. Underlining indicates new text.

## **6.5 Renewals**

### Renewals

- 6.5.1 R (1) This ~~rule~~ section applies when a *firm* proposes to a *consumer* the renewal of a *general insurance contract*, which is not a *group policy*, and which has a duration of 10 months or more.
- (2) In this ~~rule~~ section, ‘renewal’ means carrying forward a *policy*, at the point of expiry and as a successive or separate operation of the same nature and duration as the *policy*, with the same *insurance intermediary* or the same *insurer*.
- (3) The *firm* must provide to the *consumer* the following information in good time before the renewal:
- (a) the *premium* to be paid by the *consumer* on renewal;
  - (b) in a way that is consistent with the presentation of (a) so that they

can be easily compared:

- (i) except where (ii) applies, the *premium* for the *policy* which the *firm* proposes to renew, as set out at the inception of that *policy*;
  - (ii) where one or more mid-term changes were made to the *policy* which the *firm* proposes to renew, an amount calculated by annualising (or otherwise adjusting as appropriate to the duration of the proposed *policy*) the *premium* in effect following the most recent mid-term change, excluding all fees or charges associated with those mid-term changes;
- (c) a statement alongside (a) and (b) indicating that the *consumer*:
- (i) should check that the level of cover offered by the renewal is appropriate for their needs; and
  - (ii) is able, if they so wish, to compare the prices and levels of cover offered by alternative providers.
- (4) Where the proposed renewal will be the fourth or subsequent renewal the *consumer* has entered into in respect of the *policy*, the *firm* must include the following statement, to appear alongside the matters required by (3)(a), (b) and (c)(i) (but omitting (c)(ii)): “You have been with us a number of years. You may be able to get the insurance cover you want at a better price if you shop around.”
- (5) The *firm* must communicate the information in (3) and (4):
- (a) clearly and accurately;
  - (b) in writing or another *durable medium*; and
  - (c) in a way that is accessible and which draws the *consumer’s* attention to it as key information.

6.5.2 G A *firm* should have regard to the record-keeping obligations referred to in *ICOBS* 2.4.1G and ensure that it has appropriate systems and controls in place with respect to:

- (1) ~~(a)~~ the adequacy of its records so it may fulfil its regulatory and statutory obligations; and
- (2) ~~(b)~~ the sufficiency of its records to enable the *FCA* to monitor the *firm’s* compliance with the requirements under the *regulatory system*.

6.5.3 G A *firm* should ensure it complies with the other requirements in *ICOBS* that are relevant, such as providing product information to customers (see *ICOBS*

6.1), including the requirement to provide an *IPID* (see *ICOBS* 6.1.10AR).

After *ICOBS* 6.5 (Renewals) insert the following new section *ICOBS* 6.6. All the text is new and is not underlined.

## **6.6 Means of communication**

Means of communication

6.6.1 R The information in *ICOBS* 6, unless modified in this chapter, must be given in accordance with *ICOBS* 4.1A (Means of communication to customers).

[**Note:** article 23(1) of the *IDD*]

Amend the following as shown.

## **6 Annex 1R Responsibilities of insurers and insurance intermediaries in certain situations**

This annex belongs to ~~*ICOBS* 6.1.4R~~ *ICOBS* 6.1A.4R

	Situation	<i>Insurance intermediary's</i> responsibility	<i>Insurer's</i> responsibility
(1)	...		
...			
(6)	Where <del><i>ICOBS</i> 6.1.12AR</del> <u><i>ICOBS</i> 6.5.1R</u> applies	...	...

Insert the following new Annex after *ICOBS* 6 Annex 2 (Policy summary for consumers). All the text is new and is not underlined.

## **6 Annex 3R Providing product information by way of a standardised insurance information document:**

[**Note:** the *IPID Regulation* is directly applicable to *IDD insurance intermediaries*, *IDD insurance undertakings* and *IDD ancillary insurance intermediaries*.]

This annex belongs to *ICOBS* 6.1.10AR.

## Effect of provisions marked 'EU'

- 1.1 R Provisions in this section marked "EU" apply in relation to a *firm* to which the *IPID Regulation* does not directly apply, as if they were *rules*.

2 What information needs to be contained in the IPID?

- 2.1 R The *IPID* must contain the following information:
- (1) information about the type of *insurance*;
  - (2) a summary of the *insurance* cover, including the main risks insured, the insured sum and, where applicable, the geographical scope and summary of excluded risks;
  - (3) the means of payment of premium and the duration of payments;
  - (4) main exclusions where claims cannot be made;
  - (5) obligations at the start of the contract;
  - (6) obligations during the term of the contract;
  - (7) obligations in the event that a claim is made;
  - (8) the term of the contract including the start and end dates of the contract;
  - (9) the means of terminating the contract.

[**Note:** article 20(8) of the *IDD*]

- 2.2 G A *firm*, when providing the information in the *IPID* should consider:
- (1) the *rules* and *guidance* on providing appropriate information to *customers* in *ICOBS* 6.1;
  - (2) the order of the information and priority of the information to be provided; and
  - (3) the information needs of the *firm's* typical *customer* for the *policy*.
- 2.3 G A *firm* that manufactures the *policy* should, when drawing up the *IPID*, have regard to the target market and intended distribution strategy.

Name and company logo of the manufacturer

- |     |    |  |
|-----|----|--|
| 2.4 | EU | 2(1) The name of the manufacturer of the non-life insurance product, the Member State where that manufacturer is registered, its regulatory status, and, where relevant, its authorisation number shall immediately follow the title of “insurance product information document” at the top of the first page. |
| 2.5 | EU | 2(2) The manufacturer may insert its company logo to the right of the title.   |

[**Note:** article 2 of the *IPID Regulation*]

Reference to complete pre-contractual and contractual information

- |     |    |   |
|-----|----|---|
| 2.6 | EU | 3 The insurance product information document shall include a prominent statement immediately below the company name that complete pre-contractual and contractual information about the non-life insurance product is provided in other relevant documents. |
|-----|----|---|

[**Note:** article 3 of the *IPID Regulation*]

### 3 How must the IPID be presented and formatted?

- |     |   |   |
|-----|---|---|
| 3.1 | R | <p>The <i>IPID</i> must:</p> <ol style="list-style-type: none"> <li>(1) be a short and stand-alone document;</li> <li>(2) be presented and laid out in a way that is clear and easy to read, using characters of a readable size;</li> <li>(3) be no less comprehensible in the event that, having been originally produced in colour, it is printed or photocopied in black and white;</li> <li>(4) be written in the official languages, or in one of the official languages, used in the part of the Member State where the <i>policy</i> is offered or, if agreed by the <i>consumer</i> and the <i>insurance distributor</i>, in another language;</li> <li>(5) be accurate and not misleading;</li> <li>(6) contain the title ‘insurance product information document’ at the top of the first page;</li> <li>(7) include a statement that complete pre-contractual and contractual information on the product is provided in other documents.</li> </ol> |
|-----|---|---|

[**Note:** article 20(7)(a) to (g) of the *IDD*]

Length

- |     |    |   |
|-----|----|---|
| 3.2 | EU | 4(1) The insurance product information document shall be set out on two sides of A4-sized paper when printed  |
| 3.3 | EU | 4(2) By way of derogation from paragraph 1 and where a manufacturer can demonstrate as necessary, the insurance product information document shall be set out on a maximum of three sides of A4-sized paper when printed. |

[**Note:** article 4 of the *IPID Regulation*]

#### Presentation and order of the content

- |     |    |  |
|-----|----|--|
| 3.4 | EU | 5(1) The relevant information of the insurance product information document as specified in Article 20(8) of Directive (EU) 2016/97 shall have a font size with an x-height of at least 1.2 mm and be presented in different sections and according to the structure and sequence as set out in the standardised presentation format in Annex I.   |
| 3.5 | EU | 5(2) The presentation of the insurance product information document shall follow the layout, headings, sequence and graphics as set out in the standardised presentation format in Annex I, varying the length of the sections according to the extent of the information that is to be included in each section. Information provided about add-ons and optional covers, if any, shall not be preceded by ticks, crosses or exclamation marks.  |
| 3.6 | EU | 5(3) In cases where the insurance product information document is presented using a durable medium other than paper, the size of the components in the layout may be varied by way of derogation from paragraph 2, as long as the layout, headings, sequence and graphics of the template, as well as the relative prominence and size of the different elements, are retained.  |
| 3.7 | EU | 5(4) In cases where the dimensions of the durable medium other than paper are such that a layout using two columns is not feasible, a presentation using a single column may be used by way of derogation from paragraph 2, as long as the sequence of the sections is as follows: “What is this type of insurance?”, “What is insured?”, “What is not insured?”, “Are there any restrictions on cover?”, “Where am I covered?”, “What are my obligations?”, “When and how do I pay?”, “When does the cover start and end?” and “How do I cancel the contract?”. |
| 3.8 | EU | 5(5) In the context of provision of the insurance product information document in digital format and for the purpose of providing additional information to the customer, the use of digital tools, such as layering and pop-ups is permitted, provided that all relevant information as indicated in Article 20(8) of Directive (EU) 2016/97 is provided in the main body of the insurance product information  |



document and that the use of such tools is not so intrusive that it could distract the customer from the main document. Information provided through layering and pop-ups shall not include marketing or advertising material.

[**Note:** article 5 of the *IPID Regulation*]

#### Plain language

- |     |    |   |   |
|-----|----|---|---|
| 3.9 | EU | 6 | The insurance product information document shall be drafted in plain language, facilitating the customer's understanding of the content of that document and shall focus on key information which the customer needs to make an informed decision. Jargon shall be avoided. |
|-----|----|---|---|

[**Note:** article 6 of the *IPID Regulation*]

#### Headings and information thereunder

- |      |    |      |   |
|------|----|------|---|
| 3.10 | EU | 7(1) | <p>The sections of the insurance product information document shall have the following headings and the following information thereunder:</p> <ul style="list-style-type: none"> <li>(a) The information on the type of insurance referred to in Article 20(8)(a) of Directive (EU) 2016/97 shall be included under the heading "What is this type of insurance?" at the start of the document;</li> <li>(b) The information on the main risks insured referred to in Article 20(8)(b) of Directive (EU) 2016/97 shall be included under the heading "What is insured?". Each piece of information listed in this section shall be preceded by a green "tick" symbol;</li> <li>(c) The information on the insured sum referred to in Article 20(8)(b) of Directive (EU) 2016/97 shall be included under the heading "What is insured?";</li> <li>(d) The information on geographical scope, where applicable, referred to in Article 20 (8)(b) of Directive (EU) 2016/97 shall be included under the heading "Where am I covered?". Each piece of information listed in this section shall be preceded by a blue "tick" symbol;</li> <li>(e) The information on a summary of the excluded risks referred to in Article 20(8)(b) of (EU) Directive 2016/97 shall be included under the heading "What is not insured?". Each piece of information in this section shall be preceded by a red "X" symbol;</li> </ul> |
|------|----|------|---|

- (f) The information on the main exclusions referred to in Article 20(8)(d) of Directive (EU) 2016/97 shall be included under the heading “Are there any restrictions on cover?”. Each piece of information listed in this section shall be preceded by an orange exclamation mark symbol;
- (g) The information on the relevant obligations referred to in points (e), (f) and (g) of Article 20(8) of Directive (EU) 2016/97 shall be included under the heading “What are my obligations?”;
- (h) The information on the means and duration of payment of premiums referred to in Article 20(8)(c) of Directive (EU) 2016/97 shall be included under the heading “When and how do I pay?”;
- (i) The information on the term of the contract referred to in Article 20(8)(h) of Directive (EU) 2016/97 shall be included under the heading “When does the cover start and end?”;
- (j) The information on the means of terminating the contract referred to in Article 20(8)(i) of Directive (EU) 2016/97 shall be included under the heading “How do I cancel the contract?”.

7(2) The use of sub-headings is permitted, where necessary.

[**Note:** article 7 of the *IPID Regulation*]

#### Use of icons

- |      |    |  |
|------|----|--|
| 3.11 | EU | <p>8(1) Each section shall further be headed by icons or symbols visually representing the content of the respective section heading, as follows:</p> <ul style="list-style-type: none"> <li>(a) the information on the main risks insured referred to in Article 20(8)(b) of Directive (EU) 2016/97 shall be headed by an icon of an umbrella, which shall be green or on a green background;</li> <li>(b) the information on the geographical scope of the insurance cover referred to in Article 20(8)(b) of Directive (EU) 2016/97 shall be headed by an icon of a globe, which shall be white on a blue background or blue on a white background;</li> <li>(c) the information on excluded risks referred to in Article 20(8)(b) of Directive (EU) 2016/97 shall be headed by an icon of an X symbol which shall be red, or on a red background;</li> </ul> |
|------|----|--|

		<ul style="list-style-type: none"> <li>(d) the information on the main exclusions referred to in Article 20(8)(d) of Directive (EU) 2016/97 shall be headed by an exclamation mark (!), which shall be orange or on an orange background;</li> <li>(e) the information on the obligations at the start of the contract, during the term of the contract and in the event that a claim is made referred to in points (e), (f) and (g) of 20(8) of Directive 2016/97, respectively, shall be headed by an icon of a handshake, which shall be green, or on a green background;</li> <li>(f) the information on the means and duration of payments referred to in Article 20(8)(c) of Directive (EU) 2016/97 shall be headed by an icon of coins, which shall be yellow, or on a yellow background;</li> <li>(g) the information on the term of the contract referred to in Article 20 (8)(h) of Directive (EU) 2016/97 shall be headed by an icon of an hourglass, which shall be blue, or on a blue background;</li> <li>(h) the information on the means of terminating the contract referred to in Article 20(8)(i) of Directive (EU) 2016/97 shall be headed by an icon of a hand with an open palm, which shall be black, or on a black background.</li> </ul>
3.12	EU	8(2) All icons shall be displayed in a manner consistent with the template in Annex I.
3.13	EU	8(3) By way of derogation from this Article, where the insurance product information document is printed or photocopied in black and white, the icons referred to in this Article may also be presented in black and white.

[**Note:** article 8 of the *IPID Regulation*]

Template for the standardised presentation format

3.14	EU	ANNEX I: Template for Standardised Presentation Format
------	----	--

# Xxxxxx Insurance

## Insurance Product Information Document

Company: <Name> Insurance Company

Product: <Name> Policy

[Statement that complete pre-contractual and contractual information on the product is provided in other documents]

### What is this type of insurance?

[Description of Insurance]



#### What is insured?

- ✓ Xxxxxx
- ✓ Xxxxxx
- ✓ Xxxxxx
- ✓ Xxxxxx
- ✓ Xxxxxx
- ✓ Xxxxxx
- ✓ Xxxxxx
- ✓ Xxxxxx
- ✓ Xxxxxx
- ✓ Xxxxxx
- ✓ Xxxxxx



#### What is not insured?

- ✗ Xxxxxx
- ✗ Xxxxxx
- ✗ Xxxxxx
- ✗ Xxxxxx
- ✗ Xxxxxx



#### Are there any restrictions on cover?

- ! Xxxxxx
- ! Xxxxxx
- ! Xxxxxx
- ! Xxxxxx
- ! Xxxxxx



#### Where am I covered?

- ✓ Xxxxxx



#### What are my obligations?

- Xxxxxx
- Xxxxxx
- Xxxxxx
- Xxxxxx



#### When and how do I pay?

Xxxxxx



#### When does the cover start and end?

Xxxxxx



#### How do I cancel the contract?

Xxxxxx

[**Note:** Annex 1 to the *IPID Regulation*]

[Editor's note: the text in this Annex takes into account changes suggested by CP17/7 'Insurance Distribution Directive Implementation – Consultation I' (March 2017) as if they were made]

## Annex J

### Amendments to the Client Assets sourcebook (CASS)

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

For “ <i>mediation</i> ”, substitute “ <i>distribution</i> ” in the following provisions. The text in this section is not underlined.	
1A.1.1R(2)	one instance
1A.2.2R(2)(c)	one instance
5, heading	one instance
5.1.6R	one instance
5.2.3R(1)(a)	one instance
5.5.30R(2)	one instance
5.8.2G	one instance
7.10.8R, heading	one instance
7.10.9G	one instance
7.10.10R	one instance
7.10.12R	one instance
7.10.32G(1)(a)	one instance
7.10.32G(2)	one instance
7.17.2R(2)(a)	one instance
7.17.2R(2)(b)(i)	one instance
7.17.2R(3)	one instance
8.1.1R(2)	one instance
8.2.1R(2)	one instance
9.1.1R(4)	one instance

## 1 Application and general provisions

...

### 1.2 General application: who? what?

...

- 1.2.5 R The *insurance client money chapter* does not apply to an *authorised professional firm* with respect to its *non-mainstream regulated activities*, which are *insurance ~~mediation~~-distribution activities*, if:

- (1) the *firm's designated professional body* has made rules which implement article ~~4~~10.6 of the *Insurance Mediation Directive* IDD;

...

- 1.2.5A G (1) In the *client money chapter* and the *insurance client money chapter*, an *insurance undertaking* acts as such when it carries on the business of *effecting or carrying out contracts of insurance*.
- (2) An *insurance undertaking* does not act as such when it enters into a *reinsurance contract* as a client of the *reinsurer*.

...

## 5 Client money: insurance mediation activity

### 5.1 Application

#### Application

- 5.1.1 R (1) CASS 5.1 to CASS 5.6 apply, subject to (2), (3) and CASS 5.1.3R to CASS 5.1.6 R, to a *firm* that receives or holds *money* in the course of or in connection with its *insurance mediation distribution* activity.
- (2) This chapter does not apply to:
- ...
- (b) ~~to a *firm* in carrying on an *insurance mediation activity* which is in respect of a *reinsurance contract*; or [deleted]~~
- ...
- (e) with respect to *money* held by a *firm* which:
- (i) is an *approved bank*; and
- (ii) has requisite capital under article 4(4)(b) ~~10(6)(b)~~ of the *Insurance Mediation Directive* IDD;
- ...
- (3) A *firm* may elect to comply with:
- (a) ~~CASS 5.1 to CASS 5.6 in respect of *client money* which it receives in the course of carrying on *insurance mediation activity* in respect of *reinsurance contracts*; and [deleted]~~
- (b) CASS 5.1, CASS 5.2 and CASS 5.4 to CASS 5.6 in respect of *money* which it receives in the course of carrying on an activity which would be *insurance mediation distribution* activity, and which *money* would be *client money*, but for article 72D of the *Regulated Activities Order* (Large risks contracts where risk situated outside the EEA);

but the election must be in respect of all the *firm's* business which

consists of that activity.

...

...

5.1.7 G (1) ... The rules in CASS 5.1 to CASS 5.6 also give effect to the requirement in article 4.4 10.6 of the ~~Insurance Mediation Directive~~ IDD that all necessary measures should be taken to protect clients against the inability of an *insurance intermediary* to transfer *premiums* to an *insurance undertaking* or to transfer the proceeds of a claim or *premium* refund to the insured.

(2) There are two particular approaches which firms can adopt which reflect options given in article 4.4 10.6 ...

5.1.8 G ~~Firms which carry on designated investment business which may, for example, involve them handling client money in respect of life assurance business should refer to the non-directive client money chapter which includes provisions enabling firms to elect to comply solely with that chapter or with the insurance client money chapter in respect of that business. Firms that also carry on MiFID or equivalent third country business may elect to comply solely with the MiFID client money chapter with respect of client money in respect of which the non-directive client money chapter or the insurance client money chapter apply. A firm which carries on MiFID business or designated investment business in relation to life assurance business may, in accordance with CASS 7.10.3R and in relation to that business only, either comply with CASS 7 or elect to comply with the insurance client money chapter.~~

...

## 5.2 Holding money as agent of an insurance undertaking

...

Requirement for written agreement before acting as agent of insurance undertaking

5.2.3 R (1) A *firm* must not agree to:

(a) *deal in investments as agent for an insurance undertaking in connection with ~~insurance mediation~~ an insurance distribution activity*; or

...

## 5.8 Safe keeping of client's documents and other assets



## 5.8.1 R Application

- (1) CASS 5.8 applies to a *firm* (including in its capacity as trustee under CASS 5.4) which in the course of *insurance ~~mediation~~ distribution* activity takes into its possession for safekeeping any *client* title *documents* (other than documents of no value) or other tangible assets belonging to *clients*.
- (2) CASS 5.8 does not apply to a *firm* when:
- (a) carrying on an *insurance ~~mediation~~ distribution* activity which is in respect of a *reinsurance contract*; or

...

...

## 7 Client money rules

...

## 7.10 Application and purpose

...

7.10.11 G 'Opt-outs' for non-~~IMD~~ IDD business

For a *firm* whose business is not governed by the *Insurance Mediation Directive* IDD, it is possible to 'opt out' on a one-way basis. However, in order to maintain a comparable regime to that applying to *MiFID* business, all '*MiFID* type' business undertaken outside the scope of *MiFID* should comply with the client money rules or be 'opted out' on a two-way basis.

...

## TP 1 Transitional Provisions

## TP 1.1

(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
...	...	...	...	...	...
3	CASS 5.1 to CASS 5.6	R	Apply in relation to <i>money</i> (and where appropriate <i>designated</i>	Indefinitely	14 January 2005

			<p><i>investments</i>) held by a firm on 14 January 2005 (being <i>money</i> or <i>designated investments</i> to which CASS 5.1 to CASS 5.6 would not otherwise apply) to the extent that such <i>money</i> (or <i>designated investments</i>) relate to business carried on before 14 January 2005 and which would, if conducted on or after 14 January 2005, be an <i>insurance mediation distribution</i> activity.</p>		
<u>3A</u>	<u>CASS 5.1 to CASS 5.6</u>	<u>R</u>	<p><u>Apply in relation to <i>money</i> (and where appropriate <i>designated investments</i>) held by a firm on 23 February 2018 (being <i>money</i> or <i>designated investments</i> to which CASS 5.1 to CASS 5.6 would not otherwise apply) to the extent that such <i>money</i> (or <i>designated investments</i>) relate to business carried on before 23 February 2018 and which would, if conducted on or after 23 February 2018, be <i>reinsurance distribution</i>.</u></p>	<u>Indefinitely</u>	<u>23 February 2018</u>

[*Editor's note*: the text in this Annex takes into account the changes proposed by CP17/7 'Insurance Distribution Directive implementation – Consultation paper I' (March 2017), as if they were made]

## Annex K

### Amendments to the Product Intervention and Product Governance sourcebook (PROD)

All the text in this Annex is new and is not underlined.

After PROD 1.3 (Application of PROD 3) insert the following new section PROD 1.4.

#### 1.4 Application of PROD 4

1.4.1 R *PROD* 4 applies to:

- (1) an *insurance intermediary*; and
- (2) an *insurer*,

with respect to:

- (3) *manufacturing contracts of insurance*; and
- (4) *distributing contracts of insurance*.

[**Note:** article 1(2) of the *IDD*]

1.4.2 R *PROD* 4 does not apply in relation to the *manufacturing* or *distributing* of a *contract of large risks*.

[**Note:** article 25(4) of the *IDD*]

Where?

1.4.3 R *PROD* 4 applies to a *firm* with respect to activities carried on from an establishment maintained by it, or its *appointed representative*, in the *United Kingdom*.

[**Note:** article 7(2) of the *IDD*]

EEA territorial scope rule: Compatibility with European law

- 1.4.4 R
- (1) The territorial scope of *PROD* 4 is modified to the extent necessary to be compatible with European law.
  - (2) This *rule* overrides every other *rule* in this sourcebook.

Electronic Commerce Directive: Effect on territorial scope

- 1.4.5 G The *rules and guidance* on the *E-Commerce Directive* in *ICOBS* 1 Annex 1, Part 3, paragraph 1.2R and Part 4 paragraph 8, and in *COBS* 1 Annex 1, Part 2, paragraph 1.2R and Part 3, paragraph 7, apply equally in relation to the *rules* in *PROD* 4.

#### Interaction of PROD 4 and the RPPD Guide

- 1.4.6 G A *firm* to which *PROD* 4 applies need not apply the *guidance* in *RPPD* for matters covered by *PROD* 4 if the *firm* has complied with *PROD* 4.

After PROD 3 (Product governance: MiFID) insert the following new chapter PROD 4. The text is not underlined.

## **4 Product governance: IDD**

### **4.1 General**

#### Other requirements under the *IDD*

- 4.1.1 R This chapter does not affect the application of other requirements in the *FCA Handbook* applying to *firms* in relation to their *insurance distribution activities* including but not limited to:
- (1) disclosure (*ICOBS* 2.2, *ICOBS* 6.1, *COBS* 4 and *COBS* 14.2 );
  - (2) suitability (*COBS* 9 or 9A);
  - (3) appropriateness (*COBS* 10A);
  - (4) identification and management of conflicts of interest (*SYSC* 10.1 for intermediaries or *SYSC* 3.3 for insurers); and
  - (5) inducements (*COBS* 2.3A).

[**Note:** article 25(3) of the *IDD*]

### **4.2 Manufacture of contracts of insurance**

#### Product governance arrangements

- 4.2.1 R A *firm* which *manufactures* any *contracts of insurance* must maintain, operate and review a process for the approval of:
- (1) each *contract of insurance*; and
  - (2) significant adaptations of an existing *contract of insurance*,
- in each case before it is marketed or *distributed to customers*.

[**Note:** first subparagraph of article 25(1) of the *IDD*]

- 4.2.2 R The product approval process referred to in *PROD* 4.2.1R must be proportionate and appropriate to the nature of the *contract of insurance*.

[**Note:** second subparagraph of article 25(1) of the *IDD*]

Target market

- 4.2.3 R For each *contract of insurance* the product approval process must:
- (1) specify an identified target market;
  - (2) ensure that all relevant risks to the identified target market are assessed;
  - (3) ensure that the intended distribution strategy is consistent with the identified target market; and
  - (4) require the *manufacturer* to take reasonable steps to ensure that the *contract of insurance* is *distributed* to the identified target market.

[**Note:** third subparagraph of article 25(1) of the *IDD*]

Review of contracts of insurance

- 4.2.5 R A *firm* must understand the *contracts of insurance* it offers or markets.
- 4.2.6 R A *firm* must regularly review the *contracts of insurance* it offers or markets taking into account any event that could materially affect the potential risk to the identified target market. In doing so, the *firm* must assess at least the following:
- (1) whether the *contract of insurance* remains consistent with the needs of the identified target market; and
  - (2) whether the intended distribution strategy remains appropriate.

[**Note:** fourth subparagraph of article 25(1) of the *IDD*]

Information disclosure to distributors

- 4.2.7 R A *firm* which *manufactures* a *contract of insurance* , must make available to a *distributor*:
- (1) all appropriate information on the *contract of insurance*
  - (2) all appropriate information on the product approval process; and
  - (3) the identified target market of the *contract of insurance* .

[**Note:** fifth subparagraph of article 25(1) of the *IDD*]

**4.3 Distribution of contracts of insurance**

- 4.3.1 R Where a *firm distributes contracts of insurance* which it does not *manufacture* it must have in place adequate arrangements to obtain the information in *PROD 4.2.7R* from the *manufacturer*.
- 4.3.2 R Where a *firm distributes contracts of insurance* which it does not *manufacture*, it must have in place adequate arrangements to understand:
- (1) the characteristics of each *contract of insurance* ; and
  - (2) the identified target market of each *contract of insurance* .

[**Note:** sixth subparagraph of article 25(1) of the *IDD*]

[*Editor's note*: the text in this Annex takes into account changes suggested by CP17/7 'Insurance Distribution Directive Implementation – Consultation I' (March 2017) as if they were made]

## Annex L

### Amendments to the Supervision manual sourcebook (SUP)

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

For “*Insurance Mediation Directive*”, substitute “*IDD*” in the following provisions. The text in this section is not underlined.

11.8.1R(4)	one instance
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For “*IMD*”, substitute “*IDD*” in the following provisions. The text in this section is not underlined.

11.8.1R(4)	one instance
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For “*mediation*”, substitute “*distribution*” in the following provisions. The text in this section is not underlined.

10A.1.16R(2)(a)	one instance
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10A.1.18R(5)	one instance
--------------	--------------

10A.6.5G	one instance
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10A.7.5G	two instances
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10A.7.6G	two instances
----------	---------------

10A.9.14G	two instances
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10A.9.15G	two instances
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10C.5.7G heading	one instance
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10C.5.7G	one instance
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11.8.1R(4)	one instance
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Amend the following as shown.

### 3 Auditors

#### 3.1 Application

...

##### 3.1.2 R Applicable sections (see *SUP* 3.1.1R)

...		
(1) Category of firm	(2) Sections applicable to	(3) Sections applicable to

		the firm	its auditor
(1)	...	...	
...			
(10)	<i>Insurance intermediary</i> (other than an <i>exempt insurance intermediary</i> ) to which the <i>insurance client money chapter</i> (except for CASS 5.2 (Holding money as agent)) applies (see Note 4)		
...			
...			
<p>Note 4 = The <i>client money</i> audit requirement in SUP 3.1.2 R(10) therefore applies to all <i>insurance intermediaries</i> except:</p> <ul style="list-style-type: none"> <li>those which do not hold <i>client money</i> or other client assets in relation to <del><i>insurance mediation activities</i></del> <i>insurance distribution activities</i>; or</li> <li>those which only hold up to, but not exceeding, £30,000 of <i>client money</i> under a statutory trust arising under CASS 5.3.</li> </ul> <p><i>Insurance intermediaries</i> which, in relation to <del><i>insurance mediation activities</i></del> <i>insurance distribution activities</i>, hold no more than that amount of <i>client money</i> only on a statutory trust are <i>exempt insurance intermediaries</i>.</p>			
...			

...

#### 12.4 What must a firm do when it appoints an appointed representative or an EEA tied agent?

...

##### **Appointed representative carrying on insurance ~~mediation~~ distribution**

- 12.4.8A R Before a *firm* appoints a *person* as an appointed representative to carry on *insurance ~~mediation~~ distribution activity*, it must in relation to *insurance ~~mediation~~ distribution activity* ensure that the *person* will comply on appointment, and will continue to comply with, the provisions of ~~*MIPRU 2.3.1R* and *MIPRU 2.3.3R* (Knowledge and ability, and good repute)~~ *SYSC 23.2* (Knowledge and ability requirements), *SYSC 23.3* (Good repute) and *SYSC 23.4* (Record-keeping requirements) as if the appointed representative ~~were~~ is a *firm*.
- 12.4.8B G in assessing, under SUP 12.4.8AR, whether an appointed representative, or prospective appointed representative, has established the knowledge and



ability requirements for *persons* within its management structure and for those directly involved in its *insurance mediation distribution* activity, a *firm* should refer to SYSC 23.2 (Knowledge and ability requirements) and TC.

#### Obligations of firms under the training and competence rules

- 12.6.10 G (1) The *rules* and *guidance* relating to training and competence in SYSC 3 and SYSC 5 and in TC for a *firm* carrying on retail business extend to any *employee* of the *firm* in respect of whom the relevant *rules* apply. ~~For these purposes, an *employee* of a *firm* includes:~~
- (2) The specific knowledge and ability requirements in SYSC 23.2 and TC 4.2 for a *firm* with Part 4A permission to carry on *insurance distribution activities* apply to a relevant employee (as defined in SYSC 23.1.2R and TC 4.2.3R) of the *firm*.
- (3) For the purposes of (1) and (2), an *employee* or a relevant employee of a *firm* includes an individual who is:
- (1)(a) ~~an individual who is~~ an *appointed representative* of a *firm*; and
- (2)(b) ~~an individual who is~~ employed or appointed by an *appointed representative* of a *firm* (whether under a contract of service or for services) in connection with the business of the *appointed representative* for which the *firm* has accepted responsibility.

- 12.6.11 G A *firm* should take reasonable care to ensure that:
- (1) it has satisfied:
- (a) SYSC 3 or SYSC 4 to 9 and where applicable, SYSC 23.2;  
and
- (b) TC,
- in respect of the relevant staff of the *appointed representative*; and
- (2) ...

...

...

[*Editor's note*: the text in this Annex takes into account changes suggested by CP17/7 'Insurance Distribution Directive Implementation – Consultation I' (March 2017) as if they were made]

## Annex M

### Amendments to the Credit Unions sourcebook (CREDS)

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

For “*insurance mediation*”, substitute “*insurance distribution*” in the following provisions. The text in this section is not underlined.

1.1.2G(2)	one instance
1.1.2G(3)	one instance
10.1.3G	two instances

## 10 Application of other parts of the Handbook to Credit unions

### 10.1 Application and purpose

...

10.1.3	G	<b>Module</b>	<b>Relevance to Credit Unions</b>
		...	
		Insurance: Conduct of Business sourcebook ( <i>ICOBS</i> )	<i>ICOBS</i> applies to any <i>credit union</i> carrying on non-investment insurance <u>distribution</u> activities, such as arranging or advising on general insurance contracts to be taken out by members. But <i>ICOBS</i> does not apply to a <i>credit union</i> taking out an insurance <del>policy</del> <u>policy</u> for itself, such as a <del>policy</del> <u>policy</u> against default by members on their loans where the <i>credit union</i> is the beneficiary of the <del>policy</del> <u>policy</u> , since in this circumstance the <i>credit union</i> would not be acting as an <i>insurance intermediary</i> , but would itself be the customer. <i>Credit unions</i> are reminded that they are subject to the requirements of the appropriate legislation, including the Credit Unions Act 1979, relating to activities a credit union may carry on.
		...	

...

