

CP12/17**

Financial Services Authority

Packaged bank accounts

New ICOBS rules for the sale of
non-investment insurance contracts

Feedback to CP11/20 including final rules
and further consultation

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The Financial Services Authority invites comments on this Consultation Paper. Comments should reach us by 29 October 2012.

Comments may be sent by electronic submission using the form on the FSA's website at: www.fsa.gov.uk/library/policy/cp/2012/cp12-17-response.shtml.

Alternatively, please send comments in writing to:

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It is the FSA's policy to make all responses to formal consultation available for public inspection unless the respondent requests otherwise. A standard confidentiality statement in an email message will not be regarded as a request for non-disclosure.

A confidential response may be requested from us 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 Tribunal.

Copies of this Consultation Paper are available to download from our website – www.fsa.gov.uk. Alternatively, paper copies can be obtained by calling the FSA order line: 0845 608 2372.

Abbreviations used in this paper

ICOBS	Insurance Conduct of Business sourcebook
FSMA	Financial Services and Markets Act 2000
SYSC	Senior Management Arrangements, Systems and Controls sourcebook
CP	Consultation Paper
CBA	Cost-benefit analysis

1

Overview

Introduction

- 1.1 In October 2011, we published our proposals for new rules for the sale of non-investment insurance policies as part of a packaged bank account. This paper provides feedback on the responses we received to CP11/20 and sets out next steps, which include implementing the rules consulted on with effect from 31 March 2013 and consultation on further changes to our rules.

Background

- 1.2 A packaged bank account is typically a current account bundled with a range of insurance policies and other features such as VIP airport lounge access or music downloads. Around one in five adults in the UK has one of these accounts.
- 1.3 Our review, and consumer research, told us that this product can represent good value and convenience for consumers even if they don't need or cannot use all of the features. From a consumer protection perspective the issue is whether the overall package is the right choice for the individual customer and that they understand any limitations or restrictions. If they don't, it is likely that the product will not meet their reasonable expectations.
- 1.4 We want to ensure that our rules provide the same level of protection for consumers buying insurance in this way as those buying it on a standalone basis. The key risk we found was that consumers may think they are covered by each policy, but later find they are ineligible to claim or that the policy is unsuitable in some other way.
- 1.5 Initially, our approach was to work with firms to generally raise the quality of sales and post-sale practices, which led to a commitment by firms to a range of improvements. In carrying out this work we came to the view that some of our existing Insurance Conduct of

Business sourcebook (ICOBS) requirements did not adequately address the risks we identified, and that we should consult on new eligibility and suitability rules for these sales.

1.6 The key new rules we consulted on were (in summary):

- A firm must take reasonable steps to establish whether the customer is eligible to claim under each policy and inform them whether or not they would be eligible to claim.
- A firm must provide the customer with an annual eligibility statement that sets out any qualifying requirements to claim under each policy and remind them to review whether they meet these requirements.
- The steps a firm must take to ensure the suitability of its advice on a policy included in the package.

1.7 In CP11/20 we also discussed transparency in the packaged bank account market. One of our concerns is that bundling of the insurance policies makes it hard for consumers to understand the individual components and overall value of the product. We wanted to know how to improve this lack of transparency, for example should we require firms to provide a breakdown of the premium for each policy in the package?

Response to consultation CP11/20

1.8 Respondents¹ generally agreed that the proposed new rules on eligibility and suitability were sensible proposals to mitigate the risks identified. Some respondents felt that we needed to do more to prevent unsuitable sales, for example acting on remuneration arrangements for sales staff and ensuring customers know that there is a non-packaged bank account option.

1.9 Respondents also asked us to clarify our requirements for the content and distribution of the annual eligibility statement, to ensure information is provided in a way that encourages the customer to read it and take any necessary action; and requests that the statement be personalised to reflect the individual customer's circumstances.

1.10 A number of respondents requested that we allow firms up to 12 months to implement the rules and we were also asked to align implementation with the introduction of the Consumer Insurance Bill², which may necessitate firms making changes to their processes. Some concerns were raised that if the new annual statement rule would require personalised claims data from the insurers, then this would increase the time required to make the necessary systems changes.

1.11 Views from industry and consumer groups were varied in terms of how to improve transparency, or indeed could not agree if transparency is a problem in this market. But

¹ We received 27 responses from firms, trade bodies, individuals and consumer groups.

² The Consumer Insurance (Disclosure and Representations) Act 2012 received Royal Assent on 8 March 2012. It will come into force no sooner than 9 March 2013.

respondents almost unanimously agreed with us that requiring firms to disclose the individual premium for each insurance policy in the package would not help consumers and it may in fact add to the complexity.

Structure of this paper

Eligibility and suitability (Chapter 2)

- 1.12** In Chapter 2, we confirm that we will implement the rules consulted on in CP11/20 with effect from 31 March 2013. We have considered the requests for 12 months to implement and revised our initial intention to implement these rules with effect from 1 January 2013, to allow firms sufficient time to make the necessary changes to their processes and systems. Overall, we think that an implementation date of 31 March 2013 is a reasonable compromise taking into account representations received from firms and the detail of the final rules.
- 1.13** In addition, we consult on a further rule to specify our requirements for the content and distribution of the annual eligibility statement. Subject to the outcome of consultation, we propose to implement this rule with effect from 31 March 2013.

Transparency (Chapter 3)

- 1.14** We remain concerned about the lack of transparency in the packaged bank account market. Bundling many features together with a bank account makes it complicated for consumers to understand. In Chapter 3, we acknowledge that there is no simple answer to improving transparency, but we will look at a possible suite of measures which will help consumers to better compare and shop around in this market. The regular information we started collecting from firms in January this year, as indicated in CP11/20, will help us to identify possible measures. We also intend to look at the effect of financial promotions on consumers' understanding of the product.
- 1.15** In Chapter 3, we consult on switching off ICOBS 6.1.13R (our rule on separate premium disclosure) for packaged bank accounts. This reflects what we said in CP11/20, i.e. although we agree that price transparency is important for consumers, any charge for the policies may be difficult to identify as a premium in the traditional sense and therefore may not be meaningful to consumers. The feedback we received generally agreed with this view.
- 1.16** Subject to the outcome of consultation, as we do not expect this rule change to require changes in firms' behaviour, we would propose to implement this change with effect from 1 January 2013.

Working with firms (Chapter 4)

- 1.17 In parallel with our consultation we continued our supervisory work, with firms providing packaged bank accounts, to improve sales and post-sale practices.
- 1.18 In Chapter 4 we set out the progress made and confirm our commitment to continue working with firms in this area.

Who should read this Consultation Paper?

Firms

- 1.19 This Consultation Paper (CP) should be read by all firms selling insurance as part of a packaged bank account. It will also be of interest to insurers and, more generally, retail intermediary firms selling general insurance products.

CONSUMERS

If you have a packaged bank account or you want to know more about these accounts, you will be interested in this paper.

It explains that we are introducing new rules that will ensure you are told if you are eligible or not to claim under any insurance policies in the package, and reminded every year to check if you are still eligible. Also, if a bank or building society recommends any of these policies to you it must take certain steps and explain the reasons for their recommendation.

We are also consulting on a new requirement to ensure that the annual reminder you receive is not part of any other mailing, and it must also alert you if you have reached the age limit for the travel insurance, if this is part of your package.

Timetable

- 1.20 Please send your responses to this consultation by **Monday 29 October 2012**. Subject to the outcome of this consultation, we expect to issue a Policy Statement with final rules on the content and distribution of the annual eligibility statement, and switching off ICOBS 6.1.13R in December 2012.

Equality and diversity implications

- 1.21** Feedback in relation to the equality and diversity implications we highlighted in CP11/20 was generally supportive of our proposals and stated that even though a lengthier sales process may be a barrier to access this product for some people, overall the benefits outweigh the risk.
- 1.22** The new proposals in this CP do not give rise to any new equality and diversity implications that we did not consider in CP11/20. The new requirement for firms to alert customers who trigger the age limit for the travel insurance will be significant for older customers and will mitigate the risk that they continue to think they are covered under the travel insurance policy when they are no longer eligible due to their age.
- 1.23** Our proposed new rule for the content and distribution of the annual eligibility statement will not restrict firms from providing the statement in a range of formats, such as large print or Braille.

2

Eligibility and suitability

- 2.1 This chapter sets out the feedback received to our proposed new Insurance Conduct of Business sourcebook (ICOBS) eligibility and suitability rules, consulted on in CP11/20, and our responses.
- 2.2 Bundling many different products together creates complexity for consumers. Consumers need to absorb a very large amount of information, likely making it difficult to focus on the information that they need to help them decide if this is the right product for them. For the insurance policies within the package there is a potential risk that they may think they are eligible to claim but later find that they are not or that the policies are otherwise unsuitable.
- 2.3 We want to enable the customer to make an informed decision about whether the policies in the package are right for them, initially and on an ongoing basis, in the same way as they would for a standalone purchase. To achieve this, we felt that our current ICOBS eligibility and suitability rules, which give firms flexibility to comply in different ways, needed to be more detailed for these sales.

Packaged bank account definition

- 2.4 In CP11/20 we proposed that a packaged bank account be defined as ‘an arrangement under which a firm provides a retail banking service as part of a package which includes access to other goods or services, whether or not a fee is charged’.
- 2.5 Some respondents said that this definition was too broad, and in particular that it should not include arrangements where no monthly fee is charged.

Our response

The definition of a packaged bank account is intentionally broad to capture the current model and potential future product development of this type. Our view is that the risks identified in the sale of insurance policies as part of a packaged bank account apply regardless of whether or not a monthly fee is charged. As such, we do not propose to modify the definition.

Eligibility

- 2.6** We consulted on new rules to specify the steps a firm must take to establish whether the customer is eligible to claim each benefit under each policy in the package, and to inform the customer whether or not they would be eligible to claim. If the customer proceeds with the policy, a firm must also make a record of the eligibility assessment and retain it for a minimum of three years.
- 2.7** Respondents generally agreed with us that bundling many features together makes the product complex and that it is important for consumers to have the information they need to decide whether they can rely on the policies in the package to pay out in the event of a claim. They felt that the new rules would make clear the standards we will require in future for these sales, although some said our proposals did not go far enough and that we should address other sales practices that may lead to poor outcomes for consumers, such as remuneration for sales staff.
- 2.8** The general message from groups representing consumers and protected groups was that a packaged bank account is not a one-size fits all product and firms should consider the needs of their individual customers in the way they sell this product. This might include ensuring customers know that there is a non-packaged bank account option.
- 2.9** There were also some concerns that the process required by the new eligibility rules might make the sales process unnecessarily long so customers do not complete it; that it might not work for all sales channels such as telephone or internet and that additional costs of implementing the rules might cause changes in the product or price offered to consumers. We were asked to consider focusing the rules on the policies the customer is interested in or needs, and that for sales of travel insurance where a customer has a pre-existing medical condition, eligibility for this condition should be assessed post-sale.

Our response

- We acknowledge that some respondents raised concerns that the new eligibility rules might cause some firms to change their product offering or result in some customers deciding not to buy a packaged bank account. These potential outcomes were factored into our cost-benefit analysis (CBA) when proposing the new rules and our view remains that the measures are appropriate to achieve the overall benefit for consumers.
- Applying the eligibility rules only to the policies that the customer says they are interested in does not mitigate the risk that they may later rely on other policies in the bundle without understanding their eligibility to claim.
- Travel insurance policies usually exclude or restrict cover for certain pre-existing medical conditions and what constitutes a pre-existing condition differs between insurers and travel policies. It is therefore really important that the customer knows how any medical condition they have will affect their eligibility to claim. There is potential for significant consumer detriment if a customer later finds they are ineligible to claim, e.g. when they are taken ill abroad.
- Therefore, to comply with the new eligibility rules, where a travel policy is sold as part of a packaged bank account, a firm must establish if the customer has any pre-existing medical conditions; how these affect their eligibility to claim, and inform the customer accordingly. The customer can then decide whether the cover meets their needs.
- Sometimes there may be the option for the customer to ask the insurer to provide cover for their medical condition. This generally applies post-sale, but we know that some firms are considering offering a service for customers to check with the insurer during the sale. We welcome this approach.
- We agree that firms should consider the needs of individual customers and that it would be helpful for customers to know that a non-packaged bank account is also available. This is one of the areas we have been working on with firms.
- Our review of packaged bank accounts did not look at sales staff incentives in any detail, but the information that we did look at did not suggest that remuneration schemes for packaged bank accounts were significantly different to any other financial services product the firm might be selling.
- However, in the Retail Conduct Risk Outlook 2012 we mentioned the thematic work we carried out on the financial incentives of in-house sales forces across a sample of firms and sectors. We will be publishing our findings soon.

Draft rules

- 2.10** We received comments on the draft rules, and questions about how to interpret them. For example, respondents asked whether the rules should refer to eligibility rather than qualifying criteria, and each policy rather than each benefit. The questions on interpretation were around whether the new rules might cause confusion with the statement of demands and needs rule³ and the existing suitability rule⁴ and how the new eligibility rule is different to a disclosure requirement. We were also asked to clarify the record keeping requirement e.g. is three years sufficient and what level of evidence is required?

Our response

The terminology in the new rules reflects the current drafting in ICOBS so we do not propose to introduce a change.

It is not clear to us why the new eligibility rule might be confused with the ICOBS requirement for a statement of demands and needs or the existing suitability rule and why it might be interpreted as a disclosure requirement, which suggests a firm simply giving information to the customer, in a passive way. The new eligibility rule requires a firm to take steps to establish the customer's eligibility, which includes checking they meet the qualifying criteria, and informing them accordingly. This suggests the need for interaction between the firm and the customer, rather than the passive giving of information.

The new record keeping requirement in ICOBS 5.1.3B specifies the minimum period that a firm must retain a record for, and is in addition to a firm's general record-keeping requirements under ICOBS 2.4.1G and SYSC. It is therefore for a firm to decide the appropriate format and whether to retain a record for longer than three years.

Amendment to the draft rules

- 2.11** Our intention is that the new eligibility rules apply to all types of policies, including payment protection policies, when provided as part of a packaged bank account. However, we also have ICOBS eligibility provisions which apply specifically to payment protection contracts. So to avoid any confusion we think it is helpful to switch off these provisions – ICOBS 5.1.2R and ICOBS 5.1.3G for policies provided as part of a packaged bank account.
- 2.12** There are currently no firms offering any payment protection policies as part of their package so this amendment does not affect our CBA.

³ ICOBS 5.2.2R; ICOBS 5.2.3R

⁴ ICOBS 5.3.1R

Implementation

- 2.13 Having considered the feedback to our proposal for new eligibility rules we intend to implement the new requirements with effect from 31 March 2013, for the reasons explained in paragraph 1.12.

Annual eligibility statement

- 2.14 We consulted on a new rule to require firms to provide an annual eligibility statement to each customer that sets out the qualifying requirements to claim each of the benefits under each insurance policy in the package, and to recommend that the customer reviews their circumstances and whether they meet the qualifying requirements.
- 2.15 Respondents generally supported our proposal. Some requested that the statement should be personalised to the customer, e.g. when a customer reaches the age limit for the travel insurance, and for the information to be provided in a clear and concise manner to encourage the customer to read the information and take any necessary action. Firms asked us to clarify our requirements for the content and the distribution of the statement, in particular whether it can be a generic statement sent in a bulk mailing to all their packaged bank account customers at the same time i.e. not necessarily on the anniversary of opening the account.

Our response

A number of firms are already providing an annual reminder of benefits to customers but we agree that further clarification of our requirements for content and distribution of the annual statement would be helpful to ensure the statement achieves its objective and alerts the customer to review whether they meet the qualifying requirements for the policies provided with their packaged bank account. We therefore consult, in this paper, on a new rule to specify our requirements for the content and distribution of the annual eligibility statement. See paragraphs 2.26 – 2.31.

We have no preference as to when the statement is sent to customers, provided they receive a statement at least once every 12 months.

Implementation

- 2.16 Having considered the feedback to our proposal for a new annual statement rule we intend to implement the new requirement with effect from 31 March 2013, for the reasons explained in paragraph 1.12.

Suitability

- 2.17 We also consulted on new detailed rules where a firm provides advice regarding the insurance policies included in a packaged bank account. These rules specify the steps we require firms to take to ensure the suitability of their advice on a policy included as part of a packaged bank account. The steps include: establishing the customer's demands and needs by using information readily available to the firm and by obtaining further relevant information from the customer, establishing whether each policy is suitable for the customer's demands and needs and explaining its recommendation to the customer. If the customer proceeds with the policy, the firm must also retain a record of the suitability assessment for a minimum of three years.
- 2.18 Respondents generally agreed with our proposals. Their key concern was that the new rules might make the sales process too long and result in an unsatisfactory experience for consumers, which might also stifle innovation in this market.
- 2.19 As with the eligibility rules, we were asked to consider a two-stage process for sales of travel insurance, so that pre-existing medical conditions could be assessed post-sale.

Our response

The majority of these sales are on a non-advised basis. For those sales where a firm gives advice on the policies included in a packaged bank account we continue to believe that the steps proposed are appropriate to ensure suitability of advice for consumers. We do not agree that the new rules might stifle innovation and we have not received any evidence to support this concern.

Where a firm provides advice to a customer in arranging travel insurance as part of a packaged bank account a firm must always comply with the new eligibility rules and would also need to take into account any implications of the customer's medical condition(s) when giving their advice. This might include whether or not it is appropriate to recommend the policy without knowing if the insurer would cover the customer's medical condition, if this was one of the customer's demands and needs. We cannot envisage how a two-stage process could meet the requirements of the suitability rules.

Amendment to the draft rules

- 2.20 Our intention is that the new suitability rules apply to all types of policies, which includes protection policies, when included in a packaged bank account. However, we also have ICOBS guidance on suitability which applies specifically to protection policies i.e. a payment protection contract or a pure protection contract. So to avoid any confusion we think it is helpful to switch off this provision – ICOBS 5.3.2G for policies included in a packaged bank account.

- 2.21 There are currently no firms offering any payment protection policies as part of their package, and pure protection policies are rarely included. We do not think this amendment affects our CBA.

Implementation

- 2.22 Having considered the feedback to our proposal for new suitability rules for advised sales we intend to implement the new requirements with effect from 31 March 2013, for the reasons explained in paragraph 1.12.

Cost-benefit analysis

- 2.23 To inform our CBA for the proposed eligibility and suitability rules we requested information from firms selling packaged bank accounts. In response to our consultation, we received some feedback that, while responsibility and the cost of implementing the new rules largely falls to the firms providing these accounts, there would also be costs to the insurance industry that were not included in the CBA.
- 2.24 Some firms stated that the actual costs of implementing the new rules may vary depending on the final rules, e.g. checking eligibility for travel insurance where a customer has pre-existing medical conditions and clarification of our requirements for content and distribution of the annual statement.
- 2.25 Otherwise, feedback was primarily around concerns that the new rules might make the sales process too lengthy and deter customers from arranging their policies in this way, or deter firms from innovating.

Our response

We asked insurers to provide us with information about any costs for them in implementing the new rules. Only one insurer provided some information about their potential costs. They reported they would incur costs from: (1) providing training support to their business partner in implementing the new eligibility rules; (2) handling any increase in enquiries from customers on receipt of their annual statement; and (3) any increase in the number and cost of claims.

The majority of these potential costs reported by this firm related to increased claims volumes as a result of the new annual eligibility statement rule. However, we do not expect the implementation of this new rule to materially increase

claims volumes and costs.⁵ Nor do we expect the number of customer enquiries to be materially affected. The costs of training bank staff were reported in the CBA in CP11/20 and we consider that those costs for industry remain reasonable. Overall therefore we do not think that our proposals will materially increase costs for insurers providing policies for packaged bank accounts.

Where feedback requested it, we have clarified our requirements for implementing the rules and in our view the costs of implementation stated in the CBA remain reasonable.

Consultation: Content and distribution of the annual eligibility statement

- 2.26 The purpose of the eligibility statement is to remind the customer to review their eligibility under each of the policies, on an annual basis. We are concerned that the important information it contains may be obscured if the statement is part of another mailing. For this reason we think it should be a standalone document that is sent to the customer in a separate mailing and that it should contain only the information required to comply with the annual statement rule, i.e. the qualifying criteria for each of the benefits in the policy or policies.
- 2.27 Feedback suggested that we should require the statement to contain personalised information, such as when a customer reaches the age limit for travel insurance. We agree that there would be a benefit to alerting customers in these circumstances. Ineligibility to claim under travel insurance is a significant risk if customers are not aware they have exceeded the age limit. This is the one area where we think it would be proportionate to require firms to include personalised information in the statement, as we understand that firms will readily have information about the account holder(s) age and the age limit under the travel policy. We do not think it would be proportionate to make a similar requirement for the other types of policies in the package, e.g. mobile phone or car breakdown cover because it is not likely that firms will have access to the relevant personalised eligibility information to include in the statement, e.g. medical conditions or changes in circumstances.
- 2.28 Having considered the feedback, we propose a new rule to specify our requirements for the content and distribution of the statement, while still giving firms sufficient flexibility in terms of the precise content and timing of distribution of the statement. The draft rule is provided in Appendix 2 and in summary is:

⁵ CP11/20 Annex 1: High-level market failure analysis and cost-benefit analysis. Paragraph 21: We expect most of the benefits of our proposals to come from the eligibility and suitability requirements at the point of sale. The annual statement will give consumers an opportunity to re-assess if their circumstances have changed and whether the insurance policies in the package continue to meet their needs. Given what we know about consumer behaviour in acting on this type of information, we cannot be certain that they will act on it. However, it will be of benefit as an important reminder so consumers are in a position to make an informed decision.

- where a firm is aware that anyone covered under a travel insurance policy is already over the age limit or will reach the age limit for cover under that policy before the next statement is due, it must state this clearly and prominently in the statement; and
- the statement must not be part of another document or mailing and must contain only the information required under the annual eligibility statement rule, i.e. the qualifying requirements to claim each of the benefits under the policy.

2.29 We recognise that some firms already notify customers separately when they reach the age limit for the travel insurance and we welcome this approach. However, we think that our proposed new requirement will provide additional benefits for customers as they will receive a reminder each year.

2.30 In proposing this new rule we have considered the costs for firms of implementing these additional requirements at the same time as implementing the annual statement itself, and it is our view that the costs are similar to those estimated for the annual statement rule when we initially consulted, and our CBA at that time.

2.31 We propose that, subject to the outcome of this consultation, this new rule would also be implemented with effect from 31 March 2013.

Q1: Do you agree with our proposal for a new rule to specify our requirements for the content and distribution of the annual eligibility statement?

Q2: Do you have any comments on our draft rule for the content and distribution of the annual eligibility statement?

3

Transparency

- 3.1** This chapter sets out feedback to the discussion in CP11/20 about our concerns around the lack of transparency in packaged bank accounts. We said that by bundling so many products and features together with a bank account this makes it complicated for consumers to understand which may adversely affect switching, shopping around and consumer choice.
- 3.2** We want to improve transparency in this market, but it is not easy to know what information would help consumers when deciding whether a packaged bank account is the right choice for them. We therefore invited views from stakeholders. We were not convinced that disclosing the individual premiums for each policy, as required by ICOBS 6.1.13R, was the right solution or that not having a breakdown of the insurance premiums would affect the consumer's decision to choose a packaged bank account. So we asked for views about this and what other information would help consumers.
- 3.3** Views on transparency were varied. Some, generally from the industry, took the view that there is no problem with existing transparency, whereas those representing consumers agreed with us that consumers find it difficult to understand what they are paying for, and to easily compare and shop around.
- 3.4** The feedback did not indicate a preference for any one single measure to resolve the lack of transparency in this market. Some ideas put forward were:
- firms should, as a minimum, provide the annual cost, instead of or as well as the monthly fee;
 - improving promotional material as the current approach of showing potential annual total benefits provided with the account alongside the monthly fee can be misleading; and
 - the FSA should prescribe the information (including costs and charges) that firms must provide to customers, and the format, and this might also be used for an online comparison tool/website.

- 3.5 The one area where respondents almost unanimously agreed with us was that requiring firms to disclose separately the individual premium for each insurance policy (as required by ICOBS 6.1.13R) was not helpful to consumers and it may in fact make it more complex for them.

Our response

We note that views differ on whether there is a need to improve transparency, but we are more persuaded by feedback from those representing consumers. We remain concerned about the lack of transparency in this market.

There is no single answer to improving transparency and we noted that respondents agreed with our view that there would be no benefit for consumers in requiring firms to provide a breakdown of the individual insurance premiums for each policy.

The ideas provided by respondents will be helpful as we consider any further work on improving transparency, which will include looking at firms' financial promotions.

We are constrained in our ability to implement some of the ideas – for example, the Payment Services Regulations specify the information a firm must provide about a contract for payment services. The underlying Directive⁶ is maximum harmonising, which means that we cannot require firms to provide additional information to that specified.

The information we receive from firms in our six-monthly surveys will also help us to better understand the features of this market and identify additional transparency interventions.

Next steps

- 3.6 Having considered the feedback on transparency we intend to:
- Look at a possible suite of measures which together will help consumers to better compare and shop around in this market. An initial step will be to look at the effect of financial promotions on consumers' understanding of the packaged bank account product.
 - Continue to monitor this market, including six-monthly surveys to firms to collect information about their product range, sales, claims and complaints. If we find evidence of further issues in this market we will consider intervening further.
 - Consult on switching off ICOBS 6.1.13R.

⁶ The Payment Service Directive 2007/64/EC

- 3.7 We are also mindful that the European Commission has recently published its Retail Package of proposals. This includes proposals for changes to the Insurance Mediation Directive that would ban 'tying', i.e. firms would not be able to sell an insurance product with another service where the insurance product could not be purchased separately.
- 3.8 The effect of these proposals is not yet clear, but it is possible that the current packaged bank account product design where the customer chooses a fixed package for a single price might not be permitted.
- 3.9 These proposals have yet to go through the legislative process. It is too early to know whether they will be adopted in their current form. If they are, then it is likely that they will not take effect until at least 2014. We will monitor how the proposals progress, but given this uncertainty around outcome and timing, we think it is appropriate for us to continue trying to improve transparency in the current market.

Consultation: switching off ICOBS 6.1.13R for packaged bank accounts

- 3.10 In CP11/20 we explained that in our view ICOBS 6.1.13R applies to packaged bank accounts and it requires the separate disclosure of the individual insurance premium for each policy provided in the package. However, firms have taken the approach of providing only the monthly account fee. The reasons for this vary. Some firms take the view that the rule was not intended to apply to the packaged bank account model, and other firms take the view that there is no separate premium to disclose.
- 3.11 We are not inclined to agree with this reasoning, albeit that any charge for the policies may be difficult to identify as a premium in the traditional sense and therefore may not be meaningful to consumers. However, as explained in CP11/20, we think it is unlikely that not having a breakdown of the premiums will affect the consumer's decision to choose a packaged bank account. We also think it is unlikely that consumers will have suffered any recoverable loss as a result of a firm not complying with ICOBS 6.1.13R when selling packaged bank accounts.
- 3.12 Feedback reflected almost unanimous agreement with this view. We therefore propose that we should switch off this rule for packaged bank accounts as it does not achieve its aim, which is to ensure the customer knows whether the policy is compulsory or optional, and the separate cost of the premium for the insurance policy.
- 3.13 Subject to responses to this consultation we propose to make this change with effect from 1 January 2013.

Q3: Do you agree with our proposal to switch off ICOBS 6.1.13R for packaged bank accounts?

4

Working with firms

- 4.1 This chapter provides feedback on our supervisory work with firms.
- 4.2 In parallel to consulting on new ICOBS rules we continued our supervisory work with firms to improve product sales and post-sale practices in a number of areas on a voluntary basis. Examples of the improvements that we have seen from some firms include:
- registration as a pre-requisite for claiming has been removed;
 - regular reminders are being provided to customers on the contents of the packages;
 - reminding customers of the need to notify changes in their circumstances;
 - proactively notifying customers who trigger the age limit on travel insurance; and
 - taking steps to identify duplicate sales of insurance policies (where the firm sells similar stand-alone policies to those in the package).
- 4.3 We welcome these improvements and would like to see progress on these areas across all firms so we will continue to work with firms to this end. We will also focus on the following:
- the clarity of financial promotions and in particular whether pricing claims relating to the value of the benefits provided by a packaged bank account are clear, fair and not misleading; and
 - ensuring that packaged bank accounts that are promoted as being convenient meet customers' reasonable expectations for this.
- 4.4 The new rules we are introducing will enhance consumer protection and as part of our ongoing work in this area, we may consider whether we need additional rules to improve standards further.

Annex 1

List of non-confidential responses

Association of British Insurers
Age UK
ACE European Group Ltd
Aviva plc
AXA UK
British Bankers' Association
Helen Brown
Building Societies Association
Chartis Europe Limited
Citizens Advice Bureau
The Consumer Council (Northern Ireland)
Consumer Focus
Anthea Coulter
Defaqto
Financial Services Consumer Panel
Investment & Life Assurance Group
Howard Jones
Lifestyle Services Group

The Royal Bank of Scotland

Adam Samuel

Which?

Yorkshire Building Society

Annex 2

Market failure analysis and cost-benefit analysis

Market failure analysis

1. Our analysis of this market was set out in CP11/20.

Cost-benefit analysis

2. When proposing new rules, we are obliged under Section 155 of FSMA to publish a cost-benefit analysis. Its purpose is to provide an estimate of the cost and an analysis of the benefits of the proposed rules.

Costs

Proposed new rule: content and distribution of the annual eligibility statement

3. We have considered how the proposed new rule, to specify our requirements for the content and distribution of the annual eligibility statement, might impact the CBA we prepared when we consulted on the proposed new annual statement rule in CP11/20. We are satisfied that the one-off costs will be within those used for the CBA at that time, and the ongoing costs of £1 per statement remains a reasonable estimate as it already takes account of the costs of a separate mailing.

Switching off ICOBS 6.1.13R for packaged bank accounts

4. As we stated in the CBA for CP11/20, we are not persuaded that providing consumers with a breakdown of the individual insurance premiums in a packaged bank account would necessarily ensure that they are able to make sufficiently informed decisions or that the market is operating efficiently, leading to better outcomes for consumers.
5. We think it is unlikely that not having a breakdown of the individual insurance premiums will affect the consumer's choice of a packaged bank account and it is unlikely that consumers will have suffered any recoverable loss as a result of current disclosures. As such, we do not expect switching off ICOBS 6.1.13R, which requires separate premium disclosure, for packaged bank accounts will lead to changes in firms' behaviour. Therefore, we do not expect material costs to arise as a result.

Benefits

New rule: content and distribution of the annual statement

6. We set out the benefits for consumers, of the new annual eligibility statement, in CP11/20. By specifying our requirements for the content and distribution of the annual statement, we will ensure that the benefits set out in CP11/20 are realised as it will ensure that the statement is clearly brought to the customer's attention and important information is not obscured by other unrelated and distracting information. For customers triggering the age limit for the travel insurance there would be an added benefit of bringing this prominently to their attention.

Switching off ICOBS 6.1.13R for packaged bank accounts

7. The benefit of switching off ICOBS 6.1.13R is that we provide clarity for firms, and avoid potentially unhelpful different interpretations of this rule, in relation to disclosure of the insurance premiums for the policies provided with a packaged bank account.

Annex 3

Compatibility statement

1. This annex explains our reasons for concluding that the proposals and draft rules in this Consultation Paper are compatible with our general duties under section 2 of the Financial Services and Markets Act 2000 and with the regulatory objectives set out in sections 3 to 6. Sections 155 and 157 of FSMA require us to make this statement.

Compatibility with our statutory objectives

Consumer protection

2. The aim of our proposals is to put consumers in a position to make informed decisions when thinking about buying insurance policies as part of a packaged bank account.
3. Our objective is to limit the potential that a customer may later find that they are not eligible to claim under one or more of the insurance policies, or that a policy is unsuitable in some other way.

Compatibility with the principles of good regulation

4. Section 2(3) of FSMA requires that, in carrying out our general functions, we must have regard to the principles of good regulation. Those most relevant to our proposals are proportionality, innovation, competition and public awareness.
5. Our proposal for a new rule to specify our requirements for the content and distribution of the new annual statement is aimed at ensuring the customer's attention is drawn to the important information in the statement. This will enable customers to choose whether the overall package provided with the bank account still meets their needs, even if one or more of the insurance policies does not. We think that this is a proportionate response to the risks identified and facilitates innovation by firms developing and marketing packaged bank accounts. Better informed consumers will increase competition within the marketplace, but the effects are likely to be small.

6. We have also had regard to proportionality in proposing the new rule on the content and distribution of the annual statement. Informed by our CBA, we consider that the benefits of this proposal are proportionate to the costs both overall and for the size and type of firm providing packaged bank accounts.
7. By switching off ICOBS 6.1.13R for packaged bank accounts we provide certainty in the interpretation and application of this rule for firms without any material impact on either firms or consumers.

Why our proposals are most appropriate for the purpose of meeting our statutory objectives

8. In developing our proposals we have engaged with a wide range of stakeholders and interested parties, including consumer representatives and industry practitioners. For the reasons stated above we believe that our proposals are the most appropriate option for the purpose of meeting our objective of securing the appropriate degree of protection for consumers.

Annex 4

List of questions

- Q1:** Do you agree with our proposal for a new rule to specify our requirements for the content and distribution of the annual eligibility statement?

- Q2:** Do you have any comments on our draft rule for the content and distribution of the annual eligibility statement?

- Q3:** Do you agree with our proposal to switch off ICOBS 6.1.13R for packaged bank accounts?

Appendix 1

Made rules (legal instrument)

PACKAGED BANK ACCOUNTS INSTRUMENT 2012

Powers exercised

- A. The Financial Services Authority makes this instrument in the exercise of the following powers and related provisions in the Financial Services and Markets Act 2000 (“the Act”):
- (1) section 138 (General rule-making power);
 - (2) section 156 (General supplementary powers); and
 - (3) section 157(1) (Guidance).
- B. The rule-making powers listed above are specified for the purpose of section 153(2) (Rule-making instruments) of the Act.

Commencement

- C. This instrument comes into force on 31 March 2013.

Amendments to the Handbook

- D. The Glossary of definitions is amended in accordance with Annex A to this instrument.
- E. The Insurance: Conduct of Business sourcebook (ICOBS) is amended in accordance with Annex B to this instrument.

Citation

- F. This instrument may be cited as the Packaged Bank Accounts Instrument 2012.

By order of the Board
26 July 2012

Annex A

Amendments to the Glossary of definitions

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

<i>packaged bank account</i>	an arrangement under which a <i>firm</i> provides a <i>retail banking service</i> as part of a package which includes access to other goods or services, whether or not a fee is charged.
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Annex B

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

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

Eligibility to claim benefits: general insurance contracts and pure protection contracts

- 5.1.1 G (1) In line with *Principle 6*, a *firm* should take reasonable steps to ensure that a *customer* only buys a *policy* under which he is eligible to claim benefits.
- (2) If, at any time while *arranging a policy*, a *firm* finds that parts of the cover apply, but others do not, it should inform the *customer* so he can take an informed decision on whether to buy the *policy*.
- (3) This guidance does not apply to policies arranged as part of a packaged bank account.

Eligibility to claim benefits: payment protection contracts

- 5.1.2 R (1) A *firm* arranging a *payment protection contract* must:
- (1) (a) take reasonable steps to ensure that the *customer* only buys a *policy* under which he is eligible to claim benefits; and
- (2) (b) if, at any time while *arranging the policy*, it finds that parts of the cover do not apply, inform the *customer* so he can take an informed decision on whether to buy the *policy*.
- (2) This rule does not apply to payment protection contracts arranged as part of a packaged bank account.
- 5.1.3 G (1) For a typical *payment protection contract* the reasonable steps required in the first part of the *eligibility rule* are likely to include checking that the *customer* meets any qualifying requirements for different parts of the *policy*.
- (2) This guidance does not apply to payment protection contracts arranged as part of a packaged bank account.

Eligibility to claim benefits: policies arranged as part of a packaged bank account

- 5.1.3A R A firm arranging policies as part of a packaged bank account must:
- (1) take reasonable steps to establish whether the customer is eligible to claim each of the benefits under each policy included in the packaged bank account which must include checking that the customer meets any qualifying requirements to claim each of the

benefits under each *policy*; and

- (2) inform the *customer* whether or not he would be eligible to claim each of the benefits under each *policy* included in the *packaged bank account* so that the *customer* can take an informed decision about the arrangements proposed.

5.1.3B R A *firm* must make a record of the eligibility assessment and, if the *customer* proceeds with the arrangements proposed, retain it for a minimum period of three years from the date on which the assessment was undertaken.

5.1.3C R Throughout the term of a *policy* included in a *packaged bank account*, a *firm* must provide the *customer* with an eligibility statement on an annual basis. This statement must set out any qualifying requirements to claim each of the benefits under the *policy* and recommend that the *customer* reviews his circumstances and whether he meets these requirements.

...

Suitability guidance for protection policies

- 5.3.2 G (1) In taking reasonable care to ensure the suitability of advice on a *payment protection contract* or a *pure protection contract* a *firm* should:
- (1) (a) establish the *customer's* demands and needs. It should do this using information readily available and accessible to the *firm* and by obtaining further relevant information from the ~~customer~~ *customer*, including details of existing insurance cover; it need not consider alternatives to policies nor *customer* needs that are not relevant to the type of policy in which the *customer* is interested;
- (2) (b) take reasonable care to ensure that a *policy* is suitable for the *customer's* demands and needs, taking into account its level of cover and cost, and relevant exclusions, excesses, limitations and conditions; and
- (3) (c) inform the *customer* of any demands and needs that are not met.
- (2) This *guidance* does not apply to *payment protection contracts* or *pure protection contracts* included in a *packaged bank account*.

Suitability of advice on policies included in a packaged bank account

- 5.3.2A R In taking reasonable care to ensure the suitability of advice on a *policy* included in a *packaged bank account*, a *firm* must:
- (1) establish the *customer's* demands and needs by using information readily available to the *firm* and by obtaining further relevant information from the *customer*, including details of existing

insurance cover; it need not consider alternatives to *policies* nor *customer* needs that are not relevant to the type of *policy* in which the *customer* is interested;

- (2) take reasonable steps to establish whether each *policy* included in the *packaged bank account* is suitable for the *customer's* demands and needs, taking into account its level of cover and cost, and relevant exclusions, excesses, limitations, and conditions;
- (3) inform the *customer* of any demands and needs that are not met; and
- (4) explain to the *customer* its recommendation and the reasons for the recommendation.

5.3.2B R A *firm* must make a record of the suitability assessment, the recommendation given and the reasons for the recommendation and, if the *customer* proceeds with the recommendation, retain it for a minimum period of three years from the date on which the recommendation was made.

...

Schedule 1 Record keeping requirements

...

Handbook reference	Subject of record	Contents of record	When record must be made	Retention period
...				
<u>ICOBS 5.1.3BR</u>	<u>Eligibility</u>	<u>Details of whether the <i>customer</i> is eligible to claim each of the benefits under each <i>policy</i> included in the <i>packaged bank account</i></u>	<u>Date of eligibility assessment</u>	<u>3 years</u>
<u>ICOBS 5.3.2BR</u>	<u>Suitability and recommendation given</u>	<u>Details of whether each <i>policy</i> included in the <i>packaged bank account</i> is suitable for the <i>customer's</i> demand and needs, the recommendation given and the reasons for the recommendation</u>	<u>Date of recommendation</u>	<u>3 years</u>

Appendix 2

Draft handbook text

PACKAGED BANK ACCOUNTS (AMENDMENT) INSTRUMENT 2012

Powers exercised

- A. The Financial Services Authority makes this instrument in the exercise of the following powers and related provisions in the Financial Services and Markets Act 2000 (“the Act”):
- (1) section 138 (General rule-making power); and
 - (2) section 156 (General supplementary powers).
- B. The rule-making powers listed above are specified for the purpose of section 153(2) (Rule-making instruments) of the Act.

Commencement

- C. (1) The amendments in Part 1 of the Annex come into force on 1 January 2013
(2) The amendments in Part 2 of the Annex come into force on 31 March 2013.

Amendments to the Handbook

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

Citation

- E. This instrument may be cited as the Packaged Bank Accounts (Amendment) Instrument 2012.

By order of the Board
[date]

Annex

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

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

Part 1: Comes into force on 1 January 2013

6 Product information

...

Price disclosure: connected goods or services

- 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 requirements 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*.

Part 2: Comes into force on 31 March 2013

5 Identifying client needs and advising

...

Eligibility to claim benefits: policies arranged as part of a packaged bank account

- 5.1.3C R (1) Throughout the term of a *policy* included in a *packaged bank account*, a *firm* must provide the *customer* with an eligibility statement on an annual basis. This statement must set out any qualifying requirements to claim each of the benefits under the *policy* and recommend that the *customer* reviews his circumstances and whether he meets these requirements.
- (2) Where a *firm* is aware that any person entitled to claim the benefits under a travel insurance *policy* included in a *packaged bank account* has reached an age limit on claiming benefits (or will reach an age limit before the next annual statement is due), it must state this

clearly and prominently in the statement and on an annual basis thereafter.

- (3) The statement (provided under *ICOB*S 5.1.3CR(1)) must not:
- (a) include any information other than that required under this rule; or
 - (b) form part of another document provided to the *customer* by the *firm*; or
 - (c) be included in the same mailing as any other document provided to the *customer* by the *firm*.

Appendix 3

Designation of Handbook Provisions

1. FSA Handbook provisions will be ‘designated’ to create a FCA Handbook and a PRA Handbook on the date that the regulators exercise their legal powers to do so. Please visit our website¹ for further details about this process.
2. We plan to designate the Handbook Provisions which we are proposing to create and/or amend within this Consultation Paper as follows:

Handbook Provision	Designation
ICOBS 6.1.13R	FCA
ICOBS 5.1.3C R	FCA

¹ <http://media.fsahandbook.info/latestNews/One-minute%20guide.pdf>

PUB REF: 002892

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