

# **Regulation of funeral plans:** Feedback to CP21/4 and final rules

## **Policy Statement**

PS21/8

July 2021

## This relates to

Consultation Paper 21/4  
which is available on our website at  
[www.fca.org.uk/publications](http://www.fca.org.uk/publications)

**Telephone:**

020 7066 1768

**Email:**

[cp21-04@fca.org.uk](mailto:cp21-04@fca.org.uk)

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# 1 Summary

- 1.1** In January this year the Government made legislation to bring pre-paid funeral plans ('funeral plans') into our regulation from 29 July 2022.
- 1.2** In [CP 21/4](#) we set out the bulk of our proposed framework for regulating funeral plans. The consultation closed on 13 April 2021, and we received 103 responses in total.
- 1.3** In this document we summarise the feedback received, and our response, alongside our final rules.
- 1.4** We are also now consulting on additional requirements to deliver the consumer outcomes we expect to see if regulated firms fail. These include protection under the Financial Services Compensation Scheme (FSCS), and connected proposals on the resolution of firms. See [CP 21/20](#).

## Who this affects

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- firms that sell or carry out funeral plan contracts for funerals in the UK
- investment advisers who provide advice on funeral plan contracts
- insurance firms that provide life insurance policies backing some funeral plans
- trustees of trusts and discretionary investment managers who manage the assets of trusts that back some funeral plans
- trade bodies representing firms that carry out or sell funeral plan contracts, including those representing funeral directors
- groups representing consumer interests
- consumers who have a funeral plan, or are thinking of purchasing one

## The wider context of this policy statement

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### Bringing firms into regulation

- 1.5** Funeral plans are products through which a consumer pre-arranges and pre-pays for their funeral with a provider, generally for a fixed cost. The funeral plan could be sold by a third-party intermediary (eg funeral director, financial advisor or will writer) or directly by the provider firm.
- 1.6** Funeral plan activities are currently exempt from regulation under the Regulated Activities Order (RAO) where plans are backed by a trust or insurance product meeting specific conditions. This means that the market is currently only subject to voluntary regulation by the Funeral Planning Authority (FPA).
- 1.7** There has been significant growth in the funeral plans market in recent years. Members of the FPA (that make up 90-95% of existing plans) have over 1.5 million undrawn plans. In 2020, 160,500 new plans were sold.

**1.8** In recent years the media and some consumer groups have raised concerns about the conduct of some pre-paid funeral plan providers. This led to a Treasury consultation on the future regulation of this market in 2019, following a Call for Input in 2018.

### Our consultation

**1.9** In CP 21/4 we noted that funeral plans can have emotional and psychological benefits for consumers in removing some of the burden of funeral arrangement from their next of kin, and can also protect consumers from increases in the price of funerals in the time between buying the plan and their death.

**1.10** We also noted a range of harms arising from practices employed by some firms in the market, identified by the Treasury's consultation and through our own data gathering and analysis, including:

- Plans that do not meet consumers' needs or expectations, like those paid by instalment that do not guarantee a funeral service
- the use of high-pressure sales tactics by some intermediaries, including cold calling of potentially vulnerable consumers, resulting in consumers taking out plans which are not suitable for their needs
- consumers paying high prices in relation to product benefits driven by high rates of commission and fees
- poor governance and controls within plan providers, including oversight of intermediaries and potential conflicts of interest where an intermediary gets a high commission
- plans going unclaimed because the consumers' families do not know about them, which increases the risk of harm as families cannot use plans they discover at a later date
- poor financial management of trusts, meaning that there may not be sufficient funds available to cover funeral costs, with unclear and potentially poor outcomes for consumers if firms fail

## What we are changing

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**1.11** In CP 21/4 we consulted on the following standards:

- **products must meet consumer needs:** rules to ban the sale of products which do not provide for funeral services in almost all circumstances on the consumer's death
- **plans must be sold fairly:** firms must only offer products consistent with consumer demands and needs, in addition to requirements around enhanced pre-sale disclosure and new standards on advertising, including a ban on cold calling
- **products must represent fair value:** a ban on commission payments to intermediaries, further requirements around remuneration and fees (to be cost-reflective)
- **improving governance standards and oversight:** application of the Senior Managers and Certification Regime (SM&CR) plus systems and controls rules on conflicts, appointed representatives (ARs), risk management and outsourcing

- **ensuring services can be delivered:** requirement to back plans with adequate trust or insurance arrangements, systems and controls rules around pricing, and prudential requirements including the requirement to hold capital to protect against future risks
- **backstops in place should things go wrong:** requirements for firms to have arrangements in place to provide for continuity or reimbursement in the event of firm failure, and access to the FSCS and Financial Ombudsman Service ('the ombudsman') from Day 1 of regulation

From 29 July 2022, the ombudsman will become responsible for resolving consumer disputes about funeral plans. CP 21/4 set out proposed changes to the compulsory and voluntary jurisdictions of the ombudsman service and was a joint consultation with the ombudsman service on those changes. Feedback to our proposals concerning the ombudsman service is set out in Chapter 6.

## Outcomes we are seeking

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**1.12** In CP 21/4 we set out the outcomes we are seeking in the funeral plans market under our regulation:

- products which offer fair value, meet consumer needs and are sold fairly
- well-run firms with high conduct standards and sufficient resources and risk transfer arrangements to ensure ongoing delivery of funeral services
- consumers have time and all the information they need to make better informed decisions when choosing between different products and whether a funeral plan is right for them at all
- protections in place to ensure the fair treatment of consumers, many of whom are likely to be vulnerable
- clear, proportionate and supervisable standards that firms in the sector must meet

## Summary of feedback and our response

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**1.13** The rules we consulted on in CP 21/4 were intended to protect consumers who have taken, or will in future take out, a pre-paid funeral plan product. We want to see an improvement in outcomes for consumers in this sector, with better value products, better sales practices and better controls in place so consumers can be confident they will receive the funeral they expect.

**1.14** Respondents to the consultation were generally strongly supportive of the objectives we want to achieve through our regulation, though concerns and queries were raised on some aspects of our proposed rules.

**1.15** We are now making final rules which we consider best meet the objectives set out above, while reflecting feedback from stakeholders on elements of our proposals which may have had an adverse impact on consumers or firms.

**1.16** We want to draw readers' attention to the following elements:

- **Commission:** we are making our proposed rules banning commission payments to intermediaries as consulted on. We did not receive compelling evidence on the value of commission arrangements to consumers in this sector when evaluated against the harms set out in CP 21/4. See Chapter 3 for further discussion.
- **Instalment plans:** we are making rules requiring that new instalment plans sold after regulation commences guarantee a funeral without additional payment at the time of death. Having considered feedback from firms we are amending the rules consulted upon to allow a moratorium period of up to 24 months during which firms will not be required to deliver the funeral, reflecting the length of the moratorium periods generally available in the over-50s life insurance sector.
- **Risk transfer and prudential:** we are making our rules subject to some minor amendments, eg allowing some essential payments to be made out of trusts irrespective of solvency levels, and to require further reporting around life expectancy, so we can identify risks around solvency for insurance-backed plans. Please note that we are consulting on further changes to aspects of these rules as part of CP 21/20 but we have made the majority of rules in this chapter to provide greater certainty to firms ahead of when firms can start to apply to the FCA for authorisation from September 2021 (also referred to as 'opening of the gateway').
- **Money handling:** following concerns raised on our proposal to ban funeral plan intermediaries from handling payments, we have amended our rules to allow for this in limited circumstances. This will enable any consumers that wish to pay in cash to continue to be able to purchase plans in this way, should firms wish to allow for it.
- **AR Regime and Approved Persons:** in our final rules we have removed the requirement for ARs to have individuals performing the Customer Function (CF30) approved by us. We accept feedback that this requirement was disproportionate to the risk posed by smaller firms selling plans, given that other individuals (eg those in governing functions) will be approved.
- **Annual statements:** having considered feedback we agree that the requirement to provide consumers with annual statements may be overly burdensome for funeral plan providers in relation to the benefits to consumers. We have amended our rules to allow these statements to be sent out every 3 years instead.
- **Cancellation rights:** in CP 21/4 we consulted on a 30 day free cancellation window for consumers after entering into a funeral plan contract. We have now amended our rules to allow a further 7 day period for consumers to cancel free of charge after the appointment of a funeral services provider is confirmed. This extension is intended to ensure the customer is content with the arrangements made with the funeral services provider.

**1.17** Several respondents said that our proposals could harm competition or reduce the number of consumers accessing funeral plans. Our statutory objectives include ensuring an appropriate degree of consumer protection and promoting effective competition in the interests of consumers. We have carefully considered the extent to which current market practices such as payment of commission may produce good outcomes for consumers, such as increased competition, access or innovation.

**1.18** We believe the proposed regime achieves appropriate consumer protection whilst promoting effective competition. We recognise that some features of the regime (eg the ban on commission and the requirement for new plans sold to deliver the agreed funeral) may reduce the number of funeral plans sold overall, and we discuss this further in Chapter 3 and Chapter 8. However, we also consider that our regime

will reduce consumer harm, ensure that plans meet consumer needs, and allow consumers to take better informed decisions on which financial products, if any, they wish to rely on for planning funeral arrangements.

- 1.19** Several industry respondents raised concerns around the tight timetable for onboarding the funeral plan sector, and the short consultation timeline. The deadline for regulation going live is fixed in legislation, and with our consultation we sought to receive valuable feedback on our proposals while providing certainty on the regulatory framework for firms and consumers as soon as possible.
- 1.20** Some respondents noted the risk to consumers of firms exiting the market at the point our regulation goes live. We are aware of these issues and continue to work with the industry, Government and other stakeholders with a view to mitigating any risks to consumers. We urge any funeral plan providers considering leaving the funeral plans markets to engage with us, and to contact the team at [FuneralPlans@fca.org.uk](mailto:FuneralPlans@fca.org.uk)
- 1.21** Some respondents noted that traditional funeral directors are not always involved in the delivery of funeral plans. We have now amended our rules to refer to 'funeral services providers'. This term, which we also use in this document, includes traditional funeral directors and other firms who provide services such as direct cremation.

## Equality and diversity considerations

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- 1.22** We have considered the equality and diversity issues that may arise from the proposals in this Policy Statement. We consider this further in Chapter 8, in our response to feedback on our Equality Impact Assessment.

## Measuring Success

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- 1.23** As discussed in CP 21/4 we will put in place strong authorisation, supervisory and enforcement processes to ensure firms meet the standards set out in our final rules. The data we collect from firms will allow us to assess changes in the market over time and identify and take appropriate action on any potential poor conduct or other sector risks.
- 1.24** We plan to conduct a post-implementation review of our regime in 2026, giving the industry time to adapt to these changes. We will examine evidence on firms' adaptation to the new regime, outcomes for consumers and other relevant factors to determine whether the regime is delivering good outcomes. In the interim we will be prepared to intervene if issues are identified in the market through our supervision.

## Next steps

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- 1.25** Firms engaged in funeral plans activities should consider the final rules set out in this policy statement and consider whether they wish to continue in this market beyond 29 July 2022 when our regulation begins and our rules take effect.

- 1.26** All funeral plan providers that still want to conduct regulated funeral plan activities must apply for authorisation, as must any intermediaries selling funeral plans who do not become ARs. This includes firms that only want to carry out pre-existing plans. Firms can apply to the FCA for authorisation from 1 September 2021 (also referred to as 'opening of the gateway') and should make sure they start to prepare an application in good time before this date to submit it as soon as the gateway opens. This will help to ensure that firms give themselves sufficient time to demonstrate they meet the required standard for the FCA to determine applications prior to 29 July 2022.
- 1.27** Firms can contact us with any queries on this process at [funeralplans@fca.org.uk](mailto:funeralplans@fca.org.uk) or via our Supervision Hub at [firm.queries@fca.org.uk](mailto:firm.queries@fca.org.uk).
- 1.28** Firms that are not authorised or exempt from 29 July 2022 will not be permitted to carry out regulated activities for funeral plans. It will be a criminal offence to enter into new funeral plan contracts or for plan providers to carry out existing funeral plan contracts without authorisation beyond this date. We expect firms that are not approved for authorisation to transfer their books of business or otherwise wind down in an orderly way before regulation begins. We have issued further guidance on the authorisations process on our website at <https://www.fca.org.uk/firms/regulating-funeral-plans/apply-authorisation>
- 1.29** Firms should consider the proposals set out in [CP 21/20](#) concerning the outcomes we expect to see for consumers in the event of a regulated firm failing and further proposed rules on FSCS compensation, the resolution of firms and rules concerning product structure. Respondents to the consultation should email [cp21/20@fca.org.uk](mailto:cp21/20@fca.org.uk). We will consider feedback and aim to make final rules in Q4 2021. Rules relating to the FSCS which are dependent on the government's associated legislation being introduced will be finalised once that legislation is made.



## 2 High-level standards, risk transfer and prudential standards

**2.1** In CP 21/4 we consulted on a range of standards we want to apply to firms. In this chapter we summarise feedback on our proposals concerning high-level standards and risk transfer and prudential requirements, which were set out in Chapter 3 and 4 of the CP respectively. We have considered this feedback and set out our response below.

### High-level standards

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**2.2** In CP 21/4 we proposed to apply a range of overarching standards which apply to other FCA regulated firms, including:

- Principles for Businesses (PRIN), including associated guidance eg on fair treatment of vulnerable customers
- Threshold Conditions (described in guidance in 'COND')
- Systems and Controls (SYSC) manual
- General Provisions (GEN)

**2.3** We asked respondents the following question:

**Q2:** *Do you agree with our proposal for applying high level standards to funeral plan firms?*

**2.4** A large majority of respondents were in favour of the proposal.

**2.5** Some respondents proposed we go further to ensure protection of consumers eg by introducing a duty on firms to act in the best interests of consumers.

**2.6** One respondent challenged the application of high-level standards to ARs, on the grounds of proportionality.

**2.7** One respondent challenged the requirement for employees of funeral plan firms to undertake at least 15 hours of training and development a year.

**2.8** Most respondents who commented were in favour of the introduction of our vulnerability guidance, although one provider was against it.

**2.9** Several respondents commented on other proposals in the consultation, eg the commission ban, or made general points on proportionality or the relationships between funeral plan providers and funeral services providers.

**2.10** One respondent suggested that our high-level standards apply to trustees as well as authorised firms.

## Our response

Having assessed the feedback from consultation respondents we do not consider that changes to our proposed application of high-level standards to funeral plan firms are necessary.

We did not receive compelling evidence that any of the standards set out were disproportionate for funeral plan firms, including the requirement for firms to deliver a minimum of 15 hours of training and development per employee per year, which we consider essential in ensuring staff have the necessary competency to undertake regulated activities in relation to funeral plans.

Funeral plan firms should be aware that we are currently consulting on a Consumer Duty which is intended to set clearer and higher expectations for all FCA-regulated firms in their standard of care towards consumers. We would welcome views from funeral plan firms which wish to become FCA authorised and other stakeholders to these proposals. The consultation closes on 31 July 2021. We anticipate that any new rules will come into force by 31 July 2022, just after the date that funeral plans will come within FCA regulation (29 July 2022).

We note feedback regarding ARs, and concerns about the commercial arrangements between funeral plan providers and intermediaries (including funeral directors and others) under our regulation. As set out in Chapter 10 of the CP, we expect many intermediaries selling funeral plans to become ARs of an authorised (Principal) firm, ie a funeral plan provider, in order to reduce the costs associated with becoming a fully authorised firm. Principal firms will be responsible for the compliance of ARs with our rules, including the high-level standards set out in Chapter 3. These rules set out a minimum standard of conduct and governance for all FCA regulated firms. As part of our assessment of applications at the gateway, we will carefully assess the systems and controls a principal firm has in place to ensure its ARs comply with our rules, and through our regulatory reporting requirements, we will be able to assess whether Principal firms have the necessary arrangements, processes, systems and controls in place to effectively oversee their ARs.

We do not consider it proportionate to require funeral services providers to be party to a funeral plan contract, though we will require plan providers to have arrangements in place with funeral services providers. We are mindful of the concerns raised by some funeral services providers as to how relationships with plan providers will be structured going forward. Under our rules the funeral plan provider is ultimately responsible for the delivery of the funeral plan whether responsible for selling the plan or not. The funeral plan provider will have arrangements with the funeral services provider in place to help facilitate this.

Under the legislative framework made by the Treasury, trustees managing trusts used to back funeral plans are unlikely to be carrying out regulated activities in relation to funeral plans, so we do not propose to apply our high-level standards to them. Trustees are subject to other obligations under general law, and we are making rules around the type of trusts that can be used to back plans as consulted on in CP 21/4.

## Trust and insurance risk transfers

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- 2.11** In CP 21/4 we consulted on a range of requirements concerning the trust and insurance arrangements to be put in place by plan providers. Our proposed rules aim to ensure that firms are able to deliver funeral services on an ongoing basis, in light of a number of risks around poor management of trusts and insufficient funding to wind-down/transfer books, pay redress or return monies where plans are cancelled.
- 2.12** These rules are set out in our Funeral Plan: Conduct of Business sourcebook (FPCOB) at Chapter 3. Stakeholders should note that while we are making the majority of FPCOB 3 as consulted on in CP 21/4, we are further consulting on additional amendments in CP 21/20 to reflect our new proposed rules on resolution and FSCS. These will be set out in FPCOB and other sourcebooks.
- 2.13** We asked a number of questions regarding our proposed rules.
- Q3:** *Do you agree with our proposal to require firms to back funeral plan contracts with a trust or insurance arrangement going forward?*
- Q4:** *Do you agree with our proposed rules on trust arrangements?*
- 2.14** Feedback on our proposal to require firms to use trust or insurance arrangements was positive. Most respondents agreed that these established means of funding funeral plans played a crucial role in providing for ongoing delivery of funeral services. Only one respondent suggested we allow plans to be backed by something other than a trust or insurance product to allow for innovation in the market, and there were limited responses suggesting we should ban either trust-backed or insurance-backed plans. These respondents felt there were risks with either trust-backed or insurance-backed plans, or that one model produced more benefit to consumers than the other.
- 2.15** There were some limited suggestions that all monies paid by consumers should be paid into a trust or insurance contract, and not just monies sufficient for providing the funeral.
- 2.16** A limited number of respondents felt that insurance-backed plans should be subject to additional requirements in order to ensure ongoing availability of funds for funeral services. This included specifying that plans be backed by specific types of insurance contract or requiring insurance-backed plans to be subject to the same requirements around annual valuations as trust-backed plans.
- 2.17** Some firms raised concerns that our proposed rules at FPCOB 3.1.9R specifying when firms can pay out from trusts could prevent them from paying costs essential to the trust functioning, eg. taxes, trustee fees, actuary fees, costs for any insurance arrangements etc. Others were concerned that the text at 4.23 of the CP suggested firms were prohibited from taking remuneration from the trust at all, even where in a fully solvent position.
- 2.18** Most respondents were supportive of our proposal to keep funeral plan monies separate from plan provider assets, but there was opposition from two plan providers on the basis that this may prevent funds from being paid out from a trust or expose the planholder to inheritance tax liability.

- 2.19** One trustee group argued that we need to include in rules that trust expenses may be met in priority to the claims of any insolvency practitioner (IP) appointed by the provider to allow a trust to pay normal and reasonable costs without recourse to an IP. Another trustee group argued we should require trustees to hold insurance, in line with current Funeral Planning Authority (FPA) requirements.
- 2.20** One plan provider noted that the proposed rule in FPCOB 3.1.11R(2) requires the Trustee or Life Insurer to be provided with a Death Certificate, where most plan providers often use other means to identify the deceased, including the use of what is known as the "green form", as the death certificate is not always available prior to the funeral.
- 2.21** Some respondents challenged that our rules on trusts could drive firms and consumers towards alternative means of funeral provision eg insurance-backed plans or Funeral Benefit Options.

### Our response

As we set out in CP 21/4, we consider that both trust and insurance arrangements can help meet our objective of ensuring firms have adequate risk transfer mechanisms in place to protect consumers, safeguarding money paid for funeral services and allowing ongoing provision of funeral services as they fall due, in line with consumer needs and expectations. We do not consider it appropriate for our rules to allow for plans to be backed with other products at this time, eg blockchain, though we will remain open to discussion with industry if innovative business models emerge which can provide for the necessary degree of consumer protection.

Our rules require firms to place in a trust or insurance product sums sufficient for the purposes of providing the agreed funeral. We do not consider it proportionate to require firms to place all monies paid by consumers on trust or in an insurance contract, as we recognise firms need to cover costs and take a profit margin for each plan, and the point of sale may be an appropriate time to do this. Our rules require firms to have systems and controls in place to ensure the adequacy of trust and insurance arrangements and ensure that pricing does not lead to insufficient sums being available to provide the funeral contracted for. Firms must consider the risk of inflation and volatility of trust assets when assessing the sums needed to provide for the funeral.

We note the suggestions that we should consider enhanced controls over insurance-backed plans (including from plan providers offering these plans), to further mitigate the risk of insufficient funds being available for funeral services. As noted above, we require all plan providers who wish to use insurance to back their plans to protect sufficient sums for providing the agreed funeral services through an insurance policy. Insurers used by plan providers must be regulated by the PRA and FCA.

However, we have made minor changes to our reporting requirements to require firms to provide information on average consumer age for insurance-backed plans in their returns. This will allow our supervisors

to identify potential shortfalls by assessing funeral cost inflation and life expectancy against the data we will hold on total plan values and the death benefits to be paid. We have also consulted on notification requirements for firms including where there is a significant change in business, eg something that would put a firm's ability to carry out funeral plan contracts at risk. We believe that these measures are appropriate to ensure plan providers protect sufficient sums with insurance, are able to meet their liabilities on an ongoing basis and allow us to identify any significant risks to consumers.

We recognise the concerns from provider firms in relation to when deductions from the trust can be made. Firstly, we wish to clarify that firms are able to extract trust surpluses where solvency is above 110%, as set out in FPCOB 3.2.12R. In addition, we agree that firms should have the ability to continue to make payments out of a trust in specific circumstances where they are essential to the functioning of that trust, even where the trust is below 110% solvency, or in a deficit. In CP 21/20 we include in the instrument changes to our FPCOB 3 rules to clarify that plan providers can continue to take payments from the trust when it is below 110% solvency or in deficit, limited to payment of:

- taxes
- trustee fees
- actuary fees
- custodian fees
- legal fees
- trust administration fees
- audit fees
- investment management fees (including transaction fees)
- trustee liability insurance, and
- the costs of insurance arrangements to provide a funeral on death within the instalment term.

Although we consider maintaining solvency to be of critical importance for consumer protection, we recognise that these payments often cannot be calculated or covered 'up-front' at the time a plan is sold, and that the failure of a trust due to non-payment of essential fees could also lead to poor outcomes for consumers.

We note the concerns around our safeguarding rules. We do not believe that making planholders a beneficiary of trust assets will prevent payments from being made out of the trust, but we recognise that providing a death certificate to the insurer or trustees may not be possible in some circumstances. We have amended our rules to allow firms to use a "green form" ('Certificate for Burial or Cremation', or GR021 form in Northern Ireland) where death certificates are not available.

We do not consider it proportionate to require funeral plan providers to insist that trustees hold indemnity insurance; our rules concerning trusts apply to plan providers rather than trustees themselves. We consider that trustees would generally seek to have this protection in place anyway, and that plan providers would generally seek to ensure trustees have this in place given the plan provider's responsibility for any shortfalls in the trust.

We do not consider that additional rules or guidance are needed concerning how an Insolvency Practitioner may operate in the event of insolvency. As set out in Chapter 5 we are consulting on further amendments to FPCOB 3 as part of CP 21/20, including proposals in relation to resolution and FSCS protection.

We do not consider that our rules would drive firms or consumers towards insurance-backed funeral plans, but we intend to monitor the changes in the market following the onset of our regulation and will consider this matter as part of our post-implementation review.

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**Q5: *Do you agree with our proposals for trust solvency and how trust solvency should be assessed?***

- 2.22** Responses to our proposal to prohibit extraction of trust surpluses below 110% solvency were varied, with some arguing surplus payments should be permitted above 100% or 105% solvency. However many respondents argued this should be set higher, (eg at 120-140%) due to risk of downturns and investment volatility.
- 2.23** A number of respondents requested further clarity on how the 110% solvency threshold was reached. In CP 21/4 we set out that this corresponds with a trust being able to withstand financial events in 199 of the next 200 years, but some respondents challenged this assessment or that this should form the basis of our solvency requirements. Some respondents questioned whether these requirements may push firms towards riskier investment strategies to avoid deficits or to ensure they maintain 110% trust solvency.
- 2.24** Many respondents requested clarity on how to carry out a trust valuation. There were requests for further detail on the meaning of 'liability' and 'best estimate' in relation to solvency calculations, whether actuaries are the clients of the plan provider or trustees, and whether the solvency assessment report (SAR) is carried out on a 'point in time' basis.
- 2.25** Some respondents representing trustees and actuaries argued that plan providers should be required to publish the SAR 6 weeks after the actuary completes the valuation, rather than 6 weeks after the valuation is conducted. One accounting firm argued the SAR should be completed in 12 weeks instead of 6.
- 2.26** Although most respondents were in favour of the requirement for SARs to be produced on an annual basis, some smaller plan providers argued the requirement to produce a SAR should be once every three years due to the costs involved.
- 2.27** A number of respondents challenged the requirement for publication of a SAR, on the grounds that this could encourage firms to 'massage numbers' on solvency, that it could require publication of confidential information, or that it would not be helpful or understandable for consumers. Some firms were in favour of a simplified document being made available instead.
- 2.28** There was challenge from a number of firms on the requirement for firms to remediate trust deficits within a 12-month period, with respondents particularly concerned about the impact of a stock market crash or similar event which would require more than 12 months to allow for recovery. Some respondents suggested 12-36 months would be a more appropriate timeframe.

- 2.29** There were some specific queries raised on the gateway, with firms requesting guidance on how to complete a SAR prior to the gateway opening or asking if the reports required by the FPA would be acceptable. Some firms suggested that the requirements on trust solvency could amount to a barrier for entry.

### Our response

We welcome the breadth of feedback on this element of our proposals.

We believe the prohibition on extraction of surpluses below 110% solvency is the appropriate level to ensure firms have a necessary buffer in place against investment volatility or other unexpected shocks. As noted in CP 21/4 this was calibrated to allow trusts to hold sufficient assets over liabilities to withstand events of 199 out of the next 200 years. This was an estimation from the data we hold on trust assets, liabilities, and mortality/investment experience, and our engagement with firms. We recognise that even for reasonably foreseeable events the estimate will contain uncertainty and the mortality or investment experiences of trusts will vary the eventual outcome. We note that many respondents agreed with the proposal, and we did not receive compelling arguments to explain why a different level would be more appropriate. We would expect actuaries when preparing solvency reports to consider relevant stress scenarios to ensure that trusts (at current solvency levels) hold sufficient assets to withstand events. We will monitor the solvency position of firms once our regulation goes live, and consider whether our rules need to be revisited to ensure firms and their risk transfer mechanisms are adequately funded.

We do not believe that the prohibition on extracting funds below 110% solvency or other requirements on trusts would push plan providers or trustees to pursue riskier investment strategies. We consider that this would carry a higher risk of pushing trusts into deficit. We want to see assets held by funeral plan firms managed prudently, and we believe our requirements reflect this. We also note the responsibility of trustees to act in the best interests of trust beneficiaries, and in line with the terms of the trust instrument.

We recognise the need for further clarity on how to carry out SARs. These would take place at a specific valuation date, and we are engaging with the Institute and Faculty of Actuaries (IFoA) on guidance for actuaries in assessing trust solvency. We would expect actuaries to be the client of the funeral plan provider (see the rule in FPCOB 3.2.2R which stipulates that a funeral plan provider must arrange a SAR). We do not believe this would lead to conflicts of interest given the requirement is for a valuation to be carried out by an independent actuary. We believe six weeks is sufficient time for the SAR to be completed, noting most respondents agreed with this, but have amended our rules to require publication of the SAR within 30 days of the date on which the actuary completes (rather than conducts) a valuation. This is to be in any case no later than six weeks after the actuary is appointed to produce the SAR. This will provide some extra time.

We do not consider it appropriate to reduce the frequency by which SARs must be completed. This is a critical element to ensure oversight of how plan providers are managing the funds used for fulfilling funeral plan contracts. We recognise this will come at an increased cost to some firms (ie those which are not currently members of the FPA) but we consider the risks of having less frequent valuations outweigh this.

We also maintain our view that publication of the SAR is an essential aspect of increasing transparency over trust performance. In contrast to some feedback received we believe that publication will discourage firms from manipulating solvency levels, as it allows for enhanced scrutiny by third parties, including regulators and other actuaries. We would expect the information published to be sufficient for reporting purposes, even where it is necessary to provide confidential information to the firm's Board as a separate report. We think allowing for a simplified document would reduce the benefits to readers provided through consistency, as well as increase costs to firms.

We note the concerns from plan providers and others on the requirement to remediate any trust deficits within 12 months. We continue to believe this standard is appropriate for most trust solvency issues. Where we see issues with trust solvency driven by exceptional economic events such as stock market crashes we will have the option to extend these timelines or supervise flexibly in order to ensure firms are able to restore trusts to a solvent position, or else wind-down in an orderly manner.

Where provider firms make applications to become authorised we will require them to include a copy of the most recent SAR (ie carried out within the last 12 months) obtained from the trust's appointed actuary. This is a critical piece of information in our assessment of the applicant firm's suitability for authorisation. The SAR should be carried out by an actuary in line with guidance from the IFoA. We will expect to see trusts above 100% solvency at the application stage (rather than 110%), in order for a provider to be approved, which may be a challenge for some firms, but we believe adequate time is available ahead of regulation starting for firms to inject capital to raise solvency levels.

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## Safeguarding (Money Handling)

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- 2.30** Respondents generally welcomed our proposals to ensure monies paid by consumers for funeral plans are paid into the trust or to the insurer as soon as possible upon receipt.
- 2.31** However, there was some challenge on the proposed ban on intermediaries processing payments, on the grounds that this would prevent payments in cash which would reduce access for consumers from specific groups, particularly the elderly and traveller communities. They questioned if payments could be permitted where cash was placed immediately into the account of the plan provider, trust or insurer.



## Our response

We recognise the concerns raised and have amended our rules to allow intermediaries to handle cash in a limited way with controls. Where a consumer wishes to pay cash at the time a contract is entered, our rules will require that the contractual arrangements between parties ensure that the plan provider is on risk (ie held to be responsible) from the moment the money is received by the intermediary. Plan providers are not under any obligation to allow intermediaries selling their plans to accept cash payment, but those who wish to do so will want to consider with their commercial partners how to ensure the cash is transferred to them and within what timeframe.

### **Q6:** *Do you agree with our proposed prudential requirements on funeral plan providers and intermediaries?*

- 2.32** In CP 21/4 we also consulted on prudential requirements for funeral plan providers, administrators and intermediaries. These were intended to ensure the solvency of firms at all times and protect against financial shocks by requiring firms to hold a level of capital which scales up according to the size of the firm and the activities it conducts. We asked for feedback on our proposed requirements.
- 2.33** Responses to the proposals were generally supportive, though there were some queries around calculation of the capital requirements. Several firms questioned whether the annual income to be considered as part of firm's capital calculation should be limited to regulated activities, given many have significant income from at-need funeral services.
- 2.34** Some firms disagreed with the proposals, arguing that due to the restricted liabilities as a result of trust and insurance arrangements firms should hold significantly less capital.
- 2.35** There was some confusion on how to calculate the core capital requirements, ie on a 'one-off' or ongoing basis.
- 2.36** Feedback on the prudential requirements for intermediaries was mixed, with some arguing they may be a barrier to entry. Others gave feedback on the SUP 12 requirements for Principal firms to check the financial position of ARs.

## Our response

We have made these rules largely as consulted upon. The exception is to amend FPCOB 15 to make minor amendments to our guidance on the application of our prudential rules to reflect the flexibility in our supervisory process. These amendments bring the guidance in line with that which relates to prudential requirements applicable in other sectors, as set out in our recent consultation on UK Investment Firm Prudential Regime (IFPR), specifically on how the FCA can impose requirements or guidance following a supervisory review (SREP).

We can confirm that firms should consider all income when calculating prudential requirements. However, we note that for many firms the regulated funeral plan business may be a separate entity from the at-need funeral business, and for larger providers we expect the volume of undrawn plans to be the determinant of capital requirements rather than income.

Capital requirements under both the core capital requirement and the general solvency requirement should be determined based on financial statements in line with the firm's half-yearly reporting periods.

We believe strong capital requirements are essential to protect consumers and alleviate the risk of wind-down which could impact on the FSCS. Though we recognise that trust and insurance arrangements help transfer risk, we believe these work in conjunction with the capital requirements, eg allowing firms to be in a position to recapitalise an insolvent trust. We consider that having robust standards in place which help mitigate the risk of firms failing will be to the benefit of the market as well as consumers.

We note that some respondents appeared to misinterpret our rules as applying to ARs, or on the basis of new plans sold only. The prudential requirements (the general solvency and the core capital requirements) are based on calculations considering all plans entered into after 2002, and prudential standards do not apply to ARs (although Principals are responsible for checking their financial position and the annual income of the AR is required to be included in the calculations under FPCOB 15).

We consider that our requirements on intermediary firms are proportionate and in line with requirements in other sectors. These serve to protect against future issues eg redress claims and should reduce the risk of firm failure and claims made to the FSCS. We also consider it essential for plan providers to regularly assess the financial position of ARs, as they are responsible for their regulatory oversight.

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## 3 Conduct standards

**3.1** Our consultation set out our proposed conduct of business rules for funeral plan firms. In this chapter, we summarise the feedback received, our response and outline the rules we are now introducing. Most of the rules will be included in a sourcebook called 'Funeral Plan: Conduct of Business sourcebook' (FPCOB).

### Application of the rules

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**3.2** FCA regulation will apply to a range of different activities where they relate to funeral plans which provide funerals in the UK, including in relation to Gibraltar-based firms. The scope of FCA regulation is further explained in paragraphs 2.24 to 2.37 of CP21/4.

**3.3** We proposed to apply the rules in FPCOB to regulated funeral plan activities whether or not the activities themselves are carried on from an establishment in the UK or from overseas. We also proposed that principal firms should be responsible for ensuring their appointed representatives comply with the rules as they apply to authorised firms undertaking funeral plan distribution.

**Q7:** *Do you agree with the way we propose to apply our FPCOB rules?*

**3.4** Most respondents either supported the proposals or made no comment. No respondent disagreed with our proposals. Where respondents did comment, it was generally linked to specific FPCOB rules rather than the way they apply to firms. These are addressed in response to later questions.

#### Our response

We will implement the application rules as per the consultation.

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### General conduct of business rules

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**3.5** We proposed a number of general conduct rules. These were:

- Firms must act honestly, fairly and professionally in the best interests of their customers (the customer's best interests rule).
- Firms must ensure that any remuneration they receive does not conflict with the duty to act in the customer's best interests.
- Firms must ensure they do not remunerate or performance manage their employees in a way that would conflict with the customer's best interests.
- Firms must communicate with customers in a way that is clear, fair and not misleading, ensuring that marketing materials are clearly identifiable as such.

**Q8:** *Do you agree with our proposed general conduct of business standards for funeral plans?*

- 3.6** Most respondents either supported the proposals or made no comment.
- 3.7** A small number of respondents queried how the cold calling ban would apply to firms who call customers that have entered their details into websites.
- 3.8** A small number of respondents queried how the customer's best interests rule applies to situations where the customer is different from the covered individual.

### Our response

We will implement the rules as per the consultation.

We expect that, for most funeral plans, the customer will be the person whose funeral is being provided (the covered individual). However, we are aware that some customers take out plans for others, and our rules allow for this. In this scenario, the customer's best interests rule requires firms to act not only in the best interests of the customer (the person purchasing the plan) but also of the covered individual, if they are different. Providing the agreed funeral services to a satisfactory standard is likely to be in the best interests of both the customer and the covered individual. The customer is likely to have other interests which are less relevant to the covered individual, such as the plan providing fair value. However, we do not consider there is likely to be any conflict between the interests of the customer and the covered individual.

In CP21/4 we said that we had significant concerns about websites which generate sales leads by obtaining customer contact details under the guise of providing a comparison service. This type of practice is misleading and would breach our proposed rules on marketing. Using the consumer's details in this way is likely to also breach our proposed ban on cold calling.

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## Commission and other remuneration

- 3.9** In CP21/4 we set out our concerns that commission practices in the funeral plan market cause harm to customers. In particular, we identified that high amounts of commission were being paid to third party intermediaries selling funeral plans. Our concerns were:
- Commission creates a mis-match of incentives between firms and consumers. Consumers want to buy fair value products that meet their needs, but commission incentivises firms to sell products that will generate the highest commission, and so the most profit for them. In CP21/4 we identified commissions which encourage sales of more expensive plans, mis-selling/high pressure sales tactics driven by commission structures, and evidence of firms which pay high commissions underfunding funeral services (eg trusts at 60-70% solvency).

- Although disguised by the headline price of the plan, the customer pays the commission. This can lead to customers paying prices which are too high relative to the benefits they receive or can deplete the money set aside for the funeral. The surveys we conducted showed an average commission of approximately £550 being paid per plan sold. This is compared to the average cost of a funeral of £4100 – £4600. These commissions are usually paid upfront in a single payment.
- Our analysis of the funeral plans sector indicated that there was little to no benefit provided to customers by intermediaries who receive commission. For example, we had seen very limited evidence of intermediaries offering advice or providing broking services across a fair reflection of the market. We also noted that funeral directors rarely received commission for selling plans.

**3.10** We considered a number of options to address these harms and concluded that a ban on commission payments to intermediaries was justified because of the potential harm to consumers which can result from commission payments. Intermediaries could continue operating, but they would need to be paid directly by the customer. We recognised that this ban would, if implemented, have a significant impact on some parts of the sector. We asked five questions in relation to the proposed ban, and encouraged respondents to provide further details on:

- How current commission practices in the sector might add value to consumers
- How the risks that we have identified can be appropriately managed
- How current commission practices impact prices and consumer outcomes

**Q9:** *Do you agree with our proposed ban on intermediaries receiving remuneration other than advice or arrangement fees from the customer?*

**3.11** The majority of respondents did not comment on this question. Of those that did, we received a range of different views. Many of the responses were very detailed.

**3.12** Of those who responded, just over a third supported the proposed ban. This included some firms involved in the funeral plans sector as well as some consumer representatives. Some agreed with our assessment that commission provides little benefit to consumers, and that commission can lead to insufficient funds being available to provide the funeral to a satisfactory standard. Others pointed to their own experience of incentivising poor sales practice to vulnerable customers. Examples cited included cold calling and home visits where high-pressure sales tactics were used.

**3.13** Most of the respondents who opposed the proposed ban were firms operating in the funeral plans sector, although this included a number of firms who are not themselves involved in commission-based sales. The arguments made against the proposals fell broadly into five categories.

### **Disagreement with our analysis**

**3.14** Some respondents argued that our analysis exaggerated the harms caused by commission and suggested there was a lack of evidence supporting our proposals. Others said that commission itself was not the cause of the harms, but rather harm was caused by the scale of commissions and a lack of transparency.

- 3.15** Some respondents argued that we were wrong to say funeral directors do not receive commission as they may receive this through the money they are paid when they provide the funeral.
- 3.16** A small number of respondents said we were wrong to conclude commission has a financial impact on the customer because it is included in the overall price.
- 3.17** A small number of respondents argued that we should have used economic modelling to estimate the impact of the ban on the market compared to the other potential remedies set out in CP21/4.

### Competition impacts

- 3.18** Some respondents argued that the commission ban would reduce competition and be counter to our objectives. Others said it would reduce competition and restrict choice, which they argued is a bad outcome for customers.
- 3.19** A number of respondents pointed to a discrepancy between the rules for funeral plans and for over 50s life insurance, where commission is permitted. Some argued that these products are poor value or inferior to funeral plans, but that our proposals would drive consumers towards them instead of funeral plans. Most respondents believed that intermediaries would switch to selling these rather than funeral plans, with a small number arguing this was anti-competitive.
- 3.20** Several respondents argued that a ban on commission would favour vertically integrated providers who do not need to pay commission.
- 3.21** A small number of respondents argued that the ban would disproportionately impact small providers and newer entrants to the market, making them more likely not to apply for authorisation. This could reduce innovation by making it harder for new entrants (such as genuine price comparison services) to operate.

### Access impacts

- 3.22** Some respondents argued that banning commission would impact poorer customers who could not afford to pay a fee for the intermediaries advising or arranging services. Others argued the ban would create a barrier to access as customers would be unwilling to pay fees.
- 3.23** A small number said that funeral plans are products which are typically 'sold' to customers rather than being actively sought out. Removing intermediaries would reduce sales of plans. Some pointed to the particular risk that this could increase funeral poverty and lead to more people failing to make adequate provision for their funeral.
- 3.24** Some respondents argued that removing intermediaries would remove a source of good quality information and assistance to customers in purchasing plans. This could potentially include comparison services in the future.
- 3.25** A small number of respondents argued that intermediaries give access to funeral plans at a time which is most appropriate for the customer (such as when making a will).

### Impact on prices

**3.26** Several respondents argued that commission does not lead to higher costs because firms will still have distribution costs where they sell through other channels. Some suggested these may be higher than commissions. Only a very small number of respondents provided any further data or evidence on this point.

**3.27** A number of respondents pointed out that funeral plans sold through intermediaries typically cost the same as those sold direct. Advising or arranging fees could lead to customers paying more.

**3.28** A small number of respondents pointed out that commission is VAT-exempt whereas advice or arrangement fees are not. This could increase prices.

### Impacts on intermediaries

**3.29** All those who disagreed with the proposed ban did so from a position that it would be likely to lead to most intermediaries withdrawing from the market. Some argued this would remove a source of advice and information which was beneficial to consumers.

**3.30** Some respondents argued that, although banning commission would remove poor practice from the market, it would remove good intermediaries.

### Alternative options put forward

**3.31** Many of those who opposed the proposed ban put forward alternative options for addressing the harms we identified. These included:

- A cap on the level of commission that firms can receive. Suggested levels were typically £200 to £600. Others suggested percentage-based caps of 10% to 20%. A small number of respondents cited the recent price cap we proposed for claims management companies (CMCs) as an example of how this could work.
- Mandated commission disclosure.
- Managing harms through the proposed product governance rules on ensuring products provide fair value.

## Our response

We have considered the responses received in detail, but we have not found anything in the responses to justify changing our approach. As such, we will implement the rules as set out in CP21/4. Our view remains that commission is highly likely to cause harm to consumers through incentivising poor practice and leading to customers paying for an intermediary service that has little benefit. We note that a number of respondents agreed with our analysis and provided evidence from their own experiences in support of our proposals.

As we said in CP21/4, we recognise that this is a significant intervention and was likely to be strongly opposed by some. We have set out below our response to the various arguments made against the proposed ban:

### Issues with our analysis

We do not agree that the proposed ban lacked evidence or that our analysis exaggerated the harms caused by commission. Our analysis was based on two separate surveys undertaken with samples of firms in the funeral plan sector, as well as meetings with a range of firms in the sector, and desk-based research. These showed the harms which we set out in detail in CP21/4 and informed our cost benefit analysis.

The consultation process allows respondents to provide representations and information relevant to them. Having considered all the responses, we do not think that our analysis was incorrect or unsupported by the evidence. This is because:

- We received additional evidence of the harms caused by commission from respondents who supported the ban
- Only a minority of total respondents opposed the proposed ban
- Only a very small number of respondents provided any detailed evidence or data to support their arguments against the ban
- No respondent provided any evidence that directly contradicted our analysis

We acknowledge that funeral services providers will receive payment from funeral plan firms when they deliver the funeral. We do not consider this to have the same risk of harm as commission to third party intermediaries who have no further involvement in the funeral plan. However, our rules address the risk of the funeral payment being inflated because they require a link between the payment for the funeral services and the cost of providing the services. In particular, the funeral services provider must not receive more from funeral plans they have sold than they would from plans where their involvement is limited to providing the funeral.

We do not accept the argument that commission does not impact customers. Commission is paid by the customer. The fact that it is included in the headline price is irrelevant.

We don't believe further data collection to model the impact of a commission ban compared to other interventions (such as a commission cap) is warranted here, because of the vulnerable nature of the consumers and hence the significant harm caused by mis-selling, and because, as detailed below, the alternatives to the commission ban would leave the incentive mismatch in place and just mitigate its effect.

### Competition impacts

We recognise that the commission ban may lead to some third party intermediary firms withdrawing from the market. This could lead to a reduction in the ways that consumers are able to purchase funeral plans. However, there are multiple different distribution channels available, and we note that third party intermediaries are responsible for only 28% of current sales, and not all of these will be impacted by the commission ban. In CP21/4 we said there will be some intermediaries (such as financial planners and will writers) who are likely to be able to operate by charging fees to customers.



In CP21/4 we considered the impacts of our proposals in line with our statutory objectives. As we pointed out in [FCA Mission: Our Approach to Competition](#) 'Our objective is to promote competition in the interests of consumers, not for its own sake'. Whilst we accept that commission may enable firms to sell more plans, we have not seen any evidence that this is in the interests of consumers. We have seen no evidence of intermediaries acting as genuine comparison services offering plans from a representative range of different providers, or driving innovation in product design. Instead, almost all intermediaries sell products from only a single provider. This may create competition between providers over access to intermediaries, but this does not benefit consumers as the choice is likely to be driven by factors such as how much commission a provider will pay. As such, we do not consider the commission ban will adversely impact competition in the interests of consumers. If intermediaries were to offer such beneficial services in the future it may be open to them to apply for a waiver of some of our rules. However, we do not consider that the limited prospect of such services developing in the future is sufficient justification for allowing the continuation of harm to consumers at present.

We acknowledge that there are differences in the rules applying to products such as over 50s life insurance, which can be seen as competitors to funeral plans. The rules we are implementing are based on our analysis of harms and drivers of harm in the funeral plan sector, and the best ways in which they can be tackled.

We are aware that the rules may impact vertically integrated firms differently from others. However, there are provisions intended to prevent this distorting of competition by ensuring that fees and charges paid between different parts of the firm are set at the same level as they would be if another firm were selling the plan or conducting the funeral. Moreover, we have received some evidence that sales made in funeral homes have fallen and this has accelerated due to COVID-19. This suggests that the additional benefits of being vertically integrated may be overstated.

### **Access impacts**

Commission can increase the scale and range of firms' sales operations, giving them greater access to consumers and enabling them to sell more plans. This is a benefit to firms but may not be a benefit to consumers. Our concern is ensuring consumers have access to good quality and fair value products that are the right option for them. The widespread availability of other distribution channels means that our rules will not prevent customers accessing funeral plans if they wish to purchase them.

Some respondents suggested that third party intermediaries sell products to demographics of consumers who would not otherwise purchase funeral plans. However, no respondents provided any evidence showing that these consumers are likely to receive particular benefits from purchasing through third party intermediaries, or that they are unable to purchase plans through other distribution channels if they wish. We have not seen any evidence that the commission ban will adversely impact poorer consumers.

We do not agree that a reduction in the number of funeral plans sold will lead to increased funeral poverty, as consumers will continue to have access to a range of ways to provide for their funeral. Funeral plans are one way in which consumers can make provision for their funeral, but they are not the only option. There are other products that can provide for consumers' funeral funding (such as insurance or savings). These have both advantages and disadvantages compared to funeral plans. There may also be some consumers who have no wish to make provision for their funeral. It is not our role to promote particular options over others. We are concerned with ensuring that customers can make informed choices for their own circumstances, and that those who purchase funeral plans receive products which perform as they expect and provide fair value.

### **Impacts on prices**

Commission will often replace distribution costs that the plan provider would otherwise face, and we acknowledge that banning commission will not mean that firms do not have other distribution costs. Some respondents stated that these distribution costs are the same as, or higher than, current commission levels. However, only a very small number of respondents provided any evidence or data to support this statement. The evidence we have received on distribution costs tended to suggest that the contrary is likely to be true; that commission is generally higher than other direct distribution costs, with some commission-bearing sales even representing a loss to the provider.

Although we only received very limited detail in response to the consultation, the evidence we have seen did not assuage our concern that commission could be negatively impacting prices and leading to plans offering poor value. We note the point made by some respondents that the price of funeral plans sold through intermediaries is generally the same as those sold through in-house distribution channels or funeral services providers. However, even if this were the case, this may not mean that commission does not lead to consumers paying prices which are too high relative to the benefits they receive. There may be strong commercial reasons for firms to keep their prices consistent across different channels. The limited evidence we have been provided with suggests that costs of distributing through commission-bearing channels tend to be higher than other channels, and that commission is sometimes paid at a loss by providers in order to keep prices consistent. If that is correct, then this cost may be met through either reduced profits or inflated prices.

Despite receiving limited evidence on the impact of the commission ban on funeral plan prices, we believe this intervention is justified to address the full range of harms identified, including the misaligned incentives between consumers' interests and firms' incentives which leads to the harms outlined in paragraph 3.9.

### **Impacts on intermediaries**

Our rules do not prevent intermediaries from operating in the funeral plan sector, as they can charge fees payable directly by the customer. There are some intermediaries currently selling funeral plans alongside

other services for which the customer would be likely to pay a fee (such as will writing or estate planning). None of the respondents put forward any reasons why charging an advice or arrangement fee, in the context of a fee for those other services, would not be viable.

We agree with respondents that consumers may be unwilling to pay a fee to an intermediary in some cases. However, in our view this supports the argument for the ban because commission is still paid by the consumer but included in the headline price rather than paid separately. That respondents believe consumers would not pay fees to some third-party intermediaries supports our view that these intermediaries are unlikely to be providing a service that is beneficial to consumers.

### **Alternative options**

We considered a number of alternatives to the commission ban in paragraphs 5.31 to 5.32 of CP21/4 and concluded that none of them were sufficient to address the mismatch between consumers' interests and firms' incentives which is leading to the harms identified in this market. We have further considered the alternatives put forward by respondents, but we remain of the view these are insufficient:

- A cap would not fully address the mismatch between consumers' interests and firms' incentives. It would still result in the harms we identified (for example, mis-selling/high pressure sales tactics driven by commission structures) albeit potentially to a lesser extent. We note the reference to the proposed cap on CMC fees. However, we do not see a basis for a comparison between that proposal and the commission ban. CMCs generally do not involve complex distribution chains with multiple parties. Our proposed fee cap in that sector applies to the overall price that the customer pays for a CMC's services. The commission ban reflects only a part of one type of funeral plan distribution chain. Furthermore, CMCs provide a beneficial service for the fee they receive. Our analysis indicates that commission is providing little or no beneficial service to consumers.
- We do not think that commission disclosure would be sufficient to mitigate the harms or drivers of harm we have identified, for the reasons laid out in paragraph 131 of Annex 1 to CP21/4. Such disclosure, even if done in the clearest terms, would not be easy for customers to understand and engage with. Using disclosure in this way also puts the onus onto the customer to challenge firms on their commission levels, or to change their purchasing behaviour based on the disclosure. We do not consider that it is fair or reasonable to expect customers to 'police' commission levels in this way; especially given the likely prevalence of vulnerable customers in this sector.
- We are implementing product governance rules for funeral plan firms, and these will apply to other payments made between firms (such as payments from the trust or insurance firm to the plan provider). These will have to reflect a reasonable relationship between the payment and the benefits and services provided. However, we do not consider that this approach is sufficient to mitigate the misaligned incentives between consumers' interests and intermediaries' incentives.

**Q10:** *Do you agree with our assessment that commissions are leading to mis-matched incentives and conflicts of interests between firms and customers in the funeral plan market? If you disagree, it would be helpful to explain why by reference to current commission structures and practices you are aware of in the market and, in particular, why you do not consider these to risk creating mis-matched incentives and conflicts of interests.*

- 3.32** Most respondents did not respond to this question. Of those who did, just over a third agreed with our assessment.
- 3.33** Of those respondents who disagreed, most accepted the risk that commission can lead to mis-matched incentives and poor practices but then disputed that the risk arose in most cases across the funeral plan sector. Some of these respondents also stated that some commissions in the current market are excessive and unjustifiable.
- 3.34** A small number of respondents argued that there was unlikely to be *provider bias* (where commission incentivises salespeople to favour particular providers due to higher commissions) in the market because most intermediaries sell from a single provider. They also argued that there was unlikely to be *sales bias* (where commission incentivises transactions that are not in the interest of the consumer) in the market as everyone will eventually need a funeral.
- 3.35** The same respondents argued that *product bias* (favouring more expensive products that pay higher commission) can be managed by prohibiting practices such as paying commission on a sliding scale.
- 3.36** A number of respondents pointed out that their own practices may reduce the harms caused by commission. These included compliance monitoring, clawback arrangements, paying flat rates of commission, and paying commission rates below market average.
- 3.37** Some respondents argued that rules such as product governance and sales standards are sufficient to mitigate the risk of mis-matched incentives (as in some other sectors).

### Our response

We have carefully considered the responses received but these have not changed our view that commission in the funeral plans sector is likely to be creating mis-matched incentives and conflicts of interests between firms and customers. We note that most respondents did not directly challenge this assessment, even if they argued that the risks are minimised within their own businesses.

We do not agree that provider bias does not arise because intermediaries sell products from only a single provider. We consider provider bias is likely to result from competition between providers to be that intermediary's chosen partner. Such competition is likely to be driven by factors such as commission levels which are not in the best interests of consumers. We consider that the point about intermediaries

selling from a single provider supports our view that commission costs do not facilitate a service that is beneficial to customers.

As we stated in CP21/4, we have seen examples of practices which are likely to stem from product bias within firms, such as higher commission being paid for selling more expensive products.

We do not accept the argument that there is unlikely to be a sales bias. Some respondents appeared to conflate the general need for a funeral with a need for a funeral plan. In our view, these are separate and distinct. Not all consumers wish to make arrangements for their funeral (or even to have a funeral at all). If consumers do wish to make such arrangements, funeral plans are only one of the options available to them. They have both advantages and disadvantages compared to other products.

We acknowledge that there are some sectors where our rules allow commission despite the potential for mis-matched incentives and conflicts of interest. In some sectors the risks are managed through rules on systems and controls, and product governance. As we said in response to question 9, we do not consider that is sufficient for funeral plans. This is because of the range of harms we have identified in this sector.

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**Q11:** *Do you agree with our assessment that commissions are leading to customers paying prices which are too high relative to the benefits the funeral plan provides?*

- 3.38** The majority of respondents did not comment on this question. Of those who responded, approximately a third agreed and two thirds disagreed.
- 3.39** Most who agreed did not provide any additional comments. However, some said they had experienced significant differences in the quality of the funeral services provided depending on how much commission is extracted, with higher commissions leading to lower quality funerals because there is less money available. Some others pointed to situations where the customer's family are obliged to pay top-up sums to the funeral services provider, because commission has decreased the amount set aside for the funeral.
- 3.40** Most respondents who disagreed reiterated points made in relation to question 9 that commission replaces other distribution costs, and that prices are no higher for plans sold through intermediaries than for plans sold through other channels. Some also said that funeral plan prices can be lower than prices for equivalent at-need funerals. A small number of respondents said that banning commission would increase prices.
- 3.41** A small number of respondents argued that what matters is the customer receiving the funeral services they paid for, and that commission levels were less relevant if this was ensured.

## Our response

We do not consider there is anything in the responses received to change our view that commission is leading to customers paying prices which are too high relative to the benefits the funeral plan provides. The main arguments made against this are that commission and distribution costs are aligned, and that prices do not vary across distribution channels. We have set out our response to this in relation to question 9.

We do not agree with the view that commission is not relevant. Whilst we agree that it is important customers receive the funeral they expect from their plan, we also consider it important that the plan provides them with fair value. Consumers pay commission through the price of their plan. Where this results in prices which are too high relative to the quality of benefits and services provided, this is not in the customer's best interests. We note the comments made by some respondents that commission can lead to lower quality funerals and the risk of the deceased's family being asked to pay more.

We have not been able to establish whether funeral plans are typically more or less expensive than equivalent at-need funerals, because it is very challenging to identify directly comparable products. We remind firms that funeral plans which are more expensive than equivalent at-need funerals are unlikely to be providing fair value to customers.

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**Q12:** *Do you agree with our assessment that intermediaries receiving commission are providing little or no benefit to customers? If you disagree, it would be helpful to explain why by reference to current commission structures and intermediary services you are aware of in the market and, in particular, how you think they provide benefit to customers.*

- 3.42** The majority of respondents did not comment on this question. Of those who responded, approximately a third agreed and two thirds disagreed. Those who agreed pointed to intermediaries selling plans based on commission levels, and also to a perceived lack of knowledge or expertise in regard to funeral plans. One respondent referred to some intermediaries as 'vending machines'.
- 3.43** Some respondents differentiated between funeral directors and other intermediaries. They argued that funeral directors benefit customers through their knowledge and expertise, but that other intermediaries provided no benefit.
- 3.44** Respondents who disagreed pointed to intermediaries selling plans to different groups of customers who may not otherwise be purchasing them. Some also argued that intermediaries raise awareness of funeral plans and allow good quality plan providers to sell their products to a broader range of consumers. The point that funeral plans are sold rather than bought (ie that many consumers will only purchase when they are actively sold to them) was made.

- 3.45** A small number of respondents said that some intermediaries are able to provide comparison services or advice. Others pointed to the professional expertise that some intermediaries can offer. This is typically where the plan is sold alongside other related services, such as will writing, estate planning or independent financial advice.

### Our response

We consider that the feedback received largely supports our position set out in CP21/4. The majority of respondents who disagreed pointed to intermediaries as a way of increasing the number and range of people to whom plan providers are able to distribute their products. As we said in response to question 9, this is a benefit to firms but may not be a benefit to consumers.

We acknowledge that there may be differences in the services provided by intermediaries. For example, funeral directors may be able to provide local knowledge and expertise about funeral arrangements. Will writers and estate planners will be providing a broader range of services, of which funeral plans may be a beneficial part. We consider that these types of intermediaries are less likely to be impacted by the commission ban.

The responses suggest we are correct when we said in CP21/4 that the vast majority of intermediaries sell products from a single provider. Where intermediaries only deal with a single provider, there is a risk that the level of commission is likely to be a significant factor in an intermediary's selection of the provider whose plans it will sell. Whilst this may create some competition between providers, this is not competition in the interests of consumers.

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**Q13:** *Do you have any comments on the alternative approaches to tackling the harms caused by commission? In particular, do you have any comments on the alternative option we would be minded to follow if we conclude that a ban is not required?*

- 3.46** Most respondents did not comment on this question. Of those that did, approximately one third supported the ban.
- 3.47** The most commonly put forward alternative was a cap on commission. The levels of proposed cap varied widely, from £250 to £600. Some suggested a cap based on the price of the plan.
- 3.48** Commission disclosure was the second most common alternative. However, this was opposed by some respondents on the basis that commission is not paid by the customer so is irrelevant.
- 3.49** Other proposals put forward were to place reliance on product governance, systems and controls rules and the requirement to assess demands and needs.

### Our response

For the reasons set out above, we do not consider the alternatives to be sufficient to tackle the drivers of harms we have identified in this sector.

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**3.50** In addition to the ban on commission to intermediaries, we also proposed that firms would need to ensure that other remuneration paid and received does not conflict with the customer's best interests rule. This would apply to all remuneration, including:

- Remuneration paid by the trust or insurance provider to the plan provider
- Remuneration paid by firms to their employees
- Remuneration paid by plan providers to funeral services providers

**Q14:** *Do you agree that with our proposals for remuneration of plan providers?*

**3.51** The majority of respondents either agreed with our proposals or made no comment on them.

**3.52** Those who disagreed mainly did so on the basis that they considered the rules to be unclear. Some respondents queried what was meant by 'remuneration'. Some respondents asked for further guidance on what we considered to be acceptable under the proposed rules. A small number of respondents queried whether the rules allow firms to pay bonuses to their sales staff.

### Our response

We will implement the rules as set out in CP21/4.

At this stage we do not consider that further guidance is necessary. We remind firms that remuneration is a defined term and when used as such in our rules this definition should be consulted. Furthermore, PROD 7 includes how firms will need to consider that any relevant remuneration is contributing to providing fair value funeral plan products. Our rules on solvency also prevent firms from extracting money from trusts unless the trust is assessed as being at 110% solvency level, subject to the limited exceptions set out in Chapter 2.

The rules on remuneration do not prevent firms paying bonuses. However, these must not conflict with the obligation to act in the customer's best interests; for example, by incentivising staff to recommend more expensive products where alternative options would better meet the customer's needs. This includes situations where the customer's needs would be better met by not buying a funeral plan at all. The FCA has previously published extensive guidance on the types of incentives and performance management practices that are likely to breach our rules. This includes bonus structures which focus on sales volumes and do not have adequate provision for sales quality and compliance.

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## Pre-contract disclosures

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**3.53** It is important that consumers are given clear information before they decide whether to purchase a funeral plan. In CP21/4 we proposed a number of requirements to ensure that consumers are given the information they need. These were:

- Information about the firm and its services, details such as their complaints process, whether they provide advice, and any fees the customer may be required to pay for their services.
- Information about the product, including an explanation of what the plan does and does not include, price information, and cancellation rights.
- The information to be provided where the plan was sold through distance marketing and e-commerce activity.

**Q15:** *Do you agree with our proposals for pre-contract disclosures?*

**3.54** The majority of respondents either agreed with our proposals or made no comment on them. Only a small number of respondents opposed the proposals; primarily on the basis that they would provide too much information and could overload customers.

**3.55** We received a number of suggestions from respondents about potential changes to the required disclosures. These were:

- Mandating more standardised wording in contracts and other disclosures, to make plans more easily comparable.
- Making information on plan limitations more prominent.
- Requiring nomination of the funeral services provider at the point of sale.
- Including an industry standard cost for an equivalent at-need funeral, to allow consumers to easily understand the value of the plan they are purchasing.

### Our response

We will implement the rules largely as set out in CP21/4.

Whilst there may be some benefits in standardising the wording of plan contracts, we are concerned that this could limit the scope for firms to differentiate their products from their competitors. The pre-contract disclosures we are introducing provide a level of standardisation which we consider enough to allow customers to compare products. The product information document includes clear information on the plan's limitations.

The rules we are introducing require providers to nominate the funeral director (or other funeral services provider) within 30 days. Requiring appointment when the plan is sold may be beneficial, but we recognise it may not be possible in all cases. We are, however, amending the cancellation rules to provide additional cancellation rights once the funeral services provider is appointed. This is explained in response to question 18.

We have considered the suggestion that price disclosure should include a comparison with an equivalent price for an at-need funeral.

However, whilst this may benefit some consumers, we are concerned it could cause confusion. Funeral plans are primarily intended to allow pre-payment for a future funeral, to protect from price inflation. Comparing the price of a plan to current at-need prices may give a misleading impression of how much the funeral would cost when the customer dies, because the inflation is likely to increase the at-need price. We also note that there is no industry standard way of calculating an average at-need price, so it may not be reflective of the true position. However, a difference between the at-need price and an equivalent funeral plan price would indicate the plan is not providing fair value and is likely to breach the product governance rules. We consider this sufficient to address the harm.

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## Plans paid through instalments

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- 3.56** In CP21/4 we set out our view that the primary purpose of consumers purchasing plans is to remove the burden of arranging and paying for their funeral from their bereaved loved ones at what is inevitably a difficult time. Some plans paid for through instalments risk failing to meet this aim because they only pay for a funeral if the customer has made all their instalment payments. In recent years there has been an increase in plans sold with instalment periods of up to 30 years. We do not consider that plans which fail to provide the expected funeral are delivering good outcomes for consumers; nor do we consider the return of payments to be an acceptable outcome in most circumstances.
- 3.57** We proposed to prohibit the sale of plans paid through instalments, unless they would provide the expected funeral following the consumer's death without any further payments being required, and regardless of whether or not the consumer has paid all their instalments. We proposed to allow a moratorium period for the first 12 months of payments where, if the customer died, no funeral would need to be provided but the firm must return the customer's payments in full.
- Q16:** *Do you agree with our proposals for plans sold through instalments?*
- 3.58** The proposals received a mixed response, with an even split of those who supported and opposed the proposals.
- 3.59** A number of respondents argued that the proposals were unnecessary as customers were generally aware the outstanding balance would need to be paid if they died during the instalment period. Some respondents pointed to the explanations given in their documentation and to low levels of complaints. However, some respondents who supported the proposals provided evidence of a significant number of complaints from bereaved families being asked to pay for instalment shortfalls.
- 3.60** Some respondents were concerned that the proposals would lead to customers who die early being subsidised by those who make all their instalment payments. They considered this an unfair outcome.

- 3.61** Some respondents expressed concern that more customers would instead purchase insurance products, which the respondents considered were poorer value than funeral plans. Other respondents argued that longer term instalment plans would be uneconomic because all customers would purchase them regardless of their circumstances. They argued this would lead to longer term plans disappearing, and customer choice being restricted.
- 3.62** A number of respondents expressed concerns that our rules would prevent them from recovering their costs if the customer cancelled their plan, with some appearing to think the rules required the repayment of all the customer's payments whenever the customer cancels.
- 3.63** A number of those opposed to the proposals said that the costs of covering the shortfalls – either through holding additional sums in the trust or through purchasing supplementary insurance – would be high and would lead to price increases.

### Our response

We will implement the rules broadly as set out in CP21/4. However, we are making a change to the maximum permitted moratorium period from 12 months to 24 months. As stated in CP21/4, one of the main ways we expect firms to ensure they can provide funerals for those who die during the instalment period is to take out supplementary insurance cover. Increasing the moratorium period is likely to reduce the cost of that insurance and may also encourage more insurers to offer cover. We remind firms that 24 months is the maximum permitted moratorium. They can offer plans with a shorter moratorium if they wish, provided they have put in place arrangements which safeguard appropriate resources to provide the funerals, either via a contract of insurance or for sufficient sums to be held on trust.

As we said in CP21/4, we consider that customers purchase funeral plans because they want to pre-arrange and pay for their funeral. We do not consider that plans which risk not providing a funeral are acceptable. Although some respondents said they do not see significant volumes of complaints about this, other respondents said that it is a significant driver of complaints and we would expect to see further harm of this nature in future years due to the recent increase in sales of this type of plan.

We accept that some customers will pay in more than others for the same funeral because some customers will die before making all their payments. We do not see this as a problematic outcome; in particular, we note that customers who pay through instalments currently pay more for the same funeral than those who pay upfront.

We do not agree with the view that the proposals are likely to lead to more people purchasing insurance instead of funeral plans. As stated earlier, funeral plans and insurance each have their own advantages and disadvantages. Our proposals are aimed at improving the quality of funeral plans for customers for whom they are suitable. We also do not accept the argument that the rules will make longer term instalment periods

uneconomic. We note that there are already a number of plans in the market which guarantee to provide a funeral if the customer dies without paying all the instalments. These are offered with instalment periods of up to 25 years, and we have seen nothing to suggest they have either made longer term plans uneconomic or led to a decline in the number of customers purchasing plans with an upfront payment. There are likely to still be significant advantages to paying through an upfront payment, as there would be no moratorium and no additional instalment fees.

Paragraph 158 of our cost benefit analysis acknowledged that the proposals could lead to price increases if firms pass on the cost of covering the shortfalls. We consider that the price increases will reflect an increase in the quality of funeral plans as customers will be assured of receiving the funeral they expected, making them a better product for those who purchase them.

Our rules on cancellation require a full refund to be provided where a customer cancels, or dies, during the moratorium period, as the consumer has not received any benefit from the plan at this point. Our rules do not require the customer's payments to be returned in full if the customer cancels outside the moratorium period. Outside of the moratorium period, firms are able to charge cancellation fees.

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## Sales standards

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**3.64** In CP21/4 we proposed to apply standards broadly similar to those in the Insurance: Conduct of Business sourcebook (ICOBS). This means that:

- For non-advised sales, firms would need to ensure that they identified the customer's demands and needs through their sales process, and then only offered the customer plans which met those demands and needs.
- For advised sales, firms would need to ensure the advice they give is suitable, having considered all the customer's circumstances and needs. Where firms give a personal recommendation, they must ensure that that the product they recommend is the one that best meets the customer's needs, based on a fair and personal analysis of the funeral plans market.

**3.65** We also proposed to ban cold calling. Firms would only be able to contact customers or potential customers for the purposes of interactive marketing (eg by phone or in person) where they already have an established client relationship with them. Examples of existing relationships include where the consumer already has a product with the firm.

**Q17:** *Do you agree with our proposed sales standards?*

**3.66** The majority of respondents either agreed or gave no response.

**3.67** Where those who supported the proposals made any additional comments, they were generally about the importance of the cold calling ban and of firms ensuring that plans meet the customer's needs. Some respondents suggested the rules should go further

and ban all lead generation activity. A number of respondents said that they already complied with these requirements as they considered them best practice.

- 3.68** No respondents disagreed with the proposed ban on cold calling. However, a small number queried whether making an outbound call to a customer who had previously expressed an interest in funeral plans (eg through a website or in response to advertising) was considered cold calling.
- 3.69** A small number of respondents disagreed with our rules on ensuring products meet customer's demands and needs on the basis that funerals are a universal need for all people. Some others raised concerns about whether firms would be required to ask health-related questions or assess the customer's financial means before selling a plan.
- 3.70** Although most respondents were generally positive about plans sold by funeral directors, a small number raised concerns about bereaved customers being sold funeral plans at the same time they are arranging an at-need funeral for a recently deceased loved one. Some suggested mandating a minimum period between the sale of an at-need plan and a funeral plan for another person.

### Our response

We will implement the rules as set out in CP21/4.

We welcome the positive feedback to our proposed ban on cold calling. We will now make these rules as consulted on. We expect to see our rules on advertising significantly reduce the harm to consumers from the bad practices identified in CP 21/4, eg lead generators posing as false comparison sites.

In regard to the sales standards, we remain of the view that it is important customers should only ever be offered plans which are consistent with their demands and needs. We do not accept that the fact all people will die demonstrates a universal need for funeral plans. Some people may not wish to have a funeral at all. Others may wish to make alternative provision or may be happy for their loved ones to arrange matters. As we said in response to question 9, funeral plans are not the only means by which people can make provision for their funeral. They have advantages and disadvantages compared to other options such as life insurance or savings.

Where firms are not providing advice, we expect them to ask questions that relate to the main features, benefits and limitations of their plans, and then ensure they only put forward plans which meet the customer's demands and needs. We do not expect firms to ask detailed questions about the customer's financial position or health. However, in some cases, firms may need to ask some questions about these areas in order to establish which plans will meet the customer's needs. For example:

- Before offering the customer a range of plans paid over different instalment periods, it may be necessary to establish if the customer is willing and able to pay in a lump sum or over a short instalment period. If they are, then longer instalment terms are unlikely to meet their needs.

- Before selling a plan with an instalment period longer than the moratorium, it is likely the firm will need to ensure the customer is aware that the plan would not be appropriate for someone expecting to die within that moratorium period. This is because no funeral would be provided, and this would be a significant limitation of the plan.

We note the suggestion to mandate a gap between the sale of an at-need funeral and a funeral plan for another person, but we have not seen evidence to justify this at present. We may consider this in the future if we see evidence of harm to consumers.

We remind firms that when offering funeral plans with instalment payments, they will need to consider whether their contracts amount to regulated credit agreements. Firms must only offer such agreements if they have the necessary FCA authorisations and comply with consumer credit provisions.

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## Cancellation rights and fees

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- 3.71** In CP21/4 we proposed that all customers have the right to cancel their funeral plan without cost within 30 days of purchase. For plans paid through instalments we proposed that customers be able to cancel without cost at any time during the moratorium period. If customers die during the moratorium period, they must receive all their payments back, with no cancellation fee.
- 3.72** Where customers are paying through instalments, we proposed that firms be required to act fairly if the customer misses a payment. We proposed rules which would require firms to notify the customer of the missed payment, give them at least 14 days after the second missed payment to bring their plan back up to date, and not charge any additional fees.
- 3.73** We proposed that other fees (such as cancellation fees or administration fees for making changes to a plan) must be a genuine reflection of the cost the firm incurs, and not be a source of additional profit. Where firms charge instalment fees, these may reflect the loss of investment return that the firm (or the underlying trust) suffers due to not having the full plan payment available to invest, and the risk the firm takes on if the funeral provision is guaranteed. However, firms must ensure their fees do not result in customers who pay by instalments being systemically more profitable than those who make a single, up-front payment.

**Q18:** *Do you agree with our proposed approach to cancellation rights and other fees?*

- 3.74** The majority of respondents gave no response. Of those who did respond, there was an even split between those who agreed and those who disagreed.
- 3.75** Most disagreement was with the proposal to require firms to return all the customer's payments if they cancel or die during the moratorium period. A number of respondents argued that firms incur costs in setting up plans and should be able to recover these through cancellation fees in these circumstances. A small number of other

respondents argued that customers receive a benefit during the moratorium period because typically their funeral will be provided if they die in an accident during this time.

**3.76** A small number of respondents said it would be very challenging to ensure that their instalment fees did not result in additional profit in all cases, because that will depend on the variability of future investment returns. Some other respondents suggested that the rules on instalment fees could lead to firms with less prudent trusts charging higher fees on the basis of unrealistic expected investment returns.

**3.77** Some of the responses suggested our proposals had been misunderstood in some ways:

- Some respondents appeared to think our rules would require firms to return the customer's payments in full if they cancelled at any time, not just within the moratorium period.
- Some respondents were concerned that cancellation fees could not include the additional costs of measures firms take to guarantee funerals for those who die during the instalment period (eg the cost of supplementary insurance).
- Some respondents argued that firms need to make a profit from administration fees in order to cover the costs of providing these administrative services.

### Our response

We are implementing the rules broadly as they were in CP21/4. However, we are making some changes:

- In line with our change to the maximum moratorium period for plans paid through instalments, we are changing the rules so that customers who cancel or die within the first 24 months of their instalment period must receive all their payments back. The payments will go to the customer's estate in the case of death. Where firms opt to offer a shorter moratorium, they can reduce this free cancellation period to the same as their moratorium.
- We are providing customers with an additional free cancellation period of 7 days from the point at which the funeral services provider is appointed. This is to enable customers who are dissatisfied with the appointment to cancel their plan without charge. The rule will only apply if the additional 7 days will extend the free cancellation period beyond the initial 30 day cancellation period. For example:
  - If the firm appoints the funeral services provider 10 days after the plan is sold, the new rule will not apply because the customer would still be within the 30 day period.
  - If the firm appoints the funeral services provider 25 days after the plan is sold, they will need to give the customer 7 days from that point to cancel their plan without cost.

We think it is unlikely that plan providers would be able to set an instalment fee that was compliant with our rules but based on unrealistic expected investment returns. We will be monitoring firms and will take action if we see evidence of this practice emerging.

We are retaining the rules which require firms to return all the payments if the customer cancels or dies during the moratorium period. We

acknowledge that firms will incur acquisition and administration costs when selling plans, and so they may lose money if they must return the payments. However, we do not think a cancellation fee is justified in these situations because the customer has not received any benefit from the plan. The cancellation fee would, in effect, be a charge for holding onto the customer's money and then handing it back to them; this is a service which would be provided for free by eg a bank. We do not accept the argument that providing accidental death cover during the moratorium period is sufficient to show the customer has received a tangible benefit. This is because we understand that claims for accidental death during the moratorium are sufficiently rare as to provide a negligible benefit.

The rules only require the full return of payments if the customer cancels within:

- The first 30 days, or (if longer) 7 days from the appointment of the funeral services provider
- The moratorium period, for plans sold on an instalment basis (including fixed monthly payment plans)

Outside of these periods, our rules require only that the cancellation fee be reflective of the costs the firm has incurred in providing the plan and any administrative costs of the cancellation. This can include the cost of any unrecoverable insurance premiums paid. We do not require firms to pay to the customer any investment returns they have made.

The requirement that fees reflect costs and not include an element of profit applies across a firm's customer base, rather than to each individual customer. We recognise that it will be impossible to determine for each instance that a fee is charged whether the firm happens to make a small profit on that fee. Firms should have processes in place to ensure that they are not systematically profiting from fees. However, this does not prevent them charging a fee which is sufficient to cover all their costs in providing the service for which the fee is paying. We recognise that changing a plan requires firms to have IT systems and administration staff. The rules allow these costs to be covered by fees.

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**Q19:** *Do you have any comments on whether our proposals are likely to impact the relationship between funeral plan contracts and underlying insurance contracts?*

**3.78** We received only a small number of responses to this question, most of which related to other proposals. Some respondents said that their current arrangements would need to change – for example, because they currently have a 24-month moratorium rather than a 12-month moratorium.

### **Our response**

We recognise that the rules may require firms to amend their existing relationships with insurers. However, the change to the maximum moratorium period should reduce the need for this. Firms should make



sure they have compliant arrangements in place before the rules come into force. This is something we are likely to examine as part of firms' application for authorisation.

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## Post-contract actions

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### Nomination of the funeral director

**3.79** In CP21/4 we proposed that funeral plan providers will be required to nominate a funeral director within a reasonable distance of the customer's home to carry out the funeral. This nomination must be within 30 days of the plan being purchased and must be notified to the customer. The plan provider must put in place contractual arrangements to ensure that the funeral director will deliver the funeral as set out in the plan, without any additional payment from the customer or their estate. Providers will need to regularly review their arrangements with funeral directors to ensure that funerals will be delivered. We proposed guidance that this should be done at least every twelve months.

**Q20:** *Do you agree with our proposal to require plan providers to nominate a funeral director within 30 days of the plan being purchased?*

**3.80** Most respondents either agreed or made no comment on the proposals. Some said that the appointment of the funeral director should be more closely linked to the time the customer has to cancel their plan without cost.

**3.81** A small number of respondents said that requiring nomination within 30 days would mean smaller firms would not have sufficient time to identify a funeral director. Periods of up to 90 days were suggested. Conversely, some respondents said that nomination of the funeral director should be required at the time the plan is purchased.

**3.82** Some respondents disagreed with the requirement for the funeral director to be local to the customer. They pointed out the increasing popularity of direct cremation services where there is no need for a local funeral director to be appointed. A small number of respondents objected to the use of the term 'funeral director' on the basis that traditional funeral directors are not involved with plans such as direct cremations.

### Our response

We are implementing the rules broadly as they were in CP21/4. However, we recognise that traditional funeral directors will not be involved in all funeral plans, so we are changing the rules to refer to the 'funeral services provider'. This includes traditional funeral directors and other firms who provide services such as direct cremation. We are also amending the requirement for the funeral services provider to be local to the customer so that this does not apply if the plan is clearly not intended to provide a local service.

We agree with the arguments that the appointment of the funeral services provider should be more closely tied to the customer's free cancellation period. We explained the changes we have made to the cancellation rules in response to question 18.

Whilst there would be benefits to consumers in requiring that the funeral services provider must be nominated at the time the plan is sold, we recognise this may be very challenging for some firms to deliver in practice. We consider that requiring nomination within 30 days strikes the right balance between ensuring customers are fully informed about their plan and giving firms enough time to find an appropriate funeral provider. The new rules on cancellation ensure that customers can cancel for free if they are dissatisfied with the appointed funeral provider. We do not consider it is either necessary or reasonable to give firms longer than 30 days.

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### Post-contract disclosure to the consumer's representative

**3.83** In CP21/4, we proposed that plan providers should send a letter to the customer's representative within five business days of the plan being taken out, giving details of the plan and how it can be redeemed when the customer dies. The customer would be able to opt out if they wish.

**Q21:** *Do you agree with our proposal to require plan providers to send a letter to the customer's representative once a plan has been purchased?*

**3.84** Most respondents did not respond to this question. Of those that did, most agreed with the outcomes the disclosure is intended to deliver but raised concerns about how it would work in practice.

**3.85** A number of respondents were concerned about whether they could use the nominated representative's details in a way that was compliant with data protection law. Some suggested it should be done on an opt-in rather than opt-out basis.

**3.86** Some argued the rules would not guarantee that plans did not go unclaimed. They raised a number of potential situations in which this could happen:

- The nominated representative may die before the customer.
- There may not be anyone suitable to be a nominated representative.
- The nominated representative may become estranged from the customer, or no longer wish to be a representative.
- There may be disputes where different family members have views on the funeral arrangements.

**3.87** Some respondents queried whether there was an obligation to update their records if the nominated representative changes.

**3.88** Some respondents argued that customers are already given information about their plan and there is no reason why they would not tell their family members about it. Some suggested this should be solely the customer's responsibility.

**3.89** Some respondents queried if the letter can be sent electronically.

## Our response

We will implement the rules as set out in CP21/4.

We do not consider that the rules risk firms breaching data protection law, provided they obtain the relevant consent and contact details from the customer. The rules are clear that the customer has the choice not to have the letter sent to their nominated representative.

We acknowledge the situations raised where the letter may not prevent plans going unclaimed. It is not our expectation that the rules we implement will completely solve this issue. The cost benefit analysis we published accounts for a modest reduction of between 1% to 5% in the number of plans which go unclaimed. Situations such as estrangement and disputes between family members will arise irrespective of our rules. However, we do not agree that it is sufficient to place sole responsibility onto the customer for informing others about the plan. The number of unclaimed plans at present shows that this intervention will be beneficial.

The intention of the rules is to improve awareness of the plan's existence and reduce the likelihood of it going unclaimed. The rules do not automatically make the representative a party to the contract or give them rights under it (although they may have rights under the contract or be entitled to bring a complaint on behalf of the customer). Firms are not required to update the representative if circumstances change.

The letters required by these rules must be sent in accordance with the rules on the means of communication. They can be sent electronically if the customer opts for that instead of paper copies.

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## Ongoing annual disclosure

- 3.90** As funeral plans are long term products, we proposed that firms should be required to send customers an annual letter setting out important information about their plan. The letter includes a prominent warning that the customer should read the details and consider whether the plan continues to meet their requirements.

**Q22:** *Do you agree with our proposal to require plan providers to send an annual letter to consumers?*

- 3.91** The majority of respondents either supported the proposals or made no comments.
- 3.92** A number of respondents agreed with the principle but argued that sending the letter annually was excessive. Most argued that every 2 to 3 years would be sufficient. Respondents said that the cost of sending letters to all existing customers every year would be excessive.
- 3.93** Some respondents said that sending regular correspondence could upset customers who do not wish to think further about their funeral and should be done on an opt in basis.

- 3.94** A number of respondents said that there should be a central register of funeral plans which could be searched by family members. They argued this would reduce the number of unclaimed plans. Similar points were made in response to question 21.

### Our response

We welcome the broad support for the aim of our proposals. Having considered the responses, we have concluded that sending the letters annually is more frequent than is necessary to achieve the intended outcomes. We are, therefore, amending the rules so the letter need only be sent every 3 years.

We recognise that it is possible there could be rare situations in which the letters could cause some distress, but we do not consider this outweighs the importance of customers continuing to ensure the plan is right for them. Funeral plans are long term products and customers' circumstances are very likely to change over the term of the plan.

We agree there would be benefits from the creation of a searchable register of plans, and we would welcome such an industry-led initiative. However, we do not consider we would be the appropriate body to establish and operate such a register as this is outside our role as the regulator for the sector (and not something we do in other sectors).

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## Plan redemption

- 3.95** In CP21/4 we proposed rules that funeral plan providers must ensure redemptions are handled fairly and promptly, to a satisfactory quality and in line with the plan. Where plan providers use third parties (such as independent funeral services providers) to deliver the plan services, the provider retains full responsibility for ensuring delivery of the plan and compliance with the rules.
- 3.96** The proposed rules also prohibited plan providers or funeral services providers from requesting any further payment for services which are within the plan.

**Q23:** *Do you agree with our proposed rules for plan redemption?*

- 3.97** Most respondents either agreed with the proposals or made no comment. Where respondents disagreed with the proposals it was mainly over the requirement for the plan provider to ensure the funeral is delivered to a satisfactory standard, and that the provider retains full responsibility in situations where delivery of the funeral is outsourced. A number of respondents argued that it is unreasonable to make plan providers responsible for the acts (or omissions) of funeral services providers which are outside their control. Others queried how plan providers could assess whether the funeral is provided to a satisfactory quality.
- 3.98** A number of respondents disagreed with the proposal to prohibit funeral services providers from seeking additional money from the customer's family. Respondents pointed to plans which do not provide sufficient cover for third party disbursements

(such as crematorium fees) and there were concerns that funeral services providers would be expected to pay for these.

**3.99** Some respondents argued that the increased costs of monitoring outsourced funeral services providers will result in price increases.

### Our response

We will implement the rules as set out in CP21/4.

We do not accept the arguments put forward that plan providers should not be responsible for the provision of the funeral. The purpose of a funeral plan is to provide the funeral as set out in the plan. The plan provider is the party contractually obliged to deliver the funeral. They may choose to outsource the delivery to another firm, but this does not change their obligations and duties to the customer. It is sometimes said in the insurance sector that a claim is the 'moment of truth'. We consider this to be the same regarding funeral plans; the funeral is the point at which the plan delivers its promises. If the funeral is not delivered properly then the funeral plan itself has failed to deliver. We do not accept any suggestion that the plan provider should not be responsible and accountable in this situation.

We consider that the situation is similar to an insurance company who instructs a third-party garage to conduct car repairs. If the repairs are done badly, it is the insurer who has failed to deliver their contractual and regulatory obligations, and who must rectify the problems.

The rules will require firms to put in place appropriate monitoring and oversight of other firms to whom they outsource funeral delivery. However, as providers are already contractually liable for ensuring the delivery of the funeral, we do not expect this to have a material impact on prices.

We acknowledge the concerns expressed about the rules preventing firms from seeking additional funds from the customer's family. However, it appears these arise from a misunderstanding. The rules prevent firms from seeking additional payment for services which are included in the plan. We understand that most plans only provide a fixed contribution towards the cost of disbursements. If that contribution is insufficient to pay the entire disbursements cost the rules do not prevent either plan providers or funeral services providers seeking the extra money required to meet the full cost. For example, if the plan provides £1,000 towards disbursements but prices in the local area are such that the total cost is £1,500, firms can request the additional £500 from the customer's family.

Finally, we remind firms that the customer's representative may be eligible to pursue complaints about the provision of plan services through the Financial Ombudsman Service. Given the importance of timely provision of the funeral, we expect plan providers to ensure that complaints and disputes do not delay the funeral.

## Application of rules to existing plans

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- 3.100** We proposed to apply the following rules to all funeral plans which are unredeemed, regardless of when they were entered in to:
- The general principles including the requirement to act honestly, fairly and professionally in the customer's best interests
  - The requirements concerning customer communications and financial promotions
  - The requirements relating to post-contractual changes
  - The requirement to provide the customer with an annual statement
  - The rules on handling plan redemptions
- 3.101** We also proposed guidance that a firm should consider the purpose of a number of our proposed rules, and whether they can amend their current practices to deliver those outcomes. For example, where the firm already has contact details for the customer's representative, they should consider whether it would be beneficial to inform them about the existence of the plan and how to redeem it when necessary.
- Q24:** *Do you agree with our proposals for rules to apply to plans entered into before 29 July 2022?*
- 3.102** The majority of respondents either agreed with our proposals or made no comment.
- 3.103** Respondents who disagreed generally did so on the basis that rules should not apply to plans which are sold before FCA regulation comes into force. Some respondents expressed concern about the risk of firms being held to a standard that was not applicable at the time the plan was sold.
- 3.104** Some respondents said it would not be possible to communicate with the customer's representative without their consent, even if they hold their contact details.
- 3.105** A small number of respondents challenged our assessment of the number of plans going unclaimed.

### Our response

We will implement the rules as set out in CP21/4, with the exception of our rules on plan statements (see 'ongoing annual disclosure' above).

It is not our intention to retrospectively apply standards to the sale of plans which were sold before 29 July 2022, and the rules do not do this. However, our conduct rules are concerned with the entire life of the funeral plan, not just the sale. We think it is appropriate for firms to treat their customers fairly, and to act properly as plans continue and are redeemed after 29 July 2022.

The rules require a customer's nominated representative to be sent prescribed information, but only where firms already have their details, and the customer's consent to contact them, at the date regulation of the sector begins.

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## 4 Product Governance

**4.1** In CP21/4 we set out our proposed product oversight and governance rules for funeral plan firms. The proposed rules were designed to ensure firms' behaviour is focused on delivering fair value products which meet the needs of consumers, and that firms have strong governance and oversight arrangements in place to support this. In this chapter, we summarise the feedback received, our response and outline the rules we are now introducing. These rules are new provisions within the Product Intervention and Product Governance sourcebook (PROD).

### Product governance requirements for manufacturers

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**4.2** Manufacturers are those firms who are responsible for creating, developing, designing funeral plans, and/or entering into or carrying out a funeral plan contract as a provider. All funeral plan providers will be manufacturers, but we also proposed rules setting out the circumstances in which an intermediary (such as a funeral director) would be classed as a manufacturer.

**4.3** Under the proposed rules, manufacturers would need to have a product approval process which ensures for example their products are designed to meet the needs of a defined target market. The rules would require firms to review their products, and the way they are distributed, at least annually, and make changes if they identified problems.

**4.4** We also proposed that the rules would apply to products manufactured before 29 July 2022.

**Q25:** *Do you agree with our proposed product oversight and governance requirements for funeral plan manufacturers?*

**4.5** Most respondents did not comment on the proposals. Of those who did, the majority were supportive, with only a small number of respondents opposed.

**4.6** Those who did not support the proposals argued that they were overly complex for what they considered to be a simple product. Some suggested that the rules were based on rules applying to more complex investment products which, they argued, was not the correct approach.

**4.7** A number of respondents asked how the rules would apply to funeral services providers in a number of different situations. Some respondents were concerned that funeral services providers may be classed as manufacturers. A small number of respondents argued that plan providers should not be responsible for products which are put together by funeral services providers.

**4.8** Some respondents asked how the rules would apply to existing plans. A small number also indicated some confusion over whether we have to formally approve products before they can be sold.

## Our response

We welcome the broad support for the proposals and will implement the rules, as set out in CP21/4, although we have made some minor changes to the way the rules are drafted.

We do not consider that the product governance rules are too complex for the funeral plans market. CP21/4 indicated that we have similar rules for both the investments and insurance sectors. The rules for funeral plans are primarily based on the product governance rules which apply to products such as over 50s life insurance, which may be considered as alternatives to funeral plans. We consider that the product governance rules we are making are appropriate for funeral plans in light of the range of benefits provided by these products, the varying limitations, and the range of available payment options.

### **The role of intermediaries in manufacturing products**

An intermediary (such as a funeral services provider) will be classed as a manufacturer where they have a decision-making role in designing and developing a funeral plan contract for the market. This includes situations where the intermediary independently determines essential features such as the price, costs, target market or guarantee rights. Based on the responses we received, we have put together 3 illustrative examples which we understand to be common in the sector:

- The funeral services provider selects the various features the customer wants for their funeral, such as type of coffin, number of cars etc. These are priced by the provider, and the plan is effectively put together from a list of pre-set prices.
- The funeral services provider selects the features the customer wants, and then prices them. These features and prices are determined by the funeral services provider but must be within a pre-determined range that is set out in an agreement between the funeral services provider and the provider.
- The funeral services provider selects the features the customer wants, and then prices them. These features and prices are determined entirely by the funeral services provider based on their own local prices. The provider has an agreement with the funeral services provider to take on plans set and priced by the funeral services provider.

It is unlikely the funeral services provider in the first example will be classed as a manufacturer. This is because their activities are limited to packaging together a contract based on pre-set features and prices which the provider has determined. We also consider the funeral services provider in the second example is unlikely to be classed as a manufacturer because the control over the features and prices available remains with the provider. In the third example, the funeral services provider is likely to be classed as a manufacturer. This is because they are determining both the features of the product and the price.

Where an intermediary is classed as a manufacturer, they and any other manufacturer including the plan provider will be responsible for meeting the requirements in PROD 7.2. This includes the need to meet the rules



specifically on where there is more than one manufacturer and the need to enter into a written agreement (see PROD 7.2.13R). We consider that funeral plan providers should be responsible for plans whether they manufacture the product alone or with another person, eg a funeral services provider. It is the plan provider who has the responsibility of ensuring the funeral is delivered. Although co-manufacturers will work together to design products and may divide responsibility for aspects of the product approval between them, they both remain responsible for complying with our rules.

### **Approval of existing and new products**

The rules we are implementing will apply to all funeral plan products, including those manufactured before 29 July 2022 which remain available for sale in the same way as they will apply to new products. Firms will need to ensure any funeral plan products being distributed from 29 July 2022 have been through the required product approval process. Where a product has not met that requirement, or where firms identify problems, they will need to make appropriate changes to their products or not distribute the product unless that is done.

The product approval process required by the PROD rules is an internal process that firms must establish. Firms are not required to submit the products to us for approval before they can be sold.

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## **Product governance requirements for distributors**

**4.9** Distributors are firms whose activities are advising on or proposing funeral plan contracts to customers. The rules we proposed would require distributors to have the necessary processes in place to ensure they are selling plans in line with the identified target market and are not adversely affecting the product's value. Distributors are expected to work with manufacturers by informing them of issues they identify and providing information on their distribution processes.

**Q26:** *Do you agree with our proposed product oversight and governance requirements for funeral plan distributors?*

**4.10** Most respondents did not comment on the proposals. Of those who did, the majority were supportive, with only a small number opposed.

**4.11** Those who opposed the proposals argued that the requirements were overly burdensome and would lead to intermediaries withdrawing from the market.

**4.12** Some respondents, while not opposing the proposals, suggested they would require closer working between providers and distributors, which could increase compliance costs.

## Our response

We welcome the broad support for the proposals and will implement the rules as set out in CP21/4.

The PROD requirements on distributors together with the sales standards, seek to ensure that plans provide fair value, perform as consumers expect, and are only sold to those for whom they are appropriate. For example, distributors are required under FPCOB to ensure that plans offered are consistent with the customer's demands and needs. Firms selling to a customer who is outside of the identified target market may be unlikely to show this is consistent with that customer's demands and needs. Where a firm has established robust product distribution arrangements that properly consider the intended target market and how the involvement of the firm contributes to delivering fair value, we expect this to reduce the risk of mis-selling. This is a key outcome from our regulation of the funeral plans sector.

One of the intentions of the rules is to require closer working between providers and distributors. We consider this will improve outcomes for consumers.

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## Fair value

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- 4.13** The proposed PROD rules required funeral plan manufacturers to ensure that their plans are providing fair value. Although this is primarily the manufacturer's responsibility, distributors will also need to consider the effects their distribution arrangements could have on the product's value.
- 4.14** Under the proposals, firms will need to consider the relationship between the total price to the customer and the quality of the product and/or services provided. The rules and guidance set out a wide range of factors which firms would need to consider in deciding whether plans are providing fair value. Where firms identify that products are not doing this, they must make changes to ensure the product provides fair value, or cease offering it for sale.

**Q27:** *Do you agree with our proposed rules on fair value for funeral plans?*

- 4.15** Most respondents either agreed with the proposals or made no comment about them. A small number of respondents said there is often a large difference between the price the customer pays and the sum actually paid to the funeral services provider for the funeral.
- 4.16** Those who disagreed mainly did so on the basis that they thought it was unclear what fair value means for funeral plans. The issues put forward fell broadly into 2 categories:
- The relationship between funeral plan prices and the price of equivalent at-need funerals. For example, whether a plan which is 10% more expensive than an at-need funeral would be fair value.

- The impact of regional variation on pricing. Some respondents said that prices are often specific to the customer and the location because the cost of providing funeral services varies significantly across the country. Some respondents asked if 2 apparently identical plans could be sold for different prices.

**4.17** Some respondents requested further details on how fair value should be assessed for funeral plans.

**4.18** A small number of respondents asked how the rules would apply to funeral services providers who are responsible for pricing of plans.

### Our response

We welcome the broad support for the proposals and will implement the rules as set out in CP21/4.

We share the concerns of some respondents that there is a significant difference between the sum paid to the funeral services provider and the price of the plan. There will be additional costs that firms incur to operate and distribute funeral plans. The rules require firms to consider a number of factors to identify if there is fair value. This includes the difference between the cost of providing the funeral and the price the customer pays. Where firms identify that there is not a reasonable relationship between the total price to the customer and the costs incurred in delivering the funeral plan, or where the difference does not provide benefits to customers, the funeral plan product will not be providing fair value.

On the concerns expressed about whether fair value is sufficiently clear, the rules define value as being the relationship between the price paid and the quality of the products or services provided. Firms will need to make judgements about their plans based on this. The rules set out a range of different factors and data that we expect firms to consider. The specific issues raised by respondents are relevant considerations in determining whether a plan is providing fair value:

- Where there is a difference between the price of a funeral plan and an equivalent at-need funeral this will require an objective and reasonable basis. We expect firms to consider what is causing the price difference (eg remuneration) and whether this difference is providing benefits to the customer. We note that funeral plans are generally advertised as being a way to pre-pay for a funeral at current prices. On that basis, a significant difference between prices would be likely to breach the rules.
- One of the factors which firms will need to consider is the cost of providing the underlying funeral. Where there are local variations then this may justify different prices being charged for products which appear similar. However, any differences will need to be based either on increased costs to the provider or greater benefits to the customer. Variations which cannot be justified in this way are likely to breach the rules.

Both manufacturers and distributors must consider fair value, but the specific requirements differ. Where intermediaries (such as funeral directors) are classed as manufacturers, they will have to comply with the rules in the same way as they apply to plan providers. In Chapter 6 of CP21/4 we provided an explanation of the rules and guidance relating to product design and fair value. We do not consider that further guidance is necessary at this stage.

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## 5 Resolution and compensation

**5.1** In CP 21/4 we set out measures to address potential harm to consumers from funeral plan firms becoming insolvent and no longer being able to carry out funeral plan contracts.

**5.2** We consulted on:

- Resolution arrangements that firms are required to have in place to protect customers on firm failure. That is, if the firm enters into insolvency proceedings.
- The introduction of FSCS protection for certain funeral plan activities for firms that become insolvent, for acts or omissions arising from the date the FCA takes on regulation of the funeral plan activity.

**5.3** In this chapter we set out the feedback received on our proposals, and our response. Feedback to our proposals on resolution and the FSCS was generally positive and we are now making many of the rules consulted upon in CP 21/4.

**5.4** In CP 21/4 we explained that we were still considering the following aspects of our regulatory regime for resolution and compensation:

- Precise options for the repayment of funeral plan monies to consumers if a firm fails and funeral plans cannot continue to be carried out by another provider that assumes the responsibilities of the failed firm, along with consequences for trust or insurance adequacy. We asked firms for their views on these issues in CP 21/4.
- Implications of this for the amount of compensation payable by FSCS.
- Possible further rule changes in light of any future legislative changes to be introduced regarding funeral plans and the FSCS.

**5.5** In [CP 21/20](#) we set out further proposals concerning resolution and compensation following feedback received, and in light of the government's announcement on 05 July 2021 regarding further legislative proposals it is consulting on. We will consider responses to [CP 21/20](#) and seek to finalise our rules in Q4 2021. Rules relating to the FSCS which are dependent on the government's associated legislation being introduced will be finalised once that legislation is made.

### Resolution

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**5.6** In CP 21/4 we consulted on a requirement for funeral plan providers to make arrangements for new plans that they enter into. These arrangements would ensure that, if they fail, there is a reasonable likelihood of a transfer to a new provider so that another firm with the appropriate permission can carry out the relevant contracts. We also proposed that firms must have arrangements to ensure that, in the event that funeral plan contracts will not continue to be carried out, consumers receive a reimbursement. And we sought views on the appropriate level of a reimbursement and how it could be funded.

**Q28:** *Do you agree with our proposed resolution rules?*

- Q29:** *Do you have any views on reimbursement and what amount should be considered adequate noting option 1 (to reimburse an amount equal to the retail cost of an equivalent replacement plan), option 2 (an amount linked to monies paid by the consumer), and other options that sit between these eg sums paid by the consumer that have been paid into a trust plus a pro-rated share of the remainder of the trust assets?*
- Q30:** *Do you have any views on how these reimbursement options could be funded? In particular, how could funeral plan arrangements be structured in such a way as to ensure that the funeral plan provider's obligations could be met at all times?*
- Q31:** *Do you have any views and evidence on the costs and benefits of these options, including relating to consumer protection and commercial impact on firms? We also welcome any evidence on the likely differential between the amounts relating to options 1 and 2, and between these amounts and the amount available from trust and insurance arrangements.*

- 5.7** Most respondents agreed that the preferred outcome would be for a transfer to be arranged to a new provider, to ensure that customers would still benefit from the funeral plan that they originally bought to meet their future funeral costs. Some firms asked whether the arrangements needed to be with a specific firm.
- 5.8** We received mixed feedback on what the reimbursement amount should be and how it could be funded. Consumer groups tended to suggest that consumers should be left no worse off as a result of the provider failure, eg with a replacement plan or equivalent value. However, many firms questioned providers' ability to reimburse all customers in full or cover the cost of a replacement plan (ie meeting that expense in one go, as opposed to over an extended period as funeral costs arise) in the event of failure. Respondents indicated that this would not be possible under typical arrangements. Some respondents suggested it may be a barrier to new entrants and could create unsustainable financial obligations, leading to a greater risk of firm failures.
- 5.9** Setting a specific reimbursement amount could also limit the firm's liability to that amount. In turn, this would limit the amount of compensation that could be payable by the FSCS. Therefore if the reimbursement amount was set at a low level (which firms may be able to meet under current arrangements), customers may not be compensated by more than that amount by the FSCS. Some respondents also questioned whether a 'prompt' reimbursement to customers was feasible, considering the long term nature of assets which may be held in trust arrangements.
- 5.10** Respondents accepted further resolution proposals such as the requirement for firms to have a resolution manual and record of customer payments.

## Our response

We welcome the feedback we received on preferential outcomes for consumers in the event of wind-down. We note most respondents were supportive that a transfer to a new provider would be the best outcome in many cases.

Our proposed rules state that transfer arrangements must not be restricted to only one particular firm, and that there must be a reasonable likelihood that the transfer can be made to any other firm.

Considering the feedback received we now propose that, while firms will still need to ensure that a reimbursement to customers is possible, we will not specify the level of the reimbursement. Further details about our revised approach in relation to the reimbursement amount are set out in [CP 21/20](#).

While respondents generally accepted aspects of our resolution proposals – such as the need for arrangements to allow for a transfer and a resolution manual – in light of the further consultation proposals set out in [CP 21/20](#), we will now finalise the resolution rules following that consultation, in Q4 2021.

## FSCS & Compensation

**5.11** We proposed to introduce FSCS protection for customers of failed authorised funeral plan firms from the commencement of regulation in July 2022, for acts or omissions arising from that point onwards. FSCS protection would mean that, if the regulated funeral plan firm is not able to meet liabilities against it, the FSCS may be able to declare the firm 'in default' and consider claims against it. Our proposals covered the scope of protection, what activities are protected, the compensation limit and how costs would be funded.

- Q32:** *Do you agree with the proposal to introduce FSCS protection for certain funeral plan activities in relation to firms that are declared 'in default' by FSCS, and for acts or omission arising, from the date FCA takes on regulation of the funeral plan activity?*
- Q33:** *Do you agree with the scope of proposed FSCS coverage?*
- Q34:** *Do you agree with the proposed approach to FSCS quantification, the payment of compensation and the compensation limit?*
- Q35:** *Do you agree with the proposal to introduce a new funeral plan activity FSCS funding class as set out above? If not, please set out an alternative funding approach with justification.*

**Q36:** *Do you agree that an initial class limit of £5 million for the new funeral plan activity FSCS funding class would be appropriate, on the basis that this limit will be reviewed at least 1 year after regulation commences?*

**Q37:** *Do you have any other comments on the proposals in relation to FSCS?*

- 5.12** Respondents were typically positive about the introduction of FSCS protection for customers of failed, authorised funeral plan firms. This would be an important benefit of the new regulatory regime in ensuring that customers are protected in the event of firm failure and that they have confidence in the funeral plan sector and the wider financial services industry.
- 5.13** However, a number of firms were concerned about their exposure to increased costs as a consequence of the introduction of FSCS protection. They argued this cost may need to be passed on to customers.
- 5.14** Some respondents were concerned about the proposed funding arrangements. For example, asking whether it was appropriate to share costs between funeral plan providers and intermediaries or querying whether there should be separate categories.
- 5.15** Respondents typically agreed with the £5m funding class limit for funeral plan firms (ie before the wider 'retail pool' of other levy paying firms would be required to contribute), although firms had mixed views on whether costs were likely to come above or below this threshold. They generally welcomed the proposal to review the funding class limit at least 1 year after regulation commences on 29 July 2022.
- 5.16** A number of respondents questioned why we had set a compensation limit at £85,000, where funeral plan values are significantly less, usually under £10,000. However, three respondents explicitly agreed with this limit, mentioning the benefits of consistent compensation limits across different FSCS claims, which helps simplify messages about FSCS protection.
- 5.17** One firm questioned whether the proposed tariff base (annual income) is a reasonable measure for determining how costs are apportioned, and asked how they should calculate eligible income. The concern was driven by complications from different accounting standards and the transfer of historic plans between entities. Another firm asked whether contributions should be risk based, rather than based on income.
- 5.18** One firm noted that the broader 'retail pool' (ie whereby FSCS costs are shared across funding classes, when an individual class threshold is exceeded) is unduly exposed to costs from funeral plan firms. Another respondent said that, in contrast, funeral plan firms could be exposed to costs from the broader retail pool. Respondents proposed ring-fencing the funeral plan class, so it is not exposed to such costs in the first year.
- 5.19** Two intermediaries proposed that the FSCS be funded by a product levy or via a pre-funded mechanism.



## Our response

We welcome feedback on these proposals and note that respondents were generally strongly in favour of introducing FSCS protection for customers of authorised funeral plan providers and intermediaries. We are now making our rules as consulted on.

We have examined our funding arrangements for funeral plan firms and consider that they are appropriate and sustainable based on the data we currently hold. As we set out in CP 21/4, we will aim to carry out a review of the class limit for the funeral plans funding class at least 1 year after our regulation of the sector commences in July 2022, to ensure the limit is set at an appropriate level. At that time, we will also consider the funding arrangements for funeral plan firms more generally. This will include whether a single funding class for funeral plan firms remains appropriate, or whether to combine funeral plan firms with firms from other funding classes. In the meantime, we will monitor information about funeral plan firms that become authorised during the authorisation gateway and consider any issues that may arise and if any action is required in the interim.

We recognise that the £85,000 compensation limit for funeral plans is significantly higher than the average cost of a funeral plan. Nonetheless, we consider that there are benefits of setting the FSCS limit for funeral plan claim at the same level as most other types of FSCS claim. In CP18/11 we set the limit for investment business, home finance intermediation and debt management business claims at £85,000, which helps simplify messages about FSCS protection. However, the fact that the compensation limit is higher than the average cost of a funeral plan won't in itself increase the compensation liability that FSCS levy payers are exposed to. A customers' level of claim is likely to be based on elements such as the cost of their funeral plan, the benefits they are entitled to under the plan or the cost of securing replacement cover, and won't be higher just because the compensation limit is higher than the average value of a funeral plan.

We consider that annual income is an appropriate tariff base which is consistent with the tariff base for other comparable funding classes.

In light of the feedback received, we will make the rules on the FSCS as consulted on. Further rules involving the FSCS are being consulted on in [CP 21/20](#).

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## 6 Dispute resolution

- 6.1** In this chapter we summarise the feedback we received on our proposals to apply our complaints handling rules and guidance, as set out in DISP, to all funeral plan providers and intermediaries that will fall within the regulatory perimeter once FCA regulation starts in July 2022.
- 6.2** The rules in DISP cover how funeral plan providers and intermediaries should handle complaints and when complaints can be referred to the Financial Ombudsman Service (ombudsman service). We are making changes to the ombudsman service's compulsory jurisdiction (CJ). The ombudsman service is mirroring those changes in its voluntary jurisdiction (VJ). It is also making a further change to the VJ's scope to cover complaints about funeral plans where the funeral is to take place outside the UK, as long as the funeral plan provider becomes a member of the VJ.
- 6.3** This chapter is issued jointly by the FCA and ombudsman service.
- 6.4** In CP 21/4 we consulted on:
- bringing funeral plan providers and intermediaries within the CJ of the ombudsman service where the plan provides for a funeral to take place in the UK;
  - applying the FCA's complaint handling requirements in DISP to ensure that complaints are dealt with promptly, consistently and fairly;
  - enabling the ombudsman service to deal with complaints about certain acts or omissions of funeral plan providers that occurred before FCA regulation comes into force if the funeral plan provider was a member of the FPA at the time the act or omission being complained about occurred; and
  - giving funeral plan providers selling plans for a funeral to take place outside of the UK, the opportunity to join the VJ so that a greater range of consumers have access to a dispute resolution service.
- 6.5** Respondents were generally in favour of consumers having access to the ombudsman service, though they raised a number of concerns.
- Q45:** *Do you agree with our approach to apply our complaint handling rules and guidance in DISP, including the compulsory jurisdiction of the ombudsman service, to all authorised funeral plan providers and which will also apply to intermediaries (eg ARs)?*
- 6.6** Most respondents supported our proposal, welcoming the chance for consumers to have complaints heard and fairly assessed.
- 6.7** Respondents noted the time critical nature of the process. Some said that at the time of need there cannot be an 8 week wait for a complaint to be looked at by a firm, followed by the length of time it might take the ombudsman service to consider a complaint.
- 6.8** Some respondents asked whether the ombudsman service has the knowledge to manage these types of complaint, as they are very different to other financial service products.

- 6.9** Some respondents also raised the issue of signposting and how complainants would know how to make a complaint, especially if the complaint arises after the funeral has taken place.

### Our response

Having considered this feedback, we have decided to apply our complaint handling rules and guidance in DISP to all funeral plan providers and intermediaries we authorise.

#### **Timeliness**

Regarding the importance of timely provision of the funeral, the rules that authorised providers and intermediaries will have to follow require complaints to be handled promptly, as well as fairly and consistently. We do not define “promptly” in the rules, although our expectation is that a complaint is resolved at the earliest opportunity (see DISP 1.4.3G) and, in any event, within 8 weeks of its receipt (see DISP 1.6.7G).

We note that FPA members currently have to comply with the FPA’s code of practice, which requires a provider to give contact details of the FPA, which provides an independent dispute resolution service, if a complaint is not resolved within 8 weeks. We are not aware of this leading to significant delays in the delivery of the funeral.

Our rules allow the ombudsman service to consider a complaint within the 8 weeks if the firm consents and the complainant wants the ombudsman to deal with the complaint.

#### **Capability and capacity of the ombudsman service**

The ombudsman service has assured the FCA that it has the capability and the capacity to take on funeral plan complaints. It already considers many hundreds of thousands of complaints every year on a wide range of consumer problems.

Regarding the ombudsman service’s specific knowledge and expertise, the service is experienced in dealing with complaints of a sensitive nature, and about new areas of regulated activity.

The ombudsman service has processes in place for prioritising complaints where it is necessary to do so, for example to resolve a complaint affecting delivery of a funeral. However, we anticipate that in many cases, complaints about whether a funeral plan provider has secured the delivery of a funeral according to the terms of the plan will be dealt with after the funeral has been delivered, with an award of redress being made in appropriate cases.

As set out in paragraph 10.18 of CP 21/4 we are satisfied that it will be possible for a complaint to be made to the ombudsman service in circumstances where the person who purchased the plan has died. Where a personal representative brings a complaint on behalf of a deceased individual who would themselves have been an eligible complainant, the representative may need to provide evidence of their authority to the ombudsman service, such as a grant of probate or letters of administration.

### **Signposting complainants**

There are requirements in FPCOB 9 for firms to provide information to the customer and their nominated representative. This will need to cover key points, including details of the firm's complaints policy. FPCOB 9 will also require plan providers to send a letter to the customer's representative within 5 business days of the plan being taken, including details of the firm's complaints process.

There are rules on consumer awareness in DISP 1.2 that will require authorised funeral plan providers and intermediaries to publish appropriate information on their internal procedures for the reasonable and prompt handling of complaints and provide information about the ombudsman service. Firms can also display or reproduce the ombudsman service logo in marketing literature or correspondence directed at eligible complainants, provided it is used in a context which is clear, fair and not misleading. Those wishing to make use of the ombudsman service's logo in this way should first contact the ombudsman service on the [process](#) for this.

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**Q46:** *Do you think there are any gaps in ombudsman service coverage in the scenarios discussed above or are there any other issues you have identified? If so, please provide details.*

- 6.10** Some respondents felt it was not fair for complaints relating to funeral plans sold before FCA regulation starts to be subject to the ombudsman service's CJ. Others felt that there should be equal access and that the ombudsman service should cover all complaints about plans that were sold before FCA regulation, regardless of whether or not the firm was a member of the FPA. These respondents argued that the greatest consumer harm lies with complaints about firms that were not FPA members. Two of the respondents thought that either all plans should be covered by the ombudsman service pre-FCA regulation or that none should.
- 6.11** One respondent raised a concern about the retrospective application of rules. If our proposal was implemented, it assumed that complaints about matters that took place before FCA regulation starts would be assessed against the FPA rules and the law that was in place at the time of the sale.
- 6.12** Another respondent queried the extent to which the ombudsman service should be entitled to make a determination about quality and standards of services delivered under a plan and how it would make such determinations.

## Our response

Save for a couple of minor amendments, explained below, we are implementing our proposals as consulted on. Our proposed rules enable the ombudsman service to consider complaints as set out in The Financial Services and Markets Act 2000 (Regulated Activities) (Amendment) Order 2021 (the "2021 Order").

The FPA provides an independent conciliation and arbitration service through The Independent Dispute Resolution Service as a way of resolving any complaint or dispute which arises between a customer and member firm.

The 2021 Order provides for the ombudsman service to deal with complaints about acts or omissions that occurred before FCA regulation starts, as long as the firm was a member of the FPA at the time the act or omission occurred (and even if it ceased to be a member of the FPA subsequently). That is why we are extending the scope of the CJ to cover complaints about such activities. This is to ensure that consumers who would have had access to this dispute resolution service would not lose access to such a service if the FPA ceases to exist once FCA regulation starts. HM Treasury noted in chapter 5 of their response to their consultation on the regulation of pre-paid funeral plans that to extend coverage to policyholders of all existing plans, including those who were not members of the FPA, would require changes to primary legislation. It did not consider this to be proportionate on the basis that policyholders of non-FPA providers do not currently have access to a complaints procedure of this type.

Consumers of funeral plan providers which were not members of the FPA at the time of the act or omission would not have had access to the FPA's dispute resolution service, and so such a complaint will not be within the scope of the CJ (although it may be within the scope of the VJ if the funeral plan provider becomes a member of the VJ – see our response to question 49).

Chapter 3 of DISP sets out the procedures of the ombudsman service for investigating and determining complaints; the basis on which the ombudsman makes decisions; and the awards which the ombudsman can make.

The ombudsman service is required to determine a complaint by reference to what is fair and reasonable in all the circumstances of the case. DISP 3.6.4R says:

"in considering what is fair and reasonable in all the circumstances of the case, the ombudsman will take into account:

1. relevant:
  - a. law and regulations;
  - b. regulators' rules, guidance and standards;
  - c. codes of practice; and
2. (where appropriate) what he considers to have been good industry practice at the relevant time."

Article 9 of the 2021 Order provides that when determining a complaint, the ombudsman service may also take into account the FPA's rules and code of practice as at 28 January 2021 (being the version which was last published by the FPA and in force immediately before the 2021 Order first came into force).

In light of the consultation responses on this issue, and to make this clearer in Chapter 3 of DISP, the ombudsman service has decided to amend the guidance published at DISP 3.6.5G and DISP 3.7.3G as set out in the attached rules and guidance. For this purpose, the definition of "*former scheme*" in the Glossary to the Handbook has been amended accordingly.

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**Q47: *Do you agree with our assessment that it is not necessary to make any changes to the rules on eligible complainants?***

- 6.13** Most respondents agreed there was no need to make any changes to our current rules on who is eligible to refer a complaint to the ombudsman service.
- 6.14** A few respondents felt personal representatives and next of kin should be eligible complainants and sought clarification on whether they would be. One respondent also felt covered individuals should be eligible complainants. Another respondent questioned whether funeral services providers should be added to the list of eligible complainants so they would have access to redress in the event they had to cover something at additional cost that the person arranging the funeral was led to believe would be covered.
- 6.15** Some respondents pointed out that challenges might arise in the event of family disputes and some concerns were raised that complaints after death could have nothing to do with the funeral plan package and raise issues more appropriately dealt with by NAFD or SAIF.

### **Our response**

We are implementing our proposals as consulted on. Below we give our response to the issues raised.

As noted in our consultation, we expect the usual scenario will be that the person who purchased the plan for their own funeral will be the eligible complainant. However, where such a person has died,

their personal representatives will be able to refer a complaint to the ombudsman service on their behalf if they can show they are authorised by law to make a complaint on behalf of the eligible complainant (see DISP 2.7.2R). They would normally be able to show this by providing evidence such as grant of probate or letters of administration.

Our consultation also noted that another possible scenario is that a person buys a funeral plan for another person's (the "covered individual") funeral – and that under the current rules, only the person who bought the funeral (or their personal representatives if they have died) will be an eligible complainant. The covered individual (and the covered individual's personal representatives or next of kin) would not be an eligible complainant.

We considered making the covered individual an eligible complainant to cover instances where the covered individual is not the person who purchased the plan. However, as the person who bought the plan will be able to complain, we remain satisfied that there is no need to amend the rules to allow a complaint about the same plan to be made by the covered individual (or their personal representatives). Whilst we recognise that the delivery of a funeral does occasionally give rise to family disputes, we do not consider that it would be appropriate to expand the list of eligible complainants such that the ombudsman service might end up having to become the arbiter of such disputes.

We do not consider it would be appropriate to make funeral services providers eligible complainants. Generally speaking, the purpose of bringing funeral plans into FCA regulation is not to provide a mechanism for resolving commercial or contractual disputes between funeral plan providers and funeral services providers who are engaged to deliver the funeral which the plan provides for.

In relation to this point, some respondents also observed that a grievance with the way in which the funeral services provider actually delivered the funeral on the day would not necessarily mean that the funeral plan provider had failed in its obligations to provide a funeral of satisfactory quality and standard in accordance with the terms of the plan. While we acknowledge this observation, it will ultimately be for the ombudsman service to determine whether, on the facts and in the circumstances of a particular case, the funeral plan provider had satisfactorily performed its own obligations under the terms of the plan.

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**Q48:** *Do you agree that this covers all likely forms of redress? If you consider further categories are needed please provide details in your response.*

- 6.16** All respondents to this question agreed that all likely forms of redress are covered.
- 6.17** One respondent said that redress should be based on the provision of the funeral to the specification that was purchased by the consumer and not what the family desires.

## Our response

We are implementing our proposals as consulted on. We have set out above how the ombudsman service will determine a complaint.

**Q49:** *Do you agree with the ombudsman service's proposal to expand the scope of the voluntary jurisdiction in this manner?*

**6.18** Respondents did not have any strong views on this. Two respondents questioned whether it might be an unnecessary complication and one respondent questioned whether, under the voluntary jurisdiction, a customer who took out a plan before FCA regulation starts could use this arrangement to make a complaint about something that occurred before FCA regulation starts, regardless of whether or not the firm was a FPA member.

## Our response

The ombudsman service is implementing its proposals as consulted on.

With respect to the proposal to mirror the changes to the CJ and the VJ, as noted in the consultation, the VJ has a different territorial scope to that of the CJ. In particular, the VJ covers complaints about activities of VJ participants which are carried on not only from an establishment in the UK, but also from an establishment in the EEA or Gibraltar (subject to the other conditions in DISP 2.6.4R). Additionally, under DISP 2.5.1R(2) (a), the VJ covers complaints about the activities of VJ participants which were not regulated activities at the time of the act or omission, but which were regulated activities when the VJ participant joined the VJ.

The mirroring of the changes to the CJ in the VJ means that complaints about acts or omissions of funeral plan providers which are carried on from an establishment in the EEA or Gibraltar will be within the scope of the VJ. It will also mean that if a funeral plan provider were to become a participant in the VJ, the ombudsman service would be able to consider a complaint about its past activities to the extent that a complaint about those activities would not otherwise be covered by the CJ. A complaint about a funeral plan provider's past activities would be covered by the CJ if the provider was a member of the FPA at the time it undertook those activities. If the provider was not a member of the FPA at that time, however, a complaint about its past activities would not be within the scope of the CJ – although such a complaint would be within the scope of the VJ if the provider decided to become a participant in the VJ. It will of course be for individual funeral plan providers and intermediaries to decide whether they wish to apply to become VJ participants.

The ombudsman service will also be implementing its proposal to extend the scope of the VJ to make it available to providers and intermediaries which sell funeral plans where the funeral is to take place outside the UK. As the CJ will not cover complaints about funeral plans where the funeral is to take place outside the UK, the



ombudsman service considers it appropriate to extend the scope of the VJ to accommodate for this. However, as above, it will be for individual funeral plan providers and intermediaries to determine whether they wish to apply to become VJ participants (and thus to offer this coverage to their customers).

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## Fees

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**6.19** In the following section, we explain how the ombudsman service is funded and how we propose the funding arrangements will apply to funeral plan providers and intermediaries. The fees and levy rules that apply to firms currently covered by the ombudsman Service are contained in [Chapter 5 of the FEES manual](#) in the FCA Handbook. The key proposals were summarised in consultation CP21/4. We asked:

**Q50:** *Do you have any comments on the proposals and the application of our FEES rules and guidance to Funeral plan providers and intermediaries, in particular the proposal to create a new funeral plan provider and intermediary industry block with the tariff base based on annual income subject to a minimum fee?*

**6.20** In CP21/4 we explained that the ombudsman service is free for consumers to use and is funded through a combination of:

- case fees – which are invoiced to respondent firms and collected by the ombudsman Service once cases have been resolved.
- annual fees (levies) which are collected by the FCA for the CJ and by the ombudsman service for the VJ.

**6.21** In each of the ombudsman service's jurisdictions, the annual income requirement reflects the total expected to be raised by levies, plus the total expected to be raised by case fees for the relevant financial year.

**6.22** The ombudsman service plan to consult separately for the VJ levy as well as on case fees that are subject to the CJ and/or VJ as part of its annual plan and budget consultation for the 2022/2023 financial year.

**6.23** Most respondents supported our proposal to create a new industry block for funeral plan providers and intermediaries and most also supported the proposal that the tariff base should be based on annual income, subject to a minimum levy. There were some common themes which respondents raised, and these are covered below:

**6.24** Respondents asked if we could define annual income for the purpose of the levy and whether this is dependent on the size of the business. The nine respondents that asked this were mostly funeral services providers and funeral plan providers.

### Our response

For funeral plan providers and intermediaries, the proposed annual income definition was consulted on in CP21/8, Chapter 8. This chapter covers the FCA fees for funeral plan providers and intermediaries and its definition of annual income would also apply for the ombudsman service levy.

The consultation has closed, and we will confirm our definition in the fees and levies policy statement which is planned for publication in July 2021.

- 6.25** Respondents asked about the impact on other funeral plan providers or intermediaries if a large firm was to have a significant number of complaints. This question came from a trade body and a funeral plan provider.

### Our response

We do not propose to amend our rules here. We already account for this possibility in the way we currently forecast funding requirements for the different industry blocks.

The FCA apportions the CJ general levy in line with ombudsman service forecasts for the proportion of resources that it expects to devote to complaints from each industry block in the coming year. It is important to note that the ombudsman service is not entirely funded by the general levy. Once a firm has exceeded its annual allowance of 25 non-chargeable cases, it must pay a £750 case fee for every complaint referred to the ombudsman service. The ombudsman service expects around 55% of its total income to come from case fees for 2021/22 year. The income split between the general levy and the case fee is consulted on by the ombudsman service each financial year.

If the ombudsman service is unable to cover its costs through in-year revenue, due to, for example, unexpected demand from a particular sector, it may decide to use its reserves to cover its costs. The ombudsman service may then seek to recover any reduction in its reserves in its funding requirements for subsequent years. In addition, the FCA has the power to raise an interim levy should the ombudsman service need additional funding and does not have the reserves to cover the costs.

- 6.26** Three funeral services providers asked if an example could be given of what the minimum fee would be or to just remove the minimum fee and just base on firm's income.

### Our response

We do not plan to remove the minimum levy. Our industry blocks either have a 'flat fee' or have a 'minimum levy' that then increases in proportion to the amount of 'relevant business' that the firm does. A flat fee industry block generally covers firms that are very similar in

size. As that is not the case here, we consider the minimum levy the most appropriate approach. We have insufficient information about the sector at this stage to give an indication of what the minimum fee might be, however, we plan to consult on this within the annual fees and levies consultation in Spring 2022.

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- 6.27** Two respondents asked why funeral plan providers and intermediaries were not separated into different industry blocks.

#### **Our response**

We intend to keep our rules as consulted on. We have combined providers and intermediaries into one industry block as this is the approach we have taken with other sectors. Using industry blocks made up of broad groupings of permissions allows both the FCA and the ombudsman service to target cost recovery in the most effective way. These groupings of related permissions also make the industry block more resilient to volatility.

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- 6.28** One respondent (a funeral plan provider) asked if ARs need to pay separate levies.

#### **Our response**

We will not collect any fees or data from ARs. Their income will form part of the returns submitted by the relevant principal firm. Recovery of the ARs' shares of these payments is a matter of contractual agreement between them and their principals. This is the standard approach that we apply and is not just specific to funeral plan providers and their ARs.

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## 7 SM&CR, appointed representatives, supervision and reporting

**7.1** In CP 21/4 we set out a number of proposed standards to support individual accountability and high standards of personal conduct at funeral plan firms. We also set out our framework for supervision and our ongoing reporting requirements to help inform this.

**7.2** In this chapter we set out the feedback received and our response.

### Senior Managers & Certification Regime

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**7.3** In CP 21/4 we set out the structure of the Senior Managers and Certification Regime (SM&CR) and consulted on its application to funeral plan firms. We proposed to treat the majority of funeral plan firms (with no other regulatory permissions) as Core SM&CR firms. The exception was for intermediaries whose primary business is not funeral plan intermediation activity, which we proposed would be Limited Scope firms. These firms are subject to fewer requirements than Core firms.

**Q38:** *Do you agree with our proposal to apply the SM&CR to funeral plan providers?*

**Q39:** *Do you agree with our proposals to treat funeral plan firms (that have no other regulatory permissions) as Core firms, except for intermediaries whose primary business is not funeral plan intermediation and who only have permission to carry on funeral plan mediation activity, which we propose would be Limited Scope?*

**Q40:** *Do you agree with our proposed fit and proper requirements, including criminal record checks and regulatory references?*

**Q41:** *Do you agree with our proposed approach to applying the Conduct Rules to funeral plan firms?*

**7.4** There were 32 responses to our questions in relation to the SM&CR. The vast majority of respondents agreed to the proposed application of the SM&CR to funeral plan firms in full.

**7.5** Only a handful of firms made general comments on this being a significant change for firms, in particular for some of the intermediaries, and on the cost of regulation.

#### Our response

We propose to proceed with the rules as consulted upon. We recognise that these proposals will add to the overall cost of regulation, including for smaller firms. However, the SM&CR rules apply across different financial services markets and we consider

SM&CR to be a critical tool in enhancing personal accountability, and firms' conduct and culture within regulated financial services firms. Our proposed approach to the application of the SM&CR to funeral plan firms has sought to be proportionate and proposed that some intermediaries are Limited Scope SM&CR firms. Limited Scope firms need to identify fewer Senior Management Functions (SMFs) and are not required to allocate Prescribed Responsibilities, which makes the application to the SM&CR simpler and less costly for firms.

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## Appointed Representatives (ARs)

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- Q42:** *Do you agree with our proposal above to extend the rules and guidance for ARs to funeral plan firms?*
- Q43:** *Do you agree with our proposal above to apply the existing Approved Persons Regime to funeral plan firms?*
- Q44:** *Do you agree with our proposal to require funeral plan principal firms to notify us of changes in relation to their ARs as detailed above?*

- 7.6** There were 36 responses to our questions in relation to the ARs. There was general agreement to the proposals in relation to ARs in the funeral plans market, with many of the responses to these questions agreeing to them with no further comment.
- 7.7** The biggest concern raised by a number of respondents was that the AR regime might prove too onerous for some intermediaries, in particular funeral directors. They considered that the proposed application of the AR regime might drive some of the smaller intermediaries out of the market, thereby limiting choice and reducing competition.
- 7.8** Some industry respondents highlighted the proposed application of the Approved Persons Regime (APR) to ARs as a particular issue. They noted that this would require some intermediaries to have a large number of individuals in Controlled Functions due to the proposed requirement for them to have individuals performing the Customer Function (CF30) approved by the FCA. They considered this to be disproportionate to the level of business they perform, and the risks associated with them.
- 7.9** Some respondents also argued that the risk arising from funeral services providers was low, and that they provide an important service for consumers as they have expert knowledge of the end product. They argued that overly burdensome regulation, particularly if the CF30 function applies, might push funeral services providers out of the market, thereby limiting consumer choice and competition and negatively affecting the consumer journey.
- 7.10** No significant concerns were raised in relation to the proposal to require additional notifications from principals in the funeral plans market (Q44).
- 7.11** In our engagement with funeral plan firms, some of them indicated that they are considering becoming 'Introducer Appointed Representatives' (IARs) rather than

ARs, to lessen the regulatory burden. There were also a number of queries on the circumstances in which firms can become an AR. We respond and clarify these below.

### Our response

We note feedback concerning the cost of applying the AR regime. As set out in Chapter 10 of the CP, we expect many firms selling funeral plans to become ARs of an authorised (Principal) firm, eg the funeral plan provider. Allowing firms to operate as appointed representatives in this market provides a lower cost option for them to undertake regulated activities than would be the case if they were alternatively required to be authorised and regulated by the FCA in their own right. This is a decision taken by the Treasury following consultation. Our proposal to apply to funeral plan firms our existing general rules and guidance in relation to ARs, as set out in the CP, aims to ensure that there is consistent and appropriate oversight of ARs by the firms appointing them. We consider this proposal to be proportionate and suitable for this market and propose to proceed with the rules as consulted upon.

We have also considered the feedback concerning the application of the Approved Persons Regime to ARs in the funeral plan sector and recognise the challenges this could cause firms. We believe firms with expertise in the funeral plans sector, such as funeral directors and other funeral services providers, add significant value to consumers in guiding them through their funeral planning needs, and we do not wish to put in place unnecessary impediments to their continuing in the market under our regulation.

As such we have amended our rules to remove the requirement for ARs doing funeral plan business to have the Customer Function (CF30). The Governing Functions will still apply to these firms, which we consider will allow us to maintain an appropriate level of oversight over them. Among other things, these individuals will be required to exercise due skill, care and diligence in managing the business their staff undertake and ensuring they meet the standards of the regulatory system. This is the approach we take for intermediaries in other sectors, and we believe it strikes the right balance between ensuring individual accountability and oversight and proportionality.

As mentioned above, some funeral plan firms consider that becoming an 'Introducer Appointed Representative' (IAR) may lessen the burden on intermediary firms seeking to continue in the funeral plans market. Firms should be aware that funeral plan intermediaries can become IARs, but only to the extent that their activities are limited to those set out in SUP 12.5.7R, which are:

- Effecting introductions to the (Principal) firm or other members of the firm's group
- Distributing non-real time financial promotions which relate to products or services available from or through the firm or other members of the firm's group.

This will mean that any intermediary firm which conducts activities outside of the above will not be eligible to become an IAR. This includes where firms meet the definition of arranging or advising on funeral plan contracts. Firms should consider carefully our Perimeter Guidance (PERG) on this point.

Some firms also had queries on the circumstances in which firms can become an AR. We wish to clarify the following:

- only firms carrying out intermediation activities (eg arranging, advising) can become an AR. Firms entering into, or carrying out funeral plan contracts (including in relation to plans sold prior to 29 July 2022) must be fully authorised to carry out these activities.
- ARs (and IARs) may have multiple principal firms. This will allow them to sell plans from a number of provider firms, but the AR must have a contract in place with each principal, which must contain certain provisions. These are detailed in SUP 12, under 'Multiple principals' (SUP12.4.5B onwards).

We have made our rules concerning additional notifications from Principals as consulted on, given the support from respondents for this measure.

Stakeholders should note that the FCA is currently planning to undertake further work on principal firms and ARs. This includes undertaking greater engagement with, and scrutiny of, firms as they appoint ARs, proactive supervision of principal firms, and undertaking analysis to determine whether policy interventions, such as rule changes, are required.

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## Supervision, enforcement and reporting

**7.12** In CP 21/4 we consulted on the application of our supervision manual (SUP) to funeral plan firms, along with bespoke reporting requirements, our enforcement investigations approach, and a proposal to impose an administration fee on funeral plan firms for late submission.

**Q51:** *Do you agree with our proposed application of the existing SUP rules to funeral plan firms?*

**Q52:** *Do you agree with the notification requirements and guidance we are introducing into SUP 15?*

**7.13** There was universal support for the proposed application of existing SUP rules to funeral plan firms.

**7.14** Almost all firms supported the proposal concerning notification requirements and guidance. One respondent asked for clarification on the timing of notifications, and at what point we deem an issue/event as notifiable. One respondent asked that the notifications concerning Skilled Person appointments are not prohibitive to smaller firms.

### Our response

We will proceed with our proposal to apply SUP rules to funeral plan firms.

We will also apply our notification requirements as consulted on. These apply to all firms we regulate, regardless of type, size or nature of the firm's regulated activities. Our expectation would be that notifications are made as soon as the firm is aware or has information which reasonably suggests that a notifiable event has, may have or might occur.

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**Q53:** *Do you have any comments on the reporting requirements set out in this CP?*

- 7.15** Respondents were generally in favour of the proposals, though a number of firms raised queries.
- 7.16** Several respondents asked for clarification on the reporting cycle for Solvency Assessment Reports ('SAR') where table 11.7 could be mistakenly read that we require 6 monthly prudential reporting of SARs (and annual report/accounts), which is not the case and is required on an annual basis only.
- 7.17** There were some minor comments regarding the timing required for preparing and submitting reports which could require significant operational changes to facilitate, particularly concerning smaller firms.
- 7.18** As expected, there were some concerns with the requirement being overly burdensome and questions over the proportionality and the impact upon smaller firms.
- 7.19** One provider did not consider the reporting requirements on planholder funds went far enough but did not suggest alternative data.

### Our response

We intend to introduce the reporting requirements largely as consulted on. We have considered the scope of our data collection, including the varying size and nature of regulated activities of firms in the sector, and we believe that all questions asked are valuable and necessary to enable effective supervision of firms. As discussed in Chapter 2, we will require firms to provide information on average consumer age for insurance-backed plans in their returns. This will allow our supervisors to identify potential shortfalls by assessing funeral cost inflation and life expectancy against the data we will hold on total plan values and the death benefits to be paid.

In addition, we wish to clarify the expectation and remove ambiguity in Table 11.7 within the prudential data reporting requirements; SAR reports will only be required to be carried out annually as stated in FPCOB 3.2.2R and not half-yearly. The same extends to the submission of annual accounts (FPCOB 3.2.13R). The completion of the supplementary information relating to trust solvency in the half-yearly prudential data return should be completed using figures in the most recent SAR.



**Q54:** *Do you agree with the proposal for the FCA to impose an administration fee on funeral plan firms for late submission?*

**7.20** Almost all respondents supported this proposal. It was felt that the imposition of an administration fee was justifiable and consistent with other regulated sectors.

**7.21** One intermediary did not agree that the proposal is fair on the basis of the restrictive timetable associated with the onboarding of the sector and business restrictions caused by Covid-19.

### Our response

We will implement the administration fee as consulted on. It applies to all firms we regulate, and we believe it should be applied in the same way to funeral plan firms. There is already flexibility available to give relief from the payment of the administration fee, whereby if we think the payment would be unfair, we may reduce or remit all or part of the fee.

**Q55:** *Do you have any comments on our proposal to apply the same approach to enforcement investigations and actions to funeral Plan firms as we do to other regulated firms, as set out in EG?*

**Q56:** *Do you have any comments on our proposal to follow the same procedures for decision-making and imposing penalties in relation to funeral plan firms and individuals set out in DEPP?*

**7.22** All respondents supported the proposal to apply the same approach to enforcement investigations and actions to funeral plans firms, as we do with other firms.

**7.23** Almost all respondents supported the proposal to apply our decision making and penalty imposition procedures to funeral plan firms. One respondent expressed concern at the ability of smaller firms to achieve and maintain compliance. Another suggested a soft approach to enforcement at the beginning of regulation.

### Our response

We will proceed with the application of the same approach to funeral plan firms when carrying out enforcement investigations, using sanctions and decision making, as we do with other firms, and as we consulted upon. Our enforcement work is intended to ensure there are real and meaningful consequences for firms and individuals who do not follow our rules and who cause actual or potential harm to consumers.

## 8 The impact of our regime: Cost benefit analysis and equality impact assessment

### Equality Impact Assessment

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- 8.1** In CP 21/4 we published our assessment of equality and diversity issues which may arise from our proposed rules.
- 8.2** We noted that many consumers buying funeral plans or engaging with plan providers will be in vulnerable circumstances, eg due to lower financial resilience or recent bereavement. Notwithstanding this, we set out our view that our proposals would not have a significantly different impact on groups with protected characteristics under the Equality Act 2010 compared with consumers overall, and that all consumers, including those belonging to groups with protected characteristics will benefit from our rules, with some groups (eg older customers) benefitting more as a result of the demographics of consumers buying these products. We invited feedback from consultation respondents on this assessment.

**Q1:** *Do you agree that our proposed rules will not have a material impact on groups with protected characteristics?*

- 8.3** Around half of the stakeholders who responded to this question agreed. One body representing consumers suggest we investigate whether groups with protected characteristics have been excluded or mistreated in the past. Another suggested we engage with faith groups who have burial societies.
- 8.4** Of the remainder there were concerns around:
- The ban on commission reducing access to advice, which would disproportionately affect access for older, more vulnerable people as well as those with disabilities and religious groups. It was noted that this could result in fewer home visits, negatively impacting those less able to go online or use the phone.
  - The rules on instalment plans leading to funeral plan products being less viable for consumers on low incomes, or the introduction of health assessments affecting those in poor health. One respondent suggested that consumers would be more likely to buy long-term instalment plans in old age than pay in full, knowing that they would be covered for their funeral.
  - One respondent suggested that the proposal to send disclosure material to a nominated representative would affect older and vulnerable people, who would prefer to keep these matters private.
  - Some respondents noted our ban on intermediaries handling payments could lead to exclusion of certain groups preferring to pay with cash, eg older consumers or traveller communities.

## Our response

We welcome the feedback to this question. Assessing equality and diversity issues is a key consideration in our development of regulatory standards, and detailed feedback can help ensure we have fully considered impacts on groups with protected characteristics. We note that many respondents agreed with our assessment. We have no plans to retrospectively investigate historic misconduct against groups with protected characteristics, though we note for many consumers access to the ombudsman is likely to be available for historic issues.

We received specific representations from one religious group to our CP and are aware of other religious groups with burial societies. We wish to build on our recent engagement as these groups consider whether they are carrying out regulated activities as defined in HMT's legislation. In CP 21/20 we consult on additional changes to PERG in relation to religious groups in order to provide as much clarity as possible on the application of our rules.

We note the challenge from firms to our equality impact assessment.

- on commission we recognise that fewer consumers will receive advice from an intermediary, but those who wish to pay a fee for it will still access it. Moreover, we do not believe genuine advice i.e. offering a range of products from different advisors is common in this sector, so the value of advice may be limited. We believe there are a number of sales channels from which all consumers can continue to access funeral plans, including direct from funeral plan providers, from funeral services providers, or from fee-charging intermediaries eg will writers or solicitors. In light of this we believe there will be ways for older consumers or those with disabilities to access products.
- on instalment plans we note that some consumers may no longer access funeral plans, which is discussed in Chapter 3. However, the groups set out in feedback to Q.1 (eg those on lower incomes) are not groups with protected characteristics under the Equality Act 2010. We do not expect to see firms building in detailed health assessments into the sales process, and our extension of the permitted moratorium period is intended in part to prevent firms from needing to carry out such assessments. We do not think that consumers will try to take advantage of our rules by taking instalment plans in old age.
- we recognise that some consumers may not wish to have disclosure materials shared with a nominated representative. Our rules, as consulted on, expressly allow consumers to opt-out of this requirement should they wish.
- we recognise that our proposed ban on intermediaries handling payments may inadvertently cause access issues for some groups. In Chapter 2 we set out the changes we have made to our rules to allow intermediaries (eg funeral directors) to accept cash payments subject to having appropriate controls in place.

We will continue to monitor the equality and diversity issues in this sector following the introduction of our regulation and will consider further in our post-implementation review.

## Cost benefit analysis

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**8.5** As required by FSMA, we published a cost benefit analysis (CBA) estimating the significant impacts of our proposal in CP21/4. We provided monetary values for the impacts where we believed it is reasonably practicable to do so. For others, we provided an analysis of outcomes in other dimensions. We invited respondents to provide feedback on our CBA.

### **Q57:** *Do you have any comments on our cost benefit analysis?*

**8.6** The majority of respondents did not provide any comments on the CBA. Those who did were broadly supportive of the analysis, although we did receive some responses which were critical of it. Some of those who supported it nonetheless made additional comments. Some respondents who were individual firms simply gave their backing to responses submitted by representative organisations.

**8.7** The responses covered some general themes as well as points about individual cost and benefit assessments.

## General comments

**8.8** A number of respondents argued that our interventions will lead to price increases; in some cases, beyond those we set out in the CBA. Reasons given for this were:

- Competition could be reduced as only the larger plan providers would continue to operate in the sector
- Compliance costs will be passed on to customers
- Reduced sales would lead to fewer consumers benefiting from funeral plans, and make them more expensive to administer

**8.9** Some respondents said that the costs were disproportionate to the benefits. Respondents pointed out that the CBA quantified the costs, but the benefits were largely unquantified. A small number of respondents said the costs would disproportionately impact smaller firms.

**8.10** A small number of respondents challenged the basis of our analysis. This was based on their views that:

- The analysis relied on the 2017 report by Fairer Finance, which respondents said was out of date.
- The analysis was based on engagement with only the larger funeral plan firms.

### **Our response**

We welcome that the majority of respondents either supported our CBA or did not comment on it. We think that the relatively small level of disagreement suggests the general approach to, and conclusions of, the analysis are correct. We address the comments made on specific points in the section below.

The impacts on competition and reduced sales are discussed in the CBA. We do not agree that only the largest providers will continue to operate. We have taken into account our understanding of the number and types of firm which intend to remain in the market.

Some costs of complying with the regime may be passed on to consumers. This is acknowledged in the CBA section on costs to consumers. However, our assessment is that these cost increases will deliver funeral plan products which are better suited to the needs of consumers.

We note the comments about proportionality. In CP21/4 we stated that we consider the costs to be proportionate to the benefits. We have not received evidence in the responses that changes our view on this. We do not consider there is a disproportionate impact on smaller firms. The rules are intended to be neutral in this regard, as it is important consumers are protected appropriately regardless of which firm they chose to deal with. We also expect that the costs of complying with rules such as those relating to systems and controls, and product governance, are likely to be proportionally less for smaller firms with less complex governance arrangements, fewer employees, and smaller product ranges.

We do not accept the following criticisms of the basis of our analysis:

- Contrary to the view expressed by some of the respondents, we engaged with a wide range of stakeholders, not just larger funeral plan firms.
  - Although we noted some points from the Fairer Finance report, this was only one part of a range of evidence we considered in designing our proposals. This included two surveys of the market, engagement with a wide range of stakeholders, data requests to individual firms, and our own market analysis. Although some respondents may consider the Fairer Finance report to be out of date, we have not seen evidence to suggest its findings should not be considered as part of this range of evidence.
-

## Comments on specific aspects of the cost benefit analysis

**8.11** A small number of respondents gave detailed comments on specific sections of the CBA. We have set out these comments, and our responses, in the table below:

**Table 1: Comments and responses on specific elements of the CBA**

Para.	Comment	Our response
3	There is no evidence that suggests prices are high compared to the benefits they provide. The market for funeral plans is generally aligned to the price of purchasing a funeral today. Commission costs are not higher than acquisition costs brought about by marketing activity.	<ul style="list-style-type: none"> <li>• Whilst it is difficult to accurately compare like-with-like, we have seen some examples of funeral plans being priced higher than equivalent at-need funerals. Some of the responses we received in respect of the PROD rules suggest this may be the case.</li> <li>• We have provided evidence showing that prices are high relative to the amount being reserved in trusts to pay for funerals. This could be because the customer is being over-charged or because the provider is diminishing the quality of the services it will provide.</li> <li>• Very few respondents provided us with detailed evidence of their distribution costs. The limited evidence we have suggests commission tends to be higher than distribution costs.</li> </ul>
7	Although there are no intermediaries offering genuine comparison services, the commission ban makes it unlikely these services will appear in the future.	<p>It is possible that the commission ban may reduce the likelihood of such services operating in the future. However, we do not consider it appropriate to allow consumer harm to continue in the hope that some intermediaries may begin to provide benefits at some unspecified point in the future. We have seen no evidence that such developments are imminent or even under consideration.</p> <p>In the future, if an intermediary firm were to be providing additional benefits to consumers which may justify the receipt of commission, then it may be possible for them to apply for a waiver of our rules. In order to be granted a waiver the firm would need to meet the required statutory tests. Further details about waivers and modifications are set out on our <a href="#">website</a>.</p>
8	Contrary to the cost benefit analysis, there are funeral plans which cover all the costs typically associated with a funeral.	Whilst we acknowledge that there are some plans which guarantee to cover disbursements and many other costs linked to a funeral, the research we have conducted has not found any plan which covers every cost associated with a funeral. For example, we have not seen any plans that cover the cost of a celebration (such as venue hire and catering). None of the consultation responses indicated that there are plans which cover these costs.

Para.	Comment	Our response
13	The cost benefit analysis is focused on biases which occur when consumers purchase funeral plans around the same time as purchasing an at-need funeral. This omits the consideration of consumers who purchase a funeral plan as part of their later life financial planning.	We acknowledge that customers may purchase funeral plans at different times and for different reasons. Our rules do not prevent financial advisors and others involved in later life financial planning from recommending funeral plans, although they do prevent them receiving commission for doing so. In paragraph 5.27 of CP21/4 we stated that we expected firms selling funeral plans alongside other services (such as will writers and financial planners) would be better able to respond to the commission ban as they are likely to already be charging a fee for their services.
20	The cost benefit analysis expressed concerns over solvency of trust-based models without explaining why we do not have similar concerns over insurance-based models.	We are concerned about the solvency of all firms and the risk transfer arrangements used to back plans. This is reflected in our general solvency requirement, which applies to all funeral plan providers, and our rules requiring firms to place on trust or in insurance sufficient funds to ensure the contracted funeral can be delivered. However as set out in Chapter 2 we are now asking for additional information from providers on the age profile of consumers, so we can better identify any potential solvency risks for insurance-backed plans through our supervision.
32	The causal chain failed to reflect the benefits provided to consumers by genuine comparison services.	We have not seen any evidence of firms offering fair analysis or whole-of-market comparison services. The absence of such services in the sector is part of our rationale for concluding that commission is not providing benefits to consumers.
58 to 63, and 73	The familiarisation costs have been underestimated, as most firms are new to regulation and have limited time to understand/engage with it.  Similarly, respondents suggested the costs of implementing SYSC requirements for smaller firms had been understated.	Familiarisation costs have been calculated based on our standard costs model. A similar approach was taken to regulation for CMCs, which were also unfamiliar with FCA regulation.  None of the responses provided evidence that would have caused us to amend our estimates.
94	The costs of providing the annual statements have been understated. This is because the on-going cost relates to new plans rather than existing plans.	We accept that the upper range of costs for annual statements was incorrectly calculated. We have addressed this in paragraph 8.15 below, taking into account the change we have made to the rules in this area.  However, the lower estimate will remain £0. In paragraph 94 of the CBA we stated that “we expect the actual cost to be towards the lower end of this range, because firms are likely to send more documents electronically.” This assessment has not changed.

Para.	Comment	Our response
106	The costs of the rules on cancellation do not take account of the cost associated with the required insurance to provide a funeral in the event of a customer dying in the instalment term	We do not agree that the costs are inaccurate. The rules prohibit firms from charging a cancellation fee which is not reflective of the costs they incur (once outside of the period in which free cancellation must be offered). Where a firm has paid unrecoverable insurance premiums to provide the guarantee of a funeral should the customer have died, the firm can include these in their cancellation fee.
110 to 111	The costs of the commission ban have been significantly underestimated. The loss of sales will lead to lost income and redundancies, plus the increased cost of regulation across a smaller business	In paragraphs 114 – 119 of the CBA we set out our assessment of the impact on the market and noted the wide variation of business models currently in use. These include intermediary models which we consider are less likely to be impacted by the ban (for example, because they do not rely on commission). As stated in paragraph 119, we cannot accurately estimate the impact of the loss of sales on each firm because this will be heavily influenced by the firm’s business model and their response to regulation.
118	The commission ban could lead to providers exiting the market and customers “receiving back less than they paid in as part of the wind down process”. Integrated providers will have an incentive to remain in the market due to the funerals they generated, but non-integrated providers will not have this incentive.	We acknowledged in paragraph 122 that many third-party intermediaries may exit the market. However, in paragraph 115 we said that the majority of providers in our surveys were not heavily reliant on third-party intermediaries. We have taken into account what we know about whether firms will apply for authorisation or exit the market.
143	The cost benefit analysis did not account for due diligence and review costs for firms who use independent funeral directors to sell plans	As funeral directors will be distributors, this is included in the assessment in paragraph 143.
144	The cost benefit analysis was misleading and not comparing like-with-like. They said the figures bore little relation to what they see as sums assured and do not account for inflation.	The analysis is indicative and is not stated as being definitive of a difference in value between over 50s insurance products and funeral plans. Indeed, we noted that funeral plans may provide additional non-financial benefits.  In paragraph 259 to 260 (which presents a similar analysis, but in regard to consumer benefits), we stated explicitly that there are limitations to the analysis.  The respondent did not provide any further evidence or figures. On that basis, we do not consider any changes are required to our analysis.
152 to 162	The rules on funeral plans paid through instalments will mean plan providers lose revenue and sales. This will lead to an increase in funeral plan prices which will be detrimental to consumers who seek to benefit from the certainty and assurance of a pre-paid funeral plan.	Paragraphs 159-160 acknowledge that some firms will lose revenue because customers may be deterred by increasing prices. We have not quantified this impact for the reasons set out in paragraph 162.  We do not agree that this will lead to harm to consumers as there are alternative options available to them. On the contrary, we expect the rules will result in higher quality plans being offered to customers.



Para.	Comment	Our response
197	The cost benefit analysis did not include costs for FSCS levies.	As explained at paragraph 199 of our CBA, we were unable to robustly forecast how many funeral plan firms could fail or what liabilities may be protected by FSCS. However, at paragraph 200, we did provide an indication of the FSCS levy costs which firms of different size could be exposed to.
209	The cost benefit analysis did not include additional costs of dealing with FOS complaints	In paragraph 209 we said that it was not reasonably practical to assess the cost of changes to complaint outcomes following referral to FOS, as this is entirely dependent on the nature of the complaints made in the future.  For the same reason, we cannot reasonably assess the cost of handling complaints referred to the FOS. We note that the respondents did not provide any further evidence or estimates on which we could reasonably base an assessment of the costs.
210	The cost benefit analysis did not include costs allocated to supervision and reporting time	Our analysis of these is set out in paragraphs 210 to 212.
213	No account appears to be taken for consumers who lose money due to trusts/insurance schemes being wound up ahead of regulation	Firms may choose to wind up their business rather than seek FCA authorisation. However, this is consequence of funeral plan activities being brought into our regulatory perimeter, rather than a direct consequence of our rules.  In our analysis, we have taken into account what we know about whether firms will apply for authorisation or exit the market.
224	The rules could negatively impact competition, and lead to increased prices and reduced quality. The availability of guaranteed over 50s plans as an alternative to funeral plans is a weak mitigation, and raises questions about FCA meeting its statutory objective to promote effective competition	The analysis is set out in paragraphs 224 to 226. We do not agree that the mitigations are weak or that there is any suggestion of us failing to meet our statutory objective to promote competition in the interests of consumers. As we have noted earlier, funeral plans are one way in which customers may make provision for their funeral, but there are others. Each has advantages and disadvantages. For that reason, we do not consider this a weak mitigation.
259 and 260	The respondent challenged our comparison of the costs of guaranteed over 50s life insurance with funeral plans, and argued it is flawed. They pointed out that customers with over 50s life insurance will get nothing back if they cancel. They further suggested that the majority of over 50 plans will cancel before death, leaving the customer with a loss position.	The comparison is intended to provide an indicative example of the effect of customers substituting over 50s life insurance for funeral plans, and so show that some customers may be better off as a result of purchasing alternatives. In paragraph 260 we specifically acknowledged the limitations of that comparison, and because of those limitations we have not relied on it to show a definitive quantification of benefits to customers.  We have no evidence on which to further comment about cancellation rates in over 50s life insurance.

## Changes to the cost benefit analysis

- 8.12 Based on the comments we have received, and the changes we have made to the rules, we are making a number of revisions to the CBA.

### *Moratorium period for plans paid through instalments*

- 8.13 We are amending the rules to allow for plans paid through instalments to have a maximum moratorium of 24 months rather than 12. This is likely to reduce the costs to firms as the cost of insurance will be cheaper, or the amount they need to set aside to cover additional funeral costs would be reduced. It's also possible that the longer moratorium period could mean that some other insurers would be willing to offer terms to funeral plan providers. That could be beneficial in terms of competition and lead to lower prices. We cannot reasonably quantify the cost reduction because it depends on factors such as insurers' willingness to offer cover to funeral plan providers in the future, which we cannot assess. However, as the majority of customers are likely to live beyond the moratorium period, we expect any reduction in costs to be small.

- 8.14 In our CBA we said that we expected some firms would pass on the increased cost of paying for funerals as higher prices. Where the change to the moratorium leads to firms having lower costs, we expect that any price increases will also be reduced.

### *Ongoing post-contractual disclosure*

- 8.15 In our CBA we incorrectly calculated the upper estimate of cost for the proposal to require firms to provide an annual statement to firms as the on-going costs we calculated were for new plans rather than existing plans and gave an estimated ongoing cost of £0 to £173k. We have recalculated this to reflect that ongoing costs are for existing plans and also in line with the change we are making to the rules which means the statement will only need to be sent every three years. We expect the cost to be **£0 – £516k** per year. We still expect the cost to be towards the lower end of this range, however, as most statements are likely to be sent electronically rather than by post.

- 8.16 We do not consider there is likely to be any change to the consumer benefits from this requirement.

### *Changes to the cancellation period*

- 8.17 We are extending the period in which customers can cancel for free; making it the longer of 30 days or 7 days from when the funeral services provider is appointed. We cannot reasonably quantify the costs of this because we do not know how many firms appoint funeral services providers more than 23 days after the plan is sold, nor how many customers are sufficiently dissatisfied with the appointed services provider that they cancel. However, most firms have told us they have very low rates of cancellation, so we consider that the costs of giving the customer a maximum of 7 more days is likely to have minimal significance.

- 8.18 This change will benefit consumers by giving them the opportunity to cancel their plan without cost if they are unhappy with the appointed funeral services provider. For the reasons given above, we do not consider this benefit is likely to have more than minimal significance.

### *Allowing intermediaries to receive cash payments*

- 8.19 We are amending the rules to allow intermediaries to handle cash payments from customers in very specific circumstances. We expect the funeral plan provider to be

responsible to the customer for the services set out in the plan from the time that money is received by an intermediary. We understand that only a very small number of firms currently receive cash payments, and that only a small number of customers would choose to pay for their plan with cash. Whilst we expect that there may be some additional costs for both providers and intermediaries in overseeing compliance with the rules, we expect these to be of minimal significance.

**8.20** Whilst the large majority of customers will not be impacted by this change, those that are only willing or able to pay for a funeral plan using cash will benefit as they will continue to be able to purchase the plans they wish. Feedback to the consultation indicated that this was particularly the case for consumers from groups with protected characteristics, who our rules must not disadvantage. It is not reasonably practical for us to quantify this benefit as firms have not been able to tell us how many funeral plans are currently purchased with cash. It is also not possible for us to know how these customers would have acted if they were unable to purchase funeral plans.

### ***The Approved Persons regime***

**8.21** Having considered the responses, we have concluded that our CBA underestimated the costs to firms from the approved persons regime for ARs. This is because we assumed the costs would be similar to those for a limited scope SM&CR firm, but the approved persons regime we proposed was potentially more onerous. However, the change we have now made to the approved persons regime (compared to what we had originally consulted on) brings it much closer to the limited scope regime. In particular, by removing the requirement for firms to have staff performing the CF30 customer function, we have reduced the number of people within a firm who need to be approved. On that basis, we consider the costs set out in the CBA better reflect the cost of the regime we are now implementing.

### ***Reporting requirements for insurance-backed plans***

**8.22** As discussed in Chapter 2 we have made minor amendments to our reporting requirements, to require firms to provide information on average customer age and life expectancy for insurance-backed plans in their financial returns. This is intended to allow supervisors to identify potential shortfalls by assessing funeral cost inflation and life expectancy against the data we will hold on total plan values and the death benefit to be paid. We do not consider that this would lead to more than minimally significant increases in costs to firms, as we would already expect them to collect data on customer age and life expectancy in order to calculate the money they would need to insure or hold to deliver the funeral in the future. We also do not consider this would increase costs to the FCA.

### ***Revised average benefits that need to be realised for our proposals to be net beneficial***

**8.23** In our CBA, we estimated the benefits for an average consumer that would need to be generated for our proposals to be net beneficial, given the compliance costs incurred by firms. As some of these costs have changed, we have recalculated our estimates of the required net benefits. Note these costs have only changed for proposals affecting both new and existing consumers.

**8.24** We estimate the total NPV of costs to be £173m – £221m (compared to £173m-£219m estimated in CP21/4) for proposals affecting both existing and new consumers and £17m – £50m for those only affecting new consumers. To estimate the discounted cost per consumer, we divide the relevant total NPV of costs by the relevant number of affected consumers, based on which type of consumers it affects.

**8.25** We estimate that for the impacts of our intervention to break even in monetary terms, the average existing planholder would need to realise between £52 – £67 (compared to £52-£66 estimated in CP21/4) in benefits and the average new consumer would need to realise between £62 – £95 in benefits. The higher figure for new consumers, compared to existing planholders, reflects the additional cost of rules which will only affect them, such as pre-purchase disclosure requirements. This equates to 1.1% – 1.5% of an average plan price for an existing planholder and 1.4% – 2.1% of an average plan price for a new consumer.

## Annex 1

# List of non-confidential respondents

A.W. Lymn The Family Funeral Service Ltd

Abdul Majid

Accurate Data Services Limited

Alan Thomas

All Wills and Trusts Ltd

Arka Original Funerals Ltd

Association of Professional Compliance Consultants

Association of British Insurers

Avalon Funeral Plans

Board of Deputies of British Jews

Brodies Funeral Services Ltd

Citizens Advice Bureau

Citizens Advice Scotland

Connect Funeral Plans Limited

Consumer Council Northern Ireland

CPJ Field & Co Limited

Crescent Funeral Services Limited

Dean Brothers (Formby) Limited

Dignity plc

DP Financial Services (David Phillips)

Ecclesiastical Planning Services Limited

Essential Later Life Planning Limited

Eternal Peace Funeral Plans Limited

F A Albin & Sons Ltd

F A Stockill and Son

Fairer Finance

Family Funerals Trust Limited

Farewill

Financial Services Consumer Panel

Freeman Brothers Funeral Directors

Funeral Planning Authority

Funeral Solution Expert

Golden Charter Limited

Golden Leaves Funeral Plans

Graham Barnes

H D Tribe Limited

Infinitas Cremation Holdings Limited

Institute and Faculty of Actuaries

James Black

John Dowdle

John Smith

Jonathan Alcock and Sons Limited

Just Wills and Legal Services (Richard Green)

Kingfisher Independent Funeral Services

Leverton & Sons Limited

Life Ledger Limited

Lincolnshire Co-operative Limited

Low Cost Funeral Limited

Menaz Chaudry

Mr Robert Buckby on behalf of Mrs Irene Aldred

National Association of Funeral Directors

National Society of Allied and Independent Funeral Directors (SAIF)

Open Prepaid Funerals Limited

Peasgood & Skeates

Penmor

Prepaid Funeral Review trading name of Funeral Plan Advice Service Limited

Pure Cremation Funeral Planning Ltd

PWC

Reassured Ltd

Rest Assured Funeral Plan Limited

Retirement & Beyond Consultancy Services

Richard Neilson

Rowland Brothers Limited

Royal London Group

Secure Funeral Solutions Ltd

Silletts Funeral Service

Silver Voices

SLS Wills and More Limited

Southern Co-operative Funeralcare Limited

Sterling Trust Corporation Limited

T Allen Funeral Services Limited

The Building Societies Association

The Law Society of Scotland

The Society of Will Writers

Thompson Little

Unique Funeral Plans

Willmaster

## Annex 2

### Abbreviations used in this paper

Abbreviation	Description
<b>APR</b>	Approved Persons Regime
<b>AR</b>	Appointed Representative
<b>CBA</b>	Cost benefit analysis
<b>CJ</b>	Compulsory jurisdiction
<b>CMA</b>	The Competition and Markets Authority
<b>CMCs</b>	Claims Management Companies
<b>COND</b>	Threshold Conditions sourcebook
<b>CP</b>	Consultation paper
<b>DEPP</b>	Decision Procedure and Penalties Manual
<b>DISP</b>	Dispute Resolution – complaints
<b>EEA</b>	European Economic Area
<b>EG</b>	The Enforcement Guide
<b>FEES</b>	Fees Manual
<b>FCA</b>	Financial Conduct Authority
<b>FPA</b>	Funeral Planning Authority
<b>FPCOB</b>	Funeral Plans: Conduct of Business sourcebook
<b>FSCS</b>	Financial Services Compensation Scheme
<b>FSMA</b>	The Financial Services and Markets Act 2001
<b>GEN</b>	General Provisions sourcebook
<b>HMT</b>	Her Majesty's Treasury
<b>IAR</b>	Introducer Appointed Representative



<b>Abbreviation</b>	<b>Description</b>
<b>ICOB</b>	Insurance: Conduct of Business sourcebook
<b>IFPR</b>	Investment Firm Prudential Regime
<b>IoFA</b>	Institute and Faculty of Actuaries
<b>NAFD</b>	National Association of Funeral Directors
<b>NPV</b>	Net Present Value
<b>PERG</b>	The Perimeter Guidance Manual
<b>PRA</b>	The Prudential Regulation Authority
<b>PRIN</b>	Principles for Businesses
<b>PROD</b>	Product Governance sourcebook
<b>RAO</b>	Regulated Activities Order
<b>SAIF</b>	Society of Allied and Independent Funeral Directors
<b>SAR</b>	Solvency assessment report
<b>SMFs</b>	Senior Management Functions
<b>SM&amp;CR</b>	Senior Managers and Certification regime
<b>SREP</b>	Supervisory review
<b>SUP</b>	Supervision sourcebook
<b>SYSC</b>	Systems and Controls sourcebook
<b>The ombudsman</b>	The Financial Ombudsman Service (FOS)
<b>TPR</b>	Temporary Permissions Regime
<b>VJ</b>	Voluntary jurisdiction

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# Appendix 1

## Made rules (legal instrument)

## **FUNERAL PLANS INSTRUMENT 2021**

### **Powers exercised by the Financial Ombudsman Service Limited**

- A. The Financial Ombudsman Service Limited makes and amends the scheme rules and guidance relating to the complaints handling procedures of the Financial Ombudsman Service; makes and amends the rules and guidance for the Voluntary Jurisdiction; and fixes and varies the standard terms for Voluntary Jurisdiction participants, as set out in Annex K to this instrument, in the exercise of the following powers and related provisions in the Financial Services and Markets Act 2000 (“the Act”):
- (1) section 227 (Voluntary jurisdiction);
  - (2) paragraph 8 (Information, advice and guidance) of Schedule 17;
  - (3) paragraph 14 (Scheme operator’s rules) of Schedule 17;
  - (4) paragraph 18 (Terms of reference to the scheme) of Schedule 17; and
  - (5) paragraph 20 (Voluntary jurisdiction rules: procedure) of Schedule 17.
- B. The Financial Ombudsman Service Limited notes that, for the avoidance of doubt, the Transitional Provisions at TP 1.1 in Annex K to this instrument apply equally to the Voluntary Jurisdiction of the Financial Ombudsman Service and the Compulsory Jurisdiction.
- C. The making and amendment of the rules and guidance and the fixing and varying of the standard terms by the Financial Ombudsman Service Limited, as set out at paragraph A above, is subject to the consent and approval of the Financial Conduct Authority.

### **Powers exercised by the Financial Conduct Authority**

- D. The Financial Conduct Authority (“the FCA”) makes this instrument in the exercise of the following powers and related provisions in or under the Financial Services and Markets Act 2000 (“the Act”):
- (1) section 59 (Approval for particular arrangements);
  - (2) section 60 (Applications for approval);
  - (3) section 60A (Vetting candidates by authorised persons);
  - (4) section 61 (Determination of applications);
  - (5) section 62 A (Changes to responsibilities of senior managers);
  - (6) section 63ZA (Variations of senior manager’s approval at request of authorised person);
  - (7) section 63ZD (Statement of policy relating to conditional approval and variation);
  - (8) section 63C (Statement of policy);
  - (9) section 63E (Certification of employees by authorised persons);
  - (10) section 63F (Issuing of certificates);
  - (11) section 64A (Rules of conduct);
  - (12) section 64C (Requirements for authorised persons to notify regulator of disciplinary action);

- (13) section 69 (Statement of policy);
- (14) section 137A (The FCA’s general rules);
- (15) section 137D (FCA general rules: product intervention);
- (16) section 137H (General rules about remuneration);
- (17) section 137R (Financial promotion rules);
- (18) section 137T (General supplementary powers);
- (19) section 138C (Evidential provisions);
- (20) section 138D (Action for damages);
- (21) section 139A (Power of the FCA to give guidance);
- (22) section 213 (The compensation scheme);
- (23) section 214 (General);
- (24) section 215 (Rights of the scheme in insolvency);
- (25) section 226 (Compulsory jurisdiction);
- (26) section 332 (Rules in relation to persons to whom the general prohibition does not apply);
- (27) section 347 (The record of authorised persons etc);
- (28) section 395 (The FCA’s and PRA’s procedures);
- (29) paragraph 23 of Schedule 1ZA (Fees); and
- (30) paragraph 13 (FCA’s procedural rules) of Schedule 17.

- E. The rule-making powers listed above are specified for the purpose of section 138G(2) (Rule-making instruments) of the Act.
- F. The Financial Conduct Authority consents to and approves the rules and guidance and standard terms made and amended and fixed and varied by the Financial Ombudsman Service Limited, as set out at Annex K.

### Commencement

- G. This instrument comes into force on 29 July 2022.

### Amendments to the Handbook

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

(1)	(2)
Glossary	Annex A
Principles for Businesses (PRIN)	Annex B
Senior Management Arrangements, Systems and Controls sourcebook (SYSC)	Annex C
Threshold Conditions (COND)	Annex D
Training and Competence (TC)	Annex E
General Provisions (GEN)	Annex F
Fees manual (FEES)	Annex G
Conduct of Business sourcebook (COBS)	Annex H
Product Intervention and Product Governance sourcebook (PROD)	Annex I
Supervision manual (SUP)	Annex J

Dispute Resolution: Complaints sourcebook (DISP)	Annex K
Compensation sourcebook (COMP)	Annex L

- I. The Financial Conduct Authority confirms and remakes in the Glossary of definitions the defined expressions relating to any UK legislation which has been amended further to Part 2 of the Financial Services and Markets Act 2000 (Regulated Activities) (Amendment) Order 2021.

#### **Making the Funeral Plan: Conduct of Business sourcebook**

- J. The Financial Conduct Authority makes the rules and gives the guidance in accordance with Annex M to this instrument.
- K. The Funeral Plan: Conduct of Business sourcebook (FPCOB) is added to the Business Standards block within the Handbook, immediately after the Claims Management: Conduct of Business sourcebook (CMCOB).

#### **Amendments to material outside the Handbook**

- L. The Perimeter Guidance manual (PERG) is amended in accordance with Annex N to this instrument.

#### **Notes**

- M. In the Annexes to this instrument, the “notes” shown as “*Editor’s note:*” and “**Note:**” are included for the convenience of readers, but do not form part of the legislative text.

#### **Citation**

- N. This instrument may be cited as the Funeral Plans Instrument 2021.

By order of the Board of the Financial Ombudsman Service Limited  
22 June 2021

By order of the Board of the Financial Conduct Authority  
24 June 2021

## Annex A

### Amendments to the Glossary of definitions

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

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

<i>best estimate</i>	a best estimate valuation should reflect the actuary's expectation of future experience for each risk factor given all available, relevant experience and information pertaining to the assumption being estimated and set in such a manner that there is an equal likelihood of the actual value being greater than or less than the expected value.
<i>carrying out a funeral plan contract as provider</i>	the <i>regulated activity</i> , specified in article 59(1A) of the <i>Regulated Activities Order</i> , of carrying out a <i>funeral plan contract</i> as provider.
<i>core capital resources requirement</i>	<ol style="list-style-type: none"><li>(1) for a <i>firm</i> to which <i>FPCOB 15</i> applies that also has a <i>Part 4A permission</i> to carry on other <i>regulated activities</i>, the requirement specified in <i>FPCOB 15.7.1R</i>;</li><li>(2) for a <i>firm</i> with a <i>Part 4A permission</i> to carry on <i>funeral plan distribution</i> to which <i>FPCOB 15</i> applies and that does not also carry on any other <i>regulated funeral plan activity</i>, the requirement specified in <i>FPCOB 15.6.1R</i>; or</li><li>(3) for a <i>firm</i> with a <i>Part 4A permission</i> to carry on any other <i>regulated funeral plan activity</i> to which <i>FPCOB 15</i> applies, the requirement specified in <i>FPCOB 15.5.1R</i>.</li></ol>
<i>covered individual</i>	the <i>individual</i> on whose death a funeral will be provided or secured under a <i>funeral plan contract</i> or prospective <i>funeral plan contract</i> .
<i>existing funeral plan product</i>	(for the purposes of <i>PROD 1.7</i> and <i>PROD 7</i> ) a <i>funeral plan product</i> : <ol style="list-style-type: none"><li>(1) that was <i>manufactured</i> prior to 29 July 2022;</li><li>(2) is available to be marketed or <i>distributed to customers</i>.</li></ol>
<i>FPCOB</i>	the Funeral Plan: Conduct of Business sourcebook.
<i>FP distribution charge</i>	any form of charge payable by a <i>customer</i> to a <i>firm</i> in relation to the provision of <i>funeral plan distribution</i> and agreed between the <i>firm</i> and the <i>customer</i> .
<i>funeral plan</i>	a <i>funeral plan contract</i> .

<i>Funeral Planning Authority</i>	the Funeral Planning Authority Community Interest Company.
<i>funeral plan distribution</i>	any of the following <i>regulated activities</i> carried on in relation to a <i>funeral plan contract</i> : <ul style="list-style-type: none"><li>(a) <i>dealing in investments as agent</i> (article 21);</li><li>(b) <i>arranging (bringing about) deals in investments</i> (article 25(1));</li><li>(c) <i>making arrangements with a view to transactions in investments</i> (article 25(2));</li><li>(d) <i>advising on investments (except P2P agreements)</i> (article 53(1)); and</li><li>(e) <i>agreeing to carry on a regulated activity</i> in (a) to (d) (article 64).</li></ul>
<i>funeral plan intermediary</i>	a <i>firm</i> carrying on <i>funeral plan distribution</i> other than a <i>funeral plan provider</i> .
<i>Funeral Plans Order</i>	the Financial Services and Markets Act 2000 (Regulated Activities) (Amendment) Order 2021 (SI 2021/90).
<i>funeral plan product</i>	the product for distribution as a <i>funeral plan contract</i> to <i>customers</i> generally but not intended to refer to each individual <i>funeral plan contract</i> being sold or provided (unless the context indicates otherwise).
<i>funeral plan provider</i>	a <i>firm</i> with <i>permission</i> for one or both of the <i>regulated activities</i> of: <ul style="list-style-type: none"><li>(a) <i>entering as provider into a funeral plan contract</i>;</li><li>(b) <i>carrying out a funeral plan contract as provider</i>.</li></ul>
<i>funeral plan provision activity</i>	the <i>regulated activities</i> of: <ul style="list-style-type: none"><li>(a) <i>entering as provider into a funeral plan contract</i>; and</li><li>(b) <i>carrying out a funeral plan contract as provider</i>.</li></ul>
<i>funeral plan summary</i>	a summary of a <i>funeral plan contract</i> in the format and containing the information in <i>FPCOB 9 Annex 1</i> .
<i>general solvency requirement</i>	the requirement specified in <i>FPCOB 15.2.1R</i> .
<i>instalment payment fee</i>	a fee which is additional to the cost of the <i>funeral plan product</i> and is charged to a <i>customer</i> in connection with a <i>firm</i> accepting payments by one or more instalments in respect of an <i>instalment payment funeral plan</i> .



<i>instalment payment funeral plan</i>	a <i>funeral plan contract</i> under which the <i>customer</i> is required to make more than one payment/periodic payments to the <i>funeral plan provider</i> .
<i>legacy funeral plan contract</i>	a <i>funeral plan contract</i> entered into before 1 January 2002.
<i>moratorium period</i>	the period under a <i>funeral plan contract</i> , as provided for in <i>FPCOB 7</i> or otherwise agreed between the <i>customer</i> and <i>funeral plan provider</i> , during which the <i>funeral plan provider</i> is not obliged to provide, or secure the provision of, a funeral on the death of the <i>covered individual</i> .
<i>new funeral plan</i>	a <i>funeral plan contract</i> entered into on or after 29 July 2022.
<i>nominated representative document</i>	a <i>document</i> in the format and containing the information in <i>FPCOB 9 Annex 2</i> .
<i>primary purpose</i>	the purpose set out in <i>FPCOB 3.1.5R</i> .
<i>protected funeral plan business</i>	<i>regulated funeral plan activities</i> which are covered by the <i>compensation scheme</i> , as defined in <i>COMP 5.9</i> .
<i>regulated funeral plan activity</i>	any <i>regulated activity</i> carried on in relation to a <i>funeral plan contract</i> , that is: <ul style="list-style-type: none"><li>(a) <i>dealing in investments as agent</i> (article 21);</li><li>(b) <i>arranging (bringing about) deals in investments</i> (article 25(1));</li><li>(c) <i>making arrangements with a view to transactions in investments</i> (article 25(2));</li><li>(d) <i>managing investments</i> (article 37);</li><li>(e) <i>safeguarding and administering investments</i> (article 40);</li><li>(f) <i>sending dematerialised instructions</i> (article 45(1));</li><li>(g) <i>causing dematerialised instructions to be sent</i> (article 45(2));</li><li>(h) <i>advising on investments (except P2P agreements)</i> (article 53(1));</li><li>(i) <i>entering as provider into a funeral plan contract</i> (article 59(1));</li><li>(j) <i>carrying out a funeral plan contract as provider</i> (article 59(1A)); and</li><li>(k) <i>agreeing to carry on a regulated activity</i> in (a) to (j) (article 64).</li></ul>

<i>relevant transitional funeral plan complaint</i>	a <i>complaint</i> in respect of which the <i>Financial Ombudsman Service</i> has jurisdiction by operation of article 7 of the <i>Funeral Plans Order</i> .
<i>remediation plan</i>	a plan that is produced in accordance with <i>FPCOB 3.2.6R</i> and <i>FPCOB 3.2.7R</i> (including any amendments agreed with the <i>FCA</i> or imposed by the <i>FCA</i> by <i>requirement</i> ).
<i>solvency assessment report</i>	a report produced in accordance with <i>FPCOB 3.2.2R</i> and <i>FPCOB 3.2.3R</i> .
<i>subsisting funeral plan</i>	a <i>funeral plan contract</i> that was entered into before 29 July 2022 and is still in force.
<i>trust arrangement</i>	<p>(1) in relation to a <i>new funeral plan</i>, a trust meeting the requirements of <i>FPCOB 3.1.9R</i>;</p> <p>(2) in relation to a <i>subsisting funeral plan</i>, a trust that was established to meet the requirements of article 60(1)(b) of the <i>Regulated Activities Order</i>, as it applied at that time.</p>
<i>whole of life insurance policy</i>	<p>(1) in relation to a <i>new funeral plan</i>, a <i>contract of insurance</i> meeting the requirements of <i>FPCOB 3.1.8R</i>;</p> <p>(2) in relation to a <i>subsisting funeral plan</i>, a <i>contract of insurance</i> that was entered into to meet the requirements of article 60(1)(a) of the <i>Regulated Activities Order</i>, as it applied at that time.</p>

Amend the following definitions as shown.

<i>annual income</i>	<p>(1) (in <i>MIPRU</i>) the income referred to in <i>MIPRU 4.3</i>.</p> <p>(2) (in <i>IPRU(INV) 13</i>) the income referred to in <i>IPRU(INV) 13.14</i> (Calculation of annual income).</p> <p>(3) <u>(in <i>FPCOB 15</i>) the income referred to in <i>FPCOB 15.8</i> (Calculation of annual income).</u></p>
<i>client</i>	<p>...</p> <p>(B) in the <i>FCA Handbook</i>:</p> <p>(1) (except in <i>PROF</i>, in relation to a <i>credit-related regulated activity</i>, <u>in relation to regulated funeral plan activity</u>, in relation to a <i>home finance transaction</i> and in relation to <i>insurance risk transformation</i> and activities directly arising from <i>insurance risk transformation</i>) ...</p>

...

(11) (in relation to regulated funeral plan activity) a customer.

contract of  
insurance

...

but not including a *funeral plan contract* ~~(or a contract which would be a funeral plan contract but for the exclusion in article 60 of the Regulated Activities Order (Plans covered by insurance or trust arrangements))~~; in this definition “annuities on human life” does not include superannuation allowances and annuities payable out of any fund applicable solely to the relief and maintenance of *persons* engaged, or who have been engaged, in any particular profession, trade or employment, or of the dependants of such *persons*.

customer

...

(B) in the *FCA Handbook*:

(1) (except in relation to SYSC 19F.2, *ICOBS*, *retail premium finance*, a *credit-related regulated activity*, *regulated claims management activity*, regulated funeral plan activity, *MCOB 3A*, an *MCD credit agreement*, *CASS 5*, *PRIN* in relation to *MiFID* or *equivalent third country business*, *DISP 1.1.10-BR*, *PROD 1.4* and *PROD 4*) and in relation to *payment services* and issuing *electronic money* (where not a *regulated activity*) a *client* who is not an *eligible counterparty* for the relevant purposes.

...

(9) (in relation to regulated funeral plan activity and funeral plan products):

(a) (except in *PRIN*) the person referred to in article 59 (2)(a) of the Regulated Activities Order who makes, or will make, one or more payments to another person under a funeral plan contract or prospective funeral plan contract;

(b) (in *PRIN*) a ‘customer’ in (a) and, if different in relation to a funeral plan contract or prospective funeral plan contract, a covered individual.

customer’s  
best interests  
rule

(1) (in relation to regulated funeral plan activity) *FPCOB 2.1.2R*.

(2) (for all other purposes) *ICOBS 2.5.-1R*.

dealing in  
investments as  
agent

the *regulated activity*, specified in article 21 of the *Regulated Activities Order* (Dealing in investments as agent), which is in summary: *buying*, *selling*, *subscribing for* or *underwriting designated investments* (other than *P2P*

agreements), pure protection contracts, general insurance contracts, ~~or~~ structured deposits or funeral plan contracts as agent.

*distribute*

...

(4) (in relation to PROD 1.7 and PROD 7) advising on or proposing a funeral plan contract.

*distributor*

...

(3) (in relation to PROD 1.7 and PROD 7) a firm which advises on or proposes funeral plan contracts which it does not manufacture.

*employee*

...

(2) (for the purposes of:

...

(b) SUP 12 (Appointed representatives); and

(c) ~~FC~~ TC; and

(d) SYSC 19F.3)

...

*entering as provider into a funeral plan contract*

the regulated activity, specified in article 59 of the Regulated Activities Order (Funeral plan contracts) ~~which comes into force on 1 January 2002,~~ of entering as provider into a funeral plan contract.

*fair, clear and not misleading rule*

(1) ~~COBS 4.2.1R or,~~ (in relation to regulated claims management activity and ancillary activity) CMCOB 3.2.1R.

(2) (in relation to regulated funeral plan activity) FPCOB 4.1.3R.

(3) (for all other purposes) COBS 4.2.1R.

*fee*

...

(3) (in FPCOB) remuneration payable directly by a customer in relation to a funeral plan contract that is not included in the price of the funeral plan.

...

*financial promotion rules*

---

...

		(7)	<u>(in relation to <i>FPCOB</i>) any or all of the <i>rules</i> in <i>FPCOB</i> 4, that impose requirements in relation to a <i>financial promotion</i> but only to the extent that they apply to a <i>financial promotion</i>.</u>	
<i>firm</i>	(1)	...		
		...		
	(10)	...		
	(10A)		<u>(in <i>DISP</i> 2 and 3) includes, in accordance with the <i>Funeral Plans Order</i>, an <i>unauthorised person</i> subject to the <i>Compulsory Jurisdiction</i> in relation to a <i>relevant transitional funeral plan complaint</i>.</u>	
<i>former scheme</i>	(1)		(except in relation to a <i>relevant transitional complaint</i> , <del>or</del> a <i>relevant claims management complaint</i> <u>or a <i>relevant transitional funeral plan complaint</i></u> ) any of the following:	
		(a)	...	
			...	
		(3)		(in relation to a <i>relevant claims management complaint</i> ) the <i>Legal Ombudsman</i> ;
		(4)		<u>(in relation to a <i>relevant transitional funeral plan complaint</i>)</u>
		(a)		<u>(except in <i>DISP</i> 3.6.5G and <i>DISP</i> 3.7.3G) the <i>complaints procedure</i> which was contained in the <i>Funeral Planning Authority's Code of Practice and Rules</i> in force at the time of the act or omission that is the subject of the <i>relevant transitional funeral plan complaint</i>; or</u>
	(b)		<u>(in <i>DISP</i> 3.6.5G and <i>DISP</i> 3.7.3G) the <i>Funeral Planning Authority's Code of Practice and Rules</i> in force immediately before 28 January 2021.</u>	
<i>funeral plan contract</i>			the <i>investment</i> , specified in articles 59(2), <del>60</del> and 87 of the <i>Regulated Activities Order</i> <del>which comes into force on 1 January 2002</del> , which is in summary: rights under a contract which:	
			...	
			unless, at the time of entering into the contract, the customer and the provider intend or expect the funeral to occur within one month; <del>but excluding certain contracts under which sums paid will be applied towards a <i>contract of insurance</i> or will be held on trust.</del>	
<i>individual capital guidance</i>	(1)		<u>(other than in (2)) <i>guidance</i> given to a <i>firm</i> about the amount and quality of capital resources that the <i>appropriate regulator</i> thinks the</u>	

*firm* should hold at all times under the *overall financial adequacy rule* as it applies on a solo level or a consolidated level.

- (2) (in FPCOB 15) guidance given to a firm about the amount and quality of capital resources that the FCA thinks the firm should hold at all times under FPCOB 15.2.1R (General solvency requirement).
- individual liquidity guidance* (1) (other than in (2)) guidance given to a firm about the amount, quality and funding profile of liquidity resources that the appropriate regulator has asked the firm to maintain.
- (2) (in FPCOB 15) guidance given to a firm about the amount, quality and funding profile of liquidity resources that the FCA thinks the firm should hold at all times under FPCOB 15.2.1R (General solvency requirement).
- manufacture* ...
- (4) (in relation to PROD 1.7 and PROD 7) any of:
- (a) creating;
- (b) developing;
- (c) designing; and/or
- (d) entering as provider into a funeral plan contract and/or carrying out a funeral plan contract as provider,
- a funeral plan product.
- manufacturer* ...
- (3) (in relation to PROD 1.7 and PROD 7) a firm which manufactures funeral plan products for sale to customers.
- payment shortfall* ...
- (3) the total sum of periodic instalments towards the purchase price of a funeral plan that have become due under the terms of the funeral plan contract but which, in breach of those terms, remains unpaid.
- regulated activity* ...
- (B) in the *FCA Handbook*: (in accordance with section 22 of the *Act* (Regulated activities)) the activities specified in Part II (Specified activities), Part 3A (Specified activities in relation to information) and Part 3B (Claims management activities in Great Britain) of the *Regulated Activities Order*, which are, in summary: ...
- ...

	(t)	<i>entering as provider into a funeral plan contract (article 59(1));</i>
	(t-a)	<u><i>carrying out a funeral plan contract as provider (article 59(1A));</i></u>
	...	
	...	
<i>relevant complaint</i>	(1)	<i>(in DISP) a relevant existing complaint, relevant new complaint, a relevant transitional complaint, and (in DISP and FEES 5) a relevant claims management complaint <u>and a relevant transitional funeral plan complaint.</u></i>
	...	
<i>remuneration</i>	...	
	...	
	(5)	<u><i>(in SYSC 19F.3 and FPCOB) 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 funeral plan distribution or funeral plan provision activities.</i></u>
<i>respondent</i>	(1)	...
	...	
	(7)	<u><i>(in DISP 2 and 3 and FEES 5) includes, in accordance with the Funeral Plans Order, an unauthorised person subject to the Compulsory Jurisdiction in relation to a relevant transitional funeral plan complaint.</i></u>
<i>third party processor</i>	(1)	<i>A firm (“Firm A”) which carries on home finance activities, <u>funeral plan distribution</u> or insurance distribution activities other than advising on life policies, or <del>both</del> <u>all of these</u>, for another firm (or an appointed representative) (“Firm B”) under a properly documented outsourcing agreement, the terms of which provide that when Firm A carries on any of these activities (“the outsourced activities”) for Firm B:</i>
	...	
	(2)	<i>A firm (“Firm C”) which carries on home finance activities, <u>funeral plan distribution</u> or insurance distribution activities other than advising on life policies, or <del>both</del> <u>all of these</u>, for a third party processor within (1) (“Firm A”), where:</i>
	...	





## Annex B

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

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

#### 1 Introduction

...

#### 1.2 Clients and the Principles

...

##### Approach to client categorisation

- 1.2.2 G ~~*Principles 6, 8 and 9 and parts of Principle 7, as qualified by PRIN 3.4.1R, apply only in relation to customers. The approach that a firm (other than for credit-related regulated activities, and regulated claims management activities, payment services and issuing electronic money (where not a regulated activity) in relation to which client categorisation does not apply) needs to take regarding categorisation of clients into customers and eligible counterparties will depend on whether the firm is carrying on designated investment business, insurance risk transformation and activities directly arising from insurance risk transformation, or other activities, as described in PRIN 1.2.3G. [deleted]*~~
- 1.2.3 G (1) In relation to the carrying on of *designated investment business, insurance risk transformation* and activities directly arising from *insurance risk transformation*, a firm's categorisation of a *client* under the *COBS client* categorisation chapter (*COBS 3*) will be applicable for the purposes of *Principles 6, 7, 8 and 9. [deleted]*
- (1AA) In relation to the carrying on of *insurance risk transformation* and activities directly arising from *insurance risk transformation*, the *COBS client* categorisation chapter (*COBS 3*) applies as modified by *COBS 18.6A.3R*.
- (1A) ~~*Client* categorisation under *COBS 3* or *PRIN 1 Annex 1* is not relevant to *credit-related regulated activities* and therefore the guidance on *client* categorisation does not apply in relation to a *credit-related regulated activity*. The definitions of *client* and *customer* in relation to those *regulated activities* reflect the modified meaning of "consumer" in articles 36J, 39M, 60LA, 60S and 89E of the *Regulated Activities Order*, as well as the definitions of "individual" and of "relevant recipient of credit" in that Order.~~
- (1AB) ~~*Client* categorisation under *COBS 3* or *PRIN 1 Annex 1R* is not relevant to *regulated claims management activities* and therefore the~~

~~guidance on *client* categorisation does not apply in relation to a regulated claims management activity.~~

- (2) ~~The person to whom a firm gives basic advice on a stakeholder product will be a retail client for all purposes, including the purposes of Principles 6, 7, 8 and 9.~~
- (3) ~~In relation to carrying on activities other than designated investment business, insurance risk transformation or activities directly arising from insurance risk transformation (for example, general insurance business or accepting deposits) the firm may choose to comply with Principles 6, 7, 8 and 9 as if all its clients were customers. Alternatively, it may choose to distinguish between eligible counterparties and customers in complying with those Principles. If it chooses to make such a distinction, it must comply with PRIN 1 Annex 1 in determining whether that client is an eligible counterparty (see PRIN 3.4.2R). In doing so, the requirements in SYSC will apply, including the requirement to make and retain adequate records.~~
- (4) ~~In relation to carrying on activities that fall within both (1) and (3) (for example, mixed designated investment business and accepting deposits), a firm's categorisation of a client under the COBS client categorisation chapter (COBS 3) will be applicable for the purposes of Principles 6, 7, 8 and 9.~~

...

Acting through an agent

1.2.6 G ...

...

**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, regulated funeral plan activity, credit-related regulated activity, insurance distribution activity and accepting deposits; and*

...

...

3.2.2A R ~~*PRIN 1 Annex 1, PRIN 3.4.1R and PRIN 3.4.2R do not apply with respect to the carrying on of credit-related regulated activities or regulated claims management activities, or to the provision of payment services or the issuing of electronic money (where not a regulated activity).*~~ [deleted]

...

### 3.4 General

#### Clients and the Principles

3.4.-1 R *PRIN 3.4.1R, PRIN 3.4.2R and PRIN 1 Annex 1 do not apply with respect to:*

- (1) *credit-related regulated activities; or*
- (2) *regulated claims management activities; or*
- (3) *regulated funeral plan activities; or*
- (4) *payment services; or*
- (5) *the issuing of electronic money (where not a regulated activity).*

...

3.4.3 G (1) ~~*COBS 3 (Client categorisation) applies to a firm intending to conduct, or conducting, designated investment business (other than giving basic advice), ancillary activities relating to designated investment business and to a firm intending to carry on, or carrying on, insurance risk transformation and activities directly arising from insurance risk transformation. Any client categorisation established in relation to such business will be applicable for the purposes of Principles 6, 7, 8 and 9.*~~ [deleted]

(2) ~~*The person to whom a firm gives basic advice will be a retail client for all purposes including the purposes of Principles 6, 7, 8 and 9.*~~

(3) ~~*PRIN 3.4.1R and PRIN 3.4.2R do not apply with respect to the carrying on of credit-related regulated activities. Client categorisation does not apply in relation to carrying on a credit-related regulated activity. The definitions of client and customer in relation to those regulated activities reflect the modified meaning of “consumer” in articles 36J, 39M and 89E of the Regulated Activities Order, as well as the definitions of “individual” and of “relevant recipient of credit” in that Order.*~~

(4) ~~*PRIN 3.4.1R and PRIN 3.4.2R do not apply with respect to the carrying on of regulated claims management activities. Client categorisation does not apply in relation to carrying on a regulated claims management activity.*~~

- (5) ~~*PRIN 3.4.1R and PRIN 3.4.2R do not apply with respect to the provision of payment services or the issuing of electronic money where it is not a regulated activity. Client categorisation does not apply in relation to carrying on of those activities. The definitions of customer in relation to those activities reflects the scope of the corporate opt out under the Payment Services Regulations.*~~

...

**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 otherwise stated.

**1 Application and purpose**

...

**1 Annex Detailed application of SYSC**

**1**

...

Part 2		Application of the common platform requirements		
		Who?		
...				
		What?		
...				
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:		
		...		
		(2)	in relation to the following <i>regulated activities</i> :	
			...	
		(g)	<i>reversion activity; and</i>	
		(h)	<i>meeting of repayment claims and managing dormant account funds (including the investment of such funds); and</i>	
		(i)	<i>regulated funeral plan activities.</i>	
...				

...

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

...

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, UK ISPVs, managing agents, the Society, full-scope UK AIFMs of unauthorised AIFs, MiFID optional exemption firms and third country firms
<u>SYSC 10.1.5G</u>	<u>Not applicable</u>	<u>Not applicable</u>	<u>Not applicable</u>	<u>Guidance in relation to funeral plan distribution</u>
...				
SYSC 10.1.4R	Not applicable	Rule, but not applicable in relation to <i>insurance distribution activities</i>	Not applicable	Guidance - but applies as a rule in relation to the production or arrangement of investment research, or the production or dissemination of non-independent research, in accordance with <i>COBS 12.2</i>  Not applicable in relation to <i>insurance distribution activities</i> or <u>funeral plan distribution</u>
SYSC 10.1.4AG	Not applicable	Not applicable	Not applicable	Guidance - but not applicable in relation to <i>insurance distribution activities</i> or <u>funeral plan distribution</u>
SYSC 10.1.4BR	Not applicable	Rule in relation to <i>insurance distribution activities</i>	Rule in relation to <i>insurance distribution activities</i>	Rule in relation to <i>insurance distribution activities</i> and <u>funeral plan distribution</u>

SYSC 10.1.4CR	Not applicable	Rule in relation to <i>insurance distribution activities</i>	Rule in relation to <i>insurance distribution activities</i>	Rule in relation to <i>insurance distribution activities and funeral plan distribution</i>
...				
SYSC 10.1.6R	Not applicable	Rule	Rule in relation to <i>insurance distribution activities</i> . Otherwise, not applicable	Guidance - but applies as a rule: (a) in relation to the production or arrangement of investment research, or the production or dissemination of non-independent research, in accordance with <i>COBS 12.2</i> ; and (b) in relation to <i>insurance distribution activities and funeral plan distribution</i>
SYSC 10.1.6AG	Not applicable	Not applicable	Guidance - but not applicable in relation to <i>insurance distribution activities</i>	Guidance - but not applicable in relation to <i>insurance distribution activities or funeral plan distribution</i>
SYSC 10.1.6AAR	Not applicable	Rule in relation to <i>insurance distribution activities</i>	Rule in relation to <i>insurance distribution activities</i>	Rule in relation to <i>insurance distribution activities and funeral plan distribution</i>
...				
SYSC 10.1.9AR	Not applicable	Rule in relation to <i>insurance distribution activities</i> . Otherwise, not applicable	Rule in relation to <i>insurance distribution activities</i> . Otherwise, not applicable	Guidance - but applies as a rule in relation to <i>insurance distribution activities and funeral plan distribution</i>

SYSC 10.1.10R	Not applicable	Rule	Rule in relation to <i>insurance distribution activities</i> . Otherwise, not applicable	Guidance - but applies as a rule: (a) in relation to the production or arrangement of investment research, or the production or dissemination of non-independent research, in accordance with <i>COBS 12.2</i> ; and (b) in relation to <i>insurance distribution activities</i> <u>and funeral plan distribution</u>
SYSC 10.1.11R	Not applicable	Rule	Rule in relation to <i>insurance distribution activities</i> . Otherwise, not applicable	Guidance - but applies as a rule: (a) in relation to the production or arrangement of investment research, or the production or dissemination of non-independent research, in accordance with <i>COBS 12.2</i> ; and (b) in relation to <i>insurance distribution activities</i> <u>and funeral plan distribution</u>
SYSC 10.1.11AG	Not applicable	Not applicable	Guidance - but not applicable in relation to <i>insurance distribution activities</i>	Guidance - but not applicable in relation to <i>insurance distribution activities</i> <u>or funeral plan distribution</u>
SYSC 10.1.11AA R	Not applicable	Rule in relation to <i>insurance distribution activities</i>	Rule in relation to <i>insurance distribution activities</i>	Rule in relation to <i>insurance distribution activities</i> <u>and funeral plan distribution</u>
...				

...

**Table B: Application of the common platform requirements in SYSC 4 to 10 to MiFID optional exemption firms and third country firms**

...

Provision	COLUMN A MiFID optional exemption firms	COLUMN B Third country firms
...	...	...



SYSC 6.1.4CR	<u>SYSC 6.1.4CR(2)(c) and SYSC 6.1.4CR(3) apply</u> as specified in <del>that rule</del> <u>SYSC 6.1.4CR</u> Otherwise not applicable	SYSC 6.1.4CR(3) applies as specified in <del>that rule</del> <u>SYSC 6.1.4CR</u> Otherwise not applicable
...		

...

#### 4 General organisational requirements

...

#### 4.4 Apportionment of responsibilities

...

Allocating functions of apportionment and oversight

...

#### 4.4.6 G Frequently asked questions about allocation of functions in SYSC 4.4.5R

Question		Answer
1	Does an individual to whom a function is allocated under SYSC 4.4.5R need to be an <i>approved person</i> ?	Yes. They will be performing the <i>limited scope function</i> . However, the <i>limited scope function</i> does not apply to an <i>EEA SMCR firm</i> (except claims management and <u>funeral plan firms</u> ) or an <i>authorised professional firm</i> that is a <i>core SMCR firm</i> .
...	...	...
12	How does the requirement to allocate the functions in SYSC 4.4.5R apply to an <i>EEA SMCR firm</i> other than a claims management or <u>funeral plan firm</u> ?	...
...	...	...

...

#### 10 Conflicts of interest

## 10.1 Application

### Application to funeral plan distribution

10.1.-5 G This section applies to a firm carrying on funeral plan distribution in accordance with the tables in Part 3 of SYSC 1 Annex 1.

Application to insurance intermediaries

...

Types of conflicts

...

10.1.4B R For the purposes of identifying the types of conflict of interest that arise, or may arise, in the course of carrying on *insurance distribution activities* or *funeral plan distribution* and whose existence may damage the interests of a *client* (“A”), a *firm* must assess whether:

- (1) the *firm* or a *relevant person*, or a *person* directly or indirectly linked by *control* to the *firm*; or
- (2) (in the case of conflicts between A and another *client*) the other *client*, has an interest in the outcome of the *insurance distribution activities* or *funeral plan distribution*, which meets the following criteria:
- (3) it is distinct from A’s interest in the outcome of the *insurance distribution activities* or *funeral plan distribution*s; and

...

...

Record of conflicts

10.1.6 R ~~A management company,~~ and an insurance intermediary and a firm carrying on funeral plan distribution must keep and regularly update a record of the kinds of service or activity carried out by or on behalf of that *firm* in which a conflict of interest entailing a material risk of damage to the interests of one or more clients has arisen or, in the case of an ongoing service or activity, may arise.

[Note: article 20(1) of the *UCITS implementing Directive*]

...

10.1.6A R An *insurance intermediary* and a firm carrying on funeral plan distribution must ensure that its management body receives on a frequent basis, and at least annually, written reports on all situations referred to in SYSC 10.1.6R.  
A

...

Disclosure of conflicts

- 10.1.8 R ...
- (2) The disclosure must:
- ...
- (c) include specific description of the conflicts of interest that arise in the provision of *funeral plan distribution, insurance distribution activities, investment services or ancillary services*;
- ...
- ...

...

Conflicts policy

- 10.1.10 R (1) *A management company, and an insurance intermediary and a firm carrying on funeral plan distribution* must establish, implement and maintain an effective *conflicts of interest policy* that is set out in writing and is appropriate to the size and organisation of the *firm* and the nature, scale and complexity of its business.
- (2) Where the *management company, or insurance intermediary or firm carrying on funeral plan distribution* is a member of a *group*, the policy must also take into account any circumstances, of which the *firm* is or should be aware, which may give rise to a conflict of interest arising as a result of the structure and business activities of other members of the *group*.
- ...

Contents of policy

- 10.1.11 R (1) The *conflicts of interest policy* must include the following content:
- (a) it must identify in accordance with SYSC 10.1.3R, SYSC 10.1.4R, SYSC 10.1.4BR and SYSC 10.1.4CR (as applicable), by reference to the specific services and activities carried out by or on behalf of the *management company, insurance intermediary or firm carrying on funeral plan distribution*, the circumstances which constitute or may give rise to a conflict of interest entailing a material risk of damage to the interests of one or more *clients*; and
- ...
- (2) ...

- (a)
- (aa) (for an *insurance intermediary* or a *firm carrying on funeral plan distribution activities*) be designed to ensure that the *insurance distribution activities* or *funeral plan distribution* are carried out in accordance with the best interests of the *client* and are not biased due to conflicting interests of the *insurance intermediary*, the firm carrying on funeral plan distribution or another *client*; and
- (b) include, for an *insurance intermediary* or a *firm carrying on funeral plan distribution*, where appropriate, the following, and for a *management company*, such of the following as are necessary and appropriate for the *management company* to ensure the requisite degree of independence:

...

- (vi) (for *insurance intermediaries* or *firms carrying on funeral plan distribution*) a gifts and benefits policy which determines clearly under which conditions gifts and benefits can be accepted or granted and which steps are to be taken when accepting and granting gifts and benefits.

...

- (4) If one or more of the measures and procedures in paragraph (2) is not appropriate for the purposes of paragraph (2)(aa), an *insurance intermediary* or a *firm carrying on funeral plan distribution* must adopt such alternative measures and procedures as are necessary and appropriate.
- (5) The procedures and measures provided for in paragraph (1)(b) must be appropriate to the size and activities of an insurance intermediary's or a firm carrying on funeral plan distribution ~~size and activities~~, the *group* to which it may belong and to the risk of damage to the interests of the *client*.

...

- 10.1.11 G Other *firms* (except *common platform firms*, *UCITS management companies*, *insurance intermediaries* and *firms carrying on funeral plan distribution*) should take account of the *rules* relating to *conflicts of interest policies* (see SYSC 10.1.10R and SYSC 10.1.11R) in accordance with ~~SYSC 1 Annex 1.3.2BR~~ SYSC 1 Annex 1 3.2BR, SYSC 1 Annex 1 3.2CR and SYSC 1 Annex 1 3.3R.

10.1.11 R An insurance intermediary and a firm carrying on funeral plan distribution  
AA must assess and periodically review, on at least an annual basis, the *conflicts of interest policy* established in accordance with SYSC 10.1.10R and SYSC 10.1.11R and should take all appropriate measures to address any deficiencies (such as over reliance on disclosure of conflicts of interest).

...

10.1.11 G A firm (other than a common platform firm, and an and an insurance  
B intermediary and a firm carrying on funeral plan distribution) should read SYSC 10.1.11AAR as if “should” appeared in that rule instead of “must”.

...

After SYSC 19F.2 (IDD remuneration incentives) insert the following new section SYSC 19F.3. The text is not underlined.

### **19F.3 Funeral plan remuneration incentives**

#### Application

19F.3.1 R This section applies to a *firm* carrying on *regulated funeral plan activities*.

#### Remuneration and the customer’s best interests

19F.3.2 R (1) A *firm* must not:

(a) be *remunerated*; or

(b) *remunerate* or assess the performance of its *employees*,

in a way that conflicts with its duty to comply with the *customer’s best interests rule*.

(2) In particular, a *firm* 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 or offer a particular *funeral plan contract* to a *customer* when the *firm* could offer a different *funeral plan contract* which would better meet the *customer’s* needs.

19F.3.3 G (1) A *firm* should consider *FPCOB* 6.4R and *FPCOB* 6.5R when making arrangements which concern *remuneration* or performance incentives.

(2) Examples of *remuneration* arrangements which may conflict with the *customer’s best interests rule* include:

(a) arrangements which provide for higher levels of *remuneration* based on the price of the plan that is recommended or offered (i.e. higher *remuneration* for selling a more expensive plan);

- (b) arrangements for *remuneration* or performance management which are based primarily on the number of plans sold, or the price of plans sold; and
- (c) arrangements which do not have adequate provision for *remuneration* to be taken back if the customer cancels the plan.

Amend the following as shown.

...

## 23 Senior managers and certification regime: Introduction and classification

...

### 23.2 Definitions and types of firms

...

23.2.3 G Broadly speaking, *firms* covered by the senior managers and certification regime that are regulated by the *FCA* are divided into three categories:

...

(3) *Firms* whose business is limited to certain types. These are called “*limited scope SMCR firms*”. A large number of *firms* will be in this category. The main examples are:

...

(e) a *firm* that only has *regulated claims management activities* in its *permission*; ~~and~~

(f) a *firm* that only has *permission* for benchmark activities and has the benefit of a *waiver* treating it as a *limited scope SMCR firm* as described in SYSC 23 Annex 1 6.12R (Benchmark firms: Waiver applying limited scope status); ~~and~~

(g) a *firm* that only has *permission* for *funeral plan distribution*.

...

## 23 Definition of SMCR firm and different types of SMCR firms Annex 1

...

Part Six: Definition of limited scope SMCR firm

...

...

6.4 R Table: List of limited scope SMCR firms referred to in SYSC 23 Annex 1  
6.3R

...	
(5)	...
(6)	<u>A firm that meets the following conditions:</u>
	(a) <u>it has permission for any activity constituting funeral plan distribution; and</u>
	(b) <u>it does not have permission to carry on any other regulated activity.</u>

...

**27 Senior managers and certification regime: Certification regime**

...

**27.8 Definitions of the FCA certification functions**

...

Client-dealing function

...

27.8.19 R Table: Activities covered by the client-dealing FCA certification function

Activity	Comments
(1) The following activities: (a) ... (b) performing other functions related to this, such as <u>dealing, and arranging and (where the product is a contract) entering into and carrying it out.</u>	...
(2) ...	
(3) If the <i>firm</i> does any of the following activities:	...

<p>(a) <i>dealing</i>, as principal or as agent; <del>or</del></p> <p>(b) <i>arranging (bringing about) deals in investments</i>; <u>or</u></p> <p>(c) <u><i>funeral plan distribution (but not advising on investments) or a funeral plan provision activity</i></u>;</p> <p>taking part in those activities is included.</p>	
...	

...

After SYSC 28 (Insurance distribution: specific knowledge, ability and good repute requirements) insert the following new chapter SYSC 28A. The text is not underlined.

**28A Regulated funeral plan activities: good repute requirements**

**28A.1 Application**

28A.1.1 R This chapter applies to a *firm* with respect to *regulated funeral plan activities*.

**28A.2 Good repute**

Good repute requirements

28A.2.1 R A *firm* must ensure that all the *persons* in its management structure and any staff directly involved in the activities specified in SYSC 28A.1.1R are of good repute.

28A.2.2 G This includes but is not limited to those natural *persons*:

- (1) that are directly involved in the activities specified in SYSC 28A.1.1R; or
- (2) within the management structure responsible for the activities specified in SYSC 28A.1.1R; or
- (3) within the management structure responsible for any staff directly involved in the activities specified in SYSC 28A.1.1R.

28A.2.3 R In considering a *person's* repute the *firm* must at 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.

- 28A.2.4 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” are 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.
- 28A.2.5 G A *firm’s* systems and controls should enable it to satisfy itself of the suitability of anyone who acts for it (see SYSC 5.1.2G). This includes, among other things, the assessment of an individual’s honesty.

### **28A.3 Record keeping requirements**

#### Record keeping requirements

- 28A.3.1 R A *firm* must:
- (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).
- 28A.3.2 R A *firm* must not prevent any *person* from obtaining a copy of the records relating to them which are maintained by the *firm* for the purposes of SYSC 28A.3.1R.
- 28A.3.3 G The rules specified in SYSC 28A.3.1R relate to the requirements specified in SYSC 5.1.1R, SYSC 9.1.1R and SYSC 10.1.6R.

Amend the following as shown.

...

**TP 7 Bank of England and Financial Services Act 2016: Certification and regulatory references**

**7.1 Application and purpose**

...

7.1.3 G SYSC TP 7:

...

- (3) has certain other transitional provisions relating to the amendments made to the *FCA Handbook* by the Individual Accountability (Dual-Regulated Firms) Instrument 2018, the Individual Accountability (FCA-Authorised Firms) Instrument 2019 and the Individual Accountability (FCA-Authorised Benchmark Firms) Instrument 2020; ~~and~~
- (4) is adjusted and supplemented by SYSC TP 8 in relation to certain claims management *firms*; and
- (5) does not apply to a firm that becomes an SMCR firm after 31 March 2021 except that:
  - (a) it may apply after then in relation to certain claims management firms covered by SYSC TP 8; and
  - (b) the parts of SYSC TP 7 that are described in the table in SYSC TP 7.1.2R (Table: Application of SYSC TP 7) as applying to “All other firms” might apply although in practice the material about employment references will not normally apply because of the time period in which SYSC TP 7 operates as described in SYSC TP 7.1.4G.

...

## Annex D

### Amendments to the Threshold Conditions sourcebook (COND)

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

## 2 The threshold conditions

...

### 2.5 Suitability

...

Paragraph 3D to Schedule 6 of the Act

...

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:

...

(18 in the case of a *firm* that carries on *regulated funeral plan activities*:  
A)

(a) all the *persons* in the *firm's* management structure and any staff directly involved in *regulated funeral plan activities* are of good repute (see SYSC 28A.2 (Good repute)); and

(19 ...  
)

## Annex E

### Amendments to the Training and Competence sourcebook (TC)

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

## 2 Competence

### 2.1 Assessing and maintaining competence

...

2.1.23C ...

Continuing professional development for persons involved in regulated funeral plan activities

2.1.23D R In this section, relevant employees are employees and other persons:

- (1) directly involved in regulated funeral plan activities; or
- (2) within the management structure responsible for the firm's regulated funeral plan activities; or
- (3) responsible for the supervision of a relevant employee acting in the capacity as set out in (1).

2.1.23E R In this section "employee":

- (1) is not restricted to an individual working under a contract of employment; and
- (2) includes (without limitation) any natural or legal person whose services are placed at the disposal of the firm, under an arrangement between the firm and a third party; and
- (3) also includes appointed representatives and their employees.

2.1.23F R A firm must ensure that each relevant employee who has been assessed as competent for the purposes of TC 2.1.1R remains competent by completing a minimum of 15 hours of appropriate continuing professional development in each 12 month period.

2.1.23G R The appropriate continuing professional development in SYSC 2.1.23FR is in addition to any other continuing professional development completed. Continuing professional development completed by a relevant employee in relation to activities other than regulated funeral plan activities must not be taken into account for the purpose of SYSC 2.1.23FR.

2.1.23H R For the purposes of SYSC 2.1.23FR, a firm must take into account the:

- (1) role and activity carried out by the relevant employee within the firm; and
- (2) the nature of the products sold.

- 2.1.23I      G      (1) Appropriate continued professional development has the same meaning as given in TC 2.1.22G(1), (3) to (5). For this purpose, reference to *retail investment adviser* should be read as if it were a reference to a relevant employee (under TC 2.1.23DR).
- (2) In relation to SYSC 2.1.23FR, the 15 hours of appropriate continuing professional development can include structured and unstructured training and need not consist of only formal classroom-based learning. For examples of structured and unstructured professional development see TC 2.1.20G and TC 2.1.21G.

- 2.1.23J      R      TC 2.1.17R (suspending the continuing professional development requirement) and related *guidance* apply in relation to a relevant employee and references to:
- (1) TC 2.1.15R must be read as if it were a reference to TC 2.1.23FR; and
  - (2) a *retail investment adviser* must be read as if it were a reference to a relevant employee (under TC 2.1.23DR).

Continuing professional development record keeping

- 2.1.24      R      A *firm* must, for the purposes of TC 3.1.1R (Record keeping), make and retain records of:
- (1) the continuing professional development completed by each:
    - ...
    - (b) *pension transfer specialist* (under TC 2.1.23AR);
    - (c) relevant employee (under TC 2.1.23DR)
- and
- (2) the dates of and reasons for any suspension of the continuing professional development requirements under TC 2.1.17R, ~~or~~ TC 2.1.23CR or TC 2.1.23JR.
- 2.1.25      R      A *firm* must not prevent a *retail investment adviser*, ~~or~~ a *pension transfer specialist* or a relevant employee from obtaining a copy of the records relating to them which are maintained by the *firm* for the purposes of TC 2.1.24R.

...

**App 1 Appendix 1**

**App 1.1 Activities and Products/Sectors to which TC applies subject to TC Appendices 2 and 3**

Activity	Products/Sectors		Is there an appropriate qualification requirement?
...			
Overseeing an <i>execution-only sale</i> on a day-to-day basis	26	<i>Regulated sale and rent back agreements</i>	No
<i>Regulated funeral plan activity carried on for a customer</i>			
<i>Dealing in investments as agent</i>	<u>27</u>	<i>Funeral plan contracts</i>	<u>No</u>
<i>Arranging (bringing about) deals in investments</i>	<u>28</u>	<i>Funeral plan contracts</i>	<u>No</u>
<i>Making arrangements with a view to transactions in investments</i>	<u>29</u>	<i>Funeral plan contracts</i>	<u>No</u>
<i>Managing investments</i>	<u>30</u>	<i>Funeral plan contracts</i>	<u>No</u>
<i>Safeguarding and administering investments</i>	<u>31</u>	<i>Funeral plan contracts</i>	<u>No</u>
<i>Sending dematerialised instructions</i>	<u>32</u>	<i>Funeral plan contracts</i>	<u>No</u>

<u>Causing dematerialised instructions to be sent</u>	<u>33</u>	<u>Funeral plan contracts</u>	<u>No</u>
<u>Advising on investments</u>	<u>34</u>	<u>Funeral plan contracts</u>	<u>No</u>
<u>Entering as provider into a funeral plan contract</u>	<u>35</u>	<u>Funeral plan contracts</u>	<u>No</u>
<u>Carrying out a funeral plan contract as provider</u>	<u>36</u>	<u>Funeral plan contracts</u>	<u>No</u>
<u>Agreeing to carry on a regulated activity</u>	<u>37</u>	<u>Funeral plan contracts</u>	<u>No</u>
<b>Notes:</b>			
...			

**Schedule 1 Record keeping requirements**

Sch -1.1

G

<i>TC 2.1.24R provides:</i>	
A <i>firm</i> must, for the purposes of <i>TC 3.1.1R</i> (Record keeping), make and retain records of:	
(1)	the continuing professional development completed by each <i>retail investment adviser</i> and relevant employee for the purposes of <u>regulated funeral plan activities</u> ; and
(2)	the dates of and reasons for any suspension of the continuing professional development requirements under <i>TC 2.1.17R</i> or <u><i>TC 2.1.23JR</i></u> .

...

## Annex F

### Amendments to the General Provisions (GEN)

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

#### GEN 2.3 General saving of the Handbook for Gibraltar

Continued application of the Handbook with respect to Gibraltar

2.3.1 R (1) ...

...

- (3) In *GEN 2.3*, a reference to “Gibraltar” includes, but is not limited to, rights or obligations conferred or imposed in relation to or in connection with ~~Gibraltar-based firms~~ *Gibraltar-based firms*, public institutions established, persons resident and body corporates incorporated in Gibraltar, and activities of firms in Gibraltar.
- (4) ~~In *GEN 2.3* “Gibraltar-based firm” has the same meaning as in the *Gibraltar Order*. A Gibraltar-based firm with permission for funeral plan provision activity or funeral plan distribution must comply with the relevant Handbook provisions relating to regulated funeral plan activity.~~



## Annex G

### Amendments to the Fees manual (FEES)

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

#### 5 Financial Ombudsman Service Funding

...

#### 5 Annex 1R Annual General Levy Payable in Relation to the Compulsory Jurisdiction for 2020/21

Introduction: annual budget

...

Compulsory jurisdiction - general levy

Industry block	Tariff base	General levy payable by firm
...	...	...
<u>25 – funeral plan intermediaries and funeral plan providers</u>	<u>Annual income</u>	[tbc]

#### 6 Financial Services Compensation Scheme Funding

##### 6.1 Application

...

- 6.1.7A G In order to allocate a share of the amount of *specific costs* and *compensation costs* to be funded by an individual *participant firm*, the funding arrangements are split into ~~six~~ seven *classes*: the General Insurance Distribution Claims *class*; the Investment Intermediation Claims *class*; the Investment Provision Claims *class*; the Home Finance Intermediation Claims *class*; the Debt Management Claims *class*; ~~and the deposit acceptors' contribution class~~; and the Funeral

Plans Claims class. The *permissions* held by a *participant firm* determine into which *class*, or *classes*, it falls.

...

## 6 Annex 2 Financial Services Compensation Scheme – annual levy limits

This table belongs to FEES 6.3.5R

Class	Category	Levy Limit (£ million)
...		
<u>Class 7: Funeral Plan Claims</u>		<u>5</u>

## 6 Annex 3A Financial Services Compensation Scheme – classes and categories

This table belongs to FEES 6.5.6AR

...

Class 2	Investment Intermediation Claims
...	...
Category 2.2	Life insurance provision
Firms with permission for:	<i>effecting contracts of insurance;</i> and/or
	<i>carrying out contracts of insurance;</i>
	<i>that are long-term insurance contracts (including pure protection contracts); and/or</i>
	<i>entering as provider into a funeral plan contract.</i>
Also includes:	the <i>Society</i>
...	

<b>Class 6</b>	<b>Deposit acceptors' contribution</b>
...	

<u><b>Class 7</b></u>	<u><b>Funeral Plan Claims</b></u>
<b><u>Firms with permission for:</u></b>	<u>any of the following in relation to a funeral plan contract:</u>
	<u>entering as provider into a funeral plan contract;</u>
	<u>carrying out a funeral plan contract as provider;</u>
	<u>dealing in investments as agent;</u>
	<u>arranging (bringing about) deals in investments;</u>
	<u>making arrangements with a view to transactions in investments;</u>
	<u>managing investments;</u>
	<u>safeguarding and administering investments;</u>
	<u>sending dematerialised instructions;</u>
	<u>causing dematerialised instructions to be sent;</u>
	<u>advising on investments;</u>
	<u>agreeing to carry on a regulated activity which is within any of the above.</u>
<b><u>Tariff base</u></b>	<u>Annual eligible income where annual income is equal to the net amount retained by the firm of all income due to the firm in respect of or in relation to activities falling within class 7.</u>

Notes on annual eligible income for class 7: For the purposes of calculating annual income, “net amount retained” means all the commission (where

relevant), fees, etc. in respect of activities falling within *class 7* that the *firm* has not rebated to *customers* or passed on to other *firms* (for example, where there is a commission chain). Items such as general business expenses (for example, employees' salaries and overheads) must not be deducted.

## Annex H

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

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

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

##### 4.1 Application

Who? What?

4.1.1 R This chapter applies to a *firm*:

...

(2) *communicating or approving a financial promotion other than:*

...

(d) *a financial promotion in relation to a credit agreement, a consumer hire agreement or a credit-related regulated activity;*  
or

(e) *a financial promotion in relation to a funeral plan contract or a regulated funeral plan activity.*

...

...

## Annex I

### Amendments to the Product Intervention and Product Governance sourcebook (PROD)

After PROD 1.6 (Application of PROD 6) insert the following new section: PROD 1.7. The text is not underlined.

#### 1 Product Intervention and Product Governance Sourcebook (PROD)

...

#### 1.7 Application of PROD 7

Application of PROD 7

1.7.1 R (1) *PROD 7* applies to:

(a) a *funeral plan provider*; and

(b) a *funeral plan intermediary*,

with respect to:

(c) *manufacturing funeral plan products*; and

(d) *distributing funeral plan products*.

1.7.2 R A *Gibraltar-based firm* must also comply with the provisions in *PROD 7* (Product governance: funeral plans).

Manufacturing a funeral plan product

1.7.3 G The *Glossary* term ‘manufacture’ includes ‘designing, developing, creating and/or entering into or carrying out a *funeral plan contract* as provider’ which cover activities prior to the *funeral plan product* being approved for marketing and *distribution*, and on a continuing basis after such approval.

1.7.4 R (1) For the purposes of *PROD 7*, a *funeral plan intermediary* is a *manufacturer* of a *funeral plan product* where an overall analysis of their activity shows that they have a decision-making role in designing and developing a *funeral plan contract* for the market.

(2) A decision-making role will be assumed, in particular, where a *funeral plan intermediary* autonomously determines the essential features and main elements of a *funeral plan contract*, including any of its price, costs, target market or guarantee rights, which are not substantially modified by the *funeral plan provider*.

(3) Personalisation of and adaptation of existing *funeral plan products* in the context of *funeral plan distributions* for individual *customers*, as well as

the design of tailor-made contracts at the request of a single *customer*, are not manufacturing.

#### Territorial scope

- 1.7.5 R *PROD 7* applies to a *firm* with respect to activities carried on by it, or its *appointed representative*, in relation to:
- (1) a *funeral plan product*; and
  - (2) a *subsisting funeral plan*.

#### Interaction of PROD 7 and the RPPD Guide

- 1.7.6 G The *RPPD* Guide does not apply to a *firm* to which *PROD 7* applies for matters covered by, and where the *firm* has complied with, *PROD 7*.

After PROD 6 (Product governance: additional provisions for pathway investments) insert the following new chapter: PROD 7. The text is not underlined.

## **7 Product governance: funeral plans**

### **7.1 General**

#### Other requirements

- 7.1.1 G This chapter does not affect the application of other requirements in the *FCA Handbook* applying to *funeral plan providers* or *firms* in relation to *funeral plan distributions*, including but not limited to:
- (1) Identification and management of conflicts of interest (*SYSC 10.1* (Conflicts of interest));
  - (2) Funeral plan remuneration incentives (*SYSC 19F.3* (Funeral plan remuneration incentives));
  - (3) Structure arrangements (*FPCOB 3* (Structure provisions-arrangements underpinning a funeral plan contract));
  - (4) Disclosure (*FPCOB 6* (Information about the firm and its services) and *FPCOB 9* (Product information));
  - (5) Remuneration (*FPCOB 6.4* (Charging for funeral plan distribution) and *FPCOB 6.5* (Payments to funeral plan intermediaries)).

### **7.2 Manufacture of funeral plans**

Product governance arrangements: product approval

- 7.2.1 R A *manufacturer* must maintain, operate and review a process for the approval of:
- (1) a *funeral plan product*; and
  - (2) any significant adaptation of an existing *funeral plan product*,
- in each case before it is marketed or distributed to *customers*.
- 7.2.2 G (1) *PROD 7.2.1R(1)* includes any *funeral plan product* whether a new product *manufactured* on or after 29 July 2022 or any *existing funeral plan product*. In relation to an *existing funeral plan product*, references in *PROD 7.2* and *7.3* to ‘marketing’ or ‘distributing’ includes reference to any future activity regardless of whether the product has previously been made available for marketing or distribution.
- (2) For the purposes of *PROD 7.2.2R(2)*:
- (a) whether a proposed change to the product would be a ‘significant adaptation’ should include consideration of the potential impact that the adaptation may have on an existing or potential *customer* (when compared to the unadapted version of the product);
  - (b) a ‘significant adaptation’ in relation to a *funeral plan product* may include, but is not restricted to, a proposed change to the undertaking to provide funeral arrangements, services added or removed, level of monetary benefits (other than adjustments for inflation or other cost variations) costs, and any other significant change to the terms and conditions.

Product governance arrangements: identifying the necessary approval process

- 7.2.3 R The product approval process in *PROD 7.2.1R* must be proportionate and appropriate to the nature of the *funeral plan product*.
- 7.2.4 G A *manufacturer* should take into account the following when considering whether the product approval process is proportionate and appropriate:
- (1) the complexity of the *funeral plan product*;
  - (2) the degree to which publicly available information can be obtained;
  - (3) the nature of the *funeral plan product* and the risk of consumer detriment related to it;
  - (4) the characteristics of the target market;
  - (5) the scale and complexity of the relevant business of the *manufacturer* or *distributor*;



- (6) the potential risk, and possible levels, of harm to *customers* if the product design is flawed, in particular, due to the potential scale of harm if the product is intended for a wide target market;
- (7) the nature of the cover that the product is intended to provide;
- (8) whether the distribution arrangements could mean *customers* are at a greater risk of not receiving fair value from the product;
- (9) any particularly notable features of, or relating to, existing products (including how it has been distributed); and
- (10) the nature and complexity of the *firm's* existing or intended *customer* base, for example whether it includes or is likely to include:
  - (a) different types of *customers* with varying characteristics including in relation to their understanding of financial matters; and
  - (b) a significant number of vulnerable *customers*.

Product approval process: outcomes, measures and procedures

- 7.2.5 R A *manufacturer* must have a product approval process that:
- (1) ensures the design of a *funeral plan product*:
    - (a) identifies how funeral arrangements will be provided;
    - (b) delivers fair value;
    - (c) takes into account the intended *customers* including their objectives, interests, needs and characteristics;
    - (d) does not adversely affect *customers*; and
    - (e) is driven by features that benefit the *customer* and not by a business model which relies on poor *customer* outcomes to be profitable;
  - (2) prevents or mitigates *customer* detriment; and
  - (3) supports a proper management of conflicts of interest.
- 7.2.6 R The product approval process must contain appropriate measures and procedures for:
- (1) the design, distribution, monitoring and review of a *funeral plan product*;
  - (2) identifying whether the product is, or remains, appropriate to be marketed or distributed to *customers*; and

- (3) taking corrective and/or mitigating action for *funeral plan products* where actual or potential *customer* detriment is identified.

Product approval process: written policy and record keeping

- 7.2.7 R A *manufacturer* must set out the product approval process in a written document (“product oversight and governance policy”), which is made available to the relevant staff.
- 7.2.8 R A *manufacturer* must make and retain a record of any relevant actions taken in relation to the product approval process. The record must be made available to the *FCA* upon request.

Product approval process: governing body responsibility

- 7.2.9 R A *manufacturer’s governing body* must:
- (1) endorse and be responsible for establishing, implementing and reviewing the product approval process; and
  - (2) verify internal compliance with that process on an ongoing basis.

Product approval process: staff competence

- 7.2.10 R A *manufacturer* must ensure that any of its staff involved in the *manufacture* of a *funeral plan product* has the necessary skills, knowledge and expertise to properly carry out this role and, in particular, to understand the *funeral plan product* and the interests, objectives and characteristics of the *customers* belonging to the target market. (Also see SYSC 5.1.1R (competent employee rule)).
- 7.2.11 R Where a *manufacturer* uses a third party to undertake any part of the *manufacture* of the *funeral plan product* on its behalf, the *manufacturer* remains fully responsible for compliance with the product approval process.

Product approval process: review of process

- 7.2.12 R
- (1) A *manufacturer* must regularly review its product approval process to ensure that the process is still appropriate and up to date.
  - (2) Where the process is identified to no longer be appropriate, the *manufacturer* must:
    - (a) amend the product approval process;
    - (b) review any product approved since the approval process was last deemed to be appropriate to:
      - (i) ensure these products were correctly approved for marketing and/or distribution; and

- (ii) take all necessary steps for the mitigation and remediation of any actual or potential harm to *customers*.

Product approval process: manufacture by more than one manufacturer

- 7.2.13 R (1) Where two or more *firms* collaborate to *manufacture a funeral plan product*, the *firms* must outline their mutual responsibilities in a signed written agreement.
- (2) The written agreement in (1) must specify:
- (a) their respective roles in the product approval process; and
  - (b) how they will collaborate to comply with the requirements in *PROD 7.2 (Manufacture of funeral plans)*, including the procedures through which they will agree on the identification of the target market.

Product approval process: fair value

- 7.2.14 R A *manufacturer* must only approve a *funeral plan product* where it provides fair value to *customers* in the target market.

- 7.2.15 R (1) A *manufacturer* must:
- (a) be able to clearly demonstrate how any *funeral plan product* provides fair value; and
  - (b) make and retain a record of the value assessment required by *PROD 7.2.14R*.
- (2) Where a *manufacturer* is unable to both:
- (a) identify; and
  - (b) clearly demonstrate,
- that the *funeral plan product* will provide fair value, the *manufacturer* must not:
- (c) market the *funeral plan product*; or
  - (d) permit the *funeral plan product* to be *distributed* (whether directly or through another *person*),
- unless the *manufacturer* has ensured appropriate changes have been made so that fair value will be provided.

Product approval process: meaning of value

- 7.2.16 R In *PROD 7* “value” means the relationship between the total price to the *customer* and the quality of the product(s) and/or services provided. The assessment of value must include consideration of at least the following:
- (1) the nature of the product, including the benefits that will be provided, their quality, and any limitations (for example, in the scope of the funeral arrangements or other features);
  - (2) the type and quality of services provided to *customers*;
  - (3) the expected total price to be paid by the *customer* when buying the *funeral plan product*, and the elements that make up the total price. This will need to include consideration of at least the following:
    - (a) the overall cost to the *manufacturer* of the *funeral plan product* of:
      - (i) operating the product, including the costs of the trust or *premiums* paid towards an *insurance policy* to meet the requirements in *FPCOB 3* (Structure provisions - arrangements underpinning a funeral plan contract); and
      - (ii) the delivery of funeral benefits under it; and
    - (b) the individual elements of the expected total price to be paid by the *customer* including, but not limited to:
      - (i) the *funeral plan product*;
      - (ii) the costs of the distribution arrangements, including the remuneration of any relevant *person* in the distribution arrangements, and including where a *manufacturer* delegates the final decision on setting the price to another *person*; and
  - (4) how the intended distribution arrangements support, and will not adversely affect, the intended value of the product.

- 7.2.17 R A *manufacturer* must not rely on individual *customers* to consider whether they are making fair value purchases in place of any part of the *manufacturer’s* own assessment.

Product approval process: compliance with fair value requirement

- 7.2.18 G The following *evidential provision* provides examples of arrangements that the *FCA* considers will breach *PROD 7.2.14R*.

- 7.2.19 E (1) A *manufacturer* should not have a *funeral plan product* where:

- (a) the difference between the cost of delivering the *funeral plan contract* obligations to the *manufacturer* and the total price paid by the *customer* bears no reasonable relationship to:
    - (i) the actual costs incurred by the *manufacturer* or any other *person* involved in the distribution arrangements;
    - (ii) the quality of any benefits (including of the *funeral plan product*); or
  - (b) any difference between the cost of the funeral arrangements under the *funeral plan product* and the cost of the equivalent funeral arrangements purchased without a *funeral plan contract* does not have an objective and reasonable basis.
- (2) Contravention of any of (1) may be relied on as tending to establish contravention of *PROD 7.2.14R*.

Product approval process: information to be used when assessing a product for approval

- 7.2.20 R When assessing whether a product should be approved for the purposes of *PROD 7.2.1R*, a *manufacturer* must use the full range of data and information available to it including, but not limited to:
- (1) information available to the *manufacturer* internally including:
    - (a) *customer* research;
    - (b) the performance of the *funeral plan product* or other *funeral plan products* of the *manufacturer*, including for example:
      - (i) how the estimated costs of funerals compare to actual costs;
      - (ii) number of *customers* cancelling the *funeral plan contracts*;
      - (iii) number of missed instalment plan payments by the *customer*; and
      - (iv) number of *funeral plan contracts* expected to be claimed but have not been redeemed;
    - (c) complaints data (including root cause analysis and handling times), both expected for the product itself and/or any actual information from a comparable product;
  - (2) public information or information obtainable by the *manufacturer* from external sources, including analysis of similar *funeral plan products* available from other *firms*; and

- (3) information available to the *manufacturer* specifically from *persons* in the distribution arrangements or external funeral provider, including:
  - (a) any remuneration and its impact on the value of the product;
  - (b) levels or quality of service provided by any *person* in the distribution arrangements;
  - (c) any results of monitoring and oversight of the processes of any *persons* in the distribution arrangement (for example, call monitoring or file checks), including in relation to other products that *person distributes*; and
  - (d) the wholesale and retail prices of a funeral not paid for using a *funeral plan contract* (whether paid for in advance or after the death of a *person*).

Product approval process: product backing arrangements

- 7.2.21 R A *manufacturer* must only approve a *funeral plan product* where it has established adequate processes and procedures to ensure:
- (1) any *funeral plan contracts* entered into using that product will have the necessary and robust trust or *insurance* arrangements required to comply with *FPCOB 3* (Structure provisions – arrangements underpinning a funeral plan contract); and
  - (2) at a product level, there is sufficient oversight and management of those trust or *insurance* arrangements to mitigate the risk of *customer* harm.

Product approval process: identifying the target market

- 7.2.22 R A *manufacturer* must ensure that for each *funeral plan product* the product approval process:
- (1) specifies an identified target market;
  - (2) assesses all relevant risks to the identified target market;
  - (3) identifies that a *funeral plan product* offers fair value to the specified target market, taking into account in particular their needs, objectives, interests and characteristics;
  - (4) permits only the approval of *funeral plan products* that are compatible with the needs, characteristics and objectives of the *customers* belonging to the target market;
  - (5) verifies that the intended distribution strategy is consistent with the identified target market; and

- (6) requires reasonable steps are taken to ensure that the *funeral plan product* is distributed to the identified target market.
- 7.2.23 R A *manufacturer* must identify the target market at a sufficiently granular level, taking into account the characteristics, risk profile, complexity and nature of the *funeral plan product*.
- 7.2.24 R A *manufacturer* must identify groups of *customers* for whose needs, characteristics and objectives the *funeral plan product* is generally not compatible.
- 7.2.25 R When assessing whether a *funeral plan product* is compatible with a target market, a *manufacturer* must take into account:
- (1) the level of information available to the *customers* belonging to that target market and their financial literacy; and
  - (2) vulnerable *customers*.
- 7.2.26 G
- (1) The identification of the target market should describe a group of *customers* sharing common characteristics at an abstract and generalised level in order to enable the *manufacturer* to adapt the features of the product to the needs, characteristics and objectives of that group of *customers*.
  - (2) The identification of the target market should be distinguished from the individual assessment at the point of sale to determine whether a product meets the demands and needs of the individual *customer*.
- Product approval process: product testing
- 7.2.27 R
- (1) A *manufacturer* must test a *funeral plan product* appropriately, including scenario analyses, in a qualitative manner and quantitative manner.
  - (2) The product testing in (1) must assess whether the *funeral plan product* over its lifetime meets the identified needs, objectives and characteristics of the target market.
  - (3) The requirement in (1) must be carried out:
    - (a) before approving the product for marketing or distribution;
    - (b) when the product is being significantly adapted; and
    - (c) where the target market has significantly changed.
- 7.2.28 R A *manufacturer* must not bring a *funeral plan product* to the market if the results of the product testing show that the product does not provide fair value including where it would not meet the identified needs, objectives and characteristics of the target market.

Distribution channels: selecting channels

- 7.2.29 R A *manufacturer* must carefully select distribution arrangements, including specific distribution channels that are appropriate for the target market, taking into account the particular characteristics of the relevant *funeral plan product*.
- 7.2.30 R (1) When selecting any distribution arrangements, including any particular distribution channel, a *manufacturer* must be able to demonstrate clearly that these arrangements:
- (a) result in fair value to the *customer*;
  - (b) are consistent with the requirements in *FPCOB* 6.4 (charging for funeral plan distribution); and
  - (c) prevent or mitigate the risk of *customer* detriment arising from the distribution of the product, for example by verifying that any proposed distributor has the necessary knowledge, expertise and competence; and
  - (d) do not pose a significant risk of a distribution channel failing to meet the requirements in *FPCOB*.
- (2) A *manufacturer* must not use a distribution channel unless it is able to demonstrate the requirements in (1) are met.
- 7.2.31 G *Manufacturers* should only select *distributors* that have the necessary knowledge, expertise and competence to understand the features of a *funeral plan product* and the identified target market.
- 7.2.32 R Whenever making a change to the distribution arrangements, including adding a further distribution channel, a *manufacturer* must:
- (1) obtain all necessary information from the *distributor* or any other *person* who will be involved with the distribution arrangement, including that set out in *PROD* 7.2.35R; and
  - (2) identify whether the proposed change to the distribution arrangements is consistent with the fair value requirement in *PROD* 7.2.14R.

Distribution channels: information disclosure to distributors

- 7.2.33 R (1) A *manufacturer* must make available to a *distributor* all appropriate information on the:
- (a) *funeral plan product*, including to enable the *distributor* to understand the intended value established by the *manufacturer*;
  - (b) product approval process;



- (c) identified target market of the *funeral plan product*, including any type of *customer* for whom the *funeral plan product* is unlikely to provide fair value; and
      - (d) suggested distribution strategy.
    - (2) The information in (1) must:
      - (a) include information on the main features and characteristics of the *funeral plan products*, their risks and costs, including implicit costs, and any circumstances which might cause a conflict of interest to the detriment of the *customer*;
      - (b) be clear, complete and up to date.
- 7.2.34 R (1) The information a *manufacturer* has to make available to any *distributor* under *PROD* 7.2.33R(1) must be of an adequate standard to enable *distributors* to:
- (a) understand the *funeral plan products*;
  - (b) comprehend the identified target market for the *funeral plan products*;
  - (c) identify any *customers* for whom the *funeral plan products* are not compatible with their needs, characteristics and objectives; and
  - (d) carry out distribution activities for the relevant funeral plans in accordance with the *best interests of their customers* as prescribed in *FPCOB* 2.1.2R.
- (2) A *manufacturer* is not required to disclose specific information objectively considered to be commercially sensitive if the information it does make available would still allow *distributors* to meet *PROD* 7.2.35R(1)(a) and (b).

Distribution channels: obtaining information from distributors

- 7.2.35 R A *manufacturer* must obtain from any *person* in the distribution arrangements all necessary and relevant information to enable it to identify the remuneration associated with the distribution arrangements to allow it to assess the ongoing value of the product, including at least:
- (1) the type and amount of remuneration of each *person* in the distribution arrangement where this is part of the *funeral plan contract price* or otherwise paid directly by the *customer*, including in relation to *additional products*;
  - (2) an explanation of the services provided by each *person* in the distribution arrangements; and

- (3) confirmation from any *firm* in the distribution arrangements that any remuneration is consistent with their regulatory obligations, including SYSC 19F.3 (Funeral plan remuneration incentives).
- 7.2.36 G (1) Where the *manufacturer* is considering the effects of the distribution arrangements on value, it should consider whether the additional costs of any individual party in the arrangements that add to the total price paid by the *customer* deliver any, or a proportional, additional benefit. If not, a *manufacturer* should consider how it can be satisfied that the arrangements are consistent with its obligations to be able to clearly demonstrate fair value to the *customer*.
- (2) A benefit that could be consistent with fair value might include where the party's inclusion in the distribution arrangements increases access to the product for *customers* in the target market in a way that is proportionate to the additional cost involved.

#### Monitoring and review of funeral plan products

- 7.2.37 R A *manufacturer* must regularly review the *funeral plan products* it offers or markets taking into account any event that could materially affect the potential risk to the identified target market, the main features or the guarantees of the *funeral plan product*. In doing so, the *manufacturer* must assess at least the following:
- (1) whether the *funeral plan product* remains consistent with:
- (a) the identified target market, including their interests, needs, characteristics and objectives;
  - (b) the fair value assessment required under *PROD 7.2.14R*; and
- (2) whether the intended distribution strategy remains appropriate, including whether those products are being distributed to the target market or are reaching *customers* outside the target market.
- 7.2.38 R A *manufacturer* must ensure that the review process:
- (1) has the necessary measures to be able to identify if the *funeral plan product* is not providing fair value; and
- (2) provides that appropriate actions be taken:
- (a) for the mitigation and any potential remediation of the harm to existing *customers*; and
  - (b) to prevent harm to new *customers*.

#### Monitoring and review of funeral plan products: minimum review period

- 7.2.39 R A *manufacturer* must undertake the regular review:

- (1) every 12 *months*; or
- (2) more frequently where the potential risk associated with the *funeral plan product* makes it appropriate to do so.

7.2.40 R When determining the appropriate interval for review of a *funeral plan product*, a *manufacturer* must take into account:

- (1) the nature of the *customer* base, including whether there are significant numbers of vulnerable *customers*;
- (2) any specific indicators seen in the *manufacturer's* assessment of the product's value to the *customer*;
- (3) the nature and type of distribution arrangements being used;
- (4) any indicators of *customer* harm potentially emerging from the performance of the product (for example, through redemptions of *funeral plan contracts*, missed instalment plan payments by the *customer*, and/or the number of *funeral plan contracts* expected to be redeemed but have not been redeemed and complaints data); and
- (5) any relevant external factors, such as changes to the applicable legal rules, technological developments, or changes to the market situation.

Product monitoring and review: monitoring through lifetime of the plan

- 7.2.41 R
- (1) A *manufacturer* must identify during the lifetime of a *funeral plan product* any circumstances related to the *funeral plan product* that may adversely affect a *customer* of that product.
  - (2) Where a *manufacturer* identifies an event that may adversely affect a *customer* of the product, the *manufacturer* must:
    - (a) take appropriate action to mitigate the situation and prevent further occurrences of the detrimental event; and
    - (b) promptly inform concerned *distributors* and *customers* about the remedial action taken.

Product monitoring and review: monitoring distribution arrangements

- 7.2.42 R
- (1) A *manufacturer* must take appropriate steps to monitor:
    - (a) that a *funeral plan product distributor* acts in accordance with the objectives of the *manufacturer's* product approval process; and
    - (b) any impact which the distribution arrangements are having on the value including whether the distribution channels remain appropriate.

- (2) *A manufacturer* must verify on a regular basis whether the *funeral plans products* are distributed on the identified target market.
- (3) The monitoring activities must be reasonable, taking into consideration the characteristics and the legal framework of the respective distribution channels.

7.2.43 G *PROD 7.2* does not require the *manufacturer* to monitor a *distributor's* compliance with general regulatory requirements when carrying out *funeral plan distributions* for individual *customers*.

7.2.44 R *A manufacturer* must:

- (1) ensure that it has sufficient, good quality management information; and
- (2) use the full range of data and information available to it (whether it holds this information already, the information is publicly available, or it is able to obtain it from another *person*),

to enable it to properly understand and monitor the *funeral plan product*.

7.2.45 G *A manufacturer* should identify whether there is a risk to its continuing to provide fair value where there is a material change in the relationship between the price to the *customer* and the actual costs to the *manufacturer* or another party involved in the ongoing service/distribution of the product.

Product monitoring and review: considering changes to funeral plan products

7.2.46 R For the purposes of showing that the requirement in *PROD 7.2.1R* is met, where a *manufacturer* makes a change to a *funeral plan product*, it must make and retain a record of:

- (1) the assessment of whether that change would amount to a significant adaptation of the *funeral plan product*; and
- (2) where the assessment in (1) is that the change would not be a significant adaptation, the reasons for that decision.

Product monitoring and review: remedial and mitigating action

7.2.47 R *Manufacturers* considering that the distribution of their *funeral plan products* is not in accordance with the objectives of their product approval process must take appropriate remedial action including but not limited to:

- (1) amending the distribution arrangements, including ceasing to use certain *distributors* or distribution channels;
- (2) amending remuneration structures;

- (3) withdrawing the *funeral plan product* from continued marketing or distribution; or
- (4) paying redress as appropriate.

### 7.3 Distribution of funeral plans

Distribution arrangements: general requirements

7.3.1 R A *distributor* must have in place product distribution arrangements containing appropriate measures and procedures to:

- (1) aim to prevent and mitigate *customer* detriment;
- (2) be consistent with the aim of providing fair value to the *customer*;
- (3) support a proper management of conflicts of interest; and
- (4) ensure that the objectives, interests and characteristics of *customers* are duly taken into account.

Distribution arrangements: obtaining and understanding information

7.3.2 R (1) A *distributor* must ensure the product distribution arrangements contain effective measures and procedures to:

- (a) obtain from the *manufacturer* all appropriate information sufficient, adequate and reliable about the *funeral plan products* they intend to offer to their *customers* to ensure that they will be distributed in accordance with the characteristics, objectives and needs of the target market; and
  - (b) fully comprehend those *funeral plan products*, taking into account the level of complexity and the risks related to the products as well as the nature, scale and complexity of the relevant business of the *distributor*.
- (2) The information in (1) must be sufficient to understand:
- (a) the characteristics of each *funeral plan product*;
  - (b) the outcome of the value assessment required by *PROD* 7.2.14R, including:
    - (i) the value that the *funeral plan product* is intended to provide to the *customer*; and
    - (ii) the impact that the distribution arrangements (including any remuneration it, or another *person* in the distribution chain to which it belongs, receives)

has on the overall value of the *funeral plan product* to the *customer*; and

- (c) the identified target market of each *funeral plan product*, including any identified group of *customers* for whom the *funeral plan product* is not expected to provide fair value.

7.3.3 R For the purposes of *PROD 7.3.2R*, a *distributor* must consider at least the following:

- (1) the benefits the product is intended to provide to the *customer*;
- (2) the characteristics, objectives, interests and needs of the target market;
- (3) the interaction between the price paid by the *customer* and the extent and quality of any services the *distributor* (or any *person* connected to it) provides; and
- (4) whether any remuneration it receives in relation to the *funeral plan product* would result in the product ceasing to provide fair value to the *customer*.

Distribution arrangements: events indicating contravention of fair value

7.3.4 G The following *evidential provision* provides examples of what the *FCA* considers will breach *PROD 7.3.1R*.

7.3.5 E (1) A *firm's* distribution arrangements, including any distribution strategy it sets up, should not result in:

- (a) the *firm* receiving a level of remuneration which does not bear a reasonable relationship to the *firm's* actual costs, or their contribution, level of involvement or the benefit added by them, to the arrangements for the distribution of the product, including where the *firm* provides little or no benefit beyond that which the *customer* would receive if they obtained the *funeral plan product* through another distribution channel;
- (b) the *firm* having remuneration arrangements which give an incentive to propose or recommend a *funeral plan product* which either does not meet the *customer's* needs (or not as well as another product would) or is not in accordance with the *customer's best interests rule*; and
- (c) the level of any remuneration (for which the *firm* is responsible for setting) not being reasonably reflective of the costs actually incurred.

- (2) Contravention of any of (1) may be relied upon as tending to establish contravention of *PROD 7.3.1R*.

Distribution arrangements: disclosing information to manufacturers

- 7.3.6 R A *distributor* must, upon request, provide *manufacturers* with:
- (1) information on the *distributor's* remuneration in connection with the distribution of the *funeral plan product*;
  - (2) information on any additional product or service that the *distributor* provides to the *customer*, which may affect the *manufacturer's* intended value of the product;
  - (3) relevant sales information, including, where appropriate, information on the regular reviews of the product distribution arrangements; and
  - (4) confirmation that the distribution arrangements are consistent with the obligations of the *firm* under the *FCA Handbook*, including in particular in SYSC 10.1 (Conflicts of interest) and SYSC 19F.3 (Funeral plan remuneration incentives).

Distribution arrangements: record keeping

- 7.3.7 R A *distributor* must set out the product distribution arrangements in a written document and make it available to their relevant staff.
- 7.3.8 R A *distributor* must ensure that all relevant actions taken by it or any other party in relation to their product distribution arrangements are:
- (1) duly documented;
  - (2) kept for audit purposes; and
  - (3) made available to the *FCA* upon request.

Distribution arrangements: senior management responsibility

- 7.3.9 R A *distributor's governing body* must:
- (1) endorse and be ultimately responsible for establishing, implementing and reviewing the product distribution arrangements; and
  - (2) verify internal compliance with those arrangements on an ongoing basis.

Distribution arrangements: consistency with target market

- 7.3.10 R A *distributor* must ensure that any specific distribution strategy that it sets up or applies is consistent with:
- (1) the distribution arrangements set up by the *manufacturer*; and

- (2) the target market identified in *PROD 7.2* (Manufacture of funeral plans), including any *customers* to whom the product should not be distributed.

Distribution arrangements: review of distribution arrangements

- 7.3.11 R (1) A *distributor* must regularly review, at least every 12 *months*, its product distribution arrangements to ensure that those arrangements are still valid and up to date.
- (2) When determining the appropriate intervals for the regular review of their product distribution arrangements, a *distributor* must take into account the size, scale and complexity of the *funeral plan product* involved.
- 7.3.12 R When reviewing the product distribution arrangements, a *distributor* must verify that the *funeral plan products* are distributed to the identified target market.

Distribution arrangements: amending distribution arrangements after review

- 7.3.13 R A *distributor* must amend the product distribution arrangements, where appropriate, in view of the outcome of the review of the product distribution arrangements.
- 7.3.14 R When a *distributor* becomes aware:
- (1) that a *funeral plan product* is not in line with the interests, objectives and characteristics of its identified target market; or
  - (2) of other product-related circumstances that may adversely affect the *customer*,
- it must promptly:
- (3) inform the *manufacturer*; and
  - (4) where appropriate, amend the distribution arrangements for that *funeral plan product*.
- 7.3.15 R (1) A *distributor* must take appropriate remedial and mitigating action, including to amend its product distribution arrangements, where it identifies:
- (a) a product is not providing fair value for *customers*;
  - (b) any aspects of a product that may mean it does not offer fair value; or



- (c) the distribution arrangements, including remuneration structures, may mean the *customer* is not being provided with fair value.
  - (2) The actions which the *distributor* takes for (1) must:
    - (a) aim to mitigate the situation and prevent further occurrences of any possible harm to *customers*, including, where appropriate, amending the distribution strategy for that product; and
    - (b) include informing any relevant *manufacturers* promptly about any concerns they have and any action the *distributor* is taking.
- 7.3.16 G For the purposes of *PROD* 7.3.15R, the steps a *distributor* may need to take include (but are not limited to):
  - (1) amending its remuneration structures;
  - (2) amending the distribution arrangements;
  - (3) improving the quality of, or ceasing, any service or benefits it provides;
  - (4) where the failure to provide fair value is due to the costs or quality of additional products, renegotiating the terms of the current arrangements relating to the additional products, or selecting alternative providers or *distributors* of them, in order to provide for a fair outcome;
  - (5) ceasing to distribute certain products, or ceasing to use certain distribution channels;
  - (6) contacting existing *customers* to inform them of the issues and of the measures being taken to rectify them; and
  - (7) providing redress to *customers*.

## 7.4 Product governance requirements for subsisting funeral plans

### Product governance arrangements

- 7.4.1 R This section applies to a *funeral plan provider* in relation to a *subsisting funeral plan*.
- 7.4.2 R A *funeral plan provider* must ensure that, in relation to its *subsisting funeral plans*, there are adequate product governance arrangements in place, containing appropriate measures and procedures, to ensure a *subsisting funeral plan* is carried out in way that complies with the *firm's* regulatory obligations under the *FCA Handbook*.

Monitoring and review of funeral plan products

- 7.4.3 R A *firm* must:
- (1) regularly review its *subsisting funeral plans*, taking into account any event that could cause material harm to the *customers*; and
  - (2) ensure the review process in (1), provides that appropriate actions be taken for the mitigation and any potential remediation of the harm to existing *customers*.

Monitoring and review of funeral plan products: minimum review period

- 7.4.4 R (1) A *firm* must undertake the regular review at least every 12 *months*.
- (2) When determining the appropriate interval for review of a *funeral plan product*, a *firm* must take into account:
- (a) the nature of the *customer* base, including whether there are significant numbers of vulnerable *customers*;
  - (b) any indicators of *customer* harm potentially emerging from the performance of the product; and
  - (c) any relevant external factors such as changes to the applicable legal rules, technological developments, or changes to the market situation.

Product monitoring and review: remedial and mitigating action

- 7.4.5 R (1) A *firm* must identify during the lifetime of a *subsisting funeral plan* any circumstances related to it that may adversely affect a *customer*.
- (2) Where a *firm* identifies an event that may adversely affect a *customer* holding the *funeral plan contract*, the *firm* must:
- (a) take appropriate action to mitigate the situation and prevent further occurrences of the detrimental event; and
  - (b) promptly inform concerned *customers* about the remedial action taken.

Insert the following new Transitional Provision, PROD TP 2 (Transitional provisions for Funeral Plan Products), after PROD TP 1 (Transitional provisions). The text is not underlined.

**TP 2 Transitional Provisions for Funeral Plan Products**

(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
2.1	<i>Rules in PROD 7.2 in relation to an existing funeral plan product</i>	R	<p>Where an <i>existing funeral plan product</i>:</p> <p>(1) has, before 29 July 2022, been available for marketing and distribution; and</p> <p>(2) remains available for distribution,</p> <p>a <i>manufacturer</i> must ensure that the requirements in <i>PROD 7.2</i> have been met and that it remains appropriate for that product to continue to be marketed and distributed from 29 July 2022.</p>	From 29 July 2022	29 July 2022
2.2	<i>PROD 7.2 and PROD TP 2.1</i>	G	<p>The effect of <i>PROD TP 2.1</i> and the requirements in <i>PROD 7.2</i> is that where the <i>manufacturer</i> is unable to demonstrate it has satisfied these requirements, then the <i>manufacturer</i> will need to:</p> <p>(1) cease any distribution of the product, whether directly or through another person, immediately; and/or</p> <p>(2) take any necessary steps to ensure the product meets the requirements in <i>PROD 7.2</i>, including that it offers fair value before marketing or distributing the</p>		

			product from 29 July 2022.		
2.3	<i>PROD 7.2</i>	G	When identifying the necessary product approval process and arrangements and whether the requirements in <i>PROD 7.2</i> are met, a <i>manufacturer</i> may take into account any previous product governance arrangements, including reviews which the <i>manufacturer</i> (or where there is more than one <i>manufacturer</i> , any other <i>manufacturer</i> ) has undertaken and the extent to which these would or would not have complied with <i>PROD</i> requirements.	From 29 July 2022	29 July 2022

## Annex J

### Amendments to the Supervision manual (SUP)

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

#### 10A FCA Approved Persons in Appointed Representatives

...

#### 10A.10 Customer-dealing functions

...

Customer function (CF 30)

10A.10.7 R The *customer function* is the function of:

- (1) *advising on investments* other than a *non-investment insurance contract* or a funeral plan (but not where this is *advising on investments* in the course of carrying on the activity of giving *basic advice on a stakeholder product*) and performing other functions related to this such as *dealing* and *arranging*

...

...

#### 10C FCA senior managers regime for approved persons in SMCR firms

...

#### 10C What functions apply to what type of firm

##### Annex 1

...

Part Seven: Functions applying to limited scope firms

7.1 R *Limited scope SMCR firms* are divided into the following categories for the purposes of SUP 10C Annex 1:

- (1) ...

...

- (2A) a firm falling within row (6) of the table in SYSC 23 Annex 1 6.4R (funeral plans);

...

...

7.3 R (1) The table in SUP 10C Annex 1 7.4R sets out which *FCA controlled functions* apply to a *limited scope SMCR firm* covered by SUP 10C Annex 1 7.1R(1), (2), (2A), (3), (4), (4A), (8) or (9).

...

7.4 R Table: Controlled functions applying to limited scope SMCR firms except sole traders and authorised professional firms

...

<b>Part 2 (Claims management and funeral plan firms)</b>				
<b>(1) Brief description of function</b>	<b>(2) Function number</b>	<b>(3) Class 1 claims management firms</b>	<b>(4) Other claims management firms</b>	<b>(5) Funeral plan firms</b>
Required functions				
<i>Compliance oversight function</i>	SMF 16	...	...	✗
<i>Limited scope function</i>	SMF 29	...	...	✓

<b>Notes to the table</b>
<p>Note (1): The categories of <i>firm</i> in the column headings of this table are to be interpreted in accordance with the classification of <i>firms</i> at SUP 10C Annex 1 7.1R. Therefore:</p> <p>...</p> <p>(6) column three of Part 2 of the table (Class 1 claims management firms) refers to SUP 10C Annex 1 7.1R(8); <del>and</del></p> <p>(7) column four of Part 2 of the table (Other Claims management firms) refers to SUP 10C Annex 1 7.1R(9); <u>and</u></p> <p>(8) column five of Part 2 of the table (Funeral plan firms) refers to SUP 10C Annex 1 7.1R(2A).</p>

...

## 12 Appointed representatives

...

### 12.2 Introduction

...

Business for which an appointed representative is exempt

12.2.7 G (1) The *Appointed Representatives Regulations* are made by the Treasury under sections 39(1), (1C) and (1E) of the *Act*. These regulations describe, among other things, the business for which an *appointed representative* may be exempt or to which sections 20(1) and (1A) and 23(1A) of the *Act* may not apply, which is business which comprises any of:

(a) *dealing in investments as agent* (article 21 of the *Regulated Activities Order*) where the transaction relates to:

(i) a *pure protection contract* (but only where the contract is not a *long-term care insurance contract*) or *general insurance contract*; or

(ii) a *funeral plan contract*;

...

...

...

### 12.7 Notification requirements

...

Notification of appointed representatives undertaking regulated funeral plan activity

12.7.6A R (1) A firm must notify the FCA in good time before:

(a) it appoints an appointed representative to carry on regulated funeral plan activity for the first time; or

(b) the number of its appointed representatives appointed to carry on regulated funeral plan activity increases through a material threshold.

(2) A firm that has appointed one or more appointed representatives to carry on regulated funeral plan activity must notify the FCA in good

time before it appoints an *appointed representative* to carry on any other *regulated activity* for the first time.

12.7.6B G The purpose of SUP 12.7.6AR is to ensure that the FCA is notified when a *firm* diversifies its activities around *regulated funeral plan activities*. This may be because the *firm*:

- (1) *intends to appoint an appointed representative for the first time where the scope of business for which the firm will accept responsibility will include regulated funeral plan activity*;
- (2) *is the principal to one or more appointed representatives*:
  - (a) *and intends to expand the scope of business of one or more of those appointed representatives for which it accepts responsibility to include regulated funeral plan activity*; or
  - (b) *in relation to which it has accepted responsibility for regulated funeral plan activity only and it intends to expand the scope of business of those, or new, appointed representatives for which it accepts responsibility beyond such activity*.

12.7.6C R A *firm* must submit to the FCA within 80 *business days* of each calendar year end a list of those of its *appointed representatives* which:

- (1) *undertake regulated funeral plan activity*; and
- (2) *are the subject of a multiple principal agreement (for the purposes of SUP 12.4.5BR)*.

12.7.6D G (1) For the purposes of SUP 12.7.6AR(1)(b), an increase through a *material threshold* should be understood as referring to an increase in the number of *appointed representatives* undertaking *regulated funeral plan activity*:

- (a) *from fewer than 25 to 25 or more*;
  - (b) *from fewer than 50 to 50 or more*;
  - (c) *from fewer than 75 to 75 or more*;
  - (d) *from fewer than 100 to 100 or more*;
  - (e) *from fewer than 200 to 200 or more*;
  - (f) *from fewer than 500 to 500 or more*.
- (2) *Any notification required by SUP 12.7.6AR or SUP 12.7.6CR is in addition to any notification required by any other rule in SUP 12 (including the requirement to notify the FCA of the intention to appoint individual appointed representatives in SUP 12.7.1R)*.



- (3) A firm making a notification in accordance with SUP 12.7.6AR or SUP 12.7.6CR should consider the guidance in SUP 15.7 on the form and method of notification.

...

## 16 Reporting requirements

### 16.1 Application

...

- 16.1.3 R Application of different sections of SUP 16 (excluding SUP 16.13, SUP 16.15, SUP 16.16, SUP 16.17, SUP 16.22 and SUP 16.26)

(1) Section(s)	(2) Categories of firm to which section applies		(3) Applicable rules and guidance
...			
SUP 16.4 and SUP 16.5	All categories of <i>firm</i> except:		Entire sections
	...		
	(jc)	<u>a firm with permission to carry on only funeral plan distribution;</u>	
	(k)	a <i>firm</i> falling within a combination of (i), (ia), (j), (ja), <del>and</del> (jb) and (jc).	
...			
Note 1 [deleted]			
...			

...

### 16.12 Integrated Regulatory Reporting

...

#### Purpose

- 16.12.2 G (1) *Principle 4* requires firms to maintain adequate financial resources. The Interim Prudential sourcebooks, *BIPRU*, *GENPRU*, ~~and~~ *IFPRU*

and, for *firms* engaged in *regulated funeral plan activity*, *FPCOB* set out the *FCA*'s detailed capital adequacy requirements. By submitting regular data, *firms* enable the *FCA* to monitor their compliance with *Principle 4* and their prudential requirements.

...

Reporting requirement

16.12.3 R ...

(3) Paragraph (2) does not apply to:

...

(b) *firms* in *RAG 2* in relation to the reporting requirements for *RAG 2* activities (except the funeral plan provision activities); and

...

...

...

16.12.4 R Table of applicable rules containing *data items*, frequency and submission periods

(1)		(2)	(3)	(4)
<i>RAG</i> number	<i>Regulated activities</i>	Provisions containing:		
		applicable <i>data items</i>	reporting frequency/ period	due date
...				
<i>RAG 2.1</i>	<ul style="list-style-type: none"> <li>• effecting contracts of insurance</li> <li>• carrying out contracts of insurance</li> <li>• entering as provider into a funeral plan contract</li> <li>• <u>carrying out a funeral plan</u></li> </ul>	<u><i>RAG 2.1 firms</i> should complete their prudential reporting requirements as set out in the <i>PRA Rulebook</i> except <i>firms</i> carrying out funeral plan provision activities in relation to which <i>SUP 16.12.8AR</i> applies.</u>		

	<u>contract as provider</u>			
...				
RAG 9	<ul style="list-style-type: none"> <li>• <i>home finance mediation activity</i></li> <li>• <i>insurance distribution activity (non-investment insurance contracts)</i></li> <li>• <u><i>funeral plan distribution</i></u></li> </ul>	SUP 16.12.28AR	SUP 16.12.28AR	SUP 16.12.28AR
...				

...

Regulated Activity Group 2.1

16.12.8 R The applicable *data items*, reporting frequencies and submission deadlines referred to in SUP 16.12.4R are set out in the table below. Reporting frequencies are calculated from a *firm's accounting reference date*, unless indicated otherwise. The due dates are the last day of the periods given in the table below following the relevant reporting frequency period.

<u>Description of <i>data item</i></u>	<u><i>Data item</i> (note 1)</u>	<u>Frequency</u>	<u>Submission deadline</u>
<u>Funeral plan conduct return</u>	<u>FP001</u>	<u>Quarterly (note 2)</u>	<u>15 business days after the quarter end</u>
<u>Funeral plan financials return: providers</u>	<u>FP003a</u>	<u>Half yearly (note 3)</u>	<u>80 business days after the half year end</u>
<u>Note 1</u>	<u>When submitting the completed <i>data item</i> required, a <i>firm</i> must use the format of the <i>data item</i> set out in SUP 16 Annex 50AR. Guidance notes for the completion of the <i>data items</i> are set out in SUP 16 Annex 50AR.</u>		
<u>Note 2</u>	<u>Reporting frequencies and reporting periods for this <i>data item</i> are calculated on a calendar year basis and not from</u>		

	<u>a firm's accounting reference date. Quarters end on 31 March, 30 June, 30 September and 31 December.</u>
<u>Note 3</u>	<u>Reporting frequencies and reporting periods for this data item are calculated on a calendar year basis and not from a firm's accounting reference date. The relevant half year periods end on 30 June and 31 December.</u>

...

Regulated Activity Group 9

...

16.12.2 R 8A The applicable *data items*, reporting frequencies and submission deadlines referred to in *SUP* 16.12.4R are set out in the table below. Reporting frequencies are calculated from a *firm's accounting reference date*, unless indicated otherwise. The due dates are the last day of the periods given in the table below following the relevant reporting frequency period.

Description of data item	Data item (note 1)	Frequency		Submission deadline
		Annual regulated business revenue up to an including £5 million	Annual regulated business revenue over £5 million	
<u>Home finance mediation activity and insurance distribution activity</u>				
Balance Sheet	Section A RMAR	Half yearly	Quarterly	30 business days
...				
Fees and levies	Section J RMAR	Annually	Annually	30 business days
<u>Funeral plan distribution activity</u>				
<u>Funeral plan financials return: distributors (note 4)]</u>	<u>FP003b</u>	<u>Half yearly (note 5)</u>		<u>80 business days</u>

...				
<u>Note 4</u>	<u>When submitting the completed <i>data item</i> required, a <i>firm</i> must use the format of the <i>data item</i> set out in SUP 16 Annex 50BG. Guidance notes for the completion of the <i>data item</i> are set out in SUP 16 Annex 50BG.</u>			
<u>Note 5</u>	<u>Reporting frequencies and reporting periods for this <i>data item</i> are calculated on a calendar year basis and not from a <i>firm's accounting reference date</i>. The relevant half year periods end on 30 June and 31 December.</u>			

...

Authorised professional firms

16.12.3 R (1) An *authorised professional firm*, other than one that must comply  
0 with *IPRU(INV)* 3, 5 or 13 in accordance with *IPRU(INV)* 2.1.4R, or one that is a *CASS debt management firm* or one that carries on only *credit-related regulated activity* as a *non-mainstream regulated activity*, must submit an annual questionnaire, contained in SUP 16 Annex 9R, unless:

(a) its only *regulated activities* are one or more of:

...

(v) *mortgage administration*; ~~or~~

(vi) *funeral plan distribution*; or

...

...

After SUP 16 Annex 49BG (Notes on completing the pricing information report form (REP 021)), insert the following new annexes SUP 16 Annex 50AR and SUP 16 Annex 50BG. The text is not underlined.

**16 Annex      R      Funeral Plan Providers - Quarterly Conduct Return (FPR001)**  
**50A**

**Funeral Plan Providers - Half-Yearly Prudential Return (FPR003a)**

**Funeral Plan Intermediaries - Half-Yearly Prudential Return (FPR003b)**

**FPR001 Funeral Plan Providers - Quarterly Conduct Return**

1 Do you wish to report a nil return?

A

--

**Flow Information**

*Aggregated sales for the last quarter of plans made with single payment or due to be paid in less than 12 months*

Plan Holder Age								Totals		Regulated Advice				Distribution	
<50	50-54	55-59	60-64	65-69	70-74	75-79	80+	Total Sales	Total Customer Payments (£) (including those due to be received)	Total Advised Sales (%)	Total Non-Advised Sales (%)	Total Sales (£) by Authorised Intermediaries	Total Sales (£) Direct by Provider	Total Sales (£) by Appointed Representatives where you as Provider are the Principal (i.e. Registered)	Total Sales (£) by Appointed Representatives where an Intermediary or other Third party is the Principal (i.e. Registered)
A	B	C	D	E	F	G	H	I	J	K	L	M	N	O	P

2 Sales of trust backed plans  
3 Sales of insurance backed plans  
4 Total

Please provide the details of the top 5 firms of these sales (either Appointed Representatives, directly Authorised intermediaries, or unregulated introducers)

Trust Backed Plans Distribution						
	Firm Name	FRN (if applicable)	No of Sales	Total Payments	Partnership with Firm (Yes/No)	Distribution Category
	A	B	C	D	E	F
1						
2						
3						
4						
5						

6 Please provide the details of the top 5 firms of these sales (either Appointed Representatives, directly Authorised intermediaries, or unregulated introducers)

Insurance Backed Plans Distribution						
	Firm Name	FRN (if applicable)	No of Sales	Total Payments	Partnership with Firm (Yes/No)	Distribution Category
	A	B	C	D	E	F
1						
2						
3						
4						
5						

*Aggregated sales for the whole of last quarter of plans made with payment terms longer than 12 months*

Plan Holder Age								Totals		Term length				Regulated Advice		Distribution		Total Sales (£) by Appointed Representatives where an Intermediary or other Third party is the Principal (i.e. Registered)	
<50	50-54	55-59	60-64	65-69	70-74	75-79	80+	Total Sales	Total Customer Payments (£) (including those due to be received over the whole term)	Payments for >12 months to 5 years	Payments for >5 years to 10 years	Payments for >10 to 20 years	Payments for => 20 years	% Advised Total Sales	% Non-Advised	of which: sold by Authorised Intermediaries	of which: sold directly by Provider	Total Sales (£) by Appointed Representatives where you as Provider are the Principal (i.e. Registered)	Total Sales (£) by Appointed Representatives where an Intermediary or other Third party is the Principal (i.e. Registered)
A	B	C	D	E	F	G	H	I	J	K	L	M	N	O	P	Q	R	S	T

7 Sales of trust backed plans  
8 Sales of insurance backed plans  
9 Total

10 Please provide the details of the top 5 Intermediaries of these sales (either Appointed Representatives, directly Authorised intermediaries, or unregulated introducers)

Trust Backed Plans Distribution						
	Firm Name	FRN (if applicable)	No of Sales	Total Payments	Partnership with Firm (Yes/No)	Distribution Category
	A	B	C	D	E	F
1						
2						
3						
4						
5						

11 Please provide the details of the top 5 Intermediaries of these sales (either Appointed Representatives, directly Authorised intermediaries, or unregulated introducers)

Insurance Backed Plans Distribution						
	Firm Name	FRN (if applicable)	No of Sales	Total Payments	Partnership with Firm (Yes/No)	Distribution Category
	A	B	C	D	E	F
1						
2						
3						
4						
5						

**Fulfillment and Cancellation (in preceding quarter)**

**A**

12 Total number of funeral plans fulfilled

13 Number of plans claimed where not fully paid up

14 Number of claims declined

15 Number of cancellations by plan holders in cooling off period

16 Number of cancellations by plan holders outside cooling off period

17 Number of cancellations by yourselves as provider

**Fees and Charges (in preceding quarter)**

18 Total cancellation (£) fees paid per customer

Min	Median	Max
<b>A</b>	<b>B</b>	<b>C</b>

**A**

19 What was the total remuneration paid to the firm's employees selling plans?

20 What was the amount of variable remuneration paid to the firm's employees selling plans?

Min	Median	Max	Total
<b>A</b>	<b>B</b>	<b>C</b>	<b>D</b>

**A**

21 How many employees do you have selling plans?

22 What was the amount paid to non-employee sales agents i.e. commission (£)?

Min	Median	Max	Total
<b>A</b>	<b>B</b>	<b>C</b>	<b>D</b>

**A**

23 How many sales by non-employee sales agents does this cover?

24 Level of upfront admin charges/fees (£) (including those withdrawn from trusts)?

Min	Median	Max	Total
<b>A</b>	<b>B</b>	<b>C</b>	<b>D</b>

25 Level of any ongoing admin charges/fees (£) (including those withdrawn from trusts)?

Min	Median	Max	Total
<b>A</b>	<b>B</b>	<b>C</b>	<b>D</b>



## FPR003a Funeral Plan Providers - Half-Yearly Prudential Return

### Part One: Financial Statement Information

#### Section A: Balance Sheet

(as at end date of Reporting Period)

	A	B
<b>Fixed Assets</b>		
1	Intangible assets	<input type="text"/>
2	Tangible assets	<input type="text"/>
3	Investments	<input type="text"/>
4	Total Fixed Assets	<input type="text"/>
<b>Current Assets</b>		
5	Inventories	<input type="text"/>
6	Debtors (see Memo (1))	<input type="text"/>
7	Investments held as current assets (see Memo (2))	<input type="text"/>
8	Cash at bank and in hand	<input type="text"/>
9	Other assets	<input type="text"/>
10	Total Current Assets	<input type="text"/>
<b>Current Liabilities</b> (amounts falling due within one year)		
11	Bank loans and overdrafts	<input type="text"/>
12	Other liabilities falling due within one year	<input type="text"/>
13	Total Current Liabilities	<input type="text"/>
14	Net current assets	<input type="text"/>
15	Total assets less total current liabilities	<input type="text"/>
16	Other liabilities falling due after more than one year	<input type="text"/>
17	Provisions for liabilities and charges	<input type="text"/>
18	Net assets	<input type="text"/>
19	Guarantees provided by firm	<input type="text"/>

**Capital and Reserves****Capital account (incorporated businesses excluding Limited Liability Partnerships)**

20	Ordinary share capital	<input type="text"/>
21	Preference share capital	<input type="text"/>
22	Share premium account	<input type="text"/>
23	Profit and Loss account (retained earnings)	<input type="text"/>
24	Other reserves	<input type="text"/>
25	Total Capital and Reserves	<input type="text"/>

**Capital account (unincorporated businesses and Limited Liability Partnerships)**

26	Sole trader / Partners' capital account / Members' capital	<input type="text"/>
27	Other reserves	<input type="text"/>
28	Total Capital and Reserves	<input type="text"/>

Memo (1)

29	Total amount falling due within one year from directors, fellow group undertakings or undertakings in which the firm has a participating interest where included in Debtors.	<input type="text"/>
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Memo (2)

30	Value of shares in group undertakings where such investments are held as current assets.	<input type="text"/>
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**Section B: Profit and Loss Account**

(for the period corresponding to the Reporting Period)

**Revenue**

(Income accrued during the reporting period)

B

31	Revenue from all regulated pre-paid funeral plan activities	<input type="text"/>
32	Revenue from all FCA regulated activities <i>(including regulated pre-paid funeral plan activities)</i>	<input type="text"/>
33	Revenue from all non-FCA regulated activities	<input type="text"/>
34	Total Revenue	<input type="text"/>

**Expenditure**

(Expenditure incurred during the reporting period)

<b>35</b>	Total Expenditure	<input type="text"/>
<b>36</b>	Profit/(Loss) on ordinary activities before taxation	<input type="text"/>
<b>37</b>	Profit/(Loss) on extraordinary activities before taxation	<input type="text"/>
<b>38</b>	Taxation	<input type="text"/>
<b>39</b>	Profit/(Loss) for the period before dividends and appropriations	<input type="text"/>
<b>40</b>	Dividends and other appropriations	<input type="text"/>
<b>41</b>	Retained Profit	<input type="text"/>
<i>Annual report and accounts</i>		
<b>42</b>	Date of most recent annual report and accounts	<input type="text" value="dd/mm/yyyy"/>
<b>43</b>	Please provide an attachment or the link to the publication of your most recent annual report and accounts	<input type="text" value="https://"/>

**Part Two: Supplementary Information****Trust-Backed Funderl Plans**

(to be completed by Funeral Plan Providers with funeral plans backed by trust arrangements)

(as at the end date of the Reporting Period)

		Number of undrawn (live) funeral plans not redeemed against a funeral	Total value of undrawn (live) funeral plans not redeemed against a funeral
		A	B
<b>44</b>	Single payment	<input type="text"/>	<input type="text"/>
<b>45</b>	Instalment - fully paid	<input type="text"/>	<input type="text"/>
<b>46</b>	Instalment - not yet fully paid	<input type="text"/>	<input type="text"/>
<b>47</b>	Total	<input type="text"/>	<input type="text"/>
<b>48</b>	Value of trust assets <i>(including net present value of remaining instalments)</i>	<input type="text"/>	
<b>49</b>	Trust assets per undrawn (live) funeral plan <i>(on a fully paid up instalment basis)</i>	<input type="text"/>	

**Solvency Assessment Report (SAR) & Trust Accounts**

(to be completed by Funeral Plan Providers with funeral plans backed by trust arrangements)

B

- 50 Have you obtained a Solvency Assessment Report (SAR) in the last 12 months?
- 51 Date of most recent Solvency Assessment Report (SAR)
- 52 Please provide an attachment or the link to the publication of your most recent Solvency Assessment Report (SAR)
- 53 What is the name of the trust actuary who completed your most recent Solvency Assessment Report (SAR)?
- 54 What is the name of trust actuary's company?
- According to your most recent Solvency Assessment Report (SAR):*
- 55 Valuation Date of Solvency Assessment Report (SAR)
- 56 Valuation of trust assets
- 57 Valuation of pre-paid funeral plan liabilities
- 58 Solvency Ratio (best estimate basis)
- 59 Have any withdrawal / disbursements of trust surplus(es) been authorised by the trust actuary during the Reporting Period?
- 60 Value of any withdrawal / disbursements of trust surplus(es) during Reporting Period
- Trust accounts*
- 61 Date of most recent annual trust accounts
- 62 Please provide an attachment or the link to the publication of your most recent annual trust accounts

**Insurance-Backed Funeral Plans**

(to be completed by Funeral Plan Providers with funeral plans backed by insurance arrangements)

(as at the end date of the Reporting Period)

Number of live insurance-backed funeral plans not redeemed against a funeral	Total Sum Assured (Plan Value) of live insurance-backed funeral plans not redeemed against a funeral
A	B

- 63 Single premium
- 64 Instalment - inside moratorium period
- 65 Instalment - outside moratorium period
- 66 Total
- 67 Average age of policyholders

**Appointed Representatives**

B

- 68 Number of Appointed Representatives ("ARs") registered with the firm, at the end of the Reporting Period, that are engaged in pre-paid funeral plan activities
- 69 Total Revenue accrued by registered Appointed Representatives of the firm from all pre-paid funeral plan activities during the Reporting Period
- 70 Does the firm have appropriate systems and procedures to ensure that the activities of its ARs are effectively monitored and controlled?
- (for firms that have registered Appointed Representatives)
- 71 Number of ARs that have been subject to monitoring visits by the firm during the Reporting Period.
- 72 Number of ARs that have been subject to file reviews by the firm during the Reporting Period.
- 73 Number of ARs that have been subject to financial checks by the firm during the Reporting Period.

**Audited Accounts**

- 74 If your firm is incorporated, does your firm qualify for the Companies House small firms' exemption from having its accounts audited?
- 75 If the firm is required to submit audited accounts, please report the date on which your accounts were last audited

**Part Three: Regulatory Capital**

**Section C: Core Capital Resources Requirement**

(as at the firm's most recent accounting reference date)

B

- 76 Annual income   
Annual income' is the total income (revenue) accrued by the firm during the 12 months prior to the accounting reference date as given in the firm's most recent annual financial statement from the firm's relevant regulated activity or activities.
- 77 the sum of   
(a) the number of undrawn funeral plan contracts backed by trust arrangements, multiplied by the median of the amounts that would be payable to the firm under each trust arrangement if a funeral were required on the day following the end of the firm's previous reporting period , multiplied by 0.5%;  
(b) the number of undrawn funeral plan contracts backed by a whole of life insurance policy, multiplied by the median of the amounts payable to the firm under each whole of life insurance policy if a funeral were required on the day following the end of the firm's previous reporting period , multiplied by 0.5%.
- 78 Base requirement
- 79 2.5% of annual income

**80 Core Capital Resources Requirement**   
(as at the firm's most recent accounting reference date)

**Section D: Core Capital Resources**  
(as at the firm's end date of the Reporting Period)

**Incorporated businesses excluding Limited Liability Partnerships**  
A

<b>81</b>	Share capital	<input type="text"/>
<b>82</b>	Reserves	<input type="text"/>
<b>83</b>	Interim net profits	<input type="text"/>
<b>84</b>	Revaluation reserves	<input type="text"/>
<b>85</b>	Eligible subordinated loans	<input type="text"/>
<b>86</b>	less investments in own shares	<input type="text"/>
<b>87</b>	less intangible assets	<input type="text"/>
<b>88</b>	less interim net losses	<input type="text"/>
<b>89</b>	<b>Total Core Capital Resources</b> (as at the firm's end date of the Reporting Period)	<input type="text"/>

**Unincorporated businesses and Limited Liability Partnerships**

<b>90</b>	Capital of a sole trader or partnership	<input type="text"/>
<b>91</b>	Eligible subordinated loans	<input type="text"/>
<b>92</b>	Personal assets not needed to meet non-business liabilities	<input type="text"/>
<b>93</b>	less intangible assets	<input type="text"/>
<b>94</b>	less interim net losses	<input type="text"/>
<b>95</b>	less excess of drawings over profits for a sole trader or partnership	<input type="text"/>
<b>96</b>	<b>Total Core Capital Resources</b> (as at the firm's end date of the Reporting Period)	<input type="text"/>

**Section E: Capital Adequacy Position**  
(as at the firm's end date of the Reporting Period)

**97 Core Capital Resources Surplus / Deficit**   
(as at the firm's end date of the Reporting Period)

**FPR003b Funeral Plan Intermediaries - Half-Yearly Prudential Return**

**Part One: Financial Statement Information**

**Section A: Balance Sheet**

(as at end date of Reporting Period)

	A	B
<b>Fixed Assets</b>		
1	Intangible assets	<input type="text"/>
2	Tangible assets	<input type="text"/>
3	Investments	<input type="text"/>
4	Total Fixed Assets	<input type="text"/>
<b>Current Assets</b>		
5	Inventories	<input type="text"/>
6	Debtors (see Memo (1))	<input type="text"/>
7	Investments held as current assets (see Memo (2))	<input type="text"/>
8	Cash at bank and in hand	<input type="text"/>
9	Other assets	<input type="text"/>
10	Total Current Assets	<input type="text"/>
<b>Current Liabilities</b> (amounts falling due within one year)		
11	Bank loans and overdrafts	<input type="text"/>
12	Other liabilities falling due within one year	<input type="text"/>
13	Total Current Liabilities	<input type="text"/>
14	Net current assets	<input type="text"/>
15	Total assets less total current liabilities	<input type="text"/>
16	Other liabilities falling due after more than one year	<input type="text"/>
17	Provisions for liabilities and charges	<input type="text"/>
18	Net assets	<input type="text"/>
19	Guarantees provided by firm	<input type="text"/>

**Capital and Reserves**

**Capital account (incorporated businesses excluding Limited Liability Partnerships)**

20	Ordinary share capital	<input type="text"/>
21	Preference share capital	<input type="text"/>
22	Share premium account	<input type="text"/>
23	Profit and Loss account (retained earnings)	<input type="text"/>
24	Other reserves	<input type="text"/>
25	Total Capital and Reserves	<input type="text"/>

**Capital account (unincorporated businesses and Limited Liability Partnerships)**

26	Sole trader / Partners' capital account / Members' capital	<input type="text"/>
27	Other reserves	<input type="text"/>
28	Total Capital and Reserves	<input type="text"/>

Memo (1)

29	Total amount falling due within one year from directors, fellow group undertakings or undertakings in which the firm has a participating interest where included in Debtors.	<input type="text"/>
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Memo (2)

30	Value of shares in group undertakings where such investments are held as current assets.	<input type="text"/>
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**Section B: Profit and Loss Account**

(for the period corresponding to the Reporting Period)

**Revenue**

(Income accrued during the reporting period)

B

31	Revenue from all regulated pre-paid funeral plan activities	<input type="text"/>
32	Revenue from all FCA regulated activities <i>(including regulated pre-paid funeral plan activities)</i>	<input type="text"/>
33	Revenue from all non-FCA regulated activities	<input type="text"/>
34	Total Revenue	<input type="text"/>



**Expenditure**

(Expenditure incurred during the reporting period)

- 35 Total Expenditure
- 36 Profit/(Loss) on ordinary activities before taxation
- 37 Profit/(Loss) on extraordinary activities before taxation
- 38 Taxation
- 39 Profit/(Loss) for the period before dividends and appropriations
- 40 Dividends and other appropriations
- 41 Retained Profit
- Annual report and accounts*
- 42 Date of most recent annual report and accounts
- 43 Please provide an attachment or the link to the publication of your most recent annual report and accounts

**Part Two: Supplementary Information****Appointed Representatives**

B

- 44 Number of Appointed Representatives ("ARs") registered with the firm, at the end of the Reporting Period, that are engaged in pre-paid funeral plan intermediation activities
- 45 Total Revenue accrued by registered Appointed Representatives of the firm from all pre-paid funeral plan intermediation activities during the Reporting Period
- 46 Does the firm have appropriate systems and procedures to ensure that the activities of its ARs are effectively monitored and controlled?
- (for firms that have registered Appointed Representatives)
- 47 Number of ARs that have been subject to monitoring visits by the firm during the Reporting Period.
- 48 Number of ARs that have been subject to file reviews by the firm during the Reporting Period.
- 49 Number of ARs that have been subject to financial checks by the firm during the Reporting Period.

**Audited Accounts**

- 50 If your firm is incorporated, does your firm qualify for the Companies House small firms' exemption from having its accounts audited?
- 51 If the firm is required to submit audited accounts, please report the date on which your accounts were last audited

**Part Three: Regulatory Capital**

**Section C: Core Capital Resources Requirement**

(as at the firm's most recent accounting reference date)

B

<b>52</b>	Annual income	<input type="text"/>
	Annual income <sup>1</sup> is the total income (revenue) accrued by the firm during the 12 months prior to the accounting reference date as given in the firm's most recent annual financial statement from the firm's relevant regulated activity or activities.	
<b>53</b>	Base requirement	<input type="text" value="10000"/>
<b>54</b>	2.5% of annual income	<input type="text"/>
<b>55</b>	<b>Core Capital Resources Requirement</b> (as at the firm's most recent accounting reference date)	<input type="text"/>

**Section D: Core Capital Resources**

(as at the firm's end date of the Reporting Period)

Incorporated businesses excluding Limited Liability Partnerships

A

<b>56</b>	Share capital	<input type="text"/>
<b>57</b>	Reserves	<input type="text"/>
<b>58</b>	Interim net profits	<input type="text"/>
<b>59</b>	Revaluation reserves	<input type="text"/>
<b>60</b>	Eligible subordinated loans	<input type="text"/>
<b>61</b>	less investments in own shares	<input type="text"/>
<b>62</b>	less intangible assets	<input type="text"/>
<b>63</b>	less interim net losses	<input type="text"/>
<b>64</b>	<b>Total Core Capital Resources</b> (as at the firm's end date of the Reporting Period)	<input type="text"/>

**Unincorporated businesses and Limited Liability Partnerships**

<b>65</b>	Capital of a sole trader or partnership	<input type="text"/>
<b>66</b>	Eligible subordinated loans	<input type="text"/>
<b>67</b>	Personal assets not needed to meet non-business liabilities	<input type="text"/>
<b>68</b>	less intangible assets	<input type="text"/>
<b>69</b>	less interim net losses	<input type="text"/>

70 less excess of drawings over profits  
for a sole trader or partnership

71 **Total Core Capital Resources**  
(as at the firm's end date of the Reporting Period)

**Section E: Capital Adequacy Position**  
(as at the firm's end date of the Reporting Period)

72 **Core Capital Resources Surplus/Deficit**  
(as at the firm's end date of the Reporting Period)

**16 Annex 50B**      **G**      **Proposed Guidance notes for completion of the quarterly conduct return (FP001) for Funeral Plan Providers**

**Guidance notes for completion of the half yearly prudential data regulatory return FP003a for Funeral Plan Providers and FP003b Funeral Plan Intermediaries**

## Proposed Guidance notes for completion of the quarterly conduct return (FPR001) for Funeral Plan Providers

### Guidance for FPR001

This data collects key information quarterly from funeral plan providers and provides the FCA with an overall picture of the size of the funeral plans market and how revenue is generated. The data assists the FCA in the ongoing supervision of firms engaged in funeral plans and enables the FCA to gain a wider understanding of market trends in the interests of protecting consumers.

If you have undertaken no regulated funeral plans activity during the reporting period, answer "yes" to question 1 "do you wish to report a nil return?" to attest that there is no activity to report to us.

All questions requiring a monetary answer must be answered in sterling only. Figures should be reported in integers (that is, single units, to the nearest whole number), except where otherwise specified in the form: for example, income figures should be given to the nearest pound, not to the nearest thousand pounds.

Questions 2 to 11 and 15, 19 to 24 do not apply to firms who do not enter into funeral plan contracts, for example firms that do not sell funeral plans or have stopped selling funeral plans but want to administer existing plans.

#### Data elements

Question		Notes
1	Do you wish to report a nil return?	If the firm has undertaken no regulated funeral plans activity during this reporting period then answer "yes" and submit the form.
2-4	Number of aggregated sales for the whole of last quarter of plans made with ' <i>single payment or due to be paid in less than 12 months</i> '	<p>Questions 2-4 require information on sales of funeral plans made with single payment or due to be paid in less than 12 months.</p> <p>Questions 2-3 asks for the aggregated sales numbers to be broken down into age bands per policyholder (Fields A-H) and is defined by the sale of trust backed plans <i>or</i> insurance backed plans. Field J refers to the value (£) of maximum total payments a consumer will pay over the full term of the plan.</p> <p>Fields K-L refer to the method of sale. Field K requires the total (%) of sales achieved via the provision of regulated advice at the point of sale. Field L requires the total (%) of sales achieved via the provision of non-regulated advice.</p> <p>Fields M-P refer to the sale distribution channel by monetary value (£).</p>

		<p>Field M requires the total sales by Authorised Intermediaries. Intermediaries are firms that advise on and/or arrange funeral plan contracts for customers. Examples include funeral directors and will-writers.</p> <p>Field N requires the total sales made directly by the regulated funeral plan provider.</p> <p>Field O requires the total sales made by Appointed Representatives whereby the funeral plan provider acts as the registered Principal. An Appointed Representative is a firm or person that carries out regulated activities and acts as an agent for the directly authorised funeral plan provider ("Principle").</p> <p>Field P requires the total sales by Appointed Representatives whereby an intermediary or other third-party act as the registered Principal.</p> <p>Question 4 requires the total values across all fields A-P (relevant to the unit required under each field).</p>
5-6	Please provide the details of the top 5 firms of these sales (either Appointed Representatives, directly Authorised intermediaries, or unregulated introducers)	<p>Please provide the top five firms by volume of sales broken down by trust backed funeral plans (question 5) and/or insurance backed plans (question 6). This includes sales by either Appointed Representatives, directly Authorised intermediaries, or unregulated introducers.</p> <p>If sales of both trust backed and insurance backed funeral plans took place in the reporting period, provide the top five firms for each product.</p> <p>Field B refers to the firm reference number (FRN) of the firm that sold the product. For sales via an intermediary enter the intermediaries FRN. Where the intermediary is an Appointed Representative, the FRN of the Appointed Representative must be reported. Unregulated introducers will not have a FRN.</p> <p>Field F refers to the type of distribution. Distribution should be reported under the following categories: Appointed Representatives; directly Authorised</p>

		Intermediaries; or unregulated introducers.
7-9	Number of aggregated sales for the whole of last quarter of plans made with ' <i>payment terms longer than 12 months</i> '	<p>Questions 7–9 require information on sales of funeral plans made with payment terms longer than 12 months.</p> <p>Questions 7-8 ask for the aggregated sales numbers to be broken down into age bands per Policyholder (Fields A-H) and defined by the sale of trust backed plans <i>or</i> insurance backed plans.</p> <p>Field J refers to the value (£) of the maximum total payments a consumer will pay over the full term of the plan.</p> <p>Fields K-N refer to the term length of the plans sold.</p> <p>For sales of insurance backed funeral plans where premiums continue indefinitely until death or until a set age <i>e.g. 90 years old</i>, please treat customers age away from the set age at the time the policy was taken out as the term. Where no set age for premiums stopping exists, please treat customers age away from 90 years old as the term <i>e.g. age 70 is 20 years away from 90, so is defined as &gt;10 year plan.</i></p> <p>Field O-P refer to the method of sale. Field O requires the total (%) of sales achieved via the provision of regulated advice at the point of sale. Field P requires the total (%) of sales achieved via the provision of non-regulated advice.</p> <p>Fields Q-T refer to the sale distribution channel by monetary value (£).</p> <p>Field Q requires the total value (£) of sales by Authorised Intermediaries. Intermediaries are firms that advise on and/or arrange funeral plan contracts for customers. Examples include funeral directors and will-writers.</p> <p>Field R requires the total sales made directly by the regulated funeral plan provider.</p> <p>Field S requires the total value (£) of sales made by Appointed Representatives whereby the funeral plan provider acts as the registered Principal. An Appointed</p>

		<p>Representative is a firm or person that carries out regulated activities and acts as an agent for the directly authorised funeral plan provider ("Principle").</p> <p>Field T requires the total value (£) of sales by Appointed Representatives whereby an intermediary or other third-party act as the registered Principal.</p> <p>Question 9 requires the total values across all fields A-P (relevant to the unit required under each field).</p>
10-11	Please provide the details of the top 5 firms of these sales (either Appointed Representatives, directly Authorised intermediaries, or unregulated introducers)	<p>Please provide the top five firms by volume of sales broken down by trust backed funeral plans (question 10) and/or insurance backed plans (question 11). This includes sales by either Appointed Representatives, directly Authorised intermediaries, or unregulated introducers.</p> <p>If sales of both trust backed and insurance backed funeral plans took place in the reporting period, provide the top five firms for each product.</p> <p>Field B of table refers to the firm reference number (FRN) of the firm that sold the product. Unregulated introducers will not have a FRN.</p> <p>Field F of the table refers to the type of distribution. Distribution should be reported under the following categories: Appointed Representatives; directly Authorised intermediaries; or unregulated introducers.</p>
12	Total number of funeral plans fulfilled	State the total number of funeral plans paid out to plan holders.
13	Number of plans claimed where not fully paid up	Enter the total number of plans where the instalment payments are not fully paid up and an outstanding balance must be met by the plan holder's estate for the provision of a funeral.
14	Number of claims declined	<p>State total number.</p> <p>For example, declined and discontinued claims include a claim on a funeral plan declined on the basis of a breach of contract by the plan holder.</p>



15	Number of cancellations by plan holders in cooling off period	Enter the total number of cancellations, by plan holder, taking place within the 30-day cancellation period.
16	Number of cancellations by plan holders outside cooling off period	Enter the total number of cancellations, by plan holder, taking place outside of the 30-day cancellation period.
17	Number of cancellations by yourselves as provider	State total number.
18	Total cancellation (£) fees paid per customer	Enter the minimum, median and maximum fee charged across all customers that cancelled.
19	What was the total remuneration paid to the firm's employees selling plans?	Include all remuneration received by employees, including any variable remuneration such as bonuses, commissions or performance-based pay. Include share-based remuneration, options and the monetary value of benefits in kind.
20	What was the amount of variable remuneration paid to the firm's employees selling plans?	Enter the minimum, median, maximum and total variable remuneration paid to the firm's employees selling plans.  Include only variable remuneration such as bonuses, commissions or performance-based pay. Include share-based remuneration, options and the monetary value of benefits in kind to the extent that these are variable.
21	How many employees do you have selling plans?	State how many employees the firm has selling plans during the reporting period.  Include part time workers in this figure as 0.5.
22	What was the amount paid to non-employee sales agents i.e. commission (£)?	Enter the minimum, median, maximum and total amount paid (£) to non-employee sales agents selling plans.  Include all remuneration received by non-employees, including any variable remuneration such as bonuses, commissions or performance-based pay. Include share-based remuneration, options and the monetary value of benefits in kind.
23	How many sales by non-employee sales agents does this cover?	State number of plans.

24	Level of upfront admin charges/fees (£) (including those withdrawn from trusts)?	Enter the minimum, median, maximum and total amount of upfront admin charges/fees (£) (including those withdrawn from trusts).
25	Level of any ongoing admin charges/fees (£) (including those withdrawn from trusts)?	Enter the minimum, median, maximum and total amount of any ongoing admin charges/fees (£) (including those withdrawn from trusts).

## Guidance notes for completion of the half yearly prudential data regulatory return FPR003a for Funeral Plan Providers and FPR003b Funeral Plan Intermediaries

### Guidance for FPR003a and FPR003b

This data collects key financial information half yearly from funeral plan firms and is used by the FCA in the monitoring of firms both individually and collectively. The data assists the FCA in the ongoing supervision of firms engaged in funeral plans activity.

The Funeral Plan Providers' prudential data return is identified as FPR003a and the Funeral Plan Intermediaries' prudential data return is identified as FPR003b. The guidance notes below relate to the returns for both and the relevant question numbers. Our RegData system is structured so that regulatory returns are specific to the firm.

This guidance note does not constitute individual or general FCA guidance. The purpose of this guidance is to help firms complete the financial return. This summary is not a substitute for reading the actual text of the FCA Handbook. It is important to note that this guidance may be subject to periodic review.

### FPR003a Data elements

Question		Notes
1	Intangible assets	Intangible assets are assets that are not physical. For example, goodwill, copyrights, patents and intellectual property.
2	Tangible assets	Tangible assets are assets that have physical substance and for which an approximate value can be attached. Examples include property, real estate, plant and equipment beneficially owned by the firm.
3	Investments	The company's long-term investments, including shares, bonds, real estate, exchange-traded funds, money market funds, cash or cash equivalents held for long-term investment purposes.
4	Total Fixed Assets	This should be the sum of items 1 (intangible assets), 2 (tangible assets) and 3 (investments).
5	Inventories	These are assets held for sale in the ordinary course of business (finished goods), assets in the production process for sale in the ordinary course of business (work in progress), and materials or supplies that are consumed during production (raw materials).
6	Debtors	This includes loans and securities, and both trade and non-trade debtors. It also includes the total amount falling due within one year from directors, fellow group undertakings or undertakings in which the firm has a participating interest where included in Debtors.
7	Investments held as current assets	These are short-term investments that a firm holds for resale or pending their sale with a maturity date of less than one year and are generally, easily converted to cash. These can include short-term investments in, for example, equities, debt

		securities and exchange-traded funds. It also includes the value of shares in group undertakings where such investments are held as current assets.
8	Cash at bank and in hand	This refers to amounts which are held by a business in the form of notes and coins (e.g. petty cash) or which are held at a bank in the form of on demand deposits.
9	Other assets	Includes any other current assets not reported elsewhere.
10	Total Current Assets	This should be the sum of items 5 to 9.
11	Bank loans and overdrafts	This comprises any borrowings made from banks or building societies.
12	Other liabilities falling due within one year	Includes any other current liabilities not reported elsewhere.
13	Total Current Liabilities	This should be the sum of items 11 to 12.
14	Net current assets	This should equal item 10 (total current assets) minus item 13 (total current liabilities).
15	Total assets less total current liabilities	This should equal item 4 (total fixed assets) plus item 14 (net current assets).
16	Other liabilities falling due after more than one year	These are longer term liabilities, including loans (e.g. mortgage, bank loans or debt securities issued) that are due to be repaid after more than one year and debt securities.
17	Provisions for liabilities and charges	Liabilities of uncertain timing or amount eg arising from a legal or constructive obligation
18	Net assets	Net assets is the net current capital position of the firm. This should equal item 15 (total assets less total current liabilities) minus items 16 (other liabilities falling due after more than one year) and 17 (provisions for liabilities and charges). Please note that this figure must be the same figure as item 25 (total capital and reserves), otherwise the balance sheet will not balance.
19	Guarantees provided by firm	This is the total value of guarantees provided by the firm to cover the indebtedness of other persons or entities.
20	Ordinary share capital	The face value of shares that have been issued and for which cash has been received.
21	Preference share capital	The face value of shares that have been issued and for which cash has been received, and have preferential rights over the holders of ordinary shares.
22	Share premium account	The difference between the cash received in exchange for ordinary share capital and the face value of the shares issued.

23	Profit and Loss account (retained earnings)	The accumulation of all previously retained profits/losses since the birth of the firm.
24	Other reserves	Any other reserves not already covered by the previous headings - an example would be revaluation reserves.
25	Total Capital and Reserves	This is the total capital and reserves at the firm. This figure is the total of item 20 (ordinary share capital), 21 (preference share capital), item 22 (share premium account), item 23 (profit and loss account (retained earnings)), and item 24 (other reserves). Please note that this figure must be the same figure as item 18 (net assets), otherwise the balance sheet will not balance.
26	Sole trader / Partners' capital account / Members' capital	The current balance of the firm's capital account.
27	Other reserves	Any other reserves not already covered by the previous heading.
28	Total Capital and Reserves	This is the total capital and reserves at the firm. This figure is the total of item 26 (Sole trader/Partners' capital account/Members' capital) and item 27 (other reserves). Please note that this figure must be the same figure as item 18 (net assets), otherwise the balance sheet will not balance.
29	Total amount falling due within one year from directors, fellow group undertakings or undertakings in which the firm has a participating interest where included in Debtors	Insert monetary value.
30	Value of shares in group undertakings where such investments are held as current assets	Insert monetary value.
31	Revenue from all regulated pre-paid funeral plan activities	This is the sum of commission, fees and other income from all regulated pre-paid funeral plan activities.
32	Revenue from all FCA regulated activities	This is the sum of commission, fees and other income from all FCA regulated activities, including all regulated pre-paid funeral plan activities.
33	Revenue from all non-FCA regulated activities	This is the sum of commission, fees and other income from all non-FCA regulated activities.
34	Total Revenue	This is the sum of item 32 (revenue from all FCA regulated activities) and item 33 (revenue from all non-FCA regulated activities).
35	Total Expenditure	This is the total expenditure of the firm both in relation to its regulated and non-regulated activities (excluding tax).

		Commissions paid to appointed representatives are recorded here.
36	Profit/(Loss) on ordinary activities before taxation	This figure is produced by deducting the total expenditure from ordinary activities (both regulated and non-regulated) from the total revenue (both regulated and non-regulated). If the firm has not undertaken any extraordinary activities, the formula is simply: item 34 (total revenue) minus item 35 (total expenditure).
37	Profit/(Loss) on extraordinary activities before taxation	An extraordinary event is a one-off event that has either generated a significant profit or loss. Examples of an extraordinary activity would be the sale of a building, or the purchase of new premises. This figure should be calculated using the following formula:  Total revenue obtained as a result of the extraordinary activities - total expenditure caused as a result of extraordinary activities.
38	Taxation	The firm should estimate the tax that will be payable on its profits, and insert that figure in this field.
39	Profit/(Loss) for the period before dividends and appropriations	This figure should be calculated using the following formula: item 34 (total revenue) - item 35 (total expenditure) - item 38 taxation.
40	Dividends and other appropriations	Dividends and other appropriations include dividends paid to shareholders, staff bonuses, wages paid to self (sole trader) etc.
41	Retained Profit	Retained profit is calculated using the following formula: Item 39 (Profit/(Loss) for the period before dividends and appropriations) - item 40 (dividends and other appropriations).
42	Date of most recent annual report and accounts	State the date.
43	Please provide an attachment or the link to the publication of your most recent annual report and accounts.	Provide an attachment or state the link.
44	Single payment	State the relevant numbers and monetary values - refer to FPCOB 15.5.1R(3).
45	Instalment - fully paid	State the relevant numbers and monetary values - refer to FPCOB 15.5.1R(3).
46	Instalment - not yet fully paid	State the relevant numbers and monetary values - refer to FPCOB 15.5.1R(3).

47	Total	State the relevant numbers and monetary values. For columns A and B, provide the sums of the relevant figures in items 44, 45 and 46.
48	Value of trust assets	Insert monetary value, including net present value of remaining instalments.
49	Trust assets per undrawn (live) funeral plan	Provide the information on a fully paid up instalment basis.
50	Have you obtained a Solvency Assessment Report (SAR) in the last 12 months	State yes or no.
51	Date of most recent Solvency Assessment Report (SAR)	State the date
52	Please provide an attachment or the link to the publication of your most recent Solvency Assessment Report (SAR)	Add an attachment or a link.
53	What is the name of the trust actuary who completed your most recent Solvency Assessment Report (SAR)	State the trust actuary's name.
54	What is the name of trust actuary's company	State the company name.
55	Valuation Date of Solvency Assessment Report (SAR)	State the date.
56	Valuation of trust assets	State the monetary value.
57	Valuation of pre-paid funeral plan liabilities	State the monetary value.
58	Solvency Ratio (best estimate basis)	This is the ratio of trust assets over trust liabilities as a percentage, on a best estimate basis. A best estimate valuation should reflect the actuary's expectation of future experience for each risk factor given all available, relevant experience and information pertaining to the assumption being estimated and set in such a manner that there is an equal likelihood of the actual value being greater than or less than the expected value.
59	Have any withdrawal / disbursements of trust surplus(es) been authorised by the trust actuary during the reporting period	State 'yes' or 'no'.
60	Value of any withdrawal / disbursements of trust surplus(es) during reporting period	State the total monetary value of withdrawals / disbursements.

61	Date of most recent annual trust accounts	State date.
62	Please provide an attachment or the link to the publication of your most recent annual trust accounts	State link.
63	Single premium	State the relevant numbers and monetary values - refer to FPCOB 15.5.1R(3).
64	Instalment - inside moratorium period	State the relevant numbers and monetary values - refer to FPCOB 15.5.1R(3).
65	Instalment - outside moratorium period	State the relevant numbers and monetary values - refer to FPCOB 15.5.1R(3).
66	Total	State the relevant numbers and monetary values. For columns A and B, provide the sums of the relevant figures in items 63, 64 and 65.
67	Average age of policy holders	State average age of policy holders.
68	Number of Appointed Representatives ("ARs") registered with the firm, at the end of the reporting period, that are engaged in pre-paid funeral plan activities	State number of ARs.
69	Total revenue accrued by registered Appointed Representatives of the firm from all pre-paid funeral plan activities during the reporting period	State total revenue.
70	Does the firm have appropriate systems and procedures to ensure that the activities of its ARs are effectively monitored and controlled	Answer 'yes' or 'no'.
71	Number of ARs that have been subject to monitoring visits by the firm during the reporting period	(For firms that have registered Appointed Representatives). State the number of ARs.
72	Number of ARs that have been subject to file reviews by the firm during the Reporting Period	(For firms that have registered Appointed Representatives). State the number of ARs.
73	Number of ARs that have been subject to financial checks by the firm during the reporting period	(For firms that have registered Appointed Representatives). State the number of ARs.



74	If your firm is incorporated, does your firm qualify for the Companies House small firms' exemption from having its accounts audited	Answer 'yes' or 'no'.
75	If the firm is required to submit audited accounts, please report the date on which your accounts were last audited	State the date, if applicable.
76	Annual income	A firm's annual income refers to all income received or receivable, whether arising from the firm's permitted activities or not, as reported in its most recent audited annual financial statements. Please see FPCOBS 15.8 (Calculation of annual income).
77	the sum of: (a) the number of undrawn funeral plan contracts backed by trust arrangements, multiplied by the median of the amounts that would be payable to the firm under each trust arrangement if a funeral were required on the day following the end of the firm's previous reporting period, multiplied by 0.5%; (b) the number of undrawn funeral plan contracts backed by a whole of life insurance policy, multiplied by the median of the amounts payable to the firm under each whole of life insurance policy if a funeral were required on the day following the end of the firm's previous reporting period, multiplied by 0.5%	This is calculated using the following formula (see FPCOB 15.5.1R(3):  (Item 47A (total number of undrawn (live) funeral plans backed by trust arrangements not redeemed against a funeral) x item 47F (median value for the whole group of undrawn (live) funeral plans backed by trust arrangements and not redeemed against a funeral) x 0.005)  +  (item 66A (total number of live insurance-backed funeral plans not redeemed against a funeral) x item 66F (median plan sum assured for the whole group of live insurance-backed funeral plans not redeemed against a funeral) x 0.005).
78	Base requirement	Guidance not required. Note that this differs for funeral plan providers and funeral plan intermediaries.
79	2.5% of annual income	This figure should be calculated using the following formula: item 76 (annual income) x 0.025.
80	Core capital Resources Requirement	This is the higher of: item 77, item 78, and item 79. See FPCOB 15.5.1R
81	Share capital	As per FPCOB 15.9.3R, this includes 'ordinary share capital' and 'preference share capital (excluding preference shares redeemable by shareholders within two years)'. This must be fully paid.
82	Reserves	This is the accumulated total of all retained profit, and other reserves created by appropriations of share premiums and similar realised

		appropriations. Reserves would also include gifts of capital, for example, from a parent undertaking. See also FPCOB 15.9.3R, including for adjustments that firms must make to its reserves, where appropriate.
83	Interim net profits	This figure is the total interim profits net of tax, anticipated dividends or proprietors' drawings and other appropriations. See FPCOB 15.9.3R
84	Revaluation reserves	These are unrealised reserves arising from the revaluation of fixed assets.
85	Eligible subordinated loans	Eligible subordinated loans - a subordinated loan/debt must not form part of the capital resources for the core capital resources requirement of the firm unless it meets the conditions set out in FPCOB 15.9.8R.
86	Less investments in own shares	Any 'investments' in the balance sheet which are invested in the firm's own shares must be inserted in this box for deduction.
87	Less intangible assets	Intangible assets are assets that are not physical. For example, goodwill, copyrights, patents and intellectual property. This should be the same figure inserted in Question 1.
88	Less interim net losses	These should be inserted in this box when they have not already been incorporated into the 'reserves'.
89	Total Core Capital Resources	This is calculated using the following formula: item 81 (share capital) + item 82 (reserves) + item 83 (interim net profits) + item 84 (revaluation reserves) + item 85 (eligible subordinated loans) - item 86 (investments in own shares) - item 87 (intangible assets) - item 88 (interim net losses).
90	Capital of a sole trader or partnership	This is the total net balance on the firm's capital accounts and current account. See FPCOB 15.9.3R.
91	Eligible subordinated loans	Eligible subordinated loans - A subordinated loan/debt must not form part of the capital resources for the core capital resources requirement of the firm unless it meets the conditions set out in FPCOB 15.9.8R.
92	Personal assets not needed to meet non-business liabilities	Sole traders and partnerships may use personal assets as eligible capital unless: i) these assets are being used to meet liabilities relating to other non-FCA activities (including personal and other business activities); or ii) the firm holds client money or other client assets.
93	Less intangible assets	Intangible assets are assets that are not physical. For example, goodwill, copyrights, patents and intellectual property.  This should be the same figure inserted in Question 1.

94	Less interim net losses	These should be inserted in this box when they have not already been incorporated into the firm's capital or current accounts.
95	Less excess of drawings over profits for a sole trader or partnership	Firms should include any excess capital removed from the firm over and above any profit made by the firm for deduction.
96	Total Core Capital Resources	This is calculated using the following formula: item 90 (capital of a sole trader or partnership) + item 91 (eligible subordinated loans) + item 92 (personal assets not needed to meet non-business liabilities) - item 93 (intangible assets) - item 94 (interim net losses) - item 95 (excess of drawings over profits for a sole trader or partnership)
97	Core Capital Resources Surplus/(Deficit)	This is calculated using the following formula: item 89 or 96 (total core capital resources) - item 80 (core capital resources requirement).

## Guidance notes for completion of the half yearly prudential data regulatory return FPR003b for Funeral Plan Intermediaries

### Guidance for FPR003b

This data collects key financial information half yearly from funeral plan firms and is used by the FCA in the monitoring of firms both individually and collectively. The data assists the FCA in the ongoing supervision of firms engaged in funeral plans activity.

The Funeral Plan Intermediaries prudential data return is identified as FPR003b and the guidance notes below relate to the return for Funeral Plan Intermediaries and the relevant question numbers. Our RegData system is structured so that regulatory returns are specific to the firm.

This guidance note does not constitute individual or general FCA guidance. The purpose of this guidance is to help firms complete the financial return. This summary is not a substitute for reading the actual text of the FCA Handbook. It is important to note that this guidance may be subject to periodic review.

### Data elements for FPR003b

Question		Notes
1	Intangible assets	Intangible assets are assets that are not physical. For example, goodwill, copyrights, patents and intellectual property.
2	Tangible assets	Tangible assets are assets that have physical substance and for which an approximate value can be attached. Examples include property, real estate, plant and equipment beneficially owned by the firm.
3	Investments	The company's long-term investments, including shares, bonds, real estate, exchange-traded funds, money market funds, cash or cash equivalents held for long-term investment purposes.
4	Total Fixed Assets	This should be the sum of items 1 (intangible assets), 2 (tangible assets) and 3 (investments).
5	Inventories	These are assets held for sale in the ordinary course of business (finished goods), assets in the production process for sale in the ordinary course of business (work in progress), and materials or supplies that are consumed during production (raw materials).
6	Debtors	This includes loans and securities, and both trade and non-trade debtors. It also includes the total amount falling due within one year from directors, fellow group undertakings or undertakings in which the firm has a participating interest where included in Debtors.
7	Investments held as current assets	These are short-term investments that a firm holds for resale or pending their sale with a maturity date of less than one year and are generally, easily converted to cash. These can include short-term investments in, for example, equities, debt securities and exchange-traded funds. It also

		includes the value of shares in group undertakings where such investments are held as current assets.
8	Cash at bank and in hand	This refers to amounts which are held by a business in the form of notes and coins (e.g. petty cash) or which are held at a bank in the form of on demand deposits.
9	Other assets	Includes any other current assets not reported elsewhere.
10	Total Current Assets	This should be the sum of items 5 to 9.
11	Bank loans and overdrafts	This comprises any borrowings made from banks or building societies.
12	Other liabilities falling due within one year	Includes any other current liabilities not reported elsewhere.
13	Total Current Liabilities	This should be the sum of items 11 to 12.
14	Net current assets	This should equal item 10 (total current assets) minus item 13 (total current liabilities).
15	Total assets less total current liabilities	This should equal item 4 (total fixed assets) plus item 14 (net current assets).
16	Other liabilities falling due after more than one year	These are longer term liabilities, including loans (e.g. mortgage, bank loans or debt securities issued) that are due to be repaid after more than one year and debt securities.
17	Provisions for liabilities and charges	Liabilities of uncertain timing or amount eg arising from a legal or constructive obligation
18	Net assets	Net assets is the net current capital position of the firm. This should equal item 15 (total assets less total current liabilities) minus items 16 (other liabilities falling due after more than one year) and 17 (provisions for liabilities and charges). Please note that this figure must be the same figure as item 25 (total capital and reserves), otherwise the balance sheet will not balance.
19	Guarantees provided by firm	This is the total value of guarantees provided by the firm to cover the indebtedness of other persons or entities.
20	Ordinary share capital	The face value of shares that have been issued and for which cash has been received.
21	Preference share capital	The face value of shares that have been issued and for which cash has been received and have preferential rights over the holders of ordinary shares.
22	Share premium account	The difference between the cash received in exchange for ordinary share capital and the face value of the shares issued.

23	Profit and Loss account (retained earnings)	The accumulation of all previously retained profits/losses since the birth of the firm.
24	Other reserves	Any other reserves not already covered by the previous headings - an example would be revaluation reserves.
25	Total Capital and Reserves	This is the total capital and reserves at the firm. This figure is the total of item 20 (ordinary share capital), 21 (preference share capital), item 22 (share premium account), item 23 (profit and loss account (retained earnings)), and item 24 (other reserves). Please note that this figure must be the same figure as item 18 (net assets), otherwise the balance sheet will not balance.
26	Sole trader / Partners' capital account / Members' capital	The current balance of the firm's capital account.
27	Other reserves	Any other reserves not already covered by the previous heading.
28	Total Capital and Reserves	This is the total capital and reserves at the firm. This figure is the total of item 26 (Sole trader/Partners' capital account/Members' capital) and item 27 (other reserves). Please note that this figure must be the same figure as item 18 (net assets), otherwise the balance sheet will not balance.
29	Total amount falling due within one year from directors, fellow group undertakings or undertakings in which the firm has a participating interest where included in Debtors	Insert monetary value.
30	Value of shares in group undertakings where such investments are held as current assets	Insert monetary value.
31	Revenue from all regulated pre-paid funeral plan activities	This is the sum of commission, fees and other income from all regulated pre-paid funeral plan activities.
32	Revenue from all FCA regulated activities	This is the sum of commission, fees and other income from all FCA regulated activities, including all regulated pre-paid funeral plan activities.
33	Revenue from all non-FCA regulated activities	This is the sum of commission, fees and other income from all non-FCA regulated activities.
34	Total Revenue	This is the sum of item 32 (revenue from all FCA regulated activities) and item 33 (revenue from all non-FCA regulated activities).
35	Total Expenditure	This is the total expenditure of the firm both in relation to its regulated and non-regulated activities (excluding tax).

		Commissions paid to appointed representatives are recorded here.
36	Profit/(Loss) on ordinary activities before taxation	This figure is produced by deducting the total expenditure from ordinary activities (both regulated and non-regulated) from the total revenue (both regulated and non-regulated). If the firm has not undertaken any extraordinary activities, the formula is simply: item 34 (total revenue) minus item 35 (total expenditure).
37	Profit/(Loss) on extraordinary activities before taxation	An extraordinary event is a one-off event that has either generated a significant profit or loss. Examples of an extraordinary activity would be the sale of a building, or the purchase of new premises. This figure should be calculated using the following formula:  Total revenue obtained as a result of the extraordinary activities - total expenditure caused as a result of extraordinary activities.
38	Taxation	The firm should estimate the tax that will be payable on its profits, and insert that figure in this field.
39	Profit/(Loss) for the period before dividends and appropriations	This figure should be calculated using the following formula: item 34 (total revenue) - item 35 (total expenditure) - item 38 taxation.
40	Dividends and other appropriations	Dividends and other appropriations include dividends paid to shareholders, staff bonuses, wages paid to self (sole trader) etc.
41	Retained Profit	Retained profit is calculated using the following formula: Item 39 (Profit/(Loss) for the period before dividends and appropriations) - item 40 (dividends and other appropriations).
42	Date of most recent annual report and accounts	State the date.
43	Please provide an attachment or the link to the publication of your most recent annual report and accounts.	Provide an attachment or state the link.
44	Number of Appointed Representatives ("ARs") registered with the firm, at the end of the reporting period, that are engaged in pre-paid funeral plan activities	State number of ARs.
45	Total revenue accrued by registered Appointed Representatives of the firm	State total revenue.

	from all pre-paid funeral plan activities during the reporting period	
46	Does the firm have appropriate systems and procedures to ensure that the activities of its ARs are effectively monitored and controlled	Answer 'yes' or 'no'.
47	Number of ARs that have been subject to monitoring visits by the firm during the reporting period	(For firms that have registered Appointed Representatives). State the number of ARs.
48	Number of ARs that have been subject to file reviews by the firm during the Reporting Period	(For firms that have registered Appointed Representatives). State the number of ARs.
49	Number of ARs that have been subject to financial checks by the firm during the reporting period	(For firms that have registered Appointed Representatives). State the number of ARs.
50	If your firm is incorporated, does your firm qualify for the Companies House small firms' exemption from having its accounts audited	Answer 'yes' or 'no'.
51	If the firm is required to submit audited accounts, please report the date on which your accounts were last audited	State the date, if applicable.
52	Annual income	A firm's annual income refers to all income received or receivable, whether arising from the firm's permitted activities or not, as reported in its most recent audited annual financial statements. Please see FPCOBS 15.8 (Calculation of annual income).
53	Base requirement	Guidance not required. Note that this differs for funeral plan providers and funeral plan intermediaries.
54	2.5% of annual income	This figure should be calculated using the following formula: item 52 (annual income) x 0.025.
55	Core capital Resources Requirement	This is the higher of: item 53, and item 54. See FPCOB 15.5.1R
56	Share capital	As per FPCOB 15.9.3R, this includes 'ordinary share capital' and 'preference share capital (excluding preference shares redeemable by shareholders within two years)'. This must be fully paid.
57	Reserves	This is the accumulated total of all retained profit, and other reserves created by appropriations of share premiums and similar realised appropriations. Reserves would also include gifts of



		capital, for example, from a parent undertaking. See also FPCOB 15.9.3R, including for adjustments that firms must make to its reserves, where appropriate.
58	Interim net profits	This figure is the total interim profits net of tax, anticipated dividends or proprietors' drawings and other appropriations. See FPCOB 15.9.3R
59	Revaluation reserves	These are unrealised reserves arising from the revaluation of fixed assets.
60	Eligible subordinated loans	Eligible subordinated loans - a subordinated loan/debt must not form part of the capital resources for the core capital resources requirement of the firm unless it meets the conditions set out in FPCOB 15.9.8R.
61	Less investments in own shares	Any 'investments' in the balance sheet which are invested in the firm's own shares must be inserted in this box for deduction.
62	Less intangible assets	Intangible assets are assets that are not physical. For example, goodwill, copyrights, patents and intellectual property. This should be the same figure inserted in Question 1.
63	Less interim net losses	These should be inserted in this box when they have not already been incorporated into the 'reserves'.
64	Total Core Capital Resources	This is calculated using the following formula: item 56 (share capital) + item 57 (reserves) + item 58 (interim net profits) + item 59 (revaluation reserves) + item 60 (eligible subordinated loans) - item 61 (investments in own shares) - item 62 (intangible assets) - item 63 (interim net losses).
65	Capital of a sole trader or partnership	This is the total net balance on the firm's capital accounts and current account. See FPCOB 15.9.3R.
66	Eligible subordinated loans	Eligible subordinated loans - A subordinated loan/debt must not form part of the capital resources for the core capital resources requirement of the firm unless it meets the conditions set out in FPCOB 15.9.8R.
67	Personal assets not needed to meet non-business liabilities	Sole traders and partnerships may use personal assets as eligible capital unless: i) these assets are being used to meet liabilities relating to other non-FCA activities (including personal and other business activities); or ii) the firm holds client money or other client assets.
68	Less intangible assets	Intangible assets are assets that are not physical. For example, goodwill, copyrights, patents and intellectual property.  This should be the same figure inserted in Question 1.

69	Less interim net losses	These should be inserted in this box when they have not already been incorporated into the firm's capital or current accounts.
70	Less excess of drawings over profits for a sole trader or partnership	Firms should include any excess capital removed from the firm over and above any profit made by the firm for deduction.
71	Total Core Capital Resources	This is calculated using the following formula: item 65 (capital of a sole trader or partnership) + item 66 (eligible subordinated loans) + item 67 (personal assets not needed to meet non-business liabilities) - item 68 (intangible assets) - item 69 (interim net losses) - item 70 (excess of drawings over profits for a sole trader or partnership)
72	Core Capital Resources Surplus/(Deficit)	This is calculated using the following formula: item 64 or 71 (total core capital resources) - item 55 (core capital resources requirement).

...

**TP 11A Bank of England and Financial Services Act 2016: Approved persons in solo-regulated firms**

**11A.1 Application, purpose and definitions**

...

11A.1.2 G ...

- (3) SUP TP 11A does not apply to a *firm* that becomes a **solo-regulated SMCR firm** after the **commencement date**. There is a limited exception to this in SUP TP 11A.24 (Claims management firms) for a *firm* that still has a *claims management temporary permission* at the **commencement date**.

...

## Annex K

### Amendments to the Dispute Resolution: Complaints sourcebook (DISP)

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

#### 1 Treating complainants fairly

##### 1.1 Purpose and application

Purpose

...

1.1.10 R In relation to a *firm*'s obligations under this chapter, references to a *complaint* also include an expression of dissatisfaction which is capable of becoming a: ~~relevant new complaint, a relevant transitional complaint, a relevant new credit-related complaint, or a relevant new claims management complaint.~~

(1) relevant new complaint;

(2) relevant transitional complaint;

(3) relevant new credit-related complaint;

(4) relevant new claims management complaint; or

(5) relevant transitional funeral plan complaint.

...

##### 1.10 Complaints reporting rules

1.10.1 R (1) Unless (2) applies, twice a year a *firm* must provide the *FCA* with a complete report concerning *complaints* received from *eligible complainants*.

(2) If a *firm*:

(a) ...

(b) has permission to carry on only ~~regulated claims management activities;~~

(i) regulated claims management activities; or

(ii) regulated funeral plan activities,

the *firm* must provide the *FCA* with a complete report concerning *complaints* received from *eligible complainants* once a year.

- (3) The report required by (1) and (2) must be set out in the format in:
- (a) *DISP* 1 Annex 1R, in respect of *complaints* which do not relate to *regulated claims management activity* or any activity ancillary to *regulated claims management activity*; ~~and~~
  - (b) *DISP* 1 Annex 1ABR, in respect of *complaints* relating to *regulated claims management activity* or any activity ancillary to *regulated claims management activity*; and
  - (c) *DISP* 1 Annex 1ACR, in respect of *complaints* relating to *regulated funeral plan activities*.

...

...

1.10.2B R ...

1.10.2C R *DISP* 1 Annex 1ACR requires (for the relevant reporting period) information about:

- (1) in Table 1, the total number of *complaints* received by the *firm* and the main focus of the *complaints*;
- (2) in Table 2:
  - (a) the number of *complaints* that were closed or upheld within different time periods; and
  - (b) the total amount of redress paid by the *firm* in relation to *complaints* upheld and not upheld in the relevant reporting period.

1.10.3 G For the purposes of *DISP* 1.10.2R, *DISP* 1.10.2-AR, *DISP* 1.10.2AR, ~~and~~ *DISP* 1.10.2BR and *DISP* 1.10.2CR, when completing the return, the *firm* should take into account the following matters.

- (1) ...
- (2) Under *DISP* 1.10.2R(1)(b), *DISP* 1.10.2R(2)(b), *DISP* 1.10.2-AR, ~~or~~ *DISP* 1.10.2BR(2) or *DISP* 1.10.2CR(2), a *firm* should report information relating to all *complaints* which are closed and upheld within the relevant reporting period, including those resolved under *DISP* 1.5 (Complaints resolved by close of the third business day). Where a *complaint* is upheld in part, or where the *firm* does not have enough information to make a decision yet chooses to make a goodwill payment to the complainant, a *firm* should treat the *complaint* as upheld for reporting purposes. However, where

a *firm* rejects a *complaint* yet chooses to make a goodwill payment to the complainant, the *complaint* should be recorded as ‘rejected’.

- (3) If a *firm* reports on the amount of redress paid under *DISP* 1.10.2R(1)(b)(ii), *DISP* 1.10.2R(2)(b)(ii), *DISP* 1.10.2-AR(4), *DISP* 1.10.2AR, ~~or~~ *DISP* 1.10.2BR(2)(b) or *DISP* 1.10.2CR(2)(b), redress should be interpreted to include an amount paid, or cost borne, by the *firm*, where a cash value can be readily identified, and should include:

(a) ...

...

- (4) If a *firm* reports on the amount of redress paid under *DISP* 1.10.2R(1)(b)(ii), *DISP* 1.10.2R(2)(b)(ii), *DISP* 1.10.2-AR(4), ~~or~~ *DISP* 1.10.2AR or *DISP* 1.10.2CR(2)(b), the redress should not, however, include repayments or refunds of premiums which had been taken in error (for example where a *firm* had been taking, by direct debit, twice the actual premium amount due under a policy). The refund of the overcharge would not count as redress.

...

...

## 1.10A Complaints data publication rules

Obligation to publish summary of complaints data or total number of complaints

- 1.10A.1 R (1) Unless (1A) applies to the *firm*, where, in accordance with *DISP* 1.10.1R, a *firm* submits a report to the *FCA* reporting 500 or more *complaints*, it must publish a summary of the *complaints* data contained in that report (the *complaints* data summary).

(1A) (a) This paragraph applies to a *firm* which:

(i) has *permission* to carry on only *credit-related regulated activities* or to *operate an electronic system in relation to lending*; and

(ii) has revenue arising from those activities that is less than or equal to £5,000,000 a year.

(aa) This paragraph also applies to a *firm* which has *permission* to carry on only ~~*regulated claims management activities*~~:

(i) *regulated claims management activities*; or

(ii) *regulated funeral plan activities*.

...

...

**1 Annex 1B Complaints publication report**

...

Number of complaints opened by volume of business

Product / service grouping	Provision (at reporting period end date)	Intermediation (within the reporting period)	...	...	...	...	...	...
----------------------------	--	--	-----	-----	-----	-----	-----	-----

...

Claims management per 1000 claims in progress and/or leads generated

<u>Funeral plans</u>	<u>per 1000 plans in force</u>	<u>per 1000 plans sold</u>
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...

**Note 1:** ...

...

**Note: 5** When a *firm* publishes the ‘main cause of complaints opened’, this should be the cause category prompting the largest number of complaints for the relevant product/service grouping in, as applicable, Table 4 of Part A-2, *DISP 1 Annex 1*, Table 1 of *DISP 1 Annex 1ABR* or Table 1 of *DISP 1 Annex 1ACR*

After DISP 1 Annex 1AB (Claims management complaints and redress return form) insert the following new Annex, DISP 1 Annex 1ACR. The text is not underlined.

**1 Annex      R      FPR-Complaints – Funeral Plans complaints return**  
**1AC**



**FPR-Complaints – Funeral Plans complaints return**

Group reporting

A

1	Does the data reported in this return cover complaints relating to more than one firm?  (NB: You should always answer "No" if your firm is not part of a group)	
2	If "Yes" then list the firm reference numbers (FRNs) of all of the additional firms included in this return.	

Nil return declaration

A

3	We wish to declare a nil return  (If yes, leave all questions on complaints activities, including contextualisation, blank.)	
---	--	--

Return details required

A

4	Total complaints outstanding at reporting period start date.	
5	Total number of complaints opened during the reporting period.	

Complaints data publication by FCA

A

6	If you are reporting 1000 or more complaints, do you consent to the FCA publishing the complaints data and information on context contained in this report in advance of the firm publishing the data itself?	
7	If "Yes", do you confirm that the complaints data and information on context contained in this report accurately reflects the information required to be published by the reporting firm under DISP?	

Contextualisation data

**Table 1**

		A	B	C	D	E	F
		Main cause of complaint					
Numbers of complaints during reporting period		Unsuitable advice	Dispute over fees/charges	Not carrying out instructions	Delays	Customer service	Other
8	Total number of complaints						

**Table 2**

Number of complaints closed, complaints upheld and amount of redress paid during the reporting period Redress paid: figures for redress paid should be to the nearest pound not to the nearest thousand pounds.		A
9	Complaints closed within 3 days	
10	Complaints closed within 8 weeks, but after more than 3 days	
11	Complaints closed after more than 8 weeks	
12	Total complaints closed	
13	Complaints upheld	
14	Redress paid for upheld complaints	
15	Redress paid for complaints not upheld	
16	Total redress paid	

Amend the following as shown.

## 2 Jurisdiction of the Financial Ombudsman Service

### 2.1 Purpose, interpretation and application

#### Purpose

2.1.1 G The purpose of this chapter is to set out *rules* and guidance on the scope of the *Compulsory Jurisdiction* and the *Voluntary Jurisdiction*, which are the *Financial Ombudsman Service's* two jurisdictions:

- (1) the *Compulsory Jurisdiction* is not restricted to *regulated activities, payment services*, issuance of *electronic money*, and *CBTL business* and covers:
  - (a) ...
  - (b) *relevant complaints* against former members of *former schemes* under the *Ombudsman Transitional Order*, the *Mortgage and General Insurance Complaints Transitional Order*, ~~and~~ the *Claims Management Order* and the *Funeral Plans Order*;

...

...

2.1.2 G *Relevant complaints* covered by the *Compulsory Jurisdiction* comprise:

- (1) ...
- ...
- (6) *relevant existing claims management complaints* referred to the *Legal Ombudsman* before 1 April 2019 and inherited by the *Financial Ombudsman Service* under the *Claims Management Order*; ~~and~~
- (7) *relevant new claims management complaints* about events which took place before 1 April 2019 but referred to the *Financial Ombudsman Service* on or after 1 April 2019 under the *Claims Management Order*; ~~and~~
- (8) *relevant transitional funeral plan complaints* about events which took place before 29 July 2022 but were referred to the *Financial Ombudsman Service* on or after 29 July 2022 in accordance with article 7 of the *Funeral Plans Order*.

...

## 2.3 To which activities does the Compulsory Jurisdiction apply?

...

Activities by firms and unauthorised persons subject to a former scheme

2.3.2 G The *Ombudsman* can also consider under the *Compulsory Jurisdiction*:

(1) ...

...

(2B) as a result of the *Funeral Plans Order*, a relevant transitional funeral plan complaint that relates to an act or omission by a firm or unauthorised person which was subject to a former scheme at the time of the act or omission;

...

(3) ...

...

...

## 2.5 To which activities does the Voluntary Jurisdiction apply?

2.5.1 R The *Ombudsman* can consider a *complaint* under the *Voluntary Jurisdiction* if:

(1) it is not covered by the *Compulsory Jurisdiction*; and

(2) it relates to an act or omission by a *VJ participant* in carrying on one or more of the following activities:

(a) ...

...

(c) activities, other than *regulated claims management activities* and activities ancillary to *regulated claims management activities*, which (at ~~30 April 2021~~ at 29 July 2022) would be covered by the *Compulsory Jurisdiction*, if they were carried on from an establishment in the *United Kingdom* (these activities are listed in *DISP 2 Annex 1G*);

...

(cb) an activity which would be a regulated funeral plan activity and would be covered by the *Compulsory Jurisdiction* if it were carried on in relation to a funeral in the *United Kingdom*.

...

...

...

2.5.3 G *DISP 2.5.1R(2)(a)* is for those that are subject to the *Compulsory Jurisdiction for regulated activities* but are not covered by ~~the Ombudsman Transitional Order, the Mortgage and General Insurance Complaints Transitional Order, or the Claims Management Order.~~ any of the following:

- (a) the Ombudsman Transitional Order,
- (b) the Mortgage and General Insurance Complaints Transitional Order,
- (c) the Claims Management Order, or
- (d) the Funeral Plans Order.

It enables the *Financial Ombudsman Scheme* to cover *complaints* about earlier events relating to those activities before they became *regulated activities*.

...

## 2.6 What is the territorial scope of the relevant jurisdiction?

...

Voluntary Jurisdiction

...

2.6.4A G ...

2.6.4B G Complaints about activities which would be regulated funeral plan activities but which are not regulated funeral plan activities because, for example, the services are carried on in relation to a funeral outside of the United Kingdom, may be covered by the Voluntary Jurisdiction under DISP 2.5.1R(2)(cb).

...

## 2.7 Is the complainant eligible?

...

Eligible complainants

...

2.7.8 G In the *Compulsory Jurisdiction*, under the *Ombudsman Transitional Order*, the *Mortgages and General Insurance Complaints Transitional Order*, ~~and~~ *Claims Management Order* and the *Funeral Plans Order*, where a complainant:

- (1) wishes to have a *relevant new complaint*, a *relevant transitional complaint*, ~~or~~ a *relevant new claims management complaint*, or a *relevant transitional funeral plan complaint* dealt with by the *Ombudsman*; and

...

...

...

## 2 Annex 1 Regulated Activities for the Voluntary Jurisdiction at ~~30 April 2021~~ 29 July 2022

This table belongs to *DISP 2.5.1R*

G The activities which were covered by the *Compulsory Jurisdiction* (at ~~30 April 2021~~ 29 July 2022) were:

- (1) ...

...

The activities which (at ~~30 April 2021~~ 29 July 2022) were *regulated activities* were, in accordance with section 22 of the *Act* (Regulated Activities), any of the following activities specified in Part II and Parts 3A and 3B of the *Regulated Activities Order* (with the addition of administering a benchmark):

- (1) ...

...

(39) *entering as provider into a funeral plan contract* (article 59);

(39A) *carrying out a funeral plan contract as provider* (article 59(1A));

...

...

## 3 Complaint handling procedures of the Financial Ombudsman Service

...

### 3.6 Determination by the Ombudsman

Fair and reasonable

...

- 3.6.5 G (1) Where the *Ombudsman* is determining what is fair and reasonable in all the circumstances of a *relevant new complaint*,<sup>2</sup> or a *relevant transitional complaint*,<sup>2</sup> or a *relevant new claims management complaint*, the *Ombudsman Transitional Order*, the *Mortgage and General Insurance Complaints Transitional Order* and the *Claims Management Order* make provision for ~~him~~ the Ombudsman to take into account what determination the *former Ombudsman* might have been expected to reach in relation to an equivalent complaint dealt with under the *former scheme* in question immediately before the relevant order came into effect.
- (2) Where the Ombudsman is determining what is fair and reasonable in all the circumstances of a relevant transitional funeral plan complaint, the Funeral Plans Order makes provision for the Ombudsman to take into account what determination the Funeral Planning Authority might have been expected to reach in relation to an equivalent complaint dealt with under the former scheme.

...

### 3.7 Awards by the Ombudsman

...

Money awards

...

- 3.7.3 G (1) Where the *Ombudsman* is determining what amount (if any) constitutes fair compensation as a money award in relation to a *relevant new complaint*, a *relevant transitional complaint*, or a *relevant new claims management complaint*, the *Ombudsman Transitional Order*, the *Mortgages and General Insurance Complaints Transitional Order*, and the *Claims Management Order* make provision for ~~him~~ the Ombudsman to take into account what amount (if any) might have been expected to be awarded by way of compensation in relation to an equivalent complaint dealt with under the *former scheme* in question immediately before the relevant order came into effect.
- (2) Where the Ombudsman is determining what amount (if any) constitutes fair compensation as a money award in relation to a relevant transitional funeral plan complaint, the Funeral Plans Order makes provision for the Ombudsman to take into account

what amount, if any, the *Funeral Planning Authority* might have been expected to award by way of compensation in relation to an equivalent complaint dealt with under the *former scheme*.

...

## TP1 Transitional provisions

### TP1.1 Transitional provisions table

(1)	(2) Material provision to which transitional provision applies	(3)	(4) Transitional provision	(5) Transitional provision: dates in force	(6) Handbook provision: coming into force
...	...	...	...	...	...
54	<u>DISP 1.10.1R</u> , <u>DISP 1.10.4AR</u> , <u>DISP 1.10.5R</u> and <u>DISP 1 Annex 1ACR</u>	<u>R</u>	<p>(1) This transitional provision applies where a <i>firm</i> with permission to carry on only <i>regulated funeral plan activities</i> is required to provide the <i>FCA</i> with its first report under <u>DISP 1.10.1R</u> in the form of <u>DISP 1 Annex 1ACR</u>.</p> <p>(2) No report is required under <u>DISP 1.10.1R</u> in the form of <u>DISP 1 Annex 1ACR</u> in respect of a period ending on an <i>accounting reference date</i> of the <i>firm</i> earlier than 29 October 2022.</p> <p>(3) If the <i>firm</i> does not provide a report in the form of <u>DISP 1 Annex 1ACR</u> under <u>DISP 1.10.1R</u> in respect of a period ending on an <i>accounting reference date</i> of the <i>firm</i> earlier than 29 October 2022, the first report in the form of <u>DISP 1 Annex 1ACR</u> provided under</p>	<u>From 29 July 2022</u>	<u>29 July 2022</u>



			<u>DISP 1.10.1R</u> must cover the period from 29 July 2022 to the <u>firm's first accounting reference date</u> which occurs on or after 29 July 2023.		
<u>55</u>	<u>DISP 2</u> and <u>DISP 3</u>	<u>R</u>	In <u>DISP 2</u> and <u>DISP 3</u> , references to a “ <u>firm</u> ” or “ <u>firms</u> ” include <u>unauthorised persons</u> subject to the <u>Compulsory Jurisdiction</u> in relation to a <u>relevant transitional funeral plan complaint</u> in accordance with the <u>Funeral Plans Order</u> .	<u>From 29 July 2022</u>	<u>From 29 July 2022</u>
<u>56</u>	<u>DISP 2</u> and <u>DISP 3</u>	<u>G</u>	Under the <u>Funeral Plans Order</u> , a <u>relevant transitional funeral plan complaint</u> is subject to the <u>Compulsory Jurisdiction</u> whether or not it is about a <u>firm</u> or an <u>unauthorised person</u> . <u>Unauthorised persons</u> are not subject to <u>DISP 1</u> , but references to “ <u>firm</u> ” in <u>DISP 2</u> and <u>DISP 3</u> include <u>unauthorised persons</u> subject to the <u>Compulsory Jurisdiction</u> in relation to a <u>relevant transitional funeral plan complaint</u> , where applicable.	<u>From 29 July 2022</u>	<u>From 29 July 2022</u>
<u>57</u>	<u>DISP 1</u> , <u>DISP 2</u> , <u>DISP 3</u> and <u>DISP 4</u>	<u>R</u>	In relation to a <u>relevant transitional funeral plan complaint</u> , references in <u>DISP 1</u> , <u>DISP 2</u> , <u>DISP 3</u> and <u>DISP 4</u> to an “ <u>eligible complainant</u> ” include a person who is to be treated as an <u>eligible complainant</u> in accordance with the <u>Funeral Plans Order</u> and references to a <u>complaint</u> shall be construed accordingly.	<u>From 29 July 2022</u>	<u>From 29 July 2022</u>

## Annex L

### Amendments to the Compensation sourcebook (COMP)

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

#### 1 Introduction and Overview

...

#### 1.3 Claimants

...

##### 1.3.3 G Areas of particular interest to claimants (see *COMP* 1.1.3G)

This Table belongs to *COMP* 1.1.3G.

...		
<b>Q2</b>	<b>How much compensation will I be offered?</b>	
<b>A2</b>	This depends on whether your <i>protected claim</i> is:	
	(1)	[deleted]
	...	
	(6)	a <i>claim</i> in connection with <i>protected debt management business</i> ; <u>or</u>
		<i>COMP</i> 5.8
	(7)	a <i>claim</i> in connection with <u><i>protected funeral plan business</i></u> .
		<u><i>COMP</i> 5.9</u>
	...	
<b>Q3</b>	<b>How will the FSCS calculate the compensation that is offered to me?</b>	
<b>A3</b>	Again, this will depend on whether your <i>protected claim</i> is:	
	(1)	[deleted]
	...	

	<u>(6)</u>	a <i>claim</i> in connection with <i>protected debt management business</i> ; or	<u>COMP 12.4.21AR</u>
	<u>(7)</u>	a <i>claim</i> in connection with <i>protected funeral plan business</i> .	<u>COMP 12.4.21BR</u>

...

## 5 Protected claims

...

### 5.2 What is a protected claim?

5.2.1 R A *protected claim* is:

(1) ...

...

(6) a *claim* in connection with *protected debt management business* (see COMP 5.8); or

(7) a *claim* in connection with *protected funeral plan business* (see COMP 5.9).

...

#### Claims in respect of successors

5.2.4 G Where a claim for compensation is in respect of a *claim* against a *successor*, the following rules apply to the *relevant person* for whose liabilities the *successor* has assumed responsibility (or to such *relevant person's* activities, as the case may be):

(1) ...

...

(6) COMP 5.7.2R; and

(7) COMP 5.8.1R; and

(8) COMP 5.9.1R and COMP 5.9.2R.

...

## **5.9** **Protected funeral plan business**

5.9.1 R *Protected funeral plan business is a regulated funeral plan activity carried on by a relevant person from an establishment maintained by the relevant person (or its appointed representative) in the United Kingdom.*

5.9.2 R *COMP 5.9.1R does not apply in relation to a claim against an intermediary (or where applicable, their successor) where the eligible claimant did not deal initially with an intermediary that was established in the United Kingdom.*

### Advising without a personal recommendation

5.9.3 R *The FSCS must treat a claim relating to advice in relation to a funeral plan contract that falls outside article 53(1) of the Regulated Activities Order by virtue of article 53(1A) of that Order as being ‘in connection with protected funeral plan business’ for the purposes of COMP 5.2.1R(7) where the relevant person giving the advice, at the time the act or omission giving rise to the claim took place:*

- (1) had, or required, permission to carry on; or
- (2) (in the case of an appointed representative) was exempt from the general prohibition in respect of,  
  
an activity that was protected funeral plan business.

...

## **8** **Rejection of application and withdrawal of offer**

...

### **8.2** **Rejection of application for compensation**

...

#### Limitation periods and claims extinguished by operation of law

...

8.2.4 R *For claims made in connection with protected investment business, protected home finance mediation, protected non-investment insurance distribution, ~~or~~ protected debt management business or protected funeral plan business, the FSCS may disregard a defence of limitation where the FSCS considers that it would be reasonable to do so.*

...

8.2.5 R For claims made in connection with *protected investment business*, *protected non-investment insurance distribution*, *protected home finance mediation*, ~~or~~ *protected debt management business* or *protected funeral plan business*, if a *relevant person* (or where applicable, a *successor*), incorporated as a *company*, has been dissolved with the result that its liability to the claimant has been extinguished by operation of law, the *FSCS* must treat the claim, for the purposes of paying compensation, as if the *relevant person* or a *successor*, as appropriate, had not been dissolved.

...

## 9 Time limits on payment and postponing payment

...

### 9.2 When must compensation be paid?

...

9.2.2 R The *FSCS* may postpone paying compensation if:

(1) ...

(2) in the case of a *claim* relating to *protected investment business* which is not an *ICD claim*, a *claim* relating to *protected home finance mediation*, a *claim* relating to *protected non-investment insurance distribution* ~~or~~, a *claim* relating to *protected debt management business* or a *claim* relating to *protected funeral plan business*, the *FSCS* considers that the claimant should first exhaust ~~his~~ their rights against the *relevant person* (or, where applicable, a *successor*) or any third party, or make and pursue an application for compensation to any other *person*; or

...

...

## 10 Limits on the amount of compensation payable

...

### 10.2 Limits on compensation payable

...

10.2.3 R Table Limits

This table belongs to *COMP* 10.2.1R

Type of claim	Level of Cover	Maximum Payment
...	...	...
<i>Protected debt management business</i>	100% of <i>claim</i>	£85,000
<u><i>Protected funeral plan business</i></u>	<u>100% of <i>claim</i></u>	<u>£85,000</u>

...

## 11 Payment of compensation

...

### 11.2 Payment

To whom must payment be made?

- 11.2.1A R If the *FSCS* determine that compensation is payable (or any recovery or other amount is payable by the *FSCS* to the claimant), it must pay it to the claimant, or if the *FSCS* so decides, as directed by the claimant, unless *COMP* 1.2.2R, or *COMP* 11.2.2AR or *COMP* 11.2.2CR apply.

#### Certain protected investment business claims

- 11.2.2 R ...

#### Collective investment scheme claims

- 11.2.2A R ...

...

#### Protected funeral plan business claims

- 11.2.2C R Where a claimant has a *protected funeral plan business claim* the *FSCS* may pay compensation (and any recovery or other amount payable by the *FSCS* to the claimant) to any other *person* on such terms and on such conditions as it thinks fit.

- 11.2.2D G *COMP* 3.2.2R permits the *FSCS* to pay compensation to a *person* who makes a *claim* on behalf of another *person* where certain conditions are satisfied. This includes payment to the personal representatives who make a *claim* on behalf of the deceased (see *COMP* 3.2.3G)(1)). *COMP* 11.2.2CR permits the *FSCS* to pay compensation to any other *person* who it considers should receive the compensation. For example, this may be to a funeral services provider directly where the funeral services

provider has incurred expenses in providing funeral services under the funeral plan contract and is yet to be reimbursed.

...

## 12 Calculating compensation

...

### 12.3 Quantification date

...

Protected debt management business

12.3.9 R ...

Protected funeral plan business

12.3.10 R For a claim made in connection with protected funeral plan business, the FSCS must determine a specific date as the quantification date, and this date may be either on, before or after the date of determination of default.

### 12.4 The compensation calculation

...

Protected debt management business

12.4.21A R The FSCS may pay compensation for any claim made in connection with protected debt management business only to the extent that the FSCS considers that the payment of compensation is essential to provide the claimant with fair compensation.

Protected funeral plan business

12.4.21B R The FSCS may pay compensation for any claim made in connection with protected funeral plan business only to the extent that the FSCS considers that the payment of compensation is essential to provide the claimant with fair compensation.

...

## TP 1 Transitional Provisions

### TP 1.1 Transitional Provisions Table

(1)	(2)	(3)	(4)	(5)	(6)
-----	-----	-----	-----	-----	-----

	<b>Material to which the transitional provision applies</b>	<b>Transitional Provision</b>	<b>Transitional provision: dates in force</b>	<b>Handbook Provisions: coming into force</b>
...				
<u>48</u>	<u>Amendments introduced by the Funeral Plans Instrument 2021</u>	<u>R</u>	<u>The changes referred to in (2) do not apply in relation to a <i>claim</i> against a <i>relevant person</i>, or against a <i>successor</i>, that was in default before [date] nor, in relation to <i>claims</i> in connection with <i>protected funeral plan business</i>, where the relevant act or omission occurs before 29 July 2022.</u>	<u>From 29 July 2022 indefinitely</u> <u>29 July 2022</u>



## Annex M

### Funeral Plan: Conduct of Business sourcebook (FPCOB)

In this Annex, all the text is new and is not underlined.

#### Funeral Plan: Conduct of Business sourcebook (FPCOB)

#### 1 Application and purpose

##### 1.1 Application and purpose

###### Application

- 1.1.1 G (1) The Funeral Plan: Conduct of Business sourcebook (*FPCOB*) is the specialist sourcebook for *regulated funeral plan activities*.
- (2) *FPCOB* is relevant both to *funeral plan providers* and *funeral plan intermediaries*.
- (3) *FPCOB* applies as described in this chapter unless the application of a chapter, a section or a *rule* is described differently in the chapters, sections or *rules* in *FPCOB*.

###### Purpose

- 1.1.2 G The purpose of *FPCOB* is to set out the detailed obligations that are specific to *regulated funeral plan activities* and the connected activities carried on by *firms*. *FPCOB* 17 refers to other high-level obligations in the *FCA Handbook* that apply to *firms*, for example, *PRIN*, *GEN* and *SYSC*.

##### 1.2 General application: who? what? where?

###### Providing funeral plan contracts

- 1.2.1 R This sourcebook applies to a *firm* with respect to the activities of:
- (1) *entering as provider into a funeral plan contract*; and
- (2) *carrying out a funeral plan contract as provider*; and
- activities connected with them.
- 1.2.2 G The regulated activities of *entering as provider into a funeral plan contract* and *carrying out a funeral plan contract as provider* apply in relation to *funeral plan contracts* under which the provider undertakes to provide, or secure that another *person* provides, a funeral in the *United Kingdom* (article 59(2) of the *Regulated Activities Order* and see *PERG 2.4.2AG*).

### Distributing funeral plan contracts: firms and appointed representatives

- 1.2.3 R This sourcebook applies to a *firm* with respect to *funeral plan distribution* and activities connected with *funeral plan distribution*.
- 1.2.4 R A *firm* (including a *funeral plan provider*) that has appointed an *appointed representative* to carry on *funeral plan distribution* must ensure that its *appointed representative* complies with this sourcebook as it applies to a *firm* carrying on *funeral plan distribution*.
- 1.2.5 G A *funeral plan provider* that wishes to appoint an *appointed representative* to distribute its *funeral plan contracts* should ensure that the *regulated activities* covered by the *appointed representative's* appointment fall within the scope of the *firm's Part 4A permissions* or are otherwise excluded from being *regulated activities* when carried on by the *firm* (see SUP 12.4.1AG).

### Financial promotions

- 1.2.6 R This sourcebook applies to a *firm*:
- (1) *communicating a financial promotion* in relation to a *funeral plan contract* or a *regulated funeral plan activity* to a *person* inside the *United Kingdom*; and
  - (2) *approving a financial promotion* in relation to a *funeral plan contract* or a *regulated funeral plan activity* for *communication* to a *person* inside the *United Kingdom*.

### Modifications to the general application rules

- 1.2.7 R The general application *rules* in this section are modified:
- (1) in the chapters of this sourcebook for particular purposes, including those relating to the type of *firm* and its activities; and
  - (2) in FPCOB 1 Annex 1 according to the type of *firm*.

### New and subsisting funeral plans

- 1.2.8 R All of the *rules* in this sourcebook apply in relation to *new funeral plans*, unless otherwise stated.
- 1.2.9 R The *rules* in certain sections of this sourcebook also apply in relation to *subsisting funeral plans*.

### Application to Gibraltar-based firms

- 1.2.10 R A *Gibraltar-based firm* with *permission* for *funeral plan provision activity* or *funeral plan distribution* must comply with the relevant provisions of

*FPCOB* and any other provisions in the *Handbook* relating to *regulated funeral plan activity*.

Guidance on application

1.2.11 G *Guidance* on the application provisions is in *FPCOB* 1 Annex 1.

Customers and covered individuals

1.2.12 G (1) In this sourcebook, *rules* may apply by reference to the *customer* or *covered individual* under a *funeral plan contract*, or to both.

(2) The definition of *customer* includes a prospective *customer* under a *funeral plan contract*.

(3) Reference to the *covered individual* is to the *individual* on whose death a funeral will be provided or secured under a *funeral plan contract* or prospective *funeral plan contract*. The *covered individual* under a *funeral plan contract* will not necessarily be the same *person* as the *customer* (article 59(2)(b) of the *Regulated Activities Order*).

1.2.13 G Where the *rules* in this sourcebook require a *firm* to disclose information to a *customer*, the *firm* should also consider:

(1) whether it should disclose the same information to the *covered individual* (where different from the *customer*) in accordance with its obligations under *Principle 7*; and

(2) if it considers that disclosure should be made to the *covered individual*, whether it requires the consent of the *customer* in order to make that disclosure.

Interpretation – “concluding” funeral plan contracts

1.2.14 G Certain *rules* in this sourcebook apply by reference to the conclusion of a *funeral plan contract*, which means the entering into of the *funeral plan contract*.

**1 Annex 1 Application (see FPCOB 1.2.11G)**

Application to different types of firm			
<b>1</b>	<b>Application to funeral plan providers and intermediaries</b>		
1.1	G	(1)	Certain sections of this sourcebook apply differently to <i>funeral plan providers</i> and <i>funeral plan intermediaries</i> . This table summarises which sections of this sourcebook are relevant to <i>funeral plan providers</i> , which are relevant to <i>funeral plan intermediaries</i> and which are relevant to both.

		(2)	A <i>funeral plan provider</i> that has appointed an <i>appointed representative</i> to distribute <i>funeral plan contracts</i> will need to consider the sections of this sourcebook which are relevant to <i>funeral plan intermediaries</i> in relation to the activities of its <i>appointed representatives</i> .
<b>2</b>	<b>Third party processors</b>		
2.1	R	(1)	This <i>rule</i> applies where a <i>firm</i> (or its <i>appointed representative</i> ) (“A”) has outsourced <i>funeral plan distribution</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.

## 2 General matters

### 2.1 General principles

#### Application

- 2.1.1 R (1) This section applies to a *firm* in relation to its *regulated funeral plan activity*.
- (2) This section applies in relation to a *firm’s customers* under *subsisting funeral plans*, unless otherwise stated.

#### The customer’s best interests rule

- 2.1.2 R A *firm* must act honestly, fairly and professionally in accordance with the best interests of:
- (1) its *customer*; and
- (2) if different, the *covered individual*.

#### Exclusion of liability

- 2.1.3 R A *firm* must not seek to exclude or restrict, or rely on any exclusion or restriction of, any duty or liability it may have to a *customer* or *covered individual* unless it is reasonable for it to do so and the duty or liability arises other than under the *regulatory system*.
- 2.1.4 G The general law, including the *Unfair Terms Regulations* (for contracts entered into before 1 October 2015) and the *CRA*, also limits the scope for a *firm* to exclude or restrict any duty or liability to a *consumer*.

## Reliance on others

- 2.1.5 G (1) Where it is compatible with the nature of the obligation imposed by a particular *rule*, including the *customer's best interests rule*, and with the *Principles*, in particular *Principles* 1 (Integrity), 2 (Skill, care and diligence) and 3 (Management and control), *firms* may rely on third parties in order to comply with the *rules* in this sourcebook.
- (2) For example, where a *rule* requires a *firm* to take reasonable steps to achieve an outcome, it will generally be reasonable for a *firm* to rely on information provided to it in writing by an unconnected *authorised person* or a *professional firm*, unless it is aware or ought reasonably to be aware of any fact that would give reasonable grounds to question the accuracy of that information. However, a *firm* cannot delegate its responsibility under the *regulatory system*. For example, where a *rule* imposes an absolute obligation (such as the requirement on a *funeral plan provider* in *FPCOB* 14.1.4R regarding the services required for a *funeral plan contract*) although a *firm* could use outsourcing arrangements to fulfil its obligation, it retains regulatory responsibility for achieving the outcome required.

## Record keeping

- 2.1.6 G (1) This sourcebook, other than *FPCOB* 4, *FPCOB* 6.4.18R and *FPCOB* 15, does not generally have detailed record-keeping requirements: *firms* will need to decide what records they need to keep in line with the high-level record-keeping requirements and their own business needs.
- (2) In order to deal with requests for information from the *FCA*, as well as queries and complaints from *customers* and *covered individuals*, *firms* may require evidence of matters such as:
- (a) the reasons for *personal recommendations*;
  - (b) what documentation has been provided to a *customer* or *covered individual*; and
  - (c) how redemptions have been settled and why.
- (3) A *firm* may be subject to record-keeping requirements elsewhere in the *FCA Handbook*, including in:
- (a) the Training and Competence sourcebook (*TC*) (see *TC* 3.1.1R);
  - (b) the Senior Management Arrangements, Systems and Controls sourcebook (*SYSC*) (see *SYSC* 9.1.1R, *SYSC* 10.1.6R and *SYSC* 28A.3.1R); and

- (c) chapter 7 of the Product Intervention and Product Governance sourcebook (*PROD*) when *manufacturing* or *distributing a funeral plan product*.

## 2.2 Inducements

- 2.2.1 G (1) *Principle 8* requires a *firm* to manage conflicts of interest fairly, both between itself and its *customers* and between a *customer* and another *client*. This principle extends to soliciting or accepting inducements where this would conflict with a *firm's* duties to its *customers*. A *firm* that offers such inducements should consider whether doing so conflicts with its obligations under:
  - (a) *Principles 1* and *6* to act with integrity and treat *customers* fairly; and
  - (b) the *customer's best interests rule*.
- (2) An inducement is a benefit offered to a *firm*, or any *person* acting on its behalf, with a view to that *firm*, or that *person*, adopting a particular course of action. This can include, but is not limited to, cash, cash equivalents, *commission*, goods, hospitality or training programmes.
- (3) *Firms* should also refer to the *rules* on charging for funeral plan distribution and payments to *funeral plan intermediaries* (*FPCOB 6.4* and *FPCOB 6.5*).

## 2.3 Customers with a payment shortfall

### Application

- 2.3.1 R This section applies to a *funeral plan provider* dealing with a *customer* that has:
    - (1) an *instalment payment funeral plan* entered into on or after 29 July 2022; and
    - (2) a *payment shortfall* in relation to that *instalment payment funeral plan*.
  - 2.3.2 G In relation to a *subsisting funeral plan*, a *funeral plan provider* should deal with *customers* fairly and, as far as possible, in a manner that is compatible with the *customer's best interests rule*.
- Purpose
- 2.3.3 G This section amplifies *Principle 6* (*Customers' interests*) in respect of the information and service that *firms* should provide to *customers* who have payment difficulties or shortfalls.

## Dealing fairly with customers with a payment shortfall

- 2.3.4 R The *firm* must deal fairly with the *customer* in relation to the *payment shortfall*.
- 2.3.5 R Where the *customer* has a *payment shortfall* of 2 consecutive payments, the *firm* must, as soon as possible, and in any event within 5 *business days* of the second missed payment, provide the *customer* with a statement in a *durable medium* of:
- (1) the individual payments due;
  - (2) the total amount of the *payment shortfall*; and
  - (3) information on the consequences and potential consequences under the *funeral plan contract*, if the *payment shortfall* is not settled within 10 *business days* of the date of the *customer* communication.
- 2.3.6 R The *firm* must allow the *payment shortfall* to be settled within 10 *business days* of the date of the communication, without penalty.
- 2.3.7 R The *firm* must not impose a *fee* on the *customer* for incurring or correcting the *payment shortfall*.
- 2.3.8 R The *firm* must not cancel the *funeral plan contract* on the basis of a *payment shortfall* unless:
- (1) The *customer*:
    - (a) has a *payment shortfall* of at least 2 consecutive payments; and
    - (b) has failed to settle the *payment shortfall* in accordance with the terms of the statement provided by the *firm* for the purposes of *FPCOB 2.3.5R*; or
  - (2) *FPCOB 13.2.3R* applies.
- 2.3.9 R If the *firm* does not cancel the *funeral plan contract* on the basis of a *payment shortfall*, it must provide the *customer* with a further statement in accordance with the requirements of *FPCOB 2.3.5R* following each further consecutive missed payment.
- 2.3.10 R A *firm*'s obligation to maintain insurance arrangements in accordance with *FPCOB 3.1.8R* continues despite any *payment shortfall*.

## **3 Structure Provisions - arrangements underpinning a funeral plan contract**

### **3.1 Application: general**

- 3.1.1 R This section applies to a *firm*:

- (1) *entering as provider into a funeral plan contract; and*
- (2) *carrying out a funeral plan contract as provider in relation to a new funeral plan contact.*

Application: subsisting funeral plans

3.1.2 G The *FCA* encourages *firms* which carry out *subsisting funeral plans* underpinned by existing trust arrangements or insurance contracts, and the relevant trustees and insurers, to work together to seek to amend those arrangements to bring them into line with the arrangements in this chapter.

3.1.3 R In relation to a *subsisting funeral plan*:

- (1) under which the *funeral plan provider* undertakes to secure that sums paid by the *customer* under the contract will be held on trust for the purpose of providing the funeral; and
- (2) where the trust instrument or such contract have been substantively amended on or after 2 March 2021 so that their terms (post-amendment) meet any of the applicable requirements in this section or the funeral plan resolution rules in *FPCOB* 16,

a *firm* carrying out that contract as provider must, to the extent within its powers, comply with this section from 29 July 2022 or the point in time that the amendment is made if later.

Primary purpose

3.1.4 R The *rules* and *guidance* in this section must be construed in accordance with the *primary purpose*.

3.1.5 R The *primary purpose* is to ensure that *funeral plan contracts* are underpinned by robust trust or insurance arrangements that will enable the provision, at the relevant time, of funerals in accordance with the terms of the *funeral plan contracts*.

Arrangements underpinning funeral plan contracts

3.1.6 R In relation to each *funeral plan contract*, a *funeral plan provider* must either:

- (1) purchase, or arrange the purchase of, a *contract of insurance* from an authorised *insurer* on the life of the *covered individual* that is sufficient for the purpose of providing the agreed funeral; or
- (2) arrange for such proportion of sums paid by the *customer* under the *funeral plan contract* that is sufficient for the purpose of providing the agreed funeral to be held on trust,



as soon as reasonably practicable after receipt of monies from the *customer*, *appointed representative* or *funeral plan intermediary*.

- 3.1.7 G When purchasing a *contract of insurance* or determining what proportion of sums paid by the *customer* under the *funeral plan contract* should be held on trust, a *funeral plan provider* should take into account its obligations under *FPCOB 7* to provide a funeral under an *instalment payment funeral plan* before all instalments have been paid.

Requirements in relation to contracts of insurance

- 3.1.8 R [*Editor's note*: Deliberately left blank pending the possibility of new rules currently being consulted on.]

Requirements in relation to trusts

- 3.1.9 R [*Editor's note*: Deliberately left blank pending the possibility of new rules currently being consulted on.]

- 3.1.10 R [*Editor's note*: Deliberately left blank pending the possibility of new rules currently being consulted on.]

Safeguarding – obligations in relation to money received from a customer, trust or insurance provider

- 3.1.11 R [*Editor's note*: Deliberately left blank pending the possibility of new rules currently being consulted on.]

- 3.1.12 G [*Editor's note*: Deliberately left blank pending the possibility of new guidance currently being consulted on.]

Systems and controls

- 3.1.13 G *Firms* are reminded of *Principle 3* which provides that a *firm* must take reasonable care to organise and control its affairs responsibly and effectively, with adequate risk management systems.

- 3.1.14 R
- (1) A *firm* must ensure that the systems and controls, including procedures and arrangements, used to comply with the requirements in this chapter are adequate, effective and appropriate for the scale and nature of its business.
  - (2) Sub-paragraph (1) applies in particular to systems and controls concerning:
    - (a) the adequacy of the trust and insurance arrangements that a *firm* must put in place in accordance with *FPCOB 3.1.6R*;
    - (b) whether a proposed price for a *funeral plan contract* is likely to lead to, as applicable, an under-funded trust arrangement or an

insufficient insured sum to provide the funeral contracted for;  
and

- (c) the price of the *funeral plan contract*, bearing in mind the cost of the funeral to the *firm*.

3.1.15 R A *firm's* systems and controls must be developed to:

- (1) factor in the risk of inflation when considering pricing decisions; and
- (2) if applicable, factor in the volatility of trust assets.

### 3.2 Trusts: solvency assessment, remediation and other requirements

Application

3.2.1 R This section applies to a *funeral plan provider* in relation to *funeral plan contracts* (including *subsisting funeral plans*) under which sums paid by the *customer* are held on trust for the purpose of providing the funeral.

Solvency assessment report

Annual preparation of solvency assessment report

3.2.2 R A *funeral plan provider* must arrange for a *solvency assessment report* to be produced at least once every 12 *months* by an actuary who is a fellow of the Institute and Faculty of Actuaries.

Contents of solvency assessment report

3.2.3 R The *solvency assessment report* must:

- (1) within 12 *months* of the:
  - (a) last report obtained by the *funeral plan provider*; or
  - (b) trust being established,determine, calculate and verify the assets and liabilities of the trust by applying a *best estimate* basis;
- (2) include, as a minimum, the following information:
  - (a) the actuarial valuation date;
  - (b) an actuarial valuation of the assets and liabilities of the trust;
  - (c) the solvency level of the trust (ratio of trust assets over trust liabilities as a percentage) on a *best estimate* basis;
  - (d) the assumptions adopted with respect to the valuation of the trust assets and trust liabilities;

- (e) the number of undrawn or live plans categorised by payment method;
  - (f) the total plan values in relation to undrawn or live plans categorised by payment method;
  - (g) the average plan value categorised by payment method;
  - (h) the investment of trust assets at fair value by asset class at the actuarial valuation date;
  - (i) the investment of trust assets at fair value by investment manager at the actuarial valuation date;
  - (j) the level of all monies deducted from the trust over the period and identification of how the deductions have been spent; and
  - (k) the details of any liability sub-contracted to funeral services providers;
- (3) be produced taking account of any relevant actuarial professional and technical standards, guidance and codes;
  - (4) be published by the *funeral plan provider* on its website within 30 *days* of the date on which the actuary completes the valuation and, in any case, no later than 6 weeks from the date an actuary is appointed to produce a *solvency assessment report*; and
  - (5) be made available free of charge on request.
- 3.2.4 R (1) For the purposes of *FPCOB* 3.2.3R(2)(b), the liabilities of the trust should be assessed against *FPCOB* 3.1.6R(2).
- (2) For the purposes of *FPCOB* 3.2.3R(2)(e), (f) and (g), the payment method should be categorised into:
- (i) single payments;
  - (ii) instalment payments fully paid; and
  - (iii) instalment payments not fully paid.
- (3) For the purposes of *FPCOB* 3.2.3R(2)(k), details of any liability sub-contracted to funeral services providers may include inflation.

Sending the solvency assessment report to the FCA

- 3.2.5 R (1) A *funeral plan provider* must send a copy of the *solvency assessment report* to the *FCA* within 7 *days* of it being received by the *funeral plan provider*.

- (2) If the *solvency assessment report* concludes that the assets of the trust are not sufficient to cover the liabilities of the trust, the *funeral plan provider* must provide a notification of that fact with the *solvency assessment report* at the same time as providing a copy of the *solvency assessment report*, in accordance with SUP 15.7.1R.

#### When a remediation plan is required

- 3.2.6 R If a *solvency assessment report* concludes that the assets of the trust are not sufficient to cover the liabilities of the trust, a *funeral plan provider* must prepare a *remediation plan* that is approved by an actuary who is a fellow of the Institute and Faculty of Actuaries.

#### Contents of the remediation plan

- 3.2.7 R The *funeral plan provider* must ensure the *remediation plan* sets out the following:
- (1) how the deficit in the trust that has been identified by the *solvency assessment report* will be remedied before the next annual *solvency assessment report* is due; and
  - (2) any assumptions that have been made in relation to any of the remedial steps or actions that the *funeral plan provider* intends to implement to remedy the deficit in the trust.

#### Sending the remediation plan to the FCA

- 3.2.8 R The *funeral plan provider* must submit the *remediation plan* to the FCA for review, in accordance with SUP 15.7.1R, as soon as possible and no later than 30 days from the submission date of the relevant *solvency assessment report* to the FCA.

#### Implementing the remediation plan

- 3.2.9 The *funeral plan provider* must begin to implement the *remediation plan*:
- (1) as soon as possible and in any event within 30 days of submitting it to the FCA;
  - (2) in accordance with the terms of the *remediation plan* (or any amendments agreed with the FCA or imposed by the FCA by requirement).

#### Failure of remediation plan: notification to the FCA

- 3.2.10 R A *funeral plan provider* that is in the process of implementing a *remediation plan* must:

- (1) notify the *FCA*, in accordance with *SUP 15.7.1R*, as soon as it suspects that it will not be able to fully implement the *remediation plan* in accordance with its terms; and
- (2) notify the *FCA*, in accordance with *SUP 15.7.1R*, immediately if the solvency level of the trust remains below 100% following the expiration of the *remediation plan*, which is the time at which the next *solvency assessment report* is due.

#### Obligation to remedy a trust deficit

- 3.2.11 R (1) If, following the expiration of the *remediation plan*, the assets of the trust remain insufficient to cover the liabilities of the trust, *the funeral plan provider* must remedy any shortfall using its own resources so that the solvency level of the trust is returned to 100% or more (when assessed on a *best estimate* basis).
- (2) The obligation in (1) must be fulfilled as soon as practicable and in any case within 3 *months* of the date the expiration of the *remediation plan*.
- (3) *The funeral plan provider* must notify the *FCA*, in accordance with *SUP 15.7.1R*, when the shortfall has been remedied.

#### Prohibition on the withdrawal of monies from a trust

- 3.2.12 R *A funeral plan provider* must not withdraw any surpluses from the trust except and only to the extent that:
- (1) the solvency level of the trust is above 110% when calculated on a *best estimate* basis; and
  - (2) the withdrawal has been approved by an actuary who is a fellow of the Institute and Faculty of Actuaries.

#### Sending trust accounts to the FCA

- 3.2.13 R *A funeral plan provider* must send a copy of the annual accounts of the trust to the *FCA* as part of its next financial report.

## 4 Communications and financial promotions

### 4.1 Application

- 4.1.1 R This section applies to a *firm*:
- (1) *communicating* with a *customer* or *covered individual* under a new *funeral plan* or *subsisting funeral plan* in relation to its *regulated funeral plan activity*; and

- (2) *communicating or approving a financial promotion in relation to a funeral plan contract or a regulated funeral plan activity unless that financial promotion could lawfully be communicated by an unauthorised person without approval.*

- 4.1.2 G A *firm* is required to comply with the *financial promotion rules* in relation to a *financial promotion communicated* by its *appointed representative* even where the *financial promotion* does not require *approval* because of the exemption in article 16 of the *Financial Promotion Order* (Exempt persons).

[Note: section 39 of the *Act*]

## 4.2 Communications and financial promotions: the obligations

Fair, clear and not misleading rule

- 4.2.1 R A *firm* must ensure that a communication or a *financial promotion* is fair, clear and not misleading.
- 4.2.2 G *FPCOB* 4.1.1R(2) does not limit the application of the *fair, clear and not misleading rule* under *FPCOB* 4.1.1R(1). So, for example, a *financial promotion* that could lawfully be *communicated* by an *unauthorised person* without *approval* will still be subject to the *fair, clear and not misleading rule* to the extent that it is a communication with a *customer* or *covered individual* in relation to *regulated funeral plan activity*.
- 4.2.3 G If a communication or a *financial promotion* names the *FCA*, the *PRA* or both as the regulator of a *firm* or other provider, and refers to matters not regulated by the *FCA*, the *PRA* or both, the *firm* should ensure that the communication or *financial promotion* makes clear that those matters are not regulated by the *FCA*, the *PRA* or both.
- 4.2.4 G Part 7 (Offences relating to Financial Services) of the Financial Services Act 2012 creates criminal offences relating to certain misleading statements and practices.

Financial promotions to be balanced and with appropriate warnings

- 4.2.5 R A *firm* must ensure that a communication or *financial promotion*:
- (1) includes the name of the *firm*;
  - (2) is accurate;
  - (3) is balanced and, in particular, does not emphasise any potential benefits without also giving a fair and prominent indication of any relevant risks;
  - (4) is appropriate for, and presented at a level and in a form that is comprehensible to the average *funeral plan customer*;

- (5) does not disguise, omit, diminish or obscure important items, statements or warnings; and
- (6) where it contains a comparison or contrast, presents the comparison or contrast in a fair and balanced way and ensures that it is meaningful.

4.2.6 G A *firm* should consider whether the omission of any relevant fact will result in a communication or *financial promotion* being insufficient, unclear, unfair or misleading.

#### Marketing communications

4.2.7 R A *firm* must ensure that a *financial promotion* in relation to a *funeral plan* or *regulated funeral plan activity* is clearly identifiable as such.

#### Approving financial promotions

- 4.2.8 R
- (1) Before a *firm* approves a *financial promotion*, it must take reasonable steps to ensure that the *financial promotion* complies with the *financial promotion rules*.
  - (2) If, subsequently, a *firm* becomes aware that a *financial promotion* no longer complies with the *financial promotion rules*, it must withdraw its *approval* and notify any *person* that it knows to be relying on its *approval* as soon as reasonably practicable.

4.2.9 R A *firm* must not *approve* a *financial promotion* to be made in the course of a personal visit, telephone conversation or other interactive dialogue.

#### The reasonable steps defence to an action for damages

4.2.10 R If, in relation to a particular communication or *financial promotion*, a *firm* takes reasonable steps to ensure it complies with the *fair, clear and not misleading rule*, a contravention of that *rule* does not give rise to a right of action under section 138D of the *Act*.

#### Cold calling

4.2.11 R A *firm* must not make a *cold call* unless the recipient has an established existing client relationship with the *firm* and the relationship is such that the recipient envisages receiving *cold calls*.

#### Promotions that are not in writing

4.2.12 R A *firm* must not *communicate* a solicited or unsolicited *financial promotion* that is not in writing, to a *client* outside the *firm's* premises, unless the *person communicating* it:

- (1) only does so at an appropriate time of the *day*;

- (2) identifies themselves and the *firm* they represent at the outset and makes clear the purpose of the communication;
- (3) clarifies if the *client* would like to continue with or terminate the communication, and terminates the communication at any time that the *client* requests it; and
- (4) gives a contact point to any *client* with whom they arrange an appointment.

#### Record keeping: financial promotions

- 4.2.13 R (1) A *firm* must make an adequate record of any *financial promotion* it *communicates* or *approves*, other than a *financial promotion* made in the course of a personal visit, telephone conversation or other interactive dialogue.
- (2) For a telemarketing campaign, a *firm* must make an adequate record of copies of any scripts used.
- (3) A *firm* must retain the record in relation to the *financial promotion* for six years.
- 4.2.14 G A *firm* should consider maintaining a record of why it is satisfied that the *financial promotion* complies with the *financial promotion rules*.

## 5 Distance communications

### 5.1 Distance marketing

#### Application

- 5.1.1 R This chapter applies to a *firm*:
- (1) in relation to its *regulated funeral plan activity*; and
  - (2) that carries on any distance marketing activity from an establishment in the *United Kingdom*, with or for a *consumer* in the *United Kingdom*.

#### Guidance on the distance marketing rules

- 5.1.2 G *Guidance* on the application of the provisions in this section can be found in *FPCOB 5 Annex 1G*.

#### The distance marketing disclosure rules

- 5.1.3 R A *firm* must provide a *consumer* with the distance marketing information (*FPCOB 5 Annex 2R*) in good time before the *consumer* is bound by a *distance contract* or offer.



- 5.1.4 G The *rules* setting out the responsibilities of *funeral plan providers* and *funeral plan intermediaries* for producing and providing information apply to requirements in this section to provide information (see *FPCOB 9.1.3R*).
- 5.1.5 R A *firm* must ensure that the distance marketing information, the commercial purpose of which must be made clear, is provided in a clear and comprehensible manner in any way appropriate to the means of distance communication used, with due regard, in particular, to the principles of good faith in commercial transactions, and the legal principles governing the protection of those who are unable to give their consent.
- 5.1.6 R When a *firm* makes a telephone call to a *consumer*, it must make its identity and the purpose of its call explicitly clear at the beginning of the conversation.
- 5.1.7 R A *firm* must ensure that the information on contractual obligations to be communicated to a *consumer* during the pre-contractual phase conforms with the contractual obligations which would result from the law presumed to be applicable to the *distance contract* if that contract is concluded.

Terms and conditions, and form

- 5.1.8 R A *firm* must communicate to the *consumer* all the contractual terms and conditions and the information referred to in the distance marketing disclosure *rules* in writing or another *durable medium* available and accessible to the *consumer* in good time before conclusion of any *distance contract*.
- 5.1.9 G A *firm* will provide information, or communicate contractual terms and conditions, to a *consumer* if another *person* provides the information, or communicates the terms and conditions, to the *consumer* on its behalf.

Commencing performance of the distance contract

- 5.1.10 R The performance of the *distance contract* may only begin after the *consumer* has given their approval.

Exception: distance contract as a stage in the provision of another service

- 5.1.11 R This section does not apply to a *distance contract* to act as a *funeral plan intermediary*, if the *distance contract* is concluded merely as a stage in the provision of another service by the *firm* or another *person*.

Exception: successive operations

- 5.1.12 R In the case of a *distance contract* comprising an initial service agreement, followed by successive operations or a series of separate operations of the same nature performed over time, the *rules* in this section only apply to the initial agreement.

- 5.1.13 R If there is no initial service agreement but the successive operations or separate operations of the same nature performed over time are performed between the same contractual parties, the distance marketing disclosure *rules* will only apply:
- (1) when the first operation is performed; and
  - (2) if no operation of the same nature is performed for more than a year, when the next operation is performed (the next operation being deemed to be the first in a new series of operations).

Exception: telephone calls

- 5.1.14 R (1) In the case of a telephone call, and subject to the explicit consent of the *consumer*, only the abbreviated distance marketing information (*FPCOB 5 Annex 3R*) needs to be provided during that communication.
- (2) However, unless another exemption applies (such as the exemption for means of distance communication not enabling disclosure), a *firm* must still provide the distance marketing information (*FPCOB 5 Annex 2R*) in writing or another *durable medium* available and accessible to the *consumer* in good time before conclusion of any *distance contract*.

Exception: means of distance communication not enabling disclosure

- 5.1.15 R A *firm* may provide the distance marketing information (*FPCOB 5 Annex 2R*) and the contractual terms and conditions in writing or another *durable medium* immediately after the conclusion of a *distance contract* if the contract has been concluded at a *consumer's* request using a means of distance communication that does not enable the provision of that information in that form in good time before conclusion of any *distance contract*.

Consumer's right to request paper copies and change

- 5.1.16 R At any time during the contractual relationship the *consumer* is entitled, at their request, to receive the contractual terms and conditions on paper. The *consumer* is also entitled to change the means of distance communication used unless this is incompatible with the contract concluded or the nature of the service provided.

Unsolicited services

- 5.1.17 R (1) A *firm* must not enforce, or seek to enforce, any obligations under a *distance contract* against a *consumer*, in the event of an unsolicited supply of services. The absence of a reply does not constitute consent.

- (2) This *rule* does not apply to the tacit *renewal* of a *distance contract*.

#### Mandatory nature of consumer's rights

- 5.1.18 R If a *consumer* purports to waive any of the *consumer's* rights created or implied by the *rules* in this section, a *firm* must not accept that waiver, nor seek to rely on or enforce it against the *consumer*.
- 5.1.19 R If a *firm* proposes to enter into a *distance contract* with a *consumer* that will be governed by the law of a country outside the *United Kingdom*, the *firm* must ensure that the *consumer* will not lose the protection created by the *rules* in this section.

## 5.2 E-Commerce

#### Application

- 5.2.1 R This section applies to a *firm* carrying on an *electronic commerce activity* from an *establishment* in the *United Kingdom*, with or for a *person* in the *United Kingdom*.

#### Information about the firm and its products or services

- 5.2.2 R A *firm* must make at least the following information easily, directly and permanently accessible to the recipients of the *information society services* it provides:
- (1) its name;
  - (2) the geographic address at which it is established;
  - (3) the details of the *firm*, including its e-mail address, which allow it to be contacted and communicated with in a direct and effective manner;
  - (4) an appropriate statutory status disclosure statement (*GEN 4 Annex 1R*), together with a statement which explains that it is on the *Financial Services Register* and includes its Firm Reference Number;
  - (5) if it is a *professional firm*:
    - (a) the name of the professional body (including any *designated professional body*) or similar institution with which it is registered;
    - (b) the professional title;
    - (c) a reference to the applicable professional rules and the means to access them; and

- (6) where the *firm* undertakes an activity that is subject to VAT, its VAT number.
- 5.2.3 R If a *firm* refers to price, it must do so clearly and unambiguously, indicating whether the price is inclusive of tax and delivery costs.
- 5.2.4 R A *firm* must ensure that commercial communications which are part of, or constitute, an *information society service*, comply with the following conditions:
- (1) the commercial communication must be clearly identifiable as such;
  - (2) the *person* on whose behalf the commercial communication is made must be clearly identifiable;
  - (3) promotional offers must be clearly identifiable as such, and the conditions that must be met to qualify for them must be easily accessible and presented clearly and unambiguously; and
  - (4) promotional competitions or games must be clearly identifiable as such, and the conditions for participation must be easily accessible and presented clearly and unambiguously.
- 5.2.5 R An unsolicited commercial communication sent by e-mail by a *firm* must be identifiable clearly and unambiguously as an unsolicited commercial communication as soon as it is received by the recipient.

Requirements relating to the placing and receipt of orders

- 5.2.6 R A *firm* must (except when otherwise agreed by parties who are not *consumers*):
- (1) give an *ECA recipient* the following information, clearly, comprehensibly and unambiguously, and prior to the order being placed by the recipient of the service:
    - (a) the different technical steps to follow to conclude the contract;
    - (b) whether or not the concluded contract will be filed by the *firm* and whether it will be accessible;
    - (c) the technical means for identifying and correcting input errors prior to the placing of the order; and
    - (d) the languages offered for the conclusion of the contract;
  - (2) indicate any relevant codes of conduct to which it subscribes and provide information on how those codes can be consulted electronically;

- (3) (when an *ECA recipient* places an order through technological means), acknowledge the receipt of the recipient's order without undue delay and by electronic means (an order and an acknowledgement of receipt are deemed to be received when the parties to whom they are addressed are able to access them); and
- (4) make available to an *ECA recipient* appropriate, effective and accessible technical means allowing the recipient to identify and correct input errors prior to the placing of an order.

5.2.7 R For the purposes of *FPCOB* 5.2.6R(3), an order and an acknowledgement of receipt are deemed to be received when the parties to whom they are addressed are able to access them.

5.2.8 R Contractual terms and conditions provided by a *firm* to an *ECA recipient* must be made available in a way that allows the recipient to store and reproduce them.

Exception: contract concluded by e-mail

5.2.9 R The requirements relating to the placing and receipt of orders do not apply to contracts concluded exclusively by exchange of e-mail or by equivalent individual communications.

## 5 Annex 1G

### Guidance on the Distance Marketing Provisions

This Annex belongs to *FPCOB* 5.1.2G.

Q1. What is a distance contract?

To be a *distance contract*, a contract must be concluded under an 'organised distance sales or service-provision scheme' run by the contractual provider of the service who, for the purpose of the contract, makes exclusive use (directly or otherwise) of one or more means of distance communication up to and including the time at which the contract is concluded.

So:

- the *firm* must have put in place facilities designed to enable a *consumer* to deal with it exclusively at a distance; and
- there must have been no simultaneous physical presence of the *firm* and the *consumer* throughout the offer, negotiation and conclusion of the contract. So, for example, contracts offered, negotiated and concluded over the internet, through a telemarketing operation or by *post*, will normally be *distance contracts*.

<p>Q2. What about a firm that normally operates face-to-face but occasionally uses distance means?</p>
<p>If a <i>firm</i> normally operates face-to-face and has no facilities in place enabling a <i>consumer</i> to deal with it customarily by distance means, there will be no <i>distance contract</i>. A one-off transaction effected exclusively by distance means to meet a particular contingency or emergency will not be a <i>distance contract</i>.</p>
<p>Q3. What is meant by ‘simultaneous physical presence’?</p>
<p>A <i>consumer</i> may visit the <i>firm</i>’s local office in the course of the offer, negotiation or conclusion of a contract. Wherever, in the literal sense, there has been ‘simultaneous physical presence’ of the <i>firm</i> and the <i>consumer</i> at the time of such a visit, any ensuing contract will not be a <i>distance contract</i>.</p>
<p>Q4. Does the mere fact that an intermediary is involved make the sale of a product or service a distance contract?</p>
<p>No.</p>
<p>Q5. When is a contract concluded?</p>
<p>A contract is concluded when an offer to be bound by it has been accepted. An offer in the course of negotiations (for example, an offer by a <i>funeral plan provider</i> to consider an application) is not an offer to be bound, but is part of a pre-contractual negotiation.</p> <p>A <i>consumer</i> will provide all the information a <i>funeral plan provider</i> needs to decide whether to offer a plan and to calculate the price of the plan. The <i>consumer</i> may do this orally or in writing. The response by a <i>funeral plan provider</i>, giving a quotation to the consumer specifying the price of the plan and the terms, is likely to amount to an offer of the terms on which the <i>funeral plan provider</i> will provide the plan. Agreement by the <i>consumer</i> to those terms is likely to be an acceptance which concludes the contract.</p>
<p>Q6. How do these provisions apply to funeral plan intermediaries’ services?</p>
<p>The <i>FCA</i> anticipates that the provisions relating to distance marketing are likely to apply to <i>funeral plan intermediaries</i>’ services only in those cases where:</p> <p>(a) the <i>firm</i> concludes a <i>distance contract</i> with a <i>consumer</i> covering its <i>funeral plan distribution</i> which is additional to any <i>funeral plan contract</i> which it is marketing; and</p> <p>(b) that <i>distance contract</i> is concluded other than merely as a stage in the entering into of a <i>funeral plan contract</i> by the <i>firm</i> or another <i>person</i>: in other words, it has some continuity independent of a <i>funeral plan contract</i>,</p>

as opposed, for example, to being concluded as part of marketing a *funeral plan contract*.

Q7. Can you give examples of when the distance marketing provisions would and would not apply to funeral plan intermediaries' services?

The *rules* in this section are unlikely to apply in the typical case where a *funeral plan intermediary* sells a *funeral plan contract* to a *consumer* on a one-off basis.

Nor will the *rules* apply if a *funeral plan intermediary*, in its terms of business, makes clear that it does not, in conducting *funeral plan distribution*, act contractually on behalf of, or for, the *consumer*.

An example of when the provisions in this section would apply would be a *distance contract* under which a *funeral plan intermediary* agrees to provide advice to a *consumer* on *funeral plan contracts*.

**5**  
**Annex**  
**2R**

**Distance marketing information**

This Annex belongs to *FPCOB 5.1.3R*.

Distance marketing information	
The firm	
(1)	The name and the main business of the <i>firm</i> , the geographical address at which it is established and any other geographical address relevant for the <i>consumer's</i> relations with the <i>firm</i> .
(2)	Where the <i>firm</i> has a representative established in the <i>United Kingdom</i> , the name of that representative and the geographical address relevant for the <i>consumer's</i> relations with the representative.
(3)	When the <i>consumer's</i> dealings are with any professional other than the <i>firm</i> , the identity of that professional, the capacity in which they are acting with respect to the <i>consumer</i> , and the geographical address relevant for the <i>consumer's</i> relations with that professional.
(4)	An appropriate statutory status disclosure statement ( <i>GEN 4</i> ), a statement that the firm is on the <i>Financial Services Register</i> and its <i>FCA</i> registration number.
The financial service	
(5)	A description of the main characteristics of the service the <i>firm</i> will provide.
(6)	The total price to be paid by the <i>consumer</i> to the <i>firm</i> for the financial service, including all related <i>fees</i> , charges and expenses, and all taxes

	paid through the <i>firm</i> or, when an exact price cannot be indicated, the basis for the calculation of the price enabling the <i>consumer</i> to verify it.
(7)	Where relevant, notice indicating that the financial service is related to instruments involving special risks related to their specific features or the operations to be executed or whose price depends on fluctuations in the financial markets outside the <i>firm</i> 's control and that past performance is no indicator of future performance.
(8)	Notice of the possibility that other taxes or costs may exist that are not paid through the <i>firm</i> or imposed by it.
(9)	Any limitations on the period for which the information provided is valid, including a clear explanation as to how long a <i>firm</i> 's offer applies as it stands.
(10)	The arrangements for payment and for performance.
(11)	Details of any specific additional cost for the <i>consumer</i> for using a means of distance communication.
	The distance contract
(12)	The existence or absence of a right to cancel under the cancellation rules ( <i>FPCOB</i> 13) and, where there is such a right, its duration and the conditions for exercising it, including information on the amount which the <i>consumer</i> may be required to pay (or which may not be returned to the <i>consumer</i> ) in accordance with those rules, as well as the consequences of not exercising the right to cancel.
(13)	The minimum duration of the contract, in the case of services to be performed permanently or recurrently.
(14)	Information on any rights the parties may have to terminate the contract early or unilaterally under its terms, including any penalties imposed by the contract in such cases.
(15)	Practical instructions for exercising any right to cancel, including the address to which any cancellation notice should be sent.
(16)	Any contractual clause on law applicable to the contract or on the competent court, or both.
(17)	In which language, or languages, the contractual terms and conditions and the other information in this Annex will be supplied, and in which language, or languages, the <i>firm</i> , with the agreement of the <i>consumer</i> , undertakes to communicate during the duration of the contract.



Redress	
(18)	How to complain to the <i>firm</i> , whether complaints may subsequently be referred to the <i>Financial Ombudsman Service</i> and, if so, the methods for having access to it, together with equivalent information about any other applicable named complaints scheme.
(19)	Whether compensation may be available from the <i>compensation scheme</i> , or any other named compensation scheme, if the <i>firm</i> is unable to meet its liabilities, and information about any other applicable named compensation scheme.

## 5 Annex 3R

### Abbreviated distance marketing information

This Annex belongs to *FPCOB 5.1.14R*.

Abbreviated distance marketing information	
(1)	The identity of the <i>person</i> in contact with the <i>consumer</i> and their link with the <i>firm</i> .
(2)	A description of the main characteristics of the financial service.
(3)	The total price to be paid by the <i>consumer</i> to the <i>firm</i> for the financial service, including all taxes paid through the <i>firm</i> or, when an exact price cannot be indicated, the basis for the calculation of the price enabling the <i>consumer</i> to verify it.
(4)	Notice of the possibility that other taxes or costs may exist that are not paid through the <i>firm</i> or imposed by it.
(5)	The existence or absence of a right to cancel in accordance with the cancellation <i>rules</i> ( <i>FPCOB 13</i> ) and, where the right to cancel exists, its duration and the conditions for exercising it, including information on the amount the <i>consumer</i> may be required to pay (or which may not be returned to the <i>consumer</i> ) on the basis of those <i>rules</i> .
(6)	That other information is available on request and what the nature of that information is.

## 6 Information about the firm and its services

### 6.1 General requirements for firms

#### Application

6.1.1 R This chapter applies to:

- (1) a *funeral plan intermediary*; and
- (2) a *funeral plan provider* in relation to the distribution of its own *funeral plan contracts*.

Interaction with the customer's best interests rule and Principle 7

- 6.1.2 G To comply with the *customer's best interests rule* and *Principle 7* (Communications with clients), a *firm* should consider the information needs of the *customer* and, if different, the *covered individual*, including:
- (1) what a *customer* and/or *covered individual* needs in order to understand the relevance of any information provided by the *firm*; and
  - (2) the point in the sales process at which information will be most useful to the *customer* to enable them to make an informed decision.

Status disclosure: general information provided by firms

- 6.1.3 R In good time before a *customer* enters into a *funeral plan contract*:
- (1) a *firm* must provide the *customer* with at least the following information:
    - (a) its identity, address and whether it is a *funeral plan intermediary* or a *funeral plan provider*;
    - (b) the appropriate statutory status disclosure statement (see *GEN 4*);
    - (c) the fact that it is included in the *Financial Services Register* and the means for verifying this;
    - (d) whether it provides a *personal recommendation* about the *funeral plans* offered or information;
    - (e) whose *funeral plans* it offers;
    - (f) the procedures allowing *customers* 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 any out-of-court complaint and redress procedures available for the settlement of disputes between the *firm* and its *customers*; and
  - (2) a *funeral plan intermediary* must also provide the *customer* with the following information:

- (a) whether it has a direct or indirect holding representing 10% or more of the voting rights or capital in a given *funeral plan provider*;
- (b) whether a given *funeral plan provider* or its *parent undertaking* has a direct or indirect holding representing 10% or more of the voting rights or capital in the *firm*; and
- (c) whether it is representing the *customer* or is acting for and on behalf of the *funeral plan provider*.

Scope of service: funeral plan intermediaries

6.1.4 R (1) Where a *funeral plan intermediary* proposes or advises on a *funeral plan contract* then in good time before the conclusion of a *funeral plan contract* and, if necessary, on its amendment, a *funeral plan intermediary* must provide the *customer* with at least information on whether the *firm*:

- (a) gives a *personal recommendation*, on the basis of a fair and personal analysis of *funeral plans* available in the market; or
- (b) is under a contractual obligation to conduct *funeral plan distribution* exclusively with one or more *funeral plan providers*, in which case it must provide the names of those *funeral plan providers*; or
- (c) (i) is not under a contractual obligation to conduct *funeral plan distribution* exclusively with one or more *funeral plan providers*; and  
(ii) does not give a *personal recommendation* on the basis of a fair and personal analysis of *funeral plans* available in the market;

in which case it must provide its *customer* with the name of those *funeral plan providers* with which the *funeral plan intermediary* may and does conduct business.

## 6.2 Means of communication to customers

Application

6.2.1 R This section applies to all information required to be provided to a *customer* in this chapter and in other chapters or sections where stated.

Means of communication to customers: non-telephone sales

6.2.2 R (1) A *firm* must communicate information to a *customer* 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 *customer*;
  - (b) in English or in any other language agreed by the parties; and
  - (c) free of charge.
- 6.2.3 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.
- 6.2.4 R A *firm* must ensure that a *customer's* choice or consent to receive the information by means of a website (whether a *durable medium* or where the *website conditions* are satisfied) is an active and informed choice or consent.
- 6.2.5 G (1) For the purposes of *FPCOB* 6.2.4R, for example, an option to allow a change to the e-mail address to be used or an option to allow information to be provided by means of a website should be presented in a way that is clear, fair and not misleading.
- (2) The following are examples of circumstances not evidencing active or informed choice or consent:
- (a) a pre-ticked box (suggesting that option has been selected) which appears in a more prominent place than an un-ticked box allowing another option to be selected; and
  - (b) the *customer* electing to be informed by a website without being first given other options.

Means of communication to customers: telephone sales

- 6.2.6 R In the case of telephone selling:
- (1) the information must be given in accordance with the distance marketing disclosure *rules* (see *FPCOB* 5); and
  - (2) if prior to the conclusion of the contract the information is provided orally, the *firm* must also provide the information to the *customer* in accordance with *FPCOB* 6.2.2R immediately after the conclusion of the *funeral plan contract*.

### 6.3 Fee disclosure

#### Application

- 6.3.1 R This section applies to a *firm* that imposes a *fee* in connection with a *funeral plan* or its *regulated funeral plan activity*.

#### Fee disclosure

- 6.3.2 R (1) Where a *fee* is payable, the *firm* must inform its *customer* of the amount of the *fee*.
- (2) The information in (1) must be given before the *customer* incurs liability to pay the *fee*, or before entering into the *funeral plan contract*, whichever is earlier.
- 6.3.3 R The *fee* disclosure requirement extends to all such *fees* that may be charged in connection with a *funeral plan* or the *firm's regulated funeral plan activity*.

### 6.4 Charging for funeral plan distribution

#### Application

- 6.4.1 R This section applies to a *firm* which carries on *funeral plan distribution*.
- 6.4.2 G This section does not apply to a *funeral plan provider* in connection with its *entering as provider into funeral plan contracts*.

#### Purpose

- 6.4.3 G (1) The purpose of the *rules* in this section is to ensure that *funeral plan intermediaries* act in accordance with the *customer's best interests rule* and are not improperly influenced in their *funeral plan distribution* by payments made, or benefits provided, by *funeral plan providers*. In particular, the *rules* in this section prevent a *firm* from accepting commission from a *funeral plan provider*.
- (2) The *rules* in this section apply whether or not the relevant *funeral plan distribution* involves the provision of *investment advice*.
- (3) *Firms* should be mindful of the *customer's best interests rule* when considering their approach to compliance with the *rules* in this section.

#### Requirement to be paid by the customer

- 6.4.4 R A *firm* must:
- (1) only be remunerated for its *funeral plan distribution* (and any other related services provided by the *firm*) by *FP distribution charges*; and

- (2) not solicit or accept (and ensure that none of its *associates* solicits or accepts) any other commissions, remuneration or benefit of any kind in connection with the *firm's* business of engaging in *funeral plan distribution* or any other related services, regardless of whether it intends to refund the payments or pass the benefits on to the *customer* or *covered individual*,

except as provided in this section.

- 6.4.5 R 'Related service(s)' for the purposes of *FPCOB* 6.4.4R includes:
- (1) *communicating* or *approving financial promotions* in relation to a *funeral plan contract* or *regulated funeral plan activity*;
- (2) recommending a *funeral plan provider*.
- 6.4.6 G *FPCOB* 6.4.4R prevents a *firm* from receiving any monetary or non-monetary benefit either in relation to the distribution of particular *funeral plan contracts* or in connection with its business of marketing, selling or distributing *funeral plan contracts* more generally.

#### Group distribution arrangements

- 6.4.7 R If the *firm's funeral plan distribution* relates to *funeral plan contracts* entered into by the *firm* itself or by an *associate*, the *firm* must ensure that the level of its *FP distribution charge* is at least reasonably representative of the services associated with its *funeral plan distribution* (and related services).
- 6.4.8 G A *firm* should consider whether the level of its *FP distribution charge* meets the requirement of *FPCOB* 6.4.7R by reference to whether the charge would be appropriate in the context of the service being provided by a *firm* unconnected with a *funeral plan provider*.

#### Guidance on the requirement to be paid by the customer

- 6.4.9 G *FPCOB* 12 restricts a *firm* engaged in *funeral plan distribution* from accepting payment other than in certain circumstances. *FPCOB* 12 does not prevent a *funeral plan intermediary* from receiving an *FP distribution charge* from a *customer* as contemplated by this section (see *FPCOB* 12.4.4R).
- 6.4.10 G *FPCOB* 6.3.2R requires a *funeral plan intermediary* to inform the *customer* of the amount of any *fee* payable. That disclosure should include any *FP distribution charge* payable by the *customer*.

#### Payment for funerals

- 6.4.11 G (1) *FPCOB* 6.4.4R applies to providers of funerals (such as funeral services providers) which engage in *funeral plan distribution*. However, that *rule* only restricts the receipt of payments or benefits in connection with the business of engaging in *funeral plan distribution*.

- (2) *FPCOB 6.4.4R* does not prevent a provider of funerals from receiving payment for the provision of a funeral from a *funeral plan provider* under the terms of a *funeral plan contract*. For these purposes, it does not matter whether payment for the funeral is received at the time that the *customer* enters into the relevant *funeral plan contract* or at any other time thereafter.
- 6.4.12 R A *firm* which carries on *funeral plan distribution* and is also a provider of funerals must ensure that:
- (1) the level of its *FP distribution charge* is at least reasonably representative of the cost of the services associated with its *funeral plan distribution*; and
- (2) any payments which it receives from a *funeral plan provider* under a *funeral plan contract* are reasonably representative of the cost of delivering the relevant funeral.
- 6.4.13 G A payment is unlikely to be reasonably representative of the cost of delivering the relevant funeral if it is materially greater than the same payment would have been had the relevant *firm* had no involvement in the sale or distribution of the *funeral plan contract*.
- Training and support
- 6.4.14 R A *firm* may receive:
- (1) training on the *funeral plan contracts* in relation to which it carries on *funeral plan distribution*; and
- (2) appropriate support with complying with its obligations under the *regulatory system* from a *funeral plan provider*.
- 6.4.15 R Any training or support received for the purposes of *FPCOB 6.4.14R* must be:
- (1) of a scale and nature that it could not be judged to impair the *firm's* compliance with its duty to act honestly, fairly and professionally in the best interests of the *customer* or *covered individual*; and
- (2) reasonable, proportionate and of a scale that is unlikely to influence the *firm's* behaviour in any way that is detrimental to the interests of any relevant *customer* or *covered individual*.
- 6.4.16 G The *rules* in this section do not preclude a *funeral plan intermediary* from receiving from a *funeral plan provider* any materials necessary for the *funeral plan intermediary* to engage in its business of *funeral plan distribution*. This may include the product information for the purposes of *FPCOB 9*.

Payments to employees

- 6.4.17 G The *rules* in this section do not prevent an *employee* of a *firm* receiving payment from that *firm*.

Record keeping

- 6.4.18 R A *firm* must keep a record of the *FP distribution charges* paid by each *customer*.

**6.5 Payments to funeral plan intermediaries**

Application

- 6.5.1 R This section applies to a *funeral plan provider*.

Requirement not to offer commissions

- 6.5.2 R A *firm* must not offer or pay (and must ensure that none of its *associates* offers or pays) any commissions, *remuneration* or benefit of any kind to:
- (1) another *firm* in connection with that *firm*'s business of engaging in *funeral plan distribution*;
  - (2) another *person* in connection with:
    - (a) that *person*'s business of engaging in *funeral plan distribution*:
      - (i) for which it does not require *authorisation*; or
      - (ii) which it carries on in breach of the *general prohibition*;
    - (b) business of that *person* which would involve engaging in *funeral plan distribution* but for an exclusion in the *Regulated Activities Order*;
    - (c) that *person*'s business of introducing *customers* to another *person* in relation to *funeral plan contracts*;
  - (3) a *person* in (1) or (2) in relation to any related services; or
  - (4) any third party for the benefit of a *person*, and in the circumstances described, in (1) to (3),
- except as provided in this section.
- 6.5.3 R *FPCOB* 6.5.2R does not apply to training or support which meet the requirements of *FPCOB* 6.4.14R and *FPCOB* 6.4.15R.



- 6.5.4 G *FPCOB 6.5.2R prevents a funeral plan provider from making payments, or offering benefits, to persons involved in distributing the firm's funeral plan contracts. This includes payments made, or benefits offered, to a firm's appointed representatives.*
- 6.5.5 R *FPCOB 6.5.2R does not prevent a funeral plan provider from making payments to a person other than to communicate a financial promotion.*

#### Payments to employees

- 6.5.6 G (1) The rules in this section do not apply to payments made by firms to their employees in relation to sales activity.
- (2) Firms should refer to SYSC 19F and the FCA's final guidance, 'Risks to customers from financial incentives' (January 2013) when considering the structure of any incentive schemes for their employees.

[Note: see <https://www.fca.org.uk/publication/finalised-guidance/fsa-fg13-01.pdf>]

## 7 Prohibition on entering into long-term instalment payment funeral plans

### 7.1 Application and Purpose

#### Application

- 7.1.1 R This chapter applies to a funeral plan provider.

#### Purpose

- 7.1.2 G The rule in this chapter ensures that, subject to an initial 24-month moratorium period, a customer who chooses to pay for a funeral plan contract in instalments receives the funeral under that contract even if the covered individual dies before the end of the instalment period.

### 7.2 Prohibition

#### Prohibition

- 7.2.1 R (1) A funeral plan provider must not enter into an instalment payment funeral plan under which the customer agrees to make payments over a period of more than 24 months.
- (2) Paragraph (1) does not apply in respect of an instalment payment funeral plan under the terms of which:
- (a) a funeral will be unconditionally provided upon the covered individual's death where:

- (i) this occurs more than 24 *months* after the date on which the relevant parties entered into the *funeral plan contract*; or
  - (ii) (if earlier) the death is accidental; and
- (b) no further payment is required following the *covered individual's* death in order for the funeral specified by the *funeral plan contract* to be provided.

#### Guidance

- 7.2.2 G This section is relevant to any *instalment payment funeral plan* which requires payments to be made over a period of more than 24 *months*. This may include a *funeral plan contract* under which the *customer* is required to make payments until the *covered individual* reaches a certain age or on a regular basis until the time of the *covered individual's* death.
- 7.2.3 G This section does not affect the position where a *funeral plan contract* has been cancelled either by the *customer* or by the *funeral plan provider* in compliance with the *rules* in *FPCOB* 13.
- 7.2.4 G The effect of *FPCOB* 13.2.2R is that the death of the *covered individual* (other than by reason of an accident) within the *moratorium period* is treated as a cancellation of the *funeral plan contract* (unless the *customer* and *firm* have agreed for sums outstanding to be paid under *FPCOB* 13.2.3R). In this case, any instalments paid by the *customer* must be returned without deduction to the *customer* or (where the customer is also the *covered individual*) to their estate.
- 7.2.5 G A *funeral plan provider* may agree a *moratorium period* with a *customer* of less than 24 *months* provided that it remains compliant with *FPCOB* 3.1.6R.

## 8 Identifying client needs and advising

### 8.1 Application

- 8.1.1 R This chapter applies to a *firm* when carrying on *funeral plan distribution*.

### 8.2 Demands and needs

- 8.2.1 R The sale of a *funeral plan contract* must always be accompanied by a demands and needs test.

#### Demands and needs test

- 8.2.2 R (1) Prior to the conclusion of a *funeral plan contract*, a *firm* must identify, on the basis of information obtained from the *customer* and other sources where relevant, the demands and the needs of that *customer*.

- (2) When proposing a *funeral plan contract*, a *firm* must ensure it is consistent with the *customer's* demands and needs.
  - (3) A statement of the demands and needs must be communicated to the *customer* prior to the *customer* entering into a *funeral plan contract*.
- 8.2.3 G A *firm* may obtain information from the *customer* in a number of ways including, for example, by asking the *customer* questions in person or by way of a questionnaire prior to any *funeral plan contract* being proposed.
- 8.2.4 G *FPCOB* 8.1.3R(2) applies whether or not advice is given and in the same way regardless of whether that contract is sold on its own, or in connection with other goods or services.
- 8.2.5 R In determining whether a *funeral plan contract* is consistent with the *customer's* demands and needs, a *firm* must consider, amongst other things:
- (1) whether any *person* has already made provision for the *covered individual's* funeral; and
  - (2) the length of the *moratorium period* during which the contracted funeral will not be provided.

### 8.3 Ensuring customers can make an informed decision

#### Disclosing the limits of the service provided

- 8.3.1 R
- (1) In a sale that does not involve a *personal recommendation*, a *firm* must take reasonable steps to ensure a *customer* ('C') understands that C is responsible for deciding whether a *funeral plan* meets C's demands and needs.
  - (2) If a *firm* anticipates providing, or provides, information on any main characteristic of a *funeral plan* orally during a non-advised sale, taking reasonable steps includes explaining the *customer's* responsibility orally.
  - (3) A *funeral plan's* main characteristics include its significant benefits, its significant exclusions and limitations, its duration and price information.

#### Means of communication to customers

- 8.3.2 R The information to be provided to *customers* in *FPCOB* 8.1 (Demands and needs) must be given in accordance with *FPCOB* 6.2 (Means of communication to customers).

### 8.4 Advised sales

#### Application

- 8.4.1 R This section applies to a *firm* that provides *advice on investments* where that advice relates to a *funeral plan contract*.

Suitability of advice

- 8.4.2 R A *firm* must take reasonable care to ensure the suitability of its advice for any *customer* who is entitled to rely upon its judgement.

Suitability guidance

- 8.4.3 G (1) In taking reasonable care to ensure the suitability of advice on a *funeral plan contract*, a *firm* should:
- (a) 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 alternative arrangements by which the *customer* may reasonably fund the cost of the funeral in question. For example, this could include insurance products, investments, or cash savings, or where the *customer* has already made provision for the *customer* or *covered individual's* funeral;
  - (b) take reasonable care to ensure that a *funeral plan* is suitable for the *customer's* demands and needs, taking into account its level of cover and cost, the duration of instalment payments, and relevant exclusions, limitations and conditions; and
  - (c) inform the *customer* of any demands and needs that are not met.

Personal recommendations

- 8.4.4 R (1) This *rule* applies to a *firm* that provides a *customer* with a *personal recommendation* in relation to a *funeral plan contract*.
- (2) The *personal recommendation* must be provided:
- (a) on the basis of a fair and personal analysis;
  - (b) in accordance with professional criteria, regarding which *funeral plan contract* would be adequate to meet the *customer's* needs; and
  - (c) unless (3).
- (3) If the *firm's* *personal recommendation* will not be provided in compliance with *FPCOB* 8.4.4R(2)(c), the *firm* must disclose this fact and the scope of the analysis that will form the basis of its *personal recommendation* to the *customer* in good time before the provision of the *personal recommendation*.

#### Personalised explanation

- 8.4.5 R Where a *firm* provides a *personal recommendation*, the *firm* must, in addition to the statement of demands and needs, provide the *customer* with a personalised explanation of why a particular *funeral plan contract* would best meet the *customer's* demands and needs.

#### Means of communication

- 8.4.6 R A *firm* must provide the information in this section in accordance with *FPCOB* 6.2 (Means of communication to customers).

## 9 Product information

### 9.1 Producing and providing product information

#### Application

- 9.1.1 R This chapter applies to a *firm* in relation to *funeral plan provision* and *funeral plan distribution*.

#### Purpose

- 9.1.2 G The purpose of the *rules* in this chapter is to ensure that *customers* are provided with appropriate information before concluding a *funeral plan contract* and at relevant times thereafter, in particular when post-contractual changes to a *funeral plan contract* are proposed.

#### Responsibilities for producing and providing information as between funeral plan providers and funeral plan intermediaries: general

- 9.1.3 R
- (1) This *rule* applies in relation to the information that must be provided to the *customer* before the conclusion of a *funeral plan contract* in compliance with the *rules* in this chapter and the distance communication *rules* (*FPCOB* 5.1).
  - (2) The *funeral plan provider* is responsible for producing the information to which this *rule* applies.
  - (3) The *funeral plan intermediary* is responsible for providing the information to which this *rule* applies to the *customer*.
  - (4) If there is no *funeral plan intermediary*, the *funeral plan provider* is responsible for providing the information to the *customer*.
  - (5) A *funeral plan provider* must produce information in good time to enable a *funeral plan intermediary* to comply with the *rules* in this chapter, or promptly on a *funeral plan intermediary's* request.

- 9.1.4 R A *funeral plan provider* is responsible for providing all post-contractual information to a *customer* including information required on post-contractual changes made to the *funeral plan*.
- 9.1.5 R A *funeral plan intermediary* is responsible for producing price information if it agrees this with a *funeral plan provider*.

## 9.2 Providing product information to customers: general

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

- 9.2.1 R (1) A *firm* must ensure that a *customer* is given appropriate information about a *funeral plan contract* in good time before the conclusion of the contract and at relevant times thereafter, 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 *funeral plan* is offered as part of a package with another product or service.
- (3) The information to be provided under this *rule* must include the full terms of the *funeral plan contract*.
- 9.2.2 G The appropriate information *rule* applies:
- (1) at all of the different stages of a contract and includes pre-conclusion and post-conclusion information, and also when post-contractual changes are proposed;
- (2) in the same way to any *funeral plan*, regardless of whether that *funeral plan* is sold on its own, or in connection with other goods or services; and
- (3) to the price of the *funeral plan*.

What level of information needs to be provided?

- 9.2.3 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 *funeral plan*;
- (2) the terms of the *funeral plan contract*, including its main benefits, exclusions, limitations, conditions and its duration;

- (3) whether the *funeral plan* is bought in connection with another product or service; and
- (4) distance communication information requirements (for example, under the distance communication *rules*, less information can be given during certain telephone sales than in a sale made purely by written correspondence (see *FPCOB* 5.1.14R (exception: telephone calls)).

9.2.4 G Cancellation rights do not affect what information it is appropriate to give to a *customer* to enable them to make an informed purchasing decision.

Oral sales: ensuring customers can make an informed decision

- 9.2.5 R
- (1) If a *firm* provides information orally during a sales dialogue with a *customer* on a main characteristic of a *funeral plan*, it must do so for all the *funeral plan*'s main characteristics.
  - (2) A *firm* must take reasonable steps to ensure that the information provided orally is sufficient to enable the *customer* to take an informed decision on the basis of that information, without overloading the *customer* or obscuring other parts of the information.

- 9.2.6 G
- (1) A *funeral plan*'s main characteristics include its significant benefits, its significant exclusions and limitations, its duration (if applicable) and price information.
  - (2) A significant exclusion or limitation is one that would tend to affect the decision of *customers* generally to buy a *funeral plan*. In determining what exclusions or limitations are significant, a *firm* should particularly consider the exclusions or limitations that relate to the significant features and benefits of a *funeral plan* and factors which may have an adverse effect on the services provided under it. Another type of significant limitation might be that the contract only operates through certain means of communication, e.g. telephone or internet.

Funeral plan summary

9.2.7 R A *firm* must provide a *customer* with a *funeral plan summary* in good time before the conclusion of a *funeral plan contract*.

- 9.2.8 G
- (1) The *funeral plan summary* should be provided on paper or in another *durable medium*.
  - (2) In the case of telephone selling, a *firm* may provide the *funeral plan summary* in accordance with the distance communication timing requirements and provide the *funeral plan summary* to the *customer* immediately after the conclusion of the *funeral plan contract*.

- (3) The *funeral plan summary* should be provided on paper or in another *durable medium* and otherwise in accordance with *FPCOB 6.2* (Means of communication to customers).

Responsibility for producing and providing the funeral plan summary as between funeral plan providers and funeral plan intermediaries

- 9.2.9 R (1) A *funeral plan provider* is responsible for designing and producing a *funeral plan summary*.
- (2) A *funeral plan intermediary* is responsible for providing a *funeral plan summary* to a *customer*.
- (3) If there is no *funeral plan intermediary*, the *funeral plan provider* is responsible for providing the *funeral plan summary* to a *customer*.

Funeral plan contracts: importance of reading documentation

- 9.2.10 R (1) A *firm* must draw a *customer's* attention to the importance of reading the *funeral plan contract* documentation before the end of the cancellation period to check that the *funeral plan* is suitable for the *customer*.
- (2) This must be done orally if a *firm* provides information orally on any main characteristic of a *funeral plan* but otherwise in writing.

Price information: general

- 9.2.11 R A *firm* must provide price information in a way calculated to enable the *customer* to relate it to a regular budget.
- 9.2.12 G Price information should include at least the total price (or where it cannot be indicated, the basis for calculating it) of the *funeral plan* and, where relevant:
- (1) for *instalment payment funeral plans* with a payment schedule greater than 12 *months*, whether the payments may increase and if so, the amount of the increase (or where this cannot be indicated, the basis for calculating it) and the timing of the increase;
- (2) other *fees* and taxes payable and potentially payable by the *customer* through the *firm*; and
- (3) a statement identifying separately the possibility of any taxes not payable through the *firm*.
- 9.2.13 R Where a *firm* offers *customers* the option to pay for a *funeral plan* by instalments, it must clearly communicate the total cost of the instalment payment option.



- 9.2.14 R If a *firm* has more than one payment option available for its *funeral plans* and does not present all the payment options to *customers*, it must also make it clear to *customers* that other payment options are available.
- 9.2.15 G For the purposes of the *fair, clear and not misleading rule*:
- (1) the total price of the instalment payment option should be given equal prominence and emphasis as the price of the single payment option; and
  - (2) the total price of the instalment payment option should not be presented in a way that gives the impression that it is equivalent to the price of the single payment option (unless this is actually the case).
- 9.2.16 G Price information should be given in writing or another *durable medium* in good time before conclusion of the contract. This is in addition to any requirement or decision to provide the information orally. In the case of a *distance contract* concluded over the telephone, it may be provided in writing or another *durable medium* no later than immediately after conclusion.

### 9.3 Post-contract information: funeral plan contracts

#### Application

- 9.3.1 R This section applies to a *funeral plan provider* in relation to:
- (1) the activities of *entering into a funeral plan contract* and *carrying out a funeral plan contract*;
  - (2) *new funeral plans* and *subsisting funeral plans*.

#### Post-contractual changes

- 9.3.2 R (1) Throughout the term of a *funeral plan*, a *firm* must provide a *customer* with information about any change to:
- (a) the price of the *funeral plan*, unless the change conforms to a previously disclosed formula; and
  - (b) any term of the *funeral plan*, together with an explanation of any implications of the change where necessary.
- (2) This information must be provided in writing or another *durable medium* in good time before the change takes effect or, if the change is at the *customer's* request, as soon as is practicable provided the *firm* explains the implications of the change before it takes effect.
- 9.3.3 [*Editor's note*: Deliberately left blank pending the possibility of new rules currently being consulted on.]

- 9.3.4 G (1) When explaining the implications of a change, a *firm* should explain any changes to the benefits and significant or unusual exclusions arising from the change.
- (2) *Firms* will need to consider whether post-contractual changes are compatible with the original *funeral plan*, in particular whether it reserves the right to vary the price of the *funeral plan*, charges or other terms. *Firms* also need to ensure that any terms which reserve the right to make variations are not themselves unfair under the *Unfair Terms Regulations* (for contracts entered into before 1 October 2015) or the *CRA*.

Nominated representative document

- 9.3.5 G The purpose of the *rules* relating to the *nominated representative document* is to ensure that a *customer's* nominated representative is aware of the *funeral plan contract*, its features and the procedure to be followed upon the *covered individual's* death.
- 9.3.6 R A *firm* must provide the *nominated representative document* to the *customer's* nominated representative within 5 *business days* of the date of conclusion of the *funeral plan contract*.
- 9.3.7 R *FPCOB* 9.3.6R does not apply if:
- (1) the *customer* has expressly stated that they do not wish their nominated representative to be contacted; or
- (2) the *customer* is not the *covered individual* and the *customer* has confirmed that no nominated representative is to be appointed.
- 9.3.8 G For the purposes of *FPCOB* 9.3.7R(1), 'expressly states' means that the *customer* has actively opted out of the nominated representative being contacted.
- 9.3.9 R In relation to *subsisting funeral plans*, a *firm* must consider whether the information provided to date to the *customer's* nominated representative is sufficient to achieve the purpose of this section, and if not, provide the *nominated representative document* to the *customer's* nominated representative as soon as reasonably practicable after [29 July 2022].
- 9.3.10 R The requirement to provide the *nominated representative document* in *FPCOB* 9.3.9R only applies to *funeral plan contracts* where the *firm* already has the nominated representative's contact details and consent to contact the nominated representative.

Plan statement - requirement for funeral plan providers

- 9.3.11 R (1) A *firm* must provide the *customer* with a plan statement (*FPCOB* 9 Annex 3) regarding the *funeral plan contract* at least once every 3 years.
- (2) In relation to *subsisting funeral plans*, a *firm* must provide a *customer* with the first plan statement no later than 31 August 2023.

#### 9.4 Means of communication

Means of communication

- 9.4.1 R The information in *FPCOB* 9 must, unless stated otherwise in this chapter, be provided in accordance with *FPCOB* 6.2 (Means of communication to customers).

### 9 Funeral plan summary

#### Annex 1

This annex belongs to *FPCOB* 9.2.7R.

1	What information needs to be contained in the funeral plan summary?		
1.1	R	The <i>funeral plan summary</i> must contain the following information:	
		(1)	a summary of the significant features of the <i>funeral plan</i> ;
		(2)	a summary of the main exclusions or limitations of the <i>funeral plan</i> ;
		(3)	an explanation of whether changes can be made to the <i>funeral plan</i> , and if so, the process and any related costs;
		(4)	price and payment information;
		(5)	the consequences of non-payment;
		(6)	the existence and duration of the right of cancellation;
		(7)	how to complain to the <i>firm</i> and that complaints may subsequently be referred to the <i>Financial Ombudsman Service</i> ;
		(8)	details on whether compensation is available from the <i>compensation scheme</i> , if the <i>firm</i> cannot meet its liabilities.
1.2	G	A <i>firm</i> , when providing the information in the <i>funeral plan summary</i> , should consider:	

		(1)	the <i>rules</i> and <i>guidance</i> on: providing appropriate information to <i>customers</i> in <i>FPCOB</i> 9.2, post contractual changes in <i>FPCOB</i> 9.3 and price information in <i>FPCOB</i> 9.2;
		(2)	the order of the information and priority of the information to be provided;
		(3)	the information needs of the <i>firm's</i> typical <i>customer</i> for the <i>funeral plan</i> ;
		(4)	using colours, images and other ways to make the document more accessible, easy-to-read, and eye-catching; and
		(5)	whether to provide additional information to the <i>customer</i> , for example, to assist the <i>customer's</i> understanding of the proposed arrangements. If a <i>firm</i> does provide additional information, the additional information should not disguise, diminish or obscure important information contained in the <i>funeral plan summary</i> document.
Name and company logo of the funeral plan provider			
1.3	R	(1)	The name of the <i>funeral plan provider</i> , its statutory status ( <i>GEN</i> 4 Annex 1R) and its firm reference number should follow the title 'Funeral Plan summary document' at the top of the first page.
		(2)	The provider may insert its company logo to the right of the title.
Purpose of the document and reference to complete pre-contractual and contractual information			
1.4	R		<p>The <i>funeral plan summary</i> should state the purpose of the document and that complete pre-contractual and contractual information about the <i>funeral plan</i> is provided to the <i>customer</i> in other documents. The following wording should be used and placed immediately below the name of the provider in a way that it is likely to maximise <i>customers'</i> awareness that it is a summary only:</p> <p><i>This document explains what is and is not included in your funeral plan, how you will pay for your plan and information on cancelling your plan, making a complaint and your entitlement to compensation. Please ensure you read this carefully. Please note this is a summary of your plan; please refer to our pre-contractual documentation and terms &amp; conditions or contact us using the contact details below for further details.</i></p>

2	How must the summary be presented and formatted?		
2.1	R	The <i>funeral plan summary</i> must:	
		(1)	be a short and standalone document;
		(2)	be presented and laid out in a way that is clear and easy to read, using characters of a readable size; and
		(3)	be no less comprehensible in the event that, having been originally produced in colour, it is printed or photocopied in black and white.
	Length		
2.2	R	The summary document must be set out on no more than two sides of A4-sized paper when printed.	
	Plain language		
2.3	R	The <i>funeral plan summary</i> must be drafted in plain language, facilitating the <i>customer's</i> understanding of the content of that document, and must focus on key information which the <i>customer</i> needs to make an informed decision. Jargon must be avoided.	
	Presentation		
2.4	G	A <i>firm</i> , when providing the information in the <i>funeral plan summary</i> , should consider:	
		(1)	the use of tables to display costs and other ways to make the document and information more accessible and easy-to-read; and
		(2)	the use of bold and italic text to highlight key information.
	Headings, corresponding information and order of content		
2.5	R	The subheadings must be in this sequence and have the following corresponding information:	
		(1)	‘What products and services are included in my funeral plan?’ This section should clearly set out using green tick boxes and text the key products and services the <i>funeral plan</i> provides.
		(2)	‘What products and services are not included in my funeral plan?’

		<p>This section should clearly set out through red cross boxes and red text the key products and services the <i>funeral plan</i> would not provide that the <i>customer</i> would typically expect to be included in their funeral (e.g. catering, flowers). A <i>firm</i> should also highlight where the cost of a feature (e.g. burial plot) may exceed the allocated allowance.</p> <p>This section should also clearly set out any additional costs the <i>customer</i> may face (e.g. the need to appoint a new funeral services provider due to the <i>covered individual's</i> change of address).</p> <p>If applicable, a <i>firm</i> should prominently state that other exclusions will apply and explain where to find relevant information.</p>
	(3)	<p>‘How do I make changes to my plan?’</p> <p>This section should set out if a <i>customer</i> can make changes to their plan, how they can do so and any related costs. It should also refer to the cancellation process should their needs change.</p>
	(4)	<p>‘When and how do I pay?’</p> <p>A <i>firm</i> should set out the payment options on offer and the timings of these payments. For example, whether payment is in monthly instalments or a lump sum/single payment.</p> <p>A <i>firm</i> should set out clearly and prominently if the cost of the plan will increase as a result of paying with a different payment option and if so, the cost of each payment option. If applicable, a <i>firm</i> should clearly state the <i>moratorium period</i> in which the funeral will not be provided if the <i>covered individual</i> dies.</p> <p>A <i>firm</i> should set out clearly and prominently any <i>fees</i> which are, or may be, payable (including the circumstances in which they are payable).</p> <p>A <i>firm</i> should clearly set out where a <i>customer</i> can find additional information.</p>
	(5)	<p>‘What happens if I miss a payment?’</p> <p>This section should clearly set out any impact of missing payments, including any <i>fees</i> or potential cancellation.</p> <p>A <i>firm</i> should clearly pinpoint where a <i>customer</i> can find additional information.</p>
	(6)	<p>‘How do I cancel my plan?’</p> <p>A <i>firm</i> should set out the <i>customer's</i> right to cancel – including how long they have to cancel without incurring a cancellation <i>fee</i>.</p>

			<p>A <i>firm</i> should set out clearly and prominently any cancellation <i>fee</i>.</p> <p>A <i>firm</i> should clearly pinpoint where a <i>customer</i> can find additional information.</p>
		(7)	<p>‘How do I make a complaint?’</p> <p>A <i>customer</i> should complain to the <i>firm</i> in the first instance. The <i>firm</i> should provide information regarding its internal procedures for the reasonable and prompt handling of complaints.</p> <p>If the <i>customer</i> is unhappy with the <i>firm</i>’s response, they may be able to refer the matter to the <i>Financial Ombudsman Service</i>.</p>
		(8)	<p>‘Financial Services Compensation Scheme’</p> <p>A <i>firm</i> should explain that if it is unable to meet its liabilities, the <i>customer</i> or <i>covered individual</i> (or their estate, if the <i>customer</i> or <i>covered individual</i> has died) may be entitled to compensation from the <i>compensation scheme</i>.</p> <p>A <i>firm</i> should clearly state where <i>customers</i> and <i>covered individuals</i> can find further information in relation to the <i>compensation scheme</i>.</p>

**9**  
**Annex**  
**2**

**Nominated representative document**

This annex belongs to *FPCOB* 9.3.6R.

1	Format		
	The document must:		
1.1	R	(1)	be short and stand alone;
		(2)	be presented and laid out in a way that is clear and easy to read, using characters of a readable size; and
		(3)	be no less comprehensible in the event that, having been originally produced in colour, it is printed or photocopied in black and white.
2	Length		
2.1	R	The document must be set out on no more than 2 sides of A4-sized paper when printed.	
3	Presentation		

3.1	G	<p>A <i>firm</i>, when providing the information in the document, should consider:</p> <p>(1) the use of tables to display costs and other ways to make the document and information more accessible and easy-to-read;</p> <p>(2) the use of bold and italic text to highlight key information.</p>
4	Headings, corresponding information and order of content	
4.1	R	The document must contain the following information, and use the headings in (4) to (9), in this sequence:
	(1)	a clear statement outlining the purpose of the document, including the name of the <i>customer</i> and, if different, the <i>covered individual</i> and why it is important that the nominated representative reads the document;
	(2)	a clear statement explaining the nominated representative's obligations regarding the plan;
	(3)	a clear and prominent statement explaining that the document is a summary of the plan, that complete contractual information is available in other documents and the <i>customer's</i> duties and obligations;
	(4)	<p>'What is the procedure to follow when the <i>covered individual</i> dies?'</p> <p>A <i>firm</i> should explain the procedure that the nominated representative should follow when the <i>covered individual</i> dies, include contact information for the funeral services provider and specify what documents will be needed.</p>
	(5)	<p>'What is included in the funeral plan?'</p> <p>This section should clearly set out using green tick boxes and text the key products and services provided by the <i>funeral plan</i>.</p>
	(6)	<p>'What additional costs could there be for me?'</p> <p>This section should clearly state the items which are not included in the cost of the plan and which will need to be paid for separately.</p> <p>This section should use red cross boxes and text to outline the key products and services NOT included in the plan. These must include any products the <i>customer</i> may reasonably expect to be included in their funeral.</p> <p>A <i>firm</i> should also specify if there is a cost to changing funeral services provider and explain that there may be additional costs</p>



			if the nominated representative chooses alternative items which are not included in the plan.
		(7)	<p>‘What happens if the <i>covered individual</i> dies before payments are completed?’</p> <p>A <i>firm</i> should provide a clear explanation of the coverage of the funeral plan contract if the <i>covered individual</i> dies before payments are completed, including any associated <i>fees</i>.</p>
		(8)	<p>‘How do I make a complaint?’</p> <p>A <i>firm</i> should explain that a <i>customer’s</i> nominated representative should complain to the <i>firm</i> in the first instance. The <i>firm</i> should provide information regarding its internal procedures for the reasonable and prompt handling of complaints.</p> <p>If the nominated representative is unhappy with the <i>firm’s</i> response, they may be able to refer the matter to the <i>Financial Ombudsman Service</i>. The representative may need to show that they are authorised to complain on behalf of the <i>customer</i>.</p>
		(9)	<p>‘Financial Services Compensation Scheme’</p> <p>A <i>firm</i> should explain that if it is unable to meet its liabilities, the <i>customer</i> (or their estate, if the <i>customer</i> has died) may be entitled to compensation from the <i>compensation scheme</i>.</p> <p>A <i>firm</i> should clearly state where <i>customers</i> and nominated representatives can find further information in relation to the <i>compensation scheme</i>.</p>

**9 Plan Statement**  
**Annex**  
**3**

This annex belongs to *FPCOB* 9.3.10R.

1	Format		
	The plan statement must:		
1.1	R	(1)	be a short and standalone document;
		(2)	be presented and laid out in a way that is clear and easy to read, using characters of a readable size; and
		(3)	be no less comprehensible in the event that, having been originally produced in colour, it is printed or photocopied in black and white.

2	Length	
2.1	R	The plan statement must be set out on no more than 1 side of A4-sized paper when printed.
3	Presentation	
3.1	G	A <i>firm</i> , when providing the information in the plan statement, should consider:
		(1) the use of tables to display costs and other ways to make the document and information more accessible and easy-to-read;
		(2) the use of bold and italic text to highlight key information.
3.2	G	The <i>funeral plan provider</i> may insert its company logo to the right of the title.
4	Headings, corresponding information and order of content	
4.1	R	The plan statement must contain the following information, and use the headings in (3) to (7), in this sequence:
		(1) a clear and prominent statement outlining the purpose of the plan statement;
		(2) a clear and prominent statement that the <i>customer</i> should review the information in the document to consider whether the plan still meets their needs;
		(3) ‘How much have I got left to pay?’ This section should clearly set out: the <i>customer’s</i> monthly payment (as appropriate), the total cost of their plan, and the amount paid to date. This section should also prominently set out details of the outstanding balance and the duration of the remaining payments.
		(4) ‘What does my plan provide?’ This section should set out a brief summary of what is included in, and excluded from, the plan and where further information can be found. This should also include the name of the relevant funeral services provider.
		(5) ‘How do I make changes to my plan?’ A <i>firm</i> should explain whether a <i>customer</i> can make changes to the plan, how to do so, what changes they can make (e.g. paying it off more quickly, adding items to the plan) and any

			related costs. A <i>firm</i> should also explain where to find further information.
		(6)	‘How do I cancel my plan?’ A <i>firm</i> should set out clearly and prominently the <i>customer’s</i> right to cancel and identify any cancellation <i>fees</i> .
		(7)	‘Financial Services Compensation Scheme’ A <i>firm</i> should explain that if it is unable to meet its liabilities, the <i>customer</i> or <i>covered individual</i> (or their estate, if the <i>customer</i> or <i>covered individual</i> has died) may be entitled to compensation from the <i>compensation scheme</i> . A <i>firm</i> should clearly state where <i>customers</i> or <i>covered individuals</i> can find further information in relation to the <i>compensation scheme</i> .
		(8)	‘Contact us’ A <i>firm</i> should provide its contact details for the <i>customer</i> .

## 10 Arrangements for the funeral

### 10.1 Application and purpose

#### Application

- 10.1.1 R This chapter applies to a *funeral plan provider* that enters into a *funeral plan contract*, under which it undertakes to secure that another *person* provides a funeral for the *covered individual* on their death.

#### Purpose

- 10.1.2 G The purpose of the requirements in this chapter is to provide certainty at the point of sale of a *funeral plan contract* that an appropriate funeral services provider will provide the services required under the contract at no additional cost to the *customer* or the *covered individual’s* estate.

#### Arrangements with the funeral services provider

- 10.1.3 R A *firm* must, within 30 *days* of the *customer’s* purchase of a *funeral plan contract*, make appropriate arrangements for the funeral to be carried out. The arrangements must:
- (1) be legally enforceable;
  - (2) be made with a funeral services provider that is located within a reasonable distance of the *covered individual’s* address, unless:

- (a) it is clear from the nature of the *funeral plan contract* that this was not the intention of both the funeral services provider and the *customer*; or
    - (b) the *customer* agrees otherwise;
  - (3) identify the business name and address of the funeral services provider (including, as appropriate, the relevant branch) that will carry out the funeral; and
  - (4) be such as to ensure that neither the *customer* nor the *covered individual's* estate are required to make further payments to the funeral services provider to provide the funeral in accordance with the *funeral plan contract*.
- 10.1.4 R Following compliance with *FPCOB* 10.1.3R, the *firm* must within 2 *business days* provide the *customer* with a notification of:
- (1) the name, address and contact details of the relevant funeral services provider; and
  - (2) a summary of the arrangements made with the funeral services provider,
- in accordance with *FPCOB* 6.2 (Means of communication to customers).
- 10.1.5 R The *firm* must provide the notification in *FPCOB* 10.1.4R to the nominated representative at the same time as it is provided to the *customer* unless the circumstances in *FPCOB* 9.3.7R apply.
- 10.1.6 R The *firm* must regularly review the arrangements under *FPCOB* 10.1.3R to ensure that the funeral services provider will provide the services required under the *funeral plan contract*.
- 10.1.7 G For the purposes of *FPCOB* 10.1.6R, a review should take place at least every 12 *months*.
- 10.1.8 R If at any time after a *firm* has complied with *FPCOB* 10.1.3R, a *firm* becomes aware that the funeral services provider is unable or likely to be unable to provide the services required under the *funeral plan contract*, the *firm* must make alternative arrangements with another funeral services provider, at no additional cost to the *customer* or *covered individual*.
- 10.1.9 R In accordance with *FPCOB* 6.2, the *firm* must notify:
- (1) the *customer*; and
  - (2) the nominated representative, unless the *FPCOB* 9.3.6R circumstances apply,

of any new arrangements made under *FPCOB* 10.1.8R as soon as practicable and in any event, within 2 *business days* of making the arrangements.

- 10.1.10 G A *funeral plan provider* should consider its arrangements in respect of *subsisting funeral plans* and whether those arrangements would meet the purpose of the requirements in this section, what steps it might take to change those arrangements as a result and what notifications to make to the *customer* and the nominated representative.
- 10.1.11 R (1) This *rule* applies to a *funeral plan provider* which has assumed the undertaking under a *funeral plan contract* to provide, or secure the provision of, a funeral as a result of a transfer of the contract.
- (2) [*Editor's note*: Deliberately left blank pending the possibility of new rules currently being consulted on.]
- (3) The *firm* must ensure that arrangements meeting the requirements of *FPCOB* 10.1.3R are in place within 30 *days* of the completion of the transfer.
- (4) If, as a result of the *firm's* compliance with this *rule*, there are any changes to the arrangements under the contract, the *firm* must notify the *customer* and the nominated representative in compliance with *FPCOB* 10.1.4R and *FPCOB* 10.1.5R.

## 11 Fees

### 11.1 Application and purpose

#### Application

- 11.1.1 R This chapter applies to a *firm* in relation to *funeral plan provision* and *funeral plan distribution*.

#### Purpose

- 11.1.2 G *Principle 6* requires a *firm* to pay due regard to the interests of its *customers* and treat them fairly. A *firm* is also under an obligation to comply with the *customer's best interests rule* and, as a consequence of this sourcebook's *customer* communication requirements, to communicate information to *customers* in a clear, fair and not misleading way. This chapter reinforces these requirements by preventing a *firm* from imposing *fees* which amount to profit.

#### Instalment payment fee

- 11.1.3 R *FPCOB* 11.1.4R applies to a *firm* that charges an *instalment payment fee*.
- 11.1.4 R A *firm* must not impose an *instalment payment fee* on a *customer* unless it is equal to or lower than the aggregate of:

- (1) a reasonable pre-estimate of any costs incurred by the *firm* as a result of the *customer* paying in instalments rather than in a single payment; and
  - (2) a reasonable pre-estimate of any lost investment gain which is a result of that *customer* paying in instalments rather than in a single payment.
- 11.1.5 R A *firm* must be able to objectively justify that the calculation of the *instalment payment fee* does not include profit above that which the *firm* would make, or which would have been generated by *trust arrangements* or *insurance-based investment products*, if the *customer* paid for the *funeral plan contract* in a single payment.
- 11.1.6 G For the purposes of *FPCOB* 11.1.4R(2), ‘lost investment gain’ refers to a reasonable estimate of the difference between:
- (1) the investment return that instalment payments under an *instalment payment funeral plan* will make when invested under the *trust arrangements* or *insurance-based investment products* over the period of time that instalments in that plan are agreed; and
  - (2) the investment return that would have been expected from the *customer’s* payment if the *customer* had paid for the *funeral plan contract* in a single payment at the date the *funeral plan contract* was entered into and that payment (less any charges or deductions the *firm* would ordinarily have made) had been invested under the *trust arrangements* or *insurance-based investment products* for the period of time used when estimating the amount in paragraph (1).

#### Other fees

- 11.1.7 R A *firm* must ensure that any *fee*, other than an *instalment payment fee*, imposed on a *customer* is based upon a reasonable reflection of the costs incurred by the *firm*, in providing the service to which the *fee* relates, and not with a view to profit.

## 12 Handling of payments by intermediaries

### 12.1 Application and purpose

#### Application

- 12.1.1 R This chapter applies to a *firm* in relation to *funeral plan provision* and *funeral plan distribution*.
- 12.1.2 G A *firm* (including a *funeral plan provider*) that has accepted responsibility for *funeral plan distribution* undertaken by an *appointed representative* must ensure that the representative complies with this chapter as if it was an intermediary *firm* (see *FPCOB* 1.2.4R).

## Purpose

- 12.1.3 G The *rules* in this chapter mitigate the risk of loss to *customers* on the insolvency of a *firm* engaged in *funeral plan distribution*. Such a *firm* cannot receive or handle payments for a *funeral plan contract* except in the form of cash and can only receive or handle a cash payment if that contract will be effective from the moment of receipt.

## 12.2 Obligations on intermediaries

- 12.2.1 R A *firm* engaged in *funeral plan distribution* must not accept payments which are payable to a *funeral plan provider* under a *funeral plan contract* unless:
- (1) the payment is:
    - (a) received as agent for the *funeral plan provider*;
    - (b) made in cash;
    - (c) made at the time the *funeral plan contract* is entered into by the *firm* as agent of the *funeral plan provider*; and
  - (2) the following contracts each provide that the payment is deemed received by the *funeral plan provider* on receipt by the agent:
    - (a) the *funeral plan contract*;
    - (b) the contract between the *funeral plan provider* and the agent; and
    - (c) (where the *firm* is using an *appointed representative*) the contract between the *firm* and the representative.

- 12.2.3 G The effect of *FPCOB* 12.2.1R is that a *firm* engaging in *funeral plan distribution* can only accept payment for a *funeral plan contract* if the payment is in cash and the *funeral plan provider* will be bound by that contract from the moment that the payment is received by the *firm*.

- 12.2.4 R *FPCOB* 12.2.1R does not apply to:
- (1) a *funeral plan provider* when distributing its own *funeral plan contracts* directly to *customers*; or
  - (2) a payment which is an *FP distribution charge*.

## 12.3 Obligations on providers

- 12.3.1 R A *funeral plan provider* must ensure that its arrangements for another *firm* or an *appointed representative* to distribute *funeral plan contracts*:

- (1) prohibit that *person* from accepting payments payable to a *funeral plan provider*; or
- (2) prohibit such payments other than in cash and, for cash payments:
  - (a) are compatible with the requirements of *FPCOB 12.2.1R*; and
  - (b) (for arrangements with a *firm*) make clear whether or not the *firm* is permitted to appoint *appointed representatives* to act as agent for the *funeral plan provider* in receiving contractual payment.

## 12.4 Appointed representatives

- 12.4.1 G A *firm* which appoints an *appointed representative* to distribute *funeral plan contracts* should prohibit the representative from accepting payments which are payable to a *funeral plan provider* under a *funeral plan contract* (other than an *FP distribution charge*) unless the conditions at *FPCOB 12.2.1R* are satisfied.
- 12.4.2 G For the purposes of *FPCOB 12.2.1R (1)(c)* a *funeral plan contract* would be entered into at the point that an *appointed representative* acting as agent of a *funeral plan provider* bound that *funeral plan provider* to its terms.
- 12.4.3 G Where a *funeral plan provider* appoints another *firm* to undertake *funeral plan distribution* in relation to its *funeral plan contracts* and that *firm* has an *appointed representative* who it permits to accept cash payment for that contract, *FPCOB 12.2.1R(2)* would be satisfied where the *appointed representative* receives the cash payment as sub-agent for the *funeral plan provider* and the contracts which underpin the arrangements ensure this (including the contract between the *firm* and its representative).

## 13 Cancellation

### 13.1 Application

- 13.1.1 This chapter applies to a *firm* entering into a *funeral plan contract*.

### 13.2 The right to cancel

- 13.2.1 R A *customer* has a right within the longer of:
- (1) 30 days; or
  - (2) 7 days of being notified of the appointed funeral services provider (*FPCOB 10.1.4R*); or in the case of an *instalment payment funeral plan contract*, 30 days or the *moratorium period*, whichever is longer; or
  - (3) in the case of an *instalment payment funeral plan contract*, the *moratorium period*,



to cancel the *funeral plan contract*, without giving any reason and without being required to pay any amount to do so.

13.2.2 R The following events in relation to an *instalment payment funeral plan contract* must, for the purposes of this chapter, be taken to be a cancellation:

- (1) the death of the *covered individual* (other than as a result of an accident) within the *moratorium period*;
- (2) the cancellation by the *firm*, having complied with the payment shortfall rules (*FPCOB 2.3*), of the *funeral plan* due to the *customer's* failure to settle a *payment shortfall*.

13.2.3 R *FPCOB 13.2.2R* does not apply where the *customer* and *firm* have agreed that any party may pay sums outstanding under the *instalment payment funeral plan* and the *funeral plan* be redeemed.

13.2.4 G A *firm* may provide longer or additional cancellation rights voluntarily, but if it does these should be on terms at least as favourable to the *customer* as those in this chapter, and any differences should be clearly explained.

#### Exception to the right to cancel

13.2.5 R The right to cancel does not apply to a *funeral plan contract* under which a redemption request has been made or the funeral has been provided.

#### Start of the cancellation period

13.2.6 R The cancellation period begins either:

- (1) from the *day* the *customer* is informed that the contract has been concluded; or
- (2) from the *day* on which the *customer* receives the contractual terms and conditions and any other pre-contractual information required under this sourcebook, if that is later than the date referred to above.

#### Exercising a right to cancel

13.2.7 R If a *customer* exercises the right to cancel:

- (1) they must notify this to the *firm* before the expiry of the relevant deadline;
- (2) a *firm* must enable a *customer* to make the notification via the same medium by which the *customer* purchased the *funeral plan contract*; and

- (3) the deadline shall be deemed to have been observed if the notification, if on paper or another *durable medium*, is dispatched before the deadline expires.

13.2.8 G A *firm* may provide additional methods by which the *customer* can make a notification of cancellation to the *firm*.

### 13.3 Effects of cancellation

#### Termination of contract

13.3.1 R By exercising the right to cancel, the *customer* withdraws from the *funeral plan contract* and the contract is terminated.

#### Firm's obligation on cancellation

- 13.3.2 R (1) This *rule* applies where a *funeral plan contract* is:
- (a) cancelled by the *customer* in accordance with *FPCOB* 13.2.1R; or
  - (b) deemed cancelled by the *funeral plan provider* (*FPCOB* 13.2.2R) during the *moratorium period*.
- (2) A *firm* must, without any undue delay and no later than within 30 *days*, return to a *customer* any sums it has received from them in accordance with the contract, except as specified in this section.
- (3) This period shall begin from the *day* on which the *firm* receives the notification of cancellation.

## 14 Funeral plan redemption

### 14.1 Application and purpose

#### Application

- 14.1.1 R (1) This chapter applies to a *funeral plan provider* in relation to the activity of *carrying out a funeral plan contract*.
- (2) This chapter applies in relation to *subsisting funeral plans* unless compliance would be contrary to a term of the *subsisting funeral plan* agreed with the *customer* prior to 29 July 2022.

#### Purpose

14.1.2 G This chapter concerns the conduct of a *funeral plan provider* in relation to the redemption of a *funeral plan contract* upon the death of the *covered individual*.

#### Redemption

- 14.1.3 R A *funeral plan provider* must:
- (1) handle the redemption of a *funeral plan* promptly and fairly;
  - (2) provide reasonable guidance and appropriate information to help a *customer* or a nominated representative to make arrangements, in accordance with the *funeral plan contract*; and
  - (3) not unreasonably reject a request to redeem a *funeral plan* (including by cancelling a *funeral plan contract*).

Services required for the funeral plan contract

- 14.1.4 R Upon notification of the *covered individual's* death, the *funeral plan provider* must ensure that the services required for the *funeral plan contract* are delivered:
- (1) to a satisfactory quality and standard by the appointed funeral services provider, or if that funeral services provider is unable to provide the required services, appoint another funeral services provider at no additional cost to the *customer* or *covered individual's estate*; and
  - (2) in a timely manner,
- in accordance with the terms of the *funeral plan contract*.
- 14.1.5 G In relation to *FPCOB* 14.1.4R, where a *firm* uses outsourcing arrangements to fulfil this obligation, it retains the regulatory responsibility for achieving the required outcome (*FPCOB* 2.1.5G).
- 14.1.6 R Other than as set out in *FPCOB* 14.1.7R, a *firm* must not seek or obtain further payments from the *customer* or from the *covered individual's estate* to secure the funeral services as set out in the *funeral plan contract*.

Outstanding payments

- 14.1.7 R If upon the *covered individual's* death, further payments are due to the *firm* under the *funeral plan contract*, the *firm* must inform the *customer* and *covered individual's estate* within 24 hours of receiving notification of the *covered individual's* death of the following matters:
- (1) that further payments are due to the *firm* under the *funeral plan contract*;
  - (2) the sums received under the *funeral plan contract*; and
  - (3) the amount of the shortfall.

- 14.1.8 R *FPCOB* 14.1.7R does not apply where the effect of *FPCOB* 7.1.3R is that a funeral will be provided on the death of the *covered individual* even where payments are outstanding under an *instalment payment funeral plan contract*.

## 15 Prudential requirements

### 15.1 Application and purpose

General application

- 15.1.1 R Subject to *FPCOB* 15.1.2R, this chapter applies to *firms* with a *Part 4A permission* for *regulated funeral plan activities*.

- 15.1.2 R This chapter does not apply to a *PRA-authorised person*.

Purpose

- 15.1.3 G (1) The purpose of *FPCOB* 15 is to set out the detailed prudential obligations that apply to *regulated funeral plan activity*.
- (2) Adequate financial resources are necessary for the effective management of prudential risks. The *rules* in this chapter therefore impose requirements relating to the financial resources of a *firm* to which this chapter applies.
- (3) The *rules* concern the adequacy of the financial resources that a *firm* needs to hold in order to be able to meet its liabilities as they fall due (the *general solvency requirement*). These resources include both capital and liquidity resources.
- (4) The *rules* also place a *core capital resources requirement* on a *firm* to which this chapter applies. This *core capital resources requirement* varies depending on the nature of the activities undertaken by the *firm*.

### 15.2 General solvency requirement

- 15.2.1 R A *firm* must at all times maintain overall financial resources which are adequate, both as to amount and quality, to ensure that there is no significant risk that its liabilities cannot be met as they fall due. This includes capital resources and liquidity resources.

- 15.2.2 G The liabilities referred to in the *general solvency requirement* include:

- (1) a *firm*'s contingent and prospective liabilities;
- (2) liabilities that arise both in scenarios where the *firm* is a going concern and where the *firm* ceases to be a going concern; and

- (3) claims that could be made against a *firm* which ought to be paid in accordance with fair treatment of *customers*, even if such claims could not be legally enforced.
- 15.2.3 G The liabilities referred to in the *general solvency requirement* exclude liabilities that might arise from transactions that a *firm* has not entered into and which it could avoid. This could include, for example, taking realistic management actions such as ceasing to transact new business after a suitable period of time has elapsed.
- 15.2.4 G A *firm* should therefore make its assessment of adequate financial resources on realistic valuation bases of assets and liabilities, taking into account the actual amounts and timings of cash flows under realistic adverse projections.
- 15.2.5 G Risks may be addressed through holding capital to absorb losses that unexpectedly materialise. The ability to pay liabilities as they fall due also requires liquidity. Therefore, *firms* should consider both capital and liquidity needs in assessing the adequacy of their financial resources. A *firm* should also consider the quality of its financial resources, such as the loss-absorbency of different types of capital and the time required to liquidate different types of asset.
- 15.2.6 G As part of its day-to-day supervision of a *firm*, the *FCA* may review whether the amount and quality of capital and liquidity resources that a firm holds to comply with its *general solvency requirement* is sufficient.
- 15.2.7 G Where necessary, the *FCA* may consider the use of its powers under section 166 of the *Act* (Reports by skilled persons) to assist with the review referred to in *FPCOB* 15.2.6.
- 15.2.8 G
- (1) Following such a review, the *FCA* may conclude that a *firm* should hold an additional amount or quality of capital or liquidity resources to comply with the *general solvency requirement*.
  - (2) Where this is the case, the *FCA* will normally specify an amount or quality of capital or liquidity resources that the *firm* should hold by:
    - (a) issuing *individual capital guidance*;
    - (b) issuing *individual liquidity guidance*; or
    - (c) imposing a *requirement* on the *firm*.
  - (3) The amounts in (2) will typically represent the *FCA*'s assessment of the *firm's general solvency requirement*. However, in some cases, it may be specified on a different basis (such as by reference to a specific component of the *general solvency requirement* or to a particular risk or harm).

- (4) The *FCA* may choose to conduct reviews of the *regulated funeral plans activities* sector, or aspects of it. In such cases, the *FCA* may subsequently choose to issue *guidance* on a sectoral basis or to impose additional *requirements* on all, or only a subset of, the entities included within that review. The *guidance* or *requirement* may relate to:
- (a) additional amounts or quality of capital or liquidity resources that such *firms* must hold; or
  - (b) other actions that such *firms* must undertake.
- 15.2.9 G The *FCA* will determine whether a *requirement* or *guidance* is more appropriate. Where the *FCA* chooses to issue *guidance*, this will normally explain how the *FCA* will approach supervising the *general solvency requirement* in relation to the *firm*. The *FCA* expects that the *firm* would normally confirm to the *FCA* that the *firm* will hold the amounts specified in that *guidance* going forward (and will therefore hold the relevant capital and or liquidity resources to comply with the *general solvency requirement*), unless the *firm* subsequently determines that higher amounts are required.
- 15.2.10 G Where the *FCA* considers that it is appropriate to apply a *requirement* in connection with the *general solvency requirement*, it may invite a *firm* to make a voluntary application under section 55L(5) of the *Act* to impose a *requirement* on the *firm* to hold the level of capital or liquidity resources that the *FCA* has assessed as being required by the *firm* in order to meet the *general solvency requirement*.
- 15.2.11 G *Guidance* on the *general solvency requirement* issued by the *FCA* will apply until the *FCA* issues revised *guidance* (or varies or removes the *requirement* relating to the *general solvency requirement*) in relation to the *firm*.
- 15.2.12 G If a *firm* subsequently determines, as a result of its own assessment, that it needs to hold a higher level or quality of capital or liquidity resources to satisfy the *general solvency requirement*, it must hold that higher level. This is because the *FCA*'s assessment (or a *requirement* applied to the *firm* by the *FCA*) reflects an assessment carried out at that point in time and does not relieve the *firm* of its obligation to ensure that it is meeting the *general solvency requirement* at all times.
- 15.2.13 G A *firm*'s business model or operating model may undergo a significant change, with the result that the *firm* considers that the amount or quality of capital or liquidity resources specified in the *guidance* issued by, or the *requirement* applied by, the *FCA* exceeds the amount or quality of capital or liquidity resources that the *firm* requires to comply with the *general solvency requirement*. In this case, the *firm*:
- (a) should undertake its own assessment of the amounts that the *firm* now requires to comply with the *general solvency requirement* or,

where applicable, to address the risks in relation to which the *requirement* was imposed; and

- (b) having undertaken the determination in (a), may contact the *FCA* to request a review of the existing *guidance* or *requirement*.

15.2.14 G The *FCA* will not give *individual capital guidance* or *individual liquidity guidance* to the effect that the amount of capital advised in that *guidance* is lower than the amount of capital which a *firm* should hold to meet its *core capital resources requirement*.

### 15.3 Core capital resources requirement

15.3.1 R A *firm* must at all times maintain *capital resources* equal to or in excess of its *core capital resources requirement*.

### 15.4 Capital resources: relevant accounting principles

15.4.1 R A *firm* must recognise an asset or liability, and measure its amount, in accordance with the relevant accounting principles applicable to it for the purpose of preparing its *annual financial statements*.

### 15.5 Core capital resources requirement for funeral plan provision activities

15.5.1 R Subject to *FPCOB* 15.7.1R, for a *firm* with a *Part 4A permission* to carry on *regulated funeral plan provision activities* to which *FPCOB* 15.6.1R does not apply, the *core capital resources requirement* is the higher of:

- (1) £20,000;
- (2) 2.5% of the *firm's annual income*; or
- (3) the sum of:
  - (a) the number of undrawn *funeral plan contracts* backed by *trust arrangements*, multiplied by the median of the amounts that would be payable to the *firm* under each *trust arrangement* if a funeral were required on the day following the end of the *firm's* previous period for submitting its funeral plan financials return in accordance with *SUP* 16.12, multiplied by 0.5%; and
  - (b) the number of undrawn *funeral plan contracts* backed by a *whole of life insurance policy*, multiplied by the median of the amounts payable to the *firm* under each *whole of life insurance policy* if a funeral were required on the day following the end of the *firm's* previous period for submitting its Funeral plan financials return in accordance with *SUP* 16.12, multiplied by 0.5%.

- 15.5.2 R The calculation in *FPCOB* 15.5.1R(3) does not include any undrawn *legacy funeral plan contracts* held by the *firm*.

## 15.6 Core capital resources requirement for a firm that only undertakes funeral plan distribution activity

- 15.6.1 R Subject to *FPCOB* 15.7.1R, for a *firm* with a *Part 4A permission* to carry on *funeral plan distribution activity* that does not also carry on any other *regulated funeral plan activity*, the *core capital resources requirement*, is the higher of:

- (1) £10,000; or
- (2) 2.5% of the *firm's annual income*.

## 15.7 Core capital resources requirement for a firm carrying on other regulated activity

- 15.7.1 R Where a *firm* to which this chapter applies also has a *Part 4A permission* to carry on other *regulated activities*, the capital resources requirement is the higher of:

- (1) the *core capital resources requirement* in *FPCOB* 15.5.1R or *FPCOB* 15.6.1R; and
- (2) a capital resources requirement (however described) applied to the *firm* by any other *rule* or *requirement*.

## 15.8 Calculation of annual income

Annual income

- 15.8.1 R A *firm's annual income* refers to all income received or receivable, whether arising from the *firm's permitted activities* or not, as reported in its most recent audited *annual financial statements*.

Annual income: periods of less than 12 months

- 15.8.2 R If the *firm's* most recent *annual financial statement* does not cover a 12-month period, the *annual income* is taken to be the amount in the statement converted, proportionally, to a 12-month period.

Annual income: no financial statements

- 15.8.3 R If the *firm* does not have *annual financial statements*, the *annual income* is to be taken from the forecast or other appropriate accounts which the *firm* has submitted to the *FCA* in accordance with its reporting obligations in *SUP* 16.12.



15.8.4 R If a *firm* is a *principal*, its *annual income* includes amounts due to its *appointed representative* in respect of activities for which the *firm* has accepted responsibility.

15.8.5 R If a *firm* is a *network*, it should include the relevant income due to all of its *appointed representatives* in its *annual income*.

## 15.9 Calculation of core capital resources

The calculation of a firm's core capital resources

15.9.1 R A *firm* must calculate its *capital resources for the core capital resources requirement* from the items that are eligible to contribute to a *firm's capital resources*, as set out in items 1 to 6 in the table in *FPCOB 15.9.3R*.

15.9.2 R In arriving at its calculation of its capital resources for the *core capital resources requirement* a *firm* must deduct the items set out in items 1 to 5 in the table in *FPCOB 15.9.5R*.

15.9.3 R The items that are eligible to contribute to the *capital resources* of a *firm* are set out in the following table:

	Item	Additional explanation										
1	Share capital	This must be fully paid and may include: <table border="1"> <tr> <td>(1)</td> <td>ordinary <i>share</i> capital; or</td> </tr> <tr> <td>(2)</td> <td>preference <i>share</i> capital (excluding preference <i>shares</i> redeemable by shareholders within 2 years).</td> </tr> </table>	(1)	ordinary <i>share</i> capital; or	(2)	preference <i>share</i> capital (excluding preference <i>shares</i> redeemable by shareholders within 2 years).						
(1)	ordinary <i>share</i> capital; or											
(2)	preference <i>share</i> capital (excluding preference <i>shares</i> redeemable by shareholders within 2 years).											
2	Capital other than <i>share</i> capital (for example, the capital of a <i>sole trader</i> , <i>partnership</i> or <i>limited liability partnership</i> )	<table border="1"> <tr> <td>(1)</td> <td>The capital of a <i>sole trader</i> is the net balance on the <i>firm's</i> capital account and current account.</td> </tr> <tr> <td>(2)</td> <td>The capital of a <i>partnership</i> is the capital made up of the <i>partners'</i>:               <table border="1"> <tr> <td>(a)</td> <td>Capital account, which is the account:                   <table border="1"> <tr> <td>(i)</td> <td>into which capital contributed by the <i>partners</i> is paid; and</td> </tr> <tr> <td>(ii)</td> <td>from which, under the terms of the <i>partnership</i> agreement, into which capital contributed by the <i>partners</i> is paid; and from which an amount representing capital may be withdrawn by a <i>partner</i> only if:</td> </tr> </table> </td> </tr> </table> </td> </tr> </table>	(1)	The capital of a <i>sole trader</i> is the net balance on the <i>firm's</i> capital account and current account.	(2)	The capital of a <i>partnership</i> is the capital made up of the <i>partners'</i> : <table border="1"> <tr> <td>(a)</td> <td>Capital account, which is the account:                   <table border="1"> <tr> <td>(i)</td> <td>into which capital contributed by the <i>partners</i> is paid; and</td> </tr> <tr> <td>(ii)</td> <td>from which, under the terms of the <i>partnership</i> agreement, into which capital contributed by the <i>partners</i> is paid; and from which an amount representing capital may be withdrawn by a <i>partner</i> only if:</td> </tr> </table> </td> </tr> </table>	(a)	Capital account, which is the account: <table border="1"> <tr> <td>(i)</td> <td>into which capital contributed by the <i>partners</i> is paid; and</td> </tr> <tr> <td>(ii)</td> <td>from which, under the terms of the <i>partnership</i> agreement, into which capital contributed by the <i>partners</i> is paid; and from which an amount representing capital may be withdrawn by a <i>partner</i> only if:</td> </tr> </table>	(i)	into which capital contributed by the <i>partners</i> is paid; and	(ii)	from which, under the terms of the <i>partnership</i> agreement, into which capital contributed by the <i>partners</i> is paid; and from which an amount representing capital may be withdrawn by a <i>partner</i> only if:
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(i)	into which capital contributed by the <i>partners</i> is paid; and											
(ii)	from which, under the terms of the <i>partnership</i> agreement, into which capital contributed by the <i>partners</i> is paid; and from which an amount representing capital may be withdrawn by a <i>partner</i> only if:											

			(A)	the person ceases to be a <i>partner</i> and an equal amount is transferred to another such account by their former <i>partners</i> or any person replacing them as their <i>partner</i> , or
			(B)	the <i>partnership</i> is otherwise dissolved or wound up; and
	(b)	Current accounts according to the most recent financial statement.		
	For the purpose of the calculation of capital resources in respect of a <i>defined benefit occupational pension scheme</i> :			
	(1)	a <i>firm</i> must derecognise any <i>defined benefit asset</i> ;		
	(2)	a <i>firm</i> may substitute for a <i>defined benefit liability</i> the <i>firm's deficit reduction amount</i> , provided that the election is applied consistently in respect of any one <i>financial year</i> .		
3	Reserves (Note)	These are (subject to the Note) the audited accumulated profits retained by the <i>firm</i> (after deduction of tax, dividends and proprietors' or <i>partners</i> ' drawings) and other reserves created by appropriations of share premiums and similar realised appropriations. Reserves also include gifts of capital, for example, from a <i>parent undertaking</i> .		
	For the purposes of calculating capital resources, a <i>firm</i> must make the following adjustments to its reserves, where appropriate:			
	(1)	a <i>firm</i> must deduct any unrealised gains or, where applicable, add back in any unrealised losses on debt instruments held, or formerly held, in the available-for-sale financial assets category;		
	(2)	a <i>firm</i> must deduct any unrealised gains or, where applicable, add back in any unrealised losses on cash flow hedges of financial instruments measured at cost or amortised cost;		
	(3)	in respect of a <i>defined benefit occupational pension scheme</i> :		
	(a)	a <i>firm</i> must derecognise any <i>defined benefit asset</i> ;		

		(b)	a <i>firm</i> may substitute for a <i>defined benefit liability</i> the <i>firm's reduction amount</i> , provided that the election is applied consistently in respect of any one <i>financial year</i> .
4	Interim net profits (Note)		If a <i>firm</i> seeks to include interim net profits in the calculation of its capital resources, the profits must (subject to the Note), be verified by the <i>firm's</i> external auditor, net of tax, anticipated dividends or proprietors' drawings and other appropriations.
5	Revaluation reserves		[ <i>Editor's note</i> : Deliberately left blank.]
6	Subordinated loans/debt		Subordinated loans/debt must be included in capital on the basis of the provisions in this chapter that apply to subordinated loans/debts.
<b>Note: Reserves</b>			
Reserves must be audited, and interim net profits, general and collective provisions must be verified by the <i>firm's</i> external auditor unless the <i>firm</i> is exempt from the provisions of Part 16 of the Companies Act 2006 (section 477 (Small companies: conditions for exemption from audit)) relating to the audit of accounts.			

15.9.4	G	A <i>firm</i> should keep a record of and be ready to explain to its supervisory contacts in the <i>FCA</i> the reasons for any difference between the <i>deficit reduction amount</i> and any commitment the <i>firm</i> has made in any public document to provide funding in respect of a <i>defined benefit occupational pension scheme</i> .
15.9.5	R	In arriving at its calculation of its capital resources for the <i>core capital resources requirement</i> a <i>firm</i> must deduct the items set out in the following table:

Item	Additional explanation
1	<i>Investments in own shares</i>
2	<i>Investments in subsidiaries</i> (Note 1)
3	Intangible assets (Note 2)
4	Interim net losses (Note 3)
5	Excess of drawings over profits for a <i>sole trader</i> or a <i>partnership</i> (Note 3)
Notes:	<p>1. <i>Investments</i> in subsidiaries are the full balance sheet value.</p> <p>2. Intangible assets are the full balance sheet value.</p> <p>3. The interim net losses in row 4, and the excess of drawings in row 5, are in relation to the accounting period following the date as at which the <i>capital resources</i> are being computed.</p>

#### Personal assets

15.9.6 R In relation to a *sole trader's firm* or a *firm* which is a *partnership*, the *sole trader* or a *partner* in the *firm* may use personal assets to meet the *core capital resources requirement*, to the extent necessary to make up any shortfall in meeting that requirement, unless:

- (1) those assets are needed to meet other liabilities arising from:
  - (a) personal activities; or
  - (b) another business activity not regulated by the *FCA*; or
- (2) the *firm* holds *client money* or other *client* assets in relation to *regulated activities* other than *regulated funeral plan activity*.

15.9.7 G A *sole trader* or a *partner* may use any personal assets, including property, to meet the capital requirements of this chapter, but only to the extent necessary to make up a shortfall.

#### Subordinated loans

15.9.8 R A subordinated loan/debt must not form part of the *capital resources for the core capital resources requirement* of the *firm* unless it meets the following conditions:

- (1) it has an original maturity of:
  - (a) at least 5 years; or

- (b) it is subject to 5 years' notice of repayment;
- (2) the claims of the subordinated creditors must rank behind those of all unsubordinated creditors;
- (3) the only events of default must be non-payment of any interest or principal under the debt agreement or the winding up of the *firm*;
- (4) the remedies available to the subordinated creditor in the event of non-payment or other default in respect of the subordinated loan/debt must be limited to petitioning for the winding up of the *firm* or proving the debt and claiming in the liquidation of the *firm*;
- (5) the subordinated loan/debt must not become due and payable before its stated final maturity date, except on an event of default complying with (3);
- (6) the agreement and the debt are governed by the law of England and Wales, or of Scotland or of Northern Ireland;
- (7) to the fullest extent permitted under the rules of the relevant jurisdiction, creditors must waive their right to set off amounts they owe the *firm* against subordinated amounts owed to them by the *firm*;
- (8) the terms of the subordinated loan/debt must be set out in a written agreement that contains terms that provide for the conditions set out in this *rule*; and
- (9) the loan/debt must be unsecured and fully paid up.

15.9.9 R When calculating its *capital resources*, the *firm* must exclude any amount by which the aggregate amount of its subordinated loans/debts exceeds the amount calculated as follows:

A - B

where:

A is equal to the sum of items 1 to 6 (inclusive) in the table of items in *FPCOB* 15.9.3R, which are eligible to contribute to a *firm's capital resources*.

B is equal to the sum of items 1 to 5 (inclusive) in the table of items in *FPCOB* 15.9.5R, which must be deducted in arriving at *firm's capital resources*.

## 15.10 Systems, strategies, processes and reviews

Purpose

- 15.10.1 G In addition to adequate financial resources, adequate systems and controls are necessary for the effective management of prudential risks. The rules in this section therefore impose *requirements* relating to such systems and controls.
- 15.10.2 G This section also has *rules* requiring a *firm* to identify, assess and document:
- (1) risks to it being able to meet its liabilities as they fall due;
  - (2) how it intends to mitigate these risks; and
  - (3) the amount and nature of financial resources that the *firms* consider necessary to address any remaining risks.
- 15.10.3 G The *FCA* may review this assessment as part of its own assessment of the adequacy of a *firm's* financial resources.

#### Systems, strategies, processes

- 15.10.4 R A *firm* must use sound, effective and comprehensive systems, strategies and processes to assess and maintain on an ongoing basis the amounts, types and distribution of financial resources that it considers adequate to cover:
- (1) the nature and level of the risks to which it is or might be exposed; and
  - (2) the risk that the *firm* might not be able to meet its *core capital resources requirement* and *general solvency requirement* in the future.

#### Documentation of risk assessments

- 15.10.5 R A *firm* must make a written record of the assessments required under *FPCOB* 15.10.4R. In particular, it must make a written record of:
- (1) the major sources of risk identified in accordance with *FPCOB* 15.10.4R; and
  - (2) how it intends to deal with those risks.
- 15.10.6 R A *firm* must retain the records of its assessments referred to in *FPCOB* 15.10.5R for at least 3 years.
- 15.10.7 G The *FCA* may review the written record of the assessment as set out under *FPCOB* 15.10.5R as part of its own assessment of the adequacy of a *firm's* financial resources as part of its day-to-day supervision of *firms*.

### 15.11 Action for damages

- 15.11.1 R A contravention of the *rules* in *FPCOB* 15 does not give rise to a right of action by a *private person* under section 138D of the *Act* and each of those *rules* is specified under section 138D(3) of the *Act* as a provision giving rise to no such right of action.

## 16 Resolution requirements

[*Editor's note*: Deliberately left blank pending the possibility of new rules currently being consulted on.]

## 17 Application of other parts of the Handbook

### 17.1 Application and purpose

- 17.1.1 G This chapter applies to a *firm* carrying out *regulated funeral plan activities*. It is intended to draw a *firm's* attention to the application of other key parts of the *FCA Handbook* to *firms*, as set out in the table at *FPCOB* 17.1.2G.

- 17.1.2 G Application of other parts of the Handbook and of Regulatory Guides

Module	Relevance to Funeral Plan Firms
The Principles for Businesses ( <i>PRIN</i> )	The Principles for Businesses ( <i>PRIN</i> ) set out high-level requirements imposed by the <i>FCA</i> . They provide a general statement of regulatory requirements. The <i>Principles</i> apply to all <i>firms</i> .
Senior Management Arrangements, Systems and Controls ( <i>SYSC</i> )	<i>SYSC</i> 1, <i>SYSC</i> 4 to 10, <i>SYSC</i> 18, <i>SYSC</i> 19F.3, <i>SYSC</i> 21, <i>SYSC</i> 22, <i>SYSC</i> 23, <i>SYSC</i> 24, <i>SYSC</i> 27 and <i>SYSC</i> 28A apply to <i>firms</i> carrying out <i>regulated funeral plan activities</i> .
Code of Conduct ( <i>COCON</i> )	This contains <i>rules</i> and <i>guidance</i> that are directly applicable to a <i>firm's</i> <i>SMF managers</i> , <i>certification employees</i> and other <i>conduct rules staff</i> . It also contains <i>guidance</i> for <i>firms</i> on giving their staff training about <i>COCON</i> and general factors to which the <i>FCA</i> will have regard when assessing compliance with the <i>COCON</i> rules.
Threshold Conditions ( <i>COND</i> )	In order to become <i>authorised</i> under the <i>Act</i> all <i>firms</i> must meet the <i>threshold conditions</i> . The <i>threshold conditions</i> must be met on a continuing basis by <i>firms</i> . Failure to meet one of the conditions is sufficient grounds for the exercise by the <i>FCA</i> of its powers.

<p>Statements of Principle and Code of Practice for Approved Persons (<i>APER</i>)</p>	<p><i>APER</i> applies to <i>FCA approved persons</i> working within an <i>appointed representative</i> and so is not relevant to a <i>firm</i> without <i>appointed representatives</i>.</p> <p>The <i>Statements of Principle</i> are rules made under section 64A(1)(a) of the <i>Act</i> (Rules of conduct).</p> <p>The <i>Code of Practice for Approved Persons</i> sets out descriptions of conduct which, in the opinion of the <i>FCA</i>, do or do not comply with a <i>Statement of Principle</i>. The <i>Code of Practice for Approved Persons</i> also sets out, in certain cases, factors which, in the opinion of the <i>FCA</i>, are to be taken into account in determining whether or not an <i>approved person's</i> conduct complies with a <i>Statement of Principle</i>.</p>
<p>The Fit and Proper test for Employees and Senior Personnel (<i>FIT</i>)</p>	<p>The purpose of <i>FIT</i> is to set out and describe the criteria that a <i>firm</i> should consider when assessing the fitness and propriety of a <i>person</i>:</p> <ol style="list-style-type: none"> <li>(1) in respect of whom an application is being made for approval to undertake a <i>controlled function</i> under the senior managers regime;</li> <li>(2) who has already been approved;</li> <li>(3) who is a <i>certification employee</i>; or</li> <li>(4) whom a <i>firm</i> is considering appointing to be a <i>certification employee</i>.</li> </ol> <p>It also sets out and describes criteria that the <i>FCA</i> will consider when assessing the fitness and propriety of a <i>candidate</i> for a <i>controlled function</i> position and that it may consider when assessing the continuing fitness and propriety of <i>approved persons</i>.</p>
<p>Training and Competence (<i>TC</i>)</p>	<p><i>TC</i> sets out rules and guidance regarding the competence of a <i>firm's</i> employees, continuing professional development and associated record keeping requirements.</p>
<p>General Provisions (<i>GEN</i>)</p>	<p><i>GEN</i> contains <i>rules</i> and <i>guidance</i> on general matters, including interpreting the <i>FCA Handbook</i>, statutory status disclosure, the <i>FCA's</i> logo and insurance against financial penalties.</p>
<p>Fees manual (<i>FEES</i>)</p>	<p>This manual sets out the fees applying to <i>firms</i>.</p>
<p>Product Intervention and Product</p>	<p>The purpose of <i>PROD</i> is to improve <i>firms'</i> product oversight and governance processes. For <i>funeral plan products</i>, this sets out the systems and controls which</p>



Governance Sourcebook ( <i>PROD</i> )	need to be established by product <i>manufacturers</i> and <i>distributors</i> to deliver fair value products. <i>PROD</i> also sets out the <i>FCA</i> 's statement of policy on making temporary and permanent product intervention rules.
Supervision manual ( <i>SUP</i> )	<i>SUP</i> sets out the relationship between the <i>FCA</i> and <i>firms</i> . As a general rule, <i>SUP</i> contains material that is of continuing relevance after authorisation.
Decision, Procedure and Penalties manual ( <i>DEPP</i> )	<i>DEPP</i> sets out: (1) the <i>FCA</i> 's decision-making procedure for giving <i>statutory notices</i> . These are <i>warning notices</i> , <i>decision notices</i> and <i>supervisory notices</i> ( <i>DEPP</i> 1.2 to <i>DEPP</i> 5); and (2) the <i>FCA</i> 's policy with respect to the imposition and amount of penalties under the <i>Act</i> (see <i>DEPP</i> 6).
Dispute Resolution: Complaints ( <i>DISP</i> )	<i>DISP</i> sets out <i>rules</i> and <i>guidance</i> in relation to treating complainants fairly and the <i>Financial Ombudsman Service</i> .
Compensation ( <i>COMP</i> )	<i>COMP</i> sets out <i>rules</i> relating to the scheme for compensating <i>consumers</i> when authorised <i>firms</i> are unable, or likely to be unable, to satisfy claims against them.
Professional Firms ( <i>PROF</i> )	<i>PROF</i> is relevant to <i>exempt professional firms</i> and <i>authorised professional firms</i> which engage in <i>funeral plan distribution</i> .
The Enforcement Guide ( <i>EG</i> )	The Enforcement Guide ( <i>EG</i> ) describes the <i>FCA</i> 's approach to exercising the main enforcement powers given to it by the <i>Act</i> and by other legislation.
Financial Crime Guide: A firm's guide to countering financial crime risks ( <i>FCG</i> ) and Financial Crime Thematic Reviews ( <i>FCTR</i> )	<i>FCG</i> and <i>FCTR</i> provide <i>guidance</i> on steps that a <i>firm</i> can take to reduce the risk that it might be used to further <i>financial crime</i> .
The Perimeter Guidance Manual ( <i>PERG</i> )	The purpose of <i>PERG</i> is to give <i>guidance</i> about the circumstances in which <i>authorisation</i> is required, or <i>exempt person</i> status is available, including <i>guidance</i>

	on the activities which are regulated under the <i>Act</i> and the exclusions which are available.
The Unfair Contract Terms and Consumer Notices Regulatory Guide ( <i>UNFCOG</i> )	<i>UNFCOG</i> explains the <i>FCA</i> 's policy on how it will use its powers under the Consumer Rights Act 2015 in relation to unfair terms and consumer notices.

**Schedule 1** [*Editor's note:* Deliberately left blank pending the possibility of new schedules currently being consulted on.]

**Schedule 2** [*Editor's note:* Deliberately left blank pending the possibility of new schedules currently being consulted on.]

**Schedule 3** [*Editor's note:* Deliberately left blank pending the possibility of new schedules currently being consulted on.]

## Annex N

### Amendments to the Perimeter Guidance manual (PERG)

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

## 2 Authorisation and regulated activities

...

### 2.3 The business element

...

#### 2.3.2 G ...

(1) ...

...

(4) The business element for all other *regulated activities* is that the activities are carried on by way of business. This applies to the activities of *effecting or carrying out contracts of insurance*, certain activities relating to the Lloyd's market, *entering as provider into a funeral plan contract, carrying out a funeral plan contract as provider, entering into a home finance transaction or administering a home finance transaction, operating a dormant account fund, credit-related regulated activities* (subject to the modification for *not-for-profit bodies* in (3B)) and *operating an electronic system in relation to lending*.

...

### 2.4 Link between activities and the United Kingdom

...

2.4.2A G The regulated funeral plan activities only apply if the contract is for a funeral in the United Kingdom.

...

### 2.6 Specified investments: a broad outline

...

Rights under a contract of insurance

...

- 2.6.8 G Certain arrangements in relation to funeral plans are specifically excluded from being *contracts of insurance* if they would otherwise be so. The exclusion applies to arrangements that fall within the definition of a *funeral plan contract* (see *PERG 2.6.26G*) ~~as well as arrangements that are excluded from the regulated activity of entering as provider into funeral plan contracts (see *PERG 2.8.14G*).~~

...

#### Rights under a funeral plan

- 2.6.26 G (1) Rights under a *funeral plan contract* are the rights to a funeral obtained by a *person* who pays for the funeral before the death of the *person* whose funeral it will be.
- (2) The definition of *funeral plan contract* excludes those contracts under which the *customer* and the *funeral plan provider* intend or expect that the funeral will be provided within one *month* of the contract being entered into.

...

#### Rights under a regulated sale and rent back agreement

- 2.6.27C G ...

#### Rights to or interests in investments

- 2.6.28 G ...

- 2.6.29 G (1) There are several things that are not covered by this category (other than rights to, or interests in, rights under a mortgage contract). Anything that is covered by any other *specified investment* category is excluded, as are interests under the trusts of an *occupational pension scheme*. ~~Finally, where a contract is excluded from the scope of the regulated activity of entering as provider into a funeral plan contract (see *PERG 2.8.14G*), then rights to, or interests in, the *contracts of insurance* or interests under the trusts, to which the contracts relate are also excluded from this *specified investment* category.~~
- (2) There are also excluded from this category rights or interests acquired as a result of entering into a *funeral plan contract*. Where the *funeral plan contract* is trust or insurance-backed (see *FPCOB 3*), the effect of this exclusion is that rights to, or interests in, the *contract of insurance* or interests under trust to which the contract relates are excluded from this *specified investment* category. Rights under the *funeral plan contract* itself which a *person* obtains when

they enter into a funeral plan contract are covered by the specified investment category described in PERG 2.6.26G.

...

## 2.7 Activities: a broad outline

...

Dealing in investments (as principal or agent)

2.7.5 G ...

2.7.6 G Both the activities of *dealing in investments as principal* and *dealing in investments as agent* are defined in terms of 'buying, selling, subscribing for or underwriting' certain *investments*. These *investments* are:

...

(2) for *dealing in investments as agent, securities, structured deposits and relevant investments* (~~except rights under a funeral plan contract~~).

...

Entering into funeral plan contracts

2.7.18 G *Entering as provider into a funeral plan contract is a regulated activity. The 'provider', for the purposes of this activity, is the person to whom the pre-payments are made and who undertakes to provide, or secure the provision of, the funeral at some future point. He They may be the funeral services provider or a third party who arranges for another person to provide the funeral. ~~Certain types of funeral plan contract are excluded (see PERG 2.8.14G).~~*

2.7.18A G It is the FCA's view that, in the case of a funeral plan contract involving more than one payment (such as an instalment payment funeral plan), the funeral plan provider does not enter as provider into a funeral plan contract on the occasion of each individual payment.

2.7.19 G In addition, other activities carried on in relation to rights under certain *funeral plan contracts* are regulated (see ~~PERG 2.7.5G to PERG 2.7.11G and PERG 2.7.15G and PERG 2.7.16G~~ PERG 2.7.6G, PERG 2.7.7AG(1) and (2), PERG 2.7.8G, PERG 2.7.9G, PERG 2.7.10G, PERG 2.7.11G and PERG 2.7.14CG to PERG 2.7.16-AG). This is because such rights are classified as *contractually based investments*.

Carrying out funeral plan contracts as provider

2.7.19-A G Carrying out a funeral plan contract as provider is a regulated activity. This regulated activity applies in relation to both new funeral plan contracts and

those which were entered into by funeral plan providers before 29 July 2022 in reliance on the exclusions for trust and insurance-backed plans which were formerly contained in article 60 of the Regulated Activities Order.

2.7.19-B G In its consultation on the regulation of pre-paid funeral plans (June 2019), the Treasury indicated that this regulated activity was intended to cover the administration of funeral plan contracts after the point of sale. However, the Treasury’s consultation also explained that the regulated activity of carrying out a funeral plan contract as provider was not intended to extend to the activities of the funeral services provider in providing the end service for which pre-payment is made under the funeral plan contract (whether or not the funeral services provider is also the provider of the funeral plan contract).

2.7.19-C G For the purposes of this regulated activity, the definition of funeral plan provider includes a person who has assumed the undertaking referred to in PERG 2.7.18G to provide, or secure that another person provides, the funeral.

...

## 2.8 Exclusions applicable to particular regulated activities

...

### Dealing in investments as agent

2.8.5 G The regulated activity of dealing in investments as agent applies to specified transactions relating to any security or to any relevant investment, ~~(apart from rights under funeral plan contracts or rights to or interests in such rights). In addition, the~~ The activity is cut back by exclusions as follows.

...

...

### Entering funeral plan contracts Entering into funeral plan contracts and carrying out funeral plan contracts as provider

2.8.14 G ~~Entering as provider into a funeral plan contract is not treated as a regulated activity where:~~

- ~~(1) the contract is one under which the sums received from the customer will be applied towards a contract of insurance on the life of the person whose funeral is to be provided or be held on trust for the purpose of providing a funeral; in each case certain specified conditions must be met for the exclusion to apply; or~~ The definition of funeral plan contract excludes those contracts under which the customer and the funeral plan provider intend or expect that the

funeral will be provided within one month of the contract being entered into.

- (2) ~~the customer and the provider intend or expect that the funeral will be provided within one month of the contract being entered into; or~~ The exclusion relating to activities carried on by a local authority (see PERG 2.9.23G) applies to the funeral plan provision activities.
- (3) [deleted]
- (4) ~~it is provided by a firm with a Part 4A permission to manage a UK UCITS or manage an AIF in connection with, or for the purposes of, managing a UK UCITS or managing an AIF (see PERG 2.9.22G (Managers of UCITS and AIFs)).~~ The funeral plan provision activities are subject to the exclusion for firms with a Part 4A permission to manage an AIF or manage a UK UCITS for activities carried on in connection with, or for the purposes of, managing a UK UCITS or managing an AIF.

...

## 2.9 Regulated activities: exclusions applicable in certain circumstances

2.9.1 G The various exclusions outlined below deal with a range of different circumstances.

- (1) ~~Each set of circumstances described in PERG 2.9.3G to PERG 2.9.17G has some application to several regulated activities relating to securities, structured deposits, relevant investments or home finance transactions. They have no effect in relation to the separate regulated activities of accepting deposits, issuing electronic money, effecting or carrying out contracts of insurance, advising on syndicate participation at Lloyd's, managing the underwriting capacity of a Lloyd's syndicate as a managing agent at Lloyd's or entering as provider into a funeral plan contract.~~ Within each set of circumstances, the Regulated Activities Order, in Chapter XVII of Part II of the Order, makes separate provision for each regulated activity affected. This is necessary because each exclusion has to be tailored to reflect the different nature of the regulated activity involved and the different language required (for example, some activities involve entering directly into transactions while others relate to the provision of services).

...

Local authorities

2.9.23 G This group of exclusions applies, in specified circumstances, to the regulated activities of:

(1) ...

...

(23A) entering as provider into a funeral plan contract;

(23B) carrying out a funeral plan contract as provider;

...

...

## 2.10 Persons carrying on regulated activities who do not need authorisation

...

Members of the professions

...

2.10.14 G The *regulated activities* that may be carried on in this way are restricted by an Order made by the Treasury under section 327(6) of the *Act* (Exemption from the general prohibition) (the *Non-Exempt Activities Order*). Accordingly, under that section, a *person* may not by way of business carry on any of the following activities without *authorisation*:

(1) ...

...

(7A) carrying out a funeral plan contract as provider;

...

...

## 2 Annex Regulated activities and the permission regime

2

...

Table 1: Regulated Activities (excluding PRA-only activities) [See note 1 to Table 1]	
Regulated activity	Specified investment in relation to which the regulated activity (in the corresponding section of column one) may be carried on
...	



<b>Funeral plan providers</b>	
(u) <i>entering as provider into a funeral plan contract</i> (article 59(1)) [ <del>see note 1A to Table 1</del> ]	<i>funeral plan contract</i> (article 87) [ <u>see Note 1A to Table 1</u> ]
(ua) <i>carrying out a funeral plan contract as provider</i> (article 59(1A))	
...	
Notes to Table 1	
...	
<p>Note 1A:</p> <p><i>Funeral plan contracts are contractually based investments. Accordingly, the following are regulated activities when carried on in relation to a funeral plan contract: (a) <u>dealing in investments as agent</u>, (b) <u>arranging (bringing about) deals in investments</u>, <del>(c)</del> <u>making arrangements with a view to transactions in investments</u>, <del>(d)</del> <u>managing investments</u>, <del>(e)</del> <u>safeguarding and administering investments</u>, <del>(f)</del> <u>advising on investments (except P2P agreements)</u>, <del>(g)</del> <u>sending dematerialised instructions</u> and <del>(h)</del> <u>causing dematerialised instructions to be sent</u> (as well as agreeing to carry on each of the activities listed in (a) to <del>(g)</del> <u>(h)</u>). However, they are not <i>designated investment business</i>.</i></p>	
...	
<p>Note 2:</p> <p>For the purposes of the <del>regulated activities</del> <u>regulated activity</u> of <i>dealing in investments as principal</i> (article 14) <del>and <i>dealing in investments as agent</i> (article 21)</del>, the definition of <i>contractually based investments</i> [expanded in Table 3] excludes a <i>funeral plan contract</i> (article 87) and rights to or interests in <i>funeral plan contracts</i>.</p>	
...	
<b>Table 3: Securities, contractually based investments and relevant investments</b> [see notes 1 and 2 to Table 3]	
...	
<b>Notes to Table 3</b>	
...	

Note 2:

For the purposes of the ~~regulated activities~~ regulated activity of *dealing in investments as principal* (article 14) ~~and dealing in investments as agent (article 21)~~, the definition of *contractually based investments* excludes a *funeral plan contract* (article 87) and rights to or interests in *funeral plan contracts*.

...

## 8 Financial promotion and related activities

### 8.1 Application and purpose

...

Purpose of guidance

...

8.1.3 G In particular, this *guidance* covers:

(1) ...

...

(11) ~~financial promotions concerning funeral plans (see PERG 8.16);~~  
[deleted]

...

...

### 8.7 Engage in investment activity

...

8.7.2 G *Controlled activity* and *controlled investment* are defined in Schedule 1 to the *Financial Promotion Order* and are listed in *PERG 8.36.3G* and *PERG 8.36.4G*. Broadly speaking, *controlled activities* and *controlled investments* are similar to *regulated activities* and *specified investments* under the *Regulated Activities Order*. However, with *controlled activities*, the exclusions set out in the *Regulated Activities Order* do not, in most cases, apply. It is important to note, however, that there are certain differences between *controlled activities* and *regulated activities* and between *controlled investments* and *specified investments*. This is most notable where the *financial promotion* is about:

(1) certain credit agreements (see *PERG 8.17* (Financial promotions concerning agreements for qualifying credit)); and

- (2) *funeral plan contracts* (see *PERG 8.16* (Financial promotions concerning funeral plans)); and [deleted]

...

...

## 8.16 Financial promotions concerning funeral plans

- 8.16.1 G ~~Section 21 of the Act came into force for financial promotions about funeral plans on 1 January 2002. A financial promotion about funeral plans is subject to the restriction in section 21 of the Act if it relates to a pre-paid funeral plan of any kind where the provider of the plan carries on the regulated activity of entering as provider into a funeral plan contract under article 59 of the Regulated Activities Order (see *PERG 2.8.14G*). This is the case even if the actual plan being promoted is excluded under article 60 of the Regulated Activities Order. However, providers may choose only to enter into funeral plan contracts which are excluded under article 60 of the Regulated Activities Order. If this is the case, any financial promotion relating to those plans will not be subject to the restriction in section 21 of the Act. [deleted]~~

...

## 8.36 Illustrative tables

...

- 8.36.3 G Table Controlled activities

1.	...
...	
9.	<del>Providing</del> <u>Entering into</u> funeral plan contracts
<u>9A.</u>	<u>Carrying out</u> funeral plan contracts
...	

...

## 16 Scope of the Alternative Investment Fund Managers Regime

...

### 16.2 What types of funds and businesses are caught?

- G ...

Question 2.39: Are funeral plans caught?

No. A funeral plan contract is not caught. Neither is a contract which would be a funeral plan contract but for the proviso to article 59(2) of the RAO or ~~the exclusion in article 60 of the RAO.~~

...

...

