

# Glossary



platform  
service

FCA PRA

a service which:

- (a) involves *arranging* and *safeguarding and administering investments*; and
- (b) distributes *retail investment products* which are offered to *retail clients* by more than one product provider;

but is neither:

- (c) solely paid for by *adviser charges*; nor
- (d) ancillary to the activity of *managing investments* for the *retail client*.

[Note: This definition applies only within the *FCA Handbook*.]

a *firm* providing a *platform service*.

platform  
service  
provider

FCA PRA

PLC  
Safeguards  
Directive

FCA PRA

the Second Council Directive of 13 December 1976 on coordination of safeguards for the protection of the interests of members and others in respect of the formation of public limited liability companies and the maintenance and alteration of their capital, with a view to making such safeguards equivalent (No 77/91/EEC).

plus factor

FCA PRA

(in ■ BIPRU 7.10 (Use of a value at risk model)) an increase to the *minimum multiplication factor* based on *backtesting exceptions* as more fully defined in ■ BIPRU 7.10.124 R (Capital calculations: Multiplication factors).

policy

FCA PRA

(as defined in article 2 of the Financial Services and Markets Act 2000 (Meaning of "Policy" and "Policyholder") Order 2001 (SI 2001/2361)) as the context requires:

- (a) a *contract of insurance*, including one under which an existing liability has already accrued; or
- (b) any instrument evidencing such a contract.

policy  
summary

FCA PRA

a summary of a *non-investment insurance contract* in the format and containing the information specified in ■ ICOBS 6 Annex 2.

policyholder

FCA PRA

(as defined in article 3 of the Financial Services and Markets Act 2000 (Meaning of "Policy and "Policyholder") Order 2001 (SI 2001/2361)) the *person* who for the time being is the legal holder of the *policy*, including any *person* to whom, under the *policy*, a sum is due, a periodic payment is payable or any other benefit is to be provided or to whom such a sum, payment or benefit is contingently due, payable or to be provided.

policyholder  
advocate

FCA PRA

the *person* appointed under ■ COBS 20.2.42 R to negotiate with a *firm* on its proposals for making a *retribution* of its *inherited estate*.

port

means, in respect of the assets and positions recorded in a *client transaction account* that is an *individual client account* or an *omnibus client account* at an *authorised central counterparty*, action taken by that *authorised central counterparty* to transfer those assets and positions in accordance with article 48 of *EMIR* to another clearing member designated by the individual *client* (in the

<p><i>portfolio management</i> FCA PRA</p>	<p>case of an <i>individual client account</i>) or designated by all of the <i>clients</i> for whom the account is held (in the case of an <i>omnibus client account</i>).</p> <p>managing portfolios in accordance with mandates given by <i>clients</i> on a discretionary <i>client-by-client</i> basis where such portfolios include one or more <i>financial instruments</i>.</p> <p>[Note: article 4(1)(9) of <i>MiFID</i>]</p>
<p><i>portfolio trade</i> FCA PRA</p>	<p>a transaction in more than one security where those securities are grouped and traded as a single lot against a specific reference price.</p> <p>[Note: article 2(6) of the <i>MiFID Regulation</i>]</p>
<p>POS Regulations FCA PRA</p>	<p>the Public Offers of Securities Regulations 1995 (SI 1995/1537).</p>
<p><i>position</i> FCA PRA</p>	<p>(in accordance ■ BIPRU 1.2.4 R (Definition of the trading book: Positions)) includes proprietary positions and positions arising from client servicing and market making.</p>
<p><i>position risk adjustment</i> FCA PRA</p>	<p>a percentage applied to a <i>position</i> as part of the process of calculating the <i>PRR</i> in relation to that <i>position</i> as set out in the tables in ■ BIPRU 7.2.44 R (Specific risk position risk adjustments), ■ BIPRU 7.2.57 R (General market risk position risk adjustments), ■ BIPRU 7.3.30 R (Simplified equity method position risk adjustments), ■ BIPRU 7.3.34 R (Position risk adjustments for specific risk under the standard equity method) and ■ BIPRU 7.6.8 R (The appropriate position risk adjustment) and also as set out in ■ BIPRU 7.2.48A R to ■ BIPRU 7.2.48L R.</p>
<p><i>position risk requirement</i> FCA PRA</p>	<p>a capital requirement applied to a position treated under ■ BIPRU 7 (Market risk) as part of the calculation of the <i>market risk capital requirement</i> or, if the relevant provision of the <i>Handbook</i> distinguishes between <i>general market risk</i> and <i>specific risk</i>, the portion of that capital requirement with respect to whichever of <i>general market risk</i> or <i>specific risk</i> is specified by that provision.</p>
<p><i>post</i> FCA PRA</p>	<p>(in relation to sending a <i>document</i> by post) sending pre-paid by a postal service which seeks to deliver <i>documents</i> by post within the <i>United Kingdom</i> no later than the next working day in all or the majority of cases, and to deliver by post outside the <i>United Kingdom</i> within such a period as is reasonable in all the circumstances.</p>
<p>Post-BCCI Directive FCA PRA</p>	<p>the European Parliament and Council Directive of 29 June 1995 amending certain directives with a view to reinforcing prudential supervision (No 95/26/EC).</p>
<p><i>potential tier one instrument</i> FCA PRA</p>	<p>an item of capital that falls into GENPRU 2.2.62R (Tier one capital: General)</p>
<p><i>power of intervention</i> FCA PRA</p>	<p>the power conferred on the <i>FCA</i> or the <i>PRA</i> under section 196 of the <i>Act</i> (The Power of Intervention) to impose a requirement on an <i>incoming firm</i>.</p>
<p>PPFM</p>	<p><i>Principles and Practices of Financial Management.</i></p>

**FCA** **PRA**

*PPFM guidance table*

the table in ■ COBS 20.3.8 G (Guidance on with-profits principles and practices).

**FCA** **PRA**

*PPFM issues table*

The table in ■ COBS 20.3.6 R (Issues to be covered in PPFM).

**FCA** **PRA**

*PR*

the Prospectus Rules sourcebook.

**FCA** **PRA**

*PRA*

Prudential Regulation Authority.

**FCA** **PRA**

*PRA chief executive function*

(in the *FCA Handbook*) *PRA controlled function* CF3 in the *table of PRA controlled functions*.

**FCA** **PRA**

*PRA controlled function*

a *controlled function* which is specified by the *PRA* under section 59 of the *Act* (Approval for particular arrangements) in the *table of PRA controlled functions*.

**FCA** **PRA**

*PRA director function*

(in the *FCA Handbook*) *PRA controlled function* CF1 in the *table of PRA controlled functions*.

**FCA** **PRA**

*PRA governing function*

any of the *PRA controlled functions* CF1 to CF6 in the *table of PRA controlled functions*.

**FCA** **PRA**

*PRA Handbook*

the *PRA's Handbook* of rules and guidance.

**FCA** **PRA**

*PRA required functions*

any of the *PRA controlled functions* CF12 to CF12B in the *table of PRA controlled functions*.

**FCA** **PRA**

*PRA's SCV requirements*

(in *COMP*) the *PRA's* requirements with respect to *single customer view*.

**FCA** **PRA**

<p><i>PRA-approved person</i>  <span style="border: 1px solid black; padding: 2px;">FCA</span> <span style="border: 1px solid black; padding: 2px;">PRA</span></p>	<p>an <i>approved person</i> in relation to whom the <i>PRA</i> has given its approval under section 59 of the <i>Act</i> (Approval for particular arrangements) for the performance of a <i>PRA controlled function</i>.</p>
<p><i>PRA-authorized person</i>  <span style="border: 1px solid black; padding: 2px;">FCA</span> <span style="border: 1px solid black; padding: 2px;">PRA</span></p>	<p>as defined in section 2B(5) of the <i>Act</i>, an <i>authorized person</i> who has permission:</p> <ul style="list-style-type: none"> <li>(a) given under Part 4A of the <i>Act</i>; or</li> <li>(b) resulting from any other provision of the <i>Act</i>;</li> </ul> <p>to carry on <i>regulated activities</i> that consist of or include one or more <i>PRA-regulated activities</i>.</p>
<p><i>PRA-regulated activity</i>  <span style="border: 1px solid black; padding: 2px;">FCA</span> <span style="border: 1px solid black; padding: 2px;">PRA</span></p>	<p>a <i>regulated activity</i> specified in an order made under section 22A of the <i>Act</i> or specified pursuant to a power granted in such an order.</p>
<p><i>precious metals</i>  <span style="border: 1px solid black; padding: 2px;">FCA</span> <span style="border: 1px solid black; padding: 2px;">PRA</span></p>	<p>(in <i>COLL</i>) gold, silver or platinum.</p>
<p><i>predecessor scheme</i>  <span style="border: 1px solid black; padding: 2px;">FCA</span> <span style="border: 1px solid black; padding: 2px;">PRA</span></p>	<p>any of the following:</p> <ul style="list-style-type: none"> <li>(a) The Office of the Banking Ombudsman;</li> <li>(b) The Office of the Building Societies Ombudsman;</li> <li>(c) The Insurance Ombudsman Bureau;</li> <li>(d) The Office of the Investment Ombudsman;</li> <li>(e) The Personal Investment Authority Ombudsman Bureau;</li> <li>(f) The Personal Insurance Arbitration Service;</li> <li>(g) The Securities and Futures Authority Complaints Bureau and Arbitration Service;</li> <li>(h) The FSA Complaints Unit and Independent Investigator.</li> </ul>
<p><i>preference share</i>  <span style="border: 1px solid black; padding: 2px;">FCA</span> <span style="border: 1px solid black; padding: 2px;">PRA</span></p>	<p>a <i>share</i> conferring preference as to income or return of capital which does not form part of the <i>equity share capital</i> of a <i>company</i>.</p>
<p><i>preliminary charge</i>  <span style="border: 1px solid black; padding: 2px;">FCA</span> <span style="border: 1px solid black; padding: 2px;">PRA</span></p>	<p>a <i>charge</i> upon a <i>sale of units</i> by an <i>authorized fund manager</i> whether or not acting as <i>principal</i>.</p>
<p><i>premium</i>  <span style="border: 1px solid black; padding: 2px;">FCA</span> <span style="border: 1px solid black; padding: 2px;">PRA</span></p>	<p>(1) (except in <i>ICOBS</i> and <span style="color: #000080;">■</span> <i>CASS 5</i>) (in relation to a <i>general insurance contract</i>) the consideration payable under the contract by the <i>policyholder</i> to the <i>insurer</i>.</p> <p>(2) (except in <i>ICOBS</i> and <span style="color: #000080;">■</span> <i>CASS 5</i>) (in relation to a <i>long-term insurance contract</i>) the consideration payable under the contract by the <i>policyholder</i> to the <i>insurer</i> ; (except in <span style="color: #000080;">■</span> <i>SUP 16.8</i> (Persistency reports from insurers)) a premium is a regular premium if it is one of a series of payments under the contract:</p> <ul style="list-style-type: none"> <li>(a)</li> </ul>

- (i) which are payable on dates that are certain or ascertainable at the time the contract is made;
- (ii) which are payable over a period that exceeds one year in length; and
- (iii) assuming the *policy* evidencing the contract is not surrendered or otherwise terminated before the *premiums* fall due, will fall due on those dates without either party to the contract exercising any option under the contract; or

(b) of which the first payment is an obligation under the contract, and subsequent payments, calculated according to an agreed formula, are payable over a period which exceeds one year in length under a collateral written arrangement with the *insurer* or *friendly society*.

(2A) (in *ICOBS* and ■ *CASS 5*) as in (1) and (2) except that '*insurance undertaking*' is substituted for '*insurer*' (except where '*insurer*' is used in the heading to ■ *SUP 16.8*).

(3) (in relation to an *option*) the total amount which the purchaser of the *option* is, or may be, required to pay in consideration for the right to exercise the *option*.

*premium listing*

**FCA** **PRA**

(a) in relation to *equity shares* (other than those of a *closed-ended investment fund* or of an *open-ended investment company*), means a *listing* where the *issuer* is required to comply with those requirements in ■ *LR 6* (Additional requirements for premium listing (commercial company)) and the other requirements in the *listing rules* that are expressed to apply to such *securities* with a *premium listing*;

(b) in relation to *equity shares* of a *closed-ended investment fund*, means a *listing* where the *issuer* is required to comply with those requirements in ■ *LR 15* (Closed-Ended Investment Funds: Premium listing) and other requirements in the *listing rules* that are expressed to apply to such *securities* with a *premium listing*;

(c) in relation to *equity shares* of an *open-ended investment company*, means a *listing* where the *issuer* is required to comply with ■ *LR 16* (Open-ended investment companies: Premium listing) and other requirements in the *listing rules* that are expressed to apply to such *securities* with a *premium listing*.

*premium listing (commercial company)*

**FCA** **PRA**

a *premium listing* of *equity shares* (other than those of a *closed-ended investment fund* or of an *open-ended investment company*).

*premium listing (investment company)*

**FCA** **PRA**

a *premium listing* of *equity shares* of a *closed-ended investment fund* or of an *open-ended investment company*.

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*premiums amount*

**FCA** **PRA**

(for the purposes of *INSPRU 1.1* ), an amount, as defined in *INSPRU 1.1.45R*, used in the calculation of the *general insurance capital requirement*.

*prescribed asset share methodology*

FCA PRA

the methodology described in ■ COBS 20.2.5 R for assessing maturity payments by reference to unsmoothed asset shares.

*prescribed auction platform*

FCA PRA

an auction platform which has been prescribed by the Treasury in the *Prescribed Markets and Qualifying Investments Order*.

*prescribed market*

FCA PRA

a market which has been prescribed by the Treasury in the *Prescribed Markets and Qualifying Investments Order*

*Prescribed Markets and Qualifying Investments Order*

FCA PRA

the Financial Services and Markets Act 2000 (Prescribed Markets and Qualifying Investments) Order 2001 (SI 2001/996).

*prescribed pricing basis*

FCA PRA

(in relation to a *derivative contract*, or *quasi-derivative contract*), the pricing basis set out in ■ IPRU(INS) 4.12R(8) (Derivative contracts) as that rule was in force on 30 December 2004 .

*previous regulator*

FCA PRA

(1) (in relation to a *firm* which was authorised under the Banking Act 1987 immediately before *commencement* or which was a European institution (as defined in the Banking Coordination (Second Council Directive) Regulations 1992) immediately before *commencement* ) the FSA.

(2) (in relation to a *firm* which was a *building society* immediately before *commencement*) the *Building Societies Commission*.

(3) (in relation to a *firm* which was a *friendly society* immediately before *commencement*) the *Friendly Societies Commission*.

(4) (in relation to a *firm* authorised under the Insurance Companies Act 1982 immediately before *commencement*) the Treasury.

(5) (in relation to an *underwriting agent* which obtained the *permission* relevant to that category under the Financial Services and Markets Act 2000 (Repeals, Transitional Provisions and Savings) Order 2001 (SI 2001/2636)) the *Society of Lloyd's*.

(6) (in relation to a *firm* which was authorised, or which was an *appointed representative* , under the Financial Services Act 1986 immediately before *commencement* or which was a European investment firm (as defined in the Investment Services Regulations 1995 (SI 1995/3275)) immediately before *commencement* ) any of:

- (a) IMRO;
- (b) PIA;
- (c) SFA;
- (d) a *recognised professional body*; and

(e) the *FSA*;

if the *firm* (or, if relevant, its principal for the purposes of section 44 of the Financial Services Act 1986) was subject in carrying on business to the rules, requirements, regulations or guidance of that body.

(7) (in relation to an *ex-section 43 firm* ) the *FSA*.

(8) (in relation to a *firm* which was authorised under the *Act* immediately before 1 April 2013) the *FSA*.

*price*

**FCA** **PRA**

(in *COLL*)

(in relation to a *unit* in an *authorised fund*) the price of the *unit* calculated in accordance with **■ COLL 6.3** (Valuation and pricing).

*price information*

**FCA** **PRA**

(in *MCOB* ) information, in a *financial promotion* , that relates to:

(a) any rate of charge; or

(b) the presence or absence of any payments, fees or charges (other than the fees for advising on or *arranging a regulated mortgage contract* as required by **■ MCOB 3.6.27 R**); or

(c) the amount, frequency or number of any payments, repayments, fees or charges; or

(d) any monetary amounts.

*price stabilising rules*

**FCA** **PRA**

the *rules* made under section 137Q of the *Act*, and appearing in **■ MAR 2.1** to **■ MAR 2.4** , together with any other provisions available for their interpretation.

*primary information provider*

**FCA**

a *person* approved by the *FCA* under section 89P of the *Act*.

*primary pooling event*

**FCA** **PRA**

(1) [deleted]

(2) (in **■ CASS 5**) an event that occurs in the circumstances described in **■ CASS 5.6.5 R** (Failure of the authorised firm: primary pooling event).

(3) (in **■ CASS 7** and **■ CASS 7A**) an event that occurs in the circumstances described in **■ CASS 7A.2.2 R** (Failure of the authorised firm: primary pooling event).

*prime brokerage agreement*

**FCA** **PRA**

an agreement between a *prime brokerage firm* and a *client* for *prime brokerage services*.

*prime brokerage firm*

**FCA** **PRA**

a *firm* that provides *prime brokerage services* to a *client* and which may do so acting as *principal*.

*prime brokerage services*

**FCA** **PRA**

a package of services provided under a *prime brokerage agreement* which gives a *prime brokerage firm* a right to use *safe custody assets* for its own account and which comprises each of the following:

- (a) *custody or arranging safeguarding and administration of assets*;
- (b) clearing services; and
- (c) financing, the provision of which includes one or more of the following:
  - (i) capital introduction;
  - (ii) margin financing;
  - (iii) *stock lending*;
  - (iv) stock borrowing;
  - (v) entering into repurchase or reverse repurchase transactions;

and which, in addition, may comprise consolidated reporting and other operational support.

*PRIN*

**FCA** **PRA**

the part of the *Handbook* in High Level Standards that has the title Principles for Businesses.

*principal*

**FCA** **PRA**

(1) in relation to a *person* :

- (a) a *person* acting on his own account;
- (b) (if the *person* is an *appointed representative* or, where applicable, a *tied agent* ) the *authorised person* who is party to a contract with the *appointed representative*, or who is responsible for the acts of the *tied agent*, resulting in him being exempt under section 39 of the *Act* (Exemption of appointed representatives).

(2) in relation to an *option* , *future* or forward contract:

- (a) (except in the case of an *option* on a *future* ) the amount of property or the value of the property which must be delivered in order to satisfy settlement of the *option* , *future* or forward contract;
- (b) (in relation to an *option* on a *future* ) the amount of property or the value of the property which must be delivered in order to satisfy settlement of the *future* .

*Principle*

**FCA** **PRA**

one of the Principles set out in ■ PRIN 2.1.1 R (Principles for Businesses).

*Principles and Practices of Financial Management*

**FCA** **PRA**

the Principles and Practices of Financial Management, containing *with-profits principles* and *with-profits practices*, which a *firm* carrying on *with-profits business* must establish, maintain and record under ■ COBS 20.3 (Principles and Practices of Financial Management).

*priority debt*

**FCA** **PRA**

(in *BCOBS*) an obligation on the part of a *consumer* to make a payment:

- (a) where the remedies for a breach of that obligation potentially include seeking possession of, or seeking to exercise a power of sale in respect of:
  - (i) the sole or main residence of the *consumer* (for example, an obligation to pay secured by a mortgage or charge in respect of

private  
customer

FCA PRA

land, an obligation to pay rent under a tenancy, or an obligation to make payment under a licence to occupy land); or

(ii) the *consumer's* essential goods or services (for example, an obligation to pay under a hire purchase, conditional sale or hire agreement that relates to, or an obligation to pay secured by a charge on, the *consumer's* cooker, refrigerator, or the means to travel to work); or

(b) where that obligation arises out of an order of the court, an Act or secondary legislation (for example, an obligation to pay council tax, child support maintenance, income tax or court fines); or

(c) where that obligation arises under a contract for the provision of utility supplies (for example, water, gas or electricity).

(for the purposes only of ■ COBS TP 1 (Transitional Provisions in relation to Client Categorisation)):

(1) (except in ■ COB 3, ■ COB 4.2 and ■ COB 6.4) subject to (h), a *client* who is not a market counterparty or an *intermediate customer*, including:

(a) an individual who is not a *firm* ;

(b) an overseas individual who is not an *overseas financial services institution*;

(c) [deleted]

(d) (except for the purposes of *DISP*) a *client* when he is classified as a *private customer* in accordance with ■ COB 4.1.14 R (Client classified as a private customer);

(e) a *person* to whom a *firm* gives *basic advice* ;

(f) (in ■ COB 6.1 to ■ 6.5) where the *regulated activity* (except for a personal recommendation relating to a contribution to a *CTF*) relates to a *CTF* and there is no *registered contact*, the *person* to whom the statement must be sent in accordance with Regulation 10 of the *CTF* Regulations;

(g) (in ■ COB 6.7) where the *regulated activity* (except for a personal recommendation relating to a contribution to a *CTF*) relates to a *CTF* and there is no *registered contact*, the child, via the person to whom the statement must be sent in accordance with Regulation 10 of the *CTF* Regulations;

(h) a *client* who would otherwise be excluded as a market counterparty or *intermediate customer* if the *client* is within (e), (f) or (g);

but excluding a *client*, who would otherwise be a *private customer*:

(i) when he is classified as an *intermediate customer* in accordance with ■ COB 4.1.9 R (Expert private customer classified as an intermediate customer); or

(ii) when the *regulated activity* relates to a *CTF*, any *person* other than (e), (f), (g) or (h).

(2) (in ■ COB 3) a *person* in (1) or a *person* excluded under (1)(h)(ii) or a *person* who would be such a *person* if he were a *client*. (in ■ COB 4.2 and 6.1 to 6.5) a *person* in (1) and, in relation to the conclusion of a *distance contract*, a *consumer*.

(3) (in ■ COB 4.2 and ■ 6.1 to ■ 6.5) a *person* in (1) and, in relation to the conclusion of a *distance contract*, a *consumer*.

*private person*

FCA PRA

(as defined in article 3 of the Financial Services and Markets Act 2000 (Rights of Action) Regulations 2000 (SI 2001/2256)):

(a) any individual, unless he suffers the loss in question in the course of carrying on:

(i) any *regulated activity*; or

(ii) any activity which would be a *regulated activity* apart from any exclusion made by article 72 of the *Regulated Activities Order* (Overseas persons); and

(b) any *person* who is not an individual, unless he suffers the loss in question in the course of carrying on business of any kind;

but not including a government, a local authority (in the *United Kingdom* or elsewhere) or an international organisation; for the purposes of (a), an individual who suffers loss in the course of *effecting or carrying out contracts of insurance* written at Lloyd's is not to be taken to suffer loss in the course of carrying on a *regulated activity*; in this definition:

(A) "government" means:

(I) the government of the *United Kingdom*; or

(II) the Scottish Administration; or

(III) the Executive Committee of the Northern Ireland Assembly; or

(IV) the National Assembly for Wales; or

(V) the government of any country or territory outside the *United Kingdom*;

(B) "international organisation" means any international organisation the members of which include the *United Kingdom* or any other State;

(C) "local authority", in relation to the *United Kingdom*, means:

(I) in England and Wales, a local authority as defined in the Local Government Act 1972, the Greater London Authority, the Common Council of the City of London or the Council of the Isles of Scilly;

(II) in Scotland, a local authority as defined in the Local Government (Scotland) Act 1973; and

(III) in Northern Ireland, a district council as defined in the Local Government Act (Northern Ireland) 1972.

*probability of default*

FCA PRA

(in accordance with Article 4(25) of the *Banking Consolidation Directive* (Definitions)) the probability of default of a counterparty over a one year period; for the purposes of the *IRB approach*, default has the meaning in the definition of *default*.

*probable reserves*

FCA PRA

(in *LR*):

(a) in respect of mineral companies primarily involved in the *extraction* of oil and gas resources, those reserves which are not yet proven but which, on the available evidence and taking into account technical and economic factors, have a better than 50% chance of being produced; and

(b) in respect of mineral companies other than those primarily involved in the *extraction* of oil and gas resources, those measured and/or indicated mineral resources, which are not yet proven but of which detailed technical and economic studies have demonstrated that *extraction* can be justified at the time of the determination and under specified economic conditions.

<p><i>procuration fee</i>  <span style="border: 1px solid black; padding: 2px;">FCA</span> <span style="border: 1px solid black; padding: 2px;">PRA</span></p>	<p>the total amount paid by a <i>home finance provider</i> to a <i>home finance intermediary</i>, whether directly or indirectly, in connection with providing applications from <i>customers</i> to enter into <i>home finance transactions</i> with that <i>home finance provider</i>.</p>
<p><i>product provider</i>  <span style="border: 1px solid black; padding: 2px;">FCA</span> <span style="border: 1px solid black; padding: 2px;">PRA</span></p>	<p>a <i>firm</i> which is:</p> <ul style="list-style-type: none"> <li>(i) a <i>long-term insurer</i>;</li> <li>(ii) a <i>friendly society</i>;</li> <li>(iii) the <i>operator</i> of a <i>regulated collective investment scheme</i> or an <i>investment trust savings scheme</i>; or</li> <li>(iv) the <i>operator</i> of a <i>personal pension scheme</i> or <i>stakeholder pension scheme</i>.</li> </ul>
<p>PROF  <span style="border: 1px solid black; padding: 2px;">FCA</span> <span style="border: 1px solid black; padding: 2px;">PRA</span></p>	<p>the Professional Firms sourcebook.</p>
<p><i>professional client</i>  <span style="border: 1px solid black; padding: 2px;">FCA</span> <span style="border: 1px solid black; padding: 2px;">PRA</span></p>	<p>a <i>client</i> that is either a <i>per se professional client</i> or an <i>elective professional client</i> (see <span style="color: #000080;">■</span> COBS 3.5.1 R).</p> <p>[Note: article 4(1)(12) of <i>MiFID</i>].</p>
<p><i>professional firm</i>  <span style="border: 1px solid black; padding: 2px;">FCA</span> <span style="border: 1px solid black; padding: 2px;">PRA</span></p>	<p>a <i>person</i> which is:</p> <ul style="list-style-type: none"> <li>(a) an individual who is entitled to practise a profession regulated by a <i>designated professional body</i> and, in practising it, is subject to its rules, whether or not he is a member of that body; or</li> <li>(b) a <i>person</i> (not being an individual) which is controlled or managed by one or more such individuals.</li> </ul>
<p><i>profit and loss figure</i>  <span style="border: 1px solid black; padding: 2px;">FCA</span> <span style="border: 1px solid black; padding: 2px;">PRA</span></p>	<p>(in <span style="color: #000080;">■</span> BIPRU 7.10 (Use of a value at risk model) and in relation to a <i>business day</i>) a <i>firm's</i> actual profit or loss for that day in respect of the trading activities within the scope of the <i>firm's VaR model permission</i>, adjusted by stripping out specified items, as more fully defined in <span style="color: #000080;">■</span> BIPRU 7.10.100 R (Backtesting: Calculating the profit and loss).</p>
<p><i>profit estimate</i>  <span style="border: 1px solid black; padding: 2px;">FCA</span> <span style="border: 1px solid black; padding: 2px;">PRA</span></p>	<p>(in <i>PR</i> and <i>LR</i>) (as defined in the <i>PD Regulation</i>) a profit forecast for a financial period which has expired and for which results have not yet been published.</p>
<p><i>profit forecast</i>  <span style="border: 1px solid black; padding: 2px;">FCA</span> <span style="border: 1px solid black; padding: 2px;">PRA</span></p>	<p>(in <i>PR</i> and <i>LR</i>) (as defined in the <i>PD Regulation</i>) a form of words which expressly states or by implication indicates a figure or a minimum or maximum figure for the likely level of profits or losses for the current financial period and/or financial periods subsequent to that period, or contains data from which a calculation of such a figure for future profits or losses may be made, even if no particular figure is mentioned and the word "profit" is not used.</p>
<p><i>programme</i>  <span style="border: 1px solid black; padding: 2px;">FCA</span> <span style="border: 1px solid black; padding: 2px;">PRA</span></p>	<p>(in <i>RCB</i>) (as defined in Regulation 1(2) of the <i>RCB Regulations</i>) issues, or series of issues, of <i>covered bonds</i> which have substantially similar terms and are subject to a framework contract or contracts.</p>
<p><i>prohibited period</i>  <span style="border: 1px solid black; padding: 2px;">FCA</span> <span style="border: 1px solid black; padding: 2px;">PRA</span></p>	<p>(in <i>LR</i>) as defined by paragraph 1(e) of the <i>Model Code</i>.</p>

*prohibition order*

**FCA** **PRA**

an order made under section 56 of the *Act* (Prohibition orders) which prohibits an individual from performing a specified function, any function falling within a specified description or any function.

*projection*

**FCA** **PRA**

a projection of the amount of any future benefit payable under a contract or *policy*, being a benefit the amount of which is not ascertainable under the terms of the contract or *policy* when the calculation is made.

*projection date*

**FCA** **PRA**

the date to which the *projection* is made.

*projection period*

**FCA** **PRA**

(in COBS) the period covered by a *standardised deterministic projection*, which begins on the date the investment is reasonably expected to be made and ends on the *projection date* described in paragraph 2.1 of  
 ■ COBS 13 Annex 2.

*property*

**FCA** **PRA**

(in LR) freehold, heritable or leasehold property.

*property authorised investment fund*

**FCA** **PRA**

an *open-ended investment company* to which Part 4A of the Authorised Investment Funds (Tax) Regulations 2006 (SI 2006/964) applies.

*property collective investment undertaking*

**FCA** **PRA**

(in PR) (as defined in the *PD Regulation*) a collective investment undertaking whose investment objective is the participation in the holding of property in the long term.

*property company*

**FCA** **PRA**

(in LR) a *company* primarily engaged in *property* activities including:

- (a) the holding of *properties* (directly or indirectly) for letting and retention as investments;
- (b) the development of *properties* for letting and retention as investments;
- (c) the purchase and development of *properties* for subsequent sale;
- (d) the purchase of land for development *properties* for retention as investments.

*property enterprise trust*

**FCA** **PRA**

an *unregulated collective investment scheme* of which the underlying assets are land and buildings.

*property fund*

**FCA** **PRA**

- (a) a *regulated collective investment scheme* dedicated to land and interests in land;
- (b) a fund of funds of which one or more of the funds to which it is dedicated falls within (a);
- (c) a constituent part of an umbrella fund which, if it were a separate fund, would fall within (a).

*property valuation report*

FCA PRA

(in LR ) a *property valuation report* prepared by an independent expert in accordance with:

- (1) for an *issuer* incorporated in the *United Kingdom*, the Channel Islands or the Isle of Man, the Appraisal and Valuation Standards (5th edition) issued by the Royal Institution of Chartered Surveyors; or
- (2) for an *issuer* incorporated in any other place, either the standards referred to in paragraph (1) or the International Valuation Standards (7th edition) issued by the International Valuation Standards Committee.

*property-linked assets*

FCA PRA

in relation to an *insurer*, *long-term insurance assets* that are, for the time being, identified in the records of the *insurer* as being assets by reference to the value of which *property-linked benefits* are to be determined.

*property-linked benefits*

FCA PRA

benefits other than *index-linked benefits* provided for under a *linked long-term contract of insurance*.

*property-linked liabilities*

FCA PRA

insurance liabilities in respect of *property-linked benefits*.

*proportional reinsurance treaty*

FCA PRA

a reinsurance treaty under which a pre-determined proportion of each *claim* payment by the cedant under *policies* subject to the treaty is recoverable from the *reinsurer*; *non-proportional reinsurance treaty* is construed accordingly.

*proprietary trader*

FCA PRA

(in ■ SUP 10 (Approved Persons) and APER) a *person* (A) whose responsibilities include committing another *person* (B) as part of B's *proprietary trading*.

*proprietary trading*

FCA PRA

(in ■ SUP 10 (Approved Persons) and APER) *dealing in investments as principal* as part of a business of trading in *specified investments*. For these purposes *dealing in investments as principal* includes any activities that would be included but for the exclusion in Article 15 (Absence of holding out) or Article 16 (Dealing in contractually based investments) of the *Regulated Activities Order*.

*prospectus*

FCA PRA

- (1) (in LR and PR and FEES) a *prospectus* required under the *prospectus directive*.
- (2) (except in LR and PR) (in relation to a *collective investment scheme* ) a document containing information about the *scheme* and complying with the *requirements* in ■ COLL 4.2.5 R (Table: contents of the prospectus), ■ COLL 8.3.4 R (Table: contents of qualified investor scheme prospectus) or ■ COLL 9.3.2 R (Additional information required in the prospectus for an application under section 272) applicable to a *prospectus* of a *scheme* of the type concerned.

*Prospectus Directive*

FCA PRA

the Directive of the European Parliament and of the Council of 4 November 2003 on the prospectus to be published when securities are offered to the public or admitted to trading (No 2003/71/EC).

*Prospectus Rules*

**FCA** **PRA**

(as defined in section 73A(4) of the *Act*) *rules* expressed to relate to *transferable securities*.

*protected claim*

**FCA** **PRA**

a *claim* which is covered by the *compensation scheme*, as defined in ■ COMP 5.2.1 R.

*protected contract of insurance*

**FCA** **PRA**

a *contract of insurance* which is covered by the *compensation scheme*, as defined in ■ COMP 5.4.1 R.

*protected deposit*

**FCA** **PRA**

a *deposit* which is covered by the *compensation scheme*, as defined in ■ COMP 5.3.1 R.

*protected dormant account*

**FCA** **PRA**

a *dormant account* which is covered by the *compensation scheme*, as defined in COMP 5.3.2R.

*protected home finance mediation*

**FCA** **PRA**

activities in relation to *home finance transactions* which are covered by the *compensation scheme*, as defined in ■ COMP 5.6.1 R.

*protected investment business*

**FCA** **PRA**

*designated investment business* which is covered by the *compensation scheme*, as defined in ■ COMP 5.5.1 R.

*protected items*

**FCA** **PRA**

(as defined in section 413 of the *Act* (Protected items)) communications (and items which they enclose or refer to and which are in the possession of a *person* entitled to possession of them) between:

- (a) a professional legal adviser and his client or any *person* representing his client; or
- (b) a professional legal adviser, his client or any *person* representing his client and any other *person*;

where the communication or the item is made:

- (i) in connection with the giving of legal advice to the client; or
- (ii) in connection with, or in contemplation of, legal proceedings and for the purposes of those proceedings; and

is not held with the intention of furthering a criminal purpose.

*protected non-investment insurance mediation*

*insurance mediation activities* which are covered by the *compensation scheme*, as defined in ■ COMP 5.7.1 R.

FCA PRA

protection buyer

FCA PRA

(in relation to a credit derivative and in accordance with paragraph 8 of Annex I of the *Capital Adequacy Directive* (Calculating capital requirements for position risk)) the *person* who transfers credit risk.

protection seller

FCA PRA

(in relation to a credit derivative and in accordance with paragraph 8 of Annex I of the *Capital Adequacy Directive* (Calculating capital requirements for position risk)) the *person* who assumes the credit risk.

proven reserves

FCA PRA

(in LR):

(a) in respect of mineral companies primarily involved in the *extraction* of oil and gas resources, those reserves which, on the available evidence and taking into account technical and economic factors, have a better than 90% chance of being produced; and

(b) in respect of mineral companies other than those primarily involved in the *extraction* of oil and gas resources, those measured mineral resources of which detailed technical and economic studies have demonstrated that *extraction* can be justified at the time of the determination, and under specified economic conditions.

providing information in relation to a specified benchmark

FCA

The *regulated activity*, specified in article 63O(1)(a) of the *Regulated Activities Order*, which in summary means making *benchmark submissions*.

providing qualifying credit

FCA PRA

the *controlled activity*, specified in paragraph 10 of Schedule 1 to the *Financial Promotion Order*, of providing *qualifying credit*.

proxy capital resources requirement

FCA PRA

the *minimum capital requirement* to which an *undertaking* would have been subject if it had *permission* for each activity it carries on anywhere in the world, so far as that activity is a *regulated activity*.

PRR

FCA PRA

*position risk requirement*.

PRR charge

FCA PRA

one of the following:

- (a) the *interest rate PRR*;
- (b) the *equity PRR*;
- (c) the *commodity PRR*;
- (d) the *foreign currency PRR*;
- (e) the *option PRR*;

*PRR identical product netting rules*

**FCA** **PRA**

*PRR item*

**FCA** **PRA**

*PRU*

**FCA** **PRA**

*prudential context*

**FCA** **PRA**

*PSE*

**FCA** **PRA**

*public announcement*

**FCA** **PRA**

- (f) the *collective investment undertaking PRR*; and
- (g) (if the context requires) the *model PRR*.

the following:

- (a) ■ BIPRU 7.2.37 R (Deriving the net position in each debt security: Netting positions in the same debt security);
- (b) ■ BIPRU 7.2.40 R (Deriving the net position in each debt security: Netting zero-specific-risk securities with different maturities);
- (c) ■ BIPRU 7.3.23 R (Deriving the net position in each equity);
- (d) ■ BIPRU 7.4.20 R and ■ BIPRU 7.4.22 R (Calculating the PRR for each commodity: General);
- (e) ■ BIPRU 7.5.19 R (1) (Open currency position); and
- (f) the obligation under ■ BIPRU 7.5.20 R (Net gold position) to calculate a separate *foreign exchange PRR* charge for gold).

a *commodity* or a *CRD financial instrument*.

the Integrated Prudential Sourcebook

- (1) For the *FCA*, in relation to activities carried on by a *firm*, the context in which the activities have, or might reasonably be regarded as likely to have, a negative effect on:

- (a) the integrity of the *UK financial system*; or
- (b) the ability of the *firm* to meet either:

- (i) the "fit and proper" test in *threshold condition 5* (Suitability); or
- (ii) the applicable requirements and standards under the *regulatory system* relating to the *firm's* financial resources.

- (2) For the *PRA*, in relation to activities carried on by a *firm*, the context in which the activities have, or might reasonably be regarded as likely to have, a negative effect on:

- (a) the safety and soundness of *PRA-authorised persons*; or
- (b) the ability of the *firm* to meet either:

- (i) the "fit and proper" test in *threshold condition 5* (Suitability); or
- (ii) the applicable requirements and standards under the *regulatory system* relating to the *firm's* financial resources.

a *public sector entity*.

any communication made by or on behalf of the *issuer* or the *stabilising manager* being a communication made in circumstances in which it is likely that members of the public will become aware of the communication.

*public censure*

FCA PRA

- (1) a statement published under section 205 (Public censure) of the *Act*;
- (2) a statement of misconduct published under section 66 (Disciplinary powers) of the *Act*;
- (3) a statement published under section 123 (Power to impose penalties in cases of market abuse) of the *Act*;
- (4) a statement published under section 87M (Public censure of issuer) of the *Act*, under section 88A (Disciplinary powers: contravention of s88(3)(c) or (e)) of the *Act* or under section 91 (Penalties for breach of Part 6 rules) of the *Act*.

*public international body*

FCA PRA

- (1) (in *PR*) (as defined in the *PD Regulation*) a legal entity of public nature established by an international treaty between sovereign States and of which one or more Member States are members.
- (2) (in *LR* and *DTR*) the African Development Bank, the Asian Development Bank, the Caribbean Development Bank, the Council of Europe Development Bank, the European Atomic Energy Community, the European Bank for Reconstruction and Development, the European Company for the Financing of Railroad Stock, the *EU*, the European Investment Bank, the Inter-American Development Bank, the International Bank for Reconstruction and Development, the International Finance Corporation, the International Monetary Fund and the Nordic Investment Bank.

*public offer*

FCA PRA

an offer of *securities* to the public and described in the *POS Regulations*.

*public sector entity*

FCA PRA

(in accordance with Article 4(18) of the *Banking Consolidation Directive* (Definitions)) any of the following:

- (a) non-commercial administrative bodies responsible to central governments, regional governments or local authorities; or
- (b) authorities that exercise the same responsibilities as regional and local authorities; or
- (c) non commercial *undertakings* owned by central governments that have explicit guarantee arrangements; or
- (d) self administered bodies governed by law that are under public supervision.

*public sector issuer*

FCA PRA

states and their regional and local authorities, *state monopolies*, *state finance organisations*, *public international bodies*, statutory bodies and *OECD state guaranteed issuers*.

*published recommendation*

FCA PRA

any publication by or on behalf of a *firm* (including publication by sound broadcasting or television or other electronic means) which contains:

- (a) the results of research into *investments*; or
- (b) analysis of factors likely to influence the future performance of *investments*; or
- (c) advice or recommendations based on those results or analysis, including any communication of which the content is common to a number of communications although worded as if it were a *personal recommendation*.

*pure protection contract*

**FCA** **PRA**

(1) a *long-term insurance contract* in respect of which the following conditions are met:

(a) the benefits under the contract are payable only on death or in respect of incapacity due to injury, sickness or infirmity;

(b) [deleted]

(c) the contract has no surrender value, or the consideration consists of a single premium and the surrender value does not exceed that premium; and

(d) the contract makes no provision for its conversion or extension in a manner which would result in it ceasing to comply with (a) or (c); or

(e) [deleted]

(2) a *reinsurance contract* covering all or part of a risk to which a *person* is exposed under a *long-term insurance contract*.

*pure protection service*

**FCA** **PRA**

(a) making a *personal recommendation* to a *consumer* in relation to a *pure protection contract*;

(b) arranging for a *consumer* to enter into a *pure protection contract*.

*pure reinsurer*

**FCA** **PRA**

an *insurer* whose *insurance business* is restricted to reinsurance.

<p><i>registered friendly society</i></p> <p><b>FCA</b> <b>PRA</b></p>	<p>a <i>friendly society</i> registered under section 7(1)(a) of the <i>Friendly Societies Act 1974</i> or any enactment which it replaced, including any registered branches.</p>
<p><i>registrar</i></p> <p><b>FCA</b> <b>PRA</b></p>	<p>the <i>person</i> who maintains a <i>register</i>.</p>
<p><i>registration date</i></p> <p><b>FCA</b> <b>PRA</b></p>	<p>(in RCB) the date of the <i>FCA</i> decision to register a <i>regulated covered bond</i>.</p>
<p><i>registration document</i></p> <p><b>FCA</b> <b>PRA</b></p>	<p>(in <i>Part 6 rules</i>) a registration document referred to in <b>■</b> PR 2.2.2 R.</p>
<p><i>regular user</i></p> <p><b>FCA</b> <b>PRA</b></p>	<p>(1) (as defined in section 130A(3) of the <i>Act</i> (Market abuse)) a <i>person</i> who is, in relation to a particular market, a reasonable <i>person</i> who regularly deals on that market in <i>investments</i> of the kind in question.</p> <p>(2) (in accordance with section 130A(3) of the <i>Act</i> (Market abuse) as modified by the <i>RAP Regulations</i>) a <i>person</i> who is, in relation to a particular auction platform, a reasonable <i>person</i> who regularly makes bids on that market for <i>investments</i> of the kind in question.</p>
<p><i>Regulated Activities Order</i></p> <p><b>FCA</b> <b>PRA</b></p>	<p>the <u>Financial Services and Markets Act 2000 (Regulated Activities) Order 2001 (SI 2001/544)</u>.</p>
<p><i>regulated activity</i></p> <p><b>FCA</b> <b>PRA</b></p>	<p>(A) in the <i>PRA Handbook</i>:</p> <p>(in accordance with section 22 of the <i>Act</i> (Regulated activities)) any of the following activities specified in Part II of the <i>Regulated Activities Order</i> (Specified Activities):</p> <ul style="list-style-type: none"> <li>(a) <i>accepting deposits</i> (article 5);</li> <li>(aa) <i>issuing electronic money</i> (article 9B);</li> <li>(b) <i>effecting contracts of insurance</i> (article 10(1));</li> <li>(c) <i>carrying out contracts of insurance</i> (article 10(2));</li> <li>(d) <i>dealing in investments as principal</i> (article 14);</li> <li>(e) <i>dealing in investments as agent</i> (article 21);</li> <li>(ea) <i>bidding in emissions auctions</i> (article 24A);</li> <li>(f) <i>arranging (bringing about) deals in investments</i> (article 25(1));</li> <li>(g) <i>making arrangements with a view to transactions in investments</i> (article 25(2));</li> <li>(ga) <i>arranging (bringing about) regulated mortgage contracts</i> (article 25A(1));</li> <li>(gb) <i>making arrangements with a view to regulated mortgage contracts</i> (article 25A(2));</li> <li>(gc) <i>arranging (bringing about) a home reversion plan</i> (article 25B(1));</li> </ul>

- (gd) *making arrangements with a view to a home reversion plan* (article 25B(2));
- (ge) *arranging (bringing about) a home purchase plan* (article 25C(1));
- (gf) *making arrangements with a view to a home purchase plan* (article 25C(2));
- (gg) *operating a multilateral trading facility* (article 25D);
- (gh) *arranging (bringing about) a regulated sale and rent back agreement* (article 25E(1));
- (gi) *making arrangements with a view to a regulated sale and rent back agreement* (article 25E(2));
- (h) *managing investments* (article 37);
- (ha) *assisting in the administration and performance of a contract of insurance* (article 39A);
- (i) *safeguarding and administering investments* (article 40); for the purposes of the *permission* regime, this is sub-divided into:
  - (i) *safeguarding and administration of assets (without arranging)*;
  - (ii) *arranging safeguarding and administration of assets*;
- (j) *sending dematerialised instructions* (article 45(1));
- (k) *causing dematerialised instructions to be sent* (article 45(2));
- (l) *establishing, operating or winding up a collective investment scheme* (article 51(1)(a)); for the purposes of the *permission* regime, this is sub-divided into:
  - (i) *establishing, operating or winding up a regulated collective investment scheme*;
  - (ii) *establishing, operating or winding up an unregulated collective investment scheme*;
- (m) *acting as trustee of an authorised unit trust scheme* (article 51(1)(b));
- (n) *acting as the depositary or sole director of an open-ended investment company* (article 51(1)(c));
- (o) *establishing, operating or winding up a stakeholder pension scheme* (article 52 (a) );
- (oa) *providing basic advice on stakeholder products* (article 52B);
- (ob) *establishing, operating or winding up a personal pension scheme* (article 52(b));
- (p) *advising on investments* (article 53); for the purposes of the *permission* regime, this is sub-divided into:
  - (i) *advising on investments* (except pension transfers and pension opt-outs);
  - (ii) *advising on pension transfers and pension opt-outs*;
- (pa) *advising on regulated mortgage contracts* (article 53A);
- (pb) *advising on a home reversion plan* (article 53B);
- (pc) *advising on a home purchase plan* (article 53C);
- (pd) *advising on a regulated sale and rent back agreement* (article 53D);
- (q) *advising on syndicate participation at Lloyd's* (article 56);

(r) *managing the underwriting capacity of a Lloyd's syndicate as a managing agent at Lloyd's* (article 57);

(s) *arranging deals in contracts of insurance written at Lloyd's* (article 58);

(sa) *entering into a regulated mortgage contract* (article 61(1));

(sb) *administering a regulated mortgage contract* (article 61(2));

(sc) *entering into a home reversion plan* (article 63B(1));

(sd) *administering a home reversion plan* (article 63B(2));

(se) *entering into a home purchase plan* (article 63F(1));

(sf) *administering a home purchase plan* (article 63F(2));

(sg) *entering into a regulated sale and rent back agreement* (article 63J(1));

(sh) *administering a regulated sale and rent back agreement* (article 63J(2));

(si) *meeting of repayment claims* (article 63N(1)(a));

(sj) *managing dormant account funds (including the investment of such funds)* (article 63N(1)(b));

(t) *entering as provider into a funeral plan contract* (article 59);

(B) in the FCA Handbook:

as in (A) with the addition of:

(ta) *providing information in relation to a specified benchmark;*

(tb) *administering a specified benchmark;*

which is carried on by way of business and, except for (ta) and (tb), relates to a *specified investment* applicable to that activity or, in the case of (l), (m), (n) and (o), is carried on in relation to property of any kind.

(u) *agreeing to carry on a regulated activity* (article 64);

which is carried on by way of business and relates to a *specified investment* applicable to that activity or, in the case of (l), (m), (n) and (o), is carried on in relation to property of any kind.

*regulated activity debt*

FCA PRA

an obligation to pay a sum due and payable under an agreement, the making or performance of which constitutes or is part of a *regulated activity* carried on by an individual who:

(a) is, or has been, an *authorised person*; or

(b) is carrying on, or has carried on, a *regulated activity* in contravention of the *general prohibition*.

*regulated activity group*

FCA PRA

A set of one or more *regulated activities* (with associated *investment types* and *customer types*) referred to in ■ SUP 16 to determine a *firm's* or other regulated person's *data item submission* requirements.

*regulated collective investment scheme*

FCA PRA

(a) an *ICVC*; or

(b) an *AUT*; or

(c) a *recognised scheme*;

whether or not the *units* are held within an *ISA* or *personal pension scheme*.

*regulated consumer*

in accordance with section 8 of the Consumer Credit Act 1974 (as amended) an agreement between an individual "the debtor" and any other person "the

*credit agreement*

**FCA** **PRA**

creditor" by which the creditor provides the debtor with credit of any amount and which is not an exempt agreement for the purposes of that Act; and expressions used in that Act have the same meaning in this definition.

*regulated consumer hire agreement*

**FCA** **PRA**

in accordance with section 15 of the Consumer Credit Act 1974 (as amended) an agreement made by a person with an individual "the hirer" for the bailment or (in Scotland) the hiring of goods to the hirer, being an agreement which

- (a) is not a hire-purchase agreement, and
- (b) is capable of subsisting for more than three months, and
- (c) is not an exempt agreement;

and expressions used in that Act have the same meaning in this definition.

*regulated covered bond*

**FCA** **PRA**

(in RCB) (as defined in Regulation 1(2) of the *RCB Regulations*) a *covered bond* or *programme of covered bonds*, as the case may be, which is admitted to the register of *regulated covered bonds* maintained under Regulation 7(1)(b) of the *RCB Regulations*.

*regulated entity*

**FCA** **PRA**

one of the following:

- (a) a *credit institution*; or
- (b) a regulated insurance entity; or
- (c) an *investment firm*;

whether or not it is incorporated in, or has its head office in, an *EEA State*.

An *asset management company* is treated as a regulated entity for the purposes described in

GENPRU 3.1.39R (The financial sectors: *asset management companies*).

*regulated information*

**FCA** **PRA**

all information which an *issuer*, or any other *person* who has applied for the admission of *financial instruments* to trading on a *regulated market* without the *issuer's* consent, is required to disclose under:

- (a) the *Transparency Directive*;
- (b) article 6 of the *Market Abuse Directive*; or
- (c) *LR*, and *DTR*.

*Regulated Information Service*

**FCA** **PRA**

a Regulated Information Service that is approved by the *FCA* as meeting the Criteria for Regulated Information Services and that is on the list of Regulated Information Services maintained by the *FCA* .

*regulated institution*

**FCA** **PRA**

any of the following:

- (a) an *EEA insurer* or *UK insurer*; or
- (b) an *approved credit institution*; or
- (c) a *friendly society* (not within (a)) which is authorised to carry on *insurance business*; or
- (d) a *firm* whose *permission* includes dealing in investments as *principal* with respect to *derivatives* which are not *listed*; or
- (e) a *MiFID investment firm* whose authorisation (as referred to in article 5 of *MiFID*) authorises it to carry on activities of the kind referred to in (d).

*regulated insurance entity*

FCA PRA

an insurance undertaking within the meaning of Article 4 of the *Consolidated Life Directive*, Article 6 of the *First Non-Life Directive* or Article 1(b) of the *Insurance Groups Directive*.

*regulated lifetime mortgage contract*

FCA PRA

a *regulated mortgage contract* which is a *lifetime mortgage*.

*regulated market*

FCA PRA

(1) a multilateral system operated and/or managed by a *market operator*, which brings together or facilitates the bringing together of multiple third-party buying and selling interests in *financial instruments* - in the system and in accordance with its non-discretionary rules - in a way that results in a contract, in respect of the *financial instruments* admitted to trading under its rules and/or systems, and which is authorised and functions regularly and in accordance with the provisions of Title III of *MiFID*.

[Note: article 4(1)(14) of *MiFID*]

(2) (in addition, in *INSPRU* and *IPRU(INS)* only) a market situated outside the *EEA States* which is characterised by the fact that:

- (a) it meets comparable requirements to those set out in (1); and
- (b) the *financial instruments* dealt in are of a quality comparable to those in a regulated market in the United Kingdom.

*regulated market transaction*

FCA PRA

a transaction concluded by a *firm* on a *regulated market* with another member or participant of that *regulated market*.

*regulated mortgage activity*

FCA PRA

any of the following activities specified in Part II of the *Regulated Activities Order* (Specified Activities):

- (a) *arranging (bringing about) regulated mortgage contracts* (article 25A(1));
- (b) *making arrangements with a view to regulated mortgage contracts* (article 25A(2));
- (c) *advising on regulated mortgage contracts* (article 53A);
- (d) *entering into a regulated mortgage contract* (article 61(1));
- (e) administering a regulated mortgage contract (article 61(2));
- (f) *agreeing to carry on a regulated activity* in (a) to (e) (article 64).

(a) (in relation to a contract) a contract which:

(i) (in accordance with article 61(3) of the *Regulated Activities Order*) at the time it is entered into, meets the following conditions:

( A ) a lender provides credit to an individual or to trustees (the 'borrower'); and

( B ) the obligation of the borrower to repay is secured by a first legal mortgage on land (other than timeshare accommodation) in the *United Kingdom*, at least 40% of which is used, or is intended to be used, as or in connection with a dwelling by the borrower or (in the

regulated  
related  
undertaking

FCA PRA

regulated sale  
and rent back  
activity

FCA PRA

regulated sale  
and rent back  
agreement

FCA PRA

case of credit provided to trustees) by an individual who is a beneficiary of the trust, or by a *person* who is in relation to the borrower or (in the case of credit provided to trustees) a beneficiary of the trust:

( I ) that *person's* spouse or civil partner; or

( II ) a *person* (whether or not of the opposite sex) whose relationship with that *person* has the characteristics of the relationship between husband and wife; or

( III ) that *person's* parent, brother, sister, child, grandparent or grandchild ; and

(ii) is not a *home purchase plan*.

(b) (in relation to a *specified investment*) the *investment*, specified in article 88 of the *Regulated Activities Order*, which is rights under a *regulated mortgage contract* within (a).

a *related undertaking* that is any of the following:

(a) a *regulated entity*; or

(b) an *insurance undertaking* which is not a *regulated insurance entity*; or

(c) an *asset management company*; or

(d) a *financial institution* which is neither a *credit institution* nor an *investment firm*; or

(e) a *financial holding company*; or

(f) an *insurance holding company* .

any of the following *regulated activities*:

(a) *arranging (bringing about) a regulated sale and rent back agreement* (article 25E(1));

(b) *making arrangements with a view to a regulated sale and rent back agreement* (article 25E(2));

(c) *advising on a regulated sale and rent back agreement* (article 53D);

(d) *entering into a regulated sale and rent back agreement* (article 63J(1));

(e) *administering a regulated sale and rent back agreement* (article 63J(2)); or

(f) *agreeing to carry on a regulated activity* in (a) to (e) (article 64).

(in accordance with article 63J(3)(a) of the *Regulated Activities Order*) an arrangement comprised in one or more instruments or agreements, in relation to which the following conditions are met at the time it is entered into:

(a) the arrangement is one under which a *person* (an agreement provider), buys all or part of the *qualifying interest in land* in the *United Kingdom* from an individual or trustees (the "agreement seller"); and

(b) the agreement seller (if he is an individual) or an individual who is the beneficiary of the trust (if the agreement seller is a trustee), or a related person, is entitled under the arrangement to occupy at least 40% of the land in question as or in connection with a dwelling, and intends to do so;

regulated sale and rent back firm

FCA PRA

but excluding any arrangement that is a regulated *home reversion plan*.

a firm that carries on any regulated sale and rent back activity.

regulated sale and rent back mediation activity

FCA PRA

any of the following regulated activities:

(a) *arranging (bringing about) regulated sale and rent back agreements* (article 25E(1));

(b) *making arrangements with a view to regulated sale and rent back agreements* (article 25E(2));

(c) *advising on regulated sale and rent back agreements* (article 53D);

(d) *agreeing to carry on a regulated activity* in (a) to (c) (article 64).

regulated sale and rent back transaction

FCA PRA

a transaction involving a *regulated sale and rent back agreement* under which a *SRB agreement seller*, in return for the sale of a *qualifying interest in land* in whole or in part to a *SRB agreement provider*, is granted, or any member of his family is granted, a right to occupy the land in question as, or in connection with, a dwelling, and intends so to occupy it.

regulatory basis only life firm

FCA PRA

a firm carrying on *long-term insurance business* which is not a *realistic basis life firm*.

regulatory body

FCA PRA

any authority, body or *person* having, or who has had, responsibility for the supervision or regulation of any *regulated activities* or other financial services, whether in the *United Kingdom* or overseas.

regulatory costs

FCA PRA

the periodic fees payable to the *appropriate regulator* by a *participant firm* in accordance with ■ FEES 4 (Periodic fees) .

regulatory current liabilities

FCA PRA

(in relation to a *with-profits fund*) the regulatory current liabilities of the *with-profits fund* calculated in accordance with INSPRU 1.1.30R.

Regulatory Decisions Committee

FCA PRA

a committee of the Board of the *FCA*, described in ■ DEPP 3.1 (The nature and procedure of the RDC).

regulatory excess capital

FCA PRA

(in relation to a *with-profits fund*) has the meaning set out in INSPRU 1.3.32R .

*regulatory function*

**FCA** **PRA**

(as defined in section 291 of the *Act* (Liability in relation to *recognised body's* regulatory functions)) any function of a *recognised body* so far as relating to, or to matters arising out of, the obligations to which the body is subject under or by virtue of the *Act* and (for an *RAP*) under the *RAP recognition requirements* .

*regulatory high risk category*

**FCA** **PRA**

(for the purposes of the *standardised approach* to credit risk) an item that falls into ■ **BIPRU 3.4.104 R** (Items belonging to regulatory high risk categories under the standardised approach to credit risk).

*regulatory information service or RIS*

**FCA** **PRA**

either:

(a) a *Regulated Information Service*; or

(b) an incoming *information society service* that has its *establishment* in an *EEA State* other than the *United Kingdom* and that disseminates *regulated information* in accordance with the minimum standards set out in [article 12 of the *TD implementing Directive*].

*regulatory objectives*

[deleted]

*regulatory provisions*

**FCA** **PRA**

any rules, guidance, arrangements or policy issued by the investment exchange in connection with its business as an investment exchange or in connection with the provision by it of *clearing facilitation services*.

*regulatory surplus*

**FCA** **PRA**

(in relation to a long-term business fund, or sub-fund) the excess, if any, of the *regulatory value of assets* for the *with-profits fund* over the *regulatory value of liabilities* for that fund.

*regulatory surplus value*

**FCA** **PRA**

has the meaning set out in GENPRU 1.3.48R.

*regulatory system*

**FCA** **PRA**

the arrangements for regulating a *firm* or other *person* in or under the *Act*, including the *threshold conditions*, the *Principles* and other *rules*, the *Statements of Principle*, codes and *guidance* and including any relevant directly applicable provisions of a Directive or Regulation such as those contained in the *MiFID implementing Directive* and the *MiFID Regulation* .

*regulatory value of assets*

**FCA** **PRA**

(in relation to a *with-profits fund*) has the meaning set out in INSPRU 1.3.24R.

*regulatory value of liabilities*

**FCA** **PRA**

(in relation to a *with-profits fund*) has the meaning set out in INSPRU 1.3.29R.

*rehabilitation exceptions orders*

the Rehabilitation of Offenders Act 1974 (Exceptions) Order 1975, the Rehabilitation of Offenders Act 1974 (Exclusions and Exceptions) (Scotland)

<p><b>FCA</b> <b>PRA</b></p>	<p>Order 2003 and the Rehabilitation of Offenders (Exceptions) Order (Northern Ireland) 1979.</p>
<p><i>reinsurance</i></p> <p><b>FCA</b> <b>PRA</b></p>	<p>includes retrocession.</p>
<p><i>reinsurance contract</i></p> <p><b>FCA</b> <b>PRA</b></p>	<p>(in <b>■</b> COBS 21, <i>ICOBS</i>, <b>■</b> CASS 5 and <i>COMP</i>) a <i>contract of insurance</i> covering all or part of a risk to which a <i>person</i> is exposed under a <i>contract of insurance</i>.</p>
<p><i>Reinsurance Directive</i></p> <p><b>FCA</b> <b>PRA</b></p>	<p>the Directive of 16 November 2005 of the European Parliament and of the Council (No 2005/68/EC) on reinsurance and amending the <i>First Non-Life Directive</i> and the <i>Third Non-Life Directive</i> as well as the <i>Insurance Groups Directive</i> and the <i>Consolidated Life Directive</i>.</p>
<p><i>reinsurance mediation</i></p> <p><b>FCA</b> <b>PRA</b></p>	<p>(as defined in article 2.4 of the <i>Insurance Mediation Directive</i>) the activities of introducing, proposing or carrying out other work preparatory to the conclusion of contracts of reinsurance, or of concluding such contracts, or of assisting in the administration and performance of such contracts, in particular in the event of a claim. These activities when undertaken by a <i>IMD reinsurance undertaking</i> or an employee of a <i>IMD reinsurance undertaking</i> who is acting under the responsibility of the <i>IMD reinsurance undertaking</i> shall not be considered as <i>reinsurance mediation</i>. The provision of information on an incidental basis in the context of another professional activity provided that the purpose of that activity is not to assist the customer in concluding or performing a reinsurance contract, the management of claims of a <i>IMD reinsurance undertaking</i> on a professional basis, and loss adjusting and expert appraisal of claims shall also not be considered as <i>reinsurance mediation</i>.</p>
<p><i>reinsurance to close</i></p> <p><b>FCA</b> <b>PRA</b></p>	<p>(a) an agreement under which members of a <i>syndicate</i> in one <i>syndicate year</i> ("the reinsured members") agree with the members of that <i>syndicate</i> in a later <i>syndicate year</i> or the members of another <i>syndicate</i> ("the reinsuring members") that the reinsuring members will discharge, or procure the discharge of, or indemnify the reinsured members against, all known and unknown <i>insurance business</i> liabilities of the reinsured members arising out of the <i>insurance business</i> carried on by the reinsured members in that <i>syndicate year</i>; or</p> <p>(b) a similar reinsurance agreement or arrangement that has been approved by the <i>Council</i> as a reinsurance to close.</p>
<p><i>reinsurance undertaking</i></p> <p><b>FCA</b> <b>PRA</b></p>	<p>an <i>insurance undertaking</i> whose <i>insurance business</i> is restricted to <i>reinsurance</i>.</p>
<p><i>reinsurer</i></p> <p><b>FCA</b> <b>PRA</b></p>	<p>an <i>insurance undertaking</i> whose business includes <i>effecting</i> or <i>carrying out</i> contracts of <i>reinsurance</i>; includes a retrocessionaire.</p>
<p><i>related designated investment</i></p> <p><b>FCA</b> <b>PRA</b></p>	<p>(in relation to a <i>designated investment</i> (the "first investment")) a <i>designated investment</i> whose value might reasonably be expected to be directly affected by:</p> <p>(a) any fluctuation in the value of the first investment; or</p> <p>(b) any <i>published recommendation</i> that concerns the first investment.</p>

*related financial instrument*

FCA PRA

means a *financial instrument*, the price of which is closely affected by price movements in another *financial instrument* which is the subject of *investment research*, and includes a derivative on that other *financial instrument*.

[Note: article 25(2) of the *MiFID implementing Directive*]

*related investment*

FCA PRA

(as defined in section 130A(3) of the *Act*) in relation to a *qualifying investment*, means an investment whose price or value depends on the price or value of the *qualifying investment*.

*related party*

FCA PRA

(1) (in *LR*) as defined in ■ LR 11.1.4 R;

(2) (in relation to an agreement seller under a *regulated sale and rent back agreement* or, where the agreement seller is a trustee, a beneficiary of the trust):

(a) that *person's* spouse or civil partner; or

(b) a *person* (whether or not of the opposite sex) whose relationship with that *person* has the characteristic of the relationship between husband and wife; or

(c) that *person's* parent, brother, sister, child, grandparent or grandchild.

*related party circular*

FCA PRA

(in *LR*) a *circular* relating to a *related party transaction*.

*related party transaction*

FCA PRA

(in *LR*) as defined in ■ LR 11.1.5 R.

*related undertaking*

FCA PRA

in relation to an *undertaking* ("U"):

(a) any *subsidiary undertaking* of U; or

(b) any *undertaking* in which U or any of U's *subsidiary undertakings* holds a participation; or

(c) any *undertaking* linked to U by a *consolidation Article 12(1) relationship*; or

(d) any *undertaking* linked by a *consolidation Article 12(1) relationship* to an *undertaking* in (a), (b) or (c).

*relevant articles*

FCA PRA

(in *REC*):

(1) Article 6.1 to 6.4 of the *Market Abuse Directive*;

(2) Articles 3, 5, 7, 8, 10, 14 and 16 of the *Prospectus Directive*;

(3) Articles 4 to 6, 14, 16 to 19 and 30 of the *Transparency Directive*; and

(4) *EU* legislation made under the provisions mentioned in (1) to (3).

*relevant asset pool*

FCA PRA

(in *RCB*) (as defined in Regulation 1(2) of the *RCB Regulations*) in relation to a *regulated covered bond* the *asset pool* from which the claims attaching to that bond are guaranteed to be paid by the *owner* of that pool in the event of the failure of the *issuer*.

*relevant business*

**FCA** **PRA**

(1) (in *DISP* and *FEES*) that part of a *firm's* business which it conducts with *consumers* and which is subject to the jurisdiction of the *Financial Ombudsman Service* as provided for in ■ *DISP* 2.3 (To which activities does the Compulsory Jurisdiction apply?), ■ *DISP* 2.4 (To which activities does the Consumer Credit Jurisdiction apply?) and ■ *DISP* 2.5 (To which activities does the Voluntary Jurisdiction apply?), measured by reference to the appropriate tariff-base for each *industry block*.

(2) (in relation to information communicated to a *client* other than a *financial promotion*) *designated investment business*.

(3) (in relation to a *financial promotion*) a *controlled activity*.

*relevant capital sum*

**FCA** **PRA**

for the purposes of INSPRU 1.3.34R, the sum under a *contract of insurance* which is:

(a) unless (b) applies:

(i) for whole life assurances, the sum assured;

(ii) for *contracts of insurance* where a sum is payable on maturity (including contracts where a sum is also payable on earlier death), the sum payable on maturity;

(iii) for deferred annuities, the capitalised value of the annuity at the vesting date (or the cash option if it is greater);

(iv) for *capital redemption* contracts, the sum payable at the end of the contract period; and

(v) for linked long-term contracts of insurance, notwithstanding (i) to (iv), the lesser of:

(A) the amount for the time being payable on death; and

(B) the aggregate of the value for the time being of the units allocated to the contract (or, where entitlement is not denoted by means of units, the value for the time being of any other measure of entitlement under the contract equivalent to units) and the total amount of the *premiums* remaining to be paid during such of the term of the contract as is appropriate for *zillmerising* or, if such *premiums* are payable beyond the age of seventy-five, until that age;

but excluding in all cases any vested reversionary bonus; and

(b) for temporary assurances, the sum assured on the *actuarial valuation date*.

an *authorised fund* which is:

(a) a registered charity; or

(b) a charitable unit trust scheme under regulation 7(2)(d) of the Income Tax (Definition of Unit Trust Scheme) Regulations 1988.

*relevant charitable scheme*

**FCA** **PRA**

*relevant collateral*

**FCA** **PRA**

in relation to a transaction:

(a) cash;

(b) letters of credit and guarantees to the extent of their face value, issued by an *approved bank* which is neither a counterparty nor an *associate* of a counterparty;

(c) gold and silver bullion and coinage;

(d) marketable investments;

<p>(e) the performance guarantees issued in support of the securities lending and borrowing programmes of Euroclear and Cedel, in respect only of <i>exposure</i> arising from participation in such programmes;</p>	<p>(e) the performance guarantees issued in support of the securities lending and borrowing programmes of Euroclear and Cedel, in respect only of <i>exposure</i> arising from participation in such programmes;</p>
<p>subject in each case to:</p>	<p>subject in each case to:</p>
<p>(i) the <i>firm</i> having an unconditional right to apply or realise the relevant collateral for the purpose of repaying a counterparty's obligations;</p>	<p>(i) the <i>firm</i> having an unconditional right to apply or realise the relevant collateral for the purpose of repaying a counterparty's obligations;</p>
<p>(ii) marketable investments:</p>	<p>(ii) marketable investments:</p>
<p>(A) being marked to market daily using the valuation principles in ■ IPRU(INV) 3.41(9)R;</p>	<p>(A) being marked to market daily using the valuation principles in ■ IPRU(INV) 3.41(9)R;</p>
<p>(B) not being issued by a counterparty nor by an <i>associate</i> of a counterparty.</p>	<p>(B) not being issued by a counterparty nor by an <i>associate</i> of a counterparty.</p>
<p><i>relevant commencement date</i> FCA PRA</p>	<p>(as defined in article 1 of the <i>Mortgage and General Insurance Complaints Transitional Order</i>):</p> <p>(a) in relation to a complaint which relates to an activity to which, immediately before 14 January 2005, the <i>GISC facility</i> applied, the beginning of 14 January 2005;</p> <p>(b) in relation to a complaint which relates to an activity to which, immediately before 31 October 2004, the <i>MCAS scheme</i> applied, the beginning of 31 October 2004.</p>
<p><i>relevant competent authorities</i> FCA PRA</p>	<p>(in relation to a <i>financial conglomerate</i>) those <i>competent</i> authorities which are, or which have been appointed as, relevant <i>competent</i> authorities in relation to that <i>financial conglomerate</i> under Article 2(17) of the <i>Financial Groups Directive</i> (Definitions).</p>
<p><i>relevant competent authority</i> FCA PRA</p>	<p>(in relation to a <i>financial instrument</i>) means the <i>competent authority</i> of the most relevant market in terms of liquidity for that <i>financial instrument</i>.</p> <p>[Note: article 2(7) of <i>MiFID Regulation</i>]</p>
<p><i>relevant complaint</i> FCA PRA</p>	<p>(1) (in <i>DISP</i>) a <i>relevant existing complaint</i>, a <i>relevant new complaint</i> or a <i>relevant transitional complaint</i>.</p> <p>(2) (in <i>REC</i>) (as defined in section 299(2) of the <i>Act</i> (Complaints about <i>recognised bodies</i>)) a complaint which the <i>FCA</i> considers is relevant to the question of whether a <i>recognised body</i> should remain a <i>recognised body</i>.</p>
<p><i>relevant date</i> FCA PRA</p>	<p>(in ■ <i>MCOB 10</i> (Annual percentage rate)):</p> <p>(a) (where a date is specified in or determinable under an agreement at the date of its making as the date on which the debtor is entitled to require provision of anything which is the subject of the agreement) the earliest such date;</p> <p>(b) (in any other case) the date of making the agreement.</p>
<p><i>relevant EEA details</i> FCA PRA</p>	<p>the details listed in regulation 14 of the <i>EEA Passport Rights Regulations</i> and set out in ■ <i>SUP 13 Annex 1 R</i> (Requisite details or relevant details: branches).</p>

*relevant existing complaint*

**FCA** **PRA**

(in accordance with the Ombudsman Transitional Order) a complaint which:

- (a) was referred to a *former scheme* at any time before *commencement*, by a person who was at that time entitled, under the terms of the *former scheme*, to refer such a complaint (whether described in that scheme as the making of a complaint, the referral of a dispute, the submission of a claim, or otherwise); and
- (b) has not, before *commencement*, been rejected, withdrawn, settled or determined by the former Ombudsman (whether by a substantive decision, or by closure of the case without a substantive decision).

*relevant financial system*

**FCA** **PRA**

(in accordance with section 169A(5) of the *Act* (Support of overseas regulator with respect to financial stability)) a financial system including:

- (a) financial markets and exchanges;
- (b) activities that would be *regulated activities* if carried on in the *United Kingdom*; and
- (c) other activities connected with financial markets and exchanges.

*relevant former scheme*

**FCA** **PRA**

(as defined in article 2(2) of the *compensation transitionals order*):

- (a) in relation to a *pending application*, the *investment business compensation scheme* under which the application was made;
- (b) in relation to an *article 9 default*, one of the following that applied to the default before *commencement*:
  - (i) the Policyholders Protection Scheme established by the Policyholders Protection Act 1975;
  - (ii) the Deposit Protection Scheme established by Part II of the Banking Act 1987;
  - (iii) the Building Societies Investor Protection Scheme established by Part IV of the Building Societies Act 1986;
  - (iv) the Friendly Societies Protection Scheme established in accordance with section 141 of the Financial Services Act 1986.

*relevant function*

**FCA** **PRA**

(in relation to a *UK recognised body*) an *exempt activity* or a *regulatory function*.

*relevant general insurance contract*

**FCA** **PRA**

(in *COMP*) any *general insurance contract* other than:

- (a) [deleted]
- (b) [deleted]
- (c) a contract falling within any of the following classes:
  - (i) *aircraft*;
  - (ii) *ships*;
  - (iii) *goods in transit*;
  - (iv) *aircraft liability*;
  - (v) *liability of ships*;
  - (vi) *credit*.

*relevant information*

(1) (except in *REC*) (in relation to an *investment*) information which would be likely to be regarded by a *regular user* of the market or auction platform

FCA PRA

in question as relevant when deciding the terms on which transactions in that *investment* should be effected.

(2) (in *REC*) (in relation to an *investment*) information which is relevant to determining the current value of that *investment* or (in relation to *RAPs*) information on the terms of *emissions auction products* and the terms on which they will be auctioned on an *RAP*.

relevant insurer

FCA PRA

in relation to a *community co-insurance operation*, an *insurer* which is concerned in the operation but is not the *leading insurer*.

relevant investment

FCA PRA

(1) (in ■ COBS 12.4, in relation to a *research recommendation* or a public appearance), a *designated investment* that is the subject of that *research recommendation* or public appearance,

(2) (other than in ■ COBS 4 or ■ COBS 12.4) (in accordance with article 3(1) of the *Regulated Activities Order* (Interpretation)):

(a) a *contractually based investment*;

(b) a *pure protection contract*;

(c) a *general insurance contract*;

(d) rights to or interests in an *investment* falling within (a).

(3) (in ■ COBS 4) a *specified investment* or a *controlled investment*.

relevant issuer

FCA PRA

(1) (in relation to a *designated investment* that is the subject of a *research recommendation* or a public appearance) the *issuer* of that *designated investment*; or

(2) (in relation to a *related designated investment* that is the subject of a public appearance) either the *issuer* of the *related designated investment* or the *issuer* of a *designated investment* that might reasonably be expected directly to affect the value of the *related designated investment*.

relevant liquid market

FCA PRA

a market for a share determined in accordance with paragraph 2 and 8 of Article 9 of the *MiFID Regulation*, in many cases this will be the Member State where the share or the unit was first admitted to trading on a regulated market.

[Note: article 9 of the *MiFID Regulation*]

relevant net premium income

FCA PRA

(1) (in relation to business which is not *occupational pension fund management business*) the premium income in respect of *protected contracts of insurance* of a *firm*; or

(2) (in relation to *occupational pension fund management business*) the *remuneration* retained by a *firm* in relation to its carrying on *occupational pension fund management business*

in the year preceding that in which the date for submission of the information under ■ FEES 6.5.13 R falls, net of any relevant rebates or refunds.

relevant new complaint

FCA PRA

(in accordance with the *Ombudsman Transitional Order*) a complaint referred to the *Financial Ombudsman Service* after *commencement* which relates to an act or omission occurring before *commencement* if:

(a) the act or omission is that of a person who was, immediately before *commencement*, subject to a *former scheme*;

(b) the act or omission occurred in the carrying on by that person of an activity to which that *former scheme* applied; and

(c) the complainant is eligible and wishes to have the complaint dealt with under the new scheme;

for the purposes of (c), where the complainant is not eligible in accordance with ■ DISP 2 (Jurisdiction of the Financial Ombudsman Service), an *Ombudsman* may, nonetheless, if he considers it appropriate, treat the complainant as eligible if he would have been entitled to refer an equivalent complaint to the *former scheme* in question immediately before *commencement*.

relevant  
office-holder

FCA PRA

a relevant office-holder as defined in section 189 of the Companies Act 1989, which is in summary:

- (a) the official receiver;
- (b) (in relation to a company) any *person* acting as its liquidator, provisional liquidator, administrator or administrative receiver;
- (c) (in relation to an individual or a debtor within the Bankruptcy (Scotland) Act 1985) a trustee in bankruptcy, interim receiver of property, or permanent or interim trustee in the sequestration of an estate;
- (d) any *person* acting as administrator of an insolvent estate of a deceased *person*.

relevant  
pension scheme

FCA PRA

a *pension scheme* or an *additional voluntary contribution*.

relevant person

FCA PRA

(1) (in COMP) a *person* for *claims* against whom the *compensation scheme* provides cover, as defined in ■ COMP 6.2.1 R.

(2) any of the following:

- (a) a *director, partner* or equivalent, manager or *appointed representative* (or where applicable, *tied agent*) of the *firm*;
- (b) a *director, partner* or equivalent, or manager of any *appointed representative* (or where applicable, *tied agent*) of the *firm*;
- (c) an *employee* of the *firm* or of an *appointed representative* (or where applicable, *tied agent*) of the *firm*; as well as any other natural person whose services are placed at the disposal and under the control of the *firm* or an *appointed representative* or a *tied agent* of the *firm* and who is involved in the provision by the *firm* of *regulated activities*;
- (d) a natural person who is directly involved in the provision of services to the *firm* or its *appointed representative* (or where applicable, *tied agent*) under an *outsourcing* arrangement or (in the case of a *management company*) a delegation arrangement to third parties, for the purpose of the provision by the *firm* of *regulated activities* or (in the case of a *management company*) *collective portfolio management*.

[Note: article 2(3) of the MiFID *implementing Directive* and article 3(3) of the UCITS *implementing Directive*]

relevant  
scheme

FCA PRA

(1) (except in ■ FEES 6) a *collective investment scheme* managed by an EEA UCITS *management company*.

(2) (in ■ FEES 6) a scheme or arrangement (other than the *compensation scheme*) for the payment of compensation (in certain cases) to customers (including customers outside the *United Kingdom*) of *persons* (including *persons* outside the *United Kingdom*) who provide financial services (including financial services provided outside the *United Kingdom*) or carry on a business connected with the provision of such services.

*relevant security*

**FCA** **PRA**

(1) (in ■ MAR 2, when used with reference to the *Buy-back and Stabilisation Regulation*) (in accordance with Article 2(6) of the *Buy-back and Stabilisation Regulation*) *transferable securities* which are admitted to trading on a *regulated market* or for which a request for admission to trading on a *regulated market* has been made, and which are the subject of a *significant distribution*.

(2) (otherwise in ■ MAR 2) *transferable securities*

(3) [deleted]

*relevant transitional complaint*

**FCA** **PRA**

(in accordance with the *Mortgage and General Insurance Complaints Transitional Order*) a complaint referred to the *Financial Ombudsman Service* after the *relevant commencement date* which relates to an act or omission occurring before that date if:

(a) the act or omission is that of a *person* ("R") who, at the time of that act or omission, was subject to a *former scheme*;

(b) R was an *authorised person* on or after the *relevant commencement date*;

(c) the act or omission occurred in the carrying on by R of an activity to which that *former scheme* applied; and

(d) the complainant is eligible and wishes to have the complaint dealt with under the new *scheme*.

*relevant UK details*

**FCA** **PRA**

the details required in regulation 15 of the *EEA Passport Rights Regulations* and set out in ■ SUP 13 Annex 2 R (Relevant UK details: branches of insurance undertakings).

*remedial direction*

[deleted]

*remuneration*

**FCA** **PRA**

any form of remuneration, including salaries, *discretionary pension benefits* and benefits of any kind.

[Note: paragraph 23 of Annex V to the *Banking Consolidation Directive*]

*Remuneration Code*

**FCA** **PRA**

■ SYSC 19A (Remuneration Code).

*Remuneration Code general requirement*

**FCA** **PRA**

■ SYSC 19A.2.1 R.

*Remuneration Code staff*

**FCA** **PRA**

(for a *BIPRU firm* and a *third country BIPRU firm*) has the meaning given in ■ SYSC 19A.3.4 R.

*remuneration principles proportionality rule*

(in ■ SYSC 19A) has the meaning given in ■ SYSC 19A.3.3 R.

FCA PRA

*renewal*

FCA PRA

carrying forward a contract, at the point of expiry and as a successive or separate operation of the same nature as the preceding contract, between the same contractual parties.

*repayment claim*

FCA PRA

(in relation to a *dormant account*) a claim for repayment made by virtue of sections 1(2)(b) or 2(2)(b) of the Dormant Bank and Building Society Accounts Act 2008, that is, in summary, that the customer has against the *dormant account fund operator* whatever right to payment of the *balance* the customer would have against the *bank* or *building society* if the transfer (or in the case of section 2(2)(b), transfers) had not happened. In this definition, 'customer' is the *person* who held with a *bank* or *building society* the *balance* of a *dormant account* transferred to a *dormant account fund operator*.

*repayment mortgage*

FCA PRA

a *regulated mortgage contract* under which the *customer* is obliged to make payments of interest and capital which are designed to repay the mortgage over the stated term.

*repayment vehicle*

the means by which the *customer* will repay the capital due under the *regulated mortgage contract*, where all or part of that contract is an *interest-only* mortgage.

*repo*

FCA PRA

- (a) an agreement between a seller and buyer for the sale of *securities*, under which the seller agrees to repurchase the *securities*, or equivalent *securities*, at an agreed date and, usually, at a stated price;
- (b) an agreement between a buyer and seller for the purchase of *securities*, under which the buyer agrees to resell the *securities*, or equivalent *securities*, at an agreed date and, usually, at a stated price.

*reporting accountant*

FCA PRA

an accountant appointed:

- (a) by the *appropriate regulator* ; or
- (b) by a *firm* , having been nominated or approved by the *appropriate regulator* under section 166 of the *Act* (Reports by skilled persons); or
- (c) by an applicant for *Part 4A permission* ;

to report on one or more aspects of the business of a *firm* or applicant, such as its financial position, including *internal controls* and reporting returns.

*reporting level*

FCA PRA

(in ■ SUP 16 (Reporting requirements) and in relation to a *data item*) refers to whether that *data item* is prepared on a solo basis or on the basis of a group such as a *UK DLG by modification* and, if it is prepared on the basis of a group, refers to the type of group (such as a *UK DLG by modification* or a *non-UK DLG by modification (firm level)*).

*repossess*

FCA PRA

(in MCOB) take possession of the property that is the subject of a *regulated mortgage contract* or *home purchase plan* .

*representative*

FCA PRA

(1) an individual who:

- (a) is appointed by a *firm*, or by an *appointed representative* of a *firm*, to carry on any of the following activities:
  - (i) *advising on investments*;
  - (ii) providing *basic advice* on *stakeholder products*;

(iii) *arranging (bringing about) deals in investments*;

(iv) dealing in investments; or

(b) although not appointed to do so, carries on any of the activities in (i) to (iii) on behalf of a *firm* or its *appointed representative* .

(2) (in IPRU(INV) 13 in relation to *designated investment business*) an individual appointed by a provider firm or by an *appointed representative* or *tied agent* of that *firm* to carry out either or both of the following activities:

(a) giving *advice on investments* to *customers* on the merits of *packaged products* offered by that *firm* (or any other provider firm within the same *marketing group*); or

(b) *arranging (bringing about) deals in investments* in relation to those products.

(3) In (2), a provider firm is a *firm* that is:

(a) a *product provider*; or

(b) a *marketing group associate*.

*repurchase agreement*

FCA PRA

see *repurchase transaction*.

*repurchase transaction*

FCA PRA

(in accordance with Article 3(1)(m) of the *Capital Adequacy Directive* and Article 4(33) of the *Banking Consolidation Directive* (Definitions)) any agreement in which an *undertaking* or its counterparty transfers securities or *commodities* or guaranteed rights relating to title to securities or *commodities* where that guarantee is issued by a *designated investment exchange* or *recognised investment exchange* which holds the rights to the securities or *commodities* and the agreement does not allow an *undertaking* to transfer or pledge a particular security or *commodity* to more than one counterparty at one time, subject to a commitment to repurchase them or substituted securities or *commodities* of the same description at a specified price on a future date specified, or to be specified, by the transferor, being a *repurchase agreement* for the *undertaking* selling the securities or *commodities* and a *reverse repurchase agreement* for the *undertaking* buying them.

*required percentage*

FCA PRA

the *required percentage* referred to in ■ COBS 20.2.17 R is, for each *with-profits fund*:

(a) the percentage (if any) required in respect of that fund by:

(i) the *firm's* articles of association, registered rules or other equivalent instrument; or

(ii) a relevant order made by a court of competent jurisdiction;

(b) if (a) does not apply, the percentage that reflects the *firm's* established practice, if it has one;

(c) if (a) and (b) do not apply, not less than 90 per cent.

*requirement*

FCA PRA

a requirement included in a firm's *Part 4A permission* under section 55L(3) of the *Act* (Imposition of requirements by the FCA), section 55M(3) of the *Act* (Imposition of Requirements by the PRA) or section 55O of the *Act* (Imposition of requirements on acquisition of control) .

*requiring or encouraging*

FCA PRA

taking or refraining from taking any action which requires or encourages another *person* to engage in *behaviour* which, if engaged in by the *person* requiring or encouraging, would amount to *market abuse*.

## requisite details

FCA PRA

the details required in regulation 1 of the *EEA Passport Rights Regulations* and set out in ■ SUP 13 Annex 1 R (Requisite details: branches).

## research recommendation

FCA PRA

research or other information:

- (a) concerning one or several *financial instruments* admitted to trading on *regulated markets*, or in relation to which an application for admission to trading has been made, or *issuers* of such *financial instruments*;
- (b) intended for distribution so that it is, or is likely to become, accessible by a large number of *persons*, or for the public, but not including:
  - (i) an informal short-term investment personal recommendation expressed to *clients*, which originates from inside the sales or trading department, and which is not likely to become publicly available or available to a large number of persons; or
  - (ii) advice given by a *firm* to a *body corporate* in the context of a *takeover bid* and disclosed only as a result of compliance with a legal or regulatory obligation, including rule 3 of the *Takeover Code* or its equivalents outside the *UK*; and
- (c) which:
  - (i) explicitly or implicitly, recommends or suggests an investment strategy; or
  - (ii) directly or indirectly, expresses a particular investment recommendation; or
  - (iii) expresses an opinion as to the present or future value or price of such instruments.

In this definition, "financial instruments" means the following (as defined in Article 5 of the *Prescribed Markets and Qualifying Investments Order* and Article 1(3) of the *Market Abuse Directive*, and which consequently carries the same meaning in the *Buy-back and Stabilisation Regulation*):

- (a) *transferable securities*;
- (b) units in collective investment undertakings;
- (c) *money-market instruments*;
- (d) financial futures contracts, including equivalent cash-settled instruments;
- (e) forward interest-rate agreements;
- (f) interest-rate, currency and equity swaps;
- (g) options to acquire or dispose of any instrument falling into these categories, including equivalent cash-settled instruments. This category includes in particular options on currency and on interest rates;
- (h) derivatives on commodities; and
- (i) any other instrument admitted to trading on a regulated market in an *EEA State* or for which a request for admission to trading on such a market has been made.

## resecuritisation

FCA PRA

in ■ BIPRU 7 and ■ 9, a *securitisation* where the risk associated with an underlying pool of *exposures* is *tranching* and at least one of the underlying *exposures* is a *securitisation position*.

[Note: BCD, Article 4(40a)]

## resecuritisation position

in ■ BIPRU 7 and ■ 9, an *exposure* to a *resecuritisation*.

[Note: BCD, Article 4(40b)]

FCA PRA

resilience  
capital  
requirement

FCA PRA

respondent

FCA PRA

the capital component for *long-term insurance business* calculated in accordance with the *rules* in INSPRU 3.1.9G to INSPRU 3.1.26R.

(1) (in *DISP*, ■ FEES 5 and ■ CREDS 9) a *firm* (except a *UCITS qualifier*), *payment service provider*, *electronic money issuer*, *licensee* or *VJ participant* covered by the *Compulsory Jurisdiction*, *Consumer Credit Jurisdiction* or *Voluntary Jurisdiction* of the *Financial Ombudsman Service*.

(2) (in ■ DISP 2 and ■ 3 and ■ FEES 5) includes, as a result of sections 226 and 226A of the *Act*:

(a) an *unauthorised person* who was formerly a *firm* in respect of a *complaint* about an act or omission which occurred at the time when the *firm* was *authorised*, provided that the compulsory jurisdiction rules were in force in relation to the activity in question;

(b) a *person* who was formerly a *licensee* in respect of a *complaint* about an act or omission which occurred at the time when it was a *licensee*, provided the *complaint* falls within a description specified in the consumer credit rules in force at the time of the act or omission;

(c) a *person* who was formerly a *payment service provider* in respect of a *complaint* about an act or omission which occurred at the time when it was a *payment service provider*, provided that the compulsory jurisdiction rules were in force in relation to the activity in question; and

(d) a *person* who was formerly an *electronic money issuer* in respect of a *complaint* about an act or omission which occurred at the time when it was an *electronic money issuer*, provided that the compulsory jurisdiction rules were in force in relation to the activity in question.

(3) (in ■ DISP 2 and ■ 3 and ■ FEES 5) includes, in accordance with the *Ombudsman Transitional Order*, an *unauthorised person* subject to the *Compulsory Jurisdiction* in relation to *relevant existing complaints* and *relevant new complaints*.

(4) (in ■ DISP 2 and ■ 3 and ■ FEES 5) includes, in accordance with the *Mortgage and General Insurance Complaints Transitional Order*, a former *firm* subject to the *Compulsory Jurisdiction* in relation to *relevant transitional complaints*.

responsible  
person

FCA PRA

(1) (except in *COMP*) (as defined in section 3(8) of the *Child Trust Funds Act 2004*) a *person* with *parental responsibility* in relation to a child under 16 who is not:

(a) a local authority or, in Northern Ireland, an authority within the meaning of the *Children (Northern Ireland) Order 1995* (SI 1995/755 (NI 2)); or

(b) a *person* under 16.

(2) (in *COMP*) (in accordance with section 3 (1) of the *Compensation Act 2006*) a *person* who has negligently or in breach of statutory duty caused or permitted another *person* to be exposed to asbestos (including an *insurer* of such a *person*).

<p><i>restricted advice</i></p> <p><b>FCA</b> <b>PRA</b></p>	<p>(a) a <i>personal recommendation</i> to a <i>retail client</i> in relation to a <i>retail investment product</i> which is not <i>independent advice</i>; or</p> <p>(b) <i>basic advice</i>.</p>
<p><i>restricted credit</i></p> <p><b>FCA</b> <b>PRA</b></p>	<p>a loan for which, as a result of an existing arrangement between a supplier and a <i>firm</i>, the <i>customer's</i> application to the <i>firm</i> is submitted through the supplier and the terms of the loan require that it be paid to the supplier for goods or services supplied to the <i>customer</i>, not including loans secured by a charge over land or loans or payments by <i>plastic card</i> (other than a <i>store card</i>).</p>
<p><i>restricted-use credit agreement</i></p> <p><b>FCA</b> <b>PRA</b></p>	<p>(in accordance with section 11 of the Consumer Credit Act 1974) an agreement:</p> <p>(a) to finance a transaction between the <i>customer</i> and the <i>firm</i>, whether forming part of that agreement or not;</p> <p>(b) to finance a transaction between the <i>customer</i> and a person (the 'supplier') other than the <i>firm</i>;</p> <p>(c) to refinance any existing indebtedness of the <i>customer's</i>, whether to the <i>firm</i> or another <i>person</i>.</p>
<p><i>restriction notice</i></p> <p><b>FCA</b> <b>PRA</b></p>	<p>a notice served under sections 191B or 301J of the <i>Act</i>.</p>
<p><i>retail (investment) customer</i></p> <p><b>FCA</b> <b>PRA</b></p>	<p>(in relation to a <i>firm's permission</i> and the <i>Financial Services Register</i>) a <i>retail client</i>.</p>
<p><i>retail (non-investment insurance) customer</i></p> <p><b>FCA</b> <b>PRA</b></p>	<p>(in relation to a <i>firm's permission</i> and the <i>Financial Services Register</i>) a <i>consumer</i> or a <i>customer</i> acting in the capacity of both a <i>consumer</i> and a <i>commercial customer</i> (see ■ IC OBS 2.1.3 G).</p>
<p><i>retail banking service</i></p> <p><b>FCA</b> <b>PRA</b></p>	<p>an arrangement with a <i>banking customer</i>, under which a <i>firm</i> agrees to accept a <i>deposit</i> from a <i>banking customer</i> on terms to be held in an account for that customer, and to provide services in relation to that <i>deposit</i> including but not limited to repayment to the customer.</p>
<p><i>retail client</i></p> <p><b>FCA</b> <b>PRA</b></p>	<p>(1) (other than in relation to the <i>provision of basic advice on stakeholder products</i>) in accordance with ■ COBS 3.4.1 R, a <i>client</i> who is neither a <i>professional client</i> or an <i>eligible counterparty</i>; or</p> <p>[Note: article 4(1)(12) of <i>MiFID</i>]</p> <p>(2) (in relation to the provision of <i>basic advice</i> on a <i>stakeholder product</i> and in accordance with article 52B of the <i>RAO</i>) any <i>person</i> who is advised by a <i>firm</i> on the merits of opening or buying a <i>stakeholder product</i> where the advice is given in the course of a business carried on by that <i>firm</i> and it is received by a <i>person</i> not acting in the course of a business carried on by him.</p>
<p><i>retail customer</i></p> <p><b>FCA</b> <b>PRA</b></p>	<p>(in accordance with the meaning of 'consumer' in article 2(d) of the <i>Distance Marketing Directive</i> an individual who is acting for purposes which are outside his trade, business or profession.</p>

*retail exposure*

FCA PRA

(1) (in relation to the *IRB approach* and with respect to an *exposure*) an *exposure* falling into the *IRB exposure class* listed in ■ BIPRU 4.3.2 R (4) (Retail exposures).

(2) (in relation to the *standardised approach* to credit risk and with respect to an *exposure*) an *exposure* falling into the *standardised credit risk exposure class* listed in ■ BIPRU 3.2.9 R (8) (Retail exposures).

*retail investment*

FCA PRA

(a) a *life policy*; or

(b) a *unit*; or

(c) a *stakeholder pension scheme*; or

(ca) a *personal pension scheme*; or

(d) an interest in an *investment trust savings scheme*; or

(e) a *structured capital-at-risk product*.

*retail investment activity*

FCA PRA

(a) *advising on investments*;

(b) *arranging (bringing about) deals in investments*; or

(c) *making arrangements with a view to transactions in investments*,

in relation to *retail investments*, except when carried on by a *firm* exclusively with or for *professional client* or *eligible counterparties*.

*retail investment adviser*

FCA PRA

an *employee* who carries on activities 2, 3, 4, 6, 12 and 13 in ■ TC Appendix 1.1.1 R (other than in relation to a *Holloway sickness policy* where the *Holloway policy special application conditions* are met).

*retail investment firm*

FCA PRA

a *firm* that has *permission* to carry on an activity which is a *retail investment activity*.

*retail investment product*

FCA PRA

(a) a *life policy*; or

(b) a *unit*; or

(c) a *stakeholder pension scheme* (including a *group stakeholder pension scheme*); or

(d) a *personal pension scheme* (including a *group personal pension scheme*); or

(e) an interest in an *investment trust savings scheme*; or

(f) a *security* in an *investment trust*; or

(g) any other *designated investment* which offers exposure to underlying financial assets, in a packaged form which modifies that exposure when compared with a direct holding in the financial asset; or

(h) a *structured capital-at-risk product*;

whether or not any of (a) to (h) are held within an *ISA* or a *CTF*.

*retail pool*

the pool of *classes* to which the *FSCS* allocates levies as described in ■ FEES 6.5A [to follow].

<p><i>retail securitised derivative</i>  <span style="border: 1px solid black; padding: 2px;">FCA</span> <span style="border: 1px solid black; padding: 2px;">PRA</span></p>	<p>a <i>securitised derivative</i> which is not a specialist securitised derivative; in this definition, a "specialist securitised derivative" is a <i>securitised derivative</i> which, in accordance with the <i>listing rules</i>, is required to be admitted to listing with a clear statement on any disclosure document that the issue is intended for a purchase by only investors who are particularly knowledgeable in investment matters.</p>
<p><i>retail SME</i>  <span style="border: 1px solid black; padding: 2px;">FCA</span> <span style="border: 1px solid black; padding: 2px;">PRA</span></p>	<p>(1) (in relation to the <i>IRB approach</i>) a small or medium sized entity, an <i>exposure</i> to which may be treated as a <i>retail exposure</i> under <span style="color: #000080;">■</span> BIPRU 4.6.2 R (Definition of retail exposures).</p> <p>(2) (in relation to the <i>standardised approach</i> to credit risk) a small or medium sized entity, an <i>exposure</i> to which may be treated as a retail exposure under <span style="color: #000080;">■</span> BIPRU 3.2.10 R (Definition of retail exposures).</p>
<p><i>retail SME exposure</i>  <span style="border: 1px solid black; padding: 2px;">FCA</span> <span style="border: 1px solid black; padding: 2px;">PRA</span></p>	<p>(in relation to the <i>IRB approach</i> or the <i>standardised approach</i> to credit risk) an <i>exposure</i> to a <i>retail SME</i>.</p>
<p><i>retirement annuity</i>  <span style="border: 1px solid black; padding: 2px;">FCA</span> <span style="border: 1px solid black; padding: 2px;">PRA</span></p>	<p>an individual <i>pension policy</i> effected before 1 July 1988 by a self-employed <i>person</i> or a <i>person</i> in non-pensionable employment which was approved under Chapter III, Part XIV of the Income and Corporation Taxes Act 1988 (when sections 618 to 628 of that Chapter were in force).</p>
<p><i>retirement fund</i>  <span style="border: 1px solid black; padding: 2px;">FCA</span> <span style="border: 1px solid black; padding: 2px;">PRA</span></p>	<p>the amount which will be available, at the date on which the investor retires, for the provision of benefits.</p>
<p><i>return</i>  <span style="border: 1px solid black; padding: 2px;">FCA</span> <span style="border: 1px solid black; padding: 2px;">PRA</span></p>	<p>the documents required (taken together) to be deposited under <i>IPRU(INS) rule</i> 9.6(1).</p>
<p><i>reverse repurchase agreement</i>  <span style="border: 1px solid black; padding: 2px;">FCA</span> <span style="border: 1px solid black; padding: 2px;">PRA</span></p>	<p>see <i>repurchase transaction</i>.</p>
<p><i>reverse takeover</i>  <span style="border: 1px solid black; padding: 2px;">FCA</span> <span style="border: 1px solid black; padding: 2px;">PRA</span></p>	<p>(in <i>LR</i>) a transaction classified as a <i>reverse takeover</i> under <span style="color: #000080;">■</span> LR 5.6.</p>
<p><i>reversion activity</i>  <span style="border: 1px solid black; padding: 2px;">FCA</span> <span style="border: 1px solid black; padding: 2px;">PRA</span></p>	<p>any of the <i>regulated activities</i> of:</p> <ul style="list-style-type: none"> <li>(a) <i>arranging (bringing about) a home reversion plan</i> (article 25B(1));</li> <li>(b) <i>making arrangements with a view to a home reversion plan</i> (article 25B(2));</li> <li>(c) <i>advising on a home reversion plan</i> (article 53B);</li> <li>(d) <i>entering into a home reversion plan</i> (article 63B(1));</li> <li>(e) <i>administering a home reversion plan</i> (article 63B(2)); or</li> <li>(f) <i>agreeing to carry on a regulated activity</i> in (a) to (e) (article 64).</li> </ul>
<p><i>reversion administrator</i>  <span style="border: 1px solid black; padding: 2px;">FCA</span> <span style="border: 1px solid black; padding: 2px;">PRA</span></p>	<p>a <i>firm</i> with <i>permission</i> (or which ought to have <i>permission</i>) for <i>administering a home reversion plan</i>.</p>

*reversion adviser*

**FCA** **PRA**

a *firm with permission* (or which ought to have *permission*) for *advising on a home reversion plan*.

*reversion arranger*

**FCA** **PRA**

a *firm with permission* (or which ought to have *permission*) for *arranging a home reversion plan*.

*reversion intermediary*

**FCA** **PRA**

a *firm with permission* (or which ought to have *permission*) to carry on a *reversion mediation activity*.

*reversion mediation activity*

**FCA** **PRA**

any of the following *regulated activities*:

- (a) *arranging (bringing about) a home reversion plan* (article 25B(1));
- (b) *making arrangements with a view to a home reversion plan* (article 25B(2));
- (c) *advising on a home reversion plan* (article 53B); or
- (d) *agreeing to carry on a regulated activity* in (a) to (c) (article 64).

*reversion occupier*

**FCA** **PRA**

the individual (or trustees), specified in article 63B(3) of the *Regulated Activities Order*, who in summary:

- (a) is (or are) the *person* (or *persons*) from whom all or part of an interest in land is bought as part of an arrangement comprising a *home reversion plan*; and
- (b)
  - (i) in the case of an individual, is entitled under the arrangement to occupy at least 40% of the land in question as or in connection with a dwelling and intends to do so; or
  - (ii) in the case of trustees, are trustees of a trust a beneficiary of which is an individual described in (i).

*reversion provider*

**FCA** **PRA**

a *firm with permission* (or which ought to have *permission*) for *entering into a home reversion plan*.

*revolving exposure*

**FCA** **PRA**

(for the purpose of [■ BIPRU 9.13](#) (Securitisations of revolving exposures with early amortisation provisions) and in accordance with Article 100 of the Banking Consolidation Directive (Securitisations of revolving exposures)) an *exposure* whereby customers' outstanding balances are permitted to fluctuate based on their decisions to borrow and repay, up to an agreed limit.

RIE

**FCA** **PRA**

*recognised investment exchange*.

*right of set-off*

**FCA** **PRA**

(in *BCOBS*) any right of a *firm*, whether under a contract for a *retail banking service* or the general law, to set off or combine:

- (a) any debt due from a *consumer*; or
- (b) any debit balance on an account held by a *consumer*;

against or with:

(c) any sum payable by the *firm* to the *consumer*; or

(d) any credit balance on an account held by the *consumer*;

that has the effect of reducing, discharging or extinguishing the *firm's* liability to the *consumer* or the credit balance on the account held by the *consumer*.

*rights issue*

FCA PRA

(in LR and ■ DTR 5) an offer to existing *security* holders to subscribe or purchase further *securities* in proportion to their holdings made by means of the issue of a renounceable letter (or other negotiable document) which may be traded (as "nil paid" rights) for a period before payment for the *securities* is due.

*rights to or interests in investments*

FCA PRA

the *investment*, specified in article 89 of the *Regulated Activities Order* (Rights to or interests in investments), which is in summary: any right to or interest in any other *specified investment*, but excluding:

(a) interests under the trusts of an *occupational pension scheme*;

(b) rights to or interests in a *contract of insurance* of the kind referred to in paragraph (1)(a) of article 60 of the *Regulated Activities Order* (Plans covered by insurance or trust arrangements), or interests under a trust of the kind referred to in paragraph 1(b) of article 60 of the *Regulated Activities Order* (Plans covered by insurance or trust arrangements);

(c) any other *specified investment*.

*risk capital margin*

FCA PRA

the risk capital margin for a *with-profits fund* calculated in accordance with the rules in INSPRU 1.3.43R to INSPRU 1.3.103G.

*risk capital requirement*

FCA PRA

(1) (in relation to the *appropriate regulator's rules*) one of the following:

(a) the *credit risk capital requirement*;

(b) the *fixed overheads requirement*;

(c) the *market risk capital requirement*; or

(d) the *operational risk capital requirement*; or

(2) (in relation to the rules of another *regulatory body*) whatever corresponds to the items in (1) under the rules of that *regulatory body*.

*risk concentration*

FCA PRA

(in accordance with Article 2(19) of the *Financial Groups Directive* (Definitions)) all exposures with a loss potential borne by entities within a *financial conglomerate*, which are large enough to threaten the solvency or the financial position in general of the *regulated entities* in the *financial conglomerate*; such exposures may be caused by counterparty risk, credit risk, investment risk, insurance risk, market risk, other risks, or a combination or interaction of these risks.

*risk factors*

FCA PRA

(in PR) (as defined in the *PD Regulation*) a list of risks which are specific to the situation of the issuer and/or the securities and which are material for taking investment decisions.

*risk limit system*

FCA PRA

(in COLL and in accordance with article 40(2)(d) of the *UCITS implementing Directive*) a documented system of internal limits concerning the measures used by a *management company* to manage and control the relevant risks for each *UCITS* it manages, taking into account all the risks which may be material to the *UCITS*, as referred to in the second paragraph of article 38(1) of the *UCITS implementing Directive* and ensuring consistency with the *UCITS'* risk profile.

*risk position*

FCA PRA

(in accordance with Part 1 of Annex III of the *Banking Consolidation Directive* (Definitions) and for the purpose of ■ BIPRU 13 (The calculation of counterparty risk exposure values for financial derivatives, securities financing transactions and long settlement transactions)) a risk number that is assigned to a transaction under the *CCR standardised method* following a predetermined algorithm.

*risk weight*

FCA PRA

(in relation to an *exposure*) a degree of risk expressed as a percentage assigned to that *exposure* in accordance with whichever is applicable of the *standardised approach* to credit risk and the *IRB approach*, including (in relation to a *securitisation position*) under ■ ■ BIPRU 9 (Securitisation).

*risk weighted exposure amount*

FCA PRA

(in relation to an *exposure*) the value of an *exposure* for the purposes of the calculation of the *credit risk capital component* after application of a *risk weight*.

RMAR

FCA PRA

(in *SUP*) a Retail Mediation Activities Return, containing data specified in ■ SUP 16 Annex 18A R and relevant to the *firm's* type and *regulated activities*.

ROIE

FCA PRA

*recognised overseas investment exchange*.

*rolling spot forex contract*

FCA PRA

either of the following:

(a) a *future*, other than a *future* traded or expressed to be as traded on a *recognised investment exchange*, where the property which is to be sold under the contract is foreign exchange or sterling; or

(b) a *contract for differences* where the profit is to be secured or loss avoided by reference to fluctuations in foreign exchange; and

in either case where the contract is entered into for the purpose of speculation.

*rollover risk*

FCA PRA

(in accordance with Part 1 of Annex III of the *Banking Consolidation Directive* (Definitions) and for the purpose of ■ BIPRU 13 (The calculation of counterparty risk exposure values for financial derivatives, securities financing transactions and long settlement transactions)) the amount by which *expected positive exposure* is understated when future transactions with a counterpart are expected to be conducted on an ongoing basis; the additional *exposure* generated by those future transactions is not included in calculation of *expected positive exposure*.

*roll-up of interest mortgage*

FCA PRA

a *regulated mortgage contract* where no payment of interest on the amount borrowed (other than interest charged when all or part of the amount borrowed is repaid voluntarily by the *customer*), is due or capable of becoming due while the *customer* continues to occupy the mortgaged property as his main residence and fulfil his obligations under the *regulated mortgage contract*.

RPI

FCA

the Retail Prices Index.

RPPD

FCA PRA

the Regulatory Guide which contains a statement of the responsibilities of providers and distributors for the fair treatment of *customers*.

RSRB  
permission

FCA PRA

(in FEES) an *authorisation* to carry on one or more *regulated sale and rent back activities*.

rule

FCA PRA

(in accordance with section 417(1) of the *Act* (Definitions)) a rule made by the FCA or the PRA under the *Act*, including:

- (a) a *Principle*; and
- (b) an *evidential provision*.

rule on use of  
dealing  
commission

FCA PRA

■ COBS 11.6.3 R.

running-account  
credit

FCA PRA

(in accordance with section 10(1)(a) of the Consumer Credit Act 1974) a facility under a contract by which the *customer* is enabled to receive from time to time (whether in his own person, or by another person) from the *firm* or a third party cash, goods and services (or any of them) to an amount or value such that, taking into account payments made by or to the credit of the customer, the credit limit (if any) is not at any time exceeded.



# Principles for Businesses



Principles for Businesses

# Chapter 1

## Introduction

## 1.1 Application and purpose

### Application

- 1.1.1** FCA PRA G The *Principles* (see ■ PRIN 2) apply in whole or in part to every *firm*. The application of the *Principles* is modified for *firms* conducting *MiFID business*, *incoming EEA firms*, *incoming Treaty firms* and *UCITS qualifiers*. ■ PRIN 3 (Rules about application) specifies to whom, to what and where the *Principles* apply.

### Purpose

- 1.1.2** FCA G The *Principles* are a general statement of the fundamental obligations of *firms* under the *regulatory system*. This includes provisions which implement the *Single Market Directives*. They derive their authority from the *appropriate regulator's* rule-making powers as set out in the *Act* and reflect the *statutory objectives*.

- 1.1.3** G [deleted]

### Link to fit and proper standard in the threshold conditions

- 1.1.4** FCA PRA G In substance, the *Principles* express the main dimensions of the "fit and proper" standard set for *firms* in *threshold condition 5* (Suitability), although they do not derive their authority from that standard or exhaust its implications. Being ready, willing and organised to abide by the *Principles* is therefore a critical factor in applications for *Part 4A permission*, and breaching the *Principles* may call into question whether a *firm* with *Part 4A permission* is still fit and proper.

### Taking group activities into account

- 1.1.5** FCA PRA G *Principles* 3 (Management and control), 4 (Financial prudence) and (in so far as it relates to disclosing to the *appropriate regulator*) 11 (Relations with regulators) take into account the activities of members of a *firm's group*. This does not mean that, for example, inadequacy of a *group* member's risk management systems or resources will automatically lead to a *firm* contravening *Principle* 3 or 4. Rather, the potential impact of a *group* member's activities (and, for example, risk management systems operating on a *group* basis) will be relevant in determining the adequacy of the *firm's* risk management systems or resources respectively.

### Standards in markets outside the United Kingdom

- 1.1.6** FCA PRA G As set out in ■ PRIN 3.3 (Where?), *Principles* 1 (Integrity), 2 (Skill, care and diligence) and 3 (Management and control) apply to world-wide activities in a *prudential context*. *Principle* 5 (Market conduct) applies to world-wide activities which might have a

## Non-designated investment business - clients that a firm may treat as an eligible counterparty for the purposes of PRIN

**FCA**

- 1.1** A *firm* may categorise the following types of *client* as an *eligible counterparty* for the purposes of *PRIN*:
- (1) a properly constituted government (including a quasi-governmental body or a government agency) of any country or territory;
  - (2) a central bank or other national monetary authority of any country or territory;
  - (3) a supranational whose members are either countries or central banks or national monetary authorities;
  - (4) a State investment body, or a body charged with, or intervening in, the management of the public debt;
  - (5) another *firm*, or an *overseas financial services institution*;
  - (6) any *associate* of a *firm* (except an *OPS firm*), or of an *overseas financial services institution*, if the *firm* or institution consents;
  - (7) a *client* when he is classified as an *eligible counterparty* in accordance with 1.2; or
  - (8) a *recognised investment exchange, designated investment exchange, regulated market or clearing house*.
- 1.2** A *firm* may classify a *client* (other than another *firm, regulated collective investment scheme, or an overseas financial services institution*) as an *eligible counterparty* for the purposes of *PRIN* under 1.1(7) if:
- (1) the *client* at the time he is classified is one of the following:
    - (a) a *body corporate* (including a *limited liability partnership*) which has (or any of whose *holding companies* or *subsidiaries* has) called up share capital of at least £10 million (or its equivalent in any other currency at the relevant time);
    - (b) a *body corporate* that meets (or any of whose holding companies or subsidiaries meets) two of the following tests:
      - (i) a balance sheet total of 12.5 million euros (or its equivalent in any other currency at the relevant time);
      - (ii) a net turnover of 25 million euros (or its equivalent in any other currency at the relevant time);
      - (iii) an average number of employees during the year of 250;
    - (c) a local authority or public authority;

- (d) a *partnership* or unincorporated association which has net assets of at least £10 million (or its equivalent in any other currency at the relevant time) (and calculated, in the case of a limited *partnership*, without deducting loans owing to any of the *partners*);
  - (e) a trustee of a trust (other than an *occupational pension scheme*, *SSAS*, *personal pension scheme* or *stakeholder pension scheme*) with assets of at least £10 million (or its equivalent in any other currency), calculated by aggregating the value of the cash and *designated investments* forming part of the trust's assets, but before deducting its liabilities;
  - (f) a trustee of an *occupational pension scheme* or *SSAS*, or a trustee or operator of a *personal pension scheme* or *stakeholder pension scheme* where the *scheme* has (or has had at any time during the previous two years):
    - (i) at least 50 members; and
    - (ii) assets under management of not less than £10 million (or its equivalent in any other currency at the relevant time); and
- (2) the *firm* has, before commencing business with the *client* on an *eligible counterparty* basis:
- (a) advised the *client* in writing that he is being categorised as an *eligible counterparty* for the purposes of *PRIN*;
  - (b) given a written warning to the *client* that he will lose protections under the *regulatory system*;
  - (c) for a *client* falling under (1)(a) or (b):
    - (i) taken reasonable steps to ensure that the written notices required by (a) and (b) have been delivered to a *person* authorised to take such a decision for the *client*; and
    - (ii) not been notified by the *client* that the *client* objects to being classified as an *eligible counterparty*;
  - (d) for a *client* falling under (1)(c), (d), (e) or (f):
    - (i) taken reasonable steps to ensure that the written notices required by (a) and (b) have been delivered to a *person* authorised to take such a decision for the *client*; and
    - (ii) obtained the *client's* written consent or is otherwise able to demonstrate that consent has been given.

## Principles for Businesses

### Schedule 4 Powers Exercised

#### Sch 4.1 G

[deleted]

#### Sch 4.2 G

[deleted]



# Senior Management Arrangements, Systems and Controls





## 1.1A Application

[Note: ESMA has also issued guidelines under article 16(3) of the ESMA Regulation covering:  
- various topics relating to automated trading and direct electronic access. See

<http://www.esma.europa.eu/content/Final-report-Guidelines-systems-and-controls-automated-trading-environment-trading-platforms> ;

and

- certain aspects of the MiFID suitability requirements which also deal with the system and control aspects of suitability. See <http://www.esma.europa.eu/content/Guidelines-certain-aspects-MiFID-suitability-requirements>.]

### 1.1A.1

FCA PRA

G

The application of this sourcebook is summarised at a high level in the following table. The detailed application is cut back in ■ SYSC 1 Annex 1 and in the text of each chapter.

Type of firm	Applicable chapters
<i>Insurer</i>	Chapters 2, 3, 11 to 18, 21
<i>Managing agent</i>	Chapters 2, 3, 11, 12, 18, 21
<i>Society</i>	Chapters 2, 3, 12, 18, 21
Every other <i>firm</i>	Chapters 4 to 12, 18, 19A , 21

### 1.1A.2

FCA PRA

G

The provisions in SYSC should be read in conjunction with ■ GEN 2.2.23 R to ■ GEN 2.2.25 G. In particular:

- (1) Provisions made by both the *FCA* and *PRA* may contain obligations for or references to *FCA-authorised persons*. ■ GEN 2.2.23 R limits the application of those provisions so that the *PRA* will only apply them in respect of *PRA-authorised persons* and not to such *FCA-authorised persons* as are included within the provision.
- (2) Provisions made by both the *FCA* and *PRA* may be applied by both regulators to *PRA-authorised persons*. Such provisions are applied by each regulator to the extent of its powers and regulatory responsibilities.

## 1.2 Purpose

### 1.2.1

FCA PRA

G

The purposes of SYSC are:

- (1) to encourage *firms' directors and senior managers* to take appropriate practical responsibility for their *firms' arrangements* on matters likely to be of interest to the *appropriate regulator* because they impinge on the *appropriate regulator's functions* under the *Act*;
- (2) to increase certainty by amplifying *Principle 3*, under which a *firm* must take reasonable care to organise and control its affairs responsibly and effectively, with adequate risk management systems;
- (3) to encourage *firms* to vest responsibility for effective and responsible organisation in specific *directors and senior managers* ; and
- (4) to create a common platform of organisational and systems and controls requirements for all *firms*.
- (5) [deleted]

### 1.2.2

[Deleted]

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# Senior Management Arrangements, Systems and Controls

**SYSC TP 1**  
**[Deleted]**



## Senior Management Arrangements, Systems and Controls

### SYSC TP 3 Remuneration code

1	R	[deleted]
2	R	[deleted]
3	R	[deleted]
4	G	[deleted]
5	G	[deleted]
6	R	Until 1 January 2012, SYSC 19A.3.54 R and SYSC 19A Annex 1 (on voiding and recovery) apply only in relation to a <i>firm</i> that was subject to the version of the <i>Remuneration Code</i> that applied before 1 January 2011.
[FCA][PRA]		
6A	R	(1) Paragraph (2) applies in relation to a <i>firm</i> that was not subject to the version of the <i>Remuneration Code</i> that applied before 1 January 2011 but satisfies at least one of the conditions set out in SYSC 19A.3.54 R (1B) to SYSC 19A.3.54 R (1D).
[FCA][PRA]		
		(2) Where this paragraph applies, a contravening provision that is contained in an agreement made before 3 November 2011 is not rendered void by SYSC 19A Annex 1.1R unless it is subsequently amended so as to contravene a rule to which SYSC 19A Annex 1.1R applies.
6B	G	The effect of 6R is to limit the provisions on voiding and recovery to <i>firms</i> which were subject to the version of the <i>Remuneration Code</i> which applied before 1 January 2011. That transitional provision comes to an end on 1 January 2012. A new limit providing for voiding to apply only in relation to certain types of firm is provided in SYSC 19A.3.54 R (1B) to SYSC 19A.3.54 R (1D). Paragraph 6AR applies to <i>firms</i> which become subject to the provisions on voiding after the transitional provision in 6R comes to an end. It prevents certain contravening provisions which predate the making of the new <i>rules</i> limiting the application of voiding from becoming void.
[FCA][PRA]		
7	G	(1) This <i>guidance</i> applies to a <i>firm</i> to which the <i>Remuneration Code</i> applies, where both of the following conditions are satisfied:
		(a) condition 1 is that the <i>firm</i> is a non-listed <i>firm</i> ; and
		(b) condition 2 is that any <i>parent undertaking</i> of the <i>firm</i> is a non-listed <i>undertaking</i> .
		(2) The <i>FSA</i> considers that, where each of the conditions set out below is satisfied, a <i>firm</i> to which this <i>guidance</i> applies might (but will not necessarily) be able to rely on the proportionality provisions of SYSC 4.1.2 R

and the *remuneration principles proportionality rule* (of SYSC 19A.3.3 R) to justify not complying with the requirement to pay at least 50% of variable *remuneration* in *shares* or other non-cash instruments (SYSC 19A.3.47 R).

- (a) Condition 1 is that the *firm* is taking the necessary steps to comply with the requirement as soon as reasonably possible and, in any event, by 1 July 2012.
  - (b) Condition 2 relates to the proportion of cash that would have been issued in *shares* or other non-cash instruments had SYSC 19A.3.47 R been complied with ("relevant cash"). The relevant cash should not be paid at the point in time that the *shares* or other non-cash instruments would have vested. This is because *shares* or other non-cash instruments continue to have risk-alignment features following vesting due to the requirement for the *firm* to apply an appropriate retention policy (SYSC 19A.3.47 R (2)). Instead, the *firm* should pay the relevant cash following a period of deferral, the length of which should mirror the retention policy that would have been applied had SYSC 19A.3.47 R been complied with. Where the relevant cash is already subject to deferral in accordance with SYSC 19A.3.49 R, this period of deferral should be added to the period determined under SYSC 19A.3.49 R. The relevant cash should be subject to performance adjustment in accordance with Remuneration Principle 12(h) (SYSC 19A.3.51 R to SYSC 19A.3.53 G) until it vests.
  - (c) Condition 3 is that the *firm* has adopted and is maintaining specific and effective arrangements, processes and mechanisms to manage the risks raised by its non-compliance with SYSC 19A.3.47 R.
- (3) The *guidance* in (1) to (2) ceases to have effect on 1 July 2012. As a result this *guidance* does not apply to *remuneration* which vests on or after 1 July 2012 (including *remuneration* awarded before 1 July 2012, but where deferral under SYSC 19A.3.49 R leads to it vesting on or after 1 July 2012).

## Senior Management Arrangements, Systems and Controls

### Schedule 4 Powers exercised

**Sch 4.1 G**

[deleted]

**Sch 4.2 G**

[deleted]



# The Fit and Proper test for Approved Persons



## The Fit and Proper test for Approved Persons

### Schedule 4 Powers exercised

#### Sch 4.1 G

[deleted]



# Financial Stability and Market Confidence Sourcebook



# Financial Stability and Market Confidence Sourcebook

## Schedule 4 Powers Exercised

### Sch 4.1 G

[deleted]



# Training and Competence



Qualification provider	Qualification	Activity Number(s)	Key
ACI The Financial Markets Association	ACI Diploma (provided it is accompanied by appropriate qualifications in Regulation and Ethics, Investment Principles and Risk and Personal Taxation)	2, 3, 12, 13	a
	ACI Dealing Certificate when combined with Chartered Institute of Securities and Investment (CISI) Introduction to Securities and Investments and one of the Regulatory units of the Investment Operations Certificate (IOC)	15, 17	4
	ACI Operations Certificate when combined with Chartered Institute of Securities and Investment (CISI) Introduction to Securities and Investments and one of the Regulatory units of the Investment Operations Certificate (IOC)		
Association of Accounting Technicians	Member	15, 16, 17, 18, 19	4
Association of Certified International Investment Analysts (ACIIA)	CIIA qualification (provided it is accompanied by appropriate qualifications in Regulation and Ethics, Investment Principles and Risk and Personal Taxation)	2, 3, 12, 13	a
	Certified International Investment Analyst (CIIA)	14 and 10	2
Association of Chartered Certified Accountants	Member or Affiliate	8	1
	Fellow or Associate	15, 16, 17, 18, 19	4
Association of Corporate Treasurers	Fellow or Associate	15, 16, 17, 18, 19	4
Association of International Wealth Management (AIWM)	Certified International Wealth Manager Diploma (CIWM)	2, 3, 12, 13	a
		14 and 10	1
Blackburn College - University Centre	Foundation Degree Award in Financial Services	4 and 6	a
Bournemouth University	BA in Financial Services (1995 to 2001)	4 and 6	b

Qualification provider	Qualification	Activity Number(s)	Key
Calibrand / Scottish Qualifications Authority	MA in Financial Services (1995 to 2001)		
	Post Graduate in Financial Services (1995 to 2001)		
CASS Business School	Diploma in Professional Financial Advice	4 and 6	a
	Diploma in Professional Financial Advice (NMBA - Alternative Assessment method)		
CFA Institute and the CFA Society of the UK	MSC in Banking and International Finance (provided it is accompanied by appropriate qualifications in Regulation and Ethics, Investment Principles and Risk and Personal Taxation)	2, 3, 12, 13	a
	MSC in Investment Management pre 2003 syllabus (provided it is accompanied by appropriate qualifications in Regulation and Ethics and Personal Taxation)	2, 3, 12, 13	b
CFA Institute and the CFA Society of the UK	Level 1 of CFA Program plus Investment Management Certificate (Level 4)		
	Completion of CFA Program plus Investment Management Certificate Unit 1: The investment environment (Level 4)	2, 3, 12, 13	a
	Holder of Associate qualification (associate member)		
	Level 1 of CFA Program plus Investment Management Certificate (Level 3)		
	Completion of CFA Program plus Investment Management Certificate Unit 1: UK Regulation and Markets (level 3)	2, 3, 12, 13	b
	Holder of Associate qualification (Fellow)		
	CFA Program (Level 1)	14 and 10	2
	Fellow or Associate by examination	8 14 and 10	1

Qualification provider	Qualification	Activity Number(s)	Key
CFA Society of UK (Formerly the UK Society of Investment Professionals/ Institute of Investment Management and Research (IIMR))		15, 16, 17, 18, 19	4
	Investment Management Certificate (Level 3 or 4)	14 and 10	2
	Investment Regulation and Practice Paper of the Associate Examination	15, 16, 17	5
	Investment Management Certificate (Level 4) plus other qualifications that meet specialist standards for advising on securities	2, 12	
	Investment Management Certificate (Level 4) plus other qualifications that meet specialist standards for advising on packaged products	4 and 6	a
	Investment Management Certificate (Level 4) plus other qualifications that meet specialist standards for advising on derivatives	3, 13	
	Investment Management Certificate (Level 3 or 4)	8	1
		15, 16, 17, 18, 19	4
		15, 16, 17	5
		14 and 10	1
	Investment Practice Paper (Unit 2) of Investment Management Certificate (Level 3 or 4)	14 and 10	2
	Chartered Alternative Investment Analysis Association (CAIA)		8
Investment Management Certificate Unit 1: UK Regulation and Markets (Level 3) or Investment Management Certificate Unit 1: The Investment Environment (Level 4)		8	3
		15, 16, 17, 19	5
		18	6
		14 and 10	3
CAIA Level 1 (provided it is accompanied by appropriate qualifications in Regulation and Ethics and Personal Taxation)		2, 12	b
Chartered Institute of Bankers in Ireland	Fellow or Associate	15, 16, 17, 18, 19	4

Qualification provider	Qualification	Activity Number(s)	Key
Chartered Institute of Bankers in Scotland	Diploma in Investment Planning (Existing Adviser) Post 2010 examination standards		
	Diploma in Investment Planning (New Adviser) Post 2010 examination standards		
	Diploma in Investment Planning (Retail Banking) (New Adviser) Post 2010 examination standards	4 and 6	a
	Diploma in Investment Planning (Retail Banking) (Existing Adviser) Post 2010 examination standards		
	Diploma in investment planning (work based assessment)		
	Associate (March 1992 to July 1994 syllabus (including top-up test))		
	Associate (post August 1994 syllabus)		
	Certificate in Investment Planning (Pre 17/09/2004)	4 and 6	b
	Chartered Banker (where candidates hold UK Financial Services and Investment modules)		
	Diploma in Investment Planning (current)		
	Associateship - (must include a pass in the Investment Paper)	2, 3, 12, 13	b
	Certificate in Investment Planning - Paper 1	15, 16, 18, 19	4
		15, 16, 17, 18, 19	5
	Certificate in Investment Planning	17	4
	Member or Associate	15, 16, 17, 18, 19	4
	Mortgage Advice and Practice Certificate	20	1
Certificate in Mortgage Advice and Practice (MAPC) (Pre 16/09/2004)	20, 21, 22	1	

Qualification provider	Qualification	Activity Number(s)	Key
	MAPC bridge paper plus entry requirements (Pre 31/10/2004)	20	1
	Certificate in Investment Planning - Paper 1 (Pre 16/09/2004)	20, 21, 22	3
	MAPC - Paper 1 (Pre 16/09/2004)	20	3
	Mortgage Advice and Practice Certificate - Paper 1 (Post 17/09/2004)	20, 21	3
	Equity Release Mortgage Advice and Practice Certificate (ERMAPC)		
	Lifetime Mortgage Advice and Practice Certificate	21, 22	1
	MAPC Bridge paper plus entry requirements (Pre 16/09/2004)		
	Certificate in Mortgage Advice and Practice (MAPC) (Pre 16/09/2004) - Paper 1	21, 22	3
	Equity Release Mortgage Advice and Practice Certificate (ERMAPC)	23	4
		23	5
		23	6
Chartered Institute of Management Accountants	Fellow or Associate	15, 16, 17, 18, 19	4
Chartered Institute of Public Finance and Accountancy	Fellow or Associate	15, 16, 17, 18, 19	4
Chartered Institute for Securities and Investment (CISI) - (Formerly the Securities and Investment Institute (SII); formerly The Securities Association)	Investment Advice Diploma (where candidate holds 3 modules including the private client advice module)	4 and 6	
	Investment Advice Diploma (where candidate holds 3 modules including the derivatives module)	3, 13	a
	Investment Advice Diploma (where candidate holds 3 modules including the securities module)	2, 12	
	Masters in Wealth Management (Post 2010 examination standards)	2, 3, 4 and 6, 12, 13	

Qualification provider	Qualification	Activity Number(s)	Key
	Certificate in Private Client Investment Advice and Management	2, 3, 4 and 6, 12, 13 14 and 10	b 1
	Certificate in Private Client Investment Advice and Management (attained through a CISI competency interview and presentation only)	2, 3, 4 and 6, 12, 13 14 and 10	b 1
	Diploma (where candidate holds 3 modules as recommended by the firm)	2, 3, 4 and 6, 12, 13	b
	Investment Advice Certificate	2, 3, 4 and 6, 12, 13	b
	Masters in Wealth Management (Pre 2010 examination standards)	2, 3, 4 and 6, 12, 13	b
	Member of the Securities Institute (MSI Dip) (where candidate holds 3 modules as recommended by the firm)	2, 3, 4 and 6, 12, 13	b
	Certificate in Corporate Finance	8 15, 16, 17, 18, 19	1 4
	Certificate in Derivatives - Paper 2	15, 16, 17, 18, 19	4
	Certificate in Investment and Financial Advice - Paper 1	21, 22	3
	Certificate in Investment Management	8 15, 16, 17, 19 15, 16, 17 14 and 10	1 4 5 1
	Certificate in Investment Management - Paper 2	8 14 and 10	2
	Certificate in Securities	8	1
	Certificate in Securities - Paper 2	15, 16, 17, 18, 19	4
	Certificate in Securities and Derivatives - Paper 2	19	4
	Certificate in Securities and Financial Derivatives	8	1
	Certificate in Securities and Financial Derivatives - Paper 2	15, 16, 17, 18	4

Qualification provider	Qualification	Activity Number(s)	Key
	Client Services Qualification	15, 16, 17, 18, 19	4
	Diploma	15, 16, 17, 18, 19	4
	Diploma - Corporate Finance Paper	8	2
	Diploma - Global Operations Management Module	15, 16, 17, 18, 19	4
		15, 16, 17	5
			6
	Diploma - International Operations Management Module	15	4
		15, 16	5
			6
			4
		17	5
			6
	Diploma - International Operations Module	16, 18, 19	4
	Diploma - Operations Management Module	15, 16, 17, 18, 19	4
		15, 17	5
		15, 16, 17	6
	Diploma - Regulation and Compliance Module	8	3
		14 and 10	
		15, 16, 17, 18, 19	5
	Diploma (must include a pass in Regulation and Compliance Paper)	8	1
	Diploma (where candidate holds 3 modules as recommended by the firm)	14 and 10	1
	Diploma in Corporate Finance	8	1
	Investment Administration Qualification - Asset Servicing Module	15, 16, 17	6
	Investment Administration Qualification - Basics of CREST Module	15, 16, 17	6
	Investment Administration Qualification - Bond Settlement Module	15, 16, 17	6

Qualification provider	Qualification	Activity Number(s)	Key
	Investment Administration Qualification - Collective Investment Schemes Administration Module	15, 16, 17	6
	Investment Administration Qualification - CREST Settlement Module	15, 16, 17	6
	Investment Administration Qualification - Derivatives Operations Module	15, 16, 17	6
	Investment Administration Qualification - Exchange - Traded Derivative Administration Module	15, 16, 17	6
	Investment Administration Qualification - FSA Regulatory Environment Module	15, 16, 17	5
	Investment Administration Qualification - Global Custody Module	15, 16, 17	6
	Investment Administration Qualification - Global Securities Operations Module	16, 17	6
	Investment Administration Qualification - Global Settlement Module	15, 16, 17	6
	Investment Administration Qualification - IMRO Regulatory Environment Module	8 14 and 10 15, 16, 17, 18, 19	3 5
	Investment Administration Qualification - Introduction to Securities and Investment Module	15, 16, 17, 18, 19	4
	Investment Administration Qualification - ISA Administration Module	15, 16, 17	6
	Investment Administration Qualification - ISA and CTF Administration Module	17	6
	Investment Administration Qualification - ISA and PEP Administration Module	15, 16, 17	6

Qualification provider	Qualification	Activity Number(s)	Key
	Investment Administration Qualification - Life Policy Administration Module	18	6
	Investment Administration Qualification - OEIC Administration Module	15, 16, 17	6
	Investment Administration Qualification - Operational Risk Module	15, 16, 17	6
	Investment Administration Qualification - OTC Derivatives Administration Module	15, 16	6
	Investment Administration Qualification - Pensions Administration Module	19	6
	Investment Administration Qualification - PEP Administration Module	15, 16, 17	6
	Investment Administration Qualification - Portfolio Performance Measurement Module	15, 16	6
	Investment Administration Qualification - Private Client Administration Module	15, 16, 17	6
	Investment Administration Qualification - SFA Regulatory Environment Module	8 14 and 10	3
		15, 16, 17, 18	5
	Investment Administration Qualification - Unit 2 FSA Regulatory Environment - (Formerly the Investment Administration Qualification - Regulatory Environment Module)	8 14 and 10	3
		18, 19	5
	Investment Administration Qualification - Unit Trust Administration Module	15, 16, 17	6
	Investment Advice Certificate	14 and 10	1
	Investment Advice Certificate - Paper 1	15, 16, 17, 18, 19	4
			5
	Investment Advice Certificate - Paper 1 (No new registrations)	20, 21, 22	3

Qualification provider	Qualification	Activity Number(s)	Key
	Investment Advice Certificate - Paper 2	18, 19	6
	Investment Advice Diploma (where candidates hold technical modules as recommended by the firm)	14 and 10	1
	Investment Operations Certificate - Asset Servicing Module	15, 16, 17	6
	Investment Operations Certificate - Collective Investment Schemes Administration Module	15, 16, 17	6
	Investment Operations Certificate - CREST Settlement Module	15, 16, 17	6
	Investment Operations Certificate - Exchange - Traded Derivative Administration Module	15, 16, 17	6
	Investment Operations Certificate - FSA Financial Regulation Module	8 14 and 10	3
		15, 16, 17, 18, 19	5
	Investment Operations Certificate - Global Securities Module	17	6
	Investment Operations Certificate - Global Securities Operation Module	16	6
	Investment Operations Certificate - Introduction to Securities and Investment Module	15, 16, 17, 18, 19	4
	Investment Operations Certificate - ISA Administration Module	15, 16, 17	6
	Investment Operations Certificate - Operational Risk Module	15, 16, 17	6
	Investment Operations Certificate - OTC Derivatives Administration Module	15, 16	6
	Investment Operations Certificate - Administration of Settlement & Investments Module (previously known as the Private Client Administration Module)	15, 16, 17	6

Qualification provider	Qualification	Activity Number(s)	Key
	Level 3 Certificate in Investments (Derivatives) - Unit 3	15, 16, 17, 18, 19	4
	Level 3 Certificate in Investments (Investment Management)	14 and 10	1
		15, 16, 17, 18, 19	4
		15, 16, 17	5
	Level 3 Certificate in Investments (Investment Management) - Unit 5	8	
		14 and 10	2
	Level 3 Certificate in Investments (Securities and Financial Derivatives)	8	1
		15, 16, 17, 18, 19	4
	Level 3 Certificate in Investments (Securities)	8	1
	Level 3 Certificate in Investments (Securities) - Unit 2	15, 16, 17, 18, 19	4
	Level 6 Diploma in Wealth Management	14 and 10	1
	Masters in Wealth Management	14 and 10	1
	Member of the Securities Institute by examination	15, 17, 19	4
	Principles of Financial Regulation	8	3
		18, 19	5
	SFA Corporate Finance Representative Examination	8	1
		15, 16, 17, 18, 19	4
	SFA Futures and Options Representative Examination	15, 16, 17, 18, 19	4
		15, 16, 17	5
	SFA Registered Persons Examination - Section 1 (Regulation)	8	
		14 and 10	3
		15, 16, 17, 18, 19	5
	SFA Securities and Financial Derivatives Representative Examination	8	1
		15, 16, 17, 18, 19	4
		15, 16, 17	5
	SFA Securities Representative Examination	8	1
		15, 16, 17, 18, 19	4
		16, 17	5

Qualification provider	Qualification	Activity Number(s)	Key	
	TSA Registered Representative Examinations	8	1	
		15, 16, 17, 18, 19	4	
		15, 16	5	
	Unit 1 - Financial Regulation	14 and 10	3	
	Unit 1 Financial Regulation (Formerly the Securities Institute Regulatory Paper)	8	3	
		15, 16, 17, 18, 19	5	
	Unit 6 - Principles of Financial Regulation	14 and 10	3	
		15, 16, 17	5	
	Chartered Insurance Institute	Certificate in Securities Advice and Dealing	2, 12	a
		Diploma in Regulated Financial Planning		
		Diploma in Regulated Financial Planning (attained through a CII alternative assessment day)	4 and 6	a
		Fellow or Associate (life and pensions route only)	2, 3, 12, 13	b
		Advanced Financial Planning Certificate	2, 3, 4 and 6, 12, 13	b
Diploma in Financial Planning				
Fellow (FCII) (where candidates hold appropriate life and pensions modules)				
Fellow (FLIA Dip)				
Advanced Diploma in Financial Planning		4 and 6	b	
Associate (ACII) (where candidate holds appropriate life and pension modules)				
Associate (ALIA Dip)				
Diploma in Financial Planning plus a pass in J12: Securities advice and dealing	14 and 10	1		
Certificate in Financial Planning plus the Award in Long Term Care Insurance	7	1		

Qualification provider	Qualification	Activity Number(s)	Key
	G80 paper of Advanced Financial Planning Certificate (October 2004) plus appropriate exam requirements for TC 2.1.4R(1)(f)		
	G70 Paper of the Advanced Financial Planning Certificate	8	1
	Award in London Market Insurance	9	1
	Fellow or Associate including three pensions-related subjects as confirmed by the examining body		
	G60 paper of Advanced Financial Planning Certificate	11	1
	Unit AF3 of the Advanced Diploma in Financial Planning		
	Certificate of Insurance Practice	18	4
	Certificate of Insurance Practice (life or pensions route)		
	FA1 - Life office administration		
	Fellow or Associate (life and pensions route only)	18	6
	Life assurance paper (735) from the Associateship		
	Certificate of Insurance Practice (Pensions route)	19	6
	Fellow or Associate (Pensions route)		
	Certificate in Mortgage Advice	20	1
	Certificate in Equity Release (Formerly known as Certificate in Financial Planning and Lifetime Mortgages)	21	1
	Certificate in Equity Release	22	1
		23	4
		23	5
		23	6
	Advanced Financial Planning Certificate (must include a pass in G70 paper)	14 and 10	1

Qualification provider	Qualification	Activity Number(s)	Key
	Certificate in Discretionary Investment Management		
	Fellow or Associate	15, 16, 17, 18, 19	4
	Financial Planning Certificate - Paper 1	15, 16, 17, 18, 19	4
		15, 16, 17, 18, 19	5
	CF1 - UK financial services, regulation and ethics	18, 19	4
		18, 19	5
	FA2 - Pensions administration paper		
	Financial Planning Certificate - Paper 2	18, 19	6
	Pensions law, taxation and administration paper (740) from the Associateship		
	Certificate in Mortgage Advice - Paper 1	20, 21	3
Mortgage Advice Qualification (MAQ) plus entry requirements	20, 21, 22	1	
Financial Planning Certificate - Paper 1 (No new registrations after 17/12/2004)	20, 21, 22	3	
EFFAS Societies with accredited examinations	Certified European Financial Analyst	14 and 10	2
Faculty or Institute of Actuaries	Fellow or Associate or where the individual has passed all of the following modules CT1, CT2, CT4, CT5, CT6, CT7 and CT8	2, 3, 4 and 6, 12, 13	a
		14 and 10	1
	Associate - achieved by examination passed before 1 December 2001 (must include a pass in Subject 301 - Investment and Asset Management (syllabus in force from 1998))	14 and 10	1
	Associate - achieved by examination passed after 1 December 2001	14 and 10	2

Qualification provider	Qualification	Activity Number(s)	Key
	(must include a pass in subject 301 - Investment and Asset Management (syllabus in force from 1998)		
	Fellow - achieved by examination (must include a pass in subjects 301 and 401 Investment and Asset Management (syllabus in force from 1998))	14 and 10	1
	Fellow or Associate	11	1
		16, 17, 18, 19	4
		18, 19	6
	Fellow or Associate by examination (must include Investment Paper E (Syllabus in force until 1998))	14 and 10	1
	Fellow or where the individual has passed all of the following modules CA1 and SA2	18	4
Financial Industry Regulatory Authority (FINRA) - Formerly the National Association of Securities Dealers (NASD)	Series 7 - General Securities Representatives Examination (provided it is accompanied by appropriate qualifications in Regulation and Ethics and Personal Taxation)	2, 3, 12, 13	b
Financial Skills Partnership (formerly the Financial Services Skills Council (FSSC))	FSSC Advanced Apprenticeship in Advising on Financial Products (Long Term Care Insurance Pathway)	7	1
	FSSC Advanced Apprenticeship in Retail Financial Services (Investment Administration Pathway including either Asset Servicing / CREST Settlement / Global Securities or ISA and CTF Administration)	17	6
	FSSC Advanced Apprenticeship in Retail Financial Services (Investment Administration Pathway including FSA Regulatory Environment or Principles of Financial Regulation)	17	5

Qualification provider	Qualification	Activity Number(s)	Key
	FSSC Advanced Apprenticeship in Retail Financial Services (investment Administration Pathway including the Introduction to Securities and Investment module)	17	4
	FSSC Advanced Apprenticeship in Retail Financial Services (Long Term Insurance Pathway including CF1)	18	4
	FSSC Advanced Apprenticeship in Retail Financial Services (Long Term Insurance Pathway including CF1)	18	5
	FSSC Advanced Apprenticeship in Retail Financial Services (Long Term Insurance Pathway including CF1 and either FA1 or FA2)	18	6
	FSSC Advanced Apprenticeship in Retail Financial Services (Long Term Insurance Pathway including CF1 and FA2)	19	1
	FSSC Advanced Apprenticeship in Advising on Financial Products (Mortgage Advice Pathway)	20	1
ICMA Centre/ University of Reading (Formerly ISMA Centre/ University of Reading)	Diploma in Capital Markets, Regulation and Compliance	17	5
	Operations Certificate Programme (OCP)	16, 17	6
ifs School of Finance (formerly the Chartered Institute of Bankers)	Diploma for Financial Advisers (post 2010 examination standards)		
	Professional Certificate in Banking (PCertB) (where candidate has passed the Practice of Financial Advice module)	4 and 6	a
	Associateship - (must include a pass in the Investment / Investment Management Paper)	2, 3, 4 and 6, 12, 13	b
	Diploma for Financial Advisers (pre 2010 examination standards)	4 and 6	b
	Professional Investment Certificate		

Qualification provider	Qualification	Activity Number(s)	Key
	Certificate for Financial Advisers and Certificate in Long-term Care Insurance	7	1
	Pensions paper of Professional Investment Certificate	11	1
	Certificate for Financial Advisers - Paper 1	15	5
	Fellow or Associate	15, 16, 17, 18, 19	4
	Certificate for Financial Advisers - Paper 1 (Pre 31/10/2004)	15, 16, 17, 18, 19	4
		20, 21, 22	5
			3
	Certificate for Financial Advisers - Paper 1 (Post 01/11/2004)	18, 19	4
			5
	Certificate for Financial Advisers - Paper 2 (Pre 31/10/2004)	18, 19	6
	CeMAP Bridge paper plus entry requirements	20	1
	Certificate in Mortgage Advice and Practice (Post 01/11/2004)	20	1
	Diploma for Mortgage Advice and Practice DipMAP (plus entry requirements)	20	1
	CeMAP bridge paper plus entry requirements (Pre 31/10/2004)	21, 22	1
	Certificate in Mortgage Advice and Practice (CeMAP) (Pre 31/10/2004) - Paper 1	20, 21	3
	Certificate in Mortgage Advice and Practice (Post 01/11/2004) - Paper 1	20, 21	3
	Certificate in Mortgage Advice and Practice (CeMAP) (Pre 31/10/2004)	20, 21, 22	1
	Certificate in Regulated Equity Release (Formerly known as Certificate in Lifetime Mortgages)	21, 22	1
		23	4
		23	5
		23	6

Qualification provider	Qualification	Activity Number(s)	Key	
Institute of Chartered Accountants in England and Wales	Fellow or Associate	8	1	
		15, 16, 17, 18, 19	4	
	Initial Test of Competence	18, 19	6	
Institute of Chartered Accountants in Ireland	Fellow or Associate	8	1	
		15, 16, 17, 18, 19	4	
	Initial Test of Competence	19	6	
Institute of Chartered Accountants in Scotland	Member	8	1	
		15, 16, 17, 18, 19	4	
	Initial Test of Competence	19	6	
Institute of Chartered Secretaries and Administrators	Certificate in Collective Investment Scheme Administration		4	
			5	
			6	
			19	4
	Certificate in Company Secretarial Practice and Share Registration Practice (including the Regulatory module within the examination)		4	
			5	
			6	
	Fellow or Associate	15, 16, 17, 18, 19	4	
Institute of Financial Planning	Certified Financial Planner Fellowship	4 and 6	b	
Insurance Sector Education and Training Authority	National Diploma: Financial Services Long-Term Risk Assessment	7	2	
Investment Management Association	Investment Administration Management Award	15, 16, 17	6	
Investment Property Forum	IPF Certificate in Property Investment	14 and 10	2	
Japanese Bankers Association	Registered Representative of Public Securities Examination (pre-April 1990)	8	2	
	Representative of Public Securities Qualification - Class 1			
Japanese Securities Dealers Association	Representative of Public Securities Qualification - Type 1 (provided it is accompanied by appropriate qualifications in Regulation and	2, 3, 12, 13	b	

Qualification provider	Qualification	Activity Number(s)	Key
	Ethics, Investment Principles and Risk and Personal Taxation		
	Representative of Public Securities Examination (pre April 1990)	8	2
	Representative of Public Securities Qualification - Type 1		
Law Society of England and Wales	Module B(ii), Securities and Portfolio Management	8	2
	Module B(i), Retail Branded/ Packaged Products	18, 19	6
Law Society of England and Wales/ Law Society of Northern Ireland	Solicitor	15	4
Law Society of England and Wales/ Law Society of Scotland/ Law Society of Northern Ireland	Solicitor	17, 18, 19	4
Lloyd's	Lloyd's and London Market Introductory Test (Formerly the Lloyd's Introductory Test)	9	1
Lloyd's/ Chartered Insurance Institute	Lloyd's Market Certificate	9	1
London Stock Exchange (records are now kept by The Chartered Institute for Securities and Investment (CISI); Formerly the Securities and Investment Institute (SII); formerly The Securities Association)	London Stock Exchange Full Membership Exams (and other regional stock exchanges as merged with London Stock Exchange) - where candidate holds three or four papers or holds both the Stock Exchange Practice and Techniques of Investment papers	2, 3, 4 and 6, 12, 13 14 and 10	b 1
	Stock Exchange Registered Representative Examination	8 15, 16, 17, 18, 19 15, 16	1 4 5
Manchester Metropolitan University	BA (Hons) Financial Services, Planning and Management	2, 3, 4 and 6, 12, 13	a
N/A	In-house module (only where the firm can demonstrate that none of	15, 16, 17, 18, 19	6

Qualification provider	Qualification	Activity Number(s)	Key
	the listed examinations are appropriate)		
NIBE SVV the Dutch Institute for the Banking, Insurance and Stock-broking Industry	Examination	8	2
Pensions Management Institute	Diploma in Regulated Retirement Advice	4 and 6 11	a 1
	Fellow or Associate by examination	11	1
	Module 201: Providing for Retirement	19	4 5 6
	Fellow or Associate	15, 16, 17, 18, 19	4
Diploma in Member-Directed Pension Scheme Administration	18	6	
Fellow or Associate by examination	18, 19	6	
Sheffield Hallam University	BA in Financial Services (1995 to 2001)		
	MA in Financial Services (1995 to 2001)	4 and 6	b
	Post Graduate in Financial Services (1995 to 2001)		
Society of Investment Analysts in Ireland	Certificate in Investment Management (at least 3 papers passed by examination)	14 and 10	2
South African Institute of Financial Markets	Ordinary and Senior Certificates	8, 14 and 10	2
Swiss Finance Institute	Dual degree Executive MBA in Asset and Wealth Management	14 and 10	2
The Securities Analysts Association of Japan (SAAJ)	CMA Level 2 (for individuals advising before 30 June 2009)	2, 3, 12, 13	b
	CMA Level 2 (for individuals not advising before 30 June 2009 -		

Qualification provider	Qualification	Activity Number(s)	Key
	provided it is accompanied by appropriate qualifications in Regulation and Ethics, Investment Principles and Risk and Personal Taxation)		
	CMA Level 2	8	2
	Chartered Member	14 and 10	2
University of Stirling	BA in Finance	2, 4 and 6, 12	b
	BA in Finance and Accounting	2, 3, 4 and 6, 12, 13	b
	MSc in Finance	2, 3, 12, 13	b
	MSc in international Accounting and Finance (where candidates hold modules as recommended by the firm)	2, 3, 12, 13 8	b 2
	MSc in Investment Analysis	14 and 10 2, 3, 12, 13	1 b
University of the West of England	BA in Financial Services (1995 to 2001)		
	MA in Financial Services (1995 to 2001)	4 and 6	b
	Post Graduate in Financial Services (1995 to 2001)		



## Training and Competence

### Schedule 4 Powers exercised

**Sch 4.1 G**

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**Sch 4.2 G**

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# General Provisions



## General Provisions

### Schedule 4 Powers exercised

#### Sch 4.1 G

**FCA**

In this Schedule, references to *GEN* include the *Glossary*.

#### Sch 4.2 G

**FCA**

The following powers and related provisions in or under the *Act* have been exercised by the *FCA* to make the rules in *GEN*:

- Section 59 (Approval for particular arrangements)
- Section 73A (Part 6 Rules)
- Section 74 (The official list)
- Section 75 (Applications for listing)
- Section 77 (Discontinuance and suspension of listing)
- Section 79 (Listing particulars and other documents)
- Section 80 (General duty of disclosure in listing particulars)
- Section 81 (Supplementary listing particulars)
- Section 84 (Matters which may be dealt with by prospectus rules)
- Section 85 (Prohibition of dealing etc in transferable securities without approved prospectus)
- Section 87 (Election to have prospectus)
- Section 87A (Criteria for approval of prospectus by competent authority)
- Section 87B (Exemptions from disclosure)
- Section 87G (Supplementary prospectus)
- Section 88 (Sponsors)
- Section 89A (Transparency rules)
- Section 89B (Provision of voteholder information)
- Section 89C (Provision of information by issuers of transferable securities)
- Section 89D (Notification of voting rights held by issuer)
- Section 89E (Notification of proposed amendment of issuer's constitution)
- Section 89F (Transparency rules: interpretation etc)

Section 89G (Transparency rules: other supplementary provisions)

Section 89O (Corporate governance rules)

Section 89P (Primary information providers)

Section 96 (Obligations of issuers of listed securities)

Section 96A (Disclosure of information requirements)

Section 96C (Suspension of trading)

Section 101(2) (Part 6 Rules: general provisions)

Section 118(8) (Market abuse)

Section 136(2) (Funding of the legal assistance scheme)

Section 137A (The FCA's general rules)

Section 137B (FCA general rules: clients' money, right to rescind etc)

Section 137C (FCA general rules: cost of credit and duration of credit agreements)

Section 137D (FCA general rules: product intervention)

Section 137F (Rules requiring participation in benchmark)

Section 137H (General rules about remuneration)

Section 137O (Threshold condition code)

Section 137P (Control of information rules)

Section 137Q (Price stabilising rules)

Section 137R (Financial promotion rules)

Section 137T (General supplementary powers)

Section 138C (Evidential provisions)

Section 138D (Action for damages)

Section 192J (Rules requiring provision of information by parent undertakings)

Section 213 (The compensation scheme) (including as referred to in section 216(5) (Continuity of long-term insurance policies) and section 217(7) (Insurers in financial difficulties)

Section 214 (General)

Section 214A (Contingency funding)

Section 214D(13) (Contributions under section 214B: supplementary)

Section 215 (Rights of the scheme in insolvency)

Section 216 (Continuity of long-term insurance policies)

Section 217 (Insurers in financial difficulties)

Section 218(2)(b) (Annual report)

Section 218A (Regulators' power to require information)

Section 223 (Management expenses)

Section 223C (Payments in error)

Section 224F (Rules about relevant schemes)

Section 226 (Compulsory jurisdiction) (including as applied by regulation 125 of the *Payment Services Regulations*)

Section 226A (Consumer credit jurisdiction)

Section 229 (Awards)

Section 234 (Industry funding)  
 Section 238(5) (Restrictions on promotion)  
 Section 239 (Single property schemes)  
 Section 242 (Applications for authorisation of unit trust schemes)  
 Section 247 (Trust scheme rules)  
 Section 248 (Scheme particulars rules)  
 Section 278 (Rules etc as to scheme particulars)  
 Section 283(1) (Facilities and information in UK)  
 Section 286(4F) (Qualification of recognition)  
 Section 293 (Notification requirements)  
 Section 295 (Notification: overseas investment exchanges and overseas clearing houses)  
 Section 300B (Duty to notify proposal to make regulatory provision)  
 Section 332(1) (Rules in relation to persons to whom the general prohibition does not apply)  
 Section 340 (Appointment)  
 Part 3 (Penalties and Fees) of Schedule 1ZA (The Financial Conduct Authority)  
 Paragraph 12 (Funding of the relevant costs by authorised persons or payment service providers) of Part 2 (Funding) of Schedule 1A (Further provision about the Consumer Financial Education Body)  
 Paragraphs 19 (Establishment) and 20 (Services) of Schedule 3 (EEA Passport Rights)  
 Paragraphs 7(3) (Annual reports), 13 (Authority's procedural rules), 16B (Procedure for complaints etc) and 16D (Enforcement of money awards) of Schedule 17 (The Ombudsman Scheme)  
 Regulation 6 (FCA rules) of the *OEIC Regulations*  
 Article 15 (Record-keeping and reporting requirements relating to relevant complaints) of the *Ombudsman Transitional Order*  
 Articles 4 (Pending applications), 6 (Post-commencement applications), 9 (Article 9 defaults occurring before commencement), 9A (Contributions in relation to mesothelioma claims), 10 (Applications in respect of compulsory liability insurance), 12 (Applications under the new scheme) and 23 (Record-keeping and reporting requirements relating to pre-commencement) of the *compensation transitionals order*  
 Regulation 3 (Consumer contract requirements: modification of rule-making powers) of the Electronic Commerce Directive (Financial Services and Markets) Regulations 2002 (SI 2002/1775)  
 Regulation 2 (Power of the Authority to make rules under section 138 of the Financial Services and Markets Act 2000) of the Financial Services and Markets Act 2000 (Fourth Motor Insurance Directive) Regulations 2002 (SI 2002/2706)  
 Article 9 (Record-keeping and reporting requirements relating to relevant transitional complaints) of the *Mortgage and General Insurance Complaints Transitional Order*

## Sch 4.3 G

FCA

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3

The following additional powers have been exercised by the *FCA* to make the *rules* in *GEN*:

Regulation 2(3) (Application for permission) of the Capital Requirements Regulations 2006 (SI 2006/3221)

Regulations 82 (Reporting requirements), 86 (Proposal to take disciplinary measures) and 92 (Costs of supervision) of and paragraph 1 of Schedule 5 (Disciplinary powers) to the *Payment Services Regulations*

Regulations 49 (Reporting requirements) and 59 (Costs of supervision) of the *Electronic Money Regulations*

Regulations 8 (Applications for registration), 9 (Applications for admission to the register of issuers), 18 (Notification requirements), 20 (Material changes to the regulated covered bond), 24 (Requirements relating to the asset pool), 25 (Change of owner), 36 (financial penalties policy statement), 46 (Modifications of primary and secondary legislation) of, and paragraph 5 (fees) to the Schedule (Modifications to primary and secondary legislation) to, the *RCB Regulations*

#### Sch 4.4 G

##### FCA

The following powers and related provisions in the *Act* have been exercised by the *FCA* to issue the parts of the codes in *GEN*:

Section 64(2) (Conduct: statements and codes)

Section 119 (The code)

Section 120 (Provisions included in the Authority's code by reference to the City Code)

Section 121 (Codes: procedure)

#### Sch 4.5 G

##### FCA

The following powers and related provisions in the *Act* have been exercised by the *FCA* to issue the parts of the statements in *GEN*:

Section 63C(1) (Statement of policy)

Section 64 (Conduct: statements and codes)

Section 69 (Statement of policy) (including as applied by paragraph 1 of Schedule 5 to the *Payment Services Regulations* and paragraph 1 of Schedule 3 to the *Electronic Money Regulations*)

Section 88C (Action under section 88A: statement of policy)

Section 89S (Action under section 89Q: statement of policy)

Section 93 (Statement of policy)

Section 124 (Statement of policy)

Section 131J(1) (Statement of policy)

Section 138N (Temporary product intervention rules: statement of policy)

Section 169(9) (Investigations etc in support of overseas regulator) (including as applied by paragraph 3 of Schedule 5 to the *Payment Services Regulations* and paragraph 3 of Schedule 3 to the *Electronic Money Regulations*)

Section 192H (Statement of policy: directions under section 192C)

Section 192N (Imposition of penalties under section 192K: statement of policy)

Section 210 (Statements of policy) (including as applied by regulation 86(6) of the *Payment Services Regulations* and regulation 53 (6) of the *Electronic Money Regulations*)

Section 312J (Statement of policy under section 312F)

Section 395 (The Authority's procedures) (including as applied by paragraph 7 of Schedule 5 to the *Payment Services Regulations* and paragraph 8 of Schedule 3 to the *Electronic Money Regulations*)  
Section 404(3) (Consumer redress schemes)  
Section 404A (Rules under s404: supplementary)

**Sch 4.6 G****FCA**

The following additional powers and related provisions have been exercised by the *FCA* to issue the parts of the statements in *GEN*:

Regulation 42 (Guidance) of the *RCB Regulations*  
Regulation 44 (Warning notices and decision notices) of the *RCB Regulations*  
Regulation 93 (Guidance) of the *Payment Services Regulations*  
Regulation 14 (Guidance) of the *Cross-Border Payments in Euro Regulations*  
Regulation 60 (Guidance) of the *Electronic Money Regulations*  
Section 80 (Statement of policy under sections 73 to 79) of the Financial Services Act 2012

**Sch 4.7 G****FCA**

The following powers and related provisions in the *Act* have been exercised by the *FCA* in *GEN* to direct, require or specify:

Section 55U (Applications under this Part)  
Section 60 (Applications for approval)  
Section 137S (Financial promotion rules: directions given by FCA)  
Section 138A (Modification or waiver of rules)  
Section 179 (Requirements for section 178 notices)  
Section 218A (Authority's power to require information)  
Section 242 (Applications for authorisation of unit trust schemes)  
Section 250 (Modification or waiver of rules)  
Section 270(6)(b) (Schemes authorised in designated countries or territories)  
Section 274 (Applications for recognition of individual schemes)  
Section 279 (Revocation of recognition)  
Section 287 (Application by an investment exchange)  
Section 293A (Information: compliance with EU requirements)  
Section 294 (Modification or waiver of rules)  
Section 316 (Direction by Authority)  
Section 317 (The core provisions)  
Section 318 (Exercise of powers through Council)  
Paragraph 5(4) (Notice to UK Regulator) of Schedule 4 (Treaty Rights)  
Regulations 7(3) and (4) (Modification or waiver of FSA rules) and 12 (Application for authorisation) of the *OEIC Regulations*

**Sch 4.7A G****Sch 4.8 G****FCA**

The following additional powers and related provisions have been exercised by the *FCA* in *GEN* to direct, require or specify:

Regulation 49 (Reporting requirements) of the *Electronic Money Regulations*

**Sch 4.9 G****FCA**

The following power has been exercised by the *FCA* to make the complaints scheme in *GEN*:

Part 6 of the Financial Services Act 2012

**Sch 4.10 G****FCA**

The following powers in or under the *Act* have been exercised by the *FCA* to give the guidance in *GEN*:

Section 139A (Power of the *FCA* to give guidance)

Section 234G (Guidance)

**Sch 4.11 G****FCA**

The following additional powers have been exercised by the *FCA* to give the other *guidance* in *GEN*:

Article 14 (Guidance on continued provisions) of the Financial Services and Markets Act 2000 (Consequential Amendments and Transitional Provisions) (Credit Unions) Order 2002 (SI 2002/1501)

Articles 9D (Applications for certificates), 9F (Revocation of certificate on request), 9G (Obtaining information from certified persons etc) and 9H (Rules prohibiting the issue of electronic money at a discount) of the *Regulated Activities Order*

Regulation 93 (Guidance) of the *Payment Services Regulations*

Section 123 of the Banking Act 2009

Regulation 14 (Guidance) of the *Cross-Border Payments in Euro Regulations*

Regulation 60 (Guidance) of the *Electronic Money Regulations*

Regulation 15 of the Payments in Euro (Credit Transfers and Direct Debits) Regulations 2012 (SI 2012/3122)

**Sch 4.12 G****FCA**

GEN 2.1.8 R is made by *FOS Ltd* in exercise of its powers referred to in Schedule 4 to *DISP*.

# Fees Manual



## Chapter 3

# Application, Notification and Vetting Fees



### 3.1 Introduction

#### Application

**3.1.1** **R** This chapter applies to every *person* set out in column 1 of the Table of application, notification and vetting fees in ■ FEES 3.2.7 R and ■ FEES 3.2.7A R.  
**FCA** **PRA**

**3.1.1A** **R** A reference to *firm* in this chapter includes a reference to a *fee-paying payment service provider* and a *fee-paying electronic money issuer*.  
**FCA**

**3.1.2** **G** This chapter does not apply to:  
**FCA** **PRA**

- (1) an *EEA firm* that wishes to exercise an *EEA right*; or
- (2) an *EEA authorised payment institution*; or
- (3) an *EEA authorised electronic money institution*.

#### Purpose

**3.1.3** **G** The purpose of this chapter is to set out the *appropriate regulator* fee paying requirements on the persons set out in ■ FEES 1.1.2 R (1).  
**FCA** **PRA**

**3.1.4** **G** Most of the detail of what fees are payable by the persons referred to in ■ FEES 3.1.3 G is set out in ■ FEES 3 Annex 1 R - ■ FEES 3 Annex 10 R.  
**FCA** **PRA**

**3.1.5** **G**

- (1) The rates set for authorisation fees represent an appropriate proportion of the costs of the *appropriate regulator* in processing the application or exercise of *Treaty rights*.
- (2) [deleted]
- (3) [deleted]

**3.1.5A** **G** The fees for *collective investment schemes* reflect the estimated costs to the *FCA* of assessing applications and notifications. The level of fees payable in respect of an application or a notification will vary depending upon the provision of the *Act* under which it is made. This fee is adjusted when the *scheme* concerned is an *umbrella*.  
**FCA**

Document vetting and approval fees in relation to listing and prospectus rules

**FCA**

Part 1

Fee type	Fee amount
<b>Transaction vetting fees</b>	
Transaction vetting fees relate to specific events or transactions that an <i>issuer</i> might be involved in during the year.	
<b>Eligibility</b>	<p><b>New applicants for:</b></p> <p><i>standard listings</i> and, in respect of <i>companies</i> which satisfy the requirements of <b>LR 6.1.1A R</b>, <i>premium listings</i>; £[TBC]</p> <p><i>premium listings</i> in respect of <i>companies</i> which do not meet the requirements of <b>LR 6.1.1A R</b> £[TBC]</p>
Category 1	<i>Class 1 transactions</i> 6,270
Category 2	<i>Listing particulars for issuers of specialist securities (excluding Depository Receipts)</i> 2,750
Category 3	<i>All other vetting only transactions</i> 2,750
Category 4	<i>Supplementary listing particulars</i> 550
<b>Note:</b> The <i>standard listing</i> eligibility fee applies to all <i>standard listings</i> including Depository Receipts and new <i>issuers</i> of <i>debt securities</i> as well as <i>shares</i> .	

Part 2

These fees relate to approval or vetting of the documents referred to in the second column of this table arising in relation to specific events or transactions that an *issuer*, *offeror* or *person* requesting admission might be involved in during the year.

<b>Category 1</b>	<b>Equity <i>prospectus</i> or <i>listing particulars</i></b>	<b>6,270</b>
	<i>Equivalent document</i> referred to in PR 1.2.2R(2) or (3) or PR 1.2.3R(3) or (4)	
	<b>Depository Receipt <i>prospectus</i> or <i>listing particulars</i>, or</b>	
	<i>convertible securities</i> or <i>asset backed security prospectus</i> or <i>listing particulars</i>	
<b>Category 2</b>	<b>Equity <i>registration document</i></b>	<b>3,520</b>
<b>Category 3</b>	<b>Equity <i>securities note</i> and <i>summary</i></b>	<b>2,750</b>
	<b>Summary document referred to in PR 1.2.3R(8)</b>	
<b>Category 4</b>	<b>Non-equity <i>prospectus</i> or <i>base prospectus</i></b>	<b>2,750</b>
	<i>Equivalent document</i> referred to in PR 1.2.2R(2) or (3) or PR 1.2.3R(3) or (4)	
<b>Category 5</b>	<b>Non-equity <i>registration document</i></b>	<b>1,925</b>
<b>Category 6</b>	<b>Non-equity <i>securities note</i> and <i>summary</i></b>	<b>825</b>
	<b>Summary document referred to in PR 1.2.3R(8)</b>	
<b>Category 7</b>	<b><i>Supplementary prospectus</i> and any details produced in a document in relation to LR 16.3.6 R.</b>	<b>550</b>
<b>Category 8</b>	<b>Final Terms</b>	<b>25</b>

For the purposes of categories 1-3 of this fee schedule, equity does not include convertible securities or depository receipts. These are treated as non-equity.

Where a fee in category 6 or 8 of this fee schedule is payable, the listing application fee under ■ FEES 3 Annex 4 R Part 1 does not apply.

Fees from other fee schedules contained in other sections of the sourcebook may be applicable to a single submission.

Certain transactions may come within the category of super or significant transactions and thus attract a higher fee, as set out in ■ FEES 3.2.7 R(q) and ■ FEES 3.2.7 R(v) .

4.3.3

FCA PRA

R

### Calculation of periodic fee (excluding fee-paying payment service providers and fee-paying electronic money issuers)

The periodic fee referred to in ■ FEES 4.3.1 R is (except in relation to the *Society*, *fee-paying payment service providers* and *fee-paying electronic money issuers*) calculated as follows:

- (1) identify each of the tariffs set out in Part 1 of ■ FEES 4 Annex 2AR and Part 1 of ■ FEES 4 Annex 2BR which apply to the business of the *firm* for the period specified in that annex;
- (2) for each of the applicable tariffs, calculate the sum payable in relation to the business of the *firm* for that period;
- (3) add together the amounts calculated under (2) in relation to fees payable to the *FCA* and, if applicable, separately add together the amounts calculated under (2) in relation to the fees payable to the *PRA*;
- (4) work out whether an A.0 or a PA.0 minimum fee is payable under Part 2 of ■ FEES 4 Annex 2AR and Part 2 of ■ FEES 4 Annex 2BR and if so how much (except that that minimum fee is not payable again by a *firm* whose *permission* is extended if the fee was already payable before the extension) ;
  - (a) work out whether an AP.0 *FCA* prudential fee is payable under Part 2 of ■ FEES 4 Annex 2AR and if so how much;
  - (b) work out whether a PT.1 *PRA* transitional fee is payable under Part 2 of ■ FEES 4 Annex 2BR and if so how much;
- (5) add together the amounts calculated under (3), (4) and (4A) that relate to fees payable to the *FCA* and, if applicable, separately adding together the amounts calculated under (3), (4) and (4B) that relate to fees payable to the *PRA*; and
- (6) apply any applicable payment charge specified in ■ FEES 4.2.4 R, provided that:
  - (a) for payment by direct debit, successful collection of the amount due is made at the first attempt by the *FCA* (in its own capacity and, if applicable, in its capacity as agent for the *PRA*) ; or
  - (b) for payment by credit transfer, the amount due is received by the *FCA* (in its own capacity and, if applicable, in its capacity as agent for the *PRA*) on or before the due date.

**Calculation of periodic fee for fee-paying payment service providers and fee-paying electronic money issuers**

4.3.3A

FCA

R

The periodic fee referred to in ■ FEES 4.3.1 R in relation to *fee-paying payment service providers* and *fee-paying electronic money issuers* is calculated in accordance with ■ 1 R .

**Modification for firms with new or extended permissions**

4.3.4

FCA PRA

G

- (1) A *firm* which becomes authorised or registered during the course of a *fee year* will be required to pay a proportion of the periodic fee which reflects the proportion of the year for which it will have a *permission* or the right to provide particular *payment services* or the right to issue *electronic money* - see ■ FEES 4.2.5 G and ■ FEES 4.2.6 R.
- (2) Similarly a *firm* which extends its *permission* or its right to provide particular *payment services* so that its business then falls within additional fee blocks will be required to pay a further periodic fee under this section for those additional fee blocks, but discounted to reflect the proportion of the year for which the *firm* has the extended permission or *payment services* activity - see ■ FEES 4.2.6 R and ■ FEES 4.2.7 R.
- (3) These provisions apply (with some changes) to *incoming EEA firms* , *incoming Treaty firms*, *EEA authorised payment institutions* and *EEA authorised electronic money institutions*.
- (4) These provisions do not apply to a *firm's* periodic fees in relation to its *permission* for *operating a multilateral trading facility* obtained from the FCA during the course of a *fee year*.

**Amount payable by the Society of Lloyd's**

4.3.5

FCA PRA

R

The periodic fee referred to in ■ FEES 4.3.1 R in relation to the *Society* is specified against its name in ■ FEES 4 Annex 2AR and ■ FEES 4 Annex 2BR .

**Time of payment**

4.3.6

FCA PRA

R

- (1) Subject to ■ FEES TP 8, if the *firm's*, *designated professional body's*, *recognised investment exchange's*, or *regulated covered bond issuer's* periodic fee for the previous *fee year* was at least £50,000, it must pay the FCA:
  - (a) an amount equal to 50% of the FCA periodic fee payable for the previous *fee year*, by 30 April or, if later, within 30 *days* of the date of the invoice, in the *fee year* to which the sum due under ■ FEES 4.2.1 R relates; and
  - (b) the balance of the FCA periodic fee due for the current *fee year* by 1 September or, if later, within 30 *days* of the date of the invoice, in the *fee year* to which that sum relates.
- (1A) Subject to ■ FEES TP 8, if the *firm* is also a *PRA-authorised person* and its periodic fee for the previous *fee year* was at least



**5.5A [Deleted]**



## 5.5B Case fees

### Application

- 5.5B.1** **R** ■ FEES 5.5B applies to *respondents*.  
FCA
- 5.5B.2** **G** VJ participants are included as a result of ■ DISP 4.2.6 R.  
FCA
- 5.5B.3** **R** Any firm falling into either *industry block 13* or *industry block 15* in ■ FEES 5 Annex 1 R is not required to pay any case fee in respect of *chargeable cases* relating to those *industry blocks*.  
FCA
- 5.5B.4** **G** The firms in *industry blocks 13* and *15* are cash plan health providers and small *friendly societies*. The case fee exemption takes into account that the amount in issue is likely to be small relative to the case fee. Instead, the full unit cost of handling complaints against these firms will be recovered through the setting of the relevant *general levy*.  
FCA
- 5.5B.5** **R** A *credit union* which is subject to the *minimum levy* in an *industry block* is not required to pay any case fee in respect of *chargeable cases* relating to that *industry block*.  
FCA
- 5.5B.6** **G** Arrangements similar to those for firms in *industry blocks 13* and *15* have been made for small *credit unions* under ■ FEES 5.5B.5 R.  
FCA
- 5.5B.7** **R** A firm, *payment service provider* or *electronic money issuer* which is exempt under ■ DISP 1.1.12 R is also exempt from ■ FEES 5.5B, save that it will only be exempt from ■ FEES 5.5B in any *financial year* if it met the conditions in ■ DISP 1.1.12 R on 31 March of the immediately preceding *financial year*.  
FCA

### Purpose

- 5.5B.8** **R** The purpose of ■ FEES 5.5B is to set out the requirements on *respondents* to pay fees in relation to cases referred to the *Financial Ombudsman Service*.  
FCA
- 5.5B.9** **R** These fees are towards funding the *Financial Ombudsman Service*, and are invoiced and collected directly by the *FOS Ltd*.  
FCA

**5.5B.10** **G** In each of the *Financial Ombudsman Service's* jurisdictions, the *annual budget* reflects the total expected to be raised by levies plus the total expected to be raised by case fees for the relevant *financial year*.  
**FCA**

**5.5B.11** **G** The amount of the case fees will be subject to consultation each year.  
**FCA**

**Standard case fee**

**5.5B.12** **R** **A respondent must pay to the FOS Ltd the standard case fee specified in ■ FEES 5 Annex 3R Part 1 in respect of each chargeable case relating to that respondent which is closed by the Financial Ombudsman Service, unless the respondent is identified as part of a charging group as defined in ■ FEES 5 Annex 3R Part 3.**  
**FCA**

**5.5B.13** **G** The exclusion of *respondents* that are identified as part of a *charging group* as defined in ■ FEES 5 Annex 3R Part 3 applies only from 1 April 2013. Those *respondents* continue to be liable for the standard case fee under ■ FEES 5.5B.12 R in respect of *chargeable cases* closed by the *Financial Ombudsman Service* before 1 April 2013.  
**FCA**

**5.5B.14** **R** **But a respondent will only be liable for, and the FOS Ltd will only invoice for, the standard case fee in respect of the 26th and subsequent chargeable cases in any financial year.**  
**FCA**

**5.5B.15** **G** Until 31 March 2004 a standard case fee was payable for every *chargeable case*. From 1 April 2004 to 31 March 2005 the standard case was payable for the third and subsequent *chargeable cases*. From 1 April 2005 to 31 March 2013 the standard case fee was payable for the fourth and subsequent *chargeable cases*. ■ FEES 5.5B.12 R does not apply retrospectively to *financial years* before 1 April 2013.  
**FCA**

**5.5B.16** **R** **A respondent must pay to the FOS Ltd any standard case fee which it is liable to pay under ■ FEES 5.5B and which is invoiced by the FOS Ltd within 30 calendar days of the date when the invoice is issued by the FOS Ltd.**  
**FCA**

**Supplementary Case fee**

**5.5B.17** **R** **A respondent must pay to the FOS Ltd the supplementary case fee specified in ■ FEES 5 Annex 3R Part 2 in respect of each chargeable case (PPI) relating to that respondent which is referred to the Financial Ombudsman Service, as well as any standard case fee under ■ FEES 5.5B.12 R, unless the respondent is identified as part of a charging group as defined in ■ FEES 5 Annex 3R Part 3.**  
**FCA**

**5.5B.18** **G** The exclusion of *respondents* that are identified as part of a *charging group* as defined in ■ FEES 5 Annex 3R Part 3 applies only from 1 April 2013. Those *respondents* continue to be liable for the supplementary case fee under ■ FEES 5.5B.17 R in respect of *chargeable cases (PPI)* referred to the *Financial Ombudsman Service* before 1 April 2013.  
**FCA**

**5.5B.19** **R** **Notwithstanding the above, a respondent will only be liable for, and the FOS Ltd will only invoice for the supplementary case fee in respect of the**  
**FCA**

26th and subsequent cases relating to that *respondent* that fall within  
■ FEES 5.5B.16 R in any *financial year*.

**Special case fee**

5.5B.20

FCA

R

If the *respondent* is identified as part of a *charging group* as defined in  
■ FEES 5 Annex 3R Part 3, the *charging group* must pay the special case  
fee calculated under ■ FEES 5 Annex 3R Part 4 (from 1 April 2013) instead  
of the *respondent* paying the standard case fee or the supplementary  
case fee.

5.5B.21

FCA

R

The *FOS Ltd*:

- (1) will invoice the special case fee as described in  
■ FEES 5 Annex 3R Part 4; and
- (2) may invoice the relevant *charging group* through any of the  
individual *respondents* in the relevant *charging group*.

5.5B.22

FCA

R

A *charging group* must pay to the *FOS Ltd* any special case fee (including  
any year-end adjustment) as described in ■ FEES 5 Annex 3R Part 4 within  
30 calendar *days* of the date when the invoice is issued by the *FOS Ltd*.

5.5B.23

FCA

R

In respect of the special case fee, individual *respondents* are jointly and  
individually liable for the obligations of the *charging group* of which  
they are identified as forming part in ■ FEES 5 Annex 3R Part 3.

**Leaving the Financial Ombudsman Service**

5.5B.24

FCA

R

Where a *respondent* ceases to be a *firm*, *payment service provider*,  
*electronic money issuer*, *licensee* or *VJ participant* (as the case may be)  
part way through a *financial year* it will remain liable to pay case fees  
under ■ FEES 5.5B in respect of cases within the jurisdiction of the  
*Financial Ombudsman Service*.

**Late payment and remission of case fees**

5.5B.25

FCA

R

If a *respondent* does not pay a case fee payable under ■ FEES 5.5B in full  
to the *FOS Ltd* before the end of the date on which it is due, that  
*respondent* must pay to the *FOS Ltd* in addition:

- (1) an administrative fee of £250; plus
- (2) interest on any unpaid amount at the rate of 5% per annum  
above the Official Bank Rate from time to time, accruing on a  
daily basis from the date on which the amount concerned  
became due.

5.5B.26

FCA

G

The *FOS Ltd* may take steps to recover any money owed to it (including interest).

July to 31 December (both dates inclusive) in the immediately preceding *financial year*.

*new chargeable cases (general) for all firms -*

**F =** twice the number of *chargeable cases (general)* referred to the *Financial Ombudsman Service* in respect of all *firms* (whether or not they are part of a *charging group*) from 1 July to 31 December (both dates inclusive) in the immediately preceding *financial year*.

*open chargeable cases (general) for group respondents -*

**G =** the number of *chargeable cases (general)* that were referred to the *Financial Ombudsman Service* in respect of *group respondents* before 1 January in the immediately preceding *financial year* which had not been closed before 1 January in the immediately preceding *financial year*.

*open chargeable cases (general) for all firms -*

**H =** the number of *chargeable cases (general)* referred to the *Financial Ombudsman Service* in respect of all *firms* (whether or not they are part of a *charging group*) before 1 January in the immediately preceding *financial year* which had not been closed before 1 January in the immediately preceding *financial year*.

(2) 'Proportion X' for each *charging group* is a percentage calculated as follows -

$$A / B \times 100$$

(3) 'Proportion Y' for each *charging group* is a percentage calculated as follows -

$$\{A + C\} / \{B + D\} \times 100$$

(4) 'Proportion Z' for each *charging group* is a percentage calculated as follows -

$$\{E + G\} / \{F + H\} \times 100$$

2 The special case fee is intended to broadly reflect the budgeted workload capacity of the *Financial Ombudsman Service* and comprises elements in respect of:

- (1) *new chargeable cases (PPI)*;
- (2) *closed chargeable cases (PPI)*; and
- (3) *closed chargeable cases (general)*;

with a free-case allowance of:

- (4) 125 *new chargeable cases (PPI)*; and
- (5) 125 *closed chargeable cases (general)*.

3 The special case fee for each *charging group* is a total amount calculated as follows:

(1) in respect of *new chargeable cases (PPI)* -

$$\{£350 \times [250,000] \times \text{the 'proportion X'}\} - \{£350 \times 125\}$$

(2) in respect of closed *chargeable cases (PPI)* -

£550 x [245,000] x the 'proportion Y'

(3) In respect of closed *chargeable cases (general)* -

{£550 x [140,000] x the 'proportion Z'} - {£550 x 125}

4 The *FOS Ltd* will invoice each *charging group* for the special case fee (calculated as above) in four equal instalments, payable in advance on the following dates during the *financial year*:

(1) 1 April (or, if later, when *FOS Ltd* has sent the invoice);

(2) 1 July;

(3) 1 October; and

(4) 1 January.

5 Year-end adjustment:

(1) If the actual number of new *chargeable cases (PPI)* referred to the *Financial Ombudsman Service* in respect of *group respondents* during the *financial year* is more than 115% of {[250,000] x the 'proportion X'}:

(a) the *FOS Ltd* will invoice the relevant *charging group*; and

(b) the relevant *charging group* will pay to *FOS Ltd*;

an additional £35,000 for each block of 100 (or part thereof) new *chargeable cases (PPI)* in excess of the 115%.

(2) If the actual number of *chargeable cases (general)* closed by the *Financial Ombudsman Service* in respect of *group respondents* during the *financial year* is more than 115% of {[140,000] x the 'proportion Z'}:

(a) the *FOS Ltd* will invoice the relevant *charging group*; and

(b) the relevant *charging group* will pay to *FOS Ltd*;

an additional £55,000 for each block of 100 (or part thereof) new *chargeable cases (PPI)* over the 115%.

(3) If the actual number of *chargeable cases (general)* closed by the *Financial Ombudsman Service* in respect of *group respondents* during the *financial year* is less than 85% of {[140,000] x the 'proportion Z'}, the *FOS Ltd* will promptly repay to the relevant *charging group* £55,000 for each block of 100 (or part thereof) closed *chargeable cases (general)* under the 85%.

**6.1.5** G The FSCS may impose three types of levy: a *management expenses levy* (consisting of a *base costs levy* and a *specific costs levy*), a *compensation costs levy* and a *MERS levy*. The FSCS has discretion as to the amount and timing of the levies imposed.

FCA PRA

**6.1.6** G In calculating a *compensation costs levy*, the FSCS may include *compensation costs* expected in the 12-month period following the date of the levy. The total amount of all *management expenses levies* attributable to a financial year may not exceed the amount set out on an annual basis in ■ FEES 6 Annex 1 R.

FCA PRA

**6.1.7** 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 eight *classes*: the *deposits class*; the *life and pensions provision class*; the *general insurance provision class*; the *investment provision class*; the *life and pensions intermediation class*; the *home finance intermediation class*; the *investment intermediation class* and the *general insurance intermediation class*. The *permissions* held by a *participant firm* determine into which *class*, or *classes*, it falls.

PRA

**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 twelve *classes*: the *deposits class*; the *life and pensions provision class*; the *general insurance provision class*; the *investment provision class*; the *life and pensions intermediation class*; the *home finance intermediation class*, the *investment intermediation class*; the *general insurance intermediation class*; the *deposit acceptor's contribution class*; the *insurers - life contribution class*; the *insurers - general contribution class*; and the *home finance providers and administrators' contribution class*. The *permissions* held by a *participant firm* determine into which *class*, or *classes*, it falls.

FCA

**6.1.8** G The provisions on the allocation of levies to *classes* up to their *levy limits* meet a requirement of section 213(5) of the *Act* that the *appropriate regulator*, in making rules to enable the FSCS to impose levies, must take account of the desirability of ensuring that the amount of the levies imposed on a particular class of *authorised person* reflects, so far as practicable, the amount of claims made, or likely to be made, in respect of that class of person.

FCA PRA

### The management expenses levy

**6.1.9** G Section 223 of the *Act* (Management expenses) prevents the FSCS from recovering, through a levy, any *management expenses* attributable to a particular period in excess of the limit set in *COMP* as applicable to that period. 'Management expenses' are defined in section 223(3) to mean expenses incurred or expected to be incurred by the FSCS in connection with its functions under the *Act*, except:

FCA PRA

- (1) expenses incurred in paying compensation;
- (2) expenses incurred as a result of the FSCS making the arrangements to secure continuity of insurance set out in ■ COMP 3.3.1 R and ■ COMP 3.3.2 R or taking the measures set out in ■ COMP 3.3.3 R and ■ COMP 3.3.4 R when a *relevant person* is an *insurer* in financial difficulties;
- (3) expenses incurred under section 214B or section 214D of the *Act* as a result of the FSCS being required by HM Treasury to make payments in connection with

the exercise of the stabilisation power under Part 1 of the Banking Act 2009;  
and

- (4) expenses incurred under Part XVA of the *Act* as a result of the *FSCS* being required by HM Treasury to act in relation to a *relevant scheme*.

6.1.10

FCA PRA

G

A *management expenses levy* may consist of two elements. The first is a *base costs levy*, for the base costs of running the *compensation scheme* in a financial year, that is, costs which are not dependent upon the level of activity of the *compensation scheme* and which therefore are not attributable to any specific *class*. Included in this category are items such as the salary of the members of the board of the *FSCS*, the costs of the premises which the *FSCS* occupies, and its audit fees. It would also likely include the cost of any insurance cover secured by *FSCS* against the risk of it paying claims out in circumstances where the *levy limit* of the particular *class* to which the claim would otherwise be attributable has exceeded its *levy limit* for the year, as the insurance cover is likely to benefit all *classes* which may have costs allocated to them if the *levy limit* of another *class* is breached. The amount that each *participant firm* pays towards a *base costs levy* is calculated by reference to the *regulatory costs* paid by the *firm*. All *participant firms* are liable to contribute towards a *base costs levy*.

6.1.11

PRA

G

The second element of a *management expenses levy* is a *specific costs levy* for the "specific costs" of running the *compensation scheme* in a financial year. These costs are attributable to a *class*, and include the salary costs of certain staff of the *FSCS* and claims handling and legal and other professional fees. It also may include the cost of any insurance cover that *FSCS* secures against the risk of *FSCS* paying out claims above a given level in any particular *class* (but below the *levy limit* for that *class* for the year). The *specific costs* are attributed to the *class* which is responsible for those costs. When the *FSCS* imposes a *specific costs levy*, the levy is allocated to the *class* which is responsible for those costs up to the relevant *levy limits*. The *FSCS* may include in a *specific costs levy* the *specific costs* that the *FSCS* expects to incur (including in respect of defaults not yet declared at the date of the levy) during the financial year of the *compensation scheme* to which the levy relates. The amount that each *participant firm* pays towards the *specific costs levy* is calculated by reference to the amount of business conducted by the *firm* in each of the *classes* to which the *FSCS* has allocated *specific costs*. Each *class* has a separate "tariff base" for this purpose, set out in ■ FEES 6 Annex 3 R. *Participant firms* may be exempt from contributing to the *specific costs levy*.

6.1.11A

FCA

G

The second element of a *management expenses levy* is a *specific costs levy* for the "specific costs" of running the *compensation scheme* in a financial year. These costs are attributable to a *class*, and include the salary costs of certain staff of the *FSCS* and claims handling and legal and other professional fees. It also may include the cost of any insurance cover that *FSCS* secures against the risk of *FSCS* paying out claims above a given level in any particular *class* (but below the *levy limit* for that *class* for the year). The *specific costs* are attributed to the *class* which is responsible for those costs. When the *FSCS* imposes a *specific costs levy*, the levy is allocated to the *class* which is responsible for those costs up to the relevant *levy limits*. *Specific costs* attributable to certain *classes*, which exceed the *class levy limits*, may be allocated to the *retail pool*. The *FSCS* may include in a *specific costs levy* the *specific costs* that the *FSCS* expects to incur (including in respect of defaults not yet declared at the date of the levy) during the financial year of the *compensation scheme* to which the levy relates. The amount that each *participant firm* pays towards the *specific costs levy* is calculated by reference to the amount of business conducted by the *firm* in each of the *classes* to which the *FSCS* has allocated *specific costs*. Each *class* has a separate "tariff base" for this

purpose, set out in ■ FEES 6 Annex 3A. *Participant firms* may be exempt from contributing to the *specific costs levy*.

6.1.12 [G] [deleted]

6.1.13 [G] The limit on the *management expenses* attributable to the forthcoming financial year of the FSCS. will be consulted on in January each year.  
 [FCA] [PRA]

**The compensation costs levy**

6.1.14 [G] In imposing a *compensation costs levy* in each financial year of the *compensation scheme* the FSCS will take into account the *compensation costs* which the FSCS has incurred and has not yet raised through levies, any recoveries it has had made using the rights that have been assigned to it or to which it is subrogated and those *compensation costs* it expects to incur (including in respect of defaults yet to be declared) over the 12 *months* following the date of the levy.  
 [FCA] [PRA]

6.1.15 [G] *Compensation costs* are principally the costs incurred in paying compensation. Costs incurred:  
 [FCA] [PRA]

- (1) in securing continuity of long-term insurance; or
- (2) in safeguarding eligible claimants when insurers are in financial difficulties; or
- (3) in making payments or giving indemnities under ■ COMP 11.2.3 R; or
- (4) as a result of the FSCS being required by HM Treasury to make payments in connection with the exercise of the stabilisation power under Part 1 of the Banking Act 2009; or
- (5) in paying interest, principal and other costs from borrowing to allow the FSCS to pay claims attributable to a particular *class*;

are also treated as *compensation costs*. *Compensation costs* are attributed to the *class* which is responsible for the costs. When the FSCS imposes a *compensation costs levy* the levy is allocated to the *class* which is responsible for the costs up to relevant *levy limits*. Certain *classes* may be funded, for *compensation costs levies* beyond the *class levy limit*, by the *retail pool*.

**Participant firms that are members of more than one class**

6.1.16 [G] If a *participant firm* is a member of more than one *class*, the total *compensation costs levy* and *specific costs levy* for that *firm* in a particular year will be the aggregate of the individual levies calculated for the *firm* in respect of each of the *classes* for that year. Each *class* has a *levy limit* which is the maximum amount of *compensation costs* and *specific costs* which may be allocated to a particular *class* in a financial year for the purposes of a levy.  
 [FCA] [PRA]

**The retail pool**

6.1.16A [G] The FCA has made *rules* providing that *compensation costs* and *specific costs* attributable to the intermediation *classes* and the investment provision *class*, which exceed the *class*  
 [FCA]

*levy limits*, may be allocated to the *retail pool*. Levies allocated to the *retail pool* are then allocated amongst the other such *classes*, together with certain *classes* (known as *FCA provider contribution classes*). The *FCA provider contribution classes* may contribute to *compensation costs levies* or specific costs levies funded by the *retail pool*, but not themselves receive any such funding. The *FCA provider contribution classes* have a different tariff structure to the other *classes*, based on *regulatory costs* (see ■ FEES 6.5A.6 R).

### Incoming EEA firms

6.1.17

FCA PRA

G

*Incoming EEA firms* which obtain cover or 'top up' under the provisions of ■ COMP 14 are *firms* whose *Home State* scheme provides no or limited compensation cover in the event that they are determined to be in default. Under ■ FEES 6.6, the FSCS is required to consider whether *incoming EEA firm's* should receive a discount on the amount that they would otherwise pay as their share of the levy, to take account of the availability of their *Home State* cover. The amount of any discount is recoverable from the other members of the *incoming EEA firm's class*.

## 6.3 The FSCS's power to impose levies

### Imposing management expenses and compensation costs levies

6.3.1

FCA PRA

R

The FSCS may at any time impose a *management expenses levy* or a *compensation costs levy*, provided that the FSCS has reasonable grounds for believing that the funds available to it to meet relevant expenses are, or will be, insufficient, taking into account expenditure already incurred, actual and expected recoveries and :

- (1) in the case of a *management expenses levy*, the level of the FSCS's expected expenditure in respect of those expenses in the financial year of the *compensation scheme* in relation to which the levy is imposed;
- (2) in the case of a *compensation costs levy*, the level of the FSCS's expected expenditure in respect of *compensation costs* in the 12 months immediately following the levy.

6.3.2

FCA PRA

G

The calculation of levies will also take into account previous levies, where funds raised in anticipation of meeting liabilities prove either more or less than the amount actually required.

6.3.2A

FCA PRA

G

The FSCS will usually levy once in each financial year (and in respect of *compensation costs*, for expenditure expected in the period of 12 months following 1 July in that year). However, if the *compensation costs* or *specific costs* incurred, or expected to be incurred, exceed the amounts held, or reasonably expected to be held, to meet those costs, the FSCS may, at any time during the financial year, do one or more of the following:

- (1) impose an interim *compensation costs levy* or *management expenses levy*; or
- (2) utilise other sources of funding such as commercial borrowing or other borrowing including from the National Loans Fund; or
- (3) utilise money collected from firms as set out in, and subject to, ■ FEES 6.3.17 R (Management of funds).

The FSCS will generally impose a levy rather than borrow or utilise funds as described in (3), unless the latter options appear to it to be preferable in the specific circumstances prevailing at the relevant time; for example, to address short-term liquidity issues, or in order to deal with a significant failure without having to wait for a levy to be imposed or collected.

- 6.3.3** FCA PRA G The *FSCS* has committed itself in Memorandum of Understanding with each of the *FCA* and the *PRA* to publish its policy in respect of levying.
- 6.3.4** FCA PRA G The discretion over levying in ■ FEES 6 also gives the *FSCS*, if it thinks this appropriate, the ability to use third parties as its agents in raising and collecting the levies.
- 6.3.4A** FCA PRA R **Imposing a MERS levy**  
The *FSCS* may at any time impose a *MERS levy* provided that the *FSCS* has reasonable grounds for believing that the funds available to it to meet relevant expenses are or will be insufficient, taking into account relevant expenses incurred or expected to be incurred in the 12 *months* following the date of the levy.
- 6.3.5** FCA PRA R **Limits on compensation costs and specific costs levies on classes**  
The maximum aggregate amount of *compensation costs* and *specific costs* for which the *FSCS* can levy each *class* in any one financial year of the *compensation scheme* is limited to the amounts set out in the table in ■ FEES 6 Annex 2 R.
- 6.3.6** FCA PRA R [deleted]
- 6.3.7** FCA PRA R [deleted]
- 6.3.8** FCA PRA R [deleted]
- 6.3.9** FCA PRA R [deleted]
- 6.3.10** FCA PRA R **Levy for compensation costs paid in error**  
The *FSCS* may include in a *compensation costs levy* the costs of compensation paid by the *FSCS* in error, provided that the payment was not made in bad faith.
- 6.3.11** FCA PRA R **Management of funds**  
The *FSCS* must hold any amount collected from a *specific costs levy* or *compensation costs levy* to the credit of the *classes* in accordance with the allocation established under ■ FEES 6.4.6 R and ■ FEES 6.5.2 R.
- 6.3.12** FCA PRA R Any funds received by the *FSCS* by way of levy or otherwise for the purposes of the *compensation scheme* are to be managed as the *FSCS* considers appropriate, and in doing this the *FSCS* must act prudently.
- 6.3.13** FCA PRA R Interest earned by the *FSCS* in the management of funds held to the credit of a *class* must be credited to that *class*, and must be set off against the *management expenses* or *compensation costs* allocated to that *class*.

- 6.3.14** **R** The *FSCS* must keep accounts which include:  
**FCA** **PRA**
- (1) the funds held to the credit of each *class* ; and
  - (2) the liabilities of that *class* .
- 6.3.15** **R** [deleted]
- 6.3.15A** **G** [deleted]
- 6.3.16** **G** [deleted]
- 6.3.17** **R**  
**FCA** **PRA**
- (1) The *FSCS* may use any money held to the credit of one *class*(the creditor *class*) to pay *compensation costs* or *specific costs* attributable or allocated by way of levy to another *class* (the debtor *class*) if the *FSCS* has reasonable grounds to believe that this would be more economical than borrowing funds from a third party or raising a levy.
  - (2) Where the *FSCS* acts in accordance with (1), it must ensure that:
    - (a) the creditor *class* is reimbursed by the debtor *class* as soon as possible;
    - (b) the debtor *class* pays interest at a rate equivalent to the Bank of England's repo rate from time to time in force; and
    - (c) the amount lent by the creditor *class* to the debtor *class* is taken into account by the *FSCS* when considering whether to impose a *compensation costs levy* on the creditor *class* under **■ FEES 6.3.1 R**.
- 6.3.18** **G**  
**FCA** **PRA**
- FEES 6.3.17 R** deals with how *FSCS* may use money available to it and does not affect the *rules* on levy allocation in **■ FEES 6.4**, **■ 6.5** and **■ 6.5A** .
- 6.3.19** **R**  
**FCA** **PRA**
- Unless **■ FEES 6.3.20 R** applies, any recoveries made by the *FSCS* in relation to *protected claims* must be credited to the *classes* to which the related *compensation costs* was attributable.
- 6.3.20** **R**  
**FCA** **PRA**
- (1) Where the *FSCS* makes recoveries in relation to *protected claims* where a related *compensation costs levy* would have been allocated to a *class* (class A) had the *levy limit* for class A not been reached and has been allocated to another *class* or *classes* in the *retail pool*, the recoveries must be applied:
    - (a) first, to the *classes* to which the costs levied were allocated in accordance with **■ FEES 6.5A** in the same proportion as those *classes* contributed, up to the total amount of that allocation

plus interest at a rate equivalent to the Bank of England's Official Bank Rate from time to time in force; and

(b) thereafter, to class A.

(2) This *rule* applies even though the recovery is made in a subsequent financial year.

(3) [deleted]

6.3.20A **G**

FCA PRA

Recoveries under ■ FEES 6.3.20 R are net of the costs of recovery.

6.3.21 **R**

FCA PRA

If the FSCS has more funds (whether from levies, recoveries or otherwise) to the credit of a *class* than the FSCS believes will be required to meet levies on that *class* for the next 12 months, it may refund the surplus to members or former members of the *class* on any reasonable basis.

#### Adjustments to calculation of levy shares

6.3.22 **R**

FCA PRA

The FSCS may adjust the calculation of a *participant firm's* share of any levy to take proper account of:

- (1) any excess, not already taken into account, between previous levies of that type imposed in relation to previous periods and the relevant costs actually incurred in that period; or
- (2) *participant firms* that are exempt from the levy under ■ FEES 6.2; or
- (3) amounts that the FSCS has not been able to recover from *participant firms* as a result of ■ FEES 6.3.5 R ; or
- (4) amounts that the FSCS has not been able to recover from *participant firms* after having taken reasonable steps; or
- (5) ■ FEES 2.3 (Relieving Provisions), ■ FEES 6.4.8 R (New participant firms), ■ FEES 6.5.9 R (New participant firms), ■ FEES 6.3.23 R (Remission of levy or additional administrative fee) or ■ FEES 6.6 (Incoming EEA firms); or
- (6) anything else that the FSCS believes on reasonable grounds should be taken into account.

6.3.22A **R**

FCA PRA

The FSCS may not adjust the calculation of a *participant firm's* share of any levy under ■ FEES 6.3.22 R on the grounds that it would be inequitable for that *firm* to pay that share or part of it or on the grounds that it would be inequitable for the FSCS to retain that share or part of it.



## 6.5 Compensation costs

6.5.1 **R** [deleted]

6.5.2 **R** The FSCS must allocate any *compensation costs levy*:

**PRA**

- (1) first, to the *classes* in proportion to the amount of *compensation costs* arising from, or expected to arise from, claims in respect of the different activities for which *firms* in those *classes* have *permission* up to the *levy limit* of each relevant *class*; and
- (2) thereafter, where the *levy limit* has been reached (whether as a result of *compensation costs* or *specific costs* or both) for a *class* whose attributable costs may be allocated to the *retail pool*, to the *retail pool* in accordance with ■ FEES 6.5A.

**Allocation: all classes except A, B and C**

6.5.2-A **R** The FSCS must allocate any *compensation costs levy*:

**FCA**

- (1) first, to the relevant *classes* in proportion to the amount of *compensation costs* arising from, or expected to arise from, claims in respect of the different activities for which *firms* in those *classes* have *permission* up to the *levy limit* of each relevant *class*. The *FCA provider contribution classes* are not relevant *classes* for this purpose; and
- (2) thereafter, where the *levy limit* has been reached (whether as a result of *compensation costs* or *specific costs* or both) for a *class* whose attributable costs may be allocated to the *retail pool* (see ■ FEES 6 Annex 5), to the retail pool, in accordance with, and subject to, ■ FEES 6.5A.

6.5.2A **G** The use made by FSCS of borrowing facilities to provide liquidity until the next levy does not affect the attribution of *compensation costs*, nor the allocation of *compensation cost levies*; the allocation of a *compensation costs levy* occurs at the time that the FSCS imposes a levy.

6.5.2B **G** [deleted]

6.5.2C G [deleted]

6.5.3 R If a *participant firm* which is *in default* has carried on a *regulated activity* other than in accordance with a *permission*, the FSCS must treat any *compensation costs* or *specific costs* arising out of that activity as if the relevant *permission* were held by the *participant firm*.  
FCA PRA

6.5.4 R If the relevant *person* in default is an *appointed representative*, the FSCS must treat any *compensation costs* or *specific costs* arising out of a *regulated activity* for which his *principal* has not accepted responsibility to as if the *principal* had accepted responsibility.  
FCA PRA

6.5.5 R (1) A *participant firm* must pay to the FSCS a share of each *compensation costs levy* allocated to the *classes* of which it is a member unless either the *firm* is exempt under ■ FEES 6.2 (Exemption) or the FSCS has chosen to exercise its discretion under ■ FEES 6.3.23 R in respect of that *firm*.  
FCA PRA

(2) [deleted]

6.5.6 R The FSCS must calculate each *participant firm's* share of a *compensation costs levy* (subject to ■ FEES 6.3.22 R (Adjustments to calculation of levy shares)) by:  
PRA

(1) identifying each of the *classes* to which each *participant firm* belongs, using the statement of business most recently supplied under ■ FEES 6.5.13 R (1);

(2) identifying the *compensation costs* falling within ■ FEES 6.5.1 R allocated, in accordance with ■ FEES 6.5.2 R, to the *classes* identified in (1);

(3) calculating, in relation to each relevant *class*, the *participant firm's* tariff base as a proportion of the total tariff base of all *participant firms* in the *class*, using the statement of business most recently supplied under ■ FEES 6.5.13 R;

(4) applying the proportion calculated in (3) to the figure in (2);  
and

(5) if more than one *class* is relevant, adding together the figure in (4) for each *class*.

6.5.6A

FCA

**R**

The *FSCS* must calculate each *participant firm's* share of a *compensation costs levy* (subject to ■ FEES 6.3.22 R (Adjustments to calculation of levy shares)) by:

- (1) identifying each of the relevant *classes* to which each *participant firm* belongs, using the statement of business most recently supplied under ■ FEES 6.5.13 R (1);
- (2) identifying the *compensation costs* falling within ■ FEES 6.5.1 R allocated, in accordance with ■ FEES 6.5.2 R, to the *classes* identified in (1);
- (3) calculating, in relation to each relevant *class*, the *participant firm's* tariff base (see ■ FEES 6 Annex 3A) as a proportion of the total tariff base of all *participant firms* in the *class*, using the statement of business most recently supplied under ■ FEES 6.5.13 R (but this paragraph is modified for a *compensation costs levy* allocated to an *FCA provider contribution class* in the *retail pool* by ■ FEES 6.5A.6 R);
- (4) applying the proportion calculated in (3) to the figure in (2); and
- (5) if more than one *class* is relevant, adding together the figure in (4) for each *class*.

**Classes and tariff bases for compensation cost levies and specific costs levies**

6.5.7

PRA

**R**

When calculating a *participant firm's* share of a *compensation costs levy* or *specific costs levy* allocated to each *class* the *FSCS* must use the *classes* and tariff bases as set out in the table in ■ FEES 6 Annex 3 R.

- (1) [deleted]
- (2) [deleted]
- (3) [deleted]
- (4) [deleted]
- (5) [deleted]

6.5.8

FCA

PRA

**G**

Guidance on parts of ■ FEES 6 Annex 3 R can be found in ■ FEES 6 Annex 4 G.

**New participant firms**

6.5.9

FCA

PRA

**R**

A *firm* which becomes a *participant firm* part way through a financial year of the *compensation scheme* will not be liable to pay a share of a *compensation costs levy* made in that year.

**Compensation costs levy for newly authorised firms**

**6.5.9A** **R** ■ FEES 6.4.10AR applies to the calculation of a *participant firm's compensation costs levy* and its tariff base as it applies to the calculation of its *specific costs levy*.  
FCA PRA

**6.5.9B** **G** The example table in ■ FEES 6.4.10B G can be applied to the calculation of the tariff bases under ■ FEES 6.5.9AR.  
FCA PRA

**Membership of several classes**

**6.5.10** **R** [deleted]

**6.5.11** **R** [deleted]

**6.5.12** **G** A *participant firm* may belong to more than one *class*.  
FCA PRA

**Reporting requirements**

**6.5.13** **R** (1) Unless exempt under ■ FEES 6.2.1 R, a *participant firm* must provide the FSCS by the end of February each year (or, if it has become a *participant firm* part way through the financial year, by the date requested by the *appropriate regulator*) with a statement of:  
FCA PRA

- (a) *classes* to which it belongs; and
- (b) the total amount of business (measured in accordance with the appropriate tariff base or tariff bases) which it conducted, in respect of the most recent valuation period (as specified by ■ FEES 6 Annex 3 R (Financial Services Compensation Scheme - classes )) ending before the relevant year in relation to each of those *classes*.

(2) In this *rule* the relevant year means the year in which the month of February referred to in (1) falls.

(3) [deleted]

**6.5.13A** **G** For example, when the tariff base for a particular *class* is based on a *firm's annual eligible income* the valuation period for that *class* is the *firm's* last financial year ending in the year to 31 December preceding the financial year of the FSCS for which the calculation is being made. In the case of a *firm* in *class* A1 (Deposits) its valuation period will be 31 December.  
FCA PRA

**6.5.14** **R** If the information in ■ FEES 6.5.13 R has been provided to the *appropriate regulator* under other *rule* obligations, a *participant firm* will be deemed to have complied with ■ FEES 6.5.13 R.  
FCA PRA

FEES 4 rules incorporated into FEES 7	Description
FEES 4.2.7B R	Calculation of periodic fee and tariff base for a <i>firm's</i> second financial year
FEES 4.2.8 R	How FEES 4.2.7 R applies in relation to an <i>incoming EEA firm</i> or an <i>incoming Treaty firm</i>
FEES 4.2.10 R	Extension of time
FEES 4.2.11 R (first entry only)	Due date and changes in <i>permission</i> for periodic fees
FEES 4.3.7 R	Groups of <i>firms</i>
FEES 4.3.13 R	<i>Firms</i> applying to cancel or vary permission before start of period
FEES 4.3.15 R	<i>Firms</i> acquiring businesses from other <i>firms</i>
FEES 4.4.1 R to FEES 4.4.6 R	Information on which fees are calculated

7.2.9A  
FCA

**D** ■ FEES 4.4.7 D to ■ FEES 4.4.9 D (Information relating to *payment services* and the issuance of *electronic money*) also apply to ■ FEES 7.

7.2.10  
FCA

**G** References in a ■ FEES 4 rule incorporated into ■ FEES 7 by cross-reference to a periodic fee should be read as being to the *CFEB levy*. References in a ■ FEES 4 rule incorporated into ■ FEES 7 to *market operators, service companies, MTF operators, investment exchanges, or designated professional bodies* should be disregarded.

7.2.11  
FCA

**G** In some cases, a ■ FEES 4 rule incorporated into ■ FEES 7 in the manner set out in ■ FEES 7.2.7 G will refer to another rule in ■ FEES 4 that has not been individually incorporated into ■ FEES 7. Such a reference should be read as being to the corresponding provision in ■ FEES 7. The main examples are set out in ■ FEES 7.2.12 G.

7.2.12  
FCA

**G** Table of FEES 4 rules that correspond to FEES 7 rules

FEES 4 rules	Corresponding FEES 7 rules
FEES 4.2.1 R	FEES 7.2.1 R
FEES 4.3.1 R	FEES 7.2.2 R
FEES 4.3.3 R	FEES 7.2.2 R
FEES 4.3.3A R	FEES 7.2.2 R
FEES 4.3.12 R	FEES 7.2.5 R

FEES 4 rules	Corresponding FEES 7 rules
FEES 4.3.12A R	FEES 7.2.5 R
Part 1 of FEES 4 Annex 2A R	Part 1 of FEES 7 Annex 1 R
Part 2 of FEES 4 Annex 11 R	Part 1 of FEES 7 Annex 1 R
Part 5 of FEES 4 Annex 11 R	Part 1 of FEES 7 Annex 1 R

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## Fees Manual

### FEES TP 7 Transitional provisions relating to changes to the FSCS levy arrangements taking effect in 2013/14

**FCA** **PRA**

- 7.1 R As at 31 March 2013, the *FSCS* must:
- [FCA]  
[PRA]
- (1) allocate any surplus or deficit in the balance of an *FSA* activity group in respect of *base costs*, to the account of the corresponding *FCA* activity group as listed in FEES 4 Annex 1A R as at 1 April 2013; and
  - (2) take that surplus or deficit (so allocated) into account when calculating the amount to be levied under FEES 6.4.5 R in respect of the financial year commencing on 1 April 2013.
- 7.2 R For the purpose of FEES 6.5A.6 R, 'FEES 4 Annex 1A R' must be read as 'FEES 4 Annex 1 R' (as it was in force immediately before 1 April 2013) until the *regulatory costs* arising from the activity group in FEES 4 Annex 1A R have been determined. The *FSCS* may recalculate the liabilities once the *regulatory costs* arising from the activity group in FEES 4 Annex 1A R have been determined and credit or debit *participant firms* as appropriate.
- [FCA]



## Fees Manual

### Schedule 4 Powers exercised

**Sch 4.1 G**

[deleted]

**Sch 4.2 G**

[deleted]

**Sch 4.3 G**

[deleted]

**Sch 4.4 G**

[deleted]

**Sch 4.5 G**

[deleted]



# General Prudential sourcebook



■ GENPRU 1.2.60 R. These records should be included within the *firm's ICAAP* or *ICA* submission document.

- (6) The *appropriate regulator* will review the *firm's* records referred to in (5) as part of its *SREP*. The purpose of examining these is to enable the *appropriate regulator* to judge whether a *firm* will be able to continue to meet its *CRR* and the *overall financial adequacy rule* throughout the projection period.
- (7) If, after taking account of realistic management actions, a *firm's* stress testing management plan shows that the *firm's* projected *capital resources* are less than those required to continue to meet its *CRR* or less than those needed to continue to meet the *overall financial adequacy rule* over the projection period, the *appropriate regulator* may require the *firm* to set out additional countervailing measures and off-setting actions to reduce such difference or to restore the *firm's* capital adequacy after the stress event.
- (8) The *firm's* senior management or *governing body* should be actively involved and engaged in all relevant stages of the *firm's* stress testing and scenario analysis programme. This would include establishing an appropriate stress testing programme, reviewing the programme's implementation (including the design of scenarios) and challenging, approving and actioning the results of the stress tests.
- (9) [deleted]

1.2.73B

FCA PRA

G

The *appropriate regulator* may formulate macroeconomic and financial market scenarios which a *firm* may use as an additional input to its *ICAAP* or *ICA* submission. In addition, the *appropriate regulator* may also ask a *firm* to apply specific scenarios directly in its *ICAAP* or *ICA* submission.

1.2.73C

FCA PRA

G

For an *insurer*:

- (1) the treatment of new business when making capital projections is likely to be different from its *ICA*. In projecting its financial position, an *insurer* should take account of new business based on the *firm's* business plan, but flexed to take account of potential changes in trading conditions and strategy. When assessing its current capital adequacy under its *ICA*, an *insurer* should take account of the effects of closure to new business (see ■ GENPRU 1.2.27 G, ■ GENPRU 1.2.73AG (3) and ■ (4) and ■ INSPRU 7.1.16 G to ■ INSPRU 7.1.19 G). Also, an *insurer* may use methods that are more approximate than used for its *ICA* (for example, in projecting the *with-profits insurance capital component* for *realistic basis life firms* and the *capital resources* needed to meet the *overall financial adequacy rule*); and
- (2) where management discretion is exercised as a normal part of an *insurer's* business (for example, in changing bonus rates or *surrender values* in accordance with the *PPFM* for *with-profits business*), under ■ GENPRU 1.2.73AG (3)(c) the *insurer* does not need to estimate the effect of an adverse event on its financial position without adjusting for such changes. However, the effect on the financial position of varying such actions should be estimated and understood.

1.2.74

FCA PRA

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A *firm* may consider scenarios in which expected future profits will provide capital reserves against future risks. However, it would only be appropriate to take into account profits

that can be foreseen with a reasonable degree of certainty as arising before the risk against which they are being held could possibly arise. In estimating future reserves, a *firm* should deduct future dividend payment estimates from projections of future profits.

1.2.75  
FCA PRA

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- (1) [deleted]
- (2) Stress and scenario analyses should, in the first instance, be aligned with the risk appetite of the *firm*, as well as the nature, scale and complexity of its business and of the risks that it bears. The calibration of the stress and scenario analyses should be reconciled to a clear statement setting out the premise upon which the *firm's* internal capital assessment under the *overall Pillar 2 rule* is based.
- (3) [deleted]
- (4) In identifying adverse circumstances and events in accordance with ■ GENPRU 1.2.42R (2), a *firm* should consider the results of any reverse stress testing conducted in accordance with ■ SYSC 20. Reverse stress testing may be expected to provide useful information about the *firm's* vulnerabilities and variations around the most likely ruin scenarios for the purpose of meeting the *firm's* obligations under ■ GENPRU 1.2.42 R. In addition, such a comparison may help a *firm* to assess the sensitivity of its financial position to different stress calibrations.

1.2.76  
FCA PRA

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A *firm* should use the results of its stress testing and scenario analysis not only to assess capital needs, but also to decide if measures should be put in place to minimise the adverse effect on the *firm* if the risk covered by the stress or scenario test actually materialises. Such measures might be a contingency plan or might be more concrete risk mitigation steps.

1.2.77  
FCA PRA

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Additional *guidance* on stress tests and scenario analyses for the assessment of *capital resources* is available in ■ BIPRU 2.2 (Internal capital adequacy standards) and ■ INSPRU 7.1 (Individual capital assessment).

1.2.78  
FCA PRA

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Additional *guidance* in relation to stress tests and scenario analysis for *liquidity risk* as that concept relates to an *insurer* is available in ■ SYSC 11 (Liquidity risk systems and controls). ■ BIPRU 12 sets out the main *Handbook* provisions in relation to *liquidity risk* for a *BIPRU firm*.

**Pension obligation risk**

1.2.79  
FCA PRA

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■ GENPRU 1.2.80 G to ■ GENPRU 1.2.86 G contain *guidance* on the assessment required by ■ GENPRU 1.2.30 R (2)(k) for a *firm* exposed to pension obligation risk as defined in ■ GENPRU 1.2.31R (5).

1.2.80  
FCA PRA

G

The pension scheme itself (i.e. the scheme's assets and liabilities) is not the focus of the risk assessment but rather the *firm's* obligations towards the pension scheme . A *firm* should include in its estimate of financial resources both its expected obligations to the pension scheme and any increase in obligations that may arise in a stress scenario.

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## General Prudential sourcebook

### GENPRU TP 15 [Deleted]



## General Prudential sourcebook

### Schedule 4 Powers exercised

#### Sch 4.1 G

[deleted]

#### Sch 4.2 G

[deleted]



# Prudential sourcebook for Banks, Building Societies and Investment Firms



## Application form to apply the IRB approach

**FCA** **PRA**

This annex consists only of one or more forms.

Forms



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## Application form to apply the CCR internal model method approach

1

**FCA** **PRA**

This annex consists only of one or more forms.

Forms





### 3.3 The use of the credit assessments of ratings agencies

**3.3.1** FCA PRA R An external credit assessment may be used to determine the *risk weight* of an *exposure* in accordance with ■ BIPRU 3.2.20 R to ■ BIPRU 3.2.26 R only if the *ECAI* which provides it is recognised by the *appropriate regulator* as an *eligible ECAI* for the purposes of the *standardised approach to credit risk*.

[Note: BCD Article 81(1)]

#### Recognition of ratings agencies

**3.3.2** FCA PRA G The *appropriate regulator* will recognise an *ECAI* as an *eligible ECAI* for the purposes of ■ BIPRU 3, or will refuse to recognise an *ECAI* or will revoke its recognition of an *ECAI* as an *eligible ECAI* in accordance with the *Capital Requirements Regulations 2006*.

**3.3.3** FCA PRA G Regulation 22 of the *Capital Requirements Regulations 2006* deals with recognition by the *appropriate regulator* of *eligible ECAIs* for *exposure risk weight* purposes. Regulation 25 deals with revoking recognition.

**3.3.4** FCA PRA G The criteria which the *appropriate regulator* must apply when assessing *ECAIs* for recognition for *exposure risk weighting* purposes are set out in Regulation 22 and Schedule 1 to the *Capital Requirements Regulations 2006*. In making an assessment against those criteria and in carrying out the mapping process described in ■ BIPRU 3.3.7 G to ■ BIPRU 3.3.9 G the *appropriate regulator* will have regard to the approach set out in the Committee of European Banking Supervisors' "Guidelines on the recognition of External Credit Assessment Institutions" dated 20 January 2006. The *appropriate regulator* does not expect to recognise an *ECAI* unless the information set out in those guidelines has been submitted to it.

**3.3.5** FCA PRA G The list of *eligible ECAIs* is published on the *appropriate regulator* website. When the *appropriate regulator* recognises an *ECAI* as an *eligible ECAI*, it publishes that decision by amending the list of *eligible ECAIs* on the *appropriate regulator* website to include the name of the *eligible ECAI*. When the *appropriate regulator* determines that the recognition of an *ECAI* should be revoked, it publishes that decision by deleting the name of the *ECAI* from the list on the *appropriate regulator* website

**3.3.6** FCA PRA G The list of *eligible ECAIs* includes those who have been recognised as eligible for *exposure risk weighting* purposes by a *competent authority* of another *EEA State* and are subsequently recognised as *eligible ECAIs* by the *appropriate regulator* without carrying

out its own evaluation process under Regulation 22(2) of the *Capital Requirements Regulations 2006*.

### Mapping of credit assessments

3.3.7

FCA PRA

G

Under Regulation 22(3) of the *Capital Requirements Regulations 2006* the *appropriate regulator* is obliged to determine, taking into account the requirements set out in Schedule 2 to the *Capital Requirements Regulations 2006*, with which of the *credit quality steps* set out in Part 1 of Annex VI of the *Banking Consolidation Directive* the relevant credit assessments of an *eligible ECAI* are to be associated. Those determinations should be objective and consistent.

3.3.8

FCA PRA

R

The *credit quality step* with which a relevant credit assessment of an *eligible ECAI* is to be associated is that in the table mapping the credit assessments of *eligible ECAs* to *credit quality steps* published by the *appropriate regulator* under Regulation 22(3) of the *Capital Requirements Regulations 2006*.

3.3.9

FCA PRA

G

The table mapping the credit assessments of *eligible ECAs* to *credit quality steps* is published on the *appropriate regulator's* website and amended from time to time in line with additions to and deletions from the list of *eligible ECAs*. The table includes mappings made by a *competent authority* of another *EEA State* which are subsequently recognised by the *appropriate regulator* without carrying out its own determination process under Regulation 22(5) of the *Capital Requirements Regulations 2006*.

[Note: For the most recent version of the table, refer to: <http://www.fca.org.uk/your-fca/documents/fsa-ecais-standardised> for the *FCA* and <http://www.bankofengland.co.uk/publications/Documents/other/prapolicy/2013/ecaisstandardised.pdf> for the *PRA*]

- (3) The maturity of the swap itself may be different from that of the underlying exposure for the purposes of (2)(b).
- (4) In these situations, a *firm* must not apply a *specific risk PRR* to either side of the *position*.

## 7.11.15

FCA PRA

R

An 80% offset may be applied when the value of two legs always move in the opposite direction and where there is an exact match in terms of the reference obligation, the maturity of both the reference obligation and the credit derivative, and the currency of the underlying exposure. In addition, key features of the credit derivative contract must not cause the price movement of the credit derivative materially to deviate from the price movements of the cash *position*. To the extent that the transaction transfers risk, an 80% *specific risk* offset may be applied to the side of the transaction with the higher *PRR*, while the *specific risk* requirements on the other side are zero.

## 7.11.16

FCA PRA

R

- (1) A *firm* may take partial allowance when the value of two legs usually move in the opposite direction. This would be the case in the situations set out in (2) - (4).
- (2) The first situation referred to in (1) is that the *position* falls under ■ BIPRU 7.11.16 R (2)(b) but there is an asset mismatch between the reference obligation and the underlying exposure. However, the *positions* meet the following requirements:
  - (a) the reference obligation ranks *pari passu* with or is junior to the underlying obligation; and
  - (b) the underlying obligation and reference obligation share the same obligor and have legally enforceable cross-default or cross-acceleration clauses.
- (3) The second situation referred to in (1) is that the *position* falls under ■ BIPRU 7.11.14 R (2)(a) or ■ BIPRU 7.11.15 R but there is a currency or maturity mismatch between the credit protection and the underlying asset (currency mismatches must be included in the normal reporting with respect to the *foreign currency PRR*).
- (4) The third situation referred to in (1) is that the *position* falls under ■ BIPRU 7.11.15 R but there is an asset mismatch between the cash *position* and the credit derivative. However, the underlying asset is included in the (deliverable) obligations in the credit derivative documentation.
- (5) In each of those situations, rather than adding the *specific risk PRR* requirements for each side of the transaction, only the higher of the two *PRR* requirements applies.

7.11.17	<b>R</b>	In all situations not falling under ■ BIPRU 7.11.14 R - ■ BIPRU 7.11.16 R, a <i>firm</i> must assess a <i>specific risk PRR charge</i> against both sides of the <i>positions</i> .
FCA PRA		
<b>Specific risk calculation</b>		
7.11.18	<b>R</b>	[deleted]
7.11.19	<b>R</b>	[deleted]
7.11.20	<b>R</b>	The <i>specific risk</i> portion of the <i>interest rate PRR</i> for credit derivatives in the <i>trading book</i> must be calculated in accordance with ■ BIPRU 7.2.43 R to ■ BIPRU 7.2.46A G (Specific risk calculation), ■ BIPRU 7.2.48A R to ■ BIPRU 7.2.48K R (Specific risk: securitisations and re-securitisations), ■ BIPRU 7.2.48L R (Specific risk: Correlation trading portfolio), ■ BIPRU 7.2.49 R to ■ BIPRU 7.2.51 G (Definition of a qualifying debt security) and the other provisions of ■ BIPRU 7.11, as applicable.
FCA PRA		
7.11.21	<b>R</b>	[deleted]
7.11.22	<b>R</b>	[deleted]
7.11.23	<b>R</b>	[deleted]
7.11.24	<b>R</b>	[deleted]
7.11.25	<b>R</b>	[deleted]
7.11.26	<b>R</b>	[deleted]
7.11.27	<b>R</b>	[deleted]
7.11.28	<b>R</b>	[deleted]
7.11.29	<b>R</b>	[deleted]
7.11.30	<b>R</b>	[deleted]
7.11.31	<b>R</b>	[deleted]
7.11.32	<b>R</b>	[deleted]
7.11.33	<b>R</b>	[deleted]
7.11.34	<b>R</b>	[deleted]
7.11.35	<b>R</b>	[deleted]
7.11.36	<b>R</b>	[deleted]

[Note: BCD Annex IX Part 4 point 72 (part)]

9.10.6

FCA PRA

R

The *risk weighted exposure amount* of a *securitisation position* may be reduced by 12.5 times the amount of any value adjustments made by the *firm* in respect of the position.

[Note: BCD Annex IX Part 4 point 73]

9.10.7

FCA PRA

R

For the purposes of ■ BIPRU 9.10.2 R (as it applies to the *IRB approach*):

- (1) the *exposure* value of the position may be derived from the *risk weighted exposure amounts* taking into account any reductions made in accordance with ■ BIPRU 9.10.4 R ■ BIPRU 9.10.6 R;
- (2) where the *supervisory formula method* is used to calculate *risk weighted exposure amounts* and  $L < K_{IRBR}$  and  $[L+T] > K_{IRBR}$  the position may be treated as two positions with L equal to  $K_{IRBR}$  for the more senior of the positions.

[Note: BCD Annex IX Part 4 point 75(a) and (c)]



## 9.11 Calculation of risk weighted exposure amounts under the standardised approach to securitisations

9.11.1

FCA PRA

R

Subject to ■ BIPRU 9.11.5 R, the *risk weighted exposure amount* of a rated *securitisation position* or *resecuritisation position* must be calculated by applying to the *exposure* value the *risk weight* associated with the *credit quality step* with which the credit assessment has been determined to be associated, as prescribed in ■ BIPRU 9.11.2 R .

[Note: BCD Annex IX Part 4 point 6]

9.11.2

FCA PRA

R

Table:

This table belongs to ■ BIPRU 9.11.1 R

<i>Credit Quality step</i>	1	2	3	4 (only for credit assessments other than short-term credit assessments)	All other credit quality steps
<i>Securitisation positions</i>	20%	50%	100%	350%	1250%
<i>Resecuritisation positions</i>	40%	100%	225%	650%	1250%

[Note: For mapping of the *credit quality step* to the credit assessments of *eligible ECAs*, refer to: <http://www.fca.org.uk/your-fca/documents/fsa-ecais-securitisation> for the FCA and <http://www.bankofengland.co.uk/publications/Documents/other/pr/policy/2013/ecaissecuritisation.pdf> for the PRA]

[Note: BCD, Annex IX, Part 4, point 6, Table 1]

9.11.3

R

[deleted]

9.12.11

FCA PRA

R

Table:

This table belongs to ■ BIPRU 9.12.10 R

Credit Quality Step		Securitisation positions			Resecuritisation positions	
Credit assessments other than short term	Short-term credit assessments	A	B	C	D	E
1	1	7%	12%	20%	20%	30%
2		8%	15%	25%	25%	40%
3		10%	18%	35%	35%	50%
4	2	12%	20%		40%	65%
5		20%	35%		60%	100%
6		35%	50%		100%	150%
7	3	60%	75%		150%	225%
8		100%			200%	350%
9		250%			300%	500%
10		425%			500%	650%
11		650%			750%	850%
all other, unrated		1250%				

[Note: For mapping of the *credit quality step* to the credit assessments of eligible *ECAIs*, refer to: <http://www.fca.org.uk/your-fca/documents/fsa-ecais-securitisation> for the *FCA* and <http://www.bankofengland.co.uk/publications/Documents/other/pr/policy/2013/ecaissecuritisation.pdf> for the *PRA*.]

[Note: *BCD*, Annex IX, Part 4, point 46]

9.12.12

R

[deleted]

9.12.13

FCA PRA

R

For the purposes of ■ BIPRU 9.12.10 R:

- (1) the weightings in column C of ■ BIPRU 9.12.11 R must be applied where the *securitisation position* is not a *resecuritisation position* and where the effective number of *exposures* securitised is less than six;
- (2) for the remainder of the *securitisation positions* that are not *resecuritisation positions*, the weightings in column B must be

applied unless the position is in the most senior *tranche* of a *securitisation*, in which case the weightings in column A must be applied; and

- (3) for *resecuritisation positions*, the weightings in column E must be applied unless the *resecuritisation position* is in the most senior *tranche* of the *resecuritisation* and none of the underlying *exposures* were themselves *resecuritisation exposures*, in which case column D must be applied.

[Note: BCD Annex IX Part 4 point 47(part)]

9.12.14

FCA PRA

R

When determining under ■ BIPRU 9.12.13 R whether a *tranche* is the most senior for these purposes, a *firm* need not take into consideration amounts due under interest rate or currency derivative contracts, fees due, or other similar payments.

[Note: BCD Annex IX Part 4 point 47 (part)]

9.12.15

FCA PRA

G

A senior *liquidity facility* need not be taken into account for the purposes of determining the most senior *tranche* under ■ BIPRU 9.12.13 R.

9.12.16

R

[deleted]

9.12.17

FCA PRA

R

In calculating the effective number of *exposures securitised*, multiple *exposures* to one obligor must be treated as one *exposure*. The effective number of *exposures* is calculated as:

$$N = \frac{((\sum_i) (EAD_i))^2}{(\sum_i) (EAD_i^2)}$$

where  $EAD_i$  represents the sum of the *exposure* values of all *exposures* to the  $i^{\text{th}}$  obligor. If the portfolio share associated with the largest *exposure*, C1, is available, the *firm* may compute N as  $1/C1$ .

[Note: BCD Annex IX Part 4 point 49]

9.12.18

R

[deleted]

9.12.19

R

[deleted]

#### The ABCP internal assessment approach

9.12.20

FCA PRA

R

(1) If:

- (a) a *firm's IRB permission* allows it to use this treatment; and
- (b) the conditions in (2)(16) are satisfied,



## 10.2 Identification of exposures and recognition of credit risk mitigation

### 10.2.1

FCA PRA

R

Unless ■ BIPRU 10.2.2 R applies, an exposure is:

- (1) any of the items included in ■ BIPRU 3.2.9 R (Exposure classes for the purposes of the *standardised approach*) or the table in ■ BIPRU 3.7.2 R (Classification of off-balance-sheet items for the purposes of the *standardised approach*), whether held in the *trading book* or the *non-trading book*, without application of the *risk weight* or degrees of risk there provided for;

[Note: BCD Article 106(1) first paragraph]

- (2) any *exposure* arising from *financial derivative instruments*;

[Note: BCD Article 106(1) second paragraph (part)]

- (3) any *exposure* to an individual *counterparty* that arises in the *trading book* calculated by summing the following items:

- (a) the excess - where positive - of the *firm's* long *positions* over its short *positions* in all the *CRD financial instruments* issued by the *counterparty* in question, the net position of each of the different *CRD financial instruments* being calculated in accordance with the relevant method in ■ BIPRU 7;
- (b) the *firm's* net *underwriting exposure* to that *counterparty*; and
- (c) any *exposure* due to the transactions, agreements and contracts referred to in ■ BIPRU 14.2.2 R (List of *trading book exposures* that give rise to a *counterparty credit risk charge*).

[Note: CAD Article 29(1) first paragraph]

### 10.2.2

FCA PRA

R

An *exposure* does not include:

- (1) an *exposure* which is entirely deducted from a *firm's* *capital resources*; or

- (2) in the case of *foreign currency* transactions, *exposures* incurred in the ordinary course of settlement during the two *business days* following payment; or
- (3) in the case of transactions for the purchase or sale of *securities*, *exposures* incurred in the ordinary course of settlement during the five *business days* following payment or delivery of the *securities*, whichever is earlier ; or
- (4) in the case of the provision of money transmission including the execution of payment services, clearing and settlement in any currency and correspondent banking or financial instruments clearing, settlement and custody services to clients, delayed receipts in funding and other *exposures* arising from client activity which do not last longer than the following *business day*; or
- (5) in the case of the provision of money transmission including the execution of payment services, clearing and settlement in any currency and correspondent banking, *intra-day exposures* to *institutions* providing those services.

[Note: BCD Articles 106(1) third paragraph and 106(2)]

**10.2.2A** FCA PRA G

The Committee of European Banking Supervisors (CEBS) has issued guidelines on the conditions applicable to the short-term *exposures* referred to in ■ BIPRU 10.2.2 R (4) and ■ (5) in order to be exempted from the *large exposures* limits in ■ BIPRU 10.5 (Limits on exposures). These guidelines can be found at: [http://www.eba.europa.eu/documents/Publications/Standards---Guidelines/2010/Article106\(2\)\(c\)\(d\)/GL\\_Article106\(2\).aspx](http://www.eba.europa.eu/documents/Publications/Standards---Guidelines/2010/Article106(2)(c)(d)/GL_Article106(2).aspx).

**10.2.3** G

[deleted]

**10.2.3A** FCA PRA G

- (1) An *exposure* does not include *exposures* outstanding with a *central counterparty* to which a *firm* has attributed an *exposure* value of zero for CCR in accordance with ■ BIPRU 13.3.13 R (Exposures to a central counterparty).
- (2) ■ BIPRU 13.3.13 R applies to derivative contracts and *long settlement transactions*, or to other *exposures* arising in respect of those contracts or transactions (but excluding an *exposure* arising from collateral held to mitigate losses in the event of default of other participants in the *central counterparty's* arrangements).

**10.2.4** G

[deleted]

- (b) *companies* whose ultimate owner (whether wholly or significantly) is the same individual or individuals, and which do not have a formal group structure;
- (c) *companies* having common directors or management;
- (d) where the same *persons* significantly influence the *governing body* of each of the *undertakings*;
- (e) where the *firm* has an *exposure* to an *undertaking* that was not incurred for the clear commercial advantage of the *firm* or the *firm's group* and which is not on an arm's length basis;
- (f) *counterparties* linked by cross guarantees;
- (g) where it is likely that the financial problems of one *counterparty* would cause difficulties for the other *counterparty* or *counterparties* in terms of full and timely repayment of liabilities;
- (h) where the funding problems of one *counterparty* are likely to spread to another due to a one-way or two-way dependence on the same main funding source, which may be the *firm* itself;
- (i) where counterparties rely on the *firm* for their main funding source, for example through explicit or implicit liquidity support or credit support; and
- (j) where the insolvency or default of one of them is likely to be associated with the insolvency or default of the other(s).

**10.3.7**

**FCA PRA**

**G**

The *appropriate regulator* would not regard the normal business relationships between *companies* which are competitors, and to which none of the relationships listed in ■ BIPRU 10.3.6 G apply, as falling within the definition of *group of connected clients*.

**10.3.8**

**R**

[deleted]

**10.3.8A**

**FCA PRA**

**G**

- (1) The Committee of European Banking Supervisors (CEBS) has issued guidelines in relation to the definition of a *group of connected clients*, in particular with reference to the concepts of control and economic interconnection. These guidelines can be found at: [www.eba.europa.eu/documents/Publications/Standards---Guidelines/2009/Large-exposures\\_all/Guidelines-on-Large-Exposures-reporting.aspx](http://www.eba.europa.eu/documents/Publications/Standards---Guidelines/2009/Large-exposures_all/Guidelines-on-Large-Exposures-reporting.aspx).
- (2) In applying the CEBS guidelines in relation to *counterparties* that are connected to the *firm* itself, the *PRA* has issued guidance in respect of structured finance vehicles. This guidance can be found at <http://www.fsa.gov.uk/library/policy/policy/2012/12-21.shtml>.

**Exposures to counterparties and groups of connected clients**

**10.3.9**

**FCA PRA**

**R**

*A firm's total exposure to a counterparty must be calculated by summing its exposures to that counterparty, including both trading book exposures and non-trading book exposures.*

**10.3.10**

**FCA PRA**

**R**

*A firm's total exposure to a group of connected clients must be calculated by summing its exposures to the individual persons within that group of*

*connected clients, including both trading book exposures and non-trading book exposures.*

10.3.11 **R** [deleted]

**Exposures to trustees**

10.3.12 **G**  
**FCA PRA**

If a *firm* has an *exposure* to a *person* ('A') when A is acting on his own behalf, and also an *exposure* to A when A acts in his capacity as trustee, custodian or general partner of an investment trust, unit trust, venture capital or other investment fund, pension fund or a similar fund (a "fund"), the *firm* may treat the latter *exposure* as if it was to the fund, unless such a treatment would be misleading.

10.3.13 **G**  
**FCA PRA**

When considering whether the treatment described in **■ BIPRU 10.3.12 G** is misleading, factors a *firm* should consider include:

- (1) the degree of independence of control of the fund, including the relation of the fund's board and senior management to the *firm* or to other funds or to both;
- (2) the terms on which the *counterparty*, when acting as trustee, is able to satisfy its obligation to the *firm* out of the fund of which it is trustee;
- (3) whether the beneficial owners of the fund are connected to the *firm*, or related to other funds managed within the *firm's group*, or both; and
- (4) for a *counterparty* that is connected to the *firm* itself, whether the *exposure* arises from a transaction entered into on an arm's length basis.

10.3.14 **G**  
**FCA PRA**

In deciding whether a transaction is at arm's length for the purposes of **■ BIPRU 10.3.6G (2)(f)**, **■ BIPRU 10.3.13 G (4)** and **■ BIPRU 10.10A.1R (1)(d)**, the following factors should be taken into account:

- (1) the extent to which the *person* to whom the *firm* has an *exposure* ('A') can influence the *firm's* operations, through e.g. the exercise of voting rights;
- (2) the management role of A where A is also a director of the *firm*; and
- (3) whether the *exposure* would be subject to the *firm's* usual monitoring and recovery procedures if repayment difficulties emerged.

**Exposures to underlying assets**

10.3.15 **R**  
**FCA PRA**

Where under a transaction or scheme (for example, *securitisation positions* or claims in the form of *CIUs*) there is an *exposure* to underlying assets, a *firm* must assess the *exposure* to the transaction or scheme, or its underlying *exposures*, or both, in order to determine the existence of a *group of connected clients*. For the purpose of this *rule*, a *firm* must evaluate the economic substance and the risks inherent in the structure of the transaction.

[Note: *BCD* Article 106(3)]

10

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10.3.16

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FCA PRA

The Committee of European Banking Supervisors (CEBS) has issued guidelines in relation to the treatment for *large exposures* purposes of schemes with *exposures* to underlying assets. These guidelines can be found at: [http://www.eba.europa.eu/documents/Publications/Standards---Guidelines/2009/Large-exposures\\_all/Guidelines-on-Large-Exposures-reporting.aspx](http://www.eba.europa.eu/documents/Publications/Standards---Guidelines/2009/Large-exposures_all/Guidelines-on-Large-Exposures-reporting.aspx).



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# Prudential sourcebook for Banks, Building Societies and Investment Firms

## BIPRU TP 3 [Deleted]



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# Prudential sourcebook for Banks, Building Societies and Investment Firms

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# Prudential sourcebook for Banks, Building Societies and Investment Firms

## BIPRU TP 13 Other operational risk transitionals

FCA PRA

13.1	R	<p><b>Application</b></p> <p>BIPRU TP 13 applies to a <i>BIPRU firm</i>.</p> <p><b>Purpose</b></p> <p>BIPRU TP 13 implements Articles 155 of the <i>Banking Consolidation Directive</i> and Article 44 of the <i>Capital Adequacy Directive</i>.</p> <p><b>Relevant indicator</b></p> <p>Until 31 December 2012, a percentage of 15% applies to the business line "Trading and Sales" of a <i>firm</i> whose relevant indicator (as referred to in BIPRU 6.4.6 R) for the business line "Trading and Sales" represents at least 50% of the total of the relevant indicators for all of the <i>firm's</i> business lines in accordance with BIPRU 6.4.6 R to BIPRU 6.4.16 G (Calculating the <i>ORCR</i> under the <i>standardised approach to operational risk</i>).</p> <p><b>Reduced operational risk charge in 2007</b></p> <p>[deleted]</p> <p><b>Systems and controls in 2007</b></p> <p>[deleted]</p>
13.2	G	
13.3	R	
13.4	G	
13.5	R	



# Prudential sourcebook for Banks, Building Societies and Investment Firms

## BIPRU TP 14 [Deleted]



## Prudential sourcebook for Banks, Building Societies and Investment Firms

### BIPRU TP 20 Standardised credit risk transitionals

FCA PRA

<b>Application</b>		
20.1	R	This section applies to a <i>BIPRU firm</i> .
<b>Days past due</b>		
20.2	R	[deleted]
20.3	R	[deleted]
20.4	G	[deleted]
<b>Central government exposures</b>		
20.5	R	Until 31 December 2015, a 0% <i>risk weight</i> applies to <i>exposures</i> to the central government of the <i>United Kingdom</i> and of the Bank of England denominated and funded in the currency of another <i>EEA State</i> .
20.6	R	If the <i>CRD implementation measures</i> of another <i>EEA State</i> apply a 0% <i>risk weight</i> to <i>exposures</i> to its central government or <i>central bank</i> denominated and funded in the domestic currency of another <i>EEA State</i> a <i>firm</i> must <i>risk weight</i> such <i>exposures</i> in the same manner.
20.7	R	<i>BIPRU TP 20.6R</i> applies until 31 December 2015 or any earlier date on which the relevant <i>CRD implementation measure</i> ceases to apply.
20.8	G	<i>BIPRU TP 20.5R</i> to <i>BIPRU TP 20.7R</i> implements (in part) Article 153 of the <i>Banking Consolidation Directive</i> .



# Prudential sourcebook for Banks, Building Societies and Investment Firms

## BIPRU TP 22 Solo consolidation

PRA

		<b>Application</b>
22.1	R	<p>This section applies to a <i>BIPRU firm</i> that:</p> <ol style="list-style-type: none"> <li>(1) is a <i>bank</i> or <i>building society</i>; and</li> <li>(2) on 31 December 2006, was, in accordance with the provision of <i>IPRU</i> referred to in <i>BIPRU TP 22.2R</i> and in accordance with a concession (as defined in <i>BIPRU TP 22.8R</i>), solo-consolidating a <i>subsidiary undertaking</i>.</li> </ol>
22.2	R	<p>The provisions of <i>IPRU</i> referred to in <i>BIPRU TP 22.1R</i> are:</p> <ol style="list-style-type: none"> <li>(1) (in the case of a <i>bank</i>) section 9 of chapter CS of <i>IPRU(BANK)</i>; and</li> <li>(2) (in the case of a <i>building society</i>) section 1.11 of chapter 1 of volume 1 of <i>IPRU(BSOC)</i>.</li> </ol>
<b>Deemed solo consolidation waiver</b>		
22.3	R	<p>A concession referred to in <i>BIPRU TP 22.1R</i> is treated as a <i>solo consolidation waiver</i> with respect to the <i>subsidiary undertaking</i> to which it relates if the <i>firm</i> notifies the <i>FSA</i> that the <i>firm</i> wishes to apply the treatment in <i>BIPRU 2.1</i> (Solo consolidation) to that <i>subsidiary undertaking</i>.</p>
<b>Notice to the FSA</b>		

22.4	R	<p>The following requirements apply to a notice under <i>BIPRU</i> TP 22.3R:</p> <ol style="list-style-type: none"> <li data-bbox="772 324 1398 510">(1) the <i>firm</i> must give the <i>FSA</i> the notice on or after 1 June 2006 and on or before 29 December 2006;</li> <li data-bbox="772 533 1398 645">(2) the notice must contain details of the concession concerned;</li> <li data-bbox="772 667 1398 891">(3) the notice must give the name of the <i>subsidiary undertaking</i> concerned and say where it is incorporated and has its head office; and</li> <li data-bbox="772 913 1398 1131">(4) the notice must say whether that <i>subsidiary undertaking</i> is a <i>body corporate</i> and state the legal form of that <i>subsidiary undertaking</i>.</li> </ol>
<b>Limitations</b>		
22.5	R	<p>Any condition, limitation or requirement to which a concession referred to in <i>BIPRU</i> TP 22.1R is subject continues to apply to the extent that it is compatible with <i>BIPRU</i>. In particular, if the concession was only for the purpose of large exposures it only has effect for the purposes of <a href="#">BIPRU 10</a> (Concentration risk) and if it was only for the purposes of capital adequacy it only has effect for the purposes of <a href="#">GENPRU 2.1.13 R</a> (Obligation to hold capital resources equal to or greater than the capital resources requirement) or <a href="#">GENPRU 2.1.60 R</a> (Calculation of base capital resources requirement for banks authorised before 1993).</p>
<b>Obligation to meet other qualifying conditions</b>		
22.6	R	<p>A <i>firm</i> with a deemed <i>solo consolidation waiver</i> under <i>BIPRU</i> TP 22.3R may not apply the treatment in <a href="#">BIPRU 2.1</a> (Solo consolidation) to the <i>subsidiary undertaking</i> concerned unless the conditions in <a href="#">BIPRU 2.1.20 R</a> to <a href="#">BIPRU 2.1.24 R</a> (Solo consolidation - Minimum standards) are met with respect to that <i>subsidiary undertaking</i>.</p>

		<b>Notification of relevance etc of concession</b>
22.7	R	A <i>firm</i> which has the benefit of a concession that has effect under <i>BIPRU</i> TP 22.3R must notify the <i>PRA</i> immediately if it becomes aware of any matter which is material to the relevance or appropriateness of the concession.
		<b>Meaning of concession</b>
22.8	R	A concession means for the purposes of <i>BIPRU</i> TP 22:
		(1) a consent or approval which was given by the <i>FSA</i> under the provisions of <i>IPRU(BANK)</i> or <i>IPRU(BSOC)</i> referred to in <i>BIPRU</i> TP 22.2R; and
		(2) a concession also means for the purposes of <i>BIPRU</i> TP 22 a written concession as defined in <i>SUP</i> TP 1.4 (Grandfathering of concessions which were granted by the <i>FSA's</i> predecessor regulators: rules in the Handbook) or <i>SUP</i> TP 1.2.6A (Grandfathering of concessions which were granted by the <i>FSA's</i> predecessor regulators: guidance in the Handbook) that had effect for the purposes of the provisions of <i>IPRU(BANK)</i> or <i>IPRU(BSOC)</i> referred to in <i>BIPRU</i> TP 22.2R.
22.9	G	<i>BIPRU</i> TP 22.8R(2) provides a mechanism for keeping in effect solo consolidation concessions granted by the Bank of England and the Building Societies Commission.



# Prudential sourcebook for Banks, Building Societies and Investment Firms

**BIPRU TP 23**  
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# Prudential sourcebook for Banks, Building Societies and Investment Firms

**BIPRU TP 24**  
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- (2) *IPRU(INV)* 14.2.5R(1) (exclusion from consolidation where combined balance sheet is below certain thresholds); or
- (3) a written consent or approval by the *appropriate regulator* under *IPRU(BSOC)* on the ground set out in indent two of Article 52(3) of the Directive 2000/12 (the previous version of the *Banking Consolidation Directive*) (exclusion from consolidation where combined balance sheet is below certain thresholds);

the *firm* need not notify the *appropriate regulator* under *BIPRU 8.5.9 R* (exclusion from consolidation where combined balance sheet is below certain thresholds) as long as it has notified the *appropriate regulator* of its intention to take advantage of this *rule* and that notice complies with *BIPRU TP 25.4R*.

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**BIPRU TP 26**  
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## BIPRU TP 27 [Deleted]



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**BIPRU TP 32**  
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# Prudential sourcebook for Banks, Building Societies and Investment Firms

## Schedule 4 Powers exercised

### 4.1 G

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# Prudential sourcebook for Insurers



**Insurance-related capital requirement**

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1.1.74 **G** [deleted]

1.1.75 **G** [deleted]

**Calculation of the insurance-related capital requirement**

1.1.76 **R** A firm must calculate its *insurance-related capital requirement* in accordance with ■ INSPRU 1.1.77 R.  
**PRA**

1.1.77 **R** (1) The value of:  
**PRA** (a) the *net written premiums*; and  
(b) the *technical provisions*;  
in respect of each class of business listed in the table in ■ INSPRU 1.1.79 R must be multiplied by the corresponding capital charge factor.  
(2) If any amount which is to be multiplied by a capital charge factor is a negative amount, that amount shall be treated as zero.  
(3) The amounts resulting from multiplying the *net written premiums* in respect of each such class of business by the corresponding capital charge factor must be aggregated.  
(4) The amounts resulting from multiplying the *technical provisions* in respect of each such class of business by the corresponding capital charge factor must be aggregated.  
(5) The *insurance-related capital requirement* is the sum of the amounts calculated in accordance with (3) and (4).

1.1.78 **R** In ■ INSPRU 1.1.77 R references to *technical provisions* comprise:

**PRA** (1) outstanding *claims*;  
(2) provisions for incurred but not reported (*IBNR claims*);  
(3) provisions for incurred but not enough reported (*IBNER claims*);  
(4) *unearned premium* reserves less *deferred acquisition costs*; and  
(5) unexpired risk reserves;  
in each case net of *reinsurance* receivables.

1.1.79

PRA

**R** Table: Insurance-related Capital Charge Factors

Class of Business	Net Written Premium capital charge factor	Technical provision capital charge factor
<b>Reporting Group: Direct and facultative business</b>		
Direct and facultative accident and health	5.0%	7.5%
Direct and facultative personal lines motor business	10.0%	9.0%
Direct and facultative household and domestic all risks	10.0%	10.0%
Direct and facultative personal lines financial loss	25.0%	14.0%
Direct and facultative commercial motor business	10.0%	9.0%
Direct and facultative commercial lines property	10.0%	10.0%
Direct and facultative commercial lines liability	14.0%	14.0%
Direct and facultative commercial lines financial loss	25.0%	14.0%
Direct and facultative aviation	32.0%	14.0%
Direct and facultative marine	22.0%	17.0%
Direct and facultative goods in transit	12.0%	14.0%
Direct and facultative miscellaneous	25.0%	14.0%
<b>Reporting Group: Non-Proportional Treaty</b>		
Non-proportional accident & health	35.0%	16.0%
Non-proportional motor	10.0%	14.0%
Non-proportional transport	16.0%	15.0%

Class of Business	Net Written Premium capital charge factor	Technical provision capital charge factor
<b>Non-proportional aviation</b>	<b>61.0%</b>	<b>16.0%</b>
<b>Non-proportional marine</b>	<b>38.0%</b>	<b>17.0%</b>
<b>Non-proportional property</b>	<b>53.0%</b>	<b>12.0%</b>
<b>Non-proportional liability (non-motor)</b>	<b>14.0%</b>	<b>14.0%</b>
<b>Non-proportional financial lines</b>	<b>39.0%</b>	<b>14.0%</b>
<b>Non-proportional aggregate cover</b>	<b>53.0%</b>	<b>12.0%</b>
<b>Reporting Group: Proportional Treaty</b>		
<b>Proportional accident &amp; health</b>	<b>12.0%</b>	<b>16.0%</b>
<b>Proportional motor</b>	<b>10.0%</b>	<b>12.0%</b>
<b>Proportional transport</b>	<b>12.0%</b>	<b>15.0%</b>
<b>Proportional aviation</b>	<b>33.0%</b>	<b>16.0%</b>
<b>Proportional marine</b>	<b>22.0%</b>	<b>17.0%</b>
<b>Proportional property</b>	<b>23.0%</b>	<b>12.0%</b>
<b>Proportional liability (non-motor)</b>	<b>14.0%</b>	<b>14.0%</b>
<b>Proportional financial lines</b>	<b>25.0%</b>	<b>14.0%</b>
<b>Proportional aggregate cover</b>	<b>23.0%</b>	<b>12.0%</b>
<b>Reporting Group: Miscellaneous Reinsurance</b>		
<b>Miscellaneous reinsurance accepted business</b>	<b>39.0%</b>	<b>14.0%</b>

**Long-term insurance capital requirement**

**1.1.80**

**PRA**

**G**

■ GENPRU 2.1.13 R requires an *insurer* to maintain *capital resources* equal to or in excess of its *capital resources requirement*. ■ GENPRU 2.1.18 R defines the *capital resources requirement* for a *firm* to which that *rule* applies (a *realistic basis life firm*) as the higher of the *MCR* and the *ECR*. For other *firms* carrying on *long-term insurance business (regulatory basis only life firms)*, the *capital resources requirement* is equal to the *MCR*. Except where the *base capital resources requirement* is the higher requirement, the *MCR* in respect of *long-term insurance business* is the sum of the *long-term insurance capital requirement (LTICR)* and the *resilience capital requirement* or, in the case of a *realistic basis life firm*, the *LTICR* (see ■ GENPRU 2.1.24A R, ■ GENPRU 2.1.25 R and

■ GENPRU 2.1.26 R). ■ GENPRU 2.1.36 R defines the *LTICR* as the sum of the *insurance death risk, health risk and life protection reinsurance, expense risk, and market risk capital components* (see ■ INSPRU 1.1.81 R to ■ INSPRU 1.1.91 R). *Rules and guidance about the resilience capital requirement* are set out in ■ INSPRU 3.1.9 G to ■ INSPRU 3.1.26 R.

**Insurance death risk capital component**

1.1.81  
PRA

R

The *insurance death risk capital component* is the aggregate of the amounts which represent the fractions specified by ■ INSPRU 1.1.82 R of the capital at risk, defined in ■ INSPRU 1.1.83 R, for each category of *contracts of insurance* (as specified in ■ INSPRU 1.1.81A R), in respect of those contracts where the capital at risk is not a negative figure, multiplied by the higher of:

- (1) 50%; and
- (2) the ratio as at the end of the *financial year in question* of:
  - (a) the aggregate capital at risk in respect of that category of contracts net of *reinsurance* cessions; to
  - (b) the aggregate capital at risk in respect of that category of contracts gross of *reinsurance* cessions.

1.1.81A  
PRA

R

For the purpose of ■ INSPRU 1.1.81 R, the categories of *contracts of insurance* are as follows:

- (1) contracts which fall in *long-term insurance business classes I, II or IX*; and
- (2) contracts which fall in *long-term insurance business classes III, VII or VIII*.

1.1.82  
PRA

R

For the purpose of ■ INSPRU 1.1.81 R, the fraction is:

- (1) for *long-term insurance business classes I, II and IX*, except for a *pure reinsurer*:
  - (a) 0.1% for temporary insurance on death where the original term of the contract is three years or less;
  - (b) 0.15% for temporary insurance on death where the original term of the contract is five years or less but more than three years; and
  - (c) 0.3% in any other case;
- (2) 0.3% for *long-term insurance business classes III, VII and VIII*, except for a *pure reinsurer*; and

1.1.83

PRA

R

For the purpose of ■ INSPRU 1.1.81 R, the capital at risk is:

(1) where the benefit under a *contract of insurance* payable as a result of death includes periodic or deferred payments, the present value of the benefits payable; and

(2) in any other case, the amount payable as a result of death;

less, in either case, the *mathematical reserves* for the contract.

1.1.83A

PRA

R

■ INSPRU 1.1.81 R does not apply to:

(1) a *pure reinsurer*; or

(2) a *mixed insurer*;

in respect of *life protection reinsurance business*.

1.1.84

PRA

G

The *insurance death risk capital component* only relates to the risk of death. There is a separate risk component for insured health risks (*class IV*) which also applies to the risk of death covered in the *life protection reinsurance business* of *pure reinsurers* and *mixed insurers*. *Tontines* (*class V*) and *capital redemption* operations (*class VI*) also have separate risk components. There is no specified risk margin for other insured risks.

1.1.84A

PRA

G

For the treatment of amounts recoverable from *ISPVs* when calculating the *insurance death risk capital component* in accordance with ■ INSPRU 1.1.81 R, see ■ INSPRU 1.1.92A R and ■ INSPRU 1.1.92B G.

### **Insurance health risk and life protection reinsurance capital component**

1.1.85

PRA

R

The *insurance health risk and life protection reinsurance capital component* is the highest of:

(1) the *premiums amount* (determined in accordance with ■ INSPRU 1.1.45 R);

(2) the *claims amount* (determined in accordance with ■ INSPRU 1.1.47 R); and

(3) the *brought forward amount* (determined in accordance with ■ INSPRU 1.1.51 R); in respect of:

(a) *contracts of insurance* falling in *long-term insurance business class IV* (see ■ INSPRU 1.1.86 R);

(b) risks falling in *general insurance business classes 1 or 2* that are written as part of a *long-term insurance contract*; and

(c) in the case of a *pure reinsurer* or a *mixed insurer*, *life protection reinsurance business*.

1.1.86

PRA

R

For the purposes of ■ INSPRU 1.1.85 R, in the case of *contracts of insurance falling in long-term insurance business class IV*, condition (3) as set out in ■ INSPRU 1.1.72 R (*actuarial health insurance*) is modified to: "either the reserves include a provision for increasing age, or the business is conducted on a group basis."

1.1.87

PRA

G

The *insurance health risk and life protection reinsurance capital component* only applies to *permanent health insurance (long-term insurance business class IV)*, *accident and sickness insurance (general insurance business classes 1 and 2)* and the *life protection reinsurance business of pure reinsurers and mixed insurers*.

#### Insurance expense risk capital component

1.1.88

PRA

R

The *insurance expense risk capital component* is:

- (1) in respect of *long-term insurance business classes III, VII and VIII*, an amount equivalent to 25% of the net *administrative expenses* in the *financial year in question* relevant to the business of each of those *classes*, in so far as the *firm* bears no investment risk and the allocation to cover *management expenses* in the *contract of insurance* does not have a fixed upper limit which is effective as a limit for a period exceeding 5 years from the commencement of the contract;
- (2) in respect of any *tontine (long-term insurance business class V)*, 1% of the assets of the *tontine*;
- (3) in the case of any other *long-term insurance business*, 1% of the "*adjusted mathematical reserves*" (as defined in ■ INSPRU 1.1.89A R).

1.1.88A

PRA

R

■ INSPRU 1.1.88 R does not apply to:

- (1) a *pure reinsurer*; or
- (2) a *mixed insurer*;

in respect of:

- (a) *life protection reinsurance business*; or
- (b) *permanent health reinsurance business*.

**Insurance market risk capital component**

1.1.89

PRA

R

The *insurance market risk capital component* is 3% of the "adjusted *mathematical reserves*" (as defined in ■ INSPRU 1.1.89A R) for all insurance liabilities except those of a kind which:

- (1) arise from *contracts of insurance* falling in *long-term insurance business classes* III, VII or VIII to the extent that the *firm* does not bear any investment risk; or
- (2) arise from *contracts of insurance* falling in *long-term insurance business class* V; or
- (3) for a *pure reinsurer* or a *mixed insurer*, arise from *contracts of insurance* falling within:
  - (a) its *life protection reinsurance business*; or
  - (b) its *permanent health reinsurance business*.

**Adjusted mathematical reserves**

1.1.89A

PRA

R

- (1) For the purpose of ■ INSPRU 1.1.88 R and ■ INSPRU 1.1.89 R, the "adjusted *mathematical reserves*" is the aggregate of the amounts which result from the performance of the calculation in ■ INSPRU 1.1.90 R for each category of insurance liability specified in (2).
- (2) The categories of insurance liability referred to in (1) are:
  - (a) for the purpose of ■ INSPRU 1.1.88 R, those categories described in ■ INSPRU 1.1.91 R (1), ■ (2), ■ (3), ■ (4) and ■ (5); and
  - (b) for the purpose of ■ INSPRU 1.1.89 R, those categories described in ■ INSPRU 1.1.91 R (1), ■ (2), ■ (4) and ■ (5).

1.1.90

PRA

R

The calculation referred to in ■ INSPRU 1.1.89A R (1) is the multiplication of the amount of the *mathematical reserves* (gross of *reinsurance* cessions) in respect of a category of insurance liability by the higher of:

- (1) 85% or, in the case of a *pure reinsurer*, 50%; and
- (2) the ratio as at the end of the *financial year in question* of:
  - (a) the *mathematical reserves* in respect of that category of insurance liability net of *reinsurance* cessions; to
  - (b) the *mathematical reserves* in respect of that category of insurance liability gross of *reinsurance* cessions.

1.1.91  
PRA

R

For the purpose of ■ INSPRU 1.1.89A R and ■ INSPRU 1.1.90 R, the categories of insurance liability are as follows:

- (1) liabilities of a kind which arise from *contracts of insurance* falling in *long-term insurance business classes* I, II or IX;
- (2) liabilities of a kind which arise from *contracts of insurance* falling in *long-term insurance business classes* III, VII or VIII to the extent that the *firm* bears an investment risk;
- (3) liabilities of a kind which arise from *contracts of insurance* falling in *long-term insurance business classes* III, VII or VIII to the extent that the *firm* bears no investment risk and where the allocation to cover *management expenses* in the *contract of insurance* has a fixed upper limit which is effective as a limit for a period exceeding 5 years from the commencement of the contract;
- (4) liabilities of a kind which arise from *contracts of insurance* falling in *long-term insurance business class* IV; and
- (5) liabilities of a kind which arise from *contracts of insurance* falling in *long-term insurance business class* VI.

1.1.92  
PRA

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Where a *firm* has written a unit-linked contract, the *firm's* liability under the contract may consist of a unit liability, where the *firm* bears no investment risk, and other liabilities for which the *firm* bears an investment risk, and for which a separate reserve is held. ■ INSPRU 1.1.91 R (2) and ■ (3) require a *firm* to analyse its liabilities under unit-linked contracts between those for which it bears an investment risk and those for which it does not. ■ INSPRU 1.1.88 R and ■ INSPRU 1.1.89 R taken together result in a capital requirement for any liabilities for which the *firm* bears an investment risk of 4% of "adjusted *mathematical reserves*" (1% for expense risk and 3% for market risk).

#### Insurance special purpose vehicles

1.1.92A  
PRA

R

A *firm* must not treat any amounts recoverable from an *ISPV* as *reinsurance* for the purposes of the calculation of:

- (1) the *reinsurance ratio* in accordance with ■ INSPRU 1.1.54 R; or
- (2) the *insurance death risk capital component* in accordance with ■ INSPRU 1.1.81 R; or
- (3) the "adjusted *mathematical reserves*" in accordance with ■ INSPRU 1.1.90 R.

1.1.92B  
PRA

G

A *firm* may treat amounts recoverable from an *ISPV* as *reinsurance* for these purposes if it obtains a *waiver* of ■ INSPRU 1.1.92A R under sections 138A and 138B of the *Act*. The conditions that will need to be met, in addition to the statutory tests under section

138A(4) of the *Act*, before the *PRA* will consider granting such a *waiver* are set out in ■ INSPRU 1.6.13 G to ■ INSPRU 1.6.18 G

**Application of INSPRU 1.1 to Lloyd's**

1.1.93

PRA

R

■ INSPRU 1.1 applies to the *Society* in accordance with ■ INSPRU 8.1.2 R.

1.1.94

PRA

R

The following *rules* and *guidance* apply to *managing agents* in accordance with ■ INSPRU 8.1.4 R:

- (1) ■ INSPRU 1.1.12 R to ■ INSPRU 1.1.20 R (except ■ INSPRU 1.1.12R (1));
- (2) ■ INSPRU 1.1.42 G to ■ INSPRU 1.1.43 G; and
- (3) ■ INSPRU 1.1.74 G to ■ INSPRU 1.1.80 G.

1.1.95

PRA

R

The *Society* must calculate the *brought forward amount* for the *members* in aggregate in accordance with ■ INSPRU 1.1.51 R, using the result of ■ GENPRU 2.3.6 R for the prior *financial year* and the aggregate of all *members' technical provisions* for the relevant periods.

1.1.96

PRA

R

For the purposes of ■ INSPRU 1.1.66 R and further to that *rule*, in the case of Lloyd's *members*, amounts of *premiums* and *claims* must be adjusted for *approved reinsurance to close* to exclude any amount included in, or adjustment made to, *premiums* and *claims* to reflect the consideration for an *approved reinsurance to close*.



## 1.2 Mathematical reserves

### Application

1.2.1

FCA PRA

R

■ INSPRU 1.2 applies to a *long-term insurer* unless it is:

- (1) a *non-directive friendly society*; or
- (2) an *incoming EEA firm*; or
- (3) an *incoming Treaty firm*.

### Purpose

1.2.2

PRA

G

This section follows on from the overall requirement on *firms* to establish adequate *technical provisions* (see ■ INSPRU 1.1.16 R). The *mathematical reserves* form the main component of *technical provisions* for *long-term insurance business*. ■ INSPRU 1.2 sets out *rules* and *guidance* as to the methods and assumptions to be used in calculating the *mathematical reserves*. The *rules* and *guidance* set out the minimum basis for *mathematical reserves*. Methods and assumptions that produce reserves that are demonstrably equal to or greater than the minimum basis may also be used, though they must meet the basic requirements for methods and assumptions set out in ■ INSPRU 1.2.7 R to ■ INSPRU 1.2.27 G.

1.2.3

PRA

G

This section applies to all *firms* carrying on *long-term insurance business* and implements some of the requirements contained in article 20 of the *Consolidated Life Directive*. The implementation is designed to ensure that a *firm's mathematical reserves* in respect of *long-term insurance contracts* meet the minimum requirements set by the *Consolidated Life Directive*. A *firm* may use a prospective or a retrospective method to value its *mathematical reserves* (see ■ INSPRU 1.2.7 R).

1.2.4

PRA

G

The required procedures are summarised in the flowchart in ■ INSPRU 1 Annex 1 G.

1.2.5

PRA

G

*Firms* to which ■ GENPRU 2.1.18 R applies are required to calculate a *with-profits insurance capital component* (see ■ GENPRU 2.1.38 R). In order to calculate its *with-profits insurance capital component*, such a *firm* is required to carry out additional calculations of its liabilities on a realistic basis (see ■ INSPRU 1.3), which it is required to report to the PRA (see Forms 18,19). A *firm* that reports its liabilities on a realistic basis is referred to in GENPRU and INSPRU as a *realistic basis life firm*. Such *firms* are subject to different *rules* relating to the calculation of *mathematical reserves* (see

Rules in INSPRU	Corresponding rules in IPRU (INS)
3.1.58	2.3(2)
[FCA] [PRA]	
1.1.51	2.4(6)
[PRA]	
1.1.56	2.4(1)
[PRA]	
1.1.66	Appendix 2.1 2.4(1)(b)
[PRA]	Appendix 2.2 2.4(1)(b)
	5.9(1)
1.2.40	5.9(2)
[PRA]	
1.2.41	5.9(2)
[PRA]	
1.2.43	5.10
[PRA]	
1.2.74	[deleted]
6.1.17	10.1
[PRA]	10.2
	10.2(1)
	10.2(2)
	10.2(3)
6.1.23	10.2
[PRA]	10.2(1)
	10.2(2)
	10.2(3)

3

## PRU waivers

**Application**

3.1 R *INSPRU* TP 3 applies to an *insurer* unless it is:

[FCA]  
[PRA]

- (1) a *non-directive friendly society*; or
- (2) an *incoming EEA firm*; or
- (3) an *incoming Treaty firm*.

**Version of PRU to be used**

3.2 R A reference in *INSPRU* TP 3 to *PRU* is to the version in force on 30 December 2006.

[FCA]  
[PRA]

**Duration of transitional**

3.3 R *INSPRU* TP 3 applies until the relevant *INSPRU rule* is revoked.

[FCA]  
[PRA]

**Continuing effect of waivers**

3.4 R A *rule* in *INSPRU* is disapplied, or is modified in its application, to a *firm*:

[FCA]  
[PRA]

- (1) in order to produce the same effect, including any conditions, as a *waiver* had on the *rule* in *PRU*;
- (2) for the same period as the *waiver* would have lasted, if shorter than the period in *INSPRU* TP 3.3;

provided the conditions set out in *INSPRU* TP 3.5 are satisfied.

3.5 R The conditions referred to in *INSPRU* TP 3.4 are:

[FCA]  
[PRA]

- (1) the *rule* in *PRU* in relation to which the *waiver* was granted to the *firm* was redesignated as the relevant *rule* in *INSPRU* by the Prudential Sourcebook for Insurers Instrument 2006;
- (2) the *waiver* was current as respects the *firm* immediately before 31 December 2006; and
- (3) there is no specific transitional *rule* relating to the *waiver*.

3.6 R *INSPRU* TP 3.4 does not have effect if, and to the extent that, it would be inconsistent with any *EU* law obligation of the *United Kingdom*.

[FCA]  
[PRA]

3		PRU waivers
3.7	R	A <i>firm</i> which has the benefit of a <i>waiver</i> to which <i>INSPRU</i> TP 3.4 applies must:
[FCA]		
[PRA]		
	(1)	notify the <i>appropriate regulator</i> immediately if it becomes aware of any matter which is material to the relevance or appropriateness of the <i>waiver</i> ;
	(2)	maintain a written record of the <i>rule</i> in <i>INSPRU</i> to which it considers the <i>waiver</i> applies; and
	(3)	make the record available to the <i>appropriate regulator</i> on request.
4		EEA pure reinsurers
[deleted]		
5		Pure reinsurance groups
[deleted]		
6		Admissible assets
[deleted]		
7		Mathematical reserves
<b>Application</b>		
7.1	R	<i>INSPRU</i> TP 7 applies to an <i>insurer</i> to which <i>INSPRU</i> 1.2 applies.
[PRA]		
<b>Duration of transitional</b>		
7.2	R	<i>INSPRU</i> TP 7 applies until the relevant <i>rule</i> is revoked.
[PRA]		
7.3	R	<i>INSPRU</i> 1.2.79A R does not apply in respect of <i>reinsurance</i> and analogous non- <i>reinsurance</i> financing agreements entered into and the terms of which came into effect before 10 December 2009, provided that immediately before 6 October 2010 the <i>firm</i> had the benefit of <i>INSPRU</i> 1.2.79 R (2) in relation to those <i>reinsurance</i> or analogous non- <i>reinsurance</i> financing agreements.
[PRA]		



## Prudential sourcebook for Insurers

### Schedule 4 Powers exercised

#### Schedule 4.1 G

[deleted]

#### Schedule 4.2 G

[deleted]



# Prudential sourcebook for Mortgage and Home Finance Firms, and Insurance Intermediaries



# Prudential sourcebook for Mortgage and Home Finance Firms, and Insurance Intermediaries

## MIPRU TP 1 Transitional Provisions

FCA PRA

(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
1	MIPRU 4.4.4 R and MIPRU 4.4.8 R (3)	R	[expired]		
2	MIPRU 5.2.2 R and MIPRU 5.2.4 R	R	MIPRU 5.2.2 R and MIPRU 5.2.4 R have effect in respect of the use by a <i>firm</i> of the services of another <i>person</i> consisting of <i>insurance mediation</i> and provided from an establishment in an <i>EEA State</i> that has not implemented Article 3 (Registration) of the <i>Insurance Mediation Directive</i> , as if the condition in paragraph (4) of MIPRU 5.2.2 R and the condition in paragraph (2) of MIPRU 5.2.4 R were a condition that the <i>firm</i> has no reason to doubt the good repute, competence and financial standing of that <i>person</i> .	from 14 January 2005 until the implementation of Article 3 of the <i>Insurance Mediation Directive</i> by the relevant <i>EEA State</i>	14 January 2005
3	MIPRU 3.2.7 R	R	[deleted]		



# Prudential sourcebook for Mortgage and Home Finance Firms, and Insurance Intermediaries

## Schedule 4 Powers exercised

### Sch 4.1 G

[deleted]

### Sch 4.2 G

[deleted]



# Prudential sourcebook for UCITS Firm



## Prudential sourcebook for UCITS Firm

### Schedule 3 Fees and other required payments

Sch 3 G

[deleted]



## Prudential sourcebook for UCITS Firm

### Schedule 4 Powers exercised

#### Sch 4.1 G

[deleted]

#### Sch 4.2 G

[deleted]



# **Interim Prudential Sourcebook**

## **Friendly Societies**



performing them and, where appropriate, whether the candidate has relevant qualifications and training. Also important is the individual's ability to bring informed, independent judgement to bear on the issues considered by the *committee*.

- (3) They should be independent of management and free from any business or other relationship which could materially interfere with the exercise of their independent judgement.
- (4) If fees are paid they should reflect the time which non-executives commit to the *friendly society* and the particular responsibilities related to the size, complexity and diversity of the *friendly society's* business.
- (5) Non-executive members should be elected for specified terms subject to the ceiling imposed by paragraph 6(1)(a) of Schedule 11 to the *1992 Act*; and re-election should not be automatic. Candidates for election as non-executive members should be selected from as wide a constituency as possible.

*Executive members of the committee of management*

3.

PRA

- (1) Where appointments of senior executives are subject to a formal service contract for a fixed term, the term should not exceed 3 years.
- (2) In the case of any other service contract the period of notice which the *friendly society* has to give to terminate the contract should not exceed 1 year.
- (3) There should be full and clear disclosure of the total emoluments and terms of appointment (including notice) of all of the members of the *committee*.
- (4) Such disclosure would normally be given in the accounts issued by the *friendly society* to its members.

## Annex 1:

### Guidance on Corporate Governance of Friendly Societies

This Annex sets out the *PRA's* view of best practice in the corporate governance of *friendly societies*.

#### *The committee of management*

1. PRA
- (1) The *committee* should meet regularly, retain full and effective control over the *friendly society* and monitor the executive management, subject always to the authority vested in members either directly or through delegate bodies, either annually or at other properly constituted meetings.
  - (2) The effectiveness of a *committee's* arrangements for monitoring the performance of executive management and for the overall control and direction of the *friendly society* are important tests of its compliance with the *PRA* principles for business in particular principles 2 (“Skill, care and diligence”) and 3 (“Management and control”).
  - (3) There should be appropriate arrangements such as a clearly accepted division of responsibilities at the head of a *friendly society*, which will ensure a balance of power and authority, such that no one individual can exert undue influence.
  - (4) The 1992 Act envisages that the offices of Chairman and Chief Executive would be separately held.
  - (5) In relation to the size of the *friendly society*, the *committee* should include nonexecutive members of sufficient number for their views to carry significant weight in the *committee's* decisions.
  - (6) A *committee* should have non-executive members of sufficient quality, breadth of experience and calibre for their views to carry weight in the *committee's* decisions and who, individually, can devote the necessary time and attention to the *friendly society's* business.
  - (7) There should be an agreed procedure for any member of the *committee* to seek additional information from the executives and to take independent professional advice at the *friendly society's* expense; as may be necessary in the furtherance of his/her duties.

#### *Non-Executive members of the committee of management*

2. PRA
- (1) Non-executive members of the *committee* should bring an independent judgement to bear on issues of strategy, performance, resources, including key appointments, and standards of conduct.
  - (2) In assessing whether a candidate for election has an appropriate level of competence, consideration should be given to his or her previous experience of similar responsibilities, the record in

## Annex 2:

### Guidance on Officers' Liability Insurance

#### *Introduction*

1. **PRA** This Annex draws attention to the need for a *committee* of a *friendly society* to consider whether to purchase and maintain liability insurance for *officers* and to make sure that the terms of any such policy are fully understood and meet the *friendly society's* needs. A *committee* should disclose the fact that the *friendly society* has purchased or maintained such insurance in the *committee's* annual report.

#### *Section 106*

2. **PRA** Section 106 of the 1992 Act provides that a *friendly society* cannot exempt its *officers* (including the *appropriate actuary*) or auditors from liability for negligence, default, breach of duty or breach of trust, or indemnify them against such liability. A *friendly society* may, however, indemnify its *officers* or auditors against liability for defence against proceedings where judgement is favourable or the person is acquitted. Section 106 also provides that a *friendly society* can purchase and maintain insurance against any such liability.

3. **PRA** A *friendly society* which attempts either directly or indirectly (eg, via a year end bonus) to compensate its *officers* for any liabilities arising as a result of error or omission would contravene the provisions of section 106. Such contravention would also clearly risk breaching principle 2 of the *PRA* Principles for Businesses (conduct of business with due skill, care and diligence).

#### *Duty of care*

4. **PRA** Annex 3 (Guidance on Systems of Accounting, Control of Business and Inspection and Report) draws attention to the increasing risks faced by *friendly societies* in the light of the increasing complexity of operations and the increasing pace of change and risks in the financial markets. These factors have led to an increase in the risk that errors and omissions will occur which may give rise to substantial liabilities for *officers*.

5. **PRA** Annex 3 also draws attention to the special duty of care that the *officers* of a *friendly society* have in respect of protecting the interests of *policyholders*. This duty is recognised in the *PRA* and *FCA's* Principles for Business, including principle 6 of the *FCA's* Principles for Businesses (paying due regard to *policyholders* interests and treating them fairly). In the *PRA's* view, because of the increasing risk of error and omission, and the possibility that any liabilities which may arise as a result could be substantially greater than an *officer's* or *officers'* financial resources to cover them, that duty of care places a responsibility on a *committee* to consider whether the *friendly society* should obtain indemnity insurance cover for appropriate *officers* in the interests of members (see 6).

#### *Liability insurance*

6. The *PRA* will expect any *committee* that has not already done so to give formal consideration to whether to obtain indemnity insurance cover against error

PRA

and omission for appropriate *officers* (eg. *committee* and senior executives). The *committee* may wish to take into account a number of factors including: the implications of the risks inherent in the nature and scale of the *friendly society's* business; the cost of the indemnity insurance *premiums*; and *officers' concerns* about the risk of liability that they face because of their duties and responsibilities for the *friendly society*. The minutes of the meeting at which the issue was formally discussed by the *committee* should record the decision reached and underlying reasoning.

7. A *committee* which decides to obtain and maintain indemnity insurance cover for its *officers* will need to ensure that the implications of the policy terms and conditions, and particularly of the list of exclusions, are fully understood. The best starting point may be for the *committee* to decide the key elements it thinks are essential for such a policy before considering, in conjunction with its professional advisers, whether the terms and conditions of specific policies adequately meet those requirements.

PRA

8. The *committee* of a *friendly society* which has obtained suitable indemnity cover should not relax its approach to minimising the risks of liability arising from error and omission. It is very important that a *committee* takes every step it can to ensure its *friendly society's* systems are adequate to minimise the risks: systems of control should be sufficient to minimise the risk of errors or omissions occurring; systems of inspection and report need to be capable of identifying any such problems at an early stage, so that matters can be rectified quickly before substantial damage has occurred.

PRA

#### *Reporting requirements*

9. For companies subject to the requirements of the Companies Acts the fact of the purchase and/or maintenance of indemnity insurance against *officers' and auditors' liabilities* should be disclosed in the directors' report to the annual accounts. The *PRA* considers that the *committee* of a *friendly society* which obtains and/or maintains such an insurance policy should similarly disclose the fact to members in the *committee's* annual report.

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## Annex 3

### Part I:

## Guidance on Systems of Accounting, Control of Business and Inspection and Report

1. PRA This Part of the Annex sets out the key issues that the *PRA* considers the *committee* and the management of a *friendly society* need to address if the *friendly society's* systems are to satisfy the principle 3 of the *PRA* Principles for Business. That principle requires a *friendly society* to take reasonable care to organise and control its affairs responsibly and effectively, with adequate risk management systems. The *PRA* expects that these issues will have been considered by a *non-directive friendly society's committee* in preparing its reports under rule 3.1.

### A. INTRODUCTION

#### *Background*

2. PRA Rule 3.1 requires the *committee* of a *friendly society* to send a statement of opinion (also referred to in this note as the rule 3.1 report) to the *PRA* each year on the compliance of the *friendly society* with that section.

3. PRA This Annex provides practical guidance to *friendly societies* about the key issues in the *PRA's* view that:

- (a) need to be addressed if the requirements of rule 3.1 are to be satisfied; and
- (b) need to be considered by the *friendly society's committee* in preparing its reports to the *PRA*,

and also provides guidance on the format of reports.

#### *Application of rule 3.1*

4. PRA Experience among financial institutions generally continues to demonstrate the importance for the protection of investors of adequate systems of control. As far as *friendly societies* are concerned the powers under the 1992 Act, the increasing complexity of *friendly societies' operations* (including activities carried on by the controlled bodies of *incorporated friendly societies*) combined with the increased pace of change in financial markets emphasises the need for such systems. Rule 3.1 requires *friendly societies* to:

- (a) cause adequate accounting records to be kept; and
- (b) establish and maintain systems of control of business and records and of inspection and report.

**These requirements are intended to form a sound basis for the control of *friendly societies' businesses* and the protection of *policyholders' funds*. The**

requirements of rule 3.1 apply to *friendly societies* and *registered branches*.

5. Chapter 3 covers the roles of *committees*, and the *PRA* with regard to systems and reporting. As with other prudential provisions, it is the responsibility of the *committee* of a *friendly society* to ensure the requirements of rule 3.1 are met and to be able to demonstrate that to the *PRA*. The *PRA* sees the main elements of the *committee's* responsibilities to be:

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- (a) establishing and maintaining arrangements for the continuous review of systems, including those for new business;
- (b) [deleted]
- (c) assessing whether the *friendly society* (including any *registered branches*), or the *friendly society* and any controlled bodies (“the group”), has complied with the relevant requirements of the Act, *PRA* rules made under the Act and the 1992 Act for the period under review and, as necessary, identifying any shortcomings in compliance with the requirements, together with the corrective actions taken or proposed, including timetable;
- (d) preparing and submitting the rule 3.1 reports required by the *PRA* from the *committee* by the due date; and
- (e) discussing with the *PRA* any issues arising from these reports and, where appropriate, corrective actions taken or planned.

*Satisfying the requirements of rules 3.1*

6. It would not be practical to document all the possible considerations the *committee* and management of a *friendly society* will have to take into account in considering whether their *friendly society* satisfies the requirements of rule 3.1. This note therefore focuses on the main issues which, in the opinion of the *PRA*, need to be addressed by the *committee* and by the management of a *friendly society* if the *friendly society* is to satisfy the requirements of rule 3.1. Where the chief executive of a *friendly society* is not also a member of the *committee*, it is nevertheless still important that he or she gives full consideration to these issues - not least because the chief executive is required to be a signatory to the *committee's* reports to the *PRA* under rule 3.1. This note includes a framework which the *PRA* believes can be applied to all *friendly societies* but also recognises the considerable diversity in nature, scale and scope of *friendly societies' operations*.

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7. The *PRA* expects that the issues set out in this Annex will have been addressed prior to the preparation of the rule 3.1 report.

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*Friendly societies with registered branches*

9. Rules 2.2 and 2.3 require a *friendly society* with *registered branches* to supervise the activities of the branches, notwithstanding the duties of the *committees* and managements of those branches. This includes supervision of compliance with the requirements of rule 3.1. The management information provided to the *committee* and management of a *friendly society* which has

PRA

*registered branches* will need to include information about the activities of the *friendly society* as a whole (see 18).

*Business standards*

10. PRA Principle 3 of the *PRA* Principles for Businesses requires a *friendly society* to take reasonable care to organise and control its affairs responsibly and effectively, with adequate risk management systems. The high standards needed for the management of a *friendly society* apply not only to accounting records and controls, but more broadly to business controls over all aspects – including key management information – of the business carried on by a *friendly society*.

**B. ACCOUNTING RECORDS AND SYSTEMS**

11. The principal reasons why a *friendly society* (including any *registered branch*) or a group is required by rule 3.1 to maintain adequate accounting and other records are:

- PRA
- (a) to provide the *committee* and management of a *friendly society* (or a branch) with adequate financial and other information to enable them to conduct its business in a prudent manner on a day to day basis;
  - (b) to enable members of the *committee* to fulfil their statutory duties in relation to the preparation of annual accounts in accordance with sections 69 and 70 and the regulations made under section 70 of the 1992 Act (currently the *Accounts Regulations*);
  - (c) to safeguard the assets of the *friendly society* (or branch) and to protect the interests of *policyholders*;
  - (d) to enable the *friendly society* (or branch) properly to discharge the duties imposed on it by or under the Act, *PRA* rules made under the Act and the 1974 Act and/or the 1992 Act; and
  - (e) to provide the *committee* and the management of the *friendly society* (or branch) with sufficiently timely and accurate information to enable them to submit the information required or requested by the *PRA*.

12. PRA When forming their opinion on whether the accounting and other records are adequate, the *committee* and chief executive of a *friendly society* should assess the scope and nature of the records in the context of the *friendly society's* needs and particular circumstances. They should have regard to the manner in which the business is structured, organised and managed, as well as the size and nature of the *friendly society* and the volume and complexity of its transactions and commitments. In particular, they will need to satisfy themselves that the records:

- (a) are kept in legible form and/or are capable of reproduction in a legible form to be inspected or made available for inspection;
- (b) are such that adequate precautions are taken for guarding against the possibility of falsification and for facilitating the discovery of

falsification should that occur;

- (c) are such that sufficient information is available to enable the rights and reasonable expectations of the *policyholders* to be determined;
- (d) capture and record on a timely basis, and in an orderly fashion every transaction and commitment which a *friendly society* or any *registered branch* enters into with sufficient information about each to explain:
  - (i) its nature and purpose;
  - (ii) the assets and/or liabilities, actual and contingent, which arise or may arise from it;
  - (iii) the income and/or expenditure, current and deferred, which arise from it;
- (e) disclose in an orderly and integrated manner, and with reasonable accuracy and promptness, the state of the business at any time.

The *committee* and management of a *registered branch* will also need to have regard to the matters in (a) to (e).

13. The records should be maintained so as to enable the financial and business information to be extracted promptly so that the *committee* and management can monitor and control the performance of the business, the state of its affairs and the risks to which it is exposed.

PRA

## C. SYSTEMS OF BUSINESS CONTROL

### *General*

14. It is important for a *friendly society* to identify the risks associated with each area of the business it undertakes and the manner in which it carries out that business. Risks associated with the activities of any *registered branches* or controlled bodies should be similarly identified. Control objectives may then be set for each area of the business, and controls established and maintained which address appropriately the identified risks with the aim of ensuring:

PRA

- (a) the conduct of the business in a prudent manner and in accordance with the *friendly society's* statements of policy and business practice and any applicable registered rules;
- (b) that the *committee* and management have sufficient, and sufficiently reliable, financial information to enable them to effectively direct, control and monitor the business and manage the risks identified; and
- (c) compliance with all relevant statutory and regulatory requirements.

15. It is not practical for this section of the Annex to set out a comprehensive list of the risks that arise or the controls that might be established to address the risks. This section therefore focuses on general areas of concern to *friendly societies* and, in particular on the “high level” controls (see 16 to 24) that

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need to be established in these areas. “High level” controls would, in this context, be the overall supervisory controls available to and exercised by the *committee* and other senior *officers* (eg chief executive) - see also B4 in Attachment B of this Annex and C2(e) and C5(b) in Attachment C of this Annex.

*Organisational control systems*

16. *A friendly society* needs:

- PRA**
- (a) clearly defined organisational arrangements together with a defined structure of authorities and responsibilities - including reporting lines – distinguishing between decisions to be reserved for the *committee* and those to be delegated to managers and other employees; and
  - (b) arrangements for reviewing compliance with, and effectiveness of, organisational controls.

17. In forming their opinion on systems of business control the *committee* and chief executive of a *friendly society* need to establish whether:

- PRA**
- (a) the *friendly society's* overall organisational arrangements are adequately defined and documented, for example in an organisational manual;
  - (b) the *friendly society's* decision-making processes together with authority limits and responsibilities are adequately defined and documented, for example in operating manuals; and
  - (c) compliance with approved authority limits and stipulated segregation of duties is effectively monitored and controlled.

*Management information systems*

18. Rule 3.1(5) requires the *committee* of a *friendly society* (including a *friendly society* with *registered branches*, see 9) or the *committee* of a *registered branch* to maintain information systems which, amongst other matters:

- PRA**
- (a) enable the respective *committee* to direct and control the *friendly society's* business or the *registered branch's* business; and
  - (b) provide information required by the *PRA* in its role of prudential supervisor.

19. In evaluating whether a *friendly society* has complied with the requirements, the *committee* and management of the *friendly society* need to satisfy themselves that:

- PRA**
- (a) the information is sufficient to enable the *committee* to determine whether the *friendly society* is meeting the requirement to maintain adequate financial resources (see the rules in chapter 4 and also the guidance in 21);

- (b) the information available for the different areas of a *friendly society's* activities, including those of controlled bodies, is sufficient for the proper assessment of the risks (including those arising from current relevant market conditions and trends) and the proper determination of the need for capital and liquidity;
- (c) the information about the relative assets and liabilities attributable to different classes of members is sufficient to enable the *friendly society* to determine whether the reasonable expectations of each class of *policyholders* are likely to be met;
- (d) the information available is sufficiently comprehensive to provide the *committee* with a clear statement of the performance and financial position of the *friendly society* (including any *registered branches*) and, if appropriate, the group;
- (e) management information reports are prepared as regularly as necessary to ensure that the *committee* is given timely information about all aspects of the business;
- (f) actual performance is compared with planned or budgeted performance on a regular basis and significant variations are highlighted and explained (see also A6 of Attachment A of this Annex);
- (g) sufficient attention is focused on key factors affecting income and expenditure, including capital expenditure, and that appropriate performance indicators are employed; and
- (h) management information is accurately prepared from the underlying accounting and other records and is presented in a form which is clear, consistent and understandable to those persons for whom it is provided.

The *committee* and management of a *registered branch* will also need to have regard to the matters in (a) to (h) in so far as they are relevant to a branch.

20. It is important that the form and content of management information is regularly reviewed to ensure that it remains appropriate and relevant to the current pattern of a *friendly society's* business and to market conditions.

FCA PRA

21. In forming a view on whether the management information system is sufficiently comprehensive, the *committee* and management of a *friendly society* need to consider whether the information made available to them provides, where relevant, a clear statement of:

PRA

- (a) the solvency position;
- (b) the liquidity position;
- (c) surpluses and shortfalls, assets and liabilities, profits and losses in respect of controlled bodies;
- (d) the performance of investments;

# Conduct of Business Sourcebook





## 4.2 Fair, clear and not misleading communications

### The fair, clear and not misleading rule

4.2.1  
FCA

R

- (1) A *firm* must ensure that a communication or a *financial promotion* is fair, clear and not misleading.
- (2) This *rule* applies in relation to:
  - (a) a communication by the *firm* to a *client* in relation to *designated investment business* other than a *third party prospectus*;
  - (b) a *financial promotion communicated* by the *firm* that is not:
    - (i) an *excluded communication*;
    - (ii) a *non-retail communication*;
    - (iii) a *third party prospectus*; and
  - (c) a *financial promotion* approved by the *firm*.

[Note: article 19(2) of MiFID , recital 52 to the MiFID implementing Directive and article 77 of the UCITS Directive]

4.2.2  
FCA

G

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

PAGE  
5

4.2.3  
FCA

G

Part 7 (Offences relating to Financial Services) of the Financial Services Act 2012 creates criminal offences relating to certain misleading statements and practices.

**Fair, clear and not misleading financial promotions**

4.2.4

FCA

G

A *firm* should ensure that a *financial promotion*:

- (1) for a product or service that places a *client's* capital at risk makes this clear;
- (2) that quotes a yield figure gives a balanced impression of both the short and long term prospects for the *investment*;
- (3) that promotes an *investment* or service whose charging structure is complex, or in relation to which the *firm* will receive more than one element of remuneration, includes the information necessary to ensure that it is fair, clear and not misleading and contains sufficient information taking into account the needs of the recipients;
- (4) that names the *FCA*, *PRA* or both as its regulator and refers to matters not regulated by either the *FCA*, *PRA* or both makes clear that those matters are not regulated by the *FCA*, *PRA* or either;
- (5) that offers *packaged products* or *stakeholder products* not produced by the *firm*, gives a fair, clear and not misleading impression of the producer of the product or the manager of the underlying investments.

4.2.5

FCA

G

A communication or a *financial promotion* should not describe a feature of a product or service as "guaranteed", "protected" or "secure", or use a similar term unless:

- (1) that term is capable of being a fair, clear and not misleading description of it; and
- (2) the *firm* communicates all of the information necessary, and presents that information with sufficient clarity and prominence, to make the use of that term fair, clear and not misleading.

**The reasonable steps defence to an action for damages**

4.2.6

FCA

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*.

## 5.2 E-Commerce

### Application

5.2.1

FCA

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* or another *EEA State* .

### Information about the firm and its products or services

5.2.2

FCA

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 rapidly and communicated with in a direct and effective manner;
- (4) an appropriate statutory status disclosure statement ( ■ GEN 4 Annex 1 R or ■ GEN 4 Annex 1A R as appropriate ), 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*, or a *person* regulated by the equivalent of a *designated professional body* in another *EEA State*:
  - (a) the name of the professional body (including any *designated professional body*) or similar institution with which it is registered;
  - (b) the professional title and the *EEA State* where it was granted;
  - (c) a reference to the applicable professional rules in the *EEA State* of establishment and the means to access them; and
- (6) where the *firm* undertakes an activity that is subject to VAT, its VAT number.

[Note: article 5(1) of the *E-Commerce Directive*]

5.2.3  
FCA

**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.

[Note: article 5(2) of the *E-Commerce Directive*]

5.2.4  
FCA

**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.

[Note: article 6 of the *E-Commerce Directive*]

5.2.5  
FCA

**R** An unsolicited commercial communication sent by e-mail by a *firm* established in the *United Kingdom* must be identifiable clearly and unambiguously as an unsolicited commercial communication as soon as it is received by the recipient.

[Note: article 7(1) of the *E-Commerce Directive*]

#### Requirements relating to the placing and receipt of orders

5.2.6  
FCA

**R** A *firm* must (except when otherwise agreed by parties who are not *consumers*):

- (1) give an *ECA recipient* at least 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;

## 7.2 Information to be provided by the insurance intermediary

7.2.1

FCA

R

- (1) Prior to the conclusion of any initial *life policy* and, if necessary, on amendment or renewal, a *firm* must provide a *client* with at least the following information:
  - (a) its name and address;
  - (b) the fact that it is registered on the *Financial Services Register* and its Firm Reference Number (or, if it is not on the *Financial Services Register*, the register in which it has been included and the means for verifying that it has been registered);
  - (c) whether it has a direct or indirect holding representing more than 10% of the voting rights or capital in a given *insurance undertaking* (that is not a *pure reinsurer*);
  - (d) whether a given *insurance undertaking* (other than a *pure reinsurer*) or its *parent undertaking* has a direct or indirect holding representing more than 10% of the voting rights or capital in the *firm*; and
  - (e) the procedures which allow a *client* and other interested parties to register complaints about the *firm* with the *firm* and the *Financial Ombudsman Service* or, if the *Financial Ombudsman Service* does not apply, information about the out-of-court complaint and redress procedures available for the settlement of disputes between the *firm* and its *clients*.
- (2) In addition, a *firm* must inform a *client*, concerning the *life policy* that is provided, whether:
  - (a) it gives advice on the basis of a fair analysis of the market; or
  - (b) it is contractually obliged to conduct its *insurance mediation* business exclusively with one or more *insurance undertakings* and, if that is the case, that the *client* can request the names of those *insurance undertakings*; or
  - (c) it is not contractually obliged to conduct its *insurance mediation* business exclusively with one or more *insurance undertakings* and does not give advice on the basis of a fair analysis of the market and, if that is the case, that the *client*

can request the names of the *insurance undertakings* with which the *firm* may and does conduct business.

- (3) If a *client* asks a *firm* to provide the names of the *insurance undertakings* with which the *firm* conducts, or may conduct, business (■ COBS 7.2.1 R (2)), the *firm* must provide it.

[Note: article 12(1) of the *Insurance Mediation Directive*]

#### Interface with the services and costs disclosure document

7.2.2

FCA

G

A *firm* will satisfy elements of the requirement immediately above if it provides a *services and costs disclosure document* or a *combined initial disclosure document* to a *client* (see ■ COBS 6.3).

7.2.2A

R

[deleted]

7.2.2B

FCA

G

A *firm* may provide a *services and costs disclosure document* or a *combined disclosure document* to a *client* who buys a non-advised *life policy*.

#### Fair analysis for advised sales

7.2.3

FCA

R

When a *firm* informs a *client* that it gives advice on the basis of a fair analysis of the market, it must give that advice on the basis of an analysis of a sufficiently large number of *life policies* available on the market to enable the *firm* to make a recommendation, in accordance with professional criteria, regarding which *life policy* would be adequate to meet the *client's* needs.

[Note: article 12(2) of the *Insurance Mediation Directive*]

#### Specifying demands and needs

7.2.4

FCA

R

- (1) Prior to the conclusion of any specific *life policy*, a *firm* must at least specify, in particular on the basis of the information provided by the *client*, the demands and needs of that *client*. Those demands and needs must be modulated according to the complexity of the relevant *policy*.
- (2) This *rule* does not apply when a *firm* makes a *personal recommendation* in relation to a *life policy*.

[Note: article 12(3) of the *Insurance Mediation Directive*]

7.2.5

FCA

G

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

## Conduct of Business Sourcebook

### Schedule 4 Powers exercised

**R**  
**Sch 4.1 G**  
[deleted]

**Sch 4.2 G**  
[deleted]



# Insurance: Conduct of Business sourcebook



## Chapter 3

# Distance communications



## 3.1 Distance marketing

### Application

3.1.1  
FCA

R

This section applies to a *firm* that carries on any distance marketing activity from an establishment in the *United Kingdom*, with or for a *consumer* in the *United Kingdom* or another *EEA* State.

### Guidance on the Distance Marketing Directive

3.1.2  
FCA

G

Guidance on expressions derived from the *Distance Marketing Directive* and on the Directive's application in the context of *insurance mediation activity* can be found in ■ ICOB3 3 Annex 1 G.

### The distance marketing disclosure rules

3.1.3  
FCA

R

A *firm* must provide a *consumer* with the distance marketing information (■ ICOB3 3 Annex 2 R) in good time before conclusion of a *distance contract*.

[Note: article 3(1) of the *Distance Marketing Directive*]

3.1.4  
FCA

G

The *rules* setting out the responsibilities of *insurers* and *insurance intermediaries* for producing and providing information apply to requirements in this section to provide information (see ■ ICOB3 6.1.1 R).

3.1.5  
FCA

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, such as minors.

[Note: article 3(2) of the *Distance Marketing Directive*]

3.1.6  
FCA

R

When a *firm* makes a voice telephony communication to a *consumer*, it must make its identity and the purpose of its call explicitly clear at the beginning of the conversation.

[Note: article 3(3)(a) of the *Distance Marketing Directive*]

**3.1.7**  
**FCA** **R** A *firm* must ensure that the information on contractual obligations to be communicated to a *consumer* during the pre-contractual phase is in conformity with the contractual obligations which would result from the law presumed to be applicable to the *distance contract* if that contract is concluded.

[Note: article 3(4) of the *Distance Marketing Directive*]

#### Terms and conditions, and form

**3.1.8**  
**FCA** **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*.

[Note: article 5(1) of the *Distance Marketing Directive*]

**3.1.9**  
**FCA** **G** A *firm* will provide or communicate information or contractual terms and conditions to a *consumer* if another *person* provides or communicates it to the *consumer* on its behalf.

#### Commencing performance of the distance contract

**3.1.10**  
**FCA** **R** The performance of the *distance contract* may only begin after the *consumer* has given his approval.

[Note: article 7(1) of the *Distance Marketing Directive*]

#### Exception: distance contract as a stage in the provision of another service

**3.1.11**  
**FCA** **R** This section does not apply to a *distance contract* to act as *insurance intermediary*, if the *distance contract* is concluded merely as a stage in the provision of another service by the *firm* or another *person*.

[Note: recital 19 to the *Distance Marketing Directive*]

#### Exception: successive operations

**3.1.12**  
**FCA** **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.

[Note: article 1(2) of the *Distance Marketing Directive*]

**3.1.13**  
**FCA** **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).

[Note: recital 16 and article 1(2) of the *Distance Marketing Directive*]

**Exception: voice telephony communications**

3.1.14

FCA

R

- (1) In the case of a voice telephony communication, and subject to the explicit consent of the *consumer*, only the abbreviated distance marketing information ( ■ ICOBS 3 Annex 3 R) 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 ( ■ ICOBS 3 Annex 2 R) in writing or another *durable medium* available and accessible to the *consumer* in good time before conclusion of any *distance contract*.

[Note: articles 3(3)(b) and 5(1) of the *Distance Marketing Directive*]

**Exception: Means of distance communication not enabling disclosure**

3.1.15

FCA

R

A *firm* may provide the distance marketing information ( ■ ICOBS 3 Annex 2 R) 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*.

[Note: article 5(2) of the *Distance Marketing Directive*]

**Consumer's right to request paper copies and change the means of communication**

3.1.16

FCA

R

At any time during the contractual relationship the *consumer* is entitled, at his 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.

[Note: article 5(3) of the *Distance Marketing Directive*]

**Unsolicited services**

3.1.17

FCA

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 reply not constituting consent.
- (2) This *rule* does not apply to the tacit *renewal* of a *distance contract*.

[Note: article 9 of the *Distance Marketing Directive*]

**Mandatory nature of consumer's rights**

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3.1.18

FCA

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*.

[Note: article 12 of the *Distance Marketing Directive*]

3.1.19

FCA

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 *EEA*, the *firm* must ensure that the *consumer* will not lose the protection created by the *rules* in this section if the *distance contract* has a close link with the territory of one or more *EEA States*.

[Note: articles 12 and 16 of the *Distance Marketing Directive*]

## 3.2 E-Commerce

### Application

3.2.1

FCA

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* or another *EEA State*.

### Information about the firm and its products or services

3.2.2

FCA

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 1 R), 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*, or a *person* regulated by the equivalent of a *designated professional body* in another *EEA State*:
  - (a) the name of the professional body (including any *designated professional body*) or similar institution with which it is registered;
  - (b) the professional title and the *EEA State* where it was granted;
  - (c) a reference to the applicable professional rules in the *EEA State* of establishment and the means to access them; and

- (6) where the *firm* undertakes an activity that is subject to VAT, its VAT number.

[Note: article 5(1) of the *E-Commerce Directive*]

3.2.3  
FCA

**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.

[Note: article 5(2) of the *E-Commerce Directive*]

3.2.4  
FCA

**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.

[Note: article 6 of the *E-Commerce Directive*]

3.2.5  
FCA

**R** An unsolicited commercial communication sent by e-mail by a *firm* established in the *United Kingdom* must be identifiable clearly and unambiguously as an unsolicited commercial communication as soon as it is received by the recipient.

[Note: article 7(1) of the *E-Commerce Directive*]

**Requirements relating to the placing and receipt of orders**.....

3.2.6  
FCA

**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.

[Note: articles 10(1) and (2) and 11(1) and (2) of the *E-Commerce Directive*]

3.2.7

FCA

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.

[Note: article 10(3) of the *E-Commerce Directive*]

**Exception: contract concluded by e-mail**

3.2.8

FCA

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.

[Note: article 10(4) and 11(3) of the *E-Commerce Directive*]

## Guidance on the Distance Marketing Directive

**FCA**

This Annex belongs to ■ ICOBS 3.1.2 G

### 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*.

### Q2. What about a firm that normally operates face-to-face but occasionally uses distance means?

If a *firm* normally operates face-to-face and has no facilities in place enabling a *consumer* to deal with it customarily by distance means, there will be no *distance contract*. A one-off transaction effected exclusively by distance means to meet a particular contingency or emergency will not be a *distance contract*.

### Q3. What is meant by "simultaneous physical presence"?

A *consumer* may visit the *firm'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 *firm* and the *consumer* at the time of such a visit, any ensuing contract will not be a *distance contract*.

### Q4. Does the mere fact that an intermediary is involved make the sale of a product or service a distance contract?

No.

### Q5. When is a contract concluded?

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 an *insurer* to consider an application) is not an offer to be bound, but is part of a pre-contractual negotiation.

A *consumer* will provide all the information an *insurer* needs to decide whether to accept a risk and to calculate the *premium*. The *consumer* may do this orally, in writing or by completing a proposal form. The response by an *insurer*, giving a quotation to the *consumer* specifying the *premium* and the terms, is likely to amount to an offer of the terms on which the *insurer* will insure the risk. Agreement by the *consumer* to those terms is likely to be an acceptance which concludes the contract.

In other cases where the *insurer* requires a signed proposal form (for example, some *pure protection contracts*), the proposal form may amount to an offer by the *consumer* on which the *insurer* decides whether to insure the risk and in such cases the *insurer's* response is likely to be the acceptance.

### Q6. What if the contract has not been concluded but cover has commenced?

Where the parties to a contract agree that insurance cover should commence before all the terms and conditions have been agreed, the *consumer* should be provided with information required to be provided before conclusion of the contract to the extent that agreement has been reached.

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

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

- the *firm* concludes a *distance contract* with a *consumer* covering its *insurance mediation activities* which is additional to any insurance contract which it is marketing; and
- that *distance contract* is concluded other than merely as a stage in the *effecting* or *carrying out* of an insurance contract by the *firm* or another *person*: in other words it has some continuity independent of an insurance contract, as opposed, for example, to being concluded as part of marketing an insurance contract.

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

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

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

An example of when the *Distance Marketing Directive* would apply would be a *distance contract* under which an *insurance intermediary* agrees to provide advice on a *consumer's* insurance needs as and when they arise.

Q9. When would the exception for successive operations apply?

We consider that the *renewal* of a *policy* falls within the scope of this exception. So, the distance marketing disclosure *rules* would only apply in relation to the initial sale of a *policy*, and not to subsequent *renewals* provided that the new *policy* is of the same nature as the initial *policy*. However, unless there is an initial service agreement in place, the exclusion would only apply where the *renewal* takes place no later than one year after the initial *policy* was taken out or one year after its last *renewal*. If the *policy* terms have changed, *firms* will need to consider what information should be disclosed about those changes in accordance with the requirement to disclose appropriate information about a *policy* (see ICOBS 6.1.5 R), as well as ensuring their effectiveness under contract law.

## Distance marketing information

**FCA**

This Annex belongs to ■ ICOBS 3.1.3 R

### Distance marketing information

#### The firm

- (1) The name and the main business of the *firm*, the geographical address at which it is established and any other geographical address relevant for the *consumer's* relations with the *firm*.
- (2) Where the *firm* has a representative established in the *consumer's* EEA State of residence, the name of that representative and the geographical address relevant for the *consumer's* relations with the representative.
- (3) When the *consumer's* dealings are with any professional other than the *firm*, the identity of that professional, the capacity in which he is acting with respect to the *consumer*, and the geographical address relevant for the *consumer's* relations with that professional.
- (4) An appropriate statutory status disclosure statement (**GEN 4**), a statement that the firm is on the *Financial Services Register* and its *FCA* registration number.

#### The financial service

- (5) A description of the main characteristics of the service the *firm* will provide.
- (6) The total price to be paid by the *consumer* to the *firm* for the financial service, including all related *fees*, charges and expenses, and all taxes paid through the *firm* or, when an exact price cannot be indicated, the basis for the calculation of the price enabling the *consumer* 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 *firm'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 *firm* 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 *firm's* offer applies as it stands.
- (10) The arrangements for payment and for performance.
- (11) Details of any specific additional cost for the *consumer* for using a means of distance communication.

## Distance marketing information

**The distance contract**

- (12) The existence or absence of a right to cancel under the cancellation *rules* ( **ICOBS 7**) and, where there is such a right, its duration and the conditions for exercising it, including information on the amount which the *consumer* may be required to pay (or which may not be returned to the *consumer*) 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) The *EEA State* or *States* whose laws are taken by the *firm* as a basis for the establishment of relations with the *consumer* prior to the conclusion of the contract.
- (17) Any contractual clause on law applicable to the contract or on the competent court, or both.
- (18) 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 *firm*, with the agreement of the *consumer*, undertakes to communicate during the duration of the contract.

**Redress**

- (19) How to complain to the *firm*, whether complaints may subsequently be referred to the *Financial Ombudsman Service* and, if so, the methods for having access to it, together with equivalent information about any other applicable named complaints scheme.
- (20) Whether compensation may be available from the *compensation scheme*, or any other named compensation scheme, if the *firm* is unable to meet its liabilities, and information about any other applicable named compensation scheme.

[Note: Recitals 21 and 23 to, and article 3(1) of, the *Distance Marketing Directive*]

## Abbreviated distance marketing information

**FCA**

This Annex belongs to ■ ICOBS 3.1.14 R

### Abbreviated distance marketing information

- (1) The identity of the *person* in contact with the *consumer* and his link with the *firm*.
- (2) A description of the main characteristics of the financial service.
- (3) The total price to be paid by the *consumer* to the *firm* for the financial service including all taxes paid through the *firm* or, when an exact price cannot be indicated, the basis for the calculation of the price enabling the *consumer* to verify it.
- (4) Notice of the possibility that other taxes or costs may exist that are not paid through the *firm* or imposed by it.
- (5) The existence or absence of a right to cancel in accordance with the cancellation rules (ICOBS 7) and, where the right to cancel exists, its duration and the conditions for exercising it, including information on the amount the *consumer* may be required to pay (or which may not be returned to the *consumer*) on the basis of those rules.
- (6) That other information is available on request and what the nature of that information is.

[Note: article 3(3)(b) of the *Distance Marketing Directive*]



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

5.1.3A  
FCA

**R** A *firm* arranging policies as part of a *packaged bank account* must:

- (1) take reasonable steps to establish whether the *customer* is eligible to claim each of the benefits under each *policy* included in the *packaged bank account* which must include checking that the *customer* meets any qualifying requirements to claim each of the benefits under each *policy*; and
- (2) inform the *customer* whether or not he would be eligible to claim each of the benefits under each *policy* included in the *packaged bank account* so that the *customer* can take an informed decision about the arrangements proposed.

5.1.3B  
FCA

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

5.1.3C  
FCA

- R**
- (1) Throughout the term of a *policy* included in a *packaged bank account*, a *firm* must provide the *customer* with an eligibility statement, in writing, on an annual basis. This statement must set out any qualifying requirements to claim each of the benefits under the *policy* and recommend that the *customer* reviews his circumstances and whether he meets these requirements.
  - (2) Where a *customer* has reached an age limit on claiming benefits under a travel insurance *policy* included in a *packaged bank account* (or will reach an age limit before the next annual statement is due), a *firm* must state this clearly and prominently in the statement and on an annual basis thereafter.
  - (3) The statement (provided under ■ ICOB5 5.1.3C R (1)) must not:
    - (a) include any information other than that required under this rule; or
    - (b) form part of another *document* provided to the *customer* by the *firm*; or
    - (c) be included in the same mailing as any other *document* provided to the *customer* by the *firm*.

**Disclosure of material facts**

PAGE 3  
5.1.4  
FCA

**G** A *firm* should bear in mind the restriction on rejecting claims for non-disclosure (■ ICOB5 8.1.1R (3)). Ways of ensuring a *customer* knows what he must disclose include:

- (1) explaining the duty to disclose all circumstances material to a *policy*, what needs to be disclosed, and the consequences of any failure to make such a disclosure; or

- 
- (2) ensuring that the *customer* is asked clear questions about any matter material to the *insurance undertaking*.

## Insurance: Conduct of Business sourcebook

### Schedule 4 Powers exercised

#### Sch 4.1 G

[deleted]

#### Sch 4.2 G

[deleted]



# Mortgages and Home Finance: Conduct of Business sourcebook



2.7A E-Commerce

Application

2.7A.1

FCA

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* or another *EEA state*, in relation to a *home finance transaction*.

Information about the firm and its products or services

2.7A.2

FCA

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 rapidly and communicated with in a direct and effective manner;
- (4) an appropriate statutory status disclosure statement (■ GEN 4 Annex 1 R), 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*, or a *person* regulated by the equivalent of a *designated professional body* in another *EEA State*:
  - (a) the name of the professional body (including any *designated professional body*) or similar institution with which it is registered;
  - (b) the professional title and the *EEA State* where the professional title was granted;
  - (c) a reference to the applicable professional rules in the *EEA State* of establishment and the means to access them; and

- (6) where the *firm* undertakes an activity that is subject to VAT, its VAT number.

[Note: article 5(1) of the *E-Commerce Directive*]

2.7A.3  
FCA

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.

[Note: article 5(2) of the *E-Commerce Directive*]

2.7A.4  
FCA

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.

[Note: article 6 of the *E-Commerce Directive*]

2.7A.5  
FCA

R

An unsolicited commercial communication sent by e-mail by a *firm* established in the *United Kingdom* must be identifiable clearly and unambiguously as an unsolicited commercial communication as soon as it is received by the recipient.

[Note: article 7(1) of the *E-Commerce Directive*]

**Requirements relating to the placing and receipt of orders**

2.7A.6  
FCA

R

A *firm* must (except when otherwise agreed by parties who are not *consumers*):

- (1) give an *ECA recipient* at least the following information, clearly, comprehensibly and unambiguously, and before the order is 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 before the placing of the order; and

- 6.4.12**  
**FCA** **G** In complying with **■** MCOB 6.4.11 R (6) the *firm* is not required to repeat in this section of the *offer document* the cash amounts of the *early repayment charges* set out in the *illustration* provided as part of the *offer document*. The *firm* may instead insert a reference to the relevant section of that *illustration*.
- 6.4.13**  
**FCA** **R** A *firm* must ensure that the contact details section of the *offer document* (as required by **■** MCOB 5.6.122 R) also includes information on how to complain to the *firm* about the services provided by the *firm* in relation to the *regulated mortgage contract* and whether or not complaints may subsequently be referred to the *Financial Ombudsman Service*.
- 6.4.14**  
**FCA** **G** **■** DISP 1 requires a *firm* to deal promptly and fairly with *complaints*, including referring to another *firm* *complaints* about that other *firm's* services.
- 6.4.15**  
**FCA** **G** In addition to the information required by **■** MCOB 6.4.13 R, a *firm* may include information about how to complain to any other *firm* about the services that *firm* provided to the *customer* in relation to the *regulated mortgage contract*. For example, where the *customer* received advice from another *firm*, a *mortgage lender* may include contact details for the *firm* that provided the advice.
- 6.4.16**  
**FCA** **R** If the *firm* knows at the point that the offer is made to the *customer* that its interest in the *regulated mortgage contract* will be assigned (by sale or transfer) and the *firm* will no longer be responsible for setting interest rates and charges, the *offer document* must:
- (1) state this; and
  - (2) state, where known, who will be responsible for setting interest rates and charges after the sale or transfer.
- 6.4.17**  
**FCA** **R** Where **■** MCOB 6.4.16 R applies, if the name of the party who will be responsible for setting interest rates and charges after the sale or transfer is not known at the point the offer is made, the *firm* must notify the *customer* of this as soon as it becomes known.
- 6.4.18**  
**FCA** **G** **■** MCOB 6.4.16 R and **■** MCOB 6.4.17 R could apply where the ownership of a *regulated mortgage contract* is transferred to a third party through *securitisation*.



## 6.5 Mortgages: information to be provided in the offer document or separately

### Tariff of charges

6.5.1  
FCA

**R** If a *firm* makes an offer to a *customer* with a view to *entering into a regulated mortgage contract*, it must provide the *customer*, along with the *offer document*, with a *tariff of charges* that could be incurred on the *regulated mortgage contract*.

6.5.2  
FCA

**R** If the *regulated mortgage contract* has any *linked borrowing* or *linked deposits*, details of the charges on these linked facilities, for example charges payable on a linked current account, must be included in the *firm's tariff of charges*.

6.5.3  
FCA

**G** A *firm* may include the *tariff of charges* as an integral part of the *offer document*, or provide it separately along with the *offer document*.

### Mortgage credit cards

6.5.4  
FCA

**R** If a *firm* makes an offer to a *customer* with a view to *entering into a regulated mortgage contract* that includes a *mortgage credit card*, it must provide the *customer* with information explaining that the card will not give the *customer* the statutory rights associated with traditional credit cards.

6.5.5  
FCA

**G** A *firm* may include the information described in ■ MCOB 6.5.4 R as an integral part of the *offer document*, or provide it separately along with the *offer document*.

### Distance contracts with retail customers

6.5.6  
FCA

**R** If a *firm* makes an offer to a *consumer* with a view to *entering into a regulated mortgage contract* which is a *distance contract*, it must provide the *consumer* with the following information with the *offer document*:

- (1) the *EEA State* or States whose laws are taken by the *firm* as a basis for the establishment of relations with the *customer* prior to the conclusion of the *regulated mortgage contract*;
- (2) any contractual clause on law applicable to the *regulated mortgage contract* or on competent court, or both;

- (3) the language in which the contract is supplied and in which the *firm* will communicate during the course of the *regulated mortgage contract*; and
- (4) if not provided previously:
  - (a) all of the contractual terms and conditions of the *regulated mortgage contract* to which the *offer document* relates; and
  - (b) (i) confirmation that the *mortgage lender* is *authorised* and regulated by the *FCA*;
    - (ii) the *mortgage lender's* Firm Reference Number; and
    - (iii) confirmation that the *customer* can check the *Financial Services Register* on the *FCA's* website [www.fca.org.uk/firms/systems-reporting/register](http://www.fca.org.uk/firms/systems-reporting/register) or by contacting the *FCA* on 0800 111 6768.



**6.6 Mortgages: offer documents in place of illustrations**

6.6.1

FCA

**R**

If a *firm* provides a *customer* with an *offer document* in place of an *illustration* in accordance with ■ MCOB 5.5.1 R (3), it must take reasonable steps to ensure that it provides the *offer document* in accordance with the requirements for providing an *illustration* in ■ MCOB 5.4 (Illustrations: general) and ■ MCOB 5.5 (Provision of illustrations).

# Mortgages and Home Finance: Conduct of Business sourcebook

## MCOB TP 1 Transitional Provisions

### 1 Transitional Provisions

(1)	(2) Material to which the transitional provision applies	(3)	(4) Transitional provision	(5) Transitional provision: dates in force	(6) Hand-book provision: coming into force
1	[deleted]		[deleted]	Expired	[deleted]
2	[deleted]		[deleted]	Expired	[deleted]
3	[deleted]		[deleted]	Expired	[deleted]
4	[deleted]		[deleted]	Expired	[deleted]
5	[deleted]		[deleted]	Expired	[deleted]
6	[deleted]		[deleted]	Expired	[deleted]
7	[deleted]		[deleted]	Expired	[deleted]
8	[deleted]		[deleted]	Expired	[deleted]
9 [FCA]	MCOB 5.6.9 R and MCOB 9.4.13 R	R	Expired		
10 [FCA]	MCOB4Annex1R, MCOB4Annex2R, MCOB5Annex1R, MCOB8Annex1R and MCOB9Annex1R	R	Expired		
11 [FCA]	MCOB 4.4.1 R, MCOB 4.4.7 R and MCOB 4.10.2 R	R	Expired		

(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
12 [FCA]	MCOB 5.6.2 R, MCOB 5.6.5 R, MCOB 5.6.65 R, MCOB 5.6.121 R, MCOB 5.6.145 R and MCOB 5 Annex 1 R	R	Expired		
13 [FCA]	MCOB 13.3.9 R	R	Expired		
14 [FCA]	MCOB 5.6.2 R, MCOB 5.6.65 R, MCOB 5.6.145 R and MCOB 5 Annex 1 R	R	Expired		
15 [FCA]	MCOB 9.4.2 R, MCOB 9 Annex 1 R and MCOB 9 Annex 2 R	R	Expired		
16 [FCA]	MCOB 13.4.1 R(1)	R	Expired		
17	MCOB 4.4.1 R, MCOB 4.10.2 R	R	A <i>firm</i> may use an <i>initial disclosure document</i> prepared in accordance with the <i>rules</i> in MCOB 4.4.1 R, MCOB 4.10.2 R, MCOB 4 Annex 1 R and COBS 6 Annex 2 as they were in force as at 31 March 2013	From 1 April 2013 to 26 April 2014	1 April 2013
18	MCOB 4.4.1 R, MCOB 4.10.2 R	R	A <i>firm</i> may use a <i>combined initial disclosure document</i> prepared in accordance with the <i>rules</i> in MCOB 4.4.1 R, MCOB 4.10.2 R and COBS 6 Annex 2 as they were in force as at 31 March 2013	From 1 April 2013 to 26 April 2014	1 April 2013

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## MCOB TP 2 [Deleted]



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# **Mortgages and Home Finance: Conduct of Business sourcebook**

## **MCOB TP 3 [Deleted]**



## Mortgages and Home Finance: Conduct of Business sourcebook

### Schedule 4 Powers exercised

#### Sch 4.1 G

[deleted]

#### Sch 4.2 G

[deleted]



# Banking: Conduct of Business sourcebook



**Unsolicited services**

3.1.15

FCA

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 not constituting consent.

(2) This *rule* does not apply to the tacit renewal of a *distance contract*.

[Note: article 9 of the *Distance Marketing Directive*]

**Mandatory nature of a consumer's rights**

3.1.16

FCA

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*.

[Note: article 12 of the *Distance Marketing Directive*]

**Contracts governed by law of a third party state**

3.1.17

FCA

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 *EEA*, the *firm* must ensure that the *consumer* will not lose the protection created by the *rules* in this chapter if the *distance contract* has a close link with the territory of one or more *EEA States*.

[Note: articles 12 and 16 of the *Distance Marketing Directive*]

## 3.2 E Commerce

### Application

3.2.1

FCA

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* or another *EEA State*.

### Information about the firm and its products or services

3.2.2

FCA

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 rapidly and communicated with in a direct and effective manner;
- (4) an appropriate statutory status disclosure statement (■ GEN 4 Annex 1 R), 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*, or a person regulated by the equivalent of a *designated professional body* in another *EEA State*:
  - (a) the name of the professional body (including any *designated professional body*) or similar institution with which it is registered;
  - (b) the professional title and the *EEA State* where it was granted;
  - (c) a reference to the applicable professional rules in the *EEA State* of establishment and the means to access them; and

## Distance marketing information

**FCA**

This Annex belongs to ■ BCOBS 3.1.2 R (The distance marketing disclosure rules)

### Information about the firm

- (1) The name and the main business of the *firm*, the geographical address at which it is established and any other geographical address relevant for the *consumer's* relations with the *firm*.
- (2) Where the *firm* has a representative established in the *consumer's* EEA State of residence, the name of that representative and the geographical address relevant for the *consumer's* relations with that representative.
- (3) Where the *consumer's* dealings are with any professional other than the *firm*, the identity of that professional, the capacity in which he is acting with respect to the *consumer*, and the geographical address relevant to the *consumer's* relations with that professional.
- (4) The particulars of the public register in which the *firm* is entered, its registration number in that register and the particulars of the relevant supervisory authority, including an appropriate statutory status disclosure statement ( GEN 4), a statement that the *firm* is on the *Financial Services Register* and its Firm Reference Number.

### Information about the financial service

- (5) A description of the main characteristics of the service the *firm* will provide.
- (6) The total price to be paid by the *consumer* to the *firm* for the financial service, including all related fees, charges and expenses, and all taxes paid through the *firm* or, where an exact price cannot be indicated, the basis for the calculation of the price enabling the *consumer* to verify it.
- (7) Where relevant, notice indicating that the 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 *firm'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 via the *firm* 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 *firm's* offer applies as it stands.
- (10) The arrangements for payment and performance.
- (11) Details of any specific additional cost to the *consumer* for using a means of distance communication.

### Information about the contract

- (12) The existence or absence of a right to cancel under the cancellation rules (BCOBS 6) and, where there is such a right, its duration and the conditions for exercising it, including information on the amount which the *consumer* may be required to pay (or which may not be returned to the *consumer*) 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) The *EEA State* or States whose laws are taken by the *firm* as a basis for the establishment of relations with the *consumer* prior to the conclusion of the contract.
- (17) Any contractual clause on the law applicable to the contract or on the competent court, or both.
- (18) 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 *firm*, with the agreement of the *consumer*, undertakes to communicate during the duration of the contract.

#### Information about redress

- (19) How to complain to the *firm*, whether complaints may subsequently be referred to the *Financial Ombudsman Service* and, if so, the methods for having access to that body, together with equivalent information about any other applicable named complaints scheme.
- (20) Whether compensation may be available from the *compensation scheme*, or any other named compensation scheme, if the *firm* is unable to meet its liabilities.

[Note: Recitals 21 and 23 to, and article 3(1) of, the *Distance Marketing Directive*]

## Banking: Conduct of Business sourcebook

### Schedule 4 Powers exercised

#### Sch 4.1 G

[deleted]

#### Sch 4.2 G

[deleted]



# Client Assets





## 1.4 Application: particular activities

### Occupational pension scheme firms (OPS firms)

1.4.1

FCA

R

In the case of *OPS activity* undertaken by an *OPS firm*, CASS applies with the following general modifications:

- (1) references to *customer* are to the *OPS* or *welfare trust*, whichever fits the case, in respect of which the *OPS firm* is acting or intends to act, and with or for the benefit of which the relevant activity is to be carried on; and
- (2) if an *OPS firm* is required by any *rule* in CASS to provide information to, or obtain consent from, a *customer*, that *firm* must ensure that the information is provided to, or consent obtained from, each of the trustees of the *OPS* or *welfare trust* in respect of which that *firm* is acting, unless the context requires otherwise.

### Stock lending activity with or for clients

1.4.2

FCA

G

- (1) The *custody chapter* and the *client money chapter* apply in respect of any *stock lending activity* that is undertaken with or for a *client* by a *firm*.
- (2) The *collateral rules* apply, where relevant, in respect of *stock lending activity*.

### Corporate finance business

1.4.3

FCA

G

- (1) The *custody chapter* and the *client money chapter* apply in respect of *corporate finance business* that is undertaken by a *firm*.
- (2) The *collateral rules* apply, where relevant, in respect of *corporate finance business*.

### Oil market activity and energy market activity

1.4.4

FCA

G

- (1) The *custody chapter* and the *client money chapter* apply in respect of *oil market activity* and other *energy market activity* that is undertaken by a *firm*.
- (2) The *collateral rules* apply, where relevant, in respect of *energy market activity*.

**Appointed representatives and tied agents**

1.4.5  
FCA

G

- (1) Although CASS does not apply directly to a *firm's appointed representatives*, a *firm* will always be responsible for the acts and omissions of its *appointed representatives* in carrying on business for which the *firm* has accepted responsibility (section 39(3) of the Act). In determining whether a *firm* has complied with any provision of CASS, anything done or omitted by a *firm's appointed representative* (when acting as such) will be treated as having been done or omitted by the *firm* (section 39(4) of the Act). Equally, CASS does not apply directly to *tied agents*. A *MiFID investment firm* will be fully and unconditionally responsible for the acts and omission of the *tied agents* that it appoints.
- (2) *Firms* should also refer to ■ SUP 12 (Appointed representatives), which sets out requirements which apply to *firms* using *appointed representatives* and *tied agents*.

**Depositaries**

1.4.6  
FCA

R

The *client money chapter* does not apply to a *depositary* when acting as such.

1.4.7  
FCA

R

The remainder of CASS applies to a *depositary*, when acting as such, with the following general modifications:

- (1) except in the *mandate rules*, '*client*' means '*trustee*', '*trust*' or '*collective investment scheme*' as appropriate; and
- (2) in the *mandate rules*, '*client*' means '*trustee*' '*collective investment scheme*' or '*collective investment scheme instrument*' as appropriate.

1.4.8  
FCA

R

- (1) Other than the *mandate rules*, CASS does not apply to a *trustee firm* which is not a *depositary*, or the trustee of a *personal pension scheme* or *stakeholder pension scheme*, unless *MiFID* applies to it, in which case the *custody chapter* and the *client money chapter* do apply.
- (2) In the *custody chapter*, the *client money chapter* and the *mandate rules*, '*client*' means '*trustee*', '*trust*', '*trust instrument*' or '*beneficiary*', as appropriate.

**Auction regulation bidding**

1.4.9  
FCA

R

Where a *firm* carries on *auction regulation bidding* it may elect to comply with CASS (but not ■ CASS 5) in respect of this activity, subject to the general modifications in ■ CASS 1.4.10 R.

1.4.10  
FCA

R

Where a *firm* has made an election in accordance with ■ CASS 1.4.9 R, CASS is modified so that in relation to that *firm*:

- (1) each reference to:

- (a) *designated investments*;
  - (b) *safe custody assets*; and
  - (c) *contingent liability investments*;
- includes a reference to a *two-day emissions spot*;
- (2) each reference to *designated investment business* includes *auction regulation bidding*;
  - (3) each reference to *safeguarding and administering investments, including safeguarding and administration of assets (without arranging) and arranging safeguarding and administration of assets*, includes those activities where they are carried on in relation to a *two-day emissions spot*; and
  - (4) the reference in ■ CASS 6.2.3A R to an '*emissions auction product that is a financial instrument*' includes a *two-day emissions spot*;

## 1.4.11

FCA

G

The effect of ■ CASS 1.4.10 R is that when a *firm* makes an election in accordance with ■ CASS 1.4.9 R:

- (1) a *two-day emissions spot* falls within the scope of each chapter in CASS (save for ■ CASS 5), for example:
  - (a) the reference in ■ CASS 6.1.1 R (1)(b) to *safeguarding and administering investments* is modified to include the activity of safeguarding and administering a *two-day emissions spot*; and
  - (b) any *money* that the *firm* receives or holds for or on behalf of a *client* in the course of or in connection with its *auction regulation bidding* activities will be treated as *client money* and so will need to be dealt with in accordance with the *client money rules*; and
- (2) that election also has effect in relation to *rules* and *guidance* elsewhere in the *Handbook*, including:
  - (a) ■ COBS 3 (Client categorisation);
  - (b) ■ COBS 6.1.7 R (Information concerning safeguarding of designated investments belonging to clients and client money);
  - (c) ■ COBS 6.1.11 R (Timing of disclosure);
  - (d) ■ COBS 16.4 (Statements of client designated investments or client money);
  - (e) ■ SUP 3 (Auditors);
  - (f) ■ SUP 10A.4.4 R (the *table of controlled functions*) and ■ SUP 10A.7.9 R (CASS operational oversight function (CF10a)); and
  - (g) ■ SUP 16.14 (Client money and asset return).

## 1.4.12

FCA

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The option to elect to comply with CASS set out in ■ CASS 1.4.9 R only applies to the extent the *firm* is carrying on *auction regulation bidding*. Where a *firm* is carrying on *MiFID*

*business bidding*, CASS applies to it in accordance with the general application *rules* in CASS for a *firm* that is carrying on *MiFID business*.

1.4.13

FCA

**R** Where a *firm* makes an election in accordance with ■ CASS 1.4.9 R it must:

- (1) make a written record of the election, including the date from which the election is to be effective, on the date it makes the election;
- (2) keep that record from the date that it is made for a period of five years after ceasing to use the opt in.

1.4.14

FCA

**R** Where a *firm* that has opted in to CASS under ■ CASS 1.4.9 R subsequently decides to cease its use of that opt in it must:

- (1) make a written record of this decision, including the date from which the decision is to be effective, on the date it takes the decision;
- (2) keep that record from the date that it is made for a period of five years after the date it is to be effective; and
- (3) discharge any outstanding fiduciary obligations that had arisen because the *firm* had elected to comply with CASS.



**1.5 Application: electronic media and E-Commerce**

**Application to electronic media**

1.5.1  
FCA

G

■ GEN 2.2.14 R (References to writing) has the effect that electronic media may be used to make communications that are required by the *Handbook* to be "in writing" unless a contrary intention appears.

1.5.2  
FCA

G

For any electronic communication with a *customer*, a *firm* should:

- (1) have in place appropriate arrangements, including contingency plans, to ensure the secure transmission and receipt of the communication; it should also be able to verify the authenticity and integrity of the communication; the arrangements should be proportionate and take into account the different levels of risk in a *firm's* business;
- (2) be able to demonstrate that the *customer* wishes to communicate using this form of media; and
- (3) if entering into an agreement, make it clear to the *customer* that a contractual relationship is created that has legal consequences.

1.5.3  
FCA

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*Firms* should note that ■ GEN 2.2.14 R does not affect any other legal requirement that may apply in relation to the form or manner of executing a *document* or agreement.

1.5.4

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[deleted]



- (c) require the *person* with whom the account is to be opened to acknowledge in writing that the *firm's client transaction account* is not to be combined with any other account, nor is any right of set-off to be exercised by that *person* against *money* credited to the *client transaction account* in respect of any sum owed to that *person* on any other account.
- (2) If the exchange, *clearing house*, *intermediate broker* or *OTC* counterparty does not provide the required acknowledgement within 20 *business days* of the dispatch of the notice and instruction, the *firm* must cease using the *client transaction account* with that exchange, *clearing house*, *intermediate broker* or *OTC* counterparty and arrange as soon as possible for the transfer or liquidation of any open positions and the repayment of any *money*.



7.9

[Deleted]

## Client Assets

### Schedule 4 Powers exercised

#### Sch 4.1 G

[deleted]

#### Sch 4.2 G

[deleted]



# Market Conduct



## Market Conduct

### Schedule 4 Powers Exercised

#### Sch 4.1 G

[deleted]

#### Sch 4.2 G

[deleted]



# Supervision



in Part XI of the *Act* (Information Gathering and Investigations). In particular, the limitations in the following sections of the *Act* are relevant to this chapter:

- (1) section 175(5) (Information and documents: supplementary powers) under which no *person* may be required under Part XI of the *Act* (Information Gathering and Investigations) to disclose information or produce a document subject to banking confidentiality (with exceptions); the *PRA* would not normally seek such information using the methods described in ■ SUP 2.3; and
- (2) section 413 (Protected items), under which no *person* may be required under the *Act* to produce, disclose or permit the inspection of *protected items*; a *firm* would not breach *Principle 11* or the *rules* in this chapter by not producing such items.

**Confidentiality of information**

2.2.4  
FCA

G

When the *FCA* obtains confidential information using the methods of information gathering described in ■ SUP 2.3 or ■ SUP 2.4, it is obliged under Part XXIII of the *Act* (Public Record, Disclosure of Information and Co-operation) to treat that information as confidential. The *FCA* will not disclose confidential information without lawful authority, for example if an exception applies under the Financial Services and Markets Act 2000 (Disclosure of Confidential Information) Regulations 2001 (SI 2001/2188) or with the consent of the *person* from whom that information was received and (if different) to whom the information relates.

2.2.4A  
PRA

G

When the *PRA* obtains confidential information using the methods of information gathering described in ■ SUP 2.3, it is obliged under Part XXIII of the *Act* (Public Record, Disclosure of Information and Co-operation) to treat that information as confidential. The *PRA* will not disclose confidential information without lawful authority, for example if an exception applies under the Financial Services and Markets Act 2000 (Disclosure of Confidential Information) Regulations 2001 (SI 2001/2188) or with the consent of the *person* from whom that information was received and (if different) to whom the information relates.

**Admissibility of information in proceedings**

2.2.5  
FCA

G

Information obtained by the *FCA* using the methods described in ■ SUP 2.3 and ■ SUP 2.4 is admissible in evidence in any proceedings, so long as it complies with any requirements governing the admissibility of evidence in the circumstances in question.

2.2.5A  
PRA

G

Information obtained by the *PRA* using the methods described in ■ SUP 2.3 is admissible in evidence in any proceedings, so long as it complies with any requirements governing the admissibility of evidence in the circumstances in question.

## 2.3 Information gathering by the appropriate regulator on its own initiative: cooperation by firms

### Introduction: Methods of information gathering requiring cooperation

2.3.1 G

FCA

[deleted]

2.3.2 G

FCA PRA

The *appropriate regulator* expects to request meetings or access to business premises during reasonable business hours. The *appropriate regulator* also normally expects to be able to give reasonable notice to a *firm* or connected person when it seeks information, *documents*, meetings or access to business premises. On rare occasions, however, the *appropriate regulator* may seek access to premises without notice. The prospect of unannounced visits is intended to encourage *firms* to comply with the requirements and standards under the *regulatory system* at all times.

2.3.3 G

FCA PRA

### Access to a firm's documents and personnel

In complying with *Principle 11*, the *appropriate regulator* considers that a *firm* should, in relation to the discharge by the *appropriate regulator* of its functions under the *Act*:

- (1) make itself readily available for meetings with representatives or appointees of the *appropriate regulator* as reasonably requested;
- (2) give representatives or appointees of the *appropriate regulator* reasonable access to any records, files, tapes or computer systems, which are within the *firm's* possession or control, and provide any facilities which the representatives or appointees may reasonably request;
- (3) produce to representatives or appointees of the *appropriate regulator* specified *documents*, files, tapes, computer data or other material in the *firm's* possession or control as reasonably requested;
- (4) print information in the *firm's* possession or control which is held on computer or on microfilm or otherwise convert it into a readily legible *document* or any other record which the *appropriate regulator* may reasonably request;
- (5) permit representatives or appointees of the *appropriate regulator* to copy *documents* or other material on the premises of the *firm* at the *firm's* reasonable expense and to remove copies and hold them elsewhere, or provide any copies, as reasonably requested; and
- (6) answer truthfully, fully and promptly all questions which are reasonably put to it by representatives or appointees of the *appropriate regulator*.



## 3.2 Purpose

### Purpose: general

3.2.1

FCA PRA

G

This chapter sets out *rules* and *guidance* on the role auditors play in the *appropriate regulator's* monitoring of *firms'* compliance with the requirements and standards under the *regulatory system*. In determining whether a *firm* satisfies the *threshold conditions*, the *appropriate regulator* has regard to whether the *firm* has appointed auditors with sufficient experience in the areas of business to be conducted by the *firm* . Auditors act as a source of information for the *appropriate regulator* in its supervision. They report, where required, on the financial resources of the *firm*, the accuracy of its reports to the *appropriate regulator* and its compliance with particular *rules*, such as the *Client asset rules*.

3.2.2

FCA PRA

G

The *Act*, together with other legislation such as the Companies Acts 1985 , 1989 and 2006 , the Building Societies Act 1986 and the Friendly Societies Act 1992, provides the statutory framework for *firms'* and auditors' obligations.

3.2.3

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[deleted]

3.2.4

G

[deleted]

### Insurance intermediaries and their auditors

3.2.5

FCA

G

It is the responsibility of an *insurance intermediary's* senior management to determine, on a continuing basis, whether the *insurance intermediary* is an *exempt insurance intermediary* and to appoint an auditor if management determines the *firm* is no longer exempt. ■ SUP 3.7 (amplified by ■ SUP 15) sets out what a *firm* should consider when deciding whether it should notify the *FCA* of matters raised by its auditor.

### Rights and duties of auditors

3.2.6

FCA

G

The rights and duties of auditors are set out in ■ SUP 3.8 (Rights and duties of all auditors) and ■ SUP 3.10 (Duties of auditors: notification and report on client assets). ■ SUP 3.8.10 G includes the auditor's statutory duty to report certain matters to the *FCA* imposed by regulations made by the Treasury under sections 342(5) and 343(5) of the *Act* (information given by auditor or actuary to a *regulator*). An auditor should bear these rights and duties in mind when carrying out *client* asset report work, including whether anything should be notified to the *FCA* immediately.

3.2.6A

PRA

G

The rights and duties of auditors are set out in ■ SUP 3.8 (Rights and duties of all auditors). ■ SUP 3.8.10 G includes the auditor's statutory duty to report certain matters to the *PRA* imposed by regulations made by the Treasury under sections 342(5) and 343(5) of the *Act* (information given by auditor or actuary to a *regulator*).

**Disqualified auditors**

3.4.5

FCA PRA

R

**A firm must not appoint as auditor a person who is disqualified under Part XXII of the Act ( Auditors and Actuaries ) from acting as an auditor either for that firm or for a relevant class of firm.**

3.4.6

FCA PRA

G

If it appears to the *appropriate regulator* that an auditor of a *firm* has failed to comply with a duty imposed on him under the *Act*, it may have the power to and may disqualify him under section 345 or 345A, respectively, of the *Act*. A list of *persons* who are disqualified may be found on the *FCA*'s website ( [www.fca.org.uk](http://www.fca.org.uk)).

**Requests for information on qualifications by the appropriate regulator**

3.4.7

FCA PRA

R

**A firm must take reasonable steps to ensure that an auditor, which it is planning to appoint or has appointed, provides information to the appropriate regulator about the auditor's qualifications, skills, experience and independence in accordance with the reasonable requests of the appropriate regulator .**

3.4.8

FCA PRA

G

To enable it to assess the ability of an auditor to audit a *firm*, the *appropriate regulator* may seek information about the auditor's relevant experience and skill. The *appropriate regulator* will normally seek information by letter from an auditor who has not previously audited any *firm*. The *firm* should instruct the auditor to reply fully to the letter (and should not appoint an auditor who does not reply to the *appropriate regulator*). The *appropriate regulator* may also seek further information on a continuing basis from the auditor of a *firm* (see also the auditor's duty to cooperate under ■ SUP 3.8.2 R).



## 3.5 Auditors' independence

### Purpose

3.5.1

FCA PRA

G

If an auditor is to carry out his duties properly, he needs to be independent of the *firm* he is auditing, so that he is not subject to conflicts of interest. Many *firms* are also subject to requirements under the Companies Act 1989, or the Companies Act 2006, the Building Societies Act 1986 or the Friendly Societies Act 1992 on auditor's independence.

### Independence

3.5.2

FCA PRA

R

A *firm* must take reasonable steps to ensure that the auditor which it appoints is independent of the *firm*.

3.5.3

FCA PRA

R

If a *firm* becomes aware at any time that its auditor is not independent of the *firm*, it must take reasonable steps to ensure that it has an auditor independent of the *firm*. The *firm* must notify the FCA and the PRA (if it is a PRA-*authorised firm*) or the FCA (in all other cases) if independence is not achieved within a reasonable time.

3.5.4

FCA PRA

G

The *appropriate regulator* will regard an auditor as independent if his appointment or retention does not breach the ethical guidance in current issue from the auditor's recognised supervisory body on the appointment of an auditor in circumstances which could give rise to conflicts of interest.

3.5.5

PRA

G

*Firms* are reminded that the Building Societies Act 1986 and Friendly Societies Act 1992 provide that an auditor who is ineligible under section 27 of the Companies Act 1989 where applicable, otherwise sections 1214 and 1215 of the Companies Act 2006 for appointment as auditor of a company (which is a subsidiary undertaking of a *building society* or a subsidiary of a *friendly society*) is ineligible for appointment as auditor to the *building society* or *friendly society* concerned.

- (2) If the relevant regulator receives an application which is incomplete, that is, where information or a *document* required as part of the application is not provided, section 55V(2) of the *Act* requires the relevant regulator to determine the incomplete application within 12 months of the initial receipt of the application.
- (3) Within these time limits, however, the length of the process will relate directly to the complexity of cancellation requested and whether the *firm* has fully wound down (run off) its activities at the time it applies.

6.4.27A

FCA

G

The *FCA* publishes standard response times on its website setting out how long the application process is expected to take in practice. From time to time, the *FCA* also publishes its performance against these times.

6.4.28

FCA PRA

G

#### How will the relevant regulator make the decision?

A decision to grant an application for cancellation of *permission* will be taken by appropriately experienced staff at the relevant regulator. Where, however, the staff dealing with the application recommend that a *firm's* application for cancellation of *Part 4A permission* be refused, the decision will be subject to the regulator's formal decision making process.

6.4.29

FCA

G

See *DEPP* for *guidance* on the *FCA's* decision making procedures, including the procedures it will follow if it proposes to refuse an application for cancellation of *Part 4A permission*.



## 6.5 Ending authorisation

6.5.1

FCA PRA

G

Under section 33(2) of the *Act* (Withdrawal of authorisation ), if the *appropriate regulator* cancels a *firm's Part 4A permission*, and as a result there is no *regulated activity* for which the *firm* has *permission*, the regulator authorising that *firm* is required to give a *direction* withdrawing the *firm's* status as an *authorised person*.

6.5.2

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[deleted]

(1)

(2)

(3)

6.5.2A

FCA

G

If the *FCA* concludes that it should grant an *FCA-authorised person's* application for cancellation of *permission* and end its *authorisation*, the *FCA* will:

(1) cancel the *firm's Part 4A permission* under section 55H(3) of the *Act*;

(2) withdraw the *firm's authorised* status under section 33(2) of the *Act* by giving the *firm* a direction in writing; and

(3) update the *firm's* entry in the Financial Services Register to show it has ceased to be *authorised*.

6.5.2B

PRA

G

If the *PRA* concludes that it should grant a *PRA-authorised person's* application for cancellation of *permission* and end its *authorisation*, the *PRA* will:

(1) cancel the *firm's Part 4A permission* under section 55I(2) of the *Act*;

(2) withdraw the *firm's authorised* status under section 33(2) of the *Act* by giving the *firm* a direction in writing; and

(3) contact the *FCA* and request that it update the *firm's* entry in the Financial Services Register to show it has ceased to be *authorised*.

## Variation of permission application form

**FCA** **PRA**

This annex consists only of one or more forms. Forms are to be found through the following address:

*Supervision forms* [http://fshandbook.info/FS/form\\_links.jsp](http://fshandbook.info/FS/form_links.jsp)





## 8.2 Introduction

### Waivers under section 138A of the Act

8.2.1

FCA PRA

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Under section 138A of the *Act* (Modification or waiver of rules), the *appropriate regulator* may, on the application or with the consent of a *firm*, direct that its *rules* :

- (1) are not to apply to the *firm*; or
- (2) are to apply to the *firm* with such modifications as may be specified.

8.2.1A

FCA PRA

G

■ SUP 8.2.1 G does not apply to:

- (1) *rules* made by either regulator under section 137O of the *Act*;
- (2) *rules* made by the *FCA* under sections 247 or 248 of the *Act*.

8.2.2

FCA PRA

G

The directions referred to in ■ SUP 8.2.1 G (1) and ■ SUP 8.2.1 G (2) are collectively referred to in the *Handbook* as *waivers*.

### Waivers of rules in COLL

8.2.3

FCA

G

Section 250 of the *Act* and regulation 7 of the *OEIC Regulations* allow the *FCA* to *waive* the application of certain *rules* in *COLL* to:

- (1) a *person*, as respects a particular *AUT* or *ICVC*, on the application or with the consent of that *person*; and
- (2) an *AUT* or *ICVC* on the application or with the consent of the *manager* and *trustee* (in the case of an *AUT*) or the *ICVC* and its *depository* (in the case of an *ICVC*).

8.2.4

FCA

G

Those *persons* to whom section 250 and regulation 7 of the *OEIC Regulations* are relevant, but who are not *firms*, should follow SUP 8 as if they were *firms*.

8.2.5

FCA

G

Section 250 of the *Act* and regulation 7 of the *OEIC Regulations* work by giving effect to section 138A of the *Act* in respect of *waivers* given under section 250(2) and (3) and regulation 7(1) and (2) of the *OEIC Regulations*.

**Rules which can be waived**

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8.2.6 **G** [deleted]

8.2.7 **G** [deleted]

8.2.8 **G** [deleted]

<p>11.3.7A FCA PRA</p>	<p>G</p>	<p>The <i>controllers</i> forms approved by the <i>appropriate regulator</i> may be found at the <i>appropriate regulator's</i> website <a href="http://www.fca.org.uk/firms/being-regulated/change-in-control/section-178">http://www.fca.org.uk/firms/being-regulated/change-in-control/section-178</a></p>
<p>11.3.8</p>	<p>D</p>	<p>[deleted]</p>
<p>11.3.9</p>	<p>D</p>	<p>[deleted]</p>
<p>11.3.10 FCA PRA</p>	<p>D</p>	<p>(1) A <i>person</i> who has submitted a <i>section 178 notice</i> under ■ SUP 11.3.7 D must notify the <i>appropriate regulator</i> immediately if he becomes aware, or has information that reasonably suggests, that he has or may have provided the <i>appropriate regulator</i> with information which was or may have been false, misleading, incomplete or inaccurate, or has or may have changed, in a material particular. The notification must include:</p> <ul style="list-style-type: none"> <li>(a) details of the information which is or may be false, misleading, incomplete or inaccurate, or has or may have changed;</li> <li>(b) an explanation why such information was or may have been provided; and</li> <li>(c) the correct information.</li> </ul> <p>(2) If the information in (1) (c) cannot be submitted with the <i>section 178 notice</i> (because it is not immediately available), it must instead be submitted as soon as possible afterwards.</p> <p>(3) The requirement in (1) ceases if the change in <i>control</i> occurs or will not take place.</p>
<p>11.3.11 FCA PRA</p>	<p>G</p>	<p>The <i>appropriate regulator</i> will inform a <i>section 178 notice</i> giver as soon as reasonably practicable if it considers the <i>section 178 notice</i> to be incomplete.</p>
<p>11.3.12 FCA PRA</p>	<p>G</p>	<p>The <i>appropriate regulator</i> has power, under section 179(3) of the <i>Act</i> ( Requirements for section 178 notices ), to vary or waive these requirements in relation to a <i>section 178 notice</i> in particular cases if it considers it appropriate to do so.</p>
<p>11.3.13 FCA PRA</p>	<p>G</p>	<p>Where a <i>controller</i> or proposed <i>controller</i> which is an <i>authorised person</i> is required to submit less information under ■ SUP 11.3.7 D than other <i>persons</i> , the <i>appropriate regulator</i> may ask for confirmation of details already held by it or any additional information required under ■ SUP 11.5.1R.</p>
<p>11.3.14 FCA PRA</p>	<p>G</p>	<p>Pursuant to section 188 of the <i>Act</i> (Assessment: consultation with EC competent authorities), the <i>appropriate regulator</i> is obliged to consult any appropriate <i>Home State regulator</i> before making a determination under section 185 of the <i>Act</i> (Assessment: general).</p>
<p><b>Notification when reducing control</b> .....</p>		
<p>11.3.15</p>	<p>G</p>	<p>[deleted]</p>

11.3.15A  
FCA PRA

D

A notice given to the *appropriate regulator* by a *person* who is reducing or ceasing to have *control* over a *UK domestic firm*, as set out in ■ SUP 11.4.2R or ■ SUP 11.4.2A R must:

- (1) be in writing; and
- (2) provide details of the extent of *control* (if any) which the *controller* will have following the change in *control*.

11.3.16

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[deleted]

**Joint notifications**

11.3.17  
FCA PRA

G

Notifications to the *appropriate regulator* by proposed *controllers* and *controllers* under Part XII of the *Act* may be made on a joint basis outlined in ■ SUP 11.5.8 G to ■ SUP 11.5.10 G.



## 15.7 Form and method of notification

### Form of notification: oral or written

15.7.1

FCA PRA

R

A notification required from a *firm* under any *notification rule* must be given in writing, and in English, and must be submitted on the form specified for that *notification rule*, or if no form is specified, on the form in ■ SUP 15 Ann 4 R (Notification form), and must give the *firm's* Firm Reference Number unless:

- (1) the *notification rule* states otherwise; or
- (2) the notification is provided solely in compliance with *Principle 11* (see ■ SUP 15.3.7 G).

15.7.2

FCA PRA

G

A *firm* should have regard to the urgency and significance of a matter and, if appropriate, should also notify its usual supervisory contact at the *appropriate regulator* by telephone or by other prompt means of communication, before submitting a written notification. Oral notifications should be given directly to the *firm's* usual supervisory contact at the *appropriate regulator*. An oral notification left with another person or left on a voicemail or other automatic messaging service is unlikely to have been given appropriately.

15.7.3

FCA PRA

G

The *appropriate regulator* is entitled to rely on any information it receives from a *firm* and to consider any notification received as being made by a *person* authorised by the *firm* to do so. A *firm* should therefore consider whether it needs to put procedures in place to ensure that only appropriate *employees* make notifications to the *appropriate regulator* on its behalf.

### Method of notification

15.7.4

FCA PRA

R

Unless stated in the *notification rule*, or on the relevant form (if specified), a written notification required from a *firm* under any *notification rule* must be:

- (1) given to or addressed for the attention of the *firm's* usual supervisory contact at the *appropriate regulator*; and
- (2) delivered to the *appropriate regulator* by one of the methods in ■ SUP 15.7.5A R or ■ SUP 15.7.5B R as applicable:

15.7.5 **R** Table

[deleted]

15.7.5A **R** Methods of notification

**FCA**

**Method of delivery**

1. **Post to the appropriate address in SUP 15.7.6A G**
2. **Leaving the notification at the appropriate address in SUP 15.7.6A G and obtaining a time-stamped receipt**
3. **Electronic mail to an address for the *firm's* usual supervisory contact at the *FCA* and obtaining an electronic confirmation of receipt**
4. **Hand delivery to the *firm's* usual supervisory contact at the *FCA***
5. **Fax to a fax number for the *firm's* usual supervisory contact at the *FCA* and receiving a successful transmission report for all pages of the notification**
6. **Online submission via the *FCA's* website at [www.fca.org.uk](http://www.fca.org.uk)**

15.7.5B **R** Methods of notification

**PRA**

**Method of delivery**

1. **Post to the appropriate address in SUP 15.7.6B G**
2. **Leaving the notification at the appropriate address in SUP 15.7.6B G and obtaining a time-stamped receipt**
3. **Electronic mail to an address for the *firm's* usual supervisory contact at the *PRA* and obtaining an electronic confirmation of receipt**
4. **Hand delivery to the *firm's* usual supervisory contact at the *PRA***
5. **Fax to a fax number for the *firm's* usual supervisory contact at the *PRA* and receiving a successful transmission report for all pages of the notification**
6. **Online submission via the *PRA's* website at [www.bankofengland.co.uk/pr/](http://www.bankofengland.co.uk/pr/).**

15.7.6 **G** [deleted]

15.7.6A **G** The current published address of the *FCA* for postal submission or hand delivery of notifications is:

**FCA**

- (1) if the *firm's* usual supervisory contact at the *FCA* is based in London, or

(2) The Financial Conduct Authority  
Quayside House 127  
Fountainbridge  
Edinburgh EH3 8DJ

if the *firm's* usual supervisory contact at the *FCA* is based in Edinburgh.

**15.7.6B** PRA G The current published address of the *PRA* for postal submission or hand delivery of notifications is:

**15.7.7** FCA PRA G If the *firm* or its *group* is subject to lead supervision arrangements by the *appropriate regulator*, the *firm* or *group* may give or address a notice under ■ SUP 15.7.4 R(1) to the supervisory contact at the *appropriate regulator*, designated as lead supervisor, if the *firm* has chosen to make use of the lead supervisor as a central point of contact (see ■ SUP 1.5).

**15.7.8** FCA PRA G If a *firm* is a member of a *group* which includes more than one *firm*, any one *undertaking* in the *group* may notify the *appropriate regulator* on behalf of all *firms* in the *group* to which the notification applies. In this way, that *undertaking* may satisfy the obligation of all relevant *firms* in the *group* to notify the *appropriate regulator*. Nevertheless, the obligation to make the notification remains the responsibility of the individual *firm* itself. See also ■ SUP 15.7.3 G.

**15.7.9** FCA PRA G *Firms* wishing to communicate with the *appropriate regulator* by electronic mail or fax should obtain the appropriate address or number from the *appropriate regulator*.

**Timely notification**

**15.7.10** FCA PRA R If a *notification rule* requires notification within a specified period:

- (1) the *firm* must give the notification so as to be received by the *appropriate regulator* no later than the end of that period; and
- (2) if the end of that period falls on a *day* which is not a *business day*, the notification must be given so as to be received by the *appropriate regulator* no later than the first *business day* after the end of that period.

**15.7.11** FCA PRA G If a *notification rule* does not require notification within a specified period, the *firm* should act reasonably in deciding when to notify.

**Underwriting agents: notification to the Society of Lloyd's**

**15.7.12** R (1) [deleted]  
(2) [deleted]

**15.7.13** G [deleted]

15.7.14  
FCA PRA

G

The *appropriate regulator* has made arrangements with the *Society of Lloyd's* with respect to the monitoring of *underwriting agents*. *Underwriting agents* should check whether these arrangements provide for any notifications required under this chapter to be sent to the *Society* instead of to the *appropriate regulator*. [For further details see the *appropriate regulator's* website.]

15.7.15  
FCA PRA

G

If a *firm* fails to comply with the *rules* in this section then the notification is invalid and there may be a breach of the *rule* that required the notification to be given.

**Consequences of breach of form and method rules**

15.7.16  
FCA PRA

G

The Financial Services and Markets Act 2000 (Service of Notices) Regulations 2001 (SI 2001/1420) contain provisions relating to the service of documents on the *appropriate regulator*. They do not apply to notifications required under *notification rules* because of the specific *rules* in this section.

**Service of Notices Regulations**

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## Retail Mediation Activities Return ('RMAR')

**FCA**

This annex consists only of one or more forms. Forms are to be found through the following address:

*Retail Mediation Activities Return ('RMAR') - SUP Chapter 16 Annex 18A R*



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

**FCA**

This annex consists only of one or more forms. Forms are to be found through the following address:

*Notes for Completion of the Retail Mediation Activities Return ('RMAR') - SUP Chapter 16 Annex 18b G*



# Appendix 1 [Deleted]

1.1 [Deleted]

1.2 [Deleted]

1.3 [Deleted]

1.4 [Deleted]

1.5 [Deleted]

1.6 [Deleted]

1.7 [Deleted]

1.8 [Deleted]

# Decision Procedure and Penalties Manual



Supervisory notices

**FCA**

Section of the Act	Description	Handbook reference	Decision maker
55Y(4)	when the <i>FCA</i> is exercising its <i>own-initiative variation power</i> to vary a firm's <i>Part 4A permission</i>	SUP 7	<i>RDC</i> or <i>executive procedures</i>
55Y(7)			See DEPP 2.5.7 G
55Y(8)(b)			
55Y(4)	when the <i>FCA</i> is exercising its <i>own-initiative requirement power</i>		<i>RDC</i> or <i>executive procedures</i>
55Y(7)			See DEPP 2.5.7 G
55Y(8)(b)			
78(2)/(5)	when the <i>FCA</i> is proposing to discontinue or discontinues the <i>listing</i> of a security	LR 5	<i>RDC</i> or <i>executive procedures</i>
			See DEPP 2.5.9 G (4) and DEPP 2.5.10 G
78(2)/(5)	when the <i>FCA</i> is proposing to suspend or suspends the <i>listing</i> of a security	LR 5	<i>Executive procedures</i>
78A(2)/(8)(b)	when the <i>FCA</i> discontinues or suspends the <i>listing</i> of a security on the application of the <i>issuer</i> of the security	LR 5	<i>Executive procedures</i>
87O(2)/(5)	when the <i>FCA</i> is proposing or deciding to exercise or deciding to maintain, vary or revoke any of the powers in sections 87K or 87L in respect of an infringement of any applicable provision.	PR 5	<i>Executive procedures</i>
88F(2)/(5)/(6)(b)	when the <i>FCA</i> is proposing or deciding to take action to suspend, limit or restrict a <i>sponsor's</i> approval under section 88E		<i>Executive procedures</i>
89V(2)	when the <i>FCA</i> is proposing or deciding to take action to suspend, limit or restrict a <i>primary information provider's</i> approval under section 89U		<i>Executive procedures</i>
89V(5)			
89 V(6)(b)			
96C	when the <i>FCA</i> is proposing to suspend or suspends trading in a <i>financial instrument</i>	DTR	<i>Executive procedures</i>
137S(5)	when the <i>FCA</i> gives a direction under section 137S		<i>Executive procedures</i>
137S(8)(a)			

Section of the Act	Description	Handbook reference	Decision maker
191B(1)	when the <i>FCA</i> gives a <i>restriction notice</i> under section 191B		<i>Executive procedures</i>
197(3)/(6)/(7)(b)	when the <i>FCA</i> is exercising its power of intervention in respect of an <i>incoming firm</i>	SUP 14	<i>RDC</i> or <i>executive procedures</i>
			See DEPP 2.5.7 G and 2.5.7A G
259(3)/(8)/ (9) (b)	when the <i>FCA</i> is exercising its power to give or, on its own initiative, to vary a direction to the <i>manager</i> and <i>trustee</i> of an <i>AUT</i>	COLL	<i>RDC</i>
268(3)/ (7)(a) or (9)(a) (as a result of (8)(b)/(13))	when the <i>FCA</i> is proposing or deciding to give or, on its own initiative, to vary a direction to the <i>operator</i> of a <i>recognised scheme</i>	COLL	<i>RDC</i>
282 (3)/(6)/ (7)(b)	when the <i>FCA</i> is exercising its power to give a direction to an <i>operator</i> , <i>trustee</i> or <i>depository</i> of a <i>recognised scheme</i>	COLL	<i>RDC</i>
301J(1)	when the <i>FCA</i> gives a <i>restriction notice</i> under section 301J		<i>Executive procedures</i>
321(2)/(5)	when the <i>FCA</i> is exercising its power to impose a requirement on a former underwriting member of Lloyd's		<i>RDC</i>

OEIC Regulations reference	Description	Handbook reference	Decision maker
Regulation 27	when the <i>FCA</i> is exercising its power to give or, on its own initiative, to vary a direction to an <i>ICVC</i> and its <i>depository</i>	COLL	<i>RDC</i>

Payment Services Regulations	Description	Handbook reference	Decision maker
11(6)	When the <i>FCA</i> is exercising its powers to vary a person's authorisation on its own initiative		<i>RDC</i> or <i>Executive procedures</i> See also DEPP 3.4 (Note 1)
11(9)			
11(10)(b)			
14			
Notes:			
(1) The <i>RDC</i> will take the decision to give a notice exercising the <i>FCA's</i> own initiative power if the action involves:			
(a) removing a type of activity from an authorisation or registration; or			
(b) refusing an application to include a type of activity in an authorisation or registration; or			
(c) restricting a person from taking on new business, dealing with a particular category of customer or refusing an application to vary or cancel such a restriction; or			

# Dispute Resolution: Complaints

## Dispute Resolution: Complaints

<b>DISP INTRO</b>	<b>Introduction</b>
<b>INTRO 1</b>	<b>Introduction</b>
<b>DISP 1</b>	<b>Treating complainants fairly</b>
1.1	Purpose and application
1.2	Consumer awareness rules
1.3	Complaints handling rules
1.4	Complaints resolution rules
1.5	Complaints resolved by close of the next business day
1.6	Complaints time limit rules
1.7	Complaints forwarding rules
1.8	Complaints time barring rule
1.9	Complaints record rule
1.10	Complaints reporting rules
1.10A	Complaints data publication rules
1.11	The Society of Lloyd's
1 Annex 1	Complaints return form
1 Annex 1A	Recommended metrics
1 Annex 1B	Complaints publication report
1 Annex 1C	Illustration of the online reporting requirements, referred to in DISP 1.10.2AR
1 Annex 2	Application of DISP 1 to type of respondent / complaint
<b>DISP 2</b>	<b>Jurisdiction of the Financial Ombudsman Service</b>
2.1	Purpose, interpretation and application
2.2	Which complaints can be dealt with under the Financial Ombudsman Service?
2.3	To which activities does the Compulsory Jurisdiction apply?
2.4	To which activities does the Consumer Credit Jurisdiction apply?
2.5	To which activities does the Voluntary Jurisdiction apply?
2.6	What is the territorial scope of the relevant jurisdiction?
2.7	Is the complainant eligible?
2.8	Was the complaint referred to the Financial Ombudsman Service in time?
2 Annex 1	Regulated activities for the Voluntary Jurisdiction at 30 April 2011
<b>DISP 3</b>	<b>Complaint handling procedures of the Financial Ombudsman Service</b>
3.1	Purpose, interpretation and application
3.2	Jurisdiction
3.3	Dismissal without consideration of the merits and test cases
3.4	Referring a complaint to another complaints scheme
3.5	Resolution of complaints by the Ombudsman

3.6	Determination by the Ombudsman
3.7	Awards by the Ombudsman
3.8	Dealing with information
3.9	Delegation of the Ombudsman's powers
3.10	[Deleted]
<b>DISP 4</b>	<b>Standard terms</b>
4.1	Purpose and application
4.2	Standard terms
<b>DISP 5</b>	<b>Funding Rules</b>
5.1	[deleted: provisions relating to the funding rules for the Financial Ombudsman Service are set out in FEES 5 (Financial Ombudsman Service Funding).]
5.2	[deleted: provisions relating to the funding rules for the Financial Ombudsman Service are set out in FEES 5 (Financial Ombudsman Service Funding).]
5.3	[deleted: provisions relating to the funding rules for the Financial Ombudsman Service are set out in FEES 5 (Financial Ombudsman Service Funding).]
5.4	[deleted: provisions relating to the funding rules for the Financial Ombudsman Service are set out in FEES 5 (Financial Ombudsman Service Funding).]
5.5	[deleted: provisions relating to the funding rules for the Financial Ombudsman Service are set out in FEES 5 (Financial Ombudsman Service Funding).]
5.6	[deleted: provisions relating to the funding rules for the Financial Ombudsman Service are set out in FEES 5 (Financial Ombudsman Service Funding).]
5.7	[deleted: provisions relating to the funding rules for the Financial Ombudsman Service are set out in FEES 5 (Financial Ombudsman Service Funding).]
5.8	[deleted: provisions relating to the funding rules for the Financial Ombudsman Service are set out in FEES 5 (Financial Ombudsman Service Funding).]
5.9	[deleted: provisions relating to the funding rules for the Financial Ombudsman Service are set out in FEES 5 (Financial Ombudsman Service Funding).]
5.10	[deleted: provisions relating to the funding rules for the Financial Ombudsman Service are set out in FEES 5 (Financial Ombudsman Service Funding).]
5 Annex 1R	[deleted: provisions relating to the funding rules for the Financial Ombudsman Service are set out in FEES 5 (Financial Ombudsman Service Funding)]
<b>DISP App 1</b>	<b>Handling Mortgage Endowment Complaints</b>
App 1.1	Introduction

App 1.2	The standard approach to redress
App 1.3	Remortgaging
App 1.4	Policy reconstruction
App 1.5	Additional considerations
App 1.6	Valuing Relevant Benefits
App 1.7	[Deleted]
App 1.8	[Deleted]
App 1.9	[Deleted]
App 1.10	[Deleted]
App 1.11	[Deleted]
App 1.12	[Deleted]
App 1.13	[Deleted]
App 1.14	[Deleted]

## DISP App 2 [Deleted]

App 2.1	Introduction [Deleted]
App 2.2	[Deleted]
App 2.3	[Deleted]
App 2.4	[Deleted]
App 2.5	[Deleted]
App 2.6	[Deleted]

## DISP App 3 Handling Payment Protection Insurance complaints

App 3.1	Introduction
App 3.2	The assessment of a complaint
App 3.3	The approach to considering evidence
App 3.4	Root cause analysis
App 3.5	Re-assessing rejected claims
App 3.6	Determining the effect of a breach or failing
App 3.7	Approach to redress
App 3.8	Other appropriate redress
App 3.9	Other matters concerning redress
App 3.10	Application: evidential provisions

## Transitional Provisions and Schedules

TP 1	Transitional provisions
Sch 1	Record keeping requirements
Sch 2	Notification requirements
Sch 3	Fees and other required payment
Sch 4	Powers Exercised
Sch 5	Actions for damages for contravention under section 150 of the Act
Sch 6	Rules that can be waived

# Chapter INTRO

## Introduction

## INTRO 1 Introduction

FCA

This part of the *FCA Handbook* sets out how *complaints* are to be dealt with by *respondents* (*firms, payment service providers, electronic money issuers, licensees* and *VJ participants*) and the *Financial Ombudsman Service*.

It refers to relevant provisions in the *Act* and in transitional provisions made by the Treasury under the *Act*. It includes *rules* made by the *FCA* and rules made (and *standard terms* set) by *FOS Ltd* with the consent or approval of the *FCA*.

The powers to make rules (or set *standard terms*) relating to *firms, payment service providers, electronic money issuers, licensees* and *VJ participants* derive from various legislative provisions; but the rules (and *standard terms*) have been co-ordinated to ensure that they are identical, wherever possible.

### Chapter 1: Treating complainants fairly

■ **DISP 1** contains rules and guidance on how *respondents* should deal with *complaints* promptly and fairly, including *complaints* that could be referred to the *FOS*. Some of these rules also apply to certain *branches* of *firms* elsewhere in the *EEA* and certain *EEA firms* carrying out activities in the *United Kingdom* under the freedom to provide *cross border services*.

### Chapters 2 - 4: The Financial Ombudsman Service

Chapters 2, 3 and 4 set out how the *Financial Ombudsman Service* (operated by *FOS Ltd*) considers unresolved *complaints*.

Chapter 2 sets out the scope of the *Financial Ombudsman Service's* three jurisdictions:

- the *Compulsory Jurisdiction*;
- the *Consumer Credit Jurisdiction*; and
- the *Voluntary Jurisdiction*.

The scope of the three jurisdictions is defined by: the type of activity to which the *complaint* relates; the place where the activity took place; the eligibility of the complainant; and the time limits for referring a *complaint* to the *Financial Ombudsman Service*.

Chapter 3 sets out the procedures of the *Financial Ombudsman Service*, including consideration and determination of *complaints* and how the *Financial Ombudsman Service* deals with information received.

Chapter 4 sets out the terms under which *VJ participants* participate in the *Voluntary Jurisdiction*.

Appendix 1: FCA's guidance on handling mortgage-endowment complaints

This appendix contains the *FCA's guidance to firms* on handling *complaints* relating to mortgage endowments.

Appendix 3: FCA's rules and guidance on handling payment protection insurance complaints

This appendix sets out the approach which *firms* should use when handling *complaints* relating to the sale of *payment protection contracts*.

Financial Ombudsman Service fees

The rules on fees charged in respect of the *Financial Ombudsman Service* are in Chapter 5 of the Fees manual.

**INTRO**

# Chapter 1

## Treating complainants fairly

## 1.1 Purpose and application

### Purpose

1.1.1

FCA

G

This chapter contains *rules* and *guidance* on how *respondents* should deal promptly and fairly with *complaints* in respect of business carried on from establishments in the *United Kingdom*, by certain *branches* of *firms* in the *EEA* or by certain *EEA firms* carrying out activities in the *United Kingdom* under the freedom to provide *cross border services*. It is also relevant to those who may wish to make a *complaint* or refer it to the *Financial Ombudsman Service*.

1.1.1A

[Deleted]

1.1.1B

[Deleted]

1.1.1C

[Deleted]

1.1.1D

[Deleted]

1.1.1E

[Deleted]

### Background

1.1.2

FCA

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Details of how this chapter applies to each type of *respondent* are set out below. For this purpose, *respondents* include:

- (1) *persons* carrying on *regulated activities (firms)* , providing *payment services (payment service providers)* or providing *electronic money issuance services (electronic money issuers)* and which are covered by the *Compulsory Jurisdiction* ;
- (2) *persons* covered by the *Consumer Credit Jurisdiction (licensees)*; and
- (3) *persons* who have opted in to the *Voluntary Jurisdiction (VJ participants)*.

### Application to firms

1.1.3

FCA

R

- (1) Subject to ■ DISP 1.1.5 R, this chapter applies to a *firm* in respect of *complaints* from *eligible complainants* concerning activities carried on from an establishment maintained by it or its *appointed representative* in the *United Kingdom*.
- (2) For *complaints* relating to the *MiFID business* of a *firm*, the *complaints handling rules* and the *complaints record rule*:

- (a) apply to *complaints* from *retail clients* and do not apply to *complaints* from *eligible complainants* who are not *retail clients*;
- (b) also apply in respect of activities carried on from a *branch* of a *UK firm* in another *EEA State*; and
- (c) do not apply in respect of activities carried on from a *branch* of an *EEA firm* in the *United Kingdom*.

(3) The *complaints data publication rules* do not apply in respect of activities carried on from a *branch* of an *EEA firm* in the *United Kingdom* or activities carried on by an *EEA firm* in the *United Kingdom* under the freedom to provide *cross border services*.

1.1.4

FCA

R

Where a *firm* has outsourced activities to a *third party processor*,  
 ■ DISP 1.1.3 R does not apply to the *third party processor* when acting as such, but applies to the *firm* which is taking responsibility for the acts and omissions of the *third party processor* in respect of the outsourced activities.

1.1.5

FCA

R

This chapter does not apply to:

- (1) [deleted]
- (2) [deleted]
- (3) an *authorised professional firm* in respect of expressions of dissatisfaction about its *non-mainstream regulated activities* ; and
- (4) *complaints* in respect of *auction regulation bidding*.

1.1.5A

FCA

R

The *complaints reporting rules* and the *complaints data publication rules* do not apply to a *credit union*.

1.1.6

FCA

G

■ CREDs 9 sets out *rules* for *credit unions* in relation to reporting *complaints*.

1.1.6A

FCA

G

In relation to a *credit union*, the nature, scale and complexity of the *credit union's* business should be taken into account when deciding the appropriate procedures to put in place for dealing with *complaints*.

1.1.7

FCA

R

This chapter applies to the *Society*, *members* of the *Society* and *managing agents*, subject to the *Lloyd's complaint rules*.

1.1.8

FCA

R

An *insurance intermediary*, that is not also an *insurer*, must have in place and operate appropriate and effective procedures for registering and responding to *complaints* from a *person* who is not an *eligible complainant*.

[Note: article 10 of the *Insurance Mediation Directive*]

1.1.9	G	[deleted]
1.1.9A FCA	G	<p>The scope of this sourcebook does not include:</p> <ol style="list-style-type: none"> <li>(1) a <i>complaint</i> about pre-commencement investment business which was regulated by a <i>recognised professional body</i> (those <i>complaints</i> will be handled under the arrangements of that professional body); or</li> <li>(2) a <i>complaint</i> about the administration of an <i>occupational pension scheme</i>, because this is not a <i>regulated activity</i> (<i>firms</i> should refer complainants to the Pensions Advisory Service rather than to the <i>Financial Ombudsman Service</i>).</li> </ol>
1.1.10 FCA	R	<p>In relation to a <i>firm's</i> obligations under this chapter, references to a <i>complaint</i> also include an expression of dissatisfaction which is capable of becoming a <i>relevant new complaint</i> or a <i>relevant transitional complaint</i>.</p> <p><b>Application to payment service providers</b></p>
1.1.10A FCA	R	<p>This chapter (except the <i>complaints record rule</i>, the <i>complaints reporting rules</i> and the <i>complaints data publication rules</i>) applies to <i>payment service providers</i> in respect of <i>complaints</i> from <i>eligible complainants</i> concerning activities carried on from an establishment maintained by it or its <i>agent</i> in the <i>United Kingdom</i>.</p>
1.1.10B FCA	G	<ol style="list-style-type: none"> <li>(1) In this sourcebook, the term <i>payment service provider</i> does not include <i>full credit institutions</i> (which are covered by this sourcebook as <i>firms</i>), but it does include <i>small electronic money institutions</i>.</li> <li>(2) Although <i>payment service providers</i> are not required to comply with the <i>complaints record rule</i>, it is in their interest to retain records of <i>complaints</i> so that these can be used to assist the <i>Financial Ombudsman Service</i> should this be necessary.</li> </ol> <p><b>Application to electronic money issuers</b></p>
1.1.10C FCA	R	<p>This chapter (except the <i>complaints record rule</i>, the <i>complaints reporting rules</i>, and the <i>complaints data publication rules</i>) applies to <i>electronic money issuers</i> in respect of <i>complaints</i> from <i>eligible complainants</i> concerning activities carried on from an establishment maintained by it or its <i>agent</i> in the <i>United Kingdom</i>.</p>
1.1.10D FCA	G	<ol style="list-style-type: none"> <li>(1) In this sourcebook, the term <i>electronic money issuer</i> does not include <i>credit institutions</i>, <i>credit unions</i> or municipal banks (which will be carrying on a <i>regulated activity</i> if they issue <i>electronic money</i> and will be covered by this sourcebook as <i>firms</i> in those circumstances), but it does include <i>small electronic money institutions</i> and <i>persons</i> who meet the conditions set out in regulation 75(1) or regulation 76(1) of the <i>Electronic Money Regulations</i>.</li> <li>(2) Although <i>electronic money institutions</i> are not required to comply with the <i>complaints record rule</i>, it is in their interest to retain records of <i>complaints</i></li> </ol>

so that these can be used to assist the *Financial Ombudsman Service* should this be necessary.

### Application to UCITS management companies

1.1.10E

FCA

R

For *complaints* related to *collective portfolio management* services of a *UK UCITS management company* for a *UCITS scheme* or an *EEA UCITS scheme*, ■ DISP 1.1.3R (1) applies, except where modified as follows:

- (1) the *consumer awareness rules*, *complaints handling rules* and *complaints record rule* apply in respect of *complaints* from *unitholders* rather than from *eligible complainants*; and
- (2) the *consumer awareness rules*, the *complaints handling rules* and the *complaints record rule*, as modified in (1), also apply where the services are provided from a *branch* in another *EEA State* (and any reference to *respondent* in the *consumer awareness rules* includes such a *branch*).

1.1.10F

FCA

R

For *complaints* related to *collective portfolio management* services of an *EEA UCITS management company* for a *UCITS scheme*, ■ DISP 1.1.3R (1) applies, except where modified as follows:

- (1) where the services are provided from a *branch* in the *United Kingdom*, the *consumer awareness rules*, *complaints handling rules* and *complaints record rule* apply in respect of *complaints* from *unitholders* rather than from *eligible complainants*; and
- (2) this chapter, except the *consumer awareness rules*, *complaints handling rules*, *complaints record rule* and *complaints data publication rules*, also applies to an *EEA UCITS management company* providing services in the *United Kingdom* under the freedom to provide *cross border services*.

### FSAVC Review

1.1.11

FCA

R

Where the subject matter of a *complaint* is subject to a review directly or indirectly under the terms of the policy statement for the review of specific categories of *FSAVC* business issued by the *FSA* on 28 February 2000, the *complaints resolution rules*, the *complaints time limit rules*, the *complaints record rule*, the *complaints reporting rules* and the *complaints data publication rules* will apply only if the *complaint* is about the outcome of the review.

### Consumer redress schemes

1.1.11A

FCA

R

Where the subject matter of a *complaint* falls to be dealt with (or has properly been dealt with) under a *consumer redress scheme*, the *complaints resolution rules*, the *complaints time limits rules*, the *complaints record rule* and the *complaints reporting rules* do not apply.

### Exemptions for firms, payment service providers and electronic money issuers

1.1.12

FCA

R

- (1) A *firm*, *payment service provider* or *electronic money issuer* falling within the *Compulsory Jurisdiction* which does not conduct business with *eligible complainants* and has no reasonable likelihood of doing so, can, by written notification to the *FCA*, claim exemption from the *rules* relating to the funding of the *Financial Ombudsman Service*, and from the remainder of this chapter.
- (2) Notwithstanding (1):
  - (a) the *complaints handling rules* and *complaints record rule* will continue to apply in respect of *complaints* concerning *MiFID business*; and
  - (b) the *consumer awareness rules*, the *complaints handling rules* and the *complaints record rule* will continue to apply in respect of *complaints* concerning the provision of *collective portfolio management services*.
- (3) The exemption takes effect from the date on which the written notice is received by the *FCA* and will cease to apply when the conditions relating to the exemption no longer apply.

1.1.13

FCA

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■ SUP 15.6 refers to and contains requirements regarding the steps that *firms* must take to ensure that information provided to the *FCA* is accurate and complete. Those requirements apply to information submitted to the *FCA* under this chapter.

### Application to licensees and VJ participants

1.1.14

FCA

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This chapter (except the *complaints record rule*, the *complaints reporting rules* and the *complaints data publication rules*) applies to *licensees* for *complaints* from *eligible complainants*.

1.1.15

FCA

R

This chapter (except the *complaints record rule*, the *complaints reporting rules* and the *complaints data publication rules*) applies to *VJ participants* for *complaints* from *eligible complainants* as part of the *standard terms*.

1.1.16

FCA

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Although *licensees* and *VJ participants* are not required to comply with the *complaints record rule*, it is in their interest to retain records of *complaints* so that these can be used to assist the *Financial Ombudsman Service* should it be necessary.

1.1.17

FCA

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In relation to the *Consumer Credit Jurisdiction* only, FOS Ltd may dispense with, or modify, the application of the *rules* in this chapter to *licensees* where it considers it appropriate to do so and is satisfied that:

- (1) compliance by the *licensee* with the *rules* would be unduly burdensome or would not achieve the purpose for which the *rules* were made; and
- (2) it would not result in undue risk to the *persons* whose interests the *rules* were intended to protect.

1.1.18

FCA

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This power is intended to deal with exceptional circumstances, for example, where it is not possible for a *licensee* to meet the specified time limits, and any dispensation or modification is likely to be rare.

### Outsourcing of complaint handling

1.1.19

FCA

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- (1) This chapter does not prevent:
  - (a) the use by a *respondent* of a third party administrator to handle or resolve *complaints* (or both); or
  - (b) two or more *respondents* arranging a one-stop shop for handling or resolving *complaints* (or both) under a service level agreement.
- (2) These arrangements do not affect *respondents'* obligations as set out in *DISP* or the provisions relating to *outsourcing* by a *firm* set out in ■ SYSC 8 and ■ SYSC 13.

1.1.20

FCA

G

Further *guidance* on the application of this chapter is set out in the table in ■ DISP 1 Annex 2 G.

## 1.2 Consumer awareness rules

### Publishing and providing summary details

1.2.1

FCA

R

To aid consumer awareness of the protections offered by the provisions in this chapter, *respondents* must:

- (1) publish appropriate information regarding their internal procedures for the reasonable and prompt handling of *complaints*;
- (2) refer *eligible complainants* to the availability of this information:
  - (a) in relation to a *payment service*, in the information on out-of-court complaint and redress procedures required to be provided or made available under regulations 36(2)(e) (Information required prior to the conclusion of a single payment service contract) or 40 (Prior general information for framework contracts) of the *Payment Services Regulations*; or
  - (b) otherwise, in writing at, or immediately after, the point of sale; and
- (3) provide such information in writing and free of charge to *eligible complainants*:
  - (a) on request; and
  - (b) when acknowledging a *complaint*.

[Note: article 15 of the *UCITS Directive*]

[Deleted]

1.2.1A

1.2.2

FCA

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Where the activity does not involve a sale, the obligation in ■ DISP 1.2.1 R (2)(b) shall apply at, or immediately after, the point when contact is first made with an *eligible complainant*.

**Content of summary details**

1.2.3

FCA

G

These summary details should cover at least:

- (1) how the *respondent* fulfils its obligation to handle and seek to resolve relevant *complaints*; and
- (2) (where the *complaint* falls within the jurisdiction of the *Financial Ombudsman Service*) that, if the *complaint* is not resolved, the complainant may be entitled to refer it to the *Financial Ombudsman Service*.

1.2.4

FCA

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The summary details may be set out in a leaflet, and their availability may be referred to in contractual documentation.

**Financial Ombudsman Service logo**

1.2.5

FCA

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*Respondents* may also display or reproduce the *Financial Ombudsman Service* logo (under licence) in:

- (1) branches and sales offices to which *eligible complainants* have access; or
- (2) marketing literature or correspondence directed at *eligible complainants*;

provided it is done in a way which is not misleading.

1.2.5A

FCA

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■ DISP 1.2.5 G does not apply to a *branch* of a *UK UCITS management company* in another *EEA State*.

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## 1.3 Complaints handling rules

1.3.1

FCA

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Effective and transparent procedures for the reasonable and prompt handling of *complaints* must be established, implemented and maintained by:

- (1) a *respondent*; and
- (2) a *branch* of a *UK firm* in another *EEA State*.

[Note: article 10 of the *MiFID implementing Directive* and article 6(1) of the *UCITS implementing Directive*]

1.3.1A

FCA

R

These procedures must ensure that a *complaint* may be made free of charge.

[Note: article 6(3) of the *UCITS implementing Directive*]

### Procedures for UCITS management companies

1.3.1B

FCA

R

A *UK UCITS management company* must ensure that the procedures it establishes under ■ DISP 1.3.1 R for the reasonable and prompt handling of *complaints* require that:

- (1) there are no restrictions on *unitholders* exercising their rights in the event that the *UCITS* is authorised in an *EEA State* other than the *United Kingdom*; and
- (2) *unitholders* are allowed to file complaints in any of the official languages of the *Home State* of the *UCITS scheme* or *EEA UCITS scheme* or of any *EEA State* to which a notification has been transmitted by the *competent authority* of the *scheme's Home State* in accordance with article 93 of the *UCITS Directive*.

[Note: article 15 of the *UCITS Directive*]

1.3.2

FCA

G

These procedures should:

- (1) allow *complaints* to be made by any reasonable means; and
- (2) recognise *complaints* as requiring resolution.

## 1.3.2A

FCA

G

These procedures should, taking into account the nature, scale and complexity of the *respondent's* business, ensure that lessons learned as a result of determinations by the *Ombudsman* are effectively applied in future *complaint* handling, for example by:

- (1) relaying a determination by the *Ombudsman* to the individuals in the *respondent* who handled the *complaint* and using it in their training and development;
- (2) analysing any patterns in determinations by the *Ombudsman* concerning *complaints* received by the *respondent* and using this in training and development of the individuals dealing with *complaints* in the *respondent*; and
- (3) analysing guidance produced by the *FCA*, other relevant regulators and the *Financial Ombudsman Service* and communicating it to the individuals dealing with *complaints* in the *respondent*.

## 1.3.3

FCA

R

In respect of *complaints* that do not relate to *MiFID business*, a *respondent* must put in place appropriate management controls and take reasonable steps to ensure that in handling *complaints* it identifies and remedies any recurring or systemic problems, for example, by:

- (1) analysing the causes of individual *complaints* so as to identify root causes common to types of *complaint*;
- (2) considering whether such root causes may also affect other processes or products, including those not directly complained of; and
- (3) correcting, where reasonable to do so, such root causes.

## 1.3.3A

## 1.3.3B

FCA

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The processes that a *firm* should have in place in order to comply with ■ DISP 1.3.3 R may include, taking into account the nature, scale and complexity of the *firm's* business including, in particular, the number of *complaints* the *firm* receives:

- (1) the collection of management information on the causes of *complaints* and the products and services *complaints* relate to, including information about *complaints* that are resolved by the *firm* by close of business on the *business day* following its receipt;
- (2) a process to identify the root causes of *complaints* (■ DISP 1.3.3 R (1));
- (3) a process to prioritise dealing with the root causes of *complaints*;
- (4) a process to consider whether the root causes identified may affect other processes or products ( ■ DISP 1.3.3 R (2));
- (5) a process for deciding whether root causes discovered should be corrected and how this should be done (■ DISP 1.3.3 R (3));
- (6) regular reporting to the *senior personnel* where information on recurring or systemic problems may be needed for them to play their part in identifying, measuring, managing and controlling risks of regulatory concern; and

- (7) keeping records of analysis and decisions taken by *senior personnel* in response to management information on the root causes of *complaints*.

1.3.4

FCA

G

In respect of *complaints* that relate to *MiFID business*, a *firm* should put in place appropriate management controls and take reasonable steps, in the same way as for *complaints* that do not relate to *MiFID business* (see ■ DISP 1.3.3 R and ■ DISP 1.3.3B G), in order to detect and minimise any risk of compliance failures (■ SYSC 6.1) and to comply with *Principle 6* (Customers' interests).

1.3.5

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1.3.6

FCA

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Where a *firm* identifies (from its *complaints* or otherwise) recurring or systemic problems in its provision of, or failure to provide, a financial service, it should (in accordance with *Principle 6* (Customers' interests) and to the extent that it applies) consider whether it ought to act with regard to the position of *customers* who may have suffered detriment from, or been potentially disadvantaged by, such problems but who have not complained and, if so, take appropriate and proportionate measures to ensure that those *customers* are given appropriate redress or a proper opportunity to obtain it. In particular, the *firm* should:

- (1) ascertain the scope and severity of the consumer detriment that might have arisen; and
- (2) consider whether it is fair and reasonable for the *firm* to undertake proactively a redress or remediation exercise, which may include contacting *customers* who have not complained.

1.3.7

FCA

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- (1) A *firm* must appoint an individual at the *firm*, or in the same *group* as the *firm*, to have responsibility for oversight of the *firm's* compliance with ■ DISP 1.
- (2) The individual appointed must be carrying out a *governing function* at the *firm* or in the same *group* as the *firm*.

1.3.8

FCA

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*Firms* are not required to notify the name of the individual to the *FCA* or the *Financial Ombudsman Service* but would be expected to do so promptly on request. There is no bar on a *firm* appointing different individuals to have the responsibility at different times where this is to accommodate part-time or flexible working.

## 1.4 Complaints resolution rules

### 1.4.1

FCA

R

Once a *complaint* has been received by a *respondent*, it must:

- (1) investigate the *complaint* competently, diligently and impartially, obtaining additional information as necessary;
- (2) assess fairly, consistently and promptly:
  - (a) the subject matter of the *complaint*;
  - (b) whether the *complaint* should be upheld;
  - (c) what remedial action or redress (or both) may be appropriate;
  - (d) if appropriate, whether it has reasonable grounds to be satisfied that another *respondent* may be solely or jointly responsible for the matter alleged in the *complaint*;

taking into account all relevant factors;

- (3) offer redress or remedial action when it decides this is appropriate;
- (4) explain to the complainant promptly and, in a way that is fair, clear and not misleading, its assessment of the *complaint*, its decision on it, and any offer of remedial action or redress; and
- (5) comply promptly with any offer of remedial action or redress accepted by the complainant.

### 1.4.2

FCA

G

Factors that may be relevant in the assessment of a *complaint* under ■ DISP 1.4.1 R (2) include the following:

- (1) all the evidence available and the particular circumstances of the *complaint*;
- (2) similarities with other *complaints* received by the *respondent*;
- (3) relevant *guidance* published by the FCA, other relevant regulators, the *Financial Ombudsman Service* or *former schemes*; and

- (4) appropriate analysis of decisions by the *Financial Ombudsman Service* concerning similar *complaints* received by the *respondent* (procedures for which are described in ■ DISP 1.3.2A G).

1.4.3

FCA

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The *respondent* should aim to resolve *complaints* at the earliest possible opportunity, minimising the number of unresolved *complaints* which need to be referred to the *Financial Ombudsman Service*.

1.4.3A

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1.4.3B

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1.4.4

FCA

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Where a *complaint* against a *respondent* is referred to the *Financial Ombudsman Service*, the *respondent* must cooperate fully with the *Financial Ombudsman Service* and comply promptly with any settlements or awards made by it.

1.4.5

FCA

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■ DISP App 1 contains *guidance* to *respondents* on the approach to assessing financial loss and appropriate redress where a *respondent* upholds a *complaint* concerning the sale of an endowment policy for the purposes of repaying a *mortgage*.

1.4.6

FCA

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■ DISP App 3 sets out the approach which *respondents* should use in assessing *complaints* relating to the sale of *payment protection contracts* and determining appropriate redress where a *complaint* is upheld.

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## 1.5 Complaints resolved by close of the next business day

1.5.1

FCA

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The following *rules* do not apply to a *complaint* that is resolved by a *respondent* by close of business on the *business day* following its receipt:

- (1) the *complaints time limit rules*;
- (2) the *complaints forwarding rules*;
- (3) the *complaints reporting rules*;
- (4) the *complaints record rule*, if the *complaint* does not relate to *MiFID business* or *collective portfolio management services* for a *UCITS scheme* or an *EEA UCITS scheme*; and
- (5) the *complaints data publication rules*.

1.5.2

FCA

G

*Complaints* falling within this section are still subject to the *complaint resolution rules*.

1.5.3

FCA

G

For the purposes of this section:

- (1) a *complaint* received on any day other than a *business day*, or after close of business on a *business day*, may be treated as received on the next *business day*; and
- (2) a *complaint* is resolved where the complainant has indicated acceptance of a response from the *respondent*, with neither the response nor acceptance having to be in writing

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## 1.6 Complaints time limit rules

### Keeping the complainant informed

1.6.1

FCA

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On receipt of a *complaint*, a *respondent* must:

- (1) send the complainant a prompt written acknowledgement providing early reassurance that it has received the *complaint* and is dealing with it; and
- (2) ensure the complainant is kept informed thereafter of the progress of the measures being taken for the *complaint's* resolution.

### Final or other response within eight weeks

1.6.2

FCA

R

The *respondent* must, by the end of eight weeks after its receipt of the *complaint*, send the complainant:

- (1) a 'final response', being a written response from the *respondent* which:
  - (a) accepts the *complaint* and, where appropriate, offers redress or remedial action; or
  - (b) offers redress or remedial action without accepting the *complaint*; or
  - (c) rejects the *complaint* and gives reasons for doing so; and which:
  - (d) encloses a copy of the *Financial Ombudsman Service's* standard explanatory leaflet; and
  - (e) informs the complainant that if he remains dissatisfied with the *respondent's* response, he may now refer his *complaint* to the *Financial Ombudsman Service* and must do so within six months; or
- (2) a written response which:
  - (a) explains why it is not in a position to make a *final response* and indicates when it expects to be able to provide one;

- (b) informs the complainant that he may now refer the *complaint* to the *Financial Ombudsman Service*; and
- (c) encloses a copy of the *Financial Ombudsman Service* standard explanatory leaflet.

1.6.3 G [deleted]

#### Complainant's written acceptance

1.6.4 R ■ DISP 1.6.2 R does not apply if the complainant has already indicated in writing acceptance of a response by the *respondent*, provided that the response:

FCA

- (1) informed the complainant how to pursue his *complaint* with the *respondent* if he remains dissatisfied; and
- (2) referred to the ultimate availability of the *Financial Ombudsman Service* if he remains dissatisfied with the *respondent's* response.

1.6.5 R [deleted]

1.6.6 R [deleted]

1.6.6A G The information regarding the *Financial Ombudsman Service* required to be provided in responses sent under the *complaints* time limit rules (■ DISP 1.6.2 R and ■ DISP 1.6.4 R) should be set out prominently within the text of those responses.

FCA

#### Speed and quality of response

1.6.7 G It is expected that within eight weeks of their receipt, almost all *complaints* to a *respondent* will have been substantively addressed by it through a *final response* or response as described in ■ DISP 1.6.4 R.

FCA

1.6.8 G When assessing a *respondent's* response to a *complaint*, the *FCA* may have regard to a number of factors, including, the quality of response, as against the *complaints resolution rules*, as well as the speed with which it was made.

FCA



### 1.7 Complaints forwarding rules

1.7.1

FCA

R

A *respondent* that has reasonable grounds to be satisfied that another *respondent* may be solely or jointly responsible for the matter alleged in a *complaint* may forward the *complaint*, or the relevant part of it, in writing to that other *respondent*, provided it:

- (1) does so promptly;
- (2) informs the complainant promptly in a *final response* of why the *complaint* has been forwarded by it to the other *respondent*, and of the other *respondent's* contact details; and
- (3) where jointly responsible for the fault alleged in the *complaint*, it complies with its own obligations under this chapter in respect of that part of the *complaint* it has not forwarded.

#### Dealing with a forwarded complaint

1.7.2

FCA

R

When a *respondent* receives a *complaint* that has been forwarded to it under ■ DISP 1.7.1 R, the *complaint* is treated for the purposes of *DISP* as if made directly to that *respondent*, and as if received by it when the forwarded *complaint* was received.

1.7.3

FCA

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On receiving a forwarded *complaint*, the standard time limits will apply from the date on which the *respondent* receives the forwarded *complaint*.

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## 1.8 Complaints time barring rule

1.8.1

FCA

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If a *respondent* receives a *complaint* which is outside the time limits for referral to the *Financial Ombudsman Service* (see ■ DISP 2.8) it may reject the complaint without considering the merits, but must explain this to the complainant in a *final response* in accordance with ■ DISP 1.6.2 R and indicate that the *Ombudsman* may waive the time limits in exceptional circumstances.

 1.9 Complaints record rule

1.9.1

FCA

R

A *firm*, including, in the case of *MiFID business* or *collective portfolio management* services for a *UCITS scheme* or an *EEA UCITS scheme*, a *branch* of a *UK firm* in another *EEA state*, must keep a record of each *complaint* received and the measures taken for its resolution, and retain that record for:

- (1) at least five years where the *complaint* relates to *MiFID business* or *collective portfolio management* services for a *UCITS scheme* or an *EEA UCITS scheme*; and
- (2) three years for all other *complaints*;

from the date the *complaint* was received.

[Note: article 10 of the *MiFID implementing Directive* and article 6(2) of the *UCITS implementing Directive*]

1.9.2

FCA

G

The records of the measures taken for resolution of *complaints* may be used to assist with the collection of management information pursuant to ■ DISP 1.3.3BG (1) and regular reporting to the *senior personnel* pursuant to ■ DISP 1.3.3BG (6).

## 1.10 Complaints reporting rules

**1.10.1** **R** Twice a year a *firm* must provide the FCA with a complete report concerning *complaints* received from *eligible complainants*. The report must be set out in the format in ■ DISP 1 Annex 1 R.  
**FCA**

### Forwarded complaints

**1.10.1A** **R** A *firm* must not include in the report a *complaint* that has been forwarded in its entirety to another *respondent* under the complaints forwarding rules.  
**FCA**

**1.10.1B** **G** Where a *firm* has forwarded to another *respondent* only part of a *complaint* or where two *respondents* may be jointly responsible for a *complaint*, then the *complaint* should be reported by both *firms*.  
**FCA**

### Joint reports

**1.10.1C** **R** *Firms* that are part of a *group* may submit a joint report to the FCA . The joint report must contain the information required from all *firms* concerned and clearly indicate the *firms* on whose behalf the report is submitted. The requirement to provide a report, and the responsibility for the report, remains with each *firm* in the *group*.  
**FCA**

**1.10.1D** **G** Not all the *firms* in the *group* need to submit the report jointly. *Firms* should only consider submitting a joint report if it is logical to do so, for example, where the *firms* have a common central *complaints* handling team and the same *accounting reference date*.  
**FCA**

### Information requirements

**1.10.2** **R** ■ DISP 1 Annex 1 R requires (for the relevant reporting period) information about:  
**FCA**

- (1) the total number of *complaints* received by the *firm* ;
- (2) the total number of *complaints* closed by the *firm*:
  - (a) within four weeks or less of receipt;
  - (b) more than four weeks and up to eight weeks of receipt; and
  - (c) more than eight weeks after receipt;

## 1.10.2A

FCA

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- (3) the total number of *complaints*:
    - (a) upheld by the *firm* in the reporting period; and
    - (b) outstanding at the beginning of the reporting period; and
  - (4) the total amount of redress paid in respect of *complaints* during the reporting period.
- (1) Twice a year a *firm* must provide the *FCA* with a complete report concerning *complaints* received from *eligible complainants* about matters relating to the *retail investment activities* carried out by its *retail investment advisers*. The report must be set out in the format in ■ DISP 1 Annex 1C R.
  - (2) ■ DISP 1 Annex 1C R requires (for the relevant reporting period) information about:
    - (a) the total number of *complaints* received by the *firm* about matters relating to the *retail investment activities* carried out by its *retail investment advisers*;
    - (b) the total number of *complaints* closed by the *firm* about matters relating to the *retail investment activities* carried out by its *retail investment advisers*;
    - (c) the total number of *complaints* upheld by the *firm* about matters relating to the *retail investment activities* carried out by its *retail investment advisers*; and
    - (d) the total amount of redress paid in respect of *complaints* upheld during the reporting period about matters relating to the *retail investment activities* carried out by its *retail investment advisers*.
  - (3) For the purpose of ■ DISP 1 Annex 1C R *retail investment adviser* information must be reported by Individual Reference Number (IRN).

## 1.10.3

FCA

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For the purpose of ■ DISP 1.10.2 R and ■ DISP 1.10.2A R, when completing the return, the *firm* should take into account the following matters.

- (1) If a *complaint* could fall into more than one category, the *complaint* should be recorded in the category which the *firm* considers to form the main part of the *complaint*.
- (2) Under ■ DISP 1.10.2 R (3)(a), a *firm* should report any *complaint* to which it has given a response which upholds the *complaint*, even if any redress offered is disputed by the complainant. For this purpose, 'response' includes a response under the complainant's written acceptance rule ( ■ DISP 1.6.4 R) and a *final response*. 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 1.10.2 R (4) or ■ DISP 1.10.2A R, 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) amounts paid for distress and inconvenience;
  - (b) a free transfer out to another provider which transfer would normally be paid for;
  - (c) goodwill payments and goodwill gestures;
  - (d) interest on delayed settlements;
  - (e) waiver of an excess on an insurance policy; and
  - (f) payments to put the consumer back into the position the consumer should have been in had the act or omission not occurred.
- (4) If a *firm* reports on the amount of redress paid under ■ DISP 1.10.2 R (4) or ■ DISP 1.10.2A R, 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.

[Note: See ■ SUP 10A.14.24 R for the ongoing duty to notify *complaints* about matters relating to the *retail investment activities* of a *retail investment adviser*].

## 1.10.4

FCA

R

The relevant reporting periods are:

- (1) the six *months* immediately following a *firm's accounting reference date*; and
- (2) the six *months* immediately preceding a *firm's accounting reference date*.

## 1.10.5

FCA

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Reports are to be submitted to the *FCA* within 30 *business days* of the end of the relevant reporting periods through, and in the electronic format specified in, the *FCA* Complaints Reporting System or the appropriate section of the *FCA* website.

## 1.10.6

FCA

R

If a *firm* is unable to submit a report in electronic format because of a systems failure of any kind, the *firm* must notify the *FCA*, in writing and without delay, of that systems failure.

## 1.10.6A

FCA

R

- (1) If a *firm* does not submit a complete report by the date on which it is due, in accordance with ■ DISP 1.10.5 R, the *firm* must pay an administrative fee of £250.

- (2) The administrative fee in (1) does not apply if the *firm* has notified the *FCA* of a systems failure in accordance with ■ DISP 1.10.6 R.

1.10.7

FCA

R

A closed *complaint* is a *complaint* where:

- (1) the *firm* has sent a *final response*; or
- (2) the complainant has indicated in writing acceptance of the *firm's* earlier response under ■ DISP 1.6.4 R.

1.10.8

G

[deleted]

#### Notification of contact point for complainants

1.10.9

FCA

R

For the purpose of inclusion in the public record maintained by the *FCA*, a *firm* must:

- (1) provide the *FCA*, at the time of its *authorisation*, with details of a single contact point within the *firm* for complainants; and
- (2) notify the *FCA* of any subsequent change in those details when convenient and, at the latest, in the *firm's* next report under the *complaints reporting rules*.

## 1.10A Complaints data publication rules

### Obligation to publish summary of complaints data

1.10A.1

FCA

R

- (1) Where, in accordance with ■ DISP 1.10.1 R, 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).
- (2) Where, in accordance with ■ DISP 1.10.1C R, a *firm* submits a joint report on behalf of itself and other *firms* within a *group* and that report reports 500 or more *complaints*, it must publish a summary of the *complaints* data contained in the joint report (the *complaints* data summary).

### Format of publication

1.10A.2

FCA

R

The *complaints* data summary required by ■ DISP 1.10A.1 R must be published in the format set out in ■ DISP 1 Annex 1B R.

### Time limits for publication

1.10A.3

FCA

R

- (1) Where the *firm's* relevant reporting period (as defined in ■ DISP 1.10.4 R) ends between 1 January and 30 June, the *firm* must publish the *complaints* data summary no later than 31 August of the same year.
- (2) Where the *firm's* relevant reporting period (as defined in ■ DISP 1.10.4 R) ends between 1 July and 31 December, the *firm* must publish the *complaints* data summary no later than 28 February of the following year.

### Confirmation of publication

1.10A.4

FCA

R

A *firm* must immediately confirm to the *FCA* , in an email submitted to [complaintsdatasummary@fca.org.uk](mailto:complaintsdatasummary@fca.org.uk) , that the *complaints* data summary accurately reflects the report submitted to the *FCA* , that the summary has been published and where it has been published.

1.10A.5

FCA



### Publication on behalf of the firm

A *firm* will be taken to have complied with ■ DISP 1.10A.1R (1) or ■ (2) if within the relevant time limit set out in ■ DISP 1.10A.3 R the *firm*:

- (1) ensures that another *person* publishes the *complaints* data summary on its behalf; and
- (2) publishes details of where this summary is published.

1.10A.6

FCA



### Joint reports: provision of information to third party on request

Any *firm* covered by a joint report, other than the *firm* that submitted the joint report, must provide details of where the *complaints* data summary is published to any *person* who requests them.

1.10A.7

FCA



### Mode and content of publication

*Firms* may choose how they publish the *complaints* data summary. However, the summary should be readily available. For this reason, the *FCA* recommends that *firms* should publish the summary on their websites.

1.10A.8

FCA



- (1) The *FCA* recommends that *firms* should publish additional information alongside their *complaints* data summaries in order to relate the number of complaints to the scale of the *firm's* relevant business. *Firms* are recommended to publish the relevant standard metrics set out in the table at ■ DISP 1 Annex 1A G with the summaries. Where the *complaints* data summary relates to a joint report the metrics should cover all the *firms* included in the joint report.
- (2) If the recommended metrics do not accurately reflect the scale of the *firm's* relevant business, the *FCA* recommends that the *firm* should publish metrics which best reflect the scale of its business based on the number of its customers or accounts or policies. *Firms* may also publish other metrics where they consider that these would better reflect the scale of their business.
- (3) *Firms* may also publish other information to aid understanding, for example details of their internal processes for dealing with complaints.

## 1.11 The Society of Lloyd's

### Complaints handling procedures

**1.11.1** **R** The *Society* must establish and maintain appropriate and effective procedures for handling *complaints* by *policyholders* against *members* of the *Society* which comply with this chapter.

**FCA**

**1.11.2** **R** A *member* of the *Society* must, in complying with this chapter, ensure that the arrangements which the *member* maintains are compatible with the *Lloyd's complaint procedures*, so that, taken as a whole, the requirements of this sourcebook are met.

**FCA**

**1.11.3** **R** The *Society* must take reasonable steps to ensure that *complaints* by *policyholders* against *members* of the *Society* are dealt with under the *Lloyd's complaint procedures* and that *members* comply with the requirements of those procedures.

**FCA**

### Referral to the Financial Ombudsman Service

**1.11.4** **R** A *complaint* by a *policyholder* against a *member* of the *Society* may not be referred to the *Financial Ombudsman Service* until after the *Lloyd's complaint procedures* have been completed or until after the end of eight weeks from receipt of the *complaint*, whichever is the earlier.

**FCA**

### Exemptions for members

**1.11.5** **R** (1) A notification claiming exemption under **■ DISP 1.1.12 R** from the *complaints reporting rules* and the *rules* relating to the funding of the *Financial Ombudsman Service* must be given to the *FCA* by the *Society* on behalf of any *member* eligible for an exemption.

**FCA**

(2) The *Society* must notify the *FCA* if the conditions relating to such an exemption no longer apply to a *member* who is exempt.

### Complaints reporting rule

**1.11.6** **R** The report to be sent to the *FCA* under the *complaints reporting rules* must be provided by the *Society* and must cover all *complaints* by *policyholders* against *members* falling within the scope of the *complaints reporting rules*.

**FCA**

1.11.6A

FCA

R

**Obligation to publish summary of complaints data**

Where, in accordance with ■ DISP 1.11.6 R, the *Society* 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).

1.11.6B

FCA

R

**Format of publication**

The *Society* must publish the *complaints* data summary in the format set out in the *complaints* publication form in ■ DISP 1 Annex 1B R omitting details as to the *firms* and brands/trading names covered by the summary.

1.11.6C

FCA

R

**Time limits for publication**

The deadlines for publication of the *Society's* *complaints* data summaries are:

- (1) 28 February for the summary of its report relating to the reporting period ending on 31 December of the previous year; and
- (2) 31 August for the summary of its report relating to the reporting period ending on 30 June of the same year.

1.11.6D

FCA

R

**Confirmation of publication**

The *Society* must immediately confirm to the *FCA*, in an email submitted to [complaintsdatasummary@fca.org.uk](mailto:complaintsdatasummary@fca.org.uk), that the *complaints* data summary accurately reflects the report submitted to the *FCA*, that the summary has been published and where it has been published.

1.11.6E

FCA

G

**Mode and content of publication**

The *Society* may choose how it publishes the *complaints* data summary. However, the *complaints* data summary should be readily available. For this reason, the *FCA* recommends that the *Society* publishes the summary on its website. The *Society* may publish further information with the *complaints* data summary to aid understanding.

1.11.7

FCA

G

**Application to members**

Each *member* of the *Society* is individually subject to the *rules* in this chapter as a result of the *insurance market direction* given in ■ DISP 2.5.4 G under section 316 of the *Act* (Direction by Authority).

1.11.8

FCA

G

However, the *Society* operates a two-tier internal complaints handling procedure, currently set out in the "Code for Underwriting agents: UK Personal Lines Claims and Complaints Handling". Under this procedure, *complaints* by *policyholders* against *members* of the *Society* are considered by the *managing agent* and then, if necessary, by the *Society's* in-house Complaints Department. This procedure (and any procedure that may replace it) will be subject to the requirements in this chapter.

1.11.9

FCA

G

*Members* will individually comply with this chapter if and only if all *complaints* by *policyholders* against *members* are dealt with under the *Lloyd's complaints procedures*. Accordingly, certain of the obligations under this chapter, for example the obligation to report on *complaints* received and the obligation to pay fees under the *rules* relating to the funding of the *Financial Ombudsman Service* (■ FEES 5), must be complied with by the *Society* on behalf of *members*. *Managing agents* will not have to make a separate report to the *FCA* on *complaints* reported under the *complaints reporting rules* sent by the *Society*.

#### Complaints about the activities of members' advisers

1.11.10

FCA

R

A *members' adviser* must establish and maintain effective arrangements for handling any *complaint* from a *member* of the *Society* regarding advice given to the *member* in connection with the acquiring or disposing of *syndicate* participation.

1.11.11

FCA

G

*Complaints* from *members* of the *Society* regarding the activities of *members' advisers*, which cannot be resolved by the *members' adviser*, cannot be referred to the *Financial Ombudsman Service*.

#### Complaints from members or former members

1.11.12

FCA

G

The *Financial Ombudsman Service* is not able to deal with the *complaints* listed in ■ DISP 1.11.13 R and separate *rules* and *guidance* are therefore required.

1.11.13

FCA

R

The *Society* must establish and maintain appropriate and effective arrangements for handling any *complaint* from a *member* or a *former member* about:

- (1) *regulated activities* carried on by the *Society*;
- (2) the *Society's regulatory functions* carried on by the *Society*, the *Council* or those to whom the *Council* delegates authority to carry out such functions;
- (3) advice given by an *underwriting agent* to a *person* to become, continue or cease to be, a *member* of a particular *syndicate*; and
- (4) the management by a *managing agent* of the underwriting capacity of a *syndicate* on which the complainant participates or has participated.

1.11.14

FCA

R

The *Society* must maintain by *byelaw* one or more appropriate effective schemes for the resolution of disputes between an *individual member* or a *former member* who was an *individual member* and:

- (1) his *underwriting agent*; or
- (2) the *Society*.

- 1.11.15** **R** For the purposes of ■ DISP 1.11.13 R "*individual member*" includes a *member* which is a *limited liability partnership* or a *body corporate* whose *members* consist only of, or of the nominees for, a single natural person or a group of *connected persons*.  
**FCA**
- 1.11.16** **G** The schemes to which ■ DISP 1.11.13 R currently refers are the *Lloyd's Arbitration Scheme* and the *Lloyd's Members' Ombudsman* respectively, but the *Society* may maintain other independent dispute resolution schemes in addition to, or instead of, either of these schemes.  
**FCA**
- 1.11.17** **G** The schemes referred to in ■ DISP 1.11.13 R should be operationally independent of the *Society*.  
**FCA**
- 1.11.18** **G** An *individual member* or *former member* who was an *individual member* should not have access to the schemes referred to in ■ DISP 1.11.13 R unless the *complaints* arrangements maintained by the *Society* have failed to resolve the *complaint* to his satisfaction within eight weeks of receiving it.  
**FCA**
- 1.11.19** **G** The *Society* should give the *FCA* adequate notice of all proposed changes to the *byelaws* relating to the schemes referred to in ■ DISP 1.11.13 R.  
**FCA**
- 1.11.20** **G** When considering what is required to ensure the operational independence of the schemes referred to in ■ DISP 1.11.13 R, or proposed changes in such schemes, the *Society* should take account of similar arrangements operated by the *Financial Ombudsman Service*.  
**FCA**
- 1.11.21** **R** A contravention of ■ DISP 1.11.13 R or ■ DISP 1.11.14 R does not give rise to a right of action by a *private person* under section 138D of the *Act* (Actions for damages) 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.  
**FCA**

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## Complaints return form

**FCA**

### Complaints return form

This annex consists only of one or more forms. Forms are to be found through the following address:

*Complaints return form* - DISP 1 Annex 1 R



## Recommended metrics

**FCA**

This table belongs to ■ DISP 1.10A.8 G

Type of business	Contextualised new complaint numbers	Recommended metrics
Banking and loans	<i>Complaints</i> per 1,000 accounts	The tariff base (number of accounts) at row 1, column 2 of the table in FEES 5 Annex 1 R as reported in the <i>firm's</i> most recent statement of total amount of <i>relevant business</i>
General insurance and pure protection (provision)	<i>Complaints</i> per £1m of annual gross premium income	The tariff base (annual gross premium income) at row 2, column 2 of the table in FEES 5 Annex 1 R as reported in the <i>firm's</i> most recent statement of total amount of <i>relevant business</i>
General insurance and pure protection (intermediation)	<i>Complaints</i> per £1m of annual income	The tariff base (annual income) at row 17, column 2 of the table in FEES 5 Annex 1 R reported in the <i>firm's</i> most recent statement of total amount of <i>relevant business</i>
Home finance	<i>Complaints</i> per 1,000 loans outstanding	The total number of balances outstanding (all loans) at row E.45 or E.53 of E(2) in SUP 16 Annex 19A R (Mortgage Lenders and Administrators Return) as reported in the <i>firm's</i> most recent return
Investment ( provision )	<i>Complaints</i> per £1m of annual eligible income	The <i>firm's</i> annual eligible income as defined in class D1 of FEES 6 Annex 3 R
Investment (intermediation)	<i>Complaints</i> per £1m of annual eligible income	The <i>firm's</i> annual eligible income as defined in class D2 of FEES 6 Annex 3 R
Decumulation, life and pensions (provision)	<i>Complaints</i> per 1,000 policyholders	The number of the <i>firm's</i> policyholders at row 3 of Forms 51 - 54 (whichever are relevant) in IPRU(INS) Appendix 9.3R as reported in the <i>firm's</i> most recent form
Decumulation, life and pensions (intermediation)	<i>Complaints</i> per £1m of annual eligible income	The <i>firm's</i> annual eligible income as defined in class C2 of FEES 6 Annex 3 R

PAGE  
1

Note 1: For the purposes of this annex the reference to *complaints* is a reference to *complaints* opened during the relevant reporting period.

Note 2: Where a *firm* undertakes both (a) general insurance and pure protection provision and (b) general insurance and pure protection intermediation, it can choose to use the metric which forms the greater part of its business.

Type of business	Contextualised new complaint numbers	Recommended metrics
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Note 3: Where a *firm* undertakes both (a) fund management and (b) investment intermediation, it can choose to use the metric which forms the greater part of its business.

Note 4: Where a *firm* undertakes both (a) decumulation, life and pensions provision and (b) decumulation, life and pensions intermediation, it can choose to use the metric which forms the greater part of its business.

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## Complaints publication report

**FCA**

This table belongs to ■ DISP 1.10A.2 R - DISP 1 Annex 1B R



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**Illustration of the online reporting requirements, referred to in DISP 1.10.2AR**

**1**

**FCA**

This annex belongs to **■ DISP 1.10.2A R - DISP 1 Annex 1C R**



## Application of DISP 1 to type of respondent / complaint

**FCA**

1. The table below summarises the application of DISP 1. Where the table indicates that a particular section may apply, its application in relation to any particular activity or *complaint* is dependent on the detailed application provisions set out in DISP 1.
2. In some cases the application of DISP 1 to *firms* depends on whether responsibility for the matter is reserved under an *EU* instrument to an *incoming EEA firm's Home State regulator*. Reference should be made to the detailed application provisions set out in DISP 1.

Type of respondent/complaint	DISP 1.2 Consumer awareness rules	DISP 1.3 Complaints handling rules	DISP 1.4 - 1.8 Complaints resolution rules etc.	DISP 1.9 Complaints record rule	DISP 1.10 Complaints reporting rules	DISP 1.10A Complaints data publication rules
<i>firm</i> (other than a <i>UCITS management company</i> when providing <i>collective portfolio management services</i> in respect of a <i>UCITS scheme</i> or an <i>EEA UCITS scheme</i> ) in relation to <i>complaints</i> concerning non- <i>MiFID business</i>	Applies for <i>eligible complainants</i>	Applies for <i>eligible complainants</i> (DISP 1.3.4 G does not apply)	Applies for <i>eligible complainants</i>	Applies for <i>eligible complainants</i>	Applies for <i>eligible complainants</i>	Applies for <i>eligible complainants</i>
<i>firm</i> in relation to <i>complaints</i> concerning <i>MiFID business</i>	Applies for <i>eligible complainants</i>	Applies for <i>retail clients</i> (DISP 1.3.3 R does not apply)	Applies for <i>eligible complainants</i>	Applies for <i>retail clients</i>	Applies for <i>eligible complainants</i>	Applies for <i>eligible complainants</i>
<i>UK UCITS management company</i> in relation to <i>complaints</i> concerning <i>collective portfolio management services</i> in respect of a <i>UCITS</i>	Applies for <i>unitholders</i>	Applies for <i>unitholders</i>	Applies for <i>eligible complainants</i>	Applies for <i>unitholders</i>	Applies for <i>eligible complainants</i>	Applies for <i>eligible complainants</i>

Type of respondent/complaint	DISP 1.2 Consumer awareness rules	DISP 1.3 Com-plaints handling rules	DISP 1.4 - 1.8 Com-plaints res-olution rules etc.	DISP 1.9 Com-plaints record rule	DISP 1.10 Com-plaints re-ported rules	DISP 1.10A Com-plaints da-ta publica-tion rules
<i>scheme or an EEA UCITS scheme provided under the freedom to provide cross border services</i>						
<i>branch of a UK UCITS management company in another EEA State in relation to complaints concerning collective portfolio management services in respect of an EEA UCITS scheme</i>	Applies for unitholders	Applies for unitholders	Does not apply	Applies for unitholders	Does not apply	Does not apply
<i>branch of a UK firm (other than a UK UCITS management company when providing collective portfolio management services in respect of an EEA UCITS scheme) in another EEA State in relation to complaints concerning non-MiFID business</i>	Does not apply	Does not apply	Does not apply	Does not apply	Does not apply	Does not apply
<i>branch of a UK firm in another EEA State in relation to complaints concerning MiFID business</i>	Does not apply	Applies for retail clients (DISP 1.3.3 R does not apply)	Does not apply	Applies for retail clients	Does not apply	Does not apply
<i>incoming branch of an EEA firm (other than an EEA UCITS manage-</i>	Applies for eligible complainants	Applies for eligible complainants	Applies for eligible complainants	Applies for eligible complainants	Applies for eligible complainants	Does not apply

Type of respondent/complaint	DISP 1.2 Consumer awareness rules	DISP 1.3 Com-plaints handling rules	DISP 1.4 - 1.8 Com-plaints res-olution rules etc.	DISP 1.9 Com-plaints record rule	DISP 1.10 Com-plaints re-ported rules	DISP 1.10A Com-plaints da-ta publica-tion rules
<i>ment company when providing collective portfolio management services in respect of an EEA UCITS scheme) in relation to complaints concerning non-Mi-FID business</i>						
<i>incoming branch of an EEA firm in relation to complaints concerning MiFID business</i>	Applies for <i>eligible complainants</i>	Does not apply	Applies for <i>eligible complainants</i>	Does not apply	Applies for <i>eligible complainants</i>	Does not apply
<i>incoming branch of an EEA UCITS management company in relation to complaints concerning collective portfolio management services in respect of a UCITS scheme</i>	Applies for <i>unitholders</i>	Applies for <i>unitholders</i>	Applies for <i>eligible complainants</i>	Applies for <i>unitholders</i>	Applies for <i>eligible complainants</i>	Does not apply
<i>incoming EEA UCITS management company in relation to complaints concerning collective portfolio management services in respect of a UCITS scheme provided under the freedom to provide cross border services</i>	Does not apply	Does not apply	Applies for <i>eligible complainants</i>	Does not apply	Applies for <i>eligible complainants</i>	Does not apply
<i>incoming EEA firm providing</i>	Does not apply	Does not apply	Does not apply	Does not apply	Does not apply	Does not apply

Type of respondent/complaint	DISP 1.2 Consumer awareness rules	DISP 1.3 Com-plaints handling rules	DISP 1.4 - 1.8 Com-plaints res-olution rules etc.	DISP 1.9 Com-plaints record rule	DISP 1.10 Com-plaints re-ported rules	DISP 1.10A Com-plaints da-ta publica-tion rules
cross-border services from outside the UK						
<i>branch of an overseas firm (in relation to all complaints)</i>	Applies for <i>eligible complainants</i>	Applies for <i>eligible complainants</i>	Applies for <i>eligible complainants</i>	Applies for <i>eligible complainants</i>	Applies for <i>eligible complainants</i>	Applies for <i>eligible complainants</i>
<i>payment service provider in relation to complaints concerning payment services</i>	Applies for <i>eligible complainants</i>	Applies for <i>eligible complainants</i>	Applies for <i>eligible complainants</i>	Does not apply	Does not apply	Does not apply
<i>EEA branch of a UK payment service provider in relation to complaints concerning payment services</i>	Does not apply	Does not apply	Does not apply	Does not apply	Does not apply	Does not apply
<i>incoming branch of an EEA authorised payment institution in relation to complaints concerning payment services</i>	Applies for <i>eligible complainants</i>	Applies for <i>eligible complainants</i>	Applies for <i>eligible complainants</i>	Does not apply	Does not apply	Does not apply
<i>incoming EEA authorised payment institution providing cross border payment services from outside the UK</i>	Does not apply	Does not apply	Does not apply	Does not apply	Does not apply	Does not apply
<i>electronic money issuer in relation to complaints concerning issuance of electronic money</i>	Applies for <i>eligible complainants</i>	Applies for <i>eligible complainants</i>	Applies for <i>eligible complainants</i>	Does not apply	Does not apply	Does not apply
<i>EEA branch of an authorised electronic money institution or an EEA branch</i>	Does not apply	Does not apply	Does not apply	Does not apply	Does not apply	Does not apply

Type of respondent/complaint	DISP 1.2 Consumer awareness rules	DISP 1.3 Com-plaints handling rules	DISP 1.4 - 1.8 Com-plaints resolution rules etc.	DISP 1.9 Com-plaints record rule	DISP 1.10 Com-plaints reporting rules	DISP 1.10A Com-plaints data publication rules
of any other <i>UK electronic money issuer</i> in relation to <i>com-plaints</i> concerning issuance of <i>electronic money</i>						
incoming <i>branch</i> of an <i>EEA authorised electronic money institution</i> in relation to <i>com-plaints</i> concerning issuance of <i>electronic money</i>	Applies for <i>eligible complainants</i>	Applies for <i>eligible complainants</i>	Applies for <i>eligible complainants</i>	Does not apply	Does not apply	Does not apply
incoming <i>EEA authorised electronic money institution</i> providing cross border <i>electronic money</i> issuance services from outside the <i>UK</i>	Does not apply	Does not apply	Does not apply	Does not apply	Does not apply	Does not apply
<i>licensee</i>	Applies for <i>eligible complainants</i>	Applies for <i>eligible complainants</i> (DISP 1.3.4 G to DISP 1.3.5 G do not apply)	Applies for <i>eligible complainants</i> (DISP 1.6.8 G does not apply)	Does not apply	Does not apply	Does not apply
<i>VJ participant</i>	Applies for <i>eligible complainants</i>	Applies for <i>eligible complainants</i> (DISP 1.3.4 G to DISP 1.3.5 G do not apply)	Applies for <i>eligible complainants</i> (DISP 1.6.8 G does not apply)	Does not apply	Does not apply	Does not apply
<i>complaints</i> relating to <i>auction regulation bidding</i>	Does not apply	Does not apply	Does not apply	Does not apply	Does not apply	Does not apply



## Chapter 2

# Jurisdiction of the Financial Ombudsman Service

## 2.1 Purpose, interpretation and application

### Purpose

#### 2.1.1

FCA

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The purpose of this chapter is to set out *rules* and guidance on the scope of the *Compulsory Jurisdiction*, the *Consumer Credit Jurisdiction* and the *Voluntary Jurisdiction*, which are the *Financial Ombudsman Service's* three jurisdictions:

- (1) the *Compulsory Jurisdiction* is not restricted to *regulated activities*, *payment services* and issuance of *electronic money*, and covers:
  - (a) certain *complaints* against *firms* (and businesses which were *firms* at the time of the events complained about); and
  - (b) *relevant complaints* against former members of *former schemes* under the *Ombudsman Transitional Order* and the *Mortgage and General Insurance Complaints Transitional Order*;
- (2) the *Consumer Credit Jurisdiction* covers certain *complaints* against *licensees* (and businesses which were *licensees* at the time of the events complained about); and
- (3) the *Voluntary Jurisdiction* covers certain *complaints* against *VJ participants*, including in relation to events before they joined the *Voluntary Jurisdiction*.

#### 2.1.2

FCA

G

*Relevant complaints* covered by the *Compulsory Jurisdiction* comprise:

- (1) *relevant existing complaints* referred to a *former scheme* before *commencement* and inherited by the *Financial Ombudsman Service* under the *Ombudsman Transitional Order*;
- (2) *relevant new complaints* about events before *commencement* but referred to the *Financial Ombudsman Service* after *commencement* under the *Ombudsman Transitional Order*; and
- (3) *relevant transitional complaints* referred to the *Financial Ombudsman Service* after the *relevant commencement date* under the *Mortgages and General Insurance Complaints Transitional Order*.

#### 2.1.3

FCA

G

The *Ombudsman Transitional Order* requires the *Financial Ombudsman Service* to complete the handling of *relevant existing complaints*, in a significant number of respects, in accordance with the requirements of the relevant *former scheme* rather than in accordance with the requirements of this chapter.

**Interpretation**

2.1.4

FCA

G

In this chapter, carrying on an activity includes:

- (1) offering, providing or failing to provide a service in relation to an activity;
- (2) administering or failing to administer a service in relation to an activity; and
- (3) the manner in which a *respondent* has administered its business, provided that the business is an activity subject to the *Financial Ombudsman Service's* jurisdiction.

2.1.4A

[Deleted]

**Purpose**

2.1.5

FCA

G

In this chapter, ancillary banking services include, for example, the provision and operation of cash machines, foreign currency exchange, safe deposit boxes and account aggregation services (services where details of accounts held with different financial service providers can be accessed by a single password).

**Application**

2.1.6

FCA

R

This chapter applies to the *Ombudsman* and to *respondents*.

2.1.7

FCA

D

Part XVI of the *Act* (The Ombudsman Scheme), particularly section 226 (Compulsory jurisdiction), applies to *members* of the *Society of Lloyd's* in respect of the *regulated activities* of *effecting* or *carrying out contracts of insurance* written at Lloyd's.

## 2.2 Which complaints can be dealt with under the Financial Ombudsman Service?

### 2.2.1

FCA

G

The scope of the *Financial Ombudsman Service's* three jurisdictions depends on:

- (1) the type of activity to which the *complaint* relates (see ■ DISP 2.3 , ■ DISP 2.4 and ■ DISP 2.5);
- (2) the place where the activity to which the complaint relates was carried on (see ■ DISP 2.6 );
- (3) whether the complainant is eligible (see ■ DISP 2.7); and
- (4) whether the *complaint* was referred to the *Financial Ombudsman Service* in time (see ■ DISP 2.8).

### 2.2.2

[Deleted]

### 2.2.2A

[Deleted]

### 2.2.3

[Deleted]



## 2.3 To which activities does the Compulsory Jurisdiction apply?

### Activities by firms

2.3.1

FCA

R

The *Ombudsman* can consider a *complaint* under the *Compulsory Jurisdiction* if it relates to an act or omission by a *firm* in carrying on one or more of the following activities:

- (1) *regulated activities* (other than *auction regulation bidding*);
- (1A) *payment services*;
- (2) *consumer credit activities*;
- (3) lending *money* secured by a charge on land;
- (4) lending *money* (excluding *restricted credit* where that is not a *consumer credit activity*);
- (5) paying *money* by a *plastic card* (excluding a *store card* where that is not a *consumer credit activity*);
- (6) providing ancillary banking services;

or any ancillary activities, including advice, carried on by the *firm* in connection with them.

2.3.1A

[Deleted]

### Activities by firms and unauthorised persons subject to a former scheme

2.3.2

FCA

G

The *Ombudsman* can also consider under the *Compulsory Jurisdiction*:

- (1) as a result of the *Ombudsman Transitional Order*, a *relevant existing complaint* or a *relevant new complaint* that relates to an act or omission by a *firm* or an *unauthorised person* which was subject to a *former scheme* immediately before *commencement*; or
- (2) as a result of the *Mortgages and General Insurance Complaints Transitional Order*, a *relevant transitional complaint* that relates to an act or omission by a *firm* (or an *unauthorised person* that ceased to be a *firm* after the *relevant commencement date*) which was subject to a *former scheme* at the time of the act or omission;

provided that:

- (3) the act or omission occurred in the carrying on by that *firm* or *unauthorised person* of an activity to which that *former scheme* applied; and
- (4) the complainant is eligible and wishes to have the *complaint* dealt with by the *Ombudsman*.

#### Activities by payment service providers

2.3.2A  
FCA

**R** The *Ombudsman* can consider a *complaint* under the *Compulsory Jurisdiction* if it relates to an act or omission by a *payment service provider* in carrying on:

- (1) *payment services*; or
- (2) *consumer credit activities*;

or any ancillary activities, including advice, carried on by the *payment service provider* in connection with them.

#### Activities by electronic money issuers

2.3.2B  
FCA

**R** The *Ombudsman* can consider a *complaint* under the *Compulsory Jurisdiction* if it relates to an act or omission by an *electronic money issuer* in carrying on:

- (1) issuance of *electronic money*; or
- (2) *consumer credit activities*;

or any ancillary activities, including advice, carried on by the *electronic money issuer* in connection with them.

#### Consumer redress schemes

2.3.2C  
FCA

**G** As a result of section 404B(11) of the *Act*, the *Ombudsman* can also consider under the *Compulsory Jurisdiction* a *complaint* from a complainant who:

- (1) is not satisfied with a *redress determination* made by a *respondent* under a *consumer redress scheme*; or
- (2) considers that a *respondent* has failed to make a *redress determination* in accordance with a *consumer redress scheme*.

#### General

2.3.3  
FCA

**G** *Complaints* about acts or omissions include those in respect of activities for which the *firm*, *payment service provider* or *electronic money issuer* is responsible (including business of any *appointed representative* or *agent* for which the *firm*, *payment institution* or *electronic money institution* has accepted responsibility).

2.3.4

FCA

R

A *complaint* about an *authorised professional firm* cannot be handled under the *Compulsory Jurisdiction* of the *Financial Ombudsman Service* if it relates solely to a *non-mainstream regulated activity* and can be handled by a *designated professional body*.

2.3.5

FCA

G

The *Compulsory Jurisdiction* includes *complaints* about the *UK* end of 'one leg' *payment services* transactions, i.e. services provided from *UK* establishments that also involve a payment service provider located outside the *EEA*. The *Compulsory Jurisdiction* also includes *complaints* about *payment services* irrespective of the currency of the transaction.

2.3.6

[Deleted]



## 2.4 To which activities does the Consumer Credit Jurisdiction apply?

2.4.1

FCA

R

The Ombudsman can consider a *complaint* under the *Consumer Credit Jurisdiction* if:

- (1) it is not covered by the *Compulsory Jurisdiction*; and
- (2) it relates to an act or omission by a *licensee* in carrying on
  - (a) one or more *consumer credit activities*; or
  - (b) any ancillary activities, including advice, carried on by the *licensee* in connection with them.

2.4.2

[Deleted]

2.4.3

[Deleted]

2.4.4

[Deleted]

2.4.5

[Deleted]

2.4.6

[Deleted]

2.4.7

[Deleted]

2.4.8

[Deleted]

2.4.9

[Deleted]

2.4.10

[Deleted]

2.4.11

[Deleted]

2.4.12

[Deleted]

2.4.12A

[Deleted]

2.4.13

[Deleted]

2.4.14

[Deleted]

2.4.15

[Deleted]

2.4.15A

[Deleted]

2.4.15B

[Deleted]

2.4.16

[Deleted]

2.4.17

[Deleted]

## 2.5 To which activities does the Voluntary Jurisdiction apply?

### 2.5.1

FCA

R

The Ombudsman can consider a *complaint* under the *Voluntary Jurisdiction* if:

- (1) it is not covered by the *Compulsory Jurisdiction* or the *Consumer Credit 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) an activity carried on after 28 April 1988 which:
    - (i) was not a *regulated activity* at the time of the act or omission, but
    - (ii) was a *regulated activity* when the *VJ participant* joined the *Voluntary Jurisdiction* (or became an *authorised person*, if later);
  - (b) a financial services activity carried on after *commencement* by a *VJ participant* which was covered in respect of that activity by a *former scheme* immediately before the *commencement day*;
  - (c) activities which (at 30 April 2011) were *regulated activities* or would be *regulated activities* if they were carried on from an establishment in the *United Kingdom* (these activities are listed in ■ DISP 2 Annex 1 G);
  - (d) activities which would be *consumer credit activities* if they were carried on from an establishment in the *United Kingdom*;
  - (e) lending *money* secured by a charge on land;
  - (f) lending *money* (excluding *restricted credit* where that is not a *consumer credit activity*);
  - (g) paying *money* by a *plastic card* (excluding a *store card* where that is not a *consumer credit activity*);
  - (h) providing ancillary banking services;

- (i) acting as an intermediary for a loan secured by a charge over land;
- (j) acting as an intermediary for *general insurance business* or *long-term insurance business*;
- (k) National Savings and Investments' business;
- (l) activities which (at 1 November 2009) were *payment services* or would be *payment services* if they were carried on from an establishment in the *United Kingdom*;
- (m) issuance of *electronic money*;

or any ancillary activities, including advice, carried on by the *VJ participant* in connection with them.

2.5.2  
FCA

**G** The scope of the *Voluntary Jurisdiction* is wider than that of the *Compulsory Jurisdiction*, and so some activities are referred to in both jurisdictions.

2.5.3  
FCA

**G** ■ DISP 2.5.1 R (2)(a) is for those that are subject to the *Compulsory Jurisdiction* for *regulated activities* but are not covered by the *Ombudsman Transitional Order* or the *Mortgage and General Insurance Complaints Transitional Order*. It enables the *Financial Ombudsman Scheme* to cover *complaints* about earlier events relating to those activities before they became *regulated activities*.

2.5.4  
FCA

**G** ■ DISP 2.5.1 R (2)(b) is for those that were members of one of the *former schemes* replaced by the *Financial Ombudsman Service* immediately before *commencement*. It enables the *Financial Ombudsman Service* to cover *complaints* that arise out of acts or omissions occurring after *commencement* for any activities which are not covered by the *Compulsory Jurisdiction* but that would have been covered by the relevant *former scheme*.

2.5.4A  
FCA

**G** ■ DISP 2.5.1R (2)(l) includes *complaints* about the *EEA* end of 'one leg' *payment services* transactions, i.e. services provided from *EEA* establishments that are subject to the territorial jurisdiction of the *Voluntary Jurisdiction* (see ■ DISP 2.6.4R (2)) that also involve a payment service provider located outside the *EEA*. It also includes *complaints* about *payment services* irrespective of the currency of the transaction.

2.5.5  
FCA

**R** The *Voluntary Jurisdiction* covers an act or omission that occurred before the *VJ participant* was participating in the *Voluntary Jurisdiction*, and whether the act or omission occurred before or after *commencement*, either:

- (1) if the *complaint* could have been dealt with under a *former scheme*; or
- (2) under the agreement by the *VJ participant* in the *Standard Terms*.



## 2.6 What is the territorial scope of the relevant jurisdiction?

### Compulsory Jurisdiction

2.6.1

FCA

R

- (1) The *Compulsory Jurisdiction* covers *complaints* about the activities of a *firm* (including its *appointed representatives*), of a *payment service provider* (including *agents* of a *payment institution*) or of an *electronic money issuer* (including *agents* of an *electronic money institution*) carried on from an establishment in the *United Kingdom*.
- (2) The *Compulsory Jurisdiction* also covers *complaints* about *collective portfolio management* services provided by an *EEA UCITS management company* managing a *UCITS scheme* from an establishment in another *EEA State* under the freedom to provide *cross border services*.
- (3) [deleted]
- (4) [deleted]
- (5) [deleted]
- (6) [deleted]

2.6.2

FCA

G

This:

- (1) includes incoming *EEA firms* , incoming *EEA authorised payment institutions*, incoming *EEA authorised electronic money institutions* and incoming *Treaty firms*; but
- (2) excludes *complaints* about business conducted in the *United Kingdom* on a services basis from an establishment outside the *United Kingdom* (other than *complaints* about *collective portfolio management* services provided by an *EEA UCITS management company* in managing a *UCITS scheme*).

### Consumer Credit Jurisdiction

2.6.3

FCA

R

The *Consumer Credit Jurisdiction* covers only *complaints* about the activities of a *licensee* carried on from an establishment in the *United Kingdom*.

2.6.3A

[Deleted]

**Voluntary Jurisdiction**

2.6.4

**R**

**FCA**

The *Voluntary Jurisdiction* covers only *complaints* about the activities of a *VJ participant* carried on from an establishment:

- (1) in the *United Kingdom*; or
- (2) elsewhere in the *EEA* if the following conditions are met:
  - (a) the activity is directed wholly or partly at the *United Kingdom* (or part of it);
  - (b) contracts governing the activity are (or, in the case of a potential customer, would have been) made under the law of England and Wales, Scotland or Northern Ireland; and
  - (c) the *VJ participant* has notified appropriate regulators in its *Home State* of its intention to participate in the *Voluntary Jurisdiction*.

**Location of the complainant**

2.6.5

**G**

**FCA**

A *complaint* can be dealt with under the *Financial Ombudsman Service* whether or not the complainant lives or is based in the *United Kingdom*.

2.6.6

[Deleted]

2.6.7

[Deleted]

2.6.8

[Deleted]

2.6.8A

[Deleted]

2.6.8B

[Deleted]

2.6.8C

[Deleted]

2.6.9

[Deleted]

2.6.9A

[Deleted]

2.6.9B

[Deleted]

2.6.9C

[Deleted]

2.6.10

[Deleted]

2.6.10A

[Deleted]

2.6.10B

[Deleted]

2.6.11

[Deleted]

2.6.12

[Deleted]

2.6.13

[Deleted]

## 2.7 Is the complainant eligible?

**2.7.1** **R** A *complaint* may only be dealt with under the *Financial Ombudsman Service* if it is brought by or on behalf of an *eligible complainant*.  
**FCA**

**2.7.2** **R** A *complaint* may be brought on behalf of an *eligible complainant* (or a deceased *person* who would have been an *eligible complainant*) by a *person* authorised by the *eligible complainant* or authorised by law. It is immaterial whether the *person* authorised to act on behalf of an *eligible complainant* is himself an *eligible complainant*.  
**FCA**

### Eligible complainants

**2.7.3** **R** An *eligible complainant* must be a *person* that is:  
**FCA**

- (1) a *consumer*;
- (2) a *micro-enterprise*;
  - (a) in relation to a *complaint* relating wholly or partly to *payment services*, either at the time of the conclusion of the *payment service* contract or at the time the complainant refers the *complaint* to the *respondent*; or
  - (b) otherwise, at the time the complainant refers the *complaint* to the *respondent*;
- (3) a charity which has an annual income of less than £1 million at the time the complainant refers the *complaint* to the *respondent*;  
or
- (4) a trustee of a trust which has a net asset value of less than £1 million at the time the complainant refers the *complaint* to the *respondent*.

**2.7.4** **G** In determining whether an enterprise meets the tests for being a *micro-enterprise*, account should be taken of the enterprise's 'partner enterprises' or 'linked enterprises' (as those terms are defined in the *Micro-enterprise Recommendation*). For example, where a parent company holds a majority shareholding in a *complainant*, if the parent company does not meet the tests for being a *micro-enterprise* then neither will the *complainant*. [Note: Articles 1 and 3 to 7 of the Annex to the *Micro-enterprise Recommendation*].  
**FCA**

2.7.4A

2.7.5

FCA

G

[Deleted]

If a *respondent* is in doubt about the eligibility of a business, charity or trust, it should treat the complainant as if it were eligible. If the *complaint* is referred to the *Financial Ombudsman Service*, the *Ombudsman* will determine eligibility by reference to appropriate evidence, such as audited accounts or VAT returns.

2.7.6

FCA

R

To be an *eligible complainant* a *person* must also have a *complaint* which arises from matters relevant to one or more of the following relationships with the *respondent*:

- (1) the complainant is (or was) a customer, *payment service user* or electronic money holder of the *respondent*;
- (2) the complainant is (or was) a potential customer, *payment service user* or electronic money holder of the *respondent*;
- (3) the complainant is the holder, or the beneficial owner, of *units* in a *collective investment scheme* and the *respondent* is the *operator* or *depository* of the *scheme*;
- (4) the complainant is a beneficiary of, or has a beneficial interest in, a *personal pension scheme* or *stakeholder pension scheme*;
- (5) the complainant is a *person* for whose benefit a *contract of insurance* was taken out or was intended to be taken out with or through the *respondent*;
- (6) the complainant is a *person* on whom the legal right to benefit from a claim against the *respondent* under a *contract of insurance* has been devolved by contract, assignment, subrogation or legislation (save the European Community (Rights against Insurers) Regulations 2002);
- (7) the complainant relied in the course of his business on a cheque guarantee card issued by the *respondent*;
- (8) the complainant is the true owner or the *person* entitled to immediate possession of a cheque or other bill of exchange, or of the funds it represents, collected by the *respondent* for someone else's account;
- (9) the complainant is the recipient of a banker's reference given by the *respondent*;
- (10) the complainant gave the *respondent* a guarantee or security for:
  - (a) a mortgage;
  - (b) a loan;

- (c) an actual or prospective *regulated consumer credit agreement*;
  - (d) an actual or prospective *regulated consumer hire agreement*;  
or
  - (e) any linked transaction as defined in the Consumer Credit Act 1974 (as amended);
- (11) the complainant is a *person* about whom information relevant to his financial standing is or was held by the *respondent* in operating a credit reference agency as defined by section 145(8) of the Consumer Credit Act 1974 (as amended);
- (12) the complainant is a *person* :
- (a) from whom the *respondent* has sought to recover payment under a *regulated consumer credit agreement* or *regulated consumer hire agreement* (whether or not the *respondent* is a party to the agreement); or
  - (b) in relation to whom the *respondent* has sought to perform duties, or exercise or enforce rights, on behalf of the creditor or owner, under a *regulated consumer credit agreement* or *regulated consumer hire agreement* in carrying on debt administration as defined by section 145(7A) of the Consumer Credit Act (1974) (as amended);
- (13) the complainant is a beneficiary under a trust or estate of which the *respondent* is trustee or personal representative;
- (14) (where the *respondent* is a *dormant account fund operator*) the complainant is (or was) a customer of a *bank* or *building society* which transferred any *balance* from a *dormant account* to the *respondent*.

## 2.7.7

FCA

G

■ DISP 2.7.6 R (5) and ■ DISP 2.7.6R (6) include, for example, employees covered by a group permanent health policy taken out by an employer, which provides in the insurance contract that the policy was taken out for the benefit of the employee.

## 2.7.8

FCA

G

In the *Compulsory Jurisdiction*, under the *Ombudsman Transitional Order* and the *Mortgages and General Insurance Complaints Transitional Order*, where a complainant:

- (1) wishes to have a *relevant new complaint* or a *relevant transitional complaint* dealt with by the *Ombudsman*; and
- (2) is not otherwise eligible; but
- (3) would have been entitled to refer an equivalent *complaint* to the *former scheme* in question immediately before the relevant transitional order came into effect;

if the *Ombudsman* considers it appropriate, he may treat the complainant as an *eligible complainant*.

2.7.9

FCA

R

**Exceptions**

The following are not *eligible complainants*:

- (1) (in all jurisdictions) a *firm, payment service provider, electronic money issuer, licensee* or *VJ participant* whose *complaint* relates in any way to an activity which:
  - (a) the *firm* itself has *permission* to carry on; or
  - (ab) the *firm, payment service provider* or *electronic money issuer* itself is entitled to carry on under the *Payment Services Regulations* or the *Electronic Money Regulations*; or
  - (b) the *licensee* or *VJ participant* itself conducts;

and which is subject to the *Compulsory Jurisdiction*, the *Consumer Credit Jurisdiction* or the *Voluntary Jurisdiction*;

- (2) (in the *Compulsory Jurisdiction*) a complainant, other than a trustee of a *pension scheme* trust, who was:
  - (a) a *professional client*; or
  - (b) an *eligible counterparty*;

in relation to the *firm* and activity in question at the time of the act or omission which is the subject of the *complaint*; and
- (3) (in the *Consumer Credit Jurisdiction*):
  - (a) a body corporate;
  - (b) a *partnership* consisting of more than three persons;
  - (c) a *partnership* all of whose members are bodies corporate; or
  - (d) an unincorporated body which consists entirely of bodies corporate.

2.7.10

FCA

G

In the *Compulsory Jurisdiction*, in relation to *relevant new complaints* under the *Ombudsman Transitional Order* and *relevant transitional complaints* under the *Mortgages and General Insurance Complaints Transitional Order*:

- (1) where the *former scheme* in question is the *Insurance Ombudsman Scheme*, a complainant is not to be treated as an *eligible complainant* unless:
  - (a) he is an individual; and
  - (b) the *relevant new complaint* does not concern aspects of a policy relating to a business or trade carried on by him;
- (2) where the *former scheme* in question is the *GISC facility*, a complainant is not to be treated as an *eligible complainant* unless:

- (a) he is an individual; and
  - (b) he is acting otherwise than solely for the purposes of his business; and
- (3) where the *former scheme* in question is the *MCAS scheme*, a complainant is not to be treated as an *eligible complainant* if:
- (a) the *relevant transitional complaint* does not relate to a breach of the Mortgage Code published by the Council of Mortgage Lenders;
  - (b) the *complaint* concerns physical injury, illness, nervous shock or their consequences; or
  - (c) the complainant is claiming a sum of money that exceeds £100,000.

2.8 Was the complaint referred to the Financial Ombudsman Service in time?

2.8.1  
FCA

**R** The *Ombudsman* can only consider a *complaint* if:

- (1) the *respondent* has already sent the complainant its *final response*; or
- (2) eight weeks have elapsed since the *respondent* received the *complaint*; or
- (3) in relation to a *complaint* the subject matter of which falls to be dealt with (or has properly been dealt with) under a *consumer redress scheme*:
  - (a) the *respondent* has already sent the complainant its *redress determination* under the scheme; or
  - (b) the *respondent* has failed to send a *redress determination* in accordance with the time limits specified under the scheme.

2.8.2  
FCA

**R** The *Ombudsman* cannot consider a *complaint* if the complainant refers it to the *Financial Ombudsman Service*:

- (1) more than six *months* after the date on which the *respondent* sent the complainant its *final response* or *redress determination*; or
- (2) more than:
  - (a) six years after the event complained of; or (if later)
  - (b) three years from the date on which the complainant became aware (or ought reasonably to have become aware) that he had cause for complaint;

unless the complainant referred the *complaint* to the *respondent* or to the *Ombudsman* within that period and has a written acknowledgement or some other record of the *complaint* having been received;

unless:

- (3) in the view of the *Ombudsman*, the failure to comply with the time limits in ■ DISP 2.8.2 R or ■ DISP 2.8.7 R was as a result of exceptional circumstances; or
- (4) the *Ombudsman* is required to do so by the *Ombudsman Transitional Order*; or
- (5) the *respondent* has not objected , on the grounds that the time limits in ■ DISP 2.8.2 R or ■ DISP 2.8.7 R have been exceeded, to the *Ombudsman* considering the *complaint*.

2.8.3  
FCA

**G** The six-month time limit is only triggered by a response which is a *final response*. A *final response* must tell the complainant about the six-month time limit that the complainant has to refer a *complaint* to the *Financial Ombudsman Service*.

2.8.4  
FCA

**G** An example of exceptional circumstances might be where the complainant has been or is incapacitated.

**Reviews of past business**

2.8.5  
FCA

**R** The six-year and the three-year time limits do not apply where:

- (1) [deleted]
- (2) the *complaint* concerns a contract or policy which is the subject of a review directly or indirectly under:
  - (a) the terms of the Statement of Policy on 'Pension transfers and Opt-outs' issued by the FSA on 25 October 1994; or
  - (b) the terms of the policy statement for the review of specific categories of *FSAVC* business issued by the FSA on 28 February 2000.

**Mortgage endowment complaints**

2.8.6  
FCA

**G** If a *complaint* relates to the sale of an endowment *policy* for the purpose of achieving capital repayment of a mortgage, the receipt by the complainant of a letter which states that there is a risk (rather than a high risk) that the *policy* would not, at maturity, produce a sum large enough to repay the target amount is not, itself, sufficient to cause the three year time period in ■ DISP 2.8.2 R (2) to start to run.

2.8.7  
FCA

**R** (1) If a *complaint* relates to the sale of an endowment *policy* for the purpose of achieving capital repayment of a mortgage and the complainant receives a letter from a *firm* or a *VJ participant* warning that there is a high risk that the *policy* will not, at maturity, produce a sum large enough to repay the target amount then, subject to (2), (3), (4) and (5):

- (a) time for referring a *complaint* to the *Financial Ombudsman Service* starts to run from the date the complainant receives the letter; and
  - (b) ends three years from that date ("the final date").
- (2) Paragraph (1)(b) applies only if the complainant also receives within the three year period mentioned in (1)(b) and at least six months before the final date an explanation that the complainant's time to refer such a *complaint* would expire at the final date.
- (3) If an explanation is given but is sent outside the period referred to in (2), time for referring a *complaint* will run until a date specified in such an explanation which must not be less than six months after the date on which the notice is sent.
- (4) A complainant will be taken to have complied with the time limits in (1) to (3) above if in any case he refers the *complaint* to the *firm* or *VJ participant* within those limits and has a written acknowledgement or some other record of the *complaint* having been received.
- (5) Paragraph (1) does not apply if the *Ombudsman* is of the opinion that, in the circumstances of the case, it is appropriate for ■ DISP 2.8.2 R (2) to apply.

## Regulated activities for the Voluntary Jurisdiction at 30 April 2011

This table belongs to ■ DISP 2.5.1 R

**FCA**

The activities which (at 30 April 2011) were *regulated activities* for the *Voluntary Jurisdiction* were, in accordance with section 22 of the *Act* (The classes of activity and categories of investment), any of the following activities specified in Part II of the *Regulated Activities Order*:

- (1) *accepting deposits* (article 5);
- (2) *issuing electronic money* (article 9B);
- (3) *effecting contracts of insurance* (article 10(1));
- (4) *carrying out contracts of insurance* (article 10(2));
- (5) *dealing in investments as principal* (article 14);
- (6) *dealing in investments as agent* (article 21);
- (7) *arranging (bringing about) deals in investments* (article 25(1));
- (8) *making arrangements with a view to transactions in investments* (article 25(2));
- (9) *arranging (bringing about) regulated mortgage contracts* (article 25A(1));
- (10) *making arrangements with a view to regulated mortgage contracts* (article 25A(2));
- (11) *arranging (bringing about) a home reversion plan* (article 25B(1));
- (12) *making arrangements with a view to a home reversion plan* (article 25B(2));
- (13) *arranging (bringing about) a home purchase plan* (article 25C(1));
- (14) *making arrangements with a view to a home purchase plan* (article 25C(2));
- (14A) *operating a multilateral trading facility* (article 25D);
- (14B) *arranging (bringing about) a regulated sale and rent back agreement* (article 25E(1));
- (14C) *making arrangements with a view to a regulated sale and rent back agreement* (article 25E(2));
- (15) *managing investments* (article 37);
- (16) *assisting in the administration and performance of a contract of insurance* (article 39A);
- (17) *safeguarding and administering investments* (article 40);

- (18) *sending dematerialised instructions* (article 45(1));
- (19) *causing dematerialised instructions to be sent* (article 45(2));
- (20) *establishing, operating or winding up a collective investment scheme* (article 51(1)(a));
- (21) *acting as trustee of an authorised unit trust scheme* (article 51(1)(b));
- (22) *acting as the depositary or sole director of an open-ended investment company* (article 51(1)(c));
- (23) *establishing, operating or winding up a stakeholder pension scheme* (article 52(a));
- (24) *providing basic advice on a stakeholder product* (article 52B);
- (25) *establishing, operating or winding up a personal pension scheme* (article 52(b));
- (26) *advising on investments* (article 53);
- (27) *advising on regulated mortgage contracts* (article 53A);
- (28) *advising on a home reversion plan* (article 53B);
- (29) *advising on a home purchase plan* (article 53C);
- (29A) *advising on a regulated sale and rent back agreement* (article 53D);
- (30) *advising on syndicate participation at Lloyd's* (article 56);
- (31) *managing the underwriting capacity of a Lloyd's syndicate as a managing agent at Lloyd's* (article 57);
- (32) *arranging deals in contracts of insurance written at Lloyd's* (article 58);
- (33) *entering into a regulated mortgage contract* (article 61(1));
- (34) *administering a regulated mortgage contract* (article 61(2));
- (35) *entering into a home reversion plan* (article 63B(1));
- (36) *administering a home reversion plan* (article 63B(2));
- (37) *entering into a home purchase plan* (article 63F(1));
- (38) *administering a home purchase plan* (article 63F(2));
- (38A) *entering into a regulated sale and rent back agreement* (article 63J(1));
- (38B) *administering a regulated sale and rent back agreement* (article 63J(2));
- (39) *entering as provider into a funeral plan contract* (article 59);
- (40) *agreeing to carry on a regulated activity* (article 64);

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which is carried on by way of business and relates to a *specified investment* applicable to that activity or, in the case of (20), (21), (22) and (23), is carried on in relation to property of any kind.



## Chapter 3

# Complaint handling procedures of the Financial Ombudsman Service



## 3.1 Purpose, interpretation and application

### Purpose

3.1.1  
FCA

G

The purpose of this chapter is to set out:

- (1) the procedures of the *Financial Ombudsman Service* for investigating and determining *complaints*;
- (2) the basis on which the *Ombudsman* makes decisions; and
- (3) the awards which the *Ombudsman* can make.

### Interpretation

3.1.2  
FCA

R

In this chapter, 'out of jurisdiction' means outside the *Compulsory Jurisdiction*, the *Consumer Credit Jurisdiction* and the *Voluntary Jurisdiction* in accordance with ■ DISP 2.

3.1.3  
FCA

R

Where the *respondent* is a *partnership* (or former *partnership*), it is sufficient for the *Ombudsman* to communicate with one partner (or former partner).

3.1.4  
FCA

G

The *Ombudsman Transitional Order* requires the *Financial Ombudsman Service* to complete the handling of *relevant existing complaints*, in a significant number of respects, in accordance with the requirements of the relevant *former scheme* rather than in accordance with the requirements of this chapter.

### Application

3.1.5  
FCA

R

This chapter applies to the *Ombudsman* and to *respondents*.

3.1.5A

[Deleted]

3.1.6

[Deleted]

3.1.7

[Deleted]



## 3.2 Jurisdiction

- 3.2.1 **R** The *Ombudsman* will have regard to whether a *complaint* is out of jurisdiction.  
**FCA**
- 3.2.2 **R** Unless the *respondent* has already had eight weeks to consider the *complaint* or issued a *final response*, the *Ombudsman* will refer the *complaint* to the *respondent*.  
**FCA**
- 3.2.2A **R** If the subject matter of a *complaint* falls to be dealt with by the *respondent* under a *consumer redress scheme*, and the time limits specified under the scheme for doing so have not yet expired, the *Ombudsman* will refer it to the *respondent* to be dealt with under the scheme.  
**FCA**
- 3.2.3 **R** Where the *respondent* alleges that the *complaint* is out of jurisdiction, the *Ombudsman* will give both parties an opportunity to make representations before he decides.  
**FCA**
- 3.2.4 **R** Where the *Ombudsman* considers that the *complaint* may be out of jurisdiction, he will give the complainant an opportunity to make representations before he decides.  
**FCA**
- 3.2.5 **R** Where the *Ombudsman* then decides that the *complaint* is out of jurisdiction, he will give reasons for that decision to the complainant and inform the *respondent*.  
**FCA**
- 3.2.6 **R** Where the *Ombudsman* then decides that the *complaint* is not out of jurisdiction, he will inform the complainant and give reasons for that decision to the *respondent*.  
**FCA**
- 3.2.7 [Deleted]
- 3.2.8 [Deleted]
- 3.2.9 [Deleted]
- 3.2.10 [Deleted]
- 3.2.11 [Deleted]
- 3.2.12 [Deleted]
- 3.2.13 [Deleted]
- 3.2.14 [Deleted]



### 3.3 Dismissal without consideration of the merits and test cases

3.3.1 **R** Where the *Ombudsman* considers that the *complaint* may be one which should be dismissed without consideration of the merits, he will give the complainant an opportunity to make representations before he decides.  
**FCA**

3.3.1A [Deleted]

3.3.1B [Deleted]

3.3.2 **R** Where the *Ombudsman* then decides that the *complaint* should be dismissed without consideration of the merits, he will give reasons to the complainant for that decision and inform the *respondent*.  
**FCA**

3.3.2A [Deleted]

3.3.3 **G** Under the *Ombudsman Transitional Order* and the *Mortgage and General Insurance Complaints Transitional Order*, where the *Ombudsman* is dealing with a *relevant complaint*, he must take into account whether an equivalent complaint would have been dismissed without consideration of its merits under the *former scheme* in question, as it had effect immediately before the relevant transitional order came into effect.  
**FCA**

#### Grounds for dismissal

3.3.4 **R** The *Ombudsman* may dismiss a *complaint* without considering its merits if he considers that:  
**FCA**

- (1) the complainant has not suffered (or is unlikely to suffer) financial loss, material distress or material inconvenience; or
- (2) the *complaint* is frivolous or vexatious; or
- (3) the *complaint* clearly does not have any reasonable prospect of success; or
- (4) the *respondent* has already made an offer of compensation (or a goodwill payment) which is:
  - (a) fair and reasonable in relation to the circumstances alleged by the complainant; and
  - (b) still open for acceptance; or

- (5) the *respondent* has reviewed the subject matter of the *complaint* in accordance with:
  - (a) the regulatory standards for the review of such transactions prevailing at the time of the review; or
  - (b) [deleted]
  - (c) any formal regulatory requirement, standard or guidance published by the *FCA* or other regulator in respect of that type of *complaint*;  
  
(including, if appropriate, making an offer of redress to the complainant), unless he considers that they did not address the particular circumstances of the case; or
- (5A) the *respondent* has reviewed the subject matter of the *complaint* and issued a *redress determination* in accordance with the terms of a *consumer redress scheme*; or
- (6) the subject matter of the *complaint* has previously been considered or excluded under the *Financial Ombudsman Service*, or a *former scheme* (unless material new evidence which the *Ombudsman* considers likely to affect the outcome has subsequently become available to the complainant); or
- (7) the subject matter of the *complaint* has been dealt with, or is being dealt with, by a comparable independent complaints scheme or dispute-resolution process; or
- (8) the subject matter of the *complaint* has been the subject of court proceedings where there has been a decision on the merits; or
- (9) the subject matter of the *complaint* is the subject of current court proceedings, unless proceedings are stayed or sisted (by agreement of all parties, or order of the court) in order that the matter may be considered under the *Financial Ombudsman Service*; or
- (10) it would be more suitable for the subject matter of the *complaint* to be dealt with by a court, arbitration or another complaints scheme; or
- (11) it is a *complaint* about the legitimate exercise of a *respondent's* commercial judgment; or
- (12) it is a *complaint* about employment matters from an employee or employees of a *respondent*; or
- (13) it is a *complaint* about investment performance; or

- 3
- (14) it is a *complaint* about a *respondent's* decision when exercising a discretion under a will or private trust; or
  - (15) it is a *complaint* about a *respondent's* failure to consult beneficiaries before exercising a discretion under a will or private trust, where there is no legal obligation to consult; or
  - (16) it is a *complaint* which:
    - (a) involves (or might involve) more than one *eligible complainant*; and
    - (b) has been referred without the consent of the other complainant or complainants;  
and the *Ombudsman* considers that it would be inappropriate to deal with the *complaint* without that consent; or
  - ~~(16)~~ it is a *complaint* about a pure landlord and tenant issue arising out of a *regulated sale and rent back agreement*; or
  - (17) there are other compelling reasons why it is inappropriate for the *complaint* to be dealt with under the *Financial Ombudsman Service*.

#### Test cases

3.3.5  
FCA

R

The *Ombudsman* may dismiss a *complaint* without considering its merits, so that a court may consider it as a test case, if:

- (1) before he has made a determination, he has received in writing from the *respondent*:
  - (a) a detailed statement of how and why, in the *respondent's* opinion, the *complaint* raises an important or novel point of law with significant consequences; and
  - (b) an undertaking in favour of the complainant that, if the complainant or the *respondent* commences court proceedings against the other in respect of the *complaint* in any court in the *United Kingdom* within six *months* of the *complaint* being dismissed, the *respondent* will: pay the complainant's reasonable costs and disbursements (to be assessed if not agreed on an indemnity basis) in connection with the proceedings at first instance and any subsequent appeal proceedings brought by the *respondent*; and make interim payments on account of such costs if and to the extent that it appears reasonable to do so; and
- (2) the *Ombudsman* considers that the *complaint*:
  - (a) raises an important or novel point of law, which has important consequences; and

**(b) would more suitably be dealt with by a court as a test case.**

3.3.6

FCA

G

Factors the *Ombudsman* may take into account in considering whether to dismiss a *complaint* so that it may be the subject of a test case in court include (but are not limited to):

- (1) whether the point of law is central to the outcome of the dispute;
- (2) how important or novel the point of law is in the context of the dispute;
- (3) the significance of the consequences of the dispute for the business of the *respondent* (or *respondents* in that sector) or for its (or their) customers;
- (4) the amount at stake in the dispute;
- (5) the remedies that a court could impose;
- (6) any representations made by the *respondent* or the complainant; and
- (7) the stage already reached in consideration of the dispute.

3



### **3.4 Referring a complaint to another complaints scheme**

3.4.1

**FCA**

**R**

The *Ombudsman* may refer a *complaint* to another complaints scheme where:

- (1) he considers that it would be more suitable for the matter to be determined by that scheme; and
- (2) the complainant consents to the referral.



### 3.5 Resolution of complaints by the Ombudsman

**3.5.1** **R** The *Ombudsman* will attempt to resolve *complaints* at the earliest possible stage and by whatever means appear to him to be most appropriate, including mediation or investigation.  
**FCA**

**3.5.2** **G** The *Ombudsman* may inform the complainant that it might be appropriate to complain against some other *respondent*.  
**FCA**

**3.5.3** **G** Where two or more *complaints* from one complainant relate to connected circumstances, the *Ombudsman* may investigate them together, but will issue separate provisional assessments and determinations in respect of each *respondent*.  
**FCA**

**3.5.4** **R** If the *Ombudsman* decides that an investigation is necessary, he will then:  
**FCA**

- (1) ensure both parties have been given an opportunity of making representations;
- (2) send both parties a provisional assessment, setting out his reasons and a time limit within which either party must respond; and
- (3) if either party indicates disagreement with the provisional assessment within that time limit, proceed to determination.

#### Hearings

**3.5.5** **R** If the *Ombudsman* considers that the *complaint* can be fairly determined without convening a hearing, he will determine the *complaint*. If not, he will invite the parties to take part in a hearing. A hearing may be held by any means which the *Ombudsman* considers appropriate in the circumstances, including by telephone. No hearing will be held after the *Ombudsman* has determined the *complaint*.  
**FCA**

**3.5.6** **R** A party who wishes to request a hearing must do so in writing, setting out:  
**FCA**

- (1) the issues he wishes to raise; and
- (2) (if appropriate) any reasons why he considers the hearing should be in private;

3.5.7  
FCA

G

so that the *Ombudsman* may consider whether:

- (3) the issues are material;
- (4) a hearing should take place; and
- (5) any hearing should be held in public or private.

In deciding whether there should be a hearing and, if so, whether it should be in public or private, the *Ombudsman* will have regard to the provisions of the European Convention on Human Rights.

#### Evidence

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3.5.8  
FCA

R

The *Ombudsman* may give directions as to:

- (1) the issues on which evidence is required;
- (2) the extent to which evidence should be oral or written; and
- (3) the way in which evidence should be presented.

3.5.9  
FCA

R

The *Ombudsman* may:

- (1) exclude evidence that would otherwise be admissible in a court or include evidence that would not be admissible in a court;
- (2) accept information in confidence (so that only an edited version, summary or description is disclosed to the other party) where he considers it appropriate;
- (3) reach a decision on the basis of what has been supplied and take account of the failure by a party to provide information requested; and
- (4) dismiss a *complaint* if a complainant fails to supply requested information.

3.5.10  
FCA

G

Evidence which the *Ombudsman* may accept in confidence includes confidential evidence about third parties and security information.

3.5.11  
FCA

G

The *Ombudsman* has the power to require a party to provide evidence. Failure to comply with the request can be dealt with by the court.

3.5.12  
FCA

G

The *Ombudsman* may take into account evidence from third parties, including (but not limited to) the *FCA*, other regulators, experts in industry matters and experts in consumer matters.

**Procedural time limits**

3.5.13

FCA

**R**

The *Ombudsman* may fix (and extend) time limits for any aspect of the consideration of a *complaint* by the *Financial Ombudsman Service*.

3.5.14

FCA

**R**

If a *respondent* fails to comply with a time limit, the *Ombudsman* may:

- (1) proceed with consideration of the *complaint*; and
- (2) include provision for any material distress or material inconvenience caused by that failure in any award which he decides to make.

3.5.15

FCA

**R**

If a complainant fails to comply with a time limit, the *Ombudsman* may:

- (1) proceed with consideration of the *complaint*; or
- (2) dismiss the *complaint*.



### 3.6 Determination by the Ombudsman

#### Fair and reasonable

3.6.1  
FCA

**R** The *Ombudsman* will determine a *complaint* by reference to what is, in his opinion, fair and reasonable in all the circumstances of the case.

3.6.2  
FCA

**G** Section 228 of the *Act* sets the 'fair and reasonable' test for the *Compulsory Jurisdiction* (other than in relation to *consumer redress schemes*) and the *Consumer Credit Jurisdiction* and **■** DISP 3.6.1 **R** extends it to the *Voluntary Jurisdiction*.

3.6.3  
FCA

**G** Where a complainant makes *complaints* against more than one *respondent* in respect of connected circumstances, the *Ombudsman* may determine that the *respondents* must contribute towards the overall award in the proportion that the *Ombudsman* considers appropriate.

3.6.4  
FCA

**R** 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.

3.6.5  
FCA

**G** Where the *Ombudsman* is determining what is fair and reasonable in all the circumstances of a *relevant new complaint* or a *relevant transitional complaint*, the *Ombudsman Transitional Order* and the *Mortgage and General Insurance Complaints Transitional Order* require him 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 transitional order came into effect.

3.6.5A

FCA

G

**Consumer redress schemes**

As a result of section 404B of the *Act*, if the subject matter of a *complaint* falls to be dealt with (or has properly been dealt with) under a *consumer redress scheme*, the *Ombudsman* will determine the *complaint* by reference to what, in the opinion of the *Ombudsman*, the *redress determination* under the *consumer redress scheme* should be or should have been.

3.6.6

FCA

R

**The Ombudsman's determination**

When the *Ombudsman* has determined a *complaint*:

- (1) the *Ombudsman* will give both parties a signed written statement of the determination, giving the reasons for it;
  - (2) the statement will require the complainant to notify the *Ombudsman* , before the date specified in the statement, whether he accepts or rejects the determination;
  - (3) if the complainant notifies the *Ombudsman* that he accepts the determination within that time limit, it is final and binding on both parties;
  - (4) subject to paragraph (4A), if the complainant does not notify the *Ombudsman* that he accepts the determination within that time limit, the complainant will be treated as having rejected the determination, and neither party will be bound by it;
  - (4A) the complainant is not to be treated as having rejected the determination under paragraph (4) if all the following conditions are met:
    - (a) the complainant notifies the *Ombudsman* after the specified date of the complainant's acceptance of the determination;
    - (b) the complainant has not previously notified the *Ombudsman* of the complainant's rejection of the determination;
    - (c) in the view of the *Ombudsman*, the failure to comply with the time limit for acceptance was as a result of exceptional circumstances;
  - (5) the *Ombudsman* will notify the *respondent* of the outcome and, if the complainant is treated as having rejected the determination under paragraph (4), the effect of paragraph (4A).
- (1) An *Ombudsman* may correct any clerical mistake in the written statement of an *Ombudsman's* determination, whether or not the determination has already been accepted or rejected.

PAGE  
13

3.6.7

FCA

R

- (2) Any failure to comply with any provisions of the procedural rules made by the *FOS Ltd* does not of itself render an *Ombudsman's* determination void.

**Reports of determinations**

3.6.8

FCA

G

- (1) The *FOS Ltd* will publish a report of any *Ombudsman's* determination, save that if the *Ombudsman* who made the determination informs the *FOS Ltd* that, in the *Ombudsman's* opinion, it is inappropriate to publish a report of that determination (or any part of it), the *FOS Ltd* will not publish a report of that determination (or that part, as appropriate).
- (2) Unless the complainant agrees, a report will not include the name of the complainant, or particulars which (in the opinion of the *FOS Ltd*) are likely to identify the complainant.
- (3) The *FOS Ltd* may charge a reasonable fee for providing a copy of a report.



### 3.7 Awards by the Ombudsman

3.7.1  
FCA

**R** Where a *complaint* is determined in favour of the complainant, the *Ombudsman's* determination may include one or more of the following:

- (1) a money award against the *respondent*; or
- (2) an interest award against the *respondent*; or
- (3) a costs award against the *respondent*; or
- (4) a direction to the *respondent*.

#### Money awards

3.7.2  
FCA

**R** Except in relation to a *complaint* the subject matter of which falls to be dealt with (or has properly been dealt with) under a *consumer redress scheme*, a money award may be such amount as the *Ombudsman* considers to be fair compensation for one or more of the following:

- (1) financial loss (including consequential or prospective loss); or
- (2) pain and suffering; or
- (3) damage to reputation; or
- (4) distress or inconvenience;

whether or not a court would award compensation.

3.7.2A  
FCA

**G** In relation to a *complaint* the subject matter of which falls to be dealt with (or has properly been dealt with) under a *consumer redress scheme*, a money award is a payment of such amount as the *Ombudsman* determines that a *respondent* should make (or should have made) to a complainant under the scheme.

PAGE  
15  
3.7.2B  
FCA

**G** A money award under **DISP 3.7.2A G** may specify the date by which the amount awarded is to be paid.

3.7.3  
FCA

**G** Where the *Ombudsman* is determining what amount (if any) constitutes fair compensation as a money award in relation to a *relevant new complaint* or a *relevant transitional*

*complaint*, the *Ombudsman Transitional Order* and the *Mortgages and General Insurance Complaints Transitional Order* require him 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 transitional order came into effect.

3.7.4

FCA

**R** The maximum money award which the *Ombudsman* may make is £150,000.

3.7.4A

FCA

**G** The effect of section 404B(5) of the *Act* is that the maximum award which the *Ombudsman* may make also applies in relation to a *complaint* the subject matter of which falls to be dealt with (or has properly been dealt with) under a *consumer redress scheme*.

3.7.5

FCA

**G** For the purpose of calculating the maximum money award, the following are excluded:

- (1) any interest awarded on the amount payable under a money award;
- (2) any costs awarded; and
- (3) any interest awarded on costs.

3.7.6

FCA

**G** If the *Ombudsman* considers that fair compensation requires payment of a larger amount, he may recommend that the *respondent* pays the complainant the balance. The effect of section 404B(6) of the *Act* is that this is also the case in relation to a *complaint* the subject matter of which falls to be dealt with (or has properly been dealt with) under a *consumer redress scheme*.

3.7.7

FCA

**R** The *Ombudsman* will maintain a register of each money award.

**Interest awards**

3.7.8

FCA

**R** Except in relation to a *complaint* the subject matter of which falls to be dealt with (or has properly been dealt with) under a *consumer redress scheme*, an interest award may provide for the amount payable under the money award to bear interest at a rate and as from a date specified in the award.

3.7.8A

FCA

**G** A money award under **■ DISP 3.7.2A G** may provide for interest to be payable, at a rate specified in the award, on any amount which is not paid by the date specified in the award.

**Costs awards**

3.7.9

FCA

**R** A costs award may:

- (1) be such amount as the *Ombudsman* considers to be fair, to cover some or all of the costs which were reasonably incurred by the complainant in respect of the complaint; and

- (2) include interest on that amount at a rate and as from a date specified in the award.

3.7.10

FCA

G

In most cases complainants should not need to have professional advisers to bring *complaints* to the *Financial Ombudsman Service*, so awards of costs are unlikely to be common.

#### Directions

3.7.11

FCA

R

Except in relation to a *complaint* the subject matter of which falls to be dealt with (or has properly been dealt with) under a *consumer redress scheme*, a direction may require the *respondent* to take such steps in relation to the complainant as the *Ombudsman* considers just and appropriate (whether or not a court could order those steps to be taken).

3.7.11A

FCA

G

In relation to a *complaint* the subject matter of which falls to be dealt with (or has properly been dealt with) under a *consumer redress scheme*, a direction may require the *respondent* to take such action as the *Ombudsman* determines the *respondent* should take (or should have taken) under the scheme.

#### Complying with awards and settlements

3.7.12

FCA

R

A *respondent* must comply promptly with:

- (1) any award or direction made by the *Ombudsman*; and
- (2) any settlement which it agrees at an earlier stage of the procedures.

3.7.13

FCA

G

Under the *Act*, a complainant can enforce through the courts a money award registered by the *Ombudsman* or a direction made by the *Ombudsman*.



### 3.8 Dealing with information

3.8.1  
FCA

**R** In dealing with information received in relation to the consideration of a *complaint*, the *Financial Ombudsman Service* will have regard to the parties' rights of privacy.

3.8.2  
3.8.2A  
3.8.2B  
FCA

[Deleted]  
[Deleted]

**R** This does not prevent the *Ombudsman* disclosing information:

- (1) to the extent that he is required or authorised to do so by law;  
or
- (2) to the parties to the *complaint*; or
- (3) in his determination; or
- (4) at a hearing in connection with the *complaint*.

3.8.3  
FCA

**R** So long as he has regard to the parties' rights of privacy, the *Ombudsman* may disclose information to the *FCA* or any other body exercising regulatory or statutory functions for the purpose of assisting that body or the *Financial Ombudsman Service* to discharge its functions.



### 3.9 Delegation of the Ombudsman's powers

3.9.1

[Deleted]

3.9.1A

**R**

The *Ombudsman* may designate members of the staff of *FOS Ltd* to exercise any of the powers of the *Ombudsman* relating to the consideration of a *complaint* apart from the powers to:

**FCA**

- (1) determine a *complaint*; or
- (2) authorise the disclosure of information to the *FCA* or any other body exercising regulatory or statutory functions.

3.9.2

**G**

In ■ DISP 2 to ■ DISP 4 any reference to "the *Ombudsman*" includes a reference to any member of the staff of *FOS Ltd* to whom the exercise of any of the powers of the *Ombudsman* has been delegated.

**FCA**

3.9.3

[Deleted]

3.9.4

[Deleted]

3.9.5

[Deleted]

3.9.6

[Deleted]

3.9.7

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3.9.8

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3.9.13

[Deleted]

3.9.14

[Deleted]

3.9.15

[Deleted]

3.9.16

[Deleted]

3.9.17

[Deleted]



**3.10 [Deleted]**

# Chapter 4

## Standard terms



## 4.1 Purpose and application

### Purpose

4.1.1

FCA

G

The purpose of this chapter is to set out how *complaints* against *VJ participants* are dealt with under the *Voluntary Jurisdiction*.

### Application

4.1.2

FCA

G

These *standard terms* apply to any business which has agreed to be a *VJ participant*.

## 4.2 Standard terms

**4.2.1** **R** A *VJ participant* is subject to these *standard terms*, which may be amended or supplemented by the *Financial Ombudsman Service* with the approval of the *FCA*.

**4.2.2** **R** By agreeing to participate, a *VJ participant* also agrees that the *Voluntary Jurisdiction* covers an act or omission that occurred before the *VJ participant* was participating in the *Voluntary Jurisdiction*, whether the act or omission occurred before or after *commencement*.

### Application of DISP 1 to DISP 3

**4.2.3** **R** The following rules and guidance apply to *VJ participants* as part of the *standard terms*, except where the context requires otherwise:

- (1) ■ DISP 1 (Treating complainants fairly), except:
  - (a) ■ DISP 1.9 (Complaints record rule);
  - (b) ■ DISP 1.10 (Complaints reporting rules); and
  - (c) ■ DISP 1.11 (Lloyd's);
- (2) ■ DISP 2 (Jurisdiction of the Financial Ombudsman Service), except:
  - (a) ■ DISP 2.3 (Compulsory Jurisdiction); and
  - (b) ■ DISP 2.4 (Consumer Credit Jurisdiction); and
- (3) ■ DISP 3 (Complaint handling procedures of the Financial Ombudsman Service).

### Determinations and awards

**4.2.4** **R** The *Ombudsman* has the same powers to make determinations and awards under the *Voluntary Jurisdiction* as he has under the *Compulsory Jurisdiction* (see ■ DISP 3.7 (Awards by the Ombudsman)).

**4.2.5** **R** If the complainant accepts the *Ombudsman's* determination within the time limit specified by the *Ombudsman*, the determination will be binding on the *VJ Participant* and may be enforced in court by the complainant.

4.2.6

FCA

**R** The following *rules* in *FEES* apply to *VJ participants* as part of the *standard terms*, but substituting '*VJ participant*' for '*firm*':

- (1) ■ FEES 2.2.1 R (late payment) but substituting '*FOS Ltd*' for '*the FCA*';
- (2) ■ FEES 2.3.1 R and ■ 2.3.2 R (remission of fees);
- (3) ■ ■ FEES 4.2.6 R (1)(b) (periodic fees);
- (4) ■ FEES 5.3.6 R (general levy) but substituting:
  - (a) '*Voluntary Jurisdiction*' for '*Compulsory Jurisdiction*'; and
  - (b) '*FOS Ltd*' for '*the FCA*';
- (5) ■ FEES 5.3.8 R (calculation of general levy) but substituting ' ■ FEES 5 Annex 2R' for ' ■ FEES 5 Annex 1 R';
- (6) ■ FEES 5.4.1 R (information) but substituting:
  - (a) '*FOS Ltd*' for '*the FCA*'; and
  - (b) ' ■ FEES 5 Annex 2R' for ' ■ FEES 5 Annex 1 R';
- (7) ■ FEES 5.5B (case fees);
- (8) [deleted]
- (9) [deleted]
- (10) ■ FEES 5.7.1 R and ■ 5.7.4R but substituting, in ■ FEES 5.7.1 R, '*the FOS Ltd*' for ' *the FCA*' and '*annual levy* specified in ■ FEES 5 Annex 2R' for '*general levy*';
- (11) ■ FEES 5.8.1 R (joining the Financial Ombudsman Service); and
- (12) ■ FEES 5 Annex 2R and ■ FEES 5 Annex 3R.

#### **Withdrawal from participation**

4.2.7

FCA

**R** A *VJ participant* may not withdraw from the *Voluntary Jurisdiction* unless:

- (1) the *VJ participant* has submitted to *FOS Ltd* a written plan for:
  - (a) notifying its existing customers of its intention to withdraw; and
  - (b) handling *complaints* against it before its withdrawal;

- (2) the *VJ participant* has paid the general levy for the year in which it withdraws and any other fees payable; and
- (3) *FOS Ltd* has approved in writing both the *VJ Participant's* plan and the date of withdrawal (which must be at least six months from the date of the approval of the plan).

#### Exemption from liability

4.2.8

FCA

R

None of the following is to be liable in damages for anything done or omitted to be done in the discharge (or purported discharge) of any functions in connection with the *Voluntary Jurisdiction*:

- (1) *FOS Ltd*;
- (2) any member of its governing body;
- (3) any member of its staff;
- (4) any person acting as an *Ombudsman* for the purposes of the *Financial Ombudsman Service*;

except where:

- (5) the act or omission is shown to have been in bad faith; or
- (6) it would prevent an award of damages being made in respect of an act or omission on the ground that the act or omission was unlawful as a result of section 6(1) of the Human Rights Act 1998.

4.2.9

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4.2.10

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# Chapter 5

## Funding Rules

Section 5.1 : [deleted: provisions relating to the funding rules for the Financial Ombudsman Service are set out in FEES 5 (Financial Ombudsman Service Funding).]



**5.1**

**[deleted: provisions relating to the funding rules for the Financial Ombudsman Service are set out in FEES 5 (Financial Ombudsman Service Funding).]**

- 5.1.1 [Deleted]
- 5.1.2 [Deleted]
- 5.1.3 [Deleted]
- 5.1.4 [Deleted]
- 5.1.5 [Deleted]
- 5.1.6 [Deleted]



**5.2**

**[deleted: provisions relating to the funding rules for the Financial Ombudsman Service are set out in FEES 5 (Financial Ombudsman Service Funding).]**

**5.2.1**

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Section 5.3 : [deleted: provisions relating to the funding rules for the Financial Ombudsman Service are set out in FEES 5 (Financial Ombudsman Service Funding).]



**5.3**

**[deleted: provisions relating to the funding rules for the Financial Ombudsman Service are set out in FEES 5 (Financial Ombudsman Service Funding).]**

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- 5.3.2 [Deleted]
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- 5.3.5 [Deleted]
- 5.3.6 [Deleted]
- 5.3.7 [Deleted]



**5.4**

**[deleted: provisions relating to the funding rules for the Financial Ombudsman Service are set out in FEES 5 (Financial Ombudsman Service Funding).]**

- 5.4.1 [Deleted]
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- 5.4.9 [Deleted]
- 5.4.10 [Deleted]

Section 5.5 : [deleted: provisions relating to the funding rules for the Financial Ombudsman Service are set out in FEES 5 (Financial Ombudsman Service Funding).]



**5.5**

**[deleted: provisions relating to the funding rules for the Financial Ombudsman Service are set out in FEES 5 (Financial Ombudsman Service Funding).]**

**5**

- 5.5.1
- 5.5.1A
- 5.5.2
- 5.5.2A

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**5.6**

**[deleted: provisions relating to the funding rules for the Financial Ombudsman Service are set out in FEES 5 (Financial Ombudsman Service Funding).]**

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- 5.6.12 [Deleted]
- 5.6.13 [Deleted]
- 5.6.14 [Deleted]
- 5.6.15 [Deleted]

Section 5.7 : [deleted: provisions relating to the funding rules for the Financial Ombudsman Service are set out in FEES 5 (Financial Ombudsman Service Funding).]



**5.7**

**[deleted: provisions relating to the funding rules for the Financial Ombudsman Service are set out in FEES 5 (Financial Ombudsman Service Funding).]**

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- 5.7.2 [Deleted]
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- 5.7.4 [Deleted]
- 5.7.5 [Deleted]
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**5.8**

**[deleted: provisions relating to the funding rules for the Financial Ombudsman Service are set out in FEES 5 (Financial Ombudsman Service Funding).]**

- 5.8.1 [Deleted]
- 5.8.2 [Deleted]
- 5.8.3 [Deleted]
- 5.8.4 [Deleted]
- 5.8.5 [Deleted]
- 5.8.6 [Deleted]
- 5.8.7 [Deleted]
- 5.8.7A [Deleted]
- 5.8.8 [Deleted]
- 5.8.9 [Deleted]

Section 5.9 : [deleted: provisions relating to the funding rules for the Financial Ombudsman Service are set out in FEES 5 (Financial Ombudsman Service Funding).]



**5.9**

**[deleted: provisions relating to the funding rules for the Financial Ombudsman Service are set out in FEES 5 (Financial Ombudsman Service Funding).]**

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5.9.2

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**5.10**

**[deleted: provisions relating to the funding rules for the Financial Ombudsman Service are set out in FEES 5 (Financial Ombudsman Service Funding).]**

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5.10.2

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## DISP 5 : Funding Rules

Section 5.10 : [deleted: provisions relating to the funding rules for the Financial Ombudsman Service are set out in FEES 5 (Financial Ombudsman Service Funding).]

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**[deleted: provisions relating to the funding rules for the Financial Ombudsman Service are set out in FEES 5 (Financial Ombudsman Service Funding)]**



# Appendix 1

## Handling Mortgage Endowment Complaints

### 1.1 Introduction

#### App 1.1.1 G FCA

This appendix sets out the approach and standards which *firms* should use when investigating complaints relating to the sale of endowment *policies* for the purposes of achieving capital repayment of a mortgage. It is not intended to be comprehensive. It is primarily concerned with the assessment of whether the complainant may have suffered financial loss, and if so, how much that loss is, and therefore what amount a *firm* should consider offering by way of fair and appropriate compensation in circumstances where the *firm's* investigation of a complaint reveals:

- (1) the complainant has received negligent *advice on investments*; and
- (2) if this advice had not been negligent, either:
  - (a) the complainant would be unlikely to have acquired the endowment policy but instead would have taken out the same amount of loan on a repayment basis; or
  - (b) the complainant would have acquired an endowment mortgage for a shorter term.

#### App 1.1.2 G FCA

There will also be cases where a *firm* will conclude after investigation that, notwithstanding its own failure to give compliant and proper advice, the complainant would nevertheless have proceeded with the endowment policy as sold, in which case no compensation will be due.

#### App 1.1.3 G FCA

This appendix only addresses how *firms* should approach the assessment of loss and compensation where negligence on the part of the *firm* is established.

#### PAGE 1 App 1.1.4 G FCA

This appendix is relevant both to the obligations arising under the complaints handling *rules* contained in ■ DISP 1 and to the *FCA's* approach to the supervision of *firms*.

#### App 1.1.5 G FCA

This appendix is also relevant to complaints which the *Ombudsman* may investigate under the *Compulsory Jurisdiction* or *Voluntary Jurisdiction* of the *Financial Ombudsman Service* established under Part XVI of the *Act* (The Ombudsman Scheme).

**App 1.1.6** **G**  
**FCA**

Before proceeding to assess the extent of a complainant's financial loss, a *firm* will usually have completed the following stages:

- (1) gathering all relevant facts and information;
- (2) making a fair and objective assessment whether it has failed to comply with a relevant duty owed to the complainant; and
- (3) assessing whether any failure of duty by it was in the circumstances a material failure in the sense that if it had not occurred the complainant would have been likely to have acted differently.

**App 1.1.7** **G**  
**FCA**

If it is concluded that the complainant would have acted differently, the *firm* should proceed to assess any direct or consequential loss.

**App 1.1.8** **G**  
**FCA**

Nothing in this appendix relieves *firms* of the obligation to consider the particular facts and circumstances of each complaint and to consider whether the assessment of loss and compensation should, in the light of those facts and circumstances, be carried out on a different basis. If, however, the facts and circumstances make it appropriate to do so, the *FCA's* expectation is that *firms* will apply the approach and standards set out in this appendix, and where they do not, the *FCA* is likely to require them to demonstrate the adequacy and completeness of their alternative approach.

## 1.2 The standard approach to redress

**App 1.2.1** **G**  
**FCA**

If there has been a failure to give compliant and proper advice, or some other breach of the duty of care, the basic objective of redress is to put the complainant, so far as is possible, in the position he would have been in if the inappropriate advice had not been given, or the other breach had not occurred. In many cases, although it must be a matter for inquiry and assessment in each individual case, this position is likely to have resulted in the complainant taking a repayment mortgage with accompanying life cover, and this is the assumption which underpins the standard approach to redress.

**App 1.2.2** **G**  
**FCA**

Unless the contrary is demonstrated, it should be assumed that the complainant could have afforded the mortgage on a repayment basis.

**App 1.2.3** **G**  
**FCA**

The measure of any financial loss suffered by the complainant will be arrived at by:

- (1) comparing the complainant's current capital position with the position he would have been in had the loan been a standard repayment mortgage as at the date the *firm* decides to regard the complaint as justified; and
- (2) comparing the cost of the complainant's actual monthly outgoings and those he would have made had his loan been on a standard repayment basis as at the date the *firm* decides to regard the complaint as justified.

**App 1.2.4** **G**  
**FCA**

In some cases other factors may be included in the overall calculation, for example, if mortgage arrangement fees were waived by agreement on the occasion of the endowment *policy* being taken out.

**App 1.2.5** **G**  
**FCA**

If, on comparing the complainant's current endowment position with the repayment alternative, the *surrender value* of the endowment *policy* exceeds the amount of the capital which the complainant would have repaid through the repayment method, then, at the point of the assessment, the complainant has suffered no capital loss (but the complainant may suffer some compensatable consequential loss associated with changing the mortgage arrangements to the repayment basis, see ■ DISP App 1.3 ). Conversely, if the capital which would have been repaid on the repayment basis exceeds the *surrender value*, there is a capital loss represented by the difference between the two amounts.

**App 1.2.6** **G**  
**FCA**

If the complainant's endowment mortgage outgoings exceed the equivalent cost for the repayment method, the complainant should be compensated for the higher payments in addition to any loss on the *surrender value* and capital repaid comparison. This means, for example, that if the endowment arrangement has been more expensive, this may result in compensatable loss even though the capital repayment against surrender comparison may be favourable to the endowment.

**App 1.2.7** **G**  
**FCA**

If the total cost of the outgoings for the endowment calculation is less than that for the repayment calculation, the "savings" should be brought into account in assessing any overall loss unless it is unreasonable to do so.

**App 1.2.8** **G**  
**FCA**

It is unlikely to be reasonable to bring "savings" into account in circumstances where, at the time of the sale of the *policy*:

- (1) the complainant was advised or informed orally or in writing that he would have lower outgoings than would be the case under a repayment mortgage, whether or not the difference was quantified; and
- (2) the complainant has dissipated those "savings" on the strength of this advice or information.

**App 1.2.9** **G**  
**FCA**

The circumstances in which it may be appropriate to take some or all of the "savings" into account are those where, subject to ■ DISP App 1.2.7 G, the complainant is of "sufficient means" so that it is reasonable for a *firm* to assume that the "savings" have contributed to those means.

**App 1.2.10** **G**  
**FCA**

Where it is otherwise reasonable for "savings" to be brought into account, determining whether or not a complainant is of sufficient means and, if so, to what extent the "savings" are to be brought into account, will have to be based on the facts of each individual case. It will be appropriate to require the complainant to provide adequate information to assist the *firm* in this task. Matters to be taken into account in this assessment may include:

- (1) the length of the remaining mortgage term;
- (2) the complainant's current and prospective resources;
- (3) the amount of the capital shortfall in proportion to the endowment outgoings balance.

**App 1.2.11** **G**  
**FCA**

*Firms* may adopt streamlined processes to assist them in individual assessments of "sufficient means", but will have to satisfy themselves that the complainant's position is nevertheless protected. *Firms* will need to ensure that the complainant is given an opportunity to make an informed choice whether to accept the streamlined process, that the process itself is transparent, and that the *firm* is satisfied that the outcome would be fair to complainants.

**App 1.2.12** **G**  
**FCA**

If a *firm* intends to make a deduction for all or any part of the lower endowment outgoings, the *firm* should explain clearly to the complainant in writing both how the 'sufficient means' test has been satisfied, including details of the information taken into account in reaching the decision, and how the deduction has been arrived at. The letter should further inform the complainant that if he is unhappy with the proposal to make a deduction, either in principle or as to the amount, he should give his reasons to the *firm*.

**App 1.2.13** **G**  
**FCA**

If a complainant puts forward a case that it would be unreasonable for a deduction to be made, the *firm* should reach a fair and objective determination on the facts of all relevant matters including those set out at ■ DISP App 1.2.8 G and ■ DISP App 1.2.9 G .

**App 1.2.14** **G**  
**FCA**

In recognition that *firms* may not wish, for practical reasons, to make individual assessments of "sufficient means", *firms* may decide not to seek to bring into account any benefit to the complainant in assessing overall compensation.

**App 1.2.15** **G**  
**FCA**

It would not be unreasonable if a *firm* providing redress in these circumstances were to frame its offer of redress on the assumption that the complainant will agree to surrender the *policy*. However, *firms* should bear in mind that there may be circumstances where it is appropriate for the complainant to retain the *policy*, for example, where it is being retained as a savings vehicle.

**App 1.2.16** **G**  
**FCA**

If a complainant becomes aware that he has taken out the endowment *policy* on the basis of unsuitable advice and inadequate information, he should if necessary, after taking appropriate advice, take reasonable steps to limit his loss, and may in any subsequent *claim* be unable to recover for losses which are avoidable. The complainant may have to show that he has not delayed unreasonably since becoming aware of his loss. The reasonable costs and expenses the complainant may have incurred in limiting his loss are to be taken into account in assessing his compensation. These costs and expenses are likely to include the complainant taking advice on whether he should convert from an endowment to a repayment mortgage and incurring expenses in doing so, see ■ DISP App 1.3.

**App 1.2.17** **G**  
**FCA**

The standard approach to redress can be illustrated by the following examples, which show how redress would be calculated in certain hypothetical but typical scenarios. (Because the examples are illustrative, round numbers have been used for 'established facts' in each example. The payments should be taken as being made monthly: *firms* should not approximate by assuming that payments are made annually. If the complainant has benefited from MIRAS, the calculations should allow for the effect of MIRAS both on the endowment mortgage and the repayment comparison.)

**App 1.2.18** **G**  
**FCA**

Table of examples of typical redress calculations

Example 1	Capital shortfall and higher endowment outgoings
Example 2	Capital shortfall partially offset by lower endowment mortgage outgoings

Example 3	Capital shortfall more than offset by lower endowment mortgage outgoings
Example 4	Capital surplus more than offset by higher endowment mortgage outgoings
Example 5	Capital surplus partially offset by higher endowment mortgage outgoings
Example 6	Capital surplus and lower endowment mortgage outgoings
Example 7	Low start endowment mortgage

App 1.2.19 **G**

FCA

## Example 1

## Example 1

**Capital shortfall and higher endowment mortgage outgoings**

Capital sum of £50,000

25 year endowment *policy*

Duration to date: 5 years

Endowment *premium* per month: £75

Endowment <i>surrender value</i> :	£3,200
Capital repaid under equivalent repayment mortgage:	£4,200
<i>Surrender value</i> less capital repaid:	(£1,000)
Cost of converting from endowment mortgage to repayment mortgage:	(£200)
Equivalent repayment mortgage (capital + interest + DTA life cover):	£21,950
Endowment mortgage (endowment <i>premium</i> + interest):	£22,250
Difference in outgoings (repayment - endowment):	(£300)

In this example, the complainant has suffered loss because the *surrender value* of the endowment is less than the capital repaid and also because of the higher total outgoings to date of the endowment mortgage relative to the repayment mortgage. The two losses and the conversion cost are therefore added together in order to calculate the redress.

Loss from <i>surrender value</i> less capital repaid:	(£1,000)
Loss from total extra outgoings under endowment mortgage:	(£300)
Cost of converting to repayment mortgage:	(£200)
Total loss:	(£1,500)
<b>Therefore total redress is:</b>	<b>£1,500</b>

App 1.2.20 **G**

FCA

## Example 2

## Example 2

**Capital shortfall partially offset by lower endowment mortgage outgoings**

Capital sum of £50,000

25 year endowment *policy*

## Example 2

Duration to date: 5 years

Endowment *premium* per month: £60

Endowment <i>surrender value</i> :	£2,500
Capital repaid under equivalent repayment mortgage	£4,200
<i>Surrender value</i> less capital repaid under equivalent repayment mortgage:	(£1,700)
Cost of converting from endowment mortgage to repayment mortgage	(£300)
Repayment mortgage (capital + interest + DTA life cover):	£21,950
Endowment mortgage (endowment <i>premium</i> + interest):	£21,350
Difference in outgoings (repayment - endowment):	£600

In this example, the complainant has suffered loss because the *surrender value* of the endowment is less than the capital repaid but has gained from the lower outgoings of the endowment mortgage to date. In calculating the redress the gain may be offset against the loss unless the complainant's particular circumstances are such that it would be unreasonable to take account of the gain.

**Redress if it is not unreasonable to take account of the whole of the gain from lower outgoings**

Loss from <i>surrender value</i> less capital repaid:	(£1,700)
Gain from total lower outgoings under endowment mortgage:	£600
Cost of converting to repayment mortgage:	(£300)
Net loss:	(£1,400)

**Therefore total redress is: £1,400**

**Redress if it is unreasonable to take account of gain from lower outgoings**

Loss from <i>surrender value</i> less capital repaid:	(£1,700)
Gain from total lower outgoings under endowment mortgage:	Ignored*
Cost of converting to repayment mortgage:	(£300)
Net loss taken into account:	(£2,000)

**Therefore total redress is: £2,000**

\* In this example, and also in Examples 3, 7, 8 and 9, the complainant's circumstances are assumed to be such as to make it unreasonable to take account of any of the gain from lower outgoings.

App 1.2.21 **G**

FCA

## Example 3

## Example 3

**Capital shortfall more than offset by lower endowment mortgage outgoings**

Capital sum of £50,000

25 year endowment *policy*

Duration to date: 8 years

Endowment *premium* per month: £65

Endowment *surrender value*: £7,300

## Example 3

Capital repaid under equivalent repayment mortgage:	£7,600
<i>Surrender value</i> less capital repaid:	(£300)
Cost of converting from endowment mortgage to repayment mortgage:	(£200)
Repayment mortgage (capital + interest + DTA life cover):	£34,510
Endowment mortgage (endowment <i>premium</i> + interest):	£33,990
Difference in outgoings (repayment - endowment):	£520

In this example, the complainant has suffered loss because the surrender value of the endowment is less than the capital repaid but has gained from the lower total outgoings of the endowment mortgage. In calculating redress the gain may be offset against the loss unless the complainant's particular circumstances are such that it would be unreasonable to take account of the gain.

**Redress if it is not unreasonable to take account of the whole of the gain from lower outgoings**

Loss from <i>surrender value</i> less capital repaid:	(£300)
Gain from total lower outgoings under endowment mortgage:	£520
Cost of converting to repayment mortgage:	(£200)
Net gain:	£20

**Therefore, there has been no loss and no redress is payable.**

**Redress if it is unreasonable to take account of gain from lower outgoings**

Loss from <i>surrender value</i> less capital repaid:	(£300)
Gain from total lower outgoings under endowment mortgage:	Ignored
Cost of converting to repayment mortgage:	(£200)
Net loss taken into account:	(£500)

**Therefore total redress is: £500**

App 1.2.22 **G**

FCA

## Example 4

## Example 4

**Capital surplus more than offset by higher endowment mortgage outgoings**

Capital sum of £50,000	
25 year endowment <i>policy</i>	
Duration to date: 8 years	
Endowment <i>premium</i> per month: £75	
Endowment <i>surrender value</i> :	£7,800
Capital repaid under equivalent repayment mortgage:	£7,600

## Example 4

<i>Surrender value</i> less capital repaid:	£200
Cost of converting from endowment mortgage to repayment mortgage:	(£250)
Repayment mortgage (capital + interest + DTA life cover):	£34,510
Endowment mortgage (endowment <i>premium</i> + interest):	£34,950
Difference in outgoings (repayment - endowment):	(£440)

In this example, the complainant has suffered loss because of the higher total outgoings to date of the endowment mortgage but has gained because the *surrender value* of the endowment is greater than the capital repaid. Since the sum of the loss and the conversion cost is greater than the gain, the redress is calculated as the difference between the two.

Gain from <i>surrender value</i> less capital repaid:	£200
Loss from total extra outgoings under endowment mortgage:	(£440)
Cost of converting to repayment mortgage:	(£250)
Net loss:	(£490)
<b>Therefore total redress is:</b>	<b>£490</b>

## App 1.2.23 G

FCA

## Example 5

## Example 5

**Capital surplus partially offset by higher endowment mortgage outgoings**

Capital sum of ?50,000	
25 year endowment <i>policy</i>	
Duration to date: 10 years	
Endowment <i>premium</i> per month: £75	
Endowment <i>surrender value</i> :	£11,800
Capital repaid under equivalent repayment mortgage	£9,700
<i>Surrender value</i> less capital repaid:	£2,100
Cost of converting from endowment mortgage to repayment mortgage:	(?300)
Repayment mortgage (capital + interest + DTA life cover):	?46,800
Endowment mortgage (endowment <i>premium</i> + interest):	£47,500
Difference in outgoings (repayment - endowment):	(£700)

In this example, the complainant has suffered loss because of the higher total outgoings to date of the endowment mortgage relative to the repayment mortgage. However the sum of this and the conversion

## Example 5

cost is less than the complainant's gain from the difference between the *surrender value* of the endowment and the capital repaid. Thus no redress is payable.

Gain from <i>surrender value</i> less capital repaid:	£2,100
Loss from total extra outgoings under endowment mortgage:	(£700)
Cost of converting to repayment mortgage:	(£300)
Net gain:	£1,100

**Therefore, there has been no loss and no redress is payable.**

## App 1.2.24 G

FCA

## Example 6

## Example 6

**Capital surplus and lower endowment mortgage outgoings**

Capital sum of	£50,000
25 year endowment <i>policy</i>	
Duration to date:	10 years
Endowment <i>premium</i> per month:	£65
Endowment <i>surrender value</i> :	£10,100
Capital repaid under equivalent repayment mortgage	£9,700
<i>Surrender value</i> less capital repaid:	£400
Cost of converting from endowment mortgage to repayment mortgage:	(£200)
Repayment mortgage (capital + interest + DTA life cover):	£46,800
Endowment mortgage (endowment <i>premium</i> + interest):	£46,300
Difference in outgoings (repayment - endowment):	£500

In this example, the complainant has gained both because the *surrender value* of the endowment is greater than the capital repaid and because of the lower total outgoings of the endowment mortgage. These gains are larger than the cost of converting to a repayment mortgage. Thus no further action is necessary.

**As there has been no loss, no redress is payable.**

## App 1.2.25 G

FCA

## Example 7

## Example 7

**Low start endowment mortgage**

Capital sum of £50,000

### Example 7

25 year endowment *policy*

Duration to date: 10 years

Endowment *premium per month*: starting at £35 in first year, increasing by 20% simple on each *policy* anniversary, reaching £70 after five years and then remaining at that level.

Endowment <i>surrender value</i> :	£8,200
Capital repaid under equivalent repayment mortgage:	£9,700
<i>Surrender value</i> less capital repaid:	(£1,500)
Cost of converting from endowment mortgage to repayment mortgage:	(£250)
Repayment mortgage (capital + interest + DTA life cover):	£46,800
Endowment mortgage (endowment <i>premium</i> + interest):	£45,640
Difference in outgoings (repayment minus endowment):	£1,160

Of this difference in outgoings, £800 arose in the five year period when the complainant was paying a low endowment *premium*.

In this example, the complainant has suffered loss because the *surrender value* of the endowment is less than the capital repaid but has gained from the lower total outgoings of the endowment mortgage. As in Example 3, in calculating redress the whole of the gain should be offset against the loss unless the complainant's particular circumstances are such that it would be unreasonable to do so. However, unlike Example 3, in a low start endowment mortgage the complainant may have chosen to pay a lower than usual *premium* in the early years (this would need to be established on the facts of the case). Where it has been established that the complainant chose to make lower payments, even if it is unreasonable to take account of the whole of the gain from total outgoings, the gain from paying a lower *premium* during the low start period is normally taken into account. In such cases the redress is calculated as the capital loss plus the conversion cost minus the total amount by which repayment mortgage outgoings would have exceeded the actual low start endowment mortgage outgoings during the five year low start period.

#### Redress if it is not unreasonable to take account of the whole of the gain from lower outgoings

Loss from <i>surrender value</i> less capital repaid:	(£1,500)
Gain from total lower outgoings under endowment mortgage:	£1,160
Cost of converting to repayment mortgage:	(£250)
Net loss:	(£590)
<b>Therefore total redress is:</b>	<b>£590</b>

#### Redress if it is unreasonable to take account of gain from lower outgoings

Loss from <i>surrender value</i> less capital repaid:	(£1,500)
Gain from total lower outgoings during low start period of endowment mortgage:	£800
Cost of converting to repayment mortgage:	(£250)
Net loss taken into account:	(£950)

## Example 7

Therefore total redress is:	£950
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### Interest rates

App 1.2.26 **G**

FCA

In fixing a repayment comparator, it would be appropriate to have regard to the repayment quotation actually provided at the time of sale. If more than one repayment quotation was obtained, the comparison should be with the quotation which approximates most closely to the terms of the endowment mortgage actually taken. If a repayment quotation was not provided, or is not now available, it should be assumed that the interest rate for the repayment comparison is the same as that of the mortgage endowment arrangements. *Firms* will then need to replicate interest rate changes throughout the lifetime of the comparator mortgage.

### Life cover

App 1.2.27 **G**

FCA

Unless after due inquiry there is clear evidence that the complainant with a mortgage endowment had no foreseeable need for life cover at the time the endowment arrangements were concluded, in the overall comparison between a repayment mortgage and an endowment mortgage the monthly outgoings under the repayment will include the premium for the decreasing term assurance that would have been required. This adjustment for the cost of life cover is only to be made if the *firm* is undertaking a comparison of monthly outgoings. It is not appropriate to deduct the cost of life cover from the capital loss calculation, as this would constitute double counting.

App 1.2.28 **G**

FCA

If a deduction is to be attributed to the provision of life cover, the appropriate approach is to assume that the complainant took out the insurance quoted in the alternative repayment quotation provided at the time of the sale. If the quotation is not available, the deduction should be at the rates that would have been quoted at the time.

## 1.3

### Remortgaging

App 1.3.1 **G**

FCA

As already noted, the basic objective of redress is to put the complainant, so far as is possible, in the position he would have been in if the inappropriate advice or other breach had not occurred: for their part, the complainants should take such reasonable steps as they can to limit loss once they are informed of the position they are in because of the failure of advice at the time of sale.

App 1.3.2 **G**

FCA

In practice, it is likely to be appropriate for a complainant whose complaint has been upheld to convert to a repayment mortgage, whether or not there is financial loss to date. It will normally be possible for complainants to do so without incurring unreasonable cost. Conversion will of course mean that the complainant no longer has a *policy*.

PAGE  
11App 1.3.3 **G**

FCA

*Firms* should therefore in the case of upheld complaints inform complainants that it is likely to be appropriate and necessary for them to convert to a repayment arrangement.

App 1.3.4 **G**

FCA

*Firms* should make it clear that they will bear the costs of conversion if the rearrangement is made with the existing lender and to the equivalent repayment mortgage. If a complainant is

not willing to rearrange with the existing lender, then the costs to be paid by the *firm* should normally be limited to those which would have been payable had the rearrangement been made with the existing lender and to the equivalent repayment mortgage. If it is not possible to rearrange with the existing lender, for example, if the lender has a closed book, the *firm* should pay all costs which are not unreasonable in completing the rearrangement with an alternative provider. Such costs might include an administration fee for changing the existing arrangement, redemption penalty, arrangement fee for the new mortgage and the reasonable cost of further advice if necessary.

**App 1.3.5** **G**  
**FCA**

If the "new" mortgage is, in fact, arranged at a lower interest rate than the existing loan, the benefit to the complainant should usually be disregarded, as it is always open to complainants to change their underlying mortgage arrangements at any time.

**App 1.3.6** **G**  
**FCA**

If the "new" mortgage is arranged at a higher interest rate than the existing loan, the increased payment should not normally be taken into account in calculating any payment to be made to the complainant.

**App 1.3.7** **G**  
**FCA**

If the complainant takes the opportunity to increase his loan on the occasion of the remortgage, the expenses which a *firm* pays by way of compensation should be paid by reference to the capital sum due under the "old" loan.

**App 1.3.8** **G**  
**FCA**

As stated, one aspect of the conversion process is the disposal of the endowment *policy*. The standard approach to assessing loss requires *firms* to calculate loss using the *surrender value*. However, once loss is established on this basis and *firms* move to deal with redress, they may wish to consider whether there is a role for the *policy's* 'market value' within the traded endowment *policy* (TEP) market.

**App 1.3.9** **G**  
**FCA**

A *firm* may arrange the sale of the endowment *policy* on the traded endowment market, provided the full implications of such a course of action are explained to the complainant and his express consent is obtained for the firm to arrange the sale. This includes informing the investor that he will continue to be the life assured under the *policy*. The complainant should be informed that such an arrangement may reduce or eliminate the amount of redress actually borne by the *firm*, but not so as to affect the amount of redress he receives.

**App 1.3.10** **G**  
**FCA**

In the event that a complainant is willing to pursue this option, a *firm* should first have assessed the complainant's loss using the approach set out in this appendix, and the minimum amount the complainant should receive under such a sale arrangement is the sum representing the position the complainant should have been in under this appendix together with the reimbursement of remortgaging costs. In order to ensure the process does not delay the provision of redress, the *firm* must pay this minimum sum immediately the complainant agrees to the sale arrangement. To the extent that the net amount realised by the sale of the *policy* on the traded endowment market exceeds the total redress due to the complainant, this greater sum is to be paid to the complainant on completion of the sale. If the amount realised by the sale of the *policy* on the traded endowment market is less than the total redress due to the complainant, the *firm* will be responsible for the amount of the shortfall.

**App 1.3.11** **G**  
**FCA**

Example of assessment set out at 1.3.10

The following example illustrates the position:

Surrender value	£10,000	TEP value	£16,000
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### The following example illustrates the position:

Loss calculated by standard approach	£5,000		
Remortgaging costs	£300		
Total			
Complainant receives ?16,000 all ultimately funded from the TEP sale.			
Surrender value	£10,000	TEP value	£13,000
Redress calculated by standard approach	£5,000		
Remortgaging costs	£300		
Total			
Complainant receives £15,300, £13,000 ultimately funded from the TEP sale and £2,300 ultimately funded from the <i>firm</i> .			

## 1.4 Policy reconstruction

### App 1.4.1 G FCA

This section of this appendix is primarily concerned with circumstances where the term of the mortgage and associated endowment *policy* extend beyond the individual complainant's normal retirement age in circumstances where the *firm* regards a complaint as justified because the arrangement is not affordable in retirement; and this could have, and should have, been foreseen at the time of the advice.

### App 1.4.2 G FCA

Two sets of circumstances are examined at ■ DISP App 1.4.3 G to ■ DISP App 1.4.13 G. Although these are considered in isolation, *firms* should, as part of their investigation of all of the factors involved in the complaint, consider whether either set of circumstances should be considered in conjunction with those factors examined at ■ DISP App 1.2.

### Case 1

### App 1.4.3 G FCA

If on enquiry it is found that no proper assessment of the complainant's post-retirement means had been undertaken at the time of *sale*, but if the likelihood had been that the complainant would have borrowed the same amount over a shorter term (up to retirement) using an endowment *policy* as a repayment vehicle, then an appropriate form of redress would be for the *policy* to be reconstructed with a shorter term.

### App 1.4.4 G FCA

Redress should in most cases be provided by meeting the cost of rearranging the *policy*, by way of a lump sum payment into the *policy* in respect of the higher rate of *premium* due from its inception. It may be appropriate in individual cases to take account of the lower *premiums* that the complainant will have paid to date. The *guidance* in ■ DISP App 1.2, as to the circumstances in which this will be appropriate, will be relevant here.

### App 1.4.5 G FCA

If the *policy* extends beyond retirement age and the complainant is already retired, the *policy* should be reconstructed to a maturity date as at the accepted retirement date, with the *policy*

proceeds becoming immediately payable. The costs are to be borne by the *firm*, subject to any lower outgoings adjustment.

App 1.4.6 G

FCA

*Firms* should consider whether the reconstruction would have tax implications for complainants (see ■ DISP App 1.5.8 G and ■ DISP App 1.5.9 G).

App 1.4.7 G

FCA

The reconstruction process deals with the situation to the date the *policy* is reconstructed. The complainant will generally be responsible for paying the increased *premiums* for the remaining term.

App 1.4.8 G

FCA

At the time the complainant is advised of the revised *premium*, he should as a matter of good practice be provided with a reprojection based on the prevailing *projection* rates, which will allow him to address any projected shortfall.

App 1.4.9 G

FCA

If it is not possible for a *firm* to reconstruct a *policy*, then it should offer the investor equivalent redress, for example, by paying a cash lump sum equivalent to the amount that would have been credited to a reconstructed *policy*.

## Case 2

App 1.4.10 G

FCA

If a loan extending into retirement was on any basis not affordable, whether or not it is reconstructed to the retirement date, *firms* will need to consider whether, if proper advice had been given, the loan would have been taken out at all and, if not, consider what arrangements might now need to be made in order to reduce the amount of the complainant's borrowings.

## Mismatched loans and policy terms

App 1.4.11 G

FCA

If a complaint is regarded as justified by the *firm* on the basis that the endowment *policy* maturity date extends beyond the mortgage term expiry date and the *firm* is responsible for this situation, the *policy* should be reconstructed so that it matures at the expiry of the mortgage term.

App 1.4.12 G

FCA

In these circumstances the *guidance* given elsewhere in ■ DISP App 1.4 will apply as appropriate.

## Examples

App 1.4.13 G

FCA

The following examples illustrate the approach to redress as described in this section.

App 1.4.14 G

FCA

Example 8

### Example 8

#### Term extends beyond retirement age and policy reconstruction

45 year old male non-smoker, having taken out a ?50,000 loan in 1998 for a term of 25 years. Unsuitable sale identified on the grounds of affordability and complaint raised on 12th *policy* anniversary.

It has always been the intention of the complainant to retire at State retirement age 65.

Term from date of sale to retirement is 20 years and the maturity date of the mortgage is 5 years after retirement.

## Example 8

Established <i>premium</i> paid by investor on <i>policy</i> of original term (25 years):	£81.20
<i>Premium</i> that would have been payable on <i>policy</i> with term from <i>sale</i> to retirement (20 years):	?111.20
Actual <i>policy</i> value at time complaint assessed:	£12,500
Value of an equivalent 20-year <i>policy</i> at time complaint assessed:	£21,300
Difference in <i>policy</i> values at time complaint assessed:	£8,800
Difference in outgoings (20 year <i>policy</i> - 25 year <i>policy</i> ):	£4,320

The *policy* is reconstructed as if it had been set up originally on a term to mature at retirement age, in this example, a term of 20 years. The difference in the current value of the *policy* actually sold to the complainant and the current value of the reconstructed *policy*, as if the *premium* on the reconstructed *policy* had been paid from outset, is calculated. The complainant has gained from lower outgoings (lower *premiums*) of the actual endowment *policy* to date. In calculating the redress, the gain may be offset against the loss unless the complainant's particular circumstances are such that it would be unreasonable to take account of the gain.

**Redress generally if it is not unreasonable to take account of the whole of the gain from lower outgoings**

Loss from current value of reconstructed <i>policy</i> less current value of actual <i>policy</i> :	(£8,800)
Gain from total lower outgoings under actual <i>policy</i> :	
Net loss:	(£4,480)
<b>Therefore total redress is:</b>	£4,480

**Redress if it is unreasonable to take account of gain from lower outgoings**

Loss from current value of reconstructed <i>policy</i> less current value of actual <i>policy</i> :	(£8,800)
Gain from total lower outgoings under actual <i>policy</i> :	Ignored
<b>Therefore total redress is:</b>	

If the *policy* is capable of reconstruction, the complainant must now fund the higher *premiums* himself for the remainder of the term of the shortened *policy* until maturity. In this example the higher *premium* could be £111.20. However the *firm* should provide the complainant with a reprojection letter based on the reconstructed *policy* such that the actual monthly payment required to achieve the target sum could be even higher, say £130. The reprojection letter should set out the range of options facing the complainant to deal with the projected shortfall, if any.

## Example 9

## Example 9

**Term extends beyond retirement age: example of failure to explain investment risks**

45 year old male non-smoker, having taken out a ?50,000 loan in 1998 for a term of 25 years. Unsuitable sale identified on the grounds of affordability and complaint raised on 12th anniversary.

### Example 9

It has always been the intention of the complainant to retire at state retirement age 65.

Term from date of sale to retirement is 20 years and the maturity date of the mortgage is five years after retirement.

In addition, an endowment does not meet the complainant's attitude to investment risk and a repayment mortgage would have been taken out if properly advised.

*Surrender value* (on the 25 year *policy*) at time complaint assessed: £12,500

Capital repaid under repayment mortgage of term to retirement date (20 years): £21,000

*Surrender value* less capital repaid: (£8,500)

Difference in outgoings (repayment - endowment): £5,400

Cost of converting from endowment mortgage to repayment mortgage: £200

The *surrender value* of the (25 year term) endowment *policy* is compared to the capital that would have been repaid to date under a repayment mortgage arranged to repay the loan at retirement age, in this example, a repayment mortgage for a term of 20 years. The complainant has gained from lower outgoings of the endowment mortgage to date. In calculating the redress, the gain may be offset against the loss unless the complainant's particular circumstances are such that it would be unreasonable to take account of the gain. The conversion costs are also taken into account in calculating the redress.

Loss from *surrender value* less capital repaid: (£8,500)

Gain from total lower outgoings under endowment mortgage: ?5,400

Cost of converting to a repayment mortgage:

Net loss: (£3,300)

**Therefore total redress is:**

**Redress if it is unreasonable to take account of gain from lower outgoings**

Loss from *surrender value* less capital repaid: (£8,500)

Gain from total lower outgoings under endowment mortgage: Ignored

Cost of converting to a repayment mortgage: (£8,700)

**Therefore total redress is:**

## 1.5 Additional considerations

### Introduction

App 1.5.1 **G**

**FCA**

This section addresses issues which may be relevant to the standard redress for unsuitability cases, as well as some post-retirement cases upheld on the grounds of affordability.

### Continuing life cover and other policy benefits

App 1.5.2 **G**

**FCA**

*Firms* will need to consider the importance for many complainants of having life assurance in place to ensure a mortgage is paid off in the event of death.

**App 1.5.3** **G**  
**FCA** If a complaint is upheld and the *policy* is to be surrendered as part of the settlement, the *firm* should remind the complainant in writing that the life cover within the endowment will be terminated and that it may therefore be appropriate to take advice about the merits or otherwise of taking out a stand-alone *life policy* in substitution.

**App 1.5.4** **G**  
**FCA** If a need for life assurance at inception has been established so that a deduction representing its cost has been made from the redress payable under **■ DISP App 1.2.4 G**, the *firm* should advise the complainant that the *firm* would be responsible for paying any *premium* for an appropriate replacement *policy* which exceeds that used for calculating the deduction or alternatively will, where possible, provide the cover itself at that cost. If it is not possible for the *firm* to provide the cover itself at the original cost, it may choose to discharge that obligation by the payment of an appropriate lump sum. Any such amount should enable the complainant to effect the cover at the original cost, with no additional cost in respect of increased age or deterioration in health. This option may be particularly relevant if the *firm* against which the complaint has been made is an independent intermediary which cannot itself provide the cover, although it may be possible for such a *firm* to arrange for the product provider to offer cover to the complainant at the original *premium* on payment by the independent intermediary of an appropriate lump sum to meet any increased cost.

**App 1.5.5** **G**  
**FCA** *Firms* will not be responsible for any increased costs resulting from the complainant choosing another *product provider* or for increased *premiums* charged by another provider chosen by the complainant in respect of the risk now presented, for example, higher *premiums* charged by the other provider due to deterioration in health, unless the original *product provider* no longer writes new business and is unable to offer revised life cover on a decreasing term assurance basis.

**App 1.5.6** **G**  
**FCA** There can be exceptional circumstances where, in order to retain suitable life cover, the endowment *policy* has to be retained and any additional costs will be the responsibility of the *firm* that sold the endowment *policy*.

**App 1.5.7** **G**  
**FCA** The same considerations will apply to the establishment of the need for other *policy* benefits including critical illness cover, disability cover and waiver of *premium*.

## Taxation

**App 1.5.8** **G**  
**FCA** *Firms* will need to consider the likely taxation implications for complainants if *policies* are surrendered or reconstructed, or any form of underpinning or guarantee is given.

**App 1.5.9** **G**  
**FCA** If there is potential tax liability for the complainant, it will be appropriate for *firms* to undertake in writing to the complainant to reimburse any tax payable, or which becomes payable, and make payment on production of appropriate evidence of the liability and payment having been made.

## "Underpinning"

**App 1.5.10** **G**  
**FCA** *Firms* proposing to offer arrangements involving some form of minimum underpinning or 'guarantee' should discuss their proposals with the *FCA* and HM Revenue and Customs at the earliest possible opportunity (see **■ DISP App 1.5.8 G**). The *FCA* will need to be satisfied that these proposals provide complainants with redress which is at least commensurate with the standard approaches contained in this appendix.

### Reference to the guidance in firms' complaints settlement letters

App 1.5.11 **G**  
FCA

One of the reasons for introducing the *guidance* in this appendix is to seek a reduction in the number of complaints which are referred to the *Financial Ombudsman Service*. If a *firm* writes to the complainant proposing terms for settlement which are in accordance with this appendix, the letter may include a statement that the calculation of loss and redress accords with the *FCA guidance*, but should not imply that this extends to the assessment of whether or not the complaint should be upheld. *Firms* should point out that if the complainant remains dissatisfied, he may refer the complaint to the *Financial Ombudsman Service*.

App 1.5.12 **G**  
FCA

A statement under **■** DISP App 1.5.11 G should not give the impression that the proposed terms of settlement have been expressly endorsed by either the *FCA* or the *Financial Ombudsman Service*.

### Identification of windfall benefits

App 1.5.13 **G**  
FCA

Windfall benefits should be determined in accordance with the principle in Needler Financial Services and Taber ('Needler'). The basic legal principle in Needler is that a windfall benefit is not to be taken into account in determining the amount of an investor's recoverable loss. The following paragraphs explain our views as to how *firms* may act in accordance with that principle.

App 1.5.14 **G**  
FCA

A windfall benefit arises where:

- (1) there has been a demutualisation, distribution or reattribution of the inherited estate, or other extraordinary corporate event in a *long-term insurer*; and

the event gave rise to 'relevant benefits', as defined in **■** DISP App 1.5.15 G (below).

App 1.5.15 **G**  
FCA

'Relevant benefits' are those benefits that fall outside what is required in order that *policyholders'* reasonable expectations at that point of sale can be fulfilled. (The phrase '*policyholders'* reasonable expectations' has technically been superseded. However, the concept now resides within the obligations imposed upon *firms* by *FCA* Principle 6 ('...a firm must pay due regard to the interests of its *customers* and treat them fairly...') Additionally, most of these benefits would have been paid prior to *commencement*, when *policyholders'* reasonable expectations would have been a consideration for a *long-term insurer*.)

App 1.5.16 **G**  
FCA

The issue of free *shares* or cash on a demutualisation, and additional bonuses and *policy* enhancements given by way of incentive to approve a reattribution or distribution of an inherited estate should, unless there is evidence to the contrary, be treated as relevant benefits for the purposes of **■** DISP App 1.5.15 G. Whether additional bonuses and *policy* enhancements on a demutualisation are relevant benefits should be determined by applying the test in **■** DISP App 1.5.15 G to each benefit.

App 1.5.17 **G**  
FCA

*Firms* should review the terms on which proposals were put to *policyholders* and the reasons given for a corporate event when determining whether a benefit should be treated as a relevant benefit.

App 1.5.18 **G**  
FCA

*Firms* should not normally bring windfall benefits which are relevant benefits (as defined in **■** DISP App 1.5.14 G) to account when assessing financial loss and redress. Where a windfall benefit is in the form of a *policy* augmentation the benefit should be deducted from the overall value of the *policy* when making this assessment.

App 1.5.19 **G**  
FCA

A relevant benefit derived from a corporate event may only be brought to account if the *firm* is able to demonstrate, with written records created at the time of the advice, that:

- (1) The *firm* foresaw the prospect of the event and the benefit;
- (2) The *firm's* advice included a statement recommending the particular policy because of the possibility of the benefit in question; and
- (3) The statement was a material factor in the context of the advice and the decision to invest.

App 1.5.20 **G**  
FCA

If a *firm* considers that it can meet this requirement, the *firm* should by letter explain clearly to the complainant the reasons why it proposes that the benefit should not be treated as a windfall and should be taken into account. The *firm* should provide the complainant with copies of the relevant documents.

App 1.5.21 **G**  
FCA

The letter should also explain how the proposed value of the benefit has been calculated and should inform the complainant that if he does not accept the proposal to take the benefit into account he may tell the *firm*, with reasons. The letter should also say that, if he remains dissatisfied with the *firm's* response, he may refer the matter to the *Financial Ombudsman Service*.

## 1.6 Valuing Relevant Benefits

App 1.6.1 **G**  
FCA

If, exceptionally under the *guidance* at ■ DISP App 1.5.13 G to ■ DISP App 1.5.21 G, cash or *shares* derived from a corporate event are to be taken into account when assessing loss and redress, cash should be valued at the amount actually received and *shares* should be valued at their issue price. In both cases there should be no addition for interest.

App 1.6.2 **G**  
FCA

When valuing windfall augmentation benefits for the purposes of calculating loss and redress the objective is to exclude all changes arising from the windfall event. The amount of redress payable will then be equal to the amount that would have been payable if the windfall event had never occurred.

App 1.6.3 **G**  
FCA

A *product provider* should ensure that the method it adopts for valuing augmentation benefits is consistent with the statements made in the documentation published about the windfall event. Relevant documentation for the purpose of valuing such benefits will include (but is not limited to):

- (1) Any description of increases in benefits in any circular to *policyholders* (and any other public information relating to the event);
- (2) Any principles of financial management established for the management of the fund after the event;
- (3) statements in any report produced by an *actuary* appointed under ■ SUP 4 (Actuaries) for the event;

- (4) statements in any independent *actuary* report produced for the event; and
- (5) subsequent statements relating to bonus practice, calculation *surrender values*, or both.

**App 1.6.4** **G**  
**FCA** The method of valuation adopted should treat the complainant fairly overall.

**App 1.6.5** **G**  
**FCA** Where an accurate calculation of the value of an augmentation benefit either cannot be made, or would result in disproportionate expense or delay, *product providers* may adopt a simplified approach or a proxy method for calculating its value.

**App 1.6.6** **G**  
**FCA** A simplified approach should treat the complainants fairly overall.

**App 1.6.7** **G**  
**FCA** An *actuary*, appointed by a *product provider* under ■ SUP 4 (Actuaries) should certify that the method adopted by the *product provider* for calculating the value of an augmentation benefit is in accordance with the *guidance* in ■ DISP App 1.6.1 G to ■ DISP App 1.6.6 G.

### Implementation

**App 1.6.8** **G**  
**FCA** The principles set out above (in ■ DISP App 1.6.1 G to ■ DISP App 1.6.7 G) should be applied directly to mortgage endowment complaints where the capital loss is calculated by comparing the *surrender value* of the endowment *policy* with the capital which would have been repaid using a repayment mortgage.

**App 1.6.9** **G**  
**FCA** In most cases where there is a loss, the endowment *policy* will be surrendered and put towards the cost of setting up a suitable repayment mortgage. Where this is the case, that part of the *surrender value* relating to the windfall augmentation should be paid as a cash lump sum to the investor or to the investor's order as part of the redress package. Only that part of the *surrender value* which does not relate to the windfall augmentation should be put towards the cost of setting up a suitable repayment mortgage.

**App 1.6.10** **G**  
**FCA** There may be some circumstances in which the *policy* will not be surrendered (see ■ DISP App 1.2.15 G). In these cases, there is no requirement to pay the value of the windfall augmentation as a cash lump sum since the value of the augmentation will become payable when the *policy* matures. However, any fund value used in the calculation of redress payable should exclude the value of the windfall augmentation.

**App 1.6.11** **G**  
**FCA** *Firms* are entitled to mitigate losses by making use of the Traded Endowment Policy (TEP) market (see ■ DISP App 1.3.8 G to ■ DISP App 1.3.10 G). This allows *firms* to *sell* policies on the TEP market to meet the costs of redress, rather than using the *surrender value*. Where this method is adopted, *firms* should pay to the investor, as part of the redress package, a cash lump sum representing that proportion of the *policy* realised which would have related to the windfall augmentation.

**App 1.6.12** **G**  
**FCA** As this windfall amount should be excluded from the fund value used in the calculation of loss and redress it would also be appropriate for this extra payment to be ignored when assessing whether, "the net amount realised by the sale of the *policy* on the traded endowment market exceeds the total redress due to the complainant..." (■ DISP App 1.3.10 G).

App 1.6.13 **G****FCA**

There may be circumstances in which a *policy* needs to be reconstructed (see ■ DISP App 1.4). In carrying out the required reconstruction, the windfall augmentation should be ignored in both the existing and the revised *policy*. However, the *policyholder's* revised *policy* should be credited with any windfall augmentation which would have applied if the *policy* had been set up with the revised terms from the original date of advice. This enhancement can be taken into account in assessing a suitable level for future premiums, in line with ■ DISP App 1.4.8 G.

App 1.6.14 **G****FCA**

■ DISP App 1.5.10 G provides *firms* with the opinion of underpinning benefits. *Firms* should satisfy the FCA that their proposals provide complainants with a level of redress that is at least commensurate with the standard approaches and, to ensure consistency, windfall augmentations should be excluded when considering whether an underpin will apply. The FCA will take this into account when considering proposals put forward by *firms*.

App 1.6.15 **G****FCA**

*Product providers* with windfall benefits in the form of *policy* augmentations should tell:

- (1) their own relevant *customers* (mortgage endowment complainants); and
- (2) other *firms* with such *customers* (and any other interested parties);

that they have excluded windfall augmentation benefits from values used or to be used for loss and redress. *Firms* should provide this information to the *Financial Services Compensation Scheme* when providing them with a value to be used for loss or redress. Should their own relevant *customers*, other *firms* with such *customers* (and any other interested parties) and the *Financial Services Compensation Scheme* request it, the *firm* should provide the value of these benefits and a description of the method used to exclude them.

1.7 [Deleted]

1.8 [Deleted]

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# Appendix 2 [Deleted]

2.1 Introduction [Deleted]

2.2 [Deleted]

2.3 [Deleted]

2.4 [Deleted]

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2.6 [Deleted]



# Appendix 3

## Handling Payment Protection Insurance complaints

### 3.1 Introduction

#### App 3.1.1 G FCA

- (1) This appendix sets out how a *firm* should handle *complaints* relating to the sale of a *payment protection contract* by the *firm* which express dissatisfaction about the sale, or matters related to the sale, including where there is a rejection of claims on the grounds of ineligibility or exclusion (but not matters unrelated to the sale, such as delays in claims handling).
- (2) It relates to the sale of any *payment protection contract* whenever the sale took place and irrespective of whether it was on an advised or non-advised basis; conducted through any sales channel; in connection with any type of loan or credit product, or none; and for a regular premium or single premium payment. It applies whether the *policy* is currently in force, was cancelled during the *policy* term or ran its full term.

#### App 3.1.2 G FCA

The aspects of *complaint* handling dealt with in this appendix are how the *firm* should:

- (1) assess a *complaint* in order to establish whether the *firm's* conduct of the sale failed to comply with the *rules*, or was otherwise in breach of the duty of care or any other requirement of the general law (taking into account relevant materials published by the *FCA*, other relevant regulators, the *Financial Ombudsman Service* and *former schemes*). In this appendix this is referred to as a "breach or failing" by the *firm*;
- (2) determine the way the complainant would have acted if a breach or failing by the *firm* had not occurred; and
- (3) determine appropriate redress (if any) to offer to a complainant.

PAGE  
1

#### App 3.1.3 G FCA

Where the *firm* determines that there was a breach or failing, the *firm* should consider whether the complainant would have bought the *payment protection contract* in the absence of that breach or failing. This appendix establishes presumptions for the *firm* to apply about how the complainant would have acted if there had instead been no breach or failing by the *firm*. The presumptions are:

- (1) for some breaches or failings (see ■ DISP App 3.6.2 E), the *firm* should presume that the complainant would not have bought the *payment protection contract* he bought; and
- (2) for certain of those breaches or failings (see ■ DISP App 3.7.7 E), where the complainant bought a single premium *payment protection contract*, the *firm* may presume that the complainant would have bought a regular premium *payment protection contract* instead of the *payment protection contract* he bought.

**App 3.1.4** G  
FCA

There may also be instances where a *firm* concludes after investigation that, notwithstanding breaches or failings by the *firm*, the complainant would nevertheless still have proceeded to buy the *payment protection contract* he bought.

**App 3.1.5** G  
FCA

In this appendix:

- (1) "historic interest" means the interest the complainant paid to the *firm* because a single premium *payment protection contract* was added to a loan or credit product;
- (2) "simple interest" means a non-compound rate of 8% per annum; and
- (3) "claim" means a claim by a complainant seeking to rely upon the *policy* under the *payment protection contract* that is the subject of the *complaint*.

## 3.2 The assessment of a complaint

**App 3.2.1** G  
FCA

The *firm* should consider, in the light of all the information provided by the complainant and otherwise already held by or available to the *firm*, whether there was a breach or failing by the *firm*.

**App 3.2.2** G  
FCA

The *firm* should seek to establish the true substance of the *complaint*, rather than taking a narrow interpretation of the issues raised, and should not focus solely on the specific expression of the *complaint*. This is likely to require an approach to *complaint* handling that seeks to clarify the nature of the *complaint*.

**App 3.2.3** G  
FCA

A *firm* may need to contact a complainant directly to understand fully the issues raised, even where the *firm* received the *complaint* from a third party acting on the complainant's behalf. The *firm* should not use this contact to delay the assessment of the *complaint*.

**App 3.2.4** G  
FCA

Where a *complaint* raises (expressly or otherwise) issues that may relate to the original sale or a subsequently rejected claim then, irrespective of the main focus of the *complaint*, the *firm* should pro-actively consider whether the issues relate to both the sale and the claim, and assess the *complaint* and determine redress accordingly.

**App 3.2.5** G  
FCA

If, during the assessment of the *complaint*, the *firm* uncovers evidence of a breach or failing not raised in the *complaint*, the *firm* should consider those other aspects as if they were part of the *complaint*.

**App 3.2.6** **G**  
**FCA** The *firm* should take into account any information it already holds about the sale and consider other issues that may be relevant to the sale identified by the *firm* through other means, for example, the root cause analysis described in ■ DISP App 3.4.

**App 3.2.7** **G**  
**FCA** The *firm* should consider all of its sales of *payment protection contracts* to the complainant in respect of re-financed loans that were rolled up into the loan covered by the *payment protection contract* that is the subject of the *complaint*. The *firm* should consider the cumulative financial impact on the complainant of any previous breaches or failings in those sales.

### 3.3 The approach to considering evidence

**App 3.3.1** **G**  
**FCA** Where a *complaint* is made, the *firm* should assess the *complaint* fairly, giving appropriate weight and balanced consideration to all available evidence, including what the complainant says and other information about the sale that the *firm* identifies. The *firm* is not expected automatically to assume that there has been a breach or failing.

**App 3.3.2** **G**  
**FCA** The *firm* should not rely solely on the detail within the wording of a *policy's* terms and conditions to reject what a complainant recalls was said during the sale.

**App 3.3.3** **G**  
**FCA** The *firm* should recognise that oral evidence may be sufficient evidence and not dismiss evidence from the complainant solely because it is not supported by documentary proof. The *firm* should take account of a complainant's limited ability fully to articulate his *complaint* or to explain his actions or decisions made at the time of the sale.

**App 3.3.4** **G**  
**FCA** Where the complainant's account of events conflicts with the *firm's* own records or leaves doubt, the *firm* should assess the reliability of the complainant's account fairly and in good faith. The *firm* should make all reasonable efforts (including by contact with the complainant where necessary) to clarify ambiguous issues or conflicts of evidence before making any finding against the complainant.

**App 3.3.5** **G**  
**FCA** The *firm* should not reject a complainant's account of events solely on the basis that the complainant signed documentation relevant to the purchase of the *policy*.

**App 3.3.6** **G**  
**FCA** The *firm* should not reject a *complaint* because the complainant failed to exercise the right to cancel the *policy*.

**App 3.3.7** **G**  
**FCA** The *firm* should not consider that a successful claim by the complainant is, in itself, sufficient evidence that the complainant had a need for the *policy* or had understood its terms or would have bought it regardless of any breach or failing by the *firm*.

**App 3.3.8** **G**  
**FCA** The *firm* should not draw a negative inference from a complainant not having kept documentation relating to the purchase of the *policy* for any particular period of time.

**App 3.3.9** **G**  
**FCA**

In determining a particular *complaint*, the *firm* should (unless there are reasons not to because of the quality and plausibility of the respective evidence) give more weight to any specific evidence of what happened during the sale (including any relevant documentation and oral testimony) than to general evidence of selling practices at the time (such as training, instructions or sales scripts or relevant audit or compliance reports on those practices).

**App 3.3.10** **G**  
**FCA**

The *firm* should not assume that because it was not authorised to give advice (or because it intended to sell without making a recommendation) it did not in fact give advice in a particular sale. The *firm* should consider the available evidence and assess whether or not it gave advice or made a recommendation (explicitly or implicitly) to the complainant.

**App 3.3.11** **G**  
**FCA**

The *firm* should consider in all situations whether it communicated information to the complainant in a way that was fair, clear and not misleading and with due regard to the complainant's information needs.

**App 3.3.12** **G**  
**FCA**

In considering the information communicated to the complainant and the complainant's information needs, the evidence to which a *firm* should have regard includes:

- (1) the complainant's individual circumstances at the time of the sale (for example, the *firm* should take into account any evidence of limited financial capability or understanding on the part of the complainant);
- (2) the complainant's objectives and intentions at the time of the sale;
- (3) whether, from a reasonable *customer's* perspective, the documentation provided to the complainant was sufficiently clear, concise and presented fairly (for example, was the documentation in plain and intelligible language?);
- (4) in a sale that was primarily conducted orally, whether sufficient information was communicated during the sale discussion for the *customer* to make an informed decision (for example, did the *firm* give an oral explanation of the main characteristics of the *policy* or specifically draw the complainant's attention to that information on a computer screen or in a document and give the complainant time to read and consider it?);
- (5) any evidence about the tone and pace of oral communication (for example, was documentation read out too quickly for the complainant to have understood it?); and
- (6) any extra explanation or information given by the *firm* in response to questions raised (or information disclosed) by the complainant.

**App 3.3.13** **G**  
**FCA**

The *firm* should not reject a *complaint* solely because the complainant had held a *payment protection contract* previously.

## 3.4 Root cause analysis

### App 3.4.1 **G**

**FCA**

■ DISP 1.3.3 R requires the *firm* to put in place appropriate management controls and take reasonable steps to ensure that in handling *complaints* it identifies and remedies any recurring or systemic problems. If a *firm* receives *complaints* about its sales of *payment protection contracts* it should analyse the root causes of those *complaints* including, but not limited to, the consideration of:

- (1) the concerns raised by complainants (both at the time of the sale and subsequently);
- (2) the reasons for both rejected claims and *complaints*;
- (3) the *firm's* stated sales practice(s) at the relevant time(s);
- (4) evidence available to the *firm* about the actual sales practice(s) at the relevant time(s) (this might include recollections of staff and complainants, compliance records, and other material produced at the time about specific transactions, for example call recordings and incentives given to *advisers*);
- (5) relevant regulatory findings; and
- (6) relevant decisions by the *Financial Ombudsman Service*.

### App 3.4.2 **G**

**FCA**

Where consideration of the root causes of *complaints* suggests recurring or systemic problems in the *firm's* sales practices for *payment protection contracts*, the *firm* should, in assessing an individual *complaint*, consider whether the problems were likely to have contributed to a breach or failing in the individual case, even if those problems were not referred to specifically by the complainant.

### App 3.4.3 **G**

**FCA**

Where a *firm* identifies (from its *complaints* or otherwise) recurring or systemic problems in its sales practices for a particular type of *payment protection contract*, either for its sales in general or for those from a particular location or sales channel, it should (in accordance with *Principle 6* (Customers' interests) and to the extent that it applies), consider whether it ought to act with regard to the position of *customers* who may have suffered detriment from, or been potentially disadvantaged by such problems but who have not complained and, if so, take appropriate and proportionate measures to ensure that those *customers* are given appropriate redress or a proper opportunity to obtain it. In particular, the *firm* should:

- (1) ascertain the scope and severity of the consumer detriment that might have arisen; and
- (2) consider whether it is fair and reasonable for the *firm* to undertake proactively a redress or remediation exercise, which may include contacting *customers* who have not complained.

## 3.5 Re-assessing rejected claims

### App 3.5.1 FCA

Where a *complaint* is about the sale of a *policy*, the *firm* should, as part of its investigation of the *complaint*, determine whether any claim on that *policy* was rejected, and if so, whether the complainant may have reasonably expected that the claim would have been paid.

### App 3.5.2 FCA

For example, the complainant may have reasonably expected that the claim would have been paid where the *firm* failed to disclose appropriately an exclusion or limitation later relied on by the *insurer* to reject the claim and it should have been clear to the *firm* that that exclusion or limitation was relevant to the complainant.

## 3.6 Determining the effect of a breach or failing

### App 3.6.1 FCA

Where the *firm* determines that there was a breach or failing, the *firm* should consider whether the complainant would have bought the *payment protection contract* in the absence of that breach or failing.

### App 3.6.2 FCA

In the absence of evidence to the contrary, the *firm* should presume that the complainant would not have bought the *payment protection contract* he bought if the sale was substantially flawed, for example where the *firm*:

- (1) pressured the complainant into purchasing the *payment protection contract*; or
- (2) did not disclose to the complainant, in good time before the sale was concluded, and in a way that was fair, clear and not misleading, that the *policy* was optional; or
- (3) made the sale without the complainant's explicit agreement to purchase the *policy*; or
- (4) did not disclose to the complainant, in good time before the sale was concluded, and in a way that was fair, clear and not misleading, the significant exclusions and limitations, i.e. those that would tend to affect the decisions of *customers* generally to buy the *policy*; or
- (5) did not, for an advised sale (including where the *firm* gave advice in a non-advised sales process) take reasonable care to ensure that the *policy* was suitable for the complainant's demands and needs taking into account all relevant factors, including level of cover, cost, and relevant exclusions, excesses, limitations and conditions; or

- (6) did not take reasonable steps to ensure the complainant only bought a *policy* for which he was eligible to claim benefits; or
- (7) found, while arranging the *policy*, that parts of the cover did not apply but did not disclose this to the *customer*, in good time before the sale was concluded, and in a way that was fair, clear and not misleading; or
- (8) did not disclose to the complainant, in good time before the sale was concluded, and in a way that was fair, clear and not misleading, the total (not just monthly) cost of the *policy* separately from any other prices (or the basis for calculating it so that the complainant could verify it); or
- (9) recommended a single premium *payment protection contract* without taking reasonable steps, where the *policy* did not have a pro-rata refund, to establish whether there was a prospect that the complainant would repay or refinance the loan before the end of the term; or
- (10) provided misleading or inaccurate information about the *policy* to the complainant; or
- (11) sold the complainant a *policy* where the total cost of the *policy* (including any interest paid on the premium) would exceed the benefits payable under the *policy* (other than benefits payable under life cover); or
- (12) in a sale of a single premium *payment protection contract*, failed to disclose to the complainant, in good time before the sale was concluded, and in a way that was fair, clear and not misleading:
  - (a) that the premium would be added to the amount provided under the credit agreement, that interest would be payable on the premium and the amount of that interest; or
  - (b) (if applicable) that the term of the cover was shorter than the term of the credit agreement and the consequences of that mismatch; or
  - (c) (if applicable) that the complainant would not receive a pro-rata refund if the complainant were to repay or refinance the loan or otherwise cancel the single premium *policy* after the cooling-off period.

**App 3.6.3** ▲

FCA

Relevant evidence might include the complainant's demands, needs and intentions at the time of the sale and any other relevant evidence, including any testimony by the complainant about his reasons at the time of the sale for purchasing the *payment protection contract*.

## 3.7 Approach to redress

### General approach to redress: all contract types

#### App 3.7.1

FCA

Where the *firm* concludes in accordance with ■ DISP App 3.6 that the complainant would still have bought the *payment protection contract* he bought, no redress will be due to the complainant in respect of the identified breach or failing, subject to ■ DISP App 3.7.6 E.

#### App 3.7.2

FCA

Where the *firm* concludes that the complainant would not have bought the *payment protection contract* he bought, and the *firm* is not using the alternative approach to redress (set out in ■ DISP App 3.7.7 E to ■ 3.7.15 E) or other appropriate redress (see ■ DISP App 3.8), the *firm* should, as far as practicable, put the complainant in the position he would have been if he had not bought any *payment protection contract*.

#### App 3.7.3

FCA

In such cases the *firm* should pay to the complainant a sum equal to the total amount paid by the complainant in respect of the *payment protection contract* including historic interest where relevant (plus simple interest on that amount). If the complainant has received any rebate, for example if the *customer* cancelled a single premium *payment protection contract* before it ran full term and received a refund, the *firm* may deduct the value of this rebate from the amount otherwise payable to the complainant.

#### App 3.7.4

FCA

Additionally, where a single premium was added to a loan:

(1) for live *policies*:

- (a) subject to ■ DISP App 3.7.5 E, where there remains an outstanding loan balance, the *firm* should, where possible, arrange for the loan to be restructured (without charge to the complainant but using any applicable cancellation value) with the effect of:
  - (i) removing amounts relating to the *payment protection contract* (including any interest and charges); and
  - (ii) ensuring the number and amounts of any future repayments (including any interest and charges) are the same as would have applied if the complainant had taken the loan without the *payment protection contract*; or
- (b) where the *firm* is not able to arrange for the loan to be restructured (e.g. because the loan is provided by a separate *firm*), it should pay the complainant an amount equal to the difference between the actual loan balance and what the loan balance would have been if the *payment protection contract* (including any interest and charges) had not been added, deducting the current cancellation value. The

*firm* should offer to pay any charges incurred if the complainant uses this amount to reduce his loan balance; and

- (2) for cancelled *policies*, the *firm* should pay the complainant the difference between the actual loan balance at the point of cancellation and what the loan balance would have been if no premium had been added (plus simple interest) minus any applicable cancellation value.

**App 3.7.5**   
**FCA**

Where a claim was previously paid on the *policy*, the *firm* may deduct this from redress paid in accordance with ■ DISP App 3.7.3 E. If the claim is higher than the amount to be paid under ■ DISP App 3.7.3 E then the *firm* may also deduct the excess from the amount to be paid under ■ DISP App 3.7.4 E.

**App 3.7.6**   
**FCA**

Where the *firm* concludes that the complainant may have reasonably expected that a rejected claim would have been paid (see ■ DISP App 3.5) then:

- (1) if the value of the claim exceeds the amount of the redress otherwise payable to the complainant for a breach or failing identified in accordance with this appendix, the *firm* should pay to the complainant only the value of the claim (and simple interest on it as appropriate); and
- (2) if the value of the claim is less than the amount of the redress otherwise payable to the complainant for a breach or failing identified in accordance with this appendix, the *firm* should pay to the complainant the value of that redress.

**Alternative approach to redress: single premium policies**.....

**App 3.7.7**   
**FCA**

Where the only breach or failing was within ■ DISP App 3.6.2 E (9) and/or ■ DISP App 3.6.2 E (12), and in the absence of evidence to the contrary, the *firm* may presume that instead of buying the single premium *payment protection contract* he bought, the complainant would have bought a regular premium *payment protection contract*.

**App 3.7.8**   
**FCA**

If a *firm* chooses to make this presumption, then it should do so fairly and for all relevant complainants in a relevant category of sale. It should not, for example, only use the approach for those complainants it views as being a lower underwriting risk or those complainants who have cancelled their *policies*.

**App 3.7.9**   
**FCA**

Where the *firm* presumes that the complainant would have purchased a regular premium *payment protection contract*, the *firm* should offer redress that puts the complainant in the position he would have been if he had bought an alternative regular premium *payment protection contract*.

**App 3.7.10**   
**FCA**

The *firm* should pay to the complainant a sum equal to the amount in ■ DISP App 3.7.3 E less the amount the complainant would have paid for the alternative regular premium *payment protection contract*.

App 3.7.11   
FCA

The *firm* should consider whether it is appropriate to deduct the value of any paid claims from the redress.

App 3.7.12   
FCA

Additionally, where a single premium was added to a loan, ■ DISP App 3.7.4 E applies except that in respect of ■ DISP App 3.7.4 E (1)(a) the cancellation value should only be used if the complainant expressly wishes to cancel the *policy*.

App 3.7.13   
FCA

The *firm* should, for the purposes of redressing the *complaint*, use the value of £9 per £100 of benefits payable as the monthly price of the alternative regular premium *payment protection contract*. For example, if the monthly repayment amount in relation to the loan only is to be £200, the price of the alternative regular premium *payment protection contract* will be £18.

App 3.7.14   
FCA

Where the *firm* presumes that the complainant would have purchased a regular premium *payment protection contract* and if the complainant expressly wishes it, the existing cover should continue until the end of the existing *policy* term. The complainant should pay the price of the alternative regular premium *payment protection contract* (at ■ DISP App 3.7.13 E) and should be able to cancel at any time. This pricing does not apply where ■ DISP App 3.7.4 E (1)(b) applies.

App 3.7.15   
FCA

So that the complainant can make the decision on the continuation of cover from an informed position, the *firm* should:

- (1) offer to provide details of the existing *payment protection contract*;
- (2) inform the complainant that he may be able to find similar cover more cheaply from another provider in the event that he chooses to cancel the *policy* and take an alternative but remind the complainant that if his circumstances (for example, his health or employment prospects) have changed since the original sale, he may not be eligible for cover under any new *policy* he buys;
- (3) make the complainant aware of the changes to the cancellation arrangements if cover continues;
- (4) explain how the future premium will be collected and the cost of the future cover; and
- (5) refer the complainant to [www.moneyadvice.service.org.uk](http://www.moneyadvice.service.org.uk) as a source of information about a range of alternative *payment protection contracts*.

### 3.8 Other appropriate redress

App 3.8.1   
FCA

The remedies in ■ DISP App 3.7 are not exhaustive.

**App 3.8.2** ▲  
**FCA** When applying a remedy other than those set out in ■ DISP App 3.7, the *firm* should satisfy itself that the remedy is appropriate to the matter complained of and is appropriate and fair in the individual circumstances.

### 3.9 Other matters concerning redress

**App 3.9.1** G  
**FCA** Where the complainant's loan or credit card is in arrears the *firm* may, if it has the contractual right to do so, make a payment to reduce the associated loan or credit card balance, if the complainant accepts the *firm's* offer of redress. The *firm* should act fairly and reasonably in deciding whether to make such a payment.

**App 3.9.2** G  
**FCA** In assessing redress, the *firm* should consider whether there are any other further losses that flow from its breach or failing that were reasonably foreseeable as a consequence of the *firm's* breach or failing, for example, where the *payment protection contract's* cost or rejected claims contributed to affordability issues for the associated loan or credit which led to arrears charges, default interest, penal interest rates or other penalties levied by the lender.

**App 3.9.3** G  
**FCA** Where, for single premium *policies*, there were previous breaches or failings (see ■ DISP App 3.2.7 G) the redress to the complainant should address the cumulative financial impact.

**App 3.9.4** G  
**FCA** The *firm* should make any offer of redress to the complainant in a fair and balanced way. In particular, the *firm* should explain clearly to the complainant the basis for the redress offered including how any compensation is calculated and, where relevant, the rescheduling of the loan, and the consequences of accepting the offer of redress.

### 3.10 Application: evidential provisions

**App 3.10.1** ▲  
**FCA** The *evidential provisions* in this appendix apply in relation to *complaints* about sales that took place on or after 14 January 2005.

**App 3.10.2** G  
**FCA** For *complaints* about sales that took place prior to 14 January 2005, a *firm* should take account of the *evidential provisions* in this appendix as if they were *guidance*.

**App 3.10.3** ▲  
**FCA** Contravention of an *evidential provision* in this appendix may be relied upon as tending to establish contravention of ■ DISP 1.4.1 R.



## Dispute Resolution: Complaints

### DISP TP 1 Transitional provisions

FCA

#### 1 Transitional Provisions table

(1)	(2) Material provision to which transitional provision applies	(3)	(4) Transitional provision	(5) Transitional provision: dates in force	(6) Hand book provision: coming into force
1	DISP1.2.15G	R	Expired		
1A	DISP 1	R	A <i>complaint</i> received by a <i>respondent</i> on or before 31 October 2007 should be handled, resolved, recorded and reported in accordance with the requirements of <i>DISP</i> as they stood at the date the <i>complaint</i> was received.	From 1 November 2007	1 November 2007
1B	DISP 2.7.9R	R	In relation to a <i>complaint</i> concerning an act or omission before 1 November 2007, in DISP 2.7.9R (2) substitute "an <i>intermediate customer</i> or <i>market counterparty</i> " for "(a) a <i>professional client</i> or (b) <i>eligible counterparty</i> ".	From 1 November 2007	1 November 2007
2	DISP 1.5.4R - DISP 1.5.7R	R	Expired		
3	DISP 1.5.4R - DISP 1.5.7R	G	Expired		
6	DISP 2, DISP 3 and FEES 5	R	In DISP 2, DISP 3 and FEES 5 references to a " <i>firm</i> " or " <i>firms</i> " include <i>unauthorised persons</i> subject to the <i>Compulsory Jurisdiction</i> in relation to <i>relevant complaints</i> in accordance with the <i>Ombudsman Transitional Order</i> .	From commencement	<i>Commencement</i>

(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
7	DISP 2, DISP 3 and FEES 5	G	Under the <i>Ombudsman Transitional Order</i> , a <i>relevant complaint</i> is subject to the <i>Compulsory Jurisdiction</i> whether or not it is about a <i>firm</i> or an <i>unauthorised person</i> . <i>Unauthorised persons</i> are not subject to DISP 1, but references to " <i>firm</i> " in DISP 2, DISP 3 and FEES 5 include <i>unauthorised persons</i> subject to the <i>Compulsory Jurisdiction</i> in relation to <i>relevant complaints</i> , where applicable.	From commencement	Commencement
7A	DISP 2.8.7 R	R	Nothing in DISP 2.8.7 R affects the position of a <i>complaint</i> which, on 31 May 2004, could not have been considered by the <i>Ombudsman</i> under DISP 2.8.2 R (2); or DISP 2.8.7R (1)(b) as it then stood (as DISP 2.3.6 R (1)(b)).	From 1 June 2004	Amended with effect from 1 June 2004
7B	DISP 2.8.7 R	R	In the case of a complainant falling within DISP 2.8.7 R, (and whose time for referring a <i>complaint</i> under the <i>rules</i> as they stood before 1 June 2004 has not expired), time will expire in accordance with DISP 2.8.7 R save that if the final date would otherwise be before 30 November 2004 an explanation of the final date will be in conformity with DISP 2.8.7R (2), provided it stipulates a final date which is not less than two months from the date on which the explanation is likely to be received by the complainant.	From 1 June 2004	Amended with effect from 1 June 2004
8	DISP 1 DISP 2 DISP 3 DISP 4 and FEES 5	R	In relation to <i>relevant complaints</i> , references in DISP 1, DISP 2, DISP 3, DISP 4 and FEES 5 to an " <i>eligible complainant</i> " include a person who is to be treated as an <i>eligible complainant</i> in accordance with the <i>Ombudsman Transitional Order</i> and references to a <i>complaint</i> shall be construed accordingly.	From commencement	Commencement
9	DISP 5.5.1 R	R	Expired		
10	DISP 1.10.1 R and DISP 1.10.2 R	R	Expired		

(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
11	DISP1.10.1R and DISP1.10.2R	R	Expired		
12	DISP1.10.1R and DISP1.10.2R	R	Expired		
13	DISP 1	R	Deleted		
14		G	Expired		
15	FEES 5.4.1R	R	Expired		
16	FEES 5.4.1R	G	Expired		
17	DISP 1.3.12R - DISP 1.3.17R	R	Deleted		
18	DISP1.10.1R and DISP1.10.2R, DISP1.10.4R and DISP1.Amex1R	R	Expired		
19	DISP1.10.1CR and DISP1.10.1DG	R	Expired		
20	DISP 1.6.4R	R	Expired		

(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
21	DISP2.7.3R	R	<p>A <i>person</i> is also an <i>eligible complainant</i> if:</p> <p>(a) it is a business with a group annual turnover of less than £1 million at the time it refers the <i>complaint</i> to the <i>respondent</i>;</p> <p>(b) the <i>complaint</i> relates to a contract or <i>policy</i> entered into by or for the benefit of the complainant before 1 November 2009; and</p> <p>(c) if the <i>complaint</i> had been made immediately before 1 November 2009 the <i>respondent</i> was subject to, or participated in, the <i>Ombudsman's</i> jurisdiction in respect of the activity to which the <i>complaint</i> relates.</p>	From 1 November 2009	1 November 2009
22	DISP2.7.3R	G	<p>Transitional provision 21R applies together with the other <i>eligibility rules</i> in DISP 2.7. So, for example, a <i>person</i> who is an <i>eligible complainant</i> under the transitional provision, will not be an <i>eligible complainant</i> if the <i>complaint</i> does not arise from matters relevant to one of the relationships set out in DISP 2.7.6 R.</p>	From 1 November 2009	1 November 2009
23	DISP1.10A.1R	R	[deleted]		
24	DISP1.10A.1R	R	[deleted]		
25	DISP1.11.6AR	R	[deleted]		
26	DISP2.8.2R	R	[deleted]		
27	DISP1.10.5R	R	[deleted]		
27A	Amendments to <i>DISP</i> made in the Consumer Redress Schemes		<p>The amendments do not apply in relation to any <i>consumer redress scheme</i> imposed before the instrument came into force on a particular <i>firm</i>, or on a particular <i>payment service provider</i> or <i>electronic money issuer</i>, as envisaged by section 404F(7) of the <i>Act</i>.</p>	From 1 August 2011 indefinitely	1 August 2011

(1)	(2) Material provision to which transitional provision applies	(3)	(4) Transitional provision	(5) Transitional provision: dates in force	(6) Hand-book provision: coming into force
	Instrument 2011				
28	DISP 3.7.4 R	R	For a <i>complaint</i> referred to the <i>Financial Ombudsman Service</i> before 1 January 2012 the maximum money award which the <i>Ombudsman</i> may make is £100,000.	From 1 January 2012	1 January 2012
28A	The amendments to <a href="#">DISP 2.7.6 R (12)</a> effected by the Dispute Resolution: Complaints (Amendment No 4) Instrument 2011	R	The amendments referred to in column (2) do not affect who is an <i>eligible complainant</i> for the purpose of <a href="#">DISP 2.7.6 R (12)(a)</a> in respect of complaints that relate to acts or omissions that occurred before 1 January 2012.	From 1 January 2012	1 January 2012
29	DISP 1.10.2 R and <a href="#">DISP 1 Annex 1 R</a>	R	Where a <i>firm</i> reports information on any <i>complaints</i> closed under a two-stage procedure before 1 July 2012, the <i>rules</i> and <i>guidance</i> in <a href="#">DISP 1.6.6 R</a> , <a href="#">DISP 1.10.3 G (2)</a> , <a href="#">DISP 1.10.7 R (3)</a> , and <a href="#">DISP 1.10.8 G</a> and <a href="#">DISP 1 Annex 1 R</a> apply as they stood on 30 June 2012.	1 July 2012 to 31 December 2012	1 August 2009
30	DISP 1.10.2A R	R	Where a <i>firm</i> , which has a reporting period ending on or before 30 June 2013 submits its report to the <i>FCA</i> in accordance with the <i>complaints reporting rule</i> at <a href="#">DISP 1.10.2A R</a> the number of <i>complaints</i> must be calculated for the period from the 31 December 2012 to the end of the <i>firm's</i> relevant reporting period.	31 December 2012 to 30 June 2013.	31 December 2012

(1)	(2) Material provision to which transitional provision applies	(3)	(4) Transitional provision	(5) Transitional provision: dates in force	(6) Hand book provision: coming into force
31	DISP1.106AR	R	<p>(1) A <i>firm</i> is not liable to pay the administrative fee in DISP 1.10.6A R in respect of a failure to submit a report in accordance with DISP 1.10.5 R for a relevant reporting period ending before 1 March 2012.</p> <p>(2) Relevant reporting period in (1) has the meaning in DISP 1.10.4 R.</p>	From 1 March 2012	1 March 2012

FCA

## 2 Table Fee tariffs for industry blocks [deleted]

FCA

## 3 [deleted]

FCA

## 4 Payment Services Regulations 2009 transitioning payment institutions

- 1 R This TP applies in relation to a *person* who falls within regulation 122(1) (Transitional provisions: requirement to be authorised as a payment institution) or regulation 123(1) (Transitional provisions: requirement to be registered as a small payment institution) of the *Payment Services Regulations* (a "transitioning payment institution").
- 2 R This TP applies from 1 November 2009 until 30 April 2011.
- 3 R DISP 1 (Treating complainants fairly) applies in relation to a transitioning payment institution as if the transitioning payment institution were a *payment institution*.
- 4 R The *Ombudsman* can consider a *complaint* that relates to an act or omission by a transitioning payment institution under the *Compulsory Jurisdiction* if:
  - (1) it could consider that *complaint* under the *Compulsory Jurisdiction* if it related to a *payment institution*; and
  - (2) (where the transitioning payment institution is a *licensee*) the complaint relates to an act or omission in providing *payment services*.
- 5 G The effect of this transitional provision is to:

- 
- (1) apply to transitioning payment institutions as though they were *payment institutions* the complaints-handling requirements in DISP 1.1 to DISP 1.8; and
- (2) to bring them within the scope of the *Compulsory Jurisdiction* to the same extent as *payment institutions*.
- 6 G *Complaints* relating to *payment services*, *consumer credit activities* or a combination of both can be considered under the *Compulsory Jurisdiction*. However, transitioning payment institutions that are *licensees* will remain subject to the *Consumer Credit Jurisdiction* for *complaints* that relate only to *consumer credit activities*.
- 7 R The rules and guidance in FEES 5.5.1R, 5.5.6 R, FEES 5.5.7 R, 5.5.15 R, 5.7.2 R, 5.9.1 R and 5.9.2 G shall apply to transitioning payment institutions and *persons* that cease to be transitioning institutions in the same way as they apply to *firms* and *firms* that cease to be authorised.



## Dispute Resolution: Complaints

### Schedule 1 Record keeping requirements

#### Sch 1.1 G

**FCA**

The aim of the *guidance* in the following table is to give the reader a quick overall view of the relevant record keeping requirements.

It is not a complete statement of those requirements and should not be relied on as if it were.

#### Sch 1.2 G

**FCA**

Handbook reference	Subject of record	Contents of record	When record must be made	Retention period
DISP 1.9.1 R	<i>Complaints</i> subject to DISP 1.3 - DISP 1.8 (other than DISP 1.5) .	Each <i>complaint</i> received and the measures taken for its resolution	On receipt	5 years for <i>complaints</i> relating to <i>MiFID business</i> or <i>collective portfolio management</i> services and 3 years for all other <i>complaints</i>



## Dispute Resolution: Complaints

### Schedule 2 Notification requirements

#### Sch 2.1 G

**FCA**

The aim of the *guidance* in the following table is to give the reader a quick overall view of the relevant requirements for notification and reporting.

It is not a complete statement of those requirements and should not be relied on as if it were.

#### Sch 2.1 G

**FCA**

Handbook reference	Matter to be notified	Contents of notification	Trigger event	Time allowed
DISP 1.1.12 R	<i>Firm</i> qualifies for exemption	Confirmation that a <i>firm</i> does not do business with <i>eligible complainants</i> and has no reasonable likelihood of doing so	Conditions in DISP 1.1.12 R apply	N/A
DISP 1.10.1 R	Complaints report	Details	- 6 months preceding the <i>accounting reference date</i>  - <i>accounting reference date</i>	30 <i>business days</i>
DISP 1.10.8 G	Single contact point	Details	At the time of authorisation or on subsequent change	Not specified
DISP 1.10A.4 R	Publication of <i>complaints</i> data summary	Email confirmation of publication, containing also a statement that the data summary accurately reflects the report submitted to the <i>FCA</i> and stating where the summary has been published	Upon publication of <i>complaints</i> data summary	Immediately
DISP 1.11.5 R (1)	<i>Member</i> of Lloyd's qualifies for exemption	Confirmation by the <i>Society</i> of Lloyd's that a specified <i>member</i> of Lloyd's does not do business with <i>eligible complainants</i> and	[As above]	N/A

Handbook reference	Matter to be notified	Contents of notification	Trigger event	Time allowed
DISP 1.11.5 R (2)	End of exemption for <i>member</i> of Lloyd's	Confirmation by the <i>Society</i> of Lloyd's that the condition in DISP 1.1.7 no longer apply to a specified <i>member</i> of Lloyd's	Conditions in DISP 1.1.7 no longer apply	Not specified
DISP 1.11.6 R	Complaints report by <i>Society</i> of Lloyd's	Details	- 30 September  - 31 March  each year	One <i>month</i>
DISP 1.11.6D R	Publication of <i>complaints</i> data summary	Email confirmation of publication, containing also a statement that the data summary accurately reflects the report submitted to the <i>FCA</i> and stating where the summary has been published	Upon publication of <i>complaints</i> data summary	Immediate-ly

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## Dispute Resolution: Complaints

### Schedule 3 Fees and other required payment

#### Sch 3.1 G

FCA

There are no requirements for fees or other payments in *DISP*.

#### Sch 3.2 G

[deleted]



## Dispute Resolution: Complaints

### Schedule 4 Powers Exercised

**Sch 4.1 G**

[deleted]

**Sch 4.2 G**

[deleted]

**Sch 4.3 G**

[deleted]

**Sch 4.4 G**

[deleted]

**Sch 4.5 G**

[deleted]



## Dispute Resolution: Complaints

### Schedule 5 Actions for damages for contravention under section 150 of the Act

#### Sch 5.1 G

**FCA**

- 1 The table below sets out the *rules* in *DISP* contravention of which by an *authorised person* may be actionable under section 138D of the *Act* (Actions for damages) by a *person* who suffers loss as a result of the contravention.
- 2 If a "Yes" appears in the column headed "For private person?", the *rule* may be actionable by a "*private person*" under section 138D (or, in certain circumstances, his fiduciary or representative; see article 6(2) and (3)(c) of the Financial Services and Markets Act 2000 (Rights of Action) Regulations 2001 (SI 2001 No 2256)). A "Yes" in the column headed "Removed" indicates that the *FCA* has removed the right of action under section 138D(3) of the *Act*. If so, a reference to the *rule* in which it is removed is also given.
- 3 The column headed "For other person?" indicates whether the *rule* may be actionable by a *person* other than a *private person* (or his fiduciary or representative) under article 6(2) and (3) of those Regulations. If so, an indication of the type of *person* by whom the *rule* may be actionable is given.

#### Sch 5.2 G

**FCA**

Chapter/Appendix	Section/Annex	Paragraph	Right of Action under s138D		
			For private person?	Removed?	For other person?
1 Complaints handling arrangements for <i>firms</i>	All rules apart from DISP 1.11.13 R and DISP 1.11.14 R	-	Yes	-	-
1	7	14 and 15	No	Yes - DISP 1.11.21 R	No
2 Jurisdiction rules	-	-	Yes	-	-
3 Complaints handling procedures of the <i>Financial Ombudsman Service</i>	-	-	Yes	-	-
4 The <i>standard terms</i>	-	-	N/A	-	-



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## Dispute Resolution: Complaints

### Schedule 6 Rules that can be waived

#### Sch 6.1 G

##### FCA

As a result of section 138A of the *Act* (Modification or waiver of rules) the *FCA* has power to waive all its *rules*, other than *rules* made under section 137O (Threshold condition code), section 247 (Trust scheme rules) or section 248 (Scheme particulars rules) of the *Act*. However, if the *rules* incorporate requirements laid down in European directives or European Regulations, it will not be possible for the *FCA* to grant a waiver that would be incompatible with the *United Kingdom's* responsibilities under those directives or Regulations.



# Consumer Redress Schemes sourcebook



## Chapter 2

# Arch cru Consumer Redress Scheme

**2.1 Application and subject matter of the scheme**

**Application to firms which made personal recommendations**

2.1.1  
FCA

R

- (1) The whole of this chapter applies to a *firm* which made a *personal recommendation* in relation to an Arch cru fund, after which a *consumer* made an investment in the Arch cru fund, and to which the suitability requirements (specified at paragraph 5.1R of the instructions in ■ CONRED 2 Annex 13 ) applied.
- (2) The Arch cru funds referred to in *CONRED* are any of the following sub-funds of the CF Arch cru Investment Funds and CF Arch cru Diversified Funds:
  - (a) CF Arch cru Investment Portfolio;
  - (b) CF Arch cru Specialist Portfolio;
  - (c) CF Arch cru Income Fund;
  - (d) CF Arch cru Balanced Fund;
  - (e) CF Arch cru Global Growth Fund; or
  - (f) CF Arch cru Finance Fund.

**Application to persons who have assumed a firm's liabilities**

2.1.2  
FCA

R

- (1) The whole of this chapter also applies to a *person* who has assumed a liability (including a contingent one) in respect of a failure by a *firm* to whom this chapter applies.
- (2) A *person* in (1) must either:
  - (a) perform such of the obligations as the *firm* is required to perform under this chapter; or
  - (b) ensure that those obligations are performed by the *firm*;

and must notify the *FCA*, by 29 April 2013, by email to ArchCruProject@fca.org.uk, as to whether that *person* or the *firm*, or both, will be performing those obligations.

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**Redress determination letter for scheme cases**

**FCA**

*Redress determination letter for scheme cases - CONRED 2 Annex 11 R*



## Consumer Redress Schemes sourcebook

### Schedule 4 Powers exercised

#### Sch 4.1 G

[deleted]

#### Sch 4.2 G

[deleted]



# Compensation



## Purpose

- 1.1.7** **FCA** **PRA** **G** The FSCS will only pay *claims* if a *firm* is unable or likely to be unable to meet *claims* against it because of its financial circumstances. If a *firm* is still trading and has sufficient financial resources to satisfy a *claim*, the *firm* will be expected to meet the *claim* itself. This can, for example, be an amount the *firm* agrees with the claimant, or the amount of an *Ombudsman* award from the *Financial Ombudsman Service*.
- 1.1.8** **FCA** **PRA** **G** ■ COMP 1 consists of *guidance* which is aimed at giving an overview of how this sourcebook works. The provisions of ■ COMP 2 to ■ COMP 17 cover who is eligible, the amount of compensation and how it might be paid, disclosure requirements for *firms* that *accept deposits* and systems and information requirements for *firms* that *accept deposits*.
- 1.1.9** **G** [deleted]
- 1.1.9A** **FCA** **G** This sourcebook is one of the means by which the FCA will meet its *statutory objectives* of securing an appropriate degree of protection for *consumers* and protecting and enhancing the integrity of the *UK financial system*.
- 1.1.9B** **PRA** **G** This sourcebook is one of the means by which the PRA will meet its *statutory objectives* of promoting the safety and soundness of *PRA-authorised persons* (by seeking to minimise the adverse effect that the failure of a *PRA-authorised person* could be expected to have on the stability of the *UK financial system*) and contributing to the securing of an appropriate degree of protection for those who are policyholders.
- 1.1.10** **G** [deleted]
- 1.1.10A** **FCA** **G** By making *rules* that allow the FSCS to provide compensation at a level appropriate for the protection of retail *consumers* and *small businesses*, the FCA enables *consumers* to participate in the financial markets with the confidence that they will be protected, at least in part, should the *relevant person* with whom they are dealing be unable to satisfy *claims* against it.
- 1.1.10B** **PRA** **G** By making *rules* that allow the FSCS to provide compensation at a level appropriate for the protection of retail *consumers* and *small businesses*, the PRA minimises the adverse effect that the failure of a *PRA-authorised person* could be expected to have on the stability of the *UK financial system* and enables *consumers* to participate in the financial markets with the confidence that they will be protected, at least in part, should the *relevant person* with whom they are dealing be unable to satisfy *claims* against it.

## 1.2 The FSCS

### 1.2.1

**FCA** **PRA**

**G**

While this sourcebook deals with the main powers and duties of the *FSCS*, it does not provide the complete picture. Other aspects of the operation of the *FSCS* are dealt with through the powers of the Financial Services Compensation Scheme Limited under company law (such as the power to borrow, to take on premises, etc.).

### 1.2.2

**G**

(1) [deleted]

(2) [deleted]

### 1.2.2A

**FCA**

**G**

- (1) In addition, the *Act* itself confers certain powers upon the *FSCS*, such as a power under section 219 of the *Act* (Scheme Manager's powers to require information) to require *persons* to provide information. These powers are not, therefore, covered by this sourcebook.
- (2) Of specific relevance to the way in which the *FSCS* fulfils its responsibilities is the relationship between the *FSCS* and the *FCA*. This is covered in a Memorandum of Understanding which can be found on the *FCA* website <http://www.fca.org.uk>.

### 1.2.2B

**PRA**

**G**

- (1) In addition, the *Act* itself confers certain powers upon the *FSCS*, such as a power under section 219 of the *Act* (Scheme Manager's powers to require information) to require *persons* to provide information. These powers are not, therefore, covered by this sourcebook.
- (2) Of specific relevance to the way in which the *FSCS* fulfils its responsibilities is the relationship between the *FSCS* and the *PRA*. This is covered in a Memorandum of Understanding which can be found on the *PRA* website [[www.bankofengland.co.uk/pral](http://www.bankofengland.co.uk/pral)].

(1)	(2)	(3)	(4)	(5)	(6)
	Material to which the transitional provision applies		Transitional Provision	Transitional provision: dates in force	Handbook Provisions: coming in-to force
<b>a relevant person in respect of deposits accepted before 2 July 2002.</b>					
<b>8</b> [PRA]	<b>Amendments R introduced by the Compensation Sourcebook (Amendment No.2) Instrument 2003.</b>	<b>R</b>	<b>Provisions and definitions arising out of (2) only apply to defaults, or circumstances giving rise to arrangements made under COMP 3.3.1 R or to measures taken under COMP or to measures taken under COMP 3.3.3 R, occurring after the date in (6)</b>	<b>Indefinitely</b>	<b>1 December 2003</b>
<b>9</b>	COMP 13.6.8 R	<b>R</b>	Expired		
<b>10</b>	COMP 5.7.1 R, COMP 13.4.7 R and COMP 13.6.9 R	<b>R</b>	[deleted]		
<b>11</b>	FEES 6.3.1 R, FEES 6.3.22 R, FEES 6.4.8 R, FEES 6.4.6 R, FEES 6.5.1 R and FEES 6.5.6 R	<b>R</b>	[deleted]		
<b>12</b>	FEES 6.5.7 R(4), FEES 6.3.22 R, FEES 6.4.6 R, FEES 6.4.8 R, FEES 6.5.1 R, and FEES 6.5.6 R	<b>R</b>	[deleted]		
<b>13</b>	FEES 6.5.7 R(4), FEES 6.5.10 R, and FEES 6.5.13 R(2)	<b>R</b>	[deleted]		
<b>14</b>	FEES 6.5.7 R(5), FEES 6.5.11 R,		[deleted]		

(1)	(2)	(3)	(4)	(5)	(6)
	Material to which the transitional provision applies		Transitional Provision	Transitional provision: dates in force	Handbook Provisions: coming in-to force
and FEES 6.5.13 R(2)					
15 [PRA]	COMP5.4.4R(4)(a) R and COMP5.4.4R(4)(b)		The changes to COMP 5.4.4 R (4) made in the Compensation Sourcebook (Amendment No 7) Instrument 2006 do not apply in relation to defaults declared before 6 June 2006.	Indefinitely	6 June 2006
16 [PRA]	COMP 10.2.3 R R		The change to the limit for <i>protected deposits</i> made by the Compensation Sourcebook (Protected Deposits Limit) Instrument 2007 does not apply in relation to a <i>claim</i> against a <i>relevant person</i> that was <i>in default</i> before 1 October 2007.	From 1 October 2007 indefinitely	Amended with effect from 1 October 2007
17 [FCA] [PRA]	Amendments R introduced by the Compensation Sourcebook (Amendment No 8) Instrument 2008		Provisions and definitions arising out of (2) only apply to defaults on or occurring after 7 October 2008	From 7 October 2008 indefinitely	7 October 2008
18 [PRA]	COMP 10.2.3 R R		The change to the limit for <i>protected deposits</i> made by the Compensation Sourcebook (Deposit Guarantee Schemes Directive Amendments) Instrument 2009 does not apply in relation to a <i>claim</i> against a <i>relevant person</i> that was <i>in default</i> before 30 June 2009.	From 30 June 2009 indefinitely	30 June 2009
19 [FCA] [PRA]	Amendments R to COMP 10.2.3 R introduced by the Financial Services Compensa-		Provisions and definitions arising out of (2) only apply to defaults on or occurring after 1 January 2010.	From 1 January 2010 indefinitely	1 January 2010

(1)	(2)	(3)	(4)	(5)	(6)
	Material to which the transitional provision applies		Transitional Provision	Transitional provision: dates in force	Handbook Provisions: coming into force
	tion Scheme (Limits Amendment) Instrument 2009				
20 [PRA]	COMP 4.3.1 R	R	The change to the eligibility requirements for claimants for <i>protected deposits</i> made by the Financial Services Compensation Scheme (Banking Compensation Reform) Instrument 2009 does not apply in relation to a <i>claim</i> against a <i>relevant person</i> that was <i>in default</i> before 1 August 2009.	From 1 August 2009 indefinitely	1 August 2009
21	COMP 17.3 and COMP 17.2.7 R	R	[deleted]		
22	COMP 17.3	R	[deleted]		
23	COMP 17.3.10 R and COMP 17.3.12 R	R	[deleted]		
24 [PRA]	COMP 10.2.3 R	R	The change to the limit for <i>protected deposits</i> made by the Compensation Sourcebook (Deposit Guarantee Schemes Directive Amendments) (No 2) Instrument 2010 does not apply in relation to a <i>claim</i> against a <i>relevant person</i> that was <i>in default</i> before 31 December 2010.	From 31 December 2010 indefinitely	31 December 2010
25 [FCA] [PRA]	COMP 12.2.1 R and COMP 12.2.6A R and the amendment of all references in COMP (other than in COMP 12.2.1 R	R R	The changes referred to in (2) made by the Financial Services Compensation Scheme (Banking Compensation Reform) Instrument 2009 do not apply in relation to a <i>claim</i> against a <i>relevant person</i> that was <i>in default</i> before 31 December 2010.	From 31 December 2010 indefinitely	From 31 December 2010

(1)	(2)	(3)	(4)	(5)	(6)
	Material to which the transitional provision applies		Transitional Provision	Transitional provision: dates in force	Handbook Provisions: coming in-to force
and the heading in respect of COMP 12.2.4 R) to "overall net <i>claim</i> " to "overall <i>claim</i> "					
26 [PRA]	COMP 12.3.1 R and COMP 15.1.12 R	R	The changes referred to in (2) made by the Financial Services Compensation Scheme (Banking Compensation Reform) Instrument 2009 do not apply in relation to a <i>claim</i> against a <i>relevant person</i> that was <i>in default</i> before 31 December 2010.	From 31 December 2010 indefinitely	From 31 December 2010
27 [FCA] [PRA]	COMP 4.2.2 R(9)	R	The changes referred to in (2), made by the Compensation Sourcebook (Occupational Pension Scheme Trustees) Instrument 2011 do not apply in relation to a <i>claim</i> against a <i>relevant person</i> that was <i>in default</i> before 1 October 2011.	From 1 October 2011 indefinitely	From 1 October 2011
28 [PRA]	COMP 16.3	R	A <i>Northern Ireland credit union</i> need not comply with COMP 16.3 until 30 September 2013.	From 31 March 2012 until 30 September 2013	For <i>Northern Ireland credit unions</i> 31 March 2012
29	COMP 17	R	[deleted]		
30	COMP 17.3 and COMP 17.2.7 R	R	[deleted]		
31	COMP 17.3	R	[deleted]		
32	COMP 17.3.10 R and COMP 17.3.12 R	R	[deleted]		

(1)	(2)	(3)	(4)	(5)	(6)
	Material to which the transitional provision applies		Transitional Provision	Transitional provision: dates in force	Handbook Provisions: coming into force
33 [FCA] [PRA]	Amendments introduced by Annex A and Part 1 of Annex B of the Compensation Sourcebook (Amendment No 9) Instrument 2012.	R	<p>The changes referred to in (2) do not apply in relation to a <i>claim</i> against a <i>relevant person</i> that was <i>in default</i> before 1 October 2012. Notwithstanding the above:</p> <p>(a) to the extent that the provisions changed apply to <i>protected deposits</i>, all the changes in (2); and</p> <p>(b) the changes to COMP 12.2.10 R;</p> <p>apply irrespective of when the default occurred.</p>	From 1 October 2012 indefinitely	From 1 October 2012



## Compensation

### Schedule 4 Powers Exercised

**Sch 4.1 G**

[deleted]

**Sch 4.2 G**

[deleted]

**Sch 4.3 G**

[deleted]



# Building Societies sourcebook



## Building Societies sourcebook

### Schedule 4 Powers Exercised

#### Sch 4.1 G

[deleted]

#### Sch 4.2 G

[deleted]



## Building Societies sourcebook

### Schedule 5 Rights of action for damages

#### Sch 5.1 G

[deleted]



# Collective Investment Schemes





## 5.2 General investment powers and limits for UCITS schemes

### Application

5.2.1  
FCA

R

- (1) This section applies to an *ICVC*, an *ACD*, a *manager* of an *AUT*, a *depository* of an *ICVC* and a *trustee* of an *AUT*, where such *ICVC* or *AUT* is a *UCITS scheme*, in accordance with
- COLL 5.2.2 R (Table of application).
- (2) ■ COLL 5.2.23C R (Valuation of OTC derivatives) also applies to a *UK UCITS management company* providing *collective portfolio management* services for an *EEA UCITS scheme* from a *branch* in another *EEA State* or under the freedom to provide *cross border services*.

5

### Table of application

5.2.2  
FCA

R

This table belongs to ■ COLL 5.2.1 R.

Rule	ICVC	ACD	Manager of an AUT	Depository of an ICVC	Trustee of an AUT
5.2.3R to 5.2.9R		X	X		
5.2.9AR		X	X		
5.2.10R(1)		X	X		
5.2.10R(2)(a)&(b)		X	X		
5.2.10R(2)(c)				X	X
5.2.10R(3)		X	X		
5.2.10AR to 5.2.10EG		X	X		
5.2.11R to 5.2.21R		X	X		
5.2.22R	X		X		
5.2.22AG	X	X	X	X	X
5.2.23R(1)	X	X	X		

Rule	ICVC	ACD	Manager of an AUT	Depository of an ICVC	Trustee of an AUT
5.2.23R(2) to (4)	X	X	X	X	X
5.2.23CR		X	X		
5.2.26R		X	X		
5.2.27R	X				
5.2.28R			X		
5.2.29R to 5.2.33R	X	X	X		
5.2.34G		X	X		

**Note: x means "applies"**

5.2.2A  
FCA

G

In addition to the parts of *CESR's UCITS eligible assets guidelines* specifically referred to in this section, the *authorised fund manager* of a *UCITS scheme* should have regard to the other parts of those guidelines when applying the *rules* in this section. *CESR's UCITS eligible assets guidelines* are available at [www.fca.org.uk/your-fca](http://www.fca.org.uk/your-fca).

**Prudent spread of risk**

5.2.3  
FCA

R

- (1) An *authorised fund manager* must ensure that, taking account of the investment objectives and policy of the *UCITS scheme* as stated in the most recently published *prospectus*, the *scheme property* of the *UCITS scheme* aims to provide a prudent spread of risk.
- (2) The *rules* in this section relating to spread of investments do not apply until the expiry of a period of six *months* after the date of which the *authorisation order*, in respect of the *UCITS scheme*, takes effect or on which the *initial offer* commenced, if later, provided that (1) is complied with during such period.

**Investment powers: general**

5.2.4  
FCA

R

The *scheme property* of each *UCITS scheme* must be invested only in accordance with the relevant provisions in sections ■ COLL 5.2 to ■ COLL 5.5 that are applicable to that *UCITS scheme* and up to any maximum limit so stated, but, the *instrument constituting the scheme* may further restrict:

- (1) the kind of property in which the *scheme property* may be invested;

- (2) the proportion of the *capital property* of the *UCITS scheme* be invested in assets of any description;
- (3) the descriptions of transactions permitted; and
- (4) the borrowing powers of the *UCITS scheme*.

**Valuation**

5.2.5  
FCA

**R**

- (1) In this chapter, the value of the *scheme property* of a *UCITS scheme* means the net value determined in accordance with ■ COLL 6.3 (Valuation and pricing), after deducting any outstanding borrowings, whether immediately due to be repaid or not.
- (2) When valuing the *scheme property* for the purposes of this chapter:
  - (a) the time as at which the valuation is being carried out ("the relevant time") is treated as if it were a *valuation point*, but the valuation and the relevant time do not count as a valuation or a *valuation point* for the purposes of ■ COLL 6.3 (Valuation and pricing);
  - (b) *initial outlay* is to be regarded as remaining part of the *scheme property*; and
  - (c) if the *authorised fund manager*, having taken reasonable care, determines that the *UCITS scheme* will become entitled to any unrealised profit which has been made on account of a transaction in *derivatives*, that prospective entitlement is to be regarded as part of the *scheme property*.
- (3) When valuing the *scheme property* of a *dual-priced authorised fund*, the *cancellation* basis of valuation referred to in ■ COLL 6.3.3 R (2) (Valuation) is to be applied.

**Valuation guidance**

5.2.6  
FCA

**G**

It should be noted that for the purpose of ■ COLL 5.2.5 R, ■ COLL 6.3 may be affected by specific provisions in this chapter such as, for example, ■ COLL 5.4.6 R (Treatment of collateral).

**UCITS schemes: permitted types of scheme property**

5.2.6A  
FCA

**R**

The *scheme property* of a *UCITS scheme* must, except where otherwise provided in the *rules* in this chapter, consist solely of any or all of:

- (1) *transferable securities*;
- (2) *approved money-market instruments*;
- (3) *units in collective investment schemes*;

- (4) *derivatives* and forward transactions;
- (5) *deposits*; and
- (6) (for an *ICVC*) movable and immovable property that is essential for the direct pursuit of the *ICVC*'s business;

in accordance with the *rules* in this section.

[Note: articles 50(1) (in conjunction with other *rules* in this section) and 50(3) of the *UCITS Directive*]

#### Transferable securities

5.2.7

FCA

R

- (1) A *transferable security* is an *investment* which is any of the following:
  - (a) a *share*;
  - (b) a *debenture*;
  - (ba) an *alternative debenture*;
  - (c) a *government and public security*;
  - (d) a *warrant*; or
  - (e) a *certificate representing certain securities*.
- (2) An *investment* is not a *transferable security* if the title to it cannot be transferred, or can be transferred only with the consent of a third party.
- (3) In applying (2) to an *investment* which is issued by a *body corporate*, and which is a *share* or a *debenture*, the need for any consent on the part of the *body corporate* or any members or *debenture* holders of it may be ignored.
- (4) An *investment* is not a *transferable security* unless the liability of the holder of it to contribute to the debts of the issuer is limited to any amount for the time being unpaid by the holder of it in respect of the *investment*.

#### Investment in transferable securities

5.2.7A

FCA

R

- (1) A *UCITS scheme* may invest in a *transferable security* only to the extent that the *transferable security* fulfils the following criteria:
  - (a) the potential loss which the *UCITS scheme* may incur with respect to holding the *transferable security* is limited to the amount paid for it;
  - (b) its liquidity does not compromise the ability of the *authorised fund manager* to comply with its obligation to

## Collective Investment Schemes

### Schedule 4 Powers exercised

**Sch 4.1 G**

[deleted]

**Sch 4.2 G**

[deleted]

**Sch 4.3 G**

[deleted]



# Credit Unions New sourcebook



## Credit Unions New sourcebook

### Schedule 4 Powers exercised

#### Sch 4.1 G

[deleted]

#### Sch 4.2 G

[deleted]



# Professional Firms



## Professional Firms

### Schedule 4 Powers exercised

#### Sch 4.1 G

[deleted]

#### Sch 4.2 G

[deleted]



# Regulated Covered Bonds



## Regulated Covered Bonds

### Schedule 4 Powers exercised

**Sch 4.1 G**

[deleted]

**Sch 4.2 G**

[deleted]

**Sch 4.3 G**

[deleted]



# Recognised Investment Exchanges



# Chapter 1

## Introduction

## 1.1 Application

[Note: ESMA has also issued guidelines under article 16(3) of the ESMA Regulation covering various topics relating to automated trading and direct electronic access. See

[www.esma.europa.eu/system/files/esma\\_2012\\_122\\_en.pdf](http://www.esma.europa.eu/system/files/esma_2012_122_en.pdf)

### 1.1.1

FCA

G

The *rules* and *guidance* in this sourcebook apply to *recognised bodies* and to applicants for recognition as *RIEs* under Part XVIII of the *Act* (Recognised Investment Exchanges and Clearing Houses) and (as *RAPs*) under the *RAP regulations*.

### 1.1.1A

FCA

G

The *guidance* in ■ REC 6A applies to *EEA market operators* exercising passporting rights in the *United Kingdom*.

### 1.1.2

FCA

G

- (1) *UK RIEs* are *exempt persons* under section 285 of the *Act* (Exemption for recognised investment exchanges and clearing houses).
- (2) *UK RIEs* must satisfy *recognition requirements* prescribed by the Treasury (in certain cases with the approval of the Secretary of State) in the *Recognition Requirements Regulations*. *UK RIEs* must also satisfy the *MiFID implementing requirements* in the *MiFID Regulation*. *RAPs* must satisfy the recognition requirements prescribed by the Treasury in the *RAP regulations*, under the *auction regulation* and must also be *UK RIEs* and so are subject to requirements under the *MiFID Regulation*. *ROIEs* must satisfy *recognition requirements* laid down in section 292 of the *Act* (Overseas investment exchanges and overseas clearing houses).
- (3) *UK RIEs* must also comply with notification requirements in, and with *notification rules* made under, sections 293 (Notification requirements) and 295 (Notification: overseas investment exchanges and clearing houses) of the *Act*.

### 1.1.3

FCA

G

- (1) The *recognition requirements* for *UK recognised bodies* and the *MiFID implementing requirements* are set out, with *guidance*, in ■ REC 2. The *RAP recognition requirements* (other than requirements under the *auction regulation* which are not reproduced in *REC*) are set out, with *guidance*, in ■ REC 2A.
- (2) The *notification rules* for *UK recognised bodies* are set out in ■ REC 3 together with *guidance* on those *rules*.

## 2.4 Suitability

### 2.4.1

FCA



Schedule to the Recognition Requirements Regulations, Paragraph 2

**(1) The [UK RIE] must be a fit and proper person to perform the [ *relevant functions* ] of a [ UK RIE ].**

**(2) In considering whether this requirement is satisfied, the [FCA] may (without prejudice to the generality of regulation 6(1)) take into account all the circumstances, including the [UK RIE's] connection with any person.**

**(3) The persons who effectively direct the business and operations of the [UK RIE] must be of sufficiently good repute and sufficiently experienced to ensure the sound and prudent management and operation of the financial markets operated by it.**

**(4) The persons who are in a position to exercise significant influence over the management of the [UK RIE], whether directly or indirectly must be suitable.**

### 2.4.2



[deleted]

### 2.4.3

FCA



In determining whether a *UK recognised body* is a fit and proper person, the FCA may have regard to any relevant factor including, but not limited to:

- (1) the commitment shown by the *UK recognised body's governing body* to satisfying the *recognition requirements* and to complying with other obligations in or under the *Act*;
- (2) its arrangements, policies and resources for fulfilling its obligations under the *Act* in relation to its activities as a *UK recognised body*;
- (3) the extent to which its constitution and organisation provide for effective governance;
- (4) the arrangements made to ensure that its *governing body* has effective oversight of the *UK recognised body's relevant functions*;
- (5) the access which its regulatory department has to the *governing body*;
- (6) the size and composition of its *governing body*, including:

- (a) the number of members of the *governing body* who represent *members* of the *UK recognised body* or other *persons* and the types of *person* whom they represent;
  - (b) the number and responsibilities of any members of the *governing body* with executive roles within the *UK recognised body*; and
  - (c) the number of independent members of the *governing body*;
- (7) the structure and organisation of its *governing body*, including any distribution of responsibilities among its members and committees;
  - (8) the integrity and competence of its *governing body* and *key individuals*;
  - (9) breaches of any relevant law, regulation or code of practice by the *UK recognised body* or its *key individuals*;
  - (10) its arrangements for ensuring that it employs individuals who are honest and demonstrate high standards of integrity;
  - (11) the effectiveness of its arrangements to control conflicts of interest (see also REC 2.5); and
  - (12) the independence of its regulatory department from its commercial and marketing departments.

## 2.4.4

FCA

G

In determining whether a *UK recognised body* is a fit and proper *person*, the *FCA* may have regard to its connections with:

- (1) any *undertaking* in the same *group*;
- (2) any owner or part-owner of the *UK recognised body*;
- (3) any *person* who has the right to appoint or remove members of the *governing body* or other *key individuals*;
- (4) any *person* who is able in practice to appoint or remove members of the *governing body* or other *key individuals*;
- (5) any *person* in accordance with whose instructions the *governing body* or any *key individual* is accustomed to act; and
- (6) any *key individual* in relation to the *UK recognised body* .

## 2.4.5

FCA

G

In assessing whether its connection with any *person* could affect whether a *UK recognised body* is a fit and proper *person*, the *FCA* may have regard to:

- (1) the reputation and standing of that other *person*, including his standing with any relevant *UK* or *overseas regulator*;
- (2) breaches of any law or regulation by that other *person*;