

Banking: Conduct of Business sourcebook

Chapter 1

Application

1.1 General application

The general application rule

- 1.1.1 **R** This sourcebook applies to a *firm* with respect to the activity of *accepting deposits* from *banking customers* carried on from an establishment maintained by it in the *United Kingdom* and activities connected with that activity.

Application to payment services and electronic money

- 1.1.1A **R** In addition to the general application rule, Chapter 2 of *BCOBS* applies to a *firm* (other than a *credit union*), an *electronic money institution*, a *payment institution* and a *registered account information service provider* with respect to the provision of *payment services* or issuance or redemption of *electronic money* carried on from an establishment maintained by it or its *agent* in the *United Kingdom* and activities connected with those activities. These *persons* are referred to collectively in Chapters 1 and 2 of *BCOBS* as “providers”.

Limitations on the general application rule and BCOBS

1.1.1AR

- 1.1.2 **R** The general application *rule* is modified:
- (1) in the chapters of this sourcebook for particular purposes; and
 - (2) in ■ *BCOBS 1 Annex 1* for certain types of *firm* in relation to the sale of *structured deposits*.
- 1.1.3 **R** Except as provided for in ■ *BCOBS 1.1.4R*, this sourcebook does not apply to:
- (1) *payment services* where Parts 6 and 7 of the *Payment Services Regulations* apply; or
 - (2) a *person* or *firm* which has permission for *accepting deposits* but only for the purposes of, or in the course of, an activity other than *accepting deposits*.
- 1.1.4 **R** (1) Chapters 2, 2A, 5 and 6 of *BCOBS* (except for ■ *BCOBS 5.1.10AR* to ■ *BCOBS 5.1.19R*) and ■ *BCOBS 4.3* and ■ *4.4* apply to *payment services* where Parts 6 and 7 of the *Payment Services Regulations* apply.

(2) Chapter 3 of *BCOBS* applies to *payment services* where Parts 6 and 7 of the *Payment Services Regulations* apply with the modifications set out in ■ BCOBS 3.1.2 R(2).

(3) [deleted]

1.1.4A **G** Guidance on the application of the *Payment Services Regulations* can be found in ■ PERG 15.

1.1.5 **R** ■ BCOBS 2.2A, ■ BCOBS 2.2B, ■ BCOBS 4.1.2G(2A) to (2E), (3A), (6A) and (6B), ■ BCOBS 4.1.4AG(2)(a), ■ BCOBS 4.4, ■ BCOBS 5.1.3AG, ■ BCOBS 5.1.3BG, ■ BCOBS 5.1.5AR, ■ BCOBS 5.1.5BG, ■ BCOBS 5.1.13R, ■ BCOBS 7 (except as applied by ■ BCOBS 7.1.4R) and ■ BCOBS 8 do not apply to a *credit union*.

1.1.5A **R** ■ BCOBS 2 (Communications and financial promotions) does not apply to the provision of *payment services*, the *issuance of electronic money* or activities connected to those activities by a *credit union*, except to the extent that the activity is connected to the activity of *accepting deposits from banking customers*.

Exclusion of liability

1.1.6 **R** A *firm* or a provider must not seek to exclude or restrict, or rely on any exclusion or restriction of, any duty or liability it may have to a *banking customer*, a *payment service customer* or an *electronic money customer* unless it is reasonable for it to do so and the duty or liability arises other than under the *regulatory system*.

1.1.7 **G** The general law, including the *Unfair Terms Regulations* (for contracts entered into before 1 October 2015) and the *CRA*, also limits the scope for a *firm* to exclude or restrict any duty or liability to a *consumer*.

Structured deposits

1.1.8 **G** A *firm* that carries on the activity of *accepting deposits* which are *structured deposits* should refer to ■ BCOBS 1 Annex 1.

Structured deposit business

Application of BCOBS to firms selling structured deposits

- 1.1 R The *BCOBS* provisions shown below do not apply to a *MiFID investment firm*, a *third country investment firm* or a *MiFID optional exemption firm* in relation to the sale of *structured deposits* subject to the rules specified in [COBS 1.1.1AR\(2\)](#).
- | BCOBS provision | Description |
|---|--|
| BCOBS 2 | Communications with banking customers and financial promotions |
| BCOBS 4 (other than BCOBS 4.1.4AG and BCOBS 4.3) | Information to be communicated to banking customers |
- 1.2 G A *firm* to which [BCOBS 1 Annex 1](#) paragraph 1.1R applies should read and understand the reference to the appropriate information *rule* in [BCOBS 4.1.4AG](#) as referring to [COBS 2.2A.2R](#).
- 1.3 G A *MiFID investment firm*, a *third country investment firm* or a *MiFID optional exemption firm* that sells *structured deposits* should consider [COBS 1.1.1AR](#) to [COBS 1.1.1ABR](#). These rules specify how certain provisions in *COBS* apply to a *firm* in relation to the sale of *structured deposits*.

Financial promotions relating to structured deposits

- 1.4 G (1) [BCOBS 2](#) contains rules which apply to a *firm* when it communicates a *financial promotion* that is not an *excluded communication* or when the *firm* approves a *financial promotion*.
- (2) If a *financial promotion* relates to a *structured deposit*, rules relating to past, simulated past and future performance in [COBS 4.5A](#) or [COBS 4.6](#) will also apply.

Structured deposits as PRIIPs

- 1.5 G *Firms* are reminded that *structured deposits* are *PRIIPs* and that the provisions of the *PRIIPs Regulation* are also relevant to such products. The *PRIIPs Regulation* requires a *person* who advises on, or sells, a *PRIIP* to provide a retail investor (as defined in the *PRIIPs Regulation*) with the *key information document* for that *PRIIP*.
- 1.6 G Where a *firm* is required to provide information in a *key information document*, it will not be required to provide the same information under [BCOBS 4.1](#).

[Note: [BCOBS 1.1.4R\(3\)](#) and article 13 of the *PRIIPs Regulation*]

