

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 5.1.19 R*) 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 <i>BCOBS</i> provisions shown below do not apply to a <i>MiFID investment firm</i> , a <i>third country investment firm</i> or a <i>MiFID optional exemption firm</i> in relation to the sale of <i>structured deposits</i> 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 <i>firm</i> 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 <i>MiFID investment firm</i> , a <i>third country investment firm</i> or a <i>MiFID optional exemption firm</i> that sells <i>structured deposits</i> should consider COBS 1.1.1AR to COBS 1.1.1ABR . These rules specify how certain provisions in <i>COBS</i> apply to a <i>firm</i> in relation to the sale of <i>structured deposits</i> .	
Financial promotions relating to structured deposits			
1.4	G	(1) BCOBS 2 contains rules which apply to a <i>firm</i> when it communicates a financial promotion that is not an excluded communication or when the <i>firm</i> 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	<i>Firms</i> are reminded that <i>structured deposits</i> are <i>PRIIPs</i> and that the provisions of the <i>PRIIPs Regulation</i> are also relevant to such products. The <i>PRIIPs Regulation</i> requires a person who advises on, or sells, a <i>PRIIP</i> to provide a retail investor (as defined in the <i>PRIIPs Regulation</i>) with the key information document for that <i>PRIIP</i> .	
1.6	G	Where a <i>firm</i> 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 <i>PRIIPs Regulation</i>]			

