

## Chapter 6

# Post-contractual requirements

## 6.3 Ceasing regulated claims management activities

### Who and when?

#### 6.3.1

**R**

- (1) ■ CMCOB 6.3.3R to ■ 6.3.6R apply to a *firm*:
  - (a) which carries on any *regulated claims management activities* other than *seeking out, referrals and identification of claims or potential claims*; and
  - (b) in respect of which it has been determined that the *firm* is to cease carrying on any of those *regulated claims management activities*.
- (2) ■ CMCOB 6.3.7R applies to a *firm*:
  - (a) which carries on *seeking out, referrals and identification of claims or potential claims*; and
  - (b) in respect of which it has been determined that the *firm* is to cease carrying on that *regulated activity*.
- (3) The following provisions in ■ CMCOB 6.3 apply to a *firm* with a *claims management temporary permission* as modified below:
  - (a) the reference in ■ CMCOB 6.3.3R(1) to 20 *business days* will apply provided that the period does not exceed 30 *days*;
  - (b) the reference in ■ CMCOB 6.3.5R to 40 *business days* must be read as 30 *days*; and
  - (c) the reference in ■ CMCOB 6.3.7(1) to 20 *business days* will apply provided that the period does not exceed 30 *days*.

#### 6.3.2

**G**

Circumstances of it being determined that a *firm* is to cease carrying on a *regulated claims management activity* would include:

- (1) the *governing body* of the *firm* deciding to cease carrying on that activity;
- (2) the *firm* becoming insolvent or insolvency proceedings being commenced in respect of the *firm*; and
- (3) the FCA issuing a written notice under the *Act* or *final notice* removing or suspending the relevant *permission*.

**Notifying customers**

6.3.3

**R**

- (1) Within 20 *business days* of it being determined that the *firm* is to cease carrying on any *regulated claims management activities*, the *firm* must, in a *durable medium*:
  - (a) notify each *customer* in relation to whom it carries on those activities that it is to cease carrying on the relevant activities;
  - (b) explain to each *customer* what options are available for the customer to continue with their *claim*; and
  - (c) notify each third party to whom the *claim* has been presented and (if different) each third party against which the *claim* has been made:
    - (i) that the *firm* is to cease carrying on those *regulated claims management activities*; and
    - (ii) of the identity of the *person* who will act for the *customer* in place of the *firm* (where the identity of that *person* is known).
- (2) In explaining to the *customer* what options are available to them to continue with their *claim*, the *firm* must include a statement to the effect of:
  - (a) the statement in (3), if the *claim* is of a sort which may be made by the *customer* to a statutory ombudsman or a statutory compensation scheme without using the services of the *firm* and without incurring a fee; and
  - (b) the statement in (4), if the *firm* is aware that the *person* against whom the *claim* is being or is to be made is a member of, or subject to, an alternative dispute resolution scheme (other than an ombudsman or a scheme of a sort mentioned in (a)).
- (3) The statement in this paragraph is that:
  - (a) the *customer* is not required to use the services of a *firm* which carries on *regulated claims management activity* to pursue their *claim*; and
  - (b) it is possible for the *customer* to present the *claim* themselves for free, either to the *person* against whom they wish to complain or to the statutory ombudsman or a statutory compensation scheme.
- (4) The statement in this paragraph is that it is possible for the *customer* to present the claim themselves to the alternative dispute resolution mechanism mentioned in (3)(b).

6.3.4

**G**

The *guidance* at ■ CMCOB 3.2.8G also applies in respect of ■ CMCOB 6.3.3R(2)(a).

**Sending information and documents to customers**

6.3.5

**R**

Within 40 *business days* of it being determined that the *firm* is to cease carrying on any *regulated claims management activities*, the *firm* must send to each *customer* whose *claim* has not been settled, withdrawn or discontinued all information and documentation the *firm* holds relating to their *claim*.

**Passing customer details to third parties**

6.3.6

**R**

If the *firm* passes the *customer*, or details of the *customer* or of the *claim* to a third party, with a view to that third party carrying on a *regulated claims management activity* in respect of the *claim* or the *customer* (or activity which would constitute such a *regulated activity* but for an exemption or an exclusion), the *firm* must promptly notify the *customer* in a *durable medium*:

- (1) that it has done so; and
- (2) of the identity and contact details of the third party.

**Ceasing to carry on seeking out, referrals and identification of claims or potential claims**

6.3.7

**R**

- (1) This *rule* applies in respect of a *firm* which has indicated to a *customer* that it will:
  - (a) identify a third party to assist the *customer* with their *claim*; and
  - (b) pass the *customer's* details or details relating to the *claim* to the third party, or pass details of the third party to the *customer*,
 but has not yet done so and will not do so within 20 *business days* of it being determined that the *firm* is to cease carrying on *seeking out, referrals and identification of claims or potential claims*.
- (2) Within the time period referred to in (1), the *firm* must, in respect of each *customer* to whom it has made an indication of the sort described in (1) in a *durable medium*, notify the *customer* that it has not done so and explain why.