

**Conduct of Business Sourcebook**

# Chapter 15

## Cancellation



## Exemptions from the right to cancel

### Exemptions for life policies and pension contracts (non-distance)

- 1.1 R There is no right to cancel a non-distance contract that is a *life policy* or a *pension contract*:
- (1) that is a *pension fund management policy*; or
  - (2) that relates to or is associated with securing benefits under a *defined benefits pension scheme*; or
  - (3) for a term of six months or less, unless it is a single *premium* contract where the designated retirement date is within six months of the date of the policy; or
  - (4) that is effected by the trustees of an *occupational pension scheme* or the employer, trustees or operator of a *stakeholder pension scheme* and that represents a:
    - (a) *pension buy-out contract*; or
    - (b) purchase of a without-profits deferred *pension annuity*; or
    - (c) *defined benefits pension scheme* or a single *premium* payment to any *occupational pension scheme* with a pooled fund (that is, underlying investments are not earmarked for individual scheme members); or
    - (d) purchase made to insure and secure members' pension benefits under a *money-purchase occupational scheme* or *stakeholder pension scheme* (unless it is the master, first or only policy); or
  - (5) if the *consumer*, at the time he signs the application, is *habitually resident* outside the *UK* and is not present in the *UK*.
- 1.2 G There is no right to cancel a non-distance contract for a *traded life policy*. This is because the 30-day right to cancel a *life policy* (in COBS 15.2.1 R) applies at the point of conclusion of the *life policy* not on its assignment. However, there may be a 14-day right to cancel a *distance contract* for a *traded life policy* unless an exemption applies, since that *distance contract* relates to *designated investment business*.
- Exemption for SIPPs
- 1.3 R There is no right to cancel a contract to join a *SIPP* whose performance has been fully completed by both parties at the *consumer's* express request before the *consumer* exercises his right to cancel.
- 1.4 G If a *consumer* requests that a *firm* complete a transaction to join a *SIPP* before the expiry of the cancellation period, the *firm* should, in having regard to the information needs of the *consumer*, make him aware that he will lose his right to cancel and satisfy itself on reasonable grounds that the customer understands the cost and other implications.
- Exemptions for certain pension arrangements (the 'cancellation substitute')
- 1.5 R There is no right to cancel:
- (1) a contract for or funded (wholly or in part) from a pension transfer; or
  - (2) a *pension annuity* due to commence within a year and a day of the contract or a variation of one with similar commencement; or
  - (3) the exercise of an option to make *income withdrawals*;

to the extent that the right to cancel is replaced with a pre-contract right to withdraw the *consumer's* offer of at least 14 calendar days. The combined period of the right to withdraw and any residual right to cancel must be at least 30 calendar days.

Exemption for pension compensation

- 1.6 R There is no right to cancel a *pension annuity*, a *pension policy*, a *pension contract*, or a contract to join a *personal pension scheme* or *stakeholder pension scheme*, which in each case is funded (wholly or in part) from payments derived from compensation or redress following a review undertaken in relation to a complaint.

Exemption for annuities after death of the life assured

- 1.7 R A *firm* need not accept notification of cancellation of a *pension annuity* contract if the life (or any of the lives) assured under it has died before notice is given.

Exemptions for units (non-distance)

- 1.8 R There is no right to cancel a non-distance contract to buy a unit in a regulated collective investment scheme:
- (1) if the unit is not purchased from the scheme's operator, from the operator's associate acting as provider of a wrapper; or
  - (2) if the consumer is not a retail client; or
  - (3) if the contract represents an exchange of units between sub-funds of the same umbrella; or
  - (4) if the contract relates to a change between units of one class and units of another class in the same scheme; or
  - (5) if the contract relates to a recognised scheme and is with an operator who is not an authorised person or carrying on business in the UK; or
  - (6) if the consumer is not habitually resident in the UK at the date of the offer of the contract; or
  - (7) if the firm has reasonable grounds for assuming that no personal recommendation of the contract was provided by anyone carrying on designated investment business in the UK; or
  - (8) for the second and subsequent purchases of units under recurring single payment unit savings plans, provided that:
    - (a) the intention or option to make a series of single payments is disclosed at the outset (for example in pre-contract disclosure documents); or
    - (b) the intention is evidenced (for example, by the establishment of a direct debit mandate).

Exemptions for ISAs, CTFs and EISs (non-distance)

- 1.9 R There is no right to cancel a non-distance contract:
- (1) to open or transfer an ISA (mini or maxi and including all components whatever the underlying investment, but not a cash deposit ISA or an ISA containing a life policy); or
  - (2) to open or transfer a CTF; or
  - (3) [deleted]
  - (4) for an EIS;
- provided that:
- (5) (for an EIS or ISA which is not a lifetime ISA) the right to cancel is replaced with a seven calendar day, pre-contract right to withdraw the consumer's offer; or
  - (5A) (for a lifetime ISA) the right to cancel is replaced with a fourteen calendar day, pre-contract right to withdraw the consumer's offer; or

- (6) the contract relates to an *EIS* or a non-packaged product *ISA* (which is not a *lifetime ISA*) or *CTF* and is entered into following an explanation that neither a right to cancel nor a right to withdraw will apply given in accordance with the relevant rules on pre-contractual disclosure; or
- (7) (for an *ISA* or *EIS*) the contract entered into is a second or subsequent *ISA* or *EIS* on substantially the same terms (such as mini-to-mini *ISA* or maxi-to-maxi *ISA*) as an *ISA* or *EIS* purchased from the same *ISA manager* or *EIS manager* in the previous tax year.

Exemptions for distance contracts (all products and services)

- 1.10 R There is no right to cancel a *distance contract*:
- (1) whose price depends on fluctuations in the financial market outside the *firm's* control, which may occur during the cancellation period, such as:
    - (a) foreign exchange; or
    - (b) money market instruments; or
    - (c) transferable securities; or
    - (d) units in collective investment undertakings; or
    - (e) financial-futures contracts, including equivalent cash-settled instruments; or
    - (f) forward interest-rate agreements; or
    - (g) interest-rate, currency and equity swaps; or
    - (h) options to acquire or dispose of any instruments referred to above including cash-settled instruments and options on currency and on interest rates; or
  - (2) whose performance has been fully completed by both parties at the *consumer's* express request before the *consumer* exercises his right to cancel; or
  - (3) to *deal as agent, advise* or *arrange* if the *distance contract* is concluded merely as a stage in the provision of another service by the *firm* or another person.
- [Note: article 6(2) and recital 19 of the *Distance Marketing Directive*]
- 1.11 R In the case of *distance contracts* for financial services comprising an initial service agreement followed by successive operations or a series of separate operations of the same nature performed over time, the right to cancel shall apply only to the initial agreement.
- [Note: article 1(2) of the *Distance Marketing Directive*]