

Chapter 12

Handling of payments by intermediaries



12.1 Application and purpose

Application

- 12.1.1
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- This chapter applies to a *firm* in relation to *funeral plan provision* and *funeral plan distribution*.
- 12.1.2
- G
- A *firm* (including a *funeral plan provider*) that has accepted responsibility for *funeral plan distribution* undertaken by an *appointed representative* must ensure that the representative complies with this chapter as if it was an intermediary *firm* (see ■ FPCOB 1.2.4R).

Purpose

- 12.1.3
- G
- The *rules* in this chapter mitigate the risk of loss to *customers* on the insolvency of a *firm* engaged in *funeral plan distribution*. Such a *firm* cannot receive or handle payments for a *funeral plan contract* except in some limited circumstances by cheque or in the form of cash and can only receive or handle a cash payment if that contract will be effective from the moment of receipt.

12.2 Obligations on intermediaries

- 12.2.1** **R** A *firm* engaged in *funeral plan distribution* must not accept payments which are payable to a *funeral plan provider* under a *funeral plan contract* unless:
- (1) the payment is:
 - (a) received as agent for the *funeral plan provider*;
 - (b) made in cash;
 - (c) made at the time the *funeral plan contract* is entered into by the *firm* as agent of the *funeral plan provider*; and
 - (d) deemed received by the *funeral plan provider* on receipt by the agent under the following contracts:
 - (i) the *funeral plan contract*;
 - (ii) the contract between the *funeral plan provider* and the agent; and
 - (iii) (where the *firm* is using an *appointed representative*) the contract between the *firm* and the representative; or
 - (2) [deleted]
 - (3) the payment is made by cheque payable to the *funeral plan provider* and:
 - (a) is paid into the bank account of the *funeral plan provider* promptly and, in any event, no later than three *business days* after receipt; or
 - (b) is forwarded to the *funeral plan provider* promptly and, in any event, no later than 3 *business days* after receipt.
- 12.2.3** **G** The effect of **■ FPCOB 12.2.1R** is that a *firm* engaging in *funeral plan distribution* can only accept payment for a *funeral plan contract* if the payment is made by cheque payable to the *funeral plan provider* or in cash and, if cash, the *funeral plan provider* will be bound by that contract from the moment that any cash payment is received by the *firm*.
- 12.2.4** **R** **■ FPCOB 12.2.1R** does not apply to:
- (1) a *funeral plan provider* when distributing its own *funeral plan contracts* directly to *customers*; or
 - (2) a payment which is an *FP distribution charge*.

12.3 Obligations on providers

12.3.1

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A *funeral plan provider* must ensure that its arrangements for another *firm* or an *appointed representative* to distribute *funeral plan contracts*:

- (1) prohibit that *person* from accepting payments payable to a *funeral plan provider*; or
- (2) prohibit such payments other than by cheque or in cash and:
 - (a) are compatible with the requirements of ■ FPCOB 12.2.1R; and
 - (b) (for arrangements with a *firm*) make clear whether or not the *firm* is permitted to appoint *appointed representatives* to act as agent for the *funeral plan provider* in receiving contractual payment in cash.

12.4 Appointed representatives

- 12.4.1** **G** A *firm* which appoints an *appointed representative* to distribute *funeral plan contracts* should prohibit the representative from accepting payments which are payable to a *funeral plan provider* under a *funeral plan contract* (other than an *FP distribution charge*) unless the conditions at ■ FPCOB 12.2.1R are satisfied.
- 12.4.2** **G** For the purposes of ■ FPCOB 12.2.1R (1)(c) a *funeral plan contract* would be entered into at the point that an *appointed representative* acting as agent of a *funeral plan provider* bound that *funeral plan provider* to its terms.
- 12.4.3** **G** Where a *funeral plan provider* appoints another *firm* to undertake *funeral plan distribution* in relation to its *funeral plan contracts* and that *firm* has an *appointed representative* who it permits to accept cash payment for that contract, ■ FPCOB 12.2.1(1)(d) would be satisfied where the *appointed representative* receives the cash payment as sub-agent for the *funeral plan provider* and the contracts which underpin the arrangements ensure this (including the contract between the *firm* and its representative).

