

## Chapter 12

# Handling of payments by intermediaries

## 12.1 Application and purpose

### Application

- 12.1.1 **R** 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 **R** 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).

