

Chapter 2

General matters

2.1 General principles

Application

- 2.1.1 **R** (1) This section applies to a *firm* in relation to its *regulated funeral plan activity*.
- (2) This section applies in relation to a *firm's customers* under *subsisting funeral plans*, unless otherwise stated.

The customer's best interests rule

- 2.1.2 **R** A *firm* must act honestly, fairly and professionally in accordance with the best interests of:
- (1) its *customer*; and
- (2) if different, the *covered individual*.

Exclusion of liability

- 2.1.3 **R** A *firm* must not seek to exclude or restrict, or rely on any exclusion or restriction of, any duty or liability it may have to a *customer* or *covered individual* unless it is reasonable for it to do so and the duty or liability arises other than under the *regulatory system*.

- 2.1.4 **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*.

Reliance on others

- 2.1.5 **G** (1) Where it is compatible with the nature of the obligation imposed by a particular *rule*, including the *customer's best interests rule*, and with the *Principles*, in particular *Principles 1* (Integrity), *2* (Skill, care and diligence) and *3* (Management and control), *firms* may rely on third parties in order to comply with the *rules* in this sourcebook.
- (2) For example, where a *rule* requires a *firm* to take reasonable steps to achieve an outcome, it will generally be reasonable for a *firm* to rely on information provided to it in writing by an unconnected *authorised person* or a *professional firm*, unless it is aware or ought reasonably to be aware of any fact that would give reasonable grounds to question the accuracy of that information. However, a *firm* cannot delegate its responsibility under the *regulatory system*.

For example, where a *rule* imposes an absolute obligation (such as the requirement on a *funeral plan provider* in ■ FPCOB 14.1.4R regarding the services required for a *funeral plan contract*) although a *firm* could use outsourcing arrangements to fulfil its obligation, it retains regulatory responsibility for achieving the outcome required.

Record keeping

2.1.6

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- (1) This sourcebook, other than ■ FPCOB 4, ■ FPCOB 6.4.18R, ■ FPCOB 15 and ■ FPCOB 16, does not generally have detailed record-keeping requirements: *firms* will need to decide what records they need to keep in line with the high-level record-keeping requirements and their own business needs.
- (2) In order to deal with requests for information from the *FCA*, as well as queries and complaints from *customers* and *covered individuals*, *firms* may require evidence of matters such as:
 - (a) the reasons for *personal recommendations*;
 - (b) what documentation has been provided to a *customer* or *covered individual*; and
 - (c) how redemptions have been settled and why.
- (3) A *firm* may be subject to record-keeping requirements elsewhere in the *FCA Handbook*, including in:
 - (a) the Training and Competence sourcebook (*TC*) (see ■ TC 3.1.1R);
 - (b) the Senior Management Arrangements, Systems and Controls sourcebook (*SYSC*) (see ■ SYSC 9.1.1R, ■ SYSC 10.1.6R and ■ SYSC 28A.3.1R); and
 - (c) chapter 7 of the Product Intervention and Product Governance sourcebook (*PROD*) when *manufacturing* or *distributing* a *funeral plan product*.