

Chapter 5

Guidance on insurance distribution activities

5.1 Application and purpose

Application

- 5.1.1 **G** This chapter applies principally to any *person* who needs to know whether they carry on *insurance distribution activities* and are thereby subject to *FCA* regulation. As such it will be of relevance among others to:
- (1) insurance brokers;
 - (2) insurance advisers;
 - (3) *insurance undertakings*; and
 - (4) other *persons* involved in the sale and administration of *contracts of insurance*, even where these activities are secondary to their main business.

Purpose of guidance

- 5.1.2 **G** [not used]
- 5.1.3 **G** [not used]
- 5.1.4 **G** [not used]
- 5.1.5 **G** [not used]
- 5.1.6 **G** The purpose of this *guidance* is to help *persons* consider whether they need *authorisation* or a variation of their *Part 4A permission*. Businesses who act only as introducers of *insurance business* are directed in particular to ■ PERG 5.6.2 G to ■ PERG 5.6.9 G to help consider whether they require *authorisation*. This *guidance* also explains the availability to *persons* carrying on *insurance distribution activities* of certain exemptions from regulation, including the possibility of becoming an *appointed representative* (see ■ PERG 5.13(Appointed representatives)).

Effect of guidance

- 5.1.7 **G** This *guidance* is issued under section 139A of the *Act* (Guidance). It is designed to throw light on particular aspects of regulatory requirements, not to be an exhaustive description of a *person's* obligations. If a *person* acts in

line with the *guidance* and the circumstances contemplated by it, then the *FCA* will proceed on the footing that the *person* has complied with aspects of the requirement to which the *guidance* relates.

5.1.8 **G** Rights conferred on third parties cannot be affected by *guidance* given by the *FCA*. This *guidance* represents the *FCA*'s view, and does not bind the courts, for example, in relation to the enforceability of a contract where there has been a breach of the *general prohibition* on carrying on a *regulated activity* in the *United Kingdom* without *authorisation* (see sections 26 to 29 of the *Act* (Enforceability of Agreements)).

5.1.9 **G** A *person* reading this *guidance* should refer to the *Act* and the various *Orders* that are referred to in this *guidance*. These should be used to find out the precise scope and effect of any particular provision referred to in this *guidance*. A *person* may need to seek his own legal advice.

5.1.10 **G** [not used]

Guidance on other activities
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5.1.11 **G** A *person* may wish to carry on activities related to other forms of *investment* in connection with *contracts of insurance*, such as *advising on* and *arranging regulated mortgage contracts*. Such a *person* should also consult the *guidance* in ■ PERG 2 (Authorisation and Regulated Activities), ■ PERG 4 (Regulated activities connected with mortgages) and ■ PERG 8 (Financial Promotion and Related Activities). A *person* may also wish to carry on *regulated claims management activities* (where their activities are not *insurance distribution activities*, and they fall outside of the exclusion in article 89U of the *Regulated Activities Order*). Such a *person* should also consult the *guidance* in ■ PERG 2.7.20M and ■ PERG 2.7.20N.