

INSURANCE: CONDUCT OF BUSINESS SOURCEBOOK (GUARANTEED ASSET PROTECTION CONTRACTS) INSTRUMENT 2015

Powers exercised

- A. The Financial Conduct Authority makes this instrument in the exercise of:
- (1) the following powers and related provisions in the Financial Services and Markets Act 2000 (“the Act”):
 - (a) section 137A (The FCA’s general rules);
 - (b) section 137D (FCA general rules: product intervention);
 - (c) section 137T (General supplementary powers); and
 - (d) section 139A (Power of the FCA to give guidance); and
 - (2) the other powers and related provisions listed in Schedule 4 (Powers exercised) to the General Provisions of the Handbook.
- B. The rule-making powers listed above are specified for the purpose of section 138G (Rule-making instruments) of the Act.

Commencement

- C. This instrument comes into force on 1 September 2015.

Amendments to the FCA Handbook

- D. The Glossary of definitions is amended in accordance with Annex A to this instrument.
- E. The Insurance: Conduct of Business sourcebook (ICOBS) is amended in accordance with Annex B to this instrument.

Citation

- F. This instrument may be cited as the Insurance: Conduct of Business Sourcebook (Guaranteed Asset Protection Contracts) Instrument 2015.

By order of the Board of the Financial Conduct Authority
4 June 2015

Annex A**Amendments to the Glossary of definitions**

Insert the following new definition in the appropriate alphabetical position. The text is not underlined.

- GAP contract* a guaranteed asset protection contract; this is a *contract of insurance* covering a *policyholder*, in the event of total loss to a *vehicle*, against the difference between:
- (a) the amount claimed under the *policyholder's vehicle policy* in respect of that loss; and
 - (b) an amount defined in, or calculated in accordance with, the *GAP contract*.

Annex B

Amendments to the Insurance: Conduct of Business sourcebook (ICOBS)

In this Annex, underlining indicates new text and striking through indicates deleted text, unless otherwise stated.

1 Annex 1 Application (see ICOBS 1.1.2R)

...

Part 4: Guidance		
...		
3		Insurance Mediation Directive: effect on territorial scope
3.1	G	The <i>Insurance Mediation Directive's</i> scope covers most firms carrying on most types of <i>insurance mediation</i> . The rules in this sourcebook within the Directive's scope are those that require the provision of pre-contract information or the provision of advice on the basis of a fair analysis (see <i>ICOBS 4</i> (Information about the firm, its services and remuneration), <i>ICOBS 5.2</i> (Statement of demands and needs), <i>ICOBS 5.3.3R</i> (Advice on the basis of a fair analysis), and <i>ICOBS 6</i> (Product information) and <i>ICOBS 6A.1.4R</i> (<u>Ensuring the customer can make an informed decision</u>)).
...		
4		Non-Life Directives: effect on territorial scope
...		
4.2	G	The rules in this sourcebook within the Directives' scope are those requiring the provision of pre-contract information or information during the term of the contract concerning the <i>insurer</i> or the insurance contract (see <i>ICOBS 2.2</i> (Communications to clients and financial promotions), <i>ICOBS 4</i> (Information about the firm, its services and remuneration), <i>ICOBS 6</i> (Product information), <i>ICOBS 6A.1.4R</i> (<u>Ensuring the customer can make an informed decision</u>) and <i>ICOBS 8</i> (Claims handling), except <i>ICOBS 8.2</i> (Motor vehicle liability insurers)).
...		
7		Distance Marketing Directive: effect on territorial scope
7.1	G	In broad terms, a <i>firm</i> is within the <i>Distance Marketing Directive's</i> scope when conducting an activity relating to a <i>distance contract</i> with a <i>consumer</i> . The rules in this sourcebook within the

		Directive's scope are those requiring the provision of pre-contract information (see <i>ICOBS 2.2</i> ((Communications to clients and financial promotions), <i>ICOBS 4</i> (Information about the firm, its services and remuneration), and <i>ICOBS 6</i> (Product information), <u>and <i>ICOBS 6A.1.4R</i> (Ensuring the customer can make an informed decision)</u>), the cancellation <i>rules</i> (see <i>ICOBS 7</i>) and the other specific <i>rules</i> implementing the Directive (see <i>ICOBS 3.1</i>).
...		

...

Insert the following new chapter after *ICOBS 6*. The text is not underlined.

6A Product specific rules

6A.1 Guaranteed asset protection (GAP) contracts

Application

6A.1.1 R This section applies to a *firm* which sells a *GAP contract* to a *customer* in connection with the sale of a *vehicle* by:

- (1) the *firm*; or
- (2) a *person* connected to the *firm*.

6A.1.2 G There is a sufficient connection between the *GAP contract* and the sale of a *vehicle* if the *GAP contract* is sold in connection with other goods and services, for example a *credit agreement*.

6A.1.3 G A *person* connected with a *firm* includes acting as an *introducer* or *appointed representative* for that *firm* or if, regardless of *authorisation* status, it has a relevant business relationship with the *firm*.

Ensuring the customer can make an informed decision

6A.1.4 R (1) Before a *GAP contract* is concluded, a *firm* must give the *customer* the following information:

- (a) the total *premium* of the *GAP contract*, separate from any other prices;
- (b) the significant features and benefits, significant and unusual exclusions or limitations, and cross-references to the relevant policy document provisions;
- (c) whether or not the *GAP contract* is sold in connection with *vehicle* finance, that *GAP contracts* are sold by other distributors;

- (d) the duration of the *policy*;
 - (e) whether the *GAP contract* is optional or compulsory;
 - (f) when the *GAP contract* can be concluded by the *firm*, as described in *ICOBS 6A.1.6R* and *ICOBS 6A.1.7R*; and
 - (g) the date the information in (a) to (f) is provided to the *customer*.
- (2) This information must be communicated in a clear and accurate manner and in writing or another *durable medium*, and made available and accessible to the *customer*.
 - (3) This information must be drawn to the *customer's* attention and must be clearly identifiable as key information that the *customer* should read.
- 6A.1.5 G A *firm* must also comply with the *rules* in *ICOBS 6* (Product Information).
- Deferred opt-in for GAP contracts
- 6A.1.6 R Except as specified in *ICOBS 6A.1.7R*, a *GAP contract* cannot be concluded by a *firm* until at least 2 clear *days* have passed since the *firm* complied with *ICOBS 6A.1.4R*.
- 6A.1.7 R A *firm* can conclude a *GAP contract* the *day* after providing the information in *ICOBS 6A.1.4R* to a *customer* if the *customer*:
- (1) initiates the conclusion of the *GAP contract*; and
 - (2) consents to the *firm* concluding the *GAP contract* earlier than provided for in *ICOBS 6A.1.6R*, and confirms that they understand the restriction in *ICOBS 6A.1.6R*.
- 6A.1.8 G Before concluding a *GAP contract*, a *firm* should have regard to the information needs of its *customers* and consider whether it would be in the *customer's* interest to receive the information in *ICOBS 6A.1.4R* again, for example, if a long time has passed between providing the information and the conclusion of the contract.