

HIGH COST CREDIT (RENT TO OWN WARRANTIES) INSTRUMENT 2018

Powers exercised

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

Commencement

- C. This instrument comes into force on 22 February 2019.

Amendments to the Handbook

- D. The Glossary of definitions is amended in accordance with Annex A to this instrument.
- E. The Product Intervention and Product Guidance sourcebook (PROD) is amended in accordance with Annex B to this instrument.

Citation

- F. This instrument may be cited as the High Cost Credit (Rent to Own Warranties) Instrument 2018.

By order of the Board
15 November 2018

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

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

extended warranty an agreement entered into by a *customer* for monetary consideration which provides cover, guarantees or undertakings in relation to defects in *goods*.

rent-to-own agreement a *regulated credit agreement* which is a *hire-purchase agreement* or *conditional sale agreement* which provides for repayments to be made at intervals of less than one *month*, but excluding those in relation to *goods* acquired principally for business purposes or motor vehicles.

Annex B

Amendments to the Product Intervention and Product Governance sourcebook (PROD)

After PROD 1.4 (Application of PROD 4) insert the following new section, PROD 1.5. The text is not underlined.

1.5 Application of PROD 5

General: Who? What?

1.5.1 R *PROD 5* applies to a *firm* which:

- (1) offers to sell an *extended warranty* to a *customer*; or
- (2) refers, invites or induces a *customer* to obtain an *extended warranty* from a *person* connected to the *firm*;

in connection with the entering into of a *rent-to-own agreement* with the *firm*.

1.5.2 G A *person* connected to the *firm* includes someone who has a relevant business relationship with the *firm*.

Where?

1.5.3 R *PROD 5* applies to a *firm* with respect to activities carried on from an establishment maintained by it, or its *appointed representative*, in the *United Kingdom*.

EEA territorial scope rule: compatibility with European law

1.5.4 R (1) The territorial scope of *PROD 5* is modified to the extent necessary to make it compatible with European law (see *PROD 1.5.5G* to *PROD 1.5.7G* for *guidance* on this).

- (2) This *rule* overrides every other *rule* in *PROD 5*.

Effects of the EEA territorial scope rule

1.5.5 G The *guidance* in paragraph 2 of Part 4 of *ICOBS 1 Annex 1* applies equally to the *rules* in *PROD 5*.

IDD, Solvency II, DMD: effect on territorial scope

1.5.6 G The *guidance* on the *IDD, Solvency II Directive* and *Distance Marketing Directive* in *ICOBS 1 Annex 1* in relation to *ICOBS 6A.1.4R* applies equally to *PROD 5.1.1R* (to the extent that the *extended warranty* is a *contract of insurance*).

Electronic Commerce Directive: effect on territorial scope

- 1.5.7 G The *guidance* on the Electronic Commerce Directive in *ICOBS 1 Annex 1*, Part 4, paragraph 8 applies equally in relation to the *rules* in *PROD 5*.

...

After PROD 4 (Product governance: IDD) insert the following new chapter, PROD 5. The text is not underlined.

5 Extended warranties sold with rent-to-own agreements: customer information and deferred opt-in

5.1 Ensuring the customer can make an informed decision

- 5.1.1 R (1) A *firm* must give the *customer* the information in (3), at the same time and in the same *document*, when it offers to sell them an *extended warranty*.
- (2) A *firm* must ensure that any other *person* to whom it has referred the *customer* or invited or induced the *customer* to obtain an extended warranty from gives the *customer* the information in (3), at the same time and in the same *document*, when that *person* offers to sell the *customer* an *extended warranty*.
- (3) The information is:
- (a) the total cost of the *extended warranty*, separate from any other prices, in the following terms:
 - (i) weekly;
 - (ii) annually; and
 - (iii) over the duration of the *rent-to-own agreement*;
 - (b) the significant features and benefits, significant and unusual exclusions or limitations of the *extended warranty*, with cross-references to the relevant warranty document provisions;
 - (c) a statement that *extended warranties* may be available from other *persons*;
 - (d) an explanation of how the *extended warranty* interacts with and compares against any other products sold or offered for sale in connection with the *rent-to-own agreement* (e.g. theft and accidental damage insurance);

- (e) an explanation of how the *extended warranty* interacts with and compares against any standard manufacturer's warranty that may apply to the *goods* which are the subject of the *rent-to-own* agreement, given in a way that enables the *customer* to make a clear comparison between the two;
 - (f) when the *extended warranty* can be concluded, as described in *PROD 5.2.1R*; and
 - (g) the date the information in (a) to (f) is provided to the *customer*.
- (4) The information in (3) must be communicated in a way that is:
- (a) fair, clear and not misleading;
 - (b) in writing or another *durable medium*; and
 - (c) made available and accessible to the *customer*.
- (5) The information in (3) must be drawn to the *customer's* attention and must be clearly identifiable as key information that the *customer* should read.
- 5.1.2 G (1) A *firm* that sells *extended warranties* that constitute *contracts of insurance* must also comply with the *rules* in *ICOBS 6* (Product Information).
- (2) *Firms* should also take into account the Supply of Extended Warranties on Domestic Electrical Goods Order 2005. Other consumer protection legislation may also be relevant.

5.2 Deferred opt-in for extended warranties

- 5.2.1 R (1) A *firm* must:
- (a) not conclude the sale of an *extended warranty*; and
 - (b) ensure that no other *person* to whom the *firm* has referred the *customer* concludes the sale of an *extended warranty*;
- until at least two clear *days* have passed since the required information was provided to the *customer* (*PROD 5.1.1R*).
- (2) The period in (1) is one clear *day* after providing the information if the *customer*:
- (a) initiates the conclusion of the sale of the *extended warranty*;

(b) consents to the conclusion of the sale of the *extended warranty* earlier than provided for in (1); and

(c) confirms that they understand the restriction in (1).

5.2.2 G For example, if a *firm* provided the required information to the *customer* on Monday, it would not (absent the *customer's* consent) be able to conclude the sale of the *extended warranty* until Thursday.

5.2.3 G Before the conclusion of the sale of an *extended warranty*, 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 *PROD 5.1.1R* again, for example if a long time has passed between the provision of the information and the conclusion of the sale.