

INSURANCE: CONDUCT OF BUSINESS SOURCEBOOK (ACCESS TO TRAVEL INSURANCE) INSTRUMENT 2020

Powers exercised

- A. The Financial Conduct Authority (“the FCA”) makes this instrument in the exercise of the powers and related provisions in or under:
- (1) the following sections of the Financial Services and Markets Act 2000 (“the Act”):
 - (a) section 137A (The FCA’s general rules);
 - (b) section 137T (General supplementary powers);
 - (c) 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) 1 June 2020 for Annex A and Part 1 of Annex B; and
 - (2) 5 November 2020 for the remainder of the instrument.

Amendments to the 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 (Access to Travel Insurance) Instrument 2020.

By order of the Board
30 January 2020

Annex A

Amendments to the Glossary of definitions

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

- | | |
|-------------------------------------|---|
| <i>medical condition exclusion</i> | an exclusion in respect of one or more medical conditions. |
| <i>medical condition premium</i> | the total amount of premium relating to the risk associated with one or more specific medical conditions. |
| <i>medical cover firm directory</i> | <p>a publicly available directory:</p> <ul style="list-style-type: none"> (a) that only lists <i>firms</i> that provide or arrange <i>travel insurance policies</i> that cover more serious medical conditions; (b) that does not: <ul style="list-style-type: none"> (i) prevent <i>firms</i> from being listed; (ii) encourage <i>consumers</i> to select any <i>firm</i> over any other <i>firm</i>; or (iii) otherwise prefer any <i>firm</i>, <p>based on any membership of any association or other commercial arrangement;</p> (c) that provides detailed information about each listed <i>firm</i>, including: <ul style="list-style-type: none"> (i) the name and contact details, including telephone number and website, of the <i>firm</i>; (ii) any specific medical conditions the <i>firm</i> specialises in covering; (iii) any specific medical conditions that the <i>firm</i> is likely not to cover, where relevant; (iv) any age limits; (v) whether the <i>firm</i> can discuss medical conditions with <i>consumers</i> by phone; (vi) whether the <i>firm</i> can offer cover to <i>consumers</i> who are currently undergoing treatment; |

(vii) whether the *firm* can offer cover to *consumers* with a terminal prognosis;

(d) operated by a *person* who has verified the accuracy of the information in (a) and has adequate systems and processes in place to keep the information in (a) and (c) up-to-date.

*travel insurance
policy*

(in *ICOBS* 6.1.7-AG, *ICOBS* 6.5.1AG and *ICOBS* 6A.4 (Travel insurance and medical conditions)) a *non-investment insurance contract* which covers risks connected with travelling or the making of travel arrangements, including *connected travel insurance contracts*.

Annex B

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

In this Annex underlining indicates new text, unless otherwise stated.

Part 1: Comes into force on 1 June 2020

1 Annex Application (see ICOBS 1.1.2R)

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...

Part 2: What?

Modifications to the general application rule according to type of firm		
...		
<u>5</u>		<u>Travel insurance contracts</u>
<u>5.1</u>	<u>R</u>	<u>The provisions in <i>ICOBS 6.1.7-AG</i>, <i>ICOBS 6.5.1AG</i> and <i>ICOBS 6A.4</i> also apply to <i>incoming firms</i> that provide <i>cross border services</i> other than:</u>
		<u>(1) an <i>incoming firm</i> in respect of that part of its business that is carried on as an <i>electronic commerce activity</i> from another <i>EEA State</i>; or</u>
		<u>(2) an <i>incoming firm</i> where the <i>state of the risk</i> is an <i>EEA State</i> to the extent that the <i>EEA State</i> in question imposes measures of like effect.</u>

...

Insert the following new section, *ICOBS 6A.4*, after *ICOBS 6A.3* (Cross-selling). The text is not underlined.

6A.4 Travel insurance and medical conditions

Application

6A.4.1 R This section applies in relation to a *travel insurance policy*, which is not:

- (1) a *group policy*; or
- (2) a *policy* entered into by a *commercial customer*.

Purpose

6A.4.2 G The purpose of this section is to improve access for *consumers* to *travel insurance policies* that include cover for more serious medical conditions.

Medical cover firm directory

6A.4.3 R (1) A *firm* must include the details of a *medical cover firm directory* on the page of its website where it markets *travel insurance policies*.

(2) The information required by (1) must:

(a) be provided in a prominent, clear and accurate manner; and

(b) include the contact details of the *medical cover firm directory*, including its telephone number and a link to its website;

(3) The obligations in (1) and (2) apply 30 calendar days from the date on which the *firm* becomes aware (or ought reasonably to have become aware) of a publicly available directory that meets the requirements of a *medical cover firm directory*.

6A.4.4 G The *FCA's* website contains a list of those directories which it considers to be *medical cover firm directories*.

Part 2: Comes into force on 5 November 2020

Amend the following as shown.

5 Identifying client needs and advising

5.1 General

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Eligibility to claim benefits: policies arranged as part of a packaged bank account

...

5.1.3C R ...

(3) The statement (provided under *ICOBS* 5.1.3CR(1)) must not:

(a) include any information other than that provided in accordance with this *rule*, *ICOBS* 6.1.7-AG(2), *ICOBS* 6A.4.5R(1) and *ICOBS* 6A.4.7G; or

...

...

6 Product information

6.1 Providing product information to customers: general

...

Appropriate information regarding medical condition exclusions in travel insurance policies

- 6.1.7-A G (1) This guidance is relevant to a *firm* when it provides a *consumer* with:
- (a) a quotation for a *travel insurance policy*; or
 - (b) a statement (provided under *ICOBS 5.1.3CR(1)*) in respect of a *travel insurance policy* included in a *packaged bank account*.
- (2) At the same time as it provides the information in (1), the *firm* should:
- (a) disclose to the *consumer* whether any *medical condition exclusion* can be removed from the *policy* (in whole or in part);
and
 - (b) if so, how, and the terms on which it can be removed.
- (3) *Firms* are also reminded of their obligations in *ICOBS 5.2.2BR* to ensure the *policy* proposed is consistent with the *consumer's* insurance demands and needs.

Appropriate information for commercial customers

6.1.7A G ...

...

6.5 Renewals

Renewals

6.5.1 R ...

- 6.5.1A G (1) When a *firm* proposes to a *consumer* the renewal of a *travel insurance policy*, the *firm* should at the same time:
- (a) disclose to the *consumer* whether any *medical condition exclusion* can be removed from the *policy* (in whole or in part);
and

- (b) if so, how, and the terms on which it can be removed.
- (2) Firms are reminded of their obligations in:
 - (a) ICOBS 6A.4.5R, where one or more of the circumstances set out in ICOBS 6A.4.6R applies in respect of the policy proposed on renewal; and
 - (b) ICOBS 5.2.2BR to ensure the policy proposed is consistent with the consumer's insurance demands and needs.

...

Insert the following new text after ICOBS 6A.4.4G. The text is not underlined.

6A.4 Travel insurance and medical conditions

...

6A.4.4 G ...

Additional pre-contract information for the consumer

- 6A.4.5 R (1) Where one or more circumstances set out in *ICOBS* 6A.4.6R applies, the *firm* that is responsible for communicating with the *consumer* under this sourcebook, must also communicate to the *consumer*:
- (a) the contact details, including telephone number and website, of the *medical cover firm directory*;
 - (b) the purpose of the *medical cover firm directory*; and
 - (c) the potential benefits of accessing the *medical cover firm directory* and any other relevant considerations.
- (2) The *firm* must communicate the information in (1):
- (a) in a manner that is prominent, clear and accurate; and
 - (b) in accordance with *ICOBS* 4.1A.

The circumstances

6A.4.6 R The circumstances for the purposes of *ICOBS* 6A.4.5R are where a *firm*:

- (1) declines, or otherwise does not offer, a *consumer* a quotation due (wholly or partly) to a medical condition;
- (2) cancels a *consumer's policy* due (wholly or partly) to a medical condition;
- (3) offers a *policy* with a *medical condition exclusion* which cannot be removed from the *policy*;
- (4) offers a *policy* with a *medical condition premium* of £100 or more; and/or
- (5) offers a *policy* in respect of which the *medical condition premium* is not known.

Content of communication

- 6A.4.7 G (1) When describing the purpose and potential benefits of accessing the *medical cover firm directory*, the communication provided to *consumers* pursuant to *ICOBS* 6A.4.5R should:
- (a) tell the *consumer* why they are receiving the communication;
 - (b) taken as a whole, not discourage the *consumer* from using the directory; and
 - (c) otherwise be the result of careful consideration by the *firm* of *consumer* needs and expectations in light of the requirements of relevant *principles* and *rules*, including *Principles* 6, 7 and 8.
- (2) An example of a relevant consideration (referred to in *ICOBS* 6A.4.5R(1)(c)) is where multiple *consumers* have applied for a joint travel insurance *policy* from the *firm* and should consider the consequences of purchasing separate *travel insurance policies*.

Exception: multiple policies

- 6A.4.8 R A *firm* need not comply with *ICOBS* 6A.4.5R where it is contemporaneously able to communicate an offer to a *consumer* of a *travel insurance policy* in respect of which none of the circumstances set out in *ICOBS* 6A.4.6R apply.

Exception: consumer has already accessed the medical cover firm directory

- 6A.4.9 R A *firm* need not comply with *ICOBS* 6A.4.5R where all the following conditions are met:
- (1) the *firm* is listed on a *medical cover firm directory*;
 - (2) the *firm* is aware that the *consumer* has already accessed the *medical cover firm directory* in respect of the same risk; and

(3) only *ICOBS* 6A.4.6R (4) applies.

6A.4.1 R A *firm* must not rely on the exception in *ICOBS* 6A.4.8R or *ICOBS* 6A.4.9R
0 where it would still be in the *consumer's* best interests to provide the communication under *ICOBS* 6A.4.5R.

6A.4.1 G An example of where it may be in the *consumer's* best interests to provide
1 the communication is where the *consumer* has expressed dissatisfaction to the *firm* with the quote provided.

6A.4.1 G (1) Whether a *firm* has responsibility for communicating with the
2 *consumer* under this section will depend on the *rules* in this sourcebook applicable to the relevant circumstances, and the language of relevant provisions in this section should be construed accordingly. See, for example, *ICOBS* 5.1.3CR (Packaged bank accounts), *ICOBS* 6.-1R (Producing and providing product information), *ICOBS* 6.1 (Providing product information to customers) and *ICOBS* 6.5 (Renewals).

(2) Guidance on the application of these requirements to an *insurer* that is an *incoming firm* can be found at *ICOBS* 1 Annex 1 (Part 2) 5.1R.

(3) *Firms* with *appointed representatives* are reminded that the effect of s39(4) of the *Act* is that where the *appointed representative* carries out the relevant activity, the *firm* must ensure that the *appointed representative* complies with the relevant provision (see *SUP* 12.3.1G).

Assessment of medical condition risk

6A.4.1 G (1) *Firms* should assess the risk associated with medical conditions and
3 calculate *medical condition premiums* by reference to reliable information that is relevant to the assessment of the risk. *Firms* which do not do this may communicate unclear, unfair or misleading price information to *consumers* and so risk breaching *Principles* 2, 6 and/or 7, and *ICOBS* 2.2.2R and/or *ICOBS* 2.5-1R. *Firms* also need to consider their obligations under the Equality Act 2010.

(2) *Firms* are also reminded of their obligations in *PROD* 4.2 or 4.3 to identify and distribute *travel insurance policies* to the target market.

(3) Prior to a *firm* offering a *policy* with a very high *medical condition premium*, the *firm* should take all reasonable steps to consider whether:

(a) the nature of the medical screening or assessment process is insufficient to provide reliable information which is relevant to the assessment of the risk associated with the particular medical condition;

(b) the high premium is intended to indicate an unwillingness to accept the risk by the *insurer*; or

- (c) the high premium is due to the medical condition falling outside of the *insurer's* risk appetite or the target market for the product.
- (4) Where this is the case, offering a quote may mislead the *consumer* and/or result in them not being treated honestly, fairly and professionally in their best interests. A *firm* should consider instead whether it would be more appropriate not to offer a quote for the risk, explain the reason/s why not to the *consumer* and provide them with the details of the *medical cover firm directory* under *ICOBS 6A.4.5R*.