

## **Variation of Permission (VoP) Application**

### **Claims Management – notes**

#### **Purpose of these Notes**

These notes will help you fill in the Claims Management form correctly

If after reading these notes you need more help, you can:

- visit our website: [www.fca.org.uk/](http://www.fca.org.uk/)
- consult the Handbook: [www.fshandbook.info/FS/index.jsp](http://www.fshandbook.info/FS/index.jsp)
- call the Customer Contact Centre: 0300 500 0597
- email the Customer Contact Centre: [Firm.Queries@fca.org.uk](mailto:Firm.Queries@fca.org.uk)

These notes, while aiming to help you, do not replace the rules and guidance in the Handbook.

#### **Terms in these notes**

These notes use the following terms:

- 'you', 'the firm' or 'the applicant firm' refers to the firm applying for authorisation
- 'the FCA', 'we', 'us' or 'our' refers to the Financial Conduct Authority
- FSMA refers to the Financial Services and Markets Act 2000
- 'Claims management activity' refers to regulated claims management activity except where stated otherwise

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# 1 Contact details and timings for this application

## Contact for this application

### 1.1 Contact details of the person we will get in touch with about this application

This should generally be someone in the UK

## Pre-application case

### 1.2 Please specify if you have received support from the Innovation Hub or the Asset Management Hub

No additional notes

## Timings for this application

### 1.3 Does the applicant firm have any timing factors that it would like us to consider?

If you wish your application to be granted by a specific date, for example in time for a product launch, we will try to do so. However, the time taken to determine each application is significantly affected by the quality of the application submitted and whether it is complete. If you leave a question blank, do not sign the declaration or do not attach the required supporting information, we will have to treat the application as incomplete. This will increase the time taken for us to assess your application.

We are required by law to determine applications within the earlier of (a) 6 months of receiving a complete application or (b) 12 months of receiving an incomplete application. However, we aim to make a decision about the application as soon as possible.

# 2 Scope of Permission required

## Regulated Activity

Changing your firm's permission can generate an application fee and vary your fee.

It is your responsibility to make sure the regulated activities you request adequately cover the activities the applicant firm intends to carry on. Use this page to request any changes you wish to make to the firm's Claims Management permission.

You need a Permission Notice that matches the applicant firm's needs and covers every aspect of regulated business it wants to carry on. The Permission Notice shows the range of regulated activities the applicant firm will be authorised to carry on. It will also contain what we refer to as 'requirements' and 'limitations', should this be relevant. Broadly speaking, a limitation is included in the description of a specific regulated activity and will limit how it can be carried on in some way. A requirement is on the firm to take a specified action. A requirement may extend to activities of the firm which are not regulated activities. If the applicant firm carries on a regulated activity that is not set out in its permission notice it could be in breach of FSMA and subject to enforcement action.

For details of regulated activities, please refer to the Perimeter Guidance Manual in the FCA Handbook.

You can find a full description of each regulated activity in PERG 2.7 at:

<http://fshandbook.info/FS/html/FCA/PERG/2/7>

You may also find it useful to look at the FCA glossary:

[www.fshandbook.info/FS/html/handbook/Glossary](http://www.fshandbook.info/FS/html/handbook/Glossary)

## **Seeking out referrals and identification of claims or potential claims (personal injury claim; financial services or financial product claims housing disrepair claim; claims for a specified benefit; criminal injury claim; employment related claim)**

This permission is specified in Article 89G of the Regulated Activities Order, which in summary involves any or all of the following:

- a) seeking out persons who may have a claim (unless that activity constitutes a controlled claims management activity: see PERG 8.7A.5G);
- b) referring details of a claim or a potential claim or a claimant or potential claimant to another person; and
- c) identifying a claim or potential claim, or a claimant, or potential claimant;

When carried on in relation to:

- a) Personal injury: claims for damages for personal injury or death
- b) Financial services and financial products; claims in relation to financial services and financial products
- c) Housing repair; claims relating to certain landlord and tenant legislation, for the disrepair of premises under a term of a tenancy agreement or lease, or under the common law relating to nuisance
- d) Specified benefits; claims relating to certain industrial injuries, benefits, supplements or allowances

- e) Criminal injuries; claims under the Criminal Injuries Compensation Scheme
- f) Employment; includes claims in relation to wages and salaries and other employment-related payments, and claims in relation to wrongful or unfair dismissal, redundancy, discrimination and harassment

### **Advice, investigation or representation in relation to a personal injury claim**

This permission is specified in Article 89H of the Regulated Activities Order, which, in summary, involves any or all of the following:

- a) Advice includes any type of advice in relation to a claim, including advice on the merits of a claim, advice on the procedure for pursuing a claim, advice on how best to present a claim, and advice on possible means of challenging an unsatisfactory outcome to a claim.
- b) Investigation of a claim means carrying out an investigation into, or commissioning the investigation of, the circumstances, merits or foundation of a claim.
- c) Representation of a claimant means representation in writing or orally, regardless of the tribunal, body or person before which or to whom the representation is made.

Where carried on in relation to a personal injury claim (claims for damages for personal injury or death).

### **Advice, investigation or representation in relation to a financial services or financial product claim**

This permission is specified in Article 89I of the Regulated Activities Order, which, in summary, involves any or all of the following:

- a) Advice includes any type of advice in relation to a claim, including advice on the merits of a claim, advice on the procedure for pursuing a claim, advice on how best to present a claim, and advice on possible means of challenging an unsatisfactory outcome to a claim.
- b) Investigation of a claim means carrying out an investigation into, or commissioning the investigation of, the circumstances, merits or foundation of a claim.
- c) Representation of a claimant means representation in writing or orally, regardless of the tribunal, body or person before which or to whom the representation is made.

Where carried on in relation to a financial services or financial product claim

### **Advice, investigation or representation in relation to a housing disrepair claim**

This permission is specified in Article 89J of the Regulated Activities Order, which, in summary, involves any or all of the following:

- a) Advice includes any type of advice in relation to a claim, including advice on the merits of a claim, advice on the procedure for pursuing a claim, advice on how best to present a claim, and advice on possible means of challenging an unsatisfactory outcome to a claim.
- b) Investigation of a claim means carrying out an investigation into, or commissioning the investigation of, the circumstances, merits or foundation of a claim.
- c) Representation of a claimant means representation in writing or orally, regardless of the tribunal, body or person before which or to whom the representation is made.

Where carried on in relation to a housing disrepair claim (claims relating to certain landlord and tenant legislation, for the disrepair of premises under a term of a tenancy agreement or lease, or under the common law relating to nuisance).

### **Advice, investigation or representation in relation to a claim for a specified benefit**

This permission is specified in Article 89K of the Regulated Activities Order, which, in summary, involves any or all of the following:

- a) Advice includes any type of advice in relation to a claim, including advice on the merits of a claim, advice on the procedure for pursuing a claim, advice on how best to present a claim, and advice on possible means of challenging an unsatisfactory outcome to a claim.
- b) Investigation of a claim means carrying out an investigation into, or commissioning the investigation of, the circumstances, merits or foundation of a claim.
- c) Representation of a claimant means representation in writing or orally, regardless of the tribunal, body or person before which or to whom the representation is made.

Where carried on in relation to a claim for a specified benefit (claims relating to certain industrial injuries, benefits, supplements or allowances).

### **Advice, investigation or representation in relation to a criminal injury claim**

This permission is specified in Article 89L of the Regulated Activities Order, which, in summary, involves any or all of the following:

- a) Advice includes any type of advice in relation to a claim, including advice on the merits of a claim, advice on the procedure for pursuing a claim, advice on how best to present a claim, and advice on possible means of challenging an unsatisfactory outcome to a claim.
- b) Investigation of a claim means carrying out an investigation into, or commissioning the investigation of, the circumstances, merits or foundation of a claim.
- c) Representation of a claimant means representation in writing or orally, regardless of the tribunal, body or person before which or to whom the representation is made.

Where carried on in relation to a criminal injury claim (claims under the Criminal Injuries Compensation Scheme).

### **Advice, investigation or representation in relation to an employment related claim**

This permission is specified in Article 89M of the Regulated Activities Order, which, in summary, involves any or all of the following:

- a) Advice includes any type of advice in relation to a claim, including advice on the merits of a claim, advice on the procedure for pursuing a claim, advice on how best to present a claim, and advice on possible means of challenging an unsatisfactory outcome to a claim.
- b) Investigation of a claim means carrying out an investigation into, or commissioning the investigation of, the circumstances, merits or foundation of a claim.
- c) Representation of a claimant means representation in writing or orally, regardless of the tribunal, body or person before which or to whom the representation is made.

Where carried on in relation to an employment related claim (includes claims in relation to wages and salaries and other employment-related payments, and claims in relation to wrongful or unfair dismissal, redundancy, discrimination and harassment).

### **Money Laundering, Terrorist Financing and Transfer of Funds (Information on the Payer) Regulations 2017**

**If the variation of permission is granted will the applicant firm become, or continue to be, subject to the Money Laundering, Terrorist Financing and Transfer of Funds (Information on the Payer) Regulations 2017 and supervised by the FCA?**

For further help please refer to our website: <https://www.fca.org.uk/firms/money-laundering-terrorist-financing>

### **Client money**

Client money is money which a firm receives or holds on behalf of a customer in the course of, or in connection with, providing claims management services. Rules in relation to this can be found in Chapter 13 of the FCA's Client Assets sourcebook (CASS). These rules will apply to CMCs from 1 April 2019.

The rules and guidance about how applicant firms hold client money are designed to provide an adequate level of protection for consumers.

# 3 Fees and levies

No additional notes

# 4 Regulatory business plan

## 4.1 Effective date of changes

No additional notes

## 4.2 Reason for Variation

No additional notes

### **Please attach a full regulatory business plan**

As a guide, the business plan should include:

- full explanation of your business, its background and what it will do, including the types of claims you intend to handle
- objectives (eg, business opportunity, market share, aims)
- details of your governance framework and key personnel
- details of key operational matters
- experience and employment background of your firm's principals and an explanation of how they are competent to perform the regulated activities you want to carry on
- analysis of key business and regulatory risks
- your long-term strategy and financial projections for 3 years
- details of websites, promotions and communications
- details of all fees that could be payable by the customer, how they are explained to the customer and at which point(s) the customer is required to pay the fees details of how customers will be kept up to date with the progress of their claim

## 4.3 Does the applicant use or intend to use third party lead generators?

No additional notes

## 4.4 Does the applicant intend to accept introductions from exempt lead generators benefiting from the exclusion for certain providers of referrals?

No additional notes

## 4.5 Does the applicant intend to represent customers before a tribunal or make representations on behalf of the customer, to an ombudsman service or insurer?

No additional notes

## 4.6 Does the applicant have procedures in place for dealing with vulnerable consumer?

No additional notes

## 4.7 Please attach a copy of your pre-contract information in relation to your claims management activities

No additional notes

## 4.8 Please attached a sample copy of your customer contract in relation to your claims management activities

No additional notes



**4.9 You must provide a structure chart to show the nature of the relationship between the applicant firm and each close link (please include the business type of the close link).**

For more help to create a structure chart and to understand what a 'close link' is, please see [www.fca.org.uk/publications/systems-information/close-link-information.pdf](http://www.fca.org.uk/publications/systems-information/close-link-information.pdf)

**4.10 Are you aware of any information to suggest that any close link is likely to prevent our effective supervision of the applicant firm?**

No additional notes.

# 5 Threshold Conditions

Threshold Conditions are the minimum requirements a firm must satisfy to be, and to continue to be, authorised. When we consider the applicant firm's application we will assess whether you will satisfy, and continue to satisfy, the threshold conditions which are set out in full in the Threshold Conditions (COND) 2 Sourcebook of the Handbook at:

[www.handbook.fca.org.uk/handbook/COND/2/](http://www.handbook.fca.org.uk/handbook/COND/2/)

## **Location of Offices**

This is a requirement of Threshold Condition 2.2.

## **Effective Supervision**

The appropriate regulator must be capable of effectively supervising the firm. This is a requirement of Threshold Condition 2.3.

## **Appropriate resources**

We must be satisfied the applicant firm has adequate resources. We assess the quality and quantity of the applicant firm's resources for its:

- financial resources;
- management;
- staff; and
- systems and controls.

This is a requirement of Threshold Condition 2.4.

## **Prudential category**

We differentiate between our financial requirements by putting applicant firms in different prudential categories. The firm will fall into at least one prudential category; and it may fall into more than one prudential category, depending on its regulated activities.

The prudential categories for claims management are:

- Class 1; and
- Class 2;

The prudential categories in relation to claims management are set out in CMCOB 7.

## **Business model**

This is a requirement of Threshold Condition 2.7

## **Suitability**

We must be satisfied the applicant firm is 'fit and proper' to be authorised. This is a requirement of COND 2.5. We assess:

- the competence and ability of management;
- the management's commitment to carrying on the business with integrity; and
- the management's commitment to carrying on the business in compliance with the regulatory regime.

### **Compliance**

A firm must establish, maintain and carry out a Compliance Monitoring Programme of actions to check it complies, and continues to comply, with regulations. When assessing this application we need to be satisfied the applicant firm has the appropriate compliance arrangements in place to meet its regulatory obligations. The applicant firm will need, as a minimum, to have in place procedures to meet our rules. These procedures must be ready for inspection at any time.

# 6

## EEA Notifications and Third-Country Banking and Investment Groups

### EEA Notifications

We need to know about any connected firms outside the UK but within the EEA because we may contact the relevant EEA Home State Regulators of these connected firms, as part of the application process.

### Third-Country Banking and Investment Groups

Definition of BIPRU firm

BIPRU firm has the meaning set out in the FCA or PRA handbook as appropriate.

Definition of third-country banking and investment group

A third-country banking and investment group is a banking and investment group that is:

- (a) headed by:
  - (i) a credit institution;
  - (ii) an asset management company;
  - (iii) an investment firm; or
  - (iv) a financial holding company;that has its head office outside the EEA; and
- (b) not part of a wider EEA banking and investment group.

# 7 Fees

The application fee is an integral part of your application. If you do not pay the appropriate fee in full with the completed application pack or when we contact you, we will not process your application. For further information on fees, see FEES 3 Annex 1.

You should note the firm's periodic fee may change as a result of this application.

# 8 Declaration

This must be the person who is responsible for making the application. This should be a suitable person of appropriate seniority at the firm.