

# Chapter 1

## Application

1.1 General application

The general application rule

1.1.1 R This sourcebook applies to a *firm* with respect to the activity of *accepting deposits* from *banking customers* carried on from an establishment maintained by it in the *United Kingdom* and activities connected with that activity.

Application to payment services and electronic money

1.1.1A R In addition to the general application rule, Chapter 2 of *BCOBS* applies to a *firm* (other than a *credit union*), an *electronic money institution*, a *payment institution* and a *registered account information service provider* with respect to the provision of *payment services* or issuance or redemption of *electronic money* carried on from an establishment maintained by it or its *agent* in the *United Kingdom* and activities connected with those activities. These *persons* are referred to collectively in Chapters 1 and 2 of *BCOBS* as “providers”.

Limitations on the general application rule and BCOBS  
1.1.1AR

1.1.2 R The general application *rule* is modified:

- (1) in the chapters of this sourcebook for particular purposes; and
- (2) in ■ *BCOBS 1 Annex 1* for certain types of *firm* in relation to the sale of *structured deposits*.

1.1.3 R Except as provided for in ■ *BCOBS 1.1.4R*, this sourcebook does not apply to:

- (1) *payment services* where Parts 6 and 7 of the *Payment Services Regulations* apply; or
- (2) a *person* or *firm* which has permission for *accepting deposits* but only for the purposes of, or in the course of, an activity other than *accepting deposits*.

1.1.4 R (1) Chapters 2, 2A, 5 and 6 of *BCOBS* (except for ■ *BCOBS 5.1.10AR* to ■ *BCOBS 5.1.19 R*) and ■ *BCOBS 4.3* and ■ *4.4* apply to *payment services* where Parts 6 and 7 of the *Payment Services Regulations* apply.

(2) Chapter 3 of *BCOBS* applies to *payment services* where Parts 6 and 7 of the *Payment Services Regulations* apply with the modifications set out in ■ [BCOBS 3.1.2 R\(2\)](#).

(3) [deleted]

**1.1.4A** G Guidance on the application of the *Payment Services Regulations* can be found in ■ [PERG 15](#).

**1.1.5** R ■ [BCOBS 2.2A](#), ■ [BCOBS 2.2B](#), ■ [BCOBS 4.1.2G\(2A\)](#) to (2E), (3A), (6A) and (6B), ■ [BCOBS 4.1.4AG\(2\)\(a\)](#), ■ [BCOBS 4.4](#), ■ [BCOBS 5.1.3AG](#), ■ [BCOBS 5.1.3BG](#), ■ [BCOBS 5.1.5AR](#), ■ [BCOBS 5.1.5BG](#), ■ [BCOBS 5.1.13R](#), ■ [BCOBS 7](#) (except as applied by ■ [BCOBS 7.1.4R](#)) and ■ [BCOBS 8](#) do not apply to a *credit union*.

**1.1.5A** R ■ [BCOBS 2](#) (Communications and financial promotions) does not apply to the provision of *payment services*, the *issuance of electronic money* or activities connected to those activities by a *credit union*, except to the extent that the activity is connected to the activity of *accepting deposits* from *banking customers*.

#### Exclusion of liability

**1.1.6** R A *firm* or a provider must not seek to exclude or restrict, or rely on any exclusion or restriction of, any duty or liability it may have to a *banking customer*, a *payment service customer* or an *electronic money customer* unless it is reasonable for it to do so and the duty or liability arises other than under the *regulatory system*.

**1.1.7** G The general law, including the *Unfair Terms Regulations* (for contracts entered into before 1 October 2015) and the *CRA*, also limits the scope for a *firm* to exclude or restrict any duty or liability to a *consumer*.

#### Structured deposits

**1.1.8** G A *firm* that carries on the activity of *accepting deposits* which are *structured deposits* should refer to ■ [BCOBS 1 Annex 1](#).



Structured deposit business

Application of BCOBS to firms selling structured deposits

1.1	R	The <i>BCOBS</i> provisions shown below do not apply to a <i>MiFID investment firm</i> , a <i>third country investment firm</i> or a <i>MiFID optional exemption firm</i> in relation to the sale of <i>structured deposits</i> subject to the rules specified in <a href="#">COBS 1.1.1AR(2)</a> .	
		<b>BCOBS provision</b>	<b>Description</b>
		<a href="#">BCOBS 2</a>	Communications with banking customers and financial promotions
		<a href="#">BCOBS 4</a> (other than <a href="#">BCOBS 4.1.4AG</a> and <a href="#">BCOBS 4.3</a> )	Information to be communicated to banking customers
1.2	G	A <i>firm</i> to which <a href="#">BCOBS 1 Annex 1</a> paragraph 1.1R applies should read and understand the reference to the appropriate information rule in <a href="#">BCOBS 4.1.4AG</a> as referring to <a href="#">COBS 2.2A.2R</a> .	
1.3	G	A <i>MiFID investment firm</i> , a <i>third country investment firm</i> or a <i>MiFID optional exemption firm</i> that sells <i>structured deposits</i> should consider <a href="#">COBS 1.1.1AR</a> to <a href="#">COBS 1.1.1ABR</a> . These rules specify how certain provisions in <i>COBS</i> apply to a <i>firm</i> in relation to the sale of <i>structured deposits</i> .	
Financial promotions relating to structured deposits			
1.4	G	(1) <a href="#">BCOBS 2</a> contains rules which apply to a <i>firm</i> when it communicates a financial promotion that is not an excluded communication or when the <i>firm</i> approves a financial promotion.  (2) If a financial promotion relates to a structured deposit, rules relating to past, simulated past and future performance in <a href="#">COBS 4.5A</a> or <a href="#">COBS 4.6</a> will also apply.	
Structured deposits as PRIIPs			
1.5	G	<i>Firms</i> are reminded that <i>structured deposits</i> are <i>PRIIPs</i> and that the provisions of the <i>PRIIPs Regulation</i> are also relevant to such products. The <i>PRIIPs Regulation</i> requires a person who advises on, or sells, a <i>PRIIP</i> to provide a retail investor (as defined in the <i>PRIIPs Regulation</i> ) with the key information document for that <i>PRIIP</i> .	
1.6	G	Where a <i>firm</i> is required to provide information in a key information document, it will not be required to provide the same information under <a href="#">BCOBS 4.1</a> .	
[Note: <a href="#">BCOBS 1.1.4R(3)</a> and article 13 of the <i>PRIIPs Regulation</i> ]			

