

Chapter 1

Application



1.1 General application

Designated investment business and long-term insurance business in relation to life policies

1.1.1

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This sourcebook applies to a *firm* with respect to the following activities carried on from an establishment maintained by it, or its *appointed representative*, in the *United Kingdom*:

- (1) [deleted]
- (2) *designated investment business*;
- (3) *long-term insurance business* in relation to *life policies*;

and activities connected with them.

Deposits (including structured deposits)

1.1.1A

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This sourcebook applies to a *firm* with respect to activities carried on in relation to *deposits* from an establishment maintained by it, or its *appointed representative*, in the *United Kingdom* only as follows:

	Section / chapter	Application in relation to deposits
(1)	Rules in this sourcebook which implemented articles 24, 25, 26, 28 and 30 of <i>MiFID</i> (and related provisions of the <i>MiFID Delegated Directive</i>) (see COBS 1.1.1ADG).	A <i>MiFID investment firm</i> , a <i>third country investment firm</i> and a <i>MiFID optional exemption firm</i> when selling, or advising a <i>client</i> in relation to, a <i>structured deposit</i> .
(2)	COBS 4.6 (Past, simulated past and future performance)	<i>Communication</i> or <i>approval</i> of a <i>financial promotion</i> relating to a <i>structured deposit</i> that is addressed to, or disseminated in such a way that it is likely to be received by, a <i>retail client</i> .
(3)	COBS 4.7 (Direct offer financial promotions)	<i>Communication</i> or <i>approval</i> of a <i>financial promotion</i> relating to a <i>cash deposit ISA</i> , <i>cash-only lifetime ISA</i> or <i>cash deposit CTF</i> that is addressed to, or disseminated in such a way that it is likely to be received by, a <i>retail client</i> .

(4)	COBS 4.10 Approving and confirming compliance of financial promotions)	To the extent that other rules in COBS 4 apply.
(5)	COBS 13 (Preparing product information)	Producing a cash-deposit ISA, cash-only lifetime ISA or cash-deposit CTF.
(6)	COBS 14 (Providing product information to clients)	Selling, personally recommending or arranging the sale of a cash-deposit ISA, cash-only lifetime ISA or cash-deposit CTF to a retail client.
(7)	COBS 15 (Cancellation)	A cancellable contract between a consumer and a firm.

Structured deposits: further provisions

1.1.1AA R

Except in COBS 6.2B, in the rules referred to in COBS 1.1.1AR(1) (and in any related guidance), references to:

- (1) investment services and designated investment business include selling, or advising clients in relation to, structured deposits; and
- (2) financial instruments and designated investments include structured deposits.

1.1.1AB UK

Article 1(2) of the MiFID Org Regulation specifies how its provisions should be read where they apply to firms selling, or advising on, structured deposits.

1(2)References to investment firms shall encompass credit institutions and references to financial instruments shall encompass structured deposits in relation to all the requirements (so far as relevant) in Chapters II to IV of this Regulation.

1.1.1AC R

A third country investment firm and a MiFID optional exemption firm must also comply with the provisions of the MiFID Org Regulation which relate to the rules which implemented the articles of MiFID referred to in COBS 1.1.1AR(1), as modified by article 1(2) of the MiFID Org Regulation, when selling, or advising a client in relation to, a structured deposit.

1.1.1AD G

The rules which implemented the provisions of MiFID and the MiFID Delegated Directive referred to in COBS 1.1.1AR(1) can be found in the chapters of COBS in the following table and are followed by a 'Note':

COBS chapter	Description
COBS 2	Conduct of business obligations
COBS 3	Client categorisation
COBS 4	Communicating with clients, including financial promotions
COBS 6	Information about the firm, its services and remuneration
COBS 8A	Client agreements
COBS 9A	Suitability (MiFID provisions)

COBS 10A	Appropriateness (for non-advised services) (MiFID provisions)
COBS 11	Dealing and managing
COBS 14	Providing product information to clients
COBS 16A	Reporting information to clients (MiFID provisions)

[Note: article 1(4) of *MiFID*]

Electronic money

- 1.1.1B **R** ■ COBS 4.4.3 R, ■ COBS 5 (Distance communications), ■ COBS 15.2 (The right to cancel), ■ COBS 15.3 (Exercising a right to cancel), ■ COBS 15.4 (Effects of cancellation) and ■ COBS 15 Annex 1 (Exemptions from the right to cancel) apply to a *firm* with respect to the activity of *issuing electronic money* as set out in those provisions.

Application to TP firms and Gibraltar-based firms

- 1.1.1C **R** In addition to the application rules in *COBS* as relevant, *TP firms* and Gibraltar-based firms carrying on business from an establishment in the *United Kingdom* must also comply with the provisions in:
- (1) ■ COBS 16.6.7AR (drawdown pensions: annual statements) and ■ COBS 16.6.8R to ■ COBS 16.6.13G (income withdrawals – annual statements);
 - (2) ■ COBS 19.10 (Drawdown, investment pathways and cash warnings).
 - (3) ■ COBS TP 2 paragraphs 2.8G to 2.8J (Other Transitional Provisions)

- 1.1.1D **G** Unless the contrary intention appears, a reference to Gibraltar-based firm in ■ COBS 1.1.1CR has the same meaning as in the *Gibraltar Order*.

Auction regulation bidding

- 1.1.1E **R** ■ COBS 5 (Distance communications) applies to a *firm* in relation to its carrying on of *auction regulation bidding*.

- 1.1.1C **R** [deleted]

Modifications to the general application rule

- 1.1.2 **R** The application of this sourcebook is modified in ■ COBS 1 Annex 1 according to the activities of a *firm* (Part 1) and its location (Part 2).

- 1.1.3 **R** The application of this sourcebook is also modified in the chapters to this sourcebook for particular purposes, including those relating to the type of *firm*, its activities or location, and for purposes relating to connected activities.

		Guidance
1.1.4	G	Guidance on the application provisions is in ■ COBS 1 Annex 1 (Part 3).
1.1.5	G	■ PERG 13 contains general <i>guidance</i> on the <i>persons</i> and businesses to which the <i>UK</i> provisions which implemented <i>MiFID</i> apply.
1.1.6	G	■ PERG 16 contains general <i>guidance</i> on the businesses to which the <i>UK</i> provisions which implemented <i>AIFMD</i> apply. ■ FUND 1 contains <i>guidance</i> on the types of <i>AIFM</i> .