

Chapter 18

Specialist Regimes

18.1 Trustee Firms

Application

- 18.1.1** **R** (1) This section applies to the *MiFID, equivalent third country or optional exemption business* carried on by a *trustee firm*.
- (2) It does not apply to a *trustee firm* when acting as:
- (a) a *depository*; or
 - (b) the trustee of a *personal pension scheme or stakeholder pension scheme*.

Application of COBS to trustee firms

- 18.1.2** **R** The provisions of *COBS* in the table do not apply to a *trustee firm* to which this section applies:

COBS	Description
6.1A	Adviser charging and remuneration
6.1B	Retail investment product provider requirements relating to adviser charging and remuneration
6.4	Disclosure of charges, remuneration and commission
9.6	Special rules for providing basic advice on a stakeholder product
16A.4.5	Guidance on contingent liability transactions

- 18.1.2A** **G** This section applies to the *MiFID, equivalent third country or optional exemption business* carried on by a *trustee firm*. As such, the list in **COBS 18.1.2R** above does not include any provisions in *COBS* which do not apply to *MiFID, equivalent third country or optional exemption business*.

- 18.1.3** **G** The provisions of *COBS* in the table are unlikely to be relevant in relation to a *trustee firm* to which this section applies:

COBS	Description
5	Distance communications
13	Preparing product information

14.2	Providing product information
15	Cancellation
17	Claims handling for long-term care insurance
18.2	Energy market activity and oil market activity
18.3	Corporate finance business
18.4	Stock lending activity
19	Pensions - supplementary provisions
20	With-profits

Duties of trustee firms under the general law

18.1.4 **G** To the extent a *rule* in *COBS* applies to a *trustee firm*, that *rule*:

- (1) applies in addition to any duties or powers imposed or conferred upon a trustee by the general law; and
- (2) does not qualify or restrict the duties or powers that the general law imposes or confers upon a trustee; *trustee firms* will be under a duty to observe the provisions of their trust instrument; if its provisions conflict with any applicable *rule*, *trustee firms* will need to take advice in resolving the conflict.

Considering and complying with applicable COBS rules

18.1.5 **G** In considering and reaching decisions as to how applicable rules in *COBS* apply in the context of a particular trust arrangement, a *trustee firm* should consider the nature of that arrangement and the provisions of the relevant trust instrument.

References to "client" in applicable COBS rules

18.1.6 **G** Where an applicable *rule* in *COBS* requires the doing of any thing in relation to a *client*, the *trustee firm* should consider who, in the context of that *rule* and having regard to the particular trust arrangement, is the most appropriate person to treat as its *client*. This might, for example, be the beneficiary, another trustee or the trust, depending on the particular circumstances.