

## Chapter 2

# Conduct of business obligations

## 2.4 Agent as client and reliance on others

**2.4.1** **R** This section applies to a *firm* that is conducting *designated investment business* or *ancillary activities* or, in the case of *MiFID*, *equivalent third country* or *optional exemption business*, other *ancillary services*.

**2.4.2** **G** This section is not relevant to, nor does it affect:

- (1) the question of who is the *firm's* counterparty for prudential purposes; or
- (2) any obligation a *firm* may owe to any other *person* under the general law; or
- (3) any obligation imposed on a *firm* by article 26 of *MiFIR* or *MiFID RTS* 22.

### Agent as client

- 2.4.3** **R**
- (1) If a *firm* (F) is aware that a *person* (C1) with or for whom it is providing services is acting as agent for another person (C2) in relation to those services, C1, and not C2, is the *client* of F in respect of that business.
  - (2) Paragraph (1) does not apply if:
    - (a) F has agreed with C1 in writing to treat C2 as its *client*; or
    - (b) C1 is neither a *firm* nor an *overseas financial services institution* and the main purpose of the arrangements between the parties is the avoidance of duties that F would otherwise owe to C2.

If this is the case, C2 is the *client* of F in respect of that business and C1 is not.
  - (3) If there is an agreement under (2)(a) in relation to more than one C2 represented by C1, F may discharge any requirement to notify, obtain consent from, or enter into an agreement with each C2 by sending to, or receiving from, C1 a single communication expressed to cover each C2, except that the following will be required for each C2:
    - (a) separate risk warnings required under this sourcebook;
    - (b) separate confirmations under the requirements on occasional reporting (■ COBS 16.2 or ■ COBS 16A.3); and
    - (c) separate *periodic statements*.

### Reliance on other investment firms: MiFID and equivalent business

2.4.4

**R**

- (1) This rule applies if a *firm* (F1), in the course of performing *MiFID* or *equivalent third country business*, receives an instruction to provide an *investment* or *ancillary service* on behalf of a *client* (C) through another *firm* (F2), if F2 is:
  - (a) a *MiFID investment firm* or a *third country investment firm*; or
  - (b) an *investment firm* that is:
    - (i) a *firm* ; and
    - (ii) subject to equivalent relevant requirements.
- (2) F1 may rely upon:
  - (a) any information about C transmitted to it by F2; and
  - (b) any recommendations in respect of the service or transaction that have been provided to C by F2.
- (3) F2 will remain responsible for:
  - (a) the completeness and accuracy of any information about C transmitted by it to F1; and
  - (b) the suitability for C of any advice or recommendations provided to C.
- (4) F1 will remain responsible for concluding the services or transaction based on any such information or recommendations in accordance with the applicable requirements under the *regulatory system*.

[Note: article 26 of *MiFID*]

2.4.5

**G**

- (1) If F1 is required to perform a suitability assessment or an appropriateness assessment under ■ COBS 9A or ■ COBS 10A, it may rely upon a suitability assessment performed by F2, if F2 was subject to the requirements for assessing suitability in ■ COBS 9A (excluding the *basic advice rules*) in performing that assessment.
- (2) If F1 is required to perform an appropriateness assessment under ■ COBS 10A, it may rely upon an appropriateness assessment performed by F2, if F2 was subject to the requirements for assessing appropriateness in ■ COBS 10A.2 in performing that assessment.

### Reliance on other insurance distributors

2.4.5A

**R**

Where a *firm* carrying on *insurance distribution activities* in relation to an *insurance-based investment product* is required to perform an appropriateness assessment under ■ COBS 10A, it may rely upon:

- (1) a suitability assessment performed by another *firm*, if that other *firm* was subject to the requirements for assessing suitability in ■ COBS 9A; or
- (2) an appropriateness assessment performed by another *firm*, if that other *firm* was subject to the requirements for assessing appropriateness in ■ COBS 10A.2,

in performing that assessment.  
[Note: article 30(2) of the IDD]

Reliance on others: other situations

- 2.4.6

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(1) This rule applies if the applicable rule on reliance on other investment firms or insurance distributors (■ COBS 2.4.4 R and ■ COBS 2.4.5AR) does not apply.

(2) A firm will be taken to be in compliance with any rule in this sourcebook that requires it to obtain information to the extent it can show it was reasonable for it to rely on information provided to it in writing by another person.
- 2.4.7

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(1) In relying on ■ COBS 2.4.6 R, a firm should take reasonable steps to establish that the other person providing written information is not connected with the firm and is competent to provide the information.

(2) Compliance with (1) may be relied upon as tending to establish compliance with ■ COBS 2.4.6 R.

(3) Contravention of (1) may be relied upon as tending to establish contravention of ■ COBS 2.4.6 R.
- 2.4.8

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It will generally be reasonable (in accordance with ■ COBS 2.4.6R (2)) for a firm to rely on information provided to it in writing by an unconnected authorised person or a professional firm, unless it is aware or ought reasonably to be aware of any fact that would give reasonable grounds to question the accuracy of that information.
- 2.4.9

R

Any information that a rule in COBS or CASS requires to be sent to a client may be sent to another person on the instruction of the client so long as the recipient is not connected to the firm.
- 2.4.10

R

In the case of business that is not MiFID or equivalent third country business, if a rule in COBS or CASS requires information to be sent to a client, a firm need not send that information so long as it takes reasonable steps to establish that it has been or will be supplied by another person.