

Conduct of Business Sourcebook

Chapter 20

With-profits

20.1 Application

- 20.1.1** **R** This chapter applies to a *firm* carrying on *with-profits business*, except to the extent modified in the following *rules*.
- 20.1.2** **R**
- (1) The section on the process for *retribution* (■ COBS 20.2.42 R to ■ COBS 20.2.52 G):
 - (a) applies to a *firm* that is proposing to make a *retribution* of its *inherited estate*;
 - (b) but not if, and to the extent that, it would require the *firm* to breach, or would prevent the *firm* from complying with, an order made by a court of competent jurisdiction.
 - (2) If a *firm* proposes to seek an order from a court of competent jurisdiction that would allow or require it to act in a way that is contrary to the *rules* on *retribution* (■ COBS 20.2.42 R to ■ COBS 20.2.52 G) (through, or because of, the exception in (1)(b)), the *firm* must:
 - (a) tell the *appropriate regulator* that that is what it proposes to do;
 - (b) seek the order at the earliest opportunity; and
 - (c) if it wishes to take a step that would be contrary to those *rules* in anticipation of such an order, secure a *waiver* before it does so.
- 20.1.3** **R** For an *EEA insurer*:
- (1) (a) the *rules* and *guidance* on the *with-profits fund* (■ COBS 20.1A), on treating *with-profits policyholders* fairly (■ COBS 20.2.1 G to ■ COBS 20.2.41 G and ■ COBS 20.2.53 R to ■ COBS 20.2.60 G), and the governance provisions in ■ COBS 20.5. apply only in so far as responsibility for the matter in question has not been reserved to the *firm's Home State regulator* by an *EU instrument*;
- notwithstanding the above:
- (b) ■ COBS 20.2.26A R (financial penalties and the *with-profits fund*) applies;
 - (c) the *rules* and *guidance* on the notification of *policyholders* where there is a change in the percentage allocation of distributions (■ COBS 20.2.19A R to ■ COBS 20.2.19C G) apply but only to the extent that the *UK* is the *State of the commitment*;

- (2) ■ COBS 20.3 (Principles and Practices of Financial Management) does not apply;
- (3) the *rule* on providing information to *with-profits policyholders* where the *United Kingdom* is the *State of the commitment* (■ COBS 20.4.4 R) applies, but the rest of ■ COBS 20.4 (Communications with with-profits policyholders) does not; and
- (4) [deleted]
- (5) references in ■ COBS 20 to a *with-profits fund* or to terms derived from the *Solvency II Directive* requiring transposition in the *Home State*, apply as if they were references to the relevant fund or terms established in accordance with the requirements of the *Home State*.

20.1.3A ■ R**20.1.4** ■ R

The following do not apply to a *non-directive friendly society*:

- (1) ■ COBS 20.3 (Principles and Practices of Financial Management);
- (2) ■ COBS 20.4 (Communications with with-profits policyholders); and
- (3) ■ COBS 20.5 (With-profits governance).

20.1.5 ■ R

This chapter does not apply to *with-profits business* that consists of effecting or carrying out *Holloway sickness policies*.