

Chapter 6

Information about the firm, its
services and remuneration

6.1 Information about the firm and compensation information (non-MiFID and non-insurance distribution provisions)

Application

6.1.1 **R** (1) This section applies to a *firm* that carries on *designated investment business*, other than *MiFID*, *equivalent third country* or *optional exemption business* or *insurance distribution activities*, for a *retail client*.

(2) [deleted]

6.1.2 **R** If a *firm* provides *basic advice on stakeholder products* in accordance with the *basic advice rules*, this section does not apply to that service.

6.1.3 **G** This section imposes requirements relating to disclosure of information to *clients* that are additional to the general requirement in **COBS 2.2**.

Information about a firm and its services

6.1.4 **R** A *firm* must provide a *client* with the following general information, if relevant:

(1) the name and address of the *firm*, and the contact details necessary to enable a *client* to communicate effectively with the *firm*;

(2) [deleted]

(3) the methods of communication to be used between the *firm* and the *client* including, where relevant, those for the sending and reception of orders;

(4) a statement of the fact that the *firm* is authorised and the name of the *competent authority* that has authorised it;

(5) [deleted]

(6) if the *firm* is acting through an *appointed representative*, a statement of this fact

(7) the nature, frequency and timing of the reports on the performance of the service to be provided by the *firm* to the *client* in accordance

with the *rules* on reporting to *clients* on the provision of services (■ COBS 16);

- (8) (a) in the case of a *common platform firm*, a description, which may be provided in summary form, of the *conflicts of interest policy*;
- (b) other than in the case of a *common platform firm*, when a *material interest* or conflict of interest may or does arise, the manner in which the *firm* will ensure fair treatment of the *client*;
- (9) in the case of a *common platform firm*, at any time that the *client* requests it, further details of the *conflicts of interest policy*.

6.1.5 G A *firm* disclosing details of its authorisation should refer to the appropriate forms of words set out in ■ GEN 4 Annex 1 R or ■ GEN 4 Annex 1A R as appropriate.

6.1.6 R

- (1) A *firm* that *manages investments* for a *client* must establish an appropriate method of evaluation and comparison such as a meaningful benchmark, based on the investment objectives of the *client* and the types of *designated investments* included in the *client* portfolio, so as to enable the *client* to assess the *firm's* performance.
- (2) If a *firm* proposes to *manage investments* for a *client*, the *firm* must provide the *client* with such of the following information as is applicable:
 - (a) information on the method and frequency of valuation of the *designated investments* in the *client* portfolio;
 - (b) details of any delegation of the discretionary management of all or part of the *designated investments* or funds in the *client* portfolio;
 - (c) a specification of any benchmark against which the performance of the *client* portfolio will be compared;
 - (d) the types of *designated investments* that may be included in the *client* portfolio and types of transaction that may be carried out in those *designated investments*, including any limits; and
 - (e) the management objectives, the level of risk to be reflected in the manager's exercise of discretion, and any specific constraints on that discretion.

Information concerning safeguarding of designated investments belonging to clients and client money

6.1.7 R

- (1) A *firm* that holds *designated investments* or *client money* for a *client* subject to the *custody chapter* or the *client money chapter* must provide that *client* with the following information:
 - (a) if applicable,
 - (i) that the *designated investments* or *client money* of that *client* may be held by a third party on behalf of the *firm*;
 - (ii) the responsibility of the *firm* under the applicable national law for any acts or omissions of the third party; and

- (iii) the consequences for the *client* of the insolvency of the third party;
 - (b) if applicable, that the *designated investments* belonging to the *client* may be held in an omnibus account by a third party and a prominent warning of the resulting risks;
 - (c) if it is not possible under national law for *designated investments* belonging to a *client* held with a third party to be separately identifiable from the proprietary *designated investments* of that third party or of the *firm*, that fact and a prominent warning of the resulting risks;
 - (d) if applicable, that accounts that contain *designated investments* or *client money* belonging to that *client* are or will be subject to the law of a jurisdiction other than that of a *EEA State*, an indication that the rights of the *client* relating to those instruments or money may differ accordingly;
 - (e) a summary description of the steps which it takes to ensure the protection of any *designated investments* belonging to the *client* or *client money* it holds, including summary details of any relevant investor compensation or deposit guarantee scheme which applies to the *firm* by virtue of its activities in an *EEA State*.
- (2) A *firm* that holds *designated investments* or *client money* for a *client* must inform the client:
- (a) if applicable, about the existence and the terms of any security interest or lien which the *firm* has or may have over the *client's designated investments* or *client money*, or any right of set-off it holds in relation to the *client's designated investments* or *client money*; and
 - (b) if applicable, that a depository may have a security interest or lien over, or right of set-off in relation to those instruments or money.
- (3) A *firm* within (1) must also, before entering into *securities financing transactions* in relation to *designated investments* held by it on behalf of a *client*, or before otherwise using such *designated investments* for its own account or the account of another *client*, in good time before the use of those *designated investments* provide the *client*, in a *durable medium*, with clear, full and accurate information on the obligations and responsibilities of the *firm* with respect to the use of those *designated investments*, including the terms for their restitution, and on the risks involved.
- (4) [deleted]

6.1.7A G *Firms* subject to either or both the *custody rules* and the *client money rules* are reminded of the information requirements concerning *custody assets* and *client money* in ■ **CASS 9.3** (Prime brokerage agreement disclosure annex) and ■ **CASS 9.4** (Information to clients concerning custody assets and client money).

6.1.8 G [deleted]

Information about costs and associated charges

- 6.1.9** **R** A *firm* must provide a *client* with information on costs and associated charges including, if applicable:
- (1) the total price to be paid by the *client* in connection with the *designated investment* or the *designated investment business*, including all related fees, commissions, charges and expenses, and all taxes payable via the *firm* or, if an exact price cannot be indicated, the basis for the calculation of the total price so that the *client* can verify it. The commissions charged by the *firm* must be itemised separately in every case;
 - (2) if any part of the total price referred to (1) is to be paid in or represents an amount of foreign currency, an indication of the currency involved and the applicable currency conversion rates and costs;
 - (3) notice of the possibility that other costs, including taxes, related to transactions in connection with the *designated investment* or the *designated investment business* may arise for the *client* that are not paid via the *firm* or imposed by it; and
 - (4) the arrangements for payment or other performance.

- 6.1.10** **G** The *rules* on inducements in **COBS 2.3** may also require a *firm* to disclose information to a *client* in relation to benefits provided to the *firm*.

Timing of disclosure

- 6.1.11** **R**
- (1) A *firm* must provide a *client* with the information required by this section in good time before the provision of *designated investment business* unless otherwise provided by this *rule*.
 - (2) A *firm* may instead provide that information immediately after starting to provide *designated investment business* if:
 - (a) the *firm* was unable to comply with (1) because, at the request of the *client*, the agreement was concluded using a means of distance communication which prevented the *firm* from doing so; and
 - (b) in any case where the *rule* on voice telephony communications (**COBS 5.1.12 R**) does not otherwise apply, the *firm* complies with that *rule* in relation to the *client*, as if that *client* were a *consumer*.

- 6.1.12** **G** A *firm* should take into account **COBS 8.1.3 R (1)**, which requires earlier disclosure of some items of information covered in this section.

Medium of disclosure

- 6.1.13** **R** Except where expressly provided, a *firm* must provide the information required by this section in a *durable medium* or via a website (where it does not constitute a *durable medium*) where the *website conditions* are satisfied.

Keeping the client up to date

- 6.1.14 **R**
- (1) A *firm* must notify a *client* in good time about any material change to the information provided under this section which is relevant to a service that the *firm* is providing to that *client*.
 - (2) A *firm* must provide this notification in a *durable medium* if the information to which it relates was given in a *durable medium*.

Existing clients

- 6.1.15 **G**
- (1) A *firm* need not treat each of several transactions in respect of the same type of *financial instrument* as a new or different service and so does not need to comply with the disclosure *rules* in this chapter in relation to each transaction.
 - (2) But a *firm* should ensure that the *client* has received all relevant information in relation to a subsequent transaction, such as details of product charges that differ from those disclosed in respect of a previous transaction.

Compensation information

- 6.1.16 **R**
- (1) A *firm* must make available to a *client*, who has used or intends to use the *firm's* services, information necessary for the identification of the *compensation scheme* or any other investor-compensation scheme of which the *firm* is a member (including, if relevant, membership through a *branch*) or any alternative arrangement provided for in accordance with the *Investor Compensation Directive*.
 - (2) The information under (1) must include the amount and scope of the cover offered by the compensation scheme and any rules laid down by the *EEA State* pursuant to article 2 (3) of the *Investor Compensation Directive*.
 - (3) A *firm* must provide, on the *client's* request, information concerning the conditions governing compensation and the formalities which must be completed to obtain compensation.
 - (4) The information provided for in this *rule* must be made available in a *durable medium* or via a website if the *website conditions* are satisfied in the official language or languages of the *EEA State*.

[Note: article 10(1) and (2) of the *Investor Compensation Directive*]

Record keeping: information about the firm and compensation information

- 6.1.17 **G**
- Firms* are reminded of the general record-keeping requirements in **SYSC 3.2** and **SYSC 9**.