

Chapter 6

Information about the firm, its
services and remuneration

6.4 Disclosure of charges, remuneration and commission

Application

6.4.1 **R** This section applies to a *firm* when it sells or *arranges* the sale of a *packaged product* to a *retail client* and the *firm's* services to sell or *arrange* are not in connection with the provision of a *personal recommendation*.

6.4.2 **G** [deleted]

Disclosure of commission (or equivalent) for packaged products

- 6.4.3** **R**
- (1) If a *firm* sells or *arranges* the sale of a *packaged product* to a *retail client*, and subsequently if the *retail client* requests it, the *firm* must disclose to the *client* in *cash terms*.
 - (a) any *commission* receivable by it or any of its *associates* in connection with the transaction;
 - (b) if the *firm* is also the *product provider*, any *commission* or *commission equivalent* payable in connection with the transaction; and
 - (c) if the *firm* or any of its *associates* is in the same *immediate group* as the *product provider*, any *commission equivalent* in connection with the transaction.
 - (2) Disclosure "in *cash terms*" in relation to *commission* does not include the value of any indirect benefits listed in the table at ■ COBS 2.3.15 G.
 - (3) In determining the amount to be disclosed as *commission equivalent*, a *firm* must put a proper value on the cash payments, benefits and services provided to its *representatives* in connection with the transaction.
 - (4) This *rule* does not apply if:
 - (a) the *firm* is acting as an *investment manager*; or
 - (b) the *retail client* is not present in the *United Kingdom* at the time of the transaction; or
 - (c) the *firm* provides the *client* with a *key features document*, a *key investor information document*, an *EEA key investor information document* or a *NURS-KII document*, in accordance with ■ COBS 14, provided that the *firm* discloses to the *client* the actual amount

		<p>or value of <i>commission</i> or <i>equivalent</i> within five <i>business days</i> of effecting the transaction.</p> <p>(5) If the terms of a <i>packaged product</i> are varied in a way that results in a material increase in <i>commission</i> or <i>commission equivalent</i>, a <i>firm</i> must disclose to a <i>retail client</i> in writing any consequent increase in <i>commission</i> or <i>equivalent</i> receivable by it in relation to that transaction.</p>
6.4.4	G	Where a <i>firm</i> is required to disclose the value of <i>commission equivalent</i> , the value will be at least as high as the amount of any <i>commission</i> .
6.4.4A	R	If the <i>firm</i> or its <i>associate</i> is the <i>pure protection contract insurer</i> , it may comply with ■ COBS 6.4.3R (1)(b) and ■ (c) by disclosing to the <i>consumer</i> an <i>indicative adviser charge</i> as an alternative to a <i>commission equivalent</i> .
6.4.4B	R	The <i>indicative adviser charge</i> must be at least reasonably representative of the cost of the services associated with making the <i>personal recommendation</i> in relation to the <i>pure protection contract</i> .
6.4.4C	G	<p>An <i>indicative adviser charge</i> is likely to be reasonably representative of the cost of the services associated with making the <i>personal recommendation</i> if:</p> <ul style="list-style-type: none"> (1) the total expected costs associated with making a <i>personal recommendation</i> and distributing the <i>pure protection contract</i> will: <ul style="list-style-type: none"> (a) be recovered through <i>indicative adviser charges</i>; and (b) not be recovered by charges for, or profits from, other services (such as manufacturing and administering the <i>pure protection contract</i>); (2) <i>indicative adviser charges</i> are reasonably capable of being self-supporting over a period of five years, or longer where this can be shown to be consistent with the <i>firm's</i> established payback period; and (3) the <i>personal recommendation</i> and any related services were to be provided by an unconnected <i>firm</i>, the level of the <i>indicative adviser charge</i> would be appropriate in the context of the service being provided by an unconnected <i>firm</i>.
6.4.4D	G	<ul style="list-style-type: none"> (1) In ■ COBS 6.4.4CG(1), the total costs associated with making a <i>personal recommendation</i> and distributing the <i>pure protection contract</i> include attributable indirect costs of the <i>firm's</i> (or <i>group's</i>) wider business such as <i>firm</i> or <i>group</i> overheads. (2) In ■ COBS 6.4.4CG(2), the <i>firm's</i> established payback period is the period of time in which the cash outflows associated with an investment made by the <i>firm</i> (or <i>group</i>) are expected to be recovered from the cash inflows generated by the <i>adviser charges</i>.

- 6.4.5** **R** (1) A *firm* must make the disclosure required by the *rule* on disclosure of *commission* or *equivalent* (■ COBS 6.4.3 R) as close as practicable to the time that it sells or *arranges* the sale of a *packaged product*.
- (2) The *firm* must make the disclosure:
- (a) in a *durable medium*; or
 - (b) when a *retail client* does not make a written application to enter into a transaction, orally. In these circumstances, the *firm* must give written confirmation as soon as possible after the date of the transaction, and in any event within five *business days*.

- 6.4.6** **E** (1) When determining the value of cash payments, benefits and services under the *rule* on disclosure of *commission equivalent* (■ COBS 6.4.3 R), a *firm* should follow the provisions of ■ COBS 6 Annex 6.
- (2) Compliance with this *evidential provision* may be relied on as tending to establish compliance with ■ COBS 6.4.3 R; and
- (3) Contravention of this *evidential provision* may be relied on as tending to establish contravention of ■ COBS 6.4.3 R.

Guidance on disclosure requirements for packaged products.....

- 6.4.7** **R** A *firm* must not enter into an arrangement to pay *commission* other than to the *firm* responsible for a sale, unless:
- (1) the *firm* responsible for the sale has passed on its right to receive the *commission* to the recipient; or
 - (2) [deleted]
 - (3) the *commission* is paid following the sale of a *packaged product* by the *firm* in response to a *financial promotion* communicated by that *firm* to a *client* of the recipient *firm*; or
 - (4) the arrangement is with a *firm* in the same *immediate group*.

- 6.4.8** **G** A disclosure made under this section should indicate the timing of any payment. For example, if a *firm* exchanges its right to future *commission* payments for a lump sum, whether by way of a loan or other commercial arrangement, it should disclose the amount of *commission* receivable by it that has been exchanged for the lump sum.

- 6.4.9** **G** The *rules* in this section build on the disclosure of fees, commission and non-monetary benefits made under the rules on inducements (■ COBS 2.3.1 R, ■ COBS 2.3A.5R, ■ COBS 2.3A.6R, ■ COBS 2.3A.15R and ■ COBS 2.3A.16R).

- 6.4.10** **G** If the precise rate or value of *commission* or *equivalent* is not known in advance, the *firm* should estimate the rate likely to apply to the *representative* in respect of the transaction.

6.4.11

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Commission or equivalent disclosure statements: content and wording

A *firm* should consider including the following in its written statement of *commission*:

- (1) Amounts or values of *commission* rounded as appropriate to help the *client* understand the document (for example, large amounts might be rounded to three significant figures).
- (2) The names of the *firms* involved in paying and receiving *commission* or *commission equivalent*.
- (3) A plain language description of whether remuneration takes the form of *commission* or *commission equivalent*. *Commission equivalent* could, for example, be described as "remuneration and services received from XYZ Ltd".
- (4) The timing of payments and period over which they are paid.
- (5) For payments relating to the *client's* fund, examples of how much money might be taken, such as:
 - (a) where the *commission* or *equivalent* is on an increasing basis, the amount to be taken in the first and tenth year in which it is paid; or
 - (b) where the *commission* or *equivalent* is a percentage of the fund, the amount that would taken if the fund was worth a certain value and the amount that would be taken if the fund was worth twice that value.