

Chapter 6

Information about the firm and its services

6.1 General requirements for firms

Application

6.1.1

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This chapter applies to:

- (1) a *funeral plan intermediary*; and
- (2) a *funeral plan provider* in relation to the distribution of its own *funeral plan contracts*.

Interaction with the customer's best interests rule and Principle 7

6.1.2

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To comply with the *customer's best interests rule* and *Principle 7* (Communications with clients), a *firm* should consider the information needs of the *customer* and, if different, the *covered individual*, including:

- (1) what a *customer* and/or *covered individual* needs in order to understand the relevance of any information provided by the *firm*; and
- (2) the point in the sales process at which information will be most useful to the *customer* to enable them to make an informed decision.

Status disclosure: general information provided by firms

6.1.3

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In good time before a *customer* enters into a *funeral plan contract*:

- (1) a *firm* must provide the *customer* with at least the following information:
 - (a) its identity, address and whether it is a *funeral plan intermediary* or a *funeral plan provider*;
 - (b) the appropriate statutory status disclosure statement (see ■ GEN 4);
 - (c) the fact that it is included in the *Financial Services Register* and the means for verifying this;
 - (d) whether it provides a *personal recommendation* about the *funeral plans* offered or information;
 - (e) whose *funeral plans* it offers;
 - (f) the procedures allowing *customers* and other interested parties to register *complaints* about the *firm* with the *firm* and the *Financial Ombudsman Service* or, if the *Financial Ombudsman*

Service does not apply, information about any out-of-court complaint and redress procedures available for the settlement of disputes between the *firm* and its *customers*; and

- (2) a *funeral plan intermediary* must also provide the *customer* with the following information:
 - (a) whether it has a direct or indirect holding representing 10% or more of the voting rights or capital in a given *funeral plan provider*;
 - (b) whether a given *funeral plan provider* or its *parent undertaking* has a direct or indirect holding representing 10% or more of the voting rights or capital in the *firm*; and
 - (c) whether it is representing the *customer* or is acting for and on behalf of the *funeral plan provider*.

Scope of service: funeral plan intermediaries

6.1.4

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- (1) Where a *funeral plan intermediary* proposes or advises on a *funeral plan contract* then in good time before the conclusion of a *funeral plan contract* and, if necessary, on its amendment, a *funeral plan intermediary* must provide the *customer* with at least information on whether the *firm*:
 - (a) gives a *personal recommendation*, on the basis of a fair and personal analysis of *funeral plans* available in the market; or
 - (b) is under a contractual obligation to conduct *funeral plan distribution* exclusively with one or more *funeral plan providers*, in which case it must provide the names of those *funeral plan providers*; or
 - (c) (i) is not under a contractual obligation to conduct *funeral plan distribution* exclusively with one or more *funeral plan providers*; and
 - (ii) does not give a *personal recommendation* on the basis of a fair and personal analysis of *funeral plans* available in the market;
 in which case it must provide its *customer* with the name of those *funeral plan providers* with which the *funeral plan intermediary* may and does conduct business.



6.2 Means of communication to customers

Application

6.2.1 **R** This section applies to all information required to be provided to a *customer* in this chapter and in other chapters or sections where stated.

Means of communication to customers: non-telephone sales

6.2.2 **R** (1) A *firm* must communicate information to a *customer* using any of the following:

- (a) paper; or
- (b) a *durable medium* other than paper; or
- (c) a website (where it does not constitute a *durable medium*) where the *website conditions* are satisfied.

(2) The *firm* must communicate the information in (1):

- (a) in a clear and accurate manner, comprehensible to the *customer*;
- (b) in English or in any other language agreed by the parties; and
- (c) free of charge.

6.2.3 **R** Where the information is communicated using a *durable medium* other than paper or by means of a website, the *firm* must, upon request and free of charge, also send the *customer* a paper copy.

6.2.4 **R** A *firm* must ensure that a *customer's* choice or consent to receive the information by means of a website (whether a *durable medium* or where the *website conditions* are satisfied) is an active and informed choice or consent.

6.2.5 **G** (1) For the purposes of **FPCOB 6.2.4R**, for example, an option to allow a change to the e-mail address to be used or an option to allow information to be provided by means of a website should be presented in a way that is clear, fair and not misleading.

(2) The following are examples of circumstances not evidencing active or informed choice or consent:

- (a) a pre-ticked box (suggesting that option has been selected) which appears in a more prominent place than an un-ticked box allowing another option to be selected; and

- (b) the *customer* electing to be informed by a website without being first given other options.

Means of communication to customers: telephone sales

6.2.6

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In the case of telephone selling:

- (1) the information must be given in accordance with the distance marketing disclosure *rules* (see ■ FPCOB 5); and
- (2) if prior to the conclusion of the contract the information is provided orally, the *firm* must also provide the information to the *customer* in accordance with ■ FPCOB 6.2.2R immediately after the conclusion of the *funeral plan contract*.



6.3 Fee disclosure

Application

6.3.1 **R** This section applies to a *firm* that imposes a *fee* in connection with a *funeral plan* or its *regulated funeral plan activity*.

Fee disclosure

6.3.2 **R** (1) Where a *fee* is payable, the *firm* must inform its *customer* of the amount of the *fee*.

(2) The information in (1) must be given before the *customer* incurs liability to pay the *fee*, or before entering into the *funeral plan contract*, whichever is earlier.

6.3.3 **R** The *fee* disclosure requirement extends to all such *fees* that may be charged in connection with a *funeral plan* or the *firm's regulated funeral plan activity*.



6.4 Charging for funeral plan distribution

Application

6.4.1 **R** This section applies to a *firm* which carries on *funeral plan distribution*.

6.4.2 **G** This section does not apply to a *funeral plan provider* in connection with its *entering as provider into funeral plan contracts*.

Purpose

- 6.4.3 **G**
- (1) The purpose of the *rules* in this section is to ensure that *funeral plan intermediaries* act in accordance with the *customer's best interests rule* and are not improperly influenced in their *funeral plan distribution* by payments made, or benefits provided, by *funeral plan providers*. In particular, the *rules* in this section prevent a *firm* from accepting commission from a *funeral plan provider*.
 - (2) The *rules* in this section apply whether or not the relevant *funeral plan distribution* involves the provision of *investment advice*.
 - (3) *Firms* should be mindful of the *customer's best interests rule* when considering their approach to compliance with the *rules* in this section.

Requirement to be paid by the customer

- 6.4.4 **R** A *firm* must:
- (1) only be remunerated for its *funeral plan distribution* (and any other related services provided by the *firm*) by *FP distribution charges*; and
 - (2) not solicit or accept (and ensure that none of its *associates* solicits or accepts) any other commissions, remuneration or benefit of any kind in connection with the *firm's* business of engaging in *funeral plan distribution* or any other related services, regardless of whether it intends to refund the payments or pass the benefits on to the *customer* or *covered individual*,

except as provided in this section.

6.4.5 **R** 'Related service(s)' for the purposes of **■ FPCOB 6.4.4R** includes:

- (1) *communicating or approving financial promotions* in relation to a *funeral plan contract* or *regulated funeral plan activity*;
- (2) *recommending a funeral plan provider*.

6.4.6 **G** **■ FPCOB 6.4.4R** prevents a *firm* from receiving any monetary or non-monetary benefit either in relation to the distribution of particular *funeral plan contracts* or in connection with its business of marketing, selling or distributing *funeral plan contracts* more generally.

Group distribution arrangements

6.4.7 **R** If the *firm's funeral plan distribution* relates to *funeral plan contracts* entered into by the *firm* itself or by an *associate*, the *firm* must ensure that the level of its *FP distribution charge* is at least reasonably representative of the services associated with its *funeral plan distribution* (and related services).

6.4.8 **G** A *firm* should consider whether the level of its *FP distribution charge* meets the requirement of **■ FPCOB 6.4.7R** by reference to whether the charge would be appropriate in the context of the service being provided by a *firm* unconnected with a *funeral plan provider*.

Guidance on the requirement to be paid by the customer

6.4.9 **G** **■ FPCOB 12** restricts a *firm* engaged in *funeral plan distribution* from accepting payment other than in certain circumstances. **■ FPCOB 12** does not prevent a *funeral plan intermediary* from receiving an *FP distribution charge* from a *customer* as contemplated by this section (see **FPCOB 12.4.4R**).

6.4.10 **G** **■ FPCOB 6.3.2R** requires a *funeral plan intermediary* to inform the customer of the amount of any *fee* payable. That disclosure should include any *FP distribution charge* payable by the *customer*.

Payment for funerals

6.4.11 **G**

- (1) **■ FPCOB 6.4.4R** applies to providers of funerals (such as funeral services providers) which engage in *funeral plan distribution*. However, that *rule* only restricts the receipt of payments or benefits in connection with the business of engaging in *funeral plan distribution*.
- (2) **■ FPCOB 6.4.4R** does not prevent a provider of funerals from receiving payment for the provision of a funeral from a *funeral plan provider* under the terms of a *funeral plan contract*. For these purposes, it does not matter whether payment for the funeral is received at the time that the *customer* enters into the relevant *funeral plan contract* or at any other time thereafter.

6.4.12 **R** A *firm* which carries on *funeral plan distribution* and is also a provider of funerals must ensure that:

- (1) the level of its *FP distribution charge* is at least reasonably representative of the cost of the services associated with its *funeral plan distribution*; and
- (2) any payments which it receives from a *funeral plan provider* under a *funeral plan contract* are reasonably representative of the cost of delivering the relevant funeral.

6.4.13 **G** A payment is unlikely to be reasonably representative of the cost of delivering the relevant funeral if it is materially greater than the same payment would have been had the relevant *firm* had no involvement in the sale or distribution of the *funeral plan contract*.

Training and support

6.4.14 **R** A *firm* may receive:

- (1) training on the *funeral plan contracts* in relation to which it carries on *funeral plan distribution*; and
- (2) appropriate support with complying with its obligations under the *regulatory system* from a *funeral plan provider*.

6.4.15 **R** Any training or support received for the purposes of **■ FPCOB 6.4.14R** must be:

- (1) of a scale and nature that it could not be judged to impair the firm’s compliance with its duty to act honestly, fairly and professionally in the best interests of the *customer* or *covered individual*; and
- (2) reasonable, proportionate and of a scale that is unlikely to influence the *firm’s* behaviour in any way that is detrimental to the interests of any relevant *customer* or *covered individual*.

6.4.16 **G** The *rules* in this section do not preclude a *funeral plan intermediary* from receiving from a *funeral plan provider* any materials necessary for the *funeral plan intermediary* to engage in its business of *funeral plan distribution*. This may include the product information for the purposes of **■ FPCOB 9**.

Payments to employees

6.4.17 **G** The *rules* in this section do not prevent an *employee* of a *firm* receiving payment from that *firm*.

Record keeping

6.4.18 **R** A *firm* must keep a record of the *FP distribution charges* paid by each *customer*.

6.5 Payments to funeral plan intermediaries

Application

6.5.1 **R** This section applies to a *funeral plan provider*.

Requirement not to offer commissions

6.5.2 **R** A *firm* must not offer or pay (and must ensure that none of its *associates* offers or pays) any commissions, *remuneration* or benefit of any kind to:

- (1) another *firm* in connection with that *firm's* business of engaging in *funeral plan distribution*;
- (2) another *person* in connection with:
 - that *person's* business of engaging in *funeral plan distribution*:
 - (i) for which it does not require *authorisation*; or
 - (ii) which it carries on in breach of the *general prohibition*;
 - business of that *person* which would involve engaging in *funeral plan distribution* but for an exclusion in the *Regulated Activities Order*;
- (c) that *person's* business of introducing *customers* to another *person* in relation to *funeral plan contracts*;
- (3) a *person* in (1) or (2) in relation to any related services; or
- (4) any third party for the benefit of a *person*, and in the circumstances described, in (1) to (3),

except as provided in this section.

6.5.3 **R** ■ FPCOB 6.5.2R does not apply to training or support which meet the requirements of ■ FPCOB 6.4.14R and ■ FPCOB 6.4.15R.

6.5.4 **G** ■ FPCOB 6.5.2R prevents a *funeral plan provider* from making payments, or offering benefits, to *persons* involved in distributing the *firm's funeral plan contracts*. This includes payments made, or benefits offered, to a *firm's appointed representatives*.

6.5.5

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■ FPCOB 6.5.2R does not prevent a *funeral plan provider* from making payments to a *person* merely to *communicate a financial promotion*.

Payments to employees
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6.5.6

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(1) The *rules* in this section do not apply to payments made by *firms* to their *employees* in relation to sales activity.

(2) *Firms* should refer to ■ SYSC 19F and the *FCA's final guidance, 'Risks to customers from financial incentives'* (January 2013) when considering the structure of any incentive schemes for their *employees*.

[**Note:** see <https://www.fca.org.uk/publication/finalised-guidance/fsa-fg13-01.pdf>]

