

**Insurance: Conduct of Business**

# Chapter 1

# Application

## 1.1 The general application rule

### The general application rule

1.1.1 **R** This sourcebook applies to a *firm* with respect to the following activities carried on in relation to a *non-investment insurance contract* from an establishment maintained by it, or its *appointed representative*, in the *United Kingdom*:

- (1) an *insurance distribution activity*;
- (2) *effecting and carrying out contracts of insurance*;
- (3) *managing the underwriting capacity of a Lloyd's syndicate as a managing agent at Lloyd's*;
- (4) *communicating or approving a financial promotion*;

and activities connected with them.

### Modifications to the general application rule

1.1.2 **R** The general application *rule* is modified in ■ ICOBS 1 Annex 1 according to the type of *firm* (Part 1), its activities (Part 2), and its location (Part 3).

1.1.3 **R** The general application *rule* is also modified in the chapters of this sourcebook for particular purposes, including those relating to the type of *firm*, its activities or location, and for purposes relating to connected activities.

### Guidance

1.1.4 **G** *Guidance* on the application provisions is in ■ ICOBS 1 Annex 1 (Part 4).

## Application (see ICOBS 1.1.2 R)

## Part 1: Who?

## Modifications to the general application rule according to type of firm

|     |   |  |
|-----|---|--|
| 1   |   | Third party processors   |
| 1.1 | R | (1) This <i>rule</i> applies where a <i>firm</i> (or its <i>appointed representative</i> ) ("A") has out-sourced <i>insurance distribution activities</i> to a <i>third party processor</i> .<br>(2) Any <i>rule</i> in this sourcebook which requires the <i>third party processor</i> , when acting as such, to disclose its identity to a <i>customer</i> must be read as applying to the <i>third party processor</i> only to the extent that it applies to A and as requiring disclosure of A's identity.   |
| 1.2 | G | (1) The disclosure required of the <i>third party processor</i> under ICOBS 4.3.-7R can be made without having to disclose the identity of the <i>third party processor</i> to the <i>customer</i> and therefore without breaching paragraph 1.1R(2) above.  |
| 2   |   | Managing agents  |
| 2.1 | R | (1) References to an <i>insurer</i> (including within the reference to <i>insurance distributor</i> ) apply equally to a <i>managing agent</i> unless the context requires otherwise.<br>(2) A <i>managing agent</i> must give effect to the policy that a <i>consumer</i> must, where required by this sourcebook, be offered cancellation rights.<br>(3) References to <i>managing agents</i> in this sourcebook relate to their functions in managing the obligations of a <i>member</i> in his capacity as such.   |
| 3   |   | Authorised professional firms  |
| 3.1 | R | This sourcebook (except for ICOBS 4.6) does not apply to an <i>authorised professional firm</i> with respect to its <i>non-mainstream regulated activities</i> except for:<br>(1) the provisions on communications to <i>clients</i> and <i>financial promotions</i> (see ICOBS 2.2);<br>(2) the e-commerce provisions (ICOBS 3.2);<br>(3) general information disclosure requirements in relation to complaints procedures (see ICOBS 4.1); and<br>(4) the <i>UK</i> provisions which implemented articles 1(4), 17, 18, 19, 20, 23, and 24 of the <i>IDD</i> (see ICOBS 2.2.2R (communication to customers and financial promotions), ICOBS 2.2.2AR (marketing communications), ICOBS 2.5.-1R (the customer's best interests rule), ICOBS 2.6 (Distribution of connected contracts through exempt persons), ICOBS 4.1 (Information about the firm, its services and remuneration), ICOBS 4.1A (Means of communicating to customers), ICOBS 4.3 (remuneration disclosure), ICOBS 5.2 (Demands and needs), ICOBS 5.3.3R (Advice on the basis of a fair analysis), ICOBS 5.3.4R (Personalised explanation), ICOBS 6A.1.4R (Ensuring the customer can make an informed decision) and ICOBS 6A.3 (Cross-selling)), except to the extent that the <i>firm</i> is subject to equivalent rules of its <i>designated professional body</i> approved by the <i>FCA</i> . |
| 3.2 | G | Compliance with the <i>UK</i> provisions which implemented the <i>Distance Marketing Directive</i> is dealt with in the Professional Firms sourcebook (see PROF 5.4).  |
| 4   |   | Appointed representatives  |
| 4.1 | R | (1) An <i>insurer</i> must ensure that its <i>appointed representative</i> complies with this sourcebook as it applies to an <i>insurance intermediary</i> .   |

Part 1: Who?

Modifications to the general application rule according to type of firm

- (2) However, if the *appointed representative* is acting as the *insurer's third party processor* then:
  - (a) this *rule* is subject to the *third party processors rule* (see paragraph 1.1R); and
  - (b) the *insurer* is not required to ensure that the *appointed representative* complies with the *rules* in this sourcebook on commission disclosure (see ICOBBS 4.4).
- 4.2 G The cancellation requirements in chapter 7 do not apply to a *distance contract* entered into by an *appointed representative* to provide distribution services. Regulations 9 (Right to cancel) to 13 (Payment for services provided before cancellation) of the *Distance Marketing Regulations* apply instead.
- 5 Service companies
- 5.1 R This sourcebook does not apply to a *service company*, except for the provisions on communications to *clients* and *financial promotions* (see ICOBBS 2.2).
- 6 Lloyd's  
This sourcebook does not apply to the *Society*.

Part 2: What?

Modifications to the general application rule according to type of firm

- 1 Reinsurance
- 1.1 R This sourcebook does not apply to activities carried on in relation to a *reinsurance contract*.  
[Note: recital 51 to the *IDD*]
- 2 Contracts of large risks
- 2.1 R Subject to Part 3 of this Annex:
  - (1) this sourcebook does not apply to a *firm* distributing a *contract of large risks* where the risk is located outside the *United Kingdom*;
  - (2) only ICOBBS 2 (General matters) and ICOBBS 6A.3 (Cross-selling) apply to a *firm* distributing a *contract of large risks* for a *commercial customer* where the risk is located within the *United Kingdom*; and
  - (3) the *IPID* requirement in ICOBBS 6.1.10AR (How must *IPID* information be provided?) and ICOBBS 6 Annex 3R (Providing product information by way of a standardised insurance information document) do not apply to a *firm* distributing a *contract of large risks*.  
[Note: article 22(1) of the *IDD*]
- 2.2 G *Principle 7* continues to apply so a *firm* should provide evidence of cover promptly after inception of a *policy* to its *customer*. In respect of a *group policy*, a *firm* should provide information to its *customer* to pass on to other *policyholders* and should tell the *customer* the information should be given to each *policyholder*.
- 2.3 R ICOBBS 6.2.3 R does not apply to *contracts of large risks*.  
[Note: article 184(1) of the *Solvency II Directive*]
- 3 Pure protection contracts: election to apply COBS rules
- 3.1 R (1) This sourcebook (except for ICOBBS 4.6) does not apply in relation to a *pure protection contract* to the extent that a *firm* has elected to comply with the Conduct of Business sourcebook (*COBS*) in respect of such business.

Part 2: What?

Modifications to the general application rule according to type of firm

- (2) Within the scope of such an election, a *firm* must:
    - (a) comply with the rest of the Handbook (except for COBS 6.1A, COBS 6.1B and COBS 6.1.9 R) treating the *pure protection contract* as a life policy and a *designated investment*, and not as a *non-investment insurance contract*; and
    - (b) if applicable, also comply with ICOBS 4.6.
  - (3) A *firm* must make, and retain indefinitely, a record in a *durable medium* of such an election (and any reversal or amendment). The record must include the effective date and a precise description of the part of the *firm's* business to which the election applies.
- 4 Chains of insurance intermediaries
- 4.1 R Where there is a chain of *insurance intermediaries* between the *insurer* and the *customer*, this sourcebook, except ICOBS 2, applies to any *insurance intermediary* in contact with the *customer*.
- 4.2 G ICOBS 2 applies to all *insurance intermediaries*, including those within a chain who are not in contact with the *customer*.
- 5 Travel insurance contracts
- 5.1 R The In addition to the general application rule in ICOBS 1.1.1R, the provisions in ICOBS 6.1.7-AG, ICOBS 6.5.1AG and ICOBS 6A.4 also apply to:to *incoming firms* that provide *cross border services* other than:
- (1) an *incoming firm* in respect of that part of its business that is carried on as an *electronic commerce activity* from another *EEA State*; or *TP firms* and Gibraltar-based firms which carry on business from an establishment in the *United Kingdom*; or
  - (2) (a) *TP firms* and Gibraltar-based firms that provide services from an establishment outside the *United Kingdom*, (other than where the *state of the risk* is an *EEA State* or Gibraltar, and to the extent that the *EEA State* in question or Gibraltar imposes measures of like effect); and
  - (b) *firms* operating from an establishment overseas; and with a *customer* in the *United Kingdom*.
- 5.2 G Unless the contrary intention appears, a reference to Gibraltar-based firm in paragraph 5.1 above has the same meaning as in the *Gibraltar Order*.

Part 3: Where?

Modifications to the general rule of application according to location

- 1 EEA territorial scope rule: compatibility with European law [deleted]
- 2 Exemption for insurers: business with non-UK customers via non-UK intermediaries
- 2.1 R This sourcebook does not apply to an *insurer* if:
- (1) the intermediary (whether or not an *insurance intermediary*) in contact with the *customer* is not established in the *United Kingdom*; and
  - (2) the *customer* is not *habitually resident* in, and, if applicable, the *State of the risk* is outside the *United Kingdom*.
- 3 Exemption for insurers: business with non-UK EEA customers [deleted]

Part 4: Guidance [deleted]

