

Chapter 4

Information about the firm, its
services and remuneration

4.1 General requirements for insurance intermediaries and insurers

Application: who?

- 4.1.1 **R** This chapter applies to an *insurance intermediary* and to an *insurer* carrying on *insurance distribution activities*.

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

- 4.1.1A **G** To comply with the *customer's best interests rule* and *Principle 7* (Communications with clients) a *firm* should include consideration of the information needs of the *customer* including:
- (1) what a *customer* needs in order to understand the relevance of any information provided by the *firm*; and
 - (2) at which point in the sales process will the information be most useful to the *customer* to enable them to make an informed decision.

Status disclosure: general information provided by insurance intermediaries or insurers

- 4.1.2 **R** In good time before the conclusion of an initial *contract of insurance* and, if necessary, on its amendment or *renewal* :
- (1) a *firm* must provide the *customer* with at least the following information:
 - (a) its identity, address and whether it is an *insurance intermediary* or an *insurance undertaking*;
 - (b) whether it provides a *personal recommendation* about the insurance products offered;
 - (c) 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 the out-of-court complaint and redress procedures available for the settlement of disputes between the *firm* and its *customers*; and
 - (2) an *insurance intermediary* must also provide the *customer* with the following information:

- (a) the fact that it is included in the *Financial Services Register* (or if it is not on the *Financial Services Register*, the register in which it has been included) and the means for verifying this;
- (b) whether it has a direct or indirect holding representing 10% or more of the voting rights or capital in a given *insurance undertaking* (that is not a *pure reinsurer*);
- (c) whether a given *insurance undertaking* (that is not a *pure reinsurer*) or its *parent undertaking* has a direct or indirect holding representing 10% or more of the voting rights or capital in the *firm*; and
- (d) whether it is representing the *customer* or is acting for and on behalf of the *insurer*; and

[Note: articles 18 and 19(1)(a) and (b) of the *IDD*]

- (3) paragraph (2) does not apply in relation to a *connected travel insurance contract*.

Status disclosure exemption: introducers

4.1.3 **R** A *firm* whose contact with a *customer* is limited to effecting introductions (see ■ PERG 5.6) need only provide its identity, address and whether it is a member of the same *group* as the *firm* to which it makes the introduction.

4.1.4 **G** If a *firm* goes further than putting a *customer* in contact with another *person* (for example, by *advising* the *customer* on a particular *policy* available from the *firm*) the full status disclosure requirements will apply.

4.1.5 **R** [deleted]

Scope of service: insurance intermediaries

4.1.6 **R** (1) Where an *insurance intermediary* proposes or advises on a *contract of insurance* then in good time before the conclusion of an initial *contract of insurance* (other than a *connected travel insurance contract*) and, if necessary, on its amendment or *renewal* an *insurance 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; or
- (b) is under a contractual obligation to conduct *insurance distribution* exclusively with one or more *insurance undertakings*, in which case it must provide the names of those *insurance undertakings*; or
- (c) (i) is not under a contractual obligation to conduct *insurance distribution* exclusively with one or more *insurance undertakings*; and
 - (ii) does not give a *personal recommendation* on the basis of a fair and personal analysis;

in which case it must provide its *customer* with the name of those *insurance undertakings* with which the *insurance intermediary* may and does conduct business.

(2) [deleted]

[Note: article 19(1)(c) of the *IDD*]

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Where the *firm* has given information in ■ ICOBS 4.1.6R(1)(b) and (c), then in good time before the conclusion of an initial *contract of insurance* with a *consumer* a *firm* must also state whether it is giving:

- (1) a *personal recommendation* but not on the basis of a fair and personal analysis;
- (2) other advice on the basis of a fair analysis of the market;
- (3) other advice not on the basis of a fair analysis of the market; or
- (4) just information.

Guidance on using panels to advise on the basis of a fair analysis

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- (1) One way a *firm* may give advice on a fair analysis basis is by using 'panels' of *insurance undertakings* which are sufficient to enable the *firm* to give advice on a fair analysis basis and are reviewed regularly.
- (2) A *firm* which provides a service based on a fair analysis of the market (or from a sector of the market) should ensure that its analysis of the market and the available contracts is kept adequately up-to-date. For example, a *firm* should update its selection of contracts if aware that a contract has generally become available offering an improved product feature, or a better *premium*, compared with its current selection. The update frequency will depend on the extent to which new contracts are made available on the market. A *firm* is also required to ensure that the analysis is of a sufficiently large number of *contracts of insurance* available on the market (see ■ ICOBS 5.3.3R).
- (3) The panel selection criteria will be important in determining whether the panel is sufficient to meet the 'fair analysis' criteria. Selection should be based on product features, *premiums* and services offered to *customers*, not solely on the benefit offered to the *firm*.
- (4) Where a *firm* also provides *personal recommendations* based on a fair and personal analysis, paragraphs (1) to (3) may also be relevant to that part of the service which involves a fair analysis of the market.

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4.1A Means of communication to customers

Application

4.1A.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

4.1A.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 an official language of the *State of the risk* or in any other language agreed by the parties; and
- (c) free of charge.

[Note: article 23(1), (2), (4) and (5) of the *IDD*]

4.1A.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.

[Note: article 23(3) of the *IDD*]

4.1A.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.

4.1A.5 **G** (1) For the purposes of **ICOBS 4.1A.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:

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On *renewal of a policy* a *firm* may rely on a *customer's* previous choice or consent as appropriate where:

- (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.
- (1) there is evidence that the *customer* has regular access to the internet;
 - (2) the provision of information in that medium is appropriate in the context in which the business between the *firm* and the *customer* is carried on; and
 - (3) the *customer* is made aware, for example in the renewal documentation, of the option to receive the information on paper in a way that is clear, fair and not misleading.

Means of communications to customers: telephone sales

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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 ■ ICOBS 3.1.14R); and
- (2) if prior to the conclusion of the contract the information is provided:
 - (a) orally; or
 - (b) on a *durable medium* other than paper;the *firm* must also provide the information to the *customer* in accordance with ■ ICOBS 4.1A.2R immediately after the conclusion of the *contract of insurance*.

[Note: article 23(7) of the *IDD*]



4.2 Additional requirements for protection policies for insurance intermediaries and insurers

Application: what?

4.2.1 **R** This section applies in relation to a *pure protection contract* or a *payment protection contract* for a *consumer*.

Ensuring customers can make an informed decision

4.2.2 **G** [deleted]

4.2.3 **G** [deleted]

Disclosing the limits of the service provided

- 4.2.4 **R**
- (1) In a sale that does not involve a *personal recommendation*, a *firm* must take reasonable steps to ensure a *customer* (C) understands that C is responsible for deciding whether a *policy* meets C's demands and needs.
 - (2) [deleted]
 - (3) If a *firm* anticipates providing, or provides, information on any main characteristic of a *policy* orally during a non-advised sale, taking reasonable steps includes explaining the *customer's* responsibility orally.
 - (4) A *policy's* main characteristics include its significant benefits, its significant exclusions and limitations, its duration and price information.

Status disclosure for insurers

- 4.2.5 **R**
- (1) Prior to the conclusion of an initial contract and, if necessary, on its amendment or *renewal*, an *insurer* must disclose to the *customer* at least:
 - (a) the statutory status disclosure statement (see **■ GEN 4**);
 - (b) whose *policies* it offers; and

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Insurers are reminded that they are not permitted to carry out business which does not directly arise from their insurance business (see the restriction of business in ■ INSPRU 1.5.13R and rule 9 of the *PRA Rulebook: Solvency II firms: Conditions Governing Business*).

(c) whether it is providing a *personal recommendation* or information.

(2) [deleted]



4.3 Remuneration disclosure

Remuneration disclosure: insurance intermediaries

- 4.3.-7 **R** In good time before the conclusion of the initial *contract of insurance* and, if necessary, on its amendment or *renewal* an *insurance intermediary* must provide the *customer* with information:
- (1) on the nature of the *remuneration* received in relation to the *contract of insurance*:
 - (2) about whether in relation to the contract it works on the basis of:
 - (a) a *fee*, that is *remuneration* paid directly by the *customer*; or
 - (b) a *commission* of any kind, that is the *remuneration* included in the *premium*; or
 - (c) any other type of *remuneration*, including an economic benefit of any kind offered or given in connection with the contract; or
 - (d) on the basis of a combination of any type of *remuneration* set out above in (a), (b) and (c).

[Note: article 19(1)(d) and (e) of the *IDD*]

Remuneration disclosure: insurers

- 4.3.-6 **R** In good time before the conclusion of a *contract of insurance*, an *insurance undertaking* must provide its *customer* with information on the nature of the *remuneration* received by its *employees* in relation to the *contract of insurance*.

[Note: article 19(4) of the *IDD*]

Remuneration disclosure: general

- 4.3.-5 **R** The *remuneration* referred to in this section includes *remuneration* that is not guaranteed or which is contingent on meeting certain targets.
- 4.3.-4 **G** The information required to be disclosed by **ICOBS 4.3.-7R** and **ICOBS 4.3.-6R** includes the type of *remuneration* and, taking into account the clear, fair and not misleading rule (**ICOBS 2.2.2R**), should also include the source of the *remuneration*.
- 4.3.-3 **G** When considering what information to provide about the *remuneration*, a *firm* should include all *remuneration* which the *insurance intermediary* or the

employee of an insurance undertaking receives, or may receive in relation to the distribution of the contract of insurance. This includes remuneration:

- (1) provided indirectly by the *insurer* or another *firm* within the distribution chain; or
- (2) provided by way of a bonus (whether financial or non-financial) paid to the *firm* by the *insurer* or another *firm*, or provided by the *firm* to its *employees*, where this bonus is contingent on the achievement of a target to which the distribution of the particular *contract of insurance* could contribute. For example, this can include cash bonuses paid for achieving a sales target and additional annual leave for achieving a high customer service score on sales calls, profit share arrangements, overrides or other enhanced commissions.

4.3.-2 **R** If any payments, other than ongoing *premiums* and scheduled payments, are made by the *customer* under the *contract of insurance* after its conclusion, a *firm* must make the disclosures under this section, for each such payment.
[Note: articles 19(3) and (5) of the *IDD*]

4.3.-1 **G** Examples of the type of payments made are those for mid-term adjustments, administration fees and cancellation fees.

Fee disclosure: additional requirements

4.3.1 **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 conclusion of the *contract of insurance*, whichever is earlier.
- (3) To the extent that it is not possible for an amount to be given, a *firm* must give the basis for its calculation.

[Note: articles 19(2) and (5) of the *IDD*]

4.3.2 **R** The *fee* disclosure requirement extends to all such *fees* that may be charged during the life of a *policy*.

[Note: article 19(3) of the *IDD*]

4.4 Commission disclosure for commercial customers

Commission disclosure rule

- 4.4.1 **R** (1) An *insurance intermediary* must, on a *commercial customer's* request, promptly disclose the *commission* that it and any *associate* receives in connection with a *policy*.
- (2) Disclosure must be in cash terms (estimated, if necessary) and in writing or another *durable medium*. To the extent this is not possible, the *firm* must give the basis for calculation.
- 4.4.2 **G** An *insurance intermediary* should include all forms of remuneration from any arrangements it may have. This includes arrangements for sharing profits, for payments relating to the volume of sales, and for payments from premium finance companies in connection with arranging finance.
- 4.4.3 **G** (1) The commission disclosure *rule* is additional to the general law on the fiduciary obligations of an agent in that it applies whether or not the *insurance intermediary* is an agent of the *commercial customer*.
- (2) In relation to *contracts of insurance*, the essence of these fiduciary obligations is generally a duty to account to the agent's principal. But where a *customer* employs an *insurance intermediary* by way of business and does not remunerate him, and where it is usual for the *firm* to be remunerated by way of *commission* paid by the *insurer* out of premium payable by the *customer*, then there is no duty to account but if the *customer* asks what the *firm's* remuneration is, it must tell him.

4.6 Commission disclosure for pure protection contracts sold with retail investment products

- 4.6.1** **G** The *rules* in this section:
- (1) address the risk that a *consumer* believes that a *firm's* remuneration for its *pure protection service* is included in its *adviser charge*, where this is not the case; and
 - (2) enable the *consumer* to evaluate a *firm's adviser charge* in the light of any additional remuneration received by the *firm* for the *pure protection service* it provides.
- 4.6.2** **R** A *firm* which agrees an *adviser charge* with a *consumer* and provides an associated *pure protection service* to that *consumer* must:
- (1) in good time before the provision of its services, take reasonable steps to ensure that the *consumer* understands:
 - (a) how the *firm* is remunerated for its *pure protection service*; and
 - (b) if applicable, that the *firm* will receive *commission* in relation to its *pure protection service* in addition to the *firm's adviser charge*;
 - (2) as close as practicable to the time that it makes the *personal recommendation* or *arranges* the sale of the *pure protection contract*, comply with the following disclosure requirements, substituting *pure protection contract* for references to *packaged product*:
 - (a) ■ COBS 6.4.3 R, or ■ COBS 6.4.4A R and ■ COBS 6.4.4B R; and
 - (b) ■ COBS 6.4.5 R.
- 4.6.3** **G** A *pure protection service* is unlikely to be associated with an *adviser charge* for the purposes of ■ ICOBS 4.6.2 R if the *firm* agreed the *adviser charge* with the *consumer* 12 months or more before the provision of the *pure protection service*.
- 4.6.4** **G** A *pure protection service* is not associated with an *adviser charge* for the purposes of ■ ICOBS 4.6.2 R if the *adviser charge* is agreed with the *consumer* by a *firm* or an *appointed representative* and the *pure protection service* is provided to that *consumer* by another *firm* or *appointed representative*. However, if a *firm* or an *appointed representative* refers a *consumer* with whom it is agreeing an *adviser charge* to another *firm* or *appointed*

representative for the provision of a *pure protection service*, it should consider its obligation to communicate with the *consumer* in a way that is clear, fair and not misleading in the context of the guidance in

■ ICOBS 4.6.1 G.

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If a *firm* expects to provide, or provides, information about its *adviser charge* orally, it must also provide the information required by ■ ICOBS 4.6.2R (1)(a) and ■ ICOBS 4.6.2R (1)(b) orally.

Initial disclosure document [deleted]

