

Insurance: Conduct of Business

ICOBS TP 1 Transitional Provisions

Consolidated Motor Insurance Directive		
1	R	In relation to a claim by an <i>injured party</i> received by a <i>motor vehicle liability insurer</i> or its claims representative on or before 10 June 2007, the motor vehicle liability claims handling <i>rules</i> (see ICOBS 8.2.6 R to ICOBS 8.2.11 G) only apply if the claim results from an accident occurring in an <i>EEA State</i> other than the <i>injured party's EEA State</i> of residence which was caused by the use of a <i>vehicle</i> insured through an establishment in, and <i>normally based</i> in, an <i>EEA State</i> other than the <i>injured party's EEA State</i> of residence.
[FCA]		
Initial disclosure document		
2		Expired
3		Expired
4		Expired
5		Expired
Series of events		
6	R	If, for a <i>connected travel insurance intermediary</i> , the application of any provision in this sourcebook is dependent on the occurrence of a series of events, the provision applies with respect to the events that occur on or after 1 January 2009.
[FCA]		
Employers' liability insurance: disclosure by insurers		
7		Expired
8		Expired
8A		Expired
8B	R	Expired
[FCA]		
8C	G	Expired
[FCA]		
9		Expired
9A	R	Expired
[FCA]		
9B	G	Expired
[FCA]		
10		Expired
10A		Expired
11		Expired
12		Expired
13	R	For the purposes of ICOBS 8.4.11R (2)(a), ICOBS 8.4.11R (2)(b), ICOBS 8.4.12A R, ICOBS 8 Annex 1, TP 8, TP 8B and TP 9, in relation to references to claims made in relation to <i>policies</i> :
[FCA]		

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- (1) for claims received by a *firm* prior to 1 April 2011 which have not been settled as at 1 April 2011, those claims must be treated, for the purposes of the above *rules*, as having been made on or after 1 April 2011, and for the purposes of the above *rules*, the *firm* must include information in the form in ICOBS 8 Annex 1.1.2 R, in accordance with and including the notes, held by the *firm* (with the exception of information within TP 8R(1)(d) until 1 April 2012) within three *months* of the date upon which the claim was settled, on or after 1 April 2011; and
 - (2) if, as at 1 April 2011, a *firm's* systems record claims by reference to the date the claim was created in the *firm's* systems or the date upon which it was settled, then, notwithstanding ICOBS 8.4.12A R, that *firm* may treat references to the date that a claim was made as a reference to the date that the claim was created in the *firm's* systems, or if applicable to the *firm*, the date that the claim was settled.

TP 13R(2) applies until 1 April 2013.

Insurance: Conduct of Business

ICOBS TP 2 Other Transitional Provisions

(1)	(2) Material to which the transitional provision applies	(3)	(4) Transitional provision	(5) Transitional provision: dates in force	(6) Handbook provision: coming into force
1	ICOBS 4.5.1 G	R	Expired		
2	ICOBS 4.5	R	Expired		
3	ICOBS 6A.2.1R(1) to (3)	R	<p>A <i>firm</i> need not comply with ICOBS 6A.2.1R(1) to (3) in relation to an automatic renewal of an agreement for an optional additional product which was entered into on or before 31 March 2016 provided:</p> <p>(1) the automatic renewal of the agreement is on substantially the same terms. The phrase “on substantially the same terms” is to be interpreted in the same way as in ICOBS 6A.2.1R (10)(b) and (c).</p> <p>(2) on the occasion of the first automatic renewal on or after 1 April 2016, the <i>firm</i> takes reasonable steps to ensure that the <i>customer</i> is informed:</p> <p>(a) that the renewal of the agreement is optional;</p> <p>(b) that the <i>customer</i> may elect not to renew the agreement; and</p> <p>(c) of the effect of the non-renewal of the agreement, if any, on the <i>non-investment insurance contract</i>; and</p> <p>(3) the procedure to be used by <i>customers</i> for electing not to renew the agreement pays due regard to the interests of <i>customers</i> and treats them fairly.</p>	From 1 April 2016	On 1 April 2016
4	ICOBS 2.5.2AR	R	An <i>insurer</i> need not comply with ICOBS 2.5.2AR for contracts entered into or variations agreed before 1 August 2017.	From 1 August 2017	On 1 August 2017

Insurance: Conduct of Business

Schedule 1 Record keeping requirements

Sch 1 G

Notes

- 1 The aim of the *guidance* in the following table is to give the reader a quick overall view of the relevant record keeping requirements.
- 2 It is not a complete statement of those requirements and should not be relied on as if it were.

Sch 1 G

Handbook reference	Subject of record	Contents of record	When record must be made	Retention period
ICOBS 1 Annex 1 G, Part 2 3.1R(3)	Record of election to comply with <i>COBS rules</i> for pure protection policies (including amendment or reversal)	Date of election and precise description of parts of the <i>firm's</i> business that will comply with <i>COBS</i> provisions	Not specified	Indefinitely
ICOBS 5.1.3B R	Eligibility	Details of whether the <i>customer</i> is eligible to claim each of the benefits under each <i>policy</i> included in the <i>packaged bank account</i>	Date of eligibility assessment	3 years
ICOBS 5.3.2B R	Suitability and recommendation given	Details of whether each <i>policy</i> included in the <i>packaged bank account</i> is suitable for the <i>customer's</i> demand and needs, the recommendation given and the reasons for the recommendation	Date of recommendation	3 years

Insurance: Conduct of Business

Schedule 2 Notification requirements

Sch 2.1 G

Handbook reference	Matters to be notified	Contents of notification	Trigger event	Time allowed
ICOBS 8.4.6 R	Whether or not business falling within ICOBS 8.4.4 R (1) is being carried out	Statement by <i>director</i> that, to the best of the <i>director's</i> knowledge, content is true and accurate, and if relevant details of the internet address at which the employers' liability register is made available, the <i>firm's</i> contact details and the period over which the <i>firm</i> or <i>syndicate</i> member provided cover under relevant <i>policies</i> .	<i>Firms</i> or <i>syndicate</i> members carry out contracts of insurance which are general insurance contracts	One month
ICOBS 8.4.6A R	That the <i>firm</i> has potential liability under an excess <i>policy</i> and satisfies the requirements and relies on the provisions in ICOBS 8 Annex 1.1.1BR	A statement that the <i>firm</i> has potential liability under an excess <i>policy</i> ; satisfies the requirements and relies on the provisions in ICOBS 8 Annex 1.1.1BR	<i>Firm</i> relies on ICOBS 8 Annex 1.1.1BR	Prior to reliance on ICOBS 8 Annex 1.1.1BR
ICOBS 8.4.11 R	Changes to the accuracy of the contents of the notification in ICOBS 8.4.6 R (1) or ICOBS 8.4.6A R	Details of the change and of the new position	Changes to the accuracy of a notification made under ICOBS 8.4.6 R or ICOBS 8.4.6A R	Within one month of the change

Insurance: Conduct of Business

Schedule 3 Fees and other required payments requirements

Sch 3.1 G

There are no requirements for fees or other payments in *ICOBS*.

Insurance: Conduct of Business

Schedule 4 Powers exercised

Sch 4.1 G
[deleted]

Sch 4.2 G
[deleted]

Insurance: Conduct of Business

Schedule 5 Rights of action for damages

Sch 5.1 G

The table below sets out the *rules* in *ICOBS* contravention of which by an *authorised person* may be actionable under Section 138D of the *Act* (Actions for damages) by a *person* who suffers loss as a result of the contravention.

Sch 5.2 G

If a "Yes" appears in the column headed "For private person?", the *rule* may be actionable by a *private person* under Section 138D (or, in certain circumstances, his fiduciary or representative; see article 6(2) and (3)(c) of the Financial Services and Markets Act 2000 (Rights of Action) Regulations 2001 (SI 2001/2256)). A "Yes" in the column headed "Removed" indicates that the *FCA* has removed the right of action under section 138D(3) of the *Act*. If so, a reference to the *rule* in which it is removed is also given.

Sch 5.3 G

The column headed "For other person?" indicates whether the *rule* may be actionable by a *person* other than a *private person* (or his fiduciary or representative) under article 6(2) and (3) of those Regulations. If so, an indication of the type of *person* by whom the *rule* may be actionable is given.

Sch 5.4 G

Rule	Right of action under Section 138D		
	For private person?	Removed?	For other person?
All <i>rules</i> in <i>ICOBS</i> with the status letter "E"	No	No	No
Any <i>rule</i> in <i>ICOBS</i> which prohibits an <i>authorised person</i> from seeking to make provision excluding or restricting any duty or liability	Yes	No	Yes Any other person
ICOBS 8.2.9 R	Yes	No	Yes Any other person
All other <i>rules</i> in <i>ICOBS</i>	Yes	No	No

Insurance: Conduct of Business

Schedule 6 Rules that can be waived

Sch 6.1 G

As a result of section 138A of the *Act* (Modification or waiver of rules) the *FCA* has power to waive all its *rules*, other than *rules* made under section 137O (Threshold condition code), section 247 (Trust scheme rules), section 248 (Scheme particular rules), section 261I (Contractual scheme rules) or section 261J (Contractual scheme particulars rules) of the *Act*. However, if the *rules* incorporate requirements laid down in European directives, it will not be possible for the *FCA* to grant a waiver that would be incompatible with the *United Kingdom's* responsibilities under those directives.

