

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]		

- (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.

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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
5	ICOBS 6A.6	R	A <i>firm</i> need not comply with ICOBS 6A.6 for contracts entered into before 1 January 2022.	From 1 January 2022	1 January 2022
6	ICOBS 6B.2.60R	R	<p>This transitional rule applies to a <i>firm</i> which is required to provide an attestation under ICOBS 6B.2.60R.</p> <p>The first attestation must be submitted on or before 31 March 2022.</p>	From 1 January 2022 to 1 April 2022	1 January 2022

				The first attestation relates only to a <i>firm's</i> compliance on the date when ICOB5 6B comes into force (and not to a reporting period).		
7	ICOB5 6B	R	(1)	This transitional rule applies to a <i>firm</i> which is required to comply with ICOB5 6B.	From 1 January 2022 to 1 April 2022	1 January 2022
			(2)	Where a <i>firm</i> so elects, it need not implement the <i>rules</i> in ICOB5 6B by 1 January 2022, but the <i>firm</i> must: <ul style="list-style-type: none"> (a) implement the <i>rules</i> by 17 January 2022; and (b) comply with paragraphs (3) and (4). 		
			(3)	<ul style="list-style-type: none"> (a) This paragraph applies to all <i>home insurance</i> and <i>motor insurance</i> renewal notices prepared between 1 January 2022 and 16 January 2022 inclusive. (b) A <i>firm</i> must by 28 February 2022 calculate the <i>equivalent new business price</i> in accordance with ICOB5 6B for all renewal notices that this paragraph applies to which were accepted by the <i>customer</i>. (c) Where the <i>equivalent new business price</i> is lower than the price the <i>customer</i> was offered to <i>renew</i> their product, the <i>firm</i> must automatically repay the difference between what the <i>customer</i> actually paid and what the <i>customer</i> should have paid to the <i>customer</i>, using, wherever practical, the same method as the <i>customer</i> used to pay for the <i>policy</i>. 		
			(4)	The first attestation provided by a <i>firm</i> under ICOB5 6B.2.60R and ICOB5 TP. 2.6R must include the following: <ul style="list-style-type: none"> (a) a statement of whether the <i>firm</i> made the election in this transitional <i>rule</i>; (b) if the <i>firm</i> made the election, a statement that the <i>firm</i> has made all repayments required by this transitional <i>rule</i>; and (c) if the <i>firm</i> made the election, the number of <i>customers</i> affected and total amount of repayments made. 		
8	ICOB5 6.2.6R and ICOB5 6.5.1R.	R	(1)	This transitional <i>rule</i> applies to a <i>firm</i> which is required to comply with ICOB5 6.2.6R or ICOB5 6.5.1R.	From 1 January 2022 to 1 March 2022	1 January 2022

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- (2) Where a *firm* so elects, it need not comply with the rules in ICOBS 6.2.6R or ICOBS 6.5.1R by 1 January 2022, but the *firm* must:
- (a) implement the rules by 17 January 2022; and
 - (b) comply with paragraph (3).
- (3)
- (a) This paragraph applies to all communications sent to *customers* between 1 January 2022 and 16 January 2022 inclusive, except communications sent in connection with private health or medical insurance and pet insurance.
 - (b) A *firm* must, by 28 February 2022, provide the information required by ICOBS 6.2.6R and ICOBS 6.5.1R to all *customers* of the *firm* who hold a current *policy* with the *firm* but who did not receive the required information because the *firm* made the election under paragraph (2).
 - (c) The information must be provided in writing or another *durable medium*.

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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

Handbook reference	Subject of record	Contents of record	When record must be made	Retention period
ICOBS 6B.2.51R, ICOBS 6B.2.52R and	Record of compliance with non-discrimination requirements and treatment of existing <i>customer</i> requirements	Details of the <i>firm's</i> assessments and controls that ensure that the <i>firm</i> is not systematically discriminating against <i>customers</i> of longer <i>tenure</i> and that its treatment of existing <i>customers</i> is in their best interests	Not specified	Not specified

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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

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Schedule 3 Fees and other required payments requirements

Sch 3.1 G

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

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Schedule 4 Powers exercised

Sch 4.1 G
[deleted]

Sch 4.2 G
[deleted]

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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 rules in <i>ICOBS</i> with the status letter "E"	No	No	No
Any rule 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 rules in <i>ICOBS</i>	Yes	No	No

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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*.

