Product Intervention and Product Governance Sourcebook (PROD)
# PROD Contents

## Product Intervention and Product Governance Sourcebook (PROD)

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Chapter 1

Product Intervention and Product Governance Sourcebook (PROD)
1.1 Application and purpose

**Purpose**

1.1.1 The purpose of PROD is to improve firms’ product oversight and governance processes and to set out the FCA’s statement of policy on making temporary product intervention rules.

1.1.2 Product oversight and governance refers to the systems and controls firms have in place to design, approve, market and manage products throughout the products’ lifecycle to ensure they meet legal and regulatory requirements.

1.1.3 Good product governance should result in products that:

   (1) meet the needs of one or more identifiable target markets;

   (2) are sold to clients in the target markets by appropriate distribution channels; and

   (3) deliver appropriate client outcomes.

1.1.4 Unless the contrary intention appears, a reference to Gibraltar-based firm in PROD has the same meaning as in the Gibraltar Order.
1.2 Application of PROD 2

1.2.1 PROD 2 sets out the FCA’s approach to issuing temporary product intervention rules. It is of relevance to all firms.
1.3 Application of PROD 3

General: Who? What?

1.3.1 PROD 3 applies to

(1) a MiFID investment firm;
(2) a CRD credit institution;
(3) a MiFID optional exemption firm; and
(4) branches of third country investment firms; with respect to:
(5) manufacturing financial instruments and structured deposits; and
(6) distributing financial instruments, structured deposits and investment services.

[Note: articles 1(3), 1(4), 16(3), 24(2) and 41(2) of MiFID]

1.3.-1A A TP firm and a Gibraltar-based firm must also comply with the provisions in PROD 1.3 and PROD 3 in relation to a pathway investment, with respect to activities carried on from an establishment maintained by it, or its appointed representative, in the United Kingdom.

Other firms manufacturing or distributing financial instruments or structured deposits

1.3.2 Other firms which manufacture or distribute financial instruments or structured deposits should take account of PROD 3 as if it were guidance on the Principles and other relevant rules and as if “should” appeared in PROD 3 rules instead of “must”.

Eligible counterparty business

1.3.3 PROD 3.3.1R does not apply to eligible counterparty business.

[Note: article 30(1) of MiFID]

Where?

1.3.4 PROD 3 applies to a firm with respect to activities carried on from an establishment maintained by it, or its appointed representative, in the United Kingdom.
1.3.5 R (1) ■ PROD 3 also applies to a **firm** with respect to activities from an establishment **overseas** with a **client** in the **United Kingdom**.

(2) But ■ PROD 3 does not apply to those activities if the office from which the activity is carried on were a separate **person** and the activity:

(a) would fall within the **overseas persons** exclusions in **article 72** of the **Regulated Activities Order**; or

(b) would not be regarded as being carried on in the **United Kingdom**.

1.3.6 R [deleted]

1.3.7 G [deleted]

1.3.8 G [deleted]

1.3.9 G [deleted]

1.3.10 G [deleted]

**MiFID**

1.3.11 G ■ PERG 13 contains general guidance on the **persons** and businesses to which the **UK** provisions which implemented **MiFID** apply.

1.3.12 G [deleted]

1.3.13 G [deleted]

1.3.14 G [deleted]

**Interaction of PROD 3 and the RPPD Guide**

1.3.15 G A **firm** to which ■ PROD 3 applies need not apply the **guidance** in **RPPD** for matters covered by **PROD** if the **firm** has complied with ■ PROD 3.

**Manufacturing pathway investments**

1.3.16 G A **firm** that is within the scope of ■ PROD 3 (Product governance: MiFID) when it **manufactures pathway investments** other than in connection with its operating of a **retail client’s personal pension scheme** or **stakeholder pension scheme**, is also subject to ■ PROD 6 (Product governance: additional provisions for pathway investments) as **guidance** with respect to that **manufacturing** activity (see ■ PROD 1.6.1R(3)).
1.4 Application of PROD 4

1.4.1 PROD 4 applies to:

(1) an insurance intermediary; and
(2) an insurer,

with respect to:

(3) manufacturing insurance products;

   product governance and distribution arrangements for legacy non-investment insurance products (see PROD 4.6); and

(4) distributing insurance products.

[Note: articles 1(2) and 25 of the IDD]

1.4.1A A TP firm and a Gibraltar-based firm must also comply with the provisions in:

(1) PROD 1.4 and PROD 4.5 (Additional expectations for manufacturers and distributors in relation to value measures data);

(2) PROD 1.4 and PROD 4 in relation to a pathway investment;

   PROD 1.4, PROD 4 and (where applicable) PROD TP 1 in relation to non-investment insurance products (including legacy non-investment insurance products) that are, or will be, marketed or distributed, or there are policies under the product that remain in force, in the United Kingdom.

1.4.1A PROD 4.5 (Additional expectations for manufacturers and distributors in relation to value measures data) applies regardless of when the product was first manufactured.

1.4.2 In PROD an insurance product may be read as being a reference to the product for distribution to customers generally and is not intended to refer to each individual contract of insurance being sold or underwritten (unless the context indicates otherwise).

1.4.3 PROD 4 does not apply in relation to an insurance product that is:

(1) a contract of large risks, or
(2) a reinsurance contract.

[Note: article 25(4) of the IDD]
**Manufacturing and distributing pathway investments**

1.4.3A

A firm that is within the scope of PROD 4 (Product governance: IDD) when manufactures pathway investments other than in connection with its operating of a retail client’s personal pension scheme or stakeholder pension scheme, is also subject to PROD 6 (Product governance: additional provisions for pathway investments) as guidance with respect to that manufacturing activity (see PROD 1.6.1R(2)).

1.4.3B

Where a firm:

(1) manufactures or distributes pathway investments in connection with its operating of a retail client’s personal pension scheme or stakeholder pension scheme; and

(2) is not otherwise within the scope of the rules or onshored regulations in PROD in relation to that manufacturing or distribution activity, then PROD 4, PROD 1.4.4UK and PROD 1.4.10G, apply with respect to that manufacturing or distribution activity.

1.4.3C

The effect of PROD 1.4.3BR is to apply PROD 4 to any firm, such as a SIPP operator, which:

(1) manufactures or distributes pathway investments in connection with its operating of a retail client’s personal pension scheme or stakeholder pension scheme; and

(2) before the entry into force of PROD 1.4.3BR, was not subject to the rules or onshored regulations in PROD.

When an intermediary may be considered to be manufacturing

1.4.4

For the purposes of PROD 4.2.1R, PROD 4.2.2R, PROD 4.2.29R, PROD 4.2.34R, PROD 4.3.1R and PROD 4.3.2R, insurance intermediaries shall be considered manufacturers where an overall analysis of their activity shows that they have a decision-making role in designing and developing an insurance product for the market.

3(2)A decision-making role shall be assumed, in particular, where insurance intermediaries autonomously determine the essential features and main elements of an insurance product, including its coverage, price, costs, risk, target market and compensation and guarantee rights, which are not substantially modified by the insurance undertaking providing coverage for the insurance product.

3(3)Personalisation of and adaptation of existing insurance products in the context of insurance distribution activities for individual customers, as well as the design of tailor-made contracts at the request of a single customer, shall not be considered manufacturing.

[Note: article 3 of the IDD POG Regulation]

1.4.5

The effect of PROD 1.4.4UK and PROD 1.4.6R is that an insurance intermediary needs to consider if it is manufacturing an insurance product or if it would be a manufacturer for a legacy non-investment insurance product.
for PROD 4.6, and, if so, should comply with PROD 4.2 (Manufacture of insurance products).

**Scope of ‘manufacturing’**

1.4.5A

(1) PROD 4.2 applies to firms that manufacture insurance products. The terms ‘firm’ and ‘manufacturer’ are used in that section interchangeably to refer to such persons.

(2) The Glossary term ‘manufacture’ includes ‘designing, developing, creating and/or underwriting’ which cover activities prior to the insurance product being approved for marketing and distribution, and on a continuing basis after such approval.

**Effect of provisions marked “UK” for certain manufacturers and distributors of insurance products**

1.4.6

(1) Subject to (2) and PROD 1.4.3R, provisions in this section and in PROD 4 marked “UK” apply to firms:

(a) manufacturing or distributing insurance products, but to whom the IDD POG Regulation does not apply;

(b) in relation to product governance and distribution arrangements for legacy non-investment insurance products, as if they were rules.

(2) For the purposes of (1), a word or phrase used in the IDD POG Regulation and referred to in column (A) has the meaning indicated in Column (B) of the table below:

<table>
<thead>
<tr>
<th>(a)</th>
<th>(b)</th>
</tr>
</thead>
<tbody>
<tr>
<td>“Article 8(2)”</td>
<td>PROD 4.2.30UK</td>
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<tr>
<td>“customer” and “potential customer”</td>
<td>customer</td>
</tr>
<tr>
<td>“insurance-based investment products”</td>
<td>insurance-based investment products</td>
</tr>
<tr>
<td>“insurance distribution activities”</td>
<td>insurance distribution activities</td>
</tr>
<tr>
<td>“insurance distributor”</td>
<td>distributor</td>
</tr>
<tr>
<td>“insurance intermediary”</td>
<td>insurance intermediary</td>
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<tr>
<td>“insurance undertaking”</td>
<td>insurer</td>
</tr>
<tr>
<td>“manufacturer” and “manufacturers within the meaning of Article 2 of this Delegated Regulation”</td>
<td>manufacturer</td>
</tr>
<tr>
<td>“manufacturing”</td>
<td>manufacturing</td>
</tr>
<tr>
<td>“shall”</td>
<td>must</td>
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</tbody>
</table>

(3) In this sourcebook, where a reproduced provision of an article of the IDD POG Regulation refers to another part of the IDD POG Regulation, that other provision must also be read with reference to the table in (2).
(4) In relation to a *legacy non-investment insurance product*, the reproduced provisions of an article of the *IDD POG Regulation* must be read to be consistent with the application of product governance and distribution requirements in [PROD 4.2](#) and [PROD 4.3](#) to a *legacy non-investment insurance product*.

**Effect and interpretation of PROD 1.4 and PROD 4 for certain manufacturers and distributors of pathway investments**

A firm to which [PROD 1.4.3](#) applies must

1. comply with provisions marked "UK" in [PROD 1.4](#) and [PROD 4](#) as if they were *rules*; and

2. read terms or phrases found in [PROD 1.4](#) or [PROD 4](#) as follows:
   
   (a) terms referred to in column (1) of the table below have the meaning indicated in the same row of column (2) of the table;

   (b) terms relating to insurance or insurance products have the meaning of the corresponding term relevant in the context of *pathway investments*; and

   (c) terms or phrases which are only relevant to *firms manufacturing or distributing* insurance products may be disregarded.

This table belongs to PROD 1.4.6A(2)(a).

<table>
<thead>
<tr>
<th>(1)</th>
<th>(2)</th>
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<tbody>
<tr>
<td>&quot;ICOBS 2.5-1R and COBS 2.1.1R&quot;</td>
<td>COBS 2.1.1R</td>
</tr>
<tr>
<td>&quot;ICOBS&quot;</td>
<td>relevant conduct of business obligations</td>
</tr>
<tr>
<td>&quot;PROD 4.2 requirements of the IDD POG Regulation)&quot;</td>
<td>PROD 4.2</td>
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<tr>
<td>&quot;insurance-based investment products&quot;</td>
<td><em>pathway investment</em></td>
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<tr>
<td>&quot;insurance distributor&quot;</td>
<td>distributor</td>
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<tr>
<td>&quot;insurance distribution activities&quot;</td>
<td>distribution activities</td>
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<tr>
<td>&quot;insurance intermediary and an insurance undertaking&quot;</td>
<td>firms</td>
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<td>&quot;insurance product&quot;</td>
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<tr>
<td>&quot;‘manufacturer’ and ‘manufacturers’ within the meaning of Article 2 of this Delegated Regulation”</td>
<td>manufacturer</td>
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<tr>
<td>&quot;manufacturing&quot;</td>
<td><em>manufacturing</em></td>
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<tr>
<td>&quot;premiums&quot;</td>
<td>costs and charges</td>
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<tr>
<td>&quot;shall&quot;</td>
<td>must</td>
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**Where?**

[PROD 4](#) applies to a *firm* with respect to activities carried on from an establishment maintained by it, or its *appointed representative*:
(1) (for all insurance products and *pathway investments*) in the *United Kingdom*; and

(2) (in addition, for *non-investment insurance products*) overseas, in relation to an insurance product that is, or will be, marketed or *distributed*, or there are policies under the product that remain in force, in the *United Kingdom*.

[Note: in respect of (1), article 7(2) of the *IDD*]

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### Interaction of PROD 4 and the RPPD Guide

1.4.10 A *firm* to which ■ PROD 4 applies need not apply the *guidance* in RPPD for matters covered by PROD if the *firm* has complied with ■ PROD 4 (see also ■ PROD 4.4.2G). ■ PROD 4.4 includes *guidance* based on the RPPD which *firms* subject to ■ PROD 4 should apply.

### Modification of PROD 4.2 and PROD 4.3 for overseas non-investment insurance products

1.4.11 ■ PROD 4 applies in relation to an *overseas non-investment insurance product* with the following modifications:

(1) The changes made to ■ PROD 4.2 and ■ PROD 4.3 in Annex E of the *Non-Investment Insurance: Product Governance, Premium Finance, General Insurance Auto-renewal and Home and Motor Insurance Pricing Instrument 2021* do not apply, unless otherwise specified in (2).

(2) The following *rules* and *guidance* in Annex E of the *Non-Investment Insurance: Product Governance, Premium Finance, General Insurance Auto-renewal and Home and Motor Insurance Pricing Instrument 2021* continue to apply:

(a) ■ PROD 4.2.1AG;
(b) ■ PROD 4.2.21AG;
(c) ■ PROD 4.2.34AG; and
(d) ■ PROD 4.2.36BR.


1.4.12 (1) The effect of ■ PROD 1.4.11R is that, for an *overseas* non-investment insurance product, including where this is a *legacy non-investment insurance product* subject to ■ PROD 4.6, a *firm’s* product approval process (and arrangements for ongoing monitoring) need only comply with:
(a) the requirements in ■ PROD 4.2 or ■ PROD 4.3 as they stood on 30 September 2021, except for those provisions in ■ PROD 1.4.11(2); and

(b) any subsequent changes made by an instrument other than the Non-Investment Insurance: Product Governance, Premium Finance, General Insurance Auto-renewal and Home and Motor Insurance Pricing Instrument 2021.

■ PROD 1.4 and ■ PROD 4 as it stood on 30 September 2021 can be accessed by using the timeline on the FCA Handbook website. Firms will need to consider any further changes to PROD after this date to consider if they apply in relation to overseas non-investment insurance products.

(2) A non-investment insurance product:

(a) that will be or is available for distribution or marketing to customers who are habitually resident or, if applicable, where the state of the risk is, in the United Kingdom; or

(b) where, for any policy issued under the product, the policyholder is habitually resident in or, if applicable, the state of the risk is in, the United Kingdom,

will not be an overseas non-investment insurance product and the firm will need to meet all applicable requirements in ■ PROD 4 including ■ PROD 4.2.14AR in relation to providing fair value.

(3) A firm should also consider in relation to any overseas non-investment insurance product what is required to meet obligations under other rules in the FCA Handbook including, for example, the Principles and SYSC.
1.5 Application of PROD 5

General: Who? What?

1.5.1 R

PROD 5 applies to a firm which:

(1) offers to sell an extended warranty to a customer; or

(2) refers, invites or induces a customer to obtain an extended warranty from a person connected to the firm;

in connection with the entering into of a rent-to-own agreement with the firm.

1.5.2 G

A person connected to the firm includes someone who has a relevant business relationship with the firm.

Where?

1.5.3 R

PROD 5 applies to a firm with respect to activities carried on from an establishment maintained by it, or its appointed representative, in the United Kingdom.

1.5.4 R

[deleted]

1.5.5 G

[deleted]

1.5.6 G

[deleted]

1.5.7 G

[deleted]
1.6 Application of PROD 6

1.6.1 PROD 6 applies to a firm:

(1) that manufactures or distributes pathway investments in connection with its operating of a retail client’s personal pension scheme or stakeholder pension scheme;

(2) within the scope of PROD 4 when manufacturing pathway investments, other than in connection with its operating of a retail client’s personal pension scheme or stakeholder pension scheme, as guidance with respect to that manufacturing activity;

(3) within the scope of PROD 3 when manufacturing pathway investments, other than in connection with its operating of a retail client’s personal pension scheme or stakeholder pension scheme, as guidance with respect to that manufacturing activity.
1.7 Application of PROD 7

1.7.1 (1) PROD 7 applies to:

(a) a funeral plan provider; and

(b) a funeral plan intermediary,

with respect to:

(c) manufacturing funeral plan products; and

(d) distributing funeral plan products.

1.7.2 A Gibraltar-based firm must also comply with the provisions in PROD 7 (Product governance: funeral plans).

1.7.3 The Glossary term ‘manufacture’ includes ‘designing, developing, creating and/or entering into or carrying out a funeral plan contract as provider’ which cover activities prior to the funeral plan product being approved for marketing and distribution, and on a continuing basis after such approval.

1.7.4 (1) For the purposes of PROD 7, a funeral plan intermediary is a manufacturer of a funeral plan product where an overall analysis of their activity shows that they have a decision-making role in designing and developing a funeral plan contract for the market.

(2) A decision-making role will be assumed, in particular, where a funeral plan intermediary autonomously determines the essential features and main elements of a funeral plan contract, including any of its price, costs, target market or guarantee rights, which are not substantially modified by the funeral plan provider.

(3) Personalisation of and adaptation of existing funeral plan products in the context of funeral plan distributions for individual customers, as well as the design of tailor-made contracts at the request of a single customer, are not manufacturing.

1.7.5 PROD 7 applies to a firm with respect to activities carried on by it, or its appointed representative, in relation to:
(1) a funeral plan product; and

(2) a subsisting funeral plan.

Interaction of PROD 7 and the RPPD Guide

The RPPD Guide does not apply to a firm to which PROD 7 applies for matters covered by, and where the firm has complied with, PROD 7.
Statement of policy with respect to the making of temporary product intervention rules

Chapter 2

Statement of policy with respect to the making of temporary product intervention rules
2.1 Purpose

2.1.1 This chapter explains the FCA’s policy with respect to the making of temporary product intervention rules under sections 137D and 138M of the Act. This statement of policy replaces the “Statement of Policy for making temporary product intervention rules” published in Policy Statement PS13/03 (see https://www.fca.org.uk/publication/policy/fsa-ps13-03.pdf).

[Note: see section 138N of the Act]

2.1.2 Product intervention rules are rules made under section 137D of the Act which apply to specific products (or types of products), product features or marketing practices relating to specific products.

2.1.3 Product intervention rules may be made without consultation under section 138M of the Act but are limited to a maximum duration of 12 months and are referred to as “temporary product intervention rules.”
2.2 General rule making and product intervention rules

2.2.1 The Act empowers the FCA to make general rules as appear necessary or expedient for the purpose of advancing one or more of its operational objectives.

[Note: see section 137A of the Act]

2.2.2 The Act also provides that the FCA may use its general rule-making power to make product intervention rules prohibiting authorised persons from, among other things, entering into specified agreements (section 137D of the Act). These rules may be made to advance:

1. the consumer protection objective; or
2. the competition objective; or
3. the market integrity objective.

2.2.3 Section 137D(2) of the Act sets out that the FCA may prohibit authorised persons from:

1. entering into specified agreements with any person or specified person (specified person means a person who meets the description specified by FCA rules);
2. entering into specified agreements with any person or specified person unless requirements specified in the rules have been satisfied;
3. doing anything that would or might result in the entering into of specified agreements by persons or specified persons, or the holding by them of a beneficial or other kind of economic interest in specified agreements; and
4. doing anything within paragraph (3) unless requirements specified in the rules have been satisfied.

2.2.4 Section 137D of the Act makes it clear that a range of options would be available to us in making rules prohibiting authorised persons from entering into specified agreements.
The extent of the rules which are made will generally depend on the type of intervention deemed necessary to address the issues identified, having regard to whether the intervention would be a proportionate response to the perceived risk to consumers, competition issues or market integrity issues.

Rules may include:

1. requiring certain product features to be included, excluded or changed; or
2. requiring amendments to promotional materials; or
3. the imposition of restrictions on sales or marketing of the product; or
4. in more serious cases, a ban on sales or marketing of a product in relation to all or some types of client.

Where the product is provided by a business outside of the UK, rules may be made targeting regulated activities by authorised persons in the UK that would lead to a specified agreement being formed.

[Note: see sections 137D(2)(c) and (d) of the Act]
2.3 Agreements made in breach of product intervention rules

2.3.1 In relation to agreements entered into in breach of product intervention rules, section 137D(7) sets out that the rules may:

(1) provide for a relevant agreement or obligation to be unenforceable against any person or specified person;

(2) provide for the recovery of any money or other property paid or transferred under a relevant agreement or obligation by any person or specified person; and

(3) provide for the payment of compensation for any loss sustained by any person or specified person as a result of paying or transferring any money or other property under a relevant agreement or obligation.

2.3.2 Where a rule provides for a relevant agreement or obligation to be unenforceable, the relevant agreement or obligation would only be unenforceable if the sale of the product was made after the introduction of the rules and there was a contravention of those rules. Clients with products bought after the introduction of rules incorporating unenforceability provisions would generally need to seek redress through the usual channels of complaints to the firm and to the Financial Ombudsman Service, or legal action against the firm.

2.3.3 Arrangements made before the introduction of the rules would not be affected by the unenforceability and compensation provisions. Clients holding contracts made before these rules were in place would still be able to seek redress through the usual channels of complaints to the firm and to the Financial Ombudsman Service or legal action against the relevant firm. These clients would need to establish their claim to redress in the usual way, for example by demonstrating that the advice they received was unsuitable, or that they bought the product after receiving a misleading financial promotion.
2.4 Temporary product intervention rules

2.4.1 Normally the FCA must consult the public before making any rules. However, the Act allows a general exemption in section 138L where the FCA considers that the delay involved in complying with the requirement to consult would be prejudicial to the interests of consumers.

2.4.2 There is also a specific exemption to the consultation requirement in relation to making temporary product intervention rules (section 138M of the Act). The FCA may make temporary product intervention rules without consultation if it considers that it is necessary or expedient not to comply with such a requirement to advance:

(1) the consumer protection objective, or
(2) the competition objective, or
(3) the market integrity objective.

2.4.3 The FCA’s discretion to act under section 138M is therefore wider than under section 138L.

2.4.4 Decisions to make any rules, including temporary product intervention rules, will be taken by the FCA Board. In doing so, the FCA Board will have regard to all the available, relevant evidence, as well as the impact of the measure to be introduced by the rule.

2.4.5 The FCA Board will consider whether the evidence is sufficient to support the proposed measure and whether the measure is a proportionate response to the issue identified.

2.4.6 In publishing temporary product intervention rules the FCA will also publish the rationale for these rules.
2.5 Factors the FCA will consider when making temporary product intervention rules

2.5.1 In general terms the FCA will consider a product intervention rule where we identify a risk of consumer detriment, a threat to market integrity or ineffective competition arising from a particular product, type of product, or practices associated with a particular product or type of product.

2.5.2 In deciding whether the rule should be made as a temporary product intervention rule, the FCA’s main consideration will generally be whether prompt action is deemed necessary in seeking to reduce or prevent consumer detriment or a threat to market integrity or ineffective competition arising from that product, type of product or practices.
2.6 General considerations for product intervention rules

2.6.1 Together with the considerations in PROD 2.5, when making temporary or permanent product intervention rules, the FCA will have regard to the regulatory principles set out in section 3B of the Act, (see PROD 2.9).

2.6.2 The FCA will also take into account general considerations that include, but are not limited to, whether the proposed rules are:

1. an appropriate and effective means of addressing actual or potential consumer detriment associated with a particular product or group of products;
2. a proportionate and deliverable means of addressing actual or potential detriment;
3. compatible with the FCA’s duty to promote effective competition in the interests of consumers (section 1B(4) of the Act);
4. supported by sufficient and appropriate evidence;
5. transparent in their aim and operation;
6. likely to be beneficial for clients when taken as a whole; and
7. compatible (where relevant) with other applicable law.

2.6.3 In accordance with the Equality Act 2010, the FCA will have due regard to the need to:

1. eliminate discrimination, harassment, victimisation and any other conduct that is prohibited by or under the Equality Act 2010;
2. advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it; and
3. foster good relations between persons who share a relevant protected characteristic and persons who do not share it; when making temporary or permanent product intervention rules.
2.7 Contextual considerations for product intervention rules

2.7.1 When the FCA is considering whether to make temporary or permanent product intervention rules in response to an identified issue with a product, the following factors may be taken into account:

(1) The potential scale of detriment in the market. Issues involving products with a large or potentially large client base are more likely to require product intervention.

(2) The potential scale of detriment to individual clients. Issues that may lead to high detriment for individual clients are more likely to require product intervention.

(3) The social context. Issues that may lead to detriment for particular groups of clients (such as, in particular, vulnerable client groups) are more likely to require product intervention.

(4) The market context. Market mechanisms such as information disclosure and competition do not always work to protect consumers.

(5) Possible unintended consequences. Whether the use of product intervention rules or the timing of the intervention would in itself create undue risk of further consumer detriment, including harm to existing clients and in the market (although this will not necessarily comprise a full cost benefit analysis).
2.8 Competition considerations for temporary product intervention rules

2.8.1 When making a temporary or permanent product intervention rule, the FCA will seek to promote effective competition in the interests of consumers where doing so is compatible with its consumer protection objective or integrity objective.

2.8.2 In accordance with section 1E of the Act the FCA also has a competition objective and may make rules, including temporary product intervention rules, specifically to advance competition.

2.8.3 Relevant competition-related considerations for the FCA in the context of temporary or permanent product intervention rules are likely to include:

   (1) Whether there is reasonable scope for the rules under consideration to promote effective competition in the interests of consumers, for instance by addressing consumer behaviours that impair their ability to benefit from competition, by reducing information asymmetries or by correcting misaligned incentives.

   (2) Whether the rule under consideration may have a negative impact on competition factors such as product innovation and barriers to entry for new market participants.

   (3) Whether any negative impact on competition factors is proportionate, having regard to the aims of the rule under consideration.

   (4) Whether alternative solutions may deliver the same intended outcome while having a more positive impact on competition.

   (5) The overall effect of a proposed rule upon the operation of effective competition in the market for financial services, having regard to the interests of consumers.
2.9 Regulatory principles

2.9.1 The FCA will have regard to the regulatory principles set out in section 3B of the Act when making temporary product intervention rules.

2.9.2 As part of the FCA’s consideration of issues including the desirability of facilitating innovation, we will consider the potential deterrent effect on entry to the market and innovation when making temporary product intervention rules against the potential for reducing anticipated consumer detriment.
2.10 Process for making temporary product intervention rules

2.10.1 G Once initial proposals have been discussed, a paper will be prepared at working group level for a committee (the Committee) with appropriate authority to propose temporary product intervention rules to the FCA Board.

2.10.2 G The Committee will either endorse the proposals and recommend that they are taken to the Board, or suggest rethinking or amending the proposals and coming back at a later date. A decision may be taken to use a different regulatory tool, or not to proceed.

2.10.3 G If the Committee decides that the proposals should go to the Board, the paper will be taken to the next available scheduled Board meeting, unless the matter is of great importance or there is an emergency, in which case the Board may convene specifically to consider the issue.

2.10.4 G If the Board makes a decision to act on the policy proposals the FCA will publish the temporary product intervention rules on its website and take the necessary follow-up actions.
2.11 Consulting the panels

2.11.1 The FCA will generally seek the views of the Financial Services Practitioner Panel, the Smaller Businesses Practitioner Panel and the Financial Services Consumer Panel during the process for making temporary product intervention rules if there is sufficient time to do so.
2.12 Consulting the PRA

2.12.1 Before any proposed product intervention rules are made (whether temporary or not) the FCA will consult the PRA.
2.13 Communication, publication and post-implementation review of temporary product intervention rules

2.13.1 Before making a temporary product intervention rule, the Committee will consider how affected firms and clients are to be informed of the rule in good time.

2.13.2 The FCA will publish a statement on its website explaining why it is introducing the rule. The FCA may choose to invite feedback, but this will not amount to a consultation exercise.

2.13.3 The FCA may choose to review a temporary product intervention rule during the term for which the rule is in force. Such a review will generally depend on the perceived risk the rule seeks to mitigate. These reviews may be informed by market monitoring and feedback from stakeholders, including product manufacturers, distributors and clients.

2.13.4 Where the FCA perceives potential uncertainty about how the rule operates, it may consider publishing guidance.

2.13.5 Reviews are likely to consider whether a rule is functioning as intended, including whether:

(1) there have been any breaches of the rule; or

(2) there are any unintended consequences, such as an impact on products that were not intended to be caught by the rule; or

(3) there is evidence suggesting firms are avoiding or seeking to avoid the rule rather than complying with it, for instance where new products enter the market or new features are added to existing products that expose clients to the same or similar potential detriment; or,

(4) new evidence demonstrates that the rule is not necessary or detriment is unlikely.
As a result of these reviews, where necessary, the FCA may:

1. revoke a temporary product intervention rule; or
2. amend the rule, for example where a rule specifies certain criteria under which the sale of a product may continue, change these criteria.

Subsequent changes to a temporary product intervention rule will be communicated by issuing a new statement containing the revised rule and the rationale for the changes. Such changes will not extend the lifespan of the temporary product intervention rule.

However, the FCA may consult on a new rule to replace the temporary product intervention rule from the date on which the temporary product intervention rule ceases to have effect. This exercise would be subject to the FCA’s standard rule-making procedure including market failure analysis, cost benefit analysis and consultation to which all stakeholders, including manufacturers, distributors and clients would be invited to reply.
2.14 Revocation or replacement of rules

2.14.1 When making temporary product intervention rules the FCA will state the duration of the rule and the date from which it will be effective. Temporary product intervention rules will have a maximum duration of 12 months from when the rule is made, but the FCA may decide on a shorter duration for a rule.

2.14.2 The FCA may review or revoke temporary product intervention rules at any time before the end of the period for which they apply.

2.14.3 Rules may be revoked or amended for a number of reasons, including but not limited to:

   (1) new rules are introduced on a permanent basis following a consultation exercise; or

   (2) industry initiatives are developed that specify sufficient minimum standards to address the sources of consumer detriment; or

   (3) further evidence is submitted that demonstrates that consumer detriment will not occur; or

   (4) demand for, or supply of, the relevant product disappears and is deemed unlikely to return; or

   (5) the FCA identifies unforeseen negative effects of the rule which outweigh any positive impact upon consumer protection.

2.14.4 Where temporary product intervention rules have been made, the FCA may not make further temporary product intervention rules containing the same, or substantially the same, provisions within 12 months beginning on the day on which the limited duration of the initial rules ends (whether or not the rules were revoked early). This period does not apply to rules that are not temporary product intervention rules, (i.e. rules which had been made subject to consultation, whether or not of set duration).
Section 2.14: Revocation or replacement of rules
Chapter 3

Product governance: MiFID
3.1 General

[Note: ESMA has also issued guidelines: Guidelines on MiFID II product governance requirements, 05/02/2018, ESMA35-43-620]

Interpretation: financial instruments and structured products

3.1.1 For the purposes of PROD 3, references to financial instruments include structured deposits.

Proportionate application of rules

3.1.2 (1) A firm must, when manufacturing financial instruments or deciding on the range of financial instruments and investment services it intends to distribute to clients, comply, in a way that is appropriate and proportionate, with the requirements set out in this chapter.

(2) In complying with these requirements, a firm must take into account:

(a) the nature of the financial instrument or investment service; and
(b) the target market for the financial instrument.

[Note: articles 9(1) and 10(1) of the MiFID Delegated Directive]

3.1.3 A proportionate application of the requirements in this chapter may mean that complying with the rules could be relatively simple for simple financial instruments distributed on an execution-only transaction basis where such financial instruments would be compatible with the needs and characteristics of the mass retail market.
3.2 Manufacture of products

General

3.2.1 A manufacturer must:

(1) ensure that the financial instruments it manufactures are designed to meet the needs of an identified target market of end clients within the relevant category of clients (see § COBS 3 for client categories);

(2) ensure that the strategy for distribution of the financial instruments is compatible with the identified target market; and

(3) take reasonable steps to ensure that the financial instrument is distributed to the identified target market.

[Note: article 24(2) of MiFID]

3.2.2 Consideration of target market factors should permeate all aspects of product development and distribution, as well as ensuring the selection of appropriate distribution channels and the promotion of the financial instruments are accompanied by sufficient and correct information.

Product governance arrangements

3.2.3 A manufacturer must maintain, operate and review a process for the approval of:

(1) each financial instrument, and

(2) significant adaptations of existing financial instruments,

in each case before they are marketed or distributed to clients.

[Note: article 16(3) of MiFID]

3.2.4 For each financial instrument the product approval process must:

(1) specify an identified target market of end clients within the relevant category of clients (see § COBS 3 for client categories);

(2) ensure that all relevant risks to the identified target market are assessed; and
(3) ensure that the intended *distribution* strategy is consistent with the identified target market.

[Note: article 16(3) of *MiFID*]

### 3.2.5 When designing *financial instruments*, a *firm* should have in place systems and controls to manage adequately the risks posed by *financial instrument* design.

### Manufacture by more than one firm

#### 3.2.6 Where *firms* collaborate to *manufacture* a *financial instrument*, only one target market needs to be identified.

[Note: article 9(9) of the *MiFID Delegated Directive*]

#### 3.2.7 Where *firms* collaborate, including with entities which are not authorised and supervised in accordance with UK provisions implementing *MiFID* or *third country investment firms*, to create, develop, issue and/or design a *financial instrument*, they must outline their mutual responsibilities in a written agreement.

[Note: article 9(8) of the *MiFID Delegated Directive*]

### Target market

#### 3.2.8 *Manufacturers* must identify the potential target market for each *financial instrument* at a sufficiently granular level and must:

1. specify the type or types of *client* for whose needs, characteristics and objectives the *financial instrument* is compatible; and
2. identify any group or groups of *client* for whose needs, characteristics and objectives the *financial instrument* is not compatible.

[Note: article 9(9) of the *MiFID Delegated Directive*]

#### 3.2.9 The level of granularity of the target market and the criteria used to define the target market and determine the appropriate *distribution* strategy should be relevant for the *financial instrument* and should make it possible to assess which *clients* fall within the target market. For simpler, more common *financial instruments*, the target market could be identified with less detail while for more complicated *financial instruments* such as bail-inable instruments or less common *financial instruments*, the target market should be identified with more detail.

[Note: recital 19 of the *MiFID Delegated Directive*]

#### 3.2.10 *Manufacturers* must determine for each *financial instrument* they *manufacture*, whether it meets the identified needs, characteristics and objectives of the target market, and in doing so must include an examination of the following elements:

1. whether the *financial instrument’s* risk/reward profile is consistent with the target market; and
(2) whether the design of the financial instrument is driven by features that benefit the client and not by a business model which relies on poor client outcomes to be profitable.

[Note: article 9(11) of the MiFID Delegated Directive]

3.2.11 R Manufacturers of financial instruments that are distributed through other firms must determine the needs and characteristics of the clients for whom the product is compatible based on:

(1) their theoretical knowledge of, and past experience with, the financial instrument or similar financial instruments;

(2) the financial markets, and

(3) the needs, characteristics and objectives of potential end clients.

[Note: article 9(9) of the MiFID Delegated Directive]

Product testing

3.2.12 R Manufacturers must undertake a scenario analysis of their financial instruments to assess:

(1) the risks of poor outcomes for end clients posed by the financial instrument; and

(2) in which circumstances those poor outcomes may occur.

[Note: article 9(10) MiFID Delegated Directive]

3.2.13 R In conducting the scenario analysis manufacturers must assess their financial instruments under negative conditions covering what would happen if, for example:

(1) the market environment deteriorated; or

(2) the manufacturer or a third party involved in manufacturing and/or the functioning of the financial instrument experiences financial difficulties or other counterparty risk materialises; or

(3) the financial instrument fails to become commercially viable; or

(4) demand for the financial instrument is much higher than anticipated, putting a strain on the firm’s resources and/or on the market of the underlying financial instrument.

[Note: article 9(10) MiFID Delegated Directive]

3.2.14 R Manufacturers must consider the charging structure proposed for each financial instrument, including examination of the following:

(1) whether the financial instrument’s costs and charges are compatible with the needs, objectives and characteristics of the target market;
(2) whether the charges undermine the financial instrument’s return expectations, such as where the costs or charges equal, exceed or remove almost all the expected tax advantages linked to a financial instrument; and

(3) whether the charging structure of the financial instrument is appropriately transparent for the target market, such as that it does not disguise charges or is too complex to understand.

[Note: article 9(12) of the MiFID Delegated Directive]

3.2.15  Manufacturers must consider whether the financial instrument may represent a threat to the orderly functioning, or to the stability, of financial markets before deciding to proceed with the launch of the financial instrument.

[Note: article 9(4) of the MiFID Delegated Directive]

Information disclosure to distributors

3.2.16  A manufacturer must make available to any distributor of that financial instrument:

(1) all appropriate information on the financial instrument;

(2) all appropriate information on the product approval process;

(3) the identified target market of the financial instrument, including information about the target market assessment undertaken;

(4) information about the appropriate channels for distribution of the financial instrument;

and must ensure that the information is of an adequate standard to enable distributors to understand and recommend or sell the financial instrument properly.

[Note: article 16(3) of MiFID II and 9(13) of the MiFID Delegated Directive]

3.2.17  When providing information to distributors, a manufacturer should make it clear if that information is not intended for end client use.

3.2.18  Manufacturers may consider, for example, with regard to each distribution channel or type of distributor what information distributors of that type already have, their likely level of knowledge and understanding, their information needs and what form or medium would best meet those needs (which could include discussions, written material or training as appropriate).

Review of financial instruments

3.2.19  (1) A manufacturer must regularly review the financial instruments it manufactures taking into account any event that could materially affect the potential risk to the identified target market.

(2) In doing so, a manufacturer must assess for each financial instrument at least the following:
(a) whether the financial instrument remains consistent with the needs, characteristics and objectives of the identified target market;
(b) whether the intended distribution strategy remains appropriate;
(c) whether the financial instrument is being distributed to the target market; and
(d) whether the financial instrument is reaching clients for whose needs, characteristics and objectives the financial instrument is not compatible.

[Note: article 16(3) of MiFID II and article 9(14) of the MiFID Delegated Directive]

3.2.20 In carrying out the reviews in PROD 3.2.19R manufacturers should collect and analyse appropriate management information to detect patterns in distribution as compared with the planned target market in order to assess the performance of the distribution channels through which a financial instrument is being distributed.

3.2.21 (1) When reviewing the financial instruments it manufactures, a firm should communicate to the end client contractual “breakpoints” such as the end of a long tie-in period that may have a material impact on the end client that the end client cannot reasonably be expected to recall or know about already.

(2) If the manufacturer does not know the identity of the end client, it should communicate any contractual breakpoints to the distributor.

3.2.22 Manufacturers must:

(1) review financial instruments prior to any further issue or re-launch if they are aware of any event that could materially affect the potential risk to clients; and

(2) identify crucial events that would affect the potential risk or return expectations of the financial instrument.

3.2.23 Crucial events that would affect the potential risk or return expectations of the financial instrument include:

(1) the crossing of a threshold that will affect the return profile of the financial instrument; or

(2) the solvency of certain issuers whose securities and guarantees may impact the performance of the financial instrument.

3.2.24 When a crucial event affecting the potential risk or return expectation of the financial instrument occurs, a manufacturer must take appropriate action, which may consist of:

(1) the provision of any relevant information on the event and its consequences on the financial instrument to the clients or distributors
of the *financial instrument* if the *manufacturer* does not offer or sell the *financial instrument* directly to the *clients*;

(2) changing the product approval process;

(3) stopping further issuance of the *financial instrument*;

(4) changing the *financial instrument* to avoid unfair contract terms;

(5) considering whether the sales channels through which the *financial instrument* is sold are appropriate where the *manufacturer* becomes aware that the *financial instrument* is not being sold as envisaged;

(6) contacting the *distributor* to discuss a modification of the *distribution* process;

(7) terminating the relationship with the *distributor*; or

(8) informing the *FCA*.

3.2.25 Manufacturers must review *financial instruments* at regular intervals to assess whether they function as intended.

3.2.26 Manufacturers must determine how regularly to review their *financial instruments* based on relevant factors including factors linked to the complexity or the innovative nature of the investment strategies pursued.

[Note: article 9(15) of the MiFID Delegated Directive]

Conflicts of interest

3.2.27 Manufacturers must establish, implement and maintain procedures and measures to ensure the manufacture of *financial instruments* complies with the requirements on proper management of conflicts of interest (see SYSC 10.1.7R), including remuneration.

3.2.28 Manufacturers must ensure that the design of each *financial instrument*, including its features, does not:

\[1\] adversely affect end clients; or

\[2\] lead to problems with market integrity by enabling the *firm* to mitigate and/or dispose of its own risks or exposure to the underlying assets of the product where the *firm* already holds the underlying assets on own account.

[Note: article 9(2) of the MiFID Delegated Directive]

3.2.29 Each time a *financial instrument* is manufactured manufacturers must analyse potential conflicts of interests.
In analysing potential conflicts of interest manufacturers must assess whether the financial instrument creates a situation where end clients may be adversely affected if end clients take:

1. an exposure opposite to the one previously held by the manufacturer itself; or
2. an exposure opposite to the one that the manufacturer wants to hold after the sale of the product.

[Note: article 9(3) of the MiFID Delegated Directive]

Oversight and training requirements

Manufacturers must ensure that their management bodies have effective control over their product governance process.

The development and periodic review of product governance arrangements must be monitored by the person allocated the compliance oversight function of a firm in order to detect any risk of failure by the manufacturer to comply with applicable provisions of PROD.

[Note: article 9(6) and article 9(7) of the MiFID Delegated Directive]

All relevant staff involved in the manufacturing of financial instruments must possess the necessary expertise to understand the characteristics and risks of the financial instruments they intend to manufacture.

[Note: article 9(5) of the MiFID Delegated Directive]

Firms should have regard to SYSC 5.1, and in particular SYSC 5.1.5AB R, when considering whether their relevant staff have the necessary expertise.

Compliance reports

Compliance reports to the management body must include information about the financial instruments that the firm has manufactured, including information on the distribution strategy.

Manufacturers must make the compliance reports available to the FCA on request.

[Note: article 9(6) MiFID Delegated Directive]
3.3 Distribution of products and investment services

General

3.3.1 R A distributor must:

(1) understand the financial instruments it distributes to clients;

(2) assess the compatibility of the financial instruments with the needs of the clients to whom it distributes investment services, taking into account the manufacturer’s identified target market of end clients; and

(3) ensure that financial instruments are distributed only when this is in the best interests of the client (see ■ COBS 2.1.1R(1)).

[Note: article 24(2) of MiFID]

3.3.2 G A distributor should consider what impact the selection of a given manufacturer could have on the end client in terms of charges or the financial strength of the manufacturer, or possibly, where information is available to the distributor, how efficiently and reliably the manufacturer will deal with the distributor or end client at the point of sale (or subsequently, such as when queries/complaints arise, claims are made, or a financial instrument reaches maturity).

Obtaining information from manufacturers

3.3.3 R Distributors must obtain from manufacturers subject to ■ PROD 3.2 information to gain the necessary understanding and knowledge of the financial instruments they intend to distribute in order to ensure that the financial instruments will be distributed in accordance with the needs, characteristics and objectives of the target market.

[Note: article 16(3) MiFID and article 10(2) MiFID Delegated Directive]

3.3.4 G In ensuring that they have obtained sufficient information about the financial instruments they distribute and in ensuring they understand the financial instruments or investment services distributed, distributors:

(1) should consider whether they understand the materials provided by the manufacturer or distributor earlier in the sales chain;
(2) should ask the manufacturer to supply additional information or training where this seems necessary to understand the financial instrument or investment service adequately;

(3) should not distribute the financial instrument or investment service if they do not understand it sufficiently; and

(4) when providing information to another distributor in a distribution chain, should consider how the further distributor will use the information, such as whether it will be given to end clients. Firms should consider what information the further distributor requires and the likely level of knowledge and understanding of the further distributor and what medium may suit it best for the transmission of information.

Distributing financial instruments manufactured by firms to whom PROD 3.2 does not apply including third country firms

3.3.5 R

(1) Distributors must take all reasonable steps to comply with when distributing financial instruments manufactured by any firm to which product governance requirements in PROD 3.2 do not apply.

(2) As part of this, distributors must put in place effective arrangements to ensure that they obtain sufficient, adequate and reliable information from the manufacturer about the financial instruments to ensure that they will be distributed in accordance with the characteristics, objectives and needs of the target market.

(3) This rule applies to financial instruments sold on either the primary or secondary market.

3.3.6 R

The obligation to obtain adequate and reliable information applies proportionately depending on:

(1) the degree to which publicly available information is obtainable; and

(2) the complexity of the financial instrument.

[Note: articles 10(1) and 10(2) of the MiFID Delegated Directive]

3.3.7 R

Where information relevant to the obligation in PROD 3.3.5R is not publicly available, distributors must take all reasonable steps to obtain such relevant information from the manufacturer or its agent.

3.3.8 G

Acceptable publicly available information is information which is clear, reliable and produced to meet regulatory requirements, such as disclosure requirements under the transparency rules or the Prospectus Regulation.

[Note: article 10(2) of the MiFID Delegated Directive]
### Target market and distribution strategy

**3.3.9** Distributors must determine the target market for the respective *financial instrument*, even if the target market was not defined by the *manufacturer*.

*Note: article 10(1) of the MiFID Delegated Directive*

**3.3.10** Distributors must identify the target market and their *distribution* strategy using:

1. the information obtained from *manufacturers*; and
2. information they have on their own *clients*.

**3.3.11** In identifying the target market and creating a *distribution* strategy, *distributors* should consider:

1. the nature of the *financial instruments* to be offered or recommended and how they fit with *end clients’* needs and risk appetite;
2. the impact of charges on *end clients*;
3. the financial strength of the *manufacturer*; and
4. where information is available on the *manufacturer’s* processes, how efficiently and reliably the *manufacturer* will deal with the *end client* at the point of sale or subsequently, such as when complaints arise, claims are made or the *financial instrument* reaches maturity.

**3.3.12** The target market identified by *distributors* for each *financial instrument* should be identified at a sufficiently granular level.

**3.3.13** Where a *distributor* is part of a distribution chain, the information referred to in **3.3.10R(2)** should include information on the intended *end client*.

**3.3.14** Where a *firm* acts both as a *manufacturer* and a *distributor*, only one target market assessment is required.

*Note: article 10(2) of the MiFID Delegated Directive*

**3.3.15** (1) *Distributors* must have in place adequate product governance arrangements to ensure that:

   a. the *financial instruments* and *investment services* they intend to *distribute* are compatible with the needs, characteristics and objectives of the identified target market; and
   b. the intended *distribution* strategy is consistent with the identified target market.

(2) *Distributors* must appropriately identify and assess the circumstances and needs of the *clients* they intend to focus on to ensure that their
clients’ interests are not compromised as a result of commercial or funding pressures.

(3) Distributors must identify any groups of end clients for whose needs, characteristics and objectives the financial instrument or investment service is not compatible.

[Note: article 10(2) of the MiFID Delegated Directive]

3.3.16 R Distributors must periodically review their product governance arrangements under PROD 3.3.15R and must take appropriate actions where necessary to ensure they remain robust and fit for their purpose.

[Note: article 16(3) of MiFID and article 10(4) of the MiFID Delegated Directive]

3.3.17 G In the design of investment services, to help clients make an informed investment decision, firms should consider the support clients need before they reach the product selection part of the process.

3.3.18 R Distributors must have in place procedures and measures to ensure that when deciding the range of financial instruments and investment services to be distributed, and the target market, all applicable rules are complied with, including but not limited to:

(1) disclosure (see COBS 4 and COBS 14.3A);
(2) suitability (see COBS 9A);
(3) appropriateness (see COBS 10A);
(4) inducements (see COBS 2.3A); and
(5) conflicts of interest (see SYSC 10.1).

3.3.19 G Distributors should take particular care to ensure compliance with PROD 3.3.18R when they intend to distribute new financial instruments or there are variations to the investment services they provide.

[Note: article 10(3) of the MiFID Delegated Directive]

Oversight and training requirements

3.3.20 R The development and periodic review of product governance arrangements must be monitored by the person allocated the compliance oversight function of a firm in order to detect any risk of failure by the distributor to comply with applicable provisions of PROD.

[Note: article 10(6) of the MiFID Delegated Directive]

3.3.21 R The management body of a distributor must have effective control over the firm’s product governance process to determine:
(1) the range of *financial instruments* the *firm* offers or recommends; and

(2) the *investment services* provided to the respective target markets.

[Note: article 10(8) of the *MiFID Delegated Directive*]

3.3.22 **R**

All relevant staff must possess the necessary expertise to understand:

(1) the characteristics and risks of the *financial instruments* that the *firm* intends to *distribute*;

(2) the *investment services* provided by the *firm*; and

(3) the needs, characteristics and objectives of the identified target market.

[Note: article 10(7) of the *MiFID Delegated Directive*]

3.3.23 **G**

Firms should have regard to **SYSC 5.1**, and in particular **SYSC 5.1.5AB R**, when considering whether their relevant staff have the necessary expertise.

### Compliance reports

3.3.24 **R**

Compliance reports to the *management body* must include information about the *financial instruments distributed* by the *firm* and the *investment services* provided.

3.3.25 **R**

A distributor shall make the compliance reports available to the FCA on request.

[Note: article 10(8) of the *MiFID Delegated Directive*]

### Post-sale review

3.3.26 **R**

Distributors must regularly review the *financial instruments* they *distribute* and the *investment services* they provide, taking into account any event that could materially affect the potential risk to the identified target market.

3.3.27 **R**

In carrying out the review in **PROD 3.3.26R**, distributors must assess at least:

(1) whether the *financial instrument or investment service* remains consistent with the needs, characteristics and objectives of the identified target market; and

(2) whether the intended *distribution* strategy remains appropriate.

3.3.28 **R**

If a distributor becomes aware that it has wrongly identified the target market for a specific *financial instrument or investment service*, or the *financial instrument* or *investment service* no longer meets the circumstances of the identified target market, it must take appropriate steps, including at least:
(1) reconsidering the target market; and/or

(2) updating its product governance arrangements.

3.3.29 G

A distributor may need to take action under PROD 3.3.28R in circumstances where the financial instrument becomes very illiquid or very volatile due to market changes.

[Note: article 16(3) of MiFID and article 10(5) of the MiFID Delegated Directive]

Information sharing

3.3.30 R

To support the reviews carried out by manufacturers under PROD 3.2.19R to PROD 3.2.26R, a distributor must provide to the manufacturer of each financial instrument it distributes:

(1) information on sales; and

(2) where appropriate, information on the reviews carried out under PROD 3.3.26R to PROD 3.3.28R.

3.3.31 G

(1) Information on sales should include information on any sales made outside the target market.

(2) In complying with PROD 3.3.30R it is not necessary to report every sale to the manufacturer. Distributors should provide the data necessary for the manufacturer to review the financial instrument and check that it remains consistent with the needs, characteristics and objectives of the target market defined by the manufacturer. Relevant information could include:

(a) summary information of the types of clients;
(b) a summary of complaints received; and
(c) responses from clients to questions suggested by the manufacturer for the purposes of obtaining feedback from a client sample.

(3) In determining when providing information on the reviews carried out under PROD 3.3.26R to PROD 3.3.28R is appropriate, a distributor should have regard to the requirements on the manufacturer in PROD 3.2. Information on the reviews should be shared if the manufacturer requests it.

[Note: article 10(9) of and recital 20 to the MiFID Delegated Directive]

Responsibilities in chains of distributors

3.3.32 R

(1) A firm which distributes financial instruments or investment services to end clients is responsible for ensuring that the obligations in this chapter are met in respect of any financial instrument or investment service it distributes to an end client.

(2) A firm which distributes financial instruments to clients which are not end clients must, in addition to complying with the rules in this
chapter, consider if they are also undertaking a *manufacturing* role and, if they are, also apply PROD 3.2.

3.3.33 A distributor which *distributes financial instruments* to other distributors must:

1. ensure that relevant product information is passed from the *manufacturer* to the final *distributor* in the chain; and

2. if the *manufacturer* requires information on product sales in order to comply with its obligations under PROD 3.2, enable them to obtain it.

**Note:** article 10(10) of the *MiFID Delegated Directive*
Product governance: IDD and pathway investments

Chapter 4

Product governance: IDD and pathway investments
4.1 General

Other requirements under the IDD

This chapter does not affect the application of other requirements in the FCA Handbook applying to firms in relation to their insurance distribution activities including but not limited to:

(1) disclosure (ICOBS 2.2, ICOBS 6.1, COBS 4 and COBS 14.2);

(2) suitability (COBS 9 or COBS 9A);

(3) appropriateness (COBS 10A);

(4) identification and management of conflicts of interest (SYSC 10.1 for intermediaries or SYSC 3.3 for insurers); and

(5) inducements (COBS 2.3A).

[Note: article 25(3) of the IDD]
4.2 Manufacture of insurance products

Product governance arrangements

4.2.1 For a firm which manufactures any insurance product, must maintain, operate and review a process for the approval of:

(1) each insurance product; and

(2) significant adaptations of an existing insurance product,

in each case before it is marketed or distributed to customers.

[Note: first subparagraph of article 25(1) of the IDD]

4.2.1A For the purposes of PROD 4.2:

(1) whether a proposed change to the product would be a ‘significant adaptation’ should include consideration of the potential impact the adaptation may have on an existing or potential customer (when compared to the unadapted version of the product);

(2) a ‘significant adaptation’ in relation to a non-investment insurance product may include, but is not restricted to, a proposed change to the insurance coverage, costs, exclusions, excesses, limits or conditions and any other significant change to the terms and conditions.

4.2.2 The product approval process referred to in PROD 4.2.1R must be proportionate and appropriate to the nature of the insurance product.

[Note: second subparagraph of article 25(1) of the IDD]

4.2.3 Manufacturers should take into account the following when considering whether the product approval process is proportionate and appropriate:

(1) the complexity of the insurance product;

(2) the degree to which publicly available information can be obtained;

(3) the nature of the insurance product and the risk of consumer detriment related to it;

(4) the characteristics of the target market; and
(5) the scale and complexity of the relevant business of the manufacturer or distributor.

[Note: recital 2 to the IDD POG Regulation]

4.2.3A

In addition to, and/or by way of elaboration of, the factors set out in PROD 4.2.3G, for a non-investment insurance product a firm should take into account:

1. the potential risk, and possible levels, of harm to customers if the product design is flawed, in particular, due to the potential scale of harm if the product is intended for a wide target market;

2. the nature of the cover that the product is intended to provide;

3. whether the distribution arrangements could mean customers are at a greater risk of not receiving fair value from the insurance product, for example where:
   a. the insurance product will be distributed with additional products;
   b. where the insurance product will be distributed on an ancillary basis to another product; or
   c. there is complexity in the distribution arrangements including the use of multiple parties in the distribution chain or reliance on persons not regulated under FSMA when selling the insurance product;

4. the nature and complexity of the firm’s existing or intended customer base, for example whether it includes or is likely to include:
   a. different types of customers with varying characteristics including in relation to their understanding of financial matters;
   b. a significant number of vulnerable customers;
   c. a significant number of customers of long tenure;

5. any particularly notable features of, or relating to, existing products (including how it has been distributed).

4.2.4

For the purposes of PROD 4.2.2R proportionality means that the product approval process should be relatively simple for straightforward and non-complex products that are compatible with the needs and characteristics of the mass retail market. On the other hand, in the case of more complex products with a higher risk of consumer detriment more exacting measures should be required.

[Note: recital 2 to the IDD POG Regulation]

4.2.4A

1. In relation to a non-investment insurance product, PROD 4.2.2R does not allow a firm to assume a simple product approval process will be appropriate for a product intended for a mass retail market even if the product and/or distribution arrangements are straightforward and not complex. For example, the potential risks and levels of harm which could result even from a straightforward and non-complex
product, with simple distribution arrangements, intended for the mass market could mean that more exacting measures are required.

(2) An example of a straightforward and non-complex product could be cover for a single item (such as mobile phone insurance), or in relation to a single risk (such as ticket cancellation insurance), with straightforward distribution arrangements. However, there could be potential risks of such a product not providing fair value and therefore potentially leading to significant levels of harm. Firms should ensure the product approval process has the necessary measures to identify and mitigate any potential risks and harms.

Product approval process

4.2.5 Manufacturers shall maintain, operate and review a product approval process for newly developed insurance products and for significant adaptations of existing insurance products. That process shall contain measures and procedures for designing, monitoring, reviewing and distributing insurance products, as well as for corrective action for insurance products that are detrimental to customers. The measures and procedures shall be proportionate to the level of complexity and the risks related to the products as well as the nature, scale and complexity of the relevant business of the manufacturer.

[Note: article 4(1) of the IDD POG Regulation]

4.2.5A For a non-investment insurance product, a firm must ensure a product approval process has all necessary measures and procedures for identifying whether the product is, or remains, appropriate to be marketed or distributed to customers in light of the requirements in PROD 4.2.14A (Fair value for non-investment insurance products: individual insurance product and packages) to PROD 4.2.14SR (Fair value for non-investment insurance products: additional provisions).

4.2.6 The product approval process shall be set out in a written document ("product oversight and governance policy"), which shall be made available to the relevant staff.

[Note: article 4 (2) of the IDD POG Regulation]

4.2.7 Relevant actions taken by manufacturers in relation to their product approval process shall be duly documented, kept for audit purposes and made available to the Financial Conduct Authority upon request.

[Note: article 9 of the IDD POG Regulation]

4.2.8 The product approval process shall

(a) ensure that the design of insurance products:
   (i) takes into account the objectives, interests and characteristics of customers;
   (ii) does not adversely affect customers;
   (iii) prevents or mitigates customer detriment;
(b) support a proper management of conflicts of interest.

[Note: article 4(3) of the IDD POG Regulation]

4.2.9 UK 4(4) The manufacturers’ body or structure responsible for the manufacturing of insurance products shall:

(a) endorse and be ultimately responsible for establishing, implementing and reviewing the product approval process;

(b) continuously verify internal compliance with that process.

[Note: article 4(4) of the IDD POG Regulation]

4.2.10 UK 5(4) Manufacturers shall ensure that staff involved in designing and manufacturing insurance products has the necessary skills, knowledge and expertise to properly understand the insurance products sold and the interests, objectives and characteristics of the customers belonging to the target market.

[Note: article 5(4) of the IDD POG Regulation]

4.2.11 UK 4(5) Manufacturers designating a third party to design products on their behalf shall remain fully responsible for compliance with the product approval process.

[Note: article 4(5) of the IDD POG Regulation]

4.2.12 UK 4(6) Manufacturers shall regularly review their product approval process to ensure that that process is still valid and up to date. They shall amend the product approval process where necessary

[Note: article 4(6) of the IDD POG Regulation]

Manufacture by more than one firm

4.2.13 UK 3(4) An insurance intermediary and an insurance undertaking that are both manufacturers within the meaning of Article 2 of this Delegated Regulation, shall sign a written agreement which specifies their collaboration to comply with the requirements for manufacturers referred to in [PROD 4.2.1R, PROD 4.2.2R, PROD 4.2.29R, PROD 4.2.33R and PROD 4.2.34R] the procedures through which they shall agree on the identification of the target market and their respective roles in the product approval process.

[Note: article 3(4) of the IDD POG Regulation]

4.2.14 R In circumstances other than PROD 4.2.13UK, when firms collaborate to manufacture an insurance product, they must outline their mutual responsibilities in a written agreement.
## Fair value for non-investment insurance products: individual insurance product and packages

### 4.2.14A

For a non-investment insurance product, a firm must ensure that the product approval process identifies whether the product provides fair value to customers in the target market including whether it will continue to do so for a reasonably foreseeable period (including following renewal).

### 4.2.14B

1. Where a non-investment insurance product is intended to be distributed with one or more additional products, a firm must identify whether:
   
   (a) each component product; and
   
   (b) the package as a whole,
   
   will provide fair value to the customer including that it will continue to do so for a reasonably foreseeable period (including following renewal).

2. The assessment referred to in (1) must include (but is not limited to) consideration of:

   (a) the value of the core insurance product;
   
   (b) the value of any additional products; and
   
   (c) the overall price of the package to the customer, taking into account the proposed distribution arrangements.

3. A firm is not required to assess the value of a component product under (1) where the component is a non-investment insurance product for which the firm is not a manufacturer.

## Fair value for non-investment insurance products: record keeping and steps following value assessment

### 4.2.14C

1. A firm must:

   (a) be able to clearly demonstrate how any non-investment insurance product, additional product or package provides (and will provide for a reasonably foreseeable period) fair value; and

   (b) make and retain a record of the value assessment required by PROD 4.2.14AR and, where relevant, PROD 4.2.14BR.

2. Where a firm is unable to both:

   (a) identify; and

   (b) clearly demonstrate,

   that the insurance product and, where relevant, the package will provide fair value, the firm must not market the product or permit the product to be distributed (whether directly or through another person), or must have ensured appropriate changes have been made so that fair value will be provided.
A firm must consider the value considerations in PROD 4.2.14AR and, where relevant, PROD 4.2.14BR throughout every stage of the product approval process in PROD 4 including, in particular, when:

(1) identifying the target market and the interests, needs, objectives and characteristics of such customers (PROD 4.2.15R to PROD 4.2.21AG);

(2) undertaking product testing (PROD 4.2.22UK to PROD 4.2.26G); and

(3) selecting any distribution channel (PROD 4.2.27UK to PROD 4.2.32DR).

In PROD 4, ‘value’ means the relationship between the overall price to the customer and the quality of the product(s) and/or services provided. The assessment of value must include consideration of at least the following:

(1) the nature of the product including the benefits that will be provided, their quality, and any limitations (for example in the scope of cover, exclusions, excesses or other features);

(2) the type and quality of services provided to customers;

(3) the expected total price to be paid by the customer when buying or renewing the insurance product, and the elements that make up the total price. This will need to include consideration of at least the following:

(a) the pricing model used to calculate the risk premium:
   (i) for the initial policy term; and
   (ii) any future renewal;

(b) the overall cost to the firm of the insurance product (including the underwriting and operating of the product) and, where relevant, any other components of a package;

(c) the individual elements of the expected total price to be paid by the customer including, but not limited to, the price paid for:
   (i) the insurance product, including any additional features which are part of the same non-investment insurance contract;
   (ii) any additional products, including retail premium finance, offered alongside the insurance product;
   (iii) the distribution arrangements, including the remuneration of any relevant person in the distribution arrangements, and including where the final decision on setting the price is taken by another person);

(4) how the intended distribution arrangements support, and will not adversely affect, the intended value of the product.
When considering the value of a non-investment insurance product under ■ PROD 4.2.14A and, where relevant, ■ PROD 4.2.14BR, a firm must not rely on individual customers to consider whether they are making fair value purchases in place of any part of the firm’s own assessment, in particular where an insurance product is manufactured to be distributed either with additional products or on an ancillary basis to another good or service.

(1) For the purposes of ■ PROD 4.2.14ER, and any rules in ■ PROD 4 that rely on the meaning of ‘value’ in this rule, a firm is not required to take into account product distribution arrangements that relate to the distribution of the product to:
   (a) a customer who is not habitually resident in the United Kingdom; or
   (b) where the state of the risk is not the United Kingdom

(2) The effect of (1) includes that a firm is not required to obtain and assess information in relation to the distribution of the product to a customer who is not habitually resident in the United Kingdom or where the state of the risk is not the United Kingdom, from a distributor based outside of the United Kingdom, including, in particular, information pertaining to that person’s remuneration for such distribution.

Fair value for non-investment insurance products: guidance on reasonably foreseeable period

(1) Firms will need to consider the matters in ■ PROD 4.2.14ER and ■ PROD 4.2.14ME to identify if there is fair value both for the initial term of a non-investment insurance product and renewals for a reasonably foreseeable period. What may constitute a ‘reasonably foreseeable period’ will depend on the type of the non-investment insurance product (including the intended term of any policy and the underlying risk) and the expected length of time a customer in the target market will keep the product, including in particular where it would be reasonably expected that a customer would renew the product on a number of occasions.

(2) When considering whether a product will provide fair value for a reasonably foreseeable period, a firm should consider at least:
   (a) any expected changes to the total price a customer would pay during the period that they hold the product (including at the first or any subsequent renewal or any other point in time);
   (b) any expected change to the insured risk over time, for example in the nature, financial value or a customer’s usage of an underlying good to which the insurance relates;
   (c) whether the number of expected claims that may be made, or financial value of any such claim, would be expected to change over time due to the nature of the product, the customer’s needs or any relevant features of the insured risk, for example:
      (i) as a result of expected depreciation in the value of the insured asset;
(ii) where the customer’s need, or eligibility, for certain cover may change including as a result of features identified in (b) or where claims have been made;

(d) whether the total premiums expected to be paid over the length of time a customer would hold the product would exceed the benefits that could be received from claims for example due to cover limits applying across the foreseeable period (taking into account any deductions permitted by the contract such as any relevant policy excess for such claims);

(e) whether the benefits offered by the policy at inception may not be available at subsequent renewals, due to exclusions or claims limits, without any commensurate reduction in the premium;

(f) whether customers could be discouraged from or be unable to renew due to the level of ongoing premiums including increases at renewal meaning they may not be receiving the full intended benefits of the product (where these are intended to be spread across the reasonably foreseeable period).

Fair value for non-investment insurance products: general

(1) When considering the costs of, or associated with, any distribution arrangements, firms should consider the justification in value terms of any difference between the risk price and the total price paid by the customer including where the difference is mainly due to the costs (including remuneration) of any person in the distribution arrangements or where this is due to the combined costs (including remuneration) of multiple parties involved in the distribution arrangements.

(2) Where a firm identifies that an insurance product, package or individual component has poor value or there is an unreasonable relationship between either the cost to the firm and the price paid by the customer, or the price paid by the customer and product quality or service provided, the product or package will not be providing fair value. However, a firm should not assume there is fair value simply due to the absence of an unreasonable relationship in the costs or where they identify an absence of poor value. Firms will need to consider all relevant aspects of value in the particular context and consider whether overall there is fair value provided.

(3) Where a non-investment insurance product has negligible, or no obvious, benefit for the customer this will not be providing fair value regardless of the price of the product. For example, the product will not provide fair value where the cover under the non-investment insurance contract is significantly limited, whether by exclusions or limits on the amount that would be paid in settlement, meaning that the customer is unlikely to be able to make a successful claim or where the customer could conclude it is not in their interests to make a claim due to the disproportionate time or effort which would be required, compared to the claim settlement which would be expected.

(4) When assessing whether a package provides fair value for the purposes of Section 4.2.14H, a firm will need to consider both the components individually and the package as a whole to identify whether there is fair value. This should include whether there is a risk
that the individual components do not provide the same level of value to the customer when combined in a package. For example, where the package includes more than one non-investment insurance product, a firm should consider the type and level of insurance cover provided by each of these products and whether this would result in duplicate insurance cover that could detrimentally affect the value of the package.

**Fair value for non-investment insurance products: retail premium finance guidance**

4.2.14I (1) Where the manufacturer will provide, or arrange for another firm to provide, the option for customers to buy a non-investment insurance product using retail premium finance, it will need to consider if the additional costs of, or relating to, the retail premium finance have a material detrimental effect on the value of the insurance product when the two products are taken together.

(2) When assessing the value of any particular retail premium finance under 4.2.14BR, a manufacturer should consider the relationship between:

- the total price a customer would pay (including the applicable APR) for the retail premium finance; and
- the quality of that retail premium finance including any relevant factors and features. For example, any benefit that a customer could have from using retail premium finance including the ability to spread the cost of a non-investment insurance contract instead of paying up front, taking into account the higher overall price the customer will have to pay.

**Fair value for non-investment insurance products: information to be used**

4.2.14J (1) When assessing value, a firm must use all necessary and appropriate data and information available to it.

(2) For the purposes of (1) the data and information a firm should consider using includes, but is not limited to:

(a) information available to the firm internally including:

(i) customer research;

(ii) claims information such as handling times, frequency, severity of claims costs (including total costs and average per claim), claims ratios, rates of and reasons for claim acceptance/declinature, both expected for the product and/or any actual information from a comparable product; and

(iii) complaints data (including root cause analysis and handling times), both expected for the product itself and/or any actual information from a comparable product;

(b) public information or information obtainable by the firm from external sources including analysis of similar insurance products available from other firms and, where relevant, data published as part of the FCA’s work on value measures in the general insurance market;
(c) information available to the firm specifically from persons in the distribution arrangements, including:

(i) remuneration and its impact on the value of the product, package or component part;

(ii) levels or quality of service provided by any person in the distribution arrangements; and

(iii) any results of monitoring and oversight of the processes of any persons in the distribution arrangement (for example, call monitoring or file checks) including in relation to other products that person distributes.

The information that a firm will need to use for PROD 4.2.14JR will depend on the nature of the particular non-investment insurance product and (where relevant) the package, the particular distribution arrangement(s), the target market, the nature of any actual customer base, and any existing information on customer outcomes (for example claims experiences, outcomes of claims and complaints related data).

Fair value for non-investment insurance products: compliance with fair value requirement

The following evidential provision provides examples of arrangements the FCA considers will breach PROD 4.2.14AR and, where relevant, PROD 4.2.14BR.

(1) A firm should not have a non-investment insurance product where the difference between the risk price to the firm and the total price paid by the customer bears no reasonable relationship to:

(a) the actual costs incurred by the firm or any another person involved in the distribution arrangements;

(b) the quality of any benefits (including of the insurance product or any additional products); or

(c) the costs or quality of any services provided in connection with the insurance product or additional products, by the manufacturer or any another person involved in the distribution arrangements.

(2) A firm should not increase the price of an insurance product based on:

(a) policies being subject to auto-renewal compared to policies that are not subject to auto-renewal;

(b) the customer’s vulnerability or any protected characteristic(s) (unless the firm is clearly permitted to rely on them under the Equalities Act 2010); or

(c) where customers purchase the policy using retail premium finance,

unless the firm has an objective and reasonable basis for making the change.
(3) A firm should not use an estimated final price to the customer to assess value that does not represent the expected total price to the customer including any additional products the firm expects to be purchased by the customer. For example, where the firm is responsible for providing or making available retail premium finance (the costs of which will be part of the total price paid by the customer).

(4) Contravention of any of (1) to (3) may be relied on as tending to establish contravention of PROD 4.2.14AR and, where relevant, PROD 4.2.14BR.

Fair value for non-investment insurance products: distribution arrangements

1. A firm must, as far as reasonably possible, ensure the distribution arrangements for a non-investment insurance product avoid or minimise the risk of negatively impacting the fair value of the insurance product or package. This includes, but is not limited to:

   1. avoiding or reducing the risks arising from:
      
      a. any remuneration of a party, or parties, involved in the distribution arrangements increasing, directly or indirectly, the total price paid by the customer without adequate monitoring or oversight of the nature, level and fairness justification for their inclusion; or
      
      b. providing discretion to another person to set the final price, for example through a net pricing arrangement, without adequate monitoring or oversight of the final price paid by the customer;

   2. ensuring that appropriate arrangements will be in place to identify if the actions of another person involved in the distribution arrangements would adversely affect the value of the insurance product or package; and

   3. reducing the scope for the overall effect of any distribution arrangements to detrimentally affect the value of the products or package including where the cumulative effects of the remuneration of multiple parties unreasonably add to the overall price paid by the customer.

2. Where the firm is considering the effects of the distribution arrangements on value it should consider whether the additional costs of any individual party in the arrangements that add to the total price paid by the customer deliver any, or a proportional, additional benefit. If not, firms should consider how they can be satisfied that the arrangements are consistent with their obligations to be able to clearly demonstrate fair value to the customer.

3. A benefit that could be consistent with fair value might include where the party’s inclusion in the distribution arrangements increases access to the product for customers in the target market in a way that is proportionate to the additional cost involved.
A firm must obtain from any person in the distribution arrangements all necessary and relevant information to enable it to identify the remuneration associated with the distribution arrangements to allow it to assess the ongoing value of the product, including at least:

- the type and amount of remuneration of each person in the distribution arrangement where this is part of the premium or otherwise paid directly by the customer, including in relation to additional products (other than where this relates to another non-investment insurance product for which the firm is not a manufacturer);

- an explanation of the services provided by each person in the distribution arrangements; and

- confirmation from any firm in the distribution arrangements that any remuneration is consistent with their regulatory obligations including SYSC 19F.2 (IDD remuneration incentives).

Firms should take into account what is necessary to satisfy PROD requirements together with any wider legal obligations, for example, competition law to which they are subject.

Fair value for non-investment insurance products: additional provisions

A firm manufacturing a non-investment insurance product must ensure the manufacture of an insurance product is driven by features that benefit the customer and not by a business model which relies on poor customer outcomes to be profitable.

In relation to a non-investment insurance product to be sold in a package with additional products, a firm must not set or increase the price of those additional products to the customer in a way that detrimentally impacts the package delivering fair value, including where this is done to minimise the financial effects on the firm of reducing the price of, or making other changes to, an insurance product as a result of the fair value assessment.

For each insurance product the product approval process must:

1. specify an identified target market;
2. ensure that all relevant risks to the identified target market are assessed;
3. ensure that the intended distribution strategy is consistent with the identified target market; and
4. require the manufacturer to take reasonable steps to ensure that the insurance product is distributed to the identified target market.

[Note: third subparagraph of article 25(1) of the IDD]
The effect of PROD 4.2.14AR and, where relevant, PROD 4.2.14BR, when taken together with PROD 4.2.15R, is that a firm will need to be able to show that a non-investment insurance product offers fair value to the specified target market, taking into account in particular their needs, objectives, interests and characteristics.

5(1) The product approval process shall for each insurance product identify the target market and the group of compatible customers. The target market shall be identified at a sufficiently granular level, taking into account the characteristics, risk profile, complexity and nature of the insurance product.

[Note: article 5(1) of the IDD POG Regulation]

5(2) Manufacturers may, in particular with regard to insurance-based investment products, identify groups of customers for whose needs, characteristics and objectives the insurance product is generally not compatible.

[Note: article 5(2) of the IDD POG Regulation]

(1) For a non-investment insurance product, when identifying the target market a firm must identify if there are groups of customers for whom the product or package would not provide the intended level of value identified for PROD 4.2.14AR and, where relevant, PROD 4.2.14BR.

(2) A firm must take reasonable steps in its use of the distribution arrangements to ensure the product is not distributed to any such groups of customers identified in (1). The information required in PROD 4.2.29R to be provided to distributors must include a clear description of these customers.

5(3) Manufacturers shall only design and market insurance products that are compatible with the needs, characteristics and objectives of the customers belonging to the target market. When assessing whether an insurance product is compatible with a target market, manufacturers shall take into account the level of information available to the customers belonging to that target market and their financial literacy.

[Note: article 5(3) of the IDD POG Regulation]

The identification of the target market by the manufacturer should be understood as describing a group of customers sharing common characteristics at an abstract and generalised level in order to enable the manufacturer to adapt the features of the product to the needs, characteristics and objectives of that group of customers.

The identification of the target market should be distinguished from the individual assessment at the point of sale to determine whether a product meets the demands and needs and, where applicable, whether an insurance-
based investment product is suitable or appropriate for the individual customer.

[Note: recital 5 to the IDD POG Regulation]

4.2.21 G The level of granularity of the target market and the criteria used to define the target market and determine the appropriate distribution strategy should be relevant for the product and should make it possible to assess which customers fall within the target market. For simpler, more common products, the target market should be identified with less detail while for more complicated products or less common products, the target market should be identified with more detail taking into account the increased risk of consumer detriment associated with such products.

[Note: recital 6 to the IDD POG Regulation]

4.2.21A G In relation to a non-investment insurance product, a firm should consider whether the target market needs to be identified in more detail, even for a simpler, more common product, where there is a material risk of customer harm associated with it.

Product testing

4.2.22 UK 6(1) Manufacturers shall test their insurance products appropriately, including scenario analyses where relevant, before bringing that product to the market or significantly adapting it, or in case the target market has significantly changed. That product testing shall assess whether the insurance product over its lifetime meets the identified needs, objectives and characteristics of the target market. Manufacturers shall test their insurance products in a qualitative manner and, depending on the type and nature of the insurance product and the related risk of detriment to customers, quantitative manner.

[Note: article 6(1) of the IDD POG Regulation]

4.2.23 G For the purposes of PROD 4.2.22UK, manufacturers should include assessments of the performance and risk/reward profile of their insurance product where appropriate.

[Note: recital 8 to the IDD POG Regulation]

4.2.24 UK 6(2) Manufacturers shall not bring insurance products to the market if the results of the product testing show that the products do not meet the identified needs, objectives and characteristics of the target market.

[Note: article 6(2) of the IDD POG Regulation]

4.2.25 R Manufacturers must consider the charging structure proposed for each insurance product, including examination of the following:

1. whether the costs and charges of the insurance product are compatible with the needs, objectives and characteristics of the target market;
(2) where relevant, whether the charging structure of the insurance product is appropriately transparent for the target market, such as that it does not disguise charges or is too complex to understand; and

(3) where relevant, whether the charges undermine the return expectations of the insurance product, such as where the costs or charges equal, exceed or remove almost all the expected tax advantages linked to a life policy.

4.2.26 (1) PROD 4.2.25R does not affect the manufacturer’s freedom to set premiums.

(2) In relation to a non-investment insurance contract a firm should consider whether, as a result of the charging structure it has put in place, the overall cost for the customer is consistent with its obligations under PROD 4.2.14AR (and, where relevant, PROD 4.2.14BR), the Principles and ICOBS.

(3) PROD 4.2.25R should be read in light of a firm’s wider obligations under the Handbook which impose specific restrictions or requirements around what costs and charges may be permissible. For example, the rules in COBS 20.2 govern what may be charged to a with-profits policy when considering its charging structure under PROD 4.2.25R.

Distribution channels and information disclosure to distributors

4.2.27 8(1) Manufacturers shall carefully select distribution channels that are appropriate for the target market, thereby taking into account the particular characteristics of the relevant insurance products.

[Note: article 8(1) of the IDD POG Regulation]

4.2.28 To ensure appropriate information for customers, manufacturers should select distributors that have the necessary knowledge, expertise and competence to understand the features of an insurance product and the identified target market.

[Note: recital 9 to the IDD POG Regulation]

4.2.29 A firm which manufactures an insurance product, must make available to a distributor:

(1) all appropriate information on the insurance product;

(2) all appropriate information on the product approval process; and

(3) the identified target market of the insurance product.

[Note: fifth subparagraph of article 25(1) of the IDD]

4.2.29A For a non-investment insurance product, the information required by PROD 4.2.29R should include:
(1) all appropriate information to enable the distributor to understand the intended value of the insurance product established by the firm;

(2) any effect the distributor may have on the intended value that has not been fully taken into account by the firm when assessing value, and therefore which the distributor should take into account; and

(3) any type of customer for whom the insurance product is unlikely to provide fair value.

4.2.30 UK

8(2) Manufacturers shall provide insurance distributors with all appropriate information on the insurance products, the identified target market and the suggested distribution strategy, including information on the main features and characteristics of the insurance products, their risks and costs, including implicit costs, and any circumstances which might cause a conflict of interest to the detriment of the customer. That information shall be clear, complete and up to date.

[Note: article 8(2) of the IDD POG Regulation]

4.2.31 UK

8(3) The information referred to in paragraph 2 shall enable the insurance distributors to:

(a) understand the insurance products;

(b) comprehend the identified target market for the insurance products;

(c) identify any customers for whom the insurance product is not compatible with their needs, characteristics and objectives;

(d) carry out distribution activities for the relevant insurance products in accordance with the best interests of their customers as prescribed in ■ ICOBS 2.5-1R and ■ COBS 2.1.1R.

[Note: article 8(3) of the IDD POG Regulation]

4.2.32 R

A manufacturer must make available to any distributor information about the target market assessment.

The information made available under (1) must be of an adequate standard to enable distributors to:

- comprehend the identified target market for the insurance products; and
- be able to identify any customers for whom the insurance product is not compatible with their needs, characteristics and objectives.

A manufacturer is not required to disclose specific information objectively considered to be commercially sensitive if the information it does make available would still allow distributors to meet (2)(a) and (b).
Distribution channels: selecting channels for non-investment insurance products

4.2.32A R In relation to a non-investment insurance product, a firm must not use a distribution channel unless it is able to demonstrate clearly that the channel results in fair value to customers in the target market.

4.2.32B R In relation to a non-investment insurance product, whenever making a change to the distribution arrangements a firm must:

- obtain all necessary information from the distributor or any other person who will be involved with the distribution arrangement, including that set out in ■ PROD 4.2.14PR; and
- identify whether the proposed change to the distribution arrangements is consistent with the fair value requirement in ■ PROD 4.2.14AR and, where relevant, ■ PROD 4.2.14BR.

4.2.32C G For ■ PROD 4.2.32BR, a change to the distribution arrangements includes adding a further distribution channel.

4.2.32D G For a non-investment insurance product sold on an ancillary basis to another product or service, for example a motor vehicle, electrical good or a holiday, a firm should consider whether the proposed distribution channel would be appropriate in light of the risk that the customer’s focus is on the core product rather than the insurance product.

Monitoring and review of insurance products

4.2.33 R A firm must understand the insurance products it offers or markets.

[Note: fourth subparagraph of article 25(1) of the IDD]

4.2.34 R A firm must regularly review the insurance products it offers or markets taking into account any event that could materially affect the potential risk to the identified target market. In doing so, the firm must assess at least the following:

1. whether the insurance product remains consistent with the needs of the identified target market;
2. (in relation to a non-investment insurance product) whether the insurance product remains consistent with the fair value assessment required under ■ PROD 4.2.14AR and, where relevant, ■ PROD 4.2.14BR; and
3. whether the intended distribution strategy remains appropriate.

[Note: fourth subparagraph of article 25(1) of the IDD]

4.2.34A G ‘Offers’ and ‘markets’ in the requirements in ■ PROD 4.2.33R and ■ PROD 4.2.34R should be read to include ‘renews’ in relation to the renewal of existing non-investment insurance products.
For a non-investment insurance product, a firm must undertake the regular review required by PROD 4.2.34:

1. every 12 months; or
2. more frequently where the potential risk associated with the product makes it appropriate to do so.

For the purposes of PROD 4.2.34B, the factors that should be taken into account when considering if more frequent reviews would be appropriate include, but are not limited to:

1. the nature and complexity of the product;
2. the nature of the customer base, including whether there are significant numbers of customers of long tenure and/or vulnerable customers;
3. any specific indicators seen in the firm’s assessment of the product’s value to the customer;
4. any indicators of customer harm potentially emerging from the performance of the product (for example through claims and complaints data); and
5. the nature and type of distribution arrangements being used.

A firm must obtain all necessary and relevant information in order to enable it to properly understand and monitor a non-investment insurance product including verification of the information in PROD 4.2.14PR.

When reviewing non-investment insurance products a firm may group similar products together where this does not detrimentally affect the firm’s ability to review each product appropriately. This includes the need to review whether any individual product, and where necessary a package, is providing fair value.

For the purposes (1) ‘similar products’ will be those products that are intended to deliver similar cover and outcomes for customers where the target markets are consistent.

A firm should consider the following factors when identifying whether it is appropriate to group products together for review:

(a) the risk of customer harm for each individual product;
(b) the complexity of each product;
(c) the nature of the target market and existing customer base for each product (including the extent to which this includes vulnerable customers);
(d) any specific indicators seen in the assessment of value under PROD 4.2.14AR, and where relevant PROD 4.2.14BR which may make it inconsistent to review that product alongside others;
(e) any specific indicators of customer harm emerging from the performance of each product; and

(f) the nature and type of distribution arrangements for each product.

A firm will need to ensure that the grouping of any reviews does not impair the firm’s ability to identify any risk that a product is not delivering fair value or that there is any other issue which could give rise to customer harm in relation to each individual product.

4.2.35 Manufacturers shall continuously monitor and regularly review insurance products they have brought to the market, to identify events that could materially affect the main features, the risk coverage or the guarantees of those products. They shall assess whether the insurance products remain consistent with the needs, characteristics and objectives of the identified target market and whether those products are distributed to the target market or is reaching customers outside the target market.

[Note: article 7(1) of the IDD POG Regulation]

4.2.35A (1) When reviewing a non-investment insurance product, a firm must consider:

(a) whether the insurance product, and where relevant the package, is providing the intended fair value to customers;

(b) any impact which the distribution arrangements are having on the value including whether the distribution channels remain appropriate; and

(c) whether the use of any retail premium finance arrangement remains appropriate including whether when distributed in a package with a non-investment insurance product it provides fair value.

(2) A firm in (1) must:

(a) ensure that it has sufficient, good quality management information; and

(b) use all appropriate and necessary data and information available to it (whether it holds this information already, the information is publicly available or it is able to obtain it from another person), to enable it to consider and assess value including the value actually being provided by the insurance product.

(3) The information in (2) that a firm needs to consider whether to use includes, but is not limited to:

(a) information available to the firm internally including:

(i) customer research;

(ii) claims information (such as handling times, frequency, rates of and reasons for claim acceptance and declinature, severity of claims costs (including total costs and average per claim) and claims ratios); and

(iii) complaints data (including root cause analysis and handling times);
(b) public information or information obtainable by the firm from external sources including analysis of similar insurance products available from other firms and, where relevant, data published as part of the FCA’s work on value measures in the general insurance market;

(c) information available to the firm (including what it would be reasonably able to obtain) in relation to any distribution arrangements through which the product is distributed, including:

(i) remuneration information;

(ii) levels and quality of service provided by the distributor;

(iii) ongoing monitoring and oversight reports relating to the distributor’s processes, for example call monitoring or file reviews.

4.2.35B G The information that a firm will need to use for PROD 4.2.35AR(2) will depend on the nature of the non-investment insurance product, (where relevant) the package, the particular distribution arrangement(s), the target market, the nature of the actual customer base, and the firm’s existing information on customer outcomes (for example claims experiences, outcomes of claims and complaints related data).

4.2.35C G For PROD 4.2.35AR(1), a firm should identify whether there is a risk to it continuing to provide fair value where there is a material change in the relationship between the price to the customer and the actual costs to the firm or another party involved in the ongoing service/distribution of the product.

7(2) Manufacturers shall determine the appropriate intervals for the regular review of their insurance products, thereby taking into account the size, scale, contractual duration and complexity of those insurance products, their respective distribution channels, and any relevant external factors such as changes to the applicable legal rules, technological developments, or changes to the market situation.

[Note: article 7(2) of the IDD POG Regulation]

4.2.36A G In relation to a non-investment insurance product, when identifying the appropriate intervals for regular review, firms will need to consider the requirement in PROD 4.2.34BR and also whether any event has happened or any issue has arisen requiring the insurance product to be reviewed outside of the minimum review period.

4.2.36B R For the purposes of showing the requirements in PROD 4.2.1R and PROD 4.2.5UK are met, where a firm makes a change to a non-investment insurance product it must make and retain a record of:

(1) the assessment of whether that change would amount to a significant adaptation of the insurance product; and
(2) where the assessment in (1) is that the change would not be a significant adaptation, the reasons for that decision.

4.2.37 Manufacturers that identify during the lifetime of an insurance product any circumstances related to the insurance product that may adversely affect the customer of that product shall take appropriate action to mitigate the situation and prevent further occurrences of the detrimental event. Manufacturers shall promptly inform concerned insurance distributors and customers about the remedial action taken.

[Note: article 7(3) of the IDD POG Regulation]

4.2.37A For a non-investment insurance product, the review process must:

(1) have the necessary measures to be able to identify if the insurance product is not providing fair value; and

(2) provide that appropriate actions be taken:

(a) for the mitigation and any potential remediation of the harm to existing customers; and

(b) to prevent harm to new customers.

4.2.37B In relation to a non-investment insurance product, the actions firms may need to take for the purposes of ■PROD 4.2.37A include (and may involve a combination of), but are not limited to:

making changes to the product (such as amending policy terms or applying them more favourably to customers in the event of a claim);

offering existing customers the option to cancel the non-investment insurance contract without additional cost (for example by waiving cancellation fees or charges);

providing customers with a refund of the difference between the premium paid for the non-investment insurance contract and the premium for a fair value version of that product;

proposing alternative insurance products, whether offered by the firm or another provider, to existing customers or distributors which provide fair value and which would be compliant with other FCA requirements, for example, ■ICOBS 5.2 (Demands and needs); and

withdrawing the insurance product from continued marketing or distribution.

4.2.37C Where in the review required by ■PROD 4.2.34R and ■PROD 4.2.35UK a firm identifies a breach of any rules in place at the time, it should consider what may be necessary to provide appropriate mitigation and/or remediation of the harm including whether redress should be made. The firm should contact any affected customers where this is necessary to inform them of the issues and of the actions being taken.
4.2.38 UK 8(4) Manufacturers shall take appropriate steps to monitor that insurance distributors act in accordance with the objectives of the manufacturers’ product approval process. They shall in particular verify on a regular basis whether the insurance products are distributed on the identified target market. That monitoring obligation shall not extend to the general regulatory requirements with which insurance distributors have to comply when carrying out insurance distribution activities for individual customers. The monitoring activities shall be reasonable, taking into consideration the characteristics and the legal framework of the respective distribution channels.

[Note: article 8(4) of the IDD POG Regulation]

4.2.39 UK 8(5) Manufacturers considering that the distribution of their insurance products is not in accordance with the objectives of their product approval process shall take appropriate remedial action.

[Note: article 8(5) of the IDD POG Regulation]

4.2.39A R In relation to a non-investment insurance contract, where a firm identifies that the distribution is detrimentally affecting the intended value of the insurance product it must take appropriate remedial measures including, but not limited to:

1. amending the distribution arrangements, including ceasing to use certain distributors or distribution channels;
2. amending remuneration structures;
3. withdrawing the insurance product from continued marketing or distribution.
4.3 Distribution of insurance products

4.3.1 Where a firm distributes insurance products which it does not manufacture it must have in place adequate arrangements to obtain the information in PROD 4.2.29R from the manufacturer.

[Note: sixth sub-paragraph of article 25(1) of the IDD]

4.3.2 Where a firm distributes insurance products which it does not manufacture, it must have in place adequate arrangements to understand:

(1) the characteristics of each insurance product; and

(2) the identified target market of each insurance product.

[Note: sixth sub-paragraph of article 25(1) of the IDD]

4.3.2A In relation to a non-investment insurance product, the arrangements in PROD 4.3.2R must enable the distributor to understand:

(1) the outcome of the value assessment required by PROD 4.2.14AR and, where relevant, PROD 4.2.14BR; and

(2) any identified group of customers for whom the insurance product is not expected to provide fair value.

4.3.3 A distributor must take all reasonable steps to obtain the information in PROD 4.2.29R when distributing insurance products manufactured by any person to which product governance requirements in PROD 4.2 requirements of the IDD POG Regulation do not apply.

4.3.4 To comply with PROD 4.3.2R, distributors should put in place effective arrangements to ensure that they obtain sufficient, adequate and reliable information from the manufacturer about the insurance products to ensure that they will be distributed in accordance with the characteristics, objectives and needs of the target market.

4.3.5 UK Insurance distributors shall have in place product distribution arrangements containing appropriate measures and procedures to obtain from the manufacturer all appropriate information on the insurance products they intend to offer to their customers and to fully comprehend those insurance products, taking into account the level of complexity and the
risks related to the products as well as the nature, scale and complexity of the relevant business of the distributor.

[Note: first sub-paragraph of article 10(1) of the IDD POG Regulation]

4.3.6 UK

EU10(2) The product distribution arrangements shall:

(a) aim to prevent and mitigate customer detriment;

(b) support a proper management of conflicts of interest;

(c) ensure that the objectives, interests and characteristics of customers are duly taken into account.

[Note: article 10(2) of the IDD POG Regulation]

4.3.6A R

In relation to a non-investment insurance product, the product distribution arrangements in PROD 4.3.2R must enable the distributor to identify:

(a) the value that the insurance product is intended to provide to the customer; and

(b) the impact that the distribution arrangements (including any remuneration it, or another person in the distribution chain to which it belongs, receives) has on the overall value of the insurance product to the customer.

Any distribution strategy set up or applied by the distributor must be consistent with the aim of providing fair value to the customer.

For the purposes of (1) and (2) a firm must consider at least the following:

(a) the benefits the product is intended to provide to the customer;

(b) the characteristics, objectives, interests and needs of the target market;

(c) the interaction between the price paid by the customer and the extent and quality of any services the distributor (or any person connected to it) provides;

(d) whether any remuneration it receives in relation to the insurance product would result in the product ceasing to provide fair value to the customer;

(e) any potential detrimental effect on the intended value where the insurance product is to be distributed as part of a package with, or as part of the same agreement which provides, another product or service; and

(f) where the distribution strategy involves offering, or arranging for the customer to be offered, retail premium finance, the firm must ensure that, taking into account the costs (including any charges/interest) of the retail premium finance, the customer does not pay a price that means, if seen as a package, the customer will not receive fair value.
4.3.6B (1) Where a distributor intends to distribute a non-investment insurance product alongside:

(a) one or more other non-investment insurance products (whether from the same or another manufacturer); or

(b) any other additional product,

then the distributor should be able to demonstrate these arrangements are consistent with the aim of providing fair value to a customer and any package does not have a detrimental effect on the intended value of any non-investment insurance product.

(2) For the purposes of (1), where more than one non-investment insurance product is part of a package, a distributor should consider at least whether the products:

(a) have consistent target markets; and

(b) provide cover in respect of the same risk and subject matter which could result in duplicate cover that could detrimentally affect the intended value of each individual product.

(3) A distributor should ensure they have obtained, and taken account of, all relevant information from a manufacturer in relation to any non-investment insurance product in the package in order to understand the value, the relevant target market and any other relevant characteristic of that product.

(4) The arrangements a distributor is required to have in place under PROD 4.3 are separate from the processes and arrangements the firm should have in place at the point of sale, including to comply with the customer’s best interests rule and to determine whether a product being proposed is consistent with the demands and needs of a particular customer.

4.3.6C When assessing the impact that the distribution arrangements may have, a distributor should consider the effects of any retail premium finance it offers to customers including the relationship between:

(1) the total price a customer would pay for the retail premium finance (including any charges for the credit whether in the APR or otherwise and fees); and

(2) the quality of that retail premium finance including any relevant factors and features. For example, any benefit that such a customer could have from using retail premium finance, including the ability to spread the cost of a non-investment insurance contract instead of paying up front, taking into account the higher overall price the customer will have to pay.

4.3.6D The following evidential provision provides examples of arrangements the FCA considers will breach PROD 4.3AR.

4.3.6E (1) A firm’s distribution arrangements including any distribution strategy it sets up, should not result in:
(a) the *firm* receiving a level of remuneration which does not bear a reasonable relationship to the *firm’s* actual costs, or their contribution, level of involvement or the benefit added by them, to the arrangements for the distribution of the product, including where the *firm* provides little or no benefit beyond that which the *customer* would receive if they obtained the insurance product through another distribution channel;

(b) the *firm* having remuneration arrangements which give an incentive to propose or recommend an insurance product which either does not meet the *customer’s* needs (or not as well as another product would) or is not in accordance with the *customer’s* best interests rule;

(c) where the insurance product is distributed as part of a package, the overall price of the package not bearing a reasonable relationship to the overall benefits provided by the package; or

(d) the level of any remuneration (for which the *firm* is responsible for setting) not being reasonably reflective of the costs actually incurred.

(2) Contravention of any of (1) may be relied upon as tending to establish contravention of ■ PROD 4.3.6AR.

For the purposes of ■ PROD 4.3.6AR and ■ PROD 4.3.6BR, a *firm* is not required to take into account product distribution arrangements that relate to the distribution of the product to:

- a *customer* who is not *habitually resident* in the United Kingdom; or
- where the state of the risk is not the United Kingdom.

The effect of (1) includes that a *firm* is not required to assess the impact of a *person’s* remuneration in relation to the distribution of the product to a *customer* who is not *habitually resident* in the United Kingdom, or where the state of the risk is not the United Kingdom, when identifying the impact of the distribution arrangements on the value being provided to the *customer*.

The product distribution arrangements shall ensure that the insurance distributors obtain from the manufacturer the information to be communicated under Article 8(2).

[Note: article 10(3) of the IDD POG Regulation]

Any specific distribution strategy set up or applied by insurance distributors shall be in accordance with the distribution strategy set up and the target market identified by the manufacturer.

[Note: article 10(4) of the IDD POG Regulation]

The insurance distributors’ body or structure responsible for insurance distribution shall endorse and be ultimately responsible for establishing,
implementing and reviewing the product distribution arrangements and continuously verify internal compliance with those arrangements.

[Note: article 10(5) of the IDD POG Regulation]

4.3.10 Insurance distributors shall regularly review their product distribution arrangements to ensure that those arrangements are still valid and up to date. They shall amend product distribution arrangements where appropriate. Insurance distributors that have set up or apply a specific distribution strategy shall, where appropriate, amend that strategy in view of the outcome of the review of the product distribution arrangements. When reviewing their product distribution arrangements, insurance distributors shall verify that the insurance products are distributed to the identified target market.

Insurance distributors shall determine the appropriate intervals for the regular review of their product distribution arrangements, thereby taking into account the size, scale and complexity of the different insurance products involved. To support product reviews carried out by manufacturers, insurance distributors shall upon request provide manufacturers with relevant sales information, including, where appropriate, information on the regular reviews of the product distribution arrangements.

[Note: article 10(6) of the IDD POG Regulation]

A firm must review its product distribution arrangements in relation to a non-investment insurance product at least every 12 months.

4.3.10A For the purposes of PROD 4.3.10UK, a distributor must provide on request to a manufacturer of a non-investment insurance product:

(1) information on the distributor’s remuneration in connection with the distribution of the insurance product;

(2) information on any ancillary product or service that the distributor provides to the customer (including insurance add-ons, non-insurance additional products and retail premium finance), which may affect the manufacturer’s intended value of the insurance product; and

(3) confirmation that the distribution arrangements are consistent with the obligations of the firm under the FCA Handbook including in particular in SYSC 10 (Conflicts of interest) and SYSC 19f.2 (IDD remuneration incentives).

4.3.11 Insurance distributors becoming aware that an insurance product is not in line with the interests, objectives and characteristics of its identified target market or becoming aware of other product-related circumstances that may adversely affect the customer shall promptly inform the manufacturer and, where appropriate, amend their distribution strategy for that insurance product.

[Note: article 11 of the IDD POG Regulation]
(1) For a non-investment insurance product, a distributor must take appropriate remedial and mitigating action, including to amend its product distribution arrangements, where it identifies:

(a) the insurance product (or, where relevant, the package) is not providing fair value for customers; or

(b) any aspects of a product or package that may mean it does not offer fair value; or

(c) the distribution arrangements including remuneration structures may mean the customer is not being provided with fair value.

(2) The actions which the distributor takes for (1) must:

(a) aim to mitigate the situation and prevent further occurrences of any possible harm to customers, including, where appropriate, amending the distribution strategy for that product (and, where relevant, the package); and

(b) include informing any relevant manufacturers promptly about any concerns they have and any action the distributor is taking.

For the purposes of the steps a distributor may need to take include, but are not limited to:

(1) amending its remuneration structures;

(2) amending the distribution arrangements;

(3) improving the quality of, or ceasing, any service or benefits it provides;

(4) where the failure to provide fair value is due to the costs or quality of additional products, renegotiating the terms of the current arrangements relating to the additional products, or selecting alternative providers or distributors of them, in order to provide for a fair outcome;

(5) ceasing to distribute certain insurance products (or where relevant, packages), or ceasing to use certain distribution channels;

(6) contacting existing customers to inform them of the issues and of the measures being taken to rectify them; and

(7) providing redress to customers.

Manufacturers and distributors should take appropriate action in order to avert the risk of consumer detriment when they consider that the insurance product is not, or is no longer, aligned with the interests, objectives and characteristics of the identified target market.

[Note: recital 12 to the IDD POG Regulation]

Relevant actions taken by insurance distributors in relation to their product distribution arrangements shall be duly documented, kept for audit
purposes and made available to the Financial Conduct Authority upon request.

[Note: article 12 of the IDD POG Regulation]

UK 10(1) Insurance distributors shall set out the product distribution arrangements in a written document and make it available to their relevant staff.

[Note: second sub-paragraph of article 10(1) of the IDD POG Regulation]
4.4 Additional expectations for manufacturers and distributors of insurance products

4.4.1 In addition to PROD 4.1, PROD 4.2 and PROD 4.3, firms should also consider what needs to be done to comply with obligations found elsewhere in the FCA Handbook, including under the Principles and in SYSC. In considering this firms should consider any relevant guidance.

4.4.2 PROD 1.4.10G provides that, where PROD 4 applies, a firm need not apply the guidance in RPPD for matters covered by PROD, if that firm has complied with PROD 4. However, PROD 4 and the IDD POG Regulation does not cover all parts of the RPPD or wider obligations in the FCA Handbook and the following guidance, some of which is reproduced from the RPPD, remains relevant.

4.4.3 Manufacturers should consider whether the design of an insurance product is driven by features that benefit the customer and not by a business model which relies on poor customer outcomes to be profitable.

4.4.4 When providing information to distributors, a manufacturer should:

1. make it clear if that information is not intended for customer use;

2. ensure the information is sufficient, appropriate and comprehensible in substance and form, including considering whether it will enable distributors to understand it enough to give suitable advice (where advice is given) and to extract any relevant information and communicate it to the end customer. As part of meeting this standard, the manufacturer may wish to consider, with regard to each distribution channel or type of distributor what information distributors of that type already have, their likely level of knowledge and understanding, their information needs and what form or medium would best meet those needs (which could include discussions, written material or training as appropriate).

4.4.5 When reviewing the insurance products it manufactures, a firm should communicate to the customer and/or distributor contractual “breakpoints” such as the end of a long tie-in period that may have a material impact on a customer that the customer cannot reasonably be expected to recall or know about already.
Manufacturers should act fairly and promptly when handling claims or when paying out on an insurance product that has been surrendered or reached maturity. In doing this, the manufacturer should meet any reasonable customer expectations that it may have created with regard to the outcomes or how the process would be handled.

In ensuring that they have obtained sufficient information about the insurance products they distribute and in ensuring they understand the insurance products distributed, distributors:

1. Should consider whether they understand the materials provided by the manufacturer or distributor earlier in the sales chain;
2. Should ask the manufacturer to supply additional information or training where this seems necessary to understand the insurance product adequately;
3. Should not distribute the insurance product if they do not understand it sufficiently; and
4. When providing information to another distributor in a distribution chain, should consider how the further distributor will use the information, such as whether it will be given to customers. Firms should consider what information the further distributor requires and the likely level of knowledge and understanding of the further distributor and what medium may suit it best for the transmission of information.
4.5 Additional expectations for manufacturers and distributors in relation to value measures data

Application and definitions

4.5.1 PROD 4.5 applies to a firm which manufactures or distributes a general insurance contract product which is the subject of a reporting requirement within SUP 16.27 (General insurance value measures reporting).

4.5.2 In this section:

- “value measures product” means a product which is the subject of a reporting requirement within SUP 16.27, regardless of when that product was first manufactured.
- “value measures information” means both the individual value measures data reported to the FCA by a firm as well as the value measures data relating to other firms published by the FCA, including that based on value measures data reported to it under SUP 16.27.

Manufacturers of value measures products

4.5.3 A firm which manufactures (in whole or in part) a value measures product must comply with the requirements in PROD 4.5.4R.

4.5.4 The requirements on manufacturers referred to in PROD 4.5.3R are:

1. In relation to existing value measures products the firm has effective procedures in place to ensure that, on a continuing basis, the product offers fair value to customers in the target market, taking into account, among other things:
   a. the needs of the target market;
   b. the firm’s reasonable assessment of the value expectations of customers in the target market;
   c. the value measures information, within a reasonable period;
   d. any particular features of the product or the terms and conditions that may give rise to concerns about poor value;
(e) appropriate product testing including scenario analysis and testing on consumers; and

(f) the charging structure of the product including examination of whether the costs and charges are compatible with how useful the product is to consumers and the transparency of costs and charges.

[Note: The requirement in PROD 4.5.4R(1)(c) applies from 1 July 2021, when SUP 16.27 entered into force.]

(2) that in relation to new products and significant adaptations to existing products, the firm’s product approval process in PROD 4.2.1R, product testing in PROD 4.2.22UK including considerations in PROD 4.2.25R and the review of products in PROD 4.2.34R also incorporate the procedures and considerations in (1) above.

(3) manufacturers that identify any aspects of a product that may mean the product does not offer fair value, must:

(a) take appropriate action to mitigate the situation and/or prevent further occurrences of any possible detriment to customers;

(b) inform any relevant distributors promptly about remedial action being taken; and

(c) where relevant, not bring new products to market or make any proposed changes.

(4) manufacturers must regularly review the products it offers or markets to ensure they continue to offer fair value taking into account any event that could materially affect whether this remains the case.

(5) where the firm is required to submit a value measures report by SUP 16.27.7R, that the firm takes all reasonable steps to set up arrangements with firms entering into contracts of insurance as principal in relation to those products, to enable it to obtain the value measures data required to be included in the value measures report.

(6) where there is more than one manufacturer they must all outline in writing their mutual responsibilities arising under PROD 4.5.3R and 4.5.4R.

PROD 4.5.4R(1)(f) does not affect the manufacturers’ freedom to set premiums.

Distributors of value measures products

Where a firm distributes a value measures product that it does not manufacture it must comply with the requirements in PROD 4.5.7R.

The requirements on distributors referred to in PROD 4.5.6R are:

(1) that in relation to existing products it distributes, and any new products it proposes to distribute, the firm has procedures in place to consider, on a continuing basis, whether the product offers fair value
to customers in the target market, taking into account the factors in
PROD 4.5.4R(1)(a) to (f);

(2) where the firm is required to submit a value measures report by
SUP 16.27.7R, that the firm takes all reasonable steps to have
arrangements with the manufacturer of the value measures products
and/or firms or persons entering into contracts of insurance as
principal in relation to those products, to enable it to obtain the
value measures data required to be included in the value measures
report;

(3) distributors that identify any aspects of a product that may mean the
product does not offer fair value, must:

(a) take appropriate action to mitigate the situation and/or prevent
further occurrences of any possible detriment to customers,
including, where appropriate, amending their distribution
strategy for that product; and

(b) inform any relevant manufacturers promptly about any concerns
they have and any action the distributor is taking.
4.6 Application of PROD 4.2 and 4.3 for legacy non-investment insurance products

Application

4.6.1 □ PROD 4.6 applies to:

(1) the manufacturer of a legacy non-investment insurance product, which includes:
   (a) an insurance intermediary which has a decision-making role (in whole or in part) in relation to the manufacture of a legacy non-investment insurance product;
   (b) an insurer that is responsible for the manufacture of a legacy non-investment insurance product including whoever currently underwrites the legacy non-investment insurance product; and

(2) a firm that distributes (including the renewal of an existing policy) a legacy non-investment insurance product.

4.6.2 □ For a product falling within (2)(b) of the definition of a legacy non-investment insurance product, any reference to distribution or renewal is to be treated as including the ongoing collection of premiums in relation to a policy that remains in force.

Purpose

4.6.3 □ The purpose of this section is to set out the product governance distribution arrangements for, and how □ PROD 4 applies to, legacy non-investment insurance products.

Manufacturers of legacy non-investment insurance products

4.6.4 □ A manufacturer of a legacy non-investment insurance product must apply the product approval process in □ PROD 4.2 to that insurance product.

4.6.5 □ For the purposes of □ PROD 4.6.4R a manufacturer will need to demonstrate it has arrangements to meet the following:

(1) general product approval process requirements (□ PROD 4.2.5UK to □ PROD 4.2.14R);

(2) fair value assessment (□ PROD 4.2.14AR to □ PROD 4.2.14SR);
Firms should take into account all relevant factors, including those in PROD 4.2.3G and PROD 4.2.3AG, when identifying the necessary product approval process and arrangements including, in particular:

(a) previous product governance arrangements including reviews which the firm (or another person) has undertaken and the extent to which these would or would not have complied with PROD requirements; and

(b) the potential level of harm which could result from the product in question.

Firms should ensure the product approval process has the necessary measures to identify whether the insurance product is, or remains, appropriate to be marketed or distributed to customers.

1. A firm must determine whether the legacy non-investment insurance product should continue to be marketed and distributed (including renewals for existing customers).

2. Where a firm does not approve the continued marketing and distribution of the product, including where the firm has been unable to identify that the product, or where relevant, the package provides fair value for the purposes of PROD 4.2.14AR or, where relevant, 4.2.14BR, it must immediately:

   (a) cease marketing or distributing the product or package (whether directly or indirectly), including any renewal for an existing customer; and/or

   (b) make such changes as are necessary for the product or package to provide fair value.

Distributors of legacy non-investment insurance products

1. A firm which distributes, or will distribute, a legacy non-investment insurance product must meet the requirements in PROD 4.3 in relation to that insurance product.

2. A firm must put in place the necessary arrangements for the purposes of (1), including for:

   (a) obtaining any necessary information from the manufacturer;

   (b) providing any necessary or relevant information to the manufacturer;

   (c) understanding the product, identified target market and value assessment;
(d) ensuring adequate oversight, including the ability to obtain necessary or relevant information, of any other persons involved in the distribution with whom the distributor has a direct relationship; and

(e) the regular review of the product distribution arrangements including to take appropriate action in order to avert the risk of consumer detriment.
Section 4.6: Application of PROD 4.2 and 4.3 for legacy non-investment insurance products
Chapter 5

Extended warranties sold with rent-to-own agreements: customer information and deferred opt-in
5.1 Ensuring the customer can make an informed decision

(1) A firm must give the customer the information in (3), at the same time and in the same document, when it offers to sell them an extended warranty.

(2) A firm must ensure that any other person to whom it has referred the customer or invited or induced the customer to obtain an extended warranty from gives the customer the information in (3), at the same time and in the same document, when that person offers to sell the customer an extended warranty.

(3) The information is:
   (a) the total cost of the extended warranty, separate from any other prices, in the following terms:
      (i) weekly;
      annually; and
      over the duration of the rent-to-own agreement;
   (b) the significant features and benefits, significant and unusual exclusions or limitations of the extended warranty, with cross-references to the relevant warranty document provisions;
   (c) a statement that extended warranties may be available from other persons;
   (d) an explanation of how the extended warranty interacts with and compares against any other products sold or offered for sale in connection with the rent-to-own agreement (e.g. theft and accidental damage insurance);
   (e) an explanation of how the extended warranty interacts with and compares against any standard manufacturer’s warranty that may apply to the goods which are the subject of the rent-to-own agreement, given in a way that enables the customer to make a clear comparison between the two;
   (f) when the extended warranty can be concluded, as described in PROD 5.2.1R; and
   (g) the date the information in (a) to (f) is provided to the customer.

(4) The information in (3) must be communicated in a way that is:
   (a) fair, clear and not misleading;
   (b) in writing or another durable medium; and
(c) made available and accessible to the customer.

(5) The information in (3) must be drawn to the customer’s attention and must be clearly identifiable as key information that the customer should read.

5.1.2

(1) A firm that sells extended warranties that constitute contracts of insurance must also comply with the rules in ICOBS 6 (Product Information).

(2) Firms should also take into account the Supply of Extended Warranties on Domestic Electrical Goods Order 2005. Other consumer protection legislation may also be relevant.
5.2 Deferred opt-in for extended warranties

5.2.1 A firm must:
(a) not conclude the sale of an extended warranty; and
(b) ensure that no other person to whom the firm has referred the customer concludes the sale of an extended warranty;

until at least two clear days have passed since the required information was provided to the customer (PROD 5.1.1R).

(2) The period in (1) is one clear day after providing the information if the customer:
(a) initiates the conclusion of the sale of the extended warranty;
(b) consents to the conclusion of the sale of the extended warranty earlier than provided for in (1); and
(c) confirms that they understand the restriction in (1).

5.2.2 For example, if a firm provided the required information to the customer on Monday, it would not (absent the customer’s consent) be able to conclude the sale of the extended warranty until Thursday.

5.2.3 Before the conclusion of the sale of an extended warranty, a firm should have regard to the information needs of its customers and consider whether it would be in the customer’s interest to receive the information in PROD 5.1.1R again, for example if a long time has passed between the provision of the information and the conclusion of the sale.
Chapter 6

Product governance: additional provisions for pathway investments
6.1 General

This chapter does not affect the application of other requirements in the FCA Handbook or onshored regulations applying to firms within the scope of this chapter. Firms within the scope of PROD 1.3 (Application of PROD 3), PROD 1.4 (Application of PROD 4), PROD 3 (Product governance: MiFID) and PROD 4 (Product governance: IDD) must continue to comply with those provisions.
A manufacturer must review its pathway investments at least annually to ensure that the pathway investments:

(1) remain consistent with the needs, characteristics and objectives of their identified target market, taking into account the investment pathway options in ▲ COBS 19.10.17R(1); and

(2) are being distributed to their target market.

A firm to which the record-keeping rules in ▲ SYSC 3 (Systems and controls) or ▲ SYSC 9 (Record-keeping) apply should maintain, in relation to its manufacture of pathway investments, a record of the process undertaken to approve each pathway investment, and of the review conducted for each pathway investment to comply with ▲ PROD 6.2.1R.
6.3 Distribution of pathway investments

6.3.1 A firm must not distribute a pathway investment unless it is compatible with the needs, characteristics and objectives of those retail clients that fall within the pathway investment's target market, taking into account the investment pathway options in COBS 19.10.17R(1).

6.3.2 When carrying out the compatibility assessment referred to in PROD 6.3.1R, firms must take into account:

(1) the price and complexity of the pathway investment; and

(2) where the firm is referring retail clients to be transferred to the personal pension scheme or stakeholder pension scheme operated by another firm, they must also take into account:

(a) the charges and other product features of that other firm’s drawdown product;

(b) the financial strength of that other firm; and

(c) the reliability and efficiency of that other firm in relation to its dealings with retail clients.

6.3.3 A firm must review the distribution arrangements for the pathway investments it distributes at least on a two-yearly basis to ensure:

(1) the distribution arrangements are still valid and up to date; and

(2) the pathway investments remain compatible with, and are being distributed to, their target market in accordance with PROD 6.3.1R.

6.3.4 A firm to which the record-keeping rules in SYSC 3 or SYSC 9 apply should maintain, in relation to its distribution of pathway investments, a record of the process undertaken to select each pathway investment, and of the review conducted for each pathway investment to comply with PROD 6.3.3R.

Obligations on firms where retail clients are not acting in their interests

6.3.5 Where a firm (A) refers retail clients to another firm (B), where B can offer a pathway investment to the retail client if the retail client transfers to the personal pension scheme or stakeholder pension scheme operated by B, both A and B must comply with PROD 6.3.6R.
Where:

(1) A becomes aware of a pattern of retail clients choosing to stay with A and not transferring to B; and

(2) A considers that this choice is unlikely to be in the interests of those retail clients, having regard to their objectives and characteristics; then

(3) A must promptly inform B of its concerns in (1) and (2); and

(4) A and B must each take reasonable steps to minimise the potential harm to retail clients.

Reasonable steps for the purposes of §PROD 6.3.6R may include A and B making it easier for retail clients to transfer to the personal pension scheme or stakeholder pension scheme operated by B.
This chapter does not affect the application of other requirements in the FCA Handbook applying to funeral plan providers or firms in relation to funeral plan distributions, including but not limited to:

1. Identification and management of conflicts of interest (SYSC 10.1 (Conflicts of interest));

2. Funeral plan remuneration incentives (SYSC 19F.3 (Funeral plan remuneration incentives));

3. Structure arrangements (FPCOB 3 (Structure provisions- arrangements underpinning a funeral plan contract));

4. Disclosure (FPCOB 6 (Information about the firm and its services) and FPCOB 9 (Product information));

4. Remuneration (FPCOB 6.4 (Charging for funeral plan distribution) and FPCOB 6.5 (Payments to funeral plan intermediaries)).
7.2 Manufacture of funeral plans

Product governance arrangements: product approval

7.2.1 A manufacturer must maintain, operate and review a process for the approval of:

(1) a funeral plan product; and

(2) any significant adaptation of an existing funeral plan product,

in each case before it is marketed or distributed to customers.

7.2.2 (1) ■ PROD 7.2.1R(1) includes any funeral plan product whether a new product manufactured on or after 29 July 2022 or any existing funeral plan product. In relation to an existing funeral plan product, references in ■ PROD 7.2 and ■ 7.3 to ‘marketing’ or ‘distributing’ includes reference to any future activity regardless of whether the product has previously been made available for marketing or distribution.

(2) For the purposes of ■ PROD 7.2.1R(2):

(1) whether a proposed change to the product would be a ‘significant adaptation’ should include consideration of the potential impact that the adaptation may have on an existing or potential customer (when compared to the unadapted version of the product);

(1) a ‘significant adaptation’ in relation to a funeral plan product may include, but is not restricted to, a proposed change to the undertaking to provide funeral arrangements, services added or removed, level of monetary benefits (other than adjustments for inflation or other cost variations) costs, and any other significant change to the terms and conditions.

Product governance arrangements: identifying the necessary approval process

7.2.3 The product approval process in ■ PROD 7.2.1R must be proportionate and appropriate to the nature of the funeral plan product.

7.2.4 A manufacturer should take into account the following when considering whether the product approval process is proportionate and appropriate:

(1) the complexity of the funeral plan product;
(2) the degree to which publicly available information can be obtained;

(3) the nature of the funeral plan product and the risk of consumer detriment related to it;

(4) the characteristics of the target market;

(5) the scale and complexity of the relevant business of the manufacturer or distributor;

(6) the potential risk, and possible levels, of harm to customers if the product design is flawed, in particular, due to the potential scale of harm if the product is intended for a wide target market;

(7) the nature of the cover that the product is intended to provide;

(8) whether the distribution arrangements could mean customers are at a greater risk of not receiving fair value from the product;

(9) any particularly notable features of, or relating to, existing products (including how it has been distributed); and

(10) the nature and complexity of the firm’s existing or intended customer base, for example whether it includes or is likely to include:

(a) different types of customers with varying characteristics including in relation to their understanding of financial matters; and

(b) a significant number of vulnerable customers.

Product approval process: outcomes, measures and procedures

7.2.5 A manufacturer must have a product approval process that:

(1) ensures the design of a funeral plan product:

(a) identifies how funeral arrangements will be provided;

(b) delivers fair value;

(c) takes into account the intended customers including their objectives, interests, needs and characteristics;

(d) does not adversely affect customers; and

(e) is driven by features that benefit the customer and not by a business model which relies on poor customer outcomes to be profitable;

(2) prevents or mitigates customer detriment; and

(3) supports a proper management of conflicts of interest.

7.2.6 The product approval process must contain appropriate measures and procedures for:

(1) the design, distribution, monitoring and review of a funeral plan product;
(2) identifying whether the product is, or remains, appropriate to be marketed or distributed to customers; and

(3) taking corrective and/or mitigating action for funeral plan products where actual or potential customer detriment is identified.

**Product approval process: written policy and record keeping**

7.2.7  
A manufacturer must set out the product approval process in a written document ("product oversight and governance policy"), which is made available to the relevant staff.

7.2.8  
A manufacturer must make and retain a record of any relevant actions taken in relation to the product approval process. The record must be made available to the FCA upon request.

**Product approval process: governing body responsibility**

7.2.9  
A manufacturer’s governing body must:

1. endorse and be responsible for establishing, implementing and reviewing the product approval process; and

2. verify internal compliance with that process on an ongoing basis.

**Product approval process: staff competence**

7.2.10  
A manufacturer must ensure that any of its staff involved in the manufacture of a funeral plan product has the necessary skills, knowledge and expertise to properly carry out this role and, in particular, to understand the funeral plan product and the interests, objectives and characteristics of the customers belonging to the target market. (Also see SYSC 5.1.1R (competent employee rule)).

7.2.11  
Where a manufacturer uses a third party to undertake any part of the manufacture of the funeral plan product on its behalf, the manufacturer remains fully responsible for compliance with the product approval process.

**Product approval process: review of process**

7.2.12  
(1) A manufacturer must regularly review its product approval process to ensure that the process is still appropriate and up to date.

(2) Where the process is identified to no longer be appropriate, the manufacturer must:

   a. amend the product approval process;

   b. review any product approved since the approval process was last deemed to be appropriate to:

      i. ensure these products were correctly approved for marketing and/or distribution; and

      ii. take all necessary steps for the mitigation and remediation of any actual or potential harm to customers.
Product approval process: manufacture by more than one manufacturer

7.2.13  A manufacturer must:

(1) Where two or more firms collaborate to manufacture a funeral plan product, the firms must outline their mutual responsibilities in a signed written agreement.

(2) The written agreement in (1) must specify:

(a) their respective roles in the product approval process; and

(b) how they will collaborate to comply with the requirements in PROD 7.2 (Manufacture of funeral plans), including the procedures through which they will agree on the identification of the target market.

Product approval process: fair value

7.2.14  A manufacturer must only approve a funeral plan product where it provides fair value to customers in the target market.

7.2.15  A manufacturer must:

(1) be able to clearly demonstrate how any funeral plan product provides fair value; and

(2) make and retain a record of the value assessment required by PROD 7.2.14R.

Where a manufacturer is unable to both:

(a) identify; and

(b) clearly demonstrate,

that the funeral plan product will provide fair value, the manufacturer must not:

(c) market the funeral plan product; or

(d) permit the funeral plan product to be distributed (whether directly or through another person),

unless the manufacturer has ensured appropriate changes have been made so that fair value will be provided.

Product approval process: meaning of value

7.2.16  In PROD 7 “value” means the relationship between the total price to the customer and the quality of the product(s) and/or services provided. The assessment of value must include consideration of at least the following:

(1) the nature of the product, including the benefits that will be provided, their quality, and any limitations (for example, in the scope of the funeral arrangements or other features);

(2) the type and quality of services provided to customers;

(3) the expected total price to be paid by the customer when buying the funeral plan product, and the elements that make up the total price. This will need to include consideration of at least the following:
(a) the overall cost to the manufacturer of the funeral plan product of:
   (i) operating the product, including the costs of the trust or premiums paid towards an insurance policy to meet the requirements in FPCOB 3 (Structure provisions - arrangements underpinning a funeral plan contract); and
   (ii) the delivery of funeral benefits under it; and
(b) the individual elements of the expected total price to be paid by the customer including, but not limited to:
   (i) the funeral plan product;
   (ii) the costs of the distribution arrangements, including the remuneration of any relevant person in the distribution arrangements, and including where a manufacturer delegates the final decision on setting the price to another person; and

(4) how the intended distribution arrangements support, and will not adversely affect, the intended value of the product.

7.2.17 A manufacturer must not rely on individual customers to consider whether they are making fair value purchases in place of any part of the manufacturer’s own assessment.

Product approval process: compliance with fair value requirement

7.2.18 The following evidential provision provides examples of arrangements that the FCA considers will breach PROD 7.2.14R.

7.2.19 (1) A manufacturer should not have a funeral plan product where:
   
   (a) the difference between the cost of delivering the funeral plan contract obligations to the manufacturer and the total price paid by the customer bears no reasonable relationship to:
      (i) the actual costs incurred by the manufacturer or any other person involved in the distribution arrangements;
      (ii) the quality of any benefits (including of the funeral plan product); or
   
   (b) any difference between the cost of the funeral arrangements under the funeral plan product and the cost of the equivalent funeral arrangements purchased without a funeral plan contract does not have an objective and reasonable basis.

   (2) Contravention of any of (1) may be relied on as tending to establish contravention of PROD 7.2.14R.

Product approval process: information to be used when assessing a product for approval

7.2.20 When assessing whether a product should be approved for the purposes of PROD 7.2.1R, a manufacturer must use the full range of data and information available to it including, but not limited to:
(1) information available to the manufacturer internally including:
   (a) customer research;
   (b) the performance of the funeral plan product or other funeral plan products of the manufacturer, including for example:
      (i) how the estimated costs of funerals compare to actual costs;
      (ii) number of customers cancelling the funeral plan contracts;
      (iii) number of missed instalment plan payments by the customer; and
      (iv) number of funeral plan contracts expected to be claimed but have not been redeemed;
   (c) complaints data (including root cause analysis and handling times), both expected for the product itself and/or any actual information from a comparable product;

(2) public information or information obtainable by the manufacturer from external sources, including analysis of similar funeral plan products available from other firms; and

(3) information available to the manufacturer specifically from persons in the distribution arrangements or external funeral provider, including:
   (a) any remuneration and its impact on the value of the product;
   (b) levels or quality of service provided by any person in the distribution arrangements;
   (c) any results of monitoring and oversight of the processes of any persons in the distribution arrangement (for example, call monitoring or file checks), including in relation to other products that person distributes; and
   (d) the wholesale and retail prices of a funeral not paid for using a funeral plan contract (whether paid for in advance or after the death of a person).

Product approval process: product backing arrangements

7.2.21 A manufacturer must only approve a funeral plan product where it has established adequate processes and procedures to ensure:

(1) any funeral plan contracts entered into using that product will have the necessary and robust trust or insurance arrangements required to comply with FPCOB 3 (Structure provisions – arrangements underpinning a funeral plan contract); and

(2) at a product level, there is sufficient oversight and management of those trust or insurance arrangements to mitigate the risk of customer harm.

Product approval process: identifying the target market

7.2.22 A manufacturer must ensure that for each funeral plan product the product approval process:

(1) specifies an identified target market;
(2) assesses all relevant risks to the identified target market;

(3) identifies that a funeral plan product offers fair value to the specified target market, taking into account in particular their needs, objectives, interests and characteristics;

(4) permits only the approval of funeral plan products that are compatible with the needs, characteristics and objectives of the customers belonging to the target market;

(5) verifies that the intended distribution strategy is consistent with the identified target market; and

(6) requires reasonable steps are taken to ensure that the funeral plan product is distributed to the identified target market.

7.2.23 A manufacturer must identify the target market at a sufficiently granular level, taking into account the characteristics, risk profile, complexity and nature of the funeral plan product.

7.2.24 A manufacturer must identify groups of customers for whose needs, characteristics and objectives the funeral plan product is generally not compatible.

7.2.25 When assessing whether a funeral plan product is compatible with a target market, a manufacturer must take into account:

   (1) the level of information available to the customers belonging to that target market and their financial literacy; and

   (2) vulnerable customers.

7.2.26 (1) The identification of the target market should describe a group of customers sharing common characteristics at an abstract and generalised level in order to enable the manufacturer to adapt the features of the product to the needs, characteristics and objectives of that group of customers.

   (2) The identification of the target market should be distinguished from the individual assessment at the point of sale to determine whether a product meets the demands and needs of the individual customer.

Product approval process: product testing

7.2.27 (1) A manufacturer must test a funeral plan product appropriately, including scenario analyses, in a qualitative manner and quantitative manner.

   (2) The product testing in (1) must assess whether the funeral plan product over its lifetime meets the identified needs, objectives and characteristics of the target market.

   (3) The requirement in (1) must be carried out:
(a) before approving the product for marketing or distribution;
(b) when the product is being significantly adapted; and
(c) where the target market has significantly changed.

7.2.28  
A manufacturer must not bring a funeral plan product to the market if the results of the product testing show that the product does not provide fair value including where it would not meet the identified needs, objectives and characteristics of the target market.

Distribution channels: selecting channels

7.2.29  
A manufacturer must carefully select distribution arrangements, including specific distribution channels that are appropriate for the target market, taking into account the particular characteristics of the relevant funeral plan product.

7.2.30  
(1) When selecting any distribution arrangements, including any particular distribution channel, a manufacturer must be able to demonstrate clearly that these arrangements:
(a) result in fair value to the customer;
(b) are consistent with the requirements in FPCOB 6.4 (charging for funeral plan distribution); and
(c) prevent or mitigate the risk of customer detriment arising from the distribution of the product, for example by verifying that any proposed distributor has the necessary knowledge, expertise and competence; and
(d) do not pose a significant risk of a distribution channel failing to meet the requirements in FPCOB.

(2) A manufacturer must not use a distribution channel unless it is able to demonstrate the requirements in (1) are met.

7.2.31  
Manufacturers should only select distributors that have the necessary knowledge, expertise and competence to understand the features of a funeral plan product and the identified target market.

7.2.32  
Whenever making a change to the distribution arrangements, including adding a further distribution channel, a manufacturer must:

(1) obtain all necessary information from the distributor or any other person who will be involved with the distribution arrangement, including that set out in PROD 7.2.35R; and

(2) identify whether the proposed change to the distribution arrangements is consistent with the fair value requirement in PROD 7.2.14R.
Distribution channels: information disclosure to distributors

7.2.33 R

(1) A manufacturer must make available to a distributor all appropriate information on the:

(a) funeral plan product, including to enable the distributor to understand the intended value established by the manufacturer;

(b) product approval process;

(c) identified target market of the funeral plan product, including any type of customer for whom the funeral plan product is unlikely to provide fair value; and

(d) suggested distribution strategy.

(2) The information in (1) must:

(a) include information on the main features and characteristics of the funeral plan products, their risks and costs, including implicit costs, and any circumstances which might cause a conflict of interest to the detriment of the customer;

(b) be clear, complete and up to date.

7.2.34 R

(1) The information a manufacturer has to make available to any distributor under PROD 7.2.33R(1) must be of an adequate standard to enable distributors to:

(a) understand the funeral plan products;

(b) comprehend the identified target market for the funeral plan products;

(c) identify any customers for whom the funeral plan products are not compatible with their needs, characteristics and objectives; and

(d) carry out distribution activities for the relevant funeral plans in accordance with the best interests of their customers as prescribed in FPCOB 2.1.2R.

(2) A manufacturer is not required to disclose specific information objectively considered to be commercially sensitive if the information it does make available would still allow distributors to meet PROD 7.2.34R(1) and PROD 7.2.35R(1)(a) and (b).

Distribution channels: obtaining information from distributors

7.2.35 R

A manufacturer must obtain from any person in the distribution arrangements all necessary and relevant information to enable it to identify the remuneration associated with the distribution arrangements to allow it to assess the ongoing value of the product, including at least:

(1) the type and amount of remuneration of each person in the distribution arrangement where this is part of the funeral plan contract price or otherwise paid directly by the customer, including in relation to additional products;

(2) an explanation of the services provided by each person in the distribution arrangements; and
(3) confirmation from any firm in the distribution arrangements that any remuneration is consistent with their regulatory obligations, including SYSC 19F.3 (Funeral plan remuneration incentives).

7.2.36

(1) Where the manufacturer is considering the effects of the distribution arrangements on value, it should consider whether the additional costs of any individual party in the arrangements that add to the total price paid by the customer deliver any, or a proportional, additional benefit. If not, a manufacturer should consider how it can be satisfied that the arrangements are consistent with its obligations to be able to clearly demonstrate fair value to the customer.

(2) A benefit that could be consistent with fair value might include where the party's inclusion in the distribution arrangements increases access to the product for customers in the target market in a way that is proportionate to the additional cost involved.

Monitoring and review of funeral plan products

7.2.37

A manufacturer must regularly review the funeral plan products it offers or markets taking into account any event that could materially affect the potential risk to the identified target market, the main features or the guarantees of the funeral plan product. In doing so, the manufacturer must assess at least the following:

(1) whether the funeral plan product remains consistent with:
   (a) the identified target market, including their interests, needs, characteristics and objectives;
   (b) the fair value assessment required under PROD 7.2.14R; and

(2) whether the intended distribution strategy remains appropriate, including whether those products are being distributed to the target market or are reaching customers outside the target market.

7.2.38

A manufacturer must ensure that the review process:

(1) has the necessary measures to be able to identify if the funeral plan product is not providing fair value; and

(2) provides that appropriate actions be taken:
   (a) for the mitigation and any potential remediation of the harm to existing customers; and
   (b) to prevent harm to new customers.

Monitoring and review of funeral plan products: minimum review period

7.2.39

A manufacturer must undertake the regular review:

(1) every 12 months; or

(2) more frequently where the potential risk associated with the funeral plan product makes it appropriate to do so.
When determining the appropriate interval for review of a funeral plan product, a manufacturer must take into account:

(1) the nature of the customer base, including whether there are significant numbers of vulnerable customers;

(2) any specific indicators seen in the manufacturer's assessment of the product's value to the customer;

(3) the nature and type of distribution arrangements being used;

(4) any indicators of customer harm potentially emerging from the performance of the product (for example, through redemptions of funeral plan contracts, missed instalment plan payments by the customer, and/or the number of funeral plan contracts expected to be redeemed but have not been redeemed and complaints data); and

(5) any relevant external factors, such as changes to the applicable legal rules, technological developments, or changes to the market situation.

Product monitoring and review: monitoring through lifetime of the plan

(1) A manufacturer must identify during the lifetime of a funeral plan product any circumstances related to the funeral plan product that may adversely affect a customer of that product.

(2) Where a manufacturer identifies an event that may adversely affect a customer of the product, the manufacturer must:

   (a) take appropriate action to mitigate the situation and prevent further occurrences of the detrimental event; and

   (b) promptly inform concerned distributors and customers about the remedial action taken.

Product monitoring and review: monitoring distribution arrangements

(1) A manufacturer must take appropriate steps to monitor:

   (a) that a funeral plan product distributor acts in accordance with the objectives of the manufacturer's product approval process; and

   (b) any impact which the distribution arrangements are having on the value including whether the distribution channels remain appropriate.

(2) A manufacturer must verify on a regular basis whether the funeral plans products are distributed on the identified target market.

(3) The monitoring activities must be reasonable, taking into consideration the characteristics and the legal framework of the respective distribution channels.
PROD 7 : Product governance:
funeral plans

Section 7.2 : Manufacture of funeral plans

7.2.43 ■ PROD 7.2 does not require the manufacturer to monitor a distributor's compliance with general regulatory requirements when carrying out funeral plan distributions for individual customers.

7.2.44 R A manufacturer must:

(1) ensure that it has sufficient, good quality management information; and

(2) use the full range of data and information available to it (whether it holds this information already, the information is publicly available, or it is able to obtain it from another person),

to enable it to properly understand and monitor the funeral plan product.

7.2.45 G A manufacturer should identify whether there is a risk to its continuing to provide fair value where there is a material change in the relationship between the price to the customer and the actual costs to the manufacturer or another party involved in the ongoing service/distribution of the product.

Product monitoring and review: considering changes to funeral plan products

7.2.46 R For the purposes of showing that the requirement in ■ PROD 7.2.1R is met, where a manufacturer makes a change to a funeral plan product, it must make and retain a record of:

(1) the assessment of whether that change would amount to a significant adaptation of the funeral plan product; and

(2) where the assessment in (1) is that the change would not be a significant adaptation, the reasons for that decision.

Product monitoring and review: remedial and mitigating action

7.2.47 R Manufacturers considering that the distribution of their funeral plan products is not in accordance with the objectives of their product approval process must take appropriate remedial action including but not limited to:

(1) amending the distribution arrangements, including ceasing to use certain distributors or distribution channels;

(2) amending remuneration structures;

(3) withdrawing the funeral plan product from continued marketing or distribution; or

(4) paying redress as appropriate.
7.3 Distribution of funeral plans

Distribution arrangements: general requirements

7.3.1 A distributor must have in place product distribution arrangements containing appropriate measures and procedures to:

- aim to prevent and mitigate customer detriment;
- be consistent with the aim of providing fair value to the customer;
- support a proper management of conflicts of interest; and
- ensure that the objectives, interests and characteristics of customers are duly taken into account.

Distribution arrangements: obtaining and understanding information

7.3.2 (1) A distributor must ensure the product distribution arrangements contain effective measures and procedures to:

- obtain from the manufacturer all appropriate information sufficient, adequate and reliable about the funeral plan products they intend to offer to their customers to ensure that they will be distributed in accordance with the characteristics, objectives and needs of the target market; and
- fully comprehend those funeral plan products, taking into account the level of complexity and the risks related to the products as well as the nature, scale and complexity of the relevant business of the distributor.

(2) The information in (1) must be sufficient to understand:

- the characteristics of each funeral plan product;
- the outcome of the value assessment required by PROD 7.2.14R, including:
  - the value that the funeral plan product is intended to provide to the customer; and
  - the impact that the distribution arrangements (including any remuneration it, or another person in the distribution chain to which it belongs, receives) has on the overall value of the funeral plan product to the customer; and
(c) the identified target market of each funeral plan product, including any identified group of customers for whom the funeral plan product is not expected to provide fair value.

7.3.3 For the purposes of PROD 7.3.2R, a distributor must consider at least the following:

(1) the benefits the product is intended to provide to the customer;
(2) the characteristics, objectives, interests and needs of the target market;
(3) the interaction between the price paid by the customer and the extent and quality of any services the distributor (or any person connected to it) provides; and
(4) whether any remuneration it receives in relation to the funeral plan product would result in the product ceasing to provide fair value to the customer.

Distribution arrangements: events indicating contravention of fair value

7.3.4 The following evidential provision provides examples of what the FCA considers will breach PROD 7.3.1R.

7.3.5 (1) A firm’s distribution arrangements, including any distribution strategy it sets up, should not result in:

(a) the firm receiving a level of remuneration which does not bear a reasonable relationship to the firm’s actual costs, or their contribution, level of involvement or the benefit added by them, to the arrangements for the distribution of the product, including where the firm provides little or no benefit beyond that which the customer would receive if they obtained the funeral plan product through another distribution channel;

(b) the firm having remuneration arrangements which give an incentive to propose or recommend a funeral plan product which either does not meet the customer’s needs (or not as well as another product would) or is not in accordance with the customer’s best interests rule; and

(c) the level of any remuneration (for which the firm is responsible for setting) not being reasonably reflective of the costs actually incurred.

(2) Contravention of any of (1) may be relied upon as tending to establish contravention of PROD 7.3.1R.
Distribution arrangements: disclosing information to manufacturers

7.3.6 A distributor must, upon request, provide manufacturers with:

(1) information on the distributor’s remuneration in connection with the distribution of the funeral plan product;

(12) information on any additional product or service that the distributor provides to the customer, which may affect the manufacturer’s intended value of the product;

(3) relevant sales information, including, where appropriate, information on the regular reviews of the product distribution arrangements; and

(4) confirmation that the distribution arrangements are consistent with the obligations of the firm under the FCA Handbook, including in particular in SYSC 10.1 (Conflicts of interest) and SYSC 19F.3 (Funeral plan remuneration incentives).

Distribution arrangements: record keeping

7.3.7 A distributor must set out the product distribution arrangements in a written document and make it available to their relevant staff.

7.3.8 A distributor must ensure that all relevant actions taken by it or any other party in relation to their product distribution arrangements are:

(1) duly documented;

(2) kept for audit purposes; and

(3) made available to the FCA upon request.

Distribution arrangements: senior management responsibility

7.3.9 A distributor’s governing body must:

(1) endorse and be ultimately responsible for establishing, implementing and reviewing the product distribution arrangements; and

(2) verify internal compliance with those arrangements on an ongoing basis.

Distribution arrangements: consistency with target market

7.3.10 A distributor must ensure that any specific distribution strategy that it sets up or applies is consistent with:

(1) the distribution arrangements set up by the manufacturer; and

(2) the target market identified in PROD 7.2 (Manufacture of funeral plans), including any customers to whom the product should not be distributed.
Distribution arrangements: review of distribution arrangements

7.3.11 A distributor must regularly review, at least every 12 months, its product distribution arrangements to ensure that those arrangements are still valid and up to date.

(2) When determining the appropriate intervals for the regular review of their product distribution arrangements, a distributor must take into account the size, scale and complexity of the funeral plan product involved.

7.3.12 When reviewing the product distribution arrangements, a distributor must verify that the funeral plan products are distributed to the identified target market.

Distribution arrangements: amending distribution arrangements after review

7.3.13 A distributor must amend the product distribution arrangements, where appropriate, in view of the outcome of the review of the product distribution arrangements.

7.3.14 When a distributor becomes aware:

(1) that a funeral plan product is not in line with the interests, objectives and characteristics of its identified target market; or

(2) of other product-related circumstances that may adversely affect the customer,

it must promptly:

(3) inform the manufacturer; and

(4) where appropriate, amend the distribution arrangements for that funeral plan product.

7.3.15 A distributor must take appropriate remedial and mitigating action, including to amend its product distribution arrangements, where it identifies:

(a) a product is not providing fair value for customers;

(b) any aspects of a product that may mean it does not offer fair value; or

(c) the distribution arrangements, including remuneration structures, may mean the customer is not being provided with fair value.

(2) The actions which the distributor takes for (1) must:

(a) aim to mitigate the situation and prevent further occurrences of any possible harm to customers, including, where appropriate, amending the distribution strategy for that product; and
(b) include informing any relevant manufacturers promptly about any concerns they have and any action the distributor is taking.

7.3.16 For the purposes of PROD 7.3.15R, the steps a distributor may need to take include (but are not limited to):

1. amending its remuneration structures;
2. amending the distribution arrangements;
3. improving the quality of, or ceasing, any service or benefits it provides;
4. where the failure to provide fair value is due to the costs or quality of additional products, renegotiating the terms of the current arrangements relating to the additional products, or selecting alternative providers or distributors of them, in order to provide for a fair outcome;
5. ceasing to distribute certain products, or ceasing to use certain distribution channels;
6. contacting existing customers to inform them of the issues and of the measures being taken to rectify them; and
7. providing redress to customers.
7.4 Product governance requirements for subsisting funeral plans

Product governance arrangements

7.4.1 This section applies to a funeral plan provider in relation to a subsisting funeral plan.

7.4.2 A funeral plan provider must ensure that, in relation to its subsisting funeral plans, there are adequate product governance arrangements in place, containing appropriate measures and procedures, to ensure a subsisting funeral plan is carried out in way that complies with the firm’s regulatory obligations under the FCA Handbook.

Monitoring and review of funeral plan products

7.4.3 A firm must:

(1) regularly review its subsisting funeral plans, taking into account any event that could cause material harm to the customers; and

(2) ensure the review process in (1), provides that appropriate actions be taken for the mitigation and any potential remediation of the harm to existing customers.

Monitoring and review of funeral plan products: minimum review period

7.4.4 (1) A firm must undertake the regular review at least every 12 months.

(2) When determining the appropriate interval for review of a funeral plan product, a firm must take into account:

(a) the nature of the customer base, including whether there are significant numbers of vulnerable customers;

(b) any indicators of customer harm potentially emerging from the performance of the product; and

(c) any relevant external factors such as changes to the applicable legal rules, technological developments, or changes to the market situation.
(1) A firm must identify during the lifetime of a subsisting funeral plan any circumstances related to it that may adversely affect a customer.

(2) Where a firm identifies an event that may adversely affect a customer holding the funeral plan contract, the firm must:

(a) take appropriate action to mitigate the situation and prevent further occurrences of the detrimental event; and

(b) promptly inform concerned customers about the remedial action taken.
## PROD TP 1
### Transitional Provisions

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<tr>
<td>1.1</td>
<td>PROD 4.5R (in particular, PROD 4.5.1R, PROD 4.5.2R, PROD 4.5.4R(5) and PROD 4.5.7R(2)).</td>
<td>R</td>
<td>For the purposes of giving effect to the rules in PROD 4.5R only, any reference to being subject to a reporting requirement within SUP 16.27R must be read as if SUP 16.27R came into force on 1 January 2021.</td>
<td>From 1 January 2021 to 1 July 2021</td>
<td>1 January 2021</td>
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<td>1.2</td>
<td>Rules in PROD 4.2 that will be made or amended by the Non-Investment Insurance: Product Governance, Premium Finance, General Insurance Auto-renewal and Home and Motor Insurance Pricing Instrument 2021</td>
<td>R</td>
<td>Where an existing non-investment insurance product: (1) has, before 1 October 2021, been approved for marketing and distribution in compliance with PROD 4.2; and (2) remains available for distribution (including renewals) or, if not still being marketed or distributed, there are policies under the product that remain in force,</td>
<td>From 1 October 2021 up to and including 30 September 2022</td>
<td>1 October 2021</td>
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<td>1.3</td>
<td>PROD TP 1.2 G</td>
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<td>The effect of PROD TP 1.2</td>
<td>From 1 October 2021 up to and including 30 September 2022</td>
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<td>and the requirements in PROD 4.2.14AR to PROD 4.2.14SR is that where the firm is unable to identify that the product or package provides fair value it will need to immediately: (1) cease any distribution of the product, whether directly or through another person, immediately; and/or (2) take any necessary steps to ensure the product will provide fair value in future.</td>
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<td>1.4</td>
<td>Rules in PROD 4.3 that will be made or amended by the Non-Investment Insurance: Product Governance, Premium Finance, General Insurance</td>
<td></td>
<td>Where a firm, to which PROD 4.3 applies, distributes an existing non-investment insurance product which was approved for marketing or distribution</td>
<td>From 1 October 2021 up to and including 30 September 2022</td>
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<td>(1)</td>
<td>Auto-renewal and Home and Motor Insurance Pricing Instrument 2021</td>
<td>before 1 October 2021 under PROD 4.2, it must, within 12 months of 1 October 2021, update its distribution arrangements to comply with the requirements in column (2).</td>
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<td>1.5</td>
<td>PROD 4.6.7R</td>
<td>A <em>firm</em> has 12 months from 1 October 2021 to make the determination required by the rule in column (2).</td>
<td>From 1 October 2021 up to and including 30 September 2022</td>
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<td>1.6</td>
<td>PROD 4.6.8R</td>
<td>A <em>firm</em> must put in the place the necessary product distribution arrangements required by the <em>rule</em> in column (2) within 12 months of 1 October 2021.</td>
<td>From 1 October 2021 up to and including 30 September 2022</td>
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<td>1.7</td>
<td>PROD TP 1.2 to PROD TP 1.6</td>
<td>A <em>firm</em> to which any of PROD TP 1.2 to PROD TP 1.6 apply may elect to apply the <em>guidance</em> in PROD 4.2.34EG in relation to the reviews required.</td>
<td>From 1 October 2021 up to and including 30 September 2022</td>
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<td>1.8</td>
<td>PROD 4</td>
<td>A <em>TP firm</em> or a Gibraltar-based <em>firm</em> may rely on processes and arrangements that have been applied to a <em>non-investment insurance product</em>.</td>
<td>Indefinitely</td>
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<td><strong>uct</strong> which was approved for marketing or distribution before 1 October 2021 where these comply with requirements equivalent to those in PROD 4 in:</td>
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<td>(1)(for a <strong>TP firm</strong>) the <strong>TP firm’s Home State</strong> (or, where applicable, the <strong>EEA state</strong> where it has the establishment from which the service is provided); or</td>
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### PROD TP 2
#### Transitional Provisions for Funeral Plan Products

|---|-------------------------------------------------------|----------------------------|------------------------------------------|-----------------------------------------|
| 2.1 | Rules in PROD 7.2 in relation to an existing funeral plan product | Where an existing funeral plan product:  
(1) has, before 29 July 2022, been available for marketing and distribution; and  
(2) remains available for distribution,  
a manufacturer must ensure that the requirements in PROD 7.2 have been met and that it remains appropriate for that product to continue to be marketed and distributed from 29 July 2022. | From 29 July 2022 | 29 July 2022 |
| 2.2 | PROD 7.2 and PROD TP 2.1 | The effect of PROD TP 2.1 and the requirements in PROD 7.2 is that where the manufacturer is unable to demonstrate it has satisfied these requirements, then the manufacturer will need to:  
(1) cease any distribution of the product, whether directly or through another person, immediately; and/or | | |
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<th>(1)</th>
<th>Material to which the transitional provision applies</th>
<th>(3)</th>
<th>Transitional provision: dates in force</th>
<th>(6) Handbook provision: coming into force</th>
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<td>2.3</td>
<td>PROD 7.2</td>
<td>G</td>
<td>From 29 July 2022</td>
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(2) take any necessary steps to ensure the product meets the requirements in PROD 7.2, including that it offers fair value before marketing or distributing the product from 29 July 2022.

When identifying the necessary product approval process and arrangements and whether the requirements in PROD 7.2 are met, a manufacturer may take into account any previous product governance arrangements, including reviews which the manufacturer (or where there is more than one manufacturer, any other manufacturer) has undertaken and the extent to which these would or would not have complied with PROD requirements.