

Chapter 5

Non-mainstream regulated activities

5.3

Reference to other sourcebooks and manuals

Introduction

5.3.1

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The parts of the *Handbook* in which provisions are disapplied or modified in relation to *authorised professional firms* when carrying on *non-mainstream regulated activities* include those described in ■ PROF 5.3.1A G to ■ PROF 5.3.9 G

General provisions

5.3.1A

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■ 4.3.5 R provides that ■ 4.3.1 R (Disclosure in letters to private customers) does not apply to an *authorised professional firm* with respect to its *non-mainstream regulated activities*.

Conduct of Business sourcebook

5.3.2

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■ COBS 18.11 provides that COBS does not apply to an *authorised professional firm* with respect to its *non-mainstream regulated activities*, except for:

- (1) the *fair, clear and not misleading rule*;
- (1A) the *financial promotion rules*, but only in limited circumstances;
- (2) (where these are *insurance distribution activities*) the parts of COBS set out in ■ COBS 18.11.2R(3)(a) to (i) which implemented the *IDD* apply unless:
 - (a) the *designated professional body* of the *firm* has made rules which implemented some or all of articles 1(4), 17, 18, 19, 20, 23, 24(1) to (4) and (6), 29, and 30 of the *IDD*;
 - (b) those rules have been approved by the *FCA* under section 332(5) of the *Act*; and
 - (c) the *firm* is subject to the rules in the form in which they were approved;
- (3) ■ COBS 8.1.3 R (Client agreements), except for the requirement to provide information on conflicts of interest; and
- (4) ■ COBS 5.2 (E-commerce).

Training and Competence sourcebook

5.3.3

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■ TC Appendix 3 provides that *TC*, which imposes the substantive training and competence requirements for *retail clients* or *customers*, does not apply to

an authorised professional firm with respect to its non-mainstream regulated activities.

Senior Management Arrangements, Systems and Controls

5.3.4 **G** The following provisions do not apply to authorised professional firms when carrying on non-mainstream regulated activities:

- (1) ■ SYSC 6.3 (Financial crime), in relation to money laundering;
- (2) ■ SYSC 10.1 (Application), in relation to conflicts of interest;
- (3) ■ SYSC 10.2 (Chinese walls);
- (4) ■ SYSC 19F.2 (IDD remuneration incentives) where the designated professional body of the firm has made rules, approved by the FCA, that implemented article 17(3) of the IDD and that apply to the firm; and
- (5) ■ SYSC 28.2 ((Knowledge and ability requirements) except ■ SYSC 28.2.1R(1)).

Supervision manual

5.3.5 **G** ■ SUP 10C Annex 1 2.1R provides that SUP 10C (FCA senior managers regime for approved persons in SMCR firms) does not apply (except in respect of the FCA required functions) to an authorised professional firm in respect of its non-mainstream regulated activities. So a person such as a partner, whose only regulated activities are incidental to their professional services, in an authorised professional firm whose principal purpose is to carry on activities other than regulated activities, need not be an approved person.

Dispute resolution: Complaints sourcebook

5.3.6 **G** ■ DISP 1.1.5R (3) provides that ■ DISP 1 (Treating complainants fairly) only applies to an authorised professional firm in so far as its mainstream regulated activities are concerned. ■ DISP 2.3.4 R further provides that a complaint about an authorised professional firm cannot be handled under the Compulsory Jurisdiction of the Financial Ombudsman Service if it relates solely to non-mainstream regulated activity and can be handled by a designated professional body. This is because such a complaint will be handled by the relevant professional body.

Market Conduct sourcebook

5.3.7 **G** ■ MAR 4.4.1 R (3) provides that ■ MAR 4, which deals with the endorsement of the City Code on Takeovers and Mergers and the Rules Governing Substantial Acquisitions of Shares, does not have effect in relation to an authorised professional firm in respect of non-mainstream regulated activity.

Mortgages: Conduct of business sourcebook

5.3.8 **G** ■ MCOB 1.2.10 R provides that MCOB does not apply to an authorised professional firm with respect to its non-mainstream regulated activities

except for ■ MCOB 3A (Financial promotions and communications with customers).

Client Assets

5.3.9

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■ CASS 1.2.4 R provides that with the exception of ■ CASS 1 and the *insurance client money chapter*, CASS does not apply to *authorised professional firms* when carrying on *non-mainstream regulated activities*. ■ CASS 1.2.5 R further provides that if the *non-mainstream regulated activities* are *insurance distribution activity*, ■ CASS 5 (the *insurance client money chapter*) does not apply to an *authorised professional firm*, if the *firm's designated professional body* has rules applicable to the *firm* which implemented the *IDD* and which are in the form approved by the *FCA* under section 332(5) of the *Act*.

Insurance: Conduct of Business sourcebook

5.3.10

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(1) *ICOBS* does not apply to an *authorised professional firm* with respect to its *non-mainstream regulated activities* (see ■ *ICOBS 1 Annex 1*, Part 1, paragraph 3.1R, except for:

- (a) the provisions on communications to *clients* and *financial promotions* (■ *ICOBS 2.2*);
- (b) the e-commerce provisions (■ *ICOBS 3.2*);
- (c) status disclosure requirements in relation to complaints procedures (■ *ICOBS 4.1*); and
- (d) provisions in *ICOBS* which implemented articles 1(4), 17, 18, 19, 20, 23, and 24 of the *IDD* (see ■ *ICOBS 2.2.2R* (communication to customers and financial promotions), ■ *ICOBS 2.2.2AR* (marketing communications), ■ *ICOBS 2.5.-1R* (the customer's best interests rule), ■ *ICOBS 2.6* (Distribution of connected contracts through exempt persons), ■ *ICOBS 4.1* (Information about the firm, its services and remuneration), ■ *ICOBS 4.1A* (Means of communicating to customers), ■ *ICOBS 4.3* (remuneration disclosure), ■ *ICOBS 5.2* (Demands and needs), ■ *ICOBS 5.3.3R* (Advice on the basis of a fair analysis), ■ *ICOBS 5.3.4R* (Personalised explanation), ■ *ICOBS 6A.1.4R* (Ensuring the customer can make an informed decision) and ■ *ICOBS 6A.3* (Cross-selling)), except to the extent that the *firm* is subject to equivalent *rules* of its *designated professional body* which have been approved by the *FCA*.

(2) [deleted]