

**CONDUCT OF BUSINESS SOURCEBOOK (AMENDMENT NO 16)
INSTRUMENT 2004**

Powers exercised

- A. The Financial Services Authority makes this instrument in the exercise of the powers listed in Schedule 4 to the Conduct of Business sourcebook.
- B. The rule-making powers listed in that Schedule are specified for the purpose of section 153(2) of the Financial Services and Markets Act 2000 (Rule-making instruments).

Commencement

- C. This instrument comes into force as follows:
 - (1) Annex A comes into force on 1 April 2004;
 - (2) Annex B comes into force on 1 May 2004.

Amendments to the Conduct of Business sourcebook (COB)

- D. COB is amended in accordance with Annexes A and B to this instrument.

Citation

- E. This instrument may be cited as the Conduct of Business Sourcebook (Amendment No 16) Instrument 2004.

By order of the Board
18 March 2004

Amended by Addendum
19 October 2004

Annex A

Amendments to the Conduct of Business sourcebook coming into force on 1 April 2004

In this Annex, underlining indicates new text and striking through indicates deleted text.

2 Table COB TR 1

(1)	(2)	(3)	(4)	(5)	(6)
	Material to which the transitional provision applies: The COB provisions in Table COB TR 2 with the labels indicated		Transitional provision	Transitional provision: dates in force	Handbook provision: coming into force
1.0	Extra time provisions				
1.1	<i>ETPI</i>	R	<p>Transitional Relief (2) ...</p> <p>(g) ... and stakeholder pensions);</p> <p><u>(h) (from 1 April 2004) COB 6.1.1A R (Application of COB 6.2.26R);</u></p> <p><u>(i) (from 1 April 2004) COB 6.2.26R (Requirement to offer a simplified prospectus for section 264 schemes); and</u></p> <p><u>(j) (from 1 April 2004 for a mini cash ISA for the tax year 2004/2005 and later tax years) COB 6.5.42R (14) (Information requirements for cash deposit ISAs, friendly society tax-exempt policies, traded life policies and broker funds).</u></p>		
...					

...

COB TR5 Miscellaneous Transitional Rules applying to all firms

(1)	(2) Material to which the transitional provision applies	(3)	(4) Transitional provision	(5) Transitional provision: dates in force	(6) Handbook provision: coming into force
12	...				
13	<u>COB 6.2.26R</u>	<u>R</u>	<p><u>Simplified prospectus requirements for section 264 schemes</u> <u>A firm may comply with COB 6.2.22R (Schemes) instead of COB 6.2.26R (Requirement to offer a simplified prospectus for section 264 schemes), if the EEA State in which the recognised scheme is established has not implemented the obligations of the UCITS Directive in relation to the simplified prospectus, until the earlier of:</u></p> <p><u>(1) the date that the relevant obligations of the UCITS Directive have been implemented in that EEA State; and</u></p> <p><u>(2) 30 September 2004 or, if later, the date when the relevant provisions of the UCITS Directive have been implemented in the UK.</u></p>	<u>From 1 April 2004 until 30 September 2004, or, if later, the date when the relevant provisions of the UCITS Directive have been implemented in the UK</u>	<u>1 April 2004</u>

...

6.1.1 R ...

Application of COB 6.2.26R

6.1.1A R COB 6.2.26R applies to a *firm* when it sells, *personally recommends* or arranges for the sale of a *UCITS scheme* which is a *recognised scheme* under section 264 of the *Act* (Schemes constituted in other EEA States) to a *client*.

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6.2.24 R ...

Exception from the requirement to provide key features for section 264 schemes

6.2.24A R When a *firm* sells, *personally recommends* or arranges for the sale of a *UCITS scheme* which is a *recognised scheme* under section 264 of the *Act* (Schemes constituted in other EEA States), then *COB 6.2.22R* does not apply.

6.2.25 R ...

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Requirement to offer a simplified prospectus for section 264 schemes

6.2.26 R (1) When a *firm* sells, *personally recommends* or arranges for the sale of a *UCITS scheme* which is a *recognised scheme* under section 264 of the *Act* (Schemes constituted in other EEA States) to a *client*, it must offer the *client* free of charge a copy of the *scheme's* most recent simplified prospectus before an application for the *scheme holding* is completed.

(2) The simplified prospectus must meet the requirements of the *UCITS Directive* necessary for the *scheme* to enjoy the rights conferred by the *Directive*.

(3) When the *scheme holding* is purchased on behalf of a *client* by an *investment manager* exercising discretion, the requirement in (1) will be satisfied by the *investment manager* being offered the simplified prospectus free of charge before the application form for a *scheme holding* is completed.

(4) A *firm* must not carry on any of the activities referred to in (1) in relation to a *UCITS scheme* which is a *recognised scheme* under section 264 of the *Act* unless it is satisfied on reasonable grounds that:

(a) a copy of the *scheme's* simplified prospectus has been filed with the *FSA* before any *units* in the *scheme* are marketed in the *UK*; and

(b) the information contained in the simplified prospectus is up to date and is not in need of revision;

and that any subsequent amendments thereto have been filed with the *FSA*.

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6.5.42 R If COB 6.4.13R (1) applies, for a *cash deposit ISA*, the *private customer* must be given the following minimum information (in accordance with COB 6.4.13R) in place of *key features*:

.....

(14) a warning that a *mini-* and *maxi-ISA* may not be opened in the same tax year and that, by opening a mini cash *ISA*, the *customer* will be limiting the amount of ~~tax-free savings~~ savings investment in equities that he can make through ISAs, if he does not already have a mini stocks and shares or insurance *ISA* (not applicable for a TESSA-only *ISA*).

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Annex B

Amendments to the Conduct of Business sourcebook coming into force on 1 May 2004

In this Annex, underlining indicates new text and striking through indicates deleted text.

Other regulations and guidelines

- 3.5.3 G *A firm communicating a financial promotion* may also be subject to other regulations and guidelines, outside the remit of the *FSA*, such as:
- (1) the codes adopted or issued from time to time by the Advertising Standards Authority, ~~the Independent Television commission and the Radio Authority~~ and Office of Communications (OFCOM);
 - ...
 - ...
 - (4) the ~~Telecommunications (Data Protection and Privacy) Regulations 1999 (SI 1999/2093)~~ Privacy and Electronic Communications (EC Directive) Regulations (SI 2003/2426).

...

- 6.5.14 G ~~A~~ The description which a *firm* is required to provide under 6.5.13R(2) might include information on the following under 'risk factors', when relevant- matters set out in the following non-exhaustive list:
- (1) ...
 - ...
 - (17) guarantees or other actual or potential liabilities, and their effect or potential effect, whether they are attributable to:
 - (a) the contractual terms and benefits of the *packaged product* which the *private customer* is or may be acquiring; or
 - (b) the contractual terms and benefits of any of the *product provider's* other products; or
 - (c) the business activities of the *product provider* or its *associates*;
- if they have or may have a material adverse effect on the returns to the *private customer* or are otherwise material to his decision to invest.

ADDENDUM

CONDUCT OF BUSINESS SOURCEBOOK (AMENDMENT NO 16) INSTRUMENT 2004

In this Addendum, underlining indicates new text and striking through indicates deleted text.

Annex A of this instrument is amended as follows:

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Application of COB 6.2.26R

- 6.1.12A R COB 6.2.26R applies to a *firm* when it sells, *personally recommends* or arranges for the sale of a *UCITS scheme* which is a recognised scheme under section 264 of the *Act* (Schemes constituted in other EEA States) to a *client*.

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