

**INSURANCE: CONDUCT OF BUSINESS SOURCEBOOK INSTRUMENT 2004****Powers exercised**

- A. The Financial Services Authority makes the rules and gives the guidance in this instrument in the exercise of the powers listed in Schedule 4 to the Annex to this instrument (Powers exercised).
- B. The rule-making powers listed in that schedule are specified for the purpose of section 153(2) of the Act (Rule-making instruments).

**Commencement**

- C. This instrument comes into force on 14 January 2005.

**Citation**

- D. (1) This instrument may be cited as the Insurance: Conduct of Business Sourcebook Instrument 2004.
  - (2) The Annex to this instrument (including its schedules) may be cited as the Insurance: Conduct of Business sourcebook (or ICOB).

By Order of the Board  
15 January 2004

## ICOB Transitional Rules

(1)	(2) Material to which the transitional provision applies	(3)	(4) Transitional provision	(5) Transitional provision: dates in force	(6) Handbook provision: coming into force
1	Every <i>rule</i> in <i>ICOB</i> unless the context otherwise requires and subject to any more specific transitional provision relating to the matter.	R	If the application of any provision in <i>ICOB</i> is dependent on the occurrence of a series of events, some of which occur before, and some of which occur after 14 January 2005, the provision applies with respect to the events that occur after 14 January 2005.	14 January 2005 - 15 July 2005	14 January 2005
2		G	For example, if a <i>firm</i> were to <i>advise</i> a <i>customer</i> before 14 January 2005 to <i>buy</i> a <i>non-investment insurance contract</i> , the <i>firm</i> would not be required to comply with the provisions relating to <i>personal recommendations</i> in <i>ICOB</i> 4 if the <i>customer</i> were to <i>buy</i> the <i>non-investment insurance contract</i> after 14 January 2005. However, if the <i>firm</i> were to repeat the <i>personal recommendation</i> to the <i>customer</i> after 14 January 2005, those provisions in <i>ICOB</i> 4 would apply.		
3		G	Where a <i>non-investment insurance contract</i> is concluded before 14 January 2005, the cancellation provisions (if any) applying at the date the cancellation period commences apply.		
4	<i>ICOB</i> 4.4	G	Where, before 14 January 2005, an <i>insurance intermediary</i> makes a <i>personal recommendation</i> to a <i>customer</i> of a specific <i>non-investment insurance contract</i> , or <i>arranges</i> for the <i>customer</i> to enter into a <i>non-investment insurance contract</i> , but the contract is concluded after that date, the <i>insurance intermediary</i> will need to provide the <i>customer</i> with a statement of demands and needs in accordance with <i>ICOB</i> 4.4.1R.		

(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
5	<i>ICOB 4.7.1R</i> and <i>ICOB 8.4.1R</i>	G	<i>ICOB 4.7.1R</i> and <i>ICOB 8.4.1R</i> apply equally to contracts sold before 14 January 2005 and which come up for <i>renewal</i> after that date as they do to contracts newly entered into after 14 January 2005. <i>Firms</i> may, if they wish, get consent for future <i>renewals</i> when the contract is first sold or at the next <i>renewal</i> .		
6	<b><i>ICOB 2.2.3R(1)</i></b> and <b><i>ICOB 3.8.1R(1)</i></b>	R	A <i>firm</i> may continue to use stationery and similar materials which refer to its membership of the General Insurance Standards Council (GISC) without being considered to be in breach of <b><i>ICOB 2.2.3R(1)</i></b> (clear, fair and not misleading communication) or <b><i>ICOB 3.8.1R(1)</i></b> (clear, fair and not misleading comparisons).	14 January 2005 - 15 July 2005	14 January 2005
7	<b><i>ICOB 5</i></b>	R	(1) <b><i>ICOB 5.3.1R</i></b> to <b><i>ICOB 5.3.8R</i></b> and <b><i>ICOB 5.4.1R</i></b> to <b><i>ICOB 5.4.9G</i></b> do not apply in respect of any <i>non-investment insurance contract</i> concluded before 14 January 2005, provided that the <i>firm</i> follows the requirements in <b><i>COB 6.8</i></b> that would have applied before 14 January 2005 to such a contract before the contract was entered into.	Indefinitely	14 January 2005

(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
			(2) If a <i>non-investment insurance contract</i> is concluded before 14 January 2005 and the <i>customer</i> has not previously received a <i>policy document</i> , the <i>insurer</i> or <i>insurance intermediary</i> (as the case may be) must ensure that the <i>customer</i> is provided with a copy of the <i>policy document</i> in good time prior to the commencement of any <i>renewal</i> of or mid-term change to the <i>policy</i> .		

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# ICOB 1

## Application and purpose

### 1.1 Application and purpose

#### Application

1.1.1 G *ICOB* applies to every *firm* as specified in the remainder of this chapter.

#### Purpose

- 1.1.2 G (1) The purpose of this chapter is to set out to whom, for what activities, and within what territorial limits the *rules, evidential provisions* and *guidance* in *ICOB* apply. The purpose of other chapters in *ICOB* is set out at the beginning of each chapter.
- (2) *ICOB* implements, in part, provisions contained in a number of EC directives:
- (a) the *Insurance Mediation Directive*, in respect of *non-investment insurance contracts*;
  - (b) the *Distance Marketing Directive*, in respect of *non-investment insurance contracts* and *distance non-investment mediation contracts*;
  - (c) the *Consolidated Life Directive*, in respect of cancellation rights and information requirements relating to *non-investment insurance contracts* which are *pure protection contracts*;
  - (d) the *Third Non-Life Directive*, in respect of information requirements relating to *general insurance contracts*; and
  - (e) the *Fourth Motor Insurance Directive*, in respect of *claims* made by an *EEA* resident arising from a motor accident in the *EEA* but outside his country of residence.
- (3) This chapter also provides *guidance* on the application of other parts of the *Handbook* to an *insurance intermediary* that carries on *insurance mediation activities* to which *ICOB* applies.

### 1.2 General application: who? what?

1.2.1 R Except as provided for in *ICOB* 1.2.8R to *ICOB* 1.2.16G, *ICOB* applies to:

- (1) **an insurance intermediary, including an insurer, when it carries on insurance mediation activities for a customer in relation to a non-investment insurance contract or enters into a distance non-investment mediation contract with a retail customer;**
- (2) **an insurer when acting as product provider in relation to a non-investment insurance contract;**
- (3) **a firm when it manages the underwriting capacity of a Lloyd's syndicate as a managing agent at Lloyd's, in relation to a non-investment insurance contract;**
- (4) **a firm which communicates or approves a non-investment financial promotion;**
- (5) **a motor vehicle liability insurer; and**
- (6) **the Society in relation to motor vehicle liability insurance business.**

- 1.2.2 G (1) The definition of *insurance intermediary* includes an *insurer* when the *insurer* is carrying on *insurance mediation activities*, for example when, through its sales force, it *advises on* or *arranges* its own *non-investment insurance contracts* or those of another *insurer*.
- (2) In relation to (1), *insurers* should note that *IPRU(INS) 1.3R* prevents an *insurer* from carrying on an *insurance mediation activity* in respect of a third party's products, unless the *insurer* can show that there is a natural fit or necessary connection between the *insurer's* insurance business and the third party's products.

- 1.2.3 R (1) **In the case of a non-investment insurance contract that is underwritten at Lloyd's by its members, the firm responsible for the management of the insurance business of the member (that is, the managing agent) discharges the obligations of the product provider, which would otherwise be discharged by an insurer. References to managing agents in ICOB therefore relate to their functions in managing the obligations of the member as product provider.**
- (2) **Where there is a chain of insurance intermediaries between the insurer and the customer, ICOB applies only to the insurance intermediary in contact with the customer.**

### **Summary of the application of the chapters of ICOB**

- 1.2.4 G A table summarising the application of the various chapters of *ICOB* to *firms* is set out in *ICOB 1 Ann 1G*. For the detailed application of each chapter, see the application *rule* at the start of that chapter.



- 1.2.5 G All chapters of *ICOB* are relevant to a *firm* that deals with a *retail customer*. Certain chapters of *ICOB* apply in part only or not at all if a *firm* is dealing with a *commercial customer*. *Guidance* on the term *retail customer* is set out in *ICOB* 1.7.3G(1).

**Customer to be treated as retail customer when status uncertain**

- 1.2.6 R **If it is not clear in a particular case whether a *customer* is a *retail customer* or a *commercial customer*, an *insurance intermediary* or an *insurer*, in relation to a *non-investment insurance contract* or a *distance non-investment mediation contract*, must comply with *ICOB* as if the *customer* were a *retail customer*.**

**Application to insurers where the intermediary is unauthorised or where the sale involves a connected contract**

- 1.2.7 G (1) An *insurer* must comply with the following *ICOB* requirements, which are applicable to *insurers* as *product providers*, if its *non-investment insurance contracts* are sold through an intermediary to whom *ICOB* does not apply (because the intermediary is not a *firm*) or if its *non-investment insurance contracts* are *connected contracts*:
- (a) *ICOB* 2 (General rules (including unfair inducements));
  - (b) *ICOB* 3 (Financial promotion) if the *insurer communicates* or *approves a financial promotion*;
  - (c) *ICOB* 4.7 (Unsolicited services);
  - (d) *ICOB* 5 (Product disclosure) as explained in *ICOB* 5.2;
  - (e) *ICOB* 6 (Cancellation) except for *general insurance contracts* and *connected contracts* that are not *distance contracts* (*ICOB* 6.1.5R(5) and (6)); and
  - (f) *ICOB* 7 (Claims handling).
- (2) The circumstances in (1) may occur where article 72B of the *Regulated Activities Order* excludes certain *regulated activities* from regulation when carried on by providers of non-motor goods and services related to travel in relation to *connected contracts*. *Guidance* on the conditions that need to be satisfied by *connected contracts* is contained in *AUTH* App 5.11.13G to *AUTH* App 5.11.15G.

### Large risks within the EEA

- 1.2.8 R Where an *insurance intermediary* carries on *insurance mediation activities* for *commercial customers* in relation to *contracts of large risks* where the risk is located within the *European Economic Area*, the only provisions of *ICOB* that apply are:
- (1) *ICOB 5.4.5R* (provision of a *policy document to commercial customers*);
  - (2) *ICOB 5.4.8R* and *ICOB 5.4.9G* (Group policies sold to commercial customers); and
  - (3) *ICOB 7.6* (Motor vehicle liability insurers: claims representatives).
- 1.2.9 G Other parts of the *Handbook* apply where relevant to an *insurance intermediary* within *ICOB 1.2.8R*, including *Principle 7* (Communications with customers) instead of *ICOB 2.2.3R*, which restates *Principle 7* in slightly amended form.

### Authorised professional firms

- 1.2.10 R *ICOB* does not apply to an *authorised professional firm* with respect to its *non-mainstream regulated activities* except for:
- (1) *ICOB 2.2.3R* to *ICOB 2.2.7G* (Clear, fair and not misleading communication);
  - (2) *ICOB 3* (Financial promotion);
  - (3) *ICOB 4.2.2R* in relation to the information for *customers* in table *ICOB 4.2.8R* items numbered (8), (9) and note 4 covering complaints and compensation; and
  - (4) those sections in *ICOB* which implement articles 12 and 13 of the *IMD*, unless:
    - (a) the *designated professional body* of the *firm* has made rules which implement articles 12 and 13 of the *IMD*;
    - (b) those rules have been approved by the *FSA* under section 332(5) of the *Act*; and
    - (c) the *firm* is subject to the rules in the form in which they were approved.
- 1.2.11 G (1) Compliance by an *authorised professional firm* with provisions of the *Distance Marketing Regulations* is dealt with in *PROF 5.4*.

- (2) The effect of *ICOB* 1.2.10R(4) is that if the relevant *designated professional body* of an *authorised professional firm* does not make rules implementing articles 12 and 13 of the *IMD* applicable to *authorised professional firms* those *authorised professional firms* will need to comply with those sections of *ICOB* which implement articles 12 and 13 of the *IMD*, namely *ICOB* 4.1 to *ICOB* 4.4 and *ICOB* 4.8.

#### **Service companies**

**1.2.12 R** *ICOB* does not apply to a *service company*, except for:

- (1) *ICOB* 1.4 (Application in respect of electronic commerce activities and communications);
- (2) *ICOB* 3 (Financial promotion); and
- (3) any provision of *ICOB* incorporated into (1) or (2) by reference.

#### **What contracts?**

##### **Reinsurance contracts**

**1.2.13 R** *ICOB* does not apply if the activities within *ICOB* 1.2.1R relate to a *reinsurance contract*.

##### **Contracts of large risks outside the EEA**

**1.2.14 R** *ICOB* does not apply to the mediation of *contracts of large risks* where the risk is located outside the *European Economic Area*.

##### **Group policies**

- 1.2.15 R**
- (1) If a *non-investment insurance contract* is a *group policy*, *ICOB* (except for *ICOB* 7 (Claims handling)) does not apply with respect to a *person* under such a *policy* who is not the legal holder of the *policy*, subject to (2).
  - (2) If a *firm* makes a *personal recommendation* that a *person* becomes a *policyholder* member of a *group policy*, *ICOB* 4.3 and *ICOB* 4.4 apply to that *personal recommendation* as if the contract were being concluded.
- 1.2.16 G** (1) All chapters of *ICOB* are relevant to a *firm* that deals with a *retail customer* unless *ICOB* 1.2.15R applies. Certain chapters of *ICOB* apply in part only or not at all if a *firm* is dealing with a *commercial customer*.

- (2) In *ICOB* a *customer* is a *policyholder* or a prospective *policyholder*. A *policyholder* includes anyone who, upon the occurrence of the contingency insured against, could expect to have a *claim*, made by him directly to the *insurance undertaking*, accepted by the *insurance undertaking*. *Policyholder* includes a member of a *group policy* who did not conclude the *group policy* with the *insurance undertaking* but who is entitled under the terms of that *policy* to make a *claim* on the *insurance undertaking*. This would include a dependant of a *policyholder* member of a *group policy* if that dependant has a direct right to *claim*. Where such a *person* does not conclude a *group policy* only limited provisions in *ICOB* will apply to him as specified in *ICOB* 1.2.15R.
- (3) A *person* whose right or interest in a *contract of insurance* that is a *group policy* does not entitle him to make a *claim* directly to an *insurance undertaking* (for example, because he is required to make his *claim* to an employer or trustees) is not a *customer*.
- (4) The *rule* at *ICOB* 5.4.8R provides for *commercial customers* who conclude *group policies* to be given a *policy summary* and to be informed that they should give that *policy summary* to each *policyholder*.
- (5) *ICOB* 1.2.15R applies regardless of how a *person* becomes a *policyholder* under a *group policy*, for example, automatically as part of a contract of employment, or voluntarily as part of a flexible benefits package.

### 1.3 General application: where?

#### UK establishments – Territorial scope of *ICOB* 2 to *ICOB* 8

- 1.3.1 R Except as set out in this section, *ICOB* 2 to *ICOB* 8 apply in relation to activities carried on from an establishment maintained by the *firm* (or its *appointed representative*) in the *United Kingdom* only.
- 1.3.2 R In addition to the situation in *ICOB* 1.3.1R, *ICOB* 4.2.19R (Overseas business for UK retail customers) applies wherever the activity is conducted.

#### Financial promotions: Territorial scope of *ICOB* 3

- 1.3.3 R Notwithstanding *ICOB* 1.3.1R, the territorial scope of *ICOB* 3 (Financial promotion) is set out in *ICOB* 3.4 (Application: where?).

#### General insurance contracts: Territorial scope of *ICOB* 5

- 1.3.4 R In addition to the situation in *ICOB* 1.3.1R, but subject to *ICOB* 1.3.6R, *ICOB* 5.5.20R(1) to (3) (Directive-required information) and the other *rules* in *ICOB* 5 (in so far as they relate to such information) apply to *firms* in relation to business in respect of *general insurance contracts* if the *State of the risk* is the *United Kingdom*.

**Pure protection contracts: Territorial scope of ICOB 5 and ICOB 6**

- 1.3.5 R In addition to the situation in *ICOB 1.3.1R*, but subject to *ICOB 1.3.6R*, *ICOB 5.5.20R(4)* to (15) and (22) (Directive-required information), the other rules in *ICOB 5* (in so far as they relate to such information), and *ICOB 6* apply to *firms* in relation to business in respect of *non-investment insurance contracts* which are *pure protection contracts* if the *habitual residence* of the customer is in the *United Kingdom*.

**Exception to extended territorial scope of ICOB 5 and ICOB 6 for distance contracts provided from other EEA States**

- 1.3.6 R The rules in *ICOB 1.3.4R* and *ICOB 1.3.5R* do not apply with respect to an activity exclusively concerning a *distance contract* with a *retail customer*, if the following conditions are satisfied:
- (1) the *firm* carries on the activity from an establishment maintained by the *firm* in an *EEA State* other than the *United Kingdom*;
  - (2) either that *EEA State*:
    - (a) has implemented the *DMD*; or
    - (b) has obligations in its domestic law corresponding to those provided for by the *DMD*;and, in either case, with the result that the obligations provided for by the *DMD* (or corresponding obligations) are applied by that *EEA State* when the *firm* carries on that activity; and
  - (3) the *firm* is a national of an *EEA State* or a company or firm mentioned in article 48 of the *Treaty*.

- 1.3.7 G The restriction in *ICOB 1.3.6R* reflects the fact that the provisions of the *Distance Marketing Directive* will be for the country of origin of the *insurance intermediary* to enforce. This is the state of the *firm's* establishment (head office or *branch*) carrying on the *insurance mediation activity*.

- 1.3.8 R The territorial scope of this sourcebook is modified by *ECO* in relation to *electronic commerce activities* and *electronic commerce communications*.

- 1.3.9 G *ICOB 1.4* contains *guidance* on how this sourcebook is modified by *ECO*.

**1.4 Application in respect of electronic commerce activities and communications**

**Application and purpose**

- 1.4.1 G (1) *ICOB 1.4* applies to a *firm*:

- (a) which is an *electronic commerce activity provider*, that is, any *firm* which carries on an *electronic commerce activity*;
  - (b) in relation to a *financial promotion* which is an *electronic commerce communication*;
  - (c) which concludes *distance contracts*, the making or performance of which constitutes, or is part of, *insurance mediation activity* in relation to *non-investment insurance contracts*.
- (2) Paragraph (1) means that *firms* need to be aware of this section whenever they are providing a service which:
- (a) is normally provided for remuneration;
  - (b) is provided at a distance;
  - (c) is so provided by means of electronic equipment for the processing (including digital compression) and storage of data;
  - (d) is so provided at the individual request of a recipient of the service.

**Modification of ICOB resulting from the E-Commerce Directive**

- 1.4.2 G The modifications made to *ICOB* resulting from the introduction of the *E-Commerce Directive* are of three kinds:
- (1) *ECO 1.1.6R* modifies *ICOB* so that a *firm* providing an *electronic commerce activity* from an establishment elsewhere in the *EEA* to a recipient who is in the *United Kingdom* (an *incoming ECA provider*) is not required to comply with any provisions of *ICOB*.
  - (2) *ECO 2*:
    - (a) modifies *ICOB* so that, in relation to a *financial promotion* which is an *outgoing electronic commerce communication*, *ICOB 3* has an extended application to cover the whole of the *EEA*; and
    - (b) obliges such a *firm*, in providing an *electronic commerce activity* within the *EEA*, to comply with the minimum information and other requirements in the *E-Commerce Directive*;

otherwise *ICOB* applies in the usual way to such a *firm*.
  - (3) *ECO 3* applies to a *firm* providing an *electronic commerce activity* from an establishment in the *United Kingdom* to a recipient who is in the *United Kingdom* or in a non-*EEA State* (a *domestic ECA provider*). Such a *firm* has to comply with *ICOB* in the usual way and so the requirements in *ECO 3* are in addition to *ICOB*. *ECO 3* sets out the minimum information and other requirements in the *E-Commerce Directive*.

## **1.5 Summary of Handbook provisions for insurance intermediaries**

- 1.5.1 G A table summarising the application of the *Handbook* to *firms* carrying on *insurance mediation activities* is set out in *ICOB* 1 Ann 2G. For the detailed application of each module, see the application provision at the start of the module, or its chapter or section.

## **1.6 Application to appointed representatives**

- 1.6.1 G (1) Although *ICOB* does not apply directly to a *firm's appointed representatives*, a *firm* will always be responsible for the acts and omissions of its *appointed representatives* in carrying on business for which the *firm* has accepted responsibility (section 39(3) of the *Act*). In determining whether a *firm* has complied with any provision of *ICOB*, anything done or omitted by a *firm's appointed representative* (when acting as such) will be treated as having been done or omitted by the *firm* (section 39(4) of the *Act*).
- (2) *ICOB* 8.5 (Cancellation requirements) does not apply to a *distance non-investment mediation contract* entered into by an *appointed representative* itself to provide *insurance mediation activity* services to a *retail customer*. Regulations 8 (Right to cancel) to 12 (Payment for services provided before cancellation) of the *Distance Marketing Regulations* apply instead (see regulation 4(5)). See also *ICOB* 1.7.3G(2)(e), (f) and (g) (*guidance* on when a *distance non-investment mediation contract* is concluded).
- (3) *Firms* should refer to *SUP* 12 (Appointed representatives), which sets out requirements which apply to *firms* using *appointed representatives*.

## **1.7 Guidance on application of the Distance Marketing Regulations and expressions derived from the Distance Marketing Directive**

- 1.7.1 G The purpose of *ICOB* 1.7.2G and *ICOB* 1.7.3G is to provide:
- (1) *guidance* on the application of parts of the *Distance Marketing Regulations* for *non-investment insurance contracts* and *distance non-investment mediation contracts*; and
- (2) *guidance* on expressions in *ICOB* derived from the *Distance Marketing Directive*.

### **Application of parts of the Distance Marketing Regulations**

- 1.7.2 G *ICOB* implements most of the *Distance Marketing Directive* for *non-investment insurance contracts* that are *distance contracts* and for *distance non-investment mediation contracts*. However, certain aspects of the *Distance Marketing Directive* are implemented by provisions of the *Distance Marketing Regulations*, which apply in addition to *ICOB*, in particular:
- (1) Regulation 11 (Automatic cancellation of an attached distance contract); and

- (2) Regulation 13 (Payment cards).

**Guidance on expressions derived from the Distance Marketing Directive**

1.7.3 G *ICOB* adopts certain expressions derived from the *Distance Marketing Directive*, as follows:

- (1) Retail customer

(a) The *Distance Marketing Directive* applies to 'any natural person who... is acting for purposes which are outside his trade, business or profession'. In *ICOB* the term '*retail customer*' has been adopted. In practice, private individuals may act in a number of capacities. In the *FSA's* view, a *customer* will be a *commercial customer* and not a *retail customer* if he is an individual acting, for example:

- (i) as trustee of a trust such as a housing or NHS trust;
- (ii) as member of the governing body of a club or other unincorporated association such as a trade body and a student union;
- (iii) as pension trustee;
- (iv) as a *person* taking out, or who has taken out, a *non-investment insurance contract* relating to property bought under a buy-to-let mortgage;
- (v) as *partner* in a *partnership* when taking out insurance for purposes wholly related to his profession.

(b) Examples of individuals who would be regarded as *retail customers* include:

- (i) personal representatives, including executors, unless they are acting in a professional capacity, for example, a solicitor acting as executor;
- (ii) private individuals acting in personal or other family circumstances, for example, as trustee of a family trust; and
- (iii) a *customer* who *buys* a *non-investment insurance contract* that covers him in both a private and business capacity, for example motor insurance for a driving instructor which also provides cover for social and domestic use, or insurance taken out by a sole trader which provides cover for him in both a private and a business capacity.



(2) Distance contract

- (a) To be a *distance contract*, a contract must be concluded under an 'organised distance sales or service-provision scheme' run by the contractual provider of the service who, for the purpose of the contract, makes exclusive use (directly or through an *insurance intermediary*) of one or more *means of distance communication* up to and including the time at which the contract is concluded. So:
- (i) the *insurance intermediary* must have put in place facilities designed to enable a *retail customer* to deal with it exclusively at a distance, such as facilities for a *retail customer* to deal with it purely by *post*, telephone, fax or the Internet. If an *insurance intermediary* normally operates face-to-face and has no facilities in place enabling a *retail customer* to deal with it customarily by distance means, the *DMD* will not apply. A one-off transaction effected exclusively by distance means to meet a particular contingency or emergency will not be a *distance contract*; and
  - (ii) there must have been no simultaneous physical presence of the *insurance intermediary* and the *retail customer* throughout the offer, negotiation and conclusion of the contract. So, for example, contracts offered, negotiated and concluded over the Internet, through a telemarketing operation or by *post*, will normally be *distance contracts*. A *retail customer* may visit the local office of the *insurance intermediary* in the course of the offer, negotiation or conclusion of a contract with that *insurance intermediary*. Wherever, in the literal sense, there has been "simultaneous physical presence" of the *insurance intermediary* and the *retail customer* at the time of such a visit, any ensuing contract will not be a *distance contract*.
- (b) The mere fact that an intermediary (acting for the *insurance undertaking* or for the *retail customer*) is involved, does not make the sale of a financial product or service a *distance contract*.

(3) Conclusion of a contract

- (a) A contract is concluded when an offer to be bound by the *non-investment insurance contract* has been accepted. An offer in the course of negotiations (for example, an offer by an *insurance undertaking* to consider an application) is not an offer to be bound, but is part of a pre-contractual negotiation. A *customer* will provide all the information an *insurance undertaking* needs to decide whether to accept a risk and to calculate the *premium*. The *customer* may do this orally, in writing or by completing a proposal form. The response by an *insurance undertaking*, giving a quotation to the *customer* specifying the *premium* and the terms, is likely to amount to an offer of the terms on which the *insurance undertaking* will insure the risk. Agreement by the *customer* to those terms is likely to be an acceptance which concludes the contract. In other cases where the *insurance undertaking* requires a signed proposal form (for example, some *pure protection contracts*), the proposal form may amount to an offer by the *customer* on which the *insurance undertaking* decides whether to insure the risk and in such cases the *insurance undertaking's* response is likely to be the acceptance.
  - (b) Where the parties to a contract agree that insurance cover should commence before all the terms and conditions have been agreed, the *customer* should be provided with information required by *rules* in *ICOB* to be provided before conclusion of the contract to the extent that agreement has been reached.
- (4) Distance non-investment mediation contracts
- (a) Some of the services which some *insurance intermediaries* provide will themselves fall within the scope of the *Distance Marketing Directive*. *ICOB* 8 applies to an *insurance intermediary* which enters into a *distance non-investment mediation contract* with a *retail customer*. The *FSA* expects the requirements in *ICOB* 8 to be relevant in a small minority of cases. *ICOB* 8 will not apply in the typical case where an *insurance intermediary* sells an *insurance contract* to a *retail customer* on a one-off basis, even if the *insurance intermediary* is involved in the *renewal* of that contract and handling *claims* under it. *ICOB* 8 will also not apply if an *insurance intermediary*, in its terms of business, makes clear that it does not, in conducting *insurance mediation activities*, act contractually on behalf of, or for, its *retail customer*, in which case the *insurance intermediary* can proceed on the basis that no *distance non-investment mediation contract* will arise.
  - (b) *ICOB* 8 is only relevant if both of the following conditions are satisfied:
    - (i) an *insurance intermediary* concludes a *distance contract* with a *retail customer* covering its *insurance mediation activities* which is additional to any *insurance contract* which it is marketing;

- (ii) the *insurance intermediary's distance contract* is concluded other than merely as a stage in the *effecting* or *carrying out* of an *insurance contract* by the *firm* or another *person*, in other words it has some continuity independent of an *insurance contract*, as opposed, for example, to being concluded as part of marketing an *insurance contract*.
- (c) An example of a *distance non-investment mediation contract* would be a *distance contract* under which an *insurance intermediary* agrees to provide *advice* on a *retail customer's* insurance needs as and when they arise.

## ICOB 1: Application and purpose

### Annex 1G

#### Summary of the application of the chapters of ICOB

1 This annex belongs to *ICOB* 1.2.4G and summarises the application of the various chapters of *ICOB* to *firms* that carry on *insurance mediation activities*. For the detailed application of each chapter, see the application *rule* at the start of that chapter.

2 Table

Chapter	Who does the chapter apply to?
<i>ICOB</i> 2 (General rules, including unfair inducements)	(1) <i>ICOB</i> 2 applies to:  (a) an <i>insurer</i> ;  (b) an <i>insurance intermediary</i> ;  (c) a <i>managing agent</i> .  (2) <i>ICOB</i> 2.3, 2.4, 2.5, 2.6, 2.7 and 2.8 apply to a <i>firm</i> that <i>communicates</i> or <i>approves</i> a <i>non-investment financial promotion</i> .
<i>ICOB</i> 3 (Financial promotion)	<i>ICOB</i> 3 applies to every <i>firm</i> which <i>communicates</i> or <i>approves</i> a <i>non-investment financial promotion</i> .
<i>ICOB</i> 4 (Advising and selling standards)	(1) <i>ICOB</i> 4 applies to an <i>insurance intermediary</i> .  (2) <i>ICOB</i> 4.7 (Unsolicited services) applies to:  (a) an <i>insurer</i> ;  (b) a <i>managing agent</i> .
<i>ICOB</i> 5 (Product disclosure)	<i>ICOB</i> 5 applies to:  (1) an <i>insurer</i> ;  (2) an <i>insurance intermediary</i> other than when <i>introducing</i> ;  (3) a <i>managing agent</i> .
<i>ICOB</i> 6 (Cancellation)	<i>ICOB</i> 6 applies to:  (1) an <i>insurer</i> ;  (2) a <i>managing agent</i> .
<i>ICOB</i> 7 (Claims handling)	(1) <i>ICOB</i> 7, except for <i>ICOB</i> 7.6, applies to:  (a) an <i>insurer</i> ;

Chapter	Who does the chapter apply to?
	<p>(b) an <i>insurance intermediary</i>;</p> <p>(c) a <i>managing agent</i>.</p> <p>(2) <i>ICOB 7.6</i> applies in respect of <i>motor vehicle liability insurance business</i> to:</p> <p>(a) a <i>motor vehicle liability insurer</i>;</p> <p>(b) the <i>Society</i>.</p>
<p><i>ICOB 8</i> (Distance non-investment mediation contracts with retail customers)</p>	<p><i>ICOB 8</i> applies to an <i>insurance intermediary</i>.</p>

## ICOB 1: Application and purpose

### Annex 2G

#### Summary of Handbook provisions for insurance intermediaries

- 1 This table belongs to *ICOB 1.5.1G*.
- 2 This table sets out the provisions in the *Handbook* that apply to *firms* which are *insurance intermediaries* where they:

- (1) carry on *insurance mediation activities* in relation to a *non-investment insurance contract*; or
- (2) *communicate* or *approve* a *non-investment financial promotion*.

It also sets out the provisions in the *Handbook* that apply to *approved persons*.

For convenience, the former activity is referred to in the table as (1) and the latter as (2).

- 3 Table

	Module	Application
High Level Standards	General provisions, <i>GEN</i>	Applies (at least in part) in respect of (1) and (2).
	Principles for Businesses, <i>PRIN</i>	
	Threshold Conditions, <i>COND</i>	
	Statements of Principle and Code of Practice for Approved Persons, <i>APER</i>	Applies to every <i>approved person</i> who performs a <i>controlled function</i> under an <i>arrangement</i> entered into by an <i>insurance intermediary</i> when doing either (1) or (2).
	The Fit and Proper test for Approved Persons, <i>FIT</i>	Applies to an <i>insurance intermediary</i> in respect of any application that it makes for the approval of a <i>person</i> to perform a <i>controlled function</i> , and in respect of the continuing approval of that <i>person</i> .
	Senior Management Arrangements, Systems and Controls, <i>SYSC</i>	Applies in respect of (1) and (2).

	<b>Module</b>	<b>Application</b>
Business Standards	Interim Prudential sourcebooks	
	<i>IPRU (BANK)</i>	Applies in respect of (1) where the <i>insurance intermediary</i> is also a <i>bank</i> .
	<i>IPRU (BSOC)</i>	Applies in respect of (1) where the <i>insurance intermediary</i> is also a <i>building society</i> .
	<i>IPRU (FSOC)</i>	Applies in respect of (1) where the <i>insurance intermediary</i> is also a <i>friendly society</i> .
	<i>IPRU (INS)</i>	Applies in respect of (1) where the <i>insurance intermediary</i> is also an <i>insurer</i> .
	<i>IPRU(INV)</i>	Applies in respect of (1) where the <i>insurance intermediary</i> is also an <i>investment firm</i> .
	Prudential sourcebook	
	<i>PRU 9.1 – PRU 9.3</i>	Applies in respect of (1).
	<i>PRU 9.4</i>	Applies in respect of (1) where the <i>insurance intermediary</i> is also an <i>insurer</i> or a <i>mortgage lender</i> .
	Market conduct, <i>MAR</i>	Does not apply to a <i>firm</i> when doing either (1) or (2). However, certain chapters of <i>MAR</i> will apply if: <ul style="list-style-type: none"> <li>(a) the <i>insurance intermediary</i> also engages in <i>behaviour</i> in relation to <i>qualifying investments</i> traded on <i>prescribed markets</i> - then <i>MAR 1</i> applies;</li> <li>(b) the <i>insurance intermediary</i> undertakes or is concerned with <i>offers of securities</i> that may involve <i>price stabilising</i> activity - then <i>MAR 2</i> applies;</li> <li>(c) the <i>insurance intermediary</i> carries on <i>inter-professional business</i> - then <i>MAR 3</i> applies;</li> <li>(d) the <i>insurance intermediary</i> carries on <i>designated investment business</i> - then <i>MAR 4</i> applies.</li> </ul>

	<b>Module</b>	<b>Application</b>
	Conduct of Business sourcebook, <i>COB</i>	Does not apply to an <i>insurance intermediary</i> when doing (1) or (2) unless it opts to provide <i>key features</i> instead of a <i>policy summary</i> (see <i>ICOB 5.5.4R</i> ). However, <i>COB</i> may apply to an <i>insurance intermediary</i> if it also carries on any other <i>regulated activity</i> or <i>communicates</i> or <i>approves a financial promotion</i> not relating to <i>non-investment insurance contracts</i> or <i>qualifying credit</i> .
	Mortgages: Conduct of Business sourcebook, <i>MCOB</i>	Does not apply to an <i>insurance intermediary</i> when doing (1) or (2). However, <i>MCOB</i> may apply to an <i>insurance intermediary</i> if it is also a <i>mortgage lender</i> or carries on <i>mortgage mediation activities</i> .
	Training and Competence sourcebook, <i>TC</i>	<i>TC 1</i> applies when a <i>firm</i> is doing (1) or (2).  <i>TC 2</i> applies only in circumstances where an <i>insurance intermediary</i> has <i>employees advising on non-investment insurance contracts</i> with or for a <i>retail customer</i> as listed in <i>TC 2.1.4R</i> .
	Money Laundering sourcebook, <i>ML</i>	Does not apply when the <i>firm</i> is doing (1) or (2). However <i>ML</i> will apply to an <i>insurance intermediary</i> if it also carries on <i>relevant regulated activities</i> as defined in <i>ML 1.1.4R</i> .
	Client Assets sourcebook, <i>CASS</i>	<i>CASS 5</i> applies when a <i>firm</i> is doing (1) if it receives and holds <i>money</i> from or on behalf of a <i>client</i> , or receives and holds <i>money</i> as agent for an <i>insurance undertaking</i> .



	<b>Module</b>	<b>Application</b>
Regulatory processes	Authorisation manual, <i>AUTH</i>	<p>Applies to:</p> <p>(1) a <i>person</i>, other than an <i>authorised person</i>, considering carrying on the <i>regulated activities</i> that include <i>insurance mediation activities</i> in the <i>United Kingdom</i>, and who requires <i>guidance</i> on whether <i>authorisation</i> is required and, if so, how to apply to the <i>FSA</i> for <i>Part IV permission</i>;</p> <p>(2) an <i>EEA firm</i> or a <i>Treaty firm</i> that wishes to establish a <i>branch</i> or provide <i>cross border services</i> into the <i>United Kingdom</i> in relation to <i>insurance mediation activities</i> or wishes to apply for a <i>top-up permission</i> that includes <i>insurance mediation activities</i>;</p> <p>(3) a <i>person</i> wishing to obtain approval for <i>persons</i> to perform <i>controlled functions</i> in relation to <i>insurance mediation activities</i>; and</p> <p>(4) a <i>person</i> wishing to understand how the <i>FSA</i> will use its powers in relation to <i>authorisation</i> to determine applications.</p>
	Supervision manual, <i>SUP</i>	<p>The following chapters of <i>SUP</i> apply to an <i>insurance intermediary</i> when doing (1) or (2): 1, 2, 3, 5, 6, 7, 8, 9, 10, 11, 12, 15, 16, 18 (but only if the <i>insurance intermediary</i> is an <i>insurer</i>), 20.</p> <p>The following chapters of <i>SUP</i> do not apply to an <i>insurance intermediary</i> when doing (1) or (2): 4, 13, 14, 17, 18 (unless the <i>insurance intermediary</i> is an <i>insurer</i>), 19.</p>
	Enforcement manual, <i>ENF</i>	Applies to an <i>insurance intermediary</i> when doing (1) or (2).
	Decision making manual, <i>DEC</i>	Applies to an <i>insurance intermediary</i> when doing (1) or (2).
Redress	Dispute resolution: Complaints, <i>DISP</i>	Applies to an <i>insurance intermediary</i> when doing (1) or (2).
	Compensation, <i>COMP</i>	An <i>insurance intermediary</i> , as a <i>participant firm</i> for the purposes of <i>COMP</i> in respect of <i>insurance mediation activities</i> relating to <i>non-investment insurance contracts</i> , is liable to contribute to a levy raised by the <i>FSCS</i> for the purposes of paying compensation.

	<b>Module</b>	<b>Application</b>
Specialist sourcebooks	Credit Unions, <i>CRED</i>	Applies to an <i>insurance intermediary</i> doing (1) or (2) where it is also a <i>credit union</i> .
	Electronic Commerce Directive, <i>ECO</i>	Applies to an <i>insurance intermediary</i> doing (1) or (2).
	Electronic money, <i>ELM</i>	Does not apply to an <i>insurance intermediary</i> doing (1).  May apply to an <i>insurance intermediary</i> doing (2).
	Professional firms, <i>PROF</i>	Applies to an <i>insurance intermediary</i> doing (1) or (2) where it is also a <i>professional firm</i> .
	Lloyd's sourcebook, <i>LLD</i>	Applies only to the <i>Society</i> but some requirements are relevant to an <i>insurance intermediary</i> doing (1) or (2) where it is also an <i>underwriting agent</i> .
	Collective Investment Schemes sourcebook, <i>CIS</i>	Applies to an <i>insurance intermediary</i> doing (1) or (2) where it is also an <i>operator</i> or a <i>depository</i> of an <i>AUT</i> , <i>ICVC</i> or certain other <i>collective investment schemes</i> .
	Recognised Investment Exchanges and Recognised Clearing Houses, <i>REC</i>	Does not apply.

## ICOB 2

### General rules (including unfair inducements)

#### 2.1 Application: who?

##### 2.1.1 R (1) This chapter applies to:

- (a) an *insurer*;
- (b) an *insurance intermediary*;
- (c) a *managing agent*.

(2) *ICOB 2.3, 2.4, 2.5, 2.6, 2.7 and 2.8 apply to a firm that communicates or approves a non-investment financial promotion to which ICOB 3 applies.*

#### 2.2 Communication

2.2.1 G The purpose of *ICOB 2.2.3R* is to restate, in slightly amended form, and as a separate *rule*, the part of *Principle 7* (Communications with customers) that relates to communication of information. This enables a *customer*, who is a *private person*, to bring an action for damages under section 150 of the *Act* (Contravention of rules) to recover loss resulting from a *firm* referred to in *ICOB 2.1.1R* communicating information in the course of *regulated activities* in a way that is not clear or fair or that is misleading.

##### 'Key facts' logo

2.2.2 R A *firm* must not use the key facts logo unless it is required by a *rule*.

##### Clear, fair and not misleading communication

2.2.3 R (1) When a *firm* communicates information to a *customer*, it must take reasonable steps to communicate in a way that is clear, fair and not misleading.

(2) Paragraph (1) does not apply to a *firm* when it *communicates a non-investment financial promotion* in circumstances in which *ICOB 3 (Financial promotion)* applies to the *firm*.

2.2.4 G When considering how to comply with the requirements of *ICOB 2.2.3R*, a *firm* should have regard to the *customer's* knowledge of the *contract of insurance* to which the information relates.

- 2.2.5 G *ICOB 2.2.3R* covers all communications with *customers*, for example, any oral or written statements, telephone calls and any correspondence which is not a *non-investment financial promotion* to which *ICOB 3* (Financial promotion) applies. In respect of *non-investment financial promotions*, *firms* should note the separate requirements of *ICOB 3*.
- 2.2.6 G Prominence of relevant information can play a key role in ensuring that a communication is clear, fair and not misleading. Where this is the case, the *FSA* will assess prominence in the context of the communication as a whole. Use can be made of the positioning of text, background and text colour and type size to ensure that specified information meets the requirements of *ICOB*.
- 2.2.7 G A *firm* should make every effort to ensure that information is presented clearly, fairly and in a way that does not mislead, whether it is to be viewed as a hard copy, as an electronic document on screen or presented on some other medium (such as audio-tape for visually-impaired *customers*). A *firm* should:
- (1) use materials and design (including paper size, colour, font type and font size, tone and volume) to present the information legibly and accessibly, and in a balanced way;
  - (2) use emphasis sparingly; and
  - (3) not use differential font sizes or positioning so that the impact on a *customer* of some information (e.g. significant conditions, exclusions from the scope of cover or charges made to *customers*) is likely to be materially less than other provisions, parts or pages of the document.

## 2.3 Inducements

- 2.3.1 G *Principles 1* and *6* require a *firm* to conduct its business with integrity, to pay due regard to the interests of its *customers* and to treat them fairly. The purpose of *ICOB 2.3* is to ensure that a *firm* does not conduct business under arrangements that might give rise to a conflict with its duty to *customers* or to unfair treatment of them.

- 2.3.2 R **A *firm* must take reasonable steps to ensure that it, and any *person* acting on its behalf, does not:**

- (1) offer, give, solicit or accept an inducement; or**
- (2) direct or refer any actual or potential business in relation to an *insurance mediation activity* to another *person* on its own initiative or on the instructions of an *associate*;**

**if it is likely to conflict to a material extent with any duty that the *firm* owes to its *customers* in connection with an *insurance mediation activity* or any duty which such a recipient *firm* owes to its *customers* in connection with an *insurance mediation activity*.**

- 2.3.3 G The purpose of *ICOB* 2.3.2R(2) is to prevent the requirement in *ICOB* 2.3.2R(1) being circumvented by an inducement being given or received by an unregulated *associate*. There may be instances where a *firm* is able to demonstrate that it could not reasonably have knowledge of an *associate* giving or receiving an inducement. It should not, however, direct business to another *person* on the instruction of an *associate* if this is likely to conflict with the interests of its *customers*.
- 2.3.4 G An inducement is a benefit offered to a *firm*, or any *person* acting on its behalf, with a view to that *firm*, or that *person*, adopting a particular course of action. This can include, but is not limited to, cash, cash equivalents, *commission*, goods, hospitality or training programmes.
- 2.3.5 G *ICOB* 2.3.2R does not prevent a *firm*:
- (1) assisting an *insurance intermediary* so that the quality of the *insurance intermediary's* service to *customers* is enhanced; or
  - (2) giving or receiving indirect benefits (such as gifts, hospitality or promotional competition prizes);
- providing in either case this is not likely to give rise to a conflict with the duties that the recipient owes to the *customer*. In particular, such benefits should not be of a kind or value that is likely to impair the ability of a *firm* to act in compliance with any *rule* in *ICOB*, for example the suitability requirements in *ICOB* 4.3 (Suitability).
- 2.3.6 G The inducement offered does not need to be related to the sales process itself. For example, an *insurance intermediary* has a duty to its *customers* to act with due care, skill and diligence, where it is acting for them at the *claims* stage.
- 2.3.7 G (1) *ICOB* 2.3.2R states that an inducement will only be considered unfair if it conflicts to a material extent with any duty that the *firm* owes to its *customers*. This means that the circumstances surrounding an inducement may determine whether or not it is unfair. It is a *firm's* responsibility to determine this.
- (2) A *firm* that is offered an inducement should consider whether accepting that inducement might cause it, or any *person* acting on its behalf, to act in a way which conflicts with the duty that the *firm* owes to its *customers*.
- 2.3.8 G (1) Inducements that operate at a distance from the sales process may not be unfair, if they do not have an effect on the sales person's selling of a particular product.
- (2) Incentives offered to staff should not encourage sales staff to sell products unsuited to *customers'* needs.

2.3.9 G A *firm* should have in place its own internal procedures for identifying unfair inducements. For example, it should be able to identify situations where the existence of an inducement has caused a course of action to be adopted, that conflicts to a material extent with any duty that the *firm* owes to its *customers*, and which would not have been taken in the absence of the inducement. It should also have in place a mechanism for remedying such situations should they occur.

## 2.4 Reliance on others

2.4.1 G *Principle 2* requires a *firm* to conduct its business with due skill, care and diligence. *ICOB 2.4* indicates the extent to which *firms* that carry on *insurance mediation activities* and that *communicate* or *approve a non-investment financial promotion* can meet this requirement by relying on others.

2.4.2 R **A *firm* will be taken to be in compliance with any rule in *ICOB* that requires a *firm* to obtain information, to the extent that the *firm* can show that it was reasonable for it to rely on information provided to it in writing by another person.**

2.4.3 E (1) In relying on *ICOB 2.4.2R*, a *firm* should take reasonable steps to establish that the other *person* providing written information:

(a) is either:

(i) not connected with the *firm* and competent to provide the information; or

(ii) provides information given by the *customer* or the *insurer*.

(2) Compliance with (1) may be relied on as tending to establish compliance with *ICOB 2.4.2R*.

(3) Contravention of (1) may be relied on as tending to establish contravention of *ICOB 2.4.2R*.

2.4.4 R (1) **Any information which a rule in *ICOB* requires to be sent to a *customer* may be sent to another *person* on the instruction of the *customer*.**

(2) **There is no need for a *firm* to supply information to a *customer* where it has taken reasonable steps to establish that this has been or will be supplied by another *person*.**

## 2.5 Exclusion of liability

2.5.1 G *Principle 6* (Customers' interests) requires a *firm* to pay due regard to the interests of its *customers* and treat them fairly. A *firm* may not exclude the duties it owes or the liabilities it has to a *customer* under the *regulatory system*. It may exclude other duties and liabilities only if it is reasonable for it to do so.

2.5.2 R A *firm* must not, in any written or oral communication, seek to exclude or restrict, or to rely on any exclusion or restriction of, any duty or liability it may have to the *customer* under the *regulatory system*.

2.5.3 R A *firm* must not in any written or oral communication to a *customer*, seek to exclude or restrict, or to rely on any exclusion or restriction of, any duty or liability not referred to in *ICOB 2.5.2R* unless it is reasonable for it to do so.

## 2.6 Application to electronic media

2.6.1 G *GEN 2.2.14R* (References to writing) has the effect that electronic media may be used to make communications that are required by the *Handbook* to be “in writing” unless a contrary intention appears. In *ICOB*, the use of an electronic medium is restricted in certain circumstances to a *durable medium* as required by the *DMD* and the *IMD*.

2.6.2 G For any electronic communication with a *customer* in relation to a *non-investment insurance contract*, a *firm* should:

- (1) have in place appropriate arrangements, including contingency plans, to ensure the secure transmission and receipt of the communication; it should also be able to verify the authenticity and integrity of the communication, together with the date and time sent and received; the arrangements should be proportionate and take into account the different levels of risk in a *firm*'s business;
- (2) be able to demonstrate that the *customer* wishes to communicate using this medium; and
- (3) if entering into an agreement, make it clear to the *customer* that a contractual relationship is created that has legal consequences.

2.6.3 G A *firm* should note that *GEN 2.2.14R* does not affect any other legal requirement that may apply in relation to the form or manner of *executing* a document or agreement.

## 2.7 General provision related to distance contracts

2.7.1 R During the course of a *distance contract* with a *retail customer*, the making of which constitutes or is part of a *non-investment insurance contract*:

- (1) the *firm* must, at the *retail customer*'s request, provide a paper copy of the contractual terms and conditions of the *non-investment insurance contract*; and
- (2) the *firm* must comply with the *retail customer*'s request to change the *means of distance communication* used, unless this is incompatible with the *non-investment insurance contract*.

- 2.8 Record keeping**
- 2.8.1 G General record-keeping standards, which continue to apply, can be found in SYSC 3.2.20R. *ICOB* 2.8 provides further details of the standard expected of *firms* where there is an obligation in *ICOB* requiring *firms* to maintain adequate records to evidence compliance. An overall view of the record-keeping requirements in *ICOB* is in *ICOB* Schedule 1.
- 2.8.2 R The records required in *ICOB* must be readily accessible for inspection by the *FSA*.**
- 2.8.3 G A record would be “readily accessible” if it was available for inspection within two *business days* of the request being received.
- 2.8.4 G Where a *firm* keeps standard, generic documents as records it should be able to identify which version, by date or reference number, was provided to the *customer*.
- 2.8.5 G (1) A *firm* may arrange for records to be kept in such form as it chooses provided the record is readily accessible for inspection by the *FSA*.
- (2) Where a *firm* chooses to maintain records in electronic form, it should take reasonable steps to ensure that:
- (a) the electronic record accurately records the original information; and
  - (b) the electronic record cannot be subject to unauthorised or accidental alteration.
- 2.8.6 G Each *rule* in *ICOB* that requires a record to be made and retained specifies that the record must be kept for a minimum period of three years. A *firm* should consider retaining records for longer periods in case *customers* complain or take legal action against the *firm*. A *firm* should, in particular, consider what constitutes an appropriate retention period for records which relate to *non-investment insurance contracts* which may give rise to *claims* some time after the inception of the contract (e.g. *employers' liability insurance*).



# ICOB 3

## Financial promotion

### 3.1 Application: general

3.1.1 G (1) *ICOB 3.2.1R* states that this chapter applies generally to *firms* in relation to all *non-investment financial promotions*. But, this wide application is cut back by *ICOB 3.3* (Application: what?) and *ICOB 3.4* (Application: where?) which limit the application of this chapter for:

- (a) *non-investment financial promotions* which fall within the scope of the exemptions in the *Financial Promotion Order* or the additional exemptions set out in *ICOB 3.3.6R*; and
- (b) *non-investment financial promotions to persons* outside the *United Kingdom*.

(2) *ICOB 3.1.2G* contains a table summarising some of the exemptions in the *Financial Promotion Order* that are likely to be of particular interest to *firms*. A *firm* which *communicates* or *approves* only *financial promotions* that fall within an exemption need not concern itself with *ICOB 3*.

3.1.2 G Table: Financial Promotion Order exemptions

This table belongs to *ICOB 3.1.1G(2)*. In this table references to ‘relevant insurance activity’ are to *effecting* and *carrying out a non-investment insurance contract as principal*.

Financial Promotion Order article no. and name of exemption	Summary of exemption
Article 17 (Generic promotions)	A <i>non-investment financial promotion</i> that does not identify (directly or indirectly) an <i>insurer</i> or any <i>person</i> as a <i>person</i> who carries on a <i>controlled activity</i> in relation to a <i>non-investment insurance contract</i> is exempt from <i>ICOB 3</i> . So an <i>insurance intermediary</i> advertising <i>insurance mediation services</i> is exempt from <i>ICOB 3</i> providing the advertisement does not name an <i>insurer</i> . This is because the activities of the <i>insurance intermediary</i> do not constitute <i>controlled activities</i> .

Financial Promotion Order article no. and name of exemption	Summary of exemption
	For further <i>guidance</i> see <i>AUTH</i> App 1.12.14G to <i>AUTH</i> App 1.12.17G.
Article 24 (Relevant insurance activity: non-real time communications)	<p>A <i>non-investment financial promotion</i> which contains the following information is exempt from <i>ICOB</i> 3:</p> <ol style="list-style-type: none"> <li>(1) the full name of the <i>insurance undertaking</i>;</li> <li>(2) the country or territory in which the <i>insurance undertaking</i> is incorporated (described as such);</li> <li>(3) if different from (2), the country or territory in which the <i>insurance undertaking's</i> principal place of business is situated (described as such);</li> <li>(4) whether or not the <i>insurance undertaking</i> is regulated in respect of its insurance business;</li> <li>(5) if the <i>insurance undertaking</i> is regulated, the name of the regulator in its principal place of business or, if there is more than one regulator, the name of the prudential regulator;</li> <li>(6) whether any transaction to which the <i>non-investment financial promotion</i> relates would be covered by a dispute resolution scheme or compensation scheme, if so identifying each such scheme.</li> </ol>
Article 25 (Relevant insurance activity: non-real time communications: reinsurance and large risks)	A <i>financial promotion</i> which concerns only a <i>reinsurance contract</i> or a <i>contract of large risks</i> is exempt from <i>ICOB</i> 3.
Article 26 (Relevant insurance activity: real time)	<i>ICOB</i> 3 does not apply to a <i>financial promotion</i> which is <i>communicated</i> in the course of a personal visit, telephone conversation or other interactive dialogue. This does not include interactive dialogue by means of the exchange of

Financial Promotion Order article no. and name of exemption	Summary of exemption
communications)	<p>letters or e-mails or in a publication. Such communication will be deemed to be non-real time and will be subject to <i>ICOB 3</i>, unless another exemption applies.</p> <p>For further <i>guidance</i> see <i>AUTH</i> App 1.10.2G.</p>

- 3.1.3 G A communication may contain both a *non-investment financial promotion* and one or more of a *financial promotion* and a *qualifying credit promotion*, for example, a leaflet from a *firm* which describes the range of insurance, savings and mortgage products it provides. In such cases, *ICOB 3*, *COB 3* and *MCOB 3* will all be relevant.

### 3.2 Application: who?

- 3.2.1 R **This chapter applies to every *firm* which *communicates* or *approves* a *non-investment financial promotion*.**

#### Appointed representatives

- 3.2.2 G Under section 39(3) of the *Act*, a *firm* is responsible for *financial promotions communicated* by its *appointed representatives* when acting as such (see *ICOB 1.6* (Appointed representatives)).

#### Nationals of other EEA States

- 3.2.3 G A national of an *EEA State* (other than the *United Kingdom*) wishing to take advantage of the exemption in article 36 of the *Financial Promotion Order* in relation to any *controlled activity* lawfully carried on by him in that State, should act in conformity with the *rules* in this chapter.

#### Authorised professional firms

- 3.2.4 R (1) ***ICOB 3* does not apply to an *authorised professional firm* in relation to the *communication* of a *non-investment financial promotion* if the following conditions are satisfied:**
- (a) **the *firm*'s main business is the practice of its profession** (see *IPRU(INV) 2.1.2R(3)*);
  - (b) **the *financial promotion* is made for the purposes of and incidental to the promotion or provision by the *firm* of:**

- (i) its professional services; or
- (ii) its *non-mainstream regulated activities* (see *PROF 5.2*); and
- (c) the *financial promotion* is not communicated on behalf of another person who would not be able lawfully to communicate the *financial promotion* if he were acting in the course of business.

(2) In (1)(b)(i), “professional services” means services:

- (a) which do not constitute a *regulated activity*; and
- (b) the provision of which is supervised and regulated by a *designated professional body*.

3.2.5 G *Authorised professional firms* are reminded that, in circumstances in which *ICOB 3* does not apply to the *firm*, *ICOB 2.2.3R* (Clear, fair and not misleading communication) may apply.

### 3.3 Application: what?

#### What do “communicate” and “non-investment financial promotion” mean?

3.3.1 G The *rules* in this chapter adopt various concepts from the restriction on *financial promotion* by *unauthorised persons* in section 21(1) of the *Act* (Restrictions on financial promotion). *Guidance* on that restriction is contained in *AUTH App 1* (Financial promotion and related activities) and that *guidance* will be relevant to interpreting these *rules*. In particular, *guidance* on the meaning of:

- (1) “*communicate*” is in *AUTH App 1.6* (Communicate);
- (2) “invitation or inducement” and “*engage in investment activity*” (two elements which, with “*communicate*”, make up the definition of “*financial promotion*”) are in *AUTH App 1.4* (Invitation and inducement) and *AUTH App 1.7* (Engage in investment activity).

#### Definition of “non-investment financial promotion”.

3.3.2 G The *rules* in this chapter apply to *non-investment financial promotions* only. These are *financial promotions* which relate to *non-investment insurance contracts*. A *non-investment financial promotion* is, by definition, not a *real time financial promotion*.

#### Media of communication

3.3.3 G (1) There is no restriction on the media of communication to which this chapter applies. It applies to a *non-investment financial promotion*

*communicated* by any means, including by way of printed advertising, radio and television broadcast, e-mail, the Internet and electronic media such as digital and other forms of interactive television and media. Both solicited and unsolicited communications are covered.

- (2) *Financial promotions* may be *communicated*, for example, by means of:
- (a) product brochures;
  - (b) general advertising in magazines, newspapers, radio and television programmes and websites;
  - (c) mailshots (whether distributed by *post*, fax, e-mail or other media);
  - (d) written correspondence;
  - (e) sales aids which themselves constitute a *financial promotion*; and
  - (f) other publications, which may contain *non-personal recommendations* as to the acquisition, retention or disposal of *non-investment insurance contracts*.

3.3.4 G *Guidance* on the use of the Internet for *communicating non-investment financial promotions* is in *ICOB 3.9* (The Internet and other electronic media) and *AUTH App 1.22* (The Internet).

**Exemptions**

3.3.5 R **This chapter does not apply to a *firm* in relation to a *non-investment financial promotion* of a kind listed in *ICOB 3.3.6R*.**

3.3.6 R **Table: Exemptions**

**This table belongs to *ICOB 3.3.5R*.**

<b>Exemptions</b>	
<b>This chapter does not apply to the following:</b>	
<b>(1)</b>	<b>a <i>non-investment financial promotion</i> to a <i>commercial customer</i>, that is a <i>financial promotion</i> which:</b>
<b>(a)</b>	<b>is made only to recipients who the <i>firm</i> has taken reasonable steps to establish are <i>commercial customers</i>; or</b>

<b>Exemptions</b>	
	(b) may reasonably be regarded as directed only at recipients who are <i>commercial customers</i> ;
(2)	a <i>non-investment financial promotion</i> which can lawfully be <i>communicated</i> by an <i>unauthorised</i> communicator without <i>approval</i> ;
(3)	a <i>non-investment financial promotion communicated</i> from outside the <i>United Kingdom</i> which would be exempt under articles 30, 31, 32 or 33 of the <i>Financial Promotion Order</i> (Overseas communicators) if the office from which the <i>non-investment financial promotion</i> is <i>communicated</i> were a separate <i>unauthorised person</i> (but see <i>ICOB 4.2.19R</i> ) (Overseas business for UK retail customers) and <i>GEN 4.4</i> (Business for private customers from non-UK offices));
(4)	a "one-off" <i>non-investment financial promotion</i> : if the conditions set out in (a) to (c) are satisfied, a <i>non-investment financial promotion</i> is to be regarded as "one-off"; if not, the fact that any one or more of these conditions is met is to be taken into account in determining if a <i>non-investment financial promotion</i> is "one-off", but a <i>non-investment financial promotion</i> may be regarded as "one-off" even if none of the conditions are met. The conditions are that:
	(a) the <i>non-investment financial promotion</i> is <i>communicated</i> only to one recipient or only to one group of recipients in the expectation that they would engage in any investment activity jointly;
	(b) the identity of the contract or service to which the <i>non-investment financial promotion</i> relates has been determined having regard to the particular circumstances of the recipient;
	(c) the <i>non-investment financial promotion</i> is not part of an organised marketing campaign;
(5)	a <i>non-investment financial promotion</i> which contains only one or more of the following:
	(a) the name of the <i>firm</i> (or its <i>appointed representative</i> );
	(b) the name of the <i>non-investment insurance contract</i> ;
	(c) a logo;

Exemptions		
	(d)	a contact point (address (including an e-mail address), telephone or fax number);
	(e)	a brief, factual description of the <i>firm's</i> (or its <i>appointed representative's</i> ) activities;
	(f)	a brief, factual description of the <i>firm's</i> (or its <i>appointed representative's</i> ) fees;
	(g)	a brief, factual description of the <i>firm's</i> products.

### Combination of exemptions

- 3.3.7 R A *firm* may rely on more than one exemption (and also on *ICOB 3.4.1R* (Territorial scope)) in relation to the same *non-investment financial promotion*.

### Guidance on the exemptions

- 3.3.8 G (1) Under *ICOB 3.3.6R(1)*, a *non-investment financial promotion* which is *communicated* only to a *commercial customer* is exempt. See *ICOB 3.6.3R* and *ICOB 3.6.4R*, which amplify this exemption. A *firm* will need to take particular note of the conditions in *ICOB 3.6.4R* when designing *non-investment financial promotions* for trade publications that may also be available to a *retail customer*.
- (2) *ICOB 3.3.6R(4)* reflects the exemption in article 28 of the *Financial Promotion Order* (one-off non-real time communications and solicited real time communications) but goes further, exempting all such *non-investment financial promotions*. It exempts, among other things, correspondence which is specifically written for a recipient, whether hard copy or e-mail. A *firm* should note, however, that such correspondence will, if *personal recommendations* are made, be subject to other obligations such as *ICOB 4.3* and *ICOB 4.4*. It does not exempt *non-investment financial promotions communicated* in the form of mass mailshots, which may appear to be items of personalised correspondence but which in fact comprise the same, or virtually the same, material sent to a number of recipients, without tailoring the material to the circumstances of each recipient. Such mailshots must meet the requirements of *ICOB 3. AUTH App 1.14.3G* (One-off financial promotions (articles 28 and 28A)) provides further *guidance* on the scope of the exemption in article 28.
- (3) *ICOB 3.3.6R(5)(e)*, (f) and (g) exempt a *non-investment financial promotion* made by a *firm* which refers only to its activities in general

terms in image advertising. Acceptable examples include ‘general insurance’ or ‘life and general insurance business’. In addition a *firm* or its *appointed representative* may include its name, address and telephone number in accordance with *ICOB* 3.3.6R(5)(a) and (d). *AUTH* App 1.4.20G (Image advertising) provides *guidance* on when image advertising may involve a *financial promotion*.

- (4) A *non-investment financial promotion* included in a newspaper, magazine or periodical which is printed and published overseas, but which may be brought into the *United Kingdom* and made available to *persons* in the *United Kingdom*, will be exempt provided that the *non-investment financial promotion* is not *communicated to persons* inside the *United Kingdom* (see *ICOB* 3.4 and *AUTH* App 1.12.2G (Financial promotions to overseas recipients (article 12))).

### **Other Handbook rules relevant to financial promotions**

- 3.3.9 G (1) A *firm* is reminded that *non-investment financial promotions* (including those which are exempt) may be subject to more general *rules* including *Principle 7* (Communications with clients), *SYSC* 3 (Systems and controls) *ICOB* 2.2.3R (Clear, fair and not misleading communication) and *ICOB* 5 (Product disclosure).
- (2) A *firm* is reminded that, although *ICOB* 3 makes no specific *rules* relating to the content of a *non-investment financial promotion*, the disclosure requirements in *ICOB* 4 and *ICOB* 5 may apply.
- (3) A *firm* is reminded that if, in the course of making a *non-investment financial promotion* of any kind, it gives a *personal recommendation* to a *customer* about the suitability of a *non-investment insurance contract* for that individual, the *firm* is subject to the relevant *rules* on advising and selling in *ICOB* 4 (Advising and selling standards).

### **3.4 Application: where?**

#### **Territorial scope**

#### **3.4.1 R This chapter applies to a *firm* only in relation to:**

- (1) **the *communication* of a *non-investment financial promotion* to a *person* inside the *United Kingdom*; and**
- (2) **the *approval* of a *non-investment financial promotion* for *communication* to a *person* inside the *United Kingdom*;**

**subject to *ICOB* 3.4.3R (Exceptions to territorial scope).**



- 3.4.2 G (1) The application under *ICOB* 3.4.1R is relevant both when a *firm communicates a non-investment financial promotion* itself and when a *firm approves a non-investment financial promotion for communication* by others. But see also *ICOB* 3.4.3R.
- (2) The exemptions in *ICOB* 3.3.6R (Application: what?; Exemptions) also incorporate some territorial elements. In particular, the exemption for *financial promotions* originating outside the *United Kingdom* (section 21(3) of the *Act* (Restrictions on financial promotion)) (see *ICOB* 3.3.6R(2)) and *AUTH* App 1.12.2G (Financial promotions to overseas recipients (article 12)), the exemptions for overseas communicators (see *ICOB* 3.3.6R(3)) and the exemption for *incoming electronic commerce communications* (see *AUTH* App 1.12.38G (article 20B)).
- (3) In the context of the provision of an *electronic commerce activity* to an *EEA ECA recipient*, the scope of *ICOB* 3 is extended by *ECO* 2.2.3R (Financial promotion). This means that *ICOB* 3 will apply for *communications to EEA ECA recipients*.

#### **Exceptions to territorial scope**

3.4.3 R **The following parts of this chapter apply without any territorial limitation if a *firm approves a non-investment financial promotion*:**

- (1) ***ICOB* 3.1 to *ICOB* 3.6 (Application, Purpose and General); and**
- (2) ***ICOB* 3.8.1R(1) (Non-investment financial promotions: clear, fair and not misleading: comparisons).**

#### **Meaning of "communicated to a person inside or outside the United Kingdom"**

3.4.4 R **For the purposes of this chapter:**

- (1) **a *non-investment financial promotion* is *communicated to a person outside the United Kingdom* if it is:**
  - (a) **made to a *person* who receives it outside the *United Kingdom*; or**
  - (b) **directed only at *persons* outside the *United Kingdom*; and**
- (2) **a *non-investment financial promotion* is *communicated to a person inside the United Kingdom* if it is *communicated to a person other than as described in (1)*;**

**and see *ICOB* 3.4.5R and *ICOB* 3.6.3R, which amplify this rule.**

### Meaning of "directed only at persons outside the United Kingdom"

- 3.4.5 R (1) If the conditions set out in 4(a), (b), (c) and (d) are met, a *non-investment financial promotion* directed from a place inside the *United Kingdom* will be regarded as directed only at *persons* outside the *United Kingdom*.
- (2) If the conditions set out in 4(c) and (d) are met a *non-investment financial promotion* directed from a place outside the *United Kingdom* will be regarded as directed only at *persons* outside the *United Kingdom*.
- (3) In any other case where one or more of the conditions in 4(a) to (e) is met, that fact will be taken into account in determining whether a *non-investment financial promotion* is directed only at *persons* outside the *United Kingdom* (but a *non-investment financial promotion* may still be regarded as directed only at *persons* outside the *United Kingdom* even if none of these conditions is met).
- (4) The conditions are that:
- (a) the *non-investment financial promotion* is accompanied by an indication that it is directed only at *persons* outside the *United Kingdom*;
- (b) the *non-investment financial promotion* is accompanied by an indication that it must not be acted upon by *persons* in the *United Kingdom*;
- (c) the *non-investment financial promotion* is not referred to in, or directly accessible from, any other *non-investment financial promotion* which is made to a *person* or directed at *persons* in the *United Kingdom* by or on behalf of the same *person*;
- (d) there are in place proper systems and procedures to prevent recipients in the *United Kingdom* (other than those to whom the *non-investment financial promotion* might otherwise lawfully have been made) *engaging in the investment activity* to which the *non-investment financial promotion* relates with the *person* directing the *non-investment financial promotion*, a *close relative* of his or a member of the same *group*; and
- (e) the *non-investment financial promotion* is included in:
- (i) a website, newspaper, journal, magazine or periodical publication which is principally accessed in or intended for a market outside the *United Kingdom*;

- (ii) a radio or television broadcast or teletext service transmitted principally for reception outside the *United Kingdom*.

### 3.5 Purpose

3.5.1 G (1) Section 21(1) of the *Act* (Restrictions on financial promotion) imposes a restriction on the *communication* of *financial promotions* (*non-investment financial promotions* in *ICOB*) by *unauthorised persons*. A person must not, in the course of business, *communicate* a *non-investment financial promotion* unless:

- (a) he is an *authorised person*; or
- (b) the content of the *non-investment financial promotion* is *approved* by an *authorised person*.

(2) However, the *Financial Promotion Order* exempts from the restriction created by section 21(1) of the *Act* certain types of *financial promotion*.

3.5.2 G (1) The purpose of this chapter is to provide *rules* and *guidance* for a *firm* that wishes to *communicate* or *approve* a *non-investment financial promotion*. *AUTH* App 1 (Financial promotion and related activities) provides further detailed *guidance* on the *financial promotion* regime under section 21 of the *Act* (Financial promotion) which will be relevant in interpreting these *rules*.

(2) This chapter amplifies, for activities within its scope:

- (a) *Principle 6* (Customers' interests) which requires a *firm* to pay due regard to the interests of its *customers* and treat them fairly; and
- (b) *Principle 7* (Communications with clients) which requires a *firm* to pay due regard to the information needs of its *clients* and *communicate* information to them in a way which is clear, fair and not misleading.

### 3.6 General

#### Other regulations and guidelines

3.6.1 G A *firm* *communicating* a *non-investment financial promotion* may also be subject to other regulations and guidelines, outside the remit of the *FSA*, such as:

- (1) the codes issued from time to time by the Advertising Standards Authority;
- (2) regulations from any *overseas regulator* (where relevant) if the *firm* intends to market from the *United Kingdom* into any other country; and

- (3) the Privacy and Electronic Communication (EC Directive) Regulations 2003 (SI 2003/2426).

#### **Non-investment financial promotions**

- 3.6.2 R (1) A *non-investment financial promotion* includes a *financial promotion* for a *non-investment insurance contract* made by letter or e-mail or contained in a newspaper, journal, magazine, other periodical publication, website, television or radio programme, or teletext service.
- (2) The following are to be regarded as indications that a *financial promotion* for a *non-investment insurance contract* is a *non-investment financial promotion* rather than a *real time financial promotion*:
- (a) the *financial promotion* is *communicated* to more than one *person* in identical terms (save for details of the recipient's identity);
- (b) the *financial promotion* is *communicated* by way of a system which in the normal course constitutes or creates a record of the communication which is available to the recipient to refer to at a later time; and
- (c) the *financial promotion* is *communicated* by way of a system which in the normal course does not enable or require the recipient to respond immediately to it.

#### **Meaning of "made", "directed at" and "recipient" in this chapter**

- 3.6.3 R In accordance with article 6 of the *Financial Promotion Order* (Interpretation: communications) any reference in this chapter to:
- (1) a *communication* being made to another *person* is a reference to a *communication* being addressed in legible form to a particular *person* or *persons* (for example, where it is contained in a letter);
- (2) a *communication* being directed at *persons* is a reference to a *communication* being addressed to *persons* generally (for example where it is contained in a television broadcast or website); and
- (3) a recipient of a *communication* is the *person* to whom the *communication* is made or, in the case of a *financial promotion* which is directed at *persons* generally, any *person* who reads or hears the *communication*.

#### **When is a financial promotion "directed only at" certain persons?**

- 3.6.4 R (1) This *rule* applies for the purposes of determining whether a *communication* is directed only at *commercial customers* under *ICOB*

### 3.3.6R(1).

- (2) If all the conditions set out in (4) are met, a *communication* is to be regarded as directed as in (1).
- (3) In any other case in which one or more of those conditions is met, that fact is to be taken into account in determining whether the *communication* is directed as in (1) (but a *communication* may still be regarded as so directed even if none of the conditions in (4) are met).
- (4) The conditions are that:
  - (a) the *communication* includes an indication of the description of *persons* to whom it is directed and an indication of the fact that the contract to which it relates is available only to such *persons*;
  - (b) the *communication* includes an indication that *persons* of any other description should not rely upon it; and
  - (c) there are in place proper systems and procedures to prevent recipients other than *persons* to whom it is directed entering into the contract to which the *communication* relates with the *person* directing the *communication*, a *close relative* of his or a member of the same *group*.

## 3.7 Confirmation of compliance

### Confirmation of compliance

- 3.7.1 R (1) Before a *firm* communicates or approves a *non-investment financial promotion*, it must confirm that the *non-investment financial promotion* complies with the *rules* in this chapter.
  - (2) A *firm* must arrange for the confirmation exercise in (1) to be carried out by an individual or individuals with appropriate expertise.
- 3.7.2 G (1) In *ICOB* 3.7.1R(2) 'appropriate expertise' will vary depending on the complexity of the *financial promotion* and the *non-investment insurance contract* to which it relates. The individuals engaged by a *firm* to confirm the compliance of its *financial promotions* with this chapter may have different levels of expertise and therefore a different level of authority for confirmation depending on the type of *financial promotion* and the *non-investment insurance contract* involved.
  - (2) A *firm* may arrange for a third party with appropriate expertise to carry out the confirmation exercise on the *firm's* behalf, but the responsibility for the *non-investment financial promotion* remains with the *firm*.

### Withdrawing confirmation

**3.7.3 R** If, at any time after it has completed a confirmation exercise in *ICOB 3.7.1R(1)* a *firm* becomes aware that a *non-investment financial promotion* no longer complies with the *rules* in this chapter, it must ensure that the *non-investment financial promotion* is withdrawn as soon as reasonably practicable by:

- (1) ceasing to *communicate* it;
- (2) withdrawing its *approval* (if applicable); and
- (3) notifying any *person* that the *firm* knows to be relying on its *approval* (if applicable) or confirmation (under *ICOB 3.7.5R*).

**3.7.4 G** (1) *ICOB 3.7.3R* is of particular importance to a *non-investment financial promotion*, such as a product brochure, that a *firm* uses over a period of time. It has little application to a *non-investment financial promotion* which is of its nature ephemeral, for example, a mobile phone text message. Further, a *non-investment financial promotion* which clearly speaks as at a particular date will not cease to comply with the *rules* in this chapter merely because the passage of time has rendered it out-of-date.

- (2) For compliance with *ICOB 3.7.3R* the *FSA* will expect a *firm* to monitor its relevant *non-investment financial promotions* as part of the *firm's* routine compliance monitoring procedures. A *firm* may find it helpful to designate a relevant *non-investment financial promotion* with a 'review date', a date at which the *non-investment financial promotion* should be checked once more against the *rules* of this chapter. If it is found no longer to meet these requirements it should be withdrawn as soon as reasonably practicable.
- (3) If at any time a *firm* becomes aware that a *retail customer* may have been misled by a *non-investment financial promotion* it should consider whether the *retail customer* who has responded to the *non-investment financial promotion* should be contacted with a view to explaining the position and offering any appropriate form of redress to those who have suffered financial loss.

### Communicating a financial promotion where another firm has confirmed compliance

**3.7.5 R** A *firm* will not contravene any of the *rules* in this chapter in the circumstances where it (*firm "A"*) communicates a *non-investment financial promotion* which has been produced by another *person* provided that:

- (1) A takes reasonable care to establish that another *firm* (*firm "B"*) has already confirmed the compliance of the *non-investment financial*

*promotion* in accordance with *ICOB 3.7.1R*;

- (2) A takes reasonable care to establish that A *communicates* the *non-investment financial promotion* only to recipients of the type for whom it was intended at the time B carried out the confirmation exercise; and
- (3) so far as A is, or ought to be, aware:
  - (a) the *non-investment financial promotion* has not ceased to be clear, fair and not misleading since that time; and
  - (b) B has not withdrawn the *non-investment financial promotion*.

### 3.8 Form and content of non-investment financial promotions

**Clear, fair and not misleading: comparisons and restrictions on the use of the key facts logo**

- 3.8.1 R (1) A *firm* must be able to show that it has taken reasonable steps to ensure that a *non-investment financial promotion* is clear, fair and not misleading.
- (2) A *non-investment financial promotion* which includes a comparison or contrast must:
  - (a) compare contracts meeting the same needs or which are intended for the same purpose;
  - (b) objectively compare one or more material, relevant, verifiable and representative features of those contracts, which may include price;
  - (c) not create confusion in the marketplace between the *firm* itself (or the *person* whose *non-investment financial promotion* it approves) and a competitor or between the *firm's* trademarks, trade names, other distinguishing marks, contracts or services (or those of the *person* whose *non-investment financial promotion* it approves) and those of a competitor;
  - (d) not discredit or denigrate the trademarks, trade names, other distinguishing marks, contracts, services, activities or circumstances of a competitor;
  - (e) not take unfair advantage of the reputation of a trademark, trade name or other distinguishing marks of a competitor;

- (f) not present contracts as imitations or replicas of contracts bearing a protected trademark or trade name; and
  - (g) indicate in a clear and unequivocal way in any comparison referring to a special offer the date on which the offer ends or, where appropriate, that the special offer is subject to the availability of the contracts and services, and, where the special offer has not yet begun, the date of the start of the period during which the special price or other specific conditions shall apply.
- (3) A *non-investment financial promotion* must not contain the key facts logo unless it is required by a rule.

- 3.8.2 E (1) A *firm* should take reasonable steps to ensure that, for a *non-investment financial promotion*:
- (a) its promotional purpose is not in any way disguised or misrepresented;
  - (b) any statement of fact, promise or prediction is clear, fair and not misleading and discloses any relevant assumptions;
  - (c) any statement of opinion is honestly held and, unless consent is impracticable, given with the consent of the *person* concerned;
  - (d) the facts on which any comparison or contrast is made are verified, or, alternatively, that relevant assumptions are disclosed and that the comparison or contrast is presented in a fair and balanced way, which is not misleading and includes all factors which are relevant to the comparison or contrast;
  - (e) it does not contain any false indications, in particular as to:
    - (i) the *firm's* independence;
    - (ii) the *firm's* resources and scale of activities; or
    - (iii) the scarcity of any contract;
  - (f) the design, content or format does not disguise, obscure or diminish the significance of any statement, warning or other matter which the *non-investment financial promotion* is required by this chapter to contain;
  - (g) it does not include any reference to approval by the *FSA* or any government body, unless such approval has been obtained in writing from the *FSA* or that body (see also *GEN* 1.2 (Referring to approval



by the *FSA*));

- (h) it does not omit any matters the omission of which causes the *non-investment financial promotion* not to be clear, fair and not misleading; and
  - (i) the accuracy of all material statements of fact in it can be substantiated.
- (2) (a) Compliance with *ICOB* 3.8.2E(1) may be relied on as tending to show compliance with *ICOB* 3.8.1R(1).
- (b) Contravention of *ICOB* 3.8.2E(1) may be relied on as tending to show contravention of *ICOB* 3.8.1R(1).

### **Guidance on clear, fair and not misleading**

- 3.8.3 G (1) It cannot be assumed that recipients necessarily have an understanding of the contract being promoted. If a *non-investment financial promotion* is specially designed for a targeted collection of recipients who are reasonably believed to have particular knowledge of the contract being promoted, this fact should be made clear.
- (2) In relation to quotations of opinion:
- (a) where only part of an opinion is quoted, it should nevertheless be a fair representation; and
  - (b) any connection between the holder of the opinion and the *firm* should be made clear.
- (3) *Firms* should avoid the use of small print to qualify prominent claims.
- (4) If a *firm* communicates a *non-investment financial promotion* which contains a quotation of *premium* and it is unable to give the *retail customer* a precise quotation it should ensure that the *premium* quoted is representative of the *premium* that would be charged for a *person* in a similar position to the *retail customer*.
- (5) Unless the *firm* is prepared to give a precise quotation, the *non-investment financial promotion* should be accompanied by a prominent statement making clear that the *premium* quoted is an estimate only and that the actual *premium* will depend on individual circumstances.
- (6) Where a *non-investment financial promotion* indicates or implies that a *firm* can:

- (a) reduce the *premium*; or
- (b) provide the cheapest *premium*; or
- (c) reduce a *retail customer's* costs;

it should include, with equal prominence, a statement of the basis on which the reduction is to be achieved. The *FSA* will assess prominence in the context of the *non-investment financial promotion* as a whole. Use can be made of the positioning of text, background and text colour and type size to ensure that *ICOB* 3.8.1R(1) is satisfied.

- (7) Where (6) applies, and there are significant limitations on any savings, these should be given equal prominence in the *non-investment financial promotion* to the claimed savings. For example, if the *non-investment financial promotion* states that a *firm* can achieve a *premium* reduction in the form of either a percentage or monetary amount, but the saving is only available if the *retail customer* meets certain specific criteria, the criteria should be given equal prominence and not placed in small print.

### **3.9 The Internet and other electronic media**

- 3.9.1 G This section contains *guidance* on the use of the Internet and other electronic media to *communicate financial promotions*. *Firms* are also referred to the *guidance* in *ICOB* 2.6 (Application to electronic media).

#### **Approach and general guidance**

- 3.9.2 G Any material which meets the definition of a *non-investment financial promotion*, including any video or moving image material incorporated in any website containing a *non-investment financial promotion*, should comply with the *rules* in this chapter. See *AUTH* App 1.22 (The Internet) for further *guidance* on *non-investment financial promotions* on the Internet, including the treatment of hyperlinks and banners.
- 3.9.3 G
  - (1) Before using the Internet, digital or any other form of interactive television or other electronic media to promote its services a *firm* should refer to legislation such as the Data Protection Act 1998 and the Computer Misuse Act 1990, as well as to this chapter.
  - (2) When designing websites and other electronic media, *firms* should be aware of the difficulties that can arise when reproducing certain colours and printing certain types of text. These difficulties could cause problems with the presentation and retrieval of required information. Any *non-investment financial promotion* communicated by the Internet, digital or other forms of interactive television is subject to the requirements set out in *ICOB* 3.8 as applicable.

### Specific guidance

- 3.9.4 G The *FSA's* website <http://www.fsa.gov.uk> contains a wide range of information, including pages of specific relevance to *customers*. *Firms* may, if they wish, include a reference or hyperlink to the *FSA's* website; this will not, however, replace any requirements of *ICOB 3*.

## ICOB 4

### Advising and selling standards

#### 4.1 Application and purpose

##### Application: who and what?

- 4.1.1 R (1) Subject to *ICOB 4.1.4R*, this chapter applies to an *insurance intermediary* in accordance with *ICOB 4.1.3R*.
- (2) *ICOB 4.7 (Unsolicited services)* also applies to an *insurer* or *managing agent* when acting as a *product provider*.
- (3) Throughout this chapter, references to an *insurer* apply equally to a *managing agent*.
- 4.1.2 G (1) The definition of *insurance intermediary* includes an *insurer* when the *insurer* is carrying on *insurance mediation activities*, for example when, through its sales force, it *advises on* or *arranges* its own *non-investment insurance contracts* or those of another *insurer*.
- (2) For the limited application of this chapter to *authorised professional firms* in respect of their *non-mainstream regulated activities*, see *ICOB 1.2.10R(3)* and *ICOB 1.2.10R(4)*.
- 4.1.3 R **Table: Application of ICOB 4 by activity and customer type**

This table belongs to *ICOB 4.1.1R*.

Insurance mediation activity	Type of customer	Applicable section
<i>arranging except introducing</i>	<i>retail customer</i>	Whole chapter except <i>ICOB 4.3</i> and <i>ICOB 4.6</i>
<i>arranging except introducing</i>	<i>commercial customer</i>	Whole chapter except <i>ICOB 4.2.19R</i> , <i>ICOB 4.3</i> , <i>ICOB 4.5</i> and <i>ICOB 4.7</i>
<i>Advising</i>	<i>retail customer</i>	Whole chapter except <i>ICOB 4.6</i>
<i>advising</i>	<i>commercial customer</i>	Whole chapter except <i>ICOB 4.2.19R</i> , <i>ICOB 4.5</i> and <i>ICOB 4.7</i>
<i>Introducing</i>	<i>retail customer and commercial</i>	<i>ICOB 4.2.9R</i> and <i>ICOB 4.2.10G</i> only

4.1.4 R The following provisions in *ICOB* do not apply to an *insurance intermediary* that is an *insurer* when dealing with a *commercial customer*:

- (1) *ICOB 4.2 (Status disclosure)*;
- (2) *ICOB 4.4 (Statement of demands and needs)*, unless the *insurer* makes a *personal recommendation to the commercial customer*; and
- (3) *ICOB 4.6 (Commission disclosure for commercial customers)*.

#### Renewals

4.1.5 G When a *contract of insurance* is renewed, the parties enter into a new *contract of insurance*, even if the terms and conditions of the new contract are identical to the old one. *ICOB 4* therefore applies to the *renewed contract of insurance* as it would to the original *contract of insurance*, unless stated otherwise in *ICOB 4.2.20R*.

#### Purpose

- 4.1.6 G
- (1) This chapter amplifies *Principle 6 (Customers' interests)*, *Principle 7 (Communications with clients)* and *Principle 9 (Customers: relationships of trust)*. *Principle 6* requires a *firm* to pay due regard to the interests of its *customers* and treat them fairly. *Principle 7* requires a *firm* to pay due regard to the information needs of its *clients* and communicate information to them in a way which is clear, fair and not misleading. *Principle 9* requires a *firm* to take reasonable care to ensure the suitability of its *advice*.
  - (2) This chapter also implements articles 12 and 13 of the *Insurance Mediation Directive* for *non-investment insurance contracts* (which means that, in respect of communications by telephone, it follows the approach in article 3 of the *Distance Marketing Directive*).
  - (3) This chapter also implements article 9 of the *DMD* for *non-investment insurance contracts* concluded by *distance means*.
- 4.1.7 G The purpose of this chapter is to ensure that:
- (1) *customers* are adequately informed about the nature of the service that they have received from an *insurance intermediary* in relation to *non-investment insurance contracts*. In particular, *insurance intermediaries* need to make clear to *customers* the scope and type of the products and *insurance undertakings* on which their service is based;
  - (2) where a *personal recommendation* is made it is suitable for a *customer's* demands and needs. The nature of the steps an *insurance intermediary* will need to take to ensure that the *customer* receives a *personal recommendation* that is suitable will vary depending on the demands and needs of the *customer*, the type of *non-investment insurance contract*

being offered, and the type of *customer* (*retail customer* or *commercial customer*);

- (3) *customers* receive a statement of their demands and needs and the reasons for any *personal recommendation* made by an *insurance intermediary*;
- (4) the charges that an *insurance intermediary* imposes on a *retail customer* are not excessive;
- (5) if requested by a *commercial customer*, the *insurance intermediary* discloses its *commission*; and
- (6) *retail customers* are not charged for *non-investment insurance contracts* concluded by *distance means* without their prior consent.

## 4.2 Status disclosure

### Retail and commercial customers: disclosure before or immediately after conclusion of the contract

- 4.2.1 G (1) *ICOB 4.2.2R to ICOB 4.2.14R* set out the status disclosure requirements that an *insurance intermediary* must meet to comply with the *IMD*.
- (2) The *rules* in *ICOB 4.2* state the timing by which status disclosure information must be given to the *customer*, in accordance with the *IMD* and the *DMD*. The *insurance intermediary* may provide information to the *customer* earlier than the time specified in the *rules*. For example, an *insurance intermediary* who is also providing services in connection with *packaged products* or *regulated mortgage contracts* may wish to combine the information required by *ICOB 4.2* with the status disclosure requirements in *COB* or *MCOB*, and provide the information to the *customer* on initial contact, using the combined initial disclosure document in *ICOB 4 Ann 2R*.
- (3) For certain types of *general insurance contract*, such as motor insurance, it is customary for a *customer* to contact various *insurance intermediaries* for quick quotes which he can then compare. In these circumstances, it is not necessary for the *insurance intermediary* to give the status disclosure information at the time that the quick quote is provided, if the quote cannot be accepted (and a contract cannot be formed) without the *insurance intermediary* obtaining further information from the *customer*.
- (4) The *rules* in *ICOB 4.2* do not specify the format in which information must be provided to the *customer*. An *insurance intermediary* may use the initial disclosure document in *ICOB 4 Ann 1G*, the combined initial disclosure document in *ICOB 4 Ann 2R*, a terms of business letter, or another document to provide information to the *customer*.
- 4.2.2 R (1) **An *insurance intermediary* must provide the information in *ICOB 4.2.8R* to the *customer* in a *durable medium* at any time before conclusion of a *non-investment insurance contract*, unless an**

exemption in (2) or (3) applies.

**(2) Exemption: oral disclosure**

The information in *ICOB 4.2.8R* need not be provided in a *durable medium* before conclusion of the contract but may be provided orally before the conclusion of the contract if:

- (a) the *customer* requests this; or
- (b) the *customer* requires immediate cover.

**(3) Exemption: telephone sales**

(a) This exemption applies if the service is being provided on the telephone and the *customer* wishes to enter into a *non-investment insurance contract*.

(b) If the *customer* gives his explicit consent to receiving only limited disclosure, the *insurance intermediary* must provide the *customer* with the following information:

- (i) the name of the *insurance intermediary*;
- (ii) (if the call is initiated by the *insurance intermediary*) the commercial purpose of the call;
- (iii) the identity of the *person* in contact with the *retail customer* and his link with the *insurance intermediary*; and
- (iv) that other information is available on request, and the nature of the information.

**(4) Where (2) or (3) applies, the *customer* must be provided with the information in *ICOB 4.2.8R* in a *durable medium* immediately after the conclusion of the contract.**

- 4.2.3 G (1) The *insurance intermediary* may, if it so chooses, make the *customer* aware that he is able to receive the information in *ICOB 4.2.8R* orally, in accordance with *ICOB 4.2.2R(2)*, or (in the case of telephone communications) that the more limited information requirements of *ICOB 4.2.2R(3)* may apply.
- (2) If the *customer* requires immediate cover and the *non-investment insurance contract* is concluded over the telephone, the *insurance intermediary* may take advantage of either of the exemptions in *ICOB 4.2.2R(2)* or *ICOB 4.2.2R(3)*, subject to the *customer* giving his explicit consent.

## Use of the initial disclosure document and combined initial disclosure document

- 4.2.4 G (1) The requirement in *ICOB* 4.2.2R(1) can be met by use of the initial disclosure document set out in *ICOB* 4 Ann 1G. Alternatively, in circumstances where the *insurance intermediary* has reasonable grounds to be satisfied that the services which it is likely to provide will, in addition to relating to *non-investment insurance contracts*, also relate to *regulated mortgage contracts, regulated lifetime mortgage contracts or packaged products*, the *insurance intermediary* may use the combined initial disclosure document set out in *ICOB* 4 Ann 2R.
- (2) Subject to *ICOB* 4.2.5R, an *insurance intermediary* may use all or part of the wording and format of the initial disclosure document at *ICOB* 4 Ann 1G (though if it chooses to omit any of the information required by *ICOB* 4.2.8R, the *insurance intermediary* must still provide this information to the *customer* in a *durable medium* before the conclusion of the *non-investment insurance contract* in accordance with *ICOB* 4.2.2R). This flexibility does not apply if an *insurance intermediary* uses the combined initial disclosure document (see *ICOB* 4.2.7R), because the *COB* and *MCOB* rules require that the wording and the format of the document must not be changed.
- (3) The combined initial disclosure document must be given in accordance with the *rules* in *COB* and *MCOB*. In particular (and in contrast with the initial disclosure document set out in *ICOB* 4 Ann 1G), it will need to be provided on initial contact.
- 4.2.5 R **If an *insurance intermediary* chooses to use the initial disclosure document at *ICOB* 4 Ann 1G, it must not include the key facts logo and the heading and text in Section 1 unless it uses the document in full and makes no changes to the text other than changes allowed by the notes to the document.**
- 4.2.6 R **If an *insurance intermediary* uses the initial disclosure document and includes the key facts logo, the key facts logo:**
- (1) **must be positioned as shown in *ICOB* 4 Ann 1G;**
- (2) **must be accompanied by the words 'about our insurance services' as shown in *ICOB* 4 Ann 1G;**
- (3) **may be a different size from that in *ICOB* 4 Ann 1G, but it must be reasonably prominent and its proportions must not be distorted; and**
- (4) **may be in colour, but this must not diminish its prominence.**
- 4.2.7 R **If an *insurance intermediary* chooses to use the combined initial disclosure document at *ICOB* 4 Ann 2R, it must use the document in full and make no change to the text other than changes allowed by the notes to the document.**



4.2.8 R Table: Information to be provided before conclusion of the contract or immediately after conclusion of the contract

This table belongs to *ICOB 4.2.2R*.

(1)	The name and address of the <i>insurance intermediary</i> .
(2)	The <i>insurance intermediary's</i> statutory status (in accordance with <i>GEN 4 Ann 1R</i> (Statutory status disclosure)).
(3)	That items 1 and 2 can be checked on the <i>FSA's Register</i> by visiting the <i>FSA's</i> website <a href="http://www.fsa.gov.uk/register">http://www.fsa.gov.uk/register</a> or by contacting the <i>FSA</i> on 0845 606 1234.
(4)	Unless the <i>insurance intermediary</i> is an <i>insurer</i> , details of any holding, direct or indirect, that an <i>insurance intermediary</i> has that represents more than 10 per cent of the voting rights or of the capital in an <i>insurance undertaking</i> .
(5)	Unless the <i>insurance intermediary</i> is an <i>insurer</i> , details of any holding, direct or indirect, that an <i>insurance undertaking</i> or parent of an <i>insurance undertaking</i> has that represents more than 10 per cent of the voting rights or of the capital in the <i>insurance intermediary</i> .
(6)	<p>In relation to the <i>non-investment insurance contract</i> provided, whether the <i>insurance intermediary</i> has provided, or will provide, <i>advice</i> or <i>information</i>:</p> <p>(a) on the basis of a fair analysis of the market; or</p> <p>(b) from a limited number of <i>insurance undertakings</i>; or</p> <p>(c) from a single <i>insurance undertaking</i>.</p> <p>If (b) or (c) applies, the <i>insurance intermediary</i> must also disclose whether it is contractually obliged to conduct <i>insurance mediation activity</i> in this way.</p>
(7)	If the contract provided has not been selected on the basis of a fair analysis of the market, that the <i>customer</i> can request a copy of the list of the <i>insurance undertakings</i> the <i>insurance intermediary</i> selects from or deals with in relation to the contract provided.
(8)	How to complain to the <i>insurance intermediary</i> and that complaints may subsequently be referred to the <i>Financial Ombudsman Service</i> or any other applicable named complaints scheme.
(9)	That the <i>customer</i> may be entitled to compensation from the <i>compensation scheme</i> should the <i>insurance intermediary</i> be unable to meet its liabilities.

## Notes

<p>(1)</p>	<p>If the <i>customer</i> is dealing with an <i>appointed representative</i> of an <i>insurance intermediary</i>, the <i>insurance intermediary</i> is responsible for ensuring that the <i>appointed representative</i> makes the appropriate disclosures (see <i>ICOB 1.6</i>). In that case, the <i>insurance intermediary</i> must ensure that:</p> <ul style="list-style-type: none"><li>(a) for item 1, the <i>appointed representative</i> provides its own name and address;</li><li>(b) for item 2, the <i>appointed representative</i> makes the disclosure required by <i>GEN 4 Ann 1R(4)</i>;</li><li>(c) for item 4, the <i>appointed representative</i> discloses its own holding and not the holding of the <i>insurance intermediary</i>;</li><li>(d) for item 5, the holding disclosed is the holding in the <i>appointed representative</i> and not in the <i>insurance intermediary</i>;</li><li>(e) for item 6, the <i>appointed representative</i> discloses the basis on which it provides <i>advice</i> or information; and</li><li>(f) for item 8, the details provided are details of how to complain to the <i>appointed representative</i>.</li></ul>
<p>(2)</p>	<p>Under item 1, where the <i>insurance intermediary</i> trades under a different name from that under which it is <i>authorised</i>, it must disclose the name under which it is <i>authorised</i> and listed on the <i>FSA Register</i>. For an <i>appointed representative</i>, the same applies in relation to the name under which it is registered and listed on the <i>FSA Register</i>.</p>
<p>(3)</p>	<p>Under item 1, the address should be the head office address or, if more appropriate, the principal place of business from which the <i>insurance intermediary</i> or <i>appointed representative</i> expects to conduct business with the <i>customer</i>.</p>
<p>(4)</p>	<p>In addition to the disclosure required by item 9, the <i>insurance intermediary</i> must ensure that, where relevant, it describes the extent and level of compensation cover and how further information can be obtained, after the conclusion of the contract and in a <i>durable medium</i>. The <i>insurance intermediary</i> may provide this information before the contract is concluded, along with the information required by item 9, if it so chooses.</p>

### Disclosure by insurance intermediaries when introducing

- 4.2.9 R Where contact by the *insurance intermediary* with the *customer* is limited to *introducing the customer to another insurance intermediary (or to an insurer as product provider)*, the *customer* must be given the following information in good time before the introduction is made:
- (1) the information in *ICOB 4.2.8R(1) and (2)*;
  - (2) details of *fees*, if any, that the *customer* will be charged for the service being provided; and
  - (3) whether the *insurance intermediary introducing the customer* is a member of the same *group* as the *firm to whom the introduction is to be made*.

- 4.2.10 G As article 33 of the *Regulated Activities Order* makes clear, the activity of *introducing* falls within article 25(2) of the *Regulated Activities Order* (Arranging deals in investments). *ICOB 4.2.9R* applies in the limited circumstances where the arrangements made are confined to putting the *customer* in contact with another *person*. If the *insurance intermediary* goes further, for example by *advising the customer* on a particular *contract of insurance* which can be obtained from that *person*, *ICOB 4.2.2R* applies.

### Fair analysis

- 4.2.11 R An *insurance intermediary* cannot hold itself out as giving information or advice to customers on *non-investment insurance contracts* on the basis of a fair analysis of the market in accordance with *ICOB 4.2.8R(6)(a)* unless:
- (1) it has considered a sufficiently large number of *non-investment insurance contracts* available in the relevant sector or sectors of the market; and
  - (2) the consideration in (1) is based on criteria which reflect adequate knowledge of *non-investment insurance contracts* in the relevant sector or sectors of the market.

- 4.2.12 G (1) If an *insurance intermediary* holds itself out as giving information or advice to customers on certain types of *non-investment insurance contracts* on the basis of a fair analysis of the market (or any sector of that market), the selection of *insurance undertakings* the *insurance intermediary* considers for this purpose will need to be sufficiently large to enable the *insurance intermediary* to satisfy the requirement in *ICOB 4.2.11R*. One way in which this requirement may be satisfied is by the *insurance intermediary* using "panels" of *insurance undertakings* which are sufficient to enable the *insurance intermediary* to give advice or information on a fair analysis basis and which are reviewed on a regular basis. An *insurance intermediary* which provides a service based on a

fair analysis of the market (or from a sector of the market) should ensure that its analysis of the market and the available *non-investment insurance contracts* is kept adequately up-to-date. For example, an *insurance intermediary* would need to update its selection of *non-investment insurance contracts* if it became aware that a *non-investment insurance contract* had generally become available offering an improved product feature, or a better *premium*, when compared with the *non-investment insurance contracts* currently in the *insurance intermediary's* selection. The frequency with which the selection of contracts needs to be updated will depend on the extent to which new contracts are made available on the market.

- (2) Where a “panel” of *insurance undertakings* is used, the criteria the *insurance intermediary* uses to select the panel will be important in determining whether the panel is sufficient for the *insurance intermediary* to provide a service based on a fair analysis of the market. The selection should be based on the product features, *premiums* and services offered by *insurance undertakings* to *customers*, and not solely on the benefit that the *insurance undertakings* offer to the *insurance intermediary*.

4.2.13

- G (1) An *insurance intermediary* may provide *advice* or information on a different basis to the same *customer* for different types of *non-investment insurance contracts*. For example, an *insurance intermediary* may give *advice* or information on the basis of a fair analysis of the market in respect of motor insurance contracts, but give *advice* or information only on a single *insurance undertaking's* contract for home contents insurance. The disclosure at *ICOB 4.2.8R(6)* should be based on the service that the *insurance intermediary* is providing in relation to a particular *non-investment insurance contract* for that *customer*.
- (2) *IPRU(INS) 1.3R* (Restriction of business to insurance) in practice restricts the business which an *insurer* can carry on.

#### **Information to be provided to customers on request**

4.2.14

- R (1) **An *insurance intermediary* that provides a service under *ICOB 4.2.8R (6)(b)* or *(c)* must maintain, and keep up-to-date, for each type of *non-investment insurance contract* it deals with, a list of *insurance undertakings* it selects from or deals with.**
- (2) **An *insurance intermediary* must provide a copy of the list in (1) in a *durable medium* to a *customer* on request, in accordance with *ICOB 4.2.8R(7)*.**

**Retail customers and commercial customers: information on fees**

- 4.2.15 **R** An *insurance intermediary* must provide a *customer* with details of the amount of any *fees* (or where an actual *fee* cannot be given the basis for calculating any *fees*, enabling the *customer* to verify them) for an *insurance mediation activity* before the *customer* incurs liability to pay the *fee*, or before conclusion of the contract, whichever is earlier.
- 4.2.16 **G** *ICOB* 4.2.15R means that *fees* charged over the life of the contract by the *insurance intermediary*, including *fees* for mid-term adjustments, must be disclosed before the *non-investment insurance contract* is concluded.
- 4.2.17 **R** The information in *ICOB* 4.2.15R can be provided in any medium before the conclusion of the contract but must be provided in a *durable medium* immediately after the conclusion of the contract.
- 4.2.18 **G** (1) The *fees* referred to in *ICOB* 4.2.15R are *fees* for mediation services. *Fees* for *non-investment insurance contracts* are covered in *ICOB* 5.5.14R(3).
- (2) *Fees* do not include *premiums*, or *commissions* that are part of *premiums*.

**Overseas business for UK retail customers**

- 4.2.19 **R** (1) An *insurance intermediary* must not conduct *insurance mediation activities* in respect of *non-investment insurance contracts*:
- (a) from an office of its own (or of any *appointed representative*) outside the *United Kingdom*;
- (b) with or for a *retail customer* who is in the *United Kingdom*;
- unless it has, where relevant, made a disclosure in accordance with (2) to the *retail customer*.
- (2) The required disclosure in (1) means a written statement making it clear that in some or all respects the *regulatory system* applying, including any complaints handling or compensation arrangements, will be different from that of the *United Kingdom*. The statement may also indicate the protections or compensation available under another system of regulation.

**Application for renewals and amendments where information has already been provided**

- 4.2.20 R (1) ***ICOB 4.2 does not apply in relation to any insurance mediation activity that an insurance intermediary carries on with a customer in the course of renewing or amending a contract of insurance, if the information required by ICOB 4.2 has already been given to the customer in relation to the initial contract and is still accurate and up-to-date.***
- (2) ***If the information in relation to the initial contract that the insurance intermediary has previously disclosed to the customer in accordance with ICOB 4.2 has changed, the insurance intermediary must give the customer the updated information in accordance with the provisions of ICOB 4.2, but does not need to provide the other information required by ICOB 4.2.***
- 4.2.21 G ***An insurance intermediary will normally need to provide updated information within ICOB 4.2.20R(2) to the customer in a durable medium before the conclusion of the contract, unless an exemption in ICOB 4.2.2R(2) (oral disclosure) or ICOB 4.2.2R(3) (telephone sales) applies.***

**4.3 Suitability**

**Requirement for suitability**

- 4.3.1 R (1) ***An insurance intermediary must take reasonable steps to ensure that, if in the course of insurance mediation activities it makes any personal recommendation to a customer to buy or sell a non-investment insurance contract, the personal recommendation is suitable for the customer's demands and needs at the time the personal recommendation is made.***
- (2) ***The personal recommendation in (1) must be based on the scope of the service disclosed in accordance with ICOB 4.2.8R(6).***
- (3) ***An insurance intermediary may make a personal recommendation of a non-investment insurance contract that does not meet all of the customer's demands and needs, provided that:***
- (a) ***there is no non-investment insurance contract within the insurance intermediary's scope, as determined by ICOB 4.2.8R(6), that meets all of the customer's demands and needs; and***

- (b) the *insurance intermediary* identifies to the *customer*, at the point at which the *personal recommendation* is made, the demands and needs that are not met by the contract that it *personally recommends*.

**Information about the customer's demands and needs**

- 4.3.2 R In assessing the *customer's* demands and needs, the *insurance intermediary* must:
- (1) seek such information about the *customer's* circumstances and objectives as might reasonably be expected to be relevant in enabling the *insurance intermediary* to identify the *customer's* requirements. This must include any facts that would affect the type of insurance recommended, such as any relevant existing insurance;
  - (2) have regard to any relevant details about the *customer* that are readily available and accessible to the *insurance intermediary*, for example, in respect of other *contracts of insurance* on which the *insurance intermediary* has provided *advice* or information; and
  - (3) explain to the *customer* his duty to disclose all circumstances material to the insurance and the consequences of any failure to make such a disclosure, both before the *non-investment insurance contract* commences and throughout the duration of the contract; and take account of the information that the *customer* discloses.
- 4.3.3 G In relation to *ICOB 4.3.2R(3)*, an *insurance intermediary* should make clear to the *customer* what the *customer* needs to disclose. For example, in relation to private medical insurance, this could include any existing medical condition where relevant, or in relation to motor insurance, any modifications carried out to the vehicle.
- 4.3.4 G An *insurance intermediary* should base his *personal recommendation* on what the *customer* tells him. Subject to *ICOB 4.3.2R(1)*, *ICOB 4.3.2R(2)* and *ICOB 4.3.5R*, the *insurance intermediary* is not required to take into account the *customer's* existing insurance cover, or details of that cover, if the *customer* is not able to provide this information.
- 4.3.5 R If the *insurance intermediary* is aware that the *customer's* existing insurance cover is likely to significantly affect the suitability of any *personal recommendation* that the *insurance intermediary* might make, the *insurance intermediary* must either:
- (1) not make a *personal recommendation* until details of the insurance cover are made available to him; or
  - (2) if it makes a *personal recommendation*, make clear to the *customer* that this may not be suitable because the *insurance intermediary* has not taken into account full details of the *customer's* existing insurance cover.

**Assessing the suitability of a contract against the customer's demands and needs**

- 4.3.6 R** In assessing whether a *non-investment insurance contract* is suitable to meet a *customer's* demands and needs, an *insurance intermediary* must take into account at least the following matters:
- (1)** whether the level of cover is sufficient for the risks that the *customer* wishes to insure;
  - (2)** the cost of the contract, where this is relevant to the *customer's* demands and needs; and
  - (3)** the relevance of any exclusions, excesses, limitations or conditions in the contract.
- 4.3.7 G** (1) Where *ICOB* 4.3.6R(2) applies, an *insurance intermediary* should take into account the cost of the contract when compared to other *non-investment insurance contracts* that cover a similar range of demands and needs on which the *insurance intermediary* can provide *advice* or information.
- (2) In meeting the requirements of *ICOB* 4.3.6R, an *insurance intermediary* need not consider the following:
- (a) alternatives to *non-investment insurance contracts*; and
  - (b) the needs of the *customer* that are not relevant to the type of contract in which the *customer* is interested.
- 4.4 Statement of demands and needs**
- 4.4.1 R** (1) Unless *ICOB* 4.4.2R applies, where an *insurance intermediary* arranges for a *customer* to enter into a *non-investment insurance contract* (including at *renewal*), it must, before the conclusion of that contract, provide the *customer* with a statement that:
- (a)** sets out the *customer's* demands and needs;
  - (b)** confirms whether or not the *insurance intermediary* has *personally recommended* that contract; and
  - (c)** where a *personal recommendation* has been made, explains the reasons for *personally recommending* that contract.
- (2) The statement in (1) must reflect the complexity of the *contract of insurance* proposed.
- (3) Unless (4) applies, the statement in (1) must be provided in a *durable medium*.



- (4) An *insurance intermediary* may provide the statement in (1) orally if:
- (a) the *customer* requests it; or
  - (b) the *customer* requires immediate cover;

but in both cases the *insurance intermediary* must provide the information in (1) immediately after the conclusion of the contract, in a *durable medium*.

#### Exemptions

#### 4.4.2 R (1) Commercial customers

- (a) *ICOB 4.4.1R(1)* does not apply to an *insurance intermediary* that is an *insurer* when dealing with a *commercial customer*, unless the *insurer* makes a *personal recommendation* to that *commercial customer*.
- (b) If an *insurance intermediary* that is an *insurer* makes a *personal recommendation* to a *commercial customer*, it need not provide the *commercial customer* with a statement of demands and needs, provided that:
  - (i) it has obtained the consent of the *commercial customer* not to receive the statement of demands and needs; and
  - (ii) it has explained to the *commercial customer* the consequences of giving that consent before it is given.

#### (2) Telephone sales

Where a contract is concluded by telephone with a *customer*, the statement of demands and needs:

- (a) must be provided immediately after the conclusion of the contract in a *durable medium*;
- (b) may also be provided orally before the contract is concluded.

#### 4.4.3

- G (1) An *insurance intermediary* may provide the demands and needs statement as part of another document, such as an application form.
- (2) For quick quotes (see *ICOB 4.2.1G(3)*), there is no requirement for the *insurance intermediary* to provide a demands and needs statement, but one must be provided before contract conclusion.
- (3) A statement of demands and needs is, by definition, relevant to (and generated by) the specific circumstances of the *customer*. However, the degree of knowledge of the *customer's* circumstances that is required will vary from case to case.

### **Demands and needs statement for non-advised sales**

4.4.4 G *ICOB 4.4.3G* gives an *insurance intermediary* flexibility as to the format of the demands and needs statement. Some examples of approaches that may be appropriate where the *insurance intermediary* has not made a *personal recommendation* include:

- (1) providing a demands and needs statement as part of an application form, so that the demands and needs statement is made dependent upon the *customer* providing personal information on the application form. For instance, the application form might include a statement along the lines of:

"If you answer "yes" to questions a, b and c your demands and needs are those of a pet owner who wishes and needs to ensure that the veterinary needs of your pet are met now and in the future";

- (2) producing a demands and needs statement in product documentation that will be appropriate for anyone wishing to buy the product. For example, "This product meets the demands and needs of those who wish to ensure that the veterinary needs of their pet are met now and in the future"; and
- (3) giving a *customer* a record of all his demands and needs that have been discussed.

### **Demands and needs statement when a personal recommendation is made**

- 4.4.5 G
- (1) Where a *personal recommendation* has been made the demands and needs statement will need to record the reasons for the *personal recommendation* as well as the *customer's* demands and needs.
  - (2) In accordance with *ICOB 4.4.7R*, the demands and needs statement is the record that the *insurance intermediary* must maintain to demonstrate that he has given a suitable *personal recommendation*. Accordingly, the statement will need to contain sufficient information to act as this record.
  - (3) *ICOB 4.4.6G* contains *guidance* on the content of the statement of demands and needs required by *ICOB 4.4.1R(1)*.

## 4.4.6

- G Table: Guidance on the content of the statement of demands and needs required by ICOB 4.4.1R(1)

This table belongs to *ICOB 4.4.5G(3)*.

	Introduction
(1)	Where relevant, the statement should explain simply and clearly why the <i>personal recommendation</i> is viewed as suitable, having regard to the <i>customer's</i> demands and needs.
	Style and Presentation
(2)	The style and presentation of the statement is left for the <i>insurance intermediary</i> to decide, so that he can design a statement which works best for the market in which he transacts business. A statement is more likely to be effective if it demonstrates these features:
	(a) simplicity and plain English: when technical terms need to be incorporated, they should be explained if the <i>customer</i> is unlikely to understand their meaning; and
	(b) concise and clear messages: lengthy explanations and extensive statements are likely to reduce the effectiveness of the statement, and make the <i>customer</i> less likely to read the statement properly.
(3)	An <i>insurance intermediary</i> should take the following into account when constructing a statement following a <i>personal recommendation</i> :
	(a) the statement should explain why the <i>customer's</i> demands and needs combine to make the recommended contract suitable for the <i>customer</i> . It should not merely state what contract is being recommended with no link to the <i>customer's</i> demands and needs; and
	(b) an <i>insurance intermediary</i> that offers contracts from more than one <i>insurance undertaking</i> should include a statement of why a particular <i>insurance undertaking</i> has been recommended; reasons may include contract features not available anywhere else, price, or service levels.

### Record keeping where a personal recommendation is made

- 4.4.7 R (1) **An *insurance intermediary* that makes a *personal recommendation* to a *customer* must, if the *customer* acts on the *personal recommendation* by concluding the *non-investment insurance contract* with that *insurance intermediary*:**

- (a) unless *ICOB 4.4.2R(1)(b)* applies, retain a copy of the statement required by *ICOB 4.4.1R(1)*; or
- (b) if *ICOB 4.4.2R(1)(b)* applies, make and retain, in a *durable medium*, a record of the reasons for the *personal recommendation*.

(2) Both the copy of the statement in (1)(a) and the record in (1)(b) must be retained for a minimum period of three years from the date on which the *personal recommendation* was made.

4.4.8 G The effect of *ICOB 4.4.7R(1)* is that if the *customer* does not act on the *personal recommendation*, the *insurance intermediary* need not retain a copy of the statement.

#### 4.5 Excessive charges to retail customers

4.5.1 R An *insurance intermediary* must ensure that its *charges to a retail customer* are not excessive.

4.5.2 G When determining whether a *charge* is excessive, an *insurance intermediary* should consider:

- (1) the amount of its *charges* for the services or product in question, compared with *charges* for similar services or products in the market;
- (2) whether the *charges* are an abuse of the trust that the *retail customer* has placed in the *insurance intermediary*; and
- (3) the nature and extent of the disclosure of the *charges* to the *retail customer*.

4.5.3 G In assessing whether an *insurance intermediary's* charges are excessive, the *FSA* will take account of the *charges* imposed by *insurance intermediaries* of similar size and that conduct a similar volume of business.

4.5.4 G *ICOB 4.5.1R* does not apply to *premiums*, but does cover *fees* (including any *fees* that an *insurance intermediary* charges where it receives no *commission* from an *insurer* in respect of the *contract of insurance*).

#### 4.6 Commission disclosure for commercial customers

4.6.1 R Before the conclusion of a *non-investment insurance contract*, or at any other time, an *insurance intermediary* that conducts *insurance mediation activities* for a *commercial customer* must, if that *commercial customer* asks, promptly disclose the *commission* that he and any *associate* of his receives in connection with the *non-investment insurance contract* in question, in cash terms, in a *durable medium*.

4.6.2 G *ICOB 4.6.1R* does not replace the general law on the fiduciary obligations of an agent. In relation to *contracts of insurance* the essence of these obligations is generally a duty on the agent to account to his *principal*. However, in certain circumstances, the duty is one only of disclosure. Where a *customer* employs an *insurance intermediary* by way of business and does not remunerate him, and

where it is usual for the *insurance intermediary* to be remunerated by way of *commission* paid by the *insurer* out of *premium* payable by the *customer*, then if the *customer* asks what the *insurance intermediary's* remuneration is, the *insurance intermediary* must tell him. *ICOB* 4.6.1R is additional to this requirement in that it applies whether or not the *insurance intermediary* is an agent of the *commercial customer*.

- 4.6.3 G *ICOB* 4.1.4R(3) states that *ICOB* 4.6 does not apply to an *insurance intermediary* that is an *insurer*. This means that there is no obligation on an *insurer* to disclose a *commission* equivalent to a *commercial customer* on request.
- 4.6.4 G The disclosures required by *ICOB* 4.6.1R should be made in a manner that is clear, fair and not misleading, as required by *ICOB* 2.2.3R (Clear, fair and not misleading communication).
- 4.6.5 G If the precise value of *commission* is not known in advance, the *insurance intermediary* should estimate the rate likely to apply in relation to the *contract of insurance* in question.
- 4.6.6 G *ICOB* 4.6.1R does not require the disclosure of *commission* throughout the distribution chain between the *insurer* and *commercial customer*; but it does require disclosure of *commission* paid to any *associate*, regardless of whether the *associate* is part of the distribution chain.
- 4.7 **Unsolicited services**
- 4.7.1 R **Unless *ICOB* 4.7.2R applies, an *insurance intermediary* or an *insurer* must not, in relation to a *non-investment insurance contract* that is a *distance contract*:**
- (1) ***advise on, arrange, enter into, renew, carry out or assist in the administration and performance of such a contract for a retail customer without a prior request on his part, when the supply of such a service includes a request for immediate or deferred payment; or***
  - (2) ***enforce any obligation against a retail customer in the event of unsolicited supplies of such services, the absence of a reply not constituting consent.***
- 4.7.2 R ***ICOB* 4.7.1R does not prevent an *insurance intermediary* or an *insurer* from exercising any right that he may have, by contract or otherwise, to *renew a distance contract with a retail customer without any request made by or on behalf of that retail customer prior to the renewal of the contract.***
- 4.7.3 G (1) *ICOB* 4.7.1R(1) prohibits an *insurance intermediary* (or an *insurer* when acting as *product provider*) from *advising on, arranging, entering into, renewing, carrying out or assisting in the administration and performance of a non-investment insurance contract that is a distance contract for a retail customer without the prior consent of that retail customer*. This prohibition includes the continuation of insurance after a specified period where the insurance has been free of charge to the *retail customer* during that period unless the *retail customer* has agreed before the period expires to pay for the insurance once the period has expired.

- (2) Where the payment for the contract is made by regular instalments (for example, by direct debit), the effect of *ICOB 4.7.2R* is that an *insurance intermediary* (or an *insurer* when acting as *product provider*) will be required to seek the *retail customer's* consent on *renewal* to continue to provide insurance only if the contract does not give it the right to do so without further reference to the *retail customer*.
- (3) The prior consent of the *retail customer* can either be express, or deduced from the circumstances of the case (for instance, by the *retail customer* providing an updated direct debit mandate to the *firm*).

## **4.8 Language of the information provided to customers**

- 4.8.1 R All information provided to *customers* in accordance with this chapter must be in English, unless the *customer* requests it to be, and the *firm* agrees to it being, in another language.**

This Annex belongs to *ICOB 4.2.4G(1)*.

An *insurance intermediary* should omit the notes and square brackets in the following IDD. If the IDD contains the key facts logo and Section 1, the *insurance intermediary* must follow the headings and text in the order shown in accordance with *ICOB 4.2.5R* and the notes.

[Note 1]

## about our insurance services [Note 2]

keyfacts



Financial Services

[Note 5]  
[123 Any Street  
Some Town  
ST21 7QB]

[Note 3] [Note 4]

### 1 The Financial Services Authority (FSA)

The FSA is the independent watchdog that regulates financial services. It requires us to give you this document. Use this information to decide if our services are right for you.

### 2 Whose products do we offer? [Note 6] [Note 7]

We offer products from a range of insurers [for] [list the types of *non-investment insurance contracts*].

We [can] [Note 8] only offer products from a limited number of insurers [for] [list the types of *non-investment insurance contracts*].

Ask us for a list of insurers we offer insurance from. [Note 9]

We [can] [Note 8] only offer [a] product[s] from [a single insurer] [name of single

*insurance undertaking*] [for] [list the types of *non-investment insurance contracts*].  
[Note 10] [Note 11]

[or] [Note 12]

We only offer our own products for [list the types of *non-investment insurance contracts*].

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### 3 Which service will we provide you with? [Note 13] [Note 14]

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We will advise and make a recommendation for you after we have assessed your needs [for] [list the types of *non-investment insurance contracts*].

You will not receive advice or a recommendation from us [for] [list the types of *non-investment insurance contracts*]. We may ask some questions to narrow down the selection of products that we will provide details on. You will then need to make your own choice about how to proceed.

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### 4 What will you have to pay us for our services?

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A fee [of £ [ ]]. [Note 15]

No fee.

You will receive a quotation which will tell you about any other fees relating to any particular insurance policy.

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### 5 Who regulates us? [Note 16]

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[XYZ Financial Services] [123 Any Street, Some Town, ST21 7QB] [Note 17] [Note 18] is authorised and regulated by the Financial Services Authority. Our FSA Register number is [ ]. [Note 19]

Our permitted business is [ ]. [Note 20]

[or] [Note 21]

[Name of *appointed representative*] [Notes 3 and 4] is an appointed representative of [name of authorised *firm*] [address of authorised *firm*] [Note 17] [Note 18] which is authorised and regulated by the Financial Services Authority. [Name of *firm's*] FSA Register number is [ ].

[Name of *firm's*] permitted business is [ ]. [Note 20]

You can check this on the FSA's Register by visiting the FSA's website [www.fsa.gov.uk/register](http://www.fsa.gov.uk/register) or by contacting the FSA on 0845 606 1234.

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### 6 Ownership [Note 22]

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[B&C Insurer owns 20% of our share capital.] [Note 23]



[XYZ Financial Services (or We) have 20% of the voting rights in Royal Edinburgh]. [Note 24]

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## **7 What to do if you have a complaint [Note 16]**

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If you wish to register a complaint, please contact us:

**...in writing** Write to [XYZ Financial Services], [Complaints Department, 123 Any Street, Some Town, ST21 7QB].

**... by phone** Telephone [0121 100 1234] [Note 25]

If you cannot settle your complaint with us, you may be entitled to refer it to the Financial Ombudsman Service. [Note 26]

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## **8 Are we covered by the Financial Services Compensation Scheme (FSCS)? [Note 16] [Note 27]**

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We are covered by the FSCS. You may be entitled to compensation from the scheme if we cannot meet our obligations. This depends on the type of business and the circumstances of the claim.

Insurance advising and arranging is covered for 100% of the first £2,000 and 90% of the remainder of the claim, without any upper limit.

[or] [Note 28]

For compulsory classes of insurance, insurance advising and arranging is covered for 100% of the claim, without any upper limit.

Further information about compensation scheme arrangements is available from the FSCS.

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The following notes do not form part of the IDD.

**Note 1** – subject to this, an *insurance intermediary* may use its own house style and brand.

**Note 2** – the *Financial Services Authority* has developed a common key facts logo to be used on significant pieces of information directed to *customers*. *ICOB 4.2.6R* sets out requirements on the use of the key facts logo. A specimen of the key facts logo can be obtained from the *FSA* website [http://www.fsa.gov.uk/pubs/other/keyfacts\\_logo](http://www.fsa.gov.uk/pubs/other/keyfacts_logo).

**Note 3** – insert the *insurance intermediary's* or *appointed representative's* name (either the name under which it is *authorised* or the name under which it trades). A corporate logo or logos may be included.

**Note 4** - if an individual who is employed or engaged by an *appointed representative* provides the information, the individual should not put his or her own name on the IDD.

**Note 5** – insert the head office or if more appropriate the principal place of business from which the *insurance intermediary* or *appointed representative* expects to conduct business (this can include a *branch*) with *customers*. (An *appointed representative* should not include the name and address of the *authorised firm* instead of its own.)

## **Section 2: Whose products do we offer?**

**Note 6** – the *insurance intermediary* should select, for example by ticking, the box(es) which are appropriate for the service that it expects to provide to the *customer*.

**Note 7** – the *insurance intermediary* can select more than one box if the scope of the service it provides to a particular *customer* varies by type of contract. For example, if it deals with a single *insurance undertaking* for motor insurance and a range of *insurance undertakings* for household insurance. In the case where more than one box is selected, the *insurance intermediary* should specify which box relates to which type of *non-investment insurance contract*, by adding text to the IDD. This needs to be done only in relation to the service it is offering to a particular *customer*.

**Note 8** – insert “can” if the *insurance intermediary's* range of *non-investment insurance contracts* is determined by any contractual obligation. This does not apply where a *product provider* or *insurer* is selling its own products.

**Note 9** – this is the list required by *ICOB 4.2.14R*.

**Note 10** – if the *insurance intermediary* deals with a different *insurance undertaking* for different types of *non-investment insurance contracts*, it should identify all the *insurance undertakings* and specify the types of contract to which they relate on the IDD. This needs to be done only in relation to the service it is offering to a particular *customer*. For example, "we can only offer products from ABC Insurance for motor insurance and XYZ Insurance for household insurance".

**Note 11** – if the *insurance intermediary* does not select this box, it should replace the words on the specimen form with the following: "We only offer products from a single insurer".

**Note 12** – if the *insurance intermediary* is an *insurer* offering only its own *non-investment insurance contracts*, or is part of an *insurer* offering only the *non-investment insurance contracts* sold under that part's trading name, it should use this alternative text.

### **Section 3: Which service will we provide you with?**

**Note 13** – this section may be omitted if the *insurance intermediary* intends to provide, or already has provided, the *customer* with this information as part of the demands and needs statement in accordance with *ICOB 4.4*. If this section is omitted, the other sections of the *IDD* should be renumbered accordingly.

**Note 14** – the *insurance intermediary* should select, for example by ticking, the box which is appropriate for the service that it expects to provide to the *customer*. Both boxes can be selected if the *insurance intermediary* offers different services in relation to different types of *non-investment insurance contracts* to a particular *customer*. In the case where more than one box is selected, the *IDD* should specify which box relates to which type of *non-investment insurance contract*.

### **Section 4: What will you have to pay us for our services?**

**Note 15** – if the *customer* will be charged a *fee* for *insurance mediation activities* in connection with *non-investment insurance contracts*, the *insurance intermediary* should insert a plain language description of what each *fee* is for and when each *fee* is payable. This should include any *fees* for *advising on* and *arranging a non-investment insurance contract* and any *fees* over the life of the contract, for example, for mid-term adjustments. If a *firm* does not charge a *fee* the text in the first box should be abbreviated to 'A fee'.

### **Section 5: Who regulates us?**

**Note 16** – a *firm* may omit this section if it provides the information covered by this section where it is required by *ICOB 4.2.8R* to the *customer* by some other means. If this section is omitted the other sections of the *IDD* should be renumbered accordingly.

**Note 17** – if the *firm's* address on the *FSA Register* differs from that given on the *IDD* under note 5, the address on the *FSA Register* should be given in this section. If the address is the same as that given under note 5 it should be repeated in this section.

**Note 18** – where the *authorised firm* trades under a different name from that under which it is *authorised*, it should include the name under which it is *authorised* and listed on the *FSA Register*. It may also include its trading name(s) if it wishes.

**Note 19** - an *incoming EEA firm* will need to modify this section if it chooses to use this *IDD* (see *GEN 4 Ann 1R(2)*).

**Note 20** – the *insurance intermediary* should insert a plain language description of the business for which it has *permission* which relates to the service it provides in relation to *non-investment insurance contracts*.

**Note 21** – where the information is provided by an *appointed representative*, the *appointed representative* should use this text instead. The *appointed representative* should give the

details of the *authorised firm* that is its *principal* for each type of *non-investment insurance contract* that it is offering to a particular *customer*.

## **Section 6: Ownership**

**Note 22** – the *insurance intermediary* should omit this section where there are no relevant ownership arrangements under the following notes or the *firm* is an *insurer* selling its own *non-investment insurance contracts*. If this section is omitted the other sections should be renumbered accordingly.

**Note 23** – the *insurance intermediary* should insert, in the *insurance intermediary's* own words, a short description of any direct or indirect holding of more than 10 per cent in the capital or voting power of the *insurance intermediary* which is held by an *insurance undertaking* or by the parent of an *insurance undertaking*.

**Note 24** – the *insurance intermediary* should insert, in the *insurance intermediary's* own words, a short description of any direct or indirect holding of more than 10 per cent in the capital or voting power of an *insurance undertaking* which is held by the *insurance intermediary*.

## **Section 7: What to do if you have a complaint**

**Note 25** - if different to the address in note 5, give the address and telephone number which is to be used by *customers* wishing to complain.

**Note 26** – this text may be omitted if the *insurance intermediary* is aware that a *commercial customer* would not be an *eligible complainant*.

## **Section 8: Are we covered by the Financial Services Compensation Scheme (FSCS)?**

**Note 27** – when an *incoming EEA firm* provides the IDD, it should modify this section as appropriate.

**Note 28** – where the *insurance intermediary* provides a service in relation to a compulsory class of insurance, such as *employer's liability insurance*, it should use this alternative text.

This Annex belongs to *ICOB 4.2.7R*.

This specimen covers services in relation to *packaged products, non-investment insurance contracts and regulated mortgage contracts* (including *regulated lifetime mortgage contracts* and home reversion schemes). If the *firm* is only providing services in relation to two types of these products, the parts of the CIDD that are not relevant must be omitted. *Firms* must omit the notes and square brackets that appear in the following CIDD. The CIDD must contain the key facts logo, headings and text in the order shown and in accordance with the notes. [Note 1]

## about our services [Note 2]



Financial Services

[Note 5]  
[123 Any Street  
Some Town  
ST21 7QB]

[Note 3] [Note 4]

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### 1 The Financial Services Authority (FSA)

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The FSA is the independent watchdog that regulates financial services. It requires us to give you this document. Use this information to decide if our services are right for you.

---

### 2 Whose products do we offer? [Note 6] [Note 7]

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#### Investment

- We offer products from the whole market.
- We [can] [Note 8] only offer products from a limited number of companies.

Ask us for a list of the companies and products we offer. [Note 12]

- We [can] **[Note 8]** only offer [a] [a limited range of the] product[s] from [a single group of companies] [name of single company]. **[Note 10(1)] [Note 13]**

[or] **[Note 10(2)]**

We only offer our own products.

Ask us for a list of the products we offer. **[Note 12]**

- We will advise you about group personal pensions.

### Insurance

- We offer products from a range of insurers [for] [list the types of *non-investment insurance contracts*].

- We [can] **[Note 8]** only offer products from a limited number of insurers [for] [list the types of *non-investment insurance contracts*].

Ask us for a list of the insurers we offer insurance from. **[Note 12]**

- We [can] **[Note 8]** only offer [a] product[s] from [a single insurer] [name of single *insurance undertaking*] [for] [list the types of *non-investment insurance contracts*]. **[Note 9] [Note 10(1)] [Note 13]**

[or] **[Note 10(2)]**

We only offer our own products for [list the types of *non-investment insurance contracts*].

### **[Lifetime] Mortgages [and home reversion schemes] [Note 14]**

- We offer mortgages from the whole market.

- We [can] **[Note 8]** only offer mortgages from a limited number of lenders.

Ask us for a list of the lenders we offer mortgages from. **[Note 11]**

- We [can] **[Note 8]** only offer [a limited range of the] [a] mortgage[s] from [a single lender] [name of single lender]. **[Note 10(1)] [Note 13]**

[or] **[Note 10(2)]**

We only offer our own mortgages.

---

## 3 Which service will we provide you with? **[Note 6]**

### Investment

- We will advise and make a recommendation for you after we have assessed your needs.

- You will not receive advice or a recommendation from us. We may ask some questions to narrow down the selection of products that we will provide details on. You will then need to make your own choice about how to proceed.

### Insurance

- We will advise and make a recommendation for you after we have assessed your needs [for] [list the types of *non-investment insurance contracts*].
- You will not receive advice or a recommendation from us [for] [list the types of *non-investment insurance contracts*]. We may ask some questions to narrow down the selection of products that we will provide details on. You will then need to make your own choice about how to proceed.

### [Lifetime] Mortgages [and home reversion schemes] [Note 14]

- We will advise and make a recommendation for you after we have assessed your needs.
- You will not receive advice or a recommendation from us. We may ask some questions to narrow down the selection of products that we will provide details on. You will then need to make your own choice about how to proceed.

---

## 4 What will you have to pay us for our services?

### Investment

- Before we provide you with advice, we will give you our key facts guide to the cost of our services. [Note 15]

### Insurance

- A fee [of £ [ ]]. [Note 16]
- No fee.

You will receive a quotation which will tell you about any other fees relating to any particular insurance policy.

### [Lifetime] Mortgages [and home reversion schemes] [Note 14]

- No fee. [We will be paid by commission from the [lender/company].] [Note 17]
- A fee of £[ ] payable at the outset and £[ ] payable when you apply for a [lifetime] mortgage [or home reversion scheme]. [We will also be paid commission from the [lender/company].] [Note 17] [Note 18]



You will receive a key facts illustration when considering a particular [lifetime] mortgage, [or further information about a particular home reversion scheme] which will tell you about any fees relating to it. [Note 14]

### Refund of fees [Note 19] [Note 14]

If we charge you a fee, and your [lifetime] mortgage [or home reversion scheme] does not go ahead, you will receive:

#### [Note 20]

- A full refund [if the [lender/company] rejects your application]. [Note 21]
- A refund of £ [ ] [if your application falls through]. [Note 21] [Note 22]
- No refund [if you decide not to proceed]. [Note 21]

---

## 5 Who regulates us? [Note 23]

[XYZ Financial Services] [123 Any Street, Some Town, ST21 7QB] [Note 24] [Note 25] is authorised and regulated by the Financial Services Authority. Our FSA Register number is [ ]. [Note 26]

Our permitted business is [ ]. [Note 27]

[or] [Note 28]

[Name of *appointed representative*] [Notes 3 and 4] is an appointed representative of [name of *firm*] [address of *firm*] [Note 24] [Note 25] which is authorised and regulated by the Financial Services Authority. [Name of *firm's*] FSA Register number is [ ].

[Name of *firm's*] permitted business is [ ] [Note 27]

You can check this on the FSA's Register by visiting the FSA's website [www.fsa.gov.uk/register](http://www.fsa.gov.uk/register) or by contacting the FSA on 0845 606 1234.

[Home reversion schemes are not regulated by the FSA.] [Note 14]

---

## 6 Loans and ownership [Note 29]

[B&C Investments plc owns 20% of our share capital.]

[London Union plc provides us with loan finance of £250,000 per year.]

[XYZ Financial Services (or we) have 20% of the voting rights in Royal Edinburgh.] [Note 29][Note 31][Note 32][Note 33][Note 34]

---

## 7 What to do if you have a complaint [Note 23]

---

If you wish to register a complaint, please contact us:

**...in writing** Write to [XYZ Financial Services], [Complaints Department, 123 Any Street, Some Town, ST21 7QB].

**... by phone** Telephone [0121 100 1234]. [Note 35]

If you cannot settle your complaint with us, you may be entitled to refer it to the Financial Ombudsman Service. [Note 36] [Note 37] [The Financial Ombudsman Service does not consider complaints about home reversion schemes.] [Note 14]

---

## 8 Are we covered by the Financial Services Compensation Scheme (FSCS)? [Note 23] [Note 38]

---

We are covered by the FSCS. You may be entitled to compensation from the scheme if we cannot meet our obligations. This depends on the type of business and the circumstances of the claim.

### Investment

Most types of investment business are covered for 100% of the first £30,000 and 90% of the next £20,000 so the maximum compensation is £48,000.

### Insurance

Insurance advising and arranging is covered for 100% of the first £2,000 and 90% of the remainder of the claim, without any upper limit.

[or] [Note 39]

For compulsory classes of insurance, insurance advising and arranging is covered for 100% of the claim, without any upper limit.

### [Lifetime] Mortgages [and home reversion schemes] [Note 14]

Mortgage advising and arranging is covered for 100% of the first £30,000 and 90% of the next £20,000 so the maximum compensation is £48,000. [Home reversion schemes are not covered by the Financial Services Compensation Scheme.] [Note 14]

Further information about compensation scheme arrangements is available from the FSCS.

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## 9 Group personal pensions [Notes 40, 41 and 42]

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This meeting has been arranged so that we can provide you with [information about] [advice upon whether or not you should join] the Group Personal Pension scheme which your employer has established. You should be aware that we cannot advise upon or recommend any other specific investment products during this meeting.

---

**[Note 43] Message from the Financial Services Authority**

**Think carefully about this information before deciding whether you want to go ahead.  
If you are at all unsure about which lifetime mortgage or home reversion scheme is right for  
you, you should ask your adviser to make a recommendation.**

**Please remember that home reversion schemes are not regulated by the FSA.**

The following notes do not form part of the CIDD.

**Note 1** – subject to this, a *firm* may use its own house style and brand.

**Note 2** – the *Financial Services Authority* has developed a common key facts logo to be used on significant pieces of information directed to *customers*. *ICOB 4.2.6R* sets out the requirements on the use of the key facts logo. A specimen of the key facts logo can be obtained from the *FSA* website [http://www.fsa.gov.uk/pubs/other/keyfacts\\_logo](http://www.fsa.gov.uk/pubs/other/keyfacts_logo).

**Note 3** – insert the *firm's* or *appointed representative's* name (either the name under which it is *authorised* or the name under which it trades). A corporate logo or logos may be included.

**Note 4** – if an individual who is employed or engaged by an *appointed representative* provides the information, the individual should not put his or her own name on the CIDD.

**Note 5** – insert the head office or if more appropriate the principal place of business from which the *firm* or *appointed representative* expects to conduct business (this can include a *branch*) with *customers*. (An *appointed representative* must not include the name and address of the *authorised firm* instead of its own.)

## **Section 2: Whose products do we offer?**

**Note 6** – for services in relation to *packaged products* and *regulated mortgage contracts*, *regulated lifetime mortgage contracts* and home reversion schemes the *firm* must select, for example by ticking, one box which is appropriate for the service which it expects to provide to the *customer*. For services in relation to *non-investment insurance contracts*, the *firm* must select more than one box if the scope of the service or the type of service it provides to a particular *customer* varies by type of contract. For example, if it deals with a single *insurance undertaking* for motor insurance and a range of *insurance undertakings* for household insurance or if it provides *advice* on some types of contract but not others. In the case where more than one box is selected, the *firm* should specify which box relates to which type of *non-investment insurance contract*, by adding text to the CIDD. This needs to be done only in relation to the service it is offering to a particular *customer*.

**Note 7** - if the CIDD is provided by an *appointed representative*, the service described must be that offered by the *appointed representative*, in accordance with *COB 5*, *ICOB 4.2.8R* note 1(e) and *MCOB 4.3.10R*.

**Note 8** – insert “can” if the *firm's* range of products is determined by any contractual obligation. This does not apply where a *product provider*, *insurer*, lender or company is selling its own products.

**Note 9** – if the *insurance intermediary* deals with a different *insurance undertaking* for different types of *non-investment insurance contracts*, it should identify all the *insurance undertakings* and specify the type of contract to which they relate on the CIDD. This only needs to be done in relation to the service it is offering a particular *customer*. For example, “we can only offer products from ABC Insurance for motor insurance and XYZ Insurance for household insurance”.

**Note 10** – if the *firm* selects this box, it will be offering the products of one provider to the *customer* for a particular product type. It should therefore follow the format specified in (1) below except when offering its own products, in which case it should follow (2) instead. In

the case of *non-investment insurance contracts*, where the *firm* is providing a service in relation to different types of insurance, this box covers the situation where it is offering a particular type of insurance from a single *insurance undertaking*. If the *firm* does not select this box, then the text must follow that set out in note 13 below.

- (1) Insert the name of the provider, namely the *product provider* for *packaged products*, the *insurance undertaking(s)* for *non-investment insurance contracts*, the lender for *regulated mortgage contracts* and *regulated lifetime mortgage contracts* and the company for home reversion schemes. For example: "We can only offer products from [name of *product provider*]". For *non-investment insurance contracts* the type of insurance offered should also be included. For example: "We only offer XYZ's household insurance and ABC's motor insurance." If the provider has only one product, the *firm* must amend the text to the singular – for example: "We can only offer a mortgage from [name of lender]". If the *firm* does not offer all of the *packaged products* or mortgages or home reversion schemes generally available from that provider, it must insert the words "a limited range of" as shown in the specimen.
- (2) If the *firm* is a *product provider* offering only its own products, or is part of a *product provider* offering only the products sold under that part's trading name, it should use this alternative text.

**Note 11** – for services provided in relation to *regulated mortgage contracts*, *regulated lifetime mortgage contracts* and home reversion schemes, this sentence may be omitted if the *firm* chooses to list all of the companies it offers products from instead of the text "a limited number of lenders" in the previous line, so long as the *firm* offers all the products generally available from each provider.

**Note 12** – for services provided in relation to *packaged products* the list of products will be the range of *packaged products* that is appropriate having regard to the services that the *firm* is providing, or may provide, to the *customer*. For services provided in relation to *non-investment insurance contracts*, this is the list required by *ICOB 4.2.14R*.

**Note 13** – if the *firm* does not select this box, it must alter the wording to say "a single group of companies" for *packaged products*, "a single insurer" for *non-investment insurance contracts*, "a single lender" for *regulated mortgage contracts* or *regulated lifetime mortgage contracts* and "a single company" for home reversion schemes. For example: "We only offer the products from a single group of companies" should replace the text in the specimen CIDD.

**Note 14** – change "mortgage" to "lifetime mortgage" where the *firm* sells only *regulated lifetime mortgage contracts*. *Firms* must insert the text relating to home reversion schemes and change "mortgage" to "product", and "lender" to "company", if they advise or give personalised information on home reversion schemes in addition to *advising* or giving personalised information on *regulated lifetime mortgage contracts*.

#### **Section 4: What will you have to pay us for our services?**

**Note 15** – *firms* are only required to provide a *private customer* with an appropriate "key facts guide to the costs of services" (i.e. a menu) if they propose to give that *customer advice* on *packaged products*. Where a *firm* is not required to provide that *customer* with a menu

because the *firm* does not give *advice* on *packaged products*, the *firm* may omit the part of section 4 of the CIDD that relates to *packaged products*.

**Note 16** – if the *customer* will be charged a *fee* for *insurance mediation activities* in connection with *non-investment insurance contracts*, insert a plain language description of what each *fee* is for and when each *fee* is payable. This should include any *fees* for *advising on* or *arranging* a *non-investment insurance contract* and any *fees* over the life of the contract, for example, for mid-term adjustments. If a *firm* does not charge a *fee* the text in the first box should be abbreviated to 'A fee'.

**Note 17** – if the *firm* receives commission instead of, or in addition to, *fees* from the *customer* for services relating to *regulated mortgage contracts*, *regulated lifetime mortgage contracts* or home reversion schemes, it must insert a plain language explanation of this (see specimen for a plain language example).

**Note 18** – insert a plain language description of when any *fees* are payable for services relating to *regulated mortgage contracts*, *regulated lifetime mortgage contracts* or home reversion schemes. This description could include, for example, a cash amount, a percentage of the loan or reversion amount or the amount per hour, as appropriate. However, where a cash amount is not disclosed, one or more examples of the cash amount must be included. If a *firm* offers more than one pricing option, it may illustrate each with a separate box. If a *firm* does not charge a *fee*, the text for the second box should be abbreviated to 'A fee'.

**Note 19** – omit this part of the CIDD on 'Refund of fees' if the *firm* has indicated that there will be "No fee" for services in relation to *regulated mortgage contracts*, *regulated lifetime mortgage contracts* or home reversion schemes.

**Note 20** – *firms* may select as many boxes as appropriate.

**Note 21** – insert a plain language description of the circumstances in which the *fee* for services in relation to *regulated mortgage contracts*, *regulated lifetime mortgage contracts* or home reversion schemes is refundable or not refundable as described.

**Note 22** – a *firm* may delete this line if it does not offer a partial refund for services in relation to *regulated mortgage contracts*, *regulated lifetime mortgage contracts* or home reversion schemes in any circumstances.

### **Section 5: Who regulates us?**

**Note 23** – the *firm* may omit this section for services relating to *packaged products* if the *firm* has, on first contact with the *customer*, provided the *customer* with its *terms of business* which contains that information, including the *firm's permitted business*. This section may be omitted for services relating to *non-investment insurance contracts* if the *firm* provides the information covered by this section where it is required by *ICOB 4.2.8R* to the *customer* by some other means. This section may be omitted for services relating to *regulated mortgage contracts* (including *regulated lifetime mortgage contracts*) and home reversion schemes in accordance with *MCOB 4.4.1R(3)*. If this section is omitted, the other sections of the CIDD must be renumbered accordingly.

**Note 24** – if the *firm's* address on the *FSA Register* differs from that given on the CIDD under note 5, the address on the *FSA Register* must be given in this section. If the address is the same as that given under note 5 it should be repeated in this section.

**Note 25** – where the *authorised firm* trades under a different name from that under which it is *authorised*, it must include the name under which it is *authorised* and listed in the *FSA Register*. It may also include its trading name(s) if it wishes.

**Note 26** - an *incoming EEA firm* will need to modify this section if it chooses to use this CIDD (see *GEN 4 Ann 1R(2)*).

**Note 27** – insert a plain language description of the business for which the *firm* has a *permission* which relates to the service it is providing.

**Note 28** – where the information is provided by an *appointed representative*, the *appointed representative* must use this text instead. The *appointed representative* must give details of the *authorised firm(s)* that is its *principal(s)* for each type of service that it is providing to a particular *customer*.

## **Section 6: Loans and ownership**

**Note 29** – omit this section where there are no relevant loan or ownership arrangements under the following notes or if the *firm* is an *insurer* selling its own *non-investment insurance contracts*. If this section is omitted the other sections of the CIDD must be renumbered accordingly. If the *firm* is not providing services in relation to *packaged products*, the heading of this section must be changed to 'Ownership'.

**Notes 30, 31 and 32** apply only to a *firm advising on, dealing in, or arranging* in relation to *packaged products* for *private customers*.

**Note 30** – insert, in the *firm's* own words, a short description of any direct or indirect holding of more than 10 per cent in the capital or voting power of the *firm* which is held by a provider of *packaged products* or by the parent of the provider.

**Note 31** – insert, in the *firm's* own words, a short description of any direct or indirect holding of more than 10 per cent in the capital or voting power of a provider of *packaged products* which is held by the *firm*.

**Note 32** – insert, in the *firm's* own words, a short description of any *credit* provided to the *firm* by a *product provider* (other than *commission* due to the *firm* in accordance with an indemnity claw-back arrangement) or by any *undertaking* in the *immediate group* of the *product provider* where the amount of the *credit* exceeds 10 per cent of the share and loan capital of the *firm*.

**Notes 33 and 34** apply to an *insurance intermediary* that is not an *insurer* providing services in relation to *non-investment insurance contracts*.

**Note 33** – insert, in the *insurance intermediary's* own words, a short description of any direct or indirect holding of more than 10 per cent in the capital or voting power of the *insurance intermediary* which is held by an *insurance undertaking* or by the parent of an *insurance undertaking*.

**Note 34** – insert, in the *insurance intermediary's* own words, a short description of any direct or indirect holding of more than 10 per cent in the capital or voting power of an *insurance undertaking* which is held by the *insurance intermediary*.

### **Section 7: What to do if you have a complaint**

**Note 35** – if different to the address in note 5, give the address and telephone number which is to be used by *customers* wishing to complain.

**Note 36** – this text may be omitted for *non-investment insurance contracts* if the *insurance intermediary* is aware that a *commercial customer* would not be an *eligible complainant*.

**Note 37** – if the *firm* is carrying on an activity from an establishment which is outside the *United Kingdom* it must make clear that the *Financial Ombudsman Service* will not be available. The *firm* may refer to any similar complaints scheme that may be applicable.

### **Section 8: Are we covered by the Financial Services Compensation Scheme (FSCS)?**

**Note 38** – when an *incoming EEA firm* provides the CIDD, it must modify this section as appropriate.

**Note 39** – where the *insurance intermediary* provides a service in relation to a compulsory class of insurance, such as *employers' liability insurance*, it must use this alternative text.

### **Section 9: Group personal pensions**

**Note 40** – *firms* should only include section 9 if they intend to give information about, or *advise on*, the opportunity for *employees* to join a *group personal pension scheme* established by their employer. In all other cases it should be omitted entirely.

**Note 41** – the words in square brackets should be omitted or included, as appropriate, depending upon whether the *firm* is *advising employees* whether or not to join a *group personal pension scheme*, or merely providing them with factual information about the scheme.

**Note 42** – although *firms* must not use the occasion of a meeting to discuss a *group personal pension scheme* as an opportunity to give *advice on* other *designated investments*, this does not preclude the provision of *advice on non-investment insurance contracts, regulated mortgage contracts* or *regulated lifetime mortgage contracts*. A *firm* may also, when giving *advice on* a *group personal pension scheme*, suggest that a further meeting be arranged to discuss *designated investments* and if so must provide a further appropriate IDD or CIDD.

### **Lifetime mortgage warning**

**Note 43** - This warning box should be added when the *firm* sells *regulated lifetime mortgage contracts* or home reversion schemes or both.



# ICOB 5

## Product disclosure

### 5.1 Application and purpose

#### Application: who and what?

#### 5.1.1 R This chapter applies to:

- (1) an *insurer*;
- (2) an *insurance intermediary* other than when *introducing*;
- (3) a *managing agent*.

#### 5.1.2 R Throughout this chapter references to an *insurer* apply equally to a *managing agent*.

5.1.3 G The definition of *insurance intermediary* includes an *insurer* when the *insurer* is carrying on *insurance mediation activities*, for example when, through its sales force, it *advises on* or *arranges* its own *non-investment insurance contracts* or those of another *insurer*.

5.1.4 G This chapter applies to the sale, *renewal* and certain changes to a *non-investment insurance contract* with a *retail customer* or a *commercial customer*.

5.1.5 G *ICOB 5.1.6G* shows the provisions in this chapter which apply when a *firm* deals with a *retail customer* and those which apply when a *firm* deals with a *commercial customer*.

5.1.6 G Table: Application of *ICOB 5* by customer type

This table belongs to *ICOB 5.1.5G*.

Retail customer	Commercial customer
The whole chapter except <i>ICOB 5.4</i>	The whole chapter except <i>ICOB 5.3</i>

5.1.7 G *ICOB 5.5.18R* to *ICOB 5.5.19R* (relating to directive-required information) qualify the general provisions on territorial scope set out in *ICOB 1.3*.

5.1.8 R If information required by this chapter to be provided to a *customer* duplicates information required in *ICOB 4* (Advising and selling standards), that information does not need to be provided twice unless required by a specific *rule*. However, the *policy summary* must always contain the information set out in *ICOB 5.5.5R* except as specified in *ICOB 5.4.8R(1)* and

## **ICOB 5.5.1R.**

### **Purpose**

- 5.1.9 G (1) This chapter reinforces *Principle 7* (Communications with clients), which requires a *firm* to pay due regard to the needs of its *clients* and communicate information to them in a way that is clear, fair and not misleading.
- (2) The purpose of this chapter is to ensure that *customers* have the necessary information to make an informed choice about whether or not to *buy* a specific *non-investment insurance contract* and whether a contract continues to meet their needs.
- 5.1.10 G This chapter also implements relevant requirements of the *Distance Marketing Directive*, the *Consolidated Life Directive* and *Third Non-Life Directive*.

## **5.2 Information - responsibilities of insurers and intermediaries**

- 5.2.1 G This section covers the responsibility for content, production and provision to the *customer* of information. It provides first for the typical situation in which both *insurer* and *insurance intermediary* are *UK*-based, and also provides for cross-border situations and those in which *insurance undertakings* or intermediaries are not *firms* or where the sale involves a *connected contract*.

### **If both the insurer and the insurance intermediary are UK-based**

- 5.2.2 R **If an *insurer* and an *insurance intermediary* (other than an *authorised professional firm* carrying on *non-mainstream regulated activities* or a *firm* selling *connected contracts*) each operates from an establishment maintained by it in the *United Kingdom*, the *insurer* is responsible for the content and production of the information referred to at **ICOB 5.2.9R** and the *insurance intermediary* is responsible for providing that information to the *customer*.**

### **If either the insurance undertaking or the insurance intermediary is not UK-based, not authorised, an authorised professional firm or a firm selling connected contracts**

- 5.2.3 R (1) **If an *insurance intermediary* operates from an establishment maintained by it in the *United Kingdom*, but an *insurance undertaking* does not, the *insurance intermediary* is responsible for the content and production of the information in **ICOB 5.2.9R** as well as for providing it to the *customer*.**
- (2) **If an *insurer* operates from an establishment maintained by it in the *United Kingdom* but the intermediary does not, is not *authorised*, is a *firm* selling *connected contracts*, or is an *authorised professional firm* carrying on *non-mainstream regulated activities*, the *insurer* is responsible for the provision of the information in **ICOB 5.2.9R** to the *customer*, subject to **ICOB 5.2.5R**, as well as for the content and production of it.**

- 5.2.4 G **ICOB 5.2.3R(2)** makes the *insurer* responsible for the content, production and

provision of information to *customers* dealing through:

- (1) intermediaries in the *United Kingdom* who do not have *Part IV permission* (for example, travel agents selling *connected contracts*, *exempt professional firms* and intermediaries who do not have an establishment in the *United Kingdom*); or
- (2) *firms* selling *connected contracts*; or
- (3) *authorised professional firms* carrying on *non-mainstream regulated activities*.

#### **Exceptions where insurers deal with certain other intermediaries**

- 5.2.5 R (1)** If an *insurer* deals with an intermediary who operates from an establishment in the *United Kingdom* but does not need to be *authorised*, who is a *firm* selling *connected contracts*, or who is an *authorised professional firm* carrying on *non-mainstream regulated activities*, despite *ICOB 5.2.3R(2)* the *insurer* need not produce or provide:
- (a) a *policy summary*; and
  - (b) in respect of a *distance sale*, the directive-required information at *ICOB 5.5.20R(16)* to (21).
- (2) If the *insurer* deals with an intermediary who does not operate from an establishment maintained by the intermediary in the *United Kingdom*, despite *ICOB 5.2.3R(2)* the *insurer* need not produce or provide a *policy summary*.
- 5.2.6 R** If *ICOB 5.2.3R* requires an *insurer* to provide information to the *customer*, the rules at *ICOB 5.3* and *ICOB 5.4*, where they refer to an *insurance intermediary*, must be read as applying to an *insurer*.

#### **Insurers not operating from establishments in the United Kingdom**

- 5.2.7 R** Where an *insurer* is not operating from an establishment maintained by it in the *United Kingdom*, and there is no *insurance intermediary* which operates from an establishment maintained by it in the *United Kingdom*, the *insurer* need produce and provide only the directive-required information at *ICOB 5.5.20R(1)* to (15) when *ICOB 1.3.4R* or *ICOB 1.3.5R* applies.
- 5.2.8 G** If an *insurer* does not operate from an establishment in the *United Kingdom* and deals with an *insurance intermediary* which does not have an establishment in the *United Kingdom*, and *ICOB 1.3.4R* or *ICOB 1.3.5R* applies, the *insurer* is responsible for the content and must produce and provide the information required by those *rules*.

#### **Information to be provided to customers**

- 5.2.9 R** The information which is required is:

- (1) a *policy summary* (ICOB 5.5.1R to ICOB 5.5.13G);
- (2) directive-required information (ICOB 5.5.16R to ICOB 5.5.26G);
- (3) a *policy document* (ICOB 5.5.27R to ICOB 5.5.28G);
- (4) information about the *claims handling process* (ICOB 5.3.9R to ICOB 5.3.11G);
- (5) information, where relevant, about cancellation rights (ICOB 5.3.12R to ICOB 5.3.14G); and
- (6) for any applicable compensation scheme mentioned in the *policy summary* in accordance with ICOB 5.5.1R, the extent and level of cover and how further information can be obtained, if not already included in the *policy summary* in accordance with ICOB 5.5.1R(2)(b).

5.2.10 G The directive-required information referred to in ICOB 5.2.9R(2) does not need to be in a separate document. It may be incorporated into another document such as the *policy document* or included in a document of which the *policy summary* is a part.

5.2.11 R If an *insurer* agrees with an *insurance intermediary* that it will take on any part of the *insurance intermediary's* responsibilities required by this chapter, then the relevant *rule* will apply to the *insurer* as if it were the *insurance intermediary*.

5.2.12 R If an *insurance intermediary* is required by this chapter to provide information to a *customer* in relation to a *non-investment insurance contract*, the *insurer* must produce that information in good time to enable the *insurance intermediary* to comply with the *rules* in this chapter, or must produce it promptly in response to a request by the *insurance intermediary*.

#### **Provision of information to customers "in good time"**

5.2.13 G Some of the *rules* in this chapter require information to be provided to *retail customers* "in good time" before the conclusion of a contract and to *commercial customers* "in good time" before expiry of an existing contract. In determining what is "in good time" an *insurance intermediary* should consider the importance of the information to the *customer* in helping him to decide whether a contract meets his needs and the point in the sales process or *renewal* process at which the information may be most useful.

5.2.14 G If the *rules* in this chapter require a *policy document* to be given to a *customer* before conclusion of the contract, this must be the *policy document* and not a specimen. If an *insurance intermediary* provides a copy of the *policy terms* to a *customer* for information before conclusion of the contract, in circumstances where the *rules* in this chapter do not require it, a specimen of the terms can be given to the *customer*.

### **5.3 Provision of information to retail customers**

**Before the conclusion of a contract which is not a distance contract**

- 5.3.1 R If a *non-investment insurance contract* is not a *distance contract*, an *insurance intermediary* must, in good time before the conclusion of the contract:
- (1) provide a *retail customer* with the following information in a *durable medium*:
    - (a) a *policy summary* (ICOB 5.5.1R to ICOB 5.5.13G);
    - (b) a statement of price (ICOB 5.5.14R to ICOB 5.5.15G);
    - (c) the relevant directive-required information set out in ICOB 5.5.20R (subject to ICOB 5.5.17G to ICOB 5.5.19R); and
  - (2) draw the attention of the *retail customer* orally to the importance of reading the *policy summary*, and in particular the section of the *policy summary* on significant and unusual exclusions or limitations.

**On conclusion of a contract which is not a distance contract**

- 5.3.2 G Where the *retail customer* does not have the opportunity to read the information provided in accordance with ICOB 5.3.1R(1) before conclusion of the contract, for example, because it is provided in a sealed pack, the *insurance intermediary* should provide a specimen copy of all the information in such a way that the *retail customer* is able to read it before conclusion of the contract. For example, a stand with sealed packs could be accompanied by a copy of the *policy summary* and other required information, with a notice that they contain important information the *retail customer* should read before *buying* the *policy*. Oral disclosure at the point of sale must still be given in accordance with ICOB 5.3.1R(2).
- 5.3.3 G *Guidance* on what constitutes a significant or unusual exclusion or limitation is set out in ICOB 5.5.8G to ICOB 5.5.10G.
- 5.3.4 R When a *non-investment insurance contract* which is not a *distance contract* is concluded, an *insurance intermediary* must provide a *retail customer* in a *durable medium*, immediately after conclusion of the contract, with:
- (1) a *policy document* (ICOB 5.5.27R to ICOB 5.5.28G);
  - (2) information about the *claims handling* process (ICOB 5.3.9R to ICOB 5.3.11G);
  - (3) information, where relevant, about cancellation rights (ICOB 5.3.12R to ICOB 5.3.14G);
  - (4) for any applicable compensation scheme mentioned in the *policy summary* in accordance with ICOB 5.5.1R, the extent and level of cover and how further information can be obtained, if not already included in the *policy summary* in accordance with ICOB 5.5.1R(2)(b).

- 5.3.5 G *ICOB 5.3.4R* does not prevent an *insurance intermediary* providing the information in *ICOB 5.3.4R(1)* to (4) before the conclusion of the *non-investment insurance contract*.

**Before the conclusion of a distance contract**

- 5.3.6 R (1) If a *non-investment insurance contract* is a *distance contract*, an *insurance intermediary* must provide a *retail customer*, in good time before the conclusion of the contract, with the following information in a *durable medium*, unless an exemption in (2) applies:

- (a) a *policy summary* (*ICOB 5.5.1R* to *ICOB 5.5.13G*);
- (b) a statement of price (*ICOB 5.5.14R* to *ICOB 5.5.15G*);
- (c) the relevant directive-required information set out in *ICOB 5.5.20R* (subject to *ICOB 5.5.17G* to *ICOB 5.5.19R*);
- (d) the *policy document* (*ICOB 5.5.27R* to *ICOB 5.5.28G*);
- (e) information about the *claims handling* process (*ICOB 5.3.9R* to *ICOB 5.3.11G*); and
- (f) information, where applicable, about cancellation rights (*ICOB 5.3.12R* to *ICOB 5.3.14G*).

- (2) The following exemptions from (1) apply:

- (a) Telephone sales

If a *non-investment insurance contract* is concluded by telephone and the *retail customer* gives explicit consent to receiving only the limited information specified in (i) to (ix) below, an *insurance intermediary* must give this information to the *retail customer* orally before the conclusion of the contract:

- (i) Name of the *insurance undertaking*;
- (ii) type of insurance and cover;
- (iii) significant features and benefits;
- (iv) significant and unusual exclusions or limitations;
- (v) the total price to be paid by the *retail customer* for the *non-investment insurance contract* (or, if an exact price cannot be indicated, the basis for calculation of the price enabling the *retail customer* to verify it);
- (vi) notice of the possibility that other taxes or costs may exist in respect of the *non-investment insurance contract* that are not

payable via the *insurance intermediary* or imposed by him;

- (vii) the existence or absence of the right of cancellation and, where applicable, the duration of the cancellation period and the conditions for exercising the right to cancel, including information on the amount which the *retail customer* may be required to pay;
- (viii) a telephone number or address to which a *claim* may be notified; and
- (ix) that other information is available on request and the nature of that information.

**(b) Certain other means of distance communication**

If the *non-investment insurance contract* is concluded at the *retail customer's* request using a *means of distance communication* (other than by telephone) which does not enable provision of the information referred to in *ICOB 5.3.6R(1)* in a *durable medium* before the conclusion of the contract, the *insurance intermediary* must provide the following information by other means before the conclusion of the contract:

- (i) Name of the *insurance undertaking*;
- (ii) type of insurance and cover;
- (iii) significant features and benefits;
- (iv) significant and unusual exclusions or limitations;
- (v) the total price to be paid by the *retail customer* for the *non-investment insurance contract* (or, if an exact price cannot be indicated, the basis for calculation of the price enabling the *retail customer* to verify it);
- (vi) notice of the possibility that other taxes or costs may exist in respect of the *non-investment insurance contract* that are not payable via the *insurance intermediary* or imposed by him;
- (vii) the existence or absence of the right of cancellation and, where applicable, the duration of the cancellation period and the conditions for exercising the right to cancel, including information on the amount which the *retail customer* may be required to pay; and
- (viii) a telephone number or address to which a *claim* may be notified.

5.3.7 G If the *retail customer* does not give explicit consent to receiving only limited information before conclusion of the contract in accordance with *ICOB*

5.3.6R(2)(a), the exemption at *ICOB* 5.3.6R(2)(a) does not apply and the information in *ICOB* 5.3.6R(1) must be provided to the *retail customer* in a *durable medium* before conclusion of the contract.

**On conclusion of a contract which is a distance contract**

- 5.3.8 R When a *non-investment insurance contract* which is a *distance contract* is concluded in accordance with *ICOB* 5.3.6R(2)(a) or (b), an *insurance intermediary* must provide a *retail customer* with the information in *ICOB* 5.3.6R(1) in a *durable medium* immediately after conclusion of the contract.

**Information about the claims handling process**

- 5.3.9 R The information about the *claims handling* process that the *insurance intermediary* must provide to the *retail customer* in accordance with *ICOB* 5.3.4R(2) and *ICOB* 5.3.6R(1)(e) is:

- (1) the address, telephone number or other point of initial contact for notifying a *claim*; and
- (2) the information the *retail customer* must provide to the *insurance undertaking* when notifying a *claim*.

- 5.3.10 R The information in *ICOB* 5.3.9R(1) and (2) must be provided in the same document.

- 5.3.11 G The information in *ICOB* 5.3.9R may be incorporated into another document or provided as a stand-alone document.

**Information about cancellation**

- 5.3.12 R The information about cancellation that the *insurance intermediary* must provide to the *retail customer* in accordance with *ICOB* 5.3.4R(3) or *ICOB* 5.3.6R(1)(f) is:

- (1) the existence or absence of a right to cancel in accordance with *ICOB* 6.2.1R; and
- (2) where a right to cancel exists:
  - (a) the duration of the cancellation period, in accordance with *ICOB* 6.2.2R;
  - (b) the conditions for exercising the right to cancel, including information on the amount which the *retail customer* may be required to pay;
  - (c) the consequences of not exercising the right to cancel; and
  - (d) how the right to cancel may be exercised, including the address to which the notification of cancellation should be sent.



- 5.3.13 G The information in *ICOB 5.3.12R* should be sufficiently clear, prominent and informative to enable the *retail customer* to understand the right to cancel.
- 5.3.14 G Where the notice of the right to cancel forms part of another document, or is one of a number of documents provided to the *retail customer* at the same time, the *insurance intermediary* should ensure that the presence of the notice of the right to cancel is drawn to the *retail customer's* attention.

### **Renewal**

- 5.3.15 R **If a *non-investment insurance contract* with a *retail customer*, with a duration of no more than one year, is due for *renewal*, *ICOB 5.3.16R* to *ICOB 5.3.23G* apply in place of *ICOB 5.3.1R* to *ICOB 5.3.8R*.**
- 5.3.16 R **If a *non-investment insurance contract* is of no more than one *month's* duration and its terms provide for automatic *renewal* and for cancellation at the *retail customer's* option, *ICOB 5.3.1R* to *ICOB 5.3.8R* and *ICOB 5.3.18R* to *ICOB 5.3.23G* do not apply, except that *ICOB 5.3.12R* to *ICOB 5.3.14G* apply if cancellation rights exist under *ICOB 6*, but if any changes are made to the terms or conditions of the *policy*, *ICOB 5.3.21R* applies.**
- 5.3.17 G An example of a *non-investment insurance contract* referred to at *ICOB 5.3.16R* is a health cash plan with a monthly *renewal* cycle.
- 5.3.18 R **An *insurance intermediary* must:**
- (1) **if the *insurance undertaking* is willing to invite *renewal* of the *policy*, provide the *retail customer* with *renewal* terms in a *durable medium* in accordance with *ICOB 5.3.21R* no less than 21 days before the expiry of the *policy*; or**
  - (2) **notify the *retail customer* no less than 21 days before the expiry of the *policy* if the *insurance undertaking* is not willing to invite *renewal* or that the *insurance intermediary* no longer deals with the *insurance undertaking*.**
- 5.3.19 G *ICOB 5.3.18R(2)* includes circumstances where the *insurance undertaking* is not willing to invite *renewal* through the *insurance intermediary* in contact with the *retail customer*.
- 5.3.20 G *ICOB 5.3.15R* has the effect that a *renewal* of a *non-investment insurance contract* of more than one year's duration must be treated as a new sale, in order to comply with the *DMD*. A *renewal* of a *non-investment insurance contract* which has been extended in accordance with *ICOB 5.3.22R(4)*, so that it is longer than one year, must also be treated as a new sale. For these contracts an *insurance intermediary* should provide information in accordance with the *rules* in *ICOB 5.3.1R* to *ICOB 5.3.8R* and not *ICOB 5.3.15R*.
- 5.3.21 R **The information to be provided to the *retail customer* in accordance with *ICOB 5.3.16R* or *ICOB 5.3.18R(1)* is:**

- (1) a statement of any changes to the terms of the *policy*;
- (2) an explanation of those changes, where necessary;
- (3) any changes to the directive-required information in *ICOB 5.5.20R* (subject to *ICOB 5.5.17G* to *ICOB 5.5.19R*);
- (4) the statement of price at *ICOB 5.5.14R*;
- (5) information about cancellation (*ICOB 5.3.12R* to *ICOB 5.3.14G*); and
- (6) a prominent statement of the *retail customer's* right to request a new *policy document*.

5.3.22 R *ICOB 5.3.18R* and *ICOB 5.3.21R* do not apply where:

- (1) the *insurance intermediary* has reason to believe that the *retail customer* does not wish to *renew* the *policy* through it;
- (2) the *insurance intermediary* has notified the *retail customer* that it does not wish to act for him on *renewal*;
- (3) the *retail customer* has already been notified that the *insurance undertaking* will not invite *renewal*; or
- (4) the *retail customer* requests an extension to the *non-investment insurance contract* for a period less than that of the original *non-investment insurance contract*.

- 5.3.23 G (1) Examples of situations where the *insurance intermediary* would have reason to believe that the *retail customer* does not intend to *renew* are travel insurance for a single trip, mortgage payment protection insurance where the mortgage has been repaid, or creditor insurance tied to the term of a loan.
- (2) An *insurance intermediary* who contacts a *retail customer* at least 21 *days* before expiry of the *policy* to check whether the *retail customer* wishes to *renew*, can rely on an oral statement by the *retail customer* that he does not wish to *renew* or on the *retail customer's* failure to respond to a request in a *durable medium* to contact the *insurance intermediary* by a specified date if he wishes to *renew*.

#### Mid-term changes

5.3.24 R For the duration of a *non-investment insurance contract* an *insurance intermediary* must notify a *retail customer* of:

- (1) changes to the *premium*, unless the change conforms to a previously disclosed formula;
- (2) changes to any term or condition of the contract, together with an explanation of any implications of the change where necessary; and

- (3) changes to the directive-required information in *ICOB 5.5.20R(22)*, for a *non-investment insurance contract* that is a *pure protection contract* (subject to *ICOB 5.5.19R*).
- 5.3.25 R (1) If an *insurance undertaking* changes the *premium* or any term or condition of a *non-investment insurance contract* the *insurance intermediary* must provide the *retail customer* with the information referred to in *ICOB 5.3.24R*, in a *durable medium*, in good time before the change takes effect, unless (2) applies.
- (2) If the change referred to in (1) is at the request of the *retail customer*, and it is impracticable to provide the information in *ICOB 5.3.24R* in a *durable medium* before the change takes effect, the *insurance intermediary* must:
- (a) explain the implications of the change to the *retail customer* before the change takes effect; and
- (b) provide the *retail customer* with the information referred to in *ICOB 5.3.24R* promptly after the change takes effect, in a *durable medium*.
- 5.3.26 G *ICOB 5.3.24R(1)* means that an *insurance intermediary* does not need to notify a *retail customer* of a change to a *premium* which has previously been disclosed to the *retail customer*, such as a periodic percentage increase, or if the *premium* for creditor insurance adjusts according to a previously disclosed formula, depending on the level of the debt. However, if, for example, the *insurance undertaking* alters the formula for calculating the changes to the *premium*, this would need to be notified to the *retail customer* by the *insurance intermediary*.
- 5.3.27 G When explaining the implications of a change in accordance with *ICOB 5.3.24R(2)* or *ICOB 5.3.25R(2)(a)* to a *retail customer*, an *insurance intermediary* should explain any changes to the benefits and significant and unusual exclusions arising from the change.
- 5.3.28 G *Insurers* and *insurance intermediaries* will need to consider whether mid-term changes are compatible with the original *non-investment insurance contract*, in particular whether that *non-investment insurance contract* included terms reserving the right to vary *premiums*, charges or contract terms and conditions. *Insurers* and *insurance intermediaries* also need to ensure that any contract terms which reserve the right to make variations are not themselves unfair under the *Unfair Terms Regulations*. The *FSA* may, as a qualifying body under the *Unfair Terms Regulations*, issue from time to time case summaries or *guidance* of potential relevance to such variation terms (see *ENF 20*).

## 5.4 Provision of information to commercial customers

### Before the conclusion of the contract

- 5.4.1 R Before the conclusion of a *non-investment insurance contract*, an *insurance*

*intermediary must provide a commercial customer with:*

- (1) **sufficient information to enable the *commercial customer* to make an informed decision about the contract being proposed;**
- (2) **the directive-required information in *ICOB 5.5.20R(1) to (3)* or *ICOB 5.5.20R(4) to (15)* in writing (subject to *ICOB 5.5.17G to ICOB 5.5.19R*), unless the contract is being concluded by telephone; and**
- (3) **the *premium* and any *fees* relating to the *non-investment insurance contract*.**

5.4.2 G Where a *non-investment insurance contract* with a *commercial customer* is concluded by telephone, *ICOB 5.4.1R(2)* does not apply. The *insurance intermediary* must comply with *ICOB 5.4.1R(1)* and (3) before conclusion of the contract and provide the information in *ICOB 5.4.1R(2)* immediately after conclusion of the contract in accordance with *ICOB 5.4.4R*.

- 5.4.3 G (1) The information in *ICOB 5.4.1R(1)* that an *insurance intermediary* provides may vary according to the *commercial customer's* knowledge, experience and ability.
- (2) In deciding what information is sufficient, the *insurance intermediary* should take account of the main benefits, exclusions, limitations and conditions of a *policy*.

#### **On conclusion of the contract**

5.4.4 R **If the information referred to in *ICOB 5.4.1R(2)* and (3) was not provided in writing before the *non-investment insurance contract* was concluded, it must be provided in writing immediately afterwards.**

5.4.5 R **An *insurance intermediary* must provide a *commercial customer* with a *policy document* promptly after the conclusion of the *non-investment insurance contract*.**

- 5.4.6 G (1) In considering how to comply with the requirement to be prompt in *ICOB 5.4.5R*, the *insurance intermediary* should take account of the complexity of the contract and the needs and expectations of the *commercial customer*.
- (2) Where insurance cover commences before the full terms and conditions have been agreed, the *policy document* should be provided to the *commercial customer* promptly after the terms and conditions have been finalised.

5.4.7 G As stated in *ICOB 1.2.8R*, *ICOB 5.4.5R* applies to contracts with *commercial customers* that are *contracts of large risks* where the risk is located within the *European Economic Area* as well as other *non-investment insurance contracts*.

#### **Group policies sold to commercial customers**

5.4.8 R **When an *insurance intermediary* sells a *group policy* to a *commercial customer* the terms of which provide for *persons*, other than the *commercial customer***

who concludes the *non-investment insurance contract*, to become *policyholders*, the *insurance intermediary* must, promptly after the conclusion of the contract:

- (1) provide a *policy document* and a *policy summary* containing the information in *ICOB 5.5.5R* except *ICOB 5.5.5R(6)* (cross-references to the *policy document*) to the *commercial customer*;
- (2) inform the *commercial customer* that he should provide the *policy summary* containing the information in (1) to each *policyholder* and inform them that a copy of the *policy document* is available on request; and
- (3) if the *policy* replaces a previous *group policy*, inform the *commercial customer* that he should inform each *policyholder* of any changes to the information in the *policy summary*.

- 5.4.9 G (1) The *policyholder* referred to in *ICOB 5.4.8R* is a *person* who has rights under the *policy* to make a *claim* on the *insurance undertaking* of the *policy* (as distinct from a *person* who can only make a *claim* on, for example, his employer or on trustees in respect of the *policy*) (see *ICOB 1.2.15R* and *ICOB 1.2.16G*). Such a *policyholder* will typically be a *retail customer* under *ICOB*. Examples of types of *group policies* that may fall within the scope of *ICOB 5.4.8R* are a group health *policy* for *employees* or a personal accident *policy* for an affinity group such as a sports club or trades union.
- (2) The *policy summary* information to be provided to *policyholders* in accordance with *ICOB 5.4.8R(2)* can be provided in any form, for example, on an employer's intranet, in a staff handbook or in a separate booklet, providing it is in writing.

#### Renewal

- 5.4.10 R Where a *commercial customer's non-investment insurance contract* is due for renewal, *ICOB 5.4.11R* to *ICOB 5.4.14R* apply instead of *ICOB 5.4.1R* to *ICOB 5.4.7G*.
- 5.4.11 R Unless the *insurance intermediary* has reason to believe that the *commercial customer* does not wish to renew the *policy* or the *insurance intermediary* has notified the *commercial customer* that it will not act for him on renewal, the *insurance intermediary* must, in good time before the expiry of the *policy*:
- (1) provide *renewal terms* to the *commercial customer*; or
  - (2) notify the *commercial customer* that the *insurance undertaking* is not willing to invite *renewal* of the *policy* or that the *insurance intermediary* no longer deals with the *insurance undertaking*.
- 5.4.12 G *ICOB 5.4.11R(2)* includes circumstances where the *insurance undertaking* is not willing to invite *renewal* through the *insurance intermediary* in contact with the *commercial customer*.

- 5.4.13 R *A commercial customer* may consent not to receive the information in *ICOB 5.4.11R* if the *insurance intermediary* has explained to the *commercial customer* the consequences of giving that consent before it is given.
- 5.4.14 R *ICOB 5.4.11R* and *ICOB 5.4.13R* do not apply to *renewal* of a *non-investment insurance contract* of no more than one *month's* duration whose terms provide for automatic *renewal* and for cancellation at the *commercial customer's* option. Instead, the *commercial customer* must be notified of changes to the terms and conditions of the contract, including the *premium*, before the changes take effect.

#### Mid-term changes

- 5.4.15 R For the duration of a *non-investment insurance contract* that is a *pure protection contract* an *insurance intermediary* must notify a *commercial customer* of any changes to the information in *ICOB 5.5.20R(22)* (subject to *ICOB 5.5.19R*) and should take reasonable steps to do so in good time before the change takes effect.

### 5.5 Information form and content

#### Policy summary

- 5.5.1 R A *policy summary* must contain only:
- (1) the information specified in *ICOB 5.5.5R* in relation to a *non-investment insurance contract*; and
  - (2) at the option of the *insurer* or *insurance intermediary*:
    - (a) all or part of the information in *ICOB 5.5.14R* (Statement of price);
    - (b) for any applicable compensation scheme mentioned in *ICOB 5.5.5R(12)*, the extent and level of cover and how further information can be obtained; and
    - (c) the information on cancellation in *ICOB 5.3.12R*.
- 5.5.2 R A *policy summary*, if not set out in a separate document, must be:
- (1) in a prominent place within the other document and clearly identifiable as key information that the *retail customer* should read; and
  - (2) separate from the other content of the document in which it is included.
- 5.5.3 G (1) A *policy summary* is a generic document, but the information in *ICOB 5.5.5R* can be personalised if the *insurer* or *insurance intermediary* wishes, with the details applicable to the insurance cover being provided for a particular *retail customer*.
- (2) A *policy summary* should be produced as an informative document. It is not intended to communicate the full terms and conditions of a *non-investment*

*insurance contract* to the *retail customer*. The content should properly describe the contract but should not overload the *retail customer* with detail.

**Key features as an alternative to a policy summary**

**5.5.4 R** A *firm* may provide *key features* that meet the requirements of **COB 6** on the content of the *key features*, instead of a *policy summary*. The *key features* must include the information required in **ICOB 5.5.5R(6), (10) and (13)** (cross-references from significant and unusual exclusions or limitations to related sections of the *policy document*, a telephone number or address for notification of *claims* and the key facts logo), in addition to that required by **COB 6**.

**5.5.5 R** Table: Policy summary content

This table belongs to **ICOB 5.5.1R**.

<b>Policy summary content</b>	
(1)	a statement that the <i>policy summary</i> does not contain the full terms and conditions of the <i>non-investment insurance contract</i> , which can be found in the <i>policy document</i> ;
(2)	Name of the <i>insurance undertaking</i> ;
(3)	type of insurance and cover;
(4)	significant features and benefits;
(5)	significant and unusual exclusions or limitations;
(6)	Cross-references from (5) to the related sections of the <i>policy document</i> ;
(7)	the duration of the <i>non-investment insurance contract</i> ;
(8)	(for <i>policies</i> of more than one year) a statement, where relevant, that the <i>retail customer</i> may need to review and update his cover periodically to ensure it remains adequate;
(9)	the existence or absence of the right of cancellation and, where applicable, the duration of the cancellation period;
(10)	A telephone number or address to which a <i>claim</i> may be notified;
(11)	how to complain to the <i>insurance undertaking</i> and that complaints may subsequently be referred to the <i>Financial Ombudsman Service</i> or any other applicable named complaints scheme;
(12)	that the <i>retail customer</i> may be entitled to compensation from the <i>compensation scheme</i> , or from any other applicable named compensation scheme, should the <i>insurance undertaking</i> be unable to meet its liabilities; and

**(13) the key facts logo.**

- 5.5.6 G When producing the information in *ICOB 5.5.5R* a *firm* should have regard to the nature and complexity of the *non-investment insurance contract* in deciding:
- (1) how much detail the *policy summary* should contain; and
  - (2) what constitutes a significant or unusual exclusion or limitation.
- 5.5.7 G The requirement in *ICOB 5.5.5R(3)* (type of insurance and cover) can be met in the following ways:
- (1) by describing the broad type of *non-investment insurance contract*, for example:
    - (a) for motor insurance, whether the cover is comprehensive or third party;
    - (b) for household insurance, whether accidental damage is included; and
    - (c) for a *pure protection contract*, whether the *premium* is guaranteed, reviewable or renewable; or
  - (2) if a *policy summary* provided to a *retail customer* in a *durable medium* describes different types of cover available, for example, both comprehensive and third party motor insurance, the *retail customer* should be informed which type of cover is being offered at the time he is given the *policy summary*.
- 5.5.8 G A significant exclusion or limitation is one that would tend to affect the decision of *retail customers* generally to buy. In determining what exclusions or limitations are significant an *insurer* should, in particular, consider the exclusions or limitations that relate to the significant features and benefits in *ICOB 5.5.5R(4)*. Another type of significant limitation might be that the contract only operates through certain means of communication e.g. telephone or Internet.
- 5.5.9 G An unusual exclusion or limitation is one that is not normally found in comparable contracts.
- 5.5.10 G Some examples of significant and unusual exclusions or limitations are as follows:
- (1) for *non-investment insurance contracts* that are *pure protection contracts* or medical insurance: deferred payment periods; exclusion of certain conditions or diseases; exclusion of pre-existing medical conditions, and moratorium periods;
  - (2) for *general insurance contracts*: “high risk” electrical items from a household policy; audio equipment from motor insurance; winter sports from travel insurance; and



- (3) for all types of *non-investment insurance contracts*: limits on the amounts of cover; limits on the period for which benefits will be paid; restrictions on eligibility to claim such as age or employment status; excesses.

**5.5.11 R** The key facts logo must be included in a prominent position at the top of the *policy summary*, as shown in *ICOB 4 Ann 1G* for the initial disclosure document, or in a prominent position at the top of the relevant section of the document if the *policy summary* information is included in another document. The logo may be a different size from that in *ICOB 4 Ann 1G*, but its proportions must not be distorted.

5.5.12 G The *FSA* has developed a common 'key facts' logo to be used on significant pieces of information directed to *customers*. When reproducing the logo, *insurers* and *insurance intermediaries* may use colour, providing this does not diminish the prominence of the logo. A specimen of the 'key facts' logo can be obtained from the *FSA* website: [http://www.fsa.gov.uk/pubs/other/keyfacts\\_logo](http://www.fsa.gov.uk/pubs/other/keyfacts_logo).

5.5.13 G A *firm* should produce a *policy summary* to a standard of quality and presentation consistent with that used for other documents in relation to the *non-investment insurance contract*, so that *retail customers* are not deterred by its appearance from reading it.

#### Statement of price

**5.5.14 R** A statement of price must include the following information:

- (1) the total amount of the *premium* for the *non-investment insurance contract* or, if the *premium* cannot be indicated, the basis for the calculation of the *premium* enabling the *retail customer* to verify it;
- (2) for *non-investment insurance contracts* of more than one year, details of the period for which the *premium* is valid, whether it will be reviewed at a certain time or at set periods and, if so, when it will be reviewed;
- (3) *fees*, administrative charges and taxes payable by the *retail customer* via the *insurance intermediary* in addition to the *premium*. *Fees* and administrative charges include any interest payable on the *premium*, including where the *premium* is paid by way of a credit agreement taken out either for payment of the *premium* only or for the purpose of purchasing goods or services as well;
- (4) a statement identifying separately the possibility of any taxes not payable via the *insurance intermediary*;
- (5) where the *non-investment insurance contract* is purchased in connection with other goods or services:
  - (a) the *premium* for the *non-investment insurance contract*, separately from all other prices in relation to the other goods or services, if an additional price is charged; and

(b) whether purchase of the *non-investment insurance contract* is a requirement of purchasing the other goods or services or not; and

(6) the total price to be paid by the *retail customer* for the *non-investment insurance contract*.

5.5.15 G An example of a situation where a *premium* could not be stated under *ICOB 5.5.14R(1)* is a creditor insurance *policy* where the *premium* varies according to the level of debt. The statement of price should instead show the basis of calculation, for example, the *premium* as a percentage of the debt outstanding at specified dates.

#### **Directive-required information**

5.5.16 R **The directive-required information referred to in this chapter is set out in *ICOB 5.5.20R*, subject to *ICOB 5.5.18R* to *ICOB 5.5.19R*.**

5.5.17 G *ICOB 5.5.20R* brings together all the directive-required information that must be provided under this chapter. Where information required under *ICOB 5.5.20R* has already been provided to a *customer* in another document, for example a *policy summary*, it does not need to be provided a second time for the same contract unless required by a specific *rule*. In some instances it may be possible to meet similar requirements of more than one directive by a single statement, including requirements in *ICOB 4*.

5.5.18 R **The information in *ICOB 5.5.20R(2)* and (3) need not be provided for a *general insurance contract*, if the *United Kingdom* is not the *State of the risk*.**

5.5.19 R (1) **The information in (2) need not be provided for a *non-investment contract* which is a *pure protection contract* if, at the time of application, the *customer*, other than an *EEA ECA recipient*, is *habitually resident*:**

(a) in an *EEA State* other than the *United Kingdom*; or

(b) outside the *EEA* and he is not present in the *United Kingdom*.

(2) **The information referred to in (1) is:**

(a) *ICOB 5.5.20R(4)* to (15); or

(b) *ICOB 5.5.20R(22)*, if the *non-investment insurance contract* was entered into before 1 July 1994.

5.5.20 R Table: Directive-required information to be provided to customers

This table belongs to *ICOB 5.5.16R*.

<b>Directive-required information to be provided to customers</b>	
<b>For <i>general insurance contracts (Third Non-Life Directive)</i> other than certain<sup>1</sup> <i>distance contracts with retail customers</i>:</b>	
<b>(1)</b>	<p>if the <i>insurance undertaking</i> is an <i>EEA firm</i>:</p> <p>(a) the <i>insurance undertaking's Home State</i> and, where appropriate, the <i>EEA State</i> of the <i>branch</i> through which the <i>non-investment insurance contract</i> is to be concluded <sup>2</sup>; and</p> <p>(b) the address of the <i>insurance undertaking's</i> head office (and <i>branch</i>, if appropriate)<sup>2</sup>;</p>
<b>(2)</b>	<p>if the <i>policyholder</i> is a natural person, the law applicable to the <i>general insurance contract</i> where the parties do not have a free choice, or the fact that the parties are free to choose the law applicable and, in the latter case, the law the <i>insurance undertaking</i> proposes to choose; and</p>
<b>(3)</b>	<p>if the <i>policyholder</i> is a natural person, the arrangements for handling <i>policyholders' complaints</i> concerning <i>general insurance contracts</i> including, where appropriate, the existence of a complaints body, without prejudice to the <i>policyholder's</i> right to take legal proceedings.</p>
<p><b>Note 1:</b> The information at (1) to (3) need not be provided for <i>distance contracts</i> where information is provided under the <i>Distance Marketing Directive</i> or equivalent legal requirement.</p>	
<p><b>Note 2:</b> The information in (1) must be stated in the <i>policy document</i> and any other document granting cover.</p>	
<p><b>For <i>non-investment insurance contracts</i> that are <i>pure protection contracts (Consolidated Life Directive)</i><sup>3</sup> other than certain<sup>4</sup> <i>distance contracts with retail customers</i>:</b></p>	
<b>(4)</b>	<p>the name and legal form of the <i>insurance undertaking</i>;</p>
<b>(5)</b>	<p>the name of the <i>EEA State</i> in which the head office of the <i>insurance undertaking</i> and, where appropriate, the agency or <i>branch</i> concluding the <i>non-investment insurance contract</i> is situated;</p>

(6)	the address of the <i>insurance undertaking's</i> head office and, where appropriate, of the agency or <i>branch</i> concluding the <i>non-investment insurance contract</i> ;
(7)	the definition of each benefit and each option;
(8)	the term of the <i>non-investment insurance contract</i> ;
(9)	the means of terminating the <i>non-investment insurance contract</i> ;
(10)	the means of payment of <i>premiums</i> and duration of payments;
(11)	information on the <i>premiums</i> for each benefit, both main benefits and supplementary benefits, where appropriate;
(12)	information about cancellation in accordance with <i>ICOB 5.3.12R</i> ;
(13)	general information on the tax arrangements applicable to the type of <i>non-investment insurance contract</i> ;
(14)	the arrangements for handling complaints concerning <i>non-investment insurance contracts</i> by <i>policyholders</i> , lives assured or beneficiaries under <i>policies</i> , including, where appropriate, the existence of a complaints body, making clear that its existence is without prejudice to the right to take legal proceedings; and
(15)	the law applicable to the <i>non-investment insurance contract</i> where the parties do not have a free choice or, if the parties are free to choose the law applicable, the law the <i>insurance undertaking</i> proposes to choose.
<p><b>Note 3:</b> The directive-required information at (4) to (15) must be in English unless the <i>customer</i> requests it to be, and the <i>insurance undertaking</i> agrees to it being, in another language.</p>	
<p><b>Note 4:</b> The information at (4) to (15) need not be provided for <i>distance contracts</i> where information is provided under the <i>Distance Marketing Directive</i> or equivalent legal requirement.</p>	
<p><b>For <i>non-investment insurance contracts</i> with <i>retail customers</i> concluded by a means of <i>distance communication</i>, other than by telephone (<i>Distance Marketing Directive</i>):</b></p>	
(16)	the <i>insurance undertaking</i>
(a)	the name, main business of the <i>insurance undertaking</i> , and the geographical address of the <i>insurance undertaking's</i> head office and <i>branch</i> , where appropriate;

	(b)	the trade register in which the <i>insurance undertaking</i> is entered and its registration number or an equivalent means of identification in that register;
	(c)	where the <i>insurance undertaking's</i> activity is subject to an authorisation scheme, the particulars of the relevant supervisory authority;
(17)	the financial service	
	(a)	a description of the main characteristics of the <i>non-investment insurance contract</i> ;
	(b)	the total price to be paid by the <i>retail customer</i> to the <i>insurance intermediary</i> for the <i>non-investment insurance contract</i> including all related <i>fees</i> , charges and expenses and all taxes paid via the <i>insurance intermediary</i> or, when an exact price cannot be indicated, the basis for the calculation of the price enabling the <i>retail customer</i> to verify it;
	(c)	notice of the possibility that other taxes and/or costs may exist that are not paid via the <i>insurance intermediary</i> or imposed by him;
	(d)	any limitations of the period for which the information provided is valid;
	(e)	the arrangements for payment and for performance of the <i>non-investment insurance contract</i> ;
	(f)	any specific additional cost for the <i>retail customer</i> of using the <i>means of distance communication</i> ;
(18)	the <i>distance contract</i>	
	(a)	information about cancellation in accordance with <i>ICOB 5.3.12R</i> ;
	(b)	information on any rights the <i>insurance undertaking</i> or the <i>retail customer</i> may have to terminate the <i>non-investment insurance contract</i> early or unilaterally, including any penalties imposed by the <i>non-investment insurance contract</i> in such cases;
	(c)	the <i>EEA State</i> or <i>States</i> whose laws are taken by the <i>insurance undertaking</i> as a basis for the establishment of relations with the <i>retail customer</i> prior to the conclusion of the <i>distance contract</i> ;
	(d)	any contractual clause on law applicable to the <i>policy</i> or on competent court or both;

	(e)	in which language, or languages, the contractual terms and conditions, and the prior information referred to in these <i>rules</i> are supplied, and furthermore in which language, or languages, the <i>insurance undertaking</i> , with the agreement of the <i>retail customer</i> , undertakes to communicate during the duration of the <i>policy</i> ;
(19)	redress	
	(a)	whether or not there is an out-of-court complaint redress mechanism for the <i>retail customer</i> and, if so, the methods for having access to it; and
	(b)	the existence of guarantee funds or other compensation arrangements.
<p><b>For <i>non-investment insurance contracts</i> concluded by telephone with a <i>retail customer</i> who has agreed to limited information being provided before conclusion of the contract (<i>Distance Marketing Directive</i>):</b></p>		
(20)	<p>before conclusion of the contract:</p> <p>the information specified in <i>ICOB 5.3.6R(2)(a)</i> other than <i>ICOB 5.3.6R(2)(a)(viii)</i>.</p>	
(21)	<p>immediately after conclusion of the contract:</p> <p>the information referred to in sub-paragraphs (16) to (19) of this table.</p>	
<p><b>Provisions applying during <i>non-investment insurance contracts</i> that are <i>pure protection contracts</i>:</b></p>		
(22)	any change to the information in sub-paragraphs (4) to (11) of this table.	

- 5.5.21 R Where a *non-investment insurance contract* is effected jointly, the information required by *ICOB 5.5.20R* may be sent only to the first-named *customer*.

- 5.5.22 **R** Where a *non-investment insurance contract* is underwritten by more than one *insurance undertaking*, any rules in this chapter requiring information to be provided to a *customer* about the *insurance undertaking* before conclusion of the contract apply only to the first-named *insurance undertaking*. Details of all the *insurance undertakings* providing cover must be provided promptly after conclusion of the contract.
- 5.5.23 G The relevant supervisory authority in *ICOB 5.5.20R(16)(c)* will in most cases be the *FSA*. Where an *incoming EEA firm* is providing *cross border services*, the relevant supervisory authority will be its *Home State Regulator*.
- 5.5.24 G A description of the main characteristics of a *non-investment insurance contract* in *ICOB 5.5.20R(17)(a)* would include the information referred to at *ICOB 5.5.5R(3)* to (5) and (7). For a *non-investment insurance contract* that is a *pure protection contract* a description would also include a definition of each benefit and each option; information on the *premiums* for each benefit and the means and duration of payment of them.
- 5.5.25 G The relevant out-of-court complaint redress mechanism at *ICOB 5.5.5R(11)* and *ICOB 5.5.20R(3)*, (14) and (19)(a) will in most cases be the *Financial Ombudsman Service*.
- 5.5.26 G The relevant guarantee funds or other compensation arrangements referred to at *ICOB 5.5.5R(12)* and *ICOB 5.5.20R(19)(b)* will in most cases be the *compensation scheme*.

#### **Policy document**

- 5.5.27 **R** A *policy document* must contain all the contractual terms and conditions.
- 5.5.28 G The *policy document* provided to a *customer* should contain all the contractual terms and conditions of the *contract of insurance* with that *customer*. The *policy document* can consist of more than one document, but all the documents making up the *policy document* must be provided to the *customer* at the same time.

#### **5.6 White labelling**

- 5.6.1 G The *rules* in this chapter and in *ICOB 4* (Advising and selling standards) require the *customer* to be informed of the identity of both the *insurance undertaking* and the *insurance intermediary*. *ICOB 2.2.3R* (Clear, fair and not misleading communication) requires all communications with *customers* to be clear, fair and not misleading. *ICOB 5.5.5R* (Policy summary content) includes the name of the *insurance undertaking* but not that of the *insurance intermediary* and *ICOB 5.5.1R* does not allow any information to be added to the *policy summary* in addition to that specified in *ICOB 5.5.1R*. The combined effect of these *rules* is that an *insurance intermediary* must clearly communicate the identity of the *insurance undertaking* to the *customer*.

5.7 Record keeping

5.7.1 R An *insurer*, or an *insurance intermediary* where an *insurance undertaking* does not operate from an establishment in the *United Kingdom*, must retain for a minimum period of three years after the information has been provided to the *customer*:

(1) a *policy summary*; and

(2) a *policy document*;

in relation to each *non-investment insurance contract* concluded.

5.7.2 G If the *policy summary* and *policy document* are generic documents that are not specific to the *customer*, an *insurer* or an *insurance intermediary* can keep one copy of each document that it produces, but must retain a copy of any schedule for each *customer* that forms part of the *policy document* if the schedule is *customer* specific.

5.7.3 G *ICOB 2.8.6G* notes that a *firm* should consider keeping records for longer than three years in case *customers* complain or take legal action against the *firm*. An *insurer* or an *insurance intermediary* should in particular consider what constitutes an appropriate retention period for records which relate to *non-investment insurance contracts* which may give rise to *claims* some time after the inception of the contract (e.g. *employers' liability insurance*).



# ICOB 6

## Cancellation

### 6.1 Application and purpose

#### Application: who?

#### 6.1.1 R This chapter applies to:

- (1) an *insurer*;
- (2) a *managing agent*.

#### 6.1.2 R (1) Throughout this chapter references to an *insurer* apply equally to a *managing agent*.

- (2) A *managing agent* must give effect to the policy in *ICOB 6* that a *retail customer* must be offered cancellation rights.

#### 6.1.3 G This chapter sets out the cancellation rights that a *firm* must offer to a *retail customer* upon inception or *renewal* of specified contracts. A *renewal* only occurs if a further *policy* is entered into at the expiry of an existing *policy*. For example, a creditor *policy* that remains in existence from *month* to *month* until the *policyholder* attains a certain age, until cancelled by either party, or until lapse because of non-payment of *premiums* would not be considered as a *policy* with *monthly renewal* under the *ICOB rules*.

#### Application: what?

#### 6.1.4 R Apart from the exemptions set out in *ICOB 6.1.5R*, this chapter applies to all *non-investment insurance contracts*.

#### 6.1.5 R This chapter does not apply to the following contracts:

- (1) a travel and baggage insurance *policy* or similar short-term insurance *policy* of less than one *month's* duration;
- (2) a *non-investment insurance contract*, the performance of which has been fully completed by both parties at the *retail customer's* express request before the *retail customer* exercises his right to cancel;
- (3) a *non-investment insurance contract* that is a *pure protection contract* of six *months'* duration or less that is not a *distance contract*;
- (4) a *pure protection contract* effected by the trustees of an *occupational pension scheme*, an employer or a *partnership* to secure benefits for the *employees* or the *partners* in the *partnership*; and

(5) a *general insurance contract* that is not a *distance contract* sold by an intermediary who is an *unauthorised person*.

(6) a *connected contract* that is not a *distance contract*.

6.1.6 G In *ICOB* 6.1.5R(1) the 'similar short-term insurance *policy*' referred to is any *contract of insurance* where the event or activity being insured is less than one *month's* duration. The reference to 'duration' is to the period of the cover rather than the period of the contract. So the exemption will cover travel insurance for a fortnight's holiday, even if the insurance was taken out two *months* before the holiday began. However, if the period of cover includes cancellation of the holiday from the point at which the contract is taken out, the *policy* will not benefit from the exemption.

6.1.7 G In relation to *ICOB* 6.1.5R(2):

(1) a contract is not fully completed simply because an event has occurred which allows a *claim* to be made under the contract (for example, a *claim* for a cancelled flight or lost baggage); and

(2) a contract is fully completed where a *claim* has been made that leads to the contract being terminated. This could include a total loss *claim* (for example, a motor *claim* where the vehicle is written off and this results in termination of the contract).

6.1.8 G For the purposes of this chapter, cancellation refers to the initial period of cover during which the contract may be voided. It does not refer to mid-term cancellation that a *firm* may choose to offer its *customers*.

6.1.9 G The cancellation rights described in this chapter apply to all *renewals* and not just those where there have been significant changes.

6.1.10 G Where *ICOB* 6.1.5R applies and there is no cancellation right, a *firm* should inform the *retail customer* of that fact in accordance with *ICOB* 5.3.12R(1).

### **Purpose**

6.1.11 G (1) This chapter reinforces *Principle 6* (Customers' interests) which requires a *firm* to pay due regard to the interests of its *customers* and treat them fairly. In certain circumstances, *retail customers* who have entered into a *non-investment insurance contract* will be entitled to a period of reflection during which they can decide whether to proceed with their purchase.

(2) This chapter also implements, where relevant, elements of the *DMD* and the *Consolidated Life Directive* relating to the cancellation of *distance contracts* and *non-investment insurance contracts* that are *pure protection contracts*.

- 6.2 Cancellation rights and period**
- 6.2.1 R** *A retail customer has a right to cancel a non-investment insurance contract in accordance with ICOB 6.2, ICOB 6.3 and ICOB 6.4.*
- 6.2.2 R** *The period of cancellation is:*
- (1)** *30 days for a non-investment insurance contract that is a pure protection contract; and*
- (2)** *14 days for a general insurance contract.*
- 6.2.3 R** *Where the terms of an insurer's contract give a retail customer a longer period to cancel (that is, in excess of the 14 or 30 days specified), the insurer must disclose in the information about the right to cancel the differences between the retail customer's right under ICOB 6.2.1R and the terms of the contract, which operate independently.*
- 6.2.4 R** *Where a contract is a mixed contract, that is, it has elements of both a general insurance contract and a pure protection contract, a 30 day cancellation period must apply.*
- 6.2.5 R** *The cancellation period in ICOB 6.2.2R must begin on the later of:*
- (1)** *(for a non-investment insurance contract that is a pure protection contract) the day the retail customer is informed that the contract has been concluded; or*
- (2)** *(for a general insurance contract) the day of the conclusion of the contract; or*
- (3)** *the day on which the retail customer receives the contractual terms and conditions and information in accordance with ICOB 5.3.4R, ICOB 5.3.6R(1) or ICOB 5.3.8R in a durable medium.*
- 6.2.6 G** **(1)** *Where ICOB 6.2.5R(3) applies, an insurer is entitled to assume that documents have been received in accordance with generally accepted principles of law. That is:*
- (a)** *that provided the document is sent to the correct address or number, documents posted first class on business day 1 are received on business day 2;*
- (b)** *that a fax is received when sent, if an appropriate transmission report is generated by the transmitter's machine; and*
- (c)** *that an e-mail is received when sent.*

- (2) The general assumptions in *ICOB* 6.2.6G(1) can be contradicted by a *retail customer*. In such cases the burden would be on the *retail customer* to show that the evidence on which the *insurer* was relying was not correct. If the *retail customer* could show this then unless the *insurer* itself had information to suggest that this was not the case, the *insurer* should generally accept the *retail customer's* evidence.
- 6.2.7 G The provisions in *ICOB* 6.2.5R(3), under which time may run from the *day* on which the *retail customer* receives the contractual terms and conditions and information in accordance with *ICOB* 5.3.4R, *ICOB* 5.3.6R(1) or *ICOB* 5.3.8R, as applicable, would cover situations where:
- (1) the contract has been concluded by a *means of distance communication* by which the contractual information could not reasonably have been provided prior to the conclusion of the contract in a *durable medium* (for example, by telephone) and is therefore provided subsequently; or
- (2) the contract is not a *distance contract* and the *retail customer* has not received the contractual terms and conditions in a *durable medium* before the conclusion of the contract.
- 6.2.8 R **If an *insurer* has provided information in accordance with *ICOB* 5.3.4R, *ICOB* 5.3.6R(1) or *ICOB* 5.3.8R in a *durable medium*, it need not accept a notice of cancellation if it is served later than the period specified for that contract.**
- 6.2.9 R **If a *firm* does not give a *retail customer* information about his cancellation rights in a *durable medium* in accordance with *ICOB* 5.3.12R, the contract is cancellable.**
- 6.3 Notification of cancellation by the retail customer
- 6.3.1 R **A *retail customer* who has a right to cancel under *ICOB* 6.2.1R may, without giving any reason, cancel the contract by serving notice upon the *insurer*, its *appointed representative* or any agent of the *insurer* with authority to accept notice on the *insurer's* behalf before expiry of the relevant cancellation period, in accordance with the practical instructions given to him in accordance with *ICOB* 5.3.12R.**
- 6.3.2 R **Where the notice of cancellation is in a *durable medium* and served in accordance with *ICOB* 6.3.1R, it must be treated as being served on the *insurer* on the date it is despatched by the *retail customer*.**
- 6.3.3 G In the event of any dispute, unless there is clear written evidence to the contrary, an *insurer* should treat the date cited by the *retail customer* as being the date when the notice of cancellation was given, *posted* or otherwise sent.

- 6.3.4 G In order to ensure that a *retail customer* returns to the *insurer* any insurance certificate that the *insurer* may provide as part of the *non-investment insurance contract* (for example, the motor insurance certificate), the *insurer* may wish to consider putting the notice of cancellation on the insurance certificate itself and instructing the *retail customer*, prior to the conclusion of the contract in accordance with *ICOB 5.3.12R(2)(d)*, to exercise this right of cancellation by returning the certificate. Unless these instructions are given to the *retail customer* in accordance with *ICOB 5*, an *insurer* will not be able to require cancellation to be exercised in this way.

## 6.4 Effects of cancellation

- 6.4.1 R **By exercising his right to cancel under *ICOB 6.2.1R*, a *retail customer* withdraws from the contract.**

### **Automatic cancellation of an attached distance contract**

- 6.4.2 G (1) Regulation 11 (Automatic cancellation of an attached distance contract) of the *Distance Marketing Regulations* has the effect that, when notice of cancellation is given in relation to a contract, that notice also operates to cancel any attached contract which is also a distance financial services contract. Whether a contract will be "attached" to the main contract will depend on the circumstances in each case. Regulation 11(1)(b) provides that the contract will be attached if:
- (a) it has been entered into in accordance with a term of the main contract;
  - (b) the main contract is financed or is to be financed by the contract;
  - (c) the *retail customer* has entered into the contract for a purpose related to the main contract; or
  - (d) performance of the contract requires performance of the main contract.
- (2) A *retail customer* will also have an independent right to cancel an attached distance contract and may do so without cancelling the main contract.

### **Payments**

- 6.4.3 R **Where a *retail customer* exercises a right to cancel under *ICOB 6.2.1R*:**
- (1) **the *insurer* must pay to the *retail customer* without delay, and no later than 30 days after the date on which the *insurer* received notice of cancellation from the *retail customer*, any sums which the *retail customer* has paid to, or for, the benefit of the *insurer* in connection with the contract (including sums paid by the *retail customer* to agents of the *insurer*) except for the amount referred to in (2);**

- (2) where the contract is a *general insurance contract*, subject to (3), the *insurer* is permitted to require the *retail customer* to pay for the services it has actually provided in connection with the contract. The amount payable, however, must not:
  - (a) exceed an amount which is in proportion to the extent of the service already provided to the *retail customer* by the *insurer* in comparison with the full coverage of the contract; and
  - (b) be such that it could be construed as a penalty;
- (3) sub-paragraph (2) applies only:
  - (a) where performance of the contract has commenced before expiry of the cancellation period and this was requested by the *retail customer*; and
  - (b) where the *insurer* can demonstrate that the *retail customer* was provided with details of the amount which he may be required to pay if exercising his right to cancel in accordance with *ICOB 6.2.1R*;
- (4) the *insurer* is entitled to receive without delay, and no later than 30 days after the date on which the *retail customer* posted or otherwise sent notice of cancellation to the *insurer* any sums and property that became the *retail customer's* under the contract.

- 6.4.4 G (1) The amount referred to in *ICOB 6.4.3R(2)* may include any sums that the *insurer* has reasonably incurred in concluding the *general insurance contract* but should not include any element of profit.
- (2) An *insurer* and an *insurance intermediary* should take reasonable steps to ensure that double recovery of selling costs is avoided, particularly where:
  - (a) there is also a *distance non-investment mediation contract* (see *ICOB 8*); or
  - (b) both *commission* and *fees* are recouped by an *insurer* and an *intermediary* respectively.

- 6.4.5 G The amount referred to in *ICOB 6.4.3R(2)* may include:
  - (1) an amount for the cover provided (i.e. a proportion of the *contract of insurance's* exposure that relates to the time on risk);
  - (2) a proportion of the *commission* paid to the *insurance intermediary* sufficient to cover that *insurance intermediary's* costs; and
  - (3) a proportion of any *fees* charged by the *insurance intermediary*, which, when aggregated with any *commission* to be repaid, would be sufficient to cover the *insurance intermediary's* costs.

- 6.4.6 G In the event that a *retail customer* exercises his right to cancel, the amount described in *ICOB 6.4.3R(2)* will normally be retained by the *insurer* (although in some circumstances it could be retained by the *insurance intermediary*). The *insurer* and the *insurance intermediary* should, therefore, agree the terms by which the *insurer* reimburses the *insurance intermediary* (or the reverse).
- 6.4.7 G In calculating the charge in accordance with *ICOB 6.4.3R(2)*, an *insurer* should use a reasonable method of estimating the proportion of the *contract of insurance's* exposure that relates to the time on risk.
- 6.4.8 G In most cases, the *FSA* would expect the proportion of the *insurance contract's* exposure that relates to the time on risk to be a pro rata apportionment. However, where there is material unevenness in the incidence of risk, the *insurer* could employ a more accurate method, which may result in a lower or higher charge to the *retail customer*. In such cases, the *insurer* may charge what it believes to be a reasonable sum, but it should bear in mind that the sum should not exceed an amount commensurate to the risk incurred.
- 6.4.9 R **Where an *insurer* has made a charge for services provided in accordance with *ICOB 6.4.3R(2)*, the sums and property referred to in *ICOB 6.4.3R(4)* must not include any money or property that the *insurer* has provided to the *retail customer* in connection with a *claim*.**
- 6.4.10 R **Any sum payable under *ICOB 6.4.3R* is owed as a simple contract debt, and any sums payable in respect of the cancellation of the same contract may where relevant be set off against each other.**

# ICOB 7

## Claims handling

### 7.1 Application and purpose

#### Application: who and what?

- 7.1.1 **R** (1) This chapter applies, except for *ICOB 7.6*, in respect of *claims handling* under a *non-investment insurance contract* to:
- (a) an *insurer*;
  - (b) an *insurance intermediary*;
  - (c) a *managing agent*.
- (2) *ICOB 7.6* applies in respect of *motor vehicle liability insurance business* to:
- (a) a *motor vehicle liability insurer*; and
  - (b) the *Society*.
- 7.1.2 **R** Throughout this chapter, references to an *insurer* apply equally to a *managing agent*.
- 7.1.3 **G** An *insurer* is responsible for *claims handling*. A *managing agent* is responsible for *claims handling* for *policies* underwritten at Lloyd's. An *insurer* or *managing agent* remains responsible for *claims handling* if it outsources any of its *claims* related activities, including where it gives an intermediary authority to *handle claims* on its behalf. An *insurer* or a *managing agent* is not responsible for the *administration and performance* activities that an *insurance intermediary* carries out on behalf of a *customer* in connection with a *claim*. In relation to these activities, the *insurance intermediary* should refer to *ICOB 7.4*.
- 7.1.4 **G** An *insurer* should refer to the *rules and guidance* set out in *SUP 2.3.5R* to *SUP 2.3.10G* in respect of any *person* to whom it outsources its *claims handling* functions.
- 7.1.5 **G** All of this chapter, except *ICOB 7.6*, applies to *claims* made by *retail customers*. Part of *ICOB 7.3*, all of *ICOB 7.4* and all of *ICOB 7.7* apply to *claims* made by *commercial customers*. *ICOB 7.6* applies to *claims* by *injured parties* arising from an accident occurring in an *EEA State* other than the *EEA State* of residence of the *injured party*, involving the use of a vehicle insured and normally based in an *EEA State*.



## Purpose

- 7.1.6 G (1) The purpose of this chapter is to ensure that:
- (a) *claims* are handled fairly;
  - (b) *claims* are settled promptly;
  - (c) *customers* are provided with information on the *claims handling* process, and with an explanation of why a *claim* is rejected or not settled in full, where relevant; and
  - (d) *insurance intermediaries* disclose and manage any conflicts of interest that may exist.
- (2) This chapter reinforces:
- (a) *Principle 3* (Management and control), which requires a *firm* to take reasonable care to organise and control its affairs responsibly and effectively, with adequate risk management systems;
  - (b) *Principle 6* (Customers' interests), which requires a *firm* to pay due regard to the interests of its *customers* and treat them fairly; and
  - (c) *Principle 8* (Conflicts of interest), which requires a *firm* to manage conflicts of interest fairly, both between itself and its *customers* and between a *customer* and another *client*.
- (3) The purpose of *ICOB 7.6* is to transpose certain requirements of the *Fourth Motor Insurance Directive*.

## 7.2 Group policies and third party claimants

- 7.2.1 G Any *person* who, under the terms of a *policy*, has a right to *claim* directly on the *insurer*, is a *policyholder* (see *ICOB 1.2.15R* to *ICOB 1.2.16G*). When dealing with *claims* under *group policies*, *insurers* should consider whether the *person claiming* is a *commercial customer* or a *retail customer* and should apply the *rules* in this chapter accordingly when dealing with a *customer's claim*.
- 7.2.2 G When an *insurer* deals directly with a third party who *claims* against his *customer* because the third party has a legal right to bypass the *customer* and *claim* directly against the *insurer* (for example, certain motor *claims* or because of the insolvency of the *customer*), these *rules* do not require the *insurer* to treat the third party as a *customer*. However, the *insurer* should have regard to *Principle 1* (Integrity), *Principle 2* (Skill, care and diligence) and *Principle 5* (Market conduct) in its dealings with the third party and should not deal with the *claim* in any way less favourably than it would have done had the *claim* been proceeded against its *customer*.

## 7.3 Claims handling: general

### **Requirement to handle claims promptly and fairly**

- 7.3.1 **R** An *insurer* must carry out *claims handling* promptly and fairly.
- 7.3.2 **G** When handling the *claim* of a *retail customer*, an *insurer* should comply with the *rules* and *guidance* in *ICOB 7.5*. When handling the *claim* of a *commercial customer*, an *insurer* should ensure that:
- (1) the *commercial customer* is kept reasonably informed of how his *claim* is progressing; and
  - (2) payment is made promptly once settlement terms have been agreed.
- 7.3.3 **G** An *insurer* should refer to the *guidance* in *SYSC 3.2* (Areas covered by systems and controls) in its procedures for *claims handling*. For example, an *insurer* should have in place systems and controls which take account of reasonably foreseeable peaks in demand, to allow it to deal with *claims* promptly in such circumstances.
- 7.3.4 **G** An *insurer* should refer to the *guidance* set out in *TC 1* (Commitments) in respect of the competence of any *person* who carries out *claims handling* on its behalf.

### **Giving customers guidance on claiming**

- 7.3.5 **R** When an *insurer* is informed that a *customer* wishes to *claim* under his *policy* it must give the *customer* reasonable guidance to help him make a *claim* under his *policy*.

### **Rejecting or refusing claims**

- 7.3.6 **R** An *insurer* must not:
- (1) unreasonably reject a *claim* made by a *customer*;
  - (2) except where there is evidence of fraud, refuse to meet a *claim* made by a *retail customer* on the grounds:
    - (a) of non-disclosure of a fact material to the risk that the *retail customer* could not reasonably be expected to have disclosed;
    - (b) of misrepresentation of a fact material to the risk, unless the misrepresentation is negligent;
    - (c) in the case of a *general insurance contract*, of breach of warranty or condition, unless the circumstances of the *claim* are connected with the breach; or

(d) in the case of a *non-investment insurance contract* which is a *pure protection contract*, of breach of warranty, unless the circumstances of the *claim* are connected with the breach and unless:

(i) under a ‘life of another’ contract, the warranty relates to a statement of fact concerning the life to be assured and that statement would have constituted grounds for rejection of a *claim* by the *insurer* under *ICOB 7.3.6R(2)(a)* or (b) if it had been made by the life to be assured under an ‘own life’ contract; or

(ii) the warranty is material to the risk and was drawn to the attention of the *retail customer* before the conclusion of the contract.

#### 7.4 Duties of insurance intermediaries

7.4.1 R *ICOB 7.4* applies to an *insurance intermediary*.

7.4.2 G *ICOB 7.4* will usually apply to an *insurance intermediary* that is not an *insurer*, but it may also apply to an *insurer*, for example, if it were dealing with a *claim* on a *policy* insured by another *insurance undertaking*.

##### An insurance intermediary’s duty of care, skill and diligence

7.4.3 R An *insurance intermediary*, when acting for a *customer* in relation to a *claim*, must act with due care, skill and diligence.

7.4.4 G The *rules* and *guidance* in *ICOB 7.4* do not seek to set out the full extent of the duties owed by the *insurance intermediary* to any *person* for whom it acts, nor do they displace the general law on the duties of an *insurance intermediary*.

##### An insurance intermediary’s duty to avoid conflicts of interest

7.4.5 R (1) An *insurance intermediary* must not, in connection with any *claim*, put itself in a position where its own interest, or its duty to any *person* for whom it acts, conflicts with its duty to any *customer*, unless:

(a) it made proper disclosure to its *customer* of all information needed to put its *customer* in a position where he can give informed consent to the arrangement; and

(b) it has obtained the prior informed consent of the *customer*.

(2) An *insurance intermediary* must decline to act for the *person* or *customer* referred to in (1) or any of them unless, in the particular circumstances of the case, disclosure and informed consent are sufficient to enable it to reconcile the conflict.

- 7.4.6 G *ICOB 7.4.5R* imposes a requirement on an *insurance intermediary* to avoid conflicts of interest in relation to *claims* where it acts on behalf of a *customer*, unless it can manage them by disclosure to, and the obtaining of consent from, its *customer*.
- 7.4.7 G An *insurance intermediary* should consider whether it is possible to manage the conflict by disclosing the conflict to the *customer* and obtaining his consent. Where an *insurance intermediary* acts for a *customer* in *arranging a policy*, it is likely to be the agent for the *customer* in connection with the preparation and handling of any *claim* against the *insurance undertaking*. If the *insurance intermediary* intends to be the agent of an *insurance undertaking* in relation to *claims* under that *policy*, it will need to consider whether it is at risk of putting itself in the position where it cannot act without some breach of duty either to the *insurance undertaking* or the *customer*. The *insurance intermediary* should consider whether disclosure and consent are sufficient to reconcile the conflicting obligations. An example of a circumstance in which disclosure and consent are unlikely to be sufficient, and when an *insurance intermediary* may well consider that it should not act for the *insurance undertaking* or the *customer* (or both), is where the *insurance intermediary* knows that its *customer* will, to obtain a quick payment, accept a low amount in settlement of a *claim* and also knows the *insurance undertaking* is willing to settle for a higher amount.

#### **Other notifications and actions in relation to claims**

- 7.4.8 R **If an *insurance intermediary* acts for an *insurance undertaking* and not a *customer* in relation to a *claim* on a contract which it *arranged* for that *customer*, the *insurance intermediary* must inform the *customer* that, in relation to that *claim*, it is acting on behalf of the *insurance undertaking*, and not the *customer*.**
- 7.4.9 G *ICOB 7.4.8R* would apply, for example, where an *insurance intermediary* has delegated authority for *claims handling* and deals with a *claim* in relation to a contract that it sold to a *customer*, if the *insurance intermediary* is not acting on behalf of that *customer* in relation to the *claim*.
- 7.4.10 R **If an *insurance intermediary* is notified of a *claim* in relation to a *policy* which it has *arranged*, and the *insurance undertaking* has not given it the authority to deal with that *claim*, it must:**
- (1) **forward the notification to the *insurance undertaking* promptly; or**
  - (2) **inform the *customer* immediately that it cannot deal with the notification.**

#### **7.5 Retail customers: performance standards for handling claims**

##### **Responding to notification of the claim**

- 7.5.1 R **An *insurer* must respond promptly to a notification by a *retail customer* of a *claim*.**

- 7.5.2 G Notification of a *claim* is a demand of the *insurer* to pay or provide a benefit insured under the *policy*, e.g. by submitting a *claim* form or giving the equivalent information orally, where permitted by the *policy*. An enquiry that precedes such a demand, for example, as to whether a particular loss is covered, and therefore whether a *claim* could be made under the terms of the *policy*, is not notification of a *claim*.
- 7.5.3 G *ICOB 7.5.1R* requires an *insurer* to respond promptly once it has received notification of a *claim*. Generally a prompt response would be one within five *business days* of a *retail customer* making a *claim*, although in some circumstances a prompt response could be less than five *business days*, such as where the *retail customer* would expect a swifter response because of the nature of the *claim* or the terms of the *policy* (for example, a roadside assistance *policy*).
- 7.5.4 R The response referred to in *ICOB 7.5.1R* must:
- (1) provide the information set out in *ICOB 7.5.5R*;
  - (2) be in a *durable medium*, unless the notification by the *retail customer* is made orally and the *insurer* does not require the *retail customer* to complete a *claim* form; and
  - (3) provide the *retail customer* with a *claim* form, if the *insurer* requires one to be completed.
- 7.5.5 R The information referred to in *ICOB 7.5.4R(1)* is:
- (1) that the *claim* relates to a risk that is clearly outside the scope of the *policy*, if that is the case (in which case no further information need be provided);
  - (2) the action that will be taken by the *insurer*, and when that action will be taken;
  - (3) if the *insurer* is appointing any other parties to contact the *retail customer* on the *insurer's* behalf, in respect of each other party appointed the following information, if known (but, if the purpose of the appointment is to investigate the validity of a *claim*, the information need not be given if to give it would limit or prevent the effective investigation of the *claim* or any part of it):
    - (a) its name (unless the other party trades under the name of the *insurer*);
    - (b) its function; and
    - (c) the work it will carry out in relation to the *claim*.

- 7.5.6 G The purpose of the *rules and guidance* in *ICOB 7.5.1R to ICOB 7.5.5R* is to provide the *retail customer* at an early stage with information in relation to the processing and settlement of his *claim* by the *insurer*. *ICOB 7.5.5R(1)* is intended to prevent a *retail customer* pursuing a *claim* for which he is clearly not covered, for example, making a *claim* on a contents insurance *policy* for possessions away from home, when the *policy* only covers possessions in the home. It is not intended to pre-empt the outcome of an investigation of a *claim*.
- 7.5.7 G The purpose of *ICOB 7.5.5R(3)* is to ensure that a *retail customer* knows the name and function of any party who will contact him in relation to a *claim* as a representative of the *insurer* e.g an outsourced *claims handling* company or a loss adjuster. An *insurer* would not be expected to notify the *retail customer* of other parties who are appointed to investigate the validity of a *claim*, if this would limit or prevent an effective investigation. However, if a third party such as a loss adjuster is appointed to liaise with the *retail customer* on the *insurer's* behalf, as well as assess the validity of the *claim*, the *insurer* would be expected to disclose the information in *ICOB 7.5.5R(3)* unless it would limit or prevent an effective investigation.

#### **Investigation and processing of the claim**

- 7.5.8 R **An *insurer* must keep the *retail customer* reasonably informed about the progress of his *claim*.**
- 7.5.9 G Where the investigation of a *claim* is likely to be protracted, an *insurer* should provide periodic progress or status reports, when appropriate, to a *retail customer*, including providing the *retail customer* with any relevant update in relation to the information provided under *ICOB 7.5.5R*. The *insurer* should also respond without undue delay to any reasonable request by the *retail customer* for information.

#### **Determining the claim**

- 7.5.10 R **An *insurer* must notify the *retail customer* as soon as practicable whether it:**
- (1) rejects all of his *claim*;
  - (2) rejects his *claim* but, without prejudice to the rejection, makes an offer in compromise; or
  - (3) accepts all or part of his *claim*.
- 7.5.11 R **If the *insurer* rejects the *claim*, but without prejudice to the rejection makes an offer in compromise, it must notify the *retail customer* of the terms of that offer as soon as practicable.**
- 7.5.12 R **If the *insurer* accepts all or part of the *retail customer's claim*, it must notify the *retail customer* as soon as practicable whether:**
- (1) as to the parts it accepts, it agrees to provide the money, property or service *claimed* by the *retail customer* in full; or

- (2) it makes some other offer in compromise. In that event, it must notify the *retail customer* of the terms of its offer.
- 7.5.13 R (1) Unless the *insurer* accepts the *retail customer's claim* in full, the *insurer* must explain why it rejects all or part of the *retail customer's claim* or makes a compromise offer, specifying any relevant term of the *policy*.
- (2) The *insurer* must offer the *retail customer* the choice of receiving the information at *ICOB 7.5.13R(1)* in a *durable medium*.
- 7.5.14 G *Motor vehicle liability insurers* should refer to the *rules* and *guidance* at *ICOB 7.6.8R* to *ICOB 7.6.11G* in respect of a *claim* for damages by an *injured party* in the circumstances set out in *ICOB 7.6.11G(1)*.
- 7.5.15 R The *insurer* must, in respect of each part of the *claim* that it accepts, inform the *retail customer* whether the *claim* will be settled by paying him, or by paying another *person* to provide goods or services, or by providing those goods or services.
- 7.5.16 G Examples of a payment to others for the provision of goods or services are: to a garage for repairs carried out to a vehicle, to a supplier for the provision of replacement electrical goods, or to a doctor for medical treatment.

#### Settling a claim

- 7.5.17 R An *insurer* must settle a *claim* by a *retail customer* promptly.
- 7.5.18 G (1) Settlement terms are agreed when:
- (a) the *insurer* accepts the *retail customer's claim*; and
  - (b) the *retail customer* accepts the *insurer's* offer of settlement.
- (2) When the *insurer* settles the *claim* by paying the *retail customer*, the *insurer* should aim to make payment within five *business days* after the *insurer* and the *retail customer* have agreed settlement terms, subject to any pre-conditions laid down by the *insurer* or in law being met by the *retail customer*. This does not prevent the *insurer* paying a *claim* before the *retail customer* has finally agreed settlement terms.
- (3) The *guidance* in (2) would not apply if the *non-investment insurance contract* otherwise provides, or the *insurer* settles the *claim* by:
- (a) payment against a liability due on a future date;
  - (b) the provision of goods or services;
  - (c) making payments on a date specified by the *retail customer*; or
  - (d) payment of the *claim* through an employer or other party on a monthly or some other basis;

and in the case of (a) or (b) the *insurer* should make prompt payment or arrange for prompt provision of the goods or services after the *insurer* and the *retail customer* have agreed settlement terms.

- 7.5.19 G The arrangements for settlement set out in *ICOB 7.5.18G(3)(a)* are likely to apply, for example, when payments are made under a creditor insurance *policy* to meet periodic repayments due under a loan agreement.
- 7.5.20 G The arrangements for settlement set out in *ICOB 7.5.18G(3)(b)* apply to arrangements to supply goods or services to the *retail customer*. In such situations, the goods or services should be provided promptly, but where they cannot be the *insurer* should tell the *retail customer* when to expect them.
- 7.5.21 G An *insurer* should note that unless it has previously informed a *retail customer* that a *claim* will not be met in full or in part until *premiums* have been paid, the *insurer* may not delay payment of a *claim* on the grounds that *premiums* are outstanding.

#### **Pre-action protocols**

- 7.5.22 G A *customer* who does not accept an *insurer's* rejection of his *claim* (or part of it) may challenge that rejection. If he chooses to do so through the courts, *firms* should be aware that in England and Wales there are pre-action protocols which lay down certain requirements as to the steps to be taken before proceedings are issued. This chapter does not displace these requirements, to which *firms* should have regard in the event that a rejection of a *claim* moves towards litigation.

#### **7.6 Motor vehicle liability insurers: claims representatives**

- 7.6.1 G (1) Under *threshold condition 2A* (Appointment of claims representatives), if it appears to the *FSA* that any *person* is seeking to carry on, or is carrying on, *motor vehicle liability insurance business*, that *person* must have a *claims representative* in each *EEA State* other than the *United Kingdom*.
- (2) If any *person* carrying on *motor vehicle liability insurance business* becomes aware, or has information which reasonably suggests, that that *person* has failed to satisfy, may have failed to satisfy or may not in the foreseeable future be able to satisfy, *threshold condition 2A* (or any *threshold condition*), that *person* must notify the *FSA* immediately (see *SUP 15.3.1R*).
- 7.6.2 R **The *Society* must ensure that no *member* carries on *motor vehicle liability insurance business* at Lloyd's unless a *claims representative* has been appointed to act for that *member* in each *EEA State* other than the *United Kingdom*, with responsibility for handling and settling *claims* arising from an accident in the cases referred to in Article 1 of the *Fourth Motor Insurance Directive*.**



- 7.6.3 R (1) When a *motor vehicle liability insurer* appoints a *claims representative*, it must give the *MIIC*, and each other *information centre*, the *claims representative's* name, business address, telephone number and effective date of appointment within ten *business days* of that appointment being made.
- (2) If the information at (1) changes in any material way, the *motor vehicle liability insurer* must give the *MIIC*, and each other *information centre*, details of that change within ten *business days* of that change.
- 7.6.4 R A *motor vehicle liability insurer* must ensure that each *claims representative* is:
- (1) resident or established in the *EEA State* for which it is appointed;
- (2) capable of examining cases in the official language or languages of the *EEA State* of residence of the *injured party*;
- (3) responsible for, and has sufficient delegated authority from the *motor vehicle liability insurer* for which it is appointed, to be able to:
- (a) handle and settle;
- (b) collect all information, and take all measures, reasonably necessary to negotiate a settlement of; and
- (c) represent, or arrange appropriate representation for, the *motor vehicle liability insurer* (whether in negotiations, in court or otherwise) in relation to;
- claims*, arising from an accident occurring in an *EEA State* other than the *EEA State* of residence of the *injured party*, involving the use of a vehicle insured and normally based in an *EEA State*.
- 7.6.5 G *ICOB 7.6.4R(3)* does not prevent a *claims representative* from seeking additional authority or instructions from a *motor vehicle liability insurer*, if its existing authority or instructions are insufficient to allow it to handle and settle a *claim*. However, it does prevent a *claims representative* from purporting to decline to deal with, or transfer responsibility for, *claims* properly referred to that *claims representative* by an *injured party*, or an *injured party's* representative.
- 7.6.6 G Nothing in the *rules* and *guidance* at *ICOB 7.6* prevents, or is intended to prevent:
- (1) a *motor vehicle liability insurer* from appointing more than one *claims representative* in one, or more than one, *EEA State*; or
- (2) a *claims representative* from acting for more than one *insurer* or *member*;  
or

- (3) a representative, appointed by a *motor vehicle liability insurer* under SUP 13.5.2R or regulation 3(d) of the *EEA Passport Rights Regulations*, from acting as that *motor vehicle liability insurer's claims representative* as well.

7.6.7 G The appointment of a *claims representative* does not in itself constitute the opening of a *branch* or the creation of an establishment (see article 4(8) of the *Fourth Motor Insurance Directive*).

**Motor vehicle liability insurers: claims handling**

- 7.6.8 R (1) **Within three *months* of receipt of a *claim* for damages from an *injured party*, or his representative, the *motor vehicle liability insurer* must (directly, or through a *claims representative*):**
- (a) **make a reasoned offer of settlement if liability is admitted and damages have been fully quantified; or**
  - (b) **provide a reasoned reply to the points made in the *injured party's claim* if liability is denied, or not admitted, or the *claim* for damages has not been fully quantified.**
- (2) **If liability is initially denied, or not admitted, within three *months* of any subsequent admission of liability, the *motor vehicle liability insurer* must (directly, or through a *claims representative*) make a reasoned offer of settlement, if, by that time, the relevant *claim* for damages has been fully quantified.**
- (3) **If an *injured party's claim* for damages is not fully quantified when it is first made, within three *months* of the subsequent receipt of a fully quantified *claim* for damages, the *motor vehicle liability insurer* must (directly, or through a *claims representative*) make a reasoned offer of damages, if liability is admitted at that time.**
- (4) **A *claim* for damages will be fully quantified under (1)(a), (2) or (3) when the *injured party* provides written evidence which substantiates or supports the amounts *claimed*.**
- 7.6.9 R (1) **If the *motor vehicle liability insurer*, or its *claims representative*, does not comply with *ICOB 7.6.8R*(1)(a), (2) or (3), the *motor vehicle liability insurer* must pay simple interest on any damages eventually paid, unless interest is awarded by any tribunal which determines the *injured party's claim*.**
- (2) **If (1) applies, the amount of interest that the *motor vehicle liability insurer* must pay must be calculated as follows:**
- (a) **the interest calculation period begins three months after:**

- (i) receipt of the *claim* for damages, if the *motor vehicle liability insurer* or its *claims representative* breaches *ICOB 7.6.8R(1)(a)*; or
  - (ii) any subsequent admission of liability, if the *motor vehicle liability insurer* or its *claims representative* complies with *ICOB 7.6.8R(1)(a)* but breaches *ICOB 7.6.8R(2)*; or
  - (iii) the subsequent receipt of a fully quantified *claim* for damages, if the *motor vehicle liability insurer* or its *claims representative* complies with *ICOB 7.6.8R(1)(a)* and (2) but breaches *ICOB 7.6.8R(3)*; and
- (b) the interest calculation period ends on the date when the *motor vehicle liability insurer* pays compensation to the *injured party*, or the *injured party's* authorised representative;
  - (c) the interest rate to be applied throughout the period in (a) to (b) is the Bank of England's base rate (from time to time), plus four per cent.
- 7.6.10 R A *motor vehicle liability insurer* will be taken to have received a *claim*, or a fully quantified *claim*, for damages when that *claim*, or fully quantified *claim*, for damages is delivered to the *motor vehicle liability insurer*, or a *claims representative*, by any *person* by any method of delivery which is lawful in the *motor vehicle liability insurer's*, or its *claims representative's*, respective State of residence or establishment.
- 7.6.11 G (1) *ICOB 7.6.8R* to *ICOB 7.6.10R* apply only to *claims* for damages for loss or injury suffered in, or as a result of, an accident which occurs in an *EEA State* other than an *injured party's* usual state of residence, which is caused by the use of a motor vehicle insured and normally based in an *EEA State*.
- (2) The *rules* and *guidance* at *ICOB 7.6.1R* to *ICOB 7.6.10R* are not intended to, and do not, restrict any rights which the *injured party*, or its *motor vehicle liability insurer*, or any other *insurer* acting on its behalf, may have and which would enable any of them to begin legal proceedings against the *person* causing the accident or that *person's*, or the motor vehicle's, *insurers*.
- 7.7 Record keeping
- 7.7.1 R An *insurer* must make and retain for the duration of the *claim* and for a minimum of three years after it has been settled or rejected, the following information in relation to each *claim* made against a *policy* issued by it or handled by it:
- (1) details of the *claim*;

- (2) **the date the *claim* was settled or rejected and details of settlement or rejection including information relevant to the basis for the settlement or rejection.**

## ICOB 8

### Distance non-investment mediation contracts with retail customers

- 8.1 Application and purpose**
- Application: who? and what?**
- 8.1.1 R This chapter applies to an *insurance intermediary* in relation to a *distance non-investment mediation contract* with a *retail customer*.**
- Purpose**
- 8.1.2 G The purpose of *ICOB 8* is to set out the *rules* that apply in relation to a *distance non-investment mediation contract*.
- 8.1.3 G This chapter implements articles 3, 5, 6, 7 and 9 of the *DMD* for *distance non-investment mediation contracts* with *retail customers*.
- 8.1.4 G As *ICOB 1.7.3G(4)* indicates, the *FSA* expects the requirements set out in *ICOB 8* to be relevant only in a small minority of cases.
- 8.2 General rules**
- 8.2.1 R The provisions of *ICOB 2* apply in relation to a *distance non-investment mediation contract*.**
- 8.3 Disclosure requirements**
- 8.3.1 R An *insurance intermediary* must provide a *retail customer* with:**
- (1) the information in *ICOB 8.3.3R*; and**
- (2) the full terms of the *distance non-investment mediation contract*;**
- in a *durable medium* in good time before the conclusion of the *distance non-investment mediation contract*, unless an exemption in *ICOB 8.3.6R* applies or the information has already been provided under the *rules* in *ICOB 4*.**
- 8.3.2 G For the purposes of *ICOB 8.3.1R*, information will be provided 'in good time' if provided in sufficient time to enable the *retail customer* to consider properly the services on offer.

**8.3.3 R Table: Status disclosure requirements for distance non-investment mediation contracts**

This table belongs to *ICOB 8.3.1R(1)*.

1.	The name and address of the <i>insurance intermediary</i> , and his main business.
2.	Where relevant, the name and address of the representative of the <i>insurance intermediary</i> established in the <i>retail customer's EEA State</i> of residence.
3.	Where the <i>retail customer's</i> dealings are with any professional other than the <i>insurance intermediary</i> , the name and address of the professional and the capacity in which he is acting with respect to the <i>retail customer</i> .
4.	The <i>insurance intermediary's</i> statutory status (in accordance with <i>GEN 4 Ann 1R</i> (Statutory status disclosure)), and that this can be checked on the <i>FSA's Register</i> by visiting the <i>FSA's</i> website <a href="http://www.fsa.gov.uk/register">http://www.fsa.gov.uk/register</a> or by contacting the <i>FSA</i> on 0845 606 1234.
5.	A description of the main characteristics of the <i>distance non-investment mediation contract</i> .
6.	The total price to be paid by the <i>retail customer</i> , including all related <i>fees</i> , charges and expenses, and all taxes paid via the <i>insurance intermediary</i> (or, where an exact price cannot be indicated, the basis for the calculation, enabling the <i>retail customer</i> to verify it).
7.	The possibility that other taxes, costs or both may exist which are not paid through or imposed by the <i>insurance intermediary</i> .
8.	Any limitations of the period for which the information provided is valid.
9.	The arrangements for payment and performance.
10.	If such an additional cost is charged, the specific additional cost of using the <i>means of distance communication</i> .
11.	The existence or absence of a right to cancel in accordance with <i>ICOB 6.2.1R</i> , and where there is such a right: <ul style="list-style-type: none"> <li>(a) the duration of the cancellation period in accordance with <i>ICOB 6.2.2R</i>;</li> <li>(b) the conditions for exercising the right to cancel, including</li> </ul>

	<p>information on the amount which the <i>retail customer</i> may be required to pay, in accordance with <i>ICOB 6.3 to ICOB 6.4</i>;</p> <p>(c) the consequences of not exercising the right to cancel; and</p> <p>(d) how the right to cancel may be exercised, including the address to which the cancellation notice should be sent.</p>
12.	The minimum duration of the <i>distance non-investment mediation contract</i> .
13.	Information on any rights the <i>insurance intermediary</i> or the <i>retail customer</i> may have to terminate the contract early or unilaterally, including any penalties imposed by the contract in such cases.
14.	<p>Details of:</p> <p>(a) the <i>EEA State</i> or <i>States</i> whose laws are taken by the <i>insurance intermediary</i> as a basis for the establishment of relations with the <i>retail customer</i> prior to the conclusion of the <i>distance non-investment mediation contract</i>;</p> <p>(b) any contractual clause on law applicable to the <i>distance non-investment mediation contract</i>, any competent court, or both; and</p> <p>(c) the language in which the contract is supplied, and in which the <i>insurance intermediary</i> will communicate during the duration of the <i>distance non-investment mediation contract</i>.</p>
15.	The information contained in <i>ICOB 4.2.8R(8) and (9)</i> on complaints and compensation that applies in respect of <i>retail customers</i> .

- 8.3.4 G A description of the main characteristics of a *distance non-investment mediation contract* (*ICOB 8.3.3R(5)*) includes the duration for which that service or services will be provided and the type of services offered. Examples include *arranging* a sale, *advising*, handling mid-term adjustments and assisting in the making of a *claim*.
- 8.3.5 R All information provided to a *retail customer* in accordance with *ICOB 8.3.1R* must be in English, unless the *customer* requests it to be, and the *firm* agrees to it being, in another language.
- 8.3.6 R The following exemptions from *ICOB 8.3.1R* apply:
- (1) Exemption: telephone sales

- (a) This exemption applies if the service is being provided on the telephone and the *retail customer* wishes to enter into a *distance non-investment mediation contract*.
- (b) If the *retail customer* gives his explicit consent to receiving only limited disclosure, the *insurance intermediary* must, prior to the conclusion of the *distance non-investment mediation contract* on the telephone, provide the *retail customer* with the following information:
  - (i) the identity of the *person* in contact with the *retail customer* and his link with the *insurance intermediary*;
  - (ii) the information required by *ICOB 8.3.3R(5), (6), (7) and (11)*; and
  - (iii) that other information is available on request, and the nature of that information.
- (c) Where (b) applies, the *insurance intermediary* must provide the information required by *ICOB 8.3.1R* in a *durable medium* immediately after the conclusion of the *distance non-investment mediation contract*.

**(2) Exemption: certain other means of distance communication**

This exemption applies if the contract is concluded at the *retail customer's* request using a *means of distance communication* (other than telephone) which does not enable provision of the information referred to in *ICOB 8.3.1R* in a *durable medium* before the conclusion of the contract. In that case, the *insurance intermediary* does not need to provide the information in *ICOB 8.3.1R* before conclusion of the contract but must provide it to the *retail customer* in a *durable medium* immediately after the conclusion of the *distance non-investment mediation contract*.

**(3) Exemption: successive operations or separate operations of the same nature under an initial service agreement**

This exemption applies if the *insurance intermediary* has an initial service agreement with the *retail customer* and the contract is in relation to a successive operation or a separate operation of the same nature under that agreement. In this case, the information referred to in *ICOB 8.3.1R* applies to the initial service agreement and not to the successive operations or separate operations of the same nature.

**(4) Exemption: other successive or separate operations**

This exemption applies if:



- (a) the *insurance intermediary* has no initial service agreement with the *retail customer*; and
- (b) the *insurance intermediary* has performed an operation with the *retail customer* within the last year; and
- (c) the *distance non-investment mediation contract* is in relation to a successive operation or separate operation of the same nature.

#### 8.4 Unsolicited services

8.4.1 R Unless *ICOB 8.4.2R* applies, an *insurance intermediary* must not in relation to a *distance non-investment mediation contract*:

- (1) *advise on, arrange, enter into, renew, carry out or assist in the administration and performance* of such a contract for a *retail customer* without a prior request on his part, when the supply of such a service includes a request for immediate or deferred payment; or
- (2) enforce any obligation against a *retail customer* in the event of unsolicited supplies of such services, the absence of a reply not constituting consent.

8.4.2 R *ICOB 8.4.1R* does not prevent an *insurance intermediary* from exercising any right that he may have, by contract or otherwise, to *renew a distance non-investment mediation contract* with a *retail customer* without any request made by or on behalf of that *retail customer* prior to the *renewal* of the contract.

8.4.3 G (1) Where the payment for the contract is made by regular instalments (for example, by direct debit), the effect of *ICOB 8.4.2R* is that an *insurance intermediary* will be required to seek the *retail customer's* consent on *renewal* to continue to provide mediation services only if the contract does not give him the right to do so without further reference to the *retail customer*.

(2) The prior consent of the *retail customer* can either be express or deduced from the circumstances of the case (for instance, by the *retail customer* providing an updated direct debit mandate to the *firm*).

#### 8.5 Cancellation requirements

8.5.1 R The provisions of *ICOB 6 (Cancellation)* apply in respect of a *distance non-investment mediation contract* with a *retail customer* as they do in respect of a *general insurance contract* concluded by *distance means*, with the amendments listed in *ICOB 8.5.2R*.

8.5.2 R Table of amended cross-references to rules in ICOB 6

This table belongs to *ICOB 8.5.1R*.

<b>Rule or guidance</b>	<b>Reference in rule or guidance</b>	<b>To be read as a reference to:</b>
<i>ICOB 6.1.10G</i>	<i>ICOB 5.3.12R</i>	<i>ICOB 8.3.3R(11)</i>
<i>ICOB 6.2.5R(3)</i>	<i>ICOB 5.3.4R, ICOB 5.3.6R(1) or ICOB 5.3.8R</i>	<i>ICOB 8.3.1R(1) and (2), ICOB 8.3.6R(1)(c) and ICOB 8.3.6R(2)</i>
<i>ICOB 6.2.7G</i>	<i>ICOB 5.3.4R, ICOB 5.3.6R(1) or ICOB 5.3.8R</i>	<i>ICOB 8.3.1R(1) and (2), ICOB 8.3.6R(1)(c) and ICOB 8.3.6R(2)</i>
<i>ICOB 6.2.8R</i>	<i>ICOB 5.3.4, ICOB 5.3.6R(1) or ICOB 5.3.8R</i>	<i>ICOB 8.3.1R(1) and (2), ICOB 8.3.6R(1)(c) and ICOB 8.3.6R(2)</i>
<i>ICOB 6.2.9R</i>	<i>ICOB 5.3.12R</i>	<i>ICOB 8.3.3R(11)</i>
<i>ICOB 6.3.1R</i>	<i>ICOB 5.3.12R</i>	<i>ICOB 8.3.3R(11)</i>

8.5.3 G The effect of *ICOB 8.5.1R* is that, among other things, the *retail customer* will have a 14 *day* period within which he may cancel the contract from the *day* the contract is concluded or the *day* on which he receives the contractual terms and conditions and information in a *durable medium* in accordance with *ICOB 8.3.1R*, whichever is the later.

## Insurance: Conduct of Business

### Schedule 1

#### Record keeping requirements

G

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

Handbook reference	Subject of record	Contents of record	When record must be made	Retention period
ICOB 4.4.7R	<i>Personal recommendation to customer</i>	Explanation of why the <i>personal recommendation</i> is suitable for the <i>customer's</i> demands and needs	The date on which <i>personal recommendation</i> is made	Three years
ICOB 5.7.1R	<i>Policy summary</i>	As set out in ICOB 5.5.5R	The date on which <i>policy summary</i> is provided to the <i>customer</i>	Three years
ICOB 5.7.1R	<i>Policy document</i>	All the contractual terms and conditions	The date on which <i>policy document</i> is provided to the <i>customer</i>	Three years
ICOB 7.7.1R	<i>Claims information</i>	Details of <i>claim</i> , the date on which the <i>claim</i> was settled or rejected and details of settlement or rejection including information relevant to the basis for settling or rejecting the <i>claim</i>	The date on which <i>claim</i> is settled or rejected.	Three years

## **Insurance: Conduct of Business**

### **Schedule 2**

#### **Notification requirements**

G

- 1 There are no notification requirements in *ICOB*.

**Insurance: Conduct of Business**

**Schedule 3**

**Fees and other required payments**

G

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

## Insurance: Conduct of Business

### Schedule 4

#### Powers exercised

##### 1 Table G

The following powers and related provisions in or under the *Act* have been exercised by the *FSA* to make the *rules* in *ICOB*:

section 138 (General rule-making power)

section 139(4) (Miscellaneous ancillary matters)

section 145 (Financial promotion rules)

section 149 (Evidential provisions)

section 156 (General supplementary powers)

regulation 2 of the Financial Services and Markets Act 2000 (Fourth Motor Insurance Directive) Regulations 2002 (SI 2002/2706).

The following powers in the *Act* have been exercised by the *FSA* to give the *guidance* in *ICOB*:

section 157(1) (Guidance).

## Insurance: Conduct of Business

### Schedule 5

#### Rights of action for damages

G

- 1 The table below sets out the *rules* in *ICOB* contravention of which by an *authorised person* may be actionable under section 150 of the *Act* (Actions for damages) by a *person* who suffers loss as a result of the contravention.
- 2 If a "yes" appears in the column headed "For private person?", the *rule* may be actionable by a *private person* under section 150 (or in certain circumstances, his fiduciary or representative; see article 6(2) of the Financial Services and Markets Act 2000 (Rights of Action) Regulations 2001 (SI 2001/2256)). A "yes" in the column headed "Removed?" indicates that the *FSA* has removed the right of action under section 150(2) of the *Act*. If so, a reference to the *rule* in which it is removed is also given.
- 3 The column headed "For other person?" indicates whether the *rule* may be actionable by a *person* other than a *private person* (or his fiduciary or representative) under article 6(2) and 6(3) of those Regulations. If so, an indication of the type of *person* by whom the *rule* may be actionable is given.
- 4 Table

Rule	Right of action under section 150			
	For private person?	Removed?	For other person?	
All <i>rules</i> in <i>ICOB</i> with the status letter "E"	No	No	No	
Any <i>rule</i> in <i>ICOB</i> which prohibits an <i>authorised person</i> from seeking to make provision excluding or restricting any duty or liability	Yes	No	Yes	Any other <i>person</i>
<i>ICOB</i> 7.6.9R	Yes	No	Yes	Any other <i>person</i>
All other <i>rules</i> in <i>ICOB</i>	Yes	No	No	

## **Insurance: Conduct of Business**

### **Schedule 6**

#### **Rules that can be waived**

##### **G**

The *rules* in *ICOB* may be *waived* by the *FSA* under section 148 of the *Act* (Modification or waiver of rules). However, if the *rules* incorporate requirements laid down in European directives, it will not be possible for the *FSA* to grant a *waiver* that would be incompatible with the *United Kingdom's* responsibilities under those directives. It therefore follows that if a *rule* in *ICOB* contains provisions which derive partly from a directive, and partly not, the *FSA* will be able to consider a *waiver* of the latter requirements only, unless the directive provisions are optional rather than mandatory.