

**TREATING WITH-PROFITS POLICYHOLDERS FAIRLY  
INSTRUMENT 2005**

**Powers exercised**

- A. The Financial Services Authority makes this instrument in the exercise of the following powers and related provisions in the Financial Services and Markets Act 2000 (“the Act”):
- (1) section 138 (General rule-making power);
  - (2) section 149 (Evidential provisions);
  - (3) section 156 (General supplementary powers); and
  - (4) section 157(1) (Guidance).
- B. The rule-making powers listed above are specified for the purpose of section 153(2) (Rule-making instruments) of the Act.

**Commencement**

- C. This instrument comes into force as follows:
- (1) the following provisions in Annex A to this instrument come into force on 31 December 2005: COB 6.12.16G to COB 6.12.44G;
  - (2) the remainder of this instrument comes into force on 30 June 2005.

**Amendments to the Conduct of Business sourcebook**

- D. The Conduct of Business sourcebook is amended in accordance with Annex A to this instrument.

**Amendments to the Supervision manual**

- E. The Supervision manual is amended in accordance with Annex B to this instrument.

**Amendments to the Glossary**

- F. The Glossary is amended in accordance with Annex C to this instrument.

**Citation**

- G. This instrument may be cited as the Treating With-Profits Policyholders Fairly Instrument 2005.

By order of the Board  
20 January 2005

## Annex A

### Amendments to the Conduct of Business sourcebook

In this Annex, underlining indicates new text and striking through indicates deleted text. Where an entire new section of text is being inserted, the place where the change will be made is indicated and the text is not underlined.

After COB TR7 (Transitional rules for depolarisation) insert the following new provisions, COB TR8 and COB TR9, which are not underlined:

Transitional provisions

...

COB TR8: Transitional rules for firms carrying with-profits business

(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.	<i>COB</i> 6.10.24AG; <i>COB</i> 6.10.29G; <i>COB</i> 6.10.37R; <i>COB</i> 6.12.1R to <i>COB</i> 6.12.15R; and <i>COB</i> 6.12.45R to <i>COB</i> 6.12.116G	R	The provisions listed in column (2) do not apply to a <i>firm</i> if, and to the extent that, they are inconsistent with an arrangement that was formally approved by the <i>FSA</i> , a <i>previous regulator</i> or a court of competent jurisdiction, on or before 20 January 2005.	From 30 June 2005	30 June 2005
2.	<i>COB</i> 6.12.16G to <i>COB</i> 6.12.44G	G	The provisions listed in column (2) of this table do not apply to a <i>firm</i> if, and to the extent that, they are inconsistent with an arrangement that was formally approved by the <i>FSA</i> , a <i>previous regulator</i> or a court of competent jurisdiction, on or before 20 January 2005.	From 31 December 2005	31 December 2005

3.	Paragraphs 1 and 2	G	<p><i>COB</i> 6.12 may be contrary to, or inconsistent with, some arrangements that were formally approved by the <i>FSA</i>, a <i>previous regulator</i> or a court of competent jurisdiction, on or before 20 January 2005. The effect of <i>COB</i> TR 8 is that <i>COB</i> 6.12 does not apply to such arrangements if, and to the extent that, it is inconsistent them. A <i>firm</i> should be mindful, however, that, even if some or all of <i>COB</i> 6.12 is disapplied, the <i>firm</i> is still subject to the <i>rules</i> in the rest of the <i>Handbook</i>, including <i>Principle</i> 6.</p>	From 30 June 2005	30 June 2005
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...

6.10.24A G A firm's PPFM should describe the nature and extent of any shareholder commitment to support the *with-profits fund*. It should also describe when and how that commitment will take effect.

...

6.10.29 G The *firm's with-profits practices* should describe, for each major class of *with-profits policy*:

...

(5) the *firm's* internal procedures for changing the current methods or the current parameters or assumptions relevant to a particular method; and

(6) the *firm's*:

(a) target range, or target ranges, that have been set and specified pursuant to *COB* 6.12.17R; and

(b) the factors that it is likely to regard as relevant under *COB*

6.12.59R.

...

- 6.10.37 **RG** The *PPFM* ~~must cover~~ should describe the *firm's* approach to smoothing the value of *with-profits policies*-, including those matters required under *COB 6.12.47R.*

...

After COB 6.11 insert the following new section, COB 6.12, which is not underlined:

6.12 Treating with-profits policyholders fairly

Application

- 6.12.1 R This section applies to a *firm* carrying on *with-profits business*.
- 6.12.2 R This section applies to an *EEA insurer*, but only in so far as responsibility for the matter in question has not been reserved to the *firm's Home State regulator* by a European Community instrument.
- 6.12.3 R This section does not apply to *with-profits business* that consists of effecting or carrying out *Holloway sickness policies*.
- 6.12.4 R This section does not apply if, and to the extent that, it would affect a *with-profits policyholder's* contractual rights under, or in respect of, a *with-profits policy*.
- 6.12.5 G *COB 6.12.4R* means, for example, that this section does not affect a *with-profits policyholder's* right to a minimum amount guaranteed on death, retirement or maturity. Nor does it affect a *firm's* practice of making deductions in the calculation of surrender values for the purpose of enhancing maturity payments, if:
- (1) the *firm* has reasonably exercised its discretion to make those deductions;
  - (2) those deductions have been made in a clear, fair, lawful and consistent way, over a period of time;
  - (3) those deductions have been made in accordance with the *firm's* previous statements to policyholders (if any); and
  - (4) (as a result of (1) to (3)), the fact of those deductions, and the *firm's* right to make them, now form part of the implied terms of the *with-profits policies* affected.
- 6.12.6 G Some of this section may not be relevant to a *non-directive friendly society*. Such a *firm* is, for example, not required by *COB 6.10* to produce a *PPFM*.

## Purpose

- 6.12.7 G The *rules and guidance* in this section are intended to secure an appropriate degree of protection for actual and potential *with-profits policyholders* and to promote confidence among them.

## Introduction

- 6.12.8 G This section is directed only towards the protection of actual and potential *with-profits policyholders* and does not affect a *firm's* obligations to its other actual and potential *policyholders*.
- 6.12.9 G *Principle 6* (Customers' interests) requires a *firm* to pay due regard to the interests of its *customers* and to treat them fairly. *Principle 7* (Communications with clients) requires a *firm* to pay due regard to the information needs of its *clients* and to communicate information to them in a way that is clear, fair and not misleading. *Principle 8* (Conflicts of interest) requires a *firm* to manage conflicts of interest fairly.
- 6.12.10 G The *rules and guidance* in this section supplement the *Principles* in their application to *with-profits business* and in their application to the relationship between a *firm* and its actual and potential *with-profits policyholders*. However, compliance with the *rules and guidance* in this section will not necessarily ensure compliance with the *Principles*.
- 6.12.11 G For example, if a *firm* proposes to act in a particular way, when it considers whether its proposals will be consistent with *Principle 6* (Customers' interests), it should also consider:
- (1) whether its proposals are consistent with its contractual obligations to its *with-profits policyholders* and its wider bargain with them;
  - (2) whether its proposals would undermine, or materially reduce the value of, a *with-profits policyholder's* contractual rights;
  - (3) whether its proposals are consistent with its previous disclosures to its *with-profits policyholders* and its previous approach to the same issue;
  - (4) whether it will be acting entirely within the scope of any discretion that it may exercise and whether it will be exercising that discretion for the purpose for which it was granted or reserved; and
  - (5) any other material factor that may be relevant to the fair treatment of its *with-profits policyholders*.
- 6.12.12 G Other parts of the *Handbook* are also relevant to the fair treatment of *with-profits policyholders*, including:
- (1) *PRIN* and *SYSC*;

- (2) *PRU 2* (Capital), *PRU 4* (Market risk) and *PRU 7* (Insurance risk);
- (3) Part I of *IPRU(INS) 3* (Long-term insurance business) (Identification and application of assets and liabilities);
- (4) Part V of *IPRU(FSOC) 4* (Financial prudence) (Separation between long-term insurance business assets and other assets);
- (5) *COB 6.5* (Content of key features and important information: life policies, schemes, ISA and CTF cash deposit components and stakeholder pension schemes) and *COB 8* (Reporting to customers);
- (6) *DISP 1* (Complaint handling procedures for firms) and *DISP 3.8* (Determination by the Ombudsman); and
- (7) *ENF 20* (Unfair terms in consumer contracts).

#### General approach to operating a with-profits fund

- 6.12.13 R Subject to *COB 6.12.15R*, a *firm* must not change its *PPFM* unless that change is justified, in the reasonable opinion of the *firm's governing body*, by the need to:
- (1) respond to changes in the business or economic environment;
  - (2) protect the interests of *policyholders*; or
  - (3) change the *firm's with-profits practices* better to achieve its *with-profits principles*.
- 6.12.14 G A *firm* should:
- (1) monitor the business and economic environment continuously; and
  - (2) maintain procedures that will enable it to identify promptly, and bring to the attention of its *senior managers* or its *governing body*, all material legal, regulatory, tax and other developments that are relevant to the conduct of its *with-profits business*.
- 6.12.15 R Notwithstanding *COB 6.12.13R*, a *firm* may change its *PPFM* if that change:
- (1) is necessary to correct an error or omission in the *PPFM*; or
  - (2) would improve the clarity or presentation of the *PPFM* without materially affecting its substance; or
  - (3) is immaterial.

Amounts payable under with-profits policies : Maturity payments

- 6.12.16 G For the purposes of this section, maturity payments include all payments made on a date when the terms of a *with-profits policy* provide for a minimum guaranteed amount to be paid. A *firm* may calculate its maturity payments in a number of different ways. *COB* 6.12.17R to *COB* 6.12.37G do not require a *firm* to use a particular methodology. However, they do require a *firm* to manage its *with-profits business* with the aim that, however it calculates its maturity payments, the overwhelming majority of them fall within a target range that has been set and specified in accordance with *COB* 6.12.17R and calculated using the methodology required by, or described in, *COB* 6.12.24R to *COB* 6.12.37G.
- 6.12.17 R Except where a contractual right would require a *firm* to make a higher maturity payment, and subject to *COB* 6.12.22R, a *firm* must:
- (1) set a target range for the maturity payments that it will make on:
    - (a) all of its *with-profits policies*; or
    - (b) each group of its *with-profits policies*;
  - (2) ensure that each target range:
    - (a) is expressed as a percentage of unsmoothed asset share; and
    - (b) includes 100% of unsmoothed asset share;
  - (3) specify each target range in its *PPFM*;
  - (4) manage its *with-profits business*, and the business of each *with-profits fund*, with the aim of making a maturity payment on each *with-profits policy* that falls within the relevant target range;
  - (5) subject to *COB* 6.12.35R, make a maturity payment on each *with-profits policy* that falls within the relevant target range, whenever that is possible in the reasonable opinion of the *firm's governing body*; and
  - (6) manage its *with-profits business*, and each *with-profits fund*, with the longer term aim that it will make aggregate maturity payments, on its *with-profits policies*, of 100% of unsmoothed asset share.
- 6.12.18 G A *firm* may choose how its target range, or target ranges, are distributed around 100% of unsmoothed asset share.
- 6.12.19 G If a *firm* uses the definition of unsmoothed asset share in *COB* 6.12.24R (1)(b), it will comply with *COB* 6.12.17R(5) if it:

- (1) makes a maturity payment on the specimen *with-profits policy*, which falls within the relevant target range; and
  - (2) makes a maturity payment on each of the *with-profits policies* represented by the specimen *with-profits policy*, which, if adjusted:
    - (a) in the same proportion as the level of *premium* on that *policy* to the level of *premium* on the specimen *policy*; or
    - (b) (if it would be more appropriate) in some other proportion, would fall within the target range established in respect of the specimen *policy*.
- 6.12.20 G The *FSA* accepts that it may not be possible (for the purposes of *COB* 6.12.17R(5)) to make a payment that falls within the relevant target range in a number of circumstances, including where the *firm's* regulatory, or realistic, solvency position is strained, or it would be strained, if the *firm* made a payment within the relevant target range, and further support arrangements are not in place, for example, under an *insurance business transfer scheme* or a shareholder commitment described in the *firm's PPFM*.
- 6.12.21 G To ensure compliance with *COB* 6.12.17R(6), a *firm* should avoid favouring one group of *policies* over another. The *FSA* recognises, however, that the operation of smoothing and the payment of more, or less, than 100% of asset share at particular points in the economic cycle may mean that groups whose maturity payments are especially concentrated in a few years will see an outcome that may diverge from the 100% longer term target.
- 6.12.22 R *COB* 6.12.17R does not apply to a maturity payment that cannot reasonably be compared with a calculated asset share.
- 6.12.23 G In some circumstances, it may not be fair or reasonable to calculate or assess a maturity payment using an asset share methodology. For example, a *firm* may use a different methodology, which delivers fair value, but is inconsistent with asset shares, or it may use bonus reserve or North American distribution methods, which deliver more uniform bonus rates than an asset share methodology would produce. Similarly, some *with-profits policies* (for example, annual *premium whole life assurance policies*) may have asset shares that are very variable. In other cases, the relevant policies may have been materially altered, or the *firm* may lack the historical data required to make an asset share calculation. In those cases, a *firm* may use a more approximate methodology to set bonus rates, provided that that methodology is consistently applied and properly reflects its representations to *with-profits policyholders*.



- 6.12.24 R For the purposes of *COB* 6.12.17R:
- (1) unsmoothed asset share means:
    - (a) the unsmoothed asset share of the relevant *with-profits policy*; or
    - (b) the unsmoothed asset share of one or more specimen *with-profits policies*, which a *firm* has selected to represent a group, or all, of the *with-profits policies* effected in the same *with-profits fund*.
  - (2) a *firm* must calculate unsmoothed asset share by:
    - (a) applying the methods in *PRU* 7.4.119R to *PRU* 7.4.123R;
    - (b) including any amounts that have been added to the *policy* as the result of a distribution from an *inherited estate*; and
    - (c) subject to (d), and where the terms of the *policy* so provide, adding or subtracting an amount that reflects the experience of the *insurance business* in the relevant *with-profits fund*; but
    - (d) if a *with-profits fund* has suffered adverse experience, which results from a *firm's* failure to comply with the *rules* in this section, that adverse experience may only be taken into account if, and to the extent that, in the reasonable opinion of the *firm's governing body*, the amount referred to in (c) cannot be met from:
      - (i) the *firm's inherited estate* (if any); or
      - (ii) any assets attributable to shareholders, whether or not they are held in the relevant *with-profits fund*.
- 6.12.25 G *COB* 6.12.24R(2)(b) does not require the inclusion of amounts that have been used from an *inherited estate* to support the year-on-year smoothing of bonus declarations.
- 6.12.26 G A *firm* may choose to use the definition of unsmoothed asset share in:
- (1) *COB* 6.12.24R(1)(a) for some groups of *with-profits policies*; and
  - (2) *COB* 6.12.24R(1)(b) for other groups of *with-profits policies*.
- 6.12.27 G If a *firm* chooses to use:

- (1) both definitions of unsmoothed asset share, it should specify, in its *PPFM*, which method it will use for each group of *with-profits policies*;
  - (2) the definition of unsmoothed asset share in *COB 6.12.24R(1)(b)* for some or all of its *with-profits policies*, it should also:
    - (a) ensure that the specimen *with-profits policy*, or *with-profits policies*, selected have the same material characteristics as the *with-profits policies* they will represent, taking into account, for example, their duration and their terms and conditions; and
    - (b) explain, in its *PPFM*, that it has chosen the definition of unsmoothed asset share in *COB 6.12.24R(1)(b)* for the relevant group of *with-profits policies*, and then describe in general terms what effect that decision might have on the relevant maturity payments (if any).
- 6.12.28 G When a *firm* calculates unsmoothed asset share, for the purposes of *COB 6.12.17R* and *COB 6.12.24R(2)*, its methodology should be consistent with the *with-profits principles* and *with-profits practices* described in its *PPFM*.
- 6.12.29 G The unsmoothed asset share, calculated for the purposes of *COB 6.12.17R* and *COB 6.12.24R(2)*, may include any deductions that are made from asset share for the cost of guarantees or the use of capital, where that is consistent with the *with-profits principles* and *with-profits practices* described in the *firm's PPFM*.
- 6.12.30 R A *firm* may make a deduction from asset share for the cost of guarantees, or the use of capital, only if that is permitted by, and consistent with, a plan that has been approved by its *governing body* and described in its *PPFM*. If a *firm* makes such a deduction, it must ensure that that deduction is proportionate to, and consistent with, the costs that it is intended to meet or offset.
- 6.12.31 R If a *firm* has a plan, for the purposes of *COB 6.12.30R*, and it makes, or expects to make, deductions from asset share in reliance on that plan, it must also ensure that:
- (1) all actual and expected deductions are described, or allowed for, in its *key features* and the *projections* that it sends, or makes available, to actual and potential *with-profits policyholders*; and
  - (2) its deductions do not change unless they are justified by a review that has been carried out in response to changes in the business or economic environment or changes in the nature of the *firm's liabilities* as a result of *policyholders* exercising options in their *policies*.

- 6.12.32 G Deductions for the cost of guarantees or the use of capital could materially alter asset share, circumventing the requirements of *COB* 6.12.17R(6). Therefore *COB* 6.12.30R and *COB* 6.12.31R require that any such deductions are part of a well-formulated plan that is altered only after due consideration. The *firm* should therefore consider, and set out in its plan:
- (1) who will bear the risks associated with any guarantees given to *with-profits policyholders*; and
  - (2) the level or type of any charges that may be made to asset shares to cover the cost of bearing those risks.
- 6.12.33 G Deductions should only be changed in response to changes in the business or economic environment and not in an arbitrary way. Retrospective changes in the form of an immediate reduction in current asset shares, however so described, would not normally be consistent with a well developed plan.
- 6.12.34 G A *firm* should ensure that any charges made under the plan described in *COB* 6.12.30R and *COB* 6.12.31R are consistent with its actual investment policy and its intended investment policy.
- 6.12.35 R Notwithstanding *COB* 6.12.17R(5), a *firm* may make a maturity payment which falls outside the target range for the specimen *with-profits policy*, or *with-profits policies*, provided that it has good reason to believe that at least 90% of the maturity payments made on the *with-profits policies* in that group have fallen, or will fall, within the relevant target range.
- 6.12.36 G In *COB* 6.12.35R, maturity payment includes a proportionately adjusted amount as described in *COB* 6.12.19G(2).
- 6.12.37 G The *FSA* accepts that, in some cases, the target range established by reference to a specimen *with-profits policy* may be inappropriate for all of the *with-profits policies* in that group. That may be the case, for example, if the *premiums* paid on an individual *with-profits policy* are significantly greater than, or less than, those paid on the specimen *with-profits policy*. In those cases, the *FSA* also accepts that it might be fair, or fairer, to make a maturity payment that falls outside the specified target range. If a *firm* proposes to make a maturity payment that falls outside that target range, it should be satisfied, on reasonable grounds, that that is fair from the perspective of the particular *policyholder*, and the *firm's* other *with-profits policyholders*.

Amounts payable under with-profits policies : Surrender payments

- 6.12.38 G A *firm* may calculate its surrender payments (including transfers) in a number of different ways. *COB* 6.12.39R to *COB* 6.12.45R do not require a *firm* to use a particular methodology. However, they do require a *firm* to ensure that, however it calculates its surrender payments, the amount actually paid is, in aggregate across all similar policies, not less than that which would have been paid if the *firm* had calculated the surrender payment using the methodology in *COB* 6.12.39R to *COB* 6.12.45R.
- 6.12.39 R *COB* 6.12.17R to *COB* 6.12.35R apply to surrender payments as if a reference to maturity payment was a reference to surrender payment, except that *COB* 6.12.17R(6) applies, in the case of surrender payments, to the unsmoothed asset share before any deductions made in accordance with *COB* 6.12.40R.
- 6.12.40 R When a *firm* calculates a surrender payment using the methodology in *COB* 6.12.39R to *COB* 6.12.45R, it must not make a deduction from the appropriate percentage of unsmoothed asset share unless that deduction is necessary, in the reasonable opinion of the *firm's governing body*, to protect the interests of the *firm's remaining with-profits policyholders*.
- 6.12.41 G If a *firm* uses its own methodology to calculate surrender payments, it should take appropriate steps to check that that methodology produces a result which, in aggregate across all similar policies, is not less than the result that would be achieved if the *firm* used the methodology prescribed by *COB* 6.12.39R and *COB* 6.12.40R. The *firm* should decide what steps would best secure this outcome in its particular circumstances. It might, for example, ensure consistency by testing the surrender payments on a suitable range of specimen *with-profits policies*.
- 6.12.42 G For the purposes of *COB* 6.12.40R, appropriate factors that might be included in any deduction include:
- (1) the *firm's* unrecovered costs, including any financing costs incurred in effecting or carrying out the surrendered *with-profits policy* to the date of surrender, including the costs that might have been recovered if the *policy* had remained in force;
  - (2) costs that would fall on the *with-profits fund*, if the surrender value is calculated by reference to an assumed *market value* of assets which exceeds the true *market value* of those assets;
  - (3) the *firm's* costs incurred in administering the surrender; and
  - (4) a fair contribution towards the cost of any contractual benefits due on the whole, or an appropriate part, of the continuing *policies* in the *with-profits fund* which would otherwise result in higher costs falling on the continuing *with-profits policies*.

- 6.12.43 G For the purposes of *COB* 6.12.39R, a *firm* may set a target range for surrender payments where the top-end of the range is lower than the top-end of the relevant target range for maturity payments.
- 6.12.44 G If a *firm* has ceased to effect new *contracts of insurance* in a *with-profits fund*, or it expects to cease to effect new *contracts of insurance* in the near future (see *COB* 6.12.95R), and, in the reasonable opinion of the *firm's governing body*, the *firm's* circumstances require, or are then likely to require, amendments to the deductions made in reliance on *COB* 6.12.40R, the *firm* should include the changes it proposes to make in its run-off plan (see *COB* 6.12.98R).
- 6.12.45 R A *firm* must not make a market value reduction to the face value of the units of an *accumulating with-profits policy* unless:
- (1) the *market value* of the *with-profits assets* in the relevant *with-profits fund* is, or is expected to be, significantly less than the assumed value of the assets on which the face value of the units of the *policy* has been based; or
  - (2) there has been, or there is expected to be, a high volume of surrenders, relative to the liquidity of the relevant *with-profits fund*; and
- the market value reduction is no greater than is necessary to reflect the impact of (1) or (2) on the relevant surrender payment.
- 6.12.46 G For the purposes of *COB* 6.12.45R, a *firm* might reasonably expect a significant change in market values if, for example, that particular market has been moving in one direction and there is reason to believe that it will continue to do so. A *firm* might expect a high volume of surrenders if surrender volumes have been increasing, and there is reason to think that that will continue or if some unexpected and adverse event has occurred, which is relevant to the *firm* or the wider business or economic environment, which is likely to prompt a material number of surrenders.

#### Approach to smoothing

- 6.12.47 R A *firm* must specify, in its *PPFM*, the *with-profits principles* and *with-profits practices* that it will use to smooth maturity payments and surrender payments. That specification must reflect the requirements of *COB* 6.12.17R(6) and include:
- (1) the smoothing policy applied to each of the different types of *with-profits policy* effected by the *firm*, including any specimen *with-profits policies* used for the purposes of *COB* 6.12.24R (1)(b);
  - (2) the limits (if any) applied to the total cost of, or excess from, smoothing; and

- (3) any limits applied to any changes in the level of maturity payments between one period and another.

Conditions relevant to distributions

- 6.12.48 R A *firm* must:
- (1) not make a distribution from a *with-profits fund*, unless the whole of the cost of that distribution can be met without eliminating the *regulatory surplus* in that *with-profits fund*; and
  - (2) ensure that the amount distributed to *policyholders* from a *with-profits fund* is not less than the required percentage of the total amount distributed (see *COB 6.12.56R*).
- 6.12.49 R A *realistic basis life firm* must not make a distribution from a *with-profits fund* to any *person* who is not a *with-profits policyholder*, unless the whole of the cost of that distribution (including the cost of any obligations that will or may arise from the decision to make a distribution) can be met from the excess of the *realistic value of assets* over the *realistic value of liabilities* in that *with-profits fund*.
- 6.12.50 R In *COB 6.12.49R*, a distribution to a *person* who is not a *with-profits policyholder* includes a transfer of assets out of a *with-profits fund* that is not made to satisfy a liability of that fund.
- 6.12.51 R Subject to *COB 6.12.53R*, and for the purposes of *COB 6.12.48R(2)*, a *firm* must determine the amount to be distributed:
- (1) in the case of a distribution, all or part of which is in the form of a transfer of assets out of the *with-profits fund*, by determining the fair *market value* of the assets that will be transferred; and
  - (2) in the case of a distribution, all or part of which is in the form of an increase in the *regulatory value of liabilities* of the *with-profits fund*, by determining the amount by which the *regulatory value of liabilities* of the *long-term insurance fund* would increase as a result of the distribution, if (for these purposes only) the *mathematical reserves* were calculated using the long-term gilt yield, net of tax (if that is appropriate), instead of the rate of interest prescribed by *PRU 7.3.33R*.
- 6.12.52 G *COB 6.12.51R(2)* applies, in particular, to distributions that take the form of a reversionary bonus addition to conventional *with-profits policies*.
- 6.12.53 R Notwithstanding *COB 6.12.51R*, a *firm* may determine the amount to be distributed in a different way, if:
- (1) it can show that that is consistent with its established practice; and

(2) that established practice is explained in its *PPFM*.

6.12.54 R If, on a distribution, a *firm* incurs a tax liability on a transfer to shareholders, it must not attribute that tax liability to a *with-profits fund*.

6.12.55 R Notwithstanding *COB* 6.12.54R, a *firm* may attribute a tax liability to a *with-profits fund* if:

- (1) the tax liability was incurred on a transfer to shareholders;
- (2) the *firm* can show that attributing the tax liability to that *with-profits fund* is consistent with its established practice;
- (3) that established practice is explained in the *firm's PPFM*; and
- (4) that liability is not charged to asset shares.

#### Distribution ratios

6.12.56 R The required percentage referred to in *COB* 6.12.48R(2) is, for each *with-profits fund*:

- (1) the percentage (if any) required in respect of that fund by:
  - (a) the *firm's* articles of association, registered rules or other equivalent instrument; or
  - (b) a relevant order made by a court of competent jurisdiction;
- (2) if (1) does not apply, the percentage specified in the *firm's PPFM*, if that percentage reflects the *firm's* established practice;
- (3) if (1) and (2) do not apply, not less than 90 per cent.

#### Requirement relating to distribution of an excess surplus

6.12.57 R At least once a year (or, in the case of a *non-directive friendly society*, at least once in every three years), a *firm's governing body* must determine, whether the *firm's with-profits fund*, or any of the *firm's with-profits funds*, has an excess surplus.

6.12.58 R A *firm* will have an excess surplus in a *with-profits fund* if, and to the extent that:

- (1) the *regulatory surplus* in that *with-profits fund*;
- (2) the other financial resources of the *firm* that are applied to that *with-profits fund*; and
- (3) any other financial resources that are expected to be made available for the benefit of that *with-profits fund* in the event of reasonably foreseeable adverse experience;

exceed:

- (4) the amount required to meet the higher of any relevant *enhanced capital requirement* or individual capital assessment; and
- (5) the amount necessary, in the reasonable opinion of the *firm's governing body*, to:
  - (a) support the current and future *insurance business* of the *firm* or the relevant *with-profits fund*;
  - (b) maintain the financial strength of the *firm* or the relevant *with-profits fund*; or
  - (c) address any other matters relevant to *policyholders'* interests or security.

6.12.59 R A *firm* must specify, in its *PPFM*, the matters, or types of matter, that it may regard as relevant for the purposes of *COB* 6.12.58R(5)(c).

6.12.60 E (1) If a *with-profits fund* has an excess surplus, and to retain that surplus would be a breach of *Principle 6* (Customers' interests), the *firm* should:

(a) make a distribution from that *with-profits fund* (unless the conditions in *COB* 6.12.48R and *COB* 6.12.49R cannot be met); or

(b) carry out a *retribution*.

(2) Compliance with (1) may be relied on as tending to establish compliance with *Principle 6* (Customers' interests).

(3) Contravention of (1) may be relied on as tending to establish a contravention of *Principle 6* (Customers' interests).

#### Charges to a with-profits fund

6.12.61 R A *firm* must not charge a cost to a *with-profits fund* unless, in the reasonable opinion of the *firm's* senior management, the *firm* has incurred, or it will incur, that cost in the operation of that *with-profits fund*.

6.12.62 G *COB* 6.12.61R does not prevent a *firm* from charging a fair proportion of its overheads (including executive remuneration) to a *with-profits fund*.



- 6.12.63 R To ensure that costs are fairly and consistently apportioned between *with-profits funds*, and between *with-profits policyholders* and shareholders, a *firm* must establish, maintain and disclose in its *PPFM*, cost apportionment principles that will enable it to determine which costs are, or may be, charged to a *with-profits fund* and which costs are, or may be, charged to the other parts of its business or its shareholders.
- 6.12.64 R If a *firm* makes charges to a *with-profits fund* for the cost of guarantees or the use of capital, it must review those charges regularly to ensure that they are adequate, fair and lawful.
- 6.12.65 G It is for a *firm* to decide when, and how often, to review its guarantee charges, taking into account its circumstances and the wider business or economic environment.
- 6.12.66 R (1) A *firm* must not pay compensation or redress from a *with-profits fund*.
- (2) In (1), and for the purposes of *COB* 6.12.67R, compensation and redress include the costs of assessing the extent of any compensation or redress due, and the costs of considering or defending compensation or redress claims.
- 6.12.67 R Notwithstanding *COB* 6.12.66R, a *firm* may pay compensation or redress due to a *with-profits policyholder*, or former *with-profits policyholder*:
- (1) from its *inherited estate* (if any); or
- (2) from assets attributable to shareholders, whether or not they are held within a *long-term insurance fund*; or
- (3) from assets that would otherwise be attributable to asset shares, if, in the reasonable opinion of the *firm's governing body*, that compensation or redress cannot be paid from the assets in (1) or (2), or from any other source.
- 6.12.68 G *COB* 6.12.66R does not apply to ex gratia or rectification payments. A *firm* may, therefore, correct an erroneous underpayment to a *with-profits policyholder*, or former *with-profits policyholder*, using assets in a *with-profits fund*.
- 6.12.69 G For the purposes of *COB* 6.12.67R(3), a *firm's governing body* should assess whether compensation or redress can be paid from the *firm's inherited estate*, assets attributable to shareholders or any other source by reference to:
- (1) its ability to continue to meet the higher of any relevant *enhanced capital requirement* or individual capital assessment; and
- (2) any other factors relevant to *policyholders'* interests.

- 6.12.70 R A *firm* that is not a *mutual* must not charge to a *with-profits fund* any amounts paid or payable to a *skilled person* in connection with a report under section 166 of the *Act* (Reports by skilled persons) if:
- (1) the need for the report derives wholly or partly from a material failure to keep adequate records;
  - (2) the principal purpose of the report is to identify what action, if any, may be necessary as a result of the *firm's* non-compliance with its obligations under the *regulatory system*;
  - (3) the report indicates that the *firm* has, or may have, materially failed to satisfy its obligations under the *regulatory system*; or
  - (4) it is reasonable to assume that the report may be relied upon by the *FSA* in connection with its enforcement functions.
- 6.12.71 G If a report under section 166 of the *Act* (Reports by skilled persons) does not relate entirely to *insurance business* being carried on in a *with-profits fund*, a *firm* should charge a fair proportion of the overall cost of the report to the fund, but only if that would be consistent with *COB* 6.12.70R.
- 6.12.72 G If a *firm* has properly charged an amount to a *with-profits fund*, but circumstances later show that the charge should not have been made (see *COB* 6.12.70R and *COB* 6.12.71G), the *firm* should fully reimburse the *with-profits fund*.

New business

- 6.12.73 R If a *firm* proposes to effect new *contracts of insurance* in an existing *with-profits fund*, it must only do so on terms that are, in the reasonable opinion of the *firm's governing body*, unlikely to have a material adverse affect on the interests of its existing *with-profits policyholders*.
- 6.12.74 G In some circumstances, it may be difficult or impossible for a *firm* to mitigate the risk of a material adverse affect on its existing, or new, *with-profits policyholders*, unless it establishes a new bonus series or *with-profits fund*. The factors that might cause a *firm* to establish a new bonus series or *with-profits fund* include:
- (1) that the current investment outlook is not adequately reflected in existing *premium* rates. For example, a new high, or low, inflation environment, greater volatility of investment returns or a materially altered investment mix, might mean that the bonus potential for new and existing *with-profits policies* are materially different;

- (2) high acquisition costs on the new *with-profits policies*, which would place an undue burden on the financial resources of the relevant *with-profits fund* or be detrimental to existing *with-profits policyholders*;
  - (3) that the *firm* has a high level of guarantees or options in its existing *with-profits policies*, which might place an excessive burden on new *with-profits policies*, or vice versa;
  - (4) the level of charges on the new *with-profits policies*, or the pattern of their emergence, if that might create a material risk of non-compliance with COB 6.12.76R; or
  - (5) that existing *policyholders* might be disadvantaged by an adjustment to the balance of the investments held within the particular *with-profits fund*, which would result from the decision to materially increase the number of new *with-profits policies* effected by the *firm*.
- 6.12.75 G Circumstances, in which it may be appropriate to establish a new *with-profits fund*, are likely to arise when the potential risks to new or existing *with-profits policyholders* are likely to be too great for the same *with-profits fund* to provide, adequately, for the interests of the two groups of *policyholders*, even after allowing for the beneficial effects of diversification (if any). Such potential risks are likely to arise from significant differences in the terms and conditions of the new and existing *with-profits policies*, including the basis on which charges are levied and reviewed.
- 6.12.76 G When a *firm* prices the new *insurance business* that it proposes to effect in an existing *with-profits fund*, it should estimate the volume of new *insurance business* that it is likely to effect and then build in adequate margins that will allow it to recover any acquisition costs to be charged to the *with-profits fund*.
- 6.12.77 G When a *firm* sets a target volume for new *insurance business* in an existing *with-profits fund*, it should pay particular attention to the risk of disadvantage to existing *with-profits policyholders*. Those *policyholders* might be disadvantaged, for example, by the need to retain additional capital to support a rapid growth in new business, when that capital might have been distributed in the ordinary course of the *firm's* existing business.
- 6.12.78 G When a *firm* determines its strategy for new *insurance business* in an existing *with-profits fund*, it should take particular account of:
- (1) the capital support available; and

- (2) any benefits that may arise if, for example, the different types of new *insurance business* complement each other, for example, in direct financial terms or by the reduction of risk.

6.12.79 G A *firm's* underwriting policy should remain reasonably consistent over time. Existing *with-profits policyholders* should not be exposed to the risk that a significant change in underwriting standards for new *insurance business* in the same *with-profits fund* will cause deterioration in experience that was not allowed for in the *premium* rates for that new business.

#### Relationship of a with-profits fund with the firm and any connected persons

6.12.80 G If a *firm*, or a *connected person*, provides support to a *with-profits fund* (for example, by a contingent loan), the fund might take on more risk, for example, by investing in volatile assets. However, that would not be appropriate if the support will be repaid, leaving *policyholders* to bear all of the risks they have been exposed to. Therefore, no reliance should be placed on that support when the *firm* assesses the *with-profit fund's* financial position unless there are clear and unambiguous criteria governing any repayment obligations to the support provider. The degree of reliance placed on that support should depend on the subordination of the support to the fair treatment of *with-profits policyholders* and clarification of what fair treatment means in various circumstances. For a *realistic basis life firm* this would normally be evidenced by the liability for such support being capable, under stress, of a progressively lower valuation in the *future policy-related liabilities*.

6.12.81 G Subject to COB 6.12.80G, if assets from outside a *with-profits fund* are made available to support that fund, a *firm* should manage the fund disregarding the liability to repay those assets, at least in so far as that is necessary for its *policyholders* to be treated fairly.

6.12.82 G A *parent undertaking* should avoid creating an expectation that it will support a *subsidiary* unless formal arrangements are in place to ensure that that support will be provided, if it is required.

6.12.83 R A *firm* carrying on *with-profits business* must not:

- (1) make a loan to a *connected person* using assets in a *with-profits fund*; or
- (2) give a guarantee to, or for the benefit of, a *connected person*, where the guarantee will be backed using assets in a *with-profits fund*;

unless that loan or guarantee:

- (3) will be on commercial terms;

- (4) will, in the reasonable opinion of the *firm's* senior management, be beneficial to the *with-profits policyholders* in the relevant *with-profits fund*; and
- (5) will not, in the reasonable opinion of the *firm's* senior management, expose those *policyholders* to undue *credit* or *group* risk.

Other guidance on the conduct of with-profits business

- 6.12.84 G When a *firm* determines its investment strategy, and the acceptable level of risk within that strategy, it should take into account:
- (1) the extent of the guarantees in its *with-profits policies*;
  - (2) any representations that it has made to its *with-profits policyholders*;
  - (3) its established practice; and
  - (4) the amount of capital support available.
- 6.12.85 G A *firm* should only change its investment strategy when that is necessary or appropriate to take account of material changes in its economic circumstances or the wider economic environment, changes in *policyholder* utilisation of *policy* options or changes in the level of capital support available to the *with-profits fund* where further support arrangements are not in place under an *insurance business transfer scheme* or a shareholder commitment described in the *firm's PPFM*.
- 6.12.86 G If a *firm* is considering using *with-profits assets* to finance the purchase of another business, directly, or by or through a *connected person*, or if a *firm* is considering whether it should retain such an investment, it should consider whether the purchase or retention would be, or will remain, fair to its *with-profits policyholders*. When a *firm* makes that assessment, it should consider:
- (1) the size of the investment in relation to the *with-profits fund*;
  - (2) the expected rate of return on the investment;
  - (3) the risks associated with the investment, including liquidity risk, the capital needs of the acquired business and the difficulty of establishing fair value (if any);
  - (4) any costs that would result from divestment;
  - (5) whether an *actuary*, appointed by the *firm* under SUP 4 (Actuaries), would regard the investment as suitable for the *with-profits fund*;

- (6) whether the investment has been, or will be, disclosed to *with-profits policyholders*;
- (7) notwithstanding (6), whether a knowledgeable existing *with-profits policyholder* in that *with-profits fund* would regard it as an appropriate investment;
- (8) in the case of a proprietary *firm*, whether it would be more appropriate for the investment to be made using assets other than those in a *with-profits fund*; and
- (9) any other material factors.

6.12.87 G If the *firm* carries out *non-profit insurance business* in a *with-profits fund*, it should review the profitability of the *non-profit insurance business* regularly. When it does so, the *firm* should consider whether, for example, its charges for that business should be adjusted, if adjustment is permitted, to maintain fairness to non-profit and *with-profits policyholders*. If the *firm's* review suggests that a change should be made, but the difference between the existing arrangements and the new arrangements is not material, the *firm* may choose whether or not to make it.

6.12.88 G If a *firm* has reinsured its *with-profits insurance business* into another *insurance undertaking*, it should take reasonable steps to discharge its responsibilities to its *with-profits policyholders*, in respect of the reinsured business. Those steps should include maintaining adequate controls.

#### Major changes in with-profits funds

6.12.89 R A *firm* must not enter into a material transaction relating to a *with-profits fund* unless, in the reasonable opinion of the *firm's governing body*, the transaction is unlikely to have a material adverse effect on the interests of that *fund's* existing *with-profits policyholders*.

6.12.90 R For the purposes of COB 6.12.89R, a material transaction includes a series of related non-material transactions which, if taken together, are material.

6.12.91 G For the purposes of COB 6.12.89R and COB 6.12.90R, material transactions include:

- (1) a significant bulk outwards *reinsurance* contract;
- (2) inwards *reinsurance* of *with-profits business* from another *insurance undertaking*;
- (3) a financial engineering transaction that would materially change the profile of any surplus expected to emerge on the *with-profits fund's* existing *insurance business*; and

- (4) a significant restructuring of the *with-profits fund*, especially if it involves the creation of new *sub-funds*.
- 6.12.92 G So that it can consider whether a proposed material transaction might adversely affect the interests of its *with-profits policyholders*, a *firm* should obtain a report from an *actuary* appointed under SUP 4 (Actuaries) or another appropriate professional adviser.
- 6.12.93 G A *firm* should also consider whether a knowledgeable existing *with-profits policyholder* in that *with-profits fund* would conclude that the proposed material transaction would materially affect his interests, whether or not the transaction will be disclosed to *policyholders*.

Ceasing to effect new contracts of insurance in a with-profits fund

- 6.12.94 R A *firm* must:
- (1) inform the *FSA* and its *with-profits policyholders* within 28 days; and
  - (2) submit a run-off plan to the *FSA* as soon as reasonably practicable and, in any event, within three months,
- of first ceasing to effect new *contracts of insurance* in a *with-profits fund*.
- 6.12.95 R For the purposes of COB 6.12.94R, a *firm* will be taken to have ceased to effect new *contracts of insurance* in a *with-profits fund*:
- (1) when any decision by the *governing body* to cease to effect new *contracts of insurance* takes effect; or
  - (2) where no such decision is made, when the *firm* is no longer:
    - (a) actively seeking to effect new *contracts of insurance* in that fund; or
    - (b) effecting new *contracts of insurance* in that fund, except by increment.
- 6.12.96 G A *firm* should not avoid taking a formal decision to cease to effect new *contracts of insurance* in a *with-profits fund* in an attempt to avoid the requirements of COB 6.12.94R.
- 6.12.97 G A *firm* should contact the *FSA* to discuss whether it has, or it should be taken to have, ceased to effect new *contracts of insurance*, for the purposes of COB 6.12.94R if:
- (1) COB 6.12.95R(2) may apply;

- (2) it is no longer effecting a material volume of new *with-profits policies* in a particular *with-profits fund*, other than by *reinsurance*;
  - (3) it is effecting only new *reinsurance* business in a particular *with-profits fund*; or
  - (4) it cedes by way of *reinsurance* most of the new *with-profits policies* it continues to effect.
- 6.12.98 R The run-off plan required by *COB* 6.12.94R(2) must:
- (1) demonstrate how the *firm* will ensure a full and fair distribution of the closed *with-profits fund*, and its *inherited estate* (if any); and
  - (2) be approved by the *firm's governing body*.
- 6.12.99 G When a *firm* tells its *with-profits policyholders* that it has ceased to effect new *contracts of insurance* in a *with-profits fund*, it should also explain:
- (1) why it has done so;
  - (2) what changes it has made, or proposes to make, to the fund's investment strategy (if any);
  - (3) how closure may affect *with-profits policyholders* (including any reasonably foreseeable effect on future bonus prospects);
  - (4) the options available to *with-profits policyholders* and an indication of the potential costs associated with the exercise of each of those options; and
  - (5) any other material factors that a *policyholder* may reasonably need to be aware of before deciding how to respond to this information.
- 6.12.100 G A *firm* may not be able to provide its *with-profits policyholders* with all of the information described in *COB* 6.12.99G until it has prepared the run-off plan required by *COB* 6.12.94R(2). In those circumstances, the *firm* should:
- (1) tell its *with-profits policyholders* that that is the case;
  - (2) explain what is missing and give a time estimate for its supply; and
  - (3) provide the missing information as soon as possible, and within the time estimate given.
- 6.12.101 G A run-off plan submitted to the *FSA* under *COB* 6.12.94R(2) should:



- (1) identify, and explain, any material differences between the *firm's* run-off plan and the relevant parts of its *PPFM*;
  - (2) identify, and explain, any actual or potential changes in the *firm's* maturity or surrender payment target ranges and its smoothing policy;
  - (3) explain how the fact of run-off affects the *firm's* investment strategy (if it does);
  - (4) explain how the *firm* anticipates capital will become available for distribution to *policyholders*;
  - (5) explain how the costs charged to the *with-profits fund* may change (if they will);
  - (6) detail any new deductions to be made from surrender payments (if any) and explain how they are consistent with *Principle 6* (Customers' interests) and *COB 6.12.39R* to *COB 6.12.45R*; and
  - (7) explain how it plans to address any additional operational risks which might flow from closure.
- 6.12.102 G The *FSA* has powers, for example, under section 165 of the *Act* (Authority's power to require information), to require a *firm* that has ceased to effect new *contracts of insurance* in a *with-profits fund* to provide information on how it will ensure a full and fair distribution of that fund and its *inherited estate* (if any). The *FSA* may use that power if a *firm's* run-off plan does not provide sufficient evidence of a full and fair distribution or appropriate arrangements for ensuring the protection of the interests and security of its *with-profits policyholders*.
- 6.12.103 G To ensure a fair distribution, in compliance with *COB 6.12.98R(1)*, a *firm* will normally have to distribute that part of the *with-profits fund* that is not required to support any continuing business, including a fair proportion of any *inherited estate* attributable to it.
- 6.12.104 G To ensure a fair and prudent distribution, a *firm* may have to distribute a lower proportion of any *inherited estate* attributable to a closed *with-profits fund* to *policyholders* whose *with-profits policies* mature in the shorter term as compared to those whose *with-profits policies* mature in the longer term.
- 6.12.105 G If *non-profit insurance business* is written in a *with-profits fund*, a *firm* should take reasonable steps to ensure that the economic value of any future profits expected to emerge on the *non-profit insurance business* is available for distribution during the lifetime of the *with-profits business*.

6.12.106 G For the purposes of *COB* 6.12.105G, where it is agreed by its *with-profits policyholders*, and subject to meeting the requirements of *COB* 6.12.73R, a *mutual* may make alternative arrangements for continuing to carry on *non-profit insurance business*; and a *non-directive friendly society* may make alternative arrangements for continuing to carry on non-insurance related business.

6.12.107 G A *firm* should discuss with the *FSA* at an early stage any significant issues it identifies relating to its proposed distribution of a closed *with-profits fund*.

Provision of information to with-profits policyholders and communicating with them fairly

6.12.108 G When a *firm* communicates information to a *customer*, *COB* 2.1.3R requires it to take reasonable steps to do so in a way that is clear, fair and not misleading. The *guidance* in the rest of this section is relevant to the application of *COB* 2.1.3R to the provision of information to *with-profits policyholders*.

With-profits policyholders' understanding of the investment

6.12.109 G When a *firm* communicates information to its *with-profits policyholders*, it should not assume that those *policyholders* have a good understanding of their *investment* or the purpose, scope and operation of the *firm's* discretion. To achieve fairness, clearer explanations may be required than for some other long-term *investments*, especially when the *firm* refers to any unusual aspects of a *with-profits policy*.

6.12.110 G It will usually be reasonable for a *firm* to assume that its *with-profits policyholders* have made reasonable efforts to understand the information that has already been given to them. However, if there is evidence that an individual *policyholder* has misunderstood the information that he has been given, or that he has misunderstood the *investment* or any of its material characteristics, a *firm* should not assume that that *with-profits policyholder* now understands the information that he has been given.

Communications to with-profits policyholders

6.12.111 G When a *firm* communicates information to its *with-profits policyholders*, that information should properly reflect the long-term nature of the *investment* and the long-term nature of the *firm's* relationship with its *with-profits policyholders*. The *firm's* communications should also be consistent with the information that it has already given to *with-profits policyholders*.

6.12.112 G To promote fairness in communications with its *with-profits policyholders*, a *firm* should:

- (1) write clearly in plain language;

- (2) use personal language (for example, 'we' and 'you') to make documents easier to understand; and
  - (3) use presentation and terminology that is consistent with the information that it has already provided.
- 6.12.113 G A *firm* should highlight the importance of key documents, indicating why it is important that *with-profits policyholders* should read and understand them.
- 6.12.114 G A *firm* should give a *with-profits policyholder* the opportunity, and reasonable time, to act on information provided to him in accordance with his circumstances, provided that that would not adversely affect the interests of other *with-profits policyholders*.

Information needs of a with-profits policyholder

- 6.12.115 G A *firm* should give a *with-profits policyholder* the information he might reasonably need to take a considered decision about (or get advice on) his *investment*, whenever that is necessary or appropriate. The information should include, where appropriate, information about any options that are available to him, and the costs or other material factors attributable to the exercise of any or all of those options.
- 6.12.116 G The information referred to in *COB* 6.12.115G includes:
- (1) information about the performance of the *with-profits policy*;
  - (2) a *projection* of the future value of the *with-profits policy*;
  - (3) information about material changes in the circumstances of the *with-profits fund*, or the *firm's* approach to managing it, which might affect the *with-profits policy* and future bonus prospects;
  - (4) information about any material changes in the *firm's* charges which might affect the *with-profits policy*; and
  - (5) information about any material changes in the information already provided, for example, at the point of sale.

## Annex B

### Amendments to the Supervision manual

In this Annex, underlining indicates new text.

4.3.16A R ...

- (4) in respect of each financial year commencing on or after 1 January 2005, make a written report addressed to the relevant classes of the *firm's with-profits policyholders*, to accompany the *firm's* annual report under COB 6.11.9R, as to whether, in his opinion and based on the information and explanations provided to him by the *firm*, and taking into account where relevant the rules and guidance in COB 6.12, the annual report and the discretion exercised by the *firm* in respect of the period covered by the report may be regarded as taking, or having taken, their interests into account in a reasonable and proportionate manner;

...

5.3.9A G In certain circumstances, COB 6.12.70R prohibits a *firm* that is not a *mutual* from charging to a *with-profits fund* any amounts paid or payable to a *skilled person* in connection with a report under section 166 of the *Act* (Reports by skilled persons).

## Annex C

### Amendments to the Glossary

In this Annex, the following new definitions are being inserted and the text is not underlined.

<i>regulatory surplus</i>	(in relation to a <i>long-term business fund</i> , or sub-fund) the excess, if any, of the <i>regulatory value of assets</i> for the <i>with-profits fund</i> over the <i>regulatory value of liabilities</i> for that fund.
<i>with-profits assets</i>	assets that match liabilities in respect of <i>with-profits insurance business</i> or represent a <i>with-profits surplus</i> .