

**TREATING WITH-PROFITS POLICYHOLDERS FAIRLY
(TAX CHARGE) 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 156 (General supplementary powers); and
 - (3) 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 on 31 December 2005.

Amendments to the Conduct of Business sourcebook

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

Citation

- E. This instrument may be cited as the Treating With-Profits Policyholders Fairly (Tax Charge) Instrument 2005.

By order of the Board
21 July 2005.

Annex

Amendments to the Conduct of Business sourcebook

In this Annex, new text is being inserted, the place where the change will be made is indicated and the text is not underlined.

After COB 6.12.72G, insert the following new provisions:

Tax charge to a with-profits fund

- 6.12.72A R A *firm* must not charge a contribution to corporation tax to a *with-profits fund*, if that contribution exceeds the notional corporation tax liability that would be charged to that *with-profits fund* if it were assessed to tax as a separate *body corporate*.
- 6.12.72B G If a *firm* carries on *insurance business* outside its *with-profits fund*, it should assess the extent to which the corporation tax liability arising in respect of that business has been affected by the *insurance business* within the *with-profits fund*. If the *insurance business* within the *with-profits fund* has reduced the corporation tax liability that would have otherwise arisen in respect of that other business, the *firm's governing body* should consider whether any unfairness results. In particular, if the *firm* has taken an action, or a series of actions, that were intended to cause a material part of the tax charged to the *with-profits fund* to emerge as a contribution to the profit of the *firm*, it may be unfair if no reduction is made to the amount so charged.