

PENSION TERM ASSURANCE INSTRUMENT 2006

Powers exercised

- A. The Financial Services Authority makes this instrument in the exercise of the powers and related provisions in:
- (1) the following sections of the Financial Services and Markets Act 2000 (“the Act”):
 - (a) section 138 (General rule-making powers);
 - (b) section 156 (General supplementary powers); and
 - (c) section 157 (Guidance); and
 - (2) the other powers referred to in Schedule 4 of the General Provisions.
- 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 6 April 2006.

Amendments to the Handbook

- D. The Glossary of definitions is amended in accordance with Annex A to this instrument.
- E. The Insurance: Conduct of Business sourcebook is amended in accordance with Annex B to this instrument.

Citation

- F. This instrument may be cited as the Pension Term Assurance Instrument 2006.

By order of the Board
23 February 2006

Annex A

Amendments to the Glossary of definitions

In this Annex, underlining indicates new text and striking through indicates deleted text. Where new definitions are being inserted, the text is not underlined.

- life policy*
- ~~(1)~~ ~~(except in COB, AUTH App 1 and AUTH App 5):~~
 - ~~(a)~~ ~~(in accordance with the definition of 'qualifying contract of insurance' in article 3(1) of the *Regulated Activities Order*) a long-term insurance contract other than a reinsurance contract and a pure protection contract; or~~
 - ~~(b)~~ ~~a long-term care insurance contract.~~
 - ~~(2)~~ ~~(in COB except COB 3):~~
 - ~~(a)~~ ~~a long-term insurance contract in (1) or~~
 - ~~(b)~~ ~~a pension policy.~~
 - ~~(3)~~ ~~(in COB 3) a long-term insurance contract in (1) (a) or a pension policy.~~
 - (1) (in accordance with the definition of 'qualifying contract of insurance' in article 3(1) of the *Regulated Activities Order*) a long-term insurance contract other than a reinsurance contract and a pure protection contract; or
 - (2) (except in PERG and COB 3) a long-term care insurance contract; or
 - (3) (in COB) a pension policy; or
 - (4) (in relation to a firm's permission) a pension term assurance policy.

Insert the following new definition in the appropriate alphabetical position:

- pension term assurance policy* a personal pension policy which is a pure protection contract and in connection with which tax relief is available under Chapter 4 of Part 4 of the Finance Act 2004.

Annex B

Amendments to the Insurance: Conduct of Business sourcebook

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

Pension term assurance policies: election to apply COB rules

- 1.2.17 R (1) ICOB does not apply to the extent that:
- (a) the activities within ICOB 1.2.1R relate to a *pension term assurance policy*; and
 - (b) the *firm* has elected to comply with COB;
- but the *firm* must then comply with the rest of the Handbook treating the *pension term assurance policy* as a *life policy* and a *designated investment*, and not as a *non-investment insurance contract*.
- (2) A *firm* must make a record in a *durable medium* of the election (and any reversal of or amendment to the election) which includes:
- (a) the date from which the election takes effect; and
 - (b) a precise description of the part of the *firm's* business to which the election applies;
- and must retain that record indefinitely.

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- 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~~ Provided it complies with the *rules* in this section, the *insurance intermediary* is not required to take into account the *customer's* existing insurance cover (or, in the case of a *personal recommendation* relating to a *pension term assurance policy*, existing pension arrangements), or details of that cover (or those arrangements), if the *customer* is not able to provide this information.

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Pension term assurance policies

- 4.3.8 R Unless the *insurance intermediary* has sufficient information to conclude whether or not the *customer's* existing pension arrangements are likely to significantly affect the suitability of any *personal recommendation* of a *pension term assurance policy* that it might make, it must either:

- (1) not make a *personal recommendation* until details of the pension arrangements are made available to it; or
- (2) make clear to the *customer* that the *personal recommendation* may not be suitable because it has not taken into account full details of the *customer's* existing pension arrangements.

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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)* and factors which may have an adverse effect on the benefit payable under the contract. Another type of significant limitation might be that the contract only operates through certain means of communication e.g. telephone or Internet.

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Schedule 1 Record keeping requirements

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3 Table

Handbook reference	Subject of record	Contents of record	When record must be made	Retention period
<u><i>ICOB 1.2.17R(2)</i></u>	<u>Record of election to comply with <i>COB rules</i> for <i>pension term assurance policies</i> (including amendment or reversal of election)</u>	<u>Date of election and precise description of parts of the <i>firm's</i> business that will comply with <i>COB</i> provisions</u>	<u>Not specified</u>	<u>Indefinitely</u>
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