

**RETAIL DISTRIBUTION REVIEW (PURE PROTECTION)
INSTRUMENT 2010**

Powers exercised

- A. The Financial Services Authority makes this instrument in the exercise of:
- (1) the following powers and related provisions in the Financial Services and Markets Act 2000 (“the Act”):
 - (a) section 138 (General rule-making power);
 - (b) section 145 (Financial promotion rules);
 - (c) section 156 (General supplementary powers); and
 - (e) section 157(1) (Guidance); and
 - (2) the other powers and related provisions listed in Schedule 4 (Powers exercised) to the General Provisions of the Handbook.
- B. The rule-making powers referred to 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 2012.

Amendments to the Handbook

- D. The modules of the FSA’s Handbook of rules and guidance listed in column (1) below are amended in accordance with the Annexes to this instrument listed in column (2).

(1)	(2)
Glossary of definitions	Annex A
Conduct of Business sourcebook (COBS)	Annex B
Insurance Conduct of Business sourcebook (ICOBS)	Annex C

Citation

- E. This instrument may be cited as the Retail Distribution Review (Pure Protection) Instrument 2010.

By order of the Board
23 September 2010

Annex A**Amendments to the Glossary of definitions**

Insert the following new definitions in the appropriate alphabetical position. The new text is not underlined.

indicative adviser charge

a cash figure which is indicative of the cost to the *pure protection contract insurer* of the services associated with making a *personal recommendation* in relation to a *pure protection contract*.

pure protection service

- (a) making a *personal recommendation* to a *consumer* in relation to a *pure protection contract*;
- (b) arranging for a *consumer* to enter into a *pure protection contract*.

Annex B**Amendments to the Conduct of Business sourcebook (COBS)**

In this Annex, underlining indicates new text.

- 6.4.4A R If the *firm* or its *associate* is the *pure protection contract insurer*, it may comply with COBS 6.4.3R(1)(b) and (c) by disclosing to the *consumer* an *indicative adviser charge* as an alternative to a *commission equivalent*.
- 6.4.4B R The *indicative adviser charge* must be at least reasonably representative of the services associated with making the *personal recommendation* in relation to the *pure protection contract*.
- 6.4.4C G An *indicative adviser charge* is likely to be reasonably representative of the services associated with making the *personal recommendation* if:
- (1) the expected long term costs associated with making a *personal recommendation* and distributing the *pure protection contract* do not include the costs associated with manufacturing and administering the *pure protection contract*;
 - (2) the allocation of costs and profit to the *indicative adviser charge* and product charges is such that any cross-subsidisation is not significant in the long term; and
 - (3) the *personal recommendation* and any related services were to be provided by an unconnected *firm*, the level of the *indicative adviser charge* would be appropriate in the context of the service being provided by an unconnected *firm*.

Annex C

Amendments to the Insurance Conduct of Business Sourcebook (ICOBS)

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

1 Annex 1 Application (see ICOBS 1.1.2R)

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Part 2 ...

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Pure protection contracts: election to apply COBS rules

- 3.1 R (1) This sourcebook (except for ICOBS 4.6) does not apply in relation to a *pure protection contract* to the extent that a *firm* has elected to comply with the Conduct of Business sourcebook (*COBS*) in respect of such business.
- (2) Within the scope of such an election, a *firm* must:
- (a) comply with the rest of the Handbook (except for COBS 6.1AR, COBS 6.1BR and COBS 6.1.9R) treating the *pure protection contract* as a *life policy* and a *designated investment*, and not as a *non-investment insurance contract*; and
- (b) if applicable, also comply with ICOBS 4.6.
- (3) A *firm* must make, and retain indefinitely, a record in a *durable medium* of such an election (and any reversal or amendment). The record must include the effective date and a precise description of the part of the *firm's* business to which the election applies.

After ICOBS 4.5 insert the following new section. The new text is not underlined.

4.6 Commission disclosure for pure protection contracts sold with retail investment products

- 4.6.1 G The *rules* in this section:
- (1) address the risk that a *consumer* believes that a *firm's* remuneration for its *pure protection service* is included in its *adviser charge*, where this is not the case; and
- (2) enable the *consumer* to evaluate a *firm's* *adviser charge* in the light

of any additional remuneration received by the *firm* for the *pure protection service* it provides.

- 4.6.2 R A *firm* which agrees an *adviser charge* with a *consumer* and provides an associated *pure protection service* to that *consumer* must:
- (1) in good time before the provision of its services, take reasonable steps to ensure that the *consumer* understands:
 - (a) how the *firm* is remunerated for its *pure protection service*; and
 - (b) if applicable, that the *firm* will receive *commission* in relation to its *pure protection service* in addition to the *firm's adviser charge*;
 - (2) as close as practicable to the time that it makes the *personal recommendation* or *arranges* the sale of the *pure protection contract*, comply with the following disclosure requirements, substituting *pure protection contract* for references to *packaged product*:
 - (a) COBS 6.4.3R, or COBS 6.4.4AR and COBS 6.4.4BR; and
 - (b) COBS 6.4.5R.
- 4.6.3 G A *pure protection service* is unlikely to be associated with an *adviser charge* for the purposes of ICOBS 4.6.2R if the *firm* agreed the *adviser charge* with the *consumer* 12 months or more before the provision of the *pure protection service*.
- 4.6.4 G A *pure protection service* is not associated with an *adviser charge* for the purposes of ICOBS 4.6.2R if the *adviser charge* is agreed with the *consumer* by a *firm* or an *appointed representative* and the *pure protection service* is provided to that *consumer* by another *firm* or *appointed representative*. However, if a *firm* or an *appointed representative* refers a *consumer* with whom it is agreeing an *adviser charge* to another *firm* or *appointed representative* for the provision of a *pure protection service*, it should consider its obligation to communicate with the *consumer* in a way that is clear, fair and not misleading in the context of the guidance in ICOBS 4.6.1G.
- 4.6.5 R If a *firm* expects to provide, or provides, information about its *adviser charge* orally, it must also provide the information required by ICOBS 4.6.2R(1)(a) and ICOBS 4.6.2R(1)(b) orally.