

**CONDUCT OF BUSINESS SOURCEBOOK (RECORDING OF TELEPHONE
CONVERSATIONS AND ELECTRONIC COMMUNICATIONS) (NO 2)
INSTRUMENT 2010**

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 14 November 2011.

Amendments to the Handbook

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

Citation

- E. This instrument may be cited as the Conduct of Business Sourcebook (Recording of Telephone Conversations and Electronic Communications) (No 2) Instrument 2010.

By order of the Board
10 November 2010

Annex

Amendments to the Conduct of Business sourcebook (COBS)

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

11.8 Recording telephone conversations and electronic communications

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Recording telephone conversations, etc

11.8.5 R A *firm* must take reasonable steps to record relevant telephone conversations, and keep a copy of relevant electronic communications, made with, sent from or received on equipment:

- (1) provided by the *firm* to an employee or contractor; or
- (2) the use of which by an employee or contractor has been sanctioned or permitted by the *firm*;

to enable that employee or contractor to carry out any of the activities referred to in *COBS* 11.8.1R.

11.8.5A R A *firm* must take reasonable steps to prevent an employee or contractor from making, sending or receiving relevant telephone conversations and electronic communications on privately-owned equipment which the *firm* is unable to record or copy.

11.8.6 R The obligation in *COBS* 11.8.5R and *COBS* 11.8.5AR does not apply to:

- (1) ~~telephone conversations and electronic communications (except emails) made with, sent from or received on a mobile telephone or other mobile handheld electronic communication device; or [deleted]~~

...

...

11.8.8 R For the purposes of *COBS* 11.8.5R and *COBS* 11.8.5AR, a relevant conversation or communication is any one of the following:

- (1) a conversation or communication between an employee or contractor of the *firm* with a *client*, or when acting on behalf of a *client*, with another *person*, which concludes an agreement by the *firm* to carry out the activities referred to in *COBS* 11.8.1R as principal or as agent;
- (2) a conversation or communication between an employee or contractor of the *firm* with a *professional client* or an *eligible counterparty*, or

when acting on behalf of a *professional client* or an *eligible counterparty*, with another *person*, which is carried on with a view to the conclusion of an agreement referred to in (1) above, and whether or not it is part of the same conversation or communication as in (1).