Powers exercised

A. The Financial Conduct 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 137A (The FCA’s general rules);
(b) section 137R (Financial promotion rules);
(c) section 137T (General supplementary powers);
(d) section 139A (Power of the FCA to give guidance);
(e) section 213 (The compensation scheme);
(f) section 214 (General);
(g) section 226 (Compulsory Jurisdiction rules);
(h) section 247 (Trust scheme rules);
(i) section 261I (Contractual scheme rules); and
(j) paragraph 13(4) of Schedule 17 (FCA’s rules);

(2) regulation 6(1) of the Open-Ended Investment Companies Regulations 2001 (SI 2001/1228); and

(3) the other rule and guidance-making powers and related provisions listed in Schedule 4 (Powers exercised) to the General Provisions of the FCA’s Handbook.

B. The rule-making powers listed above are specified for the purpose of section 138G(2) (Rule-making instruments) of the Act.

Commencement

C. This instrument comes into force on 3 January 2018, immediately after the Conduct, Perimeter Guidance and Miscellaneous Provisions (MiFID 2) Instrument 2017.

Amendments to the Handbook

D. The modules of the FCA’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).

<table>
<thead>
<tr>
<th>(1)</th>
<th>(2)</th>
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</thead>
<tbody>
<tr>
<td>Glossary of definitions</td>
<td>Annex A</td>
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<tr>
<td>Training and Competence (TC)</td>
<td>Annex B</td>
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<td>Insurance: Conduct of Business sourcebook (ICOBS)</td>
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<td>Dispute Resolution: Complaints (DISP)</td>
<td>Annex F</td>
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</table>
### Notes

E. In this instrument, the notes (indicated by “Note:”) are included for the convenience of readers but do not form part of the legislative text.

### Citation

F. This instrument may be cited as the Advising on Investments (Article 53(1) of the Regulated Activities Order) (Consequential Amendments) Instrument 2017.

By order of the Board
7 December 2017
Annex A

Amendments to the Glossary of definitions

In this annex, underlining indicates new text and striking through indicates deleted text, unless indicated otherwise.

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

**business of advising** the business of a firm in providing:

1. advice on P2P agreements;

2. in relation to advising on investments (except P2P agreements):
   
   a. personal recommendations;
   
   b. non-personal recommendation advice.

**non-personal recommendation advice**

1. advice given to a person which is the regulated activity specified in article 53(1) of the Regulated Activities Order and which is not a personal recommendation.

2. for the purposes of (1), article 53(1A) of the Regulated Activities Order is to be disregarded.

Amend the following definitions as shown.

**advising on investments**

1. (except in SUP 10A (Approved Persons) and APER and CONRED 2) the regulated activities, specified in articles 53(1) to (1D) and article 53(2) of the Regulated Activities Order (Advising on investments), which are:

   ...

2. (in SUP 10A (Approved Persons) and APER) the regulated activities specified in articles 53(1) to (1D) and article 53(2) (Advising on investments) of the Regulated Activities Order. For these purposes, advising on investments includes any activities that would be included but for the exclusion in article 72AA (Managers of UCITS and AIFs) of the Regulated Activities Order.

3. (in CONRED 2) has the meaning in force on 1 April 2013.
advising on investments (except P2P agreements) the regulated activity, specified in article 53(1) of the Regulated Activities Order (Advising on investments), which is in summary:

advising a person if the advice is:

(1) given to the person in their capacity as an investor or potential investor, or in their capacity as agent for an investor or a potential investor; and

(2) advice on the merits of their doing any of the following (whether as principal or agent):

(a) buying, selling, subscribing for, exchanging, redeeming, holding or underwriting a particular investment which is a security, structured deposit or relevant investment (that is, any designated investment (other than a P2P agreement), funeral plan contract, pure protection contract, general insurance contract, right to or interests in a funeral plan contract or structured deposit); or

(b) exercising or not exercising any right conferred by such an investment to buy, sell, subscribe for or underwrite, exchange or redeem such an investment,

but excluding the provision of non-personal recommendation advice where the person providing that advice is appropriately authorised (see article 53(1A) to (1D) of the Regulated Activities Order).

advising on pension transfers and pension opt-outs any of the following regulated activities:

(a) advising on investments (except P2P agreements) in respect of pension transfers and pension opt-outs (article 53(1) to (1D));

(b) …

designated investment business any of the following activities, specified in Part II of the Regulated Activities Order (Specified Activities), which is carried on by way of business:

…

(m) advising on investments (except P2P agreements) (article 53(1) to (1D)), but only in relation to designated investments (other
than P2P agreements); for the purposes of the permission regime, this includes:

... 

... 

any of the following regulated activities carried on in relation to a contract of insurance or rights to or interests in a life policy:

... 

(e) advising on investments (except P2P agreements) (article 53(1) to (1D));

... 

(1) (except in CONRED and in relation to advising on investments (except P2P agreements)):

a recommendation that is advice on investments, advice on P2P agreements, advice on conversion or transfer of pension benefits, or advice on a home finance transaction and is presented as suitable for the person to whom it is made, or is based on a consideration of the circumstances of that person.

A recommendation is not a personal recommendation if it is issued exclusively to the public.

For the purposes of this definition, references in the Handbook to making personal recommendations on, or in relation to, P2P agreements should be understood as referring to making personal recommendations involving advice on P2P agreements.

[Note: article 9 of the MiFID Org Regulation]

... 

(3) (in relation to advising on investments (except P2P agreements)) a recommendation:

(a) made to a person in their capacity as an investor or potential investor, or in their capacity as agent for an investor or a potential investor;

(b) which constitutes a recommendation to them to do any of the following (whether as principal or agent):
(i) buy, sell, subscribe for, exchange, redeem, hold or underwrite a particular investment which is a security, a structured deposit or a relevant investment (that is, any designated investment (other than a P2P agreement), funeral plan contract, pure protection contract, general insurance contract, right to or interests in a funeral plan contract or structured deposit); or

(ii) exercise or not exercise any right conferred by such a relevant investment to buy, sell, subscribe for, exchange or redeem such an investment;

(c) that is:

(i) presented as suitable for the person to whom it is made; or

(ii) based on a consideration of the circumstances of that person; and

(d) that is not issued exclusively to the public.

[Note: article 9 of the MiFID Org Regulation and article 53(1C) and 53(1D) of the Regulated Activities Order]
Annex B

Amendments to the Training and Competence sourcebook (TC)

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

2 Competence

2.1 Assessing and maintaining competence

... Supervisors

2.1.4 G Firms should ensure that those supervising employees carrying on an activity in TC Appendix 1 have the necessary coaching and assessment skills as well as technical knowledge and experience to act as a competent supervisor and assessor. In particular firms should consider whether it is appropriate to require those supervising employees not assessed as competent to attain an appropriate qualification as well except where the employee is giving advice personal recommendations on retail investment products or advising on P2P agreements, see TC 2.1.5R.

2.1.5 R Where an employee has not been assessed as competent to do so and:

(1) gives advice personal recommendations on retail investment products to retail clients, the firm must ensure that the individual supervising and assessing that employee has attained an appropriate qualification; or

(2) gives advice on P2P agreements to retail clients, the firm must ensure that the individual supervising and assessing that employee has attained an appropriate qualification for giving advice personal recommendations on retail investment products to retail clients.

...

Knowledge and competence requirements when advising on P2P agreements...

...

2.1.5H R A firm must not, for the purposes of TC 2.1.1R, assess an employee as competent to carry on activity 9A in TC Appendix 1 until the employee has attained each module of an appropriate qualification for giving advice personal recommendations on retail investment products to retail clients.
Qualification requirements before starting activities

2.1.6 R A firm must ensure that an employee does not carry on an activity in TC Appendix 1 (other than an overseeing activity) for which there is a qualification requirement without first attaining the relevant regulatory module of:

…

(2) (in respect of advising on P2P agreements (activity 9A in TC Appendix 1)) an appropriate qualification for giving advice personal recommendations on retail investment products to retail clients.

2.1.7 R A firm must ensure that an employee does not carry on any of the following activities without first attaining each module of an appropriate qualification:

…

(1A) advising giving personal recommendations on and dealing in securities which are not stakeholder pension schemes, personal pension schemes or broker funds;

(1B) advising giving personal recommendations on and dealing in derivatives;

…

Exemption from appropriate qualification requirements

2.1.9 R …

(2) The conditions are that a firm should be satisfied that an employee:

(a) has at least three years’ up-to-date relevant experience in the activity in question obtained while employed outside the United Kingdom;

(b) has not previously been required to comply fully with the relevant qualification requirements in TC 2.1.1R; and

(c) has passed the relevant regulatory module of an appropriate qualification;

but (b) and (c) do not apply to an employee who is benefiting from the “30-day rule” exemption in SUP 10A.10.8R or the “14-day rule” exemption in SYSC 5.2.28AR, unless the employee benefits from that rule because he is advising giving personal
recommendations to retail clients on retail investment products, is providing advice on P2P agreements to retail clients or is a broker fund adviser.

(3) The relevant activities are:

(a) advising on investments (except P2P agreements) which are giving personal recommendations on retail investment products, if that advice is given to retail clients; or

...

App 1.1 Activities and Products/Sectors to which TC applies subject to TC Appendices 2 and 3

App 1.1.1R

<table>
<thead>
<tr>
<th>Activity</th>
<th>Products/Sectors</th>
<th>Is there an appropriate qualification requirement?</th>
</tr>
</thead>
<tbody>
<tr>
<td>...</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Advising or giving personal recommendations (as relevant)</td>
<td>2. Securities Giving personal recommendations on securities which are not stakeholder pension schemes, personal pension schemes or broker funds</td>
<td>Yes</td>
</tr>
<tr>
<td></td>
<td>3. Derivatives Giving personal recommendations on derivatives</td>
<td>Yes</td>
</tr>
<tr>
<td></td>
<td>4. Retail investment products Giving personal recommendations on retail investment products which are not broker funds</td>
<td>Yes</td>
</tr>
<tr>
<td></td>
<td>Activity</td>
<td>Yes/No</td>
</tr>
<tr>
<td>---</td>
<td>--------------------------------------------------------------------------</td>
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</tr>
<tr>
<td>5.</td>
<td>Giving personal recommendations on Friendly Society life policies where the employee is not reasonably expected to receive a remuneration of greater than £1000 a year in respect of such sales</td>
<td>No</td>
</tr>
<tr>
<td>6.</td>
<td>Giving personal recommendations on Friendly Society tax-exempt policies (other than Holloway sickness policies where the Holloway policy special application conditions are met)</td>
<td>Yes</td>
</tr>
<tr>
<td>7.</td>
<td>Long-term care insurance contracts Giving personal recommendations on long-term care insurance contracts</td>
<td>Yes</td>
</tr>
<tr>
<td>8.</td>
<td>Investments Giving personal recommendations on investments in the course of corporate finance business</td>
<td>Yes</td>
</tr>
<tr>
<td>9.</td>
<td>Advising on syndicate participation at Lloyd’s</td>
<td>Yes</td>
</tr>
<tr>
<td>9A</td>
<td>Advising on P2P agreements</td>
<td>Yes</td>
</tr>
<tr>
<td>…</td>
<td></td>
<td></td>
</tr>
<tr>
<td>12.</td>
<td>Securities Giving personal recommendations on and dealing in securities which are</td>
<td>Yes</td>
</tr>
<tr>
<td></td>
<td>not stakeholder pension schemes, personal pension schemes or broker funds</td>
<td>13. Derivatives Giving personal recommendations on and dealing in derivatives</td>
</tr>
<tr>
<td>--------------------------</td>
<td>--------------------------------------------------------------------------</td>
<td>---------------------------------------------------------------------</td>
</tr>
</tbody>
</table>

... Non-investment insurance business carried on for a consumer

<table>
<thead>
<tr>
<th>Advising Giving personal recommendations</th>
<th>24. Non-investment insurance contracts Giving personal recommendations on non-investment insurance contracts</th>
<th>No</th>
</tr>
</thead>
</table>

... Non-investment insurance business carried on for a consumer

Notes:

1. In the Appendix the heading and types of business specified in the headings are to be read in conjunction with the paragraphs appearing beneath them.

2. Thus, for example, paragraph 24, consistent with the heading above it, refers only to advice on personal recommendations given in relation to non-investment insurance contracts given to a consumer.

2A. …

...

App 4.1 Appropriate Qualification tables

App 4.1.1E

Part 1: Activities

\[TC\] App 4.1 is relevant to \[TC\] 2.1.10E (selecting an appropriate qualification).

Part 1: Activities
### Part 1A: The Retail Distribution Review activities (RDR activities)

<table>
<thead>
<tr>
<th>Activity Number</th>
<th>RDR Activity</th>
</tr>
</thead>
<tbody>
<tr>
<td>2</td>
<td>Advising Giving personal recommendations on securities which are not stakeholder pension schemes, personal pension schemes or broker funds</td>
</tr>
<tr>
<td>3</td>
<td>Advising Giving personal recommendations on derivatives</td>
</tr>
<tr>
<td>4 and 6</td>
<td>(4) Advising Giving personal recommendations on retail investment products which are not broker funds and (6) advising giving personal recommendations on friendly society tax-exempt policies (other than Holloway sickness policies Holloway sickness policies where the Holloway policy special application conditions Holloway policy special application conditions are met)</td>
</tr>
<tr>
<td>12</td>
<td>Advising Giving personal recommendations on and dealing in securities which are not stakeholder pension schemes, personal pension schemes or broker funds</td>
</tr>
<tr>
<td>13</td>
<td>Advising Giving personal recommendations on and dealing in derivatives</td>
</tr>
</tbody>
</table>

Extent to which the qualification meets the qualification requirement in relation to RDR activities

4.1.1AE …

### Part 1B: The non-Retail Distribution Review activities (non-RDR activities)

<table>
<thead>
<tr>
<th>Activity Number</th>
<th>Non-RDR Activity (non-overseeing activity)</th>
</tr>
</thead>
<tbody>
<tr>
<td>7</td>
<td>Advising Giving personal recommendations on long-term care insurance contracts</td>
</tr>
<tr>
<td>8</td>
<td>Advising Giving personal recommendations on investments in the course of corporate finance business</td>
</tr>
<tr>
<td>…</td>
<td></td>
</tr>
</tbody>
</table>
Annex C

Amendments to the Conduct of Business sourcebook (COBS)

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

1 Application

1.1 General application

... 

1 Application (see COBS 1.1.2R)

Annex 1

Part 1: What?

Modifications to the general application of COBS according to activities

<p>| | |</p>
<table>
<thead>
<tr>
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<tr>
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<td>Use of third party processors in life insurance mediation activities</td>
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<tr>
<td>6.1</td>
<td>R</td>
</tr>
<tr>
<td></td>
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</tr>
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</tr>
</tbody>
</table>

2 Conduct of business obligations

2.1 Acting honestly, fairly and professionally

The client’s best interests rule

2.1.1 R (1) A firm must act honestly, fairly and professionally in accordance with the best interests of its client (the client’s best interests rule).
(2) This rule applies in relation to designated investment business carried on:

(a) in relation to designated investment business carried on for a retail client; and

(b) in relation to MiFID, equivalent third country or optional exemption business, for any other client.

...

2.3 Inducements relating to business other than MiFID, equivalent third country or optional exemption business

...

2.3A Inducements relating to MiFID, equivalent third country or optional exemption business

...

Inducements relating to the provision of independent advice, restricted advice and portfolio management services to retail clients in the United Kingdom

2.3A.1 R 1

(2) The firm must not accept any fees, commission, monetary or non-monetary benefits which are paid or provided by:

(a) any third party; or

(b) a person acting on behalf of a third party,

in relation to the provision of the relevant service to the client.

(2A) Where the firm provides independent advice or restricted advice, the rule in (2) applies in connection with:

(a) the firm’s business of advising; or

(b) any other related service, where ‘related service’ has the same meaning as in COBS 6.1A.6R.
4. Communicating with clients, including financial promotions

4.1 Application

Who? What?

4.1.1 R This chapter applies to a firm:

(1) communicating with a client in relation to its designated investment business (other than MiFID, equivalent third country or optional exemption business);

(1A) communicating with a client in relation to its MiFID, equivalent third country or optional exemption business;

(3) when a MiFID investment firm or a credit institution is communicating in connection with selling, or advising clients in relation to, structured deposits as specified by COBS 1.1.1AAR.

4.2 Fair, clear and not misleading communications

The fair, clear and not misleading rule

4.2.1 R (1) A firm must ensure that a communication or a financial promotion is fair, clear and not misleading.

(2) This rule applies in relation to:

(a) a communication by the firm to a customer in relation to designated investment business which is not MiFID, equivalent third country or optional exemption business, other than a third party prospectus;

(aa) a communication to an eligible counterparty that is in relation to MiFID or equivalent third country business, other than a third party prospectus;

(ab) a communication by the firm to a customer in relation to MiFID, equivalent third country or optional exemption business, other than a third party prospectus;
6 Information about the firm, its services and remuneration

6.1A Adviser charging and remuneration

Application – Who? What?

6.1A.1 Guidance on the regulated activity of advising in relation to a new or existing investment advising on investments (except P2P agreements) under article 53(1) of the Regulated Activities Order can be found in PERG 8.24 to PERG 8.29. Although the guidance in PERG 8.29.7G relates to advising on investments (except P2P agreements) under article 53(1) of the Regulated Activities Order, exactly the same answers apply to a personal recommendation because the examples given relate to the relationship between a firm and a particular client and advice given to that specific client. A firm wishing to know when it will be giving advice but not making a personal recommendation should refer to PERG 13.3. The guidance guidance in PERG 8.24 to PERG 8.29 does not apply to the regulated activity of advising on P2P agreements.

Requirement to be paid through adviser charges

6.1A.4 Except as specified in COBS 6.1A.4AR, COBS 6.1A.4ABR, COBS 6.1A.4ACG, COBS 6.1A.4BR and COBS 6.1A.5AR(1), a firm must:

(1) …; and

(2) not solicit or accept (and ensure that none of its associates solicits or accepts) any other commissions, remuneration or benefit of any kind in relation to the personal recommendation connection with the firm’s business of advising or any other related service services, regardless of whether it intends to refund the payments or pass the benefits on to the retail client, and

(3) …
6.1B Retail investment product provider, operator of an electronic system in relation to lending, and platform service provider requirements relating to adviser charging and remuneration

Application – Who? What?

…

6.1B.1 Guidance on the regulated activity of advising in relation to a new or existing investment advising on investments (except P2P agreements) under article 53(1) of the Regulated Activities Order can be found in PERG 8.24 to PERG 8.29. Although the guidance in PERG 8.29.7G relates to advising on investments (except P2P agreements) under article 53(1) of the Regulated Activities Order, exactly the same answers apply to a personal recommendation because the examples given relate to the relationship between a firm and a particular client and advice given to that specific client. A firm wishing to know when it will be giving advice but not making a personal recommendation should refer to PERG 13.3. The guidance in PERG 8.24 to PERG 8.29 does not apply to the regulated activity of advising on P2P agreements.

…

Requirement not to offer commissions

6.1B.5 Except as specified in COBS 6.1B.5AR, a firm must not offer or pay (and must ensure that none of its associates offers or pays) any commissions, remuneration or benefit of any kind to another firm, or to any other third party for the benefit of that firm, in relation to a personal recommendation connection with that firm’s business of advising (or any related services), except those that facilitate the payment of adviser charges from a retail client’s investments in accordance with this section.

(2) …

…

Requirements on firms facilitating the payment of adviser charges

…

6.1B.1 COBS 6.1B.9R(3) does not prevent a firm, if this is in the retail client’s best interests, from entering into an agreement with another firm which is providing a personal recommendation to a retail client, or with a retail client of such a firm, to provide it with credit separately in accordance with the rules and guidance on providing credit and other benefits to firms that advise provide personal recommendations on retail investment products or P2P agreements (see COBS 2.3.12E, COBS 2.3.12AG, COBS 2.3A.27E and COBS 2.3A.28G).
16 Reporting information to clients (non-MiFID provisions)

... 

16.6 Communications to clients – life insurance, long term care insurance and income withdrawals

... 

Income withdrawals

16.6.8 R At intervals no longer than 12 months from the date of an election by a retail client to make income withdrawals or one-off, ad-hoc or regular uncrytallised funds pension lump sum payments, the relevant operator of a personal pension scheme or stakeholder pension scheme must:

(1) ...; and

(2) inform the retail client how to obtain a personal recommendation relating to advice on investments (except P2P agreements) in respect of his income withdrawals, and that it would be in his best interests to do so.

... 

22 Restrictions on the distribution of certain regulatory capital instruments

... 

22.2 Restrictions on the retail distribution of mutual society shares

... 

Further requirements for non-advised, non-MiFID sales

22.2.3 R (1) The requirements in (2) and (3) must be met if:

(a) ...

(b) the retail client is not otherwise receiving advice a personal recommendation on the mutual society share from the firm or another person.

... 

...
4 Information about the firm, its services and remuneration

4.1 General requirements for insurance intermediaries

... Scope of service

4.1.6 R ...

(2) A firm that does not advise on the basis of a fair analysis of the market must inform its customer that he has the right to request the name of each insurance undertaking with which the firm may and does conduct business. A firm must comply with such a request.

[Note: article 12(1) of the Insurance Mediation Directive]
Annex E

Amendments to the Supervision manual (SUP)

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

10A FCA Approved Persons

…

10A Frequently asked questions

Annex 1G

…

31 … …

…

| How does the customer function relate to the training and competence requirements? |
|--------------------------------------------------|-----------------|-----------------|-----------------|
| Activity                                         | Products/sectors in TC Appendix 1 | FCA controlled function | SUP |
| Advising only or giving personal recommendations (as relevant) | 2-9A | customer function (CF 30) | 10A.10.4 R |
| Undertaking an activity                          | 10-11                        |                          |     |
| Advising Giving personal recommendations and dealing | 12-13                        |                          |     |
| …                                                |                              |                          |     |

…

12 Appointed representatives

…

12.2 Introduction

…
Business for which an appointed representative is exempt

12.2.7 G (1) The Appointed Representatives Regulations are made by the Treasury under sections 39(1), (1C) and (1E) of the Act. These regulations describe, among other things, the business for which an appointed representative may be exempt or to which sections 20(1) and (1A) and 23(1A) of the Act may not apply, which is business which comprises any of:

(i) advising on investments (except P2P agreements) (article 53(1) to (1D) of the Regulated Activities Order) (that is in summary, advising on any designated investment (other than a P2P agreement), structured deposit, funeral plan contract, pure protection contract, general insurance contract or right to or interest in a funeral plan);

What must a firm do when it appoints an appointed representative or an EEA tied agent?

The permission that the firm needs

12.4.1A G The effect of sections 20 (Authorised persons acting without permission) and 39(4) (Exemption of appointed representatives) of the Act is that the regulated activities covered by an appointed representative’s appointment need to:

(1) fall within the scope of the principal’s permission; or

(2) be excluded from being regulated activities when carried on by the principal, for example because:

(a) they fall within article 28 of the Regulated Activities Order (Arranging transactions to which the arranger is a party); or

(b) because they constitute CBTL business and the principal is a CBTL firm; or

(c) the principal is appropriately authorised (see article 53(1A) of the Regulated Activities Order).

Where the principal is appropriately authorised for the purposes of article 53(1A) of the Regulated Activities Order (and so does not need permission to provide non-personal recommendation advice), the terms of the appointed representative’s appointment will still need to cover their
business in carrying on non-personal recommendation advice. This is because an appointed representative providing non-personal recommendation advice will only be exempt from the general prohibition if the principal has accepted responsibility in writing for the appointed representative in carrying on such business. An appointed representative is not exempt from the general prohibition simply because the principal is appropriately authorised for the purposes of article 53(1A) of the Regulated Activities Order.

App 3 Guidance on passporting issues

App 3.9 Mapping of MiFID, CRD, AIFMD, UCITS Directive, MCD and Insurance Mediation Directive to the Regulated Activities Order

Services set out in Annex I to MiFID

<table>
<thead>
<tr>
<th>App 3.9.5G</th>
<th>Table 2: MiFID investment services and activities</th>
<th>Part II RAO Investments</th>
<th>Part III RAO Investments</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>…</td>
<td></td>
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<tr>
<td></td>
<td>…</td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td>Ancillary services</td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td>…</td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td>5. Investment research and financial analysis or other forms of general recommendation relating to transactions in financial instruments</td>
<td>Article 53(1), 64 (see Note 4)</td>
<td>Article 76-81, 82B, 83-85, 89</td>
</tr>
<tr>
<td></td>
<td>…</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

Note 4: A firm which provides investment research and financial analysis or other forms of general recommendation relating to transactions in financial instruments does not need permission under article 53(1) of the Regulated Activities Order if it is appropriately authorised (see article 53(1) to (1D) of the Regulated Activities Order).
2 Jurisdiction of the Financial Ombudsman Service

2.3 To which activities does the Compulsory Jurisdiction apply?

Activities by firms

2.3.1 The Ombudsman can consider a complaint under the Compulsory Jurisdiction if it relates to an act or omission by a firm in carrying on one or more of the following activities:

…

(8) giving non-personal recommendation advice;

or any ancillary activities, including advice, carried on by the firm in connection with them.

…
Annex G

Amendments to the Compensation sourcebook (COMP)

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

5 Protected claims

5.5 Protected investment business

Advising without a personal recommendation

5.5.4 R The FSCS must treat a claim relating to advice in relation to a designated investment that falls outside article 53(1) of the Regulated Activities Order by virtue of article 53(1A) of that Order as being ‘in connection with protected investment business’ for the purposes of COMP 5.2.1R(3) where the relevant person giving the advice, at the time the act or omission giving rise to the claim took place:

(1) had, or required, permission to carry on; or

(2) (in the case of an appointed representative) was exempt from the general prohibition in respect of an activity that was designated investment business.

5.7 Protected non-investment insurance mediation

Advising without a personal recommendation

5.7.5 R The FSCS must treat a claim relating to advice on a relevant general insurance contract or a pure protection contract (which is not a long-term insurance contract or a reinsurance contract) that falls outside article 53(1) of the Regulated Activities Order by virtue of article 53(1A) of that Order as being ‘in connection with protected non-investment insurance business’ for the purposes of COMP 5.2.1R(5) where the relevant person giving the advice, at the time the act or omission giving rise to the claim took place:

(1) had, or required, permission to carry on; or

(2) (in the case of an appointed representative) was exempt from the general prohibition in respect of an activity that was non-investment insurance business.
Annex H

Amendments to the Collective Investment Schemes sourcebook (COLL)

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

6 Operating duties and responsibilities

…

6.9 Independence, names and UCITS business restrictions

Restrictions of business for UCITS management companies

6.9.9 R A UCITS management company must not engage in any activities other than:

…

(5) advising on investments investment advice concerning financial instruments where:

(a) the firm has permission for the activity in (4); and

(b) each of the instruments are financial instruments; and

…
Annex I

Amendments to the Perimeter Guidance manual (PERG)

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

2 Authorisation and regulated activities

...

2.7 Activities: a broad outline

...

Advising on investments

[Note: The guidance in this section relating to the regulated activity of advising on investments (except P2P agreements) does not take into account the amendments to article 53(1) of the Regulated Activities Order made by the Financial Services and Markets Act 2000 (Regulated Activities) (Amendment) (No. 2) Order 2017 (SI 2017/500) and paragraph 2 of Schedule 3 to the Financial Services and Markets Act 2000 (Markets in Financial Instruments) Regulations 2017 (SI 2017/701) which came into force on 3 January 2018.]

2.7.14C G ...

...

7 Periodical publications, news services and broadcasts: applications for certification

...

7.3 Does the activity require authorisation?

[Note: Insofar as the guidance in this section relates to the regulated activity of advising on investments (except P2P agreements), it does not take into account the amendments made to article 53(1) of the Regulated Activities Order made by the Financial Services and Markets Act 2000 (Regulated Activities) (Amendment) (No. 2) Order 2017 (SI 2017/500) and paragraph 2 of Schedule 3 to the Financial Services and Markets Act 2000 (Markets in Financial Instruments) Regulations 2017 (SI 2017/701) which came into force on 3 January 2018.]

7.3.1 G ...

...
7.4 Does the article 54 exclusion apply?

[Note: Insofar as the guidance in this section relates to the regulated activity of advising on investments (except P2P agreements), it does not take into account the amendments to article 53(1) of the Regulated Activities Order made by the Financial Services and Markets Act 2000 (Regulated Activities) (Amendment) (No. 2) Order 2017 (SI 2017/500) and paragraph 2 of Schedule 3 to the Financial Services and Markets Act 2000 (Markets in Financial Instruments) Regulations 2017 (SI 2017/701) which came into force on 3 January 2018.]

7.4.1 G …

8 Financial promotion and related activities

…

8.24 Advising on investments

[Note: The guidance in PERG 8.24 to PERG 8.29 on the regulated activity of advising on investments (except P2P agreements) does not take into account the amendments to article 53(1) of the Regulated Activities Order made by the Financial Services and Markets Act 2000 (Regulated Activities) (Amendment) (No. 2) Order 2017 (SI 2017/500) and paragraph 2 of Schedule 3 to the Financial Services and Markets Act 2000 (Markets in Financial Instruments) Regulations 2017 (SI 2017/701) which came into force on 3 January 2018.]

8.24.1 G …
## Annex J

**Amendments to the Responsibilities of Providers and Distributors for the Fair Treatment of Customers (RPPD)**

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

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| (17) | For regulated activities other than designated investment business, MiFID, equivalent third country or optional exemption business, a firm must take reasonable steps to communicate information in a way that is clear, fair and not misleading (e.g. ICOB 2.2.3R and MCOB 3A.2.1R(1)). In doing so, it may be reasonable for a distributor to rely on information produced by a provider unless the distributor is, or ought to be, aware of grounds to question its compliance. For designated investment business, MiFID, equivalent third country or optional exemption business, a firm must ensure that any communication to a client is fair, clear and not misleading regardless of whether it has been produced by a provider (COBS 4.2.1R). The standard for designated investment business is an absolute standard, which does not permit reliance unless an exemption applies. (Paragraph 1.23(1)) |  |