

INSURANCE DISTRIBUTION DIRECTIVE (AMENDMENT) INSTRUMENT 2018**Powers exercised**

- A. The Financial Conduct Authority makes this instrument in the exercise of the powers and related provisions in or under:
- (1) the following sections of the Financial Services and Markets Act 2000 (“the Act”):
 - (a) section 137A (The FCA’s general rules);
 - (b) section 137T (General supplementary powers);
 - (c) section 139A (Power of the FCA to give 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 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 1 October 2018, immediately after those changes made by the Insurance Distribution Directive Instrument 2018 (FCA 2018/25) come into effect, except for Annex B (General Provisions) which comes into force on 27 July 2018.

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) below:

(1)	(2)
Senior Management Arrangements, Systems and Controls sourcebook (SYSC)	Annex A
General Provisions (GEN)	Annex B
Prudential sourcebook for Mortgage and Home Finance firms, and Insurance Intermediaries (MIPRU)	Annex C
Conduct of Business sourcebook (COBS)	Annex D
Supervision manual (SUP)	Annex E
Professional Firms sourcebook (PROF)	Annex F

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 Insurance Distribution Directive (Amendment) Instrument 2018.

By order of the Board
26 July 2018

Annex A

Amendments to the Senior Management Arrangements, Systems and Controls sourcebook (SYSC)

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

19F Remuneration and performance management

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19F.2 IDD remuneration incentives

Application

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19F.2.1 **R** This section does not apply to an *authorised professional firm* with
A respect to its *non-mainstream regulated activities* if:

- (1) the *firm's designated professional body* has made rules which
implement article 17(3) of the *IDD*;
- (2) those rules have been approved by the *FCA* under section 332(5)
of the *Act*; and
- (3) the *firm* is subject to the rules in the form in which they were
approved.

[**Note:** article 7(2) of the *IDD*]

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28 Insurance distribution: specific knowledge, ability and good repute requirements

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28.1 Minimum knowledge, ability and good repute requirements for carrying out insurance distribution activities

Application

28.1.1 **R** (1) This chapter applies to a *firm* with *Part 4A permission* to carry on
insurance distribution activities.

- (2) SYSC 28.2 (except SYSC 28.2.1R(1)) does not apply to an authorised professional firm with respect to its non-mainstream regulated activities.

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28.3 Good repute

Good repute requirements

28.3.-1 R This section does not apply to a connected travel insurance intermediary.

28.3.1 R A firm (~~other than a connected travel insurance intermediary~~) must ensure that all the *persons* in its management structure and any staff directly involved in *insurance distribution activities* are of good repute.

[**Note:** article 10(3) paragraphs 1 to 3 of the *IDD*]

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Annex B

Amendments to the General Provisions (GEN)

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

Comes into force on 27 July 2018

TP 4 Transitional Provision on early compliance with the Insurance Distribution Directive applying across the Handbook

Transitional Provision on early compliance with the Insurance Distribution Directive applying across the Handbook.

(1)	(2) Material to which the transitional provision applies	(3)	(4) Transitional provision	(5) Transitional provision: dates in force	(6) Handbook provision: coming into force
1	Not applicable	G	The purpose of this transitional provision is to enable a <i>firm</i> to elect to comply early with one or more provisions implementing the Insurance Distribution Directive (<i>IDD</i>).	From 25 May 2018 up to and including 30 September 2018	Not applicable
2	<p><i>Rules</i> that will be amended or deleted by: (a) the Insurance Distribution Directive Instrument 2018 (other than forms in Annex O (SUP) part 2);</p> <p>(b) the <u>Insurance Distribution Directive (Amendment) Instrument 2018 (other than the</u></p>	R	<p>If a <i>firm</i> elects to comply with:</p> <p>(1) a <i>rule</i> made, or amended by: (a) the Insurance Distribution Directive Instrument 2018 other than a form in Annex O (SUP) part 2;</p> <p>(b) the <u>Insurance Distribution Directive (Amendment) Instrument 2018 (other than the form in Annex E (SUP));</u> or</p>	From 25 May 2018 up to and including 30 September 2018	Already in force

	<p><u>form in Annex E (SUP)</u></p>		<p>(2) a provision of the <i>IDD IPID Regulation</i>, the <i>IDD POG Regulation</i> or the <i>IDD Regulation</i>, then the <i>firm</i>:</p> <p>(3) must comply with that made, amended or draft provision as if it was a <i>rule</i> currently in force; and</p> <p>(4) need not comply with the <i>rule</i> in column (2) that it will replace (if any).</p>		
<p>...</p>					

Annex C

**Amendments to the Prudential sourcebook for Mortgage and Home Finance Firms,
and Insurance Intermediaries (MIPRU)**

In this Annex, striking through indicates deleted text.

2 Responsibility for insurance distribution and MCD credit intermediation activity

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2.3 Knowledge, ability and good repute [deleted]

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- 2.3.3 R In considering a *person's* repute the *firm* must ensure that the *person*:**
- ~~(1) has not been convicted of any serious criminal offences linked to crimes against property or other crimes related to financial activities (other than spent convictions under the Rehabilitation of Offenders Act 1974 or any other national equivalent); and~~
 - ~~(2) has not been adjudged bankrupt (unless the bankruptcy has been discharged);~~
- ~~under the law of any part of the *United Kingdom* or under the law of a country or territory outside the *United Kingdom*.~~
- ~~[Note: Article 4(2) of the *Insurance Mediation Directive*]~~

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Annex D

Amendments to the Conduct of Business sourcebook (COBS)

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

2 Conduct of business obligations

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2.3A Inducements relating to MiFID, equivalent third country or optional exemption business and insurance-based investment products

...

- 2.3A.9 R A fee, commission or non-monetary benefit may be justified for the purposes of *COBS* 2.3A.8R(1)(a) where, for example, the *firm* provides:
- (1) *restricted advice* on, and access to, a wide range of suitable *financial instruments* or ~~*insurance-based investment contracts*~~ *insurance-based investment products* including an appropriate number of *financial instruments* or ~~*insurance-based investment contracts*~~ *insurance-based investment products* from third party product providers having no close links with the *firm*; or
 - (2) *restricted advice* combined with:
 - (a) an offer to the *client*, at least on an annual basis, to assess the continuing suitability of the *financial instruments* or ~~*insurance-based investment contracts*~~ *insurance-based investment products* in which the *client* has invested; or
 - (b) another ongoing service that is likely to be of value to the *client* such as advice about the suggested optimal asset allocation of the *client*; or
 - (3) access, at a competitive price, to a wide range of *financial instruments* or ~~*insurance-based investment contracts*~~ *insurance-based investment products* that are likely to meet the needs of the *client*, including an appropriate number of *financial instruments* or ~~*insurance-based investment contracts*~~ *insurance-based investment products* from third party product providers having no close links with the *firm*, together with either the provision of added-value tools, such as objective information tools helping the *client* to take investment decisions or enabling the *client* to monitor, model and adjust the range of *financial instruments* or ~~*insurance-based investment contracts*~~ *insurance-based investment products* in which they have invested, or providing periodic reports of the performance and costs and charges associated with the *financial instruments* or

~~*insurance-based investment contracts*~~ *insurance-based investment products*.

...

2.3A.9B R ~~COBS 2.3A.14AEU~~ COBS 2.3A.9AEU applies as if it was a *rule* to a *firm* in relation to *insurance distribution activities* to which the *IDD Regulation* does not apply.

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9A Suitability (MiFID and insurance-based investment products provisions)

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9A.3 Information to be provided to the client

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Suitability reports: MiFID business and insurance-based investment products

9A.3.2 R (1) [deleted]

...

(4) Where a *firm* provides a *portfolio management* service or has informed the *client* that it will carry out periodic assessment of suitability, the periodic report, provided under *COBS 16A.2.1R*, must contain an updated statement of how the *client's* investments meet the preferences, objectives and other characteristics of the *client*

[**Note:** second, third and fourth paragraphs of article 25(6) of, and recital (82) to, *MiFID*; article 20(1), article 20(2), second paragraph of article 22(1) and second, ~~and~~ third and fourth paragraphs of article 30(5) of the *IDD*]

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10A Appropriateness (for non-advised services) (MiFID and insurance based investment products provisions)

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10A.4 Assessing appropriateness: when it need not be done due to type of investment

10A.4.1 R ...

[**Note:** ESMA ESMA has published guidelines...]

[Note: EIOPA has published guidelines under the IDD which specify criteria for the assessment of insurance-based investment products that incorporate a structure which makes it difficult for the customer to understand the risk involved. The guidelines can be found here: https://eiopa.europa.eu/Publications/Guidelines/EIOPA-17-651-IDD_guidelines_execution_only_EN.pdf.]

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Annex E

Amendments to the Supervision manual (SUP)

In this Annex, underlining indicates new text and strikethrough indicates deleted text.

The form (Add an appointed representative or tied agent form) referred to in SUP 12 Annex 3R is amended as shown.

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Add an appointed representative or tied agent form

Notification under *SUP 12.7.1R* (i.e. the form in *SUP 12 Ann 3R*)

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Declaration and signatures

Section C

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Declaration

By submitting this notification:

- ...
- I/we confirm that I/we have complied with all of my/our regulatory obligations as a principal, including those contained in the Financial Services and Markets Act 2000 and SUP 12.
- I am/we are aware that it is a criminal offence knowingly or recklessly to give the FCA information that is false or misleading in a material particular.
- ...

...

Annex F

Amendments to the Professional Firms sourcebook (PROF)

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

5 Non-mainstream regulated activities

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5.3 Reference to other sourcebooks and manuals

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Senior Management Arrangements, Systems and Controls

5.3.4 G ~~SYSC 6.3 (Financial crime), in relation to money laundering, does not apply to authorised professional firms when carrying on non-mainstream regulated activities.~~

The following provisions do not apply to authorised professional firms when carrying on non-mainstream regulated activities:

- (1) SYSC 6.3 (Financial crime), in relation to money laundering;
- (2) SYSC 10.1 (Application), in relation to conflicts of interest;
- (3) SYSC 10.2 (Chinese walls);
- (4) SYSC 19F.2 (IDD remuneration incentives) where the designated professional body of the firm has made rules, approved by the FCA, that implement article 17(3) of the IDD and that apply to the firm; and
- (5) SYSC 28.2 ((Knowledge and ability requirements) except SYSC 28.2.1R(1)).

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