

CLAIMS MANAGEMENT (RELEVANT CONNECTIONS) INSTRUMENT 2022

Powers exercised

- A. The Financial Conduct Authority (“the FCA”) 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 137A (The FCA’s general rules);
 - (2) section 137T (General supplementary powers); and
 - (3) section 139A (Power of the FCA to give guidance).
- B. The rule-making powers referred to above are specified for the purposes of section 138G(2) (Rule-making instruments) of the Act.

Commencement

- C. This instrument comes into force on 7 July 2022.

Amendments to the Handbook

- D. The Claims Management: Conduct of Business sourcebook (CMCOB) is amended in accordance with Annex A to this instrument.
- E. The Supervision manual (SUP) is amended in accordance with Annex B to this instrument.

Citation

- F. This instrument may be cited as the Claims Management (Relevant Connections) Instrument 2022.

By order of the Board
1 June 2022

Annex A

**Amendments to the Claims Management: Conduct of Business sourcebook
(CMCOB)**

In this Annex, underlining indicates new text.

2 Conduct of business

2.1 General principles

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Requirements relating to firms with relevant connections to the claim or potential claim

- 2.1.15 R (1) A firm must not carry on the regulated activity of seeking out, referrals and identification of claims or potential claims in relation to a claim or potential claim if:
- (a) the firm has a relevant connection to the claim or potential claim; and
- (b) if valid, the claim or potential claim would be a protected claim.
- (2) A firm must not carry on the regulated activity of advice, investigation or representation in relation to a financial services or financial product claim in respect of a claim, or potential claim, to the FSCS, if the firm has a relevant connection to that claim or potential claim.
- (3) The prohibition in (2) does not apply to regulated claims management activity carried on pursuant to an agreement entered into before 7 July 2022 except where:
- (a) the regulated claims management activity is carried on in relation to a claim or potential claim which was added to the agreement after the date above; or
- (b) the customer's first authorisation or instructions to the firm to act in relation to the claim or potential claim were given after the date above.
- 2.1.16 G (1) Relevant connection is defined in CMCOB 2.1.17R(1) to (5). That definition refers to FSCS-eligible activities. That term is defined in CMCOB 2.1.17R(6).

(2) Activities which could give rise to a *protected claim* are the activities referred to in COMP 5.2.1R, when carried on by a *participant firm*, or an *appointed representative* of such a *firm*. Those activities include, for example, the *regulated activities* which constitute *designated investment business* (referred to as part of the definition of *protected investment business* in COMP 5.5.1R(1)).

2.1.17

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(1) A *firm* has a relevant connection to a *claim* or potential *claim* for the purposes of CMC OB 2.1.15R if one of the conditions in (2) to (4) is met.

(2) A *person* who is:

(a) a member of the *firm's governing body*;

(b) a *controller* of the *firm*; or

(c) an *employee* of the *firm*,

was directly involved in, or responsible for the carrying on of, the FSCS-eligible activity giving rise to the *claim* or potential *claim*.

(3) An individual 'A', who is:

(a) a member of the *firm's governing body*; or

(b) a *controller* of the *firm*,

is related to an individual 'B' who was directly involved in, or responsible for the carrying on of, the FSCS-eligible activity giving rise to the *claim* or potential *claim*.

(4) The *firm*, or a member of the *firm's governing body*, has provided, or agreed to provide, a financial benefit to a *person* who was directly involved in, or responsible for the carrying on of, the FSCS-eligible activity giving rise to the *claim* or potential *claim*.

(5) A is related to B for the purposes of (3), and CMC OB 2.1.21R(5)(b), if:

(a) A is B's spouse or civil partner;

(b) A's relationship to B has the characteristics of the relationship between spouses or civil partners; or

(c) A is B's parent, brother, sister, child, grandparent or grandchild (including step-relations in these categories).

- (6) An activity is an FSCS-eligible activity for the purposes of *CMCOB* 2.1.15R to *CMCOB* 2.1.22G if it falls into one of the categories of activity which could give rise to a *protected claim*.
- 2.1.18 G (1) For the purposes of *CMCOB* 2.1.17R to *CMCOB* 2.1.21R:
- (a) a *person* is not directly involved in, or responsible for an activity if the *person* has a purely administrative or support function (e.g. IT support);
- (b) a *person* may be responsible for the carrying on of an activity without being approved as an *SMF manager*;
- (c) a *person* may be directly involved in or responsible for the carrying on of an activity if they are an *appointed representative* of a *participant firm*;
- (d) an independent contractor may be directly involved in or responsible for the carrying on of an activity; and
- (e) *firms* are reminded that the *glossary* definition of *employee* includes independent contractors.
- (2) For the purposes of *CMCOB* 2.1.17R(4), the financial benefit could be provided while the *firm* carrying on the FSCS-eligible activity is still a going concern.
- (3) An activity may be an FSCS-eligible activity regardless of whether it has given rise to a *claim* or potential *claim*.
- 2.1.19 G (1) The prohibition in *CMCOB* 2.1.15R(2) means that a *firm* cannot carry on the regulated activity of advice, investigation or representation in relation to a financial services or financial product claim in respect of a *claim*, or potential *claim*, to the FSCS, if the *firm* has a relevant connection to that *claim* or potential *claim*.
- (2) In some cases, *CMCOB* 2.1.15R(2) will have the effect of requiring a *firm* to stop managing a *claim* where it has already started carrying on regulated claims management activities in relation to the *claim* or potential *claim*. For example, this could happen where the *firm* to which an existing *claim* relates becomes insolvent and the *customer's claim* becomes one to the FSCS as a result.
- 2.1.20 R Where a *firm* is required to stop carrying on regulated claims management activity in relation to a *claim* or potential *claim* as a result of *CMCOB*

2.1.15R, the *firm* must take the steps in (1) to (5) within 5 *business days* of becoming aware of the circumstances which result in the *firm* being required to stop carrying on *regulated claims management activity* in relation the *claim* or potential *claim*:

- (1) notify the *customer* they have ceased managing the *claim* and explain why;
- (2) explain to the *customer* what options are available for them to continue with their *claim*;
- (3) explain to the *customer* that they may be able to make their *claim* to the *FSCS*;
- (4) provide the *customer* with a link to the *FSCS* webpage; and
- (5) explain that the *customer* is not required to use the services of a *claims management company* to pursue their *claim* and that it is possible for the *customer* to present the *claim* themselves for free.

- 2.1.21 R (1) This rule applies to a *firm* which carries on, or has *permission* to carry on, the *regulated activity* of:
- (a) *seeking out, referrals and identification of claims or potential claims*; or
 - (b) *advice, investigation or representation in relation to a financial services or financial product claim*.
- (2) A *firm* to which this rule applies must provide annual notifications to the *FCA*, containing the information set out in (3) to (6), about its connections to *FSCS*-eligible activities.
- (3) The notification must cover any individual who is:
- (a) a member of the *firm's* governing body;
 - (b) a controller of the *firm*; or
 - (c) an employee of the *firm*; and
- is or was directly involved in, or responsible for the carrying on of, an *FSCS*-eligible activity.
- (4) For an individual described in (3), the notification must contain:

- (a) the name of the individual, and individual's role in the *firm* providing the notification;
 - (b) the name of the *firm* at which the individual is or was directly involved in, or responsible for the carrying on of, an FSCS-eligible activity; and
 - (c) the individual's role at the *firm* described in (b), and the dates between which the individual performs or performed that role.
- (5) The notification must also cover any individual 'A' who:
- (a) is a member of the *firm's* governing body or is a controller of the *firm*; and
 - (b) is related to an individual 'B' who is or was directly involved in, or responsible for the carrying on of, an FSCS-eligible activity.
- (6) For an individual described in (5), the notification must contain:
- (a) A's name and role in relation to the *firm* providing the notification;
 - (b) B's name, and the relationship between A and B;
 - (c) the name of the *firm* at which B is or was directly involved in, or responsible for the carrying on of, an FSCS-eligible activity; and
 - (d) B's role at the *firm* described in (c), and the dates between which B performs or performed that role.
- (7) The first notification submitted by a *firm* under *CMCOB* 2.1.21R must:
- (a) be submitted within 60 *business days* of the later of:
 - (i) 7 July 2022; and
 - (ii) the date on which the *firm* is first granted *permission* to carry on the *regulated activities* specified in (1); and
 - (b) cover the previous 6 years (including whether any individual described in (3) or (5) was directly involved in, or responsible for the carrying on of, an FSCS-eligible activity within the previous 6 years).

- (8) After the first notification is submitted in accordance with (7), all future notifications under *CMCOB 2.1.21R* must be submitted by a firm, within 30 business days of the firm's accounting reference date, in accordance with *SUP 16.25*.
- (9) When submitting a notification under *CMCOB 2.1.21R*, firms must report all instances of relevant connections which occurred at any point during the reporting period even if those individuals are no longer relevant connections, e.g., because the individual is no longer employed by the firm at the time the notification is submitted.

2.1.22 G The requirement to provide a notification under *CMCOB 2.1.21R* applies in relation to an FSCS-eligible activity regardless of whether such activity has led to a claim or potential claim.

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Sch 2 Notification and reporting requirements

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Sch 2.2 G ...

Handbook reference	Matter to be notified	Contents of notification	Trigger Event	Time allowed
<u><i>CMCOB 2.1.21R</i></u>	<u><i>Claims management companies with connections to individuals involved in an FSCS-eligible activity.</i></u>	<u>Names of individuals and firms concerned, the roles performed by those individuals, and the dates during which such were roles performed.</u>	<u><i>FCA data request</i></u>	<u>Annual notifications</u>
<i>CMCOB 2.2.7R</i>

Annex B

Amendments to the Supervision manual (SUP)

In this Annex, underlining indicates new text.

16 Reporting requirements

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**16 Annex Annual Claims Management Report form
45AR**

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		Name	Postal address	Email address	Does supplier use overseas facilities (e.g. a call centre)?	Number of leads purchased from supplier over reporting period	Average cost per lead purchased from supplier over reporting period
...							
52	Of the above types of <i>claim</i> , which three saw the largest percentage change in number of successful <i>claims</i> ?						
		Type of <i>claim</i>		Percentage change			
	(a)						
	(b)						
	(c)						
<u>Relevant Connections</u>							
	<u>For firms with permission to carry on: seeking out, referrals and identification of claims or potential claims; or advice, investigation or representation in relation to financial services or financial product claims</u>						

53	Is the <i>firm</i> providing notification of individuals, as per <i>CMCOB</i> 2.1.21R?		<u>Yes / No</u>			
54	If the answer to question 53 is yes, please complete the following information:					
<u>Where <i>CMCOB</i> 2.1.21R(3) applies to the individual:</u>						
	<u>name of the individual</u>	<u>individual's role in the <i>firm</i> providing the notification</u>	<u>name of the <i>firm</i> at which the FSCS-eligible activity was carried on by the individual</u>	<u>individual's role at the <i>firm</i> at which the FSCS-eligible activity was carried on</u>	<u>date that role started</u>	<u>date that role ended</u>
<u>Where <i>CMCOB</i> 2.1.21R(5) applies to the individual:</u>						
	<u>name of individual A</u>	<u>individual A's role in relation to the <i>firm</i> providing the notification</u>	<u>name of individual B</u>	<u>relationship between individual A and individual B</u>	<u>name of the <i>firm</i> at which the FSCS-eligible activity was carried on by individual B</u>	<u>individual B's role at the <i>firm</i> at which the FSCS-eligible activity was carried on</u> <u>date that role started and date that role ended</u>