

## **STATUTORY STATUS DISCLOSURE INSTRUMENT 2003**

### **Powers exercised**

A. The Financial Services Authority makes this instrument in the exercise of the following powers and related provisions of the Financial Services and Markets Act 2000 (the “Act”):

- (1) section 138 (General rule-making power);
- (2) section 145 (Financial promotion rules);
- (3) section 149 (Evidential provisions);
- (4) section 156 (General and supplementary powers); and
- (5) section 157(1) (Guidance).

B. The rule-making powers listed above are specified for the purpose of section 153(2) of the Act (Rule-making instruments).

### **Commencement**

C. This instrument comes into force on 1 March 2003.

### **Amendments to the Handbook**

D. (1) GEN is amended by inserting, after GEN 3, the provisions in Annex A to this instrument; and

- (2) COB, AUTH, CRED, ECO, PROF and the Glossary are amended in accordance with Annex B to this instrument.

### **Citation**

E. This instrument may be cited as the Statutory Status Disclosure Instrument 2003.

By order of the Board  
16 January 2003

## Annex A

### Amendments to the General provisions

After Chapter 3, insert the following new chapters:

#### General provisions

#### Chapter 4

#### Statutory status disclosure

##### 4.1 Application and purpose

##### Who? What?

4.1.1 R This chapter applies to every *firm* and with respect to every *regulated activity*, except that:

- (1) for an *incoming ECA provider*, this chapter does not apply when the *firm* is acting as such;
- (2) for an *incoming EEA firm* which has *permission* only for *cross-border services* and which does not carry on *regulated activities* in the *United Kingdom*, this chapter does not apply;
- (3) for an *incoming firm* not falling under (1) or (2), this chapter does not apply to the extent that the *firm* is subject to equivalent rules imposed by its *Home State*; and
- (4) for a *UCITS qualifier*, this chapter does not apply.

##### Where?

4.1.2 R *GEN 4.3* (Letter disclosure) applies in relation to activities carried on from an establishment maintained by the *firm* (or by its *appointed representative*) in the *United Kingdom*, subject to *GEN 4.3.4 R* (Exception: insurers).

4.1.3 R *GEN 4.4* (Business for private customers from non-UK offices) applies in connection with a *regulated activity* carried on from an establishment of the *firm* (or its *appointed representative*) that is not in the *United Kingdom*.

##### 4.2 Purpose

4.2.1 G The purpose of this chapter is to amplify *Principle 7* (Communications with clients), which requires a *firm* to pay due regard to the information needs of its *clients*. This chapter requires the provision of appropriate minimum information about the identity of a *firm's* regulator in a way which is as consistent as practicable across the whole range of activities regulated by the *FSA*. This assists in the achievement of

the *regulatory objectives* of consumer protection, public awareness and market confidence.

4.2.2 G There are other pre-contract information requirements outside this chapter, including:

- (1) for *financial promotions*, in *COB 3* (Financial promotion);
- (2) for *designated investment business*, in *COB 4.2* (Terms of business and client agreements with customers), *COB 5.1* (Polarisation), *COB 5.5* (Information about the firm), *COB 6.1* to *COB 6.5* (Product disclosure) and *COB 9* (Client assets);
- (3) for *general insurance contracts* and *pure protection contracts*, in *COB 6.8* (Insurance contracts: life and general);
- (4) for *electronic commerce activities by outgoing or domestic ECA providers*, in *ECO 2* (Outgoing ECA providers) and *ECO 3* (Domestic (and non-EEA) ECA providers).

### **4.3 Letter disclosure**

#### **Disclosure in letters to private customers**

4.3.1 R A *firm* must take reasonable care to ensure that every letter (or electronic equivalent) which it or its *employees* send to a *private customer*, with a view to or in connection with the *firm* carrying on a *regulated activity*, includes the disclosure in *GEN 4 Ann 1R*.

4.3.2 G For a *UK domestic firm*, the required disclosure in *GEN 4 Ann 1R* is “Authorised and regulated by the Financial Services Authority”.

4.3.3 G (1) *GEN 4.3.1R* (Disclosure in letters to private customers) covers letters delivered by hand, sent by *post* and sent by fax and also electronic mail, but not text messages, account statements, business cards or compliment slips (used as such).

(2) *GEN 4.3.1R* (Disclosure in letters to private customers) applies in relation to letters sent by any of the *firm’s employees*, which includes its *appointed representatives* and their *employees*.

(3) *Firms* are likely to find it convenient to include the required disclosure in their letterhead.

#### **Exception: insurers**

4.3.4 R *GEN 4.3.1 R* (Disclosure in letters to private customers) does not apply in relation to:

- (1) *general insurance business* if:

- (a) the *State of the risk* is an *EEA State* other than the *United Kingdom*; or
  - (b) the *State of the risk* is outside the *EEA* and the *client* is not in the *United Kingdom* when the *contract of insurance* is entered into; or
- (2) *long-term insurance business* if:
- (a) the *client* is *habitually resident* in an *EEA State* other than the *United Kingdom*; or
  - (b) the *client* is *habitually resident* outside the *EEA* and is not present in the *United Kingdom* when the *contract of insurance* is entered into.

**Exception: authorised professional firms**

4.3.5 R For an *authorised professional firm*, GEN 4.3.1 R (Disclosure in letters to private customers) does not apply with respect to its *non-mainstream regulated activities*.

**4.4 Business for private customers from non-UK offices**

4.4.1 R (1) If, in any communication:

- (a) made to a *private customer*;
- (b) in connection with a *regulated activity* carried on from an establishment of the *firm* (or its *appointed representative*) that is not in the *United Kingdom*;

the *firm* indicates that it is an *authorised person*, it must also, where relevant, and with equal prominence, give the information in (2) in writing.

- (2) The information required is that in some or all respects the *regulatory system* applying will be different from that of the *United Kingdom*. The *firm* may also indicate the protections and complaints or compensation arrangements available under another relevant system of regulation.
- (3) A *firm* need not provide the information required by (1) if it has already provided it in writing to the *private customer* to whom the communication is made.

- 1 Table Letter disclosure  
This table belongs to GEN 4.3.1R

Type of firm		Required disclosure (Note 5)
(1)	<i>UK domestic firm; or overseas firm (which is not an incoming firm)</i>	“Authorised and regulated by the Financial Services Authority” (Note 1)
(2)	<i>Incoming firm without a top-up permission</i>	“Authorised by [name of <i>Home State regulator</i> ] and regulated by the Financial Services Authority for the conduct of UK business” (Notes 1, 2, and 3)
(3)	<i>Incoming firm with a top-up permission</i>	“Authorised by [name of <i>Home State regulator</i> ] and by the Financial Services Authority; regulated by the Financial Services Authority for the conduct of UK business” (Notes 1, 2 and 3)
(4)	<i>Appointed representative of a firm</i>	“[Name of <i>appointed representative</i> ] is an appointed representative of [name of <i>firm</i> ] which is [then continue with the required disclosure of the <i>firm</i> ]” (Note 4)
(5)	<i>Society of Lloyd’s</i>	“Authorised under the Financial Services and Markets Act 2000”
<p><b>Note 1 =</b> A <i>firm</i> must use the formulation “Financial Services Authority” and not the abbreviated formulation “FSA”.</p> <p><b>Note 2 =</b> An <i>incoming firm</i> is free to translate the name of its <i>Home State regulator</i> into English if it wishes. In doing so, it must ensure that the State in which the regulator is based is clear.</p> <p><b>Note 3 =</b> An <i>incoming firm</i> may state the type of business that it conducts, for example, that it is regulated by the Financial Services Authority for the conduct of investment business in the UK.</p> <p><b>Note 4 =</b> If the <i>appointed representative</i> has more than one <i>principal</i>, the disclosure must relate to the <i>principal</i> or <i>principals</i> responsible for the <i>regulated activity</i> or <i>activities</i> concerned.</p> <p><b>Note 5 =</b> Any <i>firm</i> listed in this table is permitted to add words to the relevant required disclosure statement but only if the <i>firm</i> has taken reasonable steps to satisfy itself that the presentation of its statutory status will, as a consequence, remain clear, fair and not misleading. For example, an <i>authorised professional firm</i> may wish to make it clear that it is also regulated by its professional body.</p>		

**General provisions**  
**Chapter 5**  
**The FSA logo**

**5.1 Application and purpose**

**Application**

5.1.1G This chapter contains *guidance* for *firms* and *appointed representatives* on the circumstances in which the *FSA* permits *firms* and their *appointed representatives* to reproduce the FSA logo.

**Purpose**

5.1.2G The FSA logo is a registered UK service mark, with number 2150560, and is the property of the *FSA*. It is also subject to copyright and may be used or reproduced with permission of the *FSA* only. If the FSA logo is reproduced or otherwise used by any person without such permission the *FSA* may seek to enforce its rights over its property through the Courts.

5.1.3G *GEN 5 Ann 1G* is a general licence, which sets out the circumstances in which the *FSA* permits *firms* and their *appointed representatives* to reproduce the FSA logo. A *firm* or an *appointed representative* need not apply for an individual licence if it uses or reproduces the FSA logo in accordance with the general licence.

5.1.4G The *FSA* has no policy to allow use of the FSA logo by a *firm* or *appointed representative* other than as set out in *GEN 5 Ann 1 G*. If, however, a *firm* or *appointed representative* wishes to use or reproduce the FSA logo other than in accordance with the general licence, it may apply to the *FSA* for an individual licence, giving full reasons why it considers the *FSA* should grant the licence.

**Licence for use of the FSA logo  
by authorised firms and appointed representatives**

**Application**

1.1 The *FSA* grants this licence to *firms* and *appointed representatives*.

**The FSA logo**

2.1 The FSA logo is made up of two elements:

- (1) the symbol (the scroll and globe device); and
- (2) the FSA letters.

2.2 Together, these elements make up the registered UK service mark, with number 2150560.

2.3 There are two versions of the FSA logo, version A and a smaller version B in which the scroll has been simplified.

2.4 Copyright subsists in the FSA logo.

2.5 Copies of the FSA logo that are capable of being reproduced for printing can be found on the *FSA*'s website at [http://www.fsa.gov.uk/pubs/other/copies-\\_of\\_the\\_fsa\\_logo/index.html](http://www.fsa.gov.uk/pubs/other/copies-_of_the_fsa_logo/index.html).

**Permission to use the FSA logo**

3.1 A *firm* and its *appointed representatives* are permitted to use the FSA logo:

- (1) as part of a statement by that *person*, in a letter or electronic equivalent, that the *firm* is authorised or that it is regulated by the *FSA*, but only in connection with a *regulated activity* carried on from an establishment in the *United Kingdom*; or
- (2) if required to do so by the *FSA*.

3.2 The disclosure required by *GEN* 4.3.1 R (Disclosure in letters to private customers) is an example of a statement within paragraph 3.1 above.

3.3 Business cards, compliment slips, text messages, account statements and other similar documents are not letters (or electronic equivalents). Therefore, the licence does not extend to documents such as these.

## **Conditions on appearance of the FSA logo**

4.1 The permission in paragraph 3.1 is subject to the following conditions:

- (1) the regulatory mark ® is attached to the FSA logo;
- (2) the FSA logo and regulatory mark appear in black type, or reversed out white on a coloured background;
- (3) the FSA letters appear in type which is not more than three times the size of the accompanying script;
- (4) the two elements of the FSA logo appear together in the same way, and in the same proportion, as in the registered service mark;
- (5) the FSA logo is not redrawn in any way, or matched by a typesetter;
- (6) version B of the FSA logo is used only at sizes below 10mm in overall height; and
- (7) if the FSA logo is reproduced electronically, no hyperlink is incorporated.

## **Further conditions on the use of the FSA logo**

5.1 The permission in paragraph 3.1 is also subject to the conditions that any material, whether produced on paper or electronically, on which the FSA logo is displayed does not:

- (1) in any way imply that the *FSA* is endorsing the *firm* or its *appointed representatives* or products, services or communications (see also *GEN* 1.2.2R(1)); or
- (2) misrepresent the *firm's* or its *appointed representatives'* relationship with the *FSA* or present false information about the *FSA*; or
- (3) contain content that could be construed as distasteful, offensive or controversial; or
- (4) infringe any intellectual property or other rights of any *person* or otherwise not comply with any relevant law or regulation.



## **Use of the FSA logo by appointed representatives**

- 6.1 *Firms* and *appointed representatives* are reminded that an *appointed representative* is not a *firm*. Therefore, the permission in paragraph 3.1 does not extend to a statement made by an *appointed representative* about its own status. However, the effect of paragraph 3.1 is that an *appointed representative* is permitted to reproduce the FSA logo as part of a statement about the authorisation or regulation by the *FSA* of the *appointed representative's principal*, provided the other conditions of paragraph 3.1 and those of paragraphs 4.1 and 5.1 are met.

## **Commencement and duration**

- 7.1 This licence comes into effect on 1 May 2003.
- 7.2 The *FSA* may alter or revoke this licence at any time, by giving at least two months' notice on the *FSA's* website.

## **Interpretation**

- 8.1 This licence is to be interpreted in accordance with chapter 2 of the General provisions (Interpreting the Handbook) of the *FSA's* Handbook of Rules and Guidance. In particular, expressions in italics are defined in the Handbook Glossary.

## **Governing law and jurisdiction**

- 9.1 This licence is governed by and interpreted in line with English law. The courts of any jurisdiction in the United Kingdom have the exclusive jurisdiction to settle any dispute in connection with this licence.

## Annex B

### Amendments to GEN, COB, AUTH, CRED, ECO, PROF and the Glossary

In this Annex underlining indicates inserted text and striking through indicates deleted text.

#### General provisions

Transitional provisions

...

3 Table (2) Transitional provisions applying to GEN only

(1)	(2)	(3)	(4)	(5)	(6)
	Material to which the transitional provision applies		Transitional provision	Transitional provision: dates in force	Handbook provision: coming into force
...					
<u>2</u>	<u>GEN 4.3.1 R</u>	<u>R</u>	<u>With respect to <i>designated investment business</i>, a firm is not required to comply with GEN 4.3.1 R until 1 October 2004; firms are permitted at any time during the transitional period to comply with the letter disclosure requirements in GEN 4.3.1 R.</u>	<u>From 1 March 2003 until 30 September 2004</u>	<u>1 March 2003</u>
<u>3</u>	<u>GEN 4.3.1 R</u>	<u>R</u>	<u>With respect to any <i>regulated activity other than designated investment business</i>, a firm is not required to comply with GEN 4.3.1 R until 1 March 2004; firms are permitted at any time during the transitional period to comply with the letter disclosure requirements in GEN 4.3.1 R.</u>	<u>From 1 March 2003 until 29 February 2004</u>	<u>1 March 2003</u>

(1)	(2)	(3)	(4)	(5)	(6)
	Material to which the transitional provision applies		Transitional provision	Transitional provision: dates in force	Handbook provision: coming into force
<u>4</u>	<u>GEN 4.4.1 R</u>	<u>R</u>	<u>GEN 4.4.1 R does not apply to a firm with respect to the carrying on of any regulated activity other than designated investment business.</u>	<u>From 1 March 2003 until 29 February 2004</u>	<u>1 March 2003</u>

...

#### Schedule 6

#### Rules that can be waived

- 1 *GEN 1.2.2R (Referring to approval by the FSA) and the rules in GEN 4 (Statutory status disclosure) can be waived by the FSA under section 148 of the Act (Modification or waiver of rules). ...*

...

### Conduct of business sourcebook

#### Miscellaneous Transitional Rules

- 1 Table

(1)	(2)	(3)	(4)	(5)	(6)
	Material to which the transitional provision applies		Transitional provision	Transitional provision: dates in force	Handbook provision: coming into force

(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
... <u>4</u>	<u>COB</u>  <u>3.8.4R (3),</u> <u>3.9.7R (1),</u> <u>3.13.4R</u>		<u>Statutory status disclosure</u>  <u>A firm is not required to comply with the amendments to the rules in column (2) made by the Statutory Status Disclosure Instrument 2003 until 1 October 2004 in relation to a relevant financial promotion that was prepared before 1 March 2003 or where compliance was confirmed before 1 March 2003, provided it is communicated no later than 30 September 2004.</u>	<u>From 1 March 2003 until 30 September 2004</u>	<u>1 March 2003</u>
<u>5</u>	<u>COB</u>  <u>4.2.15E (2),</u> <u>4.3.15E (22),</u> <u>5.5.3R,</u> <u>5.5.5E,</u> <u>5.5.9R –</u> <u>5.5.12R</u>	<u>R,</u> <u>E,</u> <u>G</u>	<u>A firm is not required to comply with the amendments to the rules in column (2) made by the Statutory Status Disclosure Instrument 2003 until 1 October 2004; to the extent that a firm continues to rely upon terms of business (including a client agreement) given to or made with a client before 1 October 2004, the firm does not need to comply with the amendments to COB 4.2.15E made by that Instrument until the firm's terms of business is next updated.</u>	<u>From 1 March 2003</u>	<u>1 March 2003</u>

(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
<u>6</u>	<u>COB 8.1.15E (2), 10.6.8E (1)</u>	<u>R</u>	<p><u>The amendments to COB 8.1.15E (2) and COB 10.6.8E (1) and (8) made by the Statutory Status Disclosure Instrument 2003 do not apply to a firm:</u></p> <p><u>(1) in relation to a confirmation of a transaction under COB 8.1 (Confirmation of transactions); and</u></p> <p><u>(2) in relation to the scheme documents referred to in COB 10.6 (Scheme documents for an unregulated collective investment scheme);</u></p> <p><u>until, as appropriate, the firm's system for producing confirmations or the scheme documents are next updated by the firm.</u></p>	<u>From 1 March 2003</u>	<u>1 March 2003</u>

...

1.3.4 R Only the following provisions of COB apply with respect to the carrying on of *inter-professional business*:

...

(3A) COB 5.5 (Information about the firm), except COB 5.5.1R – COB 5.5.8R;

...

...

1.4 Replace the existing section with the following:

#### **1.4 General Application: where?**

1.4.1 G The *rules* in *COB 1.4* set out the maximum territorial scope of this sourcebook. Particular *rules* may have express territorial limitations.

#### **UK establishments: general**

1.4.2 R Except as set out in this section, this sourcebook applies in relation to activities carried on from an establishment maintained by the *firm* (or its *appointed representative*) in the *United Kingdom* only.

#### **Business with UK clients from non-UK offices**

1.4.3 R This sourcebook applies in relation to activities not within *COB 1.4.2R* carried on with or for a *client* in the *United Kingdom*, unless (if the office from which the activity is carried on were a separate *person*) the activity:

(1) would fall within the overseas persons exclusions in article 72 of the *Regulated Activities Order*; or

(2) would not be regarded as carried on in the *United Kingdom*.

1.4.4 R In addition to the situations in *COB 1.4.2 R* and *COB 1.4.3 R*, *COB 5.5.7R* (Overseas business for UK private customers) applies wherever the activity is conducted.

#### **Financial promotions**

1.4.5 R Notwithstanding *COB 1.4.2 R* and *COB 1.4.3 R*, the territorial scope of the *financial promotion rules* (*COB 3*) is as set out in *COB 3.3* (Application: where?).

#### **ISD investment firms: compensation information**

1.4.6 R In addition to the situations in *COB 1.4.2 R* and *COB 1.4.3 R*, *COB 5.5.9 R* to *COB 5.5.12 R* apply to a *UK firm* which is an *ISD investment firm* in relation to *passported activities* carried on by it from a *branch* in another *EEA State*.

#### **Long-term insurance business**

1.4.7 R In addition to the situations in *COB 1.4.2 R* and *COB 1.4.3 R*, *COB 6* (Product disclosure and the customer's right to cancel or withdraw), other than *COB 6.3* (Post-sale confirmation: life policies) and *COB 6.9* (With-profits guides), applies in relation to *long term insurance business* if the *habitual residence* of the *client* is in the *United Kingdom*.

## General insurance business

- 1.4.8 R In addition to the situations in *COB 1.4.2R* and *COB 1.4.3R*, *COB 6.8* (Insurance contracts: life and general) applies in relation to *general insurance business* if the *State of the risk* is the *United Kingdom*.

## ISD investment firms: custody services from EEA branches

- 1.4.9 R In addition to the situations in *COB 1.4.2 R* and *COB 1.4.4 R*, *COB 9* (Client assets) applies to a *UK firm* which is an *ISD investment firm* in relation to *passported activities* carried on by it from a *branch* in another *EEA State*.

## Electronic commerce activities and communications

- 1.4.10 R The territorial scope of this sourcebook is modified by *ECO* in relation to *electronic commerce activities* and *electronic commerce communications*.

- 1.4.11 G *COB 1.9* contains guidance on how this sourcebook is modified by *ECO*.

...

...

- 1.6.4 R Table Corporate finance business.  
This table belongs to *COB 1.6.3 R*

...

5.5 Information about the firm, except *COB 5.5.1R– COB 5.5.8R*

...

...

- 3.2.5 R Table Exemptions  
This table belongs to *COB 3.2.4R*

### Exemptions

This chapter does not apply to the following:

...

- (3) a *financial promotion communicated* from outside the *United Kingdom* which would be exempt under articles 30, 31, 32 or 33 of the *Financial Promotion Order* (Overseas communicators) if the office from which the *financial promotion* is *communicated* were a separate *unauthorised person* (but see *COB 5.5.7R* (Overseas business for UK private customers) and *GEN 4.4* (Business for private customers from non-UK offices));

...

...

**Non-real time financial promotions: clear, fair and not misleading; comparisons; restriction of information on compensation**

3.8.4 R (3) If a non-real time financial promotion includes any information about the protection available under the compensation scheme or any other compensation scheme established in another EEA State or otherwise, it must restrict this to factual references to the scheme (an example of a factual reference is set out in COB 5.5.11 G).

...

...

3.9.7 R Table: Direct offer financial promotions: particular information required  
This table belongs to COB 3.9.6R(2)

Direct offer financial promotions: particular information required  
(1) ~~A prominent statement that the firm which has communicated or approved the financial promotion is regulated or authorised by the FSA. Prominently, the required disclosure statement in GEN 4 Ann 1R (Statutory status disclosure) that is relevant to the firm which has communicated or approved the financial promotion.~~

...

...

3.13.4 R If a financial promotion relates to a life policy with an overseas long-term insurer but does not name the overseas long-term insurer by giving its full name or its business name:

(1) it must include the following prominent statement: "This financial promotion relates to an insurance company which does not, and is not authorised to, carry on in any part of the United Kingdom the class of insurance business to which this promotion relates. This means that the management and solvency of the company are not supervised by the Financial Services Authority. Holders of policies issued by the company will not have the right to complain to the Financial Ombudsman Service if they have a complaint against the company and will not be protected by the Financial Services Compensation Scheme if the company should become unable to meet its liabilities to them"; and

...

...

4.2.15 E Table: Content of terms of business provided to a customer: general requirements  
This table belongs to COB 4.2.11E



General requirements

...

(2) Regulator

~~The fact that the firm is regulated or authorised by the FSA. The firm's statutory status (in accordance with GEN 4 Ann 1 R (Statutory status disclosure)).~~

...

(22) Compensation

~~If applicable, an explanation of the compensation arrangements available to customers under the Compensation Scheme if the firm is unable to meet any of its liabilities, or the availability of an explanation describing those arrangements. Whether or not compensation may be available from the compensation scheme, should the firm be unable to meet its liabilities, and information about any other applicable named compensation scheme; and, for each applicable scheme, the extent and level of cover and how further information can be obtained. (See the example in COB 5.5.11 G (Investment firms: compensation information)).~~

...

...

5.5.3 R

When it conducts *designated investment business*, a *firm* must take reasonable steps to ensure that a *private customer* is given adequate information about:

- (1) the identity and business address of the *firm* and any relevant agent of the *firm*;
- (2) the identity and status, or relationship with the *firm*, of *employees* and other agents with whom the *customer* may have contact; and
- (3) ~~the fact that the firm is regulated or authorised by the FSA~~ the firm's statutory status (in accordance with GEN 4 Ann 1 R (Statutory status disclosure));

unless the *private customer* has been given the information on a previous occasion and that information is still up to date.

...

...

5.5.5 E Table Table of information to be disclosed in written communications  
This table belongs to COB 5.5.4E

Written communications

1. Any written communication, including stationery, business cards or other business documentation published by the *firm*, or used by its *employees*, agents, *representatives*, *financial advisers* or *introducers*, should include:  
...  
(d) a statement ~~that the *firm* is regulated by or authorised by the Financial Services Authority~~ of the *firm's* statutory status (in accordance with GEN 4 Ann 1 R (Statutory status disclosure));  
...  
2. In the case of a *provider firm*, when the *firm's representative* first meets a *private customer*, the *customer* should be given the following particulars in writing, which may be in the form of a business card, either before progressing beyond the social preliminaries or as soon as reasonably practicable after a telephone conversation has ended:  
...  
(c) the name of the *firm's marketing group* (if any); and  
(d) a statement ~~that the *firm* is regulated by or authorised by the Financial Services Authority~~ of the *firm's* statutory status (in accordance with GEN 4 Ann 1 R (Statutory status disclosure));  
and  
...

5.5.5A G Firms are reminded of GEN 4.3 (Letter disclosure), which requires a disclosure in letters to private customers.

...

**Business conducted from an overseas place of business with overseas customers non-UK offices**

...

5.5.8 ~~R (1) If, in any communication made to a *private customer* outside the *United Kingdom* in connection with *designated investment business* conducted from its (or its *appointed representative's*) office outside the *United Kingdom*, a *firm* indicates that it is an *authorised person*, it must also, where relevant, and with equal prominence, make the disclosure in COB 5.5.7 R (2).~~

~~(2) A *firm* need not include the disclosure in (1) if it has already made the disclosure in writing to the *private customer* to whom the communication is made.~~

G GEN 4.4 (Business for private customers from non-UK offices), requires a *firm* to give information, similar to that in COB 5.5.7R,

in certain circumstances in connection with business conducted from an office outside the *United Kingdom* with both *UK* and non-*UK* private customers.

### **ISD investment firms: compensation information**

5.5.9 R An *ISD investment firm* providing or offering to provide a *core investment service* or *custody* must make available to every *client*, who has used or intends to use those services, information on whether or not compensation may be available from the *compensation scheme* should the *firm* be unable to meet its liabilities, and about any other applicable named compensation scheme; for each applicable scheme, the *firm* must describe the extent and level of cover and how further information can be obtained.

5.5.10 G The obligation in *COB 5.5.9 R* is to “make information available”. This does not require the *firm* to inform every client. A *firm* may make the information available in a number of ways, for example, by including it in explanatory literature or on the *firm’s* website.

### **Example of compensation information for a UK domestic investment firm operating from the United Kingdom**

5.5.11 G This is an example of how a *UK domestic firm*, carrying on a *regulated activity* from a *UK* establishment, could present the information required by *COB 5.5.9 R*:

#### COMPENSATION

We are covered by the Financial Services Compensation Scheme. You may be entitled to compensation from the scheme if we cannot meet our obligations. This depends on the type of business and the circumstances of the claim. Most types of investment business are covered for 100% of the first £30,000 and 90% of the next £20,000, so the maximum compensation is £48,000. Further information about compensation arrangements is available from the Financial Services Compensation Scheme.

### **ISD investment firms: language of compensation information**

5.5.12 R Information about compensation arrangements made available by an *ISD investment firm* under *COB 5.5.9 R* must:

(1) (if it relates to the activities of an establishment in the *United Kingdom*) be in English; or

(2) (if it relates to the activities of a *branch* in another *EEA State*) be in an official language of that *EEA State*.

...

...

6.5.49 R Table Third Life Directive annex II table of “information for policyholders”  
 This table belongs to COB 6.5.47

Third Life Directive – “Information for policyholders”	
...	Information about the commitment ... 15. The arrangements for handling complaints concerning <i>policies</i> by policyholders, lives assured or beneficiaries under <i>policies</i> , including, where appropriate, the existence of a complaints body, <u>making clear that its existence is</u> without prejudice to the right to take legal proceedings. ...

...

....

6.8.2 G (1) *Principle 7* (Communications with clients) requires a firm to pay due regard to the information needs of its customers clients. This section reinforces *Principle 7* by requiring certain information to be provided to a customer client before a *pure protection contract* or *general insurance contract* is entered into. Certain information must also be provided on a continuing basis to a customer client with a *pure protection contract* or *life policy*. (COB 6.1 to COB 6.5 deal with pre-sale information for *life policies*.)

...

6.8.3 R A firm must ensure that, before entering into a *pure protection contract* with a customer client, it provides the customer client with the information specified in ~~COB 6.8.5R~~ 6.5.49R, unless, at the time of application, the customer client, other than an EEA ECA recipient, is habitually resident:

- (1) in an *EEA State* other than the *United Kingdom*; or
- (2) outside the *EEA* and he is not present in the *United Kingdom*.

...

6.8.5 R

R Table — Provision of information

This table belongs to COB 6.8.3R

Provision of information

~~(1) The name and legal form of the firm;~~

...

~~(15) a statement whether the *firm* or *customer* is entitled to choose the law applicable to the contract and:~~

~~(a) if so, the law which the *firm* proposes to choose;~~

~~(b) if not, the law which will apply. [Deleted]~~

6.8.6 R

*COB 6.8.7R and COB 6.8.8R apply to a long-term insurer, if the policyholder is in the United Kingdom at the time of signing the application for the pure protection contract or life policy unless, at the time of application, the client, other than an EEA ECA recipient, was habitually resident:*

(1) in an EEA State other than the United Kingdom; or

(2) outside the EEA and he was not present in the United Kingdom.

6.8.7 R

If during the term of a *pure protection contract* or *life policy* entered into on or after 1 July 1994 there is any proposed change in the information referred to in ~~COB 6.8.5 R 6.5.49R~~ items (1) to (12), the *long-term insurer* must inform the *policyholder* of the effect of the change before the change is made.

...

6.8.12 R

Before entering into a *general insurance contract* with an individual client, covering a risk situated in when the United Kingdom is the State of the risk or the individual is an EEA ECA recipient, a *firm* must, subject to COB 6.8.13 R, provide the client individual with:

(1) details of its complaints procedure including, where appropriate, the existence of a complaints body, making it clear that its existence is without prejudice to the policyholder's right to take legal proceedings; and

(2) a statement whether the *firm* or ~~client~~ *policyholder* is entitled to choose the law applicable to the contract and, if so, the law which the *firm* proposes to choose.

...

8.1.15 E

Table Content of a confirmation of transaction - general requirements  
This table belongs to COB 8.1.5E

Content of a confirmation of transaction – general requirements

...

2. ~~That the firm is regulated or authorised by the Financial Services Authority.~~ The firm's statutory status in accordance with GEN 4 Ann 1 R (Statutory status disclosure).

...

...

10.6.8 E

Table Content of scheme documents

This table belongs to COB 10.6.7E

Content of scheme documents

...

(1) Regulator

~~the fact that the operator is regulated or authorised by the FSA.~~ The firm's statutory status in accordance with GEN 4 Ann 1 R (Statutory status disclosure);

...

(8) Compensation

~~an explanation of the compensation arrangements available to participants under the Act if the operator is unable to meet any of its liabilities, or the availability of an explanation describing those arrangements whether or not compensation may be available from the compensation scheme should the operator be unable to meet its liabilities, and information about any other applicable compensation scheme; and, for each applicable scheme, the extent and level of cover and how further information can be obtained (see the example in COB 5.5.11 G (Example of compensation information for a UK domestic investment firm operating from the United Kingdom));~~

...

## Authorisation manual

AUTH 5 Ann 3G

**Application of the Handbook to incoming EEA firms**

...

2 Table

(1) Module of Hand- book	(2) Potential application to an incoming EEA firm with respect to activities carried on from an establishment of the firm (or its appointed representative) in the United Kingdom	(3) Potential application to an incoming EEA firm with respect to activities carried on other than from an establishment of the firm (or its appointed representative) in the United Kingdom
...		
<i>GEN</i>	<i>GEN</i> applies ( <i>GEN</i> 1.1, and <i>GEN</i> 2.1, <i>GEN</i> 3.1, <i>GEN</i> 4.1 and <i>GEN</i> 5.1). However, <i>GEN</i> 4 does not apply to the extent that the <i>firm</i> is subject to equivalent <i>rules</i> imposed by its <i>Home State</i> ( <i>GEN</i> 4.1.1R(3)).	<i>GEN</i> 4 does not apply if the <i>firm</i> has <i>permission only</i> for <i>cross-border services</i> and does not carry on <i>regulated activities</i> in the <i>United Kingdom</i> .  Otherwise, As column (2)
...		

## Credit unions sourcebook

### Chapter

### 11 Conduct of business and electronic commerce activities (title)

...

#### 11.1.3 G

The General provisions module of the Handbook (*GEN*) contains rules and guidance in *GEN* 4 (Statutory status disclosure) relating to disclosure of statutory status. These are summarised in *CRED* 11.3 (Statutory status disclosure).

#### 11.1.4 G

The FSA logo is a registered mark, is subject to copyright and is the property of the FSA. Credit unions are permitted to use the FSA logo in limited circumstances. Any credit union which wishes to use the FSA logo should refer to *GEN* 5 (FSA logo).

...

...

### 11.3

#### **Statutory status disclosure**

#### 11.3.1 G

This section summarises the requirements of *GEN* 4 (Statutory status disclosure) in the context of *credit unions* which do not have overseas offices.

11.3.2 G GEN 4.3 (Letter disclosure) requires a *credit union* to take reasonable care to state that it is “authorised and regulated by the Financial Services Authority” in every letter and e-mail which it sends to a depositor or potential depositor on or after 1 March 2004..

...

CRED Appendix 2

2.1 Detailed contents of CRED

2.1.1 Table

...

11 Conduct of ~~B~~business Sourcebook (COB)

11.1 Introduction

11.2 Financial promotion

11.3 Statutory status disclosure

...

### Electronic Commerce Directive Sourcebook

Transitional provisions

1 Table

(1)	(2)	(3)	(4)	(5)	(6)
	Material to which the transitional provision applies		Transitional provision	Transitional provision: dates in force	Handbook provision: coming into force
...					
4.0	<u>ECO 3 Ann 1 R</u>	<u>R</u>	<u>The amendments to ECO 3 Ann 1 R made by the Statutory Status Disclosure Instrument 2003 do not apply to an outgoing or domestic ECA provider until its system for producing the required information is next updated by the outgoing or domestic ECA provider.</u>	<u>From 1 March 2003</u>	<u>1 March 2003</u>



## 1 Table

1	Information about the ECA provider and its products or services	
	(1)	An <i>outgoing</i> or <i>domestic ECA provider</i> must make the following information easily, directly and permanently available to any <i>ECA recipient</i> , in relation to any <i>electronic commerce activity</i> which it provides:
		...
	(d)	a statement <del>that</del> <u>of the provider's statutory status is authorised or regulated by the Financial Services Authority (in accordance with GEN 4 Ann 1R (Statutory status disclosure)), accompanied by a link to the FSA Register in the form <a href="http://www.fsa.gov.uk/register/">www.fsa.gov.uk/register/</a>;</u>
		...

...

## Professional Firms Sourcebook

## 5.3.1 G

The parts of the *Handbook* in which provisions are disapplied or modified in relation to *authorised professional firms* when carrying on *non-mainstream regulated activities* include those described in ~~PROF 5.3.2 G~~ PROF 5.3.1A G to PROF 5.3.7 G.

...

5.3.1A G**General provisions**

GEN 4.3.5R provides that GEN 4.3.1 (Disclosure in letters to private customers) does not apply to an *authorised professional firm* with respect to its *non-mainstream regulated activities*.

...

## Glossary

*employee*

- (1) (for all purposes except those in (2)) an individual:
- (a) who is employed or appointed by a *person* in connection with that *person's* business, whether under a contract of service or for services or otherwise; or
  - (b) whose services, under an arrangement between that *person* and a third party, are placed at the disposal and under the control of that *person*;
- but excluding an *appointed representative* of that *person*.

- (2) (for the purposes of:
- (a) *COB 7.13* (Personal account dealing);
  - (aa) *GEN 4* (Statutory status disclosure);
  - (b) *SUP 12* (Appointed representatives); and
  - (c) *TC*);
- an individual:
- (i) within (1); or
  - (ii) who is:
    - (A) an *appointed representative* of the *person* referred to in (1); or
    - (B) employed or appointed by an *appointed representative* of that *person*, whether under a contract of service or for services or otherwise, in connection with the business of the *appointed representative* for which that *person* has accepted responsibility.

~~state~~ State of the commitment

- ~~(in SUP 18)~~ (in accordance with paragraph 6(1) of Schedule 12 to the *Act* (Transfer schemes: certificates)) (in relation to a commitment entered into at any date):
- (a) if the *policyholder* is an individual, the State in which he had his habitual residence at that date;
  - (b) if the *policyholder* is not an individual, the State in which the establishment of the *policyholder* to which the commitment relates was established at that date;

in this definition, "commitment" means (in accordance with article 2 of the Financial Services and Markets Act 2000 (Control of Business Transfers) (Requirements on Applicants) Regulations 2001 (SI 2001/3625)) any contract of insurance of a kind referred to in article 1 of the *First Life Directive*.

~~state~~ State of the risk

- ~~(in SUP 18)~~ (in accordance with paragraph 6(3) of Schedule 12 to the *Act* (Transfer schemes: certificates)) (in relation to the *EEA State* in which a risk is situated):
- (a) if the insurance relates to a building or to a building and its contents (so far as the contents are covered by the same *policy*), the *EEA State* in which the building is situated;
  - (b) if the insurance relates to a vehicle of any type, the *EEA State* of registration;
  - (c) in the case of *policies* of a duration of four months or less covering travel or holiday risks (whatever the class concerned), the *EEA State* in which the *policyholder* took out the *policy*;
  - (d) in a case not covered by (a) to (c):
    - (i) if the *policyholder* is an individual, the *EEA State* in which he has his habitual residence at the date when the contract is entered into; and
    - (ii) otherwise, the *EEA State* in which the establishment of the *policyholder* to which the *policy* relates is situated at that date.

## ADDENDUM

### STATUTORY STATUS DISCLOSURE INSTRUMENT 2003

Annex B to this instrument is amended by the insertion of the underlined text shown below. This insertion, which amends COB 5.5.1R, is a direct consequential to amendments originally made by FSA 2003/1.

#### Amendments to the Conduct of Business sourcebook

4.2.15 R

...

...

5.5.1 R

...

(3) *COB 5.5.9R to 5.5.12R also apply to an ISD investment firm that conducts designated investment business with or for any client.*