

**INSURANCE: CONDUCT OF BUSINESS SOURCEBOOK (AMENDMENT  
NO 2) INSTRUMENT 2006**

**Powers exercised**

- A. The Financial Services Authority makes this instrument in the exercise of the powers listed in Schedule 4 to the Insurance: Conduct of Business sourcebook.
- B. The rule-making powers listed above are specified for the purpose of section 153(2) (Rule-making instruments) of the Act.

**Commencement**

- C. This instrument comes into force on 6 March 2006.

**Amendments to the Glossary of definitions**

- D. The Glossary of definitions is amended in accordance with Annex A to this instrument.

**Amendments to the Insurance: Conduct of Business sourcebook**

- E. The Insurance: Conduct of Business sourcebook is amended in accordance with Annex B to this instrument.

**Citation**

- F. This instrument may be cited as the Insurance: Conduct of Business Sourcebook (Amendment No 2) Instrument 2006.

By order of the Board  
23 February 2006

## Annex A

### Amendments to the Glossary of definitions

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

Amend the following definitions as shown:

- charge* (1) ...
- (2) (except in *LR*) any *fee* or charge made to ~~a *client* in connection with:~~
- (a) a *client* in connection with *designated investment business*; or
- (b) a *customer* in connection with any *insurance mediation activities* in respect of a *non-investment insurance contract*;
- whether levied by the *firm* or any other *person*, including a *mark-up* or *mark-down*.
- customer* ...
- (3) (in *ICOB*) ~~a *person* who is a *policyholder*, or a prospective *policyholder*, of a *policy* other than a *reinsurance contract* but~~ (except in *ICOB* 2 (general rules), *ICOB* 7 (claims handling) and (in respect of those chapters) *ICOB* 1 (application and purpose)) excluding a *policyholder* or prospective *policyholder* who does not make the arrangements preparatory to him concluding the *contract of insurance*.
- ...

## Annex B

### Amendments to the Insurance: Conduct of Business sourcebook

In this Annex, underlining indicates new text and striking through indicates deleted text. Where an entire section of text is deleted the place where the change will be made is indicated and the text is not shown struck through.

...

- 1.2.1 R (1) ...
- (2) Where a *firm* (or its *appointed representative*) ("A") has outsourced *insurance mediation activities* to a *third party processor*, any rule in *ICOB* which requires the *third party processor*, when acting as such, to disclose its identity to a *customer* must be read as applying to the *third party processor* only to the extent that it applies to A and as requiring disclosure of the identity of A ~~the *firm* (or *appointed representative*, as appropriate)~~ which is taking responsibility for the acts and omissions of the *third party processor* when carrying on the outsourced activities.

...

#### Customers and policyholders

- 1.2.5A G (1) In *ICOB 2* (General rules) and *ICOB 7* (Claims handling) (and in *ICOB 1* (Application and purpose) in respect of those chapters), a *customer* is a *policyholder* or a prospective *policyholder*. Otherwise, only a *policyholder* or prospective *policyholder* who makes the arrangements preparatory to him concluding the *contract of insurance* (directly or through an agent) is a *customer*.
- (2) A *policyholder* includes anyone who, upon the occurrence of the contingency insured against, is entitled to make a *claim* directly to the *insurance undertaking*.

...

- 1.2.15 R (1) If a *non-investment insurance contract* is a *group policy*, *ICOB* (except for *ICOB 2* (General rules) and *ICOB 7* (Claims handling)) does not apply with respect to a *person* under such a *policy* who is not the legal holder of the *policy*, subject to (2).

...

- 1.2.16 G (1) ...
- (2) ~~In *ICOB* a *customer* is a *policyholder* or a prospective *policyholder*. A *policyholder* includes anyone who, upon the occurrence of the contingency insured against, could expect to have a *claim*, made by him directly to the *insurance undertaking*, accepted by the *insurance*~~

~~undertaking. PA~~ policyholder includes a member of a *group policy* who did not conclude the *group policy* with the *insurance undertaking* but who is entitled under the terms of that *policy* to make a *claim* on the *insurance undertaking*. This would include a dependant of a *policyholder* member of a *group policy* if that dependant has a direct right to *claim*. Where ~~such a customer person does not~~ concludes a *group policy*, only limited provisions in *ICOB* will apply to ~~him~~ other policyholders as specified in *ICOB* 1.2.15R and by the definition of *customer*.

- (3) A *person* whose right or interest in a *contract of insurance* that is a *group policy* does not entitle him to make a *claim* directly to an *insurance undertaking* (for example, because he is required to make his *claim* to an employer or trustees) is not a *customer* or a policyholder.
- (4) ~~The rules at~~ *ICOB* 5.3.29R and *ICOB* 5.4.8R provides for ~~commercial~~ *customers* who conclude *group policies* to be given a *policy summary*, unless the customer is a commercial customer and there is no policyholder who is capable of being a retail customer, and to be informed that they should give that *policy summary* to each *policyholder* who is capable of being a retail customer.

...

...

## 2.10 Excessive charges to retail customers

- 2.10.1 R An insurance intermediary must ensure that its charges to a retail customer are not excessive.
- 2.10.2 G When determining whether a charge is excessive, an insurance intermediary should consider:
- (1) the amount of its charges for the services or product in question, compared with charges for similar services or products in the market;
- (2) whether the charges are an abuse of the trust that the retail customer has placed in the insurance intermediary; and
- (3) the nature and extent of the disclosure of the charges to the retail customer.
- 2.10.3 G In assessing whether an insurance intermediary's charges are excessive, the FSA will take account of the charges imposed by insurance intermediaries of similar size and that conduct a similar volume of business.
- 2.10.4 G ICOB 2.10.1R does not apply to premiums, but does cover fees (including any fees that an insurance intermediary charges where it receives no commission from an insurer in respect of the contract of insurance).

...

4.1.3 R Table: Application of *ICOB* 4 by activity and customer type

This table belongs to *ICOB* 4.1.1R

Insurance mediation activity	Type of customer	Applicable section
...	...	...
<i>arranging</i> except <i>introducing</i>	<i>commercial customer</i>	Whole chapter except <i>ICOB</i> 4.2.19R, <i>ICOB</i> 4.3, <del><i>ICOB</i> 4.5</del> and <i>ICOB</i> 4.7
...	...	...
<i>advising</i>	<i>commercial customer</i>	Whole chapter except <i>ICOB</i> 4.2.19R, <del><i>ICOB</i> 4.5</del> and <i>ICOB</i> 4.7
...	...	...

4.1.4 R The following provisions in *ICOB* do not apply to an *insurance intermediary* that is an *insurer* ~~when dealing with a *commercial customer*~~:

- (1) *ICOB* 4.2 (Status disclosure) ~~except *ICOB* 4.2.4G to *ICOB* 4.2.7R (permitting use of the initial disclosure document and combined initial disclosure document) and *ICOB* 4.2.19R (overseas business for UK retail customers), provided that when providing the service on the telephone to a *retail customer* wishing to enter into a *non-investment insurance contract*, the *insurer* proceeds on the basis of providing at least the following information:~~
  - (a) its name;
  - (b) (if it initiated the call) the commercial purpose of the call; and
  - (c) the identity of the *person* in contact with the *customer* and his link with the *insurer*;
- (2) *ICOB* 4.4.1R(1) (Statement of demands and needs), in accordance with *ICOB* 4.4.2R(1) and (1A) (commercial customers and non-advised sales to retail customers) ~~unless the *insurer* makes a *personal recommendation* to the *commercial customer*~~; and
- (3) ...

However, an *insurer* must ensure that its *appointed representative* nevertheless complies with the requirements of this chapter (unless acting as the *insurer's third party processor*).

...

4.1.7 G The purpose of this chapter is to ensure that:

...

(4) ~~the charges that an *insurance intermediary* imposes on a *retail customer* are not excessive;~~[deleted]

...

...

4.2.2 R ...

(3) Exemption: telephone sales

(a) ...

(aa) The *insurance intermediary* must provide its name and (if it initiated the call) the commercial purpose of the call.

(b) Provided the *customer* gives his explicit consent to receiving only limited information, the *insurance intermediary* may proceed on the basis of at least the following information:

(i) ~~the name of the *insurance intermediary*;~~

~~(ii) (if the call is initiated by the *insurance intermediary*) the commercial purpose of the call;~~

(iii) the identity of the *person* in contact with the *customer* and his link with the *insurance intermediary*; and

~~(iv)~~ that other information is available on request, and the nature of the information.

(c) ...

...

...

4.2.8 R Table: Information to be provided before conclusion of the contract or immediately after conclusion of the contract

This table belongs to *ICOB 4.2.2R*.

...	...
(4)	<del>Unless the <i>insurance intermediary</i> is an <i>insurer</i>, or a third party processor acting as such on behalf of an <i>insurer</i>, d</del> Details of any holding, direct or indirect, that an <i>insurance intermediary</i> has that

	represents more than 10 per cent of the voting rights or of the capital in an <i>insurance undertaking</i> .
(5)	<del>Unless the <i>insurance intermediary</i> is an <i>insurer</i>, or a third party processor acting as such on behalf of an <i>insurer</i>, d</del> Details of any holding, direct or indirect, that an <i>insurance undertaking</i> or parent of an <i>insurance undertaking</i> has that represents more than 10 per cent of the voting rights or of the capital in the <i>insurance intermediary</i> .
...	...

...

4.4.2 R (1) ...

(1A) Non-advised sales by insurers to retail customers

- (a) ICOB 4.4.1R(1) does not apply to an *insurance intermediary* that is an *insurer* when dealing with a *retail customer*, unless the *insurer* makes a *personal recommendation* to that *retail customer*.
- (b) Where ICOB 4.4.1R(1) does not apply under (a), the *insurer* must provide the *retail customer* with a statement that confirms the *insurer* has not *personally recommended* that contract.
- (c) Unless (d) or (e) applies, the statement in (b) must be provided in a *durable medium* before the conclusion of the contract (including at *renewal*).
- (d) If the *customer* requests the statement in (b) orally or requires immediate cover, the *insurer* may provide the statement orally provided that it does so before the conclusion of the contract and provides the statement in a *durable medium* immediately after the conclusion of the contract.
- (e) Where a contract is concluded by telephone, the statement in (b) must be provided immediately after the conclusion of the contract in a *durable medium*.

(2) ...

(3) Notwithstanding (1) and (1A), an *insurer* must ensure that its *appointed representative* complies with the requirements of this section (unless acting as the *insurer's third party processor*).

...

Delete ICOB 4.5 in its entirety, the deleted text is not shown struck through.

4.5 [deleted – material moved to ICOB 2.10]

...

- 5.3.18 R No less than 21 days before the expiry of the policy, An insurance intermediary must:
- (1) if the *insurance undertaking* is willing to invite *renewal* of the *policy*, take reasonable steps to provide the retail customer with renewal terms in a durable medium in accordance with ICOB 5.3.21R ~~no less than 21 days before the expiry of the policy~~; or
  - (2) take reasonable steps to notify the retail customer ~~no less than 21 days before the expiry of the policy~~ if the *insurance undertaking* is not willing to invite *renewal*; or
  - (3) notify the retail customer that the *insurance intermediary* no longer deals with the *insurance undertaking*.

...

- 5.3.30 G (1) ... Such a *policyholder* will typically be capable of being a retail customer under ICOB.
- (2) ...

...

5.4.8 R When an *insurance intermediary* sells a *group policy* to a *commercial customer* ... the *insurance intermediary* must...:

- (1) ... (but a *policy summary* need not be supplied if there is no *policyholder* who ~~would~~ is capable of being a retail customer);

...

5.4.9 G (1) ... Such a *policyholder* will typically be capable of being a retail customer under ICOB. ...

- (2) ...

...

7.3.6 R An *insurer* must not:

- (1) ...
- (2) ...refuse to meet a *claim* made by a *retail customer* on the grounds:
- (a) of non-disclosure of a fact material to the risk that the *retail customer* who took out the policy could not reasonably be expected to have disclosed;

...



- (d) ...
  - (i) ...
  - (ii) ...drawn to the attention of the *retail customer* who took out the policy before ...

...

7.4.7 G ... Where an *insurance intermediary* acts for a *customer* in arranging a *policy*, it is likely to be the agent for ~~the~~that customer and any other customers who are policyholders under that policy in connection with the preparation and handling of any *claim* against the *insurance undertaking*. ... duty either to the *insurance undertaking* or the *customer* making the claim.  
...

7.4.8 R If an *insurance intermediary* acts for an *insurance undertaking* and not a *customer* in relation to a *claim* on a contract which it arranged ~~for that customer~~, the *insurance intermediary* must inform the *customer* that, in relation to that *claim*, it is acting on behalf of the *insurance undertaking*, and not the *customer*.

...

TP1 Transitional Provisions

(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
...					
10	<u>ICOB 4.1.4R and ICOB 4.4.2R(3)</u>	<u>R</u>	<u>To the extent that an insurer need not comply with provisions of ICOB 4 when dealing with a commercial customer, it is not responsible for ensuring that its appointed representative appointed prior to 6 March 2006 complies with those provisions.</u>	<u>6 March 2006 to 6 July 2006</u>	<u>6 March 2006</u>

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