

06/19***

Financial Services Authority

Reforming Conduct of Business Regulation

(including proposals for implementing relevant provisions of the Markets in Financial Instruments Directive, and related changes to SYSC, DISP, TC, SUP and other Handbook modules)

Addendum – Annex 6:
Draft Handbook text

October 2006



Addendum to CP 06/19 *Reforming Conduct of Business Regulation*

This addendum provides supplementary draft Handbook text to the material published in Annex 6 of CP 06/19 *Reforming Conduct of Business Regulation* relating to:

- Cancellation
- Open market options, and
- Consumer credit products.

The only change to the cancellation material is that the defined terms have been put in italics.

The other material was not included in the original version of Annex 6.

COBS 16.1 and COBS 16.1.1.R to 16.2.3R (amended version)

Cancellation

16.1 Application

16.1.1 G This chapter is relevant to most providers of retail financial products that are based on *deposits* or *designated investments*.

16.1.2 G This chapter is also relevant to most *firms* that enter into *distance contracts* with *consumers* that relate to *accepting deposits* or *designated investment business*.

16.2 The right to cancel

16.2.1 R A *consumer* has a right to cancel any of the following contracts with a *firm*:

Cancellable contract	Cancellation period	Supplementary provisions
Life and pensions:		
<ul style="list-style-type: none"> • a <i>life policy</i> (including a <i>pension annuity</i>, a <i>pension policy</i> or within any form of wrapper) • any other contract to join a <i>personal pension scheme</i> or a <i>stakeholder pension scheme</i> • any other <i>pension contract</i> • a contract to vary a product above 	30 calendar days	<p>For a <i>life policy</i> effected when opening or transferring any form of wrapper, the 30 calendar day right to cancel applies to the entire arrangement</p> <p>Exemptions may apply (see COBS 16 Annex 1)</p>
Cash deposit ISAs:		
<ul style="list-style-type: none"> • any other contract for a <i>cash deposit ISA</i> 	14 calendar days	Exemptions may apply (see COBS 16 Annex 1)
Non-life/pensions (advised but not at a distance): a non-distance contract ...		
<ul style="list-style-type: none"> • to <i>buy a unit</i> in a <i>regulated collective investment scheme</i> (including within any form of wrapper) 	14 calendar days	<p>These rights arise only following a personal recommendation of the contract (by the <i>firm</i> or any other <i>person</i>)</p> <p>For a <i>unit bought</i> when opening</p>

<ul style="list-style-type: none"> • to open or transfer a child trust fund (<i>CTF</i>) not already cancellable above • to open or transfer an <i>ISA</i> or <i>PEP</i> not already cancellable above • for an <i>Enterprise Investment Scheme</i> 		<p>or transferring any form of wrapper not already cancellable above, the 14 calendar day right to cancel applies to the entire arrangement</p> <p>Exemptions may apply (see <i>COBS 16 Annex 1</i>)</p>
<p>Non-life/pensions (at a distance): a <i>distance contract</i>, not cancellable above, relating to ...</p>		
<ul style="list-style-type: none"> • <i>accepting deposits</i> • <i>designated investment business</i> 	<p>14 calendar days</p>	<p>Exemptions may apply (see <i>COBS 16 Annex 1</i>)</p>

[Note: article 35 of the *Consolidated Life Directive*, article 6(1) of the *Distance Marketing Directive*]

- 16.2.2 G A *firm* may voluntarily provide longer or additional cancellation rights, but if it does these should be on terms similar to those in this chapter.

Start of cancellation period

- 16.2.3 R The cancellation period begins:
- (1) either from the day of the conclusion of the contract, except in respect of contracts relating to a *life policies* where the time limit will begin from the time when the *consumer* is informed that the contract has been concluded; or
 - (2) from the day on which the *consumer* receives the contractual terms and conditions and any other pre-contractual information required under this sourcebook, if that is later than the date referred to above.

[Note: article 35 of the *Consolidated Life Directive*, article 6(1) of the *Distance Marketing Directive*]

COBS Chapter 21

21.4 Open market options

- 21.4.1 R If a *retail client* asks a *firm*, that provides a contract which includes an *open market option*, for a retirement quotation, more than four *months* before the customer's *intended retirement date*, the *firm* must give the client an *open market option statement* with or as part of its reply.
- 21.4.2 R If a *firm* does not receive such a request, it must provide the *retail client* with an *open market option statement* between four and six *months* before the client's *intended retirement date* in any event.
- 21.4.3 R The *firm* must remind the *retail client* about the *open market option statement*, and give the client a *final transfer value*, at least six weeks before the client's *intended retirement date*.
- 21.4.4 R If a *retail client* with an *open market option* tells a *firm* that the client is considering, or has decided:
- (1) to discontinue an *income withdrawal* arrangement; or
 - (2) to take a further sum of money from his pension to buy an *annuity* as part of a phased retirement;

the *firm* must give the client an *open market option statement*, unless the *firm* has given the client such a statement in the last 12 *months*.

COBS Appendix 1, Part 2

5. Consumer credit products

- 5.1 R If a *firm*, in relation to its *MiFID business*, offers an *investment service* as part of a financial product that is subject to other provisions of European Community legislation or common European standards related to *credit institutions* and consumer credits with respect to risk assessments of clients and/or information requirements, that service is not subject to the *rules* in this sourcebook that implement Article 19 of *MiFID*.

[Note: article 19(9) of *MiFID*]

- 5.2 G This exclusion for consumer credit products is intended to apply on a narrow basis in relation to cases in which the *investment service* is a part of another financial product. It does not apply where the *investment service* is the essential or leading part of the financial product. It also does not apply where the service provided is a combination of an *investment service* and an *ancillary service* (for example, granting a credit for the execution of an order where the credit is instrumental to the buying or the selling of a *financial instrument*.) The exclusion also does not apply in relation to the sale of a *financial instrument* for the purpose of enabling a *client* to invest money to repay his obligations under a loan, *mortgage* or *home reversion*.

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