

A large, stylized number '5' logo in a light purple color, split vertically. The left half is a solid purple shape, and the right half is a white shape with a purple outline. The number is positioned behind the main title text.

Insurance: New Conduct of Business sourcebook

Part 4: Guidance

- 3.2 G The *rules* implementing the minimum information and other requirements in articles 12 and 13 of the Directive are set out in **ICOBS 4.1** (General requirements for insurance intermediaries), **ICOBS 5.2** (Statement of demands and needs) and **ICOBS 5.3.3 R** (Advice on the basis of a fair analysis).
- 3.3 G In the *FSA's* view, the responsibility for these minimum requirements rests with the *Home State*, but a *Host State* is entitled to impose additional requirements within the Directive's scope in the 'general good'. (See recital 19 to and article 12(5) of the *Insurance Mediation Directive*.) Accordingly, the general *rules* on territorial scope are modified so that:
- (1) for a *UK firm* providing *passported activities* through a *branch* in another *EEA State* under the Directive, the *rules* implementing the Directive's minimum requirements apply, but the territorial scope of the additional *rules* within the Directive's scope is not modified;
 - (2) for an *EEA firm* providing *passported activities* under the Directive in the *United Kingdom*, the *rules* implementing the Directive's minimum requirements do not apply, but the additional *rules* within the Directive's scope have their unmodified territorial scope unless the *Home State* imposes measures of like effect; and
 - (3) an *EEA firm* acting as the principal of an *appointed representative* is required to ensure that its *appointed representative* complies with this sourcebook as it applies to a *UK firm* that is an *authorised person*.
- 4 Non-Life Directives: effect on territorial scope
- 4.1 G The *Non-Life Directives'* scope covers *insurers* authorised under those Directives conducting *general insurance business*.
- 4.2 G The *rules* in this sourcebook within the Directives' scope are those requiring the provision of pre-contract information or information during the term of the contract concerning the *insurer* or the insurance contract (see **ICOBS 2.2** (Communications to clients and financial promotions), **ICOBS 4** (Information about the firm, its services and remuneration), **ICOBS 6** (Product information) and **ICOBS 8** (Claims handling) except **ICOBS 8.2** (Motor vehicle liability insurers)).
- 4.3 G The Directives specify minimum information requirements and permit *EEA States* to adopt additional mandatory rules. (See article 7 of the *Second Non-Life Directive*)
- 4.4 G If the *State of the risk* is an *EEA State*, the Directives provide that the applicable information rules shall be determined by that state. Accordingly, if the *State of the risk* is the *United Kingdom*, the relevant *rules* in this sourcebook apply. Those *rules* do not apply if the *State of the risk* is another *EEA State*. The territorial scope of other *rules*, in particular the *financial promotion rules*, is not affected since the Directives explicitly permit *EEA States* to apply rules, including advertising rules, in the 'general good'. (See articles 28 and 41 of the *Third Non-Life Directive*)
- 5 Consolidated Life Directive: effect on territorial scope
- 5.1 G The *Consolidated Life Directive's* scope covers *long-term insurers* authorised under that Directive conducting *long-term insurance business*.

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- 5.2 G The *rules* in this sourcebook within the Directive's scope are the cancellation *rules* (see ICOBS 7) and those *rules* requiring the provision of pre-contract information or information during the term of the contract concerning the *insurer* or the *contract of insurance* (see ICOBS 2.2 (Communications to clients and financial promotions), ICOBS 4 (Information about the firm, its services and remuneration), ICOBS 6 (Product information) and ICOBS 8 (Claims handling) except ICOBS 8.2 (Motor vehicle liability insurers)).
- 5.3 G The Directive specifies minimum information and cancellation requirements and permits *EEA States* to adopt additional information requirements that are necessary for a proper understanding by the *policyholder* of the essential elements of the commitment.
- 5.4 G If the *State of the commitment* is an *EEA State*, the Directive provides that the applicable information rules and cancellation rules shall be determined by that state. Accordingly, if the *State of the commitment* is the *United Kingdom*, the relevant *rules* in this sourcebook apply. Those *rules* do not apply if the *State of the commitment* is another *EEA State*. The territorial scope of other *rules*, in particular the *financial promotion rules*, is not affected since the Directive explicitly permits *EEA States* to apply rules, including advertising rules, in the 'general good'. (See articles 33, 35, 36 and 47 of the *Consolidated Life Directive*)
- 6 Motor Insurance Directives: effect on territorial scope
- 6.1 G The scope of the *Fourth Motor Insurance Directive* and *Fifth Motor Insurance Directive* covers *insurers* conducting *motor vehicle liability insurance business*. The *rules* in this sourcebook within the Directives' scope are those regarding the appointment of claims representatives and handling of claims by *injured parties* (see ICOBS 8.2).
- 6.2 G The Directives require a *motor vehicle liability insurer* to appoint a claims representative in each *EEA State* other than its *Home State*. They specify minimum requirements regarding function and powers of claims representatives in handling claims and regarding the settlement of claims by *injured parties*.
- 6.3 G The Directives' provisions apply to *motor vehicle liability insurers* for which the *United Kingdom* is the *Home State*. (See article 4 of the *Fourth Motor Insurance Directive*)
- 7 Distance Marketing Directive: effect on territorial scope
- 7.1 G In broad terms, a *firm* is within the *Distance Marketing Directive's* scope when conducting an activity relating to a *distance contract* with a *consumer*. The *rules* in this sourcebook within the Directive's scope are those requiring the provision of pre-contract information (see ICOBS 2.2 ((Communications to clients and financial promotions), ICOBS 4 (Information about the firm, its services and remuneration) and ICOBS 6 (Product information)), the cancellation *rules* (see ICOBS 7) and the other specific *rules* implementing the Directive (see ICOBS 3.1).
- 7.2 G In the *FSA's* view, the Directive places responsibility for requirements within the Directive's scope on the *Home State* except in relation to business conducted through a *branch*, in which case the responsibility rests with the *EEA State* in which the