

INCOMING EEA INSURANCE INTERMEDIARIES INSTRUMENT 2006**Powers exercised**

- A. The Financial Services Authority makes this instrument in the exercise of the powers and related provisions in the Financial Services and Markets Act 2000 (“the Act”) referred to in:
- (1) Schedule 4 to the Conduct of Business sourcebook (COB) (Powers exercised); and
 - (2) Schedule 4 to the Insurance: Conduct of Business sourcebook (ICOB) (Powers exercised).
- B. The rule-making powers referred to 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 October 2006.

Amendments to the Handbook

- D. The modules of the FSA Handbook of rules and guidance listed in column (1) below are amended in accordance with the Annexes to this instrument listed in column (2).

(1)	(2)
Conduct of Business sourcebook (COB)	Annex A
Insurance: Conduct of Business sourcebook (ICOB)	Annex B
Supervision manual (SUP)	Annex C

Citation

- E. This instrument may be cited as the Incoming EEA Insurance Intermediaries Instrument 2006.

By order of the Board
28 September 2006

Annex A

Amendments to the Conduct of Business sourcebook (COB)

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

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 (UK establishments: general) carried on with or for a *client* in the *United Kingdom*, except in any of the following cases:

(1) ...; or

(2) ...

(c) ...; or

(3) (except as set out in (2) and in *COB* 1.4.12R (IMD passported activities)) when an *incoming EEA firm* is providing *cross-border services* in the *United Kingdom* under the *IMD*.

...

IMD passported activities

1.4.12 R ...

(3) ~~In addition to the situation in *COB* 1.4.3R, the~~ The *IMD* minimum implementation provisions apply, on the basis outlined in (4), to an *incoming EEA firm* providing *cross-border services* in the *United Kingdom* under the *IMD* unless the *firm's Home State regulator* imposes measures which implement the articles for these activities.

(4) ...

(5) The only provisions in *COB* that apply to *passport activities* carried on by an *EEA firm* under the *IMD* from a *branch* in the *UK* are:

...

(a) the *IMD* minimum implementation provisions, on the basis in (4), unless the *firm's Home State regulator* imposes measures which implement articles 12 and 13 of the *IMD* for these activities;

(b) *COB* 1.4.5R (Financial promotions), *COB* 1.4.4R (Overseas business for UK private customers) and *COB* 1.4.10R (Electronic commerce activities and communications);

(c) the other provisions in *COB* relating to articles 12 and 13 of

the *IMD* (beyond the minimum required to implement these articles), unless the *firm's Home State regulator* imposes measures of like effect for those activities; and

- (d) (if the activities are in connection with a *distance contract* with a *retail customer*) the provisions in *COB* which implement the *DMD*, unless the *firm's Home State* imposes measures which implement, or correspond to obligations provided for by, the *DMD*.

Annex B

Amendments to the Insurance: Conduct of Business sourcebook (ICOB)

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

IMD passported activities

1.3.10 R ...

- (3) ~~In addition to ICOB 1.3.11R~~ Notwithstanding the other rules in this section, the only provisions in ICOB that apply to an incoming EEA firm carrying on passported activities under the IMD in the United Kingdom are:
- (a) ~~the provisions in ICOB 1.3.11R do not apply to an incoming EEA firm carrying on passported activities under the IMD from a branch in the United Kingdom if the firm's Home State regulator imposes minimum measures which implement articles 12 and 13 of the IMD for these activities~~ ICOB 1.3.8R (Electronic commerce activities and communications) and ICOB 3 (Financial promotion);
 - (b) ~~the provisions in ICOB 1.3.11R apply to an incoming EEA firm providing cross border services in the United Kingdom if the firm's Home State regulator does not impose minimum measures which implement articles 12 and 13 of the IMD for those activities; and~~
 - (c) ~~the other provisions in ICOB relating to articles 12 and 13 of the IMD (beyond the minimum required to implement these articles) apply to an incoming EEA firm providing cross-border services in the United Kingdom, unless the firm's Home State regulator imposes measures of like effect for those activities; and~~
 - (d) (if the activities are carried on from a branch in the UK and are in connection with a distance contract with a retail customer) the provisions in ICOB which implement the DMD in respect of a distance non-investment mediation contract, unless the firm's Home State imposes measures which implement, or correspond to obligations provided for by, the DMD.

Annex C

Amendments to the Supervision manual (SUP)

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

SUP 13A Annex 1G

Application of the Handbook to Incoming EEA Firms

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(1) Module of Handbook	(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>COB</i>	<p><i>COB</i> applies <u>except that in respect of activities passported under the <i>IMD</i>, the only provisions that apply are:</u></p> <p>(1) <u><i>COB</i> 3 (Financial promotion), but see the territorial scope in <i>COB</i> 3.3 (Where?);</u></p> <p>(2) <u>unless the <i>firm's</i> Home State regulator imposes measures which implement articles 12 and 13 of the <i>IMD</i> for those activities:</u></p> <p>(a) <u><i>COB</i> 4.3.19R to <i>COB</i> 4.3.25R save that the <i>firm</i> must also comply with those rules as if they also applied to a <i>firm</i> carrying out the activities in <i>COB</i> 4.3.19R(1) with or on behalf of all private customers;</u></p> <p>(b) <u><i>COB</i> 5.2.12R to</u></p>	<p>Where the activity:</p> <p>(1) (a) would fall within the <i>overseas persons</i> exclusions in article 72 of the <i>Regulated Activities Order</i>; or</p> <p>(b) would not be regarded as carried on in the <i>United Kingdom</i>; or</p> <p>(c) is not carried on with or for a <i>client</i> in the <i>United Kingdom</i>;</p> <p>then, unless the activity is passported under the <i>IMD</i>, only the following apply:</p> <p>...</p> <p>(g) [deleted](i) <i>COB</i> 4.3.19R to <i>COB</i> 4.3.25R save that the <i>firm</i> must also comply with those rules as if they also applied to a <i>firm</i> carrying out the activities in <i>COB</i> 4.3.19R(1) with or on</p>

	<p><u>COB 5.2.14R; and</u></p> <p>(c) <u>COB 5.3.14R(1) and COB 5.3.18AR to COB 5.3.18CR;</u></p> <p>(3) <u>unless the firm's Home State regulator imposes measures of like effect for those activities:</u></p> <p>(a) <u>COB 4.3.5R to COB 4.3.11R (Fees and commission statement and initial disclosure document); and</u></p> <p>(b) <u>COB 4.3.21R(9), COB 4.3.22R, COB 4 Annex 4R(8) and COB 4 Annex 5R(8) (Information on compensation); and</u></p> <p>(4) <u>in the case of a distance contract with a retail customer, unless the firm's Home State imposes measures which implement or correspond to obligations of the DMD:</u></p> <p>(a) <u>COB 2.5.3R (Limits on the exclusion of liability: designated investment business);</u></p> <p>(b) <u>COB 2.6 (General provisions related to distance marketing)</u></p> <p>(c) <u>COB 4.2.5R to COB 4.2.6AG, COB 4.2.10R and</u></p>	<p><u>behalf of all private customers;</u></p> <p>(ii) <u>COB 5.2.12R to COB 5.2.14R; and</u></p> <p>(iii) <u>COB 5.3.18R(1) and COB 5.3.18AR to COB 5.3.18CR; but only in relation to activities</u> passported under the <i>IMD</i> (see <u>COB 1.4.12R(3))</u>;</p> <p>(2) ...</p> <p>(b) ...</p> <p>(3) <u>is passported under the <i>IMD</i>, only the following apply:</u></p> <p>(a) <u>COB 4.3.19R to COB 4.3.25R save that the firm must also comply with those rules as if they also applied to a firm carrying out the activities in COB 4.3.19R(1) with or on behalf of all private customers;</u></p> <p>(b) <u>COB 5.2.12R to COB 5.2.14R;</u></p> <p>(c) <u>COB 5.3.18R(1) and COB 5.3.18AR to COB 5.3.18CR; and</u></p> <p>(d) <u>COB 5.5.7R (Overseas business for UK private customers).</u></p> <p>Otherwise, as column (2), (<i>COB</i> 1.4.3R).</p>
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	<p><u>COB 4 Ann 1R</u> (Terms of business and client agreements with customers);</p> <p>(d) <u>COB 6.1.5R(1)</u> (Quality and production of key features);</p> <p>(e) <u>COB 6.2.2R, COB 6.2.7R, COB 6.2.12R(2), COB 6.2.14R, COB 6.2.16R(2), COB 6.2.18R(2), COB 6.2.21R and COB 6.4.27R to COB 6.4.31R</u> (Provision of key features);</p> <p>(f) <u>COB 6.5.2R(6), COB 6.5.3R</u> (Content of key features and important information: life policies, schemes, ISA and CTF cash deposit components and stakeholder pension schemes);</p> <p>(g) <u>COB App 1</u> (Required information for certain terms of business, key features and direct offer financial promotions).</p>	
<i>ICOB</i>	<p><i>ICOB applies</i> <u>As column (3) plus, in the case of a distance contract with a retail customer, unless the firm's Home State imposes measures which implement or correspond to obligations of the DMD:</u></p>	<p>Only the following provisions of <i>ICOB</i> apply:</p> <p>(a)(1) <i>ICOB 3</i> (Financial promotion), but see the territorial scope in <i>ICOB 3.4</i> (Application: where?);</p>

	<p>(1) <u>ICOB 2.2.3R(1) (Clear, fair and not misleading communication);</u></p> <p>(2) <u>ICOB 2.5 (Exclusion of liability);</u></p> <p>(3) <u>ICOB 2.7 (General provision related to distance contracts);</u></p> <p>(4) <u>ICOB 4.7 (Unsolicited services); and</u></p> <p>(5) <u>ICOB 8 (Distance non-investment mediation contracts with retail customers).</u></p>	<p>(2) <u>ICOB 4.2.19R (Overseas business for UK retail customers);</u></p> <p>(b)(3) ...</p> <p>(e)(4) ...</p> <p>(d)(5) ...;</p> <p>(6) <u>unless the <i>firm's Home State regulator</i> has implemented articles 12 and 13 of the <i>IMD</i> for those activities:</u></p> <p>(a) <u>ICOB 4.2.2R to ICOB 4.2.8R, ICOB 4.2.11R, ICOB 4.2.14R and ICOB 4.2.20R (Status disclosure);</u></p> <p>(b) <u>ICOB 4.3 (Suitability);</u></p> <p>(c) <u>ICOB 4.4 (Statement of demands and needs) except ICOB 4.4.7R;</u></p> <p>(d) <u>ICOB 4.8.1R (Language of the information provided to customers); and</u></p> <p>(7) <u>unless the <i>firm's Home State regulator</i> imposes measures of like effect that apply to those activities:</u></p> <p>(a) <u>ICOB 2.10 (Excessive charges to retail customers);</u></p> <p>(b) <u>ICOB 4.2.8R(9) (Information on compensation);</u></p> <p>(c) <u>ICOB 4.4.7R (Record keeping where a personal recommendation is made);</u></p>
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		<p>(d) <u>ICOB 4.2.15R (Fees other than product related fees); and</u></p> <p>(e) <u>ICOB 4.6 (Commission disclosure for commercial customers).</u></p>
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