

PERSONAL PENSION SCHEMES INSTRUMENT 2006

Powers exercised

- A. The Financial Services Authority makes this instrument in the exercise of the following powers and related provisions in the Financial Services and Markets Act 2000 (the “Act”):
- (1) section 138 (General rule-making power);
 - (2) section 139 (4) (miscellaneous ancillary matters);
 - (3) section 145 (financial promotions rules);
 - (4) section 156 (General supplementary powers);
 - (5) section 157 (Guidance);
 - (6) section 213 (The compensation scheme);
 - (7) section 214 (General);
 - (8) section 226 (Compulsory jurisdiction);
 - (9) section 227 (Voluntary jurisdiction); and
 - (10) the other rule and guidance making powers listed in Schedule 4 (Powers exercised) to the General Provisions module of the FSA’s Handbook.
- B. The rule-making powers listed above are specified for the purpose of section 153(2) (Rule-making instruments) of the Act.

Commencement

- C. (1) Annex A and Annex C of this instrument come into force on 2 October 2006.
- (2) Annex E of this instrument comes into force on 1 November 2006.
- (3) The balance of this instrument comes into force on 6 April 2007.

Amendments to the Handbook

- D. The modules of the FSA's 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)
Glossary of definitions	Annex A
Glossary of definitions	Annex B
Fees Manual (FEES)	Annex C
Interim Prudential sourcebook for Investment Businesses (IPRU(INV))	Annex D
Conduct of Business sourcebook (COB)	Annex E
Conduct of Business sourcebook (COB)	Annex F
Insurance: Conduct of Business sourcebook (ICOB)	Annex G
Mortgages: Conduct of Business sourcebook (MCOB)	Annex H

Authorisation manual (AUTH)	Annex I
Supervision manual (SUP)	Annex J
Dispute Resolution manual (DISP)	Annex K
Compensation sourcebook (COMP)	Annex L

Citation

- E. This instrument may be cited as the Personal Pension Schemes Instrument 2006.

By order of the Board
28 September 2006

Annex A

Amendments to the Glossary of definitions from 2 October 2006

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

Amend or insert the following definitions as indicated:

- establishing, operating or winding up a personal pension scheme the regulated activity, specified in article 52(b) of the Regulated Activities Order (Establishing etc. a pension scheme), of establishing, operating or winding up a personal pension scheme.
- occupational pension scheme* (a) (as a scheme specified in article 3(1) of the Regulated Activities Order (Interpretation)) which is, in summary, a pension scheme established for the purpose of providing benefits to people with service in employments of a prescribed description. ~~any scheme or arrangement which is comprised in one or more instruments or agreements and which has, or is capable of having, effect in relation to one or more descriptions or categories of employment so as to provide benefits, in the form of pensions or otherwise, payable on termination of service, or on death or retirement, to or in respect of earners with a qualifying service in an employment of any such description or category.~~
- operator* (1) (except in ENF):
...
(f) (in relation to an *investment trust savings scheme*) any person appointed, by those responsible for managing the property of the *investment trust*, to manage the *investment trust savings scheme*:-
(g) (in relation to a personal pension scheme or stakeholder pension scheme) the person who carries on the regulated activity specified in article 52 of the Regulated Activities Order (Establishing etc. a pension scheme).
- personal pension scheme* (a) ~~a scheme of investment in accordance with section 630 of the Income and Corporation Taxes Act 1988.~~
(in relation to a specified investment) the investment specified in article 82(2) of the Regulated Activities Order (Rights under a pension scheme) which is rights under a personal pension scheme in (b);
(b) (in relation to a scheme) (in accordance with article 3(1) of the Regulated Activities Order) a pension scheme or arrangement which:
(i) is not an occupational pension scheme or stakeholder

pension scheme; and

(ii) is comprised in one or more instruments or agreements capable of providing benefits on retirement, death or on having reached a particular age.

stakeholder pension scheme

(a) (in relation to a *specified investment*) the *investment* specified in article 82(1) of the *Regulated Activities Order* (Rights under a stakeholder pension scheme) which is rights under a stakeholder pension scheme in (b);

(b) (in relation to a scheme) a scheme established in accordance with Part I of the Welfare Reform and Pensions Act 1999 and the Stakeholder Pension Schemes Regulations 2000 (S.I. 2000/1403).

Annex B

Amendments to the Glossary of definitions from 6 April 2007

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

Amend or insert the following definitions as indicated:

<i>agreeing to carry on a regulated activity</i>	<p>the <i>regulated activity</i>, specified in article 64 of the <i>Regulated Activities Order</i> (Agreeing to carry on specified kinds of activity), of agreeing to carry on an activity specified in Part II of that Order other than:</p> <p>...</p> <p>(g) <i>establishing, operating or winding up a stakeholder pension scheme</i>;</p> <p><u>(h) <i>establishing, operating or winding up a personal pension scheme</i>.</u></p>
<i>alternative trading system</i>	<p>a system that brings together multiple buying and selling interests in <i>designated investments</i> (other than <i>life policies</i>, <u><i>personal pension schemes</i></u>, <i>or stakeholder pension schemes</i> or rights to or interests in <u>any of those investments</u> <i>life policies or stakeholder pension schemes</i>), in the system and according to non-discretionary rules set by the system's operator in a way that results in a contract but does not include:</p> <p>(a) a system that is operated by an <i>RIE</i> or that is a <i>regulated market</i> or an <i>EEA commodities market</i>; or</p> <p>(b) a <i>bilateral system</i>.</p>
<i>appropriate personal pension</i>	<p>a <i>personal pension policy</i>, <u>a <i>personal pension deposit</i></u> or a <i>personal pension contract</i> under which contributions are made to a <i>personal pension scheme</i> which is an appropriate scheme under section 7(4) of the Pension Schemes Act 1993 or section 3(4) of the Pension Schemes (Northern Ireland) Act 1993.</p>
<i>client</i>	<p>(1) (except in <i>PROF</i> in relation to a <i>regulated mortgage contract</i>) any <i>person</i> with or for whom a <i>firm</i> conducts or intends to conduct <i>designated investment business</i> or any other <i>regulated activity</i>; and</p> <p>...</p> <p>(b) 'client' includes:</p>

(iv) ...

(v) for a firm that is establishing, operating or winding up a personal pension scheme, a member or beneficiary of that scheme;

(c) 'client' does not include:

(i) a trust beneficiary not in (b)(v);

...

designated investment a security or a contractually-based investment (other than a funeral plan contract and a right to or interest in a funeral plan contract), that is, any of the following investments, specified in Part III of the Regulated Activities Order (Specified Investments), and a long-term care insurance contract which is a pure protection contract:

...

(h) stakeholder pension scheme (article 82(1));

(ha) personal pension scheme (article 82(2));

...

designated investment business any of the following activities, specified in Part II of the Regulated Activities Order (Specified Activities), which is carried on by way of business:

...

(l) establishing, operating or winding up a stakeholder pension scheme (article 52(a));

(la) establishing, operating or winding up a personal pension scheme (article 52(b));

...

establishing operating or winding up a stakeholder pension scheme the regulated activity, specified in article 52(a) of the Regulated Activities Order (Establishing etc. a stakeholder pension scheme), of establishing, operating or winding up a stakeholder pension scheme.

intermediate customer (1) (except in COB 3) a client who is not a market counterparty and who is:

...

(g) a trustee of a trust (other than an occupational pension scheme, SSAS, personal pension scheme or stakeholder pension scheme)

which has (or has had at any time during the previous two years) assets of at least £10 million (or its equivalent in any other currency at the relevant time) calculated by aggregating the value of the cash and *designated investments* forming part of the trust's assets, but before deducting its liabilities;

(h) a trustee of an *occupational pension scheme*, or *SSAS*, or a trustee or operator of a *personal pension scheme* or *stakeholder pension scheme* where the ~~trust~~ *scheme* has (or has had at any time during the previous two years):

(i) at least 50 members; and

(ii) assets under management of at least £10 million (or its equivalent in any other currency at the relevant time);

...

investment management firm

a firm whose permitted activities include *designated investment business*, which is not an *authorised professional firm*, bank, *ELMI*, *building society*, *credit union*, *energy market participant*, *friendly society*, *ICVC*, *insurer*, *media firm*, *oil market participant*, *service company*, *incoming EEA firm* (without a *top-up permission*), *incoming Treaty firm* (without a *top-up permission*), *UCITS management company* or *UCITS qualifier* (without a *top-up permission*), whose *permission* does not include a *requirement* that it comply with *IPRU(INV) 3* or *10* (Securities and futures firms) or *13* (Personal investment firms) and which is within (a), (b) or (c):

(a) a firm:

...

(c) ...

...

(E) *establishing, operating or winding up a collective investment scheme* (other than an *AUT* or *ICVC*);

(Ea) *establishing, operating or winding up a personal pension scheme*; and

...

<i>open-market option</i>	<p>the option to apply:</p> <p>(a) the proceeds of a <u>personal pension policy scheme or pension contract</u>; or</p> <p>...</p>
<i>overseas person</i>	<p>(in accordance with article 3(1) of the <i>Regulated Activities Order</i> (Interpretation)) a <i>person</i> who:</p> <p>(a) carries on any of the following <i>regulated activities</i>:</p> <p>...</p> <p>(xiv) <i>establishing, operating or winding up a stakeholder pension scheme</i>;</p> <p>(xiva) <u><i>establishing, operating or winding up a personal pension scheme</i></u>;</p> <p>...</p>
<i>packaged product</i>	<p>...</p> <p>(d) <i>a stakeholder pension scheme</i>;</p> <p>(e) <u><i>a personal pension scheme</i></u>;</p> <p>whether or not (in the case of (a), (b) or (c)) held within a <i>PEP</i>, an <i>ISA</i> or a <i>CTF</i> and whether or not the packaged product is also a <i>stakeholder product</i>.</p>
<i>pension transfer</i>	<p>a transaction resulting from a decision made, with or without advice from a <i>firm</i>, by a <i>customer</i> who is an individual, to transfer deferred benefits from:</p> <p>(a) an <i>occupational pension scheme</i>; or</p> <p>(b) an <i>individual pension contract</i> providing fixed or guaranteed benefits that replaced similar benefits under a <i>defined benefits pension scheme</i>; or</p> <p>(c) (in <i>COB 6.7</i> (Cancellation and withdrawal) a <i>stakeholder pension scheme</i> or a <i>personal pension scheme</i>)</p> <p>to a <i>stakeholder pension scheme</i> or to a <i>personal pension scheme</i> (including a self-invested <u><i>self-invested personal pension scheme</i></u>), or to any deferred annuity <i>policy</i> (including a <i>pension buy-out contract</i>) where the eventual benefits depend in whole or in part on investment performance in the period up to the <i>intended retirement date</i>.</p>

<i>personal pension deposit</i>	<u>a contract under which rights to benefits are obtained by making contributions to a <i>personal pension scheme</i> operated by a <i>deposit-taking firm</i>.</u>
<i>personal pension product</i>	<u>a contract under which rights to benefits are obtained by making contributions to a <i>personal pension scheme</i> other than a <i>personal pension policy</i>, a <i>personal pension contract</i>, a <i>personal pension deposit</i> or a <i>SIPP</i>.</u>
<i>product provider</i>	<p>(1) (except in <i>ICOB</i> and <i>COB</i>) a <i>firm</i> which is:</p> <ul style="list-style-type: none"> (i) a <i>long-term insurer</i>; (ii) a <i>friendly society</i>; (iii) the <i>operator</i> of a <i>regulated collective investment scheme</i> or an <i>investment trust savings scheme</i>. <p>(2) (in <i>ICOB</i>) in relation to a <i>non-investment insurance contract</i>, an <i>insurer</i> not acting as an <i>insurance intermediary</i>.</p> <p>(3) (in <i>COB</i>) a <i>firm</i> which is:</p> <ul style="list-style-type: none"> (i) a <i>long-term insurer</i>; (ii) a <i>friendly society</i>; (iii) <u>the <i>operator</i> of a <i>regulated collective investment scheme</i> or an <i>investment trust savings scheme</i>;</u> (iv) <u>the <i>operator</i> of a <i>personal pension scheme</i>.</u>
<i>regulated activity</i>	<p>(in accordance with section 22 of the <i>Act</i> (The classes of activity and categories of investment)) any of the following activities specified in Part II of the <i>Regulated Activities Order</i> (Specified Activities):</p> <p>...</p> <ul style="list-style-type: none"> (o) <i>establishing, operating or winding up a stakeholder pension scheme</i> (article 52(a)); (oa) <i>providing basic advice on a stakeholder product</i> (article 52B); (ob) <u><i>establishing, operating or winding up a personal pension scheme</i> (article 52(b));</u> <p>...</p>
<i>regulated collective investment scheme</i>	(a) an <i>ICVC</i> ; or

	(b) an <i>AUT</i> ; or
	(c) a recognised scheme;
	whether or not the <i>units</i> are held within a <i>PEP</i> , <i>ISA</i> or <u>personal pension scheme contract</u> .
<i>retail investment</i>	...
	(c) a <i>stakeholder pension scheme</i> ; or
	<u>(ca) a personal pension scheme; or</u>
	...
<i>security</i>	(1) (except in <i>LR</i> and <i>ENF</i> 21 (in accordance with article 3(1) of the <i>Regulated Activities Order</i> (Interpretation)) any of the following <i>investments</i> specified in that Order:
	...
	(g) <i>stakeholder pension scheme</i> (article 82(1));
	<u>(ga) personal pension scheme</u> (article 82(2));
	...
<u><i>self-invested personal pension scheme</i></u>	<u>an arrangement which forms all or part of a personal pension scheme, which gives the member the power to direct how some or all of the member's contributions are invested.</u>
<i>simplified prospectus scheme</i>	means:
	(a) a <i>UCITS scheme</i> that is not a recognised scheme under section 264 of the <i>Act</i> (Schemes constituted in other EEA States); or
	(b) a <i>key features scheme</i> for which an election that is permitted by <i>COB</i> 6.2.22R(2)(Key features schemes) has been made;
	<u>whether or not the <i>units</i> are held within a <i>PEP</i>, <i>ISA</i> or personal pension scheme.</u>
<u><i>SIPP</i></u>	<u>a self-invested personal pension scheme.</u>
<i>small personal investment firm</i>	a <i>personal investment firm</i> :
	(a) which is not an <i>ISD investment firm</i> ;
	<u>(b) whose permission does not include establishing.</u>

operating or winding up a personal pension scheme;

(c) which is not a *network*; and

~~(b)~~

(d) which has fewer than 26 *representatives*.

~~(e)~~

specified investment

any of the following *investments* specified in Part III of the *Regulated Activities Order* (Specified Investments):

...

(i) *stakeholder pension scheme* (article 82(1));

(ia) *personal pension scheme* (article 82(2));

...

Annex C

Amendment to the Fees manual

In section 1 of this Annex striking through indicates deleted text and underlining denotes new text. In section 2 of this Annex, all of the text is new and is not underlined.

Annex C: section 1

FEES 3 Annex 1R Authorisation fees payable

...

Moderately complex cases R

...

A9 Operators, trustees and depositaries of collective investment schemes, operators of personal pension schemes and operators of stakeholder pension schemes

...

FEES 4 Annex 1R Activity groups, tariff bases and valuation dates applicable

Part 1

...

Activity group

Fee payer falls into the activity group if

...

A9 Operators, Trustees and Depositaries of collective investment schemes and Operators of personal pension schemes or stakeholder pension schemes

...

(1) its *permission*:

(a) includes one or more of the following:

- ...
- *acting as the depositary or sole director of an open-ended investment company;*
- *establishing, operating or winding up a personal pension scheme or a stakeholder pension scheme (but only if the firm does not fall within activity group A1 or A4);*

...

A10 Firms dealing as principal

its *permission* includes *dealing in investments as principal*;

BUT NOT if one or more of the following apply:

- ...
- the above activity is limited either to acting as an *operator of a collective investment scheme, establishing, operating or winding up a personal pension scheme or a stakeholder pension scheme*, or to carrying out *trustee activities*;

...

Part 2

...

A9

GROSS INCOME

For operators (including ACDs and managers of units trusts but excluding operators of a personal pension scheme or a stakeholder pension scheme):

...

For depositaries (including trustees of collective investment schemes and ICVC depositaries):

The amount of the annual charge levied on funds in regulated collective investment schemes for which they act as depositary (typically a % of the total funds for which they act as depositary).

For operators of a personal pension scheme or a stakeholder pension scheme:

The amount of the charges levied on the personal pension scheme or stakeholder pension scheme for which they act as operator:

- including up-front charges, fund related charges, transaction related charges and periodic charges; but
- excluding charges made to an investor in respect of third party suppliers; for example, charges for stock broking, borrowing, banking services and charges for arranging third party legal services, surveys or environmental screening in connection with property.

...

...

FEES 5 Annex 1R Annual fees payable in relation to 2006/7

...

Industry block

Tariff base

General levy payable by firm

...

6 - Operators, trustees and depositaries of collective investment schemes and operators of personal pension schemes or stakeholder pension schemes

...

6.5.9 R Table: The contribution groups and tariff bases for the investment business sub-scheme (see FEES 6.5.7R (2)). (The contribution groups, legal bases for

activity and tariff bases are the same as the correspondingly numbered activity groups and tariff bases set out in part 1 and part 2 of FEES 4 Ann 1R).

SUB-SCHEME	CONTRIBUTION GROUP (references to A7 etc are to the activity groups in part 1 of FEES 4 Ann 1R)	LEGAL BASIS FOR ACTIVITY (this is merely a summary of the basis in part 1 of FEES 4 Ann 1R; references to articles are to articles of the <i>Regulated Activities Order</i>)	TARIFF BASE (this is merely a summary of the base in part 2 of FEES 4 Ann 1R)
...	A9 – managers of an <i>AUT</i> , <i>ACDs</i> and depositaries <u>and operators of personal pension schemes or stakeholder pension schemes</u>	Any of the following: ... (c) acting as a depositary, or sole director of an open-ended investment company (article 51); <u>(d) establishing, operating or winding up a personal pension scheme or a stakeholder pension scheme.</u>	Gross income
...			

Create a new schedule of Transitional Provisions at the end of the FEES manual, as follows.

FEES TP 1 Transitional Provisions

FEES TP 1.1

(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.	FEES 3.2.7R (p)	R	<p>A <i>firm</i> does not have to pay a fee if:</p> <p>(1) it is seeking only to increase the scope of its <i>permission</i> to include:</p> <p>(a) <i>establishing, operating or winding up a personal pension scheme</i>; or</p> <p>(b) (if the <i>firm</i> is in activity group A12 or A13) the <i>designated investments</i>:</p> <p>(i) <i>personal pension scheme</i>; or</p> <p>(ii) <i>rights to or interests in a personal pension scheme</i>,</p> <p>and</p> <p>(2) it was, as at 1 October 2006, carrying on what would become on 6 April 2007:</p> <p>(a) the <i>regulated activity</i> in (1)(a), or</p>	2 October 2006 to 5 April 2007	1 June 2006

(b) a *regulated activity* in relation to the *designated investments* in (1)(b).

2.	<i>FEES</i> 4 Annex 1R Part 3, Activity group A9 (operators, trustees and depositaries of collective investment schemes)	R	References to gross income received in connection with operating a <i>personal pension scheme</i> or a <i>stakeholder pension scheme</i> include gross income received in connection with operating a personal pension scheme or a stakeholder pension scheme before 6 April 2007, if and to the extent that, if the same activities had been carried out in relation to the same scheme on 6 April 2007 those activities would have amounted to <i>operating a personal pension scheme</i> or a <i>stakeholder pension scheme</i> .	From 6 April 2007 to 30 April 2008	6 April 2007
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Annex D

Amendments to the Interim Prudential sourcebook for Investment Businesses IPRU (INV)

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

...

- 2.1.2 R (1) An *authorised professional firm* of a kind falling within (2) must comply with such of IPRU(INV) 3, 5, 10 or 13 which in accordance with IPRU(INV) 2.1.4R, most appropriately correlates to the type and scale of the business which it conducts.
- (2) The type of *authorised professional firm* to which (1) applies is one:
- ...
- (f) whose main business, having regard to (3), is not the practice of its profession or professions; ~~or~~
- (g) whose *permission* includes a requirement that it acts in conformity with the financial resources *rules* applicable to another type of firm; ~~or;~~
- (h) whose *permission* includes *establishing, operating or winding up a personal pension scheme.*

...

- 2.1.4 R This table belongs to IPRU (INV) 2.1.1R
- | TYPE OF BUSINESS ACTIVITY | CHAPTER OF SOURCEBOOK |
|--|---|
| ... | <i>Investment management firm – IPRU(INV) 5</i> |
| ... | |
| (v) <i>establishing, operating or winding-up other collective investment schemes; or</i> | |
| <u>(va) <i>establishing, operating or winding up a personal pension scheme; or</i></u> | |

...

3-60(6) R

Firms that establish, operate or wind-up personal pension schemes

3-60(7) R Rules 3-61 to 3-182 apply to a firm whose permission includes establishing, operating or winding-up a personal pension scheme.

...

...

...

3-73(1) R A firm's expenditure requirement is:

- (a) for an *investment manager*; ~~or an introducing broker~~ who is not responsible for its *counterparties'* performance; ~~or a venture capital firm~~ which is an *arranger*; ~~or a model A clearing firm~~; ~~or a dematerialised instruction transmitter~~; or a firm that does not hold client money or assets but whose permission includes establishing, operating or winding-up a personal pension scheme; 6/52nds of relevant annual expenditure; or

...

...

APPENDIX 1- GLOSSARY OF TERMS FOR IPRU(INV) 3

....

packaged product means ~~a life policy or a unit in a regulated collective investment scheme~~;

...

....

5.2.3(2) R The *financial resources requirement* for a firm which is not an *ISD firm* is an own funds requirement determined in accordance with paragraph (a) of rule 5.2.3(3) if its permitted business does not include establishing, operating or winding up a personal pension scheme and:

...

...

Table 5.2.3(5)(a) EXPENDITURE BASED REQUIREMENT

PART 1

CALCULATION OF REQUIREMENT

A firm's expenditure based requirement is a fraction of its annual audited expenditure determined in accordance with Part II of this Table.

PART II

FRACTIONS

1 The fraction is 6/52 where:

...

(c) the firm is:

(i) an investment manager (including the operator of an unregulated collective investment scheme in relation to which the firm carries on the activity of an investment manager); or

(ii) one whose permitted business includes establishing, operating or winding up a personal pension scheme,

unless paragraph 2 applies.

2 The fraction is 13/52 where the firm is:

(a) an investment manager as in paragraph 1(c)(i) above;

(b) one whose permitted business includes establishing, operating or winding up a personal pension scheme; or is

(c) a custodian,

and the firm either:

(d) itself holds customers' monies or assets; or

~~(a)~~

(e) procures the appointment as custodian of its customers' monies or assets of

~~(b)~~ an associate of the firm which is not an approved bank.

...

10-60(2)

10-60(3) R A category D firm whose permission includes establishing, operating or winding-up a personal pension scheme must comply with the higher of the financial resources requirements applied by rules 10-60 to 10-176 and the requirements applied by rules 5.2.1(1) to 5.2.7(5) of IPRU(INV).

....

13.9.1A G Table 13B is a summary of the financial resources test for a category B firm.

Table 13B This table forms part of *rule* 13.9.1

SUMMARY OF FINANCIAL RESOURCES FOR *CATEGORY B FIRMS*

...				
<i>Network in ...</i>				
<i>Category B2 or</i>				
<i>B3</i>				
<u>All Category B firms that do not hold client money or assets, but are permitted to establish, operate or wind up a personal pension scheme.</u>	<u>£10,000</u>	<u>Adjusted net current assets of £1</u>	<u>Adjusted capital equal to the highest of 6/52 of relevant annual expenditure, £400 per adviser, and £10,000</u>	<u>13.10</u> <u>13.11</u> <u>13.12.1G</u> <u>13.12.2 to</u> <u>13.12.5A.</u>
<u>All Category B firms that hold client money or assets and are permitted to establish, operate or wind up a personal pension scheme.</u>	<u>£10,000</u>	<u>Adjusted net current assets of £1</u>	<u>Adjusted capital equal to the highest of 13/52 of relevant annual expenditure, £400 per adviser and £10,000</u>	<u>13.10</u> <u>13.11</u> <u>13.12.1G</u> <u>13.12.2 to</u> <u>13.12.5A.</u>

...

13.12.1F R ...

13.12.1G R A Category B firm whose permission includes establishing, operating or winding up a personal pension scheme must have financial resources calculated in accordance with (1) or (2):

- (1) For a firm which holds client money or assets, the highest of:
 - (a) 13/52 of its relevant annual expenditure, calculated in accordance with 13.12.2 to 13.12.2D;
 - (b) an amount equal to £400 multiplied by the number of its advisers; and

- (c) £10,000.
- (2) For a firm which does not hold client money or assets, the highest of:
 - (a) 6/52 of its relevant annual expenditure, calculated in accordance with 13.12.2 to 13.12.2D;
 - (b) an amount equal to £400 multiplied by the number of its advisers; and
 - (c) £10,000.

IPRU(INV) Appendix 13(1)

investment management ...
firm

- E. *establishing, operating or winding up a collective investment scheme (other than an AUT or ICVC); and*
- Ea. *establishing, operating or winding up a personal pension scheme; and*

...

...

low resource firm

a *Category B3 firm* which is not a *network*, has fewer than 26 *financial advisers or representatives* and is not *permitted to:*

- (a) carry on discretionary portfolio management;
- (b) *establish, operate or wind up a personal pension scheme;* or ~~to~~
- (c) ~~such~~ delegate the activities in (a) or (b) to an investment firm;

...

Annex E

Transitional to the Conduct of Business sourcebook

In this Annex underlining indicates new text.

COB TP 6 Transitional rules for Depolarisation (applicable to all firms)

COB TP 6.1

Transitional rules for Depolarisation (applicable to all firms)

(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
7	...				
8	<u>COB 4.3.11R(1)</u>	R	<u>Notwithstanding COB 4.3.11R (1), a firm may use the fees and commission statement that will appear in COB 4 Annex 6R when Annex F of the Personal Pension Schemes Instrument 2006/28 comes into force on 6 April 2007.</u>	<u>From 1 November 2006 to 5 April 2007.</u>	<u>1 December 2004.</u>

Annex F

Amendments to the Conduct of Business sourcebook

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

...

1.10.2 G This sourcebook adopts the concepts of “initial service agreement” and “successive operations” from the *DMD*.

- (1) A *firm’s* contract with a *customer* may take the form of an initial service agreement under which successive operations or a series of operations of the same nature are performed over time. Where this is the case, the *DMD* disclosure and cancellation requirements apply in relation to the initial service agreement only and not to the successive or separate operations. However, if new elements are added to the initial service agreement, the addition of those new elements is treated as a new contract to which the *DMD* disclosure and cancellation requirements apply. In accordance with recital 17 of the *Distance Marketing Directive*, examples are:

...

Other examples are, in the *FSA’s* view:

...

- (f) concluding a *life policy*, *personal pension scheme* ~~*contract*~~ or *stakeholder pension scheme* that includes a pre-selected option providing for future increases or decreases in regular *premiums* or payments, and subsequent index-linked changes to those premiums or increases or decreases to pension contributions following fluctuations in salary.

...

1.11.1G Table: Application of rules in COB in relation to deposits

...

Notes:

...

(3) This table does not deal with the application of COB in relation to *personal pension deposits*.

...

3.7.1 R (1) A *firm* must make an adequate record of each *non-real time financial promotion* which it has confirmed as complying with the *rules* in this chapter:

- (2) A record in (1) must be retained for the following periods:

...

- (b) six years in the case of a *financial promotion* relating to a *life policy*, *personal pension scheme* ~~*contract*~~ or *stakeholder pension scheme*;

...

...

4.1.12 R A *firm* may classify a *client* (other than another *firm*, *regulated collective investment scheme*, or an *overseas financial services institution*) who would otherwise be an *intermediate customer* as a *market counterparty* if:

(1) the *client* at the time he is classified is one of the following:

(a) ...

...

(e) a trustee of a trust (other than an *occupational pension scheme*, *SSAS*, *personal pension scheme* or *stakeholder pension scheme*) with assets of at least 10 million (or its equivalent in any other currency), calculated by aggregating the value of the cash and *designated investments* forming part of the trust's assets, but before deducting its liabilities;

(f) a trustee of an *occupational pension scheme*, ~~or SSAS~~, or a trustee or operator of a *personal pension scheme* or *stakeholder pension scheme* where the ~~trust~~ scheme has (or has had at any time during the previous two years):

(i) at least 50 members; and

(ii) assets under management of not less than £10 million (or its equivalent in any other currency at the relevant time); and

...

4.2.14 R (1) A *firm* must make a record of each *terms of business* it provides to a *customer*, and any amendment to them, as soon as the *terms of business* come into force.

(2) A *firm* must retain each record referred to in (1):

...

(b) for six years, where the *terms of business* relate to a *life policy*, *personal pension scheme* ~~*contract*~~ or *stakeholder pension scheme*; and

4.3.3 R ...

- (8) A firm must take reasonable steps to ensure that its representatives on first making contact with a private customer with a view to advising on investments in SIPPs, personal pension deposits, or personal pension products, inform the customer of the amount and nature (i.e. fees and/or commission (or equivalent) and/or a combination of fees and commission (or equivalent)) of any payments that the customer will have to pay, directly or indirectly, for the advice on investments.

4.3.7 R (1) A firm which has started to provide a private customer with services in relation to packaged products following the provision of a fees and commission statement or the original payment information must not (at least until the completion of those services):

- (b) subject to (4), arrange to retain any commission which exceeds the maximum amount or rate disclosed ~~in the statement~~;

without first providing a further appropriate ~~statement~~ statement or further payment information and obtaining the customer's prior consent to the proposed alteration in a durable medium.

- (3) If a firm decides to provide a private customer with advice on investments on a type of packaged product (which falls within a product group specified in Notes 14 or 18A to COB 4 Annex 6R) in relation to which the fees and commission statement previously given to the customer does not contain the information required in those Notes 14 to COB 4 Annex 6R, it must issue a new and appropriate ~~statement~~ statement or payment information to that customer.

- (4) (a) Notwithstanding (1)(b) a firm is not required to provide a further fees and commission statement or further payment information for the purposes of (1) if:
- (i) the maximum amounts or rates already disclosed in the statement ~~already provided~~ to the customer only apply to products policies of the example term or age of customer policyholder given ~~in the fees and commission statement~~, or to products policies with shorter terms; and

(ii) the *firm* arranges a product policy for a term longer than the example term ~~in the *statement*~~ (or longer than the term deemed for the example age given) and the increase in the *commission* which the *firm* arranges to retain over the maximum already disclosed in the *statement* is not more than an amount that is directly proportional to the increase in the duration of the term of the product policy (or to the term deemed from the age of customer policyholder).

(b) If requested by a *customer*, a *firm* must explain the basis of the higher maximum *commission* or *fees* charged in accordance with (4)(a)(ii).

...

...

4.3.13 G (1) *COB* 4.3.11 R requires a *firm* to maintain statements showing the amount it may charge its *customers* by way of *fees*, or which it may receive from others by way of *commission*, in either case in respect of the services it provides in relation to the sale of certain packaged products. Consistent with *COB* 5.1 and *COB* 5.5 the basis on which a *firm* may provide such services may differ from *customer to customer* (for example as to whether the *firm* will select from the whole market, or a limited number of *product providers*).

...

4.3.27 R A *firm* must take reasonable steps to ensure that its *representatives* on first making contact with an employee with a view to advising on his employer's *group personal pension scheme* or *stakeholder pension scheme*, inform the employee:

...

(3) the amount and nature (i.e. *fees* and/or *commission* (or *equivalent*) and/or a combination of *fees* and *commission* (or *equivalent*)) of any payments that the employee will have to pay, directly or indirectly, for the *advice on investments*.

COB 4 Annex 1 Exemptions from terms of business requirement

COB 4 Annex 1.1R Circumstances in which the terms of business requirement in *COB* 4.2.5 R does not apply and conditions for using the exemption (R)

This table belongs to *COB* 4.2.5R

Exempted type of firm or transaction or event:

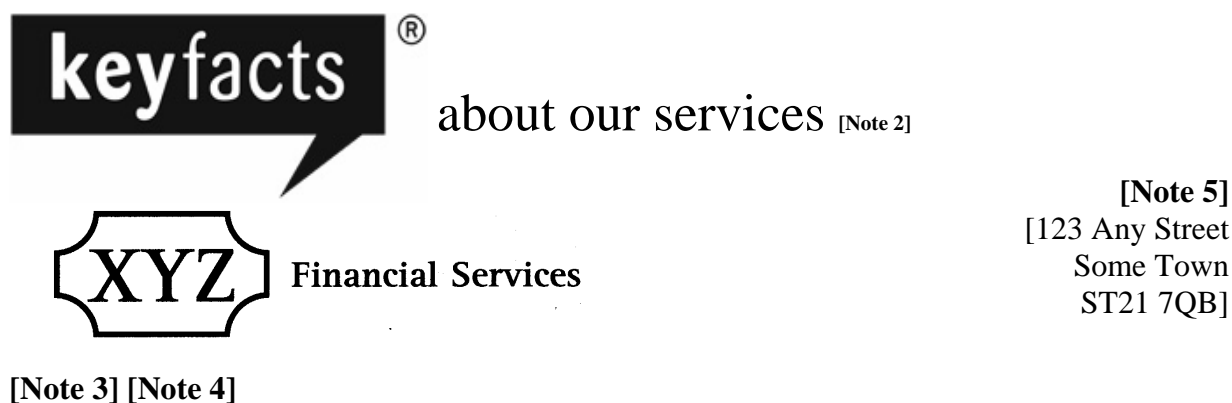
Conditions for using the exemption

8
8A	<u>Operating a personal pension scheme or stakeholder pension scheme.</u>	<u>The customer is a scheme member.</u>
9

COB 4 Annex 4 R: Initial disclosure document required by COB 4.3.9 R
(1) ("IDD")

1. Firms should omit the notes and square brackets which appear in the following specimen.

...



The specimen shows a logo for 'keyfacts' in a black speech bubble with a registered trademark symbol. To its right is the text 'about our services' with a note reference '[Note 2]'. Below the logo is a stylized 'XYZ' in a decorative frame, followed by 'Financial Services'. To the right of this is another note reference '[Note 5]' and an address: '[123 Any Street, Some Town, ST21 7QB]'. At the bottom left of the specimen are two more note references: '[Note 3] [Note 4]'. A thick horizontal line is drawn below the specimen.

...

2. Whose products do we offer? [Note 6] [Note 7]

- [We offer products from the whole market.] [Note 6A] [We offer our own product(s); you can ask us for a list but our recommendation will be made following an analysis of the whole market.] [Note 6B]

- We [can] [Note 8] only offer products from a limited number of companies. [These include our own product(s) but our recommendation will be made following an analysis of our entire range of products.] [Note 8A]
Ask us for a list of the companies and products we offer. [Note 11]

...

The following notes do not form part of the IDD.

...

Note 6A ...

Note 6B – a firm should only include these words if it offers whole of market advice and it owns or operates products that fall within the relevant market (e.g. a SIPP).

Note 8A – a firm should only include these words if it offers limited range advice and it owns or operates products that fall within the relevant range (e.g. a SIPP).

...

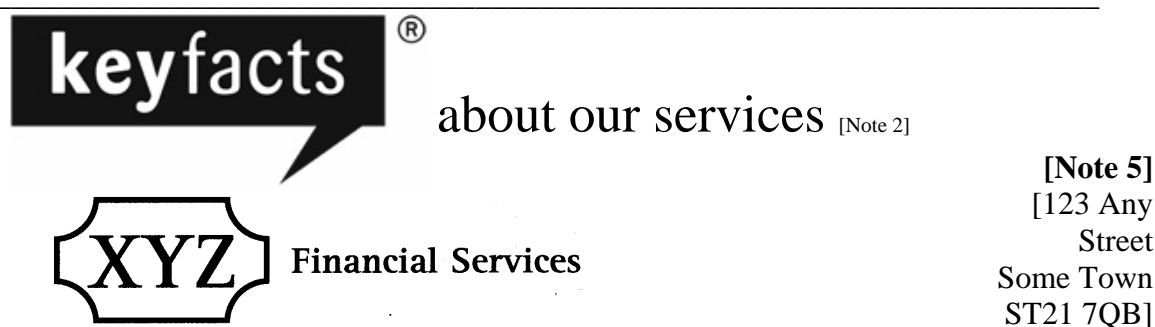
Note 21 – insert, in the *firm's* own words, a short description of any direct or indirect holding of more than 10 per cent in the capital or voting power of the *firm* which is held by a provider or operator of a packaged products or by the parent of the provider or operator.

Note 22 – insert, in the *firm's* own words, a short description of any direct or indirect holding of more than 10 per cent in the capital or voting power of a provider or operator of a packaged products which is held by the *firm*.

COB 4 Annex 5 R: Combined initial disclosure document required by COB 4.3.9 R (2) (“CIDD”)

1. Firms should omit the notes, asterisks and square brackets which appear in the following specimen.

...



keyfacts® about our services [Note 2]

XYZ Financial Services

[Note 5]
[123 Any
Street
Some Town
ST21 7QB]

[Note 3] [Note 4]

...

2 Whose products do we offer? [Note 6] [Note 7]

Investment

- [We offer products from the whole market.] [Note 6A] [We offer our own product(s); you can ask us for a list, but our recommendation will be made following an analysis of the whole market.] [Note 6B]
- We [can] [Note 8] only offer products from a limited number of companies. [These include our own product(s) but our recommendation will be made following an analysis of our entire range of products.] [Note 8A]

Ask us for a list of the companies and products we offer. [Note 12]

...

The following notes do not form part of the CIDD.

...

Note 6A ...

Note 6B – a firm should only include these words if it offers whole of market advice and it owns or operates products that fall within the relevant market (e.g. a SIPP).

...

Note 8A – a firm should only include these words if it offers limited range advice and it owns or operates products that fall within the relevant range (e.g. a SIPP).

...
...

Note 30 – insert, in the *firm's* own words, a short description of any direct or indirect holding of more than 10 per cent in the capital or voting power of the *firm* which is held by a provider or operator of a packaged products or by the parent of the provider or operator.

Note 31 – insert, in the *firm's* own words, a short description of any direct or indirect holding of more than 10 per cent in the capital or voting power of a provider or operator of a packaged products which is held by the *firm*.

...

COB 4 Annex 6R: (Fees and Commission Statement required by COB 4.3.11R (1) and (2)

...

Table 1 - Commission if you invest monthly [Notes 12- 17]

Products	Example term or age	Comparison of costs		Example based on £100 per month
		Our maximum	Market average	<i>This shows the maximum costs of our sales and advice for a monthly investment or premium of £100, ignoring any changes in fund value</i>
...				
Saving for retirement				
Personal and Stakeholder pensions	25 year term	[Note 18]	[Note 19]	[Note 20]
	10 year term	[Note 18]	[Note 19]	[Note 20]
<u>Personal Pension Schemes</u>				
<p><u>Not all types of personal pension scheme are included in the information above about commissions. Instead only the more common types are included, and schemes such as SIPPs are not. Before we start advising you, we will inform you of how much we could be paid if we do recommend one of these products to you.</u></p> <p><u>You can also ask us about commission we might receive on underlying investments we recommend you hold within a SIPP if not contained in the information above.</u></p>				
[Note 18A]				

Table 2 - Commission if you invest a lump sum [Notes 12-17]

Products	Example term or age	Comparison of costs		Example based on £10 000 lump sum
		Our maximum	Market average	<i>This shows the maximum costs of our sales and advice for a lump sum investment of £10 000, ignoring any changes in fund value</i>
...				
Saving for retirement				
Personal and Stakeholder pensions	Any	[Note 18]	[Note 19]	[Note 20]
<u>Personal Pension Schemes</u>				
<p><u>Not all types of personal pension scheme are included in the information above about commissions. Instead only the more common types are included, and schemes such as SIPPs are not. Before we start advising you, we will inform you of how much we could be paid if we do recommend one of these products to you.</u></p> <p><u>You can also ask us about commission we might receive on underlying investments we recommend you hold within a SIPP if not contained in the information above.</u></p>				
[Note 18A]				
At retirement				
Annuities	Any	[Note 18]	[Note 19]	[Note 20]

Income drawdown	Any	[Note 18]	[Note 19]	[Note 20]
-----------------	-----	-----------	-----------	-----------

...

The following notes do not form part of the template.

...

Note 12 If a *fees and commission statement* contains information relating to *commission*, then a *firm* must set out information concerning *commission (or equivalent)* in the tabular format prescribed. The headings for Tables 1 and Table 2; the headings and sub-headings for each column; the product headings in each row of the first column; and the example term and age set out in the second column of each table are all prescribed and must not be amended. If the boxes entitled 'Personal and Stakeholder pensions' are to be included, the positioning and wording of those boxes is prescribed and must not be amended.

...

Note 14 The text and information contained in the commission section of Section 4 must be included if a *firm* reasonably expects to provide those services to a *private customer* receiving the *fees and commission statement* in respect of any of the following product groups.

Regular contribution business

The following product groups relate to regular contribution investments (including annual and quarterly premium contracts) and includes any non-contractual top-ups or increments (to existing regular contribution investments) which generate *commission (or equivalent)*.

(a) Collective investments (See note 18)

Any regulated collective investment scheme or investment trust savings scheme.

...

(d) Personal and stakeholder pensions

Any personal pension scheme, FSAVC scheme or stakeholder pension scheme (other than a SIPP, personal pension product, personal pension deposit, group personal pension scheme or stakeholder pension scheme arranged on a group basis for the employees of a particular employer). (See note 18)

...

Lump sum business

The following product groups relate to single contribution business, including commission (or equivalent) generating, non-contractual, top-ups or increments to existing lump sum investments.

...

(c) Personal and stakeholder pensions

Any personal pension scheme, FSAVC scheme or stakeholder pension scheme (other than a SIPP, personal pension product, personal pension deposit, group personal pension scheme or stakeholder pension scheme arranged on a group basis for the employees of a particular employer). (See note 18)

...

Note 15 *A firm which conducts business with private customers in relation to any packaged products not falling within any of the product groups for which maximum commission is disclosed on the fees and commission statement, may provide a customer with information about commission (or equivalent) relating to that business by way of a separate annex. For the purpose of the rules, any such information does not form part of a firm's fees and commission statement.*

...

Note 18 ...

Note 18A Where a firm expects to advise on SIPPs, personal pension products or personal pension deposits, in addition to a product listed in Note 14, this box and prescribed wording must be included.

...

COB 4 Annex 7 R Identifying and describing the maximum rate of commission (or equivalent), the market average and the Example

1. A *firm* must state in each *fees and commission statement* it issues:
 - (a) its maximum rate of *commission* (or *equivalent*) for each product group in the statement in accordance with Note 18 of COB 4 Annex 6R;
 - (b) the market average rate for each product group in accordance with Note 19 of COB 4 Annex 6R;
 - (c) an illustration in the example column of an amount of *commission* (or *equivalent*) calculated by reference to its maximum rate for each product group in the statement and the example contribution levels stated in the tables (ie eg £100 per month or £10,000 lump sum) in accordance with Note 20 of COB 4 Annex 6R.

...

- 5.1.6B G (10) ...
- (11) Advice on pensions as a sector or category of the market includes advice on all *personal pension schemes* including *SIPPs*.
-
- ...
- 5.2.9 R (1) Unless (2) applies, a *firm* must make and retain a record of a *private customer's* personal and financial circumstances that it has obtained in satisfying *COB 5.2.5R*. The *firm* must retain the record for a minimum period after the information is obtained, as follows:
- ...
- (b) six years for a record relating to a *life policy*, *personal pension scheme* ~~*contract*~~ or *stakeholder pension scheme*; or
- ...
- ...
- 5.3.1 R This section applies to a *firm* when it:
- ...
- (3) manages the assets of an *occupational pension scheme (OPS)*, *personal pension scheme* or ~~a *stakeholder pension scheme*~~; or
- ...
- ...
- Requirement for suitability: manager of OPS, *personal pension scheme* and stakeholder pension scheme
- 5.3.12 R A *firm* that manages the assets of an *occupational pension scheme*, *personal pension scheme* or *stakeholder pension scheme* must take reasonable steps to ensure the suitability of specific transactions and of the investment portfolio under management with regard to the *investment* objectives specified in the portfolio mandate.
- ...
- 5.3.14 R (1) ...
- (2) If, following a *personal recommendation* by a *firm* that does not fall within (1), a *private customer*:
- (a) buys, sells, surrenders, converts, cancels, or suspends *premiums* for or contributions to, ~~a *pension contract*~~ *personal pension scheme* or a *stakeholder pension scheme*; or

...

the *firm* must provide the *customer* with a *suitability letter*, within the time period stipulated by *COB 5.3.18 R*, unless one of the exceptions in *COB 5.3.19 R* applies.

...

5.3.19A R A *firm* must make and retain a record of a *private customer's* suitability letter that it has provided in satisfying *COB 5.3.14 R*. The record must be retained for a minimum period after the letter is provided, as follows:

...

(2) for a record relating to a *life policy*, ~~*pension contract*~~ *personal pension scheme* or *stakeholder pension scheme*, six years;

...

...

6.1.5 R A *firm* must ensure that any *key features* or information document it produces in relation to a *packaged product*, *cash deposit ISA* or *cash deposit CTF* is in writing, whether in printed hard copy or in electronic format, and:

...

(2) is separate from any other material given to the *customer*, unless it is produced for a *key features scheme*, ~~*or stakeholder pension scheme*~~, *or personal pension scheme other than a personal pension policy*; in that case it may be included as part of another item of sales or marketing material, but only if the *key features* or information document appears with due prominence.

...

6.4.1 R *COB 6.4* applies to a *firm* in accordance with *COB 6.1.1R*, in respect of *occupational pension schemes*, ~~*self-invested personal pension schemes*~~, *income withdrawals* and *short-term annuities*, *cash deposit ISAs*, *cash deposit CTFs*, *Revenue allocated CTFs*, *traded life policies*, ~~*stakeholder pension schemes*~~, *packaged products*, other *deposits* and *long-term care insurance contracts*.

...

6.4.5 G ...

SIPPs, *personal pension deposits* and *personal pension products*

6.4.5A R When a *firm* sells, manages, *personally recommends* or arranges the sale of a *SIPP*, *personal pension deposit* or *personal pension product* (not the assets within them) to or for a *private customer*, the *firm* must, unless *COB*

6.4.27R to COB 6.4.31AR apply, provide the *private customer* with:

- (1) sufficient information about the relevant scheme for the *private customer* to be able to make an informed decision before that customer completes an application for that scheme; and
- (2) (in respect of a *distance contract* with a *retail customer*) the relevant contractual terms and conditions and the information set out in COB App 1,

in a *durable medium* in good time before the customer is bound by the transaction.

6.4.5B G The sufficient information provided should include the range and depth of information normally found in *key features*.

6.4.5C R COB 6.4.5AR does not apply to a scheme *operator* when its scheme is sold on the *personal recommendation* of, or arranged to be sold by, another *person*, provided that other *person*:

- (1) is a *firm* (or an *appointed representative*) operating from an establishment maintained by the *firm* (or *appointed representative*) in the *United Kingdom*; or
- (2) is operating from an establishment in an *EEA State* whose law imposes an obligation on the *person* to provide information about the scheme in accordance with articles 3 and 5(1) and (2) of the *Distance Marketing Directive*.

Assets to be held within a SIPP

6.4.5D R Where a *firm* makes a *personal recommendation* to a *private customer* about the purchase of an asset to be held within a *SIPP*, the *firm* must, unless COB 6.4.27R to COB 6.4.31AR applies, provide the *private customer* with:

- (1) sufficient information about that asset, and the risks and advantages of the proposed asset purchase, for the customer to be able to make an informed decision about the asset purchase before it takes place; and
- (2) (in respect of a *distance contract* with a *retail customer*) the relevant contractual terms and conditions and the information set out in COB App 1;

in a *durable medium* in good time before the customer is bound by the transaction.

6.4.5E G If this chapter requires a particular type of product disclosure for a particular type of asset, the product disclosure provided in accordance with those *rules* is sufficient information for this purpose.

~~Self-invested personal pension schemes~~ Sales of life policies (etc.) to operators of personal pension schemes

6.4.6 R (1) A *firm* which sells, *personally recommends* or arranges the sale of a new group or master *life policy*, the first in a series of individual *life*

policies or the first units in a particular key features scheme packaged product (other than a or simplified prospectus scheme to the operator of a personal pension scheme, must provide the operator of that scheme with key features) to or for a member, prospective member or trustees of a self-invested personal pension scheme, must provide key features to that member or trustees, (in accordance with COB 6.2.7R to COB 6.2.25R) or for the sale of a simplified prospectus scheme, provide a simplified prospectus to that member or trustees, (in accordance with COB 6.2.26R to COB 6.2.45R), as the case may be.

(2) ...

6.4.6A G The illustrative figures included in the key features or simplified prospectus can be on an example basis, using a range of representative actual or hypothetical scheme members (covering, for example, different ages, sexes and salaries), provided the illustrative figures and the range of representative scheme members are sufficient for the operator to be able to assess the effectiveness of the relevant investment for scheme members.

....

6.4.7 G [deleted] Investments within a self-invested personal pension scheme (a "SIPP") are effected by the trustees on behalf of scheme members. Key features or a simplified prospectus should be given to the trustees and to members of SIPPs when packaged products (whether life policies or schemes) are recommended by a firm to scheme members or effected by SIPP trustees. Notice of the right to cancel should also be copied to SIPP members in these circumstances, in accordance with COB 6.7.31 R.

6.4.8 R Except in relation to a SIPP, personal pension deposit or personal pension product, When a firm personally recommends, arranges or effects income withdrawals or the purchase of a short-term annuity annuities to or for a private customer, the customer must be provided with key features or with a simplified prospectus in good time before he signs any form of application or authority electing to make those withdrawals or purchases, whether that election or purchase is made with advice on investments or on an execution-only basis, unless COB 6.4.10R to COB 6.4.12R or COB 6.4.27R to COB 6.4.31R (telephone sales and other exemptions) applies.

6.4.8A R When a firm personally recommends, arranges or effects an income withdrawal from a SIPP, personal pension deposit or personal pension product to or for a private customer, it must provide that customer with:

- (1) sufficient information about the income withdrawal for the customer to be able to make an informed decision; and
- (2) (in respect of a distance contract with a retail customer), the relevant contractual terms and conditions and the information set out in COB App 1,

in a durable medium in good time before the customer is bound by the transaction.

6.4.8B G The sufficient information provided should include the range and depth of information normally found in key features.

...

- 6.4.11 R When a *private customer* makes a series of elections within a period of 12 months to make *income withdrawals*, or purchase *short-term annuities*, the *firm* that is *personally recommending*, arranging or effecting the elections may provide ~~one~~ a combined set, or separate sets, of key features, or simplified prospectuses or equivalent information for those elections (as appropriate), ~~or may provide separate sets of key features, for elections which relate to life policies and key features schemes or separate simplified prospectuses for simplified prospectus schemes.~~

...

Entering into a distance contract for accepting deposits (other than a cash deposit ISA or a personal pension deposit)

- 6.4.25 R A *retail customer* must be provided with all the contractual terms and conditions and the information in COB App 1 in a *durable medium* in good time before he is bound by a *distance contract* or offer under which the *firm* will *accept deposits* (other than a *cash deposit ISA*; (for which see COB 6.5.42R) or a personal pension deposit (for which see COB 6.4.5AR)), unless an exemption in COB 6.4.27R to COB 6.4.31R (telephone sales and other exemptions) applies.

- 6.4.31A R This exemption applies where a *private customer* is automatically enrolled by his employer in a *stakeholder pension scheme*; ~~or a personal pension scheme policy or a pension contract~~ provided through the workplace. In that case, in good time before the *private customer* is bound by the contract or offer, he must be provided with the appropriate *key features* or other information.

...

...

- 6.5.16A G

...

- 6.5.16B G Although there is no requirement to provide a projection for a SIPP, personal pension deposit or personal pension product, a firm may still produce one if it wishes. A firm that chooses to produce such a projection should do so in a way which is consistent with COB 6.6 (Projections).

...

...

- 6.5.22 G

....

- 6.5.22.A G There is no requirement for a tabular illustration of charges under a SIPP, personal pension deposit or personal pension product. Instead, a firm should ensure that the information provided contains a full and fair description of all of the charges that apply or may apply to the private customer in respect of the scheme, including asset transactions under a

SIPP.

...

...

6.6.1 R COB 6.6 applies to a *firm* in respect of *projections* for *life policies, key features schemes, simplified prospectus schemes, personal pension schemes* and *stakeholder pension schemes*.

...

6.6.4 R ...

6.6.4A G If a *firm* produces a *projection* for a *SIPP*, it should do so in a way which is consistent with the principles in COB 6.6 (Projections).

...

6.7.1 R COB 6.7 applies to:

...

(5) the operator of a *personal pension scheme* or a *stakeholder pension scheme*;

...

6.7.5 G Cancellable investment agreements.

This table belongs to COB 6.7.4. G

...

Post- sale right to cancel?	Pre-sale right to withdraw?	Maximum period of reflection (but see COB 6.7.11R)
-----------------------------	-----------------------------	--

A. Contracts where the right arises regardless of means of sale.

...

<i>Life policy</i> (including <i>pension policy</i> , <i>pension annuity</i> or within <i>ISA</i> or <i>CTF</i>) <u>or a <i>personal pension scheme</i></u>	Yes ^{1,5,6,12}	No ¹	30 days
---	-------------------------	-----------------	---------

<i>Personal pension contract</i>	Yes ^{1,5,6}	No ¹	30 days
----------------------------------	----------------------	-----------------	---------

....

Certain variations of existing <i>life policies, pension contracts personal pension schemes</i> and <i>SHP's</i>	Yes ^{1,5,6,8}	No ¹	30 days
--	------------------------	-----------------	---------

....

Notes:

...

12. ...

13. A private customer's right to cancel a contract for a SIPP may lapse in certain circumstances (see COB 6.7.13AR (Right to cancel a personal pension deposit, a personal pension product or a SIPP)).

- 6.7.7 R A retail customer has a right to cancel:
- (1) ...
 - (2) a contract to join for a stakeholder pension scheme, a personal pension deposit, a personal pension product or a SIPP for which a right to cancel applies under COB 6.7.12R or COB 6.7.13AR;
 - (3) ...
 - (4) a variation of a *life policy, personal pension scheme contract* or *stakeholder pension scheme* for which a right to cancel applies under COB 6.7.23R, COB 6.7.23AR and COB 6.7.26AR.
- 6.7.8 R The trustees of an *occupational pension scheme*, the operator of a personal pension scheme or the trustees and managers of a *stakeholder pension scheme* must be treated so far as necessary as a *retail customer* for the purposes of the *cancellation rules*, and acquire the same right to cancel as a *retail customer*.
- 6.7.9 G (1) COB 6.7.8R applies, for example, when the trustees or operators of a personal pension scheme purchase life policies or schemes as investments of their pension schemes. Individual members of a personal pension scheme or a stakeholder pension schemes have a

right to cancel initial membership of the scheme and, in some circumstances, a subsequent variation of their contributions.

....

...

- 6.7.10 G When a *retail customer* has a right to cancel under *COB 6.7.7R*, that right must (unless *COB 6.7.11R* applies) be exercised:
- (1) (in the case of a *life policy*, *personal pension ~~scheme policy~~*, *personal pension ~~contract~~* or *stakeholder pension scheme*) within 30 days; or

...

...

- 6.7.12 R (1) A *retail customer* who has entered into a contract for a *stakeholder pension scheme* has a right to cancel, unless:
- (a) the right to cancel is disappplied for a *distance contract* by case 15 of row 2 to *COB 6.7.17R*; or
- (b) the relevant transaction is funded (wholly or partly) by a *pension transfer*, but only if and to the extent that the right to cancel has been replaced by a right to withdraw (see *COB 6.7.17R* (Cancellable contracts and exceptions – non-life).
- (2) ...

...

Right to cancel a personal pension deposit, a personal pension product or a SIPP

- 6.7.13A R A *retail customer* who has entered into a contract to join a *personal pension deposit*, *personal pension product* or a *SIPP* has a right to cancel, unless:
- (1) the right to cancel is disappplied for a *distance contract* by case 15 of row 2 to *COB 6.7.17R* (Cancellable contracts and exceptions – non-life);
- (2) the relevant transaction is funded (wholly or partly) by a *pension transfer*, but only if and to the extent that the right to cancel has been replaced by a right to withdraw (see *COB 6.7.19R* (Cancellation substitute)); or
- (3) (in the case of a *SIPP*) the performance of the contract (to join the *SIPP*) has been fully completed by both parties at the *customer's* express request before the *customer* exercises his right to cancel.

- 6.7.13B G If a *customer* requests that a *firm* complete a transaction to join a *SIPP* before the expiry of the cancellation period, the *firm* should, in having regard

to the information needs of the *customer*, make the *customer* aware that he will lose his right to cancel and satisfy itself on reasonable grounds that the *customer* understands the cost and other implications.

...

6.7.15 R Cancellable contracts and exceptions-life

This table belongs to *COB* 6.7.7R(1)

Cancellable contracts and exceptions- life

Long-term insurance contracts which a *retail customer* has a right to cancel under *COB* 6.7.7 R(1)(subject to Row 2)

...

Row 2 There is no right to cancel where any one or more of the following cases applies:

3. ...

3A. A *pension policy* that is itself a *SIPP*;

4. ~~*pension policy*~~ ~~or *stakeholder pension scheme*~~ funded (wholly or in part) from payment derived from:

(a) a *pension transfer*, to the extent that the right to cancel is provided through the right to withdraw (see *COB* 6.7.14R(2)), using the cancellation substitute in *COB* 6.7.19R; or

(b) ...

...

6.7.17 R Cancellable contracts and exceptions – non-life

Contracts which a *retail customer* has a right to cancel under *COB* 6.7.7R (1) (subject to row 2):

Row 1 A. ...

B. ...

C. subscriptions (but see notes 1, 2 and 5 in *COB* 6.7.18R) which can be invested only in *units* (whether or not held within an *ISA*, *PEP*, ~~or *pension contract*, *personal pension product* or *SIPP*~~) in an *AUT*, *recognised scheme* or *ICVC* purchased from:

(a) ...

D. *distance contracts* (but see notes 6 and 8 in *COB* 6.7.18R) (whether or not held within a *CTF*) (other than for a *life policy*, *stakeholder pension scheme*, *personal pension deposit*, *personal pension product*, *SIPP*, *cash deposit ISA*, *cash deposit CTF* or a contract in A, B or C) the making or performance of which by the

firm constitutes or is part of:

...

Row 2 There is no right to cancel where any one or more of the following cases applies:

...

12. ~~*pension contract or stakeholder pension scheme*~~ funded (wholly or in part) from payments derived from a *pension transfer* to the extent that the right to cancel is provided through a right to withdraw (see *COB 6.7.14R (2)*) using the cancellation substitute in *COB 6.7.19R*;

6.7.19 R This table belongs to *COB 6.7.12R, COB 6.7.13AR(2), COB 6.7.14R(2)*, cases 4(a) and 7(a) of row 2 to *COB 6.7.15R*, case 12 of row 2 to *COB 6.7.17R, COB 6.7.23R(3)* and *COB 6.7.26AR(2)*.

Cancellation substitute

The *retail customer's* right to cancel under *COB 6.7.7R (1)*; ~~or *COB 6.7.7R (4)*~~ or *COB 6.7.13AR(2)* is provided through (see note 2) a right to withdraw only if:

....

.....

6.7.23 R (1) After an increase in regular or single *premiums* or payments (including a *pension transfer*) to a *life policy, personal pension scheme* ~~*contract*~~ or *stakeholder pension scheme*, a *retail customer* has a right to cancel (see *COB 6.7.7R (4)*) in the following circumstances unless (2) applies:

...

(2) Paragraph (1) does not apply if:

...

(c) the variation is in respect of a *life policy* held within a *CTF*; or

(d) the variation is in respect of a *SIPP* that is itself a *life policy*.

....

6.7.26A R (1) If a *customer* who is an individual varies an existing *personal pension scheme* ~~or *stakeholder pension scheme*~~ by exercising an option to make *income withdrawals*, he has a right to cancel that first variation.

....

....

6.7.31 R When the *customer* is a trustee or an operator of a personal pension scheme who is reasonably believed by the *firm* to be expected to act on the instructions of the individual beneficiary, scheme member or purchaser of the *policy* or contract, the *firm* must send the notice of the right to cancel in *COB 6.7.30R* to:

- (1) the trustee or operator, as appropriate; and
- (2) the beneficiary, scheme member or purchaser;

and must inform the beneficiary, scheme member or purchaser of the need to give instructions, within the specified cancellation period, to the trustee or operator where the right to cancel is to be exercised.

...

6.7.47 R Where notice of cancellation or withdrawal has been served on a *firm* (or its *appointed representative* or agent), the *firm* must make and retain records (which include a copy of any receipt of notice issued to the *customer* and the *customer's* original notice instructions):

- (1) ...
- (2) for a minimum period of:
 - (a) six years in the case of a record relevant to a *life policy*, ~~*pension contract*~~ *personal pension scheme* or *stakeholder pension scheme*; and

...

....

6.7.51 R By exercising a right to cancel under *COB 6.7.7R*(1), (2), ~~(4)~~, (5) or (6), the *customer* withdraws from the contract and:

...

.....

6.7.52 R Obligations on cancellation
Unless the agreement relates to a *CTF*, when a *retail customer* exercises a right to cancel under *COB 6.7.7R*(1), (2), ~~(3)~~ or (4):

...

....

6.7.57 R Table: Contracts which are subject to a shortfall

This table belongs to *COB 6.7.54R*

Investment agreements subject to shortfall

...

Part II: any contract specified in COB 6.7.13AR or row 1 of *COB 6.7.17R* (unless note 2 applies):

which is: where the *investment agreement* is effected as a:

...

(1) ...

(1A) a person

pension

product

...

...

(a) ...

...

7.5.4 R *COB 7.5.3R* does not apply in any of the following circumstances:

(1) the *customer order* is for:

(a) the purchase of a *life policy*; ~~or~~

(b) the purchase or sale of *units* in a *regulated collective investment scheme* from or to the *operator* of that *scheme*; or

(c) an asset to be held within a *personal pension scheme*, unless that asset is itself a *designated investment*;

...

7.15.4 R *COB 7.15.3R* does not apply to:

(1) a transaction in an asset in a *personal pension scheme*, unless that asset is itself a *designated investment*; or

(2) a *non-market-price transaction* if it is subject to the rules of a *recognised investment exchange*.

...

11.1.1 R This Chapter:

(1) applies to *depositories* and *trustee firms* when acting as such;

(2) does not apply to *trustee firms* when acting as the trustee of a *personal pension scheme* or *stakeholder pension scheme*.

...

COB TP 4 Miscellaneous transitional provisions applying to all firms

(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
17.	...				
18.	...				
19.	<u>Every amendment made to COB by the Personal Pensions Schemes Instrument 2006 (FSA 2006/28</u>	<u>R</u>	<u>If the application of a provision listed in (2) is dependent on the occurrence of a series of events, some of which occur before, and some of which occur on or after, 6 April 2007, the provision applies with respect to the events that occur on or after that date.</u>	<u>From 6 April 2007.</u>	<u>6 April 2007</u>

Annex G

Amendments to Insurance: Conduct of Business sourcebook (ICOB)

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

ICOB 4 Annex 2 R: Combined initial disclosure document (“CIDD”)

This Annex belongs to *ICOB 4.2.7R*.

...



about our services [Note 2]



Financial Services

[Note 5]

[123 Any Street

Some Town

ST21 7QB]

[Note 3] [Note 4]

...

2 Whose products do we offer? [Note 6] [Note 7]

Investment

- [We offer products from the whole market.] **[Note 6A]** [We offer our own product(s); you can ask us for a list, but our recommendation will be made following an analysis of the whole market.] [Note 6B]
- We [can] **[Note 8]** only offer products from a limited number of companies. [These include our own product(s) but our recommendation will be made following an analysis of our entire range of products. [Note 8A]

...

...

The following notes do not form part of the CIDD.

...

Note 6 ...

Note 6B – a firm should only include these words if it offers whole of market advice and it owns or operates products that fall within the relevant market.

...

Note 8 ...

Note 8A – a firm should only include these words if it offers limited range advice and it owns or operates products that fall within the relevant range.

...

Note 30 – insert, in the *firm's* own words, a short description of any direct or indirect holding of more than 10 per cent in the capital or voting power of the *firm* which is held by a provider or operator of a packaged products or by the parent of the provider or operator.

Note 31 – insert, in the *firm's* own words, a short description of any direct or indirect holding of more than 10 per cent in the capital or voting power of a provider or operator of a packaged products which is held by the *firm*.

...

Annex H

Amendments to Mortgages: Conduct of Business sourcebook (MCOB)

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

MCOB 4 Annex 2 R: Combined initial disclosure document required by MCOB 4.4.1R (1) (“CIDD”)

1. Firms should omit the notes, asterisks and square brackets which appear in the following specimen.

...

keyfacts®
about our services [Note 2]

XYZ Financial Services [Note 3] [Note 4]

[Note 5]
[123 Any
Street
Some Town
ST21 7QB]

...

2 Whose products do we offer? [Note 6] [Note 7]

Investment

- [We offer products from the whole market.] [Note 6A] [We offer our own product(s); you can ask us for a list but our recommendation will be made following an analysis of the whole market.] [Note 6B]
- We [can] [Note 8] only offer products from a limited number of companies. [These include our own product(s) but our recommendation will be made following an analysis of our entire range of products.] [Note 8A]

Ask us for a list of the companies and products we offer. [Note 12]

...

The following notes do not form part of the CIDD.

...

Note 6A ...

Note 6B – a firm should only include these words if it offers whole of market advice and it owns or operates products that fall within the relevant market.

...

Note 8 ...

Note 8A – a *firm* should only include these words if it offers limited range advice and it owns or operates products that fall within the relevant range.

...

Note 18 - insert a short plain language description of when any *fees* are payable for services relating to *regulated mortgage contracts*, *regulated lifetime mortgage contracts* or home reversion schemes. This description could include, for example, a cash amount, a percentage of the loan or reversion amount or the amount per hour, as appropriate. However, where a cash amount is not disclosed, one or more examples of the cash amount must be included. If a *firm* offers more than one pricing option, it may illustrate each with a separate box. If a *firm* ~~firm~~ does not charge a *fee*, the text for the second box should be abbreviated to 'A fee'.

...

Note 30 – insert, in the *firm's* own words, a short description of any direct or indirect holding of more than 10 per cent in the capital or voting power of the *firm* which is held by a provider or operator of a packaged products or by the parent of the provider or operator.

Note 31 – insert, in the *firm's* own words, a short description of any direct or indirect holding of more than 10 per cent in the capital or voting power of a provider or operator of a packaged products which is held by the *firm*.

...

Annex I

Amendments to the Authorisation Manual (AUTH)

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

- 3.16 ~~Specific obligations: applicants seeking to establish, operate or wind up a stakeholder pension scheme~~
- 3.16.1 ~~G Applicants should be aware that, in addition to requiring *permission* from the FSA to *establish, operate or wind up a stakeholder pension scheme*, a firm will need to obtain exempt approval of the *stakeholder pension scheme* from ⁺HM Revenue and Customs⁺ and to register the scheme with the ⁺Pensions Regulator⁺.~~
- 3.16.2 ~~G Establishment and operation of a *stakeholder pension scheme* may involve heavy investment in new systems or changes to existing systems which, in view of the limit on charges, might not be recovered for some time. So, the FSA will normally require an applicant wishing to *establish, operate or wind up a stakeholder pension scheme* to provide financial projections for the whole period up to the point at which the new business is expected to break even. The applicant must also be able to demonstrate to the FSA that it is ready, willing and organised to comply with the requirements (including those in *COB 5, COB 6 and TC 2*) applicable to operation of a *stakeholder pension scheme*~~

Annex J

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 G

...

(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
------------------------	---	--

...

SUP

...

...

SUP 16 (Reporting requirements)

SUP 16 (Reporting requirements)

Parts of this chapter may apply if the *firm* has a *top-up permission* or if the *firm* is:

Parts of this chapter may apply if the *firm* has a *top-up permission* or if the *firm* is:

...

...

(e) a *firm* with *permission* to *establish, operate or wind up a personal pension scheme or a stakeholder pension scheme*; or

(f) a *firm* with *permission* to *establish, operate or wind up a personal pension scheme or a stakeholder pension scheme*; or

...

...

...

16.1.2

G

The only categories of *firm* to which no section of this chapter applies are:

(2)...

- (c) a firm with permission to establish, operate or wind up a personal pension scheme or a stakeholder pension scheme;

...

16.1.3 R Application of different sections of SUP 16

(1) Section(s)	(2) Categories of firm to which section applies	(3) Applicable rules and guidance
-------------------	--	---

<i>SUP 16.1, SUP 16.2 and SUP 16.3</i>	All categories of <i>firm</i> except: ... (b) an <i>incoming EEA firm</i> or <i>incoming Treaty firm</i> , which is not:	Entire section
--	--	----------------

...

- (iii) a firm with
permission to
establish, operate or
wind up a personal
pension scheme or a
stakeholder pension
scheme;

...

<i>SUP 16.8</i>	... <i>Firm with permission to establish, operate or wind up a <u>personal pension scheme</u> or a <u>stakeholder pension scheme</u></i>	Entire section
-----------------	---	----------------

Annex K

Amendments to the Dispute Resolution Manual (DISP)

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

2.4.12 R The circumstances relevant for *DISP* 2.4.10R(2)(b) are:

...

- (4) that the complainant is the beneficial owner of *units* in a *collective investment scheme*, and the *firm* or the *VJ Participant* is the *operator* or *depository* of the *scheme*; ~~;~~
or
- (5) that the complainant is a beneficiary of, or has a beneficial interest in, a *personal pension scheme* or *stakeholder pension scheme*.

Annex L

Amendments to the Compensation Sourcebook (COMP)

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

Table COMP 4.2.2R Persons not eligible to claim unless COMP 4.3 applies (see COMP 4.2.1R)

This table belongs to COMP 4.2.1R

- 4.2.2 R (1) *Firms* (other than a *sole trader firm*; ~~a credit union~~; a trustee of a *stakeholder pension scheme* (which is not an *occupational pension scheme*) or personal pension scheme; a *firm carrying on the regulated activity of operating, or winding up, a stakeholder pension scheme* (which is not an *occupational pension scheme*) or personal pension scheme; or a *small business*; in each case, whose *claim* arises out of a *regulated activity* for which they do not have a *permission*)
...
- (9) *Bodies corporate* in the same *group* as the *relevant person in default* unless that *body corporate* ~~except bodies corporate which fall within COMP 4.2.2 R (4) (a) or (b)~~ is:
(i) a trustee that falls within COMP 4.2.2 R(1) or (4); or
(ii) carrying on the regulated activity of operating, or winding up, a stakeholder pension scheme (which is not an *occupational pension scheme*) or personal pension scheme.
...
- 5.5.1 R *Protected investment business* is:
(1) *designated investment business* carried on by the *relevant person* with, or for the benefit of, the claimant (so long as that claimant has a claim), or as agent on ~~his~~ the claimant's behalf;
...
- 12.6 Quantification: trustees, operators of pension schemes, persons winding up pension schemes, personal representatives, agents, and joint claims
Trustees, operators of pension schemes and persons winding up pension schemes
- 12.6.1 R If a claimant's *claim* includes a *claim* as:
(1) trustee; or
(2) the operator of, or the person carrying on the regulated activity of winding up, a stakeholder pension scheme (which is not an *occupational pension scheme*) or personal pension scheme,

the *FSCS* must treat him in respect of that *claim* as if his ~~claim as trustee were~~ a was the claim of a different *person*.

- 12.6.2 R If a claimant has a *claim* as:
A
- (1) ~~a the trustee of a kind falling within COMP 4.2.2 R(1) or COMP 4.2.2R(4)(a) or (b)~~ of a small self-administered scheme or an occupational pension scheme of an employer which is not a large company, large partnership or large mutual association or the trustee or operator of, or the person carrying on the regulated activity of winding up, a stakeholder pension scheme (which is not an occupational pension scheme) or personal pension scheme,
 - (2) for one or more members of a pension scheme (or, where relevant, the ~~widow or widower or surviving civil partner~~ beneficiary of any member) whose benefits are *money-purchase benefits*,
- the *FSCS* must treat the member or members (or, where relevant, the ~~widow or widower or surviving civil partner~~ beneficiary of any member) as having the *claim*, and not the claimant.
- 12.6.3 R If any group of *persons* has a *claim* as:
- (1) trustees; or
 - (2) operators of, or as persons carrying on the regulated activity of winding up, a stakeholder pension scheme (which is not an occupational pension scheme) or a personal pension scheme,
- (or any combination thereof), the *FSCS* must treat them as a single and continuing *person* distinct from the *persons* who may from time to time be the trustees, operators or persons winding up the relevant pension scheme.
- 12.6.4 R ...
R Where the same *person* has a *claim* as:
- (1) trustee for different trusts or for different stakeholder pension schemes (which are not occupational pension schemes) or personal pension schemes; or
 - (2) the operator of, or the person carrying on the regulated activity of winding up, different stakeholder pension schemes (which are not occupational pension schemes) or personal pension schemes,
- COMP* applies as if the *claims* relating to each of these trusts or schemes were claims of different *persons*.
- 12.6.6 R ...
R Where any of the provisions of COMP 12.6.1R to COMP 12.6.5 R apply, the *FSCS* must try to ensure that any compensation paid to:
- (1) the trustee; or
 - (2) the operator of, or the person carrying on the regulated activity of

winding up, a stakeholder pension scheme (which is not an occupational pension scheme) or personal pension scheme,

is, in each case:

- (13) ~~is~~ for the benefit of members or beneficiaries who would be *eligible claimants* if they had a *claim* themselves; and
- (24) ~~does not exceed~~ no more than the amount of the loss suffered by those members or beneficiaries.

...

12.6.11 R In applying *COMP* to *claims* arising out of business done with a *branch* or ~~establishment~~ *establishment* of the *relevant person* outside the *United Kingdom*, the *FSCS* must interpret references to:

- (1) *persons* entitled as personal representatives, trustees, bare trustees or agents, operators of pension schemes or persons carrying on the regulated activity of winding up pension schemes; or
- (2) ~~or references to~~ *persons* having a joint beneficial *claim* or carrying on business in partnership,

as references to *persons* entitled, under the law of the relevant country or territory, in a capacity appearing to the *FSCS* to correspond as nearly as may be to that capacity.