

# **The Chartered Certified Accountants' Designated Professional Body Regulations 2001**

**Amended 1 January 2025**

These regulations must be read in conjunction with the other regulations in the Association's [Rulebook](#). A regulation may affect members, non-members, affiliates and registered students in different ways depending on the application of other regulations to those members, non-members, affiliates and registered students. Regulations are not always cross-referenced to each other.

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The [Council](#) of the Association of Chartered Certified Accountants, in exercise of all the powers conferred on it by bye-laws 5 and 27 of the [Association's](#) bye-laws and all other powers enabling it, hereby makes the following regulations:

## Chapter 1 Citation

### 1. Citation, commencement and application

#### *(1) Citation*

These regulations may be cited as The Chartered Certified Accountants' Designated Professional Body Regulations 2001. The Association is a [designated professional body](#) under Part XX of the Financial Services and Markets Act 2000 ('the Act') and is required, under section 332(3) of that Act, to make rules relating to carrying on [regulated activities](#) that may be carried on by [members](#) and [firms](#) without breaching the [general prohibition](#).

#### *(2) Commencement*

These regulations as amended as set out herein shall come into force on 1 January 2025.

#### *(3) Application*

- (a) These regulations shall apply to all members, [regulated non-members](#), and firms that are not regulated by the [FCA](#).
- (b) These regulations shall apply to [exempt regulated activities](#) carried on in, into or from the [United Kingdom](#).

#### *(4) Approval by the FCA*

These Chartered Certified Accountants' Designated Professional Body Regulations 2001 have been approved by the FCA under section 332(5) of the Act.

## Chapter 2 Interpretation

### 2. Interpretation

#### *(1) Definitions*

In these regulations, unless the context otherwise requires:

*Act* means the Financial Services and Markets Act 2000;

*administering* means, in the context of a regulated home purchase plan or a regulated home reversion plan, either or both of:

- (a) notifying the home purchaser or reversion seller of changes in payments due under the plan, or of other matters of which the plan requires them to be notified; and
- (b) taking any necessary steps for the purposes of making payments to, or collecting or recovering payments due under the plan;

but a person is not to be treated as administering a regulated home purchase plan or regulated home reversion plan merely because the person has, or exercises, a right to

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take action for the purposes of enforcing the plan or to require that such action is or is not taken;

*Admissions and Licensing Committee* means a committee of individuals having the constitution, powers and responsibilities set out in The Chartered Certified Accountants' Regulatory Board and Committee Regulations 2014;

*advice* means a personal recommendation to a customer;

*agent*, in relation to a person, means any person (including an employee) who acts on that person's behalf;

*ancillary insurance intermediary* has the meaning given by article 2 of the Insurance Distribution Directive, and comprises a firm that takes up or pursues the activity of insurance distribution on an ancillary basis, provided that the following conditions are met:

- (a) the principal professional activity of the firm is other than insurance distribution; and
- (b) the firm only distributes certain insurance products that complement the service which the intermediary provides as its principal professional activity;

*Appeal Committee* means a committee of individuals having the constitution, powers and responsibilities set out in The Chartered Certified Accountants' Regulatory Board and Committee Regulations 2014;

*appointed representative* means a person (other than an authorised person) who is employed by an authorised person (their principal) under a contract for services which requires or permits the person to carry on a regulated activity of a kind to which Section 39 of the Act applies;

*associate*, in relation to a person, shall be construed as follows:

- (a) in relation to an individual, "associate" means:
  - (i) that individual's spouse or minor child or step-child;
  - (ii) any body corporate of which that individual is a director; and
  - (iii) any employee or partner of that individual;
- (b) in relation to a body corporate, "associate" means:
  - (i) any body corporate of which that body is a director;
  - (ii) any body corporate in the same group as that body; and
  - (iii) any employee or partner of that body or of any body corporate in the same group;
- (c) in relation to a Scottish partnership, or a partnership constituted under the law of any other country or territory in which a partnership is a legal person, "associate" means:
  - (i) any body corporate of which the partnership is a director;
  - (ii) any employee of or partner in the partnership; and

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- (iii) any person who is an associate of a partner in the partnership; and
- (d) in relation to a partnership constituted under the law of England and Wales or Northern Ireland, or the law of any other country or territory in which a partnership is not a legal person, “associate” means any person who is an associate of any of the partners;

*the Association* means the Association of Chartered Certified Accountants incorporated by Royal Charter issued to it in 1974 as amended from time to time;

*authorised person* means a person who is authorised by the FCA under section 31(1) of the Act;

*authorised unit trust scheme* means a unit trust scheme declared by an order of the FCA for the time being in force to be an authorised unit trust scheme for the purposes of the Act;

*broker funds arrangement* means an arrangement between a firm and a life office (or operator of a regulated collective investment scheme) under which the life office (or operator of the regulated collective investment scheme) agrees to establish a separate fund whose composition may be determined by instructions from the firm and in which it is possible for more than one client to invest;

*charge* means any fee or charge levied by the firm to a client in connection with exempt regulated activities;

*client* means any person to whom a firm provides public practice accountancy services under these regulations including a potential client and an identified principal where a client is known to be acting as agent, but does not include a trust beneficiary;

*close links* has the meaning given by article 13 point 17 of Directive 2009/138/EC, and comprises a situation in which two or more persons are linked by control or participation, or a situation in which two or more persons are permanently linked to one and the same person by a control relationship;

*collective investment scheme* means any arrangements with respect to property of any description, including money, the purpose or effect of which is to enable persons taking part in the arrangements (whether by becoming owners of the property or any part of it or otherwise) to participate in or receive profits or income arising from the acquisition, holding, management or disposal of the property or sums paid out of such profits or income, which are not excluded by the Financial Services and Markets Act (Collective Investment Schemes) Order 2001;

*company* includes any body corporate;

*Compliance Principal* means a person who is a principal of the firm and is responsible for the firm’s compliance with the Association’s Rulebook and any relevant obligations of a regulatory authority, and who is the primary contact with the Association, and whose identity is notified in writing to the Association. In the case of a sole practitioner, that person will be the Compliance Principal;

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*Consumer Credit sourcebook* means the specialist sourcebook for credit-related regulated activities in the FCA's handbook of rules and guidance;

*contract of insurance* has the meaning given by article 3(1) of the Regulated Activities Order;

*contract of long-term care insurance* means a contract of long-term care insurance specified in article 1(4) of the Financial Services and Markets Act 2000 (Regulated Activities) (Amendment) (No. 2) Order 2003;

*contract of long-term insurance* means a contract of long-term insurance specified in Part II of Schedule 1 to the Regulated Activities Order;

*controller* means a person who either alone or with any associate or associates is entitled to exercise or control the exercise of 10 per cent or more of the rights to vote on all, or substantially all, matters at general meetings of a body corporate or another body corporate of which it is a subsidiary undertaking;

*Council* means the Council of the Association from time to time and includes any duly authorised committee of Council;

*credit broking* has the meaning given by article 36A of the Regulated Activities Order;

*credit information services* has the meaning given by article 89A of the Regulated Activities Order;

*credit-related regulated activity* means any of the following activities specified in Part 2 or 3A of the Regulated Activities Order (Specified Activities):

- (a) entering into a regulated credit agreement as lender
- (b) exercising, or having the right to exercise, the lender's rights and duties under a regulated credit agreement
- (c) credit broking
- (d) debt adjusting
- (e) debt counselling
- (f) debt collecting
- (g) debt administration
- (h) entering into a regulated consumer hire agreement as owner
- (i) exercising, or having the right to exercise, the owner's rights and duties under a regulated consumer hire agreement
- (j) providing credit information services
- (k) providing credit references
- (l) operating an electronic system in relation to lending
- (m) agreeing to carry on a regulated activity so far as relevant to any of the activities in (a) to (l);

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*debt adjusting* has the meaning given by article 39D(1) and (2) of the Regulated Activities Order;

*debt administration* has the meaning given by article 39G(1) and (2) of the Regulated Activities Order;

*debt collecting* has the meaning given by article 39F(1) and (2) of the Regulated Activities Order;

*debt counselling* has the meaning given by article 39E(1) and (2) of the Regulated Activities Order;

*derivative* means an investment falling within any of articles 83, 84 or 85 of the Regulated Activities Order;

*designated investment* means 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):

- (a) life policy (subset of article 75 (Contracts of insurance));
- (b) [share](#) (article 76);
- (c) debenture (article 77);
- (d) government and public security (article 78);
- (e) warrant (article 79);
- (f) certificate representing certain securities (article 80);
- (g) unit (article 81);
- (h) stakeholder pension scheme (article 82(1)) and personal pension scheme (article 82(2));
- (i) option (article 83);
- (j) future (article 84);
- (k) contract for differences (article 85);
- (l) regulated mortgage contracts (article 88);
- (m) regulated home reversion plans (article 88A);
- (n) regulated home purchase plans (article 88B);
- (o) rights to or interests in investments in (a) to (k) (article 89);

*designated investment business* means any of the activities, specified in Part II of the Regulated Activities Order (Specified Activities) which are carried on by way of business;

*designated professional body* has the meaning given by section 326 of the Act;

*employee* means an individual who is employed in connection with the firm's exempt regulated activities under a contract of service or under a contract for services such that

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the individual is held out as an employee or consultant of the firm and includes an appointed representative of the firm;

*execution-only client*, in relation to the effecting of a transaction by a firm, means a person with or for whom that transaction is effected in circumstances in which the firm can reasonably assume that the client is not relying upon the firm to advise them on or to exercise any judgement on their behalf as to the merits of or the suitability for them of the transaction and where that person has agreed in writing that the firm has not provided and is not responsible for providing them with investment advice or for exercising any judgement on their behalf as to the merits of or the suitability for them of the transaction and has reasonably concluded that the client can be expected to understand the risks involved in the transaction, and execution-only shall be construed accordingly;

*exempt person* means a person who is exempt under sections 38 and 39 of the Act;

*exempt regulated activity* means a regulated activity which may, as a result of Part XX of the Act, be carried on by firms regulated by the Association without breaching the general prohibition;

*FCA* means the Financial Conduct Authority;

*Financial Services Register* means the record maintained by the FCA, which includes a record of unauthorised persons that carry on, or are proposing to carry on, insurance distribution;

*firm* means a sole practice, partnership or body corporate including a limited liability partnership that satisfies the eligibility requirements for carrying on exempt regulated activities;

*funeral plan contract* has the meaning given by articles 59 and 60 of the Regulated Activities Order;

*general prohibition* means the prohibition imposed by section 19 of the Act which states that no person may carry on a regulated activity in the United Kingdom, or purport to do so, unless they are:

- (a) an authorised person; or
- (b) an exempt person;

*group*, in relation to a body corporate, means the body corporate, any other body corporate which is its holding company or subsidiary and any other body corporate which is a subsidiary of that holding company;

*holding company* has the meaning given by section 736 of the Companies Act 2006;

*insurance-based investment products* has the meaning given by article 2 of the Insurance Distribution Directive, and comprises an insurance product which offers a maturity or surrender value and where that maturity or surrender value is wholly or partially exposed, directly or indirectly, to market fluctuations;



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*insurance distribution* has the meaning given by article 2 of the Insurance Distribution Directive, and comprises the activities of advising on, proposing, or carrying out other work preparatory to the conclusion of contracts of insurance, of concluding such contracts, or of assisting in the administration and performance of such contracts, in particular in the event of a claim;

*Insurance Distribution Directive* means Directive (EU) 2016/97 of the European Parliament and of the Council of 20 January 2016 on insurance distribution;

*insurance undertaking* means an undertaking as defined in article 13 point 1 of Directive 2009/138/EC;

*investment trust savings scheme* means a dealing service dedicated to the securities of a particular investment trust or of investment trusts within a particular marketing group (and references to an investment trust savings scheme include references to securities to be acquired through that scheme);

*ISA* means an account which is a scheme of investment satisfying the conditions prescribed by the Individual Savings Accounts Regulations 1998 (SI 1998/1870) or any regulations amending or replacing them;

*member* means an individual admitted to membership of the Association pursuant to the bye-laws;

*officer* means, in relation to a firm which is a partnership, a partner, and in relation to a firm which is a limited liability partnership, a member, and in relation to a firm which is a company, a director or company secretary; and in relation to the Association, an employee of the Association;

*operating an electronic system in relation to lending* has the meaning given by article 36H of the Regulated Activities Order;

*packaged product* means a life policy, personal pension scheme, stakeholder pension scheme, a unit in a regulated collective investment scheme, or an investment trust savings scheme;

*pension fund withdrawals* means in relation to a decision of a client in respect of a personal pension scheme, to defer the purchase of an annuity and to take:

- (a) income withdrawals within the meaning of section 630 of the Income and Corporation Taxes Act 1988, as amended by section 58 and Schedule 11 of the Finance Act 1995; or
- (b) payments made under interim arrangements in accordance with section 28A of the Pension Schemes Act 1993, as inserted by section 143 of the Pensions Act 1995;

and, in respect of an election to make pension fund withdrawals, a reference in these regulations to a client, an investor or a policyholder includes, after that person's death, their surviving spouse and/or anyone who is, at that time, their dependant;

*pension transfer* means any transaction by a client resulting from a decision to:

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- (a) opt out of or not join an occupational pension scheme of which a client is a current member, or which they are, or at the end of a waiting period will become eligible to join, in order to enter into a personal pension policy or stakeholder pension scheme; or
- (b) make a payment into a personal pension scheme or stakeholder pension scheme of accrued pension benefits under an occupational pension scheme;

*PEP* means a plan which is a scheme of investment satisfying the conditions prescribed by the Personal Equity Plan Regulations 1989 (SI 1989/469);

*permitted third party* means in relation to a regulated activity, an authorised person with permission under Part IV of the Act to carry on that activity or an exempt person who is an exempt person in relation to that activity but in relation to packaged products does not include the regulated life office or operator of the regulated collective investment scheme in question, or an appointed representative of either; and in the case of any reference to the firm acting as disclosed agent where the permitted third party has confirmed to the firm that the client is or will be treated by the authorised person as its customer;

*personal pension policy* means a right to benefits obtained by the making of contributions to a personal pension scheme;

*personal pension scheme* means:

- (a) (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 3(1) of the Regulated Activities Order) a pension scheme or arrangement which is not an occupational pension scheme or a stakeholder pension scheme and which is comprised in one or more instruments or agreements, having or capable of having effect so as to provide benefits to or in respect of people:
  - (i) on retirement;
  - (ii) on having reached a particular age; or
  - (iii) on termination of service in an employment;

*plan manager* means in relation to:

- (a) a group PEP, the PEP manager;
- (b) a group ISA, the ISA manager;
- (c) a group savings plan, the person primarily responsible for that group savings plan;

*practising certificate* means any practising certificate relating to the United Kingdom issued by the Association only to members pursuant to The Chartered Certified Accountants' Global Practising Regulations 2003;

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*principal* means an individual who is a sole proprietor, a salaried or equity partner of a partnership, a statutory, de facto or shadow director of a company, or a member (designated or non-designated) of a limited liability partnership, or any individual who is held out as being a partner, company director or member;

*providing credit references* has the meaning given by article 89B of the Regulated Activities Order;

*public practice accountancy services* means services within the definition of public practice contained in The Chartered Certified Accountants' Global Practising Regulations 2003:

- (a) which do not constitute carrying on a regulated activity, and
- (b) the provision of which is supervised and regulated by a designated professional body;

*qualifying interest in land* means:

- (a) in relation to land in England or Wales, is to an estate in fee simple absolute or a term of years absolute, whether subsisting at law or in equity;
- (b) in relation to land in Scotland, is to the interest of an owner in land or the tenant's right over or interest in a property subject to a lease;
- (c) in relation to land in Northern Ireland, is to any freehold estate or any leasehold estate, whether subsisting at law or in equity;

*qualifying termination event* means:

- (a) the person becomes resident in a care home;
- (b) the person dies;
- (c) the end of a specified period of at least twenty years beginning with the day on which the reversion seller entered into the arrangement;

*Regulated Activities Order* means the Financial Services and Markets Act 2000 (Regulated Activities) Order 2001 (Statutory Instrument 2001 No. 544) as amended;

*regulated activity* means an activity included in the Regulated Activities Order;

*regulated collective investment scheme* means an authorised unit trust scheme, a recognised scheme or a United Kingdom open-ended investment company;

*regulated consumer hire agreement* has the meaning given by article 60N of the Regulated Activities Order;

*regulated credit agreement* has the meaning given by article 60B of the Regulated Activities Order;

*regulated home purchase plan* means an arrangement comprised in one or more instruments or agreements, in relation to which the following conditions are met at the time it is entered into:

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- (a) the arrangement is one under which a person (the “home purchase provider”) buys a [qualifying interest in land](#) (other than timeshare accommodation) in the United Kingdom;
- (b) where the undivided share of a qualifying interest in land is bought, the interest is held on trust for the home purchase provider and the individual or trustees mentioned in (c) below as beneficial tenants in common;
- (c) the arrangement provides for the obligation of an individual or trustees (the “home purchaser”) to buy the interest bought by the home purchase provider over the course of or at the end of a specified period; and
- (d) the home purchaser (if they are an individual) or an individual who is a beneficiary of a trust (if the home purchaser is a trustee), or a [related person](#), is entitled under the arrangement to occupy at least 40% of the land in question as or in connection with a dwelling during that period, and intends to do so;

for the purposes of (d) above, the area of any land which comprises a building or other structure containing two or more storeys is to be taken to be the aggregate of the floor areas of each of those storeys;

*regulated home reversion plan* means an arrangement comprised in one or more instruments or agreements, in relation to which the following conditions are met at the time it is entered into:

- (a) the arrangement is one under which a person (the “plan provider”) buys all or part of a qualifying interest in land (other than timeshare accommodation) in the United Kingdom from an individual or trustees (the “reversion seller”);
- (b) the reversion seller (if they are an individual) or an individual who is a beneficiary of the trust (if the reversion seller is a trustee), or a related person, who is entitled under the arrangement to occupy at least 40% of the land in question as or in connection with a dwelling, and intends to do so; and
- (c) the arrangement specifies one or more [qualifying termination events](#), on the occurrence of which that entitlement will end;

for the purposes of (b) above, the area of any land which comprises a building or other structure containing two or more storeys is to be taken to be the aggregate of the floor areas of each of those storeys;

*regulated mortgage contract* means:

- (a) (in relation to a contract) (in accordance with article 61(3) of the Regulated Activities Order) a contract which, at the time it is entered into, meets the following conditions:
  - (i) a lender provides credit to an individual or to trustees (the “borrower”); and
  - (ii) the obligation of the borrower to repay is secured by a first legal mortgage on land (other than timeshare accommodation) in the United Kingdom, at least 40% of which is used, or is intended to be used, as or in connection with a dwelling by the borrower or (in the case of credit provided to trustees) by an individual who is

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a beneficiary of the trust, or by a person who is in relation to the borrower or (in the case of credit provided to trustees) a beneficiary of the trust:

- (aa) that person's spouse; or
  - (bb) a person (whether or not of the opposite sex) whose relationship with that person has the characteristics of the relationship between husband and wife; or
  - (cc) that person's parent, brother, sister, child, grandparent or grandchild;
- (b) (in relation to a specified investment) the investment, specified in article 88 of the Regulated Activities Order, which is rights under a regulated mortgage contract within (a);

*regulated non-member* means:

- (a) in relation to an individual, a person who is not registered as a student, affiliate or member of the Association or a member of another Designated Professional Body but who is a principal in a firm holding exempt regulated activities registration from the Association;
- (b) in relation to a firm, a firm that is not a member of the Association or another Designated Professional Body;

*regulatory system* means the arrangements for regulating a firm under the Act including these regulations;

*related person* means:

- (a) a spouse or civil partner;
- (b) a person (whether or not of the opposite sex) whose relationship with that person has the characteristics of the relationships between husband and wife; or
- (c) a person's parent, brother, sister, grandparent or grandchild;

*remuneration* means any commission, fee, charge or other payment, including an economic benefit of any kind or any other financial or non-financial advantage or incentive offered or given;

*Rulebook* means the Association's Royal Charter, bye-laws, Council Regulations, Regulations and Code of Ethics and Conduct, as amended or supplemented from time to time;

*security* means an investment falling within articles 76 to 81 of the Regulated Activities Order;

*share* means an investment falling within article 76 of the Regulated Activities Order;

*specified investment* means any of the investments specified in Part III of the Regulated Activities Order (Specified Investments);

*stakeholder pension scheme* means:

- (a) (in relation to a specified investment) the investment specified in article 82 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;

*subsidiary* has the meaning given by section 736 of the Companies Act 2006;

*timeshare accommodation* has the meaning given by section 1 of the Timeshare Act 1992;

*trustee appointment* means an appointment as a trustee, personal representative, donee of a power of attorney, receiver appointed by the Court of Protection, curator bonis, tutor or judicial factor;

*United Kingdom* means the United Kingdom of Great Britain and Northern Ireland.

### (2) Interpretation

- (a) Words in the singular include the plural and vice versa.
- (b) Headings and sub-headings are for convenience only and shall not affect the interpretation of these regulations.
- (c) Any reference to a statutory provision shall include where the context permits the subordinate legislation made from time to time under that provision and any reference to a statutory provision or to regulations shall include that provision or, as the case may be, regulations as from time to time modified or re-enacted so far as such modification or re-enactment applies or is capable of applying to such reference.
- (d) The Interpretation Act 1978 shall apply to these regulations in the same way as it applies to an enactment.

## Chapter 3 Eligibility

### 3. Eligibility to carry on regulated activities

The following eligibility criteria must be met in order for firms to carry out any of the activities permitted by [regulation 5\(1\)](#).

#### (1) Sole practitioners

A sole practitioner will only be eligible to carry on regulated activities where:

- (a) they are a member; and
- (b) the main business of their practice is the provision of [public practice accountancy services](#); and
- (c) they have been granted exempt regulated activities registration by the Association.

### *(2) Partnerships*

A partnership will only be eligible to carry on regulated activities where:

- (a) at least one of the [principals](#) in the firm is a member; and
- (b) each principal who is not a member is entitled to practise accountancy and is subject to the regulations of the Association; and
- (c) the principals who are members of the Association or of another designated professional body (if any) manage or control the firm; and
- (d) the main business of the partnership is the provision of public practice accountancy services; and
- (e) the partnership has been granted exempt regulated activities registration by the Association; and
- (f) it has appointed a [Compliance Principal](#).

Where this regulation is being applied in connection with a Limited Liability Partnership, the reference to principal or principals should be construed as referring to a member or members of the Limited Liability Partnership.

### *(3) Companies*

A [company](#) will only be eligible to carry on regulated activities where:

- (a) at least one principal and [controller](#) is a member; and
- (b) each principal who is not a member is entitled to practise accountancy and is subject to the regulations of the Association; and
- (c) the principals who are members of the Association or of another designated professional body (if any) manage or control the firm; and
- (d) its main business is the provision of public practice accountancy services; and
- (e) the company has been granted exempt regulated activities registration by the Association; and
- (f) it has appointed a Compliance Principal.

### *(4) Authorised persons*

A firm shall not be eligible to undertake any regulated activities pursuant to these Regulations if it is an [authorised person](#) (i.e. a firm cannot be regulated by a designated professional body and at the same time be authorised by the FCA).

### *(5) Undertakings*

Principals who are not members of the Association shall be required to hold [regulated non-member](#) status in accordance with regulation 4 and provide undertakings to be bound by the regulations of the Association, under regulations 3(2)(b) and 3(3)(b), in a manner prescribed by the Association and shall be accompanied by the appropriate administration fee.

### (6) *Incidental manner*

- (a) In order for a firm to qualify as carrying on regulated activities in an incidental manner:
  - (i) the main activity of the firm must be the provision of public practice accountancy services other than regulated activities;
  - (ii) the carrying on of the regulated activities must not be isolated from other activities of the firm, and the firm must not hold out that the exempt regulated activities are carried out on a stand alone basis separate from the main activity of the firm;
  - (iii) the firm must not carry on, or hold itself out as carrying on, a regulated activity other than one which is allowed by these rules or one in relation to which the firm is an [exempt person](#);
  - (iv) regulated activities should arise out of or be complementary to the provision by the firm of a particular professional service to a particular [client](#);
  - (v) a firm regulated by the Association for investment business activities should disclose to an existing client or a potential client that the firm is an accountancy firm which may only carry on a limited range of investment business activities; and
  - (vi) the firm must not receive from a person other than its client any pecuniary reward or other advantage, for which it does not account to its client (see regulation 3(7) below), arising out of its carrying on of regulated activities.
- (b) A firm carrying on [insurance distribution](#) must meet the definition of '[ancillary insurance intermediary](#)' set out in regulation 2.

### (7) *Receipt of remuneration*

- (a) Any [remuneration](#), including anticipated remuneration, arising (or anticipated to arise) out of carrying on exempt regulated activities can only be retained where the member or firm accounts to the client for that remuneration at the earliest reasonable opportunity, and in good time before the conclusion of an insurance contract. "Accounts to the client" means:
  - (i) remitting any remuneration to the client; or
  - (ii) informing the client of the remuneration and that they have the right to require the firm to pay the amount concerned to the client, thus requiring the client's informed consent, in writing, if the firm is to retain the remuneration in question.
- (b) It is not considered sufficient for the firm to obtain a client's general consent to the firm's retention of such remuneration.
- (c) In securing the consent of the client, the client must be informed clearly of the nature of the remuneration, including its amount and frequency. The client must be informed at least annually of the remuneration received.



- (d) The member or firm must maintain records of the remuneration arising out of carrying on exempt regulated activities.
- (e) Firms should follow the requirements regarding conflicts of interest, fees and other types of remuneration, and the custody of client assets under the Code of Ethics and Conduct.

### *(8) Other restrictions*

- (a) The FCA may issue a direction under section 328 of the Act that the exemption from the general prohibition does not apply either to a class of person or to a specific regulated activity.
- (b) The FCA may make an order under section 329 of the Act that the exemption from the general prohibition does not apply if it appears to the FCA that the person to whom the order will apply is not a fit and proper person to carry on exempt regulated activities.

## **4. Eligibility for regulated non-member status**

### *(1) Individuals*

An individual who is a principal in a firm holding exempt regulated activities registration from the Association and is not a member of the Association or another Designated Professional Body, must hold [regulated non-member](#) status.

### *(2) Firms*

A firm that is a principal in a firm holding exempt regulated activities registration from the Association and that is not a member of the Association or another Designated Professional Body, must hold regulated non-member status.

### *(3) Individuals and firms*

Individuals and firms wishing to be eligible for regulated non-member status under regulations 4(1) and 4(2) must comply with the following requirements:

- (a) regulated non-member status does not give the individual or firm any rights other than those contained in these regulations. A regulated non-member must not make any public statement that they have any such rights;
- (b) individuals or firms applying for regulated non-member status must do so in the manner that the Admissions and Licensing Committee decides;
- (c) the Admissions and Licensing Committee may grant regulated non-member status if the committee is satisfied that the applicant is a fit and proper person to be granted regulated non-member status;
- (d) individuals and firms must provide undertakings to be bound by the following regulations as if they were members of the Association:
  - (i) the Global Practising Regulations, the Authorisation Regulations and the Complaints and Disciplinary Regulations (as amended from time to time);

- (ii) the Charter, Code of Ethics and Conduct, all bye-laws and regulations of the Association, and regulations made pursuant to the bye-laws (insofar as the same are appropriate and applicable), other than those relating to members' rights to attend and vote at meetings of the Association and obligations to pay subscriptions;
- (iii) the regulations concerning liability of the Association in damages for its acts and omissions;
- (iv) the disciplinary procedures of the Association and penalties which may be imposed under such provisions insofar as such penalties could be applicable to a person who is not a member of the Association; and
- (v) the procedures, rules and guidance, as may be issued from time to time by the regulatory authority in the exercise of its statutory functions.

## Chapter 4 Scope

### 5. Scope

#### *(1) Exempt regulated activities*

Subject to [regulations 5\(2\)](#) and 5(3), all firms that are eligible to conduct regulated activities under regulation 3 may carry on, or agree to carry on, any of the activities set out in this regulation (but no other activity constituting regulated activities).

In relation to [designated investments](#), [contracts of long-term insurance](#), contracts of long-term care insurance, [regulated mortgage contracts](#), [regulated home reversion plans](#) and [regulated home purchase plans](#), firms may carry on:

- (a) dealing as [agent](#) in investments within article 21 to the [Regulated Activities Order](#):
  - (i) as disclosed agent for a named client where the transaction is carried out with or through a [permitted third party](#); or
  - (ii) where the client is an [execution-only client](#) except in respect of [pension transfer](#) or opt-out business and [pension fund withdrawals](#); or
- (b) making arrangements within articles 25 (investments deals), 25A (regulated mortgage contracts), 25B (regulated home reversion plans) and 25C (regulated home purchase plans) of the Regulated Activities Order where:
  - (i) the firm acts as disclosed agent for a named client and the arrangements are carried out with or through a permitted third party; or
  - (ii) the arrangements are made in consequence of [advice](#) given in relation thereto by a permitted third party which if obtained by the firm has been obtained by it acting as disclosed agent for a named client; or
  - (iii) the client is an execution-only client except in respect of pension transfer or opt-out business and pension fund withdrawals; or

## 2.3 Designated Professional Body Regulations

- (iv) the arrangements are for the disposal of a [packaged product](#) by or for a personal representative; or
  - (v) the transaction involves the acquisition or disposal of an investment by accepting an offer or responding to an invitation made to the public or to the holders of [securities](#) of any body corporate or any class thereof or by exercising any right conferred by an investment to acquire, dispose of or convert an investment; or
- (c) managing investments within article 37 of the Regulated Activities Order where:
- (i) that activity is performed on a non-discretionary basis; or
  - (ii) the firm or an [officer](#) or [employee](#) of the firm holds a [trustee appointment](#) and acts on a discretionary basis; and
    - (aa) no remuneration is received for the discretionary management of the investments in addition to the remuneration which the firm or the officer or employee of it may receive in connection with their acting pursuant to the trustee appointment; or
    - (bb) any decisions to buy, sell, subscribe for or underwrite a particular investment are taken in accordance with the advice of a permitted third party which, if obtained by the firm, has been obtained having disclosed the basis on which they are acting; or
- (d) advising within article 53 (investments), article 53A (regulated mortgage contracts), article 53B (regulated home reversion plans) and article 53C (regulated home purchase plans) of the Regulated Activities Order where:
- (i) such advice constitutes the advice of a permitted third party and, if obtained by the firm, has been obtained by it acting as disclosed agent for a named client; or
  - (ii) in the case of investments the advice does not relate to listed securities; or
  - (iii) such advice concerns the disposal of a packaged product for a personal representative; or
  - (iv) such advice constitutes a recommendation not to buy or subscribe for investments, or a recommendation to vary the terms of, not to buy or not to subscribe for regulated mortgage contracts, regulated home reversion plans and regulated home purchase plans, or relates to the disposal of investments other than rights under a [personal pension scheme](#) or relates to the acquisition of investments issued by an unquoted company; or
  - (v) such advice constitutes advice to clients to seek further information or clarification from the authorised person; or
  - (vi) such advice constitutes advice to clients on the merits of advice given by an appropriately authorised or exempt person provided no recommendation is made that the client purchases a particular investment, regulated mortgage contract, regulated home reversion plan or regulated home purchase plan, other than that recommended by the authorised or exempt person; or

## 2.3 Designated Professional Body Regulations

- (e) the provision of any [designated investment business](#) to:
- (i) an issuer, holder or owner of investments with regard to the offer, issue, underwriting, repurchase, exchange or redemption of, or the variation of the terms of, the investments, or any related matter; or
  - (ii) any company or partnership which relates to the manner in which, or the terms on which, or the persons by whom, any business, activities or undertakings relating to it, or any [associate](#), are to be financed, structured, managed, controlled, regulated or reported upon; or
  - (iii) any company in connection with a proposed or actual take-over by or on behalf of that company or its [holding company](#) or [subsidiary](#) or a merger, de-merger, re-organisation or reconstruction involving any investments issued by such a company; or
  - (iv) any shareholder or prospective shareholder of a company established or to be established for the purpose of effecting a take-over.

In relation to contracts of insurance other than contracts of long-term insurance and contracts of long-term care insurance, firms may carry on the following insurance distribution activities provided they have first complied with regulation 5(3):

- (f) dealing as agent in the manner specified by article 21 of the Regulated Activities Order; or
- (g) making arrangements in the manner specified by article 25 of the Regulated Activities Order; or
- (h) assisting in the administration and performance of contracts of insurance within article 39A of the Regulated Activities Order; or
- (i) advising in the manner specified by article 53 of the Regulated Activities Order.

In relation to [credit-related regulated activities](#), firms may carry on the following activities:

- (j) entering into a [regulated credit agreement](#) as lender
- (k) exercising, or having the right to exercise, the lender's rights and duties under a regulated credit agreement
- (l) [credit broking](#)
- (m) [debt adjusting](#)
- (n) [debt counselling](#)
- (o) [debt administration](#)
- (p) providing [credit information services](#)
- (q) agreeing to carry on a regulated activity so far as relevant to any of the activities in (j) to (p).

### *(2) Prohibited activities*

A firm shall not be eligible to undertake any activity specified in any Order made under the Financial Services and Markets Act 2000 (Professions)(Non-Exempt Activities) Order 2001, as amended from time to time or any other Order made by the Treasury under section 327(6) of the Act. No firm may carry out any activity (or agree to carry out any activity) of the kind specified by any of the following provisions of the Regulated Activities Order:

- (a) accepting deposits (article 5);
- (b) effecting and carrying out [contracts of insurance](#) as principal (article 10);
- (c) dealing in investments as principal (article 14);
- (d) establishing, operating or winding up a [collective investment scheme](#); acting as a trustee of an [authorised unit trust scheme](#) or acting as the depository or sole director of an open-ended investment company (article 51);
- (e) establishing, operating or winding up a personal pension scheme or [stakeholder pension scheme](#) (article 52);
- (f) managing the underwriting capacity of a Lloyd's syndicate (article 57);
- (g) entering as provider into a [funeral plan contract](#) (article 59);
- (h) entering into or administering a regulated mortgage contract (article 61);
- (i) recommendations to buy or subscribe for securities or contractually based investments which are admitted to dealing on an exchange or other market (article 53);
- (j) advising on the merits of entering into a regulated mortgage contract (article 53A), a regulated home reversion plan (article 53B) and a regulated home purchase plan (article 53C);
- (k) advising on the merits of entering into or varying the terms of a contract of long-term insurance or a contract of long-term care insurance (article 53);
- (l) entering into or [administering](#) a regulated home reversion plan and regulated home purchase plan (articles 63B and 63F);
- (m) safeguarding and administering investments (article 40);
- (n) advising a person to become a member of a particular Lloyd's syndicate (article 56).

In addition, no firm may carry out (or agree to carry out) any of the following activities:

- (o) holding, or receiving, any money belonging to a client in the course of carrying on exempt regulated activities for a client which is not immediately due and payable on demand to the firm for its own account;
- (p) acting as a personal pension scheme or stakeholder pension scheme manager;
- (q) managing investments as a [plan manager](#) of a [PEP](#) or an [ISA](#);
- (r) carrying on any investment activity relating to [derivatives](#);

## 2.3 Designated Professional Body Regulations

- (s) promoting, issuing or approving any investment advertisements;
- (t) undertaking any business involving pension transfers and pension fund withdrawals;
- (u) entering into a [broker funds arrangement](#);
- (v) sponsoring or advising on issues of securities on the Stock Exchange, Alternative Investment Market (AIM) or Off Exchange (OFEX);
- (w) issuing electronic money;
- (x) providing basic advice on stakeholder products;
- (y) [debt collecting](#);
- (z) entering into a [regulated consumer hire agreement](#) as owner;
- (za) exercising, of having the right to exercise, the owner's rights and duties under a regulated consumer hire agreement;
- (zb) [providing credit references](#);
- (zc) [operating an electronic system in relation to lending](#);
- (zd) insurance distribution in respect of [insurance-based investment products](#).

### *(3) Special requirements for firms intending to carry on, or agree to carry on, insurance distribution*

A firm wishing to carry on insurance distribution must:

- (a) effect professional indemnity insurance with minimum limits of indemnity of £1,000,000 in relation to each and every claim and £1,500,000 in the aggregate per year for all claims, except where the activity comprises providing information to a policyholder or potential policyholder or a permitted third party in the context of making arrangements with a view to transactions in the manner specified by article 25(2) of the Regulated Activities Order;
- (b) where the firm is not a sole practitioner, nominate an individual or individuals within the management of the firm who will be responsible for such activities;
- (c) ensure that the persons within the management structure of the firm who are responsible for insurance distribution and all other persons directly involved in insurance distribution demonstrate the knowledge and ability necessary for the performance of their duties;
- (d) ensure that the persons within the management structure of the firm who are responsible for insurance distribution are fit and proper persons;
- (e) not carry on cross border insurance distribution to another state of the European Economic Area (EEA);
- (f) satisfy the conditions that no person within the management structure of the firm or within the staff directly involved in insurance distribution is an undischarged bankrupt

or has a criminal conviction for any serious offences relating to financial activities or crimes against property;

- (g) register with the Association for insurance distribution (unless the firm registered with the Association before 1 October 2018);
- (h) before carrying on such activities, ensure that the following details appear on the [Financial Services Register](#) and are correct and up to date:
  - (i) the firm's name and address; and
  - (ii) details of the individual or individuals referred to within regulation 5(3)(b).
- (i) as a condition of registration with the Association, provide the Association with:
  - (i) the identities of shareholders, whether natural or legal persons, that have a holding in the firm that exceeds 10%, and the amounts of those holdings;
  - (ii) the identities of persons who have [close links](#) with the firm;
  - (iii) information to enable the Association to determine that those holdings or close links do not prevent the effective exercise of the supervisory functions of the Association; and
- (j) notify the Association, without undue delay, of any changes to the information appearing on the Financial Services Register, or provided under regulation 5(3)(i).

A firm which undertakes insurance distribution and whose details do not appear on the Financial Services Register will be committing a criminal offence. While the Association will pass a firm's details to the FCA as part of its regulatory obligations, it is the firm's responsibility to ensure that its details appear on the Financial Services Register and are correct and up to date.

#### *(4) Activities which do not constitute insurance distribution*

The following activities do not constitute insurance distribution and, as such, firms are free to carry on such activities as they do not fall within the Designated Professional Body Regulations:

- (a) advising in general terms on the need for or level of insurance cover or providing information to the policyholder or potential policyholder of a general nature on insurance products, while making no recommendation of particular contracts of insurance;
- (b) carrying on insurance distribution where all of the following conditions are met:
  - (i) the principal activity of the person is other than insurance distribution;
  - (ii) the contract of insurance is not a contract of long-term insurance;
  - (iii) the contract of insurance has a total duration (or would have a total duration were any right to renew conferred by the contract exercised) of five years or less;

- (iv) the contract of insurance has an annual premium (or, where the premium is paid otherwise than by way of annual premium, the equivalent of an annual premium) of 500 euros or less, or the equivalent amount in other currency;
- (v) the insurance covers non-motor goods or travel insurance;
- (vi) the contract of insurance does not cover any liability risks (except, in the case of a contract which covers travel risks, where that cover is ancillary to the main cover provided by the contract);
- (vii) the insurance is complementary to the non-motor goods or service supplied by any provider; and
- (viii) the contract of insurance is of such a nature that the only information needed is the cover provided.

### *(5) Restriction on use of intermediaries*

When using the services of other ancillary insurance intermediaries, insurance and reinsurance undertakings and intermediaries, a firm shall use the services only where such entities are registered.

## **Chapter 5 Conduct of business regulations**

### **6. Independence**

#### *(1) Inducements*

A firm must take reasonable steps to ensure that neither it nor any of its agents offers, gives, solicits or accepts any inducement which is likely to conflict with any duties of the recipient or the recipient's employer owed to clients in connection with the firm's exempt regulated activities. In particular, a firm shall not make any arrangement that could provide an incentive to itself or its employees to recommend a particular product to a customer when the firm could offer a different product which would better meet the customer's needs.

#### *(2) Material interest*

Where a firm has a material interest in a transaction to be entered into with or for a client or a relationship which gives rise to a conflict of interest in relation to such a transaction, the firm must not knowingly advise in relation to that transaction unless it takes reasonable steps to ensure fair treatment for the client.

#### *(3) Arrangements with third parties*

- (a) A firm must not enter into any soft commission agreement whereunder a firm which deals in securities on an advisory basis receives goods or services in return for an assurance that not less than a certain amount of such business will be put through or in the way of another person.
- (b) A firm may only accept an appointment as another person's [appointed representative](#) where the appointing organisation is itself, and at all times continues to be, free from any restriction which may result in the firm being constrained or



induced to recommend to a client transactions in some investments but not others, with some persons but not others, or through the agency of some persons but not others, unless constrained by law.

- (c) A firm may only advise in relation to the disposal of packaged products as an independent intermediary and, for the avoidance of doubt, to the extent such activities constitute exempt regulated activities.

### *(4) Insurance distribution*

When carrying out insurance distribution, a firm must always act honestly, fairly and professionally in accordance with the best interests of their customers.

## **7. Relations with clients**

### *(1) Fair and clear communications*

- (a) A firm must avoid any representation to a client that it is authorised under the Act or regulated by the FCA or that the regulatory protections provided by the Act are available. Where a firm is conducting insurance distribution, it is particularly important that the client understands that the firm's inclusion on the Financial Services Register is not the same as being authorised under the Act.
- (b) A firm may make a communication with another person which is designed to promote the provision of exempt regulated activities only if it can show that it believes on reasonable grounds that the communication is fair and not misleading. Marketing communications shall always be clearly identifiable as such.
- (c) A firm must take reasonable steps to ensure that any agreement, written communication, notification or information which it gives or sends to a client to whom it provides exempt regulated activities is presented fairly and clearly.
- (d) A firm must ensure that the client receives sufficient, relevant, objective information about any recommended investment or insurance contract so that the client has an adequate basis on which to accept or reject the recommendations. The firm must make clear that it will supply the client with more detailed information if the client so requires.

### *(2) Clients' rights*

- (a) A firm must not, in any written communication or agreement, seek to exclude or restrict any duty or liability to a client which it has under the Act, or under the [regulatory system](#).
- (b) Similarly, unless it is reasonable to do so in the circumstances, a firm must not, in any written communication or agreement, seek to exclude or restrict:
  - (i) any other duty to act with the skill, care and diligence which is owed to a client in connection with the provision to them of exempt regulated activities; or

## 2.3 Designated Professional Body Regulations

- (ii) any liability owed to a client for failure to exercise the degree of skill, care and diligence which may reasonably be expected of it in the provision of exempt regulated activities.

### (3) Charges

The amount a firm charges to a client for the provision of exempt regulated activities must not be unreasonable in the circumstances.

### (4) *Client agreements*

- (a) Where a firm provides exempt regulated activities to a client, the written agreement which must be entered into before any business is conducted must set out in adequate detail the basis on which those services are provided and must include, inter alia, a statement of the following:
  - (i) the firm's name and address; and
  - (ii) that the firm is regulated in the conduct of exempt regulated activities by the Association; and
  - (iii) the nature of the regulated activities provided by the firm and the fact that these are limited in scope and, where appropriate, the fact that the firm is using the services of a permitted third party; and
  - (iv) that the firm is not an authorised person; and
  - (v) that the client will not have access to any compensation scheme in respect of the firm's services; and
  - (vi) the client's investment objectives; and
  - (vii) any restrictions on the investments which may be acquired or that there are no restrictions; and
  - (viii) the nature of the complaints and redress procedures available to clients; and
  - (ix) the basis on which the firm is to charge for its services.
- (b) Where a firm provides insurance distribution services, the written agreement must also provide the following information:
  - (i) the following statement in a way that is clear, fair and not misleading and no less prominent than any other information provided to the client at the same time:

“[This firm is/We are] not authorised by the Financial Conduct Authority. However, we are included on the register maintained by the Financial Conduct Authority so that we can carry on insurance distribution, which is broadly the advising on, selling and administration of insurance contracts. We are an ancillary insurance intermediary according to article 2 of the [Insurance Distribution Directive](#). This part of our business, including arrangements for complaints or redress if something goes wrong, is regulated by the Association of Chartered Certified Accountants. The register can be accessed via the Financial Conduct Authority website at [www.fca.org.uk/register](http://www.fca.org.uk/register)”;

- (ii) whether the firm has a direct or indirect holding in a given [insurance undertaking](#) representing more than 10% of the voting rights or of the capital in that undertaking;
  - (iii) whether a given insurance undertaking or parent undertaking of a given insurance undertaking has a direct or indirect holding representing more than 10% of the voting rights or of the capital in the firm.
- (c) Where a firm acts as a disclosed agent for a named client with or through a permitted third party or relies upon the advice of a permitted third party in acting for or advising a client, the firm must inform the permitted third party in writing of that fact and that accordingly the permitted third party will be responsible to the client in respect of its activities or advice.
- (d) (i) Where a firm is treating a client as an execution-only client it must:
- (aa) notify the client accordingly and must obtain a written acknowledgement from the client. In addition, written evidence of specific instructions from execution-only clients must be made, including written confirmation that the client did not seek or receive advice from the firm regarding a transaction. The transaction must have been entered into on the client's explicit instructions; and
  - (bb) have reasonably assessed and concluded that the client can be expected to understand the risks involved in the transaction.
- (ii) Copies of the written notification and acknowledgement and evidence of instructions and assessment referred to in this regulation are required to be retained for six years.

### *(5) Cessation of business*

Where a firm withdraws from providing any exempt regulated activities to clients, the firm must ensure that any such business which is outstanding is properly completed or is transferred to another firm.

### *(6) Information about the firm*

A firm may, in all its business letters, notices and other publications which relate to its exempt regulated activities, state that it is regulated to conduct exempt regulated activities by the Association. The following form of words may be used:

**“Regulated for a range of investment business activities by the Association of Chartered Certified Accountants.”**

### *(7) Information about contracts of insurance*

This regulation applies where a firm carries on insurance distribution.

Firms are not permitted to enter into any association or arrangement which may adversely affect the firm's independence. As such, firms are not permitted to enter into contractual obligations to conduct insurance distribution exclusively with one or more insurance undertakings.

## 2.3 Designated Professional Body Regulations

- (a) The client must be informed of the following in relation to each contract of insurance:
- (i) whether the advice is given based on the firm's obligation to provide a fair analysis (see regulation 7(7)(b) below); or
  - (ii) whether even though the firm is not under a contractual obligation to conduct insurance distribution exclusively with one or more insurance undertakings, the firm does not give advice based on the firm's obligation to provide a fair analysis. In that case, the firm shall provide the names of the insurance undertakings with which the firm may and does conduct business.
- (b) Where a firm informs the client that the advice is given on the basis of a fair analysis, the firm is obliged to give that advice on the basis of an analysis of a sufficiently large number of contracts of insurance available on the market, to enable the firm to make a recommendation, in accordance with professional criteria, regarding which contract of insurance would be adequate to meet the customer's needs.
- (c) Prior to the conclusion of a contract of insurance, a firm must specify, in particular on the basis of information provided by the client, the demands and needs of the client as well as the underlying reasons for any advice given to the client, and explain why a particular product would best meet the customer's demands and needs. These details must be modulated according to the complexity of the insurance contract being proposed and the type of customer.
- (d) Where a firm advises on, or proposes, an insurance product, it shall have in place adequate arrangements to obtain all appropriate information on the insurance product and the product approval process, including its identified target market, and to understand the characteristics and identified target market.

### *(8) Method of communicating with client*

This regulation applies where a firm carries on insurance distribution.

- (a) All information to be provided to clients under this regulation 7 must be communicated clearly and accurately on paper, free of charge, in English or in any other language agreed upon by the parties.
- (b) Where a firm conducts insurance distribution over the telephone, the prior information given to the client must comply with the Financial Services (Distance Marketing) Regulations 2004. Information must then be provided to the client in accordance with regulation 7(8)(a) immediately after the conclusion of the contract of insurance.
- (c) Information to be provided under this regulation 7 may be provided by way of email, where:
  - (i) the use of email is appropriate in the context of the business conducted; and
  - (ii) the customer has been given the choice between information on paper and by email, and has chosen the latter; and
  - (iii) there is evidence that the customer has regular access to the internet.

- (d) In relation to the distribution of non-life insurance products as listed in Annex I to Directive 2009/138/EC, the information referred to in regulation 7(1)(d) shall be provided by way of a standardised insurance product information document drawn up in accordance with article 20 points 6 to 8 of the Insurance Distribution Directive.

### *(9) Life policies*

When advising on the disposal of a life policy in accordance with regulation 5(1)(d)(iv), a firm must advise its client on:

- (a) the risks and costs of keeping the policy;
- (b) the various means of disposal available to the client and the advantages and disadvantages of each.

Surrendering the policy is unlikely to realise its full value. Examples of other means of disposal are selling the policy on the second-hand market, converting a joint life policy to single life, assigning the policy or making the policy paid up. If a firm is unable to fully advise its client, it should obtain the advice of a permitted third party.

### *(10) Cross-selling*

- (a) An insurance product shall not be offered with an ancillary product or service which is not insurance as part of a package or the same agreement.
- (b) Where an insurance product is ancillary to a good or service which is not insurance as part of a package or the same agreement, the firm shall offer the customer the possibility of buying the good or service separately. The firm shall specify the demands and needs of the customer in relation to the insurance product that forms part of the overall package or the same agreement.

## **8. Credit-related regulated activities**

### *(1) Consumer Credit Act 1974*

Members and firms shall make themselves aware of the provisions of the Consumer Credit Act 1974 and the provisions of secondary legislation made under that Act remaining in force, and shall ensure that the firm, its officers and its employees comply with all such legislation.

### *(2) Consumer Credit sourcebook*

When carrying on a credit-related regulated activity or an activity connected to that regulated activity, members and firms are required to comply with the conduct provisions of the [Consumer Credit sourcebook](#) relevant to that activity and the FCA's Principles for Businesses referred to in 1.1.4G of that sourcebook as if they were authorised under the Act with a permission under Part 4A of the Act to carry on the relevant regulated activity.

## **9. Compliance procedures**

### *(1) Compliance*

A firm must take reasonable steps, including the establishment and maintenance of procedures, to ensure that its officers and employees act in conformity with all regulations applicable to the conduct by the firm of exempt regulated activities.

### *(2) Records*

- (a) A firm must ensure that sufficient information is recorded and retained about its exempt regulated activities as is necessary for the proper conduct of that business and to enable it to demonstrate compliance with the regulatory system, including but not limited to records:
  - (i) of the receipt of income in respect of exempt regulated activities;
  - (ii) of the receipt of any pecuniary reward or advantage, from product providers or any third parties, which are adequate to demonstrate that the firm has accounted to the client for the pecuniary reward or advantage;
  - (iii) which are adequate to demonstrate that the firm has carried on only exempt regulated activities; and
  - (iv) of complaints received and action taken.
- (b) Any record required to be produced by this regulation should be retained for a minimum of six years.

### *(3) Complaints*

A firm must have procedures to ensure:

- (a) the proper handling of complaints from clients and third parties relevant to its compliance with the regulatory system;
- (b) that any appropriate remedial action on those complaints is promptly taken; and
- (c) where the complaint is not promptly remedied, that the client is advised of any further avenue for complaint available to them under the regulatory system;

and those procedures must include provisions to ensure that:

- (i) complaints are acknowledged within a reasonable time of their being received and in any event within 14 days;
- (ii) where a complaint has been made orally, the letter of acknowledgement states the member's understanding as to the nature of the complaint being made and invites the complainant to confirm in writing the accuracy of that statement;
- (iii) complaints are investigated by a person of sufficient experience, seniority and competence who, where possible, was not directly involved in the particular act or omission giving rise to the complaint; and
- (iv) the client is advised of the outcome of the complaint investigation.

*(4) Notification*

A firm that becomes an authorised person to conduct any regulated activities or becomes an appointed representative of another organisation should notify the Association immediately in writing of this change of status.

## **Chapter 6 Enforcement**

### **10. Enforcement**

*(1) Monitoring*

Members and firms entitled to carry out exempt regulated activities shall be subject to monitoring by the Association in accordance with The Chartered Certified Accountants' Global Practising Regulations 2003.

*(2) Intervention Orders*

- (a) If it appears to the [Admissions and Licensing Committee](#) that it is desirable to take measures for the protection of investors and/or for the protection of members of the public and/or for the protection of the Association, and that:
- (i) it is desirable to prohibit a firm from disposing of or otherwise dealing with any of its assets, or any specified assets; or
  - (ii) a firm is not fit and proper to carry on exempt regulated activities either generally or of a particular kind or to the extent to which it is or is intending to carry on that business; or
  - (iii) a firm has committed, or intends, or is likely to commit a breach of these regulations or some other act of misconduct; or
  - (iv) for more than one of these reasons;
- the Admissions and Licensing Committee may make and serve on the firm concerned a written Intervention Order (an "Order").
- (b) An Order may operate for a specified period or until the occurrence of a specified event or until the firm complies with specified conditions and may, at the Admissions and Licensing Committee's discretion, come into effect either immediately on service or at such later time as the Admissions and Licensing Committee may determine.
- (c) An Order served on a firm may require the firm to take specified steps and/or may forbid the firm:
- (i) in whole or in part, to carry on exempt regulated activities;
  - (ii) to dispose of or otherwise deal with any assets or any specified assets (whether held in the United Kingdom or outside the United Kingdom) or to act otherwise than in the manner specified in the Order;
  - (iii) to enter into transactions of a specified kind or enter into them except in specified circumstances or to a specified extent;

- (iv) to solicit business from persons of a specified kind or otherwise than from such persons or in a specified country or territory; and/or
  - (v) to carry on business in a specified manner or otherwise than in a specified manner.
- (d) An Order shall specify:
- (i) the reasons for its issue;
  - (ii) the date and time at which the Order shall come into effect;
  - (iii) the period for which the Order shall operate, which may be expressed to end with the occurrence of a specified event or when the firm has complied with the requirements of the Order; and
  - (iv) where relevant, in regard to an Order to which regulation 10(2)(a)(iii) above applies, the act or omission which constituted or would constitute breach of the regulations and the regulation which has been or would be contravened.
- (e) The Admissions and Licensing Committee, or the Chair of the Admissions and Licensing Committee acting on its behalf, may, at any time before or after an Order comes into effect, revoke the Order or vary its terms, and where the terms of an Order are varied the variation shall be effected by a new Order being served on the firm concerned.
- (f) The Association shall publish the Order at or after the time it comes into effect.

### (3) *Reference to the [Appeal Committee](#)*

A firm served with an Order may appeal against the Order in the same way and subject to the same limitations as it may appeal against any other decision of the Admissions and Licensing Committee.

The Association may appeal against the Order in the same way and subject to the same limitations as it may appeal against any other decision of the Admissions and Licensing Committee.

## **11. Waivers and service**

### (1) *Waivers and modifications*

- (a) A firm is entitled to apply in writing to the Admissions and Licensing Committee to waive, vary or suspend the requirements of any of these regulations in order to adapt it to the firm's circumstances or to any particular kind of business which the firm is carrying on or intends to carry on. The Admissions and Licensing Committee shall not grant the application unless it appears that compliance with it would be unduly burdensome having regard to the benefit which compliance would confer on investors and the exercise of the power would not result in any undue risk to investors.
- (b) The Admissions and Licensing Committee may grant such an application on conditions. If it does so, the applicant firm must comply with any such conditions.



- (c) Following an application under this regulation, or of its own volition, the Admissions and Licensing Committee may modify or waive any of these regulations. Where it does so, it may impose conditions and any firm which acts upon modification or waiver extended to it must comply with any such condition.
- (d) Any waiver given under this regulation shall apply for such period as the Admissions and Licensing Committee shall specify.
- (e) Any waiver or modification by the Admissions and Licensing Committee cannot vary the provisions of the Act or the effect of a direction or Order made by the FCA under section 328 or section 329 of the Act.

### *(2) Consents*

Where provided for in these regulations any consent to be given by the Admissions and Licensing Committee may be given or withheld in its absolute discretion, but if withheld the Admissions and Licensing Committee shall notify the firm of the reasons why it has been withheld.

### *(3) Service*

Except as otherwise provided in these regulations, any notice or other document required or authorised by these regulations to be served on any firm may be served by leaving it at or sending it by post to the firm's address notified to the Association in accordance with these regulations.

## **12. Liability**

Neither the Association nor any of its officers or servants or agents nor any members of any committee of Council shall be liable in damages or otherwise for anything done or omitted to be done in the discharge or purported discharge of any function under the Act set out below unless the act or omission is shown to have been in bad faith. The functions referred to above are the functions of the Association so far as relating to or to matters arising out of:

- (a) the bye-laws, regulations and arrangements of the Association so far as they relate to or are applied in respect of the carrying on of exempt regulated activities or any other matters concerning the Act and/or to which the requirements in section 325(4) of the Act require the Association to comply;
- (b) the obligations with which section 325(4) of the Act requires the Association to comply;
- (c) any guidance issued by the Association in respect of any matter dealt with by such regulations as are mentioned in (a) above; or
- (d) the obligations to which the Association is subject by virtue of the Act.