

**RETAIL DISTRIBUTION REVIEW (ADVISER CHARGING NO 5)  
INSTRUMENT 2012**

**Powers exercised**

- A. The Financial Services Authority makes this instrument in the exercise of:
- (1) the following powers and related provisions in the Financial Services and Markets Act 2000 (“the Act”):
    - (a) section 138 (General rule-making power);
    - (b) section 156 (General supplementary powers); and
    - (c) section 157(1) (Guidance); and
- B. The rule-making powers referred to above are specified for the purpose of section 153(2) (Rule-making instruments) of the Act.

**Commencement**

- C. This instrument comes into force on 31 December 2012.

**Amendments to the Handbook**

- D. The Conduct of Business sourcebook (COBS) is amended in accordance with Annex A to this instrument.
- E. The Supervision manual (SUP) is amended in accordance with Annex B to this instrument

**Citation**

- F. This instrument may be cited as the Retail Distribution Review (Adviser Charging No 5) Instrument 2012.

By order of the Board  
21 March 2012

## Annex A

## Amendments to the Conduct of Business sourcebook (COBS)

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

**6.1B Retail investment product provider and platform service provider requirements relating to adviser charging and remuneration**

...

Requirements on firms facilitating the payment of adviser charges

6.1B.9 R A *firm* that offers to facilitate, directly or through a third party, the payment of *adviser charges* ~~from a retail client's retail investment product or otherwise, including~~ by means of a *platform service* must:

...

6.1B.9A G A firm facilitates the payment of *adviser charges* for the purposes of COBS 6.1B.9R if the *adviser charge* is not paid directly by the *retail client*, but is instead paid on behalf of the *retail client* via the *firm*.

6.1B.9B G A firm may facilitate the payment of *adviser charges* for the purposes of COBS 6.1B.9R by:

- (1) selling all or part of the *retail client's retail investment product* to pay the *adviser charge*; or
- (2) disposing of or reducing all or part of the *retail client's rights* under the *retail investment product* (for example, by way of a part disposal which creates benefits under a *life policy*) to pay the *adviser charge*; or
- (3) separating out an amount or amounts for the payment of the *adviser charge* from the amount received from the *retail client* to be invested or from the *premium* in the case of a *life policy*; or
- (4) paying the *adviser charge* from the *retail client's* cash account.

...

**6.1D Product provider requirements relating to consultancy charging and remuneration**

...

Requirements on firms facilitating the payment of consultancy charges

6.1D.9 R A *firm* that offers to facilitate, directly or through a third party, the payment of *consultancy charges* ~~from an employee's investment in a group personal~~

~~pension scheme or group stakeholder pension scheme~~ must:

...

- 6.1D.9A G A firm facilitates the payment of consultancy charges for the purposes of COBS 6.1D.9R if the consultancy charge is not paid directly by the employee, but is instead paid on behalf of the employee via the firm.
- 6.1D.9B G A firm facilitates the payment of consultancy charges for the purposes of COBS 6.1D.9R by:
- (1) selling all or part of, or rights under, the employee's investment in a group personal pension scheme or group stakeholder pension scheme to pay the consultancy charge; or
  - (2) disposing of or reducing all or part of the employee's rights under the group personal pension scheme or group stakeholder pension scheme (for example, by way of a part disposal which creates benefits under a life policy) to pay the consultancy charge; or
  - (3) separating out an amount or amounts for the payment of the consultancy charge from the amount received from the employer on behalf of the employee or from the premium in the case of a life policy.

...

## 15.2 The right to cancel

...

Disclosing a right to cancel or withdraw

- 15.2.5 R (1) The *firm* must disclose to the *consumer*:
- (a) in good time before or, if that is not possible, immediately after the *consumer* is bound by a contract that attracts a right to cancel or withdraw; and
  - (b) in a *durable medium*;
- the existence of the right to cancel or withdraw, its duration and the conditions for exercising it including information on the amount which the *consumer* may be required to pay, the consequences of not exercising it and practical instructions for exercising it indicating the address to which the notification of cancellation or withdrawal should be sent.
- (1A) If the firm offers to facilitate, directly or through a third party, the payment of adviser charges or consultancy charges, it must disclose to the consumer at the same time as it makes the disclosure in (1):

- (a) whether any refund will include an *adviser charge* or *consultancy charge*; and
- (b) that the *consumer* may be liable to pay any outstanding *adviser charges* or *consultancy charges*.

...

## Annex B

### Amendments to the Supervision manual (SUP)

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

#### 16 Annex 21R REPORTING FIELDS

R This is the annex referred to in SUP 16.11.7R

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#### 2 SPECIFIC REPORTING FIELDS

##### (a) Retail investments

The following data reporting fields must be completed, where applicable, for all *retail investment* transactions, including *structured capital-at-risk products*:

Data reporting field	Illustrative code (where applicable)	Notes
...		
Total <i>premium/contribution</i> amount	Numeric £	Enter annualised amount rounded to nearest £ <u>If the <i>firm</i> facilitates the payment of an <i>adviser charge</i> or <i>consultancy charge</i>, enter the amount paid into the <i>retail investment product</i>, irrespective of whether this amount includes the <i>adviser charge</i> or <i>consultancy charge</i>.</u>
...		