

Chapter 4

Information to be communicated to banking customers

4.1 Enabling banking customers to make informed decisions

The appropriate information rule

4.1.1

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A *firm* must provide or make available to a *banking customer* appropriate information about a *retail banking service* and any *deposit* made in relation to that *retail banking service*:

- (1) in good time;
- (2) in an appropriate medium; and
- (3) in easily understandable language and in a clear and comprehensible form;

so that the *banking customer* can make decisions on an informed basis.

4.1.2

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- (1) In determining:
 - (a) what is "in good time";
 - (b) the appropriate medium for communicating information; and
 - (c) whether it is appropriate to provide information (that is, send or give it directly to the *banking customer*) or make it available (that is, make it available to obtain at the *banking customer's* option);

a *firm* should consider the importance of the information to the decision-making process of the *banking customer* and the time at which the information may be most useful. Distance communications requirements are also relevant.

- (2) For example, (unless ■ BCOBS 3 applies) a *firm* should provide the terms and conditions of the contract for a *retail banking service* on paper or in another *durable medium* in good time before a *banking customer* is bound by them.
 - (2A) (a) A *firm* should provide a summary box in the form set out in ■ BCOBS 2 Annex 1R on paper or in another durable medium in good time before a *banking customer* is bound by the terms and conditions of a *savings account*, except where the *firm* has already provided the summary box to a *banking customer* on a previous occasion.
 - (b) If the contract for the *savings account* has been concluded at a *banking customer's* request using a means of distance

communication that does not enable the provision of the summary box in that form in good time before the *banking customer* is bound, the *firm* should provide the summary box on paper or in another durable medium immediately after the conclusion of the contract.

- (c) In the case of a *savings account* that is a *cash deposit ISA*, *cash-only lifetime ISA* or a *cash deposit CTF*, the *firm* may include the summary box in a *key features document* provided to the *banking customer* in line with the *rules and guidance* in ■ COBS 13 and ■ COBS 14.
 - (d) In preparing the summary box, a *firm* should have regard to the provisions of ■ BCOBS 2.2A.1R as if they were *guidance*.
- (2B) A *firm* should ensure that the rate of interest that applies to a *savings account* is prominently shown alongside, or in close proximity to (or, in the case of (b), on a page accessed directly through a link that appears prominently alongside or in close proximity to) any account balance information included in:
- (a) any paper or online statement of account provided or made available by the *firm*;
 - (b) where the *firm* provides an online banking service to the *banking customer*, the first personalised page of the *firm's* website that the *banking customer* accesses when using this service;
 - (c) any notification of a material change to a rate of interest provided in accordance with (3)(c);
 - (d) any notification of the expiry of an introductory, promotional or preferential rate of interest provided in accordance with (5); and
 - (e) any notification of the expiry of a fixed term of a *fixed term savings account* provided in accordance with (6A).
- (2C) For the purposes of (2B):
- (a) (i) unless (ii) applies, the *firm* should show the rate of interest that applies to the *savings account* as a numerical figure (and not merely the method for determining the current figure under the terms and conditions);
 - (ii) where the rate of interest that applies to the *savings account* automatically tracks a reference interest rate (within the meaning of the *Payment Services Regulations*), the *firm* should indicate how the rate of interest is calculated and direct the *banking customer* to where the level of the reference interest rate may be accessed from time to time; and
 - (b) in the case of account balance information made available online, the *firm* should show the rate of interest that applies to the account at the time the *banking customer* accesses the information; or
 - (ii) in the case of account balance information provided in a *durable medium*, the *firm* should show the rate of interest that applies to the account at the time the information is sent.

- (2D) A *firm* should inform a *banking customer* of the current rate of interest that applies to a *savings account* on the telephone or in a branch of the *firm* at the request of the *banking customer*.
- (2E) A *firm* should publish the current rate of interest that applies to each *savings account* it provides on its website (whether or not the *savings account* is available to new customers) and ensure that this is kept continuously up to date and is easily accessible by a *banking customer*.
- (3) Where a *firm* proposes to exercise a power to make:
- (a) a change to any term or condition of the agreement; or
 - (b) a change to any charge; or
 - (c) a material change to any rate of interest;
- that applies to the *retail banking service* and that will be to the disadvantage of a *banking customer*, the *firm* should provide reasonable notice to the *banking customer* on paper or in another durable medium before the change takes effect, taking into account the period of notice required by the *banking customer* to terminate the contract for the *retail banking service*. A change to a rate of interest should always be considered 'material' except where the balance of the account is less than £100 at the time when the *firm* would provide the notice.
- (3A) When providing a notice under (3)(c), (5) or (6A), a *firm* should ensure that the heading of the notice clearly indicates the main substance of the change to which the notification relates. When providing a notice under (3)(c) relating to a decrease in the rate of interest, for example, a *firm* should ensure that the heading of the notice clearly indicates that the rate of interest is decreasing.
- (4) Where a *firm* notifies a *banking customer* of a material change to a rate of interest that applies to a *retail banking service* and that will be to the disadvantage of a *banking customer*, this notification should, where applicable:
- (a) refer to the fact that the *firm* offers a comparable *retail banking service* for which the *banking customer* is eligible;
 - (b) indicate that the *banking customer* may move to that *retail banking service* or a *retail banking service* provided by another *firm*; and
 - (c) indicate that the *firm* will assist the *banking customer* to move to another *retail banking service* if he wishes to do so.
- (5) Subject to (5A), where, under a contract for a *retail banking service*, an introductory, promotional or preferential rate of interest applies to the *retail banking service* until a specified future date or the end of a fixed period, a *firm* should provide notice of the expiry of the application of that rate of interest to the *banking customer* on paper or in another durable medium within a reasonable period before that rate of interest ceases to apply.
- (5A) Paragraph (5) does not apply where the balance of the account is less than £100 at the time when the *firm* would otherwise provide the notice.

(6) [deleted]

(6A) In relation to a *fixed-term savings account*, a *firm* should provide notice of the expiry of the fixed term to the *banking customer* on paper or in another durable medium in good time before the end of the fixed term. This notice should explain, in easily understandable language and in a clear and comprehensible form:

(a) the consequences of the expiry of the fixed term, including whether the *firm* proposes to transfer the balance of the account to another *fixed-term savings account* if the *banking customer* does not provide further instructions to the *firm* while the customer has an opportunity to do so; and

(b) the options available to the *banking customer* for dealing with the balance in the *fixed term savings account*, including when and how these options may be exercised.

(6B) Where a notice under (3)(c), (5) or (6A) is provided by the *firm* more than 14 days before the change to which the notice relates takes effect, a *firm* should also provide a reminder to the *banking customer* within a period beginning 14 days before the relevant change takes effect and ending on the day before it does so. The *firm* may choose the medium in which the reminder is provided. In doing so, the *firm* should take account of any preferences expressed by the *banking customer* about the medium of communication between the *firm* and the *banking customer*, for example, if the *banking customer* has indicated a preference to receive information by mobile telephone text message.

(7) The general law, including the *Unfair Terms Regulations* (for contracts entered into before 1 October 2015) and the *CRA*, also limits the scope for a *firm* to use or rely on a variation clause in a contract with a *consumer*.

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Where a *rule* in this chapter requires information to be provided on paper or in another *durable medium* before a *banking customer* is bound by the terms and conditions of the contract, a *firm* may instead provide that information in accordance with the distance communication timing requirements (see ■ BCOBS 3.1.11 R and ■ BCOBS 3.1.12 R).

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The appropriate information *rule* applies before a *banking customer* is bound by the terms of the contract. It also applies after a *banking customer* has become bound by them. In order to meet the requirements of the appropriate information *rule*, information provided or made available by a *firm* to a *banking customer* should include information relating to:

(1) the *firm*;

(2) the different *retail banking services* offered by the *firm* which share the main features of the *retail banking service* the *banking customer* has enquired about, or which have the product features the *banking customer* has expressed an interest in, unless the *banking customer* has expressly indicated that he does not wish to receive that information;

- (3) the terms and conditions of the contract for a *retail banking service* and any changes to them;
- (4) the rate or rates of interest payable on any deposit, how and when such interest is calculated and applied and any changes to that rate or those rates;
- (5) any charges at any time payable by or on behalf of a *banking customer* in relation to each *retail banking service* and any changes to those charges;
- (5A) the time at which any funds placed with or transferred to the *firm* for credit to the *banking customer's* account will be made available to the *banking customer*;
- (6) a *banking customer's* rights to cancel a contract for a *retail banking service*;
- (7) how a *banking customer* may make a complaint (at the time and in the manner required by ■ DISP 1.2);
- (8) [deleted]
- (9) basic bank accounts but only if the *firm* offers a basic bank account and the *banking customer* meets the *firm's* eligibility criteria for such an account; and
- (10) the timescales for each stage of the cheque clearing process.

4.1.4A

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- (1) This *guidance* applies to a *firm* only with respect to its *communications* and dealings with *consumers* where a *firm* has a *right of set-off*.
- (2) To ensure compliance with the appropriate *information rule*, the *firm* should:
 - (a) (i) provide an explanation of the nature and extent of the *firm's right of set-off*; and
 - (ii) if the *firm* considers that it is entitled to exercise a right to set off or combine a debt due solely from a *consumer*, or a debit balance on an account held in the sole name of a *consumer*, against or with a credit balance on an account held in the joint names of that *consumer* and another *consumer*, also provide an explanation of that right to the *consumers* in whose names the joint account is held;

in good time before the *consumer* is bound by the contract for the *retail banking service*. This information may be incorporated in the terms and conditions that apply to the contract for the *retail banking service*;
 - (b) (i) on the first occasion that the *firm* proposes to exercise a *right of set-off* in its dealings with the *consumer*; and

(ii) where appropriate, on any subsequent occasion that the *firm* proposes to exercise a *right of set-off* in its dealings with the *consumer*;

provide general information in relation to the nature of the *firm's right of set-off* and the generic circumstances in which the *firm* may rely on that right within a reasonable period before the *firm* seeks to exercise its *right of set-off*. The *FCA* considers that this information should be provided at least 14 days before the *firm* seeks to exercise its *right of set-off*. It may be incorporated in another communication sent by the *firm* to the *consumer*; and

(c) where it has exercised a *right of set-off*, provide prompt notification of this to the *consumer*. This notification should clearly identify the date that the *firm* exercised its *right of set-off* and the amount debited from the *consumer's* account in reliance on that right.

(3) The information referred to in (2) should be provided in plain and intelligible language on paper or in another *durable medium*.

(4) In determining whether it is appropriate to provide general information under (2)(b)(ii), the *firm* should consider the period of time that has elapsed since the *firm* last provided that information under (2)(b)(i) or (ii).

(5) Nothing in (2)(a)(ii) should be considered as expressing a view on the validity, enforceability or fairness of any *right of set-off* in relation to a joint account that a *firm* considers it is entitled to exercise.

4.1.5

G The information required by the appropriate information *rule* may vary according to matters such as:

- (1) the *banking customer's* likely or actual commitment;
- (2) the information needs of a reasonable recipient having regard to the type of *retail banking service* that is proposed or provided and its overall complexity, main benefits, risks, limitations, conditions and duration;
- (3) distance communication information requirements (for example, under the distance communication *rules* less information can be given during certain telephone sales than in a sale made purely by written correspondence (see ■ BCOBS 3.1)); and
- (4) whether the same information has been provided to the *banking customer* previously and, if so, when that was.

4.1.6

G The existence of cancellation rights does not affect what information it is appropriate to give a *banking customer* in order to enable him to make an informed purchasing decision.

4.1.7

G If the *retail banking service* is a *cash deposit ISA*, *cash-only lifetime ISA* or a *cash deposit CTF*, the rules in ■ COBS 13.1 (Preparing product information) and ■ COBS 14.2 (Providing product information to clients) also apply.

4.2 Statements of account

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- (1) A *firm* must provide or make available to a *banking customer* on paper or in another *durable medium* such regular statements of account as are appropriate to the type of *retail banking service* provided, but need not do so where:
 - (a) the *firm* has provided a *banking customer* with a pass book or other document in a *durable medium* that records transactions in relation to the *retail banking service*;
 - (b) the *retail banking service* is provided at a distance by means of electronic equipment where the *banking customer* can access his account balance, view transactions and give instructions in relation to the *retail banking service* at a distance by such means;
 - (c) a *banking customer* has elected not to receive periodic statements of account, and for so long as such election is in force; or
 - (d) it has reasonable grounds to believe that the *banking customer* is not resident at the address last known to it as the address of the *banking customer* and it is not practicable after reasonable inquiry to ascertain the *banking customer's* address.
- (2) A *firm* must not charge for providing information which is required to be provided by (1).
- (3) A *firm* must provide a *banking customer* with a true copy of any statement of account provided to him under (1) on paper or in another *durable medium* within a reasonable period of time following a request to that effect made by or on his behalf.
- (4) A *firm* and a *banking customer* may agree on a charge for:
 - (a) providing a copy of a statement of account under (3); or
 - (b) providing statements of account more frequently than required by (1);at the request of the *banking customer*. Any such charge must reasonably correspond to the *firm's* actual costs.

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A *firm* should indicate the rate or rates of interest that apply to a *retail banking service* in each statement of account provided or made available to a *banking customer* in respect of that *retail banking service* in accordance with ■ BCOBS 4.2.1R (1). *Firms* are also reminded of the provisions of ■ BCOBS 4.1.2G(2B) and (2C).



4.3 Information to be provided by a non ring-fenced body to individual account holders

Application and purpose

4.3.1 **G** Article 14 of the Financial Services and Markets Act 2000 (Ring-fenced Bodies and Core Activities) Order 2014 "the Ring-fenced Bodies and Core Activities Order 2014" places a duty on the *FCA* to make *rules* specifying the information that a *non ring-fenced body* must provide to certain classes of individuals. The purpose of this section is to set out those *rules*.

4.3.2 **R** This section applies to a *firm* that is a *non ring-fenced body* or is to become a *non ring-fenced body*.

4.3.3 **G** A *non ring-fenced body* is a *firm* which has a *Part 4A permission* to carry on the *regulated activity* of *accepting deposits* and which is neither a *ring-fenced body* nor an institution which is exempt from the definition of a ring-fenced body. Section 142A(1) of the *Act* defines a ring-fenced body as a UK institution which carries out one or more core activities under section 142B of the *Act* for which it has a *Part 4A permission*. Section 142A(2) of the *Act* and the Ring-fenced Bodies and Core Activities Order 2014 provide that a *building society* and certain other classes of UK institution are exempt from this definition. Further, *firms* do not fall within the definition unless they hold *deposits* in *EEA accounts*.

To whom must information be provided?

- 4.3.4** **R**
- (1) A *firm* that is to become a *non ring-fenced body* must provide the information specified in **BCOBS 4.3.6R** to any individual from whom the *firm* proposes to accept, or contemplates it is likely to receive, a declaration of eligibility under article 9(1)(a) of the Ring-fenced Bodies and Core Activities Order 2014 (whether accompanied by a *confirming statement* or not).
 - (2) A *firm* that is a *non ring-fenced body* must provide the information specified in **BCOBS 4.3.6R** to:
 - (a) any individual who has applied to open an *EEA account* for the purpose of making one or more *deposits* (including a joint account) with that *firm*; and
 - (b) any individual who holds an *EEA account* for that purpose (including a joint account) with that *firm*,

except where the *firm* has already provided that information to the individual on a previous occasion.

- 4.3.5 **G** A request made by an individual to switch to an *EEA account* with a *firm* is to be regarded as an application to open an *EEA account* with that *firm* (it is immaterial if the switch is from an account held with a *ring-fenced body* in the same group as the *firm* or whether the existing account will be closed when the switch is complete).

What information must be provided?

- 4.3.6 **R** The information required to be provided by **BCOBS 4.3.4R** is:

- (1) a summary of the purpose of the provisions of Part 9B of the Act (Ring-fencing) and of the key risks to which a *non ring-fenced body* may be exposed which distinguish it from a *ring-fenced body*;
- (2) a description of any *excluded activity* which the *firm* is carrying on or (for information provided before the date on which Part 9B of the Act comes fully into force) a description of any activity the *firm* is carrying on which would, if carried on after that date, be an *excluded activity*; and
- (3) a description of any *prohibited action* which the *firm* has taken or (for information provided before the date on which Part 9B of the Act comes fully into force) a description of any action the *firm* has taken which would, if taken after that date, be a *prohibited action*.

- 4.3.7 **G** (1) The summary described in **BCOBS 4.3.6R(1)** should include a brief explanation that the purpose of ring-fencing is to separate the retail banking activities, on which households and small businesses depend, from wholesale or investment banking activities which may involve a greater degree of risk and expose an entity undertaking those activities to financial problems arising elsewhere in the global financial system.

It should also indicate that certain *ring-fenced bodies* carrying on retail banking activities will have to comply with restrictions on the other activities they can undertake, and with rules made by the *appropriate regulator* intended to ensure that they are capable of carrying on the business of providing the core services related to the acceptance of *deposits* independently of other members in their group. They will, for example, not be able to carry on activities called 'excluded activities' which make them vulnerable to problems arising in the financial system or which may make it more difficult for banks to be wound down in an orderly fashion. The summary should explain that, as a *non ring-fenced body*, the *firm* is not subject to these restrictions.

- (2) It is not necessary for the information provided under **BCOBS 4.3.6R(2)** and (3) to contain an exhaustive list of each specific activity or action that constitutes an *excluded activity* or *prohibited action*, so long as the information about the nature of the activities and actions is sufficient to enable the individual to make an informed decision as to whether to open or continue to hold an

account with the *firm* in the light of its status as a *non ring-fenced body*.

When must the information be provided?

- 4.3.8 **R** (1) The information required to be provided under ■ BCOBS 4.3.4R(1) must be provided in good time before the individual becomes an *eligible individual* in relation to the *firm*.
- (2) The information required to be provided under ■ BCOBS 4.3.4R(2)(a) must be provided in good time before the individual opens an account with the *firm*.
- (3) The information required to be provided under ■ BCOBS 4.3.4R(2)(b) must be provided as soon as practicable after the *firm* has become a *non ring-fenced body*.

4.3.9 **G** In determining what is "in good time" under ■ BCOBS 4.3.8R, the *firm* should consider the time at which the information may be most useful to the individual in making a decision as to whether to continue to hold or to open an account with the *firm*.

How must the information be provided?

- 4.3.10 **R** The information required under ■ BCOBS 4.3.4R must be provided:
 - (1) in writing;
 - (2) in a prominent manner and in a medium that is calculated to bring the information to the attention of the individual to whom it is addressed; and
 - (3) in easily understandable language and in a clear and comprehensible form,

so that the individual can make a decision as to whether to continue to hold or to open an account with the *firm* on an informed basis.

4.3.11 **R** A *firm* must not charge for providing the information required to be provided by ■ BCOBS 4.3.4R.

Requirement to publish the information on a website

4.3.12 **R** A *firm* must, on or before the first date it is required to provide information under ■ BCOBS 4.3.4R, make the information in ■ BCOBS 4.3.6R accessible continuously on its website and keep such information up to date.

