

Chapter 14

Providing product information to clients

14.2 Providing product information to clients

Providing information about PRIIPs

14.2.-1

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(1) The *PRIIPs Regulation* requires a *person* who advises on, or sells, a *PRIIP* to provide a retail investor (as defined in the *PRIIPs Regulation*) with the *key information document* for that *PRIIP*.

[**Note:** article 13 of the *PRIIPs Regulation*]

(2) Since the *PRIIPs Regulation* imposes directly applicable requirements in relation to the provision of information about *PRIIPs*, this chapter does not apply to a *firm* when it is advising on, or selling, a *PRIIP* (except where applicable to *Solvency II Directive information*).

(3) A *firm* that sells a *life policy* that is also a *PRIIP* must provide the information required by ■ COBS 14.2.1R(2). Some or all of this information may be included in a *key information document* if this is required to be provided by, and such inclusion is permitted under, the *PRIIPs Regulation*.

The provision rules for products other than PRIIPs

14.2.1

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A *firm* that sells:

(1) a *non-PRIIP packaged product* to a *retail client*, must provide a *key features document* and a *key features illustration* to that *client* (unless the *packaged product* is a *unit* in a *regulated collective investment scheme*);

(2) a *life policy* to a *client*, must provide:

(a) the *Solvency II Directive information* to that *client*;

(b) a *client* with objective and relevant information about the *policy*:

in a comprehensible form to allow the *client* to make an informed decision;

modulated in a way that takes into account the complexity of the *policy* and the type of *client*;

whether or not the *firm* makes a *personal recommendation*; and

irrespective of whether the *policy* is offered as part of a package pursuant to ■ COBS 6.1ZA.16AR to ■ COBS 6.1ZA.16ER;

- (c) the information in (b) must be provided prior to the conclusion of the *life policy* and in accordance with ■ COBS 7.4, rather than in accordance with the other *rules* in this section;
- (3) the variation of a *life policy* or *personal pension scheme* to a *retail client*, must provide that *client* with sufficient information about the variation for the *client* to be able to understand the consequences of the variation;
- (3A) [deleted]
- (3B) the variation of a *personal pension scheme* to a *retail client*, which involves an election by the *client* to make *income withdrawals* or a purchase of a *short-term annuity*, must provide that *client* with such information as is necessary for the *client* to understand the consequences of the variation, including where relevant, the information required by ■ COBS 13 Annex 2.2.9 R (Additional requirements: drawdown pensions and regular *uncrystallised funds pension lump sum* payments);
- (3C) the variation of a *personal pension scheme* to a *retail client*, which involves one-off, ad-hoc or regular *uncrystallised funds pension lump sum* payments, must provide that *client* with such information as is necessary for the *client* to understand the consequences of the variation, including (where relevant) the information required by ■ COBS 13 Annex 2.2.9 R (Additional requirements: drawdown pensions and regular *uncrystallised funds pension lump sum* payments);
- (4) a *cash-deposit ISA*, *cash-only lifetime ISA* or *cash-deposit CTF* to a *retail client*, must provide a *key features document* to that *client*;
- (4A) a *lifetime ISA*, which is not a *cash-only lifetime ISA*, to a *retail client* must provide to that *client* the information in ■ COBS 14 Annex 1;
- (5) [deleted]
- (5A) a *unit* in a *KII-compliant NURS* must provide the following to a *retail client*:
 - (a) a copy of the *scheme's NURS-KII document* and (unless already provided) the information required by ■ COBS 13.3.1R(2) (General requirements); and
 - (b) if that *client* is present in the *EEA*, enough information for the *client* to be able to make an informed decision about whether to hold the *units* in a *wrapper* (if the *units* will, or may, be held in that way);
- (6) [deleted]
- (7) a *unit* in a *UCITS scheme*, or in an *EEA UCITS scheme* which is a *recognised scheme*, to a *client*, must:
 - (a) provide a copy of the *scheme's key investor information document* or, as the case may be, *EEA key investor information document* to that *client*; and
 - (b) where the *client* is a *retail client*, provide separately (unless already provided) the information required by ■ COBS 13.3.1R (2)

(General requirements) and, if that *client* is present in the *EEA*, the information required by (5A)(b).

(8) [deleted]

[Note: in respect of (2) article 185(1) of the *Solvency II Directive* and in respect of (2)(b) articles 20(1) first paragraph, 20(2), 20(4) and 23 of the *IDD*]

[Note: in respect of (7), articles 1 and 80 of the *UCITS Directive*]

Provision of key investor information document or NURS-KII document

14.2.1A

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(1) This rule applies to:

- (a) an *authorised fund manager* of a *UCITS scheme* or a *KII-compliant NURS* that is either an *authorised unit trust*, *authorised contractual scheme* or an *ICVC*; and
- (b) an *ICVC* that is a *UCITS scheme* or *KII-compliant NURS*.

(2) An *authorised fund manager* and an *ICVC* in (1) that sells *units* in a *UCITS scheme* or a *KII-compliant NURS* directly, or through another natural or legal *person* who acts on its behalf and under its full and unconditional responsibility, must ensure that investors are provided with the *key investor information document* for the *UCITS scheme* or the *NURS-KII document* for the *KII-compliant NURS*.

(3) An *authorised fund manager* and an *ICVC* in (1) that does not sell *units* in a *UCITS scheme* or a *KII-compliant NURS* directly, or through another natural or legal *person* who acts on its behalf and under its full and unconditional responsibility, must ensure that the *key investor information document* for the *UCITS scheme* or the *NURS-KII document* for the *KII-compliant NURS* is provided on request to product manufacturers and intermediaries selling, or advising investors on, potential *investments* in those *UCITS schemes* or *KII-compliant NURS* or in products offering exposure to them.

(4) The *key investor information document* or the *NURS-KII document* must be provided to investors free of charge.

(5) An *authorised fund manager* and an *ICVC* in (1) may, instead of providing the *key investor information document* or *NURS-KII document* to investors in paper copy in accordance with (2), provide it in a *durable medium* other than paper or by means of a website that meets the *website conditions*, in which case the *authorised fund manager* and *ICVC* must:

- (a) deliver a paper copy of the *key investor information document* or *NURS-KII document* to the investor on request and free of charge; and
- (b) make available an up-to-date version of the *key investor information document* or *NURS-KII document* to investors on the website of the *ICVC* or *authorised fund manager*.

[Note: articles 80 and 81 of the *UCITS Directive*]

Provision of a generic key features illustration

- 14.2.1B **R** When the *rules* in this chapter require the offer or provision of a *key features illustration*, a *firm* may provide a *generic key features illustration* if that *generic key features illustration* has been prepared in accordance with ■ COBS 13.4.2 R.

Provision of information: other requirements

- 14.2.1C **R** A *firm* that arranges to facilitate the payment of an *adviser charge* or *consultancy charge*, or an increase in such a charge from an in-force *packaged product*, must provide to the *retail client* sufficient information for the *retail client* to be able to understand the likely effect of that facilitation.

- 14.2.1D **G** Where a *firm* arranges to facilitate the payment of an *adviser charge* or *consultancy charge* for a new *non-PRIIP packaged product*, the information required by ■ COBS 14.2.1CR should be included in the *key features illustration*.

- 14.2.2 **R** The *documents* or information required to be provided or offered by ■ COBS 14.2.1 R and ■ COBS 14.2.1CR must be in a *durable medium* or made available on a website (where that does not constitute a *durable medium*) that meets the *website conditions*.

- 14.2.3 **R**
- (1) A *firm* that *personally recommends* that a *retail client* holds a particular asset in a *SIPP* must provide that *client* with sufficient information for the *client* to be able to make an informed decision about whether to buy or invest.
 - (2) This *rule* does not apply if the asset is described in ■ COBS 14.2.1 R.

Firm not to cause confusion about the identity of the producer of a product

- 14.2.4 **R** When a *firm* provides a *document* or information in accordance with the *rules* in this section, it must not do anything that might reasonably cause a *retail client* to be mistaken about the identity of the *firm* that has produced, or will produce, the product.

Exception to the provision rules: key features documents and key investor information documents

- 14.2.5 **R** A *firm* is not required to provide:
- (1) a *document*, if the *firm* produces the product and the *rules* in this section require another *firm* to provide the document;
 - (2) a *key features document* or *key features illustration*, if another *person* is required to provide the *distance marketing information* by the *rules* of another *EEA State*;
 - (3) the *Solvency II Directive information*, if another *person* is required to provide that information by the *rules* of another *EEA State*.

(4) [deleted]

[Note: in respect of (3), article 185(8) of the *Solvency II Directive*]

Exception: key features illustrations

14.2.6 **R** A *firm* is not required to provide a *key features illustration* for a product if the information that would have been included in that illustration is included in the *key features document* provided to the *client*.

14.2.6A **R** A *firm* is not required to provide a *key features illustration* in relation to a *pension annuity* if the *firm* provides the information required by ■ COBS 19.9 (Pension annuity comparison information).

Exception to the provision rules: key features documents and key features illustrations

14.2.7 **R** A *firm* is not required to provide a *key features document* or a *key features illustration* for:

- (1) [deleted]
- (2) a *life policy* if:
 - (a) the *firm* is operating from an establishment in another *EEA State* and the sale is by *distance contract*; or
 - (b) the *client* is habitually resident outside the *United Kingdom* and the sale is not by *distance contract*.
- (3) a *traded life policy*; or
- (4) an interest in an *investment trust savings scheme*.

[Note: in respect of (2), articles 4(1) and 16 of the *Distance Marketing Directive* and article 185 of the *Solvency II Directive*]

Exception to the provision rules: key features documents and key features illustrations

14.2.8 **R** A *firm* is not required to provide a *key features document* or a *key features illustration*, if:

- (1) the *client* is buying or investing in response to a *direct offer financial promotion* without receiving a *personal recommendation* to buy or invest; and
- (2) the *firm* provides materially the same information in some other way.

Exception to the provision rules: key features documents, key features illustrations, key investor information documents and NURS-KII documents

14.2.9 **R** A *firm* is not required to provide a *key features document* or a *key features illustration* if:

- (1) the *client* is habitually resident outside the *EEA* and not present in the *EEA* when the relevant application is signed; or
- (2) the purchase is by a *discretionary investment manager* on behalf of a *retail client*; or
- (3) the sale is *arranged or personally recommended* by an *investment manager* and the *client* has agreed that a *key features document* is not required.
- (4) [deleted]

14.2.9A **R**

For the purposes of the provision rules in relation to a *key investor information document* or a *NURS-KII document*, a *firm*:

- (1) may satisfy the requirement to provide the document to the investor by providing it to a *person* who has written authority to make investment decisions on that investor’s behalf; and
- (2) is not required to consider as a new transaction:
 - (a) a subscription to *units* in a *UCITS scheme*, an *EEA UCITS scheme* or a *KII-compliant NURS* in which the *client* already holds *units*; or
 - (b) a series of connected transactions undertaken as the consequence of a single investment decision; or
 - (c) a decision by the *client* to switch from one class of *units* to another in the same *scheme*;

if an up-to-date version of the *key investor information document* or *NURS-KII document* for the *scheme* or the relevant class of *units* has already been provided to that *client*.

[Note: article 80 of the *UCITS Directive*]

14.2.10 **G**

- (1) [deleted]
- (2) The *FCA* would regard a decision to subscribe to a regular monthly savings plan as a single investment decision for the purpose of **COBS 14.2.9AR (2)(a)**. However, a subsequent decision by the *client* to increase the amount of the regular contributions to be invested in *units* of a particular *scheme* or to direct the contributions to a different *scheme*, would in each case constitute a new transaction.

14.2.11 **R**

[deleted]

Exception: successive operations

14.2.12 **R**

In the case of a *distance contract* comprising an initial service agreement, followed by successive operations or a series of separate operations of the same nature performed over time, the *rules* in this section only apply to the initial agreement.

- 14.2.13 **R** If there is no initial service agreement but the successive operations or separate operations of the same nature performed over time are performed between the same contractual parties, the *rules* in this section only apply:
- (1) when the first operation is performed; and
 - (2) if no operation of the same nature is performed for more than a year, when the next operation is performed (the next operation being deemed to be the first in a new series of operations).

The timing rules

- 14.2.14 **R** When the *rules* in this section require a *firm* to:
- (1) [deleted]
 - (2) provide a *key features document* or any other *document* or information to a *client*, the *document* or information must be provided free of charge and in good time before the *firm* carries on the relevant business; or
 - (3) provide a *key investor information document*, *EEA key investor information document* or *NURS-KII document* to a *client*, it must be provided in good time before the *client's* proposed subscription for *units* in the *scheme*.

[Note: article 80 of the *UCITS Directive*]

Exception to the timing rules: child trust funds

- 14.2.15 **R** A *key features document* for an *HMRC allocated CTF* must be provided as soon as reasonably possible after the *CTF* has been opened.

Exception to the timing rules: distance contracts and voice telephony communications

- 14.2.16 **R**
- (1) A *firm* may provide a *document*, or the information required to be provided by the *rules* in this section, in a *durable medium* immediately after the conclusion of a *distance contract*, if the contract has been concluded at a *client's* request using a means of distance communication that does not enable the *document* or information to be provided in that form in good time before the *client* is bound by the contract.
 - (2) The exception in (1) does not apply in relation to the provision of an *EEA key investor information document*, a *key investor information document* or a *NURS-KII document* required to be provided under **■** COBS 14.2.1 R and **■** COBS 14.2.1A R.
- 14.2.17 **R**
- (1) Where the *rules* in this section require a *document* or information to be provided, in the case of a voice telephony communication, a *firm* must:
 - (a) if the *client* gives explicit consent to receiving only limited information, provide the abbreviated distance marketing disclosure information () orally to the *client*;

- (b) if the *client* does not give explicit consent to only receiving limited information, and the parties wish to proceed by voice telephony communication, provide the distance marketing information () orally to the *client*;
 - (c) in the case of (a) or (b), send the *documents* or information to the *client* in a *durable medium* immediately after the contract is concluded.
- (2) The exception in (1) does not apply in relation to the provision of an *EEA key investor information document*, a *key investor information document* or a *NURS-KII document* required to be provided under ■ COBS 14.2.1 R and ■ COBS 14.2.1A R.

Providing additional information to the client

14.2.18

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- (1) A *firm* that provides the product information required by this section is not precluded from providing additional information to the *client* (for example, in order to assist the *client's* understanding of the proposed transaction).
- (2) When a *firm* provides additional information it should:
 - (a) ensure that the additional information does not disguise, diminish or obscure important information contained in the product information required by this section;
 - (b) consider whether any other *rules* or requirements in any directly applicable *EU* regulations apply to the communication of that additional information. For example, for marketing communications relating to a *UCITS scheme* or *EEA UCITS scheme* see ■ COBS 4.13.2 R; and
 - (c) have regard to the *fair, clear and not misleading rule*, the *client's best interests rule* and *Principles 6 and 7*.