Chapter 4

Disclosure

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4.1 Disclosure rules

4.1.1 G The effectiveness of arrangements made by a *designated professional body* for securing compliance with the *rules* in this chapter is one of the factors that the *FCA* must take into account in considering whether to exercise its powers to give a direction under section 328 of the *Act* (see ■ PROF 3.2.5 G (2) and ■ PROF 3.2.5 G (3).

4.1.2 R An *exempt professional firm* must avoid making any representation to a *client* that:

(1) it is authorised under the *Act* or regulated by the *FCA*; or

(2) the regulatory protections provided by or under the *Act* to a *person* using the services of an *authorised person* are available.

4.1.3 R

(1) An *exempt professional firm* must, before it provides a service which includes the carrying on of a *regulated activity* in the *United Kingdom*, other than an *insurance distribution activity*, with or for a *client*, disclose in writing to the *client* in a manner that is clear, fair and not misleading that it is not authorised under the *Act*.

(2) An *exempt professional firm*, must, before it provides a service which includes the carrying on of an *insurance distribution activity* with or for a *client*, make the following statement in writing to the *client* 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 activity, which is broadly the advising on, selling and administration of insurance contracts. This part of our business, including arrangements for complaints or redress if something goes wrong, is regulated by [DPB]. The register can be accessed via the Financial Conduct Authority website at www.fca.org.uk/firms/financial-services-register."

4.1.4 G

(1) The *FCA* considers that material provided to satisfy ■ PROF 4.1.3 R (1) and ■ PROF 4.1.3R (2) need not be tailored to the individual *client*. The disclosures in ■ PROF 4.1.3 R (1) and ■ PROF 4.1.3R (2) may be provided alongside or integrated with other material provided to a *client*. *Exempt professional firms* may therefore include the information within engagement letters or client care letters, if they wish.

(2) The *FCA* considers that it is important that *clients* understand the implications for them of receiving services from an *exempt professional firm* that is not authorised under the *Act*. It is also important that *clients* understand the implications of the difference between authorisation under the *Act* and being on the register maintained by the *FCA*, so that the *exempt professional firm* can conduct *insurance distribution activity*, in relation to which activity the regulatory protections established by the *Act* for the benefit of *consumers* will not apply. The *FCA* therefore expects *designated professional bodies* to make rules covering the information to be provided to *clients*. These rules should require*exempt professional firms*to make a disclosure to *clients* containing the following elements:

(a) where the *exempt professional firm* conducts a *regulated activity* other than an *insurance distribution activity*, a statement that the *exempt professional firm* is not an *authorised person*;

(b) the nature of the *regulated activities* carried on by the *exempt professional firm*, and the fact that they are limited in scope;

(c) a statement that the *exempt professional firm* is regulated for these *regulated activities* by the *exempt professional firm's designated professional body*, identifying the *designated professional body* concerned;

(d) the nature of the complaints and redress mechanisms available to *clients* in respect of these *regulated activities*; and

(e) where the *regulated activity* consists of *insurance distribution activity*, the statement contained at ■ PROF 4.1.3 R (2).

(3) *Exempt professional firms* should also ensure that any statement that makes reference to the *FCA* does not lead a *client* to suppose that the *FCA* has direct regulatory responsibility for the *exempt professional firm*. This could be a breach of ■ PROF 4.1.2 R. This consideration is particularly important in relation to *insurance distribution activity*, where *clients* may well fail to appreciate the difference between authorisation under the *Act* and being included on the register maintained by the *FCA* so as to permit the *exempt professional firm* to carry on *insurance distribution activity*.

4.1.5 G For further guidance on when a *regulated activity* is carried on 'in the *United Kingdom*', *exempt professional firms* are referred to section 418 of the *Act* and the *guidance* in ■ PERG 2.4.