

**PRODUCT GOVERNANCE FOR OVERSEAS NON-INVESTMENT INSURANCE
PRODUCTS INSTRUMENT 2023**

Powers exercised

- A. The Financial Conduct Authority (“the FCA”) makes this instrument in the exercise of the following powers and related provisions in the Financial Services and Markets Act 2000 (“the Act”):
- (1) section 137A (The FCA’s general rules);
 - (2) section 137T (General supplementary powers); and
 - (3) section 139A (Power of the FCA to give guidance).
- B. The rule-making provisions listed above are specified for the purposes of section 138G(2) (Rule-making instruments) of the Act.

Commencement

- C. This instrument comes into force on 31 March 2023.

Amendments to the Handbook

- D. The modules of the FCA’s Handbook of rules and guidance listed in column (1) below are amended in accordance with the Annexes to this instrument listed in column (2) below.

(1)	(2)
Glossary of definitions	Annex A
Product Intervention and Product Governance sourcebook (PROD)	Annex B

Notes

- E. In this instrument, the notes shown as “Note:”, “**Note:**” or “*Editor’s note:*” are intended for the convenience of the reader but do not form part of the legislative text.

Citation

- F. This instrument may be cited as the Product Governance for Overseas Non-Investment Insurance Products Instrument 2023.

By order of the Board
30 March 2023

Annex A

Amendments to the Glossary of definitions

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

Insert the following new definition in the appropriate alphabetical position. The text is not underlined.

overseas non-investment insurance product

(in *PROD*) a *non-investment insurance product*:

(1) that:

(a) is only available for *distribution* to; or

(b) (for a *legacy non-investment insurance product*) is no longer being marketed or distributed but where there are *policies* under the product that remain in force where the *policyholder* is,

a *customer* who is not *habitually resident* in and, if applicable, the *state of the risk* is outside, the *United Kingdom*; and

(2) where, for all *policies* issued or that will be issued under the product, any *policyholder* is not *habitually resident* at the time of issue in, and, if applicable, the *state of the risk* is outside, the *United Kingdom*.

Amend the following definition as shown.

distribute

(1) ...

(2) (in relation to *ICOBS 1*, *ICOBS 6B*, an *overseas non-investment insurance product*, *PROD 1.4* and *PROD 4*) advising on or proposing a *contract of insurance* to a *customer*.

...

Annex B

Amendments to the Product Intervention and Product Governance sourcebook (PROD)

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

1 Product Intervention and Product Governance sourcebook (PROD)

...

1.4 Application of PROD 4

...

1.4.10 G ...

Modification of PROD 4.2 and PROD 4.3 for overseas non-investment insurance products

1.4.11 R PROD 4 applies in relation to an overseas non-investment insurance product with the following modifications:

- (1) The changes made to PROD 4.2 and PROD 4.3 in Annex E of the Non-Investment Insurance: Product Governance, Premium Finance, General Insurance Auto-renewal and Home and Motor Insurance Pricing Instrument 2021 do not apply, unless otherwise specified in (2).
- (2) The following rules and guidance in Annex E of the Non-Investment Insurance: Product Governance, Premium Finance, General Insurance Auto-renewal and Home and Motor Insurance Pricing Instrument 2021 continue to apply:
 - (a) PROD 4.2.1AG;
 - (b) PROD 4.2.21AG;
 - (c) PROD 4.2.34AG; and
 - (d) PROD 4.2.36BR.

[Note: the Non-Investment Insurance: Product Governance, Premium Finance, General Insurance Auto-renewal and Home and Motor Insurance Pricing Instrument 2021 can be found at https://www.handbook.fca.org.uk/instrument/2021/FCA_2021_19.pdf]

1.4.12 G (1) The effect of PROD 1.4.11R is that, for an overseas non-investment insurance product, including where this is a legacy non-investment insurance product subject to PROD 4.6, a firm's product approval

process (and arrangements for ongoing monitoring) need only comply with:

- (a) the requirements in *PROD* 4.2 or *PROD* 4.3 as they stood on 30 September 2021, except for those provisions in *PROD* 1.4.11R(2); and
- (b) any subsequent changes made by an instrument other than the *Non-Investment Insurance: Product Governance, Premium Finance, General Insurance Auto-renewal and Home and Motor Insurance Pricing Instrument 2021*.

PROD 1.4 and *PROD* 4 as it stood on 30 September 2021 can be accessed by using the timeline on the *FCA Handbook* website. Firms will need to consider any further changes to *PROD* after this date to consider if they apply in relation to *overseas non-investment insurance products*.

- (2) *A non-investment insurance product:*
 - (a) that will be or is available for *distribution* or marketing to *customers* who are *habitually resident* or, if applicable, where the *state of the risk* is, in the *United Kingdom*; or
 - (b) where, for any *policy* issued under the product, the *policyholder* is *habitually resident* in or, if applicable, the *state of the risk* is in, the *United Kingdom*.

will not be an *overseas non-investment insurance product* and the *firm* will need to meet all applicable requirements in *PROD* 4 including *PROD* 4.2.14AR in relation to providing fair value.

- (3) *A firm* should also consider in relation to any *overseas non-investment insurance product* what is required to meet obligations under other rules in the *FCA Handbook* including, for example, the *Principles* and *SYSC*.

...

4 Product governance: IDD and pathway investments

...

4.2 Manufacture of insurance products

...

Fair value for non-investment insurance products: meaning of value

...

4.2.14F R ...

- 4.2.14F R (1) For the purposes of *PROD 4.2.14ER*, and any rules in *PROD 4* that rely on the meaning of ‘value’ in this *rule*, a *firm* is not required to take into account product distribution arrangements that relate to the *distribution* of the product to:
- A
- (a) a *customer* who is not *habitually resident* in the *United Kingdom*; or
 - (b) where the *state of the risk* is not the *United Kingdom*
- (2) The effect of (1) includes that a *firm* is not required to obtain and assess information in relation to the *distribution* of the product to a *customer* who is not *habitually resident* in the *United Kingdom* or where the *state of the risk* is not the *United Kingdom*, from a *distributor* based outside of the *United Kingdom*, including, in particular, information pertaining to that *person’s* remuneration for such *distribution*.

...

4.3 Distribution of insurance products

...

4.3.6E E ...

- 4.3.6EA R (1) For the purposes of *PROD 4.3.6AR* and *PROD 4.3.6BR*, a *firm* is not required to take into account product distribution arrangements that relate to the *distribution* of the product to:
- (a) a *customer* who is not *habitually resident* in the *United Kingdom*; or
 - (b) where the *state of the risk* is not the *United Kingdom*.
- (2) The effect of (1) includes that a *firm* is not required to assess the impact of a *person’s* remuneration in relation to the *distribution* of the product to a *customer* who is not *habitually resident* in the *United Kingdom*, or where the *state of the risk* is not the *United Kingdom*, when identifying the impact of the distribution arrangements on the value being provided to the *customer*.

...