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# Template Customisation and Usage Guide [DELETE WHEN READY]

**Customising Your Policy Template**

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**Using This Template**

This template provides a comprehensive framework to help your organisation develop a policy that meets regulatory requirements and industry best practices. While structured to align with FCA expectations, you must review and adjust the content to reflect your organisation’s compliance framework, sector-specific risks, and operational procedures.

If your organisation has policies related to this document, ensure that relevant cross-references are included. Some of the policies referenced are available separately or as part of bundled compliance toolkits.

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# Acting Honestly, Fairly, and Professionally

COBS 2.1 sets out the fundamental principle that firms must act honestly, fairly, and professionally to ensure they serve their clients’ best interests. This is known as the Client’s Best Interests Rule.

The rule is fundamental for building trust and maintaining a professional standard in financial services, particularly when providing investment advice, distributing insurance, or managing collective investment schemes.

## 1.1. The Client’s Best Interests Rule

The Client’s Best Interests Rule requires firms to act honestly, fairly, and professionally, always prioritising the client’s best interests. This rule applies when conducting Designated Investment Business for retail clients, engaging in MiFID business, equivalent third-country business, or optional exemption business for any client, and carrying out insurance distribution. It also applies to management companies when managing a UCITS scheme. By prioritising client needs and interests, firms maintain integrity and build long-term client relationships.

## 1.2. Business with Eligible Counterparties

The same principles apply when dealing with eligible counterparties (such as professional clients or other regulated firms). However, the firm must also consider the counterparty’s nature and business context. This means firms must still act honestly, fairly, and professionally, but their approach may differ from that of retail clients.

Retail Client Scenario:

When a retail client seeks advice on purchasing shares, the investment firm must clearly explain the risks and benefits, assess the client’s knowledge and experience to ensure understanding, and provide detailed, jargon-free information to support informed decision-making. The firm should also document the advice and justify why the product is suitable for the client.

Eligible Counterparty Scenario:

An eligible counterparty (such as an investment bank or professional investor) seeks advice on a complex derivatives transaction. The firm must:

* They still act honestly, fairly, and professionally, but can assume a higher level of knowledge and experience.
* Provide more technical and concise information, as the counterparty is expected to understand the product better.
* Focus more on product specifics and market conditions rather than basic explanations.
* Document the transaction, keeping in mind that eligible counterparties typically require less guidance.

Key Differences in Approach:

| **Aspect** | **Retail Client** | **Eligible Counterparty** |
| --- | --- | --- |
| Communication Style | Simple, straightforward, jargon-free | Technical, concise, assumes knowledge |
| Risk Explanation | Detailed, focusing on client understanding | High-level, focusing on specific market impacts |
| Documentation | Comprehensive and explanatory | Focused on transaction details and compliance |
| Assumed Knowledge | Limited, requires guidance | High, minimal basic explanations |

##

## 1.3. Exclusion of Liability

Firms cannot exclude or restrict their liability to clients when dealing with designated investment businesses. This means they must not attempt to limit liability through contracts or communications or rely on exclusions that undermine their duties. Even if a firm attempts to limit liability, general law, including consumer protection regulations, often overrides such efforts, especially when dealing with retail clients. Relevant regulations include the Unfair Terms Regulations (applicable to contracts entered into before 1 October 2015) and the Consumer Rights Act (CRA) for contracts entered into after that date.

For example, if a financial advisory firm includes a clause stating it is not responsible for any financial loss resulting from investment advice, this would be non-compliant under COBS 2.1.2R. Such clauses are likely unenforceable under the CRA, as they are unfair and conflict with FCA rules. Instead, firms should focus on providing clear, fair, and balanced advice without attempting to limit responsibility through contractual terms. Shifting the entire risk burden to the client contradicts regulatory expectations and consumer protection laws.

## 1.4. Best Interests Rules for AIFMs (Alternative Investment Fund Managers)

Full-scope UK AIFMs must act honestly, fairly, and with due skill, care, and diligence, always prioritising the best interests of the AIFs and their investors. They must treat all investors fairly and avoid giving them preferential treatment unless explicitly stated in the fund’s governing documents. These rules maintain market integrity and ensure fair treatment for all investors.

The AIFMD Level 2 Regulation (Articles 16 to 29) provides additional rules that expand on the best interests requirement, ensuring AIFMs operate transparently and fairly when managing alternative investment funds.

# Information Disclosure Before Providing Services

COBS 2.2 outlines the requirements for disclosing information to clients before providing investment services. The goal is to ensure clients have enough information to make informed decisions about the services and investments offered.

This section **does not** apply to:

* MiFID business
* Insurance distribution activities

COBS instead applies to designated investment business provided to retail clients in specific cases, including derivatives, warrants, non-readily realisable securities, non-mass market investments, P2P agreements, and stock lending (for specific disclosure points). It also covers retail investment products, but only concerns information about the firm, services, and costs.

## 2.1. Key Information Disclosure Requirements

General Information

A firm must provide clients with clear and comprehensible information about:

* The firm and its services (who you are and what you do).
* The investments and strategies being offered (including any risks involved).
* Execution venues (where and how the transactions take place).
* Costs and associated charges (including the amount the client will pay and the reasons for these charges).

The aim is to ensure clients understand the nature and risks of the service or investment, allowing them to make informed decisions.

Format:

* The information can be given in a standardised format (e.g., brochures, fact sheets, or digital formats), making it easier to provide consistently.

Relevant Rules

Firms should also refer to:

* COBS 6.1: Rules on disclosing information about the firm and its services.
* COBS 14: Rules on providing information about designated investments.

## 2.2. Special Cases: TP and Gibraltar-Based Firms

If the firm is a Temporary Permissions (TP) or a Gibraltar-based firm, the same disclosure rules apply if it is not covered under other general rules.

## 2.3. Financial Reporting Council’s Stewardship Code

If a firm (other than a venture capital firm) manages investments for a professional client that is not an individual(like a company), it must:

Disclose on its website (or in another accessible way):

* Its commitment to the Stewardship Code (how it engages with investee companies), or
* It must explain its alternative investment strategy if it does not follow the Code.

This disclosure ensures that professional clients understand the firm’s approach to responsible investing.

Example of Information Disclosure

A financial advisor must provide clear, jargon-free information when offering a structured product that combines a derivative with a long-term investment to a retail client. This includes details about the firm and the services offered, an explanation of how the product works, potential returns, associated risks (particularly those related to derivatives), and a breakdown of fees, including ongoing charges or exit fees. The firm must also disclose where the product will be traded or held. This information should be provided well in advance to allow the client sufficient time to consider the offer.

###

# Information Disclosure Before Providing Services (MiFID and Insurance Distribution)

COBS 2.2A outlines the rules for providing clear and relevant information to clients before offering services related to MiFID business (including equivalent third-country or optional exemption business) and insurance distribution activities. This includes insurance-based investment products for all clients and other life insurance policies for retail clients. The aim is to ensure clients receive essential information before committing to financial or insurance products.

## 3.1. Key Information Disclosure Requirements

To comply with COBS 2.2A, firms must provide clients with information ‘in good time’ to enable informed decision-making. The information must be clear, accurate, and given before concluding the contract (especially for insurance-based products).

| **Category** | **Information Required** | **Format** |
| --- | --- | --- |
| About the Firm and Services | Who the firm is, and what services are offered | Standardised format (brochure, factsheet) |
| Financial Instruments & Investment Strategies | Description of instruments, proposed strategies, and execution venues (places where transactions take place) | Plain and clear language |
| Insurance-Based Investment Products | Explanation of product features, risks, and guidance on specific strategies | Standardised format, warnings included |
| Costs and Charges | Detailed breakdown of fees, costs, and any related charges | Clear and transparent |

##

## 3.2. Providing Information “In Good Time”

Firms must ensure that information is provided well in advance of delivering the service. This approach allows clients enough time to understand the nature and risks involved.

| **Requirement** | **Description** |
| --- | --- |
| Timeliness | Information must be given before the client commits to a service or product. |
| Comprehensibility | The format should be clear and easy to understand, avoiding technical jargon. |
| Relevance | Only include information that helps the client understand the specific type of investment or insurance product. |
| Accessibility | Use a standardised format (like a brochure or fact sheet) to make information easy to read and consistent. |

##

## 3.3. Special Rules for Insurance-Based Investment Products

Firms must provide clients with the necessary information for insurance-based investment products before finalising the contract. This ensures that clients are fully aware of the potential risks and benefits, as well as the costs involved (including ongoing charges), and receive guidance on investment strategies linked to the product.

To meet COBS 2.2A requirements, information must be presented in a way that the client can reasonably understand the:

* Nature and risks of the service or product.
* Potential outcomes of their investment decision.

Standardised formats, such as brochures, fact sheets, or digital presentations, help maintain clarity and consistency.

Firms should also refer to these related COBS sections to ensure comprehensive compliance:

| **COBS Rule** | **Description** |
| --- | --- |
| COBS 6.1ZA | Information about firms, services, and costs. |
| COBS 9A.3 | Suitability reports for clients. |
| COBS 14.3 | Details on financial instruments. |
| COBS 14.3A | Information specific to life policies. |

Firms managing investments for professional clients that are not individuals (e.g., corporate entities) must clearly state on their website or another accessible medium:

* Their commitment to the Financial Reporting Council’s Stewardship Code, or
* An alternative investment strategy is available if they do not follow the Code.

This disclosure ensures transparency about the firm’s approach to responsible investing.

#

# SRD Requirements

The Shareholder Rights Directive (SRD) is an EU regulation designed to enhance transparency and engagement between companies and their shareholders. The directive encourages asset managers and institutional investors to actively engage with the companies in which they invest, promoting long-term investment strategies.

In the UK, the FCA has incorporated SRD requirements into COBS to ensure that firms managing investments on behalf of clients actively monitor and engage with the companies in which they hold shares.

COBS 2.2B applies to the following firms when they provide portfolio management services:

| **Firm Type** | **Description** |
| --- | --- |
| UK MiFID Investment Firms | Firms offering portfolio management under MiFID regulations. |
| Third-Country Investment Firms | Non-UK firms providing portfolio management in the UK. |
| UK UCITS Management Companies | Firms managing UCITS schemes (Undertakings for Collective Investment in Transferable Securities). |
| ICVC (Investment Company with Variable Capital) | A UCITS scheme without a separate management company. |
| Full-Scope UK AIFMs | Alternative Investment Fund Managers managing UK AIFs. |

The section applies when a firm invests on behalf of clients in shares traded on a regulated market. This includes markets both within the UK and outside.

| **Context** | **Description** |
| --- | --- |
| Shares on a Regulated Market | This includes any investment in shares traded in markets that meet the FCA’s definition of regulated. |
| Firms Operating from the UK | Applies to firms conducting portfolio management from a UK-based establishment. |

##

## 4.1. Engagement Policy and Disclosure

Firms must choose one of the following options:

1. Develop and publicly disclose an engagement policy, and update annually on its implementation.
2. Please provide a clear explanation on why they do not have an engagement policy.

| **Requirement** | **Description** |
| --- | --- |
| Engagement Policy | How the firm engages with investee companies, including monitoring and voting. |
| Annual Disclosure | Reporting on how the engagement policy has been implemented, including significant votes. |
| Public Availability | The engagement policy and disclosures must be freely accessible on the firm’s website. |

The engagement policy must explain how the firm:

| **Component** | **Explanation** |
| --- | --- |
| Integration of Shareholder Engagement | How shareholder engagement is part of the firm’s investment strategy. |
| Monitoring Investee Companies | Monitoring areas include strategy, performance, risks, capital structure, and governance. |
| Dialogue with Investee Companies | How the firm communicates and engages with companies on key issues. |
| Exercising Voting Rights | Details on how voting rights and other shareholder rights are used. |
| Cooperation with Other Shareholders | Approach to working with other investors when needed. |
| Communication with Stakeholders | How the firm interacts with stakeholders linked to investee companies. |
| Managing Conflicts of Interest | How potential conflicts are identified and managed during engagement. |

Firms must publicly disclose their voting behaviour annually. This includes a general description of how voting rights were exercised, particularly for significant votes, as well as whether external proxy advisors were utilised. They must also provide details of significant votes unless deemed insignificant due to the holding size or subject matter. The disclosure must be freely accessible on the firm’s website.

## 4.2. Transparency of Asset Managers

If a firm invests on behalf of an SRD institutional investor, it must provide a detailed annual report including:

| **Reporting Element** | **Description** |
| --- | --- |
| Investment Strategy Compliance | How the strategy aligns with the institutional investor’s objectives. |
| Medium to Long-Term Performance | How does the strategy support the sustained growth of the assets? |
| Risk Reporting | Identifying key risks associated with the investments. |
| Portfolio Composition | Breakdown of the types of assets held. |
| Turnover and Costs | Information on portfolio turnover and related costs. |
| Use of Proxy Advisors | Disclosure of any use of external voting advice. |
| Securities Lending Policy | Whether the policy supports shareholder engagement. |
| Conflict of Interest Management | Identification and management of any conflicts that arose during engagement activities. |

Example of Good Practice

A UK MiFID investment firm managing a portfolio with shares in a sizeable UK-listed company demonstrates good practice by publishing an engagement policy on its website. This policy outlines how the firm monitors company performance, engages with management, and votes on shareholder resolutions. The firm provides an annual report detailing voting at significant shareholder meetings, including the use of proxy advisors. It discloses how its investment strategy supports long-term performance and addresses key risks. The information is freely available online, ensuring transparency about shareholder engagement and voting practices, as required by COBS 2.2 B.

# 5. Inducements

COBS 2.3 outlines the rules governing inducements for firms providing services other than MiFID business, equivalent third-country business, optional exemption business, and insurance-based investment products.

**An inducement is any form of fee, commission, or non-monetary benefit given or received in relation to designated investment business**. The rules ensure that such arrangements do not compromise the firm’s obligation to act honestly, fairly, and professionally in the client’s best interest.

**General Rule: No Inducements**

A firm must not pay or accept any fee or commission, or provide or receive any non-monetary benefit, unless it meets specific conditions.

| **Condition** | **Description** |
| --- | --- |
| Client Involvement | The fee or benefit is paid to or by the client or someone acting on their behalf. |
| Third-Party Involvement | The fee or benefit is paid to or by a third party, as long as: |
| - No Conflict of Interest | It does not impair the firm’s duty to act in the client’s best interests. |
| - Transparent Disclosure | The existence, nature, and amount of the fee or benefit (or the calculation method) are disclosed to the client before the service is provided. |
| - Designed to Enhance Service | For UCITS management companies, the benefit must enhance the quality of the service provided to the client. |
| Necessary Fees | Fees essential for providing the service (e.g., custody costs, settlement fees) are permitted if they do not conflict with the client's interests. |
| Employer or Trustee Funded Pension Advice Charge | Charges paid by an employer or trustee for pension advice are permitted. |

**Exclusions from the Inducement Rules**

| **Exclusion Type** | **Description** |
| --- | --- |
| Group Personal Pension Schemes (GPPS) or Group Stakeholder Pension Schemes (GSPS) | Exempt when the scheme is qualifying. |
| Independent Advice or Restricted Advice on Retail Investment Products | Governed by [COBS 2.3A](https://www.handbook.fca.org.uk/handbook/COBS/2/3A.html) and [COBS 6.1A](https://www.handbook.fca.org.uk/handbook/COBS/6/1A.html) instead. |
| Basic Advice | Exempt from the disclosure requirement. |

Certain non-monetary benefits are allowed if they enhance the quality of the service and do not impair the firm’s duty to act in the client’s best interests.

| **Example Benefit** | **Conditions for Compliance** |
| --- | --- |
| Gifts and Hospitality | Must be of reasonable value and not likely to influence the firm’s objectivity. |
| Marketing Assistance | Provide generic product literature that helps the client understand the product without being overly promotional. |
| Technical Support | Providing software or data processing facilities that are relevant to the product offered. |
| Training | Offering educational sessions relevant to financial products or services. |
| Joint Marketing Exercises | Providing brochures and information that support client engagement without unduly promoting the firm. |
| Travel and Accommodation Expenses | Covering expenses for market research or training, as long as the amount is reasonable. |

Firms must disclose inducements by providing a summary of fee or benefit arrangements and committing to disclose full details upon request. To remain compliant, they must also provide the promised information when requested.

Firms must keep a record of disclosures made to clients regarding inducements for at least five years. This ensures a clear audit trail of any benefits given or received.

| **Record Type** | **Retention Period** |
| --- | --- |
| Disclosed Inducements | Five years from the date of disclosure. |
| Non-disclosed Benefits (if permitted) | Five years from the date the benefit was given. |

Example of Good Practice

A financial advisory firm that receives a small gift from an investment product provider, such as a branded pen set, complies with COBS 2.3 by assessing its value to ensure it does not influence the advice. The firm records the gift as a reasonable non-monetary benefit in its inducement register and ensures that the client’s best interests remain unaffected. This approach is compliant as the gift is of minimal value, relevant to the business, and does not compromise integrity, with proper record-keeping ensuring transparency.

# 6. Inducements Relating to MiFID, Equivalent Third Country or Optional Exemption Business and Insurance-Based Investment Products

COBS 2.3A outlines rules regarding inducements **in relation to MiFID, equivalent third-country business, or optional exemption business, as well as insurance-based investment products**. The rules ensure that fees, commissions, or non-monetary benefits do not compromise the firm’s duty to act honestly, fairly, and professionally in the client’s best interest.

## 6.1. General Prohibition on Inducements

A firm must not accept or provide any fee, commission, or non-monetary benefit related to investment services or the distribution of insurance-based investment products unless specific conditions are met.

| Inducement Type | Conditions for Acceptance/Provision |
| --- | --- |
| Fees, Commissions, Non-Monetary Benefits | Only allowed if they: |
| - Enhance the quality of the service | Provide additional value to the client. |
| - Do not impair the duty to act fairly | Must not compromise the firm’s integrity or client interests. |
| Necessary Fees | Permitted if required for the provision of the service (e.g., custody costs, settlement fees). |
| Third-Party Research | Permitted if received under COBS 2.3 B. |
| Acceptable Minor Non-Monetary Benefits | It must be reasonable and proportionate, and it must enhance the quality of the service. |

##

## 6.2. Rules on Disclosure

Firms must ensure transparency when disclosing any form of inducement.

| **Disclosure Requirement** | **Description** |
| --- | --- |
| Pre-Service Disclosure | Before providing the service, inform clients about any inducements, nature, and amount. |
| Comprehensive and Accurate Information | Information must be clear and understandable. |
| Ongoing Disclosure | If inducements are received regularly, update the client at least annually. |
| Mechanism for Transfer | Clearly explain how any monetary benefit received on behalf of the client will be transferred to them. |

##

## 6.3. Record Keeping Requirements

Firms must keep records to demonstrate compliance with inducement rules.

| **Record Type** | **Retention Period** |
| --- | --- |
| List of all fees, commissions, and benefits | Minimum of five years |
| Details on quality enhancement | Demonstrate how the benefit adds value to the client. |
| Annual Updates | Include records of ongoing benefits received. |

##

## 6.4. Acceptable Minor Non-Monetary Benefits

Some minor non-monetary benefits are allowed if they are reasonable and enhance the quality of the client service.

| **Example** | **Conditions** |
| --- | --- |
| Training sessions or seminars | It must be relevant to the financial product or service offered. |
| Marketing literature or promotional items | Must be of minimal value and not influence decision-making. |
| Market research and reports | It should be linked to the client’s needs and the quality of service. |
| Hospitality (e.g., food or drink) | Permissible during business meetings or training events, as long as it is reasonable. |

Good Practice Example

A financial advisor providing clients with a market research report on investment opportunities, commissioned by a third party and available to other firms, follows good practice by informing the client about the report and its relevance to investment decisions. The advisor discloses the report as a minor non-monetary benefit before offering the service and logs it in the inducement register. This approach is compliant as the research enhances client knowledge without bias, the disclosure is clear and transparent, and the benefit is reasonable and not a significant value.

# 7. Comparison of Inducement Rules between MiFID and Non-MiFID Business

| **Aspect** | **Non-MiFID Business (COBS 2.3)** | **MiFID Business (COBS 2.3A)** |
| --- | --- | --- |
| Scope | It applies to designated investment businesses other than those subject to MiFID, equivalent third countries, or insurance-based investment products. | Applies to MiFID, equivalent third country or optional exemption business, and insurance-based investment products. |
| General Rule on Inducements | Prohibits payment or acceptance of fees, commissions, or non-monetary benefits unless they: | Prohibits fees, commissions, or non-monetary benefits unless they: |
| - Do not impair the firm’s duty to act honestly, fairly, and professionally. | - Enhance the quality of the relevant service to the client. |
| - Are adequately disclosed to the client. | - Do not impair the firm’s duty to act in the client’s best interests. |
| Conditions for Allowable Inducements | - Allowed if necessary for providing the service (e.g., custody, legal fees). | - Must enhance service quality and not impair compliance. |
| - Non-monetary benefits that are reasonable and proportionate are allowed. | - Acceptable if minor, reasonable, and proportionate (e.g., training events, market research). |
| Disclosure Requirements | - Disclose the nature and amount before providing the service. | - Disclose the existence, nature, and amount before service, and provide annual updates for ongoing benefits. |
| Ongoing Disclosure | - Disclosure required once, unless ongoing. | - Ongoing inducements must be disclosed at least annually. |
| Record Keeping | - Keep records of disclosed inducements for at least 5 years. | - Keep an internal list of all inducements and protect the client’s best interests. |
| Specific Conditions for Benefits | - Minor non-monetary benefits must enhance client service and be reasonable in value. | - Minor non-monetary benefits must be reasonable, proportionate, and not influence client outcomes negatively. |
| Third-Party Research | - Not explicitly addressed. | - Allowed if in line with COBS 2.3B and does not impair compliance. |
| Minor Non-Monetary Benefits | - Includes training, market research, and small hospitality if they enhance service quality. | - Must enhance service quality and not compromise client interests. Examples include seminars and research reports. |
| Handling Client Funds | - Any fees or benefits passed on to the client must be clearly explained. | - The mechanism for transferring any monetary benefit received on behalf of the client must be disclosed. |

**Key Takeaways**

1. MiFID Rules are Stricter: MiFID regulations require a more rigorous assessment to ensure that any inducements genuinely enhance the quality of the service.
2. Transparency is Key: MiFID and non-MiFID businesses must disclose inducements, but MiFID requires ongoing updates.
3. Minor Benefits: Both frameworks allow minor non-monetary benefits, but MiFID specifies that they must not impair the firm’s duty to act in the client’s best interests.
4. Record Keeping: MiFID rules require detailed records to prove compliance and enhance service quality.
5. Client Best Interest: Non-MiFID rules are less explicit about quality enhancement than MiFID rules, which have more specific criteria for acceptable inducements.

# 8. Inducements and Research

COBS 2.3B outlines the rules regarding inducements and research for firms carrying out MiFID, equivalent third country, or optional exemption business. These rules specifically address when and how firms can receive third-party research without it being considered an inducement. to the recipient

**Key Provisions for Inducements and Research**

| **Aspect** | **Description** |
| --- | --- |
| Scope | Applies to firms conducting MiFID, equivalent third country, or optional exemption business. |
| Prohibition on Inducements | Firms providing independent advice, restricted advice, or portfolio management services cannot receive inducements, except for minor ones. |
| Acceptable Inducements | Minor non-monetary benefits that enhance service quality and do not impair client interests. |
| Receiving Third-Party Research | Allowed if: |
| - Paid for from the firm’s resources | Direct payment without charging the client. |
| - Research Payment Account (RPA) | Separate account funded by client charges, with clear governance and oversight. |
| - Joint Payment for Research and Execution | Joint payments are allowed if the requirements for separating research costs from execution are met. |
| Governance Requirements for RPAs | - Budget management: Clearly defined and regularly reviewed. |
| - Senior oversight: Ensure proper use and control. |
| - Audit trail: Clear records of payments and decisions. |
| Client Information | - Prior disclosure of budget and charges. |
| - Annual statement of total costs and benefits received. |
| Fair Allocation of Costs | Costs must be fairly divided between clients, particularly where research benefits multiple client portfolios. |
| Handling Surplus in RPAs | Any surplus funds must either be: |
| - Rebated to clients, or |
| - Offset against future research charges. |
| Record-Keeping and Reporting | - Maintain clear records for at least 5 years. |
| - Annual reporting to clients and the FCA on research payments. |

**How to Receive Third-Party Research without Inducement Issues**

| **Method** | **Conditions** |
| --- | --- |
| Direct Payment by Firm | Research is paid for directly from the firm’s resources. |
| Research Payment Account (RPA) | - Funded by a specific research charge. |
| - Not linked to the volume or value of transactions. |
| - Subject to governance and oversight. |
| Joint Payment for Research and Execution | - Separate identifiable charge for research. |
| - Governance ensures separation from execution charges. |

**Acceptable Minor Non-Monetary Benefits**

Minor non-monetary benefits are allowed if they:

* Enhance service quality.
* Do not compromise the firm’s obligation to act in the client’s best interest.
* They are reasonable and proportionate.

Examples include:

* Training sessions related to investment services.
* Research reports are shared among clients.
* Market updates that do not contain detailed analysis.

**Client Disclosure Requirements**

| **When** | **What to Disclose** |
| --- | --- |
| Before providing the service | - Estimated budget and research charge. |
|  | - Details on how the research charge will be calculated and deducted. |
| Annually | - Total costs incurred for third-party research. |
| Upon request | - Details of research providers, amount paid, and how it aligns with the budget. |

# 9. Research and Execution Services

The rules in COBS 2.3C focus on the separation and pricing of research and execution services provided by investment firms. The aim is to ensure transparency and fairness when charging clients for these services, particularly for firms subject to MiFID and similar regulations.

The rules apply to firms providing execution services to the following types of firms:

| **Type of Firm** | **Description** |
| --- | --- |
| MiFID or equivalent third-country business firms | Firms operating under MiFID or similar regulations. |
| UK-authorised investment firms (not MiFID firms) | Investment firms are authorised by UK law to implement MiFID. |
| UCITS management companies | Firms managing UCITS schemes (Undertakings for Collective Investment in Transferable Securities). |
| Full-scope UK AIFMs | Full-scope Alternative Investment Fund Managers operating in the UK. |
| Small authorised UK AIFMs | Smaller AIFMs that are authorised in the UK. |
| Residual CIS operators | Operators of collective investment schemes (CIS) that are not authorised as AIFMs. |
| OPS firms | Occupational Pension Scheme firms. |

**Separation of Charges and Services**

Firms that provide both execution and research services must separate the charges for each service to ensure transparency.

| **Requirement** | **Explanation** |
| --- | --- |
| Separate Pricing for Execution | The cost of executing transactions must be identified separately and should only reflect the execution cost. |
| Separate Pricing for Research and Other Services | Charges for research or any other benefit must be itemised and separate from execution charges. |
| No Cross-Subsidisation | The supply and pricing of research should not depend on the level of payment for execution services. |
| Compliance with MiFID Requirements | Ensures firms do not accept inducements in breach of client best interest rules. |

**Takeaways**

Separating the costs of execution and research promotes transparency, allowing clients to see exactly what they are paying for. It ensures fairness by preventing firms from bundling costs or using one service to subsidise another. This practice also ensures compliance with MiFID and related regulations.

Investment firms must price execution and research services separately, with execution charges reflecting only the transaction cost. Research and other benefits should not be linked to payment levels for execution services. This separation helps firms avoid inducements and comply with MiFID rules.

# 10. Agent as Client and Reliance on Others

This section outlines the rules for identifying the client when dealing with agents and the extent to which firms can rely on information or services provided by others. It is crucial for firms to correctly determine who the client is, especially when agents are involved, and to ensure that they can rely on the information or assessments provided by other firms.

| **Application Type** | **Description** |
| --- | --- |
| Designated Investment Business or Ancillary Activities | Applies to firms conducting these activities, including those under MiFID, equivalent third-country, or optional exemption business. |
| Other Ancillary Services | In the context of MiFID or similar business. |

**Agent as Client Rules**

| Situation | Who is Considered the Client? | Exceptions |
| --- | --- | --- |
| Agent acting for another person (C2) | The agent (C1) is considered the client. | - If the firm agrees in writing to treat C2 as the client. |
|  |  | - If C1 is neither a firm nor an overseas financial services institution, and the purpose of the arrangement is to avoid duties to C2. |
| Multiple clients represented by a single agent | The firm can use a single communication to cover all clients | Must provide separate risk warnings, confirmations, and periodic statements for each client. |

**Reliance on Other Investment Firms**

| **Scenario** | **Rule** | **Responsibility of Firm (F1)** |
| --- | --- | --- |
| Receiving instruction from another firm (F2) | F1 may rely on information and recommendations provided by F2. | Responsible for concluding services or transactions based on the provided information. |
| Suitability and Appropriateness Assessments | F1 can rely on suitability/appropriateness assessments performed by F2 if F2 follows MiFID rules. | Must ensure F2 was subject to relevant requirements. |
| Insurance Distribution Activities | F1 can rely on assessments made by other insurance distributors if they comply with COBS 9A and COBS 10A. | Must verify the validity of assessments. |

**Reliance on Others: General Situations**

Firms can rely on written information from unconnected authorised or professional firms, as long as there is no reason to doubt its accuracy. Information required by COBS or CASS can be sent to a third party if the client instructs it and the third party is not connected to the firm. Firms may rely on other parties to send required information to clients for business not covered by MiFID, provided they take reasonable steps to ensure that this is done.

**Key Principles for Reliance on Others**

1. Reasonable Steps: Firms must ensure the other party is competent and unconnected before relying on information.
2. Evidence of Reliability: Keeping written evidence supports compliance.
3. Accuracy Check: Firms must not blindly trust information if there are grounds to doubt its validity.
4. Client Consent: If a client directs information to be sent to a third party, the firm must ensure that there are no conflicts of interest.

# 11. Optional Additional Products

This section outlines the restrictions and requirements for marketing or providing optional additional products that incur charges. The primary goal is to ensure that clients actively purchase these products, rather than being automatically charged without their consent.

| **Principle** | **Description** |
| --- | --- |
| Active Election Requirement | Firms cannot charge for an optional additional product unless the client has actively chosen to purchase it. |
| No Implied Consent | An omission (e.g., not changing a pre-ticked box) is not an active election. |
| Prohibition on Automatic Charging | Firms must not impose charges for optional products unless the client has chosen them before being bound to pay. |
| Automatic Renewal Rules | An automatic renewal of an agreement on substantially the same terms is valid if the client actively elected to do so during the initial agreement or a preceding renewal. |
| Intermediary Role | Clients can make an active election through an intermediary or a person acting on behalf of the firm. |
| Prohibition on Inducement | Firms must not induce clients to purchase optional products if there is reasonable cause to suspect a breach of these rules. |
| Add-on Product Regulations | Firms must be aware of additional legal obligations under the Consumer Contracts (Information, Cancellation and Additional Charges) Regulations 2013. |

**What is an Optional Additional Product?**

| **Criteria** | **Description** |
| --- | --- |
| Definition | A good, service, or right of any description that a client may choose to obtain alongside a designated investment. |
| Optionality | The product is optional if the client chooses the seller, supplier, or specific product. |
| Charges | Includes any financial consideration, whether payable to the firm or another person. |
| Automatic Renewals | If a product is automatically renewed on substantially the same terms, the initial active election suffices. |
| Changes in Charges | A charge increase alone does not make a renewal substantially different unless it introduces a new charge or a significant increase in an existing charge. |

**Examples: Active Election vs. Omission**

| **Scenario** | **Active Election?** | **Reasoning** |
| --- | --- | --- |
| Client clicks ‘I agree’ after selecting an add-on | Yes | The client actively chose the add-on by clicking the button. |
| A pre-ticked box on a website | No | The client’s failure to uncheck the box does not constitute an active election. |
| Verbal confirmation from the client to purchase | Yes | The client has expressly agreed to obtain the additional product. |

**Restrictions on Marketing Optional Products**

Firms must not market optional products in a way that may mislead clients into making unintentional purchases. This includes:

* Opt-out selling techniques, such as pre-ticked boxes.
* Automatic inclusion without explicit client consent.
* Inducement to purchase when there is a reasonable suspicion of a breach.