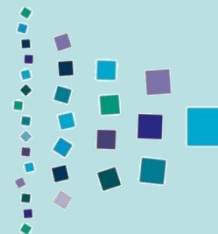


PROTECT

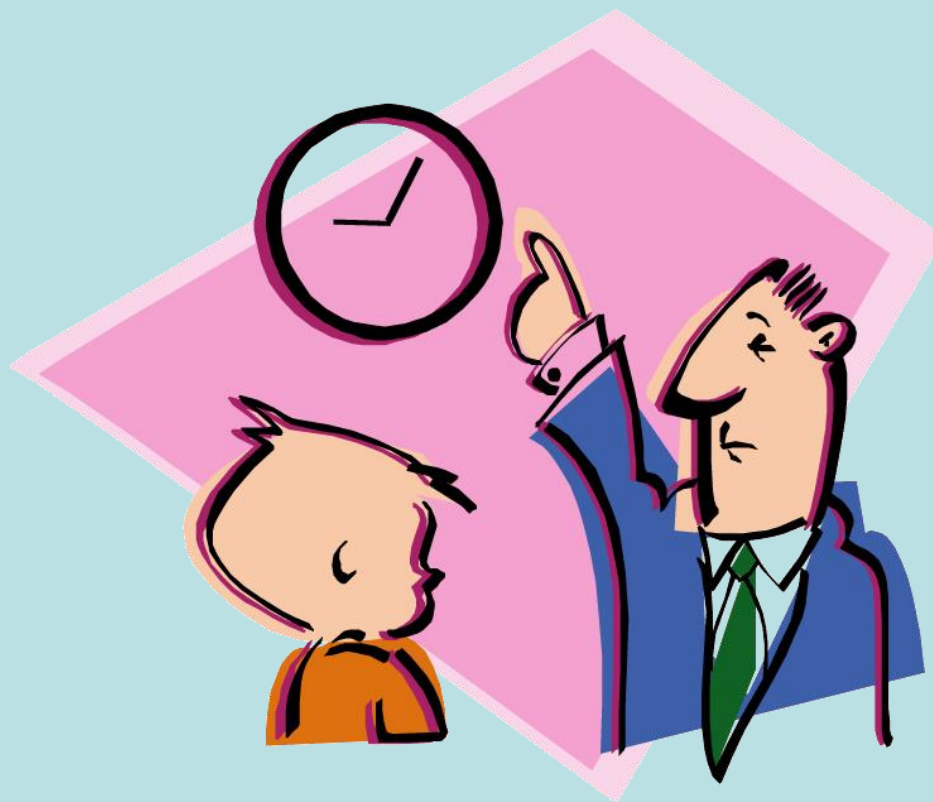
Legal and Regulatory Review

Responsibility

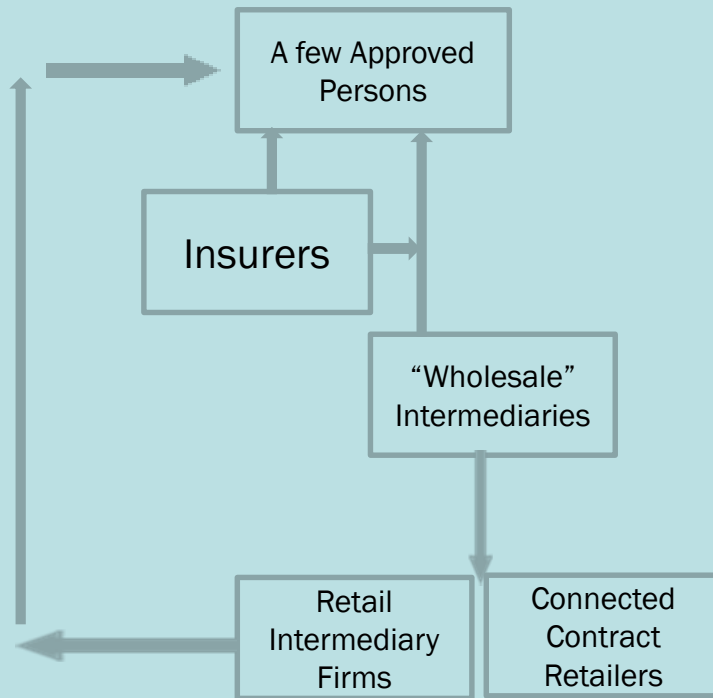
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TRAINING



Responsibility



Regulatory responsibility as it used to be



- Most staff have no individual regulatory responsibility
- Specific responsibilities for providers and distributors largely dictated by the Responsibility of Providers and Distributors for TCF Sourcebook (RPPD)
- Providers must identify a target market and stress test products
- Distributors to work to the Principles for Business
- Almost all regulated conduct of business responsibility has been focused at the point of sale (e.g. PPI)
- Connected contract sales lie outside the regulatory perimeter

2018 - 2019

A huge shift in the responsibilities previously assumed by:-

- firms;

and

- the people who work in them

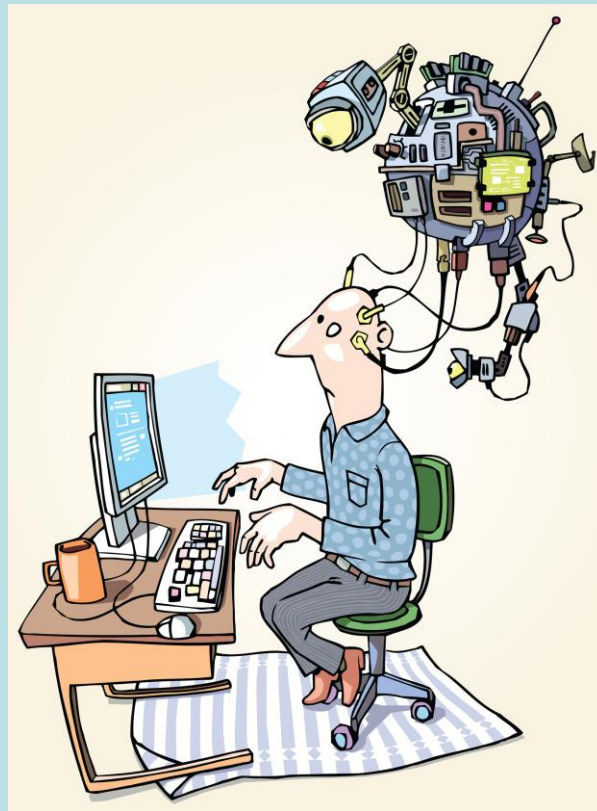
The shifts . . .

- Under the IDD
- Under the new Product Intervention and Product Governance Sourcebook “PROD”
- Under the extended SM&CR

Responsibility under the IDD



IDD - High Level responsibilities



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New IDD high level responsibilities

- Apply to insurance undertakings and distributors alike
- to act honestly, fairly and professionally in accordance with customers' best interests; and
- to ensure that remuneration of a firm or its employees, and performance management of employees, does not conflict with the duty to act in accordance with their customers' best interests

This leads to big changes

- a new rule into ICOBS 2.5 to require insurance distributors to act honestly, fairly and professionally in the best interests of their customers. This will become known (via a Glossary definition) as “**the customers’ best interests rule**”;
- the rule will apply to all firms carrying out insurance distribution activities, wherever they may lie in the distribution chain
- SYSC 19F.2 will provide that insurance distributors must not be remunerated, nor remunerate or assess the performance of their employees in a way that conflicts with their duty to comply with the **customers’ best interests rule**
- When coupled with product governance and oversight responsibility – see later – we have a top to bottom overriding customer interest responsibility shared within a distribution chain. **This is much, much more than “TCF”**

New ICOBS 2.6

- ICOBS 2.6.1 will provide that, where an insurance distributor (this may be more than one in a chain) is distributing through a person relying on the connected contracts exemption, it/they take responsibility to ensure that the Handbook requirements on the next slide are met
- ICOBS 2.6.2 required that an insurance distributor must have “appropriate arrangements” in place to ensure compliance with ICOBS 2.6.1
- This is a big shift in responsibility – requiring firms to impose regulated standards upon an unregulated point of sale transaction

Handbook obligations assumed under ICOBS 2.6

- ICOBS 2.2.2R & ICOBS 2.2.2AR (Clear, fair and not misleading rule and marketing communications);
- ICOBS 2.5 (**Customers' best interests**);
- ICOBS 4.1.2R(1)(a) and (c) (Status disclosure: general information provided by insurance intermediaries or insurers);
- ICOBS 5.2 (Demands and needs);
- ICOBS 6.1.5R(4) (Ensuring customers can make an informed decision: the appropriate information rule)
- ICOBS 6.1.10AR (How must IPID information be provided);
- ICOBS 6A.3 (Cross-selling)
- SYSC 19F.2 (Remuneration and insurance distribution activities);

IDD - Demands and Needs



What the IDD requires

The IDD says firms must specify the customer's insurance demands and needs **based on information obtained by the firm from the customer**. So firms **must** take an **active role** in identifying the customer's demands and needs (through asking questions)

Active role or responsibility?

“We recognise the need to retain a clear distinction between advised and non-advised sales. In relation to non-advised retail sales, we do not expect firms to carry out a detailed investigation of the customer’s circumstances, but they should identify their demands and needs [via interaction], and ensure that the contracts proposed provide cover that meets those demands and needs”

The outcome?

Responsibility for establishing a customer's demands and needs, even in a non-advised sale (and indeed in a connected contract sale), is placed upon the insurance intermediary

Which brings me to product oversight and governance



The Current Position

- FCA had already started to shift the focus of its regulation, from the point of sale of a product, to the design of the product and its suitability for the intended market
- FCA focuses firms' attention towards their responsibility to exercise senior management systems and controls to ensure that firms deliver consumer outcomes in a manner consistent with their obligations under the Principles for Business
- The idea is to stop problems before they happen, by putting pressure on product designers to operate “product governance” to avoid “poor consumer outcomes” and demanding that good product design becomes the responsibility of the entire distribution chain
- This is a shift in emphasis from the separate responsibilities which are still outlined in RPPD

What are the IDD requirements?

- The IDD has a raft of requirements regarding product governance and oversight
- These requirements fall into two portions:-
 - high level requirements
 - more detailed requirements set out in EU (directly applicable) POG Regulations

What are the IDD “High Level” requirements?

- Insurance undertakings, as well as intermediaries which manufacture any insurance product for sale to customers, are required to maintain, operate and review a process for the approval of each insurance product, or significant adaptations of an existing insurance product, before it is marketed or distributed to customers
- The product approval process should:-
 - specify an identified target market for each product;
 - ensure that all relevant risks to such identified target market are assessed and that the intended distribution strategy is consistent with the identified target market, and;
 - take reasonable steps to ensure that the insurance product is distributed to the identified target market

This all adds up to

A shift in the spread of responsibility for the design and targeted delivery of insurance products to be taken by all insurance distributors



How FCA will implement this



What will change

- FCA have created a new “Product Intervention and Product Governance” Sourcebook within the Handbook “PROD”
- FCA will create a new Chapter 4 in PROD as the means by which it will apply product oversight and governance obligations to GI market under the:-
 - IDD “High Level” requirements; and
 - make the IDD POG Regulations apply as rules to all firms to which the IDD POG Regulations do not directly apply

How will all these requirements be covered by PROD?



First - some new Terminology

There will be new key definitions in the Handbook Glossary which will apply to PROD 4. These include:-

“Manufacture”	creating, developing, designing and/or underwriting a contract of insurance
“Manufacturer”	a firm which manufactures contracts of insurance for sale to customers
“Distributing”	advising on or proposing a contract of insurance to a customer
“Distributor”	a firm which advises on or proposes contracts of insurance which it does not manufacture

PROD 1.4.4 EU

Can an intermediary be a manufacturer?

- Yes - Insurance intermediaries will be considered manufacturers where an overall analysis of their activity shows that they have a decision making role in designing and developing an insurance product for the market. This does not imply that the decision making has to be final, or even influential – any role will count
- A decision-making role will be assumed where an insurance intermediary autonomously determines the essential features and main elements of an insurance product
- In a typical PROTECT distribution scenario it is likely that both the insurer and the intermediary(ies) will be manufacturers of the product

What about collaboration in manufacturing a product?

Where an insurance intermediary and an insurer both act as manufacturers this will bring PROD 4.2.13 EU or 4.2.14 R into play which provide (see later) that they must outline their mutual responsibilities in a written agreement

The PROD 4 provisions will be split

- PROD 4.2 will deal with the manufacture of contracts of insurance
- PROD 4.3 will deal with the distribution of contracts of insurance
- Remember - an intermediary with a “decision making role” will have to comply with both PROD 4.2. and 4.3
- In the typical PROTECT distribution model that will add up to

A huge increase in responsibility



For insurance intermediaries

Manufacturer responsibilities



Manufacturer responsibilities

Firms which “manufacture” insurance must:-

- maintain, operate and review a product approval process for new products, and for existing products to which significant adaptations have been made, before such products are marketed or distributed;
- ensure staff involved in product design and manufacture have the necessary skills, knowledge and expertise for their role;
- specify a target market for each product including, where relevant, identifying groups of customers for whom the product is generally not compatible;
- design products to be compatible with the needs, characteristics and objectives of the target market

Manufacturer responsibilities (2)

Firms which “manufacture” insurance must also:-

- test the product before bringing it to the market;
- select distribution channels that are consistent with the target market;
- provide all appropriate information on products & product approval process to distributors;
- take reasonable steps to ensure the product is distributed to the target market; and
- monitor and regularly review products, at least to ensure the product remains consistent with the needs of the target market and the distribution strategy remains appropriate

PROD 4.3 - Distributors



Responsibilities of Distributors

- Insurance distributors must have in place product distribution arrangements containing appropriate measures and procedures to:-
 - obtain from the manufacturer all appropriate information on the insurance products they intend to offer to their customers; and
 - to fully comprehend those insurance products, taking into account the level of complexity and the risks related to the products as well as the nature, scale and complexity of the relevant business of the distributor
- The product distribution arrangements must:-
 - aim to prevent and mitigate customer detriment and ensure that the objectives, interests and characteristics of customers are duly taken into account; and
 - support a proper management of conflicts of interest

Responsibilities of Distributors (2)

- Insurance distributors must:-
 - regularly review their product distribution arrangements to ensure that those arrangements are still valid and up to date. They must amend product distribution arrangements where appropriate
 - where appropriate, amend their distribution strategy in view of the outcome of the review of the product distribution arrangements. When reviewing their product distribution arrangements, insurance distributors must verify that the insurance products are distributed to the identified target market
 - support product reviews carried out by manufacturers - insurance distributors should, upon request, provide manufacturers with relevant sales information, including, where appropriate, information on the regular reviews of the product distribution arrangements

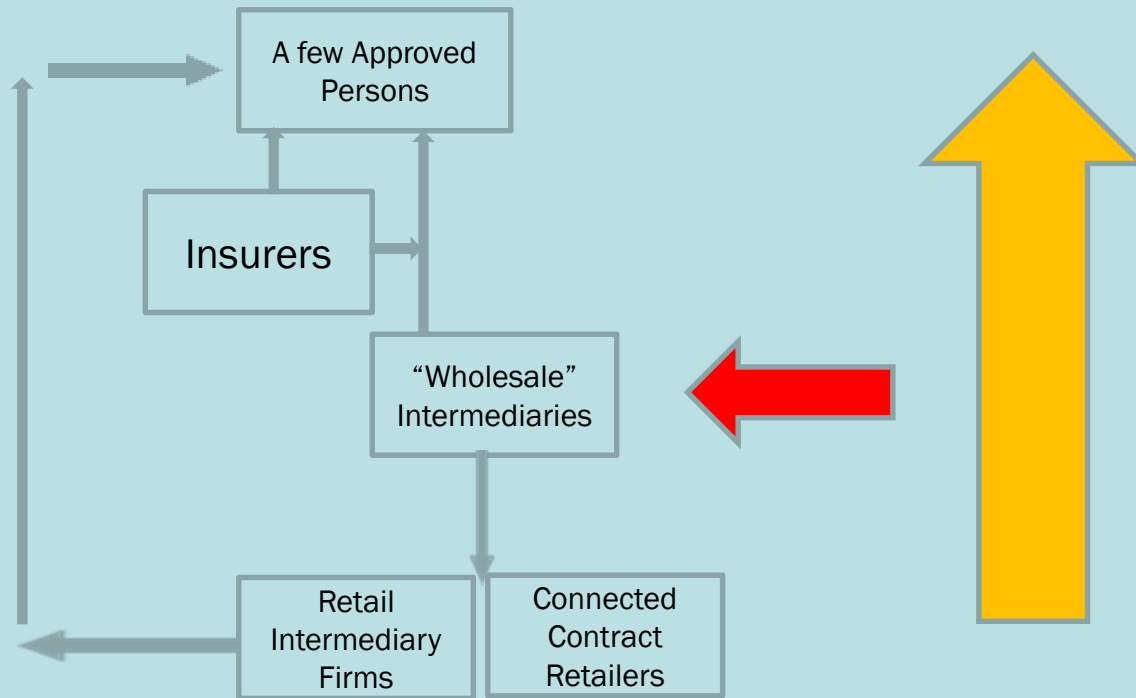
Responsibilities of Distributors (3)

- If an Insurance distributor becomes aware that an insurance product is not in line with the interests, objectives and characteristics of its identified target market, (or becomes aware of other product-related circumstances that may adversely affect the customer) it must promptly inform the manufacturer and, where appropriate, amend their distribution strategy for that insurance product
- Manufacturers and distributors should take appropriate action in order to avert the risk of consumer detriment when they consider that the insurance product is not, or is no longer, aligned with the interests, objectives and characteristics of the identified target market

There's more . . .

- Relevant actions taken by insurance distributors in relation to their product distribution arrangements must be duly documented, kept for audit purposes and made available to the competent authorities upon request
- Insurance distributors must set out the product distribution arrangements in a written document and make it available to their relevant staff

That's just a summary but it adds up to



A word about remuneration

- The IDD requires firms to:-
 - act honestly, fairly and professionally in accordance with their **customers' best interests**; and
 - ensure that remuneration of a firm, or its employees, and performance management of employees, **must not** conflict with the duty to act in accordance with their **customers' best interests**
- The IDD also requires that insurance distributors must not:-
 - be remunerated; or
 - remunerate or assess the performance of their employees

in a way that conflicts with their duty to comply with the **customers' best interests rule**

New SYSC 19F.2

Will provide that, in particular, an insurance distributor must not make any arrangements by way of remuneration, sales target or otherwise that could provide an incentive to itself or its employees to recommend a particular contract of insurance to a customer when the insurance distributor could offer a different insurance contract which would better meet the customer's needs

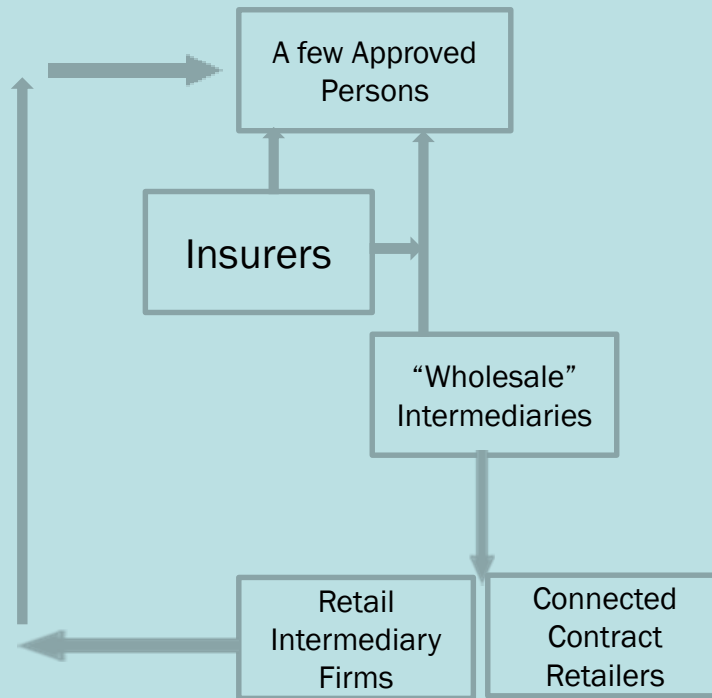
When this is added to IDD requirements

- on insurance intermediaries – to disclose “the nature and basis” of the remuneration they receive in relation to the insurance contract
- on insurers – to disclose the “nature” of the remuneration paid to their employees in relation to the insurance contract

We have a huge shift in responsibility

- Away from remuneration and profit being a valid driver for product design and distribution
- Towards an obligation that all financial arrangements related to an insurance product must be driven solely by compliance with the **customer's best interests rule**

That adds up to



The customer

A word about responsibility for the IPID

- A lot of uncertainty here
- New ICOBS 6.-1.5R will provide that the IPID must be drawn up by the manufacturer of the policy
- We have seen that there may (well) be more than one manufacturer of an insurance product
- Where this is the case – who prepares and who is named on the IPID?
- The answer seems to refer back to the position under PROD

Collaboration in manufacturing a product?

Where an insurance intermediary and an insurer both act as manufacturers that they must outline their mutual responsibilities in a written agreement

A mutual responsibilities agreement

Should contain agreement as to
responsibility for the production of,
and naming of the manufacturer in,
the IPID

Xxxxx Insurance
Insurance Product Information Document
Company: <Name> Insurance Company Product: <Name> Policy

(Statement that completes pre-contractual and contractual information on the product is provided in other documents)

What is this type of insurance?
(Description of Insurance)

What is insured?	What is not insured?
 ✓ XXXXX	 ✗ XXXXX
✓ XXXXX	✗ XXXXX
✓ XXXXX	✗ XXXXX
✓ XXXXX	✗ XXXXX
✓ XXXXX	✗ XXXXX
✓ XXXXX	
✓ XXXXX	
✓ XXXXX	
✓ XXXXX	
✓ XXXXX	
✓ XXXXX	
✓ XXXXX	

Are there any restrictions on cover?
 ! XXXXX
! XXXXX
! XXXXX
! XXXXX

 **Where am I covered?**
✓ XXXXX

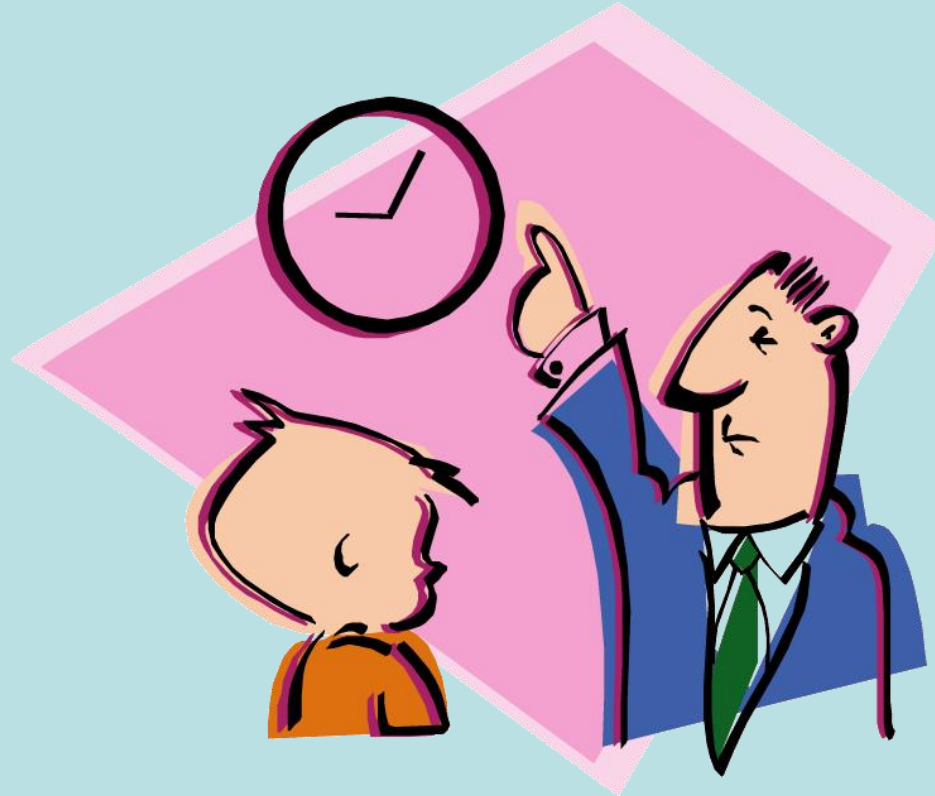
 **What are my obligations?**
• XXXXX
• XXXXX
• XXXXX

 **When and how do I pay?**
XXXXX

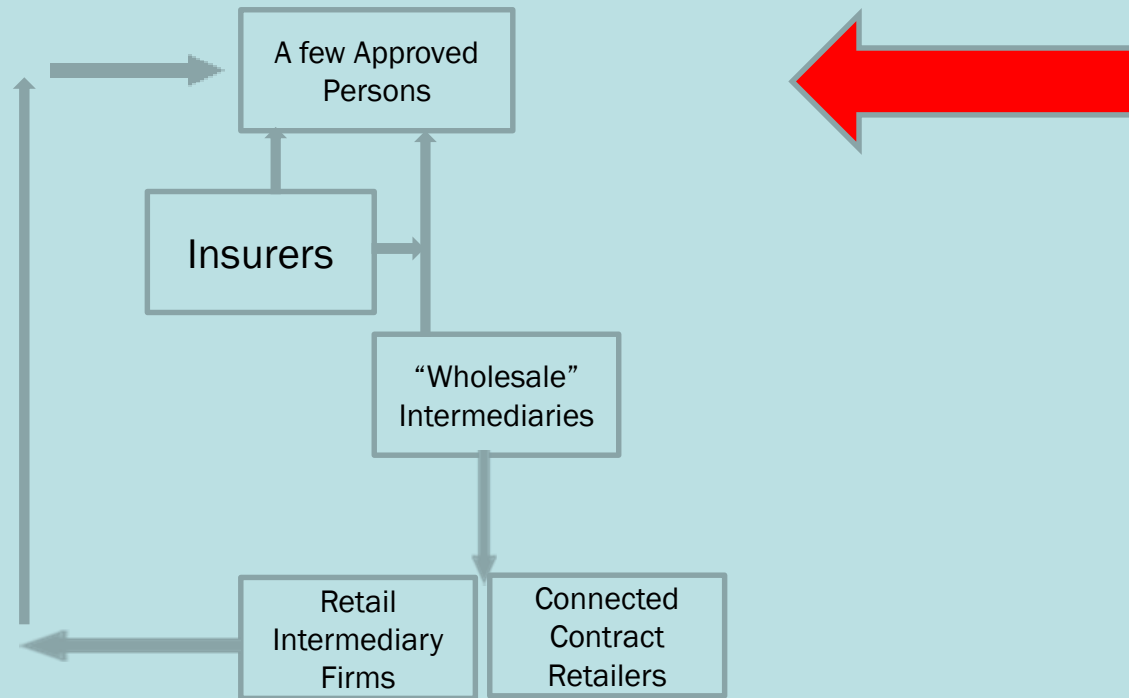
 **When does the cover start and end?**
XXXXX

 **How do I cancel the contract?**
XXXXX

Finally, responsibility under the SM&CR



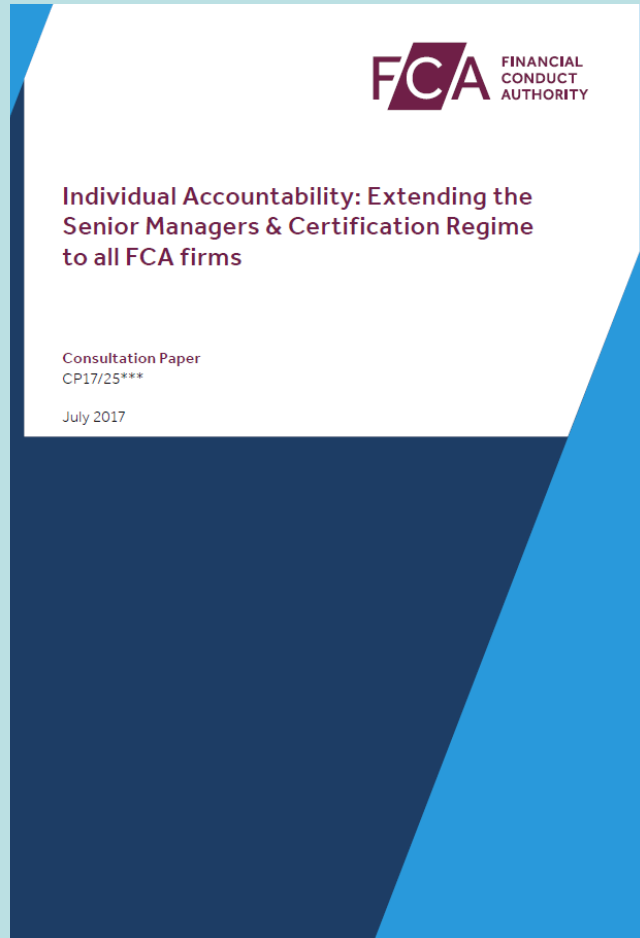
Extending Responsibility under the SM&CR



Extending personal responsibility

- Under the IDD we have seen huge shifts in the responsibility for the **customer's best interests** upwards though the distribution chain
- All those responsibilities are placed on the firms
- Now we will look at how individual responsibility is to be extended

July 2017 (CP17/25)



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The regime will have three parts

- a **Senior Managers Regime** which will apply (in an insurance intermediary firm) to a similar group of persons as are currently required to be Approved Persons – but (possibly) not to Non-Executive Directors, unless the Chairperson
- a **Certification Regime** which will apply to employees of the firm who are not “Senior Managers” but whose role in the firm means it would be possible for them to “cause significant harm to the firm or its customers”
- **Conduct Rules** which will apply to individuals subject to the **Senior Managers Regime** and the **Certification Regime** and to a large number of other staff

What are the Conduct Rules?

- Rule 1: You must act with integrity
- Rule 2: You must act with due skill, care and diligence
- Rule 3: You must be open and cooperative with the FCA, the PRA and other regulators
- Rule 4: You must pay due regard to the interests of customers and treat them fairly
- Rule 5: You must observe proper standards of market conduct



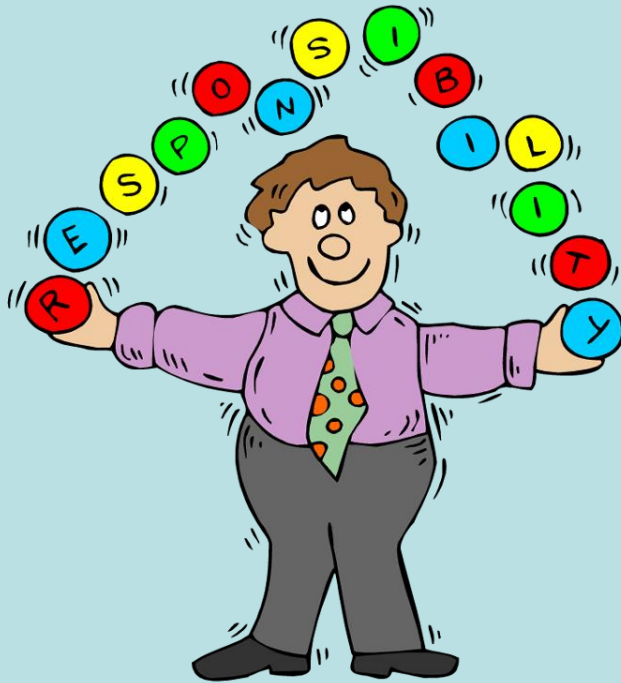
Awareness of the Rules

- The regime will require firms to:-
 - ensure that all persons subject to the rules are notified of the rules that apply to them;
 - take all reasonable steps to ensure that those persons understand how the rules apply to them
- The steps that a firm must take to ensure that its staff understand how the rules apply to them will include “the provision of suitable training”

Training

- “Suitable Training” will be prescribed as the training necessary to always ensure that those who are subject to the rules have an awareness and broad understanding of:-
 - all of the rules; and
 - they also have a deeper understanding of the practical application of the specific rules which are relevant to their work
- Firms will need to make very sure that staff receive much more than “tick box” training – FCA will expect to see a “deep understanding” in staff as to how their conduct in their particular role(s) can affect consumer outcomes
- Note the “overlap” with the new IDD staff training requirements (15 Hrs CPD) - FCA have yet to tell us how these two regimes may relate – but the SM&CR requirement is much more than “CPD”

The outcome?



- Nearly everyone working for an authorised firm:-
 - will be aware of, and be subject to, clear requirements as to the personal responsibility they bear for what they do in their job; and
 - being aware that any breach in the performance of their responsibility will be reported to the FCA - and may have personal consequences

So we have another huge shift in responsibility

- Downwards in the employment chain
- Of course senior managers will continue to bear the brunt of individual responsibility
- But senior managers will no longer be alone – everyone will be responsible to some degree
- If we add the IDD to the SM&CR we get this proposition . .

The new responsibility

- Nearly every person who works in an authorised firm will become personally responsible for ensuring that, within their job, everything they do is focused solely on the **best interests of the customer**
- In order to discharge that personal responsibility each individual must have a deep understanding of the nature, purpose and mechanisms of the regulatory regime and the principles and expectations on which it is based
- Which is why it is very responsible for you to listen to me and

to attend Protect meetings!!!!



Welcome to the Protect Association

Membership Benefits

Thank You

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