

Chapter 4

Statutory status disclosure

4.3 Letter disclosure

Disclosure in letters to retail clients

- 4.3.1** **R** A *firm* must take reasonable care to ensure that every letter (or electronic equivalent) which it or its *employees* send to a *retail client*, with a view to or in connection with the *firm* carrying on a *regulated activity*, includes the disclosure in ■ GEN 4 Annex 1 R (firms that are not PRA-authorised persons) or GEN 4 Annex 1AR (PRA-authorised persons) as applicable.
- 4.3.1-A** **R** A *TP firm* must take reasonable care to ensure that every letter (or electronic equivalent) which it or its *employees* send to a *retail client*, with a view to or in connection with the *TP firm* carrying on a *regulated activity*, includes the disclosure in, as the case may be:
- (1) for a *TP firm* under Part 3 of the *EU Exit Passport Regulations*, ■ GEN 4 Annex 1B 1.1R or ■ 1.2R (firms that are not PRA-authorised persons) or, ■ GEN 4 Annex 1B 2.1R or ■ 2.2R (PRA-authorised persons); or
 - (2) for a *TP firm* under Part 6 of the *EU Exit Passport Regulations*, ■ GEN 4 Annex 1C 1.1R or ■ 1.2R (firms that are not PRA-authorised persons) or ■ GEN 4 Annex 1C 2.1R or ■ 2.2R (PRA-authorised persons).
- 4.3.1A** **G** Where a letter covers both activities to which this section applies and activities to which this section does not apply, the *firm* should comply with the *rules* in this chapter in relation to the business to which it applies.
- 4.3.1B** **G** An example for ■ GEN 4.3.1A G would be where a letter covers business for which the *FCA* is the *competent authority* under the the UK provisions which implemented *IDD* and under the UK provisions which implemented *MiFID*.
- 4.3.2** **G** [deleted]
- 4.3.2A** **G** For a *UK domestic firm* that is not a *PRA-authorised person*, the required disclosure in ■ GEN 4 Annex 1 R is "Authorised and regulated by the Financial Conduct Authority".
- 4.3.2B** **G** For a *UK domestic firm* that is a *PRA-authorised person*, the required disclosure in GEN 4 Annex 1AR is "Authorised by the Prudential Regulation

Authority and regulated by the Financial Conduct Authority and the Prudential Regulation Authority".

4.3.3

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- (1) ■ GEN 4.3.1 R (Disclosure in letters to retail clients) covers letters delivered by hand, sent by *post* and sent by fax and also electronic mail, but not text messages, account statements, business cards or compliment slips (used as such).
- (2) ■ GEN 4.3.1 R (Disclosure in letters to retail clients) applies in relation to letters sent by any of the *firm's employees*, which includes its *appointed representatives* and their *employees*.
- (3) *Firms* are likely to find it convenient to include the required disclosure in their letterhead.

Exception: insurers

4.3.4

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■ GEN 4.3.1 R (Disclosure in letters to retail clients) does not apply in relation to:

- (1) *general insurance business* if the *State of the risk* is outside the *United Kingdom* and the *client* is not in the *United Kingdom* when the *contract of insurance* is entered into; or
- (2) *long-term insurance business* if the *client* is *habitually resident* outside the *United Kingdom* and is not present in the *United Kingdom* when the *contract of insurance* is entered into.

Exception: authorised professional firms

4.3.5

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For an *authorised professional firm*, ■ GEN 4.3.1 R (Disclosure in letters to retail clients) does not apply with respect to its *non-mainstream regulated activities*.

Exception: use of third party processors in home finance and insurance distribution activities

4.3.6

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- (1) Where a *firm* has outsourced activities to a *third party processor* other than *advising on life policies*, ■ GEN 4.3.1 R does not apply to that *third party processor* when acting as such, so long as the outsourcing *firm* ensures that the *third party processor* and its *employees* comply with that *rule* as if it was the *firm* and they were *employees* of the *firm*.
- (2) Where an *appointed representative* has outsourced *insurance distribution activities* other than *advising on life policies* or *home finance mediation activities* to a *third party processor*, ■ GEN 4.3.1 R does not apply to that *third party processor* when acting as such, so long as the *appointed representative's principal* ensures that the *third party processor* and its *employees* comply with that *rule* as if it was the *appointed representative* and they were the *employees* of the *appointed representative*.
- (3) Where an *appointed representative* of a *firm* is carrying on:

(a) *insurance distribution activities* other than *advising on life policies*; or

(b) *home finance mediation activities*;

which have been outsourced to it by the *firm*, ■ GEN 4.3.1 R does not apply to the *firm* when the *appointed representative* is carrying on the outsourced activities, so long as the *firm* ensures that the *appointed representative* and its *employees* comply with that *rule* as if it was the *firm* and they were *employees* of the *firm*.

Exception: credit firms

4.3.7

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■ GEN 4.3.1 R (Disclosure in letters to retail clients) does not apply to a *credit firm* (other than a *firm* with a *limited permission*) with respect to the activity of *entering into a regulated credit agreement as lender* to which the *Consumer Credit Directive* would have applied if the activity had been carried on immediately before *IP completion day*.

4.3.8

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A *credit firm* which carries on the activity of *entering into a regulated credit agreement as lender*, in respect of an agreement to which ■ GEN 4.3.1R (Disclosure in letters to retail clients) does not apply as a result of ■ GEN 4.3.7R is under an obligation to disclose pre-contract information in the form and to the extent required by the Consumer Credit (Disclosure of Information) Regulations 2010 (SI 2010/1013). *Firms* which carry on *credit broking* may take on the same obligation. A *credit firm* must also ensure specified information is included in *credit agreements* to which ■ GEN 4.3.1R (Disclosure in letters to retail clients) does not apply as a result of ■ GEN 4.3.7R in the form and to the extent required by the Consumer Credit (Agreements) Regulations 2010 (SI 2010/1014).

4.3.9

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The effect of ■ GEN 4.3.7 R is that a *credit firm* in relation to a *regulated credit agreement* which would have been covered by the *Consumer Credit Directive* if the activity had been carried on immediately before *IP completion day* does not need to comply with ■ GEN 4.3.1 R in relation to those letters (or electronic equivalents) that accompany the information required under the Regulations referred to in ■ GEN 4.3.8 G.

4.3.10

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■ GEN 4.3.7R and the *guidance* related to it are not relevant to *regulated activities* covered by a *limited permission* (see the "relevant credit activities" set out in paragraph 2G of Schedule 6 to the *Act*).