FINANCIAL CONDUCT AUTHORITY

Discussion Paper

DP24/1

Regulation of commercial and bespoke insurance business

July 2024

How to respond

We are asking for comments on this Discussion Paper (DP) by **16 September 2024**.

You can send them to us using the form on our website.

Or in writing to:

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Financial Conduct Authority
12 Endeavour Square
London E20 1JN

Email:
commercialinsurancemarket@fca.org.uk

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Disclaimer

We make all responses to formal consultation available for public inspection unless the respondent requests otherwise. We will not regard a standard confidentiality statement in an email message as a request for non-disclosure.

Despite this, we may be asked to disclose a confidential response under the Freedom of Information Act 2000. We may consult you if we receive such a request. Any decision we make not to disclose the response is reviewable by the Information Commissioner and the Information Rights Tribunal.

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Chapter 1

Overview

Introduction and the context of this paper

1.1 The UK insurance market provides products and services for a broad range of customers, both in the UK and overseas. In the UK, the gross written premium of the commercial insurance market is approximately £95bn. Our primary objective 'ensuring an appropriate degree of protection for consumers', already plays an important role in creating a safe, trusted and stable environment for firms to compete and innovate. The global nature of the commercial insurance market makes it important for us to consider how our rules further our secondary objective to facilitate the international competitiveness and growth of the UK economy in the medium to long term. We aim to deliver proportionate regulation that potentially helps remove barriers to innovation and encourages effective competition in the commercial insurance market.

1.2 It is common practice in the market to make a distinction between personal lines (usually sold to individuals for their personal needs) and commercial lines (usually sold to businesses and corporate customers). Our insurance rules extend the protections normally given to consumers to some groups of commercial customers.

1.3 Many insurance products are only relevant to one or other category of customer. For example, home and pet insurances are specifically for retail customers (those acting outside their trade or profession), whereas employer's liability and motor fleet insurance products are only relevant to commercial customers. Some products, such as motor insurance, are relevant to both, though even some of these (e.g. motor fleet policies) may be tailored for the needs of one or other category.

1.4 Products sold to *commercial* customers range from standardised products offered to sole traders, right up to individually negotiated contracts covering multiple risks for larger corporations. Sole traders and other smaller businesses are unlikely to possess insurance expertise and are more likely to buy standardised products. They may also not afford or have access to professional or legal advisors to effectively negotiate with the insurance market and resolve any associated disputes. In many ways, these commercial customers are akin to consumers. On the other hand, larger organisations are likely to have their own insurance and legal expertise, and the financial power to negotiate with insurers on a more equal footing.

1.5 These differences present a challenge to us in ensuring that customers in the commercial insurance market are protected appropriately, whilst also not placing unnecessary regulatory costs on firms or impacting innovation.

1.6 Many of our rules specific to the insurance sector derive from the EU's Insurance Distribution Directive (IDD), which we implemented in 2018. In implementing the IDD, we brought in new rules on product governance for insurance in our Product Intervention and Product Governance sourcebook (PROD). We further developed these rules as

part of our work on general insurance pricing practices, requiring firms to ensure their products provide fair value to customers. We have since introduced the Consumer Duty, ensuring firms act to deliver good outcomes for their customers. Most of these requirements apply to business that is not a 'contract of large risks' (as defined in the Handbook Glossary). The 'contract of large risks' distinction recognises that there is less need for consumer protections such as information disclosure to apply to larger commercial customers.

1.7 Since we introduced the PROD and Consumer Duty rules, we have engaged with industry stakeholders to understand any challenges which implementation of the rules may have caused. In 2023 we made changes to how our PROD rules applied where products are distributed overseas. We continue to work with stakeholders on these issues. The options set out in this Discussion Paper (DP) are informed by these engagements.

1.8 The FCA has also published a Call for Input, seeking views on broader rule changes following the Consumer Duty implementation.

What we are seeking views on

1.9 This DP invites feedback on whether our rules strike an appropriate balance between safeguarding those customers who require regulatory protections and competitiveness in the commercial non-investment general insurance market. We believe that there may be changes which can be made to better align this balance.

1.10 In Chapter 2, we discuss the application of rules to the commercial insurance market; especially the point at which some rules are disapplied based on the size and nature of the commercial customer.

1.11 In Chapter 3, we discuss the rules which apply to situations where multiple firms are responsible for manufacturing insurance products. Whilst we are only considering possible changes to commercial non-investment insurance market, we are also seeking views on whether these should apply to the retail market as well as to pure-protection products.

1.12 In Chapter 4, we discuss the rules which apply to tailor-made (bespoke) contracts.

1.13 There are a range of questions within this DP. Some of them ask respondents for specific details and their estimates of the impacts they think the suggestions may have. We want respondents to give us evidence we can use to fully assess which, if any, changes we should implement.

Who this will interest

1.14 This DP is likely to be of interest to:

- insurers and insurance intermediaries, including those within the Lloyd's market

- insurance market trade associations
- commercial insurance buyers
- business representative bodies

How this links to our objectives

1.15 The options in this DP further our objectives of:

- ensuring an appropriate degree of protection for consumers, and
- promoting effective competition in the interests of consumers

1.16 The options are intended primarily to consider areas where it may be appropriate to reduce the regulatory requirements and potentially also the costs on firms, while maintaining appropriate levels of protection for small and medium sized commercial customers. We consider that it is in the interests of customers where appropriate regulation allows firms to compete and innovate.

1.17 In developing this DP we have considered options which advance our primary objectives, and which are also consistent with our secondary objective to facilitate the international competitiveness and growth of the UK economy in the medium to long term (SICGO). The options set out aim to deliver proportionate regulation that potentially helps remove barriers to innovation and encourage effective competition in the commercial insurance market. We consider that the options set out are all consistent with our secondary objective.

Equality and diversity considerations

1.18 We have considered the equality and diversity issues that may arise from this DP. We do not consider that it adversely impacts any of the groups with protected characteristics ie age, disability, sex, marriage or civil partnership, pregnancy and maternity, race, religion and belief, sexual orientation and gender reassignment. We will keep this under review as we consider responses to this DP.

Next steps

1.19 We welcome feedback on the topics discussed by **16 September 2024**. Annex 1 has a full list of the questions. Please respond to this DP by using the online form. Alternatively, you can respond by email to commercialinsurancemarket@fca.org.uk.

1.20 We will consider the responses and decide whether there is a case for making changes to our rules and guidance. If so, we will then consult on any changes in the normal way.

Chapter 2

Determining which rules apply to commercial insurance

2.1 This chapter looks at how our rules distinguish between insurance for consumers (natural persons acting outside of their profession or trade in accordance with ICOBS 2.1.1G) and commercial customers through the *contract of large risks* definition. We set out potential options for amending this definition or replacing it. The options presented will not affect consumers but will amend the criteria for identifying between larger commercial customers and small and medium enterprise (SME) customers of insurance and whether they need the level of protection required by the rules.

2.2 Our objective in exploring the options below, and in the other areas of this DP, is to maintain high standards of customer protection, and to facilitate competitiveness. With regards to this particular issue, we also want to ensure that there is consistency across our rulebooks and that appropriate customers, including SMEs, continue to have the appropriate regulatory protections.

Background

2.3 Our rules relating to the distribution of insurance contracts intend to afford customers regulatory protections against potential harm. We have consistently considered it is necessary to distinguish SMEs as being more similar to consumers compared to larger commercial customers.

2.4 Consumers and most smaller SMEs buying insurance tend to have limited financial expertise and generally do not have their own professional advisors. This can place them in a weaker position in transactions as they usually have limited ability to, for example effectively negotiate with insurance firms, and less capacity to resolve any associated disputes. As a result, there is a greater risk of potential harm for these customers.

2.5 Consumers and most SMEs should therefore have the level of protection provided for in ICOBS, PROD, PRIN, and the ability to bring cases to the Financial Ombudsman Service (Ombudsman Service). More broadly, our rules recognise the different levels of protection required between retail customers, SMEs and larger commercial customers. This includes, for example:

- most of our rules in relation to insurance products, such as sales standards, disclosure and product design in the insurance market mainly apply to consumers and SME customers
- the DISP regime which outlines rules for complaint handling and includes the criteria for eligible complainants to access the Ombudsman Service essentially only applies to consumers and certain SME customers
- the Financial Services Compensation Scheme (FSCS) only applies to consumers and certain SME customers

2.6 For the purpose of our insurance rules, a commercial customer is treated differently to a consumer if it meets the definition for a *contract of large risks*.

2.7 This term is defined by both minimum balance sheet, turnover and employee number thresholds for policyholders, at least 2 of which must be exceeded, and applies to most insurance product categories. There are also product-specific rules that create blanket inclusions or exclusions of certain insurance product categories from the definition (See Table 1 for more details on how large risks are defined). Where a customer buying insurance fits the definition of a contract of large risks, most of our ICOBS rules become disapplied provided the customer is not a retail customer.

2.8 Beyond ICOBS, two other areas of our Handbook also use the large risks definition to set the scope of the application of rules. In PRIN there are exclusions from the Consumer Duty for '*activities carried on in relation to contracts of large risks for a commercial customer or where the risk is located outside the United Kingdom*'. Similarly, PROD 1.4.3 outlines that PROD 4 does not apply to a contract of large risks where the insurance product has no policyholders or policy stakeholders who are natural persons acting outside of their trade or profession.

2.9 The handbook does not have a consistent definition to distinguish between SMEs and larger commercial customers. We want to consider whether the large risks definition continues to be the most appropriate for the purpose of our insurance rules.

2.10 Table 1 provides a summary of the different definitions.

Criteria	Contracts of Large Risks (see FCA Glossary) any 2 criteria	DISP (turnover + 1 other criterion)	Companies Act – FSCS (any 2 criteria)	FSCS – General Insurance Claims	PERG 5 11 13AG and COMP – Small Business
Balance Sheet	€6.2m	£5m	£5.1m	N/A	N/A
Turnover	€12.8m	£6.5m	£10.2m	£1m	£1m
Employees	250	50	50	N/A	N/A
Other	Above thresholds apply to: land vehicle, fire & natural forces, other property damage, motor & general liability, and misc. financial loss. Always includes: Railway rolling stock; goods in transit; aircraft (incl spacecraft) & their liability; ships (incl watercraft) & their liability; credit; and suretyship. Never includes: Medical; legal expenses.	The above criteria are set out in the definition of 'small business'. Other entities that are eligible to bring a complaint to the FOS include: Charities income £6.5m	N/A	All businesses eligible for long-term insurance and compulsory general insurance.	N/A

What we want to achieve

2.11 Industry groups have told us that the inconsistencies across the definitions in Table 1 result in time-consuming and disproportionate effort to categorise each customer for onboarding or renewal. We understand this and are considering whether there are regulatory costs that can potentially be reduced which may support competitiveness in the commercial insurance market.

2.12 We also understand that the definition may be leading to variances where customers who may not necessarily need protections are nonetheless in scope of our rules.. Related to this, certain product categories are included or excluded from the large risk definition on a blanket basis. For example, policies concerning sickness and accident are never classed as large risks regardless of who is purchasing them. This means that large corporations arranging private medical insurance for their employees will, nonetheless, receive the same regulatory protections as consumers.

2.13 While amendments to other relevant definitions are outside the scope of this DP, we think this is an opportune time to review the contracts of large risks definition in light of the feedback highlighted above and explore whether there are grounds for amending the definition of contracts of large risks to split the SMEs and larger commercial customers.

2.14 As part of this DP, we want to review this and are presenting a range of options in line with our stated policy objectives in paragraph 2.2. We would like feedback from wider stakeholders on the potential impacts of each option and invite respondents to provide us with evidence of the potential challenges mentioned above and allow us to assess their impact under the status quo. This may include, for example, case studies highlighting examples of customer groups (e.g. large businesses) that are being afforded a level of protection that may not be required by them as much, and information that helps us quantify the costs of having to allocate additional processes to identify customers in scope of the large risks definition relative to other similar definitions.

Question 1: **Do you agree with the concerns/issues we have identified above?**

Question 2: **Please provide us with any information that may help us to quantify the costs associated with these challenges.**

Question 3: **Please tell us if there are other issues/concerns associated with the scope of application of requirements to commercial customers.**

Options to change the SME classification

2.15 We are considering changing the application of our rules by amending the criteria to determine when a commercial customer is classed as an SME (i.e. a commercial customer to which the regulatory protection will apply) and when they are not.

2.16 We have developed the options below based on our quantitative and qualitative analysis on these issues to date. These options have also been informed by our engagements with relevant industry and consumer bodies in the course of developing this paper.

2.17 As we explained in paragraph 2.9, there are various terms used across the Handbook to determine the scope of application of our rules in relation to commercial customers. Although we are not intending to amend the application of the various relevant sourcebooks, amending the definition to differentiate between smaller and larger commercial customers will have the result that certain commercial customers will or will no longer fall within the scope of those rules.

Option 1 – Replace large risks with the DISP eligible complainant definition *(i.e. align thresholds and remove product-specific rules)*

2.18 The DISP rules define an *eligible complainant* who can access the Ombudsman Service by referencing a number of sub-categories of customers. This includes micro-enterprises and small businesses who are defined by various turnover, balance sheet and employee number criteria. Notably, the criteria in these definitions are set at a lower level compared to those used in the large risks definition.

2.19 Under this option, we could amend the current definition of contracts of large risks to align with the DISP eligible complainant definition in full (including all of the subcategories for eligible complainants as outlined in DISP 2.7.3 and Table 1 above).

2.20 This would result in 2 sets of changes:

- Firstly, the same customers that are eligible to take complaints to the Ombudsman would automatically be given protections similar to consumers under our insurance rules (including falling within the scope of the Consumer Duty).
- The product-specific criteria under the current contracts of large risks definition would also be removed. This would result in customers being classed as large risks by the eligible complainant criteria only, and not based on additional product-specific criteria.

2.21 This option will increase alignment and consistency across our Handbook, making the overall framework easier to navigate. This could enable firms to simplify their processes. If that happened, it would result in cost savings for the industry which could better support competitiveness more broadly.

2.22 We want to ensure that this option would not result in detriment for material numbers of those SME customers who particularly need these protections due to their size or resource constraints. We recognise that it would result in a minority of SME customers falling out of scope of our consumer protection rules. Our analysis using data from the

Office of National Statistics (ONS) indicates that, at most, this option would result in 44,865 additional SME customers falling into scope of the amended definition (and thus, falling out of scope of the relevant regulatory protections). This figure amounts to less than 1% of total UK private businesses. These firms have an average turnover of £21m and so many of the contracts of insurance sold to these SMEs would already fall within the contract of large risks definition to which many of the relevant requirements do not apply.

2.23 Based on this data, we consider that this group of SME customers would likely have the means to protect themselves when negotiating insurance contracts or resolving insurance through professional advisors. We know that arbitration clauses are also a common feature in commercial insurance contracts and believe that this would give these SME customers an additional route for resolving insurance disputes outside of regulatory processes or courts. Therefore, we consider this option would maintain an appropriate degree of protection for SME customers with greater consistency and be potentially more cost effective for the industry.

2.24 This alignment could be achieved, for example, by amending the large risks definition to cross refer directly to DISP 2.7.3 and include all the categories currently outlined in the eligible complainant criteria. This approach would better ensure future proofing the alignment between the contracts of large risks definition and the DISP eligible complainant definition. It would do so by allowing for any potential future changes to the latter to be automatically captured in the large risks definition. Please note we are not currently considering changes to the Ombudsman Service's eligibility criteria. We recently reviewed this criterion in CP12/36 and have no indication that further amendments are needed.

Option 2 – Removing the product-specific rules

2.25 This option would be a more limited change than Option 1. Under this option, we would keep the contract of large risks definition as the dividing line for SME customers insurance who should have the same protections as consumers but remove all of the product-specific criteria currently in the large risks definition.

2.26 This option will provide greater consistency of the treatment of commercial customers regardless of the product category that they are purchasing and provide the level of regulatory protections to SMEs where there is a greater risk of harm as opposed to the larger commercial customers who do not require these protections.

2.27 Data available to us indicates that over 2.8m policies are currently impacted by the product-specific rules and so are at risk of anomalous outcomes.

2.28 However, this option may only partially address the feedback from the current contracts of large risks definition. There would still be inconsistencies due to different defining thresholds, and any associated challenges including costs to industry and potential risks to competitiveness – albeit to a lesser extent than the current status quo.

Option 3 – Develop a new definition

2.29 There may potentially be other approaches to defining the contracts of large risks that could be effective in achieving our stated policy objectives compared to the current balance sheet, net turnover and employee number criteria and product-specific rules. There are other definitions used within the Handbook to distinguish SMEs from larger commercial customers, and stakeholders may consider elements of those to be relevant to insurance.

2.30 Although we could create a new definition based on the unique features of the insurance market, this would not be consistent with other relevant definitions. The challenges identified would remain.

Supplementary option 1 – Add rule to define all SMEs with 0-1 employees as consumers

2.31 Sole trader-type firms, especially in non-financial services sectors, are more like individual consumers. For instance, they are unlikely to have in-house insurance expertise and, unlike other commercial customers, are more likely to be in a weaker position in insurance transactions. We base this view on 2 things:

- Our analysis of ONS data indicates that the average turnover for firms with 0-1 employees is £84,000. This is far below the turnover thresholds for the large risks definition and other related definitions. These types of SMEs make up 76% of total UK private businesses and span a wide range of sectors such as agriculture and fishing, and the arts/ entertainment where we would expect them to have limited knowledge of financial services and legal expertise.
- Results of the 2021 Legal Services Board survey show most sole traders did not feel they had adequate access to civil justice systems and lacked confidence in addressing legal disputes. More specifically, only 19% of sole traders used professional help to resolve a legal dispute, only 14% felt they had access to civil justice systems and only 21% reported high legal confidence for addressing disputes.

2.32 We consider there may be benefit in specifying that businesses with 0-1 employees will always be classed as SMEs. We see this option being implemented as a potential supplement to any of the other options discussed above, as an additional rule alongside any of them.

2.33 Our assessments indicate that there is likely to be minimal disruption from this option. This is because most sole trader-type firms will already be excluded from the large risks definition because of not meeting the minimum employee number and turnover thresholds (as indicated in paragraph 2.34).

2.34 This option would ensure maintaining the level of regulatory protections for those SMEs with greater protection needs, which will support our stated policy objectives as part of this review.

2.35 It is reasonable to expect that some stakeholders may see grounds to expand this provision to SMEs with more than 1 employee. We welcome feedback from respondents

on this point, and will consider views in light of our focus on competitiveness, while ensuring an appropriate degree of protection for appropriate customers. Separately, there is a risk that some types of complex legal business structures with 0-1 employees may be captured within this rule. This may include, for example, holding companies. We expect these types of structures are typically only used in sophisticated commercial groups where the business can be expected to have sufficient financial and legal expertise to not be a weaker party to an insurance contract. As a result, we do not envisage these types of business to be in scope of this rule. Our intention with this option would be to capture sole-trader type SME customers only. If we decide to progress with it, we may need to consider how it would work for other structures, such as subsidiary companies with no employees. We welcome feedback on this point.

Supplementary option 2 – Policies with several named or unnamed policyholders.

2.36 Industry groups have also told us about the difficulty in classifying customers where there is more than one insured party. For example, a policy sold to a customer meeting the contract of large risks criteria might include 'associated and/or subsidiary companies,' named or unnamed suppliers or (for some benefits) employees. In such situations, insurers may not have information about the particulars of these additional parties covered by the policy, at least when the policy is taken out. Alternatively, where the main insured is a large group, insurers might not have information about the particulars of individual companies within the group.

2.37 We would like to invite respondents to give us information to help us better understand this potential challenge. Depending on the information we receive, an option would be to provide explanatory guidance or rule amendments to clarify our expectations in these circumstances.

Other options we are not minded to take forward

2.38 During our engagements with stakeholders, we have received suggestions for a range of options that may address the challenges from the large risks definition. We have set out below why we are not minded to take these forward.

2.39 One suggestion was to consider removing the large risks definition in favour of an approach that distinguishes between customers who require regulatory protections and those that don't using customer assessments (whether self-assessed or assessed by a party to the insurance distribution channel). These might include customers making self-declarations attesting their knowledge of and suitability to the contract being entered into. In our view, customer declarations may vary in how accurately they reflect the customer's knowledge of the insurance product. There is no readily identifiable way we can be sure of their robustness. A customer could also provide this declaration without fully engaging with or understanding the consequences.

2.40 Another suggestion included exempting customers from regulatory protections where they bought the product in an advised sale. In our view, an advised sale is not a sufficient

measure to decide that the customer no longer requires regulatory protections. This is particularly the case in areas such as ensuring the products are designed to meet the needs of customers in the target market and to provide them with fair value.

2.41 Stakeholders also suggested we consider approaching the scope of regulatory protections through customer classifications (similar to the client categories or professional investor classifications in our MiFID II investment rules). While we see potential merit in this proposal, currently the rules do not contain customer classification criteria we could use. So, making changes would involve substantive changes to the existing approach to our rules. In the absence of further details on how this option can be credibly implemented within the limited scope of this review, it appears too complex to consider within the scope of this discussion paper.

Question 4: **Of the 3 main options we have presented, please select the option you prefer (please select one option only):**

- **Option 1**
- **Option 2**
- **Option 3**

Question 5: **Of the 2 supplementary options we have presented, please select which, if any, of the options you support (please select all that apply):**

- **Supplementary option 1**
- **Supplementary option 2**

Question 6: **Please explain your reasons for your answer in Q4 and Q5 including your reasoning for your preferred option(s) and why you did not choose the other options.**

Question 7: **Please provide us with estimates on what the expected financial impact (either to increase or decrease in costs) would be to your firm if we take forward the changes under option 1, 2, or 3. Please include a breakdown of total one-off costs, total ongoing annual costs, and what these costs are for (eg IT, staff training, compliance training and monitoring, legal costs, complaint handling and costs of cases being referred to the Financial Ombudsman Service etc.).**

Question 8: **Please provide us with information/ data on insurance outcomes for commercial customers of different sizes, including customers marginally either side of the current Contracts of Large Risks threshold- namely, premiums, claims success rates and complaint rates (including uphold rates) by insurance line, customer balance sheet size,**

turnover and number of employees. Please also indicate if you would be willing to share with us anonymised transactional- level data on these outcomes to assist our Cost benefit analysis., for customers that are marginally on either side of the current threshold.

Question 9: Please tell us of any advantages, disadvantages or unintended consequences to firms and/or customers you've identified against any of the main or supplementary options.

Question 10: On supplementary option 2, please provide any information that can help us to understand the types of contracts that involve unnamed parties, how prevalent these types of contracts are, the challenges firms face when assessing whether these contracts fall under the large risks definition, and any other information that may help us assess whether further rules or guidance is required for this issue.

Question 11: Please provide any other information which may help us to assess the number of customers affected by any of the main or supplementary options.

Chapter 3

Co-manufacturers of insurance products

3.1 This chapter considers how the rules currently apply where more than one firm is responsible for manufacturing insurance products, concerns raised by industry on how the rules currently apply and possible options to address these concerns.

The product governance rules

3.2 Product manufacturers are responsible for creating, developing, designing and/or underwriting a contract of insurance. Many products have a single insurer who will be the product manufacturer. However, it is not uncommon for a product to be manufactured by multiple firms (co-manufacturers), particularly in the commercial insurance market. While every product has an insurer as a manufacturer, an intermediary can also be considered a manufacturer where an overall analysis of its activity shows it has a decision-making role in designing and developing the product.

3.3 PROD 4.2 sets out the requirements around product manufacturing and how firms must approve, maintain, operate, review and distribute insurance products. These rules were derived from EU regulations. PROD 4 applies at a general product level rather than to individual contracts. Where more than 1 firm manufactures a product, we refer to them as co-manufacturing arrangements.

3.4 There are broadly 2 different types of co-manufacturing arrangements; those that have multiple insurers only, and those involving an insurer and intermediaries who are co-manufacturers. Examples that mainly relate to the commercial market (and some specifically relating to the Lloyd's market) include:

- Subscription policies, where multiple insurers share the risk of providing cover under a single insurance policy.
- Binding authority agreements where the 'cover holder', often a broker or a managing general agent (MGA), is authorised to accept risks on behalf of an insurer (or members of a Lloyd's syndicate). The cover holder is also authorised to issue documents that evidence the insurance without the need for any further approval on behalf of the insurer (or syndicate).
- Lineslip agreements where typically the intermediary negotiates cover with the lead underwriter, who has the authority delegated by follower underwriters to bind cover on terms agreed by the lead.

3.5 Where more than 1 firm is involved in manufacturing of the insurance product, our rules require all the co-manufacturers to have a written agreement covering their roles and responsibilities. In PS21/5, we said that all co-manufacturers are equally responsible for meeting all the PROD 4.2 rules and cannot share or contract out of that responsibility, but that 1 co-manufacturer may lead on operating a certain aspect of the product approval process. There are 2 aspects to this.

- Approving and reviewing products, which is likely to require a significant amount of work to carry out research, data analysis/production etc. There is no requirement for all manufacturers to do this independently of one another and they can agree which firm leads on each aspect.
- The actual approval of the product (including determining whether or not it provides fair value). Each manufacturer is responsible for the approval.

3.6 This applies to all the PROD 4.2 requirements, including the fair value assessment requirements.

3.7 Stakeholders have raised a number of issues with the way the PROD rules currently work for co-manufacturing arrangements. These are as follows:

- Because the PROD 4.2 requirements apply to all co-manufacturers individually, each must have a product approval process that identifies whether the product provides fair value. We are informed that firms consider this could create duplication of process where each co-manufacturer will be reassessing the same information. We also understand there was a concern that in some cases this could also create a risk of conflicting PROD assessments. For example, different co-manufacturers can arrive at different product value related conclusions in relation to the same product. We understand that it is standard practice in most cases for the responsibilities of a lead (usually an insurer) to include defining the contractual terms, pricing the product and to take a lead on handling claims. Other co-manufacturers rely on these (sometimes with oversight and sign off). Industry has questioned the necessity for each co-manufacturer to approve the product separately, as is currently required under the rule.
- Industry bodies have also raised questions about the extent to which co-manufacturers can share out responsibilities under the PROD rules. For example, whether co-manufacturers can independently collect and produce their own data to assess fair value rather than working together on a single set of data. The current rules do not prevent this. One co-manufacturer can lead on such operational aspects. However, the rules set out the information that firms should be using and so it would be expected that firms will be utilising the same or similar data.
- We have also been informed that some distributors are being approached by each co-manufacturer separately to provide them with information (such as their remuneration). In some cases, the data they are being asked to provide is different. We appreciate that there may be occasions where different manufacturers determine that different pieces of information are necessary for their assessment. However, we recognise that some of the issues may be a result of each manufacturer being independently responsible for approving the product and ensuring it provides fair value.

3.8 We understand that some manufacturers are asking distributors to provide remuneration data even for 'net-rated' products, where the distributor (broker) negotiates an overall fee for its services across a portfolio of insurance policies and receives no commission from the insurer. We will consider this issue separately from this DP as it is not specifically related to co-manufacturers.

3.9 We want to ensure that the rules provide the appropriate level of protection, are effective in all distribution arrangements including in those with co-manufacturers, and that the resulting responsibility on firms to comply with our rules remains proportionate. Most importantly, we want to be clear about which firm is responsible for ensuring good customer outcomes and prevent a situation where each firm thinks that another is taking responsibility, particularly in the event of customer harm. Where there is more than 1 manufacturer, we are considering whether it is necessary for them to be equally responsible for the PROD judgements, to achieve the same level of customer protection currently provided by the rules.

3.10 To address these issues, we are considering 3 possible options below. We seek your views on these options. The questions at the end of the sections below are intended not just to elicit views on the options, but also to give you an opportunity to provide data and cost estimates to support our considerations. In particular, we currently lack sufficient and precise data on costs or costs savings for firms in monetary terms and any unintended consequence resulting from the option. We strongly encourage firms to provide us with this data.

Question 12: **Do the typical co-manufacturing situations we have identified above reflect current market practice? Are there any other co-manufacturing arrangements (which raise issues) that we have not identified?**

Question 13: **Do you agree with the concerns reflected above, about the way our rules currently apply to co-manufacturers?**

Question 14: **Please tell us how of your much business (including number of products and volume of business) is currently co-manufactured.**

Question 15: **Please tell us if there are other issues/concerns related to how our rules apply to co-manufacturing arrangements that we should know about.**

Options we are considering

Option 1: Designating responsibility to the lead insurer

3.11 Under this option, we are considering rule changes to the effect that, where there are multiple insurers involved in designing the product, one 'lead' insurer would take sole responsibility for compliance with PROD 4.2. Other manufacturers will be required to cooperate fully and provide the lead with the data it needs. Our rules will define who would 'lead' in different co-manufacturing arrangements. Where there are multiple insurers, under this option we would expect the insurer taking the greatest proportion of the insurance risk and/or the insurer responsible for handling claims will be the

'lead'. Where there are multiple insurers, we understand that this option would broadly reflect market practice in other areas (such as claims handling) where following insurers delegate responsibility to the lead insurer.

3.12 We are also considering whether this option should apply to intermediary-insurer structures. We recognise that some specialist intermediaries currently do much of the manufacturing and bring specialism/expertise to this. However, we are concerned about allowing insurers to delegate sole responsibilities to comply with PROD to these intermediaries. We are mindful that recent concerns relating to products that are not consistent with providing fair value have tended to occur where insurers had little direct involvement in the manufacturing of the product. We are concerned that removing insurer responsibility altogether by, for example, allowing delegation of sole responsibility to an intermediary co-manufacturer, could increase the risk of customer harm in these cases. Even where specialists intermediaries do the bulk of the product manufacturing work, they are not themselves parties to the insurance contract and the insurer remains the party responsible for paying out on claims. We are also concerned that allowing intermediaries to be the sole lead manufacturer could potentially create a conflict of interest that would increase the risk of customer harm, for example, if the intermediary is responsible for assessing the value of its own remuneration. We seek your views on this.

3.13 To be clear for industry and easy for us to supervise and enforce, it would be important for there to be a clear definition of 'lead' firm. Any lack of clarity will increase the risk of harm to customers. We particularly want to avoid a situation where each firm considers that the other co-manufacturer is responsible for carrying out the PROD assessments and approvals. So, we are seeking views on how best to define the 'lead' firm. We are particularly interested in whether there are existing definitions used within the market.

3.14 We think this option is likely to reduce the workload on firms, as all co-manufacturers in a distribution arrangement will no longer be required to carry out all the PROD assessments. We would expect this to lead to a saving in time and therefore costs overall, without detracting from the level of rigour expected of the 'lead' firms' assessments.

Option 2: Allow co-manufacturers to determine responsibility for compliance

3.15 Under this option we would amend the rules to allow co-manufacturers flexibility to determine who is responsible for complying with our rules. Firms may choose to appoint a lead to take sole responsibility for product approval (including fair value assessments) or to share that responsibility between them. They would be required to set this out clearly in the co-manufacturing arrangements.

3.16 We know the commercial market is large and complex and involves a range of different business models. We want to understand if giving this option of flexibility would help in supporting different facilities and transactions in the insurance market, or if it is always self-evident which firm should take overall responsibility. We want to avoid disparity in how the market applies our rules, as this could create a risk of customer harm. Supervision and enforcement of the rules could also be challenging.

3.17 We have discussed under option 1 above whether an intermediary should be allowed to be the sole 'lead'. This issue is also relevant to Option 2, and we seek your views on this.

3.18 We consider that this option has the potential to save more costs to industry than Option 1 as it would allow firms to apply the rules in a way that best reflects their business model. Consequently, it is less likely to result in the lead incurring additional costs.

Option 3: Additional guidance

3.19 We consider that some of the issues raised may result from misunderstandings about what the current rules require. This may suggest we could provide clarificatory guidance to address how our rules apply in the context of co-manufacturer arrangements. For example, where there are co-manufacturers, one firm may collate and analyse all the relevant fair value data and produce a report. This firm may then circulate the report and the data they considered to the other co-manufacturers who may take account of that information and data, where it includes all relevant information required under the rules, to approve how the product will provide fair value. This will avoid duplication of the data collation process.

3.20 We know this approach may not address all the issues identified above. However, we consider it would promote greater consistency in applying the rules, which is beneficial to industry and will maintain the current level of protection provided by the requirements.

3.21 We do not expect this option to lead to any substantial cost or cost savings to industry.

Question 16: **Of the 3 options we have presented, please select the option you prefer.**

- **Option 1**
- **Option 2**
- **Option 3**

Question 17: **Please explain your reasons for your answer in Q15 including your reasoning for your preferred option and why you did not choose the other options.**

Question 18: **Please tell us how 'lead' manufacturer should be defined, and in particular, if there are common market definitions we can use, please provide us with these.**

Question 19: **Do you think the changes suggested under option 1 and 2, should allow an intermediary co-manufacturer to be the 'lead' manufacturer, or should the lead always be an insurer?**

- **Yes**
- **No**

Please explain your reasons for your answer.

Question 20: If you have identified other co-manufacturing arrangements under Q11 above, please tell us if the options would or would not work effectively for these distribution arrangements:

- For Option 1
- For Option 2
- For Option 3

Question 21: Please tell us what the financial impact (either an increase or decrease in costs) would be to your firm if we take forward the changes under options 1, 2 or 3. Please include a breakdown of total one-off costs, total ongoing annual costs, and what these costs are for (eg IT, staff training, compliance training and monitoring, legal costs to change and co-manufacturer agreements etc).

- For Option 1
- For Option 2
- For Option 3

Question 22: Please tell us of any advantages, disadvantages, or unintended consequences to firms and/or customers you've identified for option 1, 2 or 3.

- For Option 1
- For Option 2
- For Option 3

Question 23: We have only considered possible rule changes in relation to the commercial market. Are there any retail products to which these changes should apply?

- Yes
- No

If yes, please explain how much (and the type) of your firm's retail business would be affected, any additional financial impact to your firm and any advantages and disadvantages if we extended the scope of any rule changes to certain retail business.

Question 24: As noted in Chapter 1, we have only considered rule changes to non-investment insurance products. Please tell us if you consider these changes should be extended to any pure protection insurance business for commercial customers too. Also, explain how much of your firm's business would be impacted by this, any additional financial

impact to your firm, and advantages and disadvantages from such a rule change.

Application of ICOBS rules to co-manufacturing

3.22 The customer disclosure rules set out in ICOBS are intended to require an insurer to provide appropriate information to customers. They apply either to the insurer (where there is no intermediary involved) or intermediary and do not specifically take account of distribution arrangements with multiple insurers. We understand that there are situations where multiple insurers are sending separate disclosure documents to customers, resulting in excessive and unnecessary paperwork.

3.23 In such situations, customer harm could result from important information being missed because of information overload. Firms must ensure disclosures are made in a way that complies with the customer's best interest rule (for all business) and Principle 7 on communicating with clients (for non-retail customers where the Consumer Duty does not apply) or their obligations under the Consumer Duty (where it does apply). Firms should also consider the customer's information needs (see ICOBS 4.1.1A G and ICOBS 6.1.11 G).

3.24 If feedback to this DP shows that there are problems with how the rules are being applied where there are multiple insurers, we can consider if changes to the rules are needed. For example, we can provide additional rules or guidance to make it clear that where there are multiple insurers, the 'lead' firm is solely responsible for collating all the disclosure-related information and sending it to the customer (where there are no intermediaries involved). We welcome views on how the 'lead' should be characterised in this context.

Question 25: **Do you agree with the issues we've identified?**

- **Yes**
- **No**

Please explain your reasons.

Question 26: Do you agree with the potential changes we are considering to the ICOBS disclosure requirements?

- Yes
- No

Please explain your reasons.

Question 27: Please tell us how the 'lead' should be defined in this context and provide us with any common market definitions currently used which we can use.

Question 28: Please tell us what the financial impact (either an increase or decrease in costs) would be to your firm if we take forward the changes to the ICOBS disclosure requirements. Please include a breakdown of total one-off costs, total ongoing annual costs, and what these costs are for (e.g. IT, staff training, compliance training and monitoring, legal costs to change and co-manufacturer agreements etc).

Question 29: Please tell us of any advantages, disadvantages and/or unintended consequences to firms and/or customers from the changes we are considering?

Chapter 4

Bespoke insurance products

4.1 This chapter considers some of the challenges we have identified about how our PROD rules apply to bespoke insurance products.

4.2 PROD 1.4.4R(3) states that personalisation of and adaptation of an existing insurance product in the context of insurance distribution activities for an individual customer, as well as the design of tailor-made contracts at the request of a single customer, will not be considered manufacturing.

4.3 In this chapter we refer to this exclusion as the 'bespoke products exclusion' and such contracts as 'bespoke contracts' for ease of reference. Our Handbook does not currently define either 'tailor-made' or 'bespoke' contracts, and we welcome views on whether a definition of either would be beneficial.

The current bespoke products exclusion

4.4 Firms usually have standard products which they offer as individual contracts. For example, an insurer is likely to have 1 standard motor product which is sold as individual contracts to customers, or a standard public liability insurance product sold to different companies. While each contract is individual, the customers all have the same product. This is true even if there are minor variations in some terms of the contracts.

4.5 The PROD rules are intended to apply to the product generally rather than to each individual contract. For example, under PROD, manufacturers must approve products before making them available for distribution and continually keep them under review. The single product may be distributed as potentially thousands of individual contracts with customers. This is different from the ICOBS rules which are concerned with ensuring individual customers have the information and support they need to make an informed decision about the contracts offered to them.

4.6 As set out in Chapter 1, it is common in some parts of the market for bespoke contracts to be created to meet the specific needs of individual customers. For example, large corporations or even high net-worth individuals may seek insurance cover for risks which are unique to them.

4.7 Currently there is an exclusion in PROD for when intermediaries are designing bespoke contracts at the request of a single customer. In such circumstances, the intermediary will not be a manufacturer, but the insurer remains a manufacturer within PROD. Whilst this is consistent with the PROD rules applying to products generally and not to individual contracts, industry stakeholders have told us that most of them are not using this exclusion. This potentially results in costs and little or no benefit if firms apply PROD to tailor-made contracts.

4.8 Stakeholders have given us various reasons as to why this exclusion is not being used. We consider some of these suggest a misinterpretation of the exclusion, and caution that relying on it incorrectly could lead to firms unintentionally breaching the rules. For example, we noted a commonly held view that only a contract written entirely from scratch ('on a blank sheet of paper') could be considered bespoke. In practice, no insurance contracts are ever created in this way because manufacturers use existing agreed policy wordings to define the extent of cover offered. In some cases, these wordings are standardised and shared across the industry. It is not clear to us where these misunderstandings stem from. Our engagement with trade bodies and our own analysis points to a need for further clarification on which products are intended to be captured by this exclusion so that firms can rely on it where appropriate.

4.9 In addition, this exclusion currently only applies to intermediaries who are considered co-manufacturers. We are considering whether both insurers and intermediary co-manufacturers should be able to equally rely on this exclusion where appropriate. We seek your views on this.

4.10 In summary, we are considering possible rule changes and/or guidance to:

- expand the scope of the bespoke contract exclusion, and
- make clearer what products should be considered bespoke

Question 30: **Please tell us how often you use the tailor-made contract exclusion.**

Question 31: **Please provide us with examples of products you currently exclude under this exemption.**

Options we are considering

Broaden the scope of the bespoke contract exclusion

4.11 We are considering extending the scope of the bespoke contract exclusion to apply to both insurers and intermediary co-manufacturers. To this end we are considering changes to clarify that the exclusion can be relied on by insurers as well as intermediaries who are manufacturing insurance products.

Clarification on what bespoke contracts means

4.12 We consider it may be beneficial to provide further details on when we would expect products to fall within the bespoke contract exclusion. We consider this can be achieved through providing additional rules and/or guidance on the key indicators of a bespoke contract and what products should not be considered bespoke. We believe this is also likely to make the policy intent of this exclusion clearer. We invite your views on these indicators:

Indicators that a contract is bespoke	Relevant factors to consider
A contract which does not exist at the point where the distribution activities for a particular customer begin	The PROD requirements operate on the premise that a product will be manufactured and approved before distribution. A bespoke product will be manufactured after the distribution begins or alongside distribution (For example, after the firm starts speaking to the customer).
A contract which is created at the request of a single customer	A substantially homogenous product will be created to meet the needs, objectives and characteristics of a group of customers (ie a target market). On the other hand, a bespoke contract will be designed to meet the specific needs of 1 customer who requests it.
A contract with no target market beyond a single customer	A substantially homogenous product, unlike a bespoke product, will have a target market of more than 1 customer, because they are designed to meet the needs, objectives and characteristics of a group of customers.
The contract's essential features and key terms are substantially unique due to being individually negotiated with a single customer at the point where distribution activities begin.	We believe a key characteristic of a bespoke contract is that the key features and terms will be individually negotiated with one customer at the point of distribution and so will be substantially unique. Such contracts will not meet the needs, objectives and characteristics of a group of customers the way a substantially homogenous product would.
While firms may use some common market wordings, the policy as a whole will, in effect, be custom built and specifically adapted for 1 customer, and not be available in substantially the same form to other customers (ie no 2 products will be substantially the same).	See above
A product which does not have multiple instances of contracts featuring the same key features, terms, coverage and target market, and which does not involve using a common approach to determining their price.	See above

4.13 Finally, we are considering providing rules or guidance on the type of products that should not be captured by the bespoke contract exclusions. This may include clarifying that:

- A product which has multiple instances of contracts featuring the same essential features, coverage and target market, which use a common approach to

determining their risk price and are intended to be sold to more than 1 customer should not be considered as bespoke. The PROD rules will continue to apply to these products.

- Products that are substantially homogenous, but which allow customers to select different levels of cover or other options (eg different policy excess limits), or have specific endorsements or conditions attached to them at the point of sale should not be considered bespoke. For example:

  - a pet insurance product with the same key features and terms, risks covered, exclusions etc. which allows customers to select different levels of cover should not be considered bespoke.
  - a home insurance policy with the same essential features, terms and exclusions etc. but with additional conditions (eg additional security measures because the house is in a high-risk neighbourhood) attached to specific consumers at point of sale, should not be considered bespoke.

4.14 The industry stakeholders we have spoken to have indicated that the exclusion is not being used at all in most cases. If firms are able to correctly use the exclusion in appropriate cases, this should reduce work and consequent costs to firms.

Question 32: **Please provide your views on whether we should broaden the scope of the current bespoke contract exclusion as discussed above, so that it applies to insurers as well as intermediary co-manufacturers.**

Question 33: **Do you agree that it would be useful for us to introduce rules or guidance to further clarify indicators of a bespoke contract?**

- **Yes**
- **No**

Please give us your views on our proposed list of indicators of a bespoke contract, including whether we should include others, remove or amend any currently on the list, and whether we should include additional rules or guidance to further clarify our policy intent. And, if so, what this should capture.

Question 34: **Do you agree that it would be useful for us to provide rules or guidance on products that should not be considered bespoke contracts?**

- **Yes**
- **No**

Question 35: Please provide your views on the type of products that should not be captured by the bespoke contract exclusions, including whether we should include others or remove/ amend any currently on the list.

Question 36: Please tell us what the financial impact (either an increase or decrease in costs) would be to your firm if we take forward the changes, we are considering for the bespoke contracts exclusion. Please include a breakdown of total one-off costs, total ongoing annual costs, and what these costs are for (e.g. IT, staff training, compliance training and monitoring, legal costs to change and co-manufacturer agreements etc).

Question 37: Please tell us of any advantages, disadvantages and/or unintended consequences to firms and/or customers resulting from the changes we are considering.

Chapter 5

Conclusion

5.1 Our considerations in this DP have been shaped by our engagements with key stakeholders, as well as our own statutory objectives, including the recently introduced secondary objective on international growth the competitiveness. As set out above, our aim is to have the right level of regulation for all parts of the commercial insurance market.

5.2 We recognise that we have presented a variety of different ideas. Our intention is to assess the validity of these ideas and to gather evidence for the impact of any changes. We want to make sure that we have a balanced viewpoint on which areas we should focus on and prioritise. For that reason, we encourage all interested stakeholders to respond to the questions in this DP.

5.3 Any changes we decide to make will be subject to consultation and cost benefit analysis in the usual way. The feedback we receive to this DP will be a vital part of this process.

Annex 1

Questions in this paper

Question 1: Do you agree with the concerns/issues we have identified above?

Question 2: Please provide us with any information that may help us to quantify the costs associated with these challenges.

Question 3: Please tell us if there are other issues/concerns associated with the scope of application of requirements to commercial customers.

Question 4: Of the 3 main options we have presented, please select the option you prefer (please select one option only):

- Option 1
- Option 2
- Option 3

Question 5: Of the 2 supplementary options we have presented, please select which, if any, of the options you support (please select all that apply):

- Supplementary option 1
- Supplementary option 2

Question 6: Please explain your reasons for your answer in Q4 and Q5 including your reasoning for your preferred option(s) and why you did not choose the other options.

Question 7: Please provide us with estimates on what the expected financial impact (either to increase or decrease in costs) would be to your firm if we take forward the changes under option 1, 2, or 3. Please include a breakdown of total one-off costs, total ongoing annual costs, and what these costs are for (eg IT, staff training, compliance training and monitoring, legal costs, complaint handling and costs of cases being referred to the Financial Ombudsman Service etc.).

Question 8: Please provide us with information/ data on insurance outcomes for commercial customers of different sizes, including customers marginally either side of the current Contracts of Large Risks threshold- namely, premiums, claims success rates and complaint rates (including uphold rates) by insurance line, customer balance sheet size, turnover and number of employees. Please also indicate if you would be willing to share with us anonymised transactional- level data on these outcomes to assist our Cost benefit analysis., for customers that are marginally on either side of the current threshold.

Question 9: Please tell us of any advantages, disadvantages or unintended consequences to firms and/or customers you've identified against any of the main or supplementary options.

Question 10: On supplementary option 2, please provide any information that can help us to understand the types of contracts that involve unnamed parties, how prevalent these types of contracts are, the challenges firms face when assessing whether these contracts fall under the large risks definition, and any other information that may help us assess whether further rules or guidance is required for this issue.

Question 11: Please provide any other information which may help us to assess the number of customers affected by any of the main or supplementary options.

Question 12: Do the typical co-manufacturing situations we have identified above reflect current market practice? Are there any other co-manufacturing arrangements (which raise issues) that we have not identified?

Question 13: Do you agree with the concerns reflected above, about the way our rules currently apply to co-manufacturers?

Question 14: Please tell us how of your much business (including number of products and volume of business) is currently co-manufactured.

Question 15: Please tell us if there are other issues/concerns related to how our rules apply to co-manufacturing arrangements that we should know about

Question 16: Of the 3 options we have presented, please select the option you prefer.

- Option 1
- Option 2
- Option 3

Question 17: Please explain your reasons for your answer in Q15 including your reasoning for your preferred option and why you did not choose the other options.

Question 18: Please tell us how 'lead' manufacturer should be defined, and in particular, if there are common market definitions we can use, please provide us with these.

Question 19: Do you think the changes suggested under option 1 and 2, should allow an intermediary co-manufacturer to be the 'lead' manufacturer, or should the lead always be an insurer?

- Yes
- No

Please explain your reasons for your answer.

Question 20: If you have identified other co-manufacturing arrangements under Q11 above, please tell us if the options would or would not work effectively for these distribution arrangements:

- For Option 1
- For Option 2
- For Option 3

Question 21: Please tell us what the financial impact (either an increase or decrease in costs) would be to your firm if we take forward the changes under options 1, 2 or 3. Please include a breakdown of total one-off costs, total ongoing annual costs, and what these costs are for (eg IT, staff training, compliance training and monitoring, legal costs to change and co-manufacturer agreements etc).

- For Option 1
- For Option 2
- For Option 3

Question 22: Please tell us of any advantages, disadvantages, or unintended consequences to firms and/or customers you've identified for option 1, 2 or 3.

- For Option 1
- For Option 2
- For Option 3

Question 23: We have only considered possible rule changes in relation to the commercial market. Are there any retail products to which these changes should apply?

- Yes
- No

If yes, please explain how much (and the type) of your firm's retail business would be affected, any additional financial impact to your firm and any advantages and disadvantages if we extended the scope of any rule changes to certain retail business.

Question 24: As noted in Chapter 1, we have only considered rule changes to non-investment insurance products. Please tell us if you consider these changes should be extended to any pure protection insurance business for commercial customers too. Also, explain how much of your firm's business would be impacted by this, any additional financial impact to your firm, and advantages and disadvantages from such a rule change.

Question 25: Do you agree with the issues we've identified?

- Yes
- No

Please explain your reasons.

Question 26: Do you agree with the potential changes we are considering to the ICOBS disclosure requirements?

- Yes
- No

Please explain your reasons.

Question 27: Please tell us how the 'lead' should be defined in this context and provide us with any common market definitions currently used which we can use.

Question 28: Please tell us what the financial impact (either an increase or decrease in costs) would be to your firm if we take forward the changes to the ICOBS disclosure requirements. Please include a breakdown of total one-off costs, total ongoing annual costs, and what these costs are for (e.g. IT, staff training, compliance training and monitoring, legal costs to change and co-manufacturer agreements etc).

Question 29: Please tell us of any advantages, disadvantages and/or unintended consequences to firms and/or customers from the changes we are considering?

Question 30: Please tell us how often you use the tailor-made contract exclusion.

Question 31: Please provide us with examples of products you currently exclude under this exemption.

Question 32: Please provide your views on whether we should broaden the scope of the current bespoke contract exclusion as discussed above, so that it applies to insurers as well as intermediary co-manufacturers.

Question 33: Do you agree that it would be useful for us to introduce rules or guidance to further clarify indicators of a bespoke contract?

- Yes
- No

Please give us your views on our proposed list of indicators of a bespoke contract, including whether we should include others, remove or amend any currently on the list, and whether we should include additional rules or guidance to further clarify our policy intent. And, if so, what this should capture.

Question 34: Do you agree that it would be useful for us to provide rules or guidance on products that should not be considered bespoke contracts?

- Yes
- No

Question 35: Please provide your views on the type of products that should not be captured by the bespoke contract exclusions, including whether we should include others or remove/amend any currently on the list.

Question 36: Please tell us what the financial impact (either an increase or decrease in costs) would be to your firm if we take

forward the changes, we are considering for the bespoke contracts exclusion. Please include a breakdown of total one-off costs, total ongoing annual costs, and what these costs are for (e.g. IT, staff training, compliance training and monitoring, legal costs to change and co-manufacturer agreements etc).

Question 37: Please tell us of any advantages, disadvantages and/or unintended consequences to firms and/or customers resulting from the changes we are considering.

Annex 2

Abbreviations used in this paper

Abbreviation	Description
COMP	Compensation Sourcebook
DISP	Dispute Resolution: Complaints Sourcebook
FOS	Financial Ombudsman Service
ICOBS	Insurance: Conduct of Business Sourcebook
IDD	Insurance Distribution Directive
MiFID II	Markets in Financial Instruments Directive II
ONS	Office of National Statistics
PRIN	Principles for Business
PROD	Product Intervention and Product Governance Sourcebook
SME	Small or medium sized enterprise
SICGO	Secondary International Competitiveness and Growth Objective

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