



**Chartered  
Insurance  
Institute**

Standards. Professionalism. Trust.

**CP25/12**

**Simplifying the insurance rules: Proposed amendments following DP 24/1 and discussion on further changes for insurance and funeral plans**

**CII Response**

## Key Points

- The FCA's proposals suggest that professional learning and development is inimical to growth. This runs counter to the Government's own skills strategy, published in June, which says 'Too few people are emerging from... the wider employment support system with the skills needed by the industries of the future.' The FCA needs to rethink both the message and the substance of its proposals.
- While the existing 15-hour CPD requirement leaves much to be desired, it is currently the only quantitative regulatory requirement that exists in this area. Senior insurance professionals have told us that with no regulatory incentives in place there is a risk of creating a harmful and widening skills gap. To abandon the 15-hour requirement and leave a vacuum in its place is a mistake and will harm the public, consumers and professionalism in the sector.
- There is, however, a straightforward opportunity for the FCA to achieve its goals in a way that leaves the sector in a better place, not a worse one. The FCA should put beyond doubt its expectation of businesses and professionals in the sector that they invest appropriately in professional development, and provide space for, and indeed an expectation of, the relevant professional bodies in the sector to lead on that matter.

## Introduction

We support the FCA's proposals to simplify its rules in areas such as the scope of the Consumer Duty, which are in line with arguments we have made throughout its introduction.

However, we are deeply concerned about the way in which the FCA has presented its proposals on removing the 15-hour minimum requirement for ongoing training for general insurance advisers. This presentation threatens to set false expectations about compliance with FCA rules and principles, undermine support networks for general insurance professionals and damage the reputation of the sector both in the UK and internationally.

To mitigate these risks, the FCA should:

- not simply go ahead with the piecemeal change set out in the consultation
- reaffirm a commitment to ongoing advice, to ensure all firms and professions understand its importance, and the importance the regulator places in it
- reinforce the continued importance of ongoing competence
- replace the inadequate set of guidance around competence for GI firms that was taken from the Insurance Mediation Directive
- publish guidance affirming that the regulator expects ongoing training to be necessary for the core insurance roles of claims professionals, brokers and underwriters

The guidance and signposting by the FCA could take several forms:

- a recommendation that insurance professionals should become a member of a professional body, which would be a less prescriptive version of the requirements for retail financial advisers to have their Continuous Professional Development independently verified by an Accredited Body (TC 2.1.29 and TC App 6.1.1)
- a recommendation that insurance professionals should use a significant proportion of their ongoing training from an 'independent source', which would be a less prescriptive version of the requirement for pension transfer firms to 'ensure that external CPD is delivered by organisations or individuals who are not associated with or influenced by the firm's own view.' (Policy Statement PD20/6, paragraph 5.9)
- a recommendation that professionals use materials from professional bodies and other organisations to help them achieve compliance, as with the current advice to firms on vulnerability, that, 'Firms should improve the skills and capability of staff in a way that is proportionate. For example, smaller firms may choose to share existing materials on vulnerabilities with their staff, such as those from professional bodies and trade associations or charity and consumer

organisation websites. They may also want to hold informal information-sharing sessions for staff. Large firms may choose to adapt existing training programmes.’ (FG 21/1 Guidance for firms on the fair treatment of vulnerable customers (2021)).

### **Additional observations**

The FCA has presented the abolition of the 15-hour requirement as a deregulatory measure that will enhance growth, grouping the proposals with others under a headline that says, *‘FCA strips back insurance rulebook’*. The FCA has gone on to say *‘changes could support lower costs and wider access for the businesses and consumers who rely on insurance to manage risk’* and *‘the regulator is also proposing further measures that could benefit the insurance market more widely, including: Removing the specified minimum hours of training and development required for insurance and funeral plan employees.’*

Nowhere in the FCA’s press release on the consultation does it say that it intends to keep the requirement for firms to ensure adequate, ongoing training and development for employees.

The response from our members, who are closely engaged with regulatory requirements around training, has been unanimous. They have perceived the FCA’s motives as a desire to water down standards. For them, removing a hard, quantitative requirement and not replacing it with any new guidance about the importance of ongoing training means the FCA is telling firms to pay less attention to training and development. Responses to a member survey on this matter found that 80% of [582<sup>1</sup>] respondents believed that *‘public perception of the insurance profession will suffer’*, if the FCA removes its 15-hour requirement. A similar proportion [83%] agreed or strongly agreed that *‘Undertaking Continuing Professional Development is essential for me to be viewed as a professional by my clients or customers.’*

Nothing within the consultation document or the FCA’s associated press release and its subsequent reporting in the trade press would appear to have been successful in changing this perception.

We are deeply concerned that this poor piece of signalling will do significant damage to the support networks that exist across the sector to help professionals with CPD. By the time firms and individuals realise the real expectations placed upon them by the FCA, these networks will be seriously damaged and take years to rebuild.

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<sup>1</sup> We received 605 responses to the survey, which was conducted between Friday 27 June and Tuesday 1 July. The responses of 23 individuals who self-declared that they had retired have been omitted.

The signal that the FCA is pursuing a strategy of competing on lower standards rather than competing on quality will also devalue the sector's reputation internationally. Many governments around the world are looking to find ways in which their domestic insurance regimes can compete with the UK, and if they are able to point to perceptions that standards are being lowered in the UK, they will take advantage of this. In this way, the FCA's messaging could actively damage UK growth.

For the FCA to send the right message to the insurance market, it should not simply go ahead with the piecemeal change set out in the consultation. It must set out a confident reaffirmation of the importance of ongoing training, to ensure all firms and professions understand the weight the regulator places in it.

To reinforce the continued importance of ongoing competence, the FCA must present a new piece of guidance that presents incentives for firms that already maintain high standards of training and development to continue to do so. For example, it could create guidance that reduces reporting requirements for firms whose employees commit to being members of a professional body that has an ongoing CPD programme.

This would allow the FCA and the wider professional community to signpost practitioners effectively towards help from organisations that are in a strong position to:

- support strong standards of competence, using robust taxonomies of knowledge, skills and behaviour
- support a wide range of ongoing training, and
- provide independent monitoring of individuals' ongoing training.

## **Stakeholder feedback**

We have engaged with members of our Professional Standards Committee (PSC) and with our Professional Community Boards (Broking, Underwriting, and Claims).

The summary of responses received indicates fulsome support for our stance. The feedback received highlights not only the functional necessity of CPD in maintaining professional competence but also its symbolic importance in reinforcing the values of trust, accountability, and high standards across the profession as well as with customers, regulators and the public at large. The message is clear: any move to weaken or remove CPD requirements risks eroding our professional standards and could have lasting negative consequences for both practitioners and clients.

## Answers to Specific Questions

### **Question 1: Do you agree with our proposed new definition to identify contracts and customers excluded from our regulatory protections and its scope?**

We agree with these proposals, but we believe they would work best with further guidance from the FCA.

We have consistently argued that SMEs should have the same protection as retail customers where there is a similar imbalance of expertise between professionals and customers.

In CP21/13 we agreed that:

*‘a consumer duty is necessary for any client who faces a significant imbalance in expertise between themselves and the professional they have hired. Many SMEs have little more resources than retail customers and face the same imbalance of knowledge between themselves and financial services experts as retail customers.’*

and we went on to say that the FCA’s proposals meant that:

*‘some firms with considerable resources and the ability to run their own risk management and procurement functions will be protected by the consumer duty, even though they may be larger than the FCA-regulated firm that they are using.’*

In our response to CP21/36, we said we continued to support:

*‘the proposal to include small businesses in the definition of consumers, since businesses that have no specialist risk or finance function are in much the same situation as households and individual consumers.’*

We also argued that:

*‘It would be useful for the FCA to produce some worked examples of how the Consumer Duty applies in specific situations especially where products and services stretch across more than one category of business – for example advice on a package of insurance and non-insurance contracts.’*

The current proposals go a long way to drawing the line in the right place between those businesses that need the protection of the Consumer Duty and those that do not. However, we believe that worked examples to illustrate the boundaries of the Consumer Duty would still be useful for firms, so that misunderstandings about the Duty’s scope do not undermine confidence in the Consumer Duty as a whole, and we are willing to work with the FCA to produce those examples.

**Question 2: Do you have any concerns about our proposal that have not been covered in this chapter?**

We do not have any further concerns.

**Question 3: Do you agree with our proposed rule changes related to co-manufacturing arrangements, including that these should apply to all non-investment insurance products (both retail and commercial)?**

We agree – these proposals will increase clarity around accountability, helping to deliver good consumer outcomes.

**Question 4: Do you agree with the proposed rule and guidance related to the Bespoke contract exclusion, including that it should be available to all non-investment insurance products?**

Yes, but guidance should stress that where small variations to a product are made to avoid the PROD4 rules, the onus is on firms to demonstrate that the product is genuinely designed in response to demands made at the customer's initiative.

**Question 5: Question 6: Do you agree with our proposal to remove the 12-month minimum review frequency requirement under PROD 4.2 and PROD 4.3?**

Yes, the nature of insurance contracts, and how this interacts with the definition of a product, means that insurance companies must potentially review a much higher number of products than investment or life assurance firms. It would help firms to be able to prioritise the contracts where risk of consumer harm is highest, without compromising consumer protection.

**Question 6: Do you agree with our proposal to require firms to determine the appropriate review frequency based on the potential for customer harm arising from risk factors associated with the product?**

Yes, we agree – this is a proportionate response, given the number of products managed by insurance firms, and is entirely in line with the Consumer Duty's focus on achieving good outcomes for consumers rather than engaging in processes for their own sake.

**Frequency of review: We propose to remove the minimum 12-month review requirement under PROD 4 for non-investment insurance products. Firms will be required to determine and record the most appropriate review frequency for a product based on that product's potential for customer harm, arising from risk factors associated with the product. This will ensure the requirement is proportionate so that efforts and resources can be redirected towards products presenting a higher risk of customer harm. It will also bring the review requirements for insurance in line with requirements for other financial services sectors.**

We agree, for the same reasons given in our answer to Question 6.

**Question 7: Do you agree with the proposed consequential change that only the lead manufacturer should be responsible for producing the ICOBS disclosure documents (applicable to insurers and managing agents), where a lead is appointed?**

We agree. When the Insurance Mediation Directive was introduced, some of our broking members – who worked for firms that offered products from more than one firm, but not the whole market – told us they were having difficulty complying with the requirement to name all the underwriters they could potentially do business with. This was because product packagers would not always disclose the full list of underwriters that they might use. This clarification will be helpful for individuals responsible for compliance of disclosure documents in this type of situation.

**Question 8: Do you agree with the proposed rule changes related to the EL notification and reporting requirements? Is there other guidance that we should include on circumstances that are unlikely to amount to a significant breach?**

Yes, given that this information is also available through another source.

**Question 9: Do you agree with our proposal to remove the prescriptive minimum 15 hours training and development (and associated monitoring and record-keeping requirements) for non-investment insurance and funeral plan firms? Please explain your answer.**

There are problems with the current 15-hour minimum requirement for ongoing training:

- It was a blanket figure that applied to all roles, potentially from someone doing something as simple as giving out brochures to potential customers, all the way to highly demanding roles involving vulnerability or highly complex risks
- For retail financial advisers, the overlap between the 15-hour requirement from the Insurance Distribution Directive and the pre-existing 35-hour requirement in the FCA Handbook was confusing and did not lead to better learning outcomes
- The requirement was backed up by an inadequate definition of competence, taken from an Annex of the Insurance Distribution Directive (FCA Handbook, SYSC 28.2.3) which gave firms little meaningful help in determining what a proportionate level of ongoing training should be.

As a result, the 15-hour requirement was flawed. However, it did set out a recognition from the regulator about the importance of ongoing training that was impossible for firms to ignore completely.

Ongoing training is essential to promote both consumer protection and long-term market growth, because:



- It helps build technical knowledge and skills, often about complex contracts where small details have a huge impact on the outcome of a claim
- It builds knowledge of enablers, such as developments in technology and that help professionals provide a strong service to clients – achieving good outcomes, building trust and growing the market in a sustainable way
- It helps to build behaviours that are essential to both good consumer outcomes and growth – such as customer focus, integrity, a drive to deliver and the ability to make a positive impact on consumer understanding

Ongoing training that is supported by a professional body or a similar organisation can be especially useful because:

- The training is structured, to identify learning objectives and outcomes
- It relates back to a clear, rational taxonomy of knowledge, skills and behaviours that is tailored to specific roles and levels within an organisation
- It can take a wide range of different forms, from formal qualifications and structured courses to peer-to-peer exchanges of insights and self-guided study
- The communities that exist within professional bodies can facilitate learning between different disciplines and sectors, and help the exchange of insights between large and small firms
- Ongoing training can be verified by spot checks carried out by the professional body to ensure standards – such as the quality of learning objectives and reflection on learning – are maintained

Despite the importance of ongoing training, and the FCA's insistence that it wants to maintain appropriate levels of consumer protection, the proposals fail to send a credible signal about maintaining appropriate levels of competence.

The tone of the current consultation, combined with the commitment in the FCA's strategy document 'to look again at our collective attitude to risk' and 'by rebalancing risk... lead efforts to unlock investment and growth' implies that the FCA sees a trade-off between time spent on ongoing training and growth of the sector. This is a perception that has been shared with us by professionals who are very concerned that the professionalism of the insurance sector will be compromised by poor signalling from the FCA, leading to both worse consumer outcomes and a decline in trust that will damage the sector's ability to thrive commercially.

The potential for misunderstanding is heightened by the inadequate definition of competence introduced by the EU for insurance professionals, which consists of a list of eight bullet points that was copied and pasted from the EU's Insurance Distribution Directive and are reproduced in the FCA's Systems and Controls Sourcebook. They are:

- (a) minimum necessary knowledge of terms and conditions of policies offered, including ancillary risks if covered by such policies;

(b) minimum necessary knowledge of applicable laws governing the distribution of insurance products, such as consumer protection law, relevant tax law and relevant social and labour law;

(c) minimum necessary knowledge of claims handling;

(d) minimum necessary knowledge of complaints handling;

(e) minimum necessary knowledge of assessing customer needs;

(f) minimum necessary knowledge of the insurance market;

(g) minimum necessary knowledge of business ethics standards; and

(h) minimum necessary financial competency.

Some of the requirements, such as ‘necessary knowledge of terms and conditions of policy offered’ appear to focus on very detailed technical knowledge, others, such as ‘minimum necessary knowledge of claims handling’ are so high level that they add very little value, and the final requirement - ‘minimum necessary financial competency’ is so vague as to be almost entirely meaningless.

This definition contrasts with the definitions of competence that the FCA has for mortgage advisers and financial advisers in the FCA’s Training and Competence Sourcebook, which were the product of more extensive consultation, and are far more meaningful.

For the FCA to send the right message to the insurance market, it should not simply go ahead with the piecemeal change set out in the consultation. It must reaffirm a commitment to ongoing advice, to ensure all firms and professions understand its importance, and the importance the regulator places in it. To reinforce the continued importance of ongoing competence, it must:

- Replace the inadequate set of guidance around competence for GI firms that was taken from the Insurance Mediation Directive.
- In its place, the FCA must publish guidance affirming that the regulator expects ongoing training to be necessary for the core insurance roles of claims professionals, brokers and underwriters. This guidance would simply reflect the commitment the FCA has made to ongoing training and development in other key areas, such as vulnerability and retail investment advice. A failure to demonstrate such a commitment for insurance will be noticed and exploited by those who wish to cut corners on training and competence.

The guidance and signposting by the FCA could take several forms:

- A recommendation that insurance professionals should become a member of a professional body, which would be a less prescriptive version of the requirements for retail financial advisers to have their Continuous Professional Development independently verified by an Accredited Body (TC 2.1.29 and TC App 6.1.1)
- A recommendation that insurance professionals should use a significant proportion of their ongoing training from an ‘independent source’, which would be less prescriptive version of the requirement for pension transfer firms to ‘ensure that external CPD is delivered by organisations or individuals who are not associated with or influenced by the firm’s own view.’ (Policy Statement PD20/6, paragraph 5.9)
- A recommendation that professionals use materials from professional bodies and other organisations to help them achieve compliance, as with the current advice to firms on vulnerability, that, ‘Firms should improve the skills and capability of staff in a way that is proportionate. For example, smaller firms may choose to share existing materials on vulnerabilities with their staff, such as those from professional bodies and trade associations or charity and consumer organisation websites. They may also want to hold informal information-sharing sessions for staff. Large firms may choose to adapt existing training programmes.’ (FG 21/1 Guidance for firms on the fair treatment of vulnerable customers (2021)).

The benefit of this approach would be:

- It would remove low-impact guidance from the Handbook, that is of little use to individuals and firms
- It would allow for an approach that focuses on key roles linked to consumer outcomes, including brokers, claims professionals and underwriters, rather than a more scattergun approach aimed at all roles within what the Insurance Mediation Directive called ‘insurance distribution’
- It would focus signposting on organisations that are in a strong position to:
  - support strong standards of competence, using robust taxonomies of knowledge, skills and behaviour
  - support a wide range of ongoing training
  - monitor individual’s ongoing training