

**Explanatory Note to accompany the
Payment Protection Insurance Market Investigation Order 2011**

(This note is not part of the Order)

Introduction

1. On 29 January 2009, the Competition Commission (CC) published its report (the 2009 report) on its investigation into the market for payment protection insurance (PPI), except store card PPI, to non-business customers in the UK. The 2009 report set out a remedy package to address the adverse effects on competition that it found.
2. As a result of a partially successful challenge in the Competition Appeal Tribunal, the CC was required to reconsider the inclusion of the prohibition of the sale of PPI at the point of sale of Credit and for a specified period afterwards in the remedy package.
3. The CC published a report of its reconsidered decision on 14 October 2010 (the 2010 report) where it concluded that it was necessary to address the adverse effects on competition on the PPI market that it had found in the 2009 report to impose a remedy package which included the prohibition of the sale of PPI at the point of sale of Credit and for a specified period afterwards among its elements.
4. The remedy package the CC concluded on is set out below.
5. For PPI other than Retail PPI the remedy package consists of:
 - (a) a prohibition on selling PPI at and before the point of sale of the credit and for a specified period afterwards ('the point-of-sale prohibition');
 - (b) an obligation to provide a Personal PPI Quote;
 - (c) an obligation to provide information about the cost of PPI and 'key messages' when marketing PPI;
 - (d) an obligation to provide information to the Consumer Financial Education Body (CFEB) for publication and to provide a Claims Ratio to any party on request;
 - (e) a prohibition on the selling of Single-Premium PPI policies and charges of similar economic effect;
 - (f) an obligation to provide an Annual Review of the cost of PPI and a reminder of the Consumer's right to cancel; and
 - (g) compliance reporting requirements to support the remedy package set out in sub-paragraphs (a) to (f) above.
6. For Retail PPI, the remedy package the CC has imposed consists of:
 - (a) an obligation to offer PPI separately from Merchandise Cover if both are offered as a bundled product;
 - (b) an obligation to provide information about the cost of PPI and 'key messages' when marketing Retail PPI;

- (c) an obligation to provide information to the CFEB for publication and to provide a Claims Ratio to any party on request;
 - (d) an obligation to provide a Personal PPI Quote to customers before no later than 14 days after the sale of the Retail PPI policy;
 - (e) an obligation to provide customers who have spent more than £50 on Retail PPI premiums in the preceding 12 months with a written Annual Review of PPI costs including a reminder of the customer's right to cancel;
 - (f) an obligation to provide an Annual Reminder to all active customers who do not receive an Annual Review of their cancellation rights and of key messages; and
 - (g) a prohibition on selling Single-Premium PPI policies and on charges which have a similar economic effect.
7. The CC has made an Order to give effect to this remedy package.
8. The remedy package set out in the 2010 report included a recommendation to the CFEB that it use the information provided to it to populate its PPI comparison tables. Because this is a recommendation it is not included in the Order.

Possible consequences of not complying with the Order

9. [Section 167](#) of the Enterprise Act 2002 (the Act) places a duty on any person to whom this Order applies to comply with it. Subject to the defences in the section, any breach of this duty which causes a person to sustain loss or damage is actionable by that person through civil proceedings for breach of statutory duty.
10. [Section 167](#) of the Act also provides that the Office of Fair Trading (OFT) and the CC can seek to enforce this Order by civil proceedings for an injunction or for any other appropriate relief or remedy.

Review of this Order

11. The OFT has a general duty to monitor the operation of the Order under [section 162](#) of the Act. This includes the duty to consider, from time to time, whether the Order should be varied or revoked in the light of a change of circumstances. The CC is responsible for deciding whether the Order should be varied or revoked in the light of any advice it receives from the OFT. Part 5 and Schedules 5 and 6 of the Order require PPI Providers to provide the OFT with information to allow it to monitor and review the operation of the Order.

Status of this Explanatory Note

12. This Explanatory Note is not legally binding. In the event of a conflict between this Explanatory Note and any provision of the Order, the Order shall prevail.

Structure of the Order

13. The Order is divided into six Parts and six Schedules.

14. Part 1 contains general provisions, which include specifying when articles come into force, definitions that are used throughout the Order (and which are also used in this Explanatory Note and the scope of application of the Order.
15. Part 2 contains obligations to provide information about PPI in Marketing Communications, to provide the Annual Review Personal PPI Quote; to provide information to the CFEB and to provide information on Claims Ratios.
16. Part 3 contains the prohibitions: of the sale of PPI before the sale of Credit; at the point of sale of Credit; for a specified period after the sale of Credit; and, of requiring payment for PPI by Single Premium.
17. Part 4 contains the requirement to offer Retail PPI separately when it is offered as part of a package of insurance including Merchandise Cover.
18. Part 5 contains the compliance obligations: to submit Compliance Reports, appoint a Compliance Officer, report on the clarity of marketing materials and conduct a mystery shopping exercise.
19. Part 6 sets out the CC's powers to make directions as to compliance.
20. Schedules 1 and 2 relate to Article 3. They specify the information which gives rise to a Marketing Statement and the key messages and price information which Article 3 requires to be included in Marketing Communications.
21. Schedules 3 and 4 relate to Article 4 and contain the forms for the Annual Review and Personal PPI Quote and the instructions on how to complete these forms. Schedule 3 also contains the wording for the Annual Reminder for Retail PPI.
22. Schedules 5 and 6 relate to the compliance obligations contained in Articles 12 to 15. The schedules contain instructions on the contents of the Compliance Reports (Annual and six-monthly), specifications for the mystery shopping exercise and the requirements for the provision of information to the OFT.

Scope of this Explanatory Note

23. This Explanatory Note deals with each of the articles in the Order.

PART 1—General

Article 1—Title, commencement, application and scope

24. Article 1 gives the Order its name and specifies when the articles come into force.
25. The Order comes into force on 6 April 2011 with Articles 1, 2 (Interpretation), 12 (Obligation to Submit a Compliance Report), 13 (Obligation to conduct a mystery shopping exercise), 14 (Obligation to report on clarity of Marketing Communication), 15 (Obligation to appoint a Compliance Officer) and 16 (Directions by the CC as to compliance) having effect from that date.
26. Articles 3 (Obligation to provide information about PPI), 5 (Obligation to provide information to the CFEB) and 6 (Obligation to disclose Claims Ratio) come into force 6 months later on 1 October 2011.

27. Articles 4 (Obligation to provide an Annual Review or Annual Reminder), 7 (Obligation to provide a Personal PPI Quote), 8 (Prohibition on the sale of PPI after the start of a Credit Sale), 9 (Prohibition on the sale of PPI before the start of a Credit Sale), 10 (Prohibition of payment by Single Premium and requirement to pay a rebate) and 11 (Obligation to provide Retail PPI separately when sold in a package of insurance) come into force 12 months later on 6 April 2012.
28. The timescale of the commencement of the articles is in accordance with the CC's decision in the 2009 report to allow 12 months for implementation of most of the package of remedies with an exception for Articles 3, 5 and 6 (which relate to the increased provision of information), which are to be implemented within 6 months.
29. The Order applies to any PPI Provider or Administrator who whether from an establishment in the United Kingdom or otherwise either provides PPI to a Consumer or administers a PPI policy on behalf of a PPI Provider. It also applies to an Insurer whether operating from an establishment in the United Kingdom or otherwise in so far as specific obligations arise under the Order.

Article 2—Interpretation

30. Article 2 contains the definitions for the capitalized terms used throughout the Order or in the Schedules (and the same terms are used in this Explanatory Note). Terms that are relevant to only one article are generally defined in that article. The definitions set the scope of the Order.
31. Key definitions are those of PPI and the individual product types such as Credit Card PPI (CCPPI), Personal Loan PPI (PLPPI), second-charge mortgage PPI (SMPPI) and first-charge Mortgage PPI (MPPI), Short-Term Income Protection Insurance (Short-Term IP) and Stand-Alone PPI.
32. These products are defined by reference to the essential characteristics of the type of insurance. Although some exclusions are included in these definitions (note that the definition of PPI excludes some types of insurance which could be PPI but were not investigated in the market reference) the definitions generally do not include what is not within the scope of the Order. There is no express exclusion of long-term income protection (also known as permanent health insurance or income protection) or critical illness cover because this type of insurance was not within the terms of reference of the market investigation. Long-term income protection is excluded by the definition of Short-Term PPI which sets out the essential characteristics of Short-Term IP.
33. Short-Term IP is defined as income protection insurance which provides a pre-agreed amount directly to the Policyholder or the Policyholder's nominee for a pre-determined time in the event that the Policyholder experiences involuntary unemployment or incapacity as a result of sickness or accident and is unable to work. The characteristics of Short-Term IP are that the policy is written for a term of less than 5 years, has a maximum time limited benefit duration, the term of the insurance policy is not determined by any Credit the Policyholder may have and the policy can be terminated by the Insurer. Because Short-Term IP is PPI it may not be sold alongside or during the sale of credit as Article 8 applies.
34. The Order also applies to Stand-Alone PPI. Stand-Alone PPI is PPI or Short-Term IP (which is a form of PPI) provided by someone other than the Credit Provider, Credit Arranger or Associate of the Credit Arranger. Stand-Alone PPI is provided by a PPI Provider who sources it from an Insurer (an Intermediary) or is an Insurer who provides PPI directly to Consumers.

35. Stand-Alone PPI may also be any PPI Product Type (except Retail PPI) or Short-Term IP which is provided in the circumstances set out in Article 8.5.
36. The Order does not apply to Store Card PPI—this is subject to the remedies put in place following the CC's market investigation into Store Cards (see Store Cards Market Investigation Order, 27 July 2006), nor does it apply to PPI for overdrafts. Insurance to enable payments to be made for an annual insurance policy such as motor or home insurance is expressly excluded from the definition of PPI.
37. The Order also does not apply to contractual arrangements which allow a creditor to waive a debt or to freeze repayments for a certain period where these are not insurance arrangements.
38. PPI Product Type is the term used when collectively referring to individual types of PPI. Short-Term IP is mentioned separately when it is relevant to do so.
39. In addition to defining the providers of the various types of PPI, Article 2 defines two other PPI market participants: an Administrator which provides services to PPI customers on behalf of PPI Providers, and an Associate. An Associate is a PPI Provider which is in a defined relationship with a Credit Arranger.
40. Key terms in the Part 2 Information requirements such as Prescribed Statement, Marketing Statement and Marketing Communication and Monthly Cost and Monthly Benefit are defined.
41. Other definitions are drawn from the glossary in the CC's 2009 and 2010 reports or accepted industry definitions such as those in the FSA Handbook glossary and credit legislation. Where terms which appear in the FSA glossary are used firms should not infer that compliance with the Order in any way implies compliance with the FSA's own rules.
42. Article 2.2 also includes a successor in title clause. This means that where the Order refers to a government department or organization or person or place or thing, the reference will apply to the successor in title to the government department or organization or person or place or thing and the Order will not need to be updated each time. Similarly where there is a requirement in the Order to give the name of a government department or organization or person or place or thing (eg a website or a page on a website), that requirement will apply to give the name of the successor in title to the government department or organization or person or place or thing.

PART 2—Information requirements

Article 3—Obligation to provide information about PPI

43. Article 3 starts on 1 October 2011. The requirements in Article 3 reflect the CC's decision in the 2009 and 2010 reports to encourage the development of a common currency for PPI and to require a small number of core disclosures to be made in order to assist Consumers in searching for and comparing PPI products.
44. Article 3.1 applies to all types of PPI except Retail PPI. It sets out the requirement to make certain minimum disclosures whenever PPI is promoted to Consumers. Those disclosures are that the cost of PPI must be given using the common price metric (the Monthly Cost of PPI for every £100 of Monthly Benefit) along with a Prescribed Statement which is set out in Schedules 1a and 1b.

45. Schedule 1 sets out the classes of information which, when included in a statement to a Consumer, give rise to a Marketing Statement. The classes of information include statements about the price of PPI given as an exact, indicative or illustrative amount and claims or statements about the benefits of having PPI including claims regarding 'peace of mind'. The classes of information reflect the way in which PPI is marketed to Consumers.
46. Article 3.2 sets out information obligations for Retail PPI and reflects the conclusions in the 2010 report. The information obligations for Retail PPI differ depending on whether a written or oral Marketing Communication is made. Price information in the form of the common price metric need only be given in a written Marketing Communication.
47. The statements which are required to appear in Marketing Communications containing a Marketing Statement are set out in Schedules 1a and 1b. Schedule 1a applies to all types of PPI except Stand-Alone and Short-Term IP. Schedule 1b applies to Stand-Alone and Short-Term IP.
48. Article 3.3 sets out the additional requirement on CCPPI providers to display the Monthly Cost of PPI for every £100 of the balance on the account each month.
49. Article 3.4 requires an Additional Statement (which is set out in Schedule 2) to be made if a policy pays a Monthly Benefit for less than 12 months. This obligation only applies to the provision of Retail PPI policies if the Marketing Statement is made in a written Marketing Communication.
50. Article 3.5 provides that the obligation in Article 3.4 does not apply to the provision of Retail PPI if the total outstanding balance is cleared within 12 months. For example, if a Retail PPI policy is designed to pay off an entire outstanding balance and would do so in less than 12 months, it would not be necessary to make the Additional Statement required by Article 3.4.
51. Article 3.6 provides that where an Intermediary markets a PPI policy which is provided by another PPI Provider, the person producing the Marketing Communication has responsibility for complying with Articles 3.1, 3.2, 3.3 and 3.4. If the parties jointly prepare the Marketing Communication, the effect of Article 3.6 is that parties are responsible for the material they prepare.
52. Article 3.7 provides that when an Intermediary markets a PPI policy which is available only from that Intermediary or Intermediary Network, that Intermediary or Intermediary Network is responsible for ensuring that the Marketing Communication is compliant with the obligations set out in Article 3.
53. Article 3 generally requires the Prescribed Statements to be included prominently in a Marketing Communication. Article 3.8 sets out what is meant by 'prominently' which is determined by reference to the Marketing Communication as a whole. The obligations in Article 3 apply in addition to any other statutory or regulatory requirements which may from time to time apply to the promotion or advertisement of PPI.

Article 4—Obligation to provide an Annual Review or Annual Reminder

54. Article 4 starts on 6 April 2012. Article 4 sets out requirements from the 2009 report for the provision of an Annual Review for all PPI except Retail PPI and the requirements to provide either an Annual Review or an Annual Reminder for Retail PPI as set out in the 2010 report. The obligations apply to PPI policies which are

entered into after the start of the Order and, with the exception of PLPPI and Single-Premium SMPPI, those policies which are already in place when the Order starts (ie the 'back book').

55. Article 4.1 sets out when an Annual Review must be sent to a Policyholder for any PPI policy, except a Retail PPI policy, held by a Policyholder which commences on or after 6 April 2012. Article 4.4 sets out the requirements for existing policies (ie the 'back book') which does not include Short-Term IP, PLPPI or SMPPI paid by Single Premium.
56. For PPI policies which have an annual renewal date or are paid for by Annual Premium, the Annual Review must be sent not less than 2 weeks and not more than 4 weeks before the renewal date or payment due date. It does not matter if the Annual Premium is paid by regular instalments.
57. For PPI policies paid by Monthly Premium, the first Annual Review must be sent at any time during the first 13 months from the start of the PPI policy and each subsequent Annual Review must be sent either 2 weeks before or 2 weeks after the anniversary of that date. The CC decided on the period of 13 months to enable PPI Providers to send an Annual Review covering PPI payments over a full 12-month period.
58. Whether an Annual Review or Annual Reminder is sent for a Retail PPI policy is determined by the amount of premium paid in the preceding 12 months. Article 4.2 sets out the conditions triggering an Annual Review and when it must be sent for any Retail PPI policy which commences on or after 6 April 2012.
59. An Annual Review must be sent during the 13th month following commencement of the Retail PPI policy where the total amount of Premium which the Consumer paid amounts to £50 or more during the first 12 months.
60. Thereafter, if the total amount of Premium paid by the Consumer is £50 or more in the preceding 12-month period, the Annual Review must be sent at any time during the month following the 12-month anniversary of the commencement of the policy. However, if the total amount of Premium which the Consumer paid in the preceding 12-month period is less than £50, then an Annual Reminder must be sent to the Policyholder (in accordance with Article 4.3(b) of the Order) instead of an Annual Review.
61. Article 4.3 sets out the circumstances in which an Annual Reminder must be sent for any Retail PPI policy which commences on or after 6 April 2012. Where the total amount of Premium which the Policyholder has paid is less than £50 as at the first anniversary of the commencement of the Retail PPI policy an Annual Reminder must be sent to a Retail PPI Policyholder with the next Retail Credit Account statement. If, on each subsequent anniversary of the Retail PPI policy, the amount of Premium which the Retail PPI Policyholder has paid is less than £50, the Annual Reminder must be sent with the next Retail Credit Account statement. Retail Credit Account is a defined term in the Order.
62. The end result is that a Retail PPI Policyholder receives either an Annual Reminder or an Annual Review depending on the amount of Premium paid.
63. Article 4.4 sets out when an Annual Review must be sent for PPI policies, except Retail PPI, which are already in force at 6 April 2012. This article does not include a requirement to send an Annual Review for existing PLPPI policies (ie the PLPPI back book) or existing Single-Premium SMPPI policies reflecting decisions set out in

paragraph 10.263 of the 2009 report, nor does it include a requirement to send an Annual Review for existing Short-Term IP policies.

64. For existing SMPPI policies which are not Single Premium, CCPPI policies and MPPI policies, the first Annual Review must be sent any time during the 12 months after commencement of this article. Subsequent Annual Reviews must be sent within the period which spans 2 weeks before and 2 weeks after the anniversary of the date on which the first Annual Review was sent.
65. Article 4.5 sets out when an Annual Review must be sent for Retail PPI policies which are already in force at 6 April 2012 and where the start date of the policy is known (4.5(a)) and where it is not (4.5(b)).
66. Where the start date of the policy is known and if, on the first anniversary of the commencement of the Retail PPI policy after 6 April 2012, the total Premium which the Policyholder has paid in the preceding 12 months is £50 or more, the first Annual Review should be sent at any time during the month following the first anniversary.
67. For each 12-month period thereafter, if the total Premium paid is £50 or more, the Annual Review should be sent at any time in the month following the anniversary of the Retail PPI policy. However, if in any subsequent 12-month period the total Premium paid by the Policyholder is less than £50, an Annual Reminder must be sent with the next Retail Credit Account statement.
68. Where the start date of the policy is not known Article 4.5(b) provides that the calculation of the amount of premium is made on what is called the reference date, which is 3 months after the date of commencement of the article (6 April 2012). Therefore if on 6 July 2012 the amount of premium paid in the preceding 12 months is £50 or more, an Annual Review must be sent in the following month and if the amount of premium continues to be £50 or more an Annual Review must be sent each year thereafter. If the amount of premium paid is less than £50 then an Annual Reminder must be sent with the next Retail Credit Account Statement.
69. Article 4.6 sets out the Annual Reminder requirements for Retail PPI policies in force at 6 April 2012 where the start date is known (4.6(a)) and where it is unknown 4.6(b)) and where the amount of premium paid is less than £50.
70. Where the start date of the policy is known and if, on the first anniversary of that date after 6 April 2012, the total Premium which the Policyholder has paid in the preceding 12 months is less than £50, the first Annual Reminder must be sent with the next Retail Credit Account statement.
71. For each 12-month period thereafter, if the total Premium paid by the Policyholder is less than £50, the Annual Reminder should be sent with the next Retail Credit Account statement. However, if the total Premium paid rises to £50 or more, an Annual Review must be sent to the Policyholder.
72. Article 4.7 sets out the circumstances in which a PPI Provider (excluding Retail PPI) need not send an Annual Review or an Annual Reminder.
73. Article 4.8 sets out the out the circumstances in which a Retail PPI Provider need not send an Annual Review or an Annual Reminder. The requirements for Retail PPI are set out separately to accommodate the circumstances where the start date of a policy is not known. To assist in these circumstances, the article refers to a 'calculation date' which is defined in Article 4.14.

74. Article 4.9 provides that the requirement to send an Annual Review or Reminder does not apply to an Intermediary which no longer maintains contact with the Policyholder after the sale of the PPI. In these circumstances, the obligations fall on to the PPI Provider or Administrator which does maintain the direct contact by, for example, sending renewal notices or collecting premiums or otherwise carrying out the contract of insurance. In those circumstances the Intermediary is required by Article 4.9 to provide the PPI Provider or Administrator with such information that the PPI Provider or Administrator requires in order to comply with the requirements of Article 4.
75. Article 4.10 indicates the form of Annual Review and Annual Reminder which must be used for each type of PPI. The forms are set out in Schedules 3, 3a, 3b(i), 3b(ii), 3c, 3d(i), 3d(ii) and 3e, along with instructions to complete which indicate where there is flexibility in the format.
76. Reflecting the decision in the 2009 report in paragraph 10.311 that the Annual Review should be provided to Consumers separate from any material relating to the credit, Article 4.11 provides that the Annual Review may not be sent together with any information relating to the credit but may be included with PPI policy renewal documents and other information relating to the PPI. Additionally, to ensure that the Annual Review reaches the Policyholder, Article 4.10 also provides that the Annual Review may be sent electronically only at the Policyholder's specific request. PPI Providers are not prevented from asking a Policyholder about the preferred form of receipt of the Annual Review, but may not send it electronically unless the Policyholder has made that specific request.
77. Schedule 3b(ii) provides a separate form for joint mortgages but Article 4.12 provides that where there are joint Policyholders, it is not necessary for the PPI Provider or Administrator to provide a separate Annual Review to each Policyholder, unless the Policyholders specifically request this.
78. Article 4.13 provides for circumstances where a PPI Provider or Administrator requires information from another PPI Provider or Insurer in order to produce an Annual Review. In those circumstances the other PPI Provider or Insurer is required to provide the requested information within 7 days of receipt of the request.
79. Article 4.14 contains definitions of terms used within Article 4.

Article 5—Obligation to provide information to the CFEB

80. Article 5 starts on 1 October 2011. Article 5.1 requires PPI Providers to give data to the CFEB and in the format the CFEB needs in connection with the preparation of and publication by the CFEB of PPI Comparison Tables.
81. The Order does not specify either the data or the format because this is something on which the CFEB will advise market participants in due course.

Article 6—Obligation to disclose Claims Ratios

82. Article 6 starts on 1 October 2011. Article 6.1 requires a PPI Provider to produce a Claims Ratio for each PPI product within 3 months of the end of its Business Year. The definition of Claims Ratio in Article 2 indicates how it is to be calculated, as the ratio of Incurred Claims to Earned Premiums, both of which are also defined in Article 2. The CC has consulted the FSA in developing these definitions.

83. The 2009 report required Claims Ratios to be disclosed to the OFT by those PPI Providers that meet the relevant compliance reporting thresholds and then by all PPI Providers to any other person on request. Article 6.2 provides for disclosure of a Claims Ratio to the OFT and Article 6.4 provides for the format of disclosure to any person other than the OFT. Recognizing the commercially confidential nature of this information, disclosure to any person other than the OFT may be made in 10 percentile bands up to 80% and then in one aggregate banding.
84. Article 6.3 provides that disclosure may be made on a provider's website again in 10 percentile bands. There is no requirement to make disclosure on a website; it is an option available to providers to assist them in complying with their obligations under Article 6.4 if they have a website.
85. Article 6.5 sets out how a request for disclosure of a Claims Ratio is to be answered and includes the option of directing enquirers to information on a website.
86. Article 6.6 provides that where a PPI Provider needs information from another PPI Provider or Insurer in order to produce a Claims Ratio, this information must be provided within 7 days of the receipt of the request.

Article 7—Obligation to provide a Personal PPI Quote

87. Article 7 starts on 6 April 2012. Article 7 sets out a key element of the remedy package outlined in the 2009 report and confirmed in the 2010 report, namely the requirement to give each PPI customer a Personal Quote.
88. Article 7.1 sets out when the requirement to give a quote is triggered. This is when a PPI Provider makes a Marketing Statement to a Consumer either when selling Credit or when offering to sell Short-Term IP or PPI (except Retail or Stand-Alone PPI). The PPI Provider is then required to give the Consumer a Personal PPI Quote either on that occasion or 'as soon as practicable afterwards' in recognition of distance marketing legislation.
89. The 2010 report varied the remedy for Retail PPI and this is reflected in Article 7.2 which sets out the requirements for Retail and Stand-Alone PPI. In each of these cases the quote must be given either on the same occasion as selling the policy or no later than 14 days after. This will allow Consumers to use the quote to shop around during the 30-day cooling-off period for the PPI.
90. Article 7.3 sets out the circumstances in which the PPI Provider is not required to give the Consumer a Personal PPI Quote. As an anti-circumvention measure, PPI Providers which rely on any of the circumstances will be required, should the OFT request it, to disclose all of the circumstances giving rise to the exemption.
91. Article 7.4 directs PPI Providers to the correct form of quote (as set out in Schedule 4) which must be given for each type of PPI and requires PPI Providers to take account of the instructions set out in Schedule 4 when completing the forms. The instructions indicate where flexibility in the format is permitted.
92. Article 7.5 explains how a PPI Provider may 'give' the Consumer a Personal PPI Quote.
93. Article 7.6 requires a Personal PPI Quote to remain valid for at least 14 days, commencing on the date that the Consumer receives that quote; it is acceptable for the quote to remain valid for longer.

94. Article 7.7 requires the PPI Provider to give a Consumer a new Personal PPI Quote if the Personal PPI Quote has become inaccurate because of material changes to the Consumer's eligibility for the PPI Policy for which a Personal PPI Quote was given or the price and/or benefits of the relevant PPI policy.
95. Article 7.8 contains the deeming provisions for the date of receipt by the Consumer of the Personal PPI Quote if it is not given in person or by recorded receipt.
96. Article 7.9 contains definitions of terms used within Article 7.

PART 3—The prohibitions

97. Part 3 includes the prohibitions: the prohibition on the sale of PPI at the point of sale of Credit, the prohibition on the pre-sale of PPI before the sale of Credit and the prohibition of Single-Premium policies. Specific key terms are used in the prohibitions which define the scope of the prohibitions.
98. The prohibitions on pre-sale of PPI and sale at the point of sale of Credit apply to the Distributor or Intermediary selling or arranging Credit for a Consumer, so the collective term 'Credit Arranger' is used. The term is defined in Article 2.
99. The prohibition at the point of sale of Credit applies to the Credit Arranger but has been extended as a necessary anti-avoidance measure to an Associate of the Credit Arranger and does not apply to the sale of Retail PPI.
100. An Associate is defined in Article 2 as a person who has a Commercial Referral Relationship with the Credit Arranger for the sale of PPI and either is mentioned by the Credit Arranger to the Consumer during the Credit Sale for the purposes of buying PPI or is given or allowed access by the Credit Arranger to information concerning a particular Credit Agreement for the purposes of selling PPI to a Consumer.
101. In both cases it is necessary for a Commercial Referral Relationship to exist between the Credit Arranger and Associate. A Commercial Referral Relationship is defined as an arrangement whereby one party receives payment or other benefit from the other as a result of the Consumer purchasing PPI.

Article 8—Prohibition on sale of PPI at the Credit Sale

102. Article 8 starts on 6 April 2012. Article 8.1 prohibits the sale of PPI from the start of a Credit Sale until the end of the Prohibition Period. The 2009 report noted that the sale of credit was a process involving a number of stages: the initial enquiry, the application, the confirmation that the Credit Provider is content to proceed and then actual draw down of the credit. Article 8.2 sets out how to determine when a Credit Sale has started and when it has ended. This is necessary in order to determine when the Prohibition Period starts and ends.
103. In order to retain the flexibility for business practices and products to develop and evolve the Order does not and cannot prescribe each and every circumstance which 'may give rise to a new Credit agreement'. We have given examples in this document and in other materials designed to assist firms which provide guidance. We expect firms to use their business experience and common sense in making determinations on compliance with the Order in the same way as they do with other regulatory compliance.

104. The Order does not prescribe how any stage in a Credit Sale must occur. For example, it does not prescribe when or how an application for Credit is made; it merely recognizes that at some point in the Credit Sale process a Consumer will make a request to the Credit Provider for Credit and that for the purposes of the Order that point is the start of the Credit Sale.
105. Similarly the conclusion of the Credit Sale is not prescribed beyond when the Credit Provider is 'bound unconditionally' to provide the credit. No attempt was made to precisely define when a Credit Provider would be 'bound unconditionally' because it is recognized that a Credit Sale is not completed at the same point for all sales of Credit. In some cases a Credit Arranger may consider itself bound unconditionally to provide the Credit when it signs the documents and gives these to the Consumer to sign and return and in other cases a Credit Arranger may consider itself bound unconditionally to provide the Credit only when the Consumer returns the signed documents. The Order therefore deliberately fixes the end point of the Credit Sale at the point that the Credit Provider considers that the Credit has been to all intents and purposes approved, which is also a point that the Credit Arranger will be able to determine from its own procedures.
106. The Order recognizes that there may be some additional steps in the process before the Credit Provider is unconditionally bound in law to provide the Credit, but for the purposes of the Order these are not relevant. This is because the 2010 report (and 2009 report) recognized that it was necessary to fix a point for the Prohibition Period to start which was no longer than necessary for the effectiveness of this element of the remedy package.
107. Article 8.2 therefore provides when determining the end of the Credit Sale that no account should be taken of certain conditions which may be necessary to complete before a credit agreement is finalized in law. Examples are:
- (i) a Mortgage which is subject to a title check on land or certain repairs undertaken to the property;
 - (ii) the Consumer needs to contact the Credit Provider to activate the Credit Card (and this constitutes acceptance of the terms and conditions on which Credit has been extended); and
 - (iii) the Credit Provider needs a third party (ie not connected with the loan) to do something so that the loan can be finalized, such as local council approval/ certification or an employer to provide proof of earnings.
108. Article 8.3 sets out how the Prohibition Period is determined. It starts at the end of the Credit Sale and ends either 7 days later or 7 days after the Consumer receives a Personal PPI Quote, whichever is the later. A Personal PPI Quote may therefore be provided to the Consumer during the Prohibition Period, if one has not been provided during the Credit Sale. However, the end of the Prohibition Period will be later in such circumstances, reflecting the delay in providing the Consumer with a Personal PPI Quote.
109. Article 8.4 sets out when the prohibition in Article 8.1 does not apply: to the provision of Retail PPI and Stand-Alone PPI or sale of any PPI deemed to be Stand-Alone and when the provision of PPI satisfies all the conditions in Article 8.7.
110. Article 8.5 sets out when the provision of any type of PPI including Short-Term IP is deemed to be Stand-Alone PPI. In order to ensure there would be a period when a Credit Arranger could sell PPI for its own Credit, without being subject to the

Prohibition Period (and encourage the major PPI Providers also to provide PPI on a Stand-Alone basis), Article 8.5 deems the sale of any type of PPI including Short-Term IP by the Credit Arranger (or Associate) to a Consumer one month after the end of a Credit Sale to be Stand-Alone PPI and the requirements for a sale of Stand-Alone PPI to apply. This means that the Consumer is provided with a Personal PPI Quote either at the time of the sale of PPI or no later than 14 days after the sale of PPI. This allows the Consumer to shop around during the 30-day cooling-off period for the PPI.

111. In the Order we make a distinction between PPI Product Type, Stand-Alone PPI and Short-Term IP which is a form of PPI. However, in the Order we consider (ie deem) any type of PPI (except Retail) as Stand-Alone if it is sold in the circumstances set out in Article 8.5. The PPI Product Type may be PLPPI but it will be considered for the purposes of the Order to be Stand-Alone if it is sold in the circumstances set out in Article 8.5 and will be required to comply with the requirements for Stand-Alone PPI, not the requirements for Short-Term IP or the PPI Product Type that it is. In the subsequent monitoring of compliance, a firm may be asked to show that all the conditions which allow the deeming to occur were satisfied.
112. Article 8.7 sets out the conditions which must be satisfied for a further exemption from the prohibition in Article 8.1. This exemption is for Consumer-initiated sales of PPI which may be completed the day after the Credit Sale provided that all the specified conditions are satisfied. The conditions are that the sale of PPI is initiated by the Consumer either by telephone or over the Internet, the Credit Arranger or Associate has not prompted the Consumer to initiate the sale of PPI, the Consumer has been given a Personal PPI Quote beforehand and the Credit Arranger or Associate is able to satisfy the OFT (should the OFT ask) that all the conditions have been met. Because a Consumer-initiated sale is an exemption to the prohibition in Article 8.1, any person relying on the exemption must be able to satisfy the OFT that all the relevant conditions were met should the OFT subsequently ask them to do so.
113. The means by which the Consumer could initiate the sale were deliberately restricted as an anti-circumvention measure and Article 8.8 as another anti-circumvention measure sets out when a Consumer does not initiate the sale. Although confirmation of pre-arranged sale would not be a genuine Consumer-initiated sale, this does not prevent a Credit Arranger or Associate from recording Consumer information in order to facilitate the transaction should the Consumer decide to proceed with it. In this situation it is expected that any pre-recorded information would be confirmed with the Consumer at the time of concluding the subsequent sale of PPI.
114. In order to qualify as a genuine Consumer-initiated sale, the transaction must be initiated by the Consumer free from any inducement to do so by either the Credit Arranger or Associate.
115. Although the means by which the transaction is initiated are restricted, there is no restriction on how the sale can be completed. For example, a Consumer telephoning the day after the Credit Sale to make an appointment to come into a branch to buy the PPI would satisfy the condition. Sending an email over the Internet would also satisfy the condition.
116. The PPI Provider must have received confirmation from the Consumer that the Consumer has received the Personal PPI Quote before the sale of the PPI Policy can be concluded. There is no restriction on how the Credit Arranger may receive that confirmation.

117. Article 8.10 is an anti-avoidance clause, and provides that any insurance arrangement which has the same effect as PPI and is designed to avoid the operation of the Order, or has that effect, is to be regarded as PPI and will be caught by the Order. Article 8.10 does not apply to any arrangements which are not insurance arrangements.

Article 9—Prohibition on sale of PPI before the start of the Credit Sale

118. Article 9 starts on 6 April 2012. Article 9 is an anti-circumvention measure intended to prevent the revision of sales processes to avoid the point-of-sale prohibition. It prohibits the sale of PPI to a Consumer who is expected to make an application for Credit before that application is made.
119. Article 9.1 contains the prohibition: where a Credit Arranger has discussed Credit with a Consumer and believes that the Consumer will make an application for that Credit within 7 days of the discussion, the Credit Arranger is not permitted to sell a PPI Policy for that Credit prior to the application for Credit being made.
120. Article 9.2 sets out the circumstances in which Article 9.1 does not apply. Article 9.1 does not apply to Retail PPI or where a Credit Arranger has made reasonable inquiries of the Consumer and of its internal records and does not have reasonable grounds to believe that the Consumer will make an application for Credit. 'Reasonable inquiries' in this context might involve, for example, checking with the Consumer and on the Credit Arranger's internal records whether a customer has been provided with specific documents within the previous 7 days, such as a Standard European Consumer Credit Information sheet (SECCI) or a Key Facts illustration or a written quote, that demonstrate a serious intent on the part of the Consumer to take out the Credit in the near future. It is not anticipated that the exemption at Article 9.2(b) would apply to situations in which Credit and PPI are offered for sale on the same occasion.
121. Article 9.3 sets out circumstances when a Credit Arranger shall be taken to have reasonable grounds to believe that a Consumer will make an application for Credit. Those are if an amount of Credit has been discussed with the Consumer and either the interest rate payable or the terms of repayment. The Article makes it clear that when these matters are discussed in relation to a loan, a Credit Arranger will have 'reasonable grounds' to believe an application will be made.

Article 10—Prohibition of payment by Single Premium and requirement to pay a rebate

122. This article starts on 6 April 2012 and relates to policies that come into force after that date. Article 10.1 sets out the prohibition on requiring payment for a PPI policy by Single Premium. Single Premium is a defined term and is distinguished from Annual Premium.
123. Article 10.2 sets out the requirement that PPI premiums may only be charged on either a monthly or annual basis, though payment may be made by other arrangements (eg quarterly) provided this does not breach Article 10.1. Article 10.3 prohibits the inclusion of administration, set-up or termination charges in the price of any PPI policy is prohibited.
124. Article 10.4 provides for a pro-rata rebate (ie one that is proportional to the remaining period of cover) to be paid when a Consumer terminates a policy paid by Annual Premium in the course of year.

PART 4—Requirement as to separate supply

Article 11—Duty to offer Retail PPI separately when sold in a package of insurance

125. Article 11 starts on 6 April 2012. Article 11.1 sets out the requirement to offer Retail PPI as a separate ‘unbundled’ policy where it is offered as part of a package containing Merchandise Cover and requires that the unbundled product must be promoted with equal prominence in all written Marketing Communications. There is no requirement to promote the unbundled product with equal prominence in oral marketing such as telephony sales.
126. Article 11.2 requires a Retail PPI Provider to sell the unbundled product through all sales channels through which they also offer the package containing Merchandise Cover, including telephony where applicable.

PART 5—Compliance

127. Articles 12 to 15 set out the compliance requirements.
128. Article 12 sets out the requirements for compliance reporting.
129. Articles 12.1 and 12.2 provide that PPI Providers which attained certain specific GWP amounts in 2007 are required to submit a Compliance Report to the OFT on the first anniversary of the Order coming into force (ie 6 April 2012) and then for each 6 months thereafter until 1 October 2013. The content of these ‘six monthly’ Compliance Reports is set out in Schedule 5(a). After that time the Compliance Report must be submitted annually on 6 April 2014 and the same date in following years. The content of these annual Compliance Reports is set out in Schedule 5(b). If a PPI Provider’s GWP in 2007 falls below the levels set out in Article 12.1, then there is no obligation to submit a Compliance Report under these articles but a compliance reporting obligation may arise under Articles 12.3 and 12.4 or under Articles 12.5 and 12.6.
130. Articles 12.3 and 12.4 provide that commencing on the second anniversary of the start of the Order (ie 6 April 2013), if a PPI Provider achieves the GWP amounts set out in Article 12.3 in a preceding year, the PPI Provider will be required to submit a Compliance Report annually on 6 April. The content of these annual Compliance Reports is set out in Schedule 5(b).
131. Articles 12.5 and 12.6 provide that commencing on the first anniversary of the Order coming into force (ie 6 April 2012) a PPI Provider which does not achieve the GWP amounts set out in Articles 12.1 or 12.3 but attains a total annual GWP of £10 million or more in a preceding year must submit a less detailed Compliance Report to the OFT which sets out the annual breakdown of GWP by each PPI Product Type, Stand-Alone PPI and Short-Term IP. The Compliance Report must be submitted annually on the anniversary of the start of the Order (ie 6 April). This less detailed Compliance Report enables the OFT to monitor the development of a broader section of the PPI market, without imposing the detailed reporting obligations that apply to the largest PPI Providers.
132. When the GWP amounts in Article 12.1 or 12.3 are reached, the Article 12.5 and 12.6 requirements will lapse in favour of the Article 12.2 or 12.4 obligations.
133. Article 12.7 provides that where two or more PPI Providers are members of the same corporate group, only one Compliance Report needs to be submitted on behalf of all

but the compliance information required by Schedule 5b must be identified separately for each PPI Provider.

134. Articles 12.8 and 12.9 provide that the Compliance Report may be prepared either by an Independent Party for the PPI Provider or by the PPI Provider. If the Compliance Report is prepared by the PPI Provider it must include a certificate signed by an Independent Party that the Compliance Report is true and correct. In either case, the Compliance Report must contain a certificate which states that the Compliance Report has been prepared in accordance with the requirements set out in the Order, and that the PPI Provider has complied with the Order during the relevant period. Also, for incorporated PPI Providers, the certificate must be signed by both a director and a non-executive director (or by two directors where there are no non-executive directors); for unincorporated providers the certificate must be signed by two principals who are Approved Persons; and for a sole trader provider the certificate must be signed by an Approved Person. Approved Person is defined in the article as a person with FSA approval under section 59 of FSMA to carry on activities which are regulated by section 22 of FSMA.
135. Schedule 5a sets out the requirements for the contents of the Six-Monthly Compliance Reports which are required by Article 12.2. Schedule 5b sets out the requirements for the contents of the Annual Compliance Reports which are required by Articles 12.2 and 12.4.
136. Article 12.11 requires a Compliance Report to be submitted within one week of its due date.
137. Article 12.12 contains definitions relevant to the article.
138. Article 13.1 sets out the obligation to conduct a mystery shopping exercise for those PPI Providers reaching a total GWP threshold of £60 million in a preceding year. Article 13.2 further requires the PPI Provider to obtain the agreement of the OFT as to the design of the PPI Provider's mystery shopping exercise prior to conducting it. Article 13.3 requires that the report on the mystery shopping exercise be included in the Compliance Report. Article 13.4 contains definitions relevant to the article.
139. The requirements for the mystery shopping exercise are set out in Schedule 5c. The sample size for mystery shopping of up to 60 mystery shops (depending on which sales channels are used) for each large PPI Distributor has been set to give a reasonable level of confidence that non-compliance with the Order will be detected. If 5 per cent of the Distributor's overall sales were non-compliant, this size of sample would achieve a 95 per cent probability that at least one of the sample mystery shops would also be non-compliant.
140. Article 14.1 provides that those PPI Providers which meet the thresholds in Article 12 and are thus required to submit a Compliance Report must include in the Compliance Report a report confirming that their Marketing Communications are in easily understandable words and in a clear and comprehensible form.
141. Article 14.2 sets out how a PPI Provider can establish that Marketing Communication satisfies the requirements in Article 14.1. This requirement may be demonstrated to have been satisfied either by a report from an independent organization specializing in plain English or by having the Marketing Communication tested with Consumers by an Independent Market Research Agency.
142. Article 15.1 provides that within 21 days of the Order coming into force (ie by 27 April 2011) a PPI Provider must appoint a Compliance Officer and notify the OFT that the

appointment has been made and provide the name of the person who has been appointed. The Compliance Officer must be a natural person. The duties which the Compliance Officer must carry out are contained in Article 15.2. The Compliance Officer may carry out duties or functions in addition to those contained in Article 15.2. The OFT will advise how that notification may be made.

PART 6—The CC

Article 16—Powers of direction

143. Article 16 is made under [section 87](#) of the Act as applied by [section 164](#)(2) of the Act.
144. The article gives the CC power to give directions to a person for the purpose of carrying out, or ensuring compliance with, the Order. The directions can be addressed to a specific person or to the holder for the time being of an office in a body, for example the Secretary.
145. The article enables the CC to vary or revoke any directions which it has previously given.