



Appendix [6]

Format for providing public comments on CP 103 – Proposals relating to the insurance regime

NAME OF COMMENTATOR:

Note 1. The DFSA reserves the right to publish, including on its website, any comments you provide. However, if you wish to remain anonymous, you must expressly request at the time of making comments that this should be the case.

Note 2: The second column, 'comments on proposed policy' relates to the policy explained in the CP paragraphs specified. The third column, 'comments on drafting' refers to the draft Rules reflecting the proposed policy.

Note 3: It is possible that you may not have any comments, either on the proposed policy or draft Rules, or may have comments on one and not the other. You may leave a blank column if you either agree to the proposed position, or you have no concerns relating it.

Note 4: If there are any ambiguities relating to the proposed policy or draft Rules, you may raise those in your comments.

No.	COMMENTS ON PROPOSED POLICY	COMMENTS ON DRAFT RULES
Part C: Proposals relating to Insurers		
(a) Do we need any changes to the current definitions relating to Insurance Business? See CP Paragraphs 25 – 27 for policy.		
Q1: Do you have any concerns relating to the DFSA's proposal not to make any changes to the current two categories of Financial Services relevant to Insurers? If so, what are they, and how should they be addressed?		



No.	COMMENTS ON PROPOSED POLICY	COMMENTS ON DRAFT RULES
	<p>(b) <i>Should Insurers be permitted to give advice?</i></p> <p>See CP Paragraphs 28 – 32 for policy and draft GEN Rule 2.15.1(2) in Appendix 2</p>	
	<p>Q2: Do you have any concerns relating to the proposed approach? If so, what are they, and how should they be addressed?</p> <p>Q3: Are there any other issues which we have not identified relating to Insurers undertaking the activity of advising? If so, what are they, and how should they be addressed?</p>	
	<p>(c) <i>Are there any other issues relating to Insurers' distribution activities?</i></p> <p>See CP Paragraphs 33 – 35 for policy and draft GEN Rule 2.15.1(2) in Appendix 2</p>	
	<p>Q4: Do you have any concerns relating to the proposed approach? If so, what are they, and how should they be addressed?</p> <p>Q5: Are there any other issues which we have not identified in respect of an Insurer undertaking the distribution activities of an Insurer? If so, what are they, and how should they be addressed?</p>	

No.	COMMENTS ON PROPOSED POLICY	COMMENTS ON DRAFT RULES
Part D: Proposals relating to Insurance Intermediation		
<p>(a) Are there any gaps in the regulation of Insurance Intermediation activities?</p> <p><u>Web-based distribution through insurance aggregation sites</u></p> <p>See CP Paragraphs 36 – 41 for policy and draft GEN Rule 2.11.1(3), 2.19.1(1)(d) and GLO definition of ‘Insurance Aggregation Site’, in Appendices 2 and 4).</p>		
<p>Q6: Do you have any concerns relating to the proposed expansion of the current definition of Insurance Intermediation to cover distribution through aggregation sites? If so, what are they, and how should they be addressed?</p> <p>Q7: Are there any other issues which we have not identified in respect of distribution through aggregation sites? If so, what are they, and how should they be addressed?</p>		
<p><u>Exclusion for professionals</u></p> <p>CP paras 42 – 46 and draft GEN Rules 2.9.7(d), and 2.19.3(d) in Appendix 2</p> <p>Q8: Do you have any concerns relating to the proposal? If so, what are they, and how should they be addressed?</p> <p>Q9: Do you think that it is more appropriate to replace the current criterion of ‘not remunerated separately from the other services’ with the new criterion proposed? If so, why?</p>		



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<p><u>Exclusion for media advice</u></p> <p>See CP paras 47 – 48</p> <p>Q10: Do you have any concerns relating to our proposal? If so, what are they, and how should they be addressed?</p>		
<p><u>Exclusion for communication channel providers</u></p> <p>See CP para 49</p> <p>Q11: Do you have any concerns about our proposal? If so, what are your concerns, and how should they be addressed?</p>		
<p><u>Exclusions for intermediation activities relating to Long-Term Insurance</u></p> <p>See CP paras 50 – 55 and, draft GEN Rules 2.9.1(4) and 2.15.1(2) in Appendix 2</p>		

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	<p>Q12: Do you have any concerns on our proposal in paragraph 53 to remove the anomaly? If so, what are they, and how should they be addressed?</p> <p>Q13: Do you have any concerns about allowing Insurers to conduct intermediation activities relating to Long-Term Insurance? If so, what are they, and how should they be addressed?</p> <p>Q14: Do you have any other concerns relating to our proposals regarding intermediation activities relating to Long-Term insurance? If so, what are they and how should they be addressed?</p>	
<p><u>Exclusions for mere provision of data and information</u></p> <p>CP paras 56 – 57</p> <p>Q15: Do you have any concerns relating to our proposal? If so, what are they, and how should they be addressed?</p>		
<p><u>The scope of the exclusion for Group-based intermediation activities</u></p> <p>CP paras 58 and 59 and draft GEN Rule 2.3.2(1)(b)(iv) in Appendix 2</p> <p>Q16: Do you have any concerns relating to our proposal to clarify the limited scope of excluded intra-group intermediation activities? If so, what are they, and how should they be addressed?</p>		



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<p><u>Exclusion for ancillary insurance intermediaries</u></p> <p>CP paras 60 and 61</p> <p>Q17: Do you have any concerns relating to our proposal to include a new exclusion for ancillary insurance intermediaries? If so, what are they, and how should they be addressed?</p>		
<p><u>A new exclusion to remove overlap of regulation</u></p> <p>CP paras 62 and 63 and draft Guidance under GEN Rule 2.19.8 in Appendix 2</p> <p>Q18: Do you have any concerns relating to our proposal to create a new exclusion? If so, what are they, and how should they be addressed?</p>		



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	<p><u>New exclusions for management of claims, loss adjusting and claims assessment</u></p> <p>See CP para 64 and 65 and draft GEN Rule 2.19.9 in Appendix 2</p> <p>Q19: Do you have any concerns relating to our proposal? If so, what are they, and how should they be addressed?</p>	
	<p>(b) Should there be greater clarity relating to the different roles of insurance intermediaries?</p> <p>See CP paras 66 – 71, the draft definition of Insurance Agents and Insurance Brokers in GLO and draft Guidance under COB Rule 7.5.3 in Appendix 3</p> <p>Q20: Do you have any concerns relating to the proposed inclusion of definitions of insurance agents and insurance brokers? If so, what are they, and how should they be addressed?</p> <p>Q21: Do you agree with the proposed Guidance on independence? If not, what do you propose?</p>	
	<p>(c) Are the current COB requirements appropriate for reinsurance?</p>	

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	<p><u>Application of the COB regime to reinsurance activities</u></p> <p>See CP paras 74 – 77 and draft COB Rules 2.3.1(5), 2.3.9(1)(a)(iii) & (b) and 7.1.1(3) in Appendix 3.</p> <p>Q22: Do you have any concerns relating to our proposals on client classification and conduct of business requirements for firms undertaking reinsurance and reinsurance intermediation activities? If so, what are they, and how should they be addressed?</p> <p>Q23: Are there any other conduct of business requirements that should apply to firms conducting reinsurance intermediation activities? If so, what are they, and why should they be applied?</p>	
<p>(d) Are there other enhancements necessary or appropriate?</p>		
	<p><u>Conflicts of interests arising from ownership links</u></p> <p>See CP paras 78 – 81 and Draft COB Rule 7.5.2 in Appendix 3</p> <p>Q24: Do you have any concerns relating to our proposal for a new Rule? If so, what are they, and how should they be addressed?</p>	

No.	COMMENTS ON PROPOSED POLICY	COMMENTS ON DRAFT RULES
	<p><u>Conflicts of interests when acting for both parties to a contract of reinsurance</u></p> <p>See CP paras 82 and 83 and draft Guidance under COB Rule 7.9.1 in Appendix 3</p> <p>Q25: Do you agree with our approach not to impose an outright prohibition against acting for both parties, but instead to give Guidance? If you do not agree, what are your reasons, and what is your preferred approach?</p> <p>Q26: Do you consider it more appropriate to prohibit acting for both parties to a contract of (direct) insurance, but allow flexibility in reinsurance markets? If so, what are your reasons?</p>	
	<p>(e) <i>Is the current capital regime for Insurance Intermediaries appropriate?</i></p> <p>See CP paras 84 – 96 and draft PIB Rule 3.7.2(b) in Appendix 5</p> <p>Q27: Do you agree with our proposal to lower the minimum capital requirement for Insurance intermediaries holding Insurance Monies? If not, why not, and what alternative would you prefer?</p> <p>Q28: Do you consider it more appropriate to adopt the UK formula for capital for insurance intermediaries? If so, what are your reasons?</p> <p>Q29: Do you consider it more appropriate not to alter the current capital regime for Insurance Intermediaries? If so, what are your reasons?</p> <p>Q30: Do you consider any other capital formulae to be more appropriate? If so, what are those formulae, and what are your reasons for considering them appropriate?</p>	



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<p>Q31: Do you have any evidence on the length of time needed to wind-up an insurance intermediary, holding or not holding insurance monies, which would support one of the options discussed? If so, please provide that information.</p> <p>Q32: Are there any other concerns relating to the capital resources requirements of Insurance Intermediaries that need to be addressed? What are they and how should they be addressed?</p>		
<p>Part E: Issues relating to Insurance Management</p>		
<p>(a) What regulatory concerns have arisen relating to Insurance Management?</p>		

No.	COMMENTS ON PROPOSED POLICY	COMMENTS ON DRAFT RULES
	<p>See CP paras 97 – 104</p> <p>Q33: Is there a need to address any other areas relating to regulation of Insurance Managers? If so, what are they, and how should they be addressed?</p>	
<p>(b) Promoting parity between regulation of Insurance Managers and Branches where they conduct similar activities</p>		
<p><u>Assessment of adequacy of regulation of non-DIFC insurers</u></p> <p>See CP paras 105 and 106.</p> <p>Q34: Do you have any concerns relating to our proposals to undertake due diligence relating to non-DIFC insurers for whom Insurance Managers act? If so, what are those concerns, and how should they be addressed?</p> <p>Q35: Do you think that it is more appropriate for the DFSA to apply the proposed enhancements only to those Insurance Managers who underwrite for non-DIFC direct insurers, rather than reinsurers? If so, what are your reasons?</p>		
<p><u>Prudential reporting</u></p> <p>See CP paras 107 and 108.</p>		

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	<p>Q36: Do you have any concerns relating to our proposals to enhance the reporting requirements for Insurance Managers? If so, what are those concerns, and how should they be addressed?</p> <p>Q37: Do you have any concerns relating to our proposals to enhance the reporting requirements for Insurers? If so, what are those concerns, and how should they be addressed?</p>	
<p>(c) Promoting greater clarity relating to the activities undertaken by Insurance Managers</p>		
<p><u>Providing greater clarity relating to the activities of an Insurance Manager</u></p> <p>See CP paras 109 – 111, draft GEN Rules 2.20.1(1) and (2) in Appendix 2</p> <p>Q38: Do you agree with our proposals in paragraphs 110 and 111? If not, what are your reasons?</p>		
<p><u>Introducing a definition of the term ‘non-DIFC insurer’</u></p> <p>See CP para 112 and draft GLO definition of Non-DIFC Insurer in Appendix 4</p>		

No.	COMMENTS ON PROPOSED POLICY	COMMENTS ON DRAFT RULES
Q39:	Do you agree with our proposed inclusion of a definition of a 'non-DIFC insurer'? If not, what are your reasons?	
<p><u>Exclusion for Employees of Insurance Managers</u></p> <p>See CP paras 113 and 114 and draft GEN Rule 2.20.2 in Appendix 2</p> <p>Q40: Do you agree with our proposal? If not, what are your reasons?</p>		
<p><u>Exclusions for specialist service providers</u></p> <p>See CP paras 115 - 118 and draft GEN rule 2.20.4 in Appendix 2</p> <p>Q41: Do you agree with our proposal? If not, what are your reasons?</p>		
<p><u>Exclusion for Group-based activities</u></p> <p>See CP paras 119 and 120 and GEN draft Rule 2.3.2(1)(b)(iv) in Appendix 2</p>		



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Q42:	Do you have any concerns relating to our proposal to clarify the limited scope of the intra-group intermediation activities? If so, what are they, and how should they be addressed?	
(d) Are the current conduct requirements for Insurance Managers appropriate?		
<p><u>Reinsurance activities</u></p> <p>See CP paras 121 and 122 and draft COB Rules 2.3.1(5), 2.3.9(1)(a)(iii) & (b) and 7.1.1(3) in Appendix 3.)</p> <p>Q43: Do you have any concerns about our proposals? If so, what are they, and how should they be addressed?</p> <p>Q44: Are there any other conduct of business requirements that should apply to Insurance Managers operating in reinsurance markets? If so, what are they, and why should they be applied?</p>		
<p><u>Conflicts of interests arising from ownership links</u></p> <p>See CP para 123 and draft COB Rule 7.5.2 in Appendix 3</p> <p>Q45: Do you have any concerns relating to our proposal to include a new Rule? If so, what are they, and how should they be addressed?</p>		

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<p>(e) <i>Is the current capital regime for Insurance Managers appropriate?</i></p>		
<p><u>Capital requirements</u></p> <p>See CP paras 124 – 129</p> <p>Q46: Do you agree with our proposal to retain the current capital requirement for Insurance Managers? If not, what are your reasons and how should it be changed?</p>		
<p>Part F: Miscellaneous enhancements</p>		
<p><u>Eligible Banks</u></p> <p>See CP paras 131 - 133 and the draft definition of Eligible Bank in GLO in Appendix 4</p> <p>Q47: Do you have any concerns relating to our proposal to expand the definition of Eligible Banks? If so, what are your concerns, and how should they be addressed?</p>		



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<p><u>Acknowledgement letter regarding waiver of set-offs</u></p> <p>See CP paras 134 – 136 and draft COB Rules 7.12.5A in Appendix 3 and the draft definition of Eligible Bank in GLO in Appendix 4</p> <p>Q48: Do you have any concerns relating to our proposal to set a 20 business day deadline for receipt of an acknowledgement letter? If so, what are your concerns, and how should they be addressed?</p>		
<p><u>Removing unintended anomalies, promoting greater clarity</u></p> <p>See CP para 137 and draft COB Rule 7.1.3(2) and (3) in Appendix 3).</p> <p>Q49: Do you have any concerns relating to our proposals? If so, what are they, and how should they be addressed?</p>		

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<p>Part G: Transitional issues</p> <p>See CP para 138</p>		
<p>Q50: Are any proposals in this paper likely to lead to transitional difficulties if they are adopted? Please state how any transitional difficulties should be addressed and how long any transitional period should be.</p> <p>Part H: Other aspects</p> <p>See CP para 139 - 140</p>		
<p>Q51: Do you agree or disagree that an Insurer should be allowed to give advice or arrange Contracts of Insurance if such activities contravene the prohibition against being a composite insurer? What are your reasons?</p> <p>Q52: Are there any other aspects of the insurance regime which should be addressed? If so, what are they, why should they be addressed, and how should they be addressed?</p>		