

ANNEX A

In this Annex, underlining indicates new text and striking through indicates deleted text.



GENERAL (GEN)

GEN

2 FINANCIAL SERVICES

2.2.1

2.2 Financial Service activities

2.2.1

2.2.2 The following activities are specified for the purposes of Rule 2.2.1:

- (a)
- (p) Insurance Intermediation~~Broking~~;
- (q) Insurance Management;
- (r)and
- (s)

Guidance

Note that the ambit of these activities in Rule 2.2.2 may be restricted under COB and may be fettered by the continuing operation of Federal Law.

2.2.3 Each activity specified in Rule 2.2.2:

- (a) is to be construed in the manner provided under these Rules; and
- (b) is subject to exclusions under these Rules which may apply to such an activity.

2.3 By way of business

2.3.1 Subject to Rules 2.3.2 and 2.3.3, for the purpose of these Rules a Person carries on an activity by way of business if the Person:

- (a) engages in the activity in a manner which in itself constitutes the carrying on of a business;

- (b) holds himself out as willing and able to engage in that activity; or
- (c) regularly solicits other Persons to engage with him in transactions constituting that activity.

Exclusions

2.3.2 Subject to Rule 2.3.5, Aa Person does not carry on an activity specified under paragraphs (a), (b), (c), (d), (e), (f), (g), (h), (j), (k), (p), (q) and (r) of Rule 2.2.2 by way of business if:

- (a) the Person enters into transactions solely as a nominee for another Person and is bound to and does act on that other Person's instructions;
- (b) the Person is a Body Corporate and carries on that activity solely as principal with or for other Bodies Corporates:
 - (i) which are within the same Group as that Person; or
 - (ii) which are or propose to become participators in a joint enterprise and the transaction is entered into for the purposes of or in connection with that enterprise;

and for the purposes of the activities specified in paragraphs (g), (j), (k) and (r) of Rule 2.2.2 the assets in question belong to a Body Corporate falling within (i) or (ii); or

- (c) the Person carries on the activity solely for the purposes of or in connection with the sale of goods or the supply of services to a customer of the Person or a member of the same Group, provided that:
 - (i) the supplier's main business is to sell goods or supply services and not to carry on any Financial Service; and
 - (ii) the customer is not an individual;

and for the purposes of the activities specified in paragraphs (g), (j), (k) and (r) of Rule 2.2.2 the assets in question belong to that customer or member.

2.3.5 Rule 2.3.2(1)(b)(i) does not apply to a Person if and to the extent that and to the extent that:

- (a) the Person is conducting Insurance Intermediation business as agent for one or more insurers within the same Group; or

(b) the Person is conducting Insurance Management business in relation to one or more Protected Cell Companies within the same Group.

2.19 Insurance intermediation broking

2.19.1 (1) In Rule 2.2.2 Insurance Intermediation Broking means:

- (a) advising on insurance;
- (b) acting as agent for another Person in relation to the buying or selling of insurance for that other Person; or
- (c) making arrangements with a view to another Person, whether as principal or agent, buying insurance.

(2) In (1)(a) 'advising' means giving advice which is given to a Person in his capacity as a policyholder or potential policyholder, or in his capacity as agent for a policyholder or potential policyholder on the merits of his entering into a Contract of Insurance whether as principal or agent.

(3) In (2) 'advice' includes a statement, opinion or report:

- (a) where the intention is to influence a Person, in making a decision, to select a particular Contract of Insurance or insurance cover; or
- (b) which could reasonably be regarded as being intended to have such influence.

(4) The arrangements in (1)(c) include arrangements which do not bring about the transaction.

Exclusions

2.19.2 A Person does not carry on the activities specified in Rule 2.19.1(1)(b) or (c) if he enters or is to enter into a transaction in respect of a Contract of Insurance as principal.

2.19.3 A Person does not carry on Insurance Intermediation Broking if the activity:

- (a) is carried on in the course of any professional business which does not otherwise consist of the carrying on of Financial Services;

- (b) may reasonably be regarded as a necessary part of any other services provided in the course of that professional business; and
- (c) is not remunerated separately from the other services.

2.19.4 A Person does not give advice in relation to a Contract of Insurance by giving advice in any newspaper, journal, magazine, broadcast service or similar service in any medium if the principal purpose of the publication or service, taken as a whole, is neither:

- (a) that of giving advice of the kind mentioned in Rule 2.19.1; nor
- (b) that of leading or enabling Persons to buy types of insurance.

2.19.5 A Person does not arrange a Contract of Insurance merely by providing the means by which one party to a transaction is able to communicate with other such parties.

2.19.6 A Person who is an Authorised Firm does not advise in relation to an Insurance Contract if it is authorised under its Licence to carry on the Financial Service of Advising on Financial Products or Credit, to the extent the advice relates to a contract of Long-Term Insurance not being a contract of reinsurance.

2.19.7 A Person who is an Authorised Firm does not arrange a Contract of Insurance if it is authorised under its Licence to carry on the Financial Service of Arranging Credit or Deals in Investments, to the extent that the arranging relates to rights under a contract of Long-Term Insurance not being a contract of reinsurance.

2.20 Insurance Management

- 2.20.1** (1) In Rule 2.2.2 Insurance Management means providing management services or exercising managerial functions for an insurer.
- (2) In (1) management services and managerial functions include administration and underwriting.
 - (3) In (1) an 'insurer' means a Person effecting or carrying out Contracts of Insurance.



Exclusions

2.20.2 A Person does not provide Insurance Management to an insurer if he is an Employee of that insurer.

2.20.3 A Person who is an Authorised Firm does not provide Insurance Management if it is an Insurer.

3 FINANCIAL SERVICES WHICH MAY BE CARRIED ON IN OR FROM THE DIFC

3.1 Application

3.2 Permitted Financial Services for Authorised Firms

3.2.1

(a)

(l) Insurance Intermediation ~~Broking~~;

(m) Insurance Management;

(n)

(o)