

ANNEX B

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



CONDUCT OF BUSINESS (COB)

COB

2.1.1 This chapter applies to an Authorised Firm which is an Insurer with respect to the conduct of Insurance Business.

Guidance

Insurance Business does not include the Financial Service of Insurance ~~Intermediation~~ Broking or Insurance Management. An Authorised Firm carrying on either or both of these activities, ~~that is, conducting Insurance Intermediation Business,~~ is required to comply with the restrictions set out in chapter 4.

4 INSURANCE INTERMEDIATION BUSINESS

4.1 Application

4.1.1 This chapter applies to an Authorised Firm with respect to the conduct of Insurance Intermediation Business.

4.2 Restrictions

4.2.1 An Authorised Firm may only conduct Insurance Intermediation Business to the extent specified in this chapter.

Insurance Broking Intermediation

4.2.2 (1) An Authorised Firm must ensure, except to the extent permitted in Rule 4.2.3, that it does not carry on the Financial Service of Insurance Broking Intermediation with or for a natural Person.

(2) The application of (1) to a Domestic Firm is in relation to Insurance Broking Intermediation carried on in or from the DIFC or from a branch outside the DIFC.

(3) The application of (1) to an Authorised Firm which is not a Domestic Firm, is in relation to Insurance Broking Intermediation carried on through a Branch in the DIFC.

4.2.3 An Authorised Firm carrying on the Financial Service of Insurance Broking Intermediation may act on behalf of a natural Person where:

(a) it is acting on behalf of the members of a Partnership or other unincorporated association, where the insured interest or the interest to be insured is held in common by the members of the Partnership or unincorporated association; ~~or~~

(b) it is acting on behalf of Lloyd's Underwriters, or in connection with a contract of reinsurance placed or to be placed by Lloyd's Underwriters.

4.2.4 (1) An Authorised Firm carrying on the Financial Service of Insurance Broking Intermediation must not act in relation to a contract of insurance which relates to a risk situated within the U.A.E. unless such a contract is a contract of reinsurance.



CONDUCT OF BUSINESS (COB)

- (2) The application of (1) to a Domestic Firm is in relation to Insurance Broking Intermediation carried on in or from the DIFC or from a branch outside the DIFC.
- (3) The application of (1) to an Authorised Firm which is not a Domestic Firm, is in relation to Insurance Broking Intermediation carried on through a Branch in the DIFC.

Insurance Management

Guidance

~~There are currently no Rules in this chapter in relation to an Authorised Firm carrying on Insurance Management.~~

PART 3 – CONDUCT OF INSURANCE INTERMEDIATION AND INSURANCE MANAGEMENT BUSINESS

10 INTRODUCTION

10.1 Application

- 10.1.1** (1) COB part 3 applies to an Authorised Firm with respect to the conduct in or from the DIFC of Insurance Intermediation or Insurance Management Business.
- (2) COB part 3 also applies to an Authorised Firm with respect to the carrying on in or from the DIFC of an activity which is not a Financial Service constituting Insurance Intermediation or Insurance Management Business, but which is:
- (a) carried on in connection with such a Financial Service; or
 - (b) held out as being for the purpose of such a Financial Service;
- to the extent specified in any provision of COB part 3.
- (3) For the purposes of this Rule, COB part 3 consists of chapters 10-14 of this module.

11 RESPONSIBLE CONDUCT

11.1 Communication of information and marketing material

General

| **11.1.1** This section applies to both Insurance ~~Intermediaries~~Brokers and Insurance Managers.

| **11.1.2** (1) When communicating any information in relation to Insurance Intermediation or Insurance Management Business~~business~~ to a Person, an Authorised Firm must take reasonable steps to ensure that it communicates any such information in a manner which is clear, fair and not misleading.

(2) An Authorised Firm must not, in any form of communication with a Person, attempt to limit or avoid any duty or liability it may have to that Person under the Regulatory Law 2004 or Rules.

11.2 Authorised Firm's duty of disclosure

| **11.2.1** This section applies only to Insurance ~~Brokers~~Intermediaries.

| **11.2.2** Before carrying on any Insurance ~~Broking~~Intermediation with or for a Commercial Customer an Authorised Firm must disclose whether it acts on behalf of an Insurer or any other Person or acts independently on behalf of Commercial Customers.

11.3 Customers duty of disclosure

| **11.3.1** This section applies only to Insurance ~~Brokers~~Intermediaries.

11.3.2 An Authorised Firm must explain to a Commercial Customer the duty to disclose all circumstances material to the insurance and the consequence of any failure to make such disclosures both before the insurance commences and during the continuance of the policy.



11.3.3 An Authorised Firm must explain to a Commercial Customer that all answers or statements given on a proposal form, claim form or any other relevant document are the Commercial Customer's own responsibility and that the Commercial Customer is responsible for checking the accuracy of such information.

11.3.4 If an Authorised Firm believes that any disclosure of material facts by a Commercial Customer is not true, fair or complete it must request the Commercial Customer to make the necessary true, fair or complete disclosure, and if this is not forthcoming must consider declining to continue acting on that Commercial Customer's behalf.

11.4 Costs and remuneration

11.4.1 This section applies to both Insurance ~~Brokers~~Intermediaries and Insurance Managers.

11.4.2 An Authorised Firm must provide details of the costs of each Contract of Insurance or Insurance ~~Broking~~Intermediation service or Insurance Management service offered to a Commercial Customer.

11.4.3 An Authorised Firm must ensure that it does not impose any fees or charges without first disclosing the amount and the purpose of the charge to the Commercial Customer on whose behalf it acts.

11.4.4 (1) ~~An Authorised Firm must, on the request of any Commercial Customer, disclose to that customer all commissions and other economic benefits accruing to the Authorised Firm or any member of the same Group from: any business transacted on behalf of that customer.~~

~~(a) any Insurance Intermediation business; or~~

~~(b) any Insurance Management business; or~~

~~(c) any other business connected to or related to the provision of such business.~~

~~transacted by the Authorised Firm on behalf of that customer.~~

~~(2) (1) does not apply where an Insurance Intermediarythe Authorised Firm acts solely on behalf of a single insurer, and this fact has been disclosed to the Commercial Customer.~~

11.4.5 An Authorised Firm must disclose to a Commercial Customer any payment that it receives for providing to, or securing on behalf of, its Commercial Customer any additional insurance related services.

11.5 Information about the proposed insurance

11.5.1 This section applies only to Insurance ~~Brokers~~Intermediaries.

11.5.2 An Authorised Firm must provide adequate information in a comprehensive and timely manner to enable a Commercial Customer to make an informed decision about the Contract of Insurance being proposed.

Guidance

1. If an Authorised Firm is acting on behalf of a Commercial Customer it should explain the differences in, and the relative costs of, the types of insurance, which in the opinion of the Authorised Firm, would suit the Commercial Customer's needs. In so doing an Authorised Firm should take into consideration the knowledge held by the Commercial Customer when deciding to what extent it is appropriate to explain the terms and conditions of a particular insurance explained to that Commercial Customer.
2. An Authorised Firm should provide a Commercial Customer with the key features of any insurance proposed including the essential cover and benefits, any significant or unusual restrictions, exclusions, conditions or obligations, and a period of cover. In so doing, an Authorised Firm should take into consideration the knowledge held by the Commercial Customer when deciding to what extent it is appropriate to explain the terms and conditions of a particular insurance to that Commercial Customer.

11.5.3 If an Authorised Firm is unable to match a Commercial Customer's requirements it must explain the differences in the insurance proposed.

11.6 Suitability

Guidance

Before an Authorised Firm provides any Insurance ~~Broking~~Intermediation services to a Commercial Customer it should take reasonable steps to:

- a. obtain from that Commercial Customer such information about the customer's circumstances and objectives as might reasonably be expected to be relevant in enabling the Authorised Firm to identify the Commercial Customer's requirements to fulfil its responsibilities to its Commercial Customer; and

- b. to understand the type of Commercial Customer it is dealing with and the extent of that Commercial Customer's knowledge of risk and insurance products.

11.7 Conflicts of interest

| **11.7.1** This section applies to both Insurance ~~Brokers~~Intermediaries and Insurance Managers.

- 11.7.2** (1) An Authorised Firm must manage any conflict of interest or material interest to ensure that all its customers are fairly treated and not prejudiced by any such interests.
- (2) An Authorised Firm must manage the conflict of interest or material interest by disclosing the material interest or conflict of interest to the Commercial Customer in writing either generally or in relation to a specific transaction.
- (3) If an Authorised Firm is unable to manage a conflict of interest or material interest, it must decline to act for the Commercial Customer.

12 PLACEMENT OF INSURANCE

12.1 Applications

12.1.1 This chapter applies only to Insurance ~~Brokers~~Intermediaries.

12.2 Instructions

12.2.1 As soon as reasonably possible after being instructed by a Commercial Customer an Authorised Firm must provide that Commercial Customer with a letter confirming in detail the customer's instructions, the Insurance ~~Broking~~Intermediation services that will be provided by the Authorised Firm and any advice given.

12.2.2 Where an Authorised Firm is instructed to obtain insurance which is contrary to the advice that the Authorised Firm has given to that Commercial Customer the Authorised Firm must obtain from the Commercial Customer written confirmation of the customer's instructions before arranging or buying the relevant insurance.

12.3 Quotations

12.3.1 When giving a quotation an Authorised Firm must take due care to ensure the accuracy of the quotation and its ability to obtain the insurance at the quoted terms.

12.4 Confirmation of cover

12.4.1 (1) An Authorised Firm must, as soon as reasonably possible, provide a Commercial Customer with written confirmation and details of the insurance which has been obtained on the customer's behalf including identification of the insurer or insurers and of any changes to the Contract of Insurance.

(2) An Authorised Firm must as soon reasonably practical; provide the Commercial Customer with the full policy documentation where this was not included with the confirmation of cover.

13 PROVIDING AN ONGOING SERVICE

13.1 Application

13.1.1 This chapter applies only to Insurance ~~Brokers~~Intermediaries.

13.2 Amendments to and renewal of insurance

13.2.1 (1) An Authorised Firm must deal promptly with a Commercial Customer's request for an amendment to the insurance cover and provide the Commercial Customer with full details of any premium or charges to be paid or returned.

(2) An Authorised Firm must provide a Commercial Customer with written confirmation when the amendment is made and remit any return premium or charges due to the Commercial Customer without delay.

13.2.2 An Authorised Firm must give adequate advance notification to a Commercial Customer of the renewal or expiration date of an existing insurance policy so as to allow the Commercial Customer sufficient time to consider whether continuing cover is required.

13.2.3 On expiry or cancellation of the insurance, at the request of the Commercial Customer, an Authorised Firm must promptly make available all documentation and information to which the Commercial Customer is entitled.

13.3 Claims

13.3.1 Where an Authorised Firm handles insurance claims it must:

- (a) on request, give the Commercial Customer reasonable guidance in pursuing a claim under the relevant policy;
- (b) handle claims fairly and promptly and keep the Commercial Customer informed of progress;
- (c) inform the Commercial Customer in writing, with an explanation, if the Authorised Firm is unable to deal with any part of a claim; and
- (d) forward settlement of any claim, as soon as reasonably possible, once it has been agreed.

14 INSURANCE MONIES

14.1 Application

14.1.1 This chapter applies to any Authorised Firm whose Licence allows it to carry on the Financial Services of Insurance ~~Broking~~Intermediation or Insurance Management, in respect of activities carried on in or from the DIFC.

14.2 General

14.2.1 Insurance Monies means any of the following items arising from Insurance Intermediation or Insurance Management ~~b~~Business:

- (a) premiums, additional premiums and return premiums of all kinds;
- (b) claims and other monies due under contracts of insurance;
- (c) refunds and salvages;
- (d) fees, charges, taxes and similar fiscal levies relating to contracts of insurance;
- (e) discounts, commissions and brokerage; or
- (f) monies received from or on behalf of a customer of an Insurance Manager, in relation to his Insurance Management business.

14.2.2 In this chapter, a customer of an Insurance Manager means:

- (a) any insurer for which the Insurance Manager provides Insurance Management;
- (b) any shareholder of an insurer mentioned in (a); or
- (c) any Person on whose behalf the Insurance Manager undertakes to establish that Person as an insurer.

14.2.3 For the purposes of Rule 14.2.2:

- (a) an Insurer includes a Cell of a Protected Cell Company which is an Insurer; and
- (b) a shareholder includes a holder of Cell Shares.

14.3 Insurance money segregation

14.3.1 Subject to Rule 14.3.12, an Insurance Intermediary or Insurance Manager must:

- (a) treat all monies received from, or on behalf of, a customer in respect of its Insurance Intermediation business as Insurance Monies;
- (b) maintain one or more separate Insurance Bank Accounts with an Eligible Bank in the U.A.E.;
- (c) ensure that each Insurance Bank Account contains in its title the name of the Authorised Firm, together with the designation Insurance Bank Account (or IBA);
- (d) prior to operating an Insurance Bank Account, give written notice to, and receive written confirmation from, the Eligible Bank that the bank is not entitled to combine the Insurance Bank Account with any other account unless that account is itself an Insurance Bank Account held by the Authorised Firm, or to any charge, encumbrance, lien, right of set-off, compensation or retention against monies standing to the credit of the Insurance Bank Account;
- (e) pay all Insurance Monies directly and without delay into an Insurance Bank Account;
- (f) use an Insurance Bank Account only for the following purposes:
 - (i) the receipt of Insurance Monies;
 - (ii) the receipt of such monies as may be required to be paid into the Insurance Bank Account to ensure compliance by the Authorised Firm with any conditions or requirements prescribed by the DFSA;
 - (iii) the payment to customers or to insurers of monies due under Insurance Intermediation Business transactions;
 - (iv) the payment of all monies payable by the Authorised Firm in respect of the acquisition of or otherwise in connection with Approved Assets;

- (v) the withdrawal of brokerage, management fees and other income related to Insurance Intermediation Business, either in cash or by way of transfer to an account in the name of the Intermediary which is not an Insurance Bank Account, provided that no such sum may be withdrawn from the Insurance Bank Account before the time at which that amount may be brought into account as income of the Insurance Intermediary;
- (vi) the withdrawal of monies paid into the Insurance Bank Account in error; and
- (vii) the withdrawal of any monies credited to the Insurance Bank Account in excess of those required by any conditions and requirements prescribed by the DFSA;
- (g) ensure that any amount held in the Insurance Bank Account or other Approved Assets, together with any amount due and recoverable from insurance debtors, is equal to, or greater than the amount due to insurance creditors; and
- (h) take immediate steps to restore the required position if at any time it becomes aware of any deficiency in the required segregated amount.

14.3.2 An Insurance Intermediary or Insurance Manager may not obtain a loan or overdraft for any purpose relating to an Insurance Bank Account unless that advance:

- (a) is on a bank account which is designated as an Insurance Bank Account, and the loan or overdraft is used for payment to customers or to insurers of monies due under Insurance ~~Broking~~Intermediation transactions;
- (b) does not give rise to a breach of the requirements of Rule 14.3.1(f); and
- (c) is of a temporary nature and is repaid as soon as reasonably practicable.

14.3.3 An Insurance Intermediary or Insurance Manager must hold Insurance Monies either in an Insurance Bank Account or in Approved Assets.

14.3.4 An Insurance Intermediary must ensure that Approved Assets are:

- (a) registered in the name of the Insurance Intermediary or Insurance Manager and designated 'Insurance Bank Account'; or



CONDUCT OF BUSINESS (COB)

- (b) held for the Insurance Bank Account of the Insurance Intermediary or Insurance Manager at the bank at which such Insurance Bank Account is held.
- 14.3.5** An Insurance Intermediary or Insurance Manager must ensure that monies, other than interest, arising from Approved Assets or their realisation, sale or disposal are paid into an Insurance Bank Account.
- 14.3.6** An Insurance Intermediary or Insurance Manager may not hold Insurance Monies in Approved Assets until it has given written notice to and received written notice from the bank referred to in Rule 14.3.4(b) that the bank is not entitled to any charge, encumbrance, lien, right of set-off, compensation or retention against Approved Assets held for the Insurance Intermediary's or Insurance Manager's Insurance Bank Account.
- 14.3.7** An Insurance Intermediary or Insurance Manager may only use Approved Assets as security for a loan or overdraft where that loan or overdraft is for a purpose relating to an Insurance Bank Account as permitted by Rule 14.3.2.
- 14.3.8** Where Insurance Monies are held in Approved Assets whose rating drops below the minimum stipulated within the definitions, that investment or asset will cease to be an Approved Asset and the Insurance Intermediary or Insurance Manager must dispose of the investment or asset as soon as possible and no later than within 20 business days of the rating change.
- 14.3.9** An Insurance Intermediary or Insurance Manager may not use derivatives in the management of Insurance Monies except for the prudent management of foreign exchange risks.
- 14.3.10** An Insurance ~~Broker~~Intermediary who has a credit balance for a customer who cannot be traced should not take credit for such an amount except where:
- (a) he has taken reasonable steps to trace the customer and to inform him that he is entitled to the money;
 - (b) at least six years from the date the credit was initially notified to the customer; and
 - (c) Rule 14.3.1(g) will continue to be satisfied after the withdrawal of such money.
- 14.3.11** An Insurance ~~Broker~~Intermediary must keep records of all sums withdrawn from the Insurance Bank Account or realised Approved Assets as a result of credit taken under Rule 14.3.10 for at least six years from the date of withdrawal or realisation.



14.3.12 Rule 14.3.1 does not apply where there is a written agreement in place between the Insurance ~~Broker~~Intermediary and the insurer to whom the relevant Insurance Monies are to be paid (or from whom they have been received) under which the insurer agrees that:

- (a) the Insurance ~~Broker~~Intermediary holds all Insurance Monies received by it in connection with Contracts of Insurance effected or to be effected by the Insurer as agent for the Insurer;
- (b) insurance cover is maintained for the customer once Insurance Monies are received by the Insurance ~~Broker~~Intermediary; and
- (c) the Insurer's obligation to make a payment to the customer is not discharged until actual receipt of the relevant payment by the customer.