

GUERNSEY FINANCIAL SERVICES COMMISSION

THE INSURANCE MANAGERS AND INSURANCE INTERMEDIARIES (BAILIWICK OF GUERNSEY) LAW, 2002, as amended (“the Law”)

CONDUCT OF BUSINESS RULES

1. These Rules apply to –
 - (i) every licensed insurance intermediary ("an intermediary"), and
 - (ii) any licensed insurance manager ("a manager") who advises or arranges insurance products in relation to the general public and is required to appoint an Authorised Insurance Representative ("an AIR"),

who together are referred to in these Rules as "licensees" and related expressions shall be construed accordingly.

2. The following paragraphs of these Rules also shall apply to **all** managers: 14, 15, 16(1)(c), 16(2)(g), 16(2)(h), 16(2)(i), 16(3)(a), 16(3)(b), 23(a), 23(b), 26 and 27.

Authorised Insurance Representatives

3. A licensee shall ensure that each AIR used by him complies with the Code of Conduct for Authorised Insurance Representatives.
4. A licensee shall have in place a fair dealing policy to avoid any conflict of interest.
5. An AIR shall explain charges in respect of long term business, including but not limited to life cover charges, commissions and surrender penalties, to a client and provide the information required without delay.
6. A licensee shall supply the Commission with details, including date of birth, qualifications, previous employment of each AIR used by him and notify the Commission of any changes, including reasons, within 10 working days.
7. An AIR shall hold such qualifications to the minimum standard as determined by the Commission or satisfy such requirements as the Commission may determine.

8. A licensee shall require of each AIR used by him to provide prospective clients with the following information -
- (a) the name of the AIR,
 - (b) who the AIR represents, and
 - (c) what type of products the AIR is authorised to sell and/or advise on.
9. A licensee shall ensure that detailed records of information received from and provided to a client are maintained.

Advertisements

10. A licensee must ensure that an advertisement -
- (a) does not contain any statement, promise or forecast which is untrue, misleading or extravagant,
 - (b) is not designed in such a way as to distort or conceal any relevant subject material,
 - (c) is clearly recognisable as an advertisement,
 - (d) is not likely to be misunderstood,
 - (e) where appropriate, states that the investment value is not guaranteed or that the value may fluctuate, and
 - (f) in the case of long term business -
 - (i) does not employ such phrases as “tax-free” or “tax paid” without making clear which taxes are being referred to, and
 - (ii) does not contain information about past performance unless it contains a warning that past performance is not necessarily a guide to future performance.
11. The regulatory status of the licensee is to be included on all communications, including but not limited to advertisements and letters sent out on headed paper.

Complaints

- 12.** Where a licensee arranges or issues insurance policies on behalf of an insurer to the general public, the licensee must be able to demonstrate that it has in place procedures for dealing with customer complaints, which shall as a minimum set out the following -
- (a) in the event of a complaint being received in the case of an intermediary, the AIR concerned and the person to whom the AIR reports should be advised of the complaint and handle it.
 - (b) where a satisfactory response is not issued within 30 days of the complaint, the complaint should then be directed to a member of the Board of the licensee,
 - (c) where a satisfactory response is not issued within 30 days of complaint being referred to a member of the Board, the licensee should inform the complainant of his rights and procedures to pursue the complaint further,
 - (d) where a satisfactory response is not issued within 90 days of complaint, the licensee must notify in writing the Commission of the details of the complaint, and
 - (e) appropriate information must be provided to the customer to enable them to contact the parties detailed above.
- 13.** The licensee shall maintain a register of all written client complaints and any verbal complaints not resolved within 24 hours, and the register shall, as a minimum, contain the following information -
- (a) whether the complaint relates to the service provided by the licensee or the advice provided by the licensee, and
 - (b) the status of the complaint and the actions taken to resolve it.

Professional Indemnity Insurance

- 14.** (1) Every licensee shall maintain professional indemnity insurance with the following minimum limits -
- (a) on the basis of each and every loss cover of at least £250,000, and
 - (b) on an annual basis, £1,000,000 or 3 times fee income, whichever is the greater,

but the Commission reserves the right to vary in writing these amounts in relation to individual licensees, where it considers it appropriate to do so.

- (2) Where the deductible or excess exceeds £20,000 on the basis of each and every loss, the minimum capital requirement will increase to 125% of the deductible or excess. The Commission reserves the right to vary the application of this subparagraph in relation to individual licensees, where it considers it appropriate to do so.

15. (1) A licensee shall –

- (a) when applying for cover, notify his professional indemnity insurer, through his professional indemnity insurance broker where appropriate, of all material facts, which shall include, without limitation -
 - (i) the imposition and details of any conditions imposed on the licensee under section 7 of the Insurance Managers and Insurance Intermediaries (Bailiwick of Guernsey) Law ("the Law"),
 - (ii) the revocation of the licensee's licence under section 9 of the Law,
 - (iii) any regulatory penalty taken by the Commission against the licensee, or any of its directors or employees, the Financial Services Commission (Bailiwick of Guernsey) Law, 1987 (as amended) or any of the regulatory Laws,
 - (iv) any prohibition order made against the licensee, or any of its directors or employees,
 - (v) any criminal proceedings commenced against the licensee, or any of its directors or employees, and
 - (vi) any criminal or regulatory investigation or formal enquiry which involves the licensee, or any of its directors or employees,
- (b) ensure that he complies with all warranties applying at the date of the commencement of his professional indemnity policies and any continuing warranties applying during the duration of the professional indemnity insurance policy, and
- (c) ensure that he makes all notifications and disclosures which are required to be made to his professional indemnity insurers during the duration of the policy pursuant to its terms and conditions.

- (2) A licensee shall notify his professional indemnity insurers, through his professional indemnity insurance broker where appropriate, within 14 days of the following events or such earlier period as is specified by his professional indemnity policy -
 - (a) the imposition and details of any conditions imposed on the licensee under section 7 of the Law,
 - (b) the revocation of the licensee's licence under section 9 of the Law,
 - (c) any regulatory penalty taken by the Commission against the licensee, or any of its directors or employees under the Law, the Financial Services Commission (Bailiwick of Guernsey) Law, 1987 (as amended) or any of the regulatory Laws,
 - (d) any prohibition order made against the licensee, or any of its directors or employees,
 - (e) any criminal proceedings commenced against the licensee, or any of its directors or employees, and
 - (f) any criminal or regulatory investigation or formal enquiry which involves the licensee, or any of its directors or employees.
- (3) A licensee shall notify the Commission of the following events immediately -
 - (a) any actual or purported termination, avoidance or invalidation of the licensee's professional indemnity cover.
 - (b) any notification made by a licensee to his professional indemnity insurers with respect to a claim or potential claim which may be made by the licensee under its professional indemnity policy.

Reporting to the Commission

16. (1) Notwithstanding that the prior written consent of the Commission may be required under the Law in respect of any of the following events, a licensee shall obtain the prior written consent of the Commission in respect of -
 - (a) any change in any director, controller, partner, MLRO and compliance officer,
 - (b) any transfer of a block of business to or from the licensee, where such transfer has occurred at the licensee's instigation, and for the purposes of these Rules "block of business" shall mean business which

increases or reduces the brokerage turnover or fee income of the intermediary by 15% or more, such figure being calculated using the last audited accounts of the licensee, and

- (c) any change to outsourcing arrangements.
- (2) The following events require notification to the Commission within 7 days -
- (a) any change in AIR, auditor or registered office,
 - (b) any complaints that remains unsatisfied after 90 days,
 - (c) any breach of any applicable overseas laws, rules, regulations or codes of which the licensee is aware,
 - (d) any breach of the Code of Conduct for Authorised Insurance Representatives by an AIR used by him,
 - (e) any change in delegated authorities granted to the licensee such as claims handling,
 - (f) any litigation or arbitration proceedings commenced against the licensee and any other claims which are made or asserted against the licensee,
 - (g) any criminal proceedings against the licensee, any of its directors or employees,
 - (h) any involvement in any way whatsoever of any of its directors or employees in any regulatory or criminal investigation or inquiry, and
 - (i) any material change to the business plan.
- (3) The following events require notification to the Commission, together with a plan for remedial action -
- (a) any breaches of a solvency or insurance requirement and any other breach of the Minimum Criteria for Licensing under Schedule 4 of the Law, and
 - (b) any cancellation, invalidation or avoidance of in-force professional indemnity insurance cover.

Compliance Officers

17. Every licensee shall appoint a compliance officer, who shall -

- (a) be approved by the Commission prior to his appointment,
- (b) be sufficiently knowledgeable and experienced to perform the role, taking into account the size of the licensee and the classes, volume and complexity of business handled by the licensee, and
- (c) have a clearly defined job specification setting out his responsibilities in writing, which includes ensuring that the activities of the AIR are reviewed and managed by suitably qualified and experienced individuals,

and, although the use of an outsourced compliance function may be permitted, the Board of the licensee shall be responsible for compliance notwithstanding the appointment of a compliance officer whether or not this is outsourced.

Training and Competence

- 18. Every licensee shall create and implement a training and competence scheme (the “Scheme”) for all AIRs appropriate to the nature and scale of the licensee’s business.
- 19. The Scheme should ensure that AIRs are fully aware of and conversant with the products and services provided and the advantages and disadvantages for clients of purchasing those products.
- 20. Each licensee, in conjunction with its AIRs, shall maintain a training log in respect of each AIR.

Outsourcing Arrangements

- 21. (1) Where outsourcing arrangements are entered into by a licensee, the licensee shall at all times remain responsible and accountable to the Commission, as its regulator, for compliance with the Law and any rules, regulations and codes made thereunder.
- (2) The outsourcing arrangement must not impair the Commission’s ability to supervise the licensee.
- 22. Before entering into an outsourcing arrangement –
 - (a) a licensee shall –
 - (i) conduct suitable due diligence processes regarding its financial condition and expertise when selecting an appropriate third party service provider, and
 - (ii) ensure appropriate internal procedures are developed to monitor

its ongoing performance,

- (b) there shall be a legally binding written contract between the licensee and each third party service provider, the nature and detail of which should be appropriate to the materiality of the outsourced activity to the ongoing business of the licensee, and the contract should contain, in particular, provisions relating to its termination such that the licensee is able to terminate it on reasonable notice,
- (c) a licensee shall take appropriate measures to determine that -
 - (i) procedures are in place to protect the licensee's intellectual property rights in its software, and
 - (ii) its third party service providers establish and maintain emergency procedures and a plan for disaster recovery, with periodic testing of backup facilities,
- (d) the licensee shall take appropriate steps to require that service providers protect confidential information regarding the licensee's proprietary and other information, as well as the licensee's clients or investors from intentional or inadvertent disclosure to unauthorised individuals,
- (e) the licensee shall decide upon appropriate exit strategies to ensure a smooth transition of the outsourced operations, and
- (f) the Commission, the licensee and its auditors must have access to the books and records maintained by third party service providers relating to the outsourced activities and the Commission must be able to obtain promptly, upon request, information concerning the outsourced activities that are relevant to its regulatory oversight.

Record Keeping

- 23.** A licensee shall maintain legible and orderly files of –
- (a) all correspondence and due diligence materials, which is required by or under the Criminal Justice (Proceeds of Crime) Law, 1999, or the Handbook for Financial Services Businesses on Countering Financial Crime and Terrorist Financing, and
 - (b) copies of correspondence with clients.
- 24.** Where a policy is cancelled, lapsed, partially or fully withdrawn, details of such occurrences shall be maintained, together with an explanation of the reasons for such occurrences, or evidence that such an explanation has been sought, even if

not received.

25. Any correspondence, material, details or explanation mentioned in rule 22 or 23 must be available for inspection by the Commission within 72 hours in the Bailiwick, although it need not necessarily be maintained in the Bailiwick.
26. Any correspondence with a client shall remain on the client file for the duration of the period of the insurance policy sold to the client and for the period of time within which claims can be brought against the licensee in accordance with the prevailing prescription period.

Miscellaneous

27. A licensee shall take all reasonable steps to comply with any Regulations made or guidance notes issued from time to time by the Commission under the Criminal Justice (Proceeds of Crime) (Bailiwick of Guernsey) Law, 1999.
28. In the event of the insolvency of a licensed insurer or a recognised insurer used by a licensee, the intermediary shall take all reasonable steps to ensure that the client is aware of the situation and provide the client with appropriate advice.
29. Unless the contrary intention is demonstrated, terms in these Rules shall have the same meaning as in the Law.

Commencement

30. These Rules shall come into force, save as provided in paragraph 31, on 12 March 2008.
31. The following Rules shall come into force on:
 - (a) Paragraph 14 – Minimum Level of Professional Indemnity Insurance – the date of the next renewal of the licensee’s professional indemnity insurance or 12 March 2009 whichever is the earlier; and
 - (b) Paragraph 17 – Compliance Officers – 12 March 2009
 - (c) Paragraphs 18, 19 and 20 – Training and Competence – 12 March 2009.