

Consultation on Disclosure Rules for Insurance Intermediaries

Closed 29 Jan 2024

Opened 8 Dec 2023

Contact

Lucille Wilson

Banking and Insurance Division

01481 732379

lwilson@gfsc.gg

Results updated 4 Apr 2024

In December 2023, the Commission consulted on proposed changes to the Insurance Intermediaries Rules and Guidance that would require insurance intermediaries to disclose the nature of their relationship with the insurers with whom they deal as well as a requirement to disclose the basis on which they are remunerated.

The feedback paper summarises the responses to the consultation and includes the final amendments to the Insurance Intermediaries Rules and Guidance. The Commission received 6 responses to its CP, in addition to the initial feedback received from its engagement with industry prior to publication.

The feedback received from licensees was constructive and mainly positive. The majority of respondents confirmed that the proposed disclosures are well-established good practice. As a result, the Commission intends to proceed with the proposed changes as outlined in the Consultation Paper, other than slightly re-phrasing rules 7.4.4.(2)(c) and (d) to make their intent clearer and re-wording some of the guidance boxes, also for greater clarity.

The feedback paper and the Insurance Intermediaries (Amendment) Rules, 2024 can be found below. The amendments to the rules will come into effect on 1st January 2025. A consolidated version of the rules will be provided on the Commission's website in due course.

Files:

- [Feedback Paper following consultation on the Disclosure Rules for Insurance Intermediaries](#), 403.0 KB (PDF document)
 - [Insurance Intermediaries \(Amendment\) Rules, 2024](#), 257.7 KB (PDF document)
-

Overview

Affected and Interested Parties

These proposals would affect licensed insurance intermediaries. At present, there are 35 intermediaries in the Bailiwick to whom these rules will apply, but only a proportion of them would be directly affected by the proposed changes.

Purpose of the Consultation Paper

In this Consultation the Commission proposes to amend The Insurance Intermediaries Rules and Guidance ("the Rules") for disclosure. This will require insurance intermediaries to disclose the nature of their relationship with the insurers with whom they deal as well as a requirement to disclose the basis on which they are remunerated. This change formalises a requirement in the existing codes of conduct for both financial advisers and authorised insurance representatives and represents good practice already in effect in industry. These disclosures have a positive impact on client protection as it is important for clients to be aware of conflicts of interest in buying insurance through intermediaries.

This change will bring the Bailiwick into compliance with the IAIS^[1] Insurance Core Principles' requirements laid out in ICP 18 in relation to "Intermediaries" (see Annex 2). This remedies a shortcoming highlighted in Guernsey's 2019 [IAIS review](#)^[2].

Consultation Period

Responses to this Consultation Paper are sought by 29 January 2024.

The Consultation Paper, including red line changes to the relevant Rules, can be found below.

Please respond via the online survey, below.

^[1]The International Association of Insurance Supervisors (IAIS) is an organisation of insurance supervisors and regulators which aims to promote effective and globally consistent supervision of the insurance industry. It sets international insurance standards which countries conducting international insurance business are expected to enact and enforce.

^[2] [Detailed Assessment of Observance - IAIS Insurance Core Principles \(ICPs\) - Bailiwick of Guernsey](#)

Related

 [Insurance Intermediaries Disclosure Consultation Paper](#)
409.6 KB (PDF document)

Audiences

Consumer Financial Advisor Insurance Intermediaries

Guernsey Financial Services Commission

**Feedback Paper following consultation on the Disclosure Rules
for Insurance Intermediaries**

April 2024



Guernsey Financial
Services Commission

Contents

1. Introduction.....	2
Who is affected by the rule changes?	2
Background to the Consultation	2
Summary of the Consultation	2
2. Assessment of Consultation Feedback.....	4
Feedback Summary	4
Feedback regarding consultation Question One.....	4
Feedback regarding consultation Question Two.....	5
3. Next Steps.....	5
Annex 1 – Insurance Intermediaries Rules and Guidance, 2021.....	6

1. Introduction

This paper provides feedback on the responses received to the Commission’s consultation paper (“CP”) on Disclosure Rules for Insurance Intermediaries, which was issued in December 2023. It explains how we have responded to that feedback, including any changes we have made to the proposals originally put forward.

Who is affected by the rule changes?

The rule changes set out in this feedback paper will affect licensed insurance intermediaries and their clients.

There are 35 intermediaries in the Bailiwick to whom the rules changes apply.

Background to the Consultation

The CP proposed changes to the Insurance Intermediaries Rules and Guidance that would require insurance intermediaries to disclose the nature of their relationship with the insurers with whom they deal as well as a requirement to disclose the basis on which they are remunerated.

These disclosures have a positive impact on client protection and will bring the Bailiwick into compliance with the IAIS¹ Insurance Core Principles’ requirements laid out in ICP 18 in relation to “Intermediaries”. This remedies a shortcoming highlighted in Guernsey’s 2019 [IAIS review](#)².

Summary of the Consultation

The proposals in the CP focussed on increasing the amount of information disclosed to clients to ensure they can make a fully informed decision before purchasing a policy and comprised the following:

- Name and disclose the intermediary’s relationship to the insurers they represent, for example where they own or are part of the same group as the insurer,
- Disclose whether the intermediary is representing the client or acting for and on behalf of the insurer,

¹The International Association of Insurance Supervisors (IAIS) is an organisation of insurance supervisors and regulators which aims to promote effective and globally consistent supervision of the insurance industry. It sets international insurance standards which countries conducting international insurance business are expected to enact and enforce.

² [Detailed Assessment of Observance - IAIS Insurance Core Principles \(ICPs\) - Bailiwick of Guernsey](#)

- Identify and disclose where the intermediary is offering insurance products from a limited number of insurers (three or fewer), and
- Disclose the basis on which the intermediary is remunerated.

Prior to publication of the CP, the Commission engaged with industry, meeting with a selection of intermediaries (eight in total, including long-term, general, and combined long-term and general) to understand current industry practice. This engagement informed the content of the CP.

The Consultation period ran for seven weeks, until 29 January 2024.

During the consultation, the Commission received six responses, all from licensees. Therefore, licensees' responses have been taken into account and are laid out below as part of the consultation feedback.

2. Assessment of Consultation Feedback

Feedback Summary

The Commission received 6 responses to its CP, in addition to the initial feedback received from its engagement with industry prior to publication.

The feedback received from licensees has been constructive and mostly positive. The majority of respondents confirmed that the proposed disclosures are well-established good practice and considered it a positive development for this to be formalised in the rules. A number of intermediaries highlighted the importance of an appropriate implementation period so they had time to update their systems and processes. In addition, several licensees commented that the proposed changes would increase transparency which would ultimately benefit consumers.

Feedback regarding consultation Question One

Question one covered three related proposals, that intermediaries must:

- name, and disclose their relationship to, the insurers they represent, for example where they own or are part of the same group as the insurer,
- disclose whether they are representing the client or acting for and on behalf of the insurer, and
- disclose the basis on which they are remunerated.

As discussed in the CP, these proposals are intended to make clients of insurance intermediaries aware of conflicts of interest that may exist so that they can make an informed decision about the products they purchase.

Q1: Do you have any comments on the proposal that intermediaries should disclose to clients the relationship of the insurers with whom they transact as well as the basis on which they are remunerated?

Of the six consultation responses the Commission received, the majority were either in favour of the proposals, noting that it was good practice within the industry, or had no comment. Several respondents also stated that increased transparency was in the interest of consumers. One respondent stated that they did not see the need for the proposed changes but did not provide further explanation.

As a result of the above feedback, no changes are proposed to the rules set out in the CP other than slightly re-phrasing rules 7.4.4.(2)(c) and (d) to make their intent clearer.

Feedback regarding consultation Question Two

As with the first set of proposals, the proposal covered by Question two is intended to provide clients with the information they need to make an informed choice regarding the insurance products offered or recommended by insurance intermediaries.

Q2: Do you have any comments on the proposal that intermediaries should disclose to clients whether they are offering insurance products from a limited number of insurers (three or fewer)?

The six consultation responses received for Question two were similar to those received for Question one, with the majority either in favour or making no comment and one stating that they do not see the need for the proposed change, noting that they are limited to three insurers for one of their lines of business. While the Commission recognises that there may be a limited number of insurers serving a particular market, customers should still be made aware of this limited selection.

As a result of the above feedback, no changes are proposed and the rules are to be amended as proposed in the CP.

3. Next Steps

The Commission has carefully considered the feedback it has received.

As noted above, the overwhelming majority of the feedback was positive. As a result, the Commission intends to proceed with the proposed changes as outlined in the Consultation Paper, other than the changes to rule 7.4.4., noted above. In addition, the content of the guidance boxes has been amended for greater clarity. The final version of the amended rules and guidance can be found in Annex A, below.

A number of respondents highlighted the importance of an appropriate lead in time. As a result, the amendments to the Insurance Intermediaries Rules and Guidance will come into effect on the 1st January 2025.

Annex 1 – Insurance Intermediaries Rules and Guidance, 2021

Marked up Copy of the Amendment to Rules 7.4.4 and 7.4.5 – as proposed in the CP.

7.4.4 Client relations – disclosure

(1) This rule does not apply where a licensee provides intermediary services to a client who is an eligible counterparty.

(2) Before a licensee provides insurance intermediary services to a client it must disclose to them, in writing:

- (a) the services and products offered;
- (b) the expertise of the licensee;
- (c) the nature of the relationship between the licensee and the insurer with whom it transacts or intends to transact; and
- (d) whether they are acting for and on behalf of the insurer or represent the client.

(3) A licensee must not recommend a transaction to a client unless it has taken reasonable steps to make them aware of the risks involved; including conflicts of interest.

Guidance Note

Where the insurance intermediary has chosen to or is able to only select products from a limited selection of insurers (three or fewer) for a particular line of business, the intermediary should make appropriate disclosures to the client, including at least:

- the fact that the selection is limited (and to how many insurers)
- name of the insurer whose policies are offered,
- the nature of the relationship with any insurer whose policies are offered to the client.
This includes whether they are under common ownership, or are otherwise related businesses, have a financial interest in an insurer or insurance group, act as an agent of the insurer, or any other circumstance from which potential conflicts of interest could arise.

Disclosures should be provided as part of a terms of business agreement.

In addition, intermediaries are expected to highlight such disclosures orally when dealing directly with clients and to disclose appropriate information on websites and other media made available to clients.

7.4.5

Client relations – fees, charges, and remuneration

- (1A) Before a licensee provides insurance intermediary services to a client it must disclose to them, in writing the basis on which the licensee is remunerated.
- (1) Before entering into an agreement to provide investment services to a client, a licensee must disclose, to the client in writing, all fees and charges for providing those services, together with the basis of their calculations.
 - (2) A licensee must disclose all remuneration to be received in connection with a transaction prior to the execution of the transaction. If the amounts are not known then the basis of the calculation must be provided. This does not apply –
 - (a) to transactions relating to general insurance business, unless the client requests disclosure; or
 - (b) to execution-only business, unless the client requests disclosure.
 - (3) Remuneration must be disclosed in a manner appropriate to the category of client to which it relates.

Guidance Note

For the avoidance of doubt, intermediaries must disclose the basis on which they are remunerated, whether through fees, commission or other methods of remuneration (including economic benefit).

Intermediaries must disclose details of all fees and charges to clients before entering into an agreement for investment services, including single premium products.

Intermediaries must disclose full details of their fees, charges and remuneration prior to executing long term insurance contracts.

For General Insurance intermediaries must disclose the basis of remuneration and are only obliged to disclose full details of the amount of remuneration when requested by the client.

GUERNSEY STATUTORY INSTRUMENT NO.

THE INSURANCE INTERMEDIARIES (AMENDMENT) RULES, 2024

Made: 22nd March 2024

Coming into Operation: 1st January 2025

The Guernsey Financial Services Commission (the “Commission”), in exercise of the powers conferred on it by sections 3, 18, 20, 61 and 62 of *The Insurance Managers and Insurance Intermediaries (Bailiwick of Guernsey), 2002*¹ (the “Law”) makes the following Rules.

¹ Order in Council No. XXII of 2002.

Citation and Commencement

1. These Rules may be cited as The Insurance Intermediaries (Amendment) Rules, 2024 and amend the Insurance Intermediaries Rules, 2021² (“the Rules”).
2. These Rules shall come into force on 1st January 2025.

Amendments

3. The Rules are amended in accordance with Annex A.

Dated this 22nd day of March , 2024



J. P. WINSER

Chairman of the Guernsey Financial Services Commission

For and on behalf of the Commission

² No.139 of 2021.

Annex A

Amendments to The Insurance Intermediaries Rules, 2021

In this section underlining indicates new text, to be added to the Rules, and striking through indicates text to be deleted:

...

7.4 Conduct of business

...

7.4.4 Client relations – disclosure

- (1) This rule does not apply where a licensee provides intermediary services to a client who is an eligible counterparty.
- (2) Before a licensee provides insurance intermediary services to a client it must disclose to him, in writing, ~~the services, products offered, and the expertise of the licensee.~~ —
 - (a) the services and products offered;
 - (b) the expertise of the licensee;
 - (c) the nature of the relationship between the licensee and the insurer with whom it transacts or intends to transact; and
 - (d) whether they are acting for and on behalf of an insurer or represent the client.
- (3) A licensee must not recommend a transaction to a client unless it has taken reasonable steps to make them aware of the risks involved, including conflicts of interest.

7.4.5 Client relations – fees, charges, and remuneration

- (1A) Before a licensee provides insurance intermediary services to a client it must disclose to them, in writing, the basis for which the licensee is remunerated.
- (1) Before entering into an agreement to provide investment services to a client, a licensee must disclose, to the client in writing, all fees and charges for providing those services, together with the basis of their calculations.

...

Guernsey Financial Services Commission

**Consultation Paper on
Disclosure Rules for Insurance Intermediaries**

December 2023

Contents

Introduction.....	3
Affected and Interested Parties.....	3
Purpose of the Consultation Paper.....	3
Consultation Period	3
Background	4
Relationships between insurance intermediaries and insurers	4
Proposed Changes	5
Disclosure Requirements – Relationship between intermediaries and insurers & Basis of Remuneration.....	5
Consultation Questions.....	6
Annex 1 – Insurance Intermediaries Rules and Guidance, 2021	7
Annex 2.....	9
For information – Insurance Core Principle 18 Intermediaries Disclosure – extract from IAIS Published Guidance	9

Introduction

Affected and Interested Parties

These proposals would affect licensed insurance intermediaries. At present, there are 35 intermediaries in the Bailiwick to whom these rules will apply, but only a proportion of them would be directly affected by the proposed changes.

Purpose of the Consultation Paper

In this Consultation Paper the Commission proposes to amend The Insurance Intermediaries Rules and Guidance (“the Rules”) for disclosure. This will require insurance intermediaries to disclose the nature of their relationship with the insurers with whom they deal as well as a requirement to disclose the basis on which they are remunerated. This change formalises a requirement in the existing codes of conduct for both financial advisers and authorised insurance representatives and represents good practice already in effect in industry. These disclosures have a positive impact on client protection as it is important for clients to be aware of conflicts of interest in buying insurance through intermediaries.

This change will bring the Bailiwick into compliance with the IAIS¹ Insurance Core Principles’ requirements laid out in ICP 18 in relation to “Intermediaries” (see Annex 2). This remedies a shortcoming highlighted in Guernsey’s 2019 [IAIS review](#)².

Consultation Period

Responses to this Consultation Paper are sought by 29 January 2024.

We welcome and encourage respondents to provide feedback or comment on any section and question. Feedback may be provided via the Consultation Hub section of the Commission’s website (www.gfsc.gg).

¹The International Association of Insurance Supervisors (IAIS) is an organisation of insurance supervisors and regulators which aims to promote effective and globally consistent supervision of the insurance industry. It sets international insurance standards which countries conducting international insurance business are expected to enact and enforce.

² [Detailed Assessment of Observance - IAIS Insurance Core Principles \(ICPs\) - Bailiwick of Guernsey](#)

Background

Section 2 of the Insurance Managers and Intermediaries Law (IMIL) prohibits a person from acting as an intermediary or professing to carry on the business of an intermediary unless the person is licensed. An insurance intermediary is defined under Section 2(4) as a person other than an insurance representative who by way of business:

- advises clients on their insurance requirements, and/or
- arranges contracts of insurance between insurers and clients.

The composition of the Bailiwick's industry is such that locally licenced intermediaries distribute the products of insurers from within and without the Bailiwick to local residents. There are currently 35 entities licensed in Guernsey as insurance intermediaries.

Relationships between insurance intermediaries and insurers

Close relationships between intermediaries and insurers are common and manageable, but when they remain undisclosed, a client that is ignorant of the connection might place too much reliance on the intermediary's recommendations, both at point of sale and in a loss event where the client is making a claim.

The key risks of not identifying the insurer and disclosing the intermediary-insurer relationship are as follows:

- If the insurer is not identified to the client before the point of sale, the client cannot make a fully informed decision about the policy before purchasing it.
- Unless the precise relationship between intermediary and insurer is explained clearly to the client before the point of sale, clients:
 - may misunderstand the disparate responsibilities of the intermediary and the insurer; and
 - cannot judge for themselves the risks posed by conflicts arising from the intermediary's relationship to the insurer.

It is important that clients are treated fairly and that they can have confidence that they have all the relevant information to select a suitable product.

Therefore, where the insurance intermediary offers products from a single insurer or from a limited range of insurers the intermediary must disclose this. Clients are then properly informed and may wish to investigate whether they can obtain a more suitable product or better terms elsewhere.

Potential conflicts of interest can arise for intermediaries if they are part of a wider group or have financial interest in an insurer or insurance group. The Commission recognises that in many cases such relationships are beneficial and is not seeking to restrict or prevent such

arrangements. However, they can give rise to conflicts of interest and should therefore be disclosed.

Information about the charges and commission arrangements for the intermediary is important for clients to be able to make a fully informed decision about a policy before purchasing it.

Proposed Changes

Disclosure Requirements – Relationship between intermediaries and insurers & Basis of Remuneration

It is important that insurance intermediaries provide clients with enough information to ensure they can make a fully informed decision before purchasing a policy. This includes disclosing their relationship with the insurers with whom they deal as well as the basis on which they are remunerated, which may be relevant in the context of any information they provide to clients.

The Commission is proposing to change the Rules to add requirements for insurance intermediaries to:

- Name and disclose their relationship to the insurers they represent, for example where they own or are part of the same group as the insurer,
- Disclose whether they are representing the client or are acting for and on behalf of the insurer,
- Identify and disclose where they are offering insurance products from a limited number of insurers (three or fewer), and
- Disclose the basis on which they are remunerated.

This should be done in a manner which is clear to their clients before the point of sale.

Such disclosure is a well-established principle of good practice and would be expected as part of any intermediaries' obligation to ensure that clients are treated fairly, as laid out in the codes of conduct for both financial advisers and authorised insurance representatives.

The Commission will require information on the insurance intermediary's relationship with the insurers with whom they deal to be provided in writing to clients before entering into a business agreement. Information should also be provided on the intermediary's website or promotional material. In some circumstances, such as when the insurer and intermediary are under common ownership, it may be appropriate to additionally highlight this information verbally. Information on charging may be provided as part of a terms of business agreement, or separately.

As noted, this is a requirement of the international insurance standards set out by IAIS in part 18.5 of its insurance core principles. A copy of the relevant section of ICP 18 is attached in the Annex to this document.

Consultation Questions

Q1: Do you have any comments on the proposal that intermediaries should disclose to clients the relationship of the insurers with whom they transact as well as the basis on which they are remunerated?

Q2: Do you have any comments on the proposal that intermediaries should disclose to clients whether they are offering insurance products from a limited number of insurers (three or fewer)?

Responses to this consultation are requested by 29 January 2024.

Feedback may be provided online through the Consultation Hub section of the Commission's website, <https://consultationhub.gfsc.gg/>. Following the consultation, the Commission will provide a summary of the feedback received and a final update to the Rules.

Annex 1 – Insurance Intermediaries Rules and Guidance, 2021

Marked up Copy of the Amendment to Rules 7.4.4 and 7.4.5

7.4.4 Client relations – disclosure

(1) This rule does not apply where a licensee provides intermediary services to a client who is an eligible counterparty.

(2) Before a licensee provides insurance intermediary services to a client it must disclose to them, in writing:

- (a) the services and products offered;
- (b) the expertise of the licensee; and
- (c) the nature of the relationship between the licensee and the insurer with whom it is transacting
- (d) whether they are representing the client or are acting for and on behalf of the insurer.

(3) A licensee must not recommend a transaction to a client unless it has taken reasonable steps to make them aware of the risks involved; including conflicts of interest.

Guidance Note

Where the insurance intermediary has chosen to or is able to only select products from a limited selection of insurers (three or fewer) for a particular line of business, the intermediary should make appropriate disclosures to the client, including at least:

- the fact that the selection is limited (and to how many insurers)
- name of the insurer whose policies are offered,
- the nature of the relationship with any insurer whose policies are offered to the client. This would include such cases as, for example, being under common ownership, having financial interest in an insurer or insurance group, being an agent of the insurer, or any other situations from which conflicts of interest could arise.

Disclosures should be provided as part of a terms of business agreement. In addition, intermediaries would be expected to highlight such disclosure verbally when dealing directly with clients and to disclose appropriate information on websites and other media made available to clients.

7.4.5 Client relations – fees, charges, and remuneration

- (1) Before a licensee provides insurance intermediary services to a client it must disclose to them, in writing the basis on which the licensee is remunerated.
- (2) Before entering into an agreement to provide investment-services to a client, a licensee must disclose, to the client in writing, all fees and charges for providing those services, together with the basis of their calculations.
- (3) A licensee must disclose all remuneration to be received in connection with a transaction prior to the execution of the transaction. If the amounts are not known then the basis of the calculation must be provided. This does not apply –
 - (a) to transactions relating to general insurance business, unless the client requests disclosure; or
 - (b) to execution-only business, unless the client requests disclosure.
- (4) Remuneration must be disclosed in a manner appropriate to the category of client to which it relates.

Guidance Note

For the avoidance of doubt, disclosing the basis under which a licensee is remunerated does not necessarily entail a detailed breakdown of fees, but the type, such as fees, commission, other types of remuneration (including economic benefit), or any combination of those. The licensee should however disclose specific amounts if requested by the client.

Annex 2

For information – Insurance Core Principle 18 Intermediaries Disclosure – extract from IAIS Published Guidance



18.4.4 Relevant to governance, intermediaries are required to establish and implement policies and processes on the fair treatment of customers that are an integral part of their business culture (see Standard 19.2).

18.4.5 The governance of an insurer's direct sales staff is the responsibility of the insurer, and the governance of insurers is the subject of ICP 7 (Corporate Governance). Although ICP 7 is otherwise not directly applicable to intermediaries, it may be a useful source of information for intermediary supervisors.

18.5 The supervisor requires insurance intermediaries to disclose to customers, at least:

- **the terms and conditions of business between themselves and the customer;**
- **the relationship they have with the insurers with whom they deal; and**
- **information on the basis on which they are remunerated where a potential conflict of interest exists.**

18.5.1 In addition to disclosing matters relating to intermediaries themselves, intermediaries are required to disclose information on insurance products offered to customers (see Standards 19.5 and 19.6).

18.5.2 In setting disclosure requirements, the supervisor may take into account that there are differences in:

- the nature of different insurance products;
- the level of sophistication of different customers; and
- the way in which different types of insurance are transacted (for example, differences between commercial and personal (retail) lines).

The nature, timing and detail of disclosures may differ according to the circumstances. Nevertheless, disclosure requirements should provide adequate information to customers, taking into account these factors.

Terms of business

18.5.3 A terms of business agreement may be a convenient means by which an insurance intermediary can provide important information to a customer and satisfy many of the disclosure requirements. Such a document may include information such as:

- by whom they are licensed and supervised;
- the type of business for which they are licensed;
- whether they are independent or act on behalf of one or more insurers;
- information on the basis on which they are remunerated;
- the services provided, including whether they offer products from a full range of insurers, from a limited range or from a single insurer;



- charging arrangements for the intermediation services;
 - cancellation rights in respect of the intermediation services;
 - notification of complaints;
 - client money arrangements, including treatment of interest;
 - confidentiality of information provided; and
 - the relevant law governing the agreement.
- 18.5.4 Insurance intermediaries should provide information on terms of business to customers and do so prior to an insurance contract being entered into. Where there is an ongoing business relationship between an intermediary and a customer, or once terms of business information has initially been provided in the case of policy renewals, the intermediary should review whether reiterating this information is necessary. Further information on terms of business might only be necessary where there are changes to the terms.
- 18.5.5 When insurance cover needs to be arranged immediately it may not be possible to provide documentation of terms of business at the point of arranging the contract. In such situations the information may be provided orally and followed up with written documentation within a reasonable period of time.
- 18.5.6 The supervisor may recommend, or require, that a copy of the terms of business, signed by the customer, is retained as part of the insurance intermediary's records. Where insurance is intermediated over the internet, the customer may be required to acknowledge the terms of business before a policy can be proceeded with. Electronic records should also be retained by the intermediary.

Intermediary status

- 18.5.7 An insurance intermediary's status may provide information to a customer on the extent of products from which recommendations are made and provide an indication of potential conflicts of interest. Where the insurance intermediary is only able to select products from a single insurer or from a limited range, the customer may wish to carry out their own research to see whether they can obtain better terms or a more suitable product elsewhere in the market.
- 18.5.8 It is particularly important that insurance intermediaries provide customers with information on their relationship with the insurers with whom they deal, specifically whether they are independent or act for one or more insurance companies, and whether they are authorised to conclude insurance contracts on behalf of an insurer or not.
- 18.5.9 Potential conflicts of interest can arise for some intermediaries if the intermediary is part of a wider group or if the intermediary has a financial interest, such as a shareholding, in an insurer or insurance group. Such relationships should be disclosed to customers.
- 18.5.10 Information on the insurance intermediary's status may be provided as part of a terms of business agreement or separately. Because of its importance, this information may also be highlighted verbally to the customer.



Remuneration

- 18.5.11 Insurance intermediaries are generally remunerated by way of fees and commissions, such as:
- fees paid directly by the customer;
 - fees or commissions paid indirectly by the customer, by way of deduction from premiums or funds invested; or
 - fees or commissions paid by the insurer.
- 18.5.12 Where insurers' direct sales staff carry out insurance intermediation as employees of the insurer, they may be salaried as well as receive any applicable commission.
- 18.5.13 Information on charging structures may be important information to customers. For example, for insurance products with an investment element, information on any fees or other costs deducted from the initial amount invested, as well as on fees or commissions deducted from the investment thereafter will be important.
- 18.5.14 Information on charging may be provided as part of a terms of business agreement, or separately. As fees and commissions vary by product and between product providers, they may need to be provided separately for each product recommended, often by inclusion in product documentation. Given their significance to some types of product, this information may also be highlighted verbally to the customer.
- 18.5.15 The supervisor may also require that, upon a customer's request to the intermediary, the customer is provided with further information on fees and commissions, including the level of fees and commissions. The intermediary should make the customer aware of his/her right to request information on fees and commissions. Communication should be clear and not misleading. In view of the impact of fees and commissions upon insurance products with an investment element, the supervisor may require that disclosure of fees and commissions is provided to customers prior to contracts being entered into in respect of all such products.
- 18.5.16 Some forms of remuneration of insurance intermediaries potentially lead to a conflict of interest. For example, an intermediary may be tempted to recommend a product which provides higher fees or commissions than another. Potential conflicts of interest for intermediaries may exist in a variety of circumstances (see ICP 19 Conduct of Business).
- 18.5.17 The supervisor should be satisfied that the intermediary has robust procedures in place to identify and avoid, or manage, conflicts of interest, and deliver outcomes aligned with customers' best interests. Where they cannot be avoided, or managed satisfactorily, this would result in the intermediary declining to act. Conflicts of interest may be managed or avoided in different ways depending on the nature and severity of the conflict of interest (see Application Paper on Supervising the Conduct of Intermediaries).
- 18.5.18 Additionally, circumstances in which conflicts of interest may arise may be covered in the codes of conduct issued by SROs or other professional bodies.



18.5.19 The supervisor should be aware of the use of non-monetary benefits, including, for example, “soft” commissions, offered by insurers to intermediaries. These may include less tangible inducements such as professional support, IT support, or corporate entertainment at sporting or cultural events. Such inducements may lead to conflicts of interest and are less transparent than fees or commissions and also need to be avoided, managed or prohibited as appropriate.