



**ISLE OF MAN
FINANCIAL SERVICES AUTHORITY**

Lught-Reill Shirveishyn Argidoil Ellan Vannin

Conduct of Business for non-life insurers

Consultation Paper

CP17-01/T01

This consultation paper is issued by the Isle of Man Financial Services Authority (“the IOMFSA”, “the Authority”), the regulatory authority responsible for the supervision of the financial services, insurance and pensions sectors in the Isle of Man.

What is it for?

In June 2013 the Insurance and Pensions Authority¹ (“IPA”) published its Roadmap for updating the Isle of Man’s regulatory framework for insurance business (“the Roadmap”) and through that document set out the objective to establish a project to enhance the Island’s regulatory framework to ensure that it remains up to date, proportionate and, where appropriate, consistent with the updated and revised Insurance Core Principles (“ICPs”) issued by the International Association of Insurance Supervisors (“IAIS”). Since its issue the Roadmap has been updated annually to reflect progress made across the various work streams established under the project.

A key element of the developments proposed within the Roadmap is the enhancement of requirements in matters related to conduct of business. This consultation builds on the feedback received in response to DP14-05² in relation to the Authority’s proposals to enhance existing conduct of business requirements for non-life insurers. Proposals to enhance existing conduct of business requirements for long-term insurers have been consulted upon in CP15-02 and CP16-03.

Who is affected by it?

This document will be of interest to the boards and senior management of existing and prospective non-life insurance companies. In particular it will be of interest to those with responsibility for the management and oversight of the operational, compliance, marketing, product development and risk management functions within those companies.

Given the focus in this paper on themes supporting the fair treatment of customers, notably those in “retail” customer groups, the information discussed may be of less direct relevance to captive insurers and reinsurers writing group risks on a business to business basis, than will be the case for commercial insurers writing third party risks. However, the Authority will need to give further consideration to applying conduct of business requirements

¹ With effect from 1st November 2015 the functions of the Insurance and Pensions Authority were transferred into the Isle of Man Financial Services Authority
<http://www.iomfsa.im/ViewNews.gov?page=lib/news/iomfsa/transfereoffuncti.xml&menuid=11570>

² <http://www.iomfsa.im/ConsultationDetail.gov?id=449>

proportionately for such insurers and so feedback from these parts of the sector will be important in formulating the views on this. Feedback already provided in response to the latest Quantitative Impact Study (QIS3) and associated data collection exercise will also be used to inform the Authority's view on developing a proportionate regime for captives, reinsurers and such other types of insurer as may be identified as requiring special consideration.

Other parties with an interest in the Isle of Man insurance sector, including general insurance intermediaries and the legal and auditing professions may also find this consultation paper and the issues raised of interest.

<i>Issue date</i>	<i>31 January 2017</i>
<i>Closing date for comments</i>	<i>14 March 2017</i>

The information you send may be published in full or in a summary of responses.

All information in responses, including personal information, may be subject to publication or disclosure in accordance with the access to information regimes (these are primarily the Freedom of Information Act 2015 and the Data Protection Act 2002). If you want your response to remain confidential you should explain why confidentiality is necessary. Your request will be acceded to only if it is appropriate in the circumstances. An automatic confidentiality disclaimer generated by your IT system will not, of itself, be regarded as binding.

Contents

Executive Summary.....	5
1 Introduction	7
1.1 Developing standards in conduct of business	7
1.2 The scope and purpose of this discussion paper.....	7
1.3 Taking account of the characteristics of the Isle of Man insurance market	8
2 IAIS ICPs and ICP19.....	10
3 Enhancing conduct of business requirements in the Island’s regulatory framework	10
3.1 Fair Treatment of Customers	10
3.1.1 Procedures	10
3.1.2 Retail Customers	11
3.1.3 Culture.....	12
3.2 Pre-Sales Process	12
3.2.1 Product development, marketing and promotion.....	12
3.2.2 Provision of information to policyholders	14
3.2.3 Appropriateness of advice	14
3.2.4 Managing conflicts of interest	15
3.3 Appropriate policy servicing and ongoing disclosure of information	16
3.4 Claims processing	18
3.5 Complaints and Dispute Resolution	18
3.6 Privacy and data protection.....	19
3.7 Disclosure of information by supervisors.....	20
4 Supervisory Approach.....	21
4.1 Current supervisory approach	21
4.2 Developments to the Authority’s supervisory approach in light of conduct of business requirements.....	21
5 Responding to CP17-01/T01	23

Glossary of Terms

Term	Meaning in this document
Act	Insurance Act 2008
Authority	The Isle of Man Financial Services Authority
Bill	Insurance (Amendment) Bill 2016
CGC	Corporate Governance Code of Practice for Regulated Insurance Entities
Code	The draft Conduct of Business (Non-long Term Insurance) Code 2017
IAIS	International Association of Insurance Supervisors
ICOBS	The UK Financial Conduct Authority's Insurance: Conduct of Business Sourcebook
ICPs	Insurance Core Principles (of the IAIS)
IMF	International Monetary Fund
Insurance Regulations	The Insurance Regulations 1986
IPA	The former Insurance and Pensions Authority
Roadmap	Roadmap for updating the Isle of Man's regulatory framework for insurance business
UK FCA	UK Financial Conduct Authority

Executive Summary

Having reviewed feedback from DP14-05, the Authority issues this consultation paper (CP17-01/T01) which sets out the Authority's views on developing the Island's existing regulatory framework in matters of conduct of business for non-life insurers, taking into account developing international standards, including the ICPs.

CP17-01/T01 sets out proposals and rationale for implementation measures principally through binding guidance in the form of a draft Conduct of Business Code, which is attached as an appendix to this paper. The Code is proposed to apply to insurers writing business under Classes 3 to 9 of the Insurance Regulations 1986.

The existing Corporate Governance Code of Practice for Regulated Insurance Entities addresses many of the standards in the ICPs; however, this paper explores a number of areas where the Authority believes more detailed conduct of business provisions are required.

Such developments to the Island's framework will require the boards and senior management of insurance businesses covered by the Code to embed the fair treatment of customers within their business culture, through the implementation of policies and procedures which reflect fair treatment as a key strategic objective.

The proposed Code will include binding requirements in the following areas:

- Overarching requirements for regulated entities to treat customers fairly through the development of policies and procedures as an integral part of a regulated entity's business and culture;
- Expectations for product development, to ensure products are developed and marketed in a way that pays due regard to the interests of customers;
- Requirements around the provision of information to customers at point of sale;
- Procedures for granting terms of business to intermediaries and monitoring the operation of those terms of business;
- The introduction of a requirement for a cancellation period for contracts issued by authorised insurers;
- Proposals for ongoing disclosure requirements covering information to be provided to policyholders post sale;
- Procedural requirements for claims processing.

The Authority welcomes feedback on the proposals set out in this paper and the draft Code.

1 Introduction

1.1 Developing standards in conduct of business

Standards for conduct of business, reflected in regulatory frameworks designed to ensure the fair treatment of consumers, have been subject to increasing focus and have undergone significant change in recent years.

The Authority recognises these developing standards and the need to review and update its framework where necessary to ensure the Island maintains an appropriate environment for existing and prospective insurance businesses.

In order that the regulatory framework remains up to date, appropriate to the characteristics of the Island's insurance sector, and consistent with international market developments and standards, the Authority has identified that more detailed conduct of business requirements are needed to complement or replace (where appropriate) the Island's existing regulatory framework.

Accordingly, in developing new requirements in relation to these matters, the Authority has given consideration not only to the ICP standards, but has also taken account of developments in other jurisdictions as well as the specific nature of the Isle of Man's insurance sector.

1.2 The scope and purpose of this consultation paper

An initial discussion paper on conduct of business (DP14-05) was issued by the Authority to all insurers on the Island. The feedback to that discussion paper indicated some concern in respect of applying common standards to both long term insurance and general insurance business. The Authority recognises that it is appropriate to consider these different business profiles separately and accordingly has progressed the development of the conduct of business requirements for long term business separately through the issue of two further consultation papers (CP15-02 and CP16-03).

The purpose of this consultation paper is to present the Authority's views on the requirements within relevant ICPs in the context of the Authority's existing regulatory framework for non-life term insurers and to set out for consideration an initial draft Conduct of Business (Non-long Term Business) Code included as an appendix to the main body of the paper. This Code, referred hereafter throughout this paper as "the Code", is proposed to take the legal form of binding guidance issued under the Insurance Act 2008.

Many of the requirements set out in the Code build on existing principles established in the in the CGC. It is anticipated that the CGC will also be subject to change as part of the wider

development work being undertaken, and this will be consulted upon separately during 2017, in accordance with the Roadmap.

1.3 Taking account of the characteristics of the Isle of Man insurance market

An underlying assumption within the Authority's review of its framework is that consideration shall be given to the specific nature of different parts of the Isle of Man's insurance sector, to ensure that any associated regulatory developments are appropriate and proportionate to each sector, based on relevant international standards.

The Island's non-life insurance sector is predominantly made up of captive insurers and associated specialist insurance management companies, ranging from subsidiaries of the major international insurance broking and risk management organisations to local operations. Third party commercial writers and providers of insurance to individuals make up a relatively small portion of the non-life market.

When reviewing its framework for conduct of business for non-life insurance, the Authority is mindful of the need for this to be applied proportionately. The Authority acknowledges that there should be a difference in the way that third party commercial general insurers and captive insurers, reinsurers and other types of insurer that warrant special consideration are regulated. It is recognised that the need to protect policyholders, for example, is reduced for pure captive insurers (where insurance is only provided to related companies) and reinsurers (where insurance is provided to other insurers).

In the case of captives, a captive insurer with no unrelated party policyholders or potential third party beneficiaries would represent the lowest risk to the Authority's regulatory objective of protecting policyholders. However, the Authority is aware that there is often a mix of business within captives and as part of the ICP Project the Authority will be reviewing the regulatory framework to ensure that it provides sufficient protection for unrelated policyholders and third party beneficiaries within captives.

This is initially being considered within the QIS3 exercise for non-life insurers by testing criteria that could be used to determine the confidence levels that should be applied to the capital framework for insurers where policyholders are completely independent of the insurer, are all members of the insurers' group of companies, or are somewhere in between. The outcome of this exercise will be used to inform the Authority's view in other areas where it may be appropriate to implement a proportionate framework for captives.

Consequently, it is not currently proposed that detailed conduct of business requirements are implemented for captives, reinsurers and other types of insurer that warrant special consideration; however, this does not relieve such insurers from their duty to provide

complete and accurate information when providing insurance. The CGC will continue to apply to all authorised insurers and, as noted above, this addresses many of the standards in the ICPs. It is likely that this will be sufficient for captive insurers and reinsurers, although the Authority may supplement it with non-binding guidance where there are areas that require clarification on the specific application to these sectors.

This paper and the attached Code focuses on requirements for commercial insurers only i.e. insurance business ordinarily written under classes 3 to 9 of the Insurance Regulations.

Question 1

The Authority welcomes feedback on the proposed application of the Code to commercial insurers.

2 IAIS ICPs and ICP19

A key benchmark for the development of the Island's insurance regulatory framework are the ICPs, which represent the standards that the International Monetary Fund uses to assess a jurisdiction's regulatory framework.

Importantly, ICPs do not prescribe requirements for supervisory authorities to incorporate into supervisory frameworks, but provide an approach under which supervisors have sufficient flexibility to tailor supervisory requirements and actions according to the nature, scale and complexity of insurers operating in the sector under supervision.

In that context, ICP 19 has informed the Authority's current review of the third party commercial insurance sector. Conduct of business requirements are dealt with specifically in ICP19, which states:

The supervisor sets requirements for the conduct of the business of insurance to ensure customers are treated fairly, both before a contract is entered into and through to the point at which all obligations under a contract have been satisfied.

3 Enhancing conduct of business requirements in the Island's regulatory framework

In developing its proposals in this paper, the Authority has given consideration to the ICP's, developments in other jurisdictions as well as the Authority's view of different parts and risk profile within the Isle of Man's insurance and financial services sector.

This section highlights possible enhancements to the Island's regulatory framework that the Authority considers appropriate to ensure that its framework is brought up to date, is proportionate and, where appropriate, is consistent with standards adopted internationally in other reputable jurisdictions.

For the avoidance of doubt, not all ICP guidance is explicitly considered in this paper and where guidance is not included it is on the basis of the Authority's view of its relevance and / or proportionality to the Island's insurance sector. All guidance supporting ICP19 can be found at www.iaisweb.org.

3.1 Fair Treatment of Customers

As noted above, the ICP establishes two standards specifically addressing the fair treatment of customers. The Authority's review highlights the following key themes:

3.1.1 Procedures

Insurers will be required to have documented policies and procedures relating to the fair treatment of customers and supervisors will ensure they are in place.

Fair treatment of customers encompasses achieving outcomes such as:

- developing and marketing products in a way that pays due regard to the interests of customers;
- providing customers with clear information before, during and after the point of sale;
- reducing the risk of sales which are not appropriate to customers' needs;
- ensuring that any advice given is of a high quality;
- dealing with customer complaints and disputes in a fair manner;
- protecting the privacy of information obtained from customers;
- managing the reasonable expectations of customers.

These outcomes provide useful context to the areas of the Island's framework for which particular focus will need to be given. They are also reflective of good business practice and valued by customers, assisting in customer retention.

3.1.2 Retail Customers

The ICP specifically highlights retail customers as being of particular importance when establishing policies and procedures to achieve the fair treatment of customers, recognising the potential vulnerabilities of this customer segment owing to the inclusion of customers who can be assumed to have less insurance and / or financial expertise and the asymmetry of information that may exist between insurers and customers.

The concept of "retail customers" is recognised and embedded in many financial services markets, and regulators will often seek to impose a higher duty of care commensurate with the needs of retail customers, when compared to more sophisticated, professional or experienced users of financial services products. Regulators are seeking to protect vulnerable customers in this regard, and the Authority must consider who would be classed as a retail customer when considering general insurance products. In the main, general insurance customers are looking to protect their biggest assets (i.e. their house, car or business).

The UK Financial Conduct Authority outlines a distinction between a consumer and a commercial customer in the Insurance: Conduct of Business Sourcebook. However, feedback to DP14-05 indicated that generally customers of non-life insurers and general insurance intermediaries are not categorised in terms of their understanding of insurance. Although it was acknowledged that there may be different handling of personal and commercial lines, the Authority is aware that this differentiation may be an over simplification especially when considering small business clients who may often have little specific knowledge in terms of insurance products, but often will have more complex insurance needs than retail customers.

Having considered the feedback in this regard, the Authority is of the opinion that any proposals developed should be principles based and assume that all customers are unsophisticated in their knowledge of insurance. In this way, the developments proposed will form the minimum standard that insurers should apply to all customers in order to treat them fairly.

Question 2

The Authority welcomes feedback on the proposed application of the Code to all customers despite their level of insurance knowledge or expertise.

3.1.3 Culture

Fair treatment of customers is a cultural issue. It is only through establishing the right culture within the business that senior management can convert good intentions into fair outcomes for consumers.

Insurers will be required to adopt the fair treatment of customers as an integral part of their business culture through leadership (board and senior management), strategy and decision making. Leadership sets the tone of an organisation, driving the behaviour of staff and the quality of decision making. Strategy sets the direction and priorities of the business and the focus for management.

An insurer's approach to performance management and reward drives the behaviour of its staff and enables management to assess the quality of the performance of an individual. Recruitment, training and ongoing performance management of staff and agents should ensure high standards of ethics and integrity. Reward mechanisms should encourage positive customer outcomes and not result in unfair treatment of customers.

3.1.4 Proposed developments

The CGC establishes many of the principles central to the fair treatment of stakeholders, including policyholders. The concept of care, skill and diligence is central to the governance requirements established within the CGC and the principles of good governance required under the CGC encompass all aspects relating to insurers' business.

The existing framework therefore establishes the foundations for further development supporting the overarching customer fair treatment standards in ICP19.

The general principles in relation to fair treatment of customers are reflected in paragraph 5 of the Code.

3.2 Pre-Sales Process

In consideration of requirements around the pre-sales process, ICP19 includes 5 standards covering requirements in this area:

3.2.1 Product development, marketing and promotion

The first two standards, **in bold**, set out requirements for the approach to developing and marketing products:

(1) The supervisor requires insurers to take into account the interests of different types of customers when developing and marketing insurance products.

Within the guidance and the outcomes aligned to the fair treatment of customers, the ICP sets an expectation that insurance businesses should have the ability to identify their customers' needs and develop and market products in a way that pays due regard to those needs and interests. For example, products may be designed to offer customers a clear choice between coverage and price e.g. pet insurance that covers a medical condition for one year, regardless of whether the policy is renewed versus a more expensive policy which covers a medical condition for the life of an animal as long as the policy is renewed each year.

Additionally, the guidance gives scope for a supervisory authority to adopt either a rules based product approval style approach or a more principles based approach. DP14-05 stated that the Authority would not wish to introduce a barrier to timely product innovation and development and accordingly, the Authority is not proposing to develop a regime under which product approvals would be required from the Authority. The feedback to that discussion paper was supportive of the Authority's preference to develop a principles based approach, supplemented by guidance. This would place an onus on the insurer's board and senior management to ensure that products are developed and marketed in a manner which can be regarded as meeting the outcome that the legislated principle is designed to achieve.

The Authority has developed this approach and proposes to introduce a set of principles in the Code to supplement existing provisions in the CGC; these are set out in paragraph 6 of the Code.

(2) The supervisor requires insurers and intermediaries to promote products and services in a manner that is clear, fair and not misleading.

The guidance underlying this standard is clear in supporting the provision by insurers of accurate and clear information in promotional material and that such information should not be misleading for customers.

Importantly, in the context of the prevalence within the Island's insurance sector of third party distribution through intermediaries, the ICP guidance states that insurers should be responsible for providing information that is accurate, clear and not misleading not only to customers but also to intermediaries who may rely on this information in providing advice to customers.

Paragraph 5(2)(i) of the Code includes a requirement that an insurer must have procedures in place to ensure that it promotes its products and services in a manner that is clear, fair and not misleading.

The Authority does not propose to implement a promotion approval approach, as is adopted in certain jurisdictions, but will expect that firms have their own internal approval process to ensure that advertisements and any promotional materials are not misleading.

3.2.2 Provision of information to customers

The ICP includes the following standard in relation to the provision of information to policyholders:

The supervisor sets requirements for insurers and intermediaries with regard to the timing, delivery, and content of information provided to customers at point of sale.

The guidance focuses on both the timing and quality of information disclosure to customers. The emphasis is to ensure that a customer is given appropriate information before entering into a contract, so that the customer can make an informed decision.

Too much information may overload the customer with detail so that they cannot pick out the key messages and it may make them less likely to read what is provided. Accordingly, the suggestion within the guidance is that effective disclosure is generally best achieved through product disclosure in a standardised form, with the use of clear, fair and plain language that is not misleading.

In terms of timing of disclosure, the guidance is relatively prescriptive in setting a requirement that customers should be appropriately informed before and at the point of sale, taking account of the relative importance of information required in the customer decision making process and the point at which the information will be most useful. Information should enable customers to understand the characteristics of a product and disclose whether or not there is any policyholder protection or compensation scheme.

Due to the variety of third party commercial insurers within the sector, the Authority does not consider that it is necessary to introduce a prescribed standard form of product disclosure to be provided to prospective policyholders. However, there is certain information that the Authority considers appropriate to be disclosed to prospective policyholders of third party insurance writers (either directly or through an intermediary) and this requirement is set out in paragraph 7 of the Code.

3.2.3 Appropriateness of advice

The ICP establishes the following standard in relation to advice provided to customers:

The supervisor requires insurers and intermediaries to ensure that, where customers receive advice before concluding an insurance contract, such advice is appropriate, taking into account the customer's disclosed circumstances.

Third party general insurance business conducted in or from the Island is carried out both on a direct basis and through intermediaries, with the existing regulatory framework under the Act and the Insurance Intermediaries (General Business) Regulations 1999 setting out conduct requirements for general insurance intermediaries carrying on business in the Island. The Authority is of the view that prospective policyholders should benefit from the same level of protection regardless of which distribution channel is used.

This is supported by the ICP standard and the European Directive on Insurance Distribution ("IDD"). The IDD extends the scope of the Insurance Mediation Directive to cover all sales of insurance products. Insurance undertakings that sell insurance products directly are therefore brought within its scope on a similar basis to insurance agents and brokers.

The majority of the Island's insurance business is distributed through intermediaries. Consideration of the conduct of business requirements for intermediaries was included in discussion paper DP16-07 and so will not be considered within this paper. Some general insurance business is sold directly to customers and paragraph 19.1 of the CGC already applies certain high level requirements to insurers dealing directly with policyholders.

The Authority would expect that, where intermediaries are used, insurers have agreements with those intermediaries to ensure that the distribution methods used are appropriate for its products, their target market and are in line with the insurer's responsibility for the fair treatment of customers. Accordingly, in addition to the requirements discussed in relation to product governance and distribution, the Authority has developed requirements around:

- Granting terms of business to intermediaries
- Ongoing monitoring of the operation of those terms with those intermediaries

These draft requirements are set out in paragraphs 8 and 9 of the Code.

3.2.4 Managing conflicts of interest

The ICP identifies the potential for conflicts to arise as part of the pre-sales process and requires any such conflicts to be appropriately managed:

The supervisor requires insurers and intermediaries to ensure that, where customers receive advice before concluding an insurance contract, any potential conflicts of interest are properly managed.

For the majority of Isle of Man insurers writing third party business the payment of commission (in various forms) to intermediaries remains the overriding basis by which intermediaries are remunerated for the advice and services provided to customers ahead of a contract being established. In this situation, the intermediary may be subject to its own conduct of business rules in relation to conflicts of interest and commission disclosure. For Isle of Man intermediaries these were discussed in DP16-07.

It is the responsibility of insurers to consider whether the payments made to intermediaries are aligned with the principles of treating customers fairly.

As mentioned under 3.1.3 above, performance and reward strategies for staff can also contribute to a culture which does not always put customer outcomes first and could result in another conflict of interest for the business. In order to embed the principle of fair treatment of customers, it is important that any performance and reward strategies are aligned with that principle and does not result in unfair customer outcomes.

The Authority is cognisant that most general business is short term, it is highly competitive and the total premium paid is typically not directly influenced by variations in intermediary remuneration, is transparent to customers and easily comparable.

Accordingly, the Authority has carried out further research in this particular area to review and consider variations in approach observed across jurisdictions, and to determine the appropriate form and timing of implementation of any proposed requirements. It was noted that in certain competitor jurisdictions commission figures do not have to be disclosed for general insurance business.

Conflicts of interest provisions are currently contained within the CGC. This will be enhanced by the requirements in the Code (paragraph 6(2)) concerning product development and the requirement to ensure that any conflicts of interest in the product design are identified and managed. The Authority considers that these requirements would compel insurers covered by the Code to consider and manage the conflicts that may exist within business models and therefore represent a proportionate approach that is appropriate for the Island's market and observant of standards within the ICPs.

3.3 Appropriate policy servicing and ongoing disclosure of information

The importance of ongoing good conduct by insurers throughout the duration of a contract is reflected in the ICP standards:

The supervisor requires insurers to:

- **service policies appropriately through to the point at which all obligations under the policy have been satisfied;**
- **disclose to the policyholder information on any contractual changes during the life of the contract; and**
- **disclose to the policyholder further relevant information depending on the type of insurance product.**

Akin to requirements in the pre-sales process, attention is paid within the guidance to ongoing and effective disclosure of information to policyholders in relation to the product, including evidence of cover being provided promptly after inception of a policy and information provided at renewal.

Specific requirements are suggested for ongoing disclosure of information relating to the insurer itself, where that information has varied from the inception of the contract. Examples include disclosures regarding change of name, address and legal form of the insurer along with information on acquisitions.

In addition, there are circumstances where appropriate policy servicing goes beyond the disclosure of information. The guidance indicates that appropriate policy servicing includes fair treatment in the handling of policyholders' claims and complaints and in the case of any amendments to or early cancellation of a policy.

In DP14-05 the IPA set out views on developing post-sale disclosure requirements to supplement the principle of providing adequate information to policyholders, already established in the CGC.

Accordingly the Code includes within it the following requirements:

- at paragraph 10, the right for policyholders to cancel a policy in the early stages of a contract being completed. The "cooling off" or "free look" period is a well-established principle in many consumer markets and is already applied by general insurers on a voluntary best practice basis. The Authority has set out a statutory minimum cancellation period, but acknowledges that the length of the cancellation period may vary depending on the type of insurance being provided.
- at paragraph 14, a regulated entity must ensure a policyholder receives, on an ongoing basis, adequate and appropriate information. The Authority expects that this would include mid-term amendments and disclosure of information and documentation (including any fees) for amendments to the policy;
- at paragraph 14, evidence of cover to be provided promptly;
- at paragraph 7, a regulated entity must ensure that a customer is given appropriate information about a product in good time so that they can make an informed

decision about the product. This principle applies both pre-conclusion and post-conclusion of the contract and so would apply to the timely issue of renewal notices, where appropriate, to give customers sufficient time to review the notice, consider the product and shop around, if necessary; and

- at paragraph 14, ongoing disclosure of information relating to the insurer.

Question 3

In addition to feedback on these provisions within the Code, the Authority welcomes specific comments on the concept of applying a cancellation period to all types of non-life insurance and, in particular, the period being no shorter than 14 days.

3.4 Claims processing

The ICP standards prescribe that:

The supervisor requires that insurers have policies and processes in place to handle claims in a timely and fair manner.

The emphasis in guidance is that insurers' claims handling procedures should be fair and transparent to policyholders.

Documented claims handling procedures should include all steps from the claim being raised to its settlement. Claimants should be informed about procedures, formalities and common timeframes for claims settlement.

Claims procedures are also required to extend to cover claims disputes, with an expectation that staff handling claims disputes should be experienced in claims handling and be appropriately qualified.

The CGC establishes broad requirements for regulated entities to handle claims effectively and fairly through an easily understood, well disclosed, easily accessible and equitable process.

The proposed requirements set out in paragraph 15 of the Code reflect the Authority's view of appropriate enhancements to the principles already established in the CGC for non-long term business.

3.5 Complaints and Dispute Resolution

In DP14-05 the IPA considered requirements set out in the ICPs for supervisory authorities to require regulated entities to have policies and processes in place to handle complaints in a timely and fair manner.

The CGC sets expectations for regulated entities to handle complaints effectively and fairly through an easily understood, well disclosed, easily accessible and equitable process. This requirement is supplemented by guidance issued jointly by the Authority and the Isle of Man Office of Fair Trading providing “Advice to suppliers on complaints handling and the Financial Services Ombudsman Scheme”.

The Financial Services Ombudsman Scheme, established under Schedule 4 of the Financial Services Act 2008 acts as a free, independent dispute resolution service for customers with a complaint against an Isle of Man financial firm, including insurance businesses.

The Authority is of the view, therefore, that the existing framework is appropriate but should be kept under review to ensure that this remains the case.

3.6 Privacy and data protection

The ICP standards set out expectations with regard to privacy and the protection of personal information:

Legislation identifies provisions relating to privacy protection under which insurers and intermediaries are allowed to collect, hold, use or communicate personal information of customers to third parties.

The supervisor requires insurers and intermediaries to have policies and procedures for the protection of private information on customers.

An individual’s right to privacy and the legitimate needs of businesses and organisations to process personal information is dealt with outside of insurance legislation, through the Data Protection Act 2002.

Regulated entities have an obligation to identify and comply with legal obligations established under the Data Protection Act 2002.

The Authority expects that legislation governing privacy and data protection will continue to be dealt with outside of the insurance framework and accordingly does not foresee bringing forward legislation in this area for the time being.

Demonstration of ongoing compliance by regulated entities with privacy and data protection requirements will, however, continue to inform the Authority’s risk based

approach to the supervision of each regulated entity and any breaches of such legislation will by their nature affect the Authority's view of the regulated entity.

3.7 Disclosure of information by supervisors

The ICP standards establish requirements that:

The supervisor publicly discloses information that supports the fair treatment of customers.

Guidance in this area suggests that public disclosure by the supervisory body may include:

- Supervisors should publish the policyholder protection arrangements that are in place for the insurers that fall within their jurisdiction and confirm the position of policyholders dealing with insurers and intermediaries not subject to oversight or supervision within their jurisdiction
- Supervisors should give information to the public about whether and how local legislation applies to the cross-border offering of insurance, such as through e-commerce
- Supervisors should issue warning notices to consumers when necessary in order to avoid transactions with unsupervised entities
- Supervisors should promote consumers' understanding of insurance contracts as well as steps consumers can take to protect themselves and make informed decisions

The Authority recognises the importance of ongoing disclosure of relevant information to stakeholders in the Island's insurance market. This is achieved largely through regular news items and updates to the Authority's website, including publication of market statistics, details of policyholder protection schemes (where applicable), regulatory developments and associated consultations and issuance of the Authority's annual report.

The Authority will take account of the ICP guidance in further developing its disclosure policy and broader supervisory approach.

4 Supervisory Approach

4.1 Current supervisory approach

The Authority's current approach to the supervision of regulated entities focuses on the ongoing assessment of the regulated entity, its activities and the principal risks to which it is exposed and is achieved through a combination of desk-based analysis and on-site inspection visits.

The submission and review of regular regulatory reporting is the principal tool for the Authority's desk based analysis, supplemented by meetings held with insurance entities or their managers as required or to address specific issues arising.

The Authority's on-site inspection programme complements its desk-based analysis, and may take the format of routine visits or may focus on specific areas of interest, policy or procedure, including that of compliance with applicable anti-money laundering and prevention of terrorist financing and proliferation legislation.

The Authority also cooperates with other regulators through inter-regulatory communication or bilateral meetings. These activities form an important mechanism by which the Authority reviews how entities fit within their wider group structures and the intra-group risks and dependencies that may arise, as well as developing an understanding of how regulated entities meet broader legal and regulatory obligations outside the Island.

4.2 Developments to the Authority's supervisory approach in light of conduct of business requirements

As stated within DP 14-05, the Authority recognises that its supervisory approach will also need to be kept under review as it continues to develop its regulatory framework.

For conduct of business requirements in particular, there are a number of factors that need to be considered when determining how the Authority's supervisory approach may evolve to best evaluate how regulated entities comply with requirements established in the updated framework and to ensure that the desired outcomes are achieved.

A supervisory approach developed to identify and monitor conduct risks issues is likely to require enhancements. In particular the Authority expects to develop its approach in the following areas:

- Focus on business models, strategy and culture – as noted earlier in this paper, current standards place an expectation that the fair treatment of customers is an

integral part of regulated entities' business models and culture. The Authority will continue to expand its supervisory activities to assess these areas.

- Focus on customer outcomes and a principles based approach – the evaluation of conduct risks often does not lend itself to a rules based approach to supervision. While the Authority will enhance its framework by developing prescribed requirements and guidance where appropriate, consideration will also need to be given to how the Authority develops its supervisory process to assess and monitor outcomes for customers.

Examples of how the Authority may develop its supervisory approach include:

- Building understanding of conduct risks through expanded scope of data collection and greater use of market intelligence
- Formalising conduct themes into the Authority's existing risk based supervisory approach
- Ongoing monitoring of compliance with conduct regulations and guidance as regulatory enhancements are introduced
- Thematic reviews of customer outcomes
- Increasing the focus on governance and board ownership in respect of conduct of business matters, including reviewing documented product governance processes and procedures and conflict management.

5 Responding to CP17-01/T01

Feedback is encouraged on all of the proposals set out in this paper, on the draft Conduct of Business Code and on the specific questions raised. Responses to this document should be provided by email, by 14 March 2017, to:

Mrs Nicola Igoea
Manager - Policy
Isle of Man Financial Services Authority
Finch Hill House
Bucks Road
Douglas
IM1 3DF
Email: Nicola.igoea@iomfsa.im