



ISLE OF MAN
FINANCIAL SERVICES AUTHORITY

Lught-Reill Shirveishyn Argidoil Ellan Vannin

CONSULTATION PAPER CP18-02/T08

INSURANCE INTERMEDIARIES

**EXEMPTIONS AND CROSS BORDER
BUSINESS**

Issue Date: 19 April 2018

Closing Date: 28 June 2018

CONSULTATION PAPER – CP18-02/T08

This consultation paper is issued by the Isle of Man Financial Services Authority ('the Authority'), which is the regulatory body for financial services, insurance and pensions sectors in the IOM.

What is it for?

In June 2013 the Insurance and Pensions Authority¹ published its 'Roadmap for updating the Isle of Man's regulatory framework for insurance business' 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. Since its issue the Roadmap has been updated annually to reflect progress made across the various work streams established under the project.

This consultation paper builds on the feedback received in response to the Authority's initial discussion paper ('DP16-07') and its first consultation paper ('CP17-07/T08') in relation to developments in the supervision of insurance intermediaries and its recent survey for businesses selling insurance alongside other goods and services.

It sets out proposals for changes to the Authority's regulatory framework for insurance intermediaries that are not currently required to be registered with the Authority, either by virtue of being exempt or falling outside the scope of the current framework.

Who is affected by it?

This document will be of direct interest to businesses selling insurance on the IOM, whether registered with the Authority as an insurance intermediary or not.

Other parties with an interest in the IOM insurance sector, including the legal and auditing professions, may also find this discussion paper and the issues raised of interest.

Responding to CP18-02/T08

The Authority considers open dialogue with stakeholders as essential in developing its proposals and greatly appreciates comments on the proposals in this document. The purpose of this consultation is to gather views and evidence from which an informed decision will be made on the content of proposed legislation. However, please note that your comments may not result in a change to the proposals.

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/transferoffuncti.xml&menuid=11570>

The closing date for comments is **28 June 2018**.

Please send comments, preferably by email, to:

Mrs Nicola Igoea – Manager, ICP Project
Isle of Man Financial Services Authority
PO Box 58, Finch Hill House
Bucks Road, Douglas
Isle of Man, IM99 1DT

Email: nicola.igoea@iomfsa.im

Telephone: +44 (0) 1624 646025

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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.

Table of Contents

GLOSSARY OF TERMS	5
1 EXECUTIVE SUMMARY	7
1.1 Background	7
1.2 What is the purpose of this Consultation Paper?	7
1.3 Summary of proposals	8
2 INTRODUCTION	9
3 EXEMPTIONS	11
3.1 Investment business	11
3.2 Ancillary insurance business	11
3.3 FCA regulated intermediaries	16
4 CROSS BORDER	17
4.1 Registration of cross border intermediaries and attached issues	17
4.2 Issues with continuing to allow cross border services	17
4.3 Proposed solution	19
5 QUESTIONS	21
6 NEXT STEPS	21

Glossary of Terms

Term	Meaning in this document
1999 Regulations	Insurance Intermediaries (General Business) Regulations 1999, as amended
Act	Insurance Act 2008
Ancillary business	insurance sold alongside other goods or services alongside a firm's core business activity
Authority	The Isle of Man Financial Services Authority
CP17-07/T08	General Insurance Intermediaries Consultation Paper
CTPs	Common Trading Practices within the 1999 Regulations
DP16-07	Insurance Intermediaries Discussion Paper
FCA	UK Financial Conduct Authority
FSA08	Financial Services Act 2008
FSOS	The Isle of Man's Financial Services Ombudsman Scheme
General insurance business	Insurance business that does not fit within the definition of investment as outlined within the Regulated Activities Order 2011 (as amended)
Insurance intermediary	A person who for remuneration brings together, either directly or through the agency of a third party, with a view to the insurance of risks, persons seeking insurance and insurers and carries out work preparatory to the conclusion of contracts of general insurance (taken from the Insurance (Amendment) Act 2017)
IAIS	International Association of Insurance Supervisors
ICPs	Insurance Core Principles (of the IAIS)

IDD	Insurance Distribution Directive
IFA	Independent Financial Advisors – intermediaries doing business that would fall under the Financial Services Act 2008
Insurance business	The business of effecting or carrying out contracts of insurance
IOM	Isle of Man
OFT	Office of Fair Trading
RAO	Regulated Activities Order 2011 (as amended)
Roadmap	Roadmap for updating the Isle of Man’s regulatory framework for insurance business

1 EXECUTIVE SUMMARY

1.1 Background

As part of the Authority's ongoing ICP Project, the Authority is consulting upon developments and enhancements to its existing regulatory framework in relation to the insurance intermediary sector.

This paper focuses solely on the intermediation of general insurance business and pure protection business.

In order to ensure that the Island's regulatory framework remains effective in securing an appropriate standard of advice and protection for consumers in the distribution of general insurance products in or from the Island, the Authority has identified areas where enhancements to the existing regulatory framework are likely to be needed and these were set out in DP16-07 issued in October 2016.

The feedback to DP16-07 was wide-ranging and different groups of respondents have varying views on the Authority's initial proposals. As a result, the Authority has taken a balanced view in implementing its changes and sets out its rationale for its views within this consultation paper.

As a result of the feedback received, the Authority considers it appropriate to split the review of its regulatory framework into 3 areas, to be progressed separately:

1. Enhancement of the general business and conduct of business requirements for registered insurance intermediaries;
2. Introduction of corporate governance requirements for registered insurance intermediaries; and
3. Consideration of the exemptions and allowances for cross border services for intermediaries that are not currently registered.

A consultation paper was issued in July 2017 ('CP17-07/T08') focused on the first of these work streams, but also covered the Authority's initial views in relation to the third work stream.

1.2 What is the purpose of this Consultation Paper?

This paper focusses on the third of the work streams listed above and sets out the Authority's proposals in relation to the current exemptions from registration and the allowances for insurance intermediaries providing services on a cross border basis.

In particular, it sets out the Authority's proposals in relation to the exemption for insurance sold alongside other goods or services by a business that is not a registered as an insurance intermediary and in relation to overseas intermediaries providing services on a cross border basis. For completeness, the paper also reaffirms the Authority's intention in relation to the

other exemptions within the Insurance Intermediaries (General Business) Regulations 1999, as amended ('1999 Regulations'), which were originally set out within CP17-07/T08.

The Authority invites affected parties to consider the proposals and the rationale set out in this paper, and welcomes views in relation to its proposals. Comments should be submitted to the Authority prior to the consultation's closing date (see page 3).

It should be noted that there is no draft legislation attached to this consultation paper. Any legislative changes that result from the proposals will be consulted upon at a later date.

Throughout the document consideration is given to requirements and developments in other jurisdictions, in line with international standards, and to achieving a proportionate approach in relation to insurance intermediation.

1.3 Summary of proposals

Ancillary insurance exemption

After reviewing all of the responses received to its previous papers and having regard to its statutory regulatory objectives and the need to use its resources in the most effective and economic way, the Authority proposes to retain the exemption for businesses that sell insurance alongside another good or service and proposes to include it within the revised Insurance Intermediaries (General Business) Regulations. Although unchanged in its effect, revised wording for the ancillary business exemption is proposed.

In considering this proposal the Authority was unable to determine that the registration of ancillary insurance providers would be proportionate to any benefits expected to result from such a change and would not constitute the best use of its resources.

Cross border provision of services

The Authority proposes to no longer allow intermediaries from outside the IOM to advertise for business using a medium that specifically targets IOM persons, to address the risk that any product suitability assessment undertaken by those intermediaries may not take account of the specific jurisdictional position of the IOM, leading to an increased risk of poor advice for IOM policyholders.

2 INTRODUCTION

The Authority recognises the need to assess the effectiveness of its framework relevant to insurance intermediation in line with developing industry practice and regulatory standards and, where necessary, update the framework to ensure it:

- provides for an appropriate level of consumer protection;
- promotes professional standards; and,
- maintains confidence in the Island's insurance sector.

The activities of intermediaries operating in or from the Island are currently regulated under two separate sets of legislation, with intermediation of investment business covered by the Financial Services Act 2008 ('FSA08') and intermediation of general insurance business covered by the requirements set out under the Insurance Act 2008 ('IA08') and the 1999 Regulations. There is no proposal to change the current framework of regulation which segregates the intermediaries in this way and this paper focuses solely on requirements for insurance intermediaries.

This paper focusses on the exemptions and allowances for cross border services within the current regulatory framework.

2.1 Exemptions from the requirements for registration

Certain persons may benefit from an exemption from the requirement to comply with the insurance intermediation regulatory framework.

An exemption means that although the business carried on would meet the definition of "insurance intermediary" under the IA08² the activities can be performed without requiring registration by the Authority. Exemptions can be subject to conditions. If an exempt person undertakes regulated activities outside the exemption, or in contravention of conditions, the Authority's enforcement powers come into effect.³

The ICP framework allows, in specific and limited circumstances, for the supervisory authority to make exceptions or exemptions to registration requirements; however, where such exemptions are permitted, the supervisor should ensure that they do not encourage regulatory arbitrage or increase the risk to consumers.

2.2 Cross border provision of services

The IAIS define the cross border provision of services as "provision of insurance on a services basis (without local establishment) in a jurisdiction other than the company's home jurisdiction".

² Section 54 of the Act

³ The current exemptions are set out within the 1999 Regulations

This business is permitted in the IOM under the current framework. Insurance intermediaries operating on a cross-border basis from outside the IOM are not required to be registered under the Act as they would not be considered to be operating “in or from the Isle of Man”⁴. Intermediaries merely marketing into the Island would not be covered under this provision, or the associated ‘holding out’ provision⁵, unless the insurance intermediary did not make it clear that its business was being conducted other than in or from the Island.

⁴ Section 24 of the IA08

⁵ Section 24 of the IA08

3 EXEMPTIONS

The current regulatory framework includes certain categories of exempt insurance intermediaries, as follows:

1. those only acting as an insurance intermediary in respect of long term insurance that falls within the definition of “investment⁶” business;
2. those arranging insurance that covers the risk of loss or damage to goods or services provided by that person, where the principal business is not that of an insurance intermediary;
3. an insurance intermediary regulated by the UK Financial Conduct Authority (“FCA”) not ordinarily resident on the IOM.

Additionally, intermediaries that advise on pure protection products and that hold a Class 2 financial services licence are exempted from certain elements of the framework⁷, such as the requirement to register as an insurance intermediary with the Authority.

Consideration is given to each current exemption, below:

3.1 Investment business

The intermediation of investment business is currently regulated under the FSA08 with advising on investments a regulated activity under the Regulated Activities Order 2011 (as amended) (‘RAO’). Long term insurance business, with the exception of pure protection business, is considered investment business for the purpose of the RAO.

The Authority considers it appropriate that, long term insurance contracts that include an investment element, continue to be considered as investments for the purpose of regulation under the FSA08; and therefore, intermediaries advising solely on insurance contracts of this form are exempt from registration under the framework for the regulation of general insurance intermediaries. There are no changes proposed to this exemption.

3.2 Ancillary insurance business

3.2.1 Background

Many businesses offer insurance in respect of goods or services being offered as the principal activity of the business in question and the current regulatory framework provides for an exemption for such activity. These businesses can offer insurance in respect of the primary goods or services in which they trade without being registered with the Authority.

⁶ as defined in the Regulated Activities Order 2011 (as amended 2013) -

<http://www.iomfsa.im/lib/docs/iomfsa/consultations/regulATEDactivitiesorder2011.pdf>

⁷ the requirements to effect professional indemnity insurance and to comply with the CTPs in relation to the pure protection products remain

The Authority is aware of a range of businesses that may recommend insurance as an ancillary service to the business's main activity, and within this there will be a range of insurance products offered with differing risks attached.

A number of respondents to DP16-07 and CP17-07/T08 suggested that because such businesses are providing an intermediation service, they should be registered in the same way as a general insurance intermediary to ensure a level playing field, especially as the policies provided may be the same i.e. a travel agent and an insurance intermediary can both sell travel insurance but only the insurance intermediary is registered. However, the travel agent is restricted to selling a travel insurance policy in connection with the holiday sold.

Some respondents felt that travel insurance and pet/livestock insurance posed a significant risk when sold by inexperienced organisations and therefore any business selling travel insurance or pet/livestock insurance should be registered. Other respondents suggested that consumers need more protection on ancillary insurance relating to white goods, travel, pets etc. concluding that all ancillary insurance business should be regulated, not just travel insurance.

Other respondents presented an opposing view which suggested that the direct regulation of travel agents and tour operators in relation travel insurance intermediation is unnecessary and disproportionate. This argument was supported by the statement that the EU's Insurance Distribution Directive ('IDD') allows Member States to exempt travel insurance sales based on the level of risk posed to consumers. Travel insurance sales were positioned as a relatively straightforward sale of a straightforward product and the observation that travel agents and tour operators are in a good position to assist consumers because they, by definition, have a good insight in to the travel arrangements purchased. It was felt that the regulation of travel insurance has led to fewer people purchasing travel insurance; and therefore actually increased the risk of consumer detriment.

3.2.2 Jurisdictional comparisons

United Kingdom

The UK is in the process of implementing changes to its regulatory framework for insurance intermediation in order to bring it into line with the IDD. In relation to exemptions for ancillary insurance providers, the IDD exempts from regulation firms who sell insurance as an add-on product to their principal good or service, provided the premium does not exceed a certain amount and the risks covered by the product are limited.

The UK is considered to have chosen to "gold-plate" the IDD in certain areas and, as a result, the connected contract exemption in the UK is expected to exempt non-long term insurance contracts that:

<p>Have an annual premium of €600 or less, or for contracts with a duration less than 3 months €200 or less;</p>	<p>The Authority has previously reviewed including a premium threshold as a useful mechanism to ensure proportionality. It allows relatively low value contracts to benefit from an exemption while ensuring that the distribution of more expensive insurance contracts are subject to the regulatory framework; however, it is very difficult to set a meaningful threshold. The feedback to the DP16-07 suggested that this threshold would be too high to be meaningful in the IOM because all the policies sold under the ancillary exemption would fall well below this amount.</p>
<p>Covers the risk of :</p> <ul style="list-style-type: none"> ○ breakdown, loss of or damage to non-motor goods or services supplied by the provider; or 	<p>This exemption excludes motor warranties so all motor warranty products in the UK are subject to regulation regardless of their cost. The UK Government took this position to avoid the market distortions that might arise if some warranties were regulated and others were not. This goes further than the position within the IDD which exempts all extended warranties (including motor warranties) which are contracts of insurance and sold as an add-on to a product, provided the cost is less than €600 per year, or less than €200 if the warranty cover period is three months or less.</p>
<ul style="list-style-type: none"> ○ the non-use of services supplied by the provider; or 	<p>Such products might include cancellation cover for tickets (e.g. for a music festival, theatre performance or train travel). These products are usually simple, low cost and often provided by firms that are out of scope of regulation. However, such products are not frequently made available on the IOM.</p>
<ul style="list-style-type: none"> ○ damage to, or loss of baggage and other risks linked to the travel booked with the provider in circumstances where – <ul style="list-style-type: none"> ▪ the travel booked with the provider relates to attendance at an event organised or managed by that provider and the party seeking insurance is not an individual or small business; or ▪ the travel booked with the provider is only the hire of an aircraft, vehicle or vessel which does not provide sleeping accommodation; 	<p>The IDD requires the regulation of travel insurance as a standalone product, but does not require regulation where products are sold as part of a package alongside a holiday or similar travel arrangements. This is consistent with the IOM’s current exemption. However, in the UK travel insurance products are regulated, except as outlined here.</p> <p>The UK adopted this position to ensure a level playing field for those who sell travel insurance as standalone products and those selling insurance as part of a travel package because the UK government were concerned by evidence of mis-selling and complaints in relation to travel insurance products sold as part of a package.</p>

does not cover any liability risks (except, in the case of a contract which covers travel risks, where the cover is ancillary to the main cover provided by the contracts); and is	
complementary to the non-motor goods being supplied or service being provided by the provider.	

Channel Islands

In Jersey incidental general insurance businesses are registered⁸ but the firms are not required to comply with the notice requirements for key persons, preparation of financial statements or the Codes of Practice.

In Guernsey, persons advising on policies of insurance as part of a contract to provide goods or services⁹ are exempt from registration.

3.2.3 Considerations

The Authority's considerations are influenced by several factors including the views expressed through consultation, the costs and financial implications, and technical factors such as the legal context.

The 1999 Regulations provide for an exemption for such activity where the insurance provided *"covers the risk of loss or damage to goods or services provided by that person, if the person's principal business is not that of an insurance intermediary"*.

It is noted that it is not common practice in neighbouring jurisdictions to regulate all ancillary insurance intermediaries. In line with other developments to the framework, the Authority wants to ensure that the resultant framework is in line with international standards, and is proportionate to the sector and to the benefits which are expected to result from the imposition of any regulatory burden.

It is appreciated that the services provided by such businesses are not caught within the Isle of Man's Financial Services Ombudsman Scheme ('FSOS'). However, the Authority must balance the resource commitment that would result from the registration of all businesses

⁸ Defined as general insurance mediation business that is carried on by a person where the person carries on such business only:

- (a) Incidentally to some other business;
- (b) In relation to goods or services sold by him or her; or
- (c) By way of the sale of a policy of general insurance as part of a contract to provide goods and services.

⁹ Including the selling of extended warranty insurance in conjunction with the purchase of goods, the selling of travel insurance in conjunction with the purchase of a holiday package arrangement; and the selling of credit protection insurance where such insurance is sold unconditionally as part of an agreement when providing loan or overdraft facilities, where the provider is not promoting any other insurance service to its customer base.

that sell ancillary insurance against the benefits that are expected to result from the imposition of any regulatory burden.

The Authority, through its work in this area, has not been presented with evidence that these ancillary insurance products are unduly complex or are linked to significant consumer detriment that would justify their removal from the exemption.

The Authority has also considered solely removing travel insurance from the exemption. Again, the Authority has not seen any evidence of significant consumer detriment that would justify their removal from the exemption, and this has to be balanced against the argument that any developments to regulate travel insurance may create an unintended situation which dissuades consumers from accessing such insurance.

3.2.4. Proposal

For the reasons stated above the Authority has decided that the registration of ancillary insurance providers would not be proportionate to any benefits expected to result from such a change and would not constitute the best use of its resources. The Authority has, therefore, decided to retain the exemption and proposes to include it within the revised Insurance Intermediaries (General Business) Regulations.

The proposed exemption wording is outlined in the table below with an explanation of the expected areas of coverage.

Proposed exemption wording	Coverage
Covers the risk of : <ul style="list-style-type: none"> ○ breakdown, loss of or damage to goods or services provided by the provider and other associated risks; or 	Including the selling of: <ul style="list-style-type: none"> ○ extended warranty insurance in conjunction with the purchase of goods, ○ credit protection insurance where such insurance is sold as part of an agreement when providing loan or overdraft facilities, ○ pet insurance by vets, ○ dental insurance by dentists, ○ insurance for loss or damage in transit by removals firms, freight companies and couriers.
<ul style="list-style-type: none"> ○ the non-use of services provided by the provider; or 	Include the selling of cancellation cover for event or travel tickets but not business interruption insurance.
<ul style="list-style-type: none"> ○ damage to, or loss of baggage and other risks linked to the travel booked with the provider; 	To cover the selling of travel insurance only in conjunction with the purchase of a holiday package arrangement, flight or sailing.

Where the principal business of the provider is not that of an insurance intermediary.

The provider should not be promoting any other insurance service to its customer base or selling insurance as a stand-alone product.

3.2.5 Risk mitigants

The Authority is required to give consideration to certain factors when undertaking its role; one of these is the need to promote public understanding of the insurance industry. It is noted that the Office of Fair Trading ('OFT') have issued a travel insurance guidance sheet under its remit for consumer advice. The Authority plans to work with the OFT to update and add to this guidance to clarify the different position in terms of consumer protection when purchasing travel insurance from a registered intermediary vs a travel agent.

Question 1

Do you have any views on the proposed exemption wording for ancillary business and the scope of coverage?

3.3 FCA regulated intermediaries

The exemption available within the 1999 Regulations for an FCA regulated insurance intermediary not establishing a presence in the Island, was developed in conjunction with the local insurance market and recognises the level of regulatory oversight under the FCA framework. This exemption would only capture those doing business in or from the Island i.e. those actually coming to the Island to carry on insurance intermediation business.

Within CP17-07/T08 the Authority outlined its proposal that the exemption for FCA regulated intermediaries would remain, but that any FCA registered intermediary wishing to take advantage of the exemption will be required to notify the Authority in advance. This will allow the Authority to monitor usage of the exemption more closely. Generally this was welcomed; however, there was some feedback that retaining the exemption could lead to regulatory arbitrage if the IOM's regime developed to be at a significantly higher standard than the FCA's. The Authority does not believe that the developments that it is proposing to make to its regulatory regime will result in a framework that is of a higher standard than the FCA's.

4 CROSS BORDER

4.1 Registration of cross border intermediaries and attached issues

As noted above, intermediaries operating on a cross border basis from outside the IOM are not required to be registered under the IA08 as they would not be considered to be operating 'in or from the Isle of Man'. Intermediaries marketing into the Island would not be covered under this provision, or the 'holding out' provision, unless the intermediary did not make it clear that its business was being conducted other than in or from the Island.

In light of developing business practices, and in particular online services, the Authority has been giving consideration to whether an overseas intermediary that is actively marketing on the IOM should be required to register with the Authority.

In considering the options, the Authority has noted that there are a number of issues with its initial proposal within CP17-07/T08 to progress a change that will require an overseas intermediary that is actively marketing in the IOM to fall within the definition of an insurance intermediary and thus be required to go through a registration process with the Authority, as follows:

- It would be impracticable for the Authority to regulate all intermediaries marketing into the Island as it would capture such a range of providers i.e. those advertising by means of national newspapers and TV channels, internet etc. and this approach would not be proportionate to the risk that such intermediaries pose.
- Extending the Authority's remit to register general insurance intermediaries that are conducting business outside the IOM would make this activity out of line with all other regulated activities (under both the IA08 and the FSA08).

4.2 Issues with continuing to allow cross border services

Feedback to DP16-07 and CP17-07/T08 raised the following issues with continuing to allow cross border services to be provided in the IOM:

Issues raised	Authority's comments
There is a risk that overseas firms do not understand the IOM's status and insurance sold may not be suitable for IOM customers.	The Authority agrees that there is an increased risk of overseas intermediaries not fully understanding IOM specific jurisdictional issues increasing the potential of unsuitable advice from an overseas intermediary. However, the Authority must balance the need for consumers to receive an appropriate level of protection with the benefits of innovation, part of which includes not limiting the accessibility of insurance coverage for IOM residents. The

	<p>Authority plans to issue some consumer awareness guidance in this area.</p>
<p>Competition from firms with bigger marketing budgets leaves IOM intermediaries at a disadvantage.</p>	<p>Whilst we appreciate that it is difficult for some smaller intermediary firms to compete in terms of marketing, there is an argument that promoting competition encourages innovation and efficiency and provides a strong incentive for firms to treat consumers properly and strive to win custom on the basis of service, quality, price and innovation. Whilst competition is not a specific consideration for the Authority under its objectives, our view is that healthy competition may help to support consumer protection and integrity within the financial system. Additionally, companies operating on a cross border basis provide access to wider and potentially more specialist markets.</p>
<p>Such sales are not subject to the same degree of consumer protection because the customer will not have recourse to the local regulator and local FSOS.</p>	<p>Customers do still have access to redress in the key jurisdictions of the UK, Jersey and Guernsey which all have a Financial Services Regulator and an Ombudsman scheme. Although not situated locally, these Ombudsman Schemes cover all customers of financial services business within their jurisdiction (including IOM customers) and have a wider coverage than that of the FSOS because they also cover claims from small businesses.</p>
<p>An IOM based insurance intermediary is not free to actively market their services in the UK without being properly regulated by the FCA and so the same should be applied to firms regulated in other jurisdictions who wish to transact business here.</p>	<p>Any reciprocity arrangements with the UK would have to be on the basis of an equivalent framework to that of the FCA.</p> <p>The Authority has undertaken a jurisdictional review and noted that that it is not common practice within the neighbouring jurisdictions to allow insurance intermediaries to advertise within a jurisdiction without requiring registration.</p> <p>As noted above, it would not be practical for the Authority to try to regulate all providers that market their services to IOM customers. However, “marketing” could be defined in such a way as to capture only those persons deliberately targeting IOM customers. This would allow the Authority to set out requirements into legislation for the marketing activity conducted in the IOM.</p>

4.3 Proposal

There is currently an exclusion under the RAO for intermediaries that advise on investments ('IFAs') under the FSA08 for transactions with overseas persons¹⁰. This exclusion allows an IFA who is authorised to give investment advice by an overseas regulator to carry on that activity in the IOM if the activity is the direct result of an approach made to the overseas person by, or on behalf of, an IOM person; and, the approach must not be solicited by the overseas person by advertising that is targeted at IOM persons.

It is proposed that a similar approach is taken for the general insurance intermediation market. If adopted, this would no longer allow intermediaries from outside the IOM to advertise for business in the IOM, but it would not preclude them from making products available to IOM persons if they are approached.

Within the RAO there is no definition of advertising "targeted at Isle of Man persons". The intention is for it to capture firms that have made a conscious decision to advertise in the Isle of Man. However, developments in methods of targeted online advertising make it possible now for persons to receive apparently targeted advertising based on their geographical location, through the use of an IP address for example. It is unclear whether this would class as an advertisement that is targeted at an Isle of Man person.

In relation to insurance intermediation, the Authority does not consider it appropriate to try to stop advertising through websites or applications. The internet is 'borderless' in nature and may be accessed by IOM persons whether or not the persons controlling it have taken the decision to 'specifically target' IOM persons.

However, the Authority does consider it appropriate to stop advertising that is disseminated by a medium which is targeted at IOM persons, such as local newspaper/radio, telephone directory or on local buses.

The table below sets out scenarios in which cross border services would or would not be captured if this proposal was progressed.

	Captured within provisions of the IA08	Not captured within provisions of the IA08
IOM intermediary selling insurance outside IOM	✓ - "in or from " s.24 of the IA08	
UK intermediary coming to the IOM to sell insurance	✓ - " in or from" s.24 of the IA08, but exemption in place in relation to registration as an intermediary with no fixed place of business in the Island,	

¹⁰ Exclusion 2(d) of Schedule 1 to the RAO
Isle of Man Financial Services Authority

	which just requires a notification to the Authority	
Overseas intermediary coming to the IOM to sell insurance	✓ - “in or from” s.24 of the IA08, no exemption so would be required to be regulated and meet our registration criteria for real presence	
Overseas intermediary selling insurance on a services only cross border basis into the IOM, without visiting the IOM and with no fixed place of business in the IOM (via internet or telephone) and without advertising disseminated by a medium which is targeted at IOM persons		✓ - does not fall within the definition of “in or from” or “holding out” as it is clear that the business is situated outside the IOM and the intermediary is regulated in that jurisdiction.
Overseas intermediary selling insurance on a services only cross border basis into the IOM, without visiting the IOM and with no fixed place of business in the IOM (via internet or telephone) but advertising is disseminated by a medium which is targeted at IOM persons		✓ - does not fall within the definition of “in or from” or “holding out” as it is clear that the business is situated outside the IOM. However, a change to legislation to restrict the practice of intermediaries from outside the IOM advertising through a medium which is targeted at IOM persons could be progressed (similar to the exclusion within the RAO).

The ICPs require the Authority to ensure that arrangements are transparent so that consumers understand the basis on which the intermediary is operating and can therefore make an informed decision. The Authority plans to issue a consumer awareness notice outlining the ways in which insurance can be purchased and the possible risks of purchasing insurance from other jurisdictions.

Question 2

Do you have any feedback on the proposal to no longer allow intermediaries from outside the IOM to advertise for business using a medium which is targeted at IOM persons?

5 QUESTIONS

Question 1

Do you have any views on the proposed exemption wording for ancillary business and the scope of coverage?

Question 2

Do you have any feedback on the proposal to no longer allow intermediaries from outside the IOM to advertise for business using a medium which is targeted at IOM persons?

6 NEXT STEPS

Following the closure of the consultation period, the Authority will publish a summary of the comments received, which will be accessible through the Authority's website and the Isle of Man Government's Consultation Hub.¹¹

Subject to views expressed in response to the consultation, it is intended that the proposed legislative changes for the insurance intermediation framework will be consulted upon in 2019 following completion of the consultations on the 3 strands of work as outlined below:

Enhancement of the general business and conduct of business requirements for registered insurance intermediaries	<ul style="list-style-type: none">• CP17-07/T08 issued July 2017• Summary of comments received and changes to policy issued March 2018
Introduction of corporate governance requirements for registered insurance intermediaries	Consultation expected later in 2018
Consideration of the exemptions and allowances for cross border services for intermediaries that are not currently registered	<ul style="list-style-type: none">• CP18-02/T08 issued April 2018• A summary of comments received will be issued after the closing date.

¹¹ <https://consult.gov.im/>