ISLE OF MAN
FINANCIAL SERVICES AUTHORITY

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Consultation Response – CR20-06/T08

REGULATORY FRAMEWORK FOR GENERAL INSURANCE INTERMEDIARIES

Issue Date: 1 July 2020

Contents

Glossary

Authority	Isle of Man Financial Services Authority
FCA	Financial Conduct Authority

1. Background

This consultation response is issued by the Isle of Man Financial Services Authority following Consultation Paper CP19-09/T08[1].

The purpose of the Consultation Paper was to obtain views on final draft legislation that had previously been subject to separate consultation exercises under the Authority's published papers DP16-07, CP17- 07/T08, CP18-02/T08 and CP18-08/T08.

The Consultation Paper included four draft pieces of legislation for comment:

- Insurance Intermediaries (General Business) Regulations 2020
- Insurance Intermediaries (Conduct of Business) (General Business) Code 2020
- Insurance Intermediaries (Corporate Governance) (General Business) Code 2020
- Insurance Intermediaries (Restriction on Advertising) Regulations 2020

2. Summary of Responses

We received 9 responses welcoming and supporting many of the proposals. A number of respondents sought to clarify the applicability of the proposed legislation to their own business models or products. Furthermore, some respondents noted areas where the legislation, as currently drafted, might be clearer.

Queries were raised regarding the appropriateness and proportionality of certain requirements, as follows:

2.1 Insurance Intermediaries (General Business) Regulations 2020

Financial resources

The Regulations require "at least £10,000 or 125% of its professional indemnity insurance deductible or excess, whichever is higher". Some respondents have suggested that the Authority should have discretion within the Regulations to vary this requirement. Having reviewed feedback and having regard to its regulatory objectives, the Authority does not consider it appropriate to vary this binding minimum requirement.

2.2 Insurance Intermediaries (Corporate Governance) (General Business) Code 2020

Resident Directors – This Code requires a registered insurance intermediary to have at least two Isle of Man resident directors. A number of respondents raised concerns over the practicability of this requirement.

[1] https://consult.gov.im/financial-services-authority/regulatory-framework-gen-insurance-intermediaries/supporting_documents/CP1909%20T08%20with%20appendices.pdf

The Authority has given full consideration to the feedback received to the consultation, including reference to comparable requirements for other sectors. The majority of registered general insurance intermediaries have very small Boards in terms of individual directors and the Authority has previously experienced issues in effective engagement with intermediaries where only one directors has been resident, particularly where specific supervisory issues have arisen. The Authority is mindful that it has not placed a mandatory requirement for independent directors and accordingly, taking account of these matters, remains of the view that retaining two resident directors is proportionate and achievable.

2.3 Insurance Intermediaries (Conduct of Business) (General Business) Code 2020

Exemption for "introducing / producing" brokers

The exemption available from certain requirements of this Code is based, inter alia, on that introducer introducing "large corporate clients". Large corporate clients are defined as having any 2 of the following:

(a) a turnover of £10.2 million or more;
(b) £5.1 million or more on its balance sheet;
(c) 50 employees or more.

This definition takes account of similar definitions established by the UK Financial Conduct Authority and had initially been welcomed by respondents to previous consultations. However, some respondents to the consultation feedback that this is not reflective of the Isle of Man market and have suggested that the definition should be based or extended to include the "sophistication" of the client, rather than the definition proposed.

The Authority remains of the view that this exemption should remain limited to "Large corporate clients" and has sought to achieve consistency with the approach adopted by the FCA. Given that the exemption relates specifically to certain conduct of business requirements, the Authority is of the view that the definition, originally drawn from UK requirements, is appropriate given that small and medium sized corporate policyholders will often be unsophisticated insureds and benefit from the application of the relevant sections of this Code.

2.4 Other feedback

A detailed summary of all feedback and the Authority responses is included at Appendix B.

3. Changes to the Proposals

A number of responses highlighted areas where the drafting of the legislation could be made clearer and changes have been made accordingly.

4. Next Steps

Given the responses received to the consultation the Authority will now progress the legislation through legal review and consultation with Treasury, with a view to introducing the legislation in October 2020.

In case of any query, please contact the undersigned —

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Appendix A – List of Representative Groups to which this Feedback Statement has been sent

- Isle of Man Financial Planners and Insurance Brokers Association

Appendix B – Summary of responses

Response	Authority's Comment
General	
Generally, these new Regulations and Corporate Governance Codes looked reasonable.	Comments noted – thank you.
Generally, the new Corporate Governance, Conduct of Business Codes and Regulations looked reasonable.	Thank you for your comments.
Overall, apart from the couple of questions above we welcome the changes that the Authority has proposed within this consultation.	Thank you for your comments.
This draft legislation represents the conclusion of the ICP project for general insurance intermediaries and the ICP team should be congratulated for collaborative approach adopted throughout the ICP project which has ensured that the Isle of Man's regulatory framework reflects international standards in a proportionate and appropriate way for the Island's general insurance intermediary sector.	Thank you for your comments.

Insurance Intermediaries (General Business) Regulations 2020	
Please clarify what the notification process is for FSMA authorised insurance intermediaries seeking to take advantage of the exemption to register and what timelines, if any, exist around notification prior to the regulations coming into effect on 31 October 2020?	In accordance with Regulation 6(2)(a) of the Regulations, the notice required by the Authority will require an intermediary to supply the following information: (i) its name; (ii) its address; (iii) details of its UK Financial Conduct Authority authorisation; and (iv) the expected level and type of business to be undertaken on the Island. A form for supplying such information will be published on the Authority's website on 01 July 2020; a draft is included in this response for information. An intermediary should submit the form as a condition of Regulation 6(1)(c)(i) coming into effect on 31 October 2020.
Annual regulatory return – will the same split of business turnover be required to be made to the Authority in FCA brokers' regulatory returns. If they will be completing the same Annual Regulatory Return this question is irrelevant.	The Authority will publish the annual return for Exempt UK FCA Regulated intermediaries on its website. The annual return does include comparable reporting of business turnover to that requested in section 3.1 of the Annual Regulatory Return for intermediaries registered under section 25 of the Act.
Draft Annual Regulatory return	

Is this the same return that will need to be completed by UK FCA Exempt intermediaries? Business stats are not recorded in this way for general insurance business and are open to interpretation. It is particularly challenging for package policies and allocations under international programmes which step across the categories outlined.	The return required to be submitted by UK FCA exempt intermediaries will not be identical to the draft return proposed for registered insurance intermediaries. Your comments are noted. The Authority has not received similar feedback from other respondents. Where an intermediary has difficulties in allocating turnover to the lines set out in the annual regulatory return, the Authority considers it reasonable to provide information using reasonable estimates or approximations for the allocation of business splits, the basis for which should be disclosed / explained in the return.
Draft annual regulatory return Given the declaration that the intermediary complies with all relevant legislation issued under the IA on the cover page of the Annual Return, are questions 4.4 and 5.3 required?	Your comments here are noted, however, the Authority is of the view that the specific attestations at 4.4 and 5.3 are appropriate and are not in conflict with the general attestation of compliance at the head of the return.
Interaction of Regulation 4 with Regulation 6 Regulation 4 extends the scope of the regulations to registered insurance intermediaries. Regulation 6 prescribes the persons who are exempt from regulations but as a result of the scope set out in regulation 4 this will have no effect as the insurance intermediary who is exempt will not be registered.	Thank you for your comment. We will raise the matter with our legal drafters and make any change necessary to ensure the Regulation has the effect intended.

Regulation 5 Register of insurance intermediaries Will there be a similar checkable register for FCA firms registering with the Authority? It may be difficult for firms registered here to spot and refer breaches to the Authority otherwise and we are not clear whether the register referred to under 6(2)(b) will be publicly viewable.	Yes, the register under 6(2)(b) will be a public register. Subject to any technical restrictions it is the intention to publish this register through the Authority's website.
Regulation 6(2) The conditions referred to in paragraph (1)(c) are that — (a) the intermediary gives notice to the Authority, in the form specified by the Authority, containing the following information – (iv) the expected level and type of business to be undertaken on the Island; (c) annually on the date of first entry in the register mentioned in (b), the intermediary makes a return to the Authority containing the information specified by the Authority. From previous consultations it was understood that an annual declaration of the level and type of business actually undertaken on the Island in the previous year would be required from the second year of registration. Is that correct or will exempt intermediaries only need to provide an unquantified fresh guestimate of the year ahead for each year's registration? If an unquantified guesstimate is all that is required, it is hard to see what benefit this would be for the Authority in managing risk and exposure as data could be wildly inaccurate.	Under Regulation 6(2)(c) an exempt intermediary will annually on the date of first entry in the register be required to make a return to the Authority containing the information specified by the Authority. As noted in the comments above this will include an analysis of turnover by business line. See response above

Regulation 7 We do not understand the reasons for the omission of regulation 19 from regulation7(2) as the rule book contains similar provisions for banks under Rules 7.3 and 7.4.	We agree the provisions are similar, however, the specific requirement under Regulation 19(1)(a) is not directly aligned with Rule 7.3(2)(f), that requirement being conditional on other aspects of that rule not being applicable. Therefore we have not amended the regulations to provide for a full exemption from Regulation 19.
Regulation 7 We believe that the regulations referred to in 7(1)(a) should be 19-22 inclusive.	We agree and have amended the draft.
Regulation 8 No timeframe for the notifications required under regulations 8(4) and 8(6) is prescribed.	We have added "as soon as practicable" in line with other requirements in this Regulation.
Regulation 8 The effect of the inclusion of 'or may give rise to' in regulation 8(4) is that insurance intermediaries must notify the Authority of all clauses of the professional indemnity contract which consider the termination or cancellation of the policy irrespective of the	It was not the Authority's intention to be notified of any or all cancellation clauses within a professional indemnity policy. The intention is that an intermediary should notify of "circumstances" (and not policy clauses) that may lead to a cancellation.

likelihood of the clause being invoked. Is this the intention of the Authority?	We feel that the current wording of the Regulation is in line with the Authority's expectations and no similar comments have been raised. If on bringing the Regulations into effect the Authority receives notification of cancellation clauses, it will provide further guidance on its expectations.
Regulation 8 Professional Indemnity Will FCA Exempt brokers be required provide the Authority with the same details? For example, a run of PII claims over £10,000 relating to IoM risk through failure to understand risk differences between UK & IoM, would seem highly relevant. Could you confirm that the requirement to notify the Authority of modifications or exclusions to the PI policy is only in respect of non-standard modifications or exclusions as all policies will obviously have standard exclusions. Similarly, with page 9 and the requirement for a bank letter to be sent to the Authority. Will FCA brokers need to do the same or are able to operate a less rigorous regime assuming the same letter is not required of them by the FCA?	The requirement for professional indemnity insurance set out at Regulation 8 applies to intermediaries registered under section 25 of the Act. Regulation 8(6) requires the notification of any modifications or exclusions to professional indemnity insurance, irrespective of whether they are considered to be standard. Regulation 12 applies to those intermediaries registered under section 25 of the Act and not to those exempt.
Regulation 9 There is a missing 'full stop' at the end of regulation 9(8).	Amended.

Regulation 9 The conditions under which the Authority can refuse to cancel a registration as set out in regulation 9(5) are vague and appear to be much wider than that envisaged by s26A of the Act which restricts the powers of the Authority to those that are necessary to secure that any business is discontinued and wound up. We suggest that a) and b) of regulation 9(5) be removed and replaced with a provision that links to the regulatory objectives of the Authority.	We have sought a legal opinion on this point and will revise Regulations where appropriate.
The Authority is not required under regulation 9 to give reasons for a decision not to consent to the cancellation of a registration. We believe this should be amended to ensure the decisions of the Authority are seen to be transparent and fair.	It is the Authority's expectation that in giving notice of non consent to cancellation under Regulation 9(6) that the Authority would set out any outstanding matters to progress a cancellation. The Authority has issued guidance in respect of winding up and cancellation in order to provide the transparency around its expectations.
9.6. If cancellation of a registration is not consented to, could it be a requirement that the FSA should articulate the reasons for non consent to provide comfort that cancellations would be expedited without unreasonable delay as this can incur significant costs.	It is the Authority's expectation that in giving notice of non consent to cancellation under Regulation 9(6) that the Authority would set out any outstanding matters to progress a cancellation. The Authority has issued guidance in respect of winding up and cancellation in order to provide the transparency around its expectations.

Regulation 10 The references to other regulations within regulation 10(2) appear to be mis-numbered.	We agree and have amended to reflect reference to Regulation 11.
11.2.3 It would be useful to ascertain whether banks are prepared to do this before this Regulation is brought in. We have found banks sometimes reluctant to provide confirmations.	The provision reflects similar requirements of the Financial Services Rule Book (as amended) against which other regulated entities are already demonstrating compliance.
11.2.3 Has it been ascertained whether banks would be prepared to do this?	See response above.
Regulation 11 Regulation 11(2)(a) is significantly more restrictive than the definition of a recognised bank in rule 3.2 of the Rule Book. As a result, intermediaries licenced under both the FSA2008 and the IA2008 are subject to two different standards. Whilst we recognise that the FSA has added the ability of entities to bank client money outside the Island subject to consent of the Authority the inconsistency remains. We urge the Authority to re-evaluate this restriction both in the light of the very real problems experienced by businesses opening bank accounts on the Island and to enhance consistency across the regulatory frameworks.	We note your comments regarding the inconsistency, however, this requirement has been drafted to be reflective of and proportionate to the local general insurance intermediary sector. We have not received any similar feedback from registered insurance intermediaries and therefore do not propose a change at this time.

Regulation 13 We do not understand the rationale of regulation 13(2)(g). A fundamental concept of financial control is that the frequency of the reconciliation should reflect the number of transactions flowing through the account. Therefore, reconciliations with large numbers of transactions will typically be reconciled more frequently than those with fewer transactions. We understand the rationale behind the limitation in subparagraph (1) whereby the reconciliation must be at least monthly but we do not understand why the Authority seeks to limit the ability of entities to undertake more frequent reconciliations than 15 days where that is considered appropriate. We do recognise that this regulation is consistent with rule 3.12(2)(g). However, this restriction is not applied to rule 3.34 and indeed other rules concerning client money require daily reconciliations.	The rationale for Regulation 13(2)(g) is aligned to that under rule 3.12(2)(g) of the Rulebook. The Authority has issued guidance to supplement this requirement, which is extracted below: *"1.12 Reconciliation* *This rule details the requirement that all client bank accounts must be reconciled at least monthly and to the same date does not prevent more active accounts from being reconciled more often. Rule 3.12(2)(g) only applies where reconciliations are undertaken on a monthly basis and not more frequently, for example, to prevent the January reconciliation being undertaken on 30th January and then the February reconciliation being undertaken on 1st February."* The full guidance is at: https://www.iomfsa.im/media/1519/rulebook2011guidance.pdf
Reconciliation of bank accounts. It says a monthly reconciliation is required which is fine, but in the Regulations 13.2.g below, it says every 15 days, which seems onerous. Monthly reconciliations seems to be realistic and adequate.	Regulation 13(g) requires a minimum of 15 days and as such a monthly reconciliation is permissible.
PI for runoff may be required. This is fine in principle, but we would prefer the Regulations to be a little more explicit as to the circumstances where the FSA may wish to impose this and for how	Your comments here are noted. The circumstances of cancellation will vary between individual intermediaries and accordingly the Authority feels it is appropriate for it to be able to impose any

long. (P6 of the Regulations). If it is short tail risk, no outstanding claims, it may be disproportionate to require lengthy run off cover, which can be very expensive. Ideally we would like this to be at the discretion of the Directors, subject to the FSA imposing an additional requirement if it is based on a realistic possibility of a claim.	requirement for professional indemnity insurance, rather than this solely being at the discretion of directors. The Authority would be mindful of the specific circumstances, including the factors referred to in your response. The Authority will consider updating its winding up plan / cancellation guidance to reflect this.
Regulation 16 - Given that the Authority has now added the ability of entities to bank client money outside the Island subject to consent of the Authority the protections provided by Rule3.19 should be considered as also relevant to these regulations.	We agree the protections under Rule 3.19 are relevant. Currently it is the Authority's intention to apply such provisions, where required, as a condition of the consent being given to allow the use of a bank outside the Island.
17. No withdrawal in case of a default. Should default be defined: liquidation, winding up order etc., or is it a default of payment and order to pay for example?	We have sought a legal opinion on whether a definition is appropriate.
19. Change of control. 5% seems very low. 15% may be more logical.	Your comments are noted. This requirement has been brought into line with international standards and similar requirements under the Financial Services Rule Book.
Regulation 19 - Notwithstanding that we recognise that regulation 19(1)(b) is identical to rule 7.3(2)(c) we consider that this provision should have a de minimus threshold applied as 'any change' is very	The Authority is comfortable that this requirement is proportionate given the typically "flat" ownership structures of the majority of registered intermediary firms. The requirement is relevant to the

wide and potentially onerous to both the regulated entity and the Authority.	Authority's ongoing risk assessment of firms. The Authority has not received similar feedback on Regulation 19(1)(b) from registered insurance intermediary firms and therefore does not propose to add a de-minimis as suggested.
20.1. Resources of 125% of its PI deductible. Logically this is fine, but could it say "unless otherwise agreed by the Authority". If it was part of a larger group for example or other reason, dispensation may be appropriate.	The Authority does not consider the ability to apply discretion to the minimums within the Regulations to be appropriate.
20.1. Financial Resources of at least £10,000. Is the formula to calculate capital resources effectively net assets, i.e. to include retained profits?	Your interpretation is correct.
Schedule 1 Regulation 8.1.c We are wondering if the scope of the PI cover could be reviewed with the introduction of these new regulations, to bring it in line with normal market Professional Risks wordings (a PI specialist may provide feedback on this).	The inclusion of a libel / slander clause in professional indemnity insurance is consistent with other requirements established in the Financial Services Rulebook. Subsequent to your feedback our own review indicates that such clauses remain a typical, automatic extension to PI insurances or covered automatically under a civil liability wording.
This regulation makes clear where the Schedule 2 carve-out for packaged account sales de-scopes certain clauses. Having reviewed	Noted.

the proposed wording of the above regulation we do not have any concerns at this time.	
Insurance Intermediaries (Conduct of Business) (General Business) Code 2020	
Product Information – The UK IPID is only issued for SME or personal lines business. UK insurers do not issue IPID's nor a Summary of Cover for large commercial risks and presumably there is no requirement for UK insurers to issue such IPID/Summary for large commercial risks. The statement that 'in the main, the information should easily be available to intermediaries pre-sale' is not correct for larger commercial policies.	The comment made in relation to large commercial policies is noted. The response does not indicate whether the provision of product information required under paragraphs 8 and 10-12 of the Intermediaries (Conduct of Business) (General Business) Code 2020 is considered to be disproportionate or unworkable for larger commercial policies.
5.3 - The Application Section shows the exemption for introducing brokers (not defined?) that provide services to large corporate clients via agreements with UK FCA regulated brokers – Does that mean IOM brokers can: 1. advertise on behalf of UK Broker? 2. front for a UK broker to remove their requirement to Register with the Authority? 3. That both a wholesale broker and their IOM broker (who is fronting the IOM large client relationship) would be exempt? We are not clear on the Regulatory requirements for FCA registered wholesale brokers who negotiate with insurers and place the risk on behalf of Manx Brokers. Some such policies specify that the likes of	The changes outlined in section 5.3 of the consultation paper relate to the Intermediaries (Conduct of Business) (General Business) Code 2020. In that Code the Authority has defined the exceptions that apply to a "producing broker". We note from your response that we used the term "introducing broker" in the text of the consultation paper, for which we apologise. The term "introducing broker" in the consultation paper has the same meaning as "producing broker" in the Intermediaries (Conduct of Business) (General Business) Code 2020.

claims should be notified to the wholesale broker which seems to be an intermediary service. Does the wholesale broker have to register with the Authority accordingly? Considerations may include longtail covers and whether relationships between brokers remain, the ability of an IoM intermediary to handle claims via Lloyds and other market systems in the absence of continuing support from the wholesale broker (merger, acquisition, insolvency, dispute between the parties, termination of any service agreement etc.).	1. As a condition of the exception from application of the Intermediaries (Conduct of Business) (General Business) Code 2020 at paragraph 4, a producing broker must be acting on behalf of a large corporate client. It is the Authority's view that any prospective advertising undertaken where the intermediary was not already acting on behalf of a client would be subject to the advertising provisions of the Code. 2. A producing broker could only "front" for a UK broker in the limited circumstances set out in paragraph 4 of the Code. We would remind the respondent that exemptions from the requirement to register under section 25 of the Act are set out separately in paragraph 6 of the Insurance Intermediaries (General Business) Regulations 2020. 3. A "wholesale" broker would need to satisfy itself it did not meet the definition of an insurance intermediary under section 54 of the Act, or meet the requirements of Regulation 6 of the Insurance Intermediaries (General Business) Regulations 2020 to be exempt from registration under section 25 of the Act. The Intermediaries (Conduct of Business) (General Business) Code 2020 is applicable to an intermediary (as defined) registered under section 25 of the Act.
Large Corporate Client - Are these definitions only applicable at the time of contract negotiation or do they continue for the duration of the contract?	It is the Authority's view that the definition of "Large Corporate Client" is relevant to the period that an intermediary is "acting on behalf of" under paragraph 4(b)(i). However, the respondent may wish to seek a legal opinion if the application of paragraph 4 is particularly pertinent to its business model.

The exemption for introducing brokers who provide services to large corporate clients placed with UK FCA regulated brokers was initially welcomed. However, the proposed definition of a large corporate client (which I understand is the UK's definition of a large corporate client) detailed below, does not seem proportionate to IOM or the firms operating here. Our clients are IOM corporates to whom we provide financial liability products, a large proportion of whom are themselves regulated. "A client that is incorporated and has any 2 of the following characteristics: · a turnover of £10.2 million or more; · £5.1 million or more on its balance sheet; · 50 employees or more;" It would seem to make sense for the FSA to reconsider their definition of a large corporate client. We would suggest that these IOM firms would consider themselves to be sophisticated and experienced buyers of these insurance products.	The Authority remains of the view that this exemption should remain limited to "Large corporate clients" and has sought to achieve consistency with the approach adopted by the FCA. Given that the exemption relates specifically to certain conduct of business requirements, the Authority is of the view that the definition, originally drawn from UK requirements, is appropriate given that small and medium sized corporate policyholders will often be unsophisticated insureds and benefit from the application of the relevant sections of this Code.
Exemption for reinsurance and introducing brokers that provide services to large corporate clients placed with UK FCA regulated brokers. It would be good if the provision allowed some discretion on the part of the FSA. If an IOM General Insurance Intermediary is placing PI cover on behalf of NED's, regulated entities or other	The Authority does not consider a discretionary exemption, as described, to be appropriate.

(smaller) corporates that could be deemed sophisticated, the exemption may be appropriate.	
Page 7, 8(i) – Where policy administration fees apply over and above commission earned, can we simply describe the charge as an administration fee or do we have to differentiate this from commission which might be argued to include our administration?	The requirement here is to disclose the amount and purpose of the charge. If a charge is solely for administration it should be disclosed as such. If a charge relates to the recovery of commission, it is the Authority's view that this should be disclosed as commission. The Authority recognises that an intermediary may in turn use commission income to subsist its administration costs.
Page 7, 8(j) – where such disclosure is requested is it sufficient to say that overriders etc. may be earnt on top as this will be difficult to isolate for individual policies or clients particularly where they are variable dependent on volume, profitability or growth targets with insurers?	It is the Authority's view that both "basic" commission entitlement and any potential for additional commission payments should be disclosed. Where a commission is contingent, such as in the circumstances descried, an intermediary should take all reasonable steps to ensure that commission entitlement is clearly disclosed to policyholders. Additionally, the Authority would highlight the requirements of paragraph 10 of the Insurance Intermediaries (Corporate Governance) (General Business) Code 2020.
Do we need to disclose commissions earned by a wholesale broker where we use them or just our own retained commission or fee?	The Insurance Intermediaries (Conduct of Business) (General Business) Code 2020 applies to intermediaries registered under section 25 of the Act.

Page 7, 9(2)(a)(i) – the whole of the market can never be achieved as no one has an agency with every single insurer. Should this be Fair Analysis or similar?	9(2)(a)(i) allows for an intermediary, in addition to whole of market, to disclose that its services are provided from a limited range or single insurer. The Authority has not sought to introduce the "Fair Analysis" concept in this Code.
Page 9 12(b) Could we have some guidance on the extent of this for commercial contracts. It would be an unwieldy pack to provide the likes of a 16 page Tower summary of cover for a combined policy last year and a similarly large summary for a new insurer plus the policy schedules in each case and then the key differences for a £350 combined policy. Applying this to international covers can be even more significant where property schedules alone can be over 30 pages.	We are uncertain what additional guidance is required to supplement this requirement. It is the Authority's view that a policyholder should, at renewal, have the opportunity to review the basis and premium of existing cover and compare this to renewal terms being offered. The concern here appears to be the level and volume of disclosure required for a commercial contract; an intermediary should take reasonable steps to ensure that any information produced is clear and fair and it is the Authority's view that any disclosure should be proportionate to the complexity of the cover being proposed.
Having reviewed the proposed wording of the above regulation we do not have any concerns at this time. This regulation includes the Guidance on suitability of an insurance contract. Having reviewed this wording for those areas of the insurance proposition we welcome the additional clarity afforded by this persuasive guidance.	Noted.
Insurance Intermediaries (Corporate Governance) (General Business) Code 2020	

Will there be a road map regarding achievement of qualifications? Obviously oversight rules apply but a churn of staff who sit & consistently fail exams may not be in the interest of consumers.	Ahead of the implementation of the updated framework the Authority will formally publish its expectations of the competence, including levels of experience and qualifications, for R21 (senior manager with responsibility for persons providing insurance advice) or R21B2 (individual providing insurance advice to clients) roles. These expectations have been consulted on over the last three years and on implementation of the updated guidance in October 2020, it will be the responsibility of intermediary firms to ensure that staff in such roles have adequate qualifications and experience for the business, in line with the Intermediaries (Conduct of Business) (General Business) Code 2020.
29 Outsourced significant activities and functions This section would seem to apply to the use of wholesale brokers whether used by agreement or on an ad hoc basis for individual placements. Is that correct?	We agree with your interpretation.
17 At least two directors must be resident in the Isle of Man. Could the words “unless otherwise agreed by the FSA”, which would allow some discretion. There may be some circumstances why this may not be necessary.	The Authority has given full consideration to the feedback received to the consultation, including reference to comparable requirements for other sectors. The majority of registered general insurance intermediaries have very small Boards in terms of individual directors and the Authority has previously experienced issues in effective engagement with intermediaries where only one director has been resident, particularly where specific supervisory issues have arisen. The Authority is mindful that it has not placed a mandatory requirement for independent directors and accordingly, taking

	account of these matters, remains of the view that retaining two resident directors is proportionate and achievable.
We note the minimum requirement for two IOM based directors. The current directors are both experienced insurance brokers, one working for a Lloyd's broker based in London. We consider that the current level and expertise on the board is appropriate for the business that we handle. Appointing an additional director will be an additional cost for a small business and finding someone with relevant experience to add value might be a problem. Could the FSA consider applying some discretion as there may be some circumstances why it may not be necessary to have two IOM based directors?	See response above
There is reference to the need for an intermediary to ensure that client facing staff undertake a minimum number of hours of relevant CPD per annum. To the extent that these individuals are captured under the R21B category of the F&P framework would the CPD requirement become 25 hours as per the Rulebook for key persons as the Training & Competency framework does not currently highlight this as a role requiring CPD to be undertaken? Apart from the above we do not have any other concerns or comments at this time.	As noted in the consultation paper, the T&C Framework will be updated to include, as guidance, that the client facing staff of an insurance intermediary should undertake the following insurance specific qualifications, as part of a development programme: • Front facing staff for personal lines - Cert CII • More experienced staff and front facing staff for commercial business - Dip CII • Management/person responsible for overseeing advice given – ACII

	Where individuals hold such qualifications the expectation is that the minimum CPD required to maintain the qualification designation will be relevant. Where an intermediary firm adopts alternative methods to demonstrate to the Authority's satisfaction that its front facing staff meet the competencies of the T&C Framework for its business, the Authority will consider the level of CPD being undertaken. The point made in relation to broader CPD requirements within the Rule Book is valid and the Authority will seek to adopt a consistent approach when considering the specific measures implemented in such firms, although at this stage we have not codified a minimum level within the Code. This is an area we will keep under review and we may in due course seek to formalise our view on CPD requirements in further guidance.
Paragraph 13(4) requires an intermediary to retain its records for at least 6 years after it ceases to be registered. Given the unlimited life span of a corporate entity this requirement appears disproportionate. Most statutory provisions allow companies to dispose of records that serve no commercial purpose after 5 years and we query the rationale and proportionate application of this paragraph. We note that this is a copy of rule 8.27(4) and we query the proportionality of that provision also. This requirement is also more onerous than that required by commercial insurers by paragraph 14(c) of the Corporate Governance Code applicable to commercial insurers.	It is important to note that paragraph 13(4) requires an intermediary to: "maintain records relating to its business transactions, financial position, internal organisation and risk management systems **such as to demonstrate to the Authority that it complies with the regulatory requirements.** The intention, is therefore, that this requirement shall not apply generally to all of an intermediary's records. We agree with your sentiment that records that serve no commercial purpose may be disposed of and are of the view that the existing wordings allows for

	this, if such records are not required to demonstrate compliance with regulatory requirements.
Insurance Intermediaries (Restriction On Advertising) Regulations 2020	
Restriction on Advertising – Can you confirm that this includes cold calling by UK FCA Brokers and that they are not exempt from these Regulations simply by being Registered with the FSA? The code of Conduct definition of advertisement seems to make this clear, but if FCA brokers do not have to follow the Manx code is there a loophole?	The Insurance Intermediaries (Restriction on Advertising) Regulations 2020 restrict the solicitation of business by means of an advertisement and as such do not cover the practice of cold calling. The Insurance Intermediaries (Restriction on Advertising) Regulations 2020 apply to an "overseas person" as defined in the regulations. An intermediary meeting the definition of overseas person would not be exempt from these regulations solely by virtue of being regulated by the UK Financial Conduct Authority. An intermediary registered with the UK Financial Conduct Authority may be exempt from the requirement to register under section 25 of the Act, pursuant to (and meeting the conditions of) Regulation 6 of the Insurance Intermediaries (General Business) Regulations 2020. An intermediary so exempt under would not meet the definition of intermediary in the Insurance Intermediaries (Conduct of Business) (General Business) Code 2020 and thus would not be subject to the binding guidance of that Code. The Authority does not consider the non application of the Insurance Intermediaries (Conduct of Business) (General Business) Code 2020

	to exempt UK FCA regulated intermediaries to be a loophole as any conduct matters that may arise can be taken up by the Authority in conjunction with the UK Financial Conduct Authority through established inter-regulatory cooperative means.
'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 Isle of Man persons whether or not the persons controlling it have taken the decision to specifically target IOM persons'. With the general shift to highly targeted web-based marketing the proposed restriction on advertising, whilst very much welcomed, may be out of touch with current trends. It may be unrealistic for major UK firms to carve out Isle of Man access from a generic web-based campaign, but this is very different to the likes of a firm that currently advertises on the radio or in newspapers here being able to simply switch their IoM focused campaign to even more intrusive popup banner, SEO, or side window advertising etc. This is not the same as the internet being borderless for a generic campaign. Whilst not experts in this field, we believe you would have to specifically include IoM in the likes of a Google Ads IP based advertising campaign and an appropriately worded general restriction on intentionally focused IoM advertising might be the best way forward. We agree that Motor Sport or other sponsorship based advertising that primarily targets visitors would be a generic campaign as it	We welcome your comments in this area. The Authority has considered at length the issue around IP address /location based advertising through the internet when developing the Insurance Intermediaries (Restriction on Advertising) Regulations2020. Currently the Authority does not consider the risk of poor customer outcomes arising through internet media "targeted" in this way to be significant. In particular the Authority has not observed retail customers raising concerns over misleading internet based advertising and consumers appear to be sufficiently educated to recognise the difference between targeted advertising using local media – radio, newspapers etc. versus advertising based on IP address / location services. The Authority will however keep this developing area under review.

would not be designed to specifically target IoM residents or businesses and would fall outside the spirit of the restrictions.	
Should there not be a definition of advertisement as there is under the Insurance Intermediaries (Conduct of Business) (General Business) Code 2020 i.e. "advertisement" includes every form of advertising in printed form and by means of broadcasting sound or images, telecommunications or any electronic media;	Having sought a legal opinion we are of the view that such a definition is not required.
Whilst we do not have a problem with this, does the Motorsports sponsorship (or similar) referred to in the commentary need specific mention?	Given the significance of motorsports events to the Island, and having taken account of feedback to previous consultations, we feel the specific clarification for such activity is merited.
We do not have any comments or concerns at this time.	Noted.
Guidance for winding up	
Is Senior person in the Isle of Man a defined term? Item 1. An outline of the steps taken to advise its clients. Could it be made clear that this means its existing clients rather than clients that it had in the past as well. (The declaration wording item 3 implies it is current policyholders).	We do not propose to define this term in the guidance. Thank you for your comments. We will update the guidance accordingly to clarify the point being made.
Item 7 similarly notification issued to insurers (for whom the intermediary acted) could it be clarified that this is limited to current	Thank you for your comments. We will update the guidance accordingly to clarify the point being made.

insurers, not also those relating to expired contracts with no outstanding claims.	