



## Acting as Ancillary Insurance Intermediaries Code

### Introduction

The **CLC** is a Designated Professional Body under Part XX of **FSMA** and as such it must make arrangements to regulate **CLC** Bodies in the provision of **Regulated Activities** in relation to which the **General Prohibition** does not apply as a result of section 327 **FSMA**.

### Acting as Ancillary Insurance Intermediaries Code

In this Code 'you' refers to bodies regulated by the **CLC**; all bodies regulated by the **CLC** which act as ancillary insurance intermediaries must comply with this Code. You must not permit anyone else to act or fail to act in such a way as to amount to a breach of this Code. These requirements do not apply to a person authorised by the Financial Conduct Authority in accordance with s.31 **FSMA**.

### Outcomes-Focused

The **Code of Conduct** requires you to deliver the following **Outcomes**:

- **Clients receive good quality and independent information, representation and advice (Outcome 1.1);**
- **Each Client's best interests are served (Outcome 3.1);**
- **Clients receive advice appropriate to their circumstances (Outcome 3.2);**
- **Clients have the information they need to make informed decisions (Outcome 3.3);**
- **Clients are aware of any referral arrangements and that they are consistent with your responsibilities both to them and to the CLC (Outcome 3.4);**
- **Clients are aware of any limitation or any condition resulting from your relationship with another party (Outcome 3.5);**
- **You act in accordance with regulatory responsibilities (Outcome 5.1).**

Demonstrating integrity and providing appropriate standards of work when acting as an Insurance Intermediary helps you deliver these **Outcomes** and requires you to act in a principled way:

1. **Act with independence and integrity. (Overriding Principle 1)**
2. **Maintain high standards of work. (Overriding Principle 2)**
3. **Act in the best interests of your Clients. (Overriding Principle 3)**
4. **Promote equality of access and service. (Overriding Principle 6)**

5. You act honestly, professionally and decently. (**CoC P1b**)
6. You do not give false or misleading information relating to the provision of **Regulated Services**. (**CoC P1e**)
7. You keep the interests of the **Client** paramount (except as required by the law or by the **CLC's regulatory arrangements**). (**CoC P3b**)
8. You only recommend a particular person, business or product when it is in the best interests of the **Client**. (**CoC P3f**)
9. You provide the **Client** with information which is accurate, useful and appropriate to the particular **client**. (**CoC 3h**)
10. You provide the **Client** with all relevant information relating to any fee arrangements or fee changes. (**CoC P3j**)
11. You advise **Clients** of the name and status of the person dealing with their matter and the name of the person responsible for overall supervision. (**CoC P3k**)
12. When providing services which are not regulated by the **CLC**, you advise your **Client** of this and inform them in writing that the activity is not covered by **CLC**-approved **professional indemnity insurance** or the **CLC**-administered **Compensation Fund**. (**CoC P3q**)
13. You co-operate with other regulators and ombudsmen. (**CoC P5h**)

You must also comply with the following **specific requirements**:

14. The following activities shall not be considered to constitute insurance distribution or reinsurance distribution:
  - 14.1 the provision of information on an incidental basis in the context of another professional activity where:
    - 14.1.1 the provider does not take any additional steps to assist in concluding or performing an insurance contract;
    - 14.1.2 the purpose of that activity is not to assist the customer in concluding or performing a reinsurance contract;
  - 14.2 the management of claims of an insurance undertaking or of a reinsurance undertaking on a professional basis, and loss adjusting and expert appraisal of claims;
  - 14.3 the mere provision of data and information on potential policyholders to insurance intermediaries, reinsurance intermediaries, insurance undertakings or reinsurance undertakings where the provider does not take any additional steps to assist in the conclusion of an insurance or reinsurance contract;
  - 14.4 the mere provision of information about insurance or reinsurance products, an insurance intermediary, a reinsurance intermediary, an insurance undertaking or a reinsurance undertaking to potential policyholders where the provider does not take any additional steps to assist in the conclusion of an insurance or reinsurance contract.

15. Subject to Requirement 18 and provided it complies with this Code you are only permitted to act as an Ancillary Insurance Intermediary providing **Regulated Activities** as specified by the **CLC** by resolution and which are complementary to **Regulated Services** provided to a **Client**.
16. You are not permitted:
  - 16.1 to manufacture contracts of insurance,
  - 16.2 to take up or pursue the activity of Reinsurance Distribution,
  - 16.3 to distribute Insurance-based Investment Products,
  - 16.4 to carry out distribution activities in relation to Large Risks Insurance,
  - 16.5 to offer an ancillary product or service which is not insurance (with the exception of the substantive Regulated Services), as part of a package or the same agreement, when you offer an insurance product.
17. To effectively oversee **Regulated Activities** you appoint a **Manager** as the person who:-
  - 17.1 is responsible for ensuring the body has procedures and practices to enable it to comply with this Code;
  - 17.2 will supply to the **CLC** or its agents information as required by the **CLC**; and
  - 17.3 will notify the **CLC** immediately and in any event no later than seven days after each such appointment is made.
18. Any Manager or employee providing Regulated Activities must be of good repute, and
  - 18.1 must as a minimum have a clean criminal record (see further article 10(3) IDD), and
  - 18.2 must not have previously been declared bankrupt, unless they have been rehabilitated in accordance with national law.
19. You advise the **CLC** if there is an order or direction of the Financial Conduct Authority under sections 328 or 329 **FSMA** in force in respect of the body. Where such order is in force the **CLC** may withdraw permission without notice.
20. The manner of the provision of any service in the course of **carrying on a Regulated Activity** is incidental to the provision by you of **Professional Services**.
21. The **Regulated Activities** you **carry on** are not of a description, or relate to an investment of a description, specified in an order made by HM Treasury under section 327(6) **FSMA**.
22. The **Regulated Activities** are the only **Regulated Activities** carried on by the body (other than **Regulated Activities** in relation to which it is an **FSMA Exempt Person**).
23. You do not **carry on**, nor hold the body out as **carrying on**, a **Regulated Service** other than one which is permitted by this Code or one in relation to which it is a **FSMA Exempt Person**.
24. You do not **carry on** any Insurance Distribution Activity unless the body is included in the **Insurance Intermediaries Register**.
25. The body and all of its **Managers** at all times comply with **FSMA**, secondary legislation made under **FSMA** and the **IMD**, so far as they apply to them.

26. The body and all of its **Managers** comply with the terms and provisions of the **CLC**'s Acting as an Insurance Intermediary Code.

### **Acting as Ancillary Insurance Intermediaries**

#### ***Insurance Intermediaries Register***

27. You only act as an ancillary insurance intermediary if you are registered on the Financial Conduct Authority's (FCA) ***Insurance Intermediaries Register***. The **CLC** is responsible for supplying details of bodies to the FCA.
28. Unless trading as a Sole Practitioner, you nominate one of your **Managers** to be listed on the Register as the main contact, with all correspondence relating to ***Insurance Distribution Activities*** is addressed to that individual.
29. You check that the body is listed on the ***Insurance Intermediaries Register*** before conducting any activity covered by paragraph 4 of the ***Guidance***.
30. You inform us within 5 working days of any changes being made to your entry in the FCA's register.

### **Notifications provided to *clients***

31. You provide two types of notification as permitted at Requirements 34, 35, 36 and 37:
- 31.1 at the outset of instructions (and in any event before the contract of insurance is concluded);
- 31.2 before a contract of insurance is concluded

#### **Notes:**

- a) Some of the provisions are unlikely to vary from one matter to another and can be provided in standard terms.
- b) A clear statement of the basis on which a particular product has been chosen must be made.
- c) The **CLC** understands there are relatively few providers of Title Indemnity Policies. It is unlikely therefore that any advice on products can be given on the basis of a fair analysis. It is much more likely they will be made from a limited number of insurance undertakings or a single insurance undertaking.
- 31.3 In the case of telephone selling, the information you give to the Client prior to the conclusion of the contract, including the insurance product information document (see Requirement 39.6.5), shall be provided in accordance with the Distance Marketing Regulations. Even if the Client has chosen to obtain prior information on a Durable Medium other than paper in accordance with Requirement 35, you provide information to the Client in accordance with Requirement 33, 34 or 35 immediately after the conclusion of the insurance contract.

## Passporting

32. If you wish to establish an **IDD Branch** or provide **Insurance Distribution Activities** in another EEA State you complete the **FSMA** passporting process (**FSMA**, paragraph 21, part III, schedule 3).
33. You do not provide **Insurance Distribution Activities** in another EEA state unless you have given the FCA the necessary notice of the body's intention to do so.

## Terms & Information Provision

### Providing **Regulated Activities** (including acting as an Insurance Intermediary)

34. All information under Requirements 38 and 39:
  - 34.1 must be clear and accessible, on paper and provided free of charge
  - 34.2 must be provided in a way which is fair, clear and not misleading, no less prominent than any other information provided to the **Client** at the same time and in English or in any other language agreed by the you and the **Client**
  - 34.3 insurance distribution marketing communications must be clearly identifiable as such.
35. Information may be provided by Durable Medium other than paper (such as by email):
  - 35.1 where it is appropriate in the context of the business conducted between you and the Client, and
  - 35.2 the Client has been given the choice between information on paper and on a Durable Medium, and has chosen information on a Durable Medium.
36. Information may be provided by means of a website if it is addressed personally to the customer or if the following conditions are met:
  - 36.1 the provision of that information by means of a website is appropriate in the context of the business conducted between the insurance distributor and the customer;
  - 36.2 the customer has consented to the provision of that information by means of a website;
  - 36.3 the customer has been notified electronically of the address of the website, and the place on the website where that information can be accessed;
  - 36.4 it is ensured that that information remains accessible on the website for such period of time as the customer may reasonably need to consult it.
37. For the purposes of Requirements 35 and 36, the provision of information using a Durable Medium other than paper or by means of a website shall be regarded as appropriate in the context of the business conducted between you and the Client if there is evidence that the Client has regular access to the internet. The provision by the Client of an e-mail address for the purposes of that business shall be regarded as such evidence.
38. In good time before providing **Regulated Activities**, you provide the following information as permitted at Requirements 34, 35, 36 and 37 to the **Client**:-

- 38.1 your name, address, telephone, other contact details and that you are an ancillary insurance intermediary;
- 38.2 if not included in Requirement 38.1, the names of the **managers**;
- 38.3 the name of the individual having day-to-day conduct of the matter and where applicable the name of the individual responsible for its overall supervision;
- 38.4 if the matter is to be conducted by a team, the identity of that team and the name of its leader(s);
- 38.5 the name of the individual to whom any **complaint** should be made;
- 38.6 an explanation of the procedure to be adopted where the **Client** is dissatisfied with the services received or conduct delivered; this must include the name and address of the **CLC** and the **Legal Ombudsman** (see further information provided in the **CLC's Complaints Code** and **Guidance**).
- 38.7 the following wording:-

“If you make a valid **claim** against us for a loss arising out of work for which we are legally responsible, and we are unable to meet our liability in full, you may be entitled to **claim** from the **Compensation Fund** administered by the Council for **Licensed Conveyancers** (from whom details can be obtained”).
- 38.8 the following wording:-

“[this firm is/we are] not authorised by the Financial Conduct Authority. However, we are included in the register maintained by the Financial Conduct Authority so that we can **carry on Insurance Distribution Activities**, which is broadly advising on, selling and administration of insurance contracts. This part of our business is regulated by the Council for **Licensed Conveyancers**, and arrangements for **complaints** or redress if something goes wrong are subject to the jurisdiction of the Legal Ombudsman ([www.legalombudsman.org.uk](http://www.legalombudsman.org.uk)),. The register can be accessed via the Financial Conduct Authority website at <https://register.fca.org.uk>”.
- 39. Where you are proposing or advising on a contract of insurance then in good time before concluding any contract of insurance, or the renewal or the amendment of a contract of insurance, you must be satisfied that the **Client** has been provided with at least the following information, if such information has not already been provided, as permitted at Requirements 34, 35, 36 and 37:
  - 39.1 whether the Body is an ancillary insurance intermediary, an insurance intermediary or an insurance undertaking
  - 39.2 whether the Body is representing the Client or is acting for and on behalf of the insurer
  - 39.3 whether you are providing a personal recommendation about the insurance products offered
  - 39.4 that the Client may buy the contract of insurance separately

- 39.5 where an insurance product is ancillary to a good or a service which is not insurance, as part of a package or the same agreement, you will offer the Client the possibility of buying the good or service separately
- 39.6 based on the information obtained from the **Client**,
- 39.6.1 the demands and needs of the Client in relation to the insurance products that form part of the overall package or the same agreement
- 39.6.2 objective information about the insurance product, and
- 39.6.3 a personalised recommendation explaining why a particular product would best meet the Client's demands and needs,
- in each case modulated according to the complexity of the contract of insurance proposed and the type of Client and be in a comprehensible form to allow the Client to make an informed decision;
- 39.6.4 the reasons for giving Advice on the contract where such Advice is given to the **Client**;
- 39.6.5 the insurance product information document meeting the requirements of Article 20(5) to Article 20(8) of the IDD and Commission Implementing Regulation (EU) 2017/1469.
40. Where information referred to in Requirements 38 and/or 39 is provided using a Durable Medium other than paper or by means off a website, a paper copy shall be provided to the Client upon request and free of charge.
41. Any contract proposed must be consistent with the Client's demands and needs.

#### **Accounting to the Client**

42. In good time before the conclusion of the initial contract of insurance and if necessary on its amendment or renewal you must notify the Client as permitted at Requirement 34 of any **Remuneration** you anticipate arising out of providing **Insurance Distribution Activities** for that Client.
43. You account to the **Client** for any **Remuneration** received by you from a person other than your **Client** arising out of you providing **Insurance Distribution Activities** (s.327(3) FSMA).
44. You must not be remunerated, and you must not remunerate or assess the performance of your employees, in a way that conflicts with their duty to act in accordance with the best interests of your Client. In particular, you shall not make any arrangement by way of remuneration, sales targets or otherwise that could provide an incentive to you or to your employees to recommend a particular insurance product to your Client when you could offer a different insurance product which would better meet the Client's needs.

#### **Specific Knowledge Requirements**

45. All staff providing **Insurance Distribution Activities** must possess appropriate knowledge and ability to perform their duties.

## Other

46. Where appropriate you refer and, if appropriate, take legal advice on the effect of IDD, **FSMA**, secondary legislation, and the **Guidance**.
47. This Code does not prevent the distribution of insurance products which provide coverage for various types of risks (multi-risk insurance policies).
48. Where you advise on, or propose, insurance products which you do not manufacture, you shall have in place adequate arrangements:
  - 48.1 to obtain all appropriate information on the insurance product and the product approval process, including the identified target market of the insurance product, and
  - 48.2 to understand the characteristics and identified target market of each insurance product.