REGULATION OF GENERAL INSURANCE MEDIATION BUSINESS

This consultation paper explains the need for the Island to regulate general insurance mediation business and examines the Commission’s proposals for such regulation.
CONSULTATION PAPER

The Jersey Financial Services Commission (the “Commission”) invites comments on this consultation paper. Comments should reach the Commission by 15 October 2004.

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It is the policy of the Commission to make the content of all responses available for public inspection unless specifically requested otherwise.
# CONSULTATION PAPER

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## APPENDICES

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| A List of individuals and representative bodies who have been sent this consultation paper | 75-76 |
WHAT IS PROPOSED AND WHY?

1.1 On the 9 December 2002 the European Parliament and Council enacted Directive 2002/92/EC on insurance mediation. The objective of this directive is the harmonisation of general insurance regulation throughout the European Union in order to facilitate the single European market in financial services, and the freedom to provide cross-border general insurance mediation services.

1.2 General insurance mediation includes such activities as dealing as agent in contracts of insurance, arranging deals in contracts of insurance, managing rights under a contract of insurance and advising on the merits of buying or selling a contract of insurance.

1.3 The directive requires Member States to:

1.3.1 register all insurance or re-insurance intermediaries;

1.3.2 make the register easily accessible to the public;

1.3.3 take appropriate sanctions against non-registered intermediaries offering or arranging insurance, and against insurance undertakings that use the services of non-registered intermediaries;

1.3.4 ensure a high level of competence and professionalism among all independent intermediaries;

1.3.5 introduce a wide range of consumer protection measures.

1.4 The UK government, acting through HM Treasury, has enacted secondary legislation under the Financial Services and Markets Act 2000 to bring these measures into force in the United Kingdom on 14 January 2005. It has also handed responsibility for supervising compliance with the directive to the Financial Services Authority (“FSA”).

1.5 Whilst the directive has no direct force in Jersey because the Island is not a member of the European Union it will, however, have an indirect effect. This is because insurance intermediaries in the Island arrange the insurance cover they provide through insurance companies in the UK and possibly other EU Member States, and through the Lloyd’s Insurance Market.
1.6 The combined effect of the EU Insurance Mediation Directive and UK secondary legislation enacted under the Financial Services and Markets Act 2000 will be to deny Jersey based general insurance intermediaries access to UK insurance companies and the Lloyd’s market, unless the intermediary concerned is either authorised by the Financial Services Authority, or exempt from authorisation by becoming an appointed representative of a UK insurance company or is classed as a regulated overseas person.

1.7 Although there is no reason why a Jersey-based intermediary cannot directly approach the FSA in the UK for full authorisation under Part IV of the Financial Services Markets Act 2000, or approach one or more insurance companies to enter into a contract(s) as an appointed representative, the Commission believes that it should make the option to take up the overseas persons exemption available to intermediaries. Not only does this option enable businesses in the Island to carry on their general insurance mediation with the minimum of disruption but it is considered to be the simplest and least costly option. A view which is endorsed by the Jersey General Insurance Society.

1.8 In order to take advantage of this exemption, however, the Commission must first regulate the activities of those conducting general insurance mediation business within the Island. This has been done by amending the Financial Services (Jersey) Law 1998 (the “LAW”) to introduce a new class of financial service business, namely general insurance mediation business, and use the enabling powers contained in the Law to bring in the detailed requirements by way of Orders of the Economic Development Committee. The Commission may also draft Codes of Practice for those engaging in this sector.

1.9 The new legislation is designed primarily to regulate those who are engaged in general insurance mediation as a mainstream business but it will also include other persons who carry on general insurance mediation incidentally to their mainstream business. This will include those selling insurance with goods or services. They will be included because anyone who engages in general insurance mediation will have to register that fact with the Financial Services Commission and supply some limited information, such as the names of the insurance companies they deal with and the classes of insurance business they carry on. They will also be subject to the investigation and enforcement powers of the Commission in the event of malpractice or a serious breach of the Law.

1.10 An overview of the proposed regulation is included in section 4 on page 8.
2.1 The Commission has issued this consultation paper in accordance with Article 8(2) of the Financial Services Commission (Jersey) Law 1998, as amended, under which the Commission “may, in connection with the carrying out of its functions - …consult and seek the advice of such persons or bodies whether inside or outside the Island as it considers appropriate”.

2.2 The Commission invites comments in writing from interested parties on the proposals included in this consultation paper. Where comments are made by an industry body or association, that body or association should also provide a summary of the type of individuals and/or institutions that it represents.

2.3 To assist in analysing responses to the consultation paper, respondents are asked to:

2.3.1 prioritise comments and to indicate their relative importance; and

2.3.2 respond as specifically as possible and, where they refer to costs, to quantify those costs.

2.4 Following analysis of the responses to the consultation paper the results will be presented to the Board of Commissioners for review together with the final drafts of the Orders that will be made under the Law. These Orders will then be given to the Economic Development Committee for consideration and enactment so that they come into force at the same time as the Financial Services (Jersey) (Amendment No.2) Law 200*.
3.1 The Commission is a statutory body corporate established under the Financial Services Commission (Jersey) Law 1998, as amended. It is responsible for the supervision of financial services provided in or from within Jersey.

3.2 The Commission’s guiding principles require it to have regard to:

3.2.1 the reduction of risk to the public of financial loss due to dishonesty, incompetence or malpractice by, or the financial unsoundness of, persons carrying on the business of financial services in or from within the Island;

3.2.2 the protection and enhancement of the reputation and integrity of Jersey in commercial and financial matters;

3.2.3 the best economic interests of the Island; and, in pursuit of the above

3.2.4 contributing to the fight against financial crime.
4 - OVERVIEW

4.1 The general insurance mediation market in Jersey is not a homogeneous market because it comprises a mixture of businesses. There are those that carry on general insurance broking as their primary activity, financial services businesses in which general insurance is one component, and businesses that offer general insurance solely as an incidental service to their main occupation which is not related to financial services at all.

4.2 Many of the businesses that will be brought into regulation have not been subject to such provisions or oversight in the past. The Consultation Paper is therefore quite detailed, so that the implications can be studied and understood by all those affected. It is also important for businesses that carry on general insurance mediation only as an incidental service to appreciate the limited scope of the provisions that are intended to apply to them, and the exemptions from the provisions of the Financial Services (Jersey) Law 1998 that are included in these proposals.

4.3 The Consultation Paper is therefore divided into Four parts -

4.3.1 Part One explains the requirement to register and the exemptions proposed under the Law.

4.3.2 Part two explains the regulatory and supervisory regime for those who conduct general insurance mediation incidentally to the provision of other goods and services.

4.3.3 Part three explains the elements of the Financial Services (Jersey) Law 1998 and the proposed Orders that will apply only to those engaged in mainstream general insurance mediation.

4.3.4 Part four explains the elements of the Financial Services (Jersey) Law 1998 and the proposed Orders that will apply to all businesses.

THE PROPOSED ORDERS

4.4 There are five draft Orders that will comprise the main elements of the consultation process:

4.4.1 Financial Services (General Insurance Mediation Business (Client Assets)) (Jersey) Order

4.4.2 Financial Services (General Insurance Mediation Business (Accounts, Audits and Reports)) (Jersey) Order

4.4.3 Financial Services (General Insurance Mediation Business (Exemption)) (Jersey) Order
4.4.4 Financial Services (General Insurance Mediation Business (Advertising)) (Jersey) Order

4.4.5 Financial Services (General Insurance Mediation Business (Registration and Fees)) (Jersey) Order

4.5 The law drafting instructions for these five Orders have been prepared and submitted to the Law Draftsman’s Office, but draft Orders have not yet been received. The Consultation Paper therefore describes the proposed content of these Orders in detail and invites comments from anyone who will be affected by the proposals.

CLIENT ASSETS ORDER AND THE ACCOUNTS, AUDIT AND REPORTS ORDER

4.6 These two Orders are both based on the Orders that already exist for Investment and Trust Company business, with amendments only to relate them to specific general insurance matters and to incorporate appropriate technical terms. This is to ensure consistency within the legislation, and particularly to enable brokers who carry on long-term as well as general insurance (who are already regulated under the investment business provisions) to operate under just one regulatory regime.

4.7 It is proposed that the Orders apply as a matter of course to those businesses that carry on general insurance mediation as a primary activity, and to those financial services businesses that are already regulated under another law but who include general insurance mediation as one of their subsidiary activities. However, it is intended to exempt from the provisions the non-financial services businesses for whom general insurance mediation is incidental, but to retain the right to re-introduce compliance by licence condition on a case-by-case basis should problems emerge with individual businesses.

EXEMPTION ORDER

4.8 This Order is intended to fully exempt from the provisions of the Financial Services (Jersey) Law 1998 as they relate to general insurance mediation business those businesses that either elect to register with, and be regulated by, the Financial Services Authority in the UK or the regulatory authority of any other EU jurisdiction, or that enter into tied agency agreements with insurance companies that are authorised by an EU regulatory authority.

4.9 The Order also contains the provisions that exempt from the majority of the provisions of the Law those non-financial services businesses that carry on general insurance mediation only as an incidental activity, and create the “registration only” regime for this class of business. However, the investigative provisions are retained, as is the power to re-apply through licence conditions the requirements of the Client Assets Order and/or the Accounts, Audits and Reports Order if necessary on an individual business basis.
4.10 It is necessary to introduce a “quid pro quo” arrangement whereby the overseas persons exemption is reciprocated in Jersey. A business that carries on general insurance mediation and is regulated in the UK or the EU should be able to have access to a Jersey incorporated insurance company without being required to obtain authorisation from the Commission.

ADVERTISING ORDER

4.11 The Advertising Order contains similar provisions to those contained in the Insurance Business Codes of Practice. This is to ensure that general insurance brokers and insurance companies that market their products directly to the general public are subject to the same standards when preparing advertisements.

REGISTRATION AND FEES ORDER

4.12 This Order creates three new classes of financial services business:

4.12.1 Class P - carrying on general insurance mediation business as the primary activity and not already regulated.

4.12.2 Class Q - carrying on general insurance mediation business in addition to any other financial services business that is already regulated by the Commission;

4.12.3 Class R - carrying on general insurance mediation business that is incidental to some other non-financial services business.

4.13 The average annual fee currently paid by brokers carrying on long-term insurance business under the investment business provisions of the existing law is £3,000, so for consistency it is proposed to charge this amount for a Class P registration.

4.14 Businesses under Class Q will currently be regulated under an existing financial services law. It will not therefore be necessary to carry out a full review of these applications because much of the information will already be held by the Commission. An annual fee of 50% of the full Class P fee is therefore being suggested, £1,500.

4.15 For those businesses carrying on general insurance mediation as an incidental service, the “registration only” regime should not impose a significant financial burden. An annual fee of £30 is consequently being proposed.
5.1 When the Financial Services (Amendment No.2) (Jersey) Law 200* comes into force, general insurance mediation business will become a class of financial service business under the Financial Services (Jersey) Law 1998. Those persons carrying on such business will become subject to the Law, and Orders issued under it by the Economic Development Committee. Those who carry on general insurance mediation business as a primary activity may also be subject to Codes of Practice issued by the Commission.

5.2 However, as the general insurance mediation market is not a homogeneous market, the Commission considers that various levels of regulation are necessary.

5.3 This is because the local general insurance market comprises not only participants whose mainstream business is solely the provision of general insurance products and services, but also participants whose primary business is the provision of goods and services to which general insurance products or services are incidental. In between are financial services groups that are already regulated under an existing financial services law but who also provide general insurance mediation as one of their services.

5.4 For these reasons the Commission is proposing:

5.4.1 to apply the full provisions of the Financial Services (Jersey) Law 1998 to those engaged in primary general insurance mediation business;

5.4.2 to adopt a less rigorous regime for those who only engage in this business incidentally, by exempting them from various provisions of the Financial Services (Jersey) Law 1998; and

5.4.3 in the case of professional accountancy and legal firms, who are governed by the regulations of their professional bodies, to exempt them altogether in line with the existing provisions of the law.

5.5 However, the Commission intends to keep the whole market under observation and reserves the right to amend any of the legislation if it becomes necessary to deal with any abuses that may emerge.

5.6 As a result of the approach being adopted by the Commission, this consultation paper is structured as follows:

5.6.1 Part One considers the application of Articles 6 and 7 of the Financial Services (Jersey) Law 1998, which cover the requirement to register and the exemptions.
5.6.2 Part Two explains how the Commission intends to regulate those conducting general insurance mediation business incidentally to the provision of goods and services.

5.6.3 Part Three explains the additional elements of the Financial Services (Jersey) Law 1998, and any Orders made under it, that may apply to those engaged primarily in general insurance mediation business.

5.6.4 Part Four explains which elements of the Financial Services (Jersey) Law 1998 and Orders made under it which are intended to apply to all persons providing general insurance mediation business, either primarily or incidentally.

QUESTIONS:

Are the three categories of registration identified above appropriate to the industry in Jersey?

Should accountants and lawyers be exempted from the Law in a similar way to the exemption that is currently in place under other areas of the Financial Services Law or should they be registered under Class R - i.e. carrying on general insurance mediation business that is incidental to some other non-financial services business?

If you are an accountancy or legal firm, do you carry on general insurance mediation business directly with insurers or indirectly through other general insurance intermediaries? If business is carried on through both channels please indicate the percentages carried on directly and indirectly.

Should other professions be exempted from the Law? Please provide in your response a description of whether or not the rules of your professional body contain provisions regarding the safeguarding of client assets and the handling of complaints.
THE APPLICATION OF ARTICLES 6 AND 7 OF THE FINANCIAL SERVICES (JERSEY) LAW 1998

6.1 From January 2005 the carrying on of general insurance mediation business in Jersey will be restricted to persons who are either regulated or exempt from regulation under the Financial Services (Jersey) Law 1998, as amended.

6.2 Article 6 of the Law states that:

6.2.1 no person may carry on general insurance mediation business in or from within the Island; and

6.2.2 no company incorporated in the Island shall carry on such business anywhere in the world,

unless the person is, for the time being, a registered person under the Law and acts in accordance with the terms of their regulation.

6.3 Article 7 of the Law gives the power to grant certain exemptions to this general prohibition. The following persons have either been exempted from the Law, or may be exempted from the Law by Order (see Part Four for a copy of the Law drafting instructions for the Exemptions Order).

ACCOUNTANTS AND LAWYERS

6.4 Under the Law as it currently stands accountants and lawyers are exempted from the provisions of the legislation as it relates to investment and trust company businesses. Under Part 3, Schedule 1 of the Law this exemption is extended to general insurance mediation business. This exemption is applicable to:

6.4.1 the practice of accountancy by a practising accountant; or

6.4.2 the profession of a lawyer by a practising lawyer.

For the purposes of this paragraph -

"practising accountant" means a person qualified under Article 113 of the Companies (Jersey) Law 1991 for appointment as auditor of a company under Article 109 of that Law;
“practising lawyer” means -

(a) an ecrivain or advocate of the Royal Court; or

(b) a person who is qualified to act as a solicitor under section 1 of the Solicitors Act 1974 of the United Kingdom, Article 4 of the Solicitors (Northern Ireland) Order 1976 or section 4 of the Solicitors (Scotland) Act 1980,

and who is, for the time being, practising as an ecrivain, advocate or solicitor from or within the Island.

REGULATED OVERSEAS PERSONS

6.5 Under the proposed Financial Services (General Insurance Mediation Business (Exemption)) (Jersey) Order 200* the prohibition on the carrying on of unauthorised general insurance mediation business will not apply to a regulated overseas person:

6.5.1 carrying on general insurance mediation business with an insurance company incorporated in Jersey;

6.5.2 carrying on general insurance mediation business with a person in Jersey as a result of an unsolicited request from that person in Jersey;

6.5.3 where the overseas person acts as an agent for a person in the Island if it is in respect of an agreement with another person who is located outside the Island (for example parents insuring their children or their children’s property whilst away at school or college in the United Kingdom);

6.5.4 where the overseas person continues to provide general insurance mediation business that is already in force at the date on which Amendment No.2 to the Financial Services (Jersey) Law 1998 comes into force, but such exemption is only applicable to existing policies and their renewal, and shall not last for longer than twelve months.
JERSEY DOMICILED PERSONS WHO ELECT TO BECOME AUTHORISED BY THE UK FINANCIAL SERVICES AUTHORITY OR WHO BECOME APPOINTED REPRESENTATIVES OF UK INSURANCE FIRMS, UNDER THE FINANCIAL SERVICES AND MARKETS ACT 2000

6.6 Under the proposed Financial Services (General Insurance Mediation Business (Exemption)) (Jersey) Order 200*, the prohibition on the carrying on of unauthorised general insurance mediation business will not apply to Jersey domiciled persons who elect not to be regulated by the Commission under the Financial Services (Jersey) Law 1998, as amended, but either become authorised by the Financial Services Authority or are exempted from direct regulation by becoming the appointed representative of a UK insurance company.

JERSEY DOMICILED PERSONS WHO ELECT TO BECOME AUTHORISED BY THE APPROPRIATE REGULATORY AUTHORITIES IN ANOTHER EUROPEAN UNION STATE OTHER THAN THE UK, OR WHO BECOME THE APPOINTED REPRESENTATIVE OF AN EU INSURER

6.7 Under the proposed Financial Services (General Insurance Mediation Business (Exemption)) (Jersey) Order 200*, the prohibition on the carrying on of unauthorised general insurance mediation business will not apply to Jersey domiciled persons who elect not to be regulated by the Commission under the Financial Services (Jersey) Law 1998, as amended, but to become authorised under the equivalent provisions of an EU Member State or who become the tied representative of an EU insurance company (ie. the equivalent of the UK appointed representative). Due to the twenty four different approaches to implementing the EU Insurance Mediation Directive in Member States other than the United Kingdom the Commission will decide whether or not to grant an exemption on a case by case basis.

PENALTIES FOR BREACHING ARTICLE 6 OF THE LAW

6.8 Any person who contravenes Article 6 (Prohibition on unauthorised financial service business) shall be guilty of an offence and liable to imprisonment for a term not exceeding seven years, or a fine, or both.

6.9 Any person who holds himself out as carrying on general insurance mediation business in or from the Island shall, for the purposes of this Law, be treated as carrying on such business.
7.1 This section is applicable to those persons carrying on general insurance mediation business as an incidental activity. It must be read in conjunction with Part Four of this document, which also applies to those persons that undertake this form of business.

DEFINITION

7.2 Incidental general insurance mediation business will be defined in Article 3A(2) of the Financial Services (Jersey) Law 1998 when Amendment No.2 to the Law comes into force, as:

“general insurance mediation business that is carried on by a person where the person carries on such business only -

7.2.1 incidentally to some other business;

7.2.2 in relation to goods or services sold by him or her; or

7.2.3 by way of the sale of a policy of general insurance as part of a contract to provide goods and services”.

REGISTRATION

7.3 Any person wishing to carry on general insurance mediation business as an incidental activity is required to register with the Commission under the Financial Services (Jersey) Law 1998, as amended unless exempted under the provisions of this law.

PROCEDURE

7.4 The application for registration will:

7.4.1 be made to the Commission using the appropriate application form produced by the Commission;

7.4.2 require the following information:

(a) the name of the applicant (registered name of a company or in the case of a natural person their full name);

(b) the registered address of a company or the home address of the natural person carrying on the business;
(c) the classes of general insurance business being arranged by the applicant;

(d) details of the insurance companies being used by the applicant;

7.4.3 be accompanied by the prescribed fee payable to the Commission.

7.5 The Commission is empowered at any time, after receiving the application and before determining it, to write to the applicant requiring him to provide such additional information, or documents, as it reasonably requires for the determination of the application, and for this to be verified in such a manner that the Commission may require.

7.6 A person who is awaiting determination of his application by the Commission is required to write to the Commission immediately if:

7.6.1 he needs to make an alteration to; or

7.6.2 he becomes aware of any event which may affect in any material respect the information or missing documents he has supplied to the commission in connection with his application.

7.7 An applicant may by written notice to the commission withdraw his application at any time before it is granted.

7.8 On application the commission may:

7.8.1 register the person with or without attaching conditions; or

7.8.2 refuse to register a person on any of the following grounds:

(a) the applicant has at any time and whether or not in relation to the application, in any case where the information was required under this Law in any connection -

(i) failed to provide such information;

(ii) provided to the Commission information which was untrue or misleading in any material particular;

(b) the applicant has at any time failed to comply with any condition prescribed or attached under Article 9 of the Law to a current or previous registration held by him in any material respect;
(c) the applicant or any person employed or associated with him for the purposes of his business has been convicted of:

(i) an offence under this Law; or

(ii) of any offence involving dishonesty;

(d) it appears to the Commission, as a result of information provided, or information otherwise obtained, that -

(i) it is in the best interests of persons likely to transact such business with the applicant that the applicant should not be registered;

(ii) in order to protect the reputation and integrity of the Island in financial and commercial matters the applicant should not be registered;

(iii) in the best economic interests of the Island the applicant should not be registered.

REFUSAL TO REGISTER

7.9 Where the Commission refuses to register a person the applicant may require the Commission to furnish him within fourteen days with a statement in writing of its reasons for that decision.

7.10 Any person aggrieved by such a refusal may appeal to the Royal Court within one month from the date of the notice given to him on the grounds that the Commission was unreasonable having regard to all the circumstances of the case.

REGISTRATION CERTIFICATE

7.11 Where the Commission decides to grant registration it will issue to the applicant a registration certificate, with or without conditions. Registration will be renewable annually no later than 31 January.

CONDITIONS ATTACHED TO A REGISTRATION

7.12 Where the Commission attaches a condition to the registration of a particular person the applicant may require the Commission to furnish him within 14 days with a statement in writing setting out the reasons for its decision to impose the condition(s).

7.13 Any person who is aggrieved by the condition or conditions attached to his registration may appeal to the Royal Court within one month from the date of the notice given to him on the grounds that the decision of the Commission was unreasonable having regard to all the circumstances of the case.
7.14 The Commission may from time to time amend, vary, substitute or revoke any such conditions or attach new conditions.

7.15 Where the Commission amends, varies, substitutes or revokes any such conditions or attaches a new condition to a registration it shall give notice in writing to the registered person concerned.

7.16 Where the commission attaches a new condition to the registration of a particular person or amends, varies, substitutes or revokes any condition so attached, the new condition or amendment, variation, substitution or revocation shall not take effect:

7.16.1 before the expiration of a period of one month from the date on which notice was given to the registered person; or

7.16.2 the date on which any appeal against the new condition or amendment, variation, substitution or revocation is determined or withdrawn,

whichever is the later, unless:

7.16.3 the registered person requests that it should take effect at an earlier date; or

7.16.4 where the court has ordered (following an application by the Commission) that it is desirable in the best interests of persons with whom a registered person has transacted or may transact general insurance mediation business that the notice period in paragraph 7.16.1:

(a) should not have effect; or

(b) should cease to have effect in a particular case; or

(c) that the period in paragraph 7.16.1 should be increased.

7.17 A court order under paragraph 7.16.4 may be made without prior notice to and without hearing the person concerned.

7.18 Where an order is made under paragraph 7.16.4 it shall have immediate effect but any person aggrieved by such an order may apply to the Royal Court, to vary or set aside the order on the ground that the order was unreasonable having regard to all the circumstances of the case.
7.19 At the end of each registration period a person wishing to continue carrying on general insurance mediation business on an incidental basis will have to renew his registration with the Commission using the appropriate renewal form.

7.20 This renewal form will require the person to state whether or not any of the information provided by him on his original application form has changed, and if it has, require him to detail the changes that have taken place.

7.21 Where the Commission refuses to accept the renewal the registered person may require the Commission to furnish him within fourteen days with a statement in writing of its reasons for that decision.

7.22 Any person aggrieved by such a refusal may appeal to the Royal Court within one month from the date of the notice given to him on the grounds that the Commission was unreasonable having regard to all the circumstances of the case.

CANCELLATION OF REGISTRATION

7.23 The Commission may revoke a registration under this Law at any time -

7.23.1 at the request of the registered person;

7.23.2 if the registered person has not commenced his general insurance mediation business in or from within the Island within one year of the date of his registration;

7.23.3 if the registered person ceases to conduct general insurance mediation business;

7.23.4 if the applicant has at any time failed to comply with any condition prescribed or attached under Article 9 to a current or previous registration held by him in any material respect;

7.23.5 if the applicant or any person employed by or associated with him for the purposes of his business has been convicted of-

(a) an offence under this Law; or of

(b) any offence involving dishonesty.
APPLICATION OF ASSOCIATED ORDERS

7.24 The Commission intends to exempt persons from the provisions of the various supplementary orders where these persons carry on general insurance mediation business that is incidental to their primary business.

7.25 The provisions of Part Four apply to persons who carry on general insurance mediation business that is incidental to their primary business but it is not the intention of the Commission to apply these provisions unless breaches or irregularities arise in dealing with the public.

7.26 The Commission hopes that the requirements set out in this Part will represent the full extent of regulation of this sector of the market. It is empowered however, to use the full supervisory and enforcement powers laid down in the Law to deal with malpractice or serious breaches of the Law in furtherance of its statutory duty to protect the public. These powers are contained in Part Four of this Paper.
8.1 This section is applicable to those persons carrying on general insurance mediation business as a mainstream activity. It must be read in conjunction with Part Four of this document, which also applies to those undertaking this form of business.

REGISTRATION

8.2 Any person wishing to carry on general insurance mediation business as a mainstream activity is required to register with the Commission under the Financial Services (Jersey) Law 1998, as amended unless exempted under the provisions of this Law.

PROCEDURE

8.3 The application for registration will:

8.3.1 be made using the appropriate application form produced by the Commission which will be produced and circulated for comment;

8.3.2 be accompanied by such information, documents and fees (payable to the Commission), as the Commission may require; and

8.3.3 be verified in such manner as the Commission may require.

8.4 The Commission is empowered:

8.4.1 at any time after receiving the application and before determining it, to write to the applicant requiring him to provide such additional information, or documents, as it reasonably requires for the determination of the application. It may also require that this additional information or documents be verified in whatever manner as it requires;

8.4.2 to write to the applicant requiring him to provide a report by an auditor or accountant, or other qualified person approved by the Commission, on such aspects of any information or documents supplied to the Commission in furtherance of his application.

8.5 A person who is awaiting determination of his application by the Commission is required to write to the Commission immediately if:

8.5.1 he needs to make an alteration to; or

8.5.2 he becomes aware of any event which may affect in any material respect, any of the information or documents he has supplied to the Commission in connection with his application.
8.6 An applicant may by written notice to the Commission withdraw his application at any time before it is granted or refused.

8.7 On application the Commission may:

8.7.1 register the person with or without attaching conditions; or

8.7.2 refuse to register a person on any of the following grounds:

(a) having regard to the information before the Commission as to the -

(i) integrity, competence, financial standing, structure and organisation of the applicant;

(ii) persons employed by or associated with the applicant for the purposes of his business or who are principal persons in relation to the applicant;

(iii) description of the business which the applicant proposes to carry on,

the Commission is not satisfied that the applicant is a fit and proper person to be registered;

(b) the applicant has at any time and whether or not in relation to the application, in any case where the information was required under this Law in any connection -

(i) failed to provide such information;

(ii) provided to the Commission information which was untrue or misleading in any material particular.

(c) the applicant has at any time failed to comply with any condition prescribed or attached under Article 9 of the Law to a current or previous registration held by him in any material respect;

(d) the applicant or any person employed or associated with him for the purposes of his business has been convicted of an offence under this Law; or

(e) of any offence involving dishonesty;
8.8 Where the Commission refuses to register a person the applicant may require the Commission to furnish him within fourteen days with a statement in writing of its reasons for that decision.

8.9 Any person aggrieved by such a refusal may appeal to the Royal Court within one month from the date of the notice given to him on the grounds that the Commission was unreasonable having regard to all the circumstances of the case.

CONDITIONS TO REGISTRATION

8.10 Where the Commission attaches a condition to the registration of a particular person the applicant may require the Commission to furnish him within fourteen days with a statement in writing for the reasons for that decision.

8.11 Any person aggrieved by the conditions attached to his registration may appeal to the Royal Court within one month from the date on which notice given to him on the grounds that the decision of the Commission was unreasonable having regard to all the circumstances of the case.

8.12 The Commission may from time to time amend, vary substitute or revoke any such conditions or attach new conditions but shall only do so after notifying the registered person concerned in writing.

8.13 Where the Commission amends varies, substitutes or revokes any such condition or attaches a new condition to a registration it shall give notice in writing to the registered person concerned.

(f) if the applicant intends to carry on general insurance mediation business, it is in the best interests of persons who may transact general insurance mediation business with the applicant that the applicant should not be registered;

(i) if the applicant intends to carry on financial service business (other than trust company business), it is in the best interests of persons who may transact financial service business (other than trust company business) with the applicant that the applicant should not be registered;

(ii) in order to protect the reputation and integrity of the Island in financial and commercial matters, the applicant should not be registered;

(iii) in the best economic interests of the Island the applicant should not be registered.
8.14 Where the Commission attaches a new condition to the registration of a particular person or amends, varies, substitutes or revokes any condition so attached, the new condition or amendment, variation, substitution or revocation shall not take effect:

8.14.1 before the expiration of a period of one month from the date on which the notice was given to the registered person;

8.14.2 the date on which any appeal against the new condition or amendment, variation, substitution or revocation is determined or withdrawn, whichever is later, unless

8.14.3 the registered person requests that it should take effect at an earlier date; or

8.14.4 where the court has ordered, following an application by the Commission, that it is desirable in the best interests of persons with whom a registered person has transacted or may transact general insurance mediation business that the notice period in paragraph 8.14.1:

(a) should not have effect; or

(b) should cease to have effect in a particular case; or

(c) that the period in paragraph 8.14.1 should be increased.

8.15 A court order under paragraph 8.14.4 may be made without prior notice to and without hearing the person concerned.

8.16 Where an order is made under paragraph 8.14.4 it shall have immediate effect but any person aggrieved by such an order may apply to the Royal Court to vary or set aside the order on the ground that the order was unreasonable having regard to all the circumstances of the case.

REGISTRATION RENEWAL

8.17 At the end of each registration period a person wishing to continue carrying on general insurance mediation business will have to renew his registration with the Commission using the appropriate renewal form.

8.18 This renewal form will require the applicant to state whether or not any of the information provided by him on his original application form has changed, and if it has require him to detail the changes that have taken place.

8.19 The criteria on renewal used by the Commission on re-registration will be the same as on the original application.
8.20 Where the Commission refuses to accept the renewal the registered person may require the Commission to furnish him within fourteen days with a statement in writing of its reasons for that decision.

8.21 Any person aggrieved by such a refusal may appeal to the Royal Court within one month from the date of the notice to him on the grounds that the Commission was unreasonable having regard to all the circumstances of the case.

CANCELLATION OF REGISTRATION

8.22 The Commission may revoke a registration under this Law at any time -

8.22.1 at the request of the registered person;

8.22.2 if the registered person has not commenced his general insurance mediation business in or from within the Island within one year of the date of his registration;

8.22.3 if the registered person ceases to conduct general insurance mediation business;

8.22.4 on one or more of the grounds set out in paragraph 8.7.2 above;

8.22.5 if there is a failure to comply with a notice of objection served; or

8.22.6 without prejudice to paragraph 8.25 if the registered person fails to pay to the Commission any fee prescribed in the Financial Services (General Insurance Mediation Business)(Fees) (Jersey) Order.

8.23 Where the Commission decides to revoke a registration it shall give notice in writing to the registered person concerned.

8.24 Any person aggrieved by such a revocation of registration may appeal to the Royal Court within one month from the date of the notice to him on the grounds that the Commission was unreasonable having regard to all the circumstances of the case.

8.25 A registered person who fails to pay any fee under paragraph 8.22.6 shall be subject to a late payment fee.
PRINCIPAL PERSONS, SHAREHOLDER CONTROLLERS AND REGISTERED PERSONS

8.26 Under Articles 11, 12, 13 and 14 of the Financial Services (Jersey) Law 1998, the Commission has wide powers regarding principal persons, shareholder controllers and registered persons.

8.27 A principal person is defined as meaning -

8.27.1 in relation to a person -

(a) being a sole trader, the proprietor;

(b) being a company -

(I) a person who, either alone or with any associate or associates -

(i) directly or indirectly holds ten per cent or more of the share capital issued by the company;

(ii) is entitled to exercise or control the exercise of not less than ten per cent of the voting power in general meeting of the company or of any other company of which it is a subsidiary; or

(iii) has a holding in the company directly or indirectly which makes it possible to exercise significant influence over the management of the company;

(II) a director;

(III) a person in accordance with whose directions, whether given directly or indirectly, any director of the company, or director of any other company of which the company is a subsidiary, is accustomed to act (but disregarding advice given in a professional capacity);

(c) being a partnership -

(I) a partner;

(II) where a partner is a company, any person who, in relation to that company as described in paragraph 8.27.1 above; and
8.27.2 in relation to a person whose registered office and principal place of business is outside the Island, includes a person who, either alone or jointly with one or more other persons, is responsible for the conduct of the person’s financial service business in the Island; and

8.27.3 in relation to a person who has become bankrupt, includes a person who has been appointed as liquidator or administrator of the person’s affairs.

8.28 A shareholder controller is a person who, either alone or with any associate or associates -

8.28.1 directly or indirectly holds ten per cent or more of the share capital issued by the company;

8.28.2 is entitled to exercise or control the exercise of not less than ten per cent of the voting power in general meeting of the company or of any other company of which it is a subsidiary; or

8.28.3 has a holding in the company directly or indirectly which makes it possible to exercise significant influence over the management of the company.

8.29 A registered person means a person registered by the Commission.

NOTIFICATION OF INTENTION TO BECOME A PRINCIPAL PERSON

8.30 No person shall become a principal person in relation to a registered person unless he has notified the Commission in writing of his intention to become such a principal person and the Commission has notified him in writing that there is no objection.

8.31 A person will be treated as becoming a principal person in relation to registered person if, being a principal person in one or more capacities, he becomes a principal person in any additional capacity.

8.32 The notice to the Commission shall include such information regarding the person in question as may be required by the Commission.

8.33 A person who fails to give the Commission notice of his intention to become a principal person shall be guilty of an offence and liable to imprisonment for a term not exceeding two years or a fine, or both, unless he can show that he did not know of the acts or circumstances by which he became a principal person but where a person becomes aware of the relevant facts or circumstances he shall be guilty of an offence, and liable to imprisonment for a term not exceeding two years or a fine, or both, unless he gives the Commission written notice of the fact that he has become a principal person within fourteen days of becoming aware of that fact.
8.34 Any person who becomes a principal person before having been served with a notice by the Commission shall be guilty of an offence; and liable to imprisonment for a term not exceeding two years or a fine, or both, unless he can show that he did not know of the acts or circumstances by which he became a principal person; but where a person becomes aware of the relevant facts or circumstances he shall be guilty of an offence and liable to imprisonment for a term not exceeding two years or a fine, unless he gives the Commission written notice of the fact that he has become a principal person within fourteen days of becoming aware of that fact.

8.35 Following receipt of a notice the Commission may, by giving written notice, require the person concerned [or the registered person] to provide such additional information or documents as the Commission may require in order to decide whether to serve a notice of objection.

8.36 Where it appears to the Commission that a person in respect of whom notice has been given that he will become a principal person, is not a fit and proper person to be a principal person in relation to a registered person, the Commission shall serve on that person and on the registered person concerned a written notice of objection, directing that he shall not become a principal person.

8.37 The Commission may issue such a notice:-

8.37.1 at any time;
8.37.2 based on the information before it; and
8.37.3 in accordance with matters that are detailed with paragraph 8.7 above.

8.38 The notice of objection shall:

8.38.1 specify the reasons for such objection although the Commission is not required to disclose in its reasons for objection any confidential information the disclosure of which would, in the Commission’s opinion, be prejudicial to a third party;
8.38.2 give particulars of the rights of appeal under the Law.

8.39 A person aggrieved by a notice served on him may appeal to the Royal Court within one month from the date on which such notice was given, on the ground that the decision of the Commission is unreasonable having regard to all of the circumstances of the case.

8.40 Any person who becomes a principal person following the service on him of a notice of objection shall be guilty of an offence and liable to imprisonment for a term not exceeding two years or a fine, or both.
8.41 Where the person has acted in the circumstances outlined in paragraph 8.40, and:

8.41.1 the registered person concerned is a company; and

8.41.2 the person concerned is a shareholder controller of that company,

the Commission may, by notice in writing served on the person concerned, direct that any specified shares shall, until further notice be subject to one or more of the following restrictions:

8.41.3 any transfer of, or agreement to transfer, those shares or, in the case of unissued shares, any transfer of or agreement to transfer the right to be issued with them, shall be void;

8.41.4 no voting rights shall be exercisable in respect of the shares;

8.41.5 no further shares shall be issued in right of them or in pursuance of any offer made to their holder;

8.41.6 except in liquidation, no payment shall be made of any sum due from the registered person on the shares, whether in respect of capital or otherwise.

8.42 The Commission may make an application to the court for an order for the sale of shares held by the person concerned.

8.43 The court may order the sale of any these shares and if they are for the time being subject to any restrictions under paragraph 8.41, that they shall cease to be subject to these restrictions.

8.44 The Royal Court will not grant an order under paragraph 8.43 in a case where a notice of objection was served:

8.44.1 until the end of the period within which an appeal can be brought against the notice of the objection;

8.44.2 if such appeal is brought, until it has been determined or withdrawn.

8.45 Where an order has been made under paragraph 8.43, the Royal Court may, on the application of the Commission, make such further order relating to the sale or transfer of the shares as it thinks fit.

8.46 Where, following a court order, shares are sold, the proceeds of sale, less the costs of the sale, shall be paid to the Viscount for the benefit of the persons beneficially interested in them, and any such person may apply to the court for an order that the whole or part of the proceeds be paid to him by the Viscount.
EXISTING PRINCIPAL PERSONS - FIT AND PROPER

8.47 Where it appears to the Commission that a person is not fit and proper to be a principal person it shall serve on that person and the registered person a written notice of objection directing that he shall not continue to be a principal person.

8.48 The Commission’s rights of objection and the registered person’s right of appeal is similar to paragraphs 8.36 to 8.45 above.

SHAREHOLDER CONTROLLERS - CHANGES IN LEVEL OF HOLDINGS

8.49 No person who is a shareholder controller shall increase his holding in the company concerned so that the proportion of the share capital or voting rights held by him in the company reaches or exceeds 20 per cent, 33 per cent or 50 per cent, or so that the company becomes the subsidiary of such person unless he has notified the Commission in writing of his intention to increase such holding, and the Commission has notified him that there is no objection to his so doing.

8.50 Similar provisions to those described in paragraph 8.49 above apply to shareholder controllers who reduce or dispose of their holdings or are about to.

8.51 In these circumstances the Commission’s rights of objection and the registered person’s right of appeal is similar to paragraphs 8.36 to 8.45 above.

PROPOSED ACCOUNTS, AUDITS AND REPORTS ORDER

8.52 Under the proposed Financial Services (General Insurance Mediation Business (Accounts, Audits, and Reports) (Jersey) Order 2004, the following provisions will apply.

ACCOUNTING PERIOD

8.53 All registered persons shall provide the Commission, upon registration, with details of their accounting period, which shall usually be 12 months but shall not exceed 18 months.

8.54 A registered person shall not change an accounting period without the Commission’s approval.

8.55 A registered person who fails to comply with paragraphs 8.53 or 8.54 shall be guilty of an offence and shall be liable to a fine.
ACCOUNTING RECORDS

8.56 A registered person shall keep accounting records that -

8.56.1 show and explain each of the registered person’s transactions in respect of the general insurance mediation business they carry on; and

8.56.2 enable financial statements to be prepared in respect of the registered person.

8.57 The records kept must be capable of disclosing at any time with reasonable accuracy the registered person’s -

8.57.1 financial position; and

8.57.2 degree of compliance with any financial resources requirements of the Commission that relate to the registered person.

8.58 A registered person shall ensure that their accounting records, whether in electronic or any other form, are -

8.58.1 stored so as to minimize any risk of their loss due to theft, fire, flood, corruption or unauthorised erasure;

8.58.2 stored so as to prevent unauthorised access;

8.58.3 backed up or otherwise duplicated so that copies shall be available if the originals are lost, destroyed, corrupted or erased.

8.59 A registered person shall ensure that the accounting records, and the backup copy or duplicates made of them, are retained for a period of at least 10 years from the date the records were made, and that they are capable of being reproduced throughout this period.

8.60 A registered person who fails to comply with these accounting requirements in this section shall be guilty of an offence and shall be liable to a fine.

APPOINTMENT OF AUDITOR

8.61 A registered person shall appoint and retain an auditor, being an auditor approved by the Commission, having regard to the general insurance mediation business carried on by the registered person.

8.62 A registered person shall not change auditors without the Commission’s approval.
8.63 If the appointment of an auditor is terminated by the registered person or the auditor, the auditor shall within 7 days of the termination, furnish the Commission with a statement saying whether there are circumstances relating to the termination that should be brought to the Commission’s attention and, if there are, what those circumstances are.

8.64 A registered person or auditor who fails to comply with these paragraphs shall be guilty of an offence and shall be liable to a fine.

**AUDITOR TO PREPARE REPORTS**

8.65 A registered person shall, as soon as practicable after the end of an accounting period, furnish the person’s auditor with:

8.65.1 financial statements; and

8.65.2 a declaration in respect of that period.

8.66 The auditor shall prepare reports in respect of both the financial statements and the declaration and furnish them to the registered person.

8.67 A registered person who, on being requested to do so by the auditor for the purposes of the Order, fails to give the auditor -

8.67.1 access at all reasonable times to the registered person’s records and documents relating to the registered person’s business; or

8.67.2 other information or an explanation that the auditor considers necessary for the performance of the auditor’s duties under the Order,

shall be guilty of an offence and liable to a fine.

8.68 A registered person, or a person acting or purporting to be acting on behalf of a registered person, who knowingly or recklessly makes a statement to the registered person’s auditor -

8.68.1 that conveys or purports to convey information or an explanation that the auditor requires, or is entitled to require in the course of the auditor’s duties under the Order; and

8.68.2 that is misleading, false or deceptive in a material particular,

shall be guilty of an offence and shall be liable to a fine.
DECLARATION

8.69 A declaration shall state whether, throughout the relevant accounting period, the registered person has complied with:

8.69.1 the requirements of the Law;  
8.69.2 the requirements of Orders and Codes of Practice made or issued under the Law (not being a requirement that the Commission has waived) that are relevant to the registered person;  
8.69.3 has maintained proper accounting records and adequate systems to enable the registered person to do so; and  
8.69.4 has complied with the requirements of all legislation that relates to money laundering with which the registered person is required to comply.

8.70 If a registered person has failed to comply with any of these requirements the declaration must contain details of:

8.70.1 all material failures; and  
8.70.2 specify any measures taken or to be taken by the registered person to ensure that the failures are not repeated.

8.71 A registered person who knowingly or recklessly includes in a declaration a statement that is misleading, false or deceptive in a material particular shall be guilty of an offence and shall be liable to a fine.

AUDITOR’S REPORTS

8.72 An auditor’s report and the audit leading to that report shall be prepared or conducted in accordance with the Auditing Standards issued by the Auditing Practices Board.

8.73 An auditor’s report that relates to financial statements shall say whether the statements have been prepared in accordance with the Order.

8.74 An auditor’s report that relates to a declaration shall:

8.74.1 contain confirmation that while conducting the audit for the purpose of preparing the report under paragraph 8.72 the auditor became aware of nothing that could be taken as indicating that a statement in the declaration was incorrect; or  
8.74.2 if the auditor cannot give that confirmation, specify the grounds for withholding that confirmation.
8.75 A registered person shall furnish to the Commission financial statements in respect of each accounting period.

8.76 The statements shall be furnished within four months of the end of the accounting period or within such period (not exceeding eight months of the end of the accounting period) as the Commission may in special circumstances permit.

8.77 The financial statements shall be accompanied by -

8.77.1 a declaration;

8.77.2 an auditor's report in respect of the financial statements and the declaration;

8.77.3 any report prepared by an internal or external auditor that is available to the registered person and addresses a materially relevant matter; and

8.77.4 brief details of any report prepared by an accountant or consultant that is available to the registered person and addresses a materially relevant matter.

A “relevant matter”, in respect of a registered person, means a breakdown or material weakness in the registered person’s internal control procedures, and the consequential recommendations for their improvement.

8.78 Unless the Commission otherwise agrees, financial statements shall be prepared in accordance with International Accounting Standards or the Generally Accepted Accounting Practice (GAAP) of -

8.78.1 the United Kingdom;

8.78.2 the United States of America; or

8.78.3 with the prior approval of the Commission, the country or territory in which the beneficial owner of the permit holder resides or is incorporated.

8.79 The financial statements shall show a true and fair view of -

8.79.1 the state of affairs of the registered person at the end of the relevant accounting period; and

8.79.2 the registered person’s profit or loss for that period.

8.80 A registered person who fails to comply with these requirements of this section shall be guilty of an offence and shall be liable to a fine.
CONSOLIDATED FINANCIAL STATEMENTS

8.81 Consolidated financial statements may be used where:

8.81.1 a registered person is a member of a group of companies or partnerships; and

8.81.2 the Accounting Standards permitted under paragraph 8.78 allow consolidated financial statements to be prepared in respect of the members of the group.

8.82 Where consolidated financial statements are used a registered person’s obligation to:

8.82.1 furnish financial statements to his auditor in accordance with paragraph 8.65; and to

8.82.2 furnish financial statements to the Commission in accordance with paragraph 8.75,

may be satisfied by the auditor or the Commission being furnished with the consolidated financial statements of the group of which the registered person is a member.

8.83 The consolidated financial statements shall show a true and fair view of -

8.83.1 the state of affairs of the group as at the end of the relevant accounting period; and

8.83.2 the profit or loss of the members of the group for that period.

8.84 Where members of a group have provided their auditor with consolidated financial statements for the purpose of paragraph 8.65 the auditor shall for the purpose of paragraph 8.82 issue a single report in respect of all the separate declarations made by the members of the group in compliance with paragraph 8.69.

EXEMPTIONS

8.85 The Commission may on the application of a registered person exempt the registered person from compliance with all or any part of paragraphs 8.53 to 8.84 (above) of the Order.

8.86 Any exemption granted may, however, be subject to conditions the failure to comply with which will render the exemption invalid.

8.87 The Commission shall not grant an exemption unless it has first satisfied itself that, by virtue of the general insurance mediation business the registered person carries on or intends to carry on, no client of the registered person is likely to be prejudiced if the exemption is granted.
COMMUNICATIONS BY AUDITORS, ACCOUNTANTS AND OTHERS TO THE COMMISSION

8.88 The following matters shall be communicated to the Commission:

8.88.1 circumstances that give a registered person’s auditor (whether appointed by Order or otherwise) or any reporting person in respect of the registered person reasonable cause to believe -

(a) that a ground for revoking a registration as described in paragraph 8.22 above has occurred or may occur in respect of the registered person; or

(b) that as a result of a breach of a requirement of a Code of Practice (not being a requirement that the Commission has waived) or of a legal requirement, or of a breach of internal controls or procedures, or both, a client of the registered person has incurred, or is at significant risk of incurring, a material loss.

8.88.2 A “reporting person”, in respect of a registered person, means an auditor, accountant or other person nominated or approved by the Commission.

TRANSITIONAL PROVISIONS WHERE FINANCIAL STATEMENTS WERE NOT PREVIOUSLY AUDITED

8.89 Where prior to the coming into force of the proposed Order a registered person does not have his financial statements audited, the Commission may on the application of the person concerned, extend the period he is given at the end of the accounting period to furnish the Commission with a financial statement to a maximum period of 10 months from the end of the accounting period.

8.90 This provision, however, will only apply to the first occasion the registered person is required to submit financial statements in accordance with the Order.

COMMUNICATION OF INFORMATION TO THE COMMISSION

8.91 Auditors and persons appointed by the Commission to conduct investigations are empowered under the Law to communicate to the Commission any information or opinion which they believe is relevant to the functions of the Commission, provided they are do so in good faith.

8.92 Such communications, which may or may not be in response to requests by the Commission are not regarded as contravening any duties to which the auditor or investigator may be subject.

8.93 The auditor of a registered person may communicate any matter of which he becomes aware in his capacity as auditor and which relates to the business or affairs of the registered person or of any company which is a holding company or subsidiary in relation to it.
8.94 An investigator appointed under the Law by the Commission, may communicate any matter which he becomes aware in his capacity as the person making the report and which relates to the business or affairs of the registered person, or of any principal person in relation to whom his report is made.

**QUESTION:**
Do the proposals in the Accounts, Audit and Reports Order cause any difficulties? If so - how, and what alternatives would you suggest?

**PROFESSIONAL INDEMNITY INSURANCE (PII)**

8.95 The Commission is currently reviewing the levels of professional indemnity insurance cover required by businesses regulated under the Financial Services (Jersey) Law 1998. As part of this review, and because a requirement for such cover will be applicable to businesses carrying on general insurance mediation business as a primary activity, the Commission wishes to use the opportunity provided by the consultation paper to identify the levels of cover that respondents think will be appropriate in the present business environment.

**QUESTION:**
What would be the appropriate level of Professional Indemnity Insurance (PII) cover for those engaged in general insurance mediation business as a primary activity?

8.96 The Commission will be setting out the requirements for professional indemnity insurance in the general insurance mediation regulatory regime before the Law and Orders come into force in January 2005.

**PROPOSED CLIENT ASSETS ORDER**

8.97 Under the proposed Financial Services (General Insurance Mediation Business (Client Assets)) (Jersey) Order 2004, the following provisions will apply to every registered person engaged in mainstream general insurance mediation business who holds money on behalf of his clients in an account with himself. It does not apply to a designated account to the extent provided by paragraph 8.124 below.

**INTERPRETATION**

8.98 It is proposed to use the following terms in the Order, unless the context otherwise requires -

“approved bank”, in relation to a client bank account, means -

(a) where the account is opened at a branch in the Island, a person registered under the Banking Business (Jersey) Law 1991; and
(b) where the account is opened at a branch outside the Island -

(i) an institution authorized under the Banking Act 1987 of the United Kingdom;

(ii) a credit institution (as defined in EEC Directive No. 77/780) established in any other Member State of the European Community and duly authorized by the relevant supervisory authority in that Member State;

(iii) an institution authorized under the Banking Act 1975 of the Isle of Man (as amended);

(iv) an institution authorized under the Banking Supervision (Bailiwick of Guernsey) Law 1994;

(v) a building society registered and incorporated under the Building Societies Act 1986 of the United Kingdom which operates a deposit-taking business within the meaning of the Banking Act 1987 of the United Kingdom without restriction; or

(vi) a bank which is a company in the same group as an institution described in paragraph (a) or (b)(i) to (iv) of this definition;

“authorised” for the purposes of this Order means registered under the Financial Services (Jersey) Law 1998, to carry on general insurance mediation business;

“bank” means any institution which lawfully carries on deposit-taking business in the country in which it was established;

“business day” means any day other than a Saturday, Sunday, Christmas Day, Good Friday or a day appointed as a public holiday or bank holiday under Article 2 of the Public Holidays and Bank Holidays (Jersey) Law 1951;

“client bank account” means an account at an approved bank which -

(a) holds the money of one or more clients; or

(b) is in the name of a registered person; and

(c) includes either words in its title indicating that it is a client account or other information which sufficiently distinguishes it as an account containing client money and from any account containing money belonging to the registered person; and

(d) is a current or deposit account (or, if the approved bank is a building society within paragraph (b) (iii) (iv) or (v) of the definition of “approved bank”, is a deposit (and not a share) account);
“client money” has the meaning described under paragraph 8.99 below;

“connected customer”, in relation to a registered person, means any client of the registered person -

(a) who is -

(i) an associate of the registered person including being an employee of the registered person or another company in the same group;

(ii) the spouse, minor child or minor stepchild of any person described in sub-paragraph (i) of this definition; or

(iii) a person in his capacity as trustee of a trust the beneficiaries of which he knows or ought reasonably to know include any person described in sub-paragraph (i) or (ii) of this definition; or

(b) with whom the registered person has an agreement that the registered person will have a joint interest in any transaction or series of transactions carried on by the registered person in the course of general insurance mediation business undertaken with or for the client;

“default” means the commencement of -

(a) an application for a declaration under the Bankruptcy (Désastre) (Jersey) Law 1990; or

(b) liquidation or any insolvency proceedings in any jurisdiction;

“designated account” means a client bank account which -

(a) includes either words in its title indicating that it is a designated account or other information which sufficiently distinguishes it as such; and

(b) only contains the money of a single client (or, in the case of two or more clients who open an account jointly, those clients) whose written consent to the use of the approved bank with which the client money is to be held has been obtained;

“intermediary” means an agent as defined under the Financial Services (Jersey) Law 1998

(a) to whom any client money held by the registered person has been passed; or

(b) from whom any money is owed to the registered person which, once received by him, will be client money, in respect of the carrying out of transactions on behalf of clients of the registered person;
“money” includes cheques and other payable orders of any currency;

“policy document” includes policy wordings, schedules, certificates or similar documents evidencing a client’s entitlement to a benefit or right under a general insurance contract.

“pooling event” has the meaning assigned by paragraph 8.129 below;

“protected account” means a client bank account which is not a designated account;

“registered person” means a person authorised to carry on general insurance mediation business.

MEANING OF “CLIENT MONEY”

8.99 Subject to paragraph 8.100 client money is money which a registered person, in the course of carrying on general insurance mediation business -

8.99.1 receives (whether in the Island or not) in respect of any general insurance contract entered into, or to be entered into with or for a client which is either -

(a) not immediately due and payable on demand to the registered person for his own account; or

(b) if it is so due and payable, is received in respect of any obligation of the registered person which has not yet been performed; or

8.99.2 owes a client and which is immediately due and payable without the need for the client to demand such payment.

8.100 The following descriptions of money are not client money -

8.100.1 cheques or payable orders made payable to a client by a third party or to a third party by a client;

8.100.2 money which a registered person holds on behalf of an insurance undertaking to which premiums are, or will become, payable or from whom claims money or premium refunds are received for onward payment to the registered person’s client, provided that -

(a) the registered person has entered into a written agreement with the insurance undertaking to that effect; and
8.101 For the purposes of this section money is only to be regarded as due and payable in respect of fees or commissions payable to the registered person if it may be withdrawn.

SEGREGATION OF CLIENT MONEY

8.102 A registered person shall pay all client money, which he receives, into client bank accounts.

8.103 The following must be kept separate from one another -

8.103.1 client money;
8.103.2 money held belonging to the registered person on behalf of an insurance undertaking;
8.103.3 money belonging to the registered person; and
8.103.4 money held on behalf of or received from connected customers.

ACCOUNTING FOR AND USE OF CLIENT MONEY

8.104 A registered person must account properly and promptly for client money and, in particular, must ensure that -

8.104.1 save as permitted by the Order, client money and other money do not become mixed;
8.104.2 individual transactions can be accurately identified and traced;
8.104.3 the credit standing to the account of each client is calculated each business day;
8.104.4 no client is ever overdrawn; and
8.104.5 money belonging to one client is not used for another client.

8.105 Wherever the daily calculation referred to in paragraph 8.104.3 reveals an overdraft -

8.105.1 the registered person must pay in a sum of money equivalent to the deficit; and
8.105.2 money paid in by the registered person under sub-paragraph 8.105.1 shall be treated as client money and the registered person must not withdraw it until the client responsible for the deficit has paid in a sum of money equivalent to the deficit.

CLIENT BANK ACCOUNTS

8.106 A registered person authorised to hold client money shall, for the purpose of, and prior to receiving, client money, open one or more client accounts.

8.107 The title of each account must be sufficiently distinguished from any accounts holding funds belonging to the registered person and connected customers.

8.108 Save as provided by paragraph 8.109, the client bank account must not be operated until the registered person has obtained from the approved bank an undertaking addressed to the registered person that -

8.108.1 all money standing to the credit of the client bank account is and will be held by the registered person as trustee;

8.108.2 interest earned on the account will be credited to that account, or to an account of that type;

8.108.3 the bank is not, and will not be, entitled to combine the account with any other account or to exercise any right of set-off or counterclaim or any security interest against money in the account in respect of any debt or other obligation owed to it by the registered person; and

8.108.4 the title of the account sufficiently distinguishes it as an account containing client money and from any account containing money belonging to the registered person.

8.109 The Commission may, if it thinks fit and subject to any conditions it may from time to time impose, waive the requirement to obtain an undertaking where -

8.109.1 the law to which the approved bank is subject makes it impossible or impracticable to give the undertaking; or

8.109.2 there are other exceptional circumstances.

8.110 Where the Commission has waived the requirement to obtain an undertaking, the registered person must explain to his clients the nature of the risks to which they may be subjected by reason of the absence of such undertaking.
8.111 The Commission may, if it thinks fit and subject to any conditions it may from time to time impose, waive the requirement to hold client money with a bank that is not an approved bank where:

8.111.1 the client money relates to one or more general insurance transactions which are subject to the law or market practice of a jurisdiction outside Jersey;

8.111.2 because of the applicable law or market practice of an overseas jurisdiction, it is not possible to hold client money in a client bank account with an approved bank;

8.111.3 the registered person holds money with such a bank for no longer than is necessary to effect transactions;

8.111.4 the registered person obtains the client’s informed consent or notifies each relevant client and has a client agreement or terms of business which adequately explain if necessary that:

(a) the client money will not be held with an approved bank;

(b) in such circumstances the legal and regulatory regime applying to the bank with which the client money is held will be different from that of an approved bank and in the event of the failure of the bank, the client money may be treated differently from the treatment which would apply if the client money were held by an approved bank and;

(c) the client money is held in a designated account.

8.112 Where a registered person transacting insurance mediation business intends to pass client money to another insurance intermediary located in a jurisdiction outside Jersey, the registered person will unless previously disclosed to their client advise that:

8.112.1 client money may be passed to another insurance intermediary outside Jersey;

8.112.2 in such circumstances, the legal and regulatory regime applying to the insurance intermediary will be different from that of Jersey and, in the event of a failure of the insurance intermediary, this money may be treated in a different manner from that which would apply if the money was held by an intermediary in Jersey.

8.113 The client may notify the registered person that he does not wish his money to be passed to another insurance intermediary in a particular jurisdiction.
PAYMENTS INTO A CLIENT BANK ACCOUNT

8.14 Client money received by a registered person shall be paid -

8.14.1 into a client account as soon as possible; or

8.14.2 to the client concerned; and

in any event no later than the next business day following receipt.

8.15 Money received by a registered person in the form of an electronic transfer or a cheque or draft drawn in favour of the registered person, which includes client money shall be paid in the first instance into the client bank account no later than the next business day following receipt.

PAYMENTS OUT OF A CLIENT BANK ACCOUNT

8.16 Subject to paragraph 8.17, money may be withdrawn from a client bank account only if -

8.16.1 it is not client money;

8.16.2 it is properly required for immediate payment to or on behalf of a client; or

8.16.3 it is properly transferred to another client bank account or into a bank account in the client's own name (not being an account which is also in the name of the registered person).

8.17 Where a registered person wishes to withdraw money from a client bank account for or towards payment of his own fees or commission he may only do so if -

8.17.1 the fees or commission are accurately calculated and accord with arrangements previously agreed in writing with the client;

8.17.2 he has given the client 14 days’ notice of his intention to withdraw the money, including precise details of the breakdown of the proposed payment, and the client has not objected; or

8.17.3 the amount of the fees or commission is agreed in writing with the client or finally determined by a court or arbitration.

8.18 Money held in a client account that is not client money should be transferred out of the client account as soon as reasonably practicable to the account of the intended recipient.
INTEREST ON CLIENT MONEY

8.119 Interest must be paid on client money according to any agreement made in writing with the client, and if no interest is to be paid, such agreement must record the fact.

8.120 Where there is no such agreement the registered person must disclose to the clients concerned the amount of such interest and its destination.

RECONCILIATION OF ACCOUNTS

8.121 A registered person shall, not less than once a month -

8.121.1 reconcile the balance on each client bank account, as recorded by the registered person, with the balance on that account as set out in the statement issued by the approved bank covering the period in respect of which the reconciliation is made; and

8.121.2 reconcile the total of the balances on all protected accounts, as recorded by the registered person, with the total of the corresponding balances in respect of each of its clients, as recorded by the registered person.

8.122 The reconciliations referred to in paragraph 8.121.1 must be performed within 10 business days of the date to which the reconciliation relates.

8.123 Any differences arising under paragraph 8.121.2 must be corrected forthwith unless they arise as a result of differences in timing between the accounting and settlement systems of the registered person and the approved bank.

DESIGNATED ACCOUNTS

8.124 Where a client has a designated account and has given his written consent to that account being overdrawn paragraph 8.104.4 above shall not apply to that account.

8.125 Paragraph 8.121.1 shall not apply to a designated account where -

8.125.1 the client of that account has given his written consent; and

8.125.2 the registered person has taken such steps as are necessary to ensure that the balance on that account as set out in the statement issued by the approved bank agrees with what he reasonably believes the balance should be.

8.125.3 Where his client has a designated account, the registered person must inform the client that such an account does not have the protection of paragraphs 8.126 to 8.143.
DEFAULT

8.126 This section only applies to protected accounts.

CREATION OF STATUTORY TRUST

8.127 Where client money is held by a registered person in a protected account in the course of general insurance mediation business it is held on trust in accordance with this Part -

8.127.1 for the clients for whom the money is held according to their respective shares in it; and

8.127.2 after all valid claims under sub-paragraph 8.127.1 have been met, for the registered person himself.

8.128 Where this section applies the Trusts (Jersey) Law 1984 shall have effect subject to this Part.

MEANING OF “POOLING EVENT”

8.129 A pooling event consists of the happening of any of the following -

8.129.1 the default of the registered person;

8.129.2 the default of any approved bank with which any client money held by the registered person is deposited;

8.129.3 the default of an intermediary; or

8.129.4 the coming into force of a direction by the Commission in respect of all client money held by the registered person, unless the direction states otherwise.

8.130 A pooling event shall be deemed not to have occurred if, forthwith on the default of an approved bank or an intermediary, the registered person repays to his clients or pays into a client bank account an amount equal to the amount of client money held on behalf of those clients with that bank or by that intermediary.

8.131 On the failure of a bank, intermediary or any third party with which money is held, a registered person shall notify the Commission -

8.131.1 as soon as it becomes aware of the failure of any bank, intermediary or third party with which it has placed, or to which it has passed client money; and;
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8.131.2 as soon as reasonably practical, whether it intends to make good any shortfall that has arisen or may arise, and of the amounts involved.

DESTINATION OF CLIENT MONEY ON POOLING EVENT

8.132 Where a pooling event occurs -

8.132.1 save insofar as money is received after the pooling event, the power of
a registered person to pay money into and out of protected accounts in
which client money is held is suspended; and

8.132.2 subject to paragraph 8.138 below, money held in all the registered
person’s protected accounts is pooled and shall be made available to
meet the claims of clients in respect of whom client money is, or
should be, held in those protected accounts pari passu.

8.133 Where, at the time when a pooling event occurs, a registered person has paid an
uncleared cheque or other payable order into a protected account, when such
cheque or order is cleared the amount credited in respect of it shall be pooled.

8.134 Where, at the time when a pooling event occurs, client money from a protected
account is in the hands of an intermediary, it shall, on its return to the protected
account, be pooled.

8.135 Where client money cannot be returned until one month after the pooling event,
the registered person may make distributions from the account in advance of that
date if he makes provision for the possibility of such money not being returned.

8.136 Without prejudice to any claim of any other person arising under this Order, where
a surplus remains in the pool it shall form part of the assets of the registered person.

8.137 Where a registered person receives money from a client after a pooling event which,
but for that event, would fall to be paid into a protected account, that money -

8.137.1 shall be placed in a new client bank account duly opened after that
pooling event; and

8.137.2 shall not be pooled with the money held in the registered person’s
protected accounts at the time of the pooling event.

MONEY HELD BY THIRD PARTIES

8.138 Where client money is held by an approved bank or an intermediary who defaults
or, following a pooling event, fails to recognise that the money is held on trust in
accordance with this Part -
8.138.1 the money shall -

(a) be pooled separately;

(b) be made available to satisfy the separate claims of the separate clients pari passu; and

(c) after the above claims have been satisfied, be paid into the pool; and

(d) the pool shall be applied -

8.138.2 to meet any claims of separate clients that are not separate claims and the claims of other clients (all ranking equally); and

8.138.3 after the claims described above have been satisfied, to meet any unsatisfied separate claims of separate clients.

"separate claim" means the claim of a separate client to the value of the money that was or should have been held; and

"separate client" means a client whose money was, or should have been, held with the approved bank or intermediary.

**DEFAULT OFFICER**

8.139 The Commission may appoint a person, to be known as the default officer, to administer the application of this Part in relation to a registered person in the event of the default of the registered person or the coming into force of a direction by the Commission in respect of all client money held by that person.

8.140 The registered person and his clients shall provide the default officer with such assistance as he may require.

8.141 A certification by the default officer as to -

8.141.1 the value of any claim or of any amount pooled; or

8.141.2 the amount of payments to be made,

shall, in the absence of manifest error, be conclusive.

8.142 The default officer may withdraw, amend or revise his certifications at any time but no client who has received payment pursuant to such a certificate shall be required to repay any sum.

8.143 The default officer shall report on his actions to the Commission and shall comply with any directions that it may give him so as to comply with this Order.
MISCELLANEOUS

POLICY DOCUMENTS

8.144 Where policy documents are held by a registered person on behalf of his clients he shall -

8.144.1 hold the policy documents in his own possession and in safe custody and shall not part with possession of any of them to any person other than the client or on his instructions;

8.144.2 where the title to the documents passes by delivery, holds them in such a manner that the person entitled to receive the benefit or right under any policy documents can be identified at all times; and

8.144.3 where some of the documents are held -

(a) as security for a loan to that client; or

(b) as any form of security, guarantee or indemnity provided by way of security for the discharge of any liability arising from transactions effected by the registered person with or for that client,

ensure that the documents can be identified and distinguished from those which are not so held.

RECORD KEEPING

8.145 Any record that is required to be kept under this Order must be retained for at least 10 years.

CODES OF PRACTICE

8.146 The Commission intends to introduce Codes of Practice under Art. 17 of the Law, for those persons engaged in general insurance mediation as their primary business. These Codes shall be the subject of a separate consultation exercise.

8.147 The failure to follow the Codes of Practice while not in themselves rendering a person liable to proceedings of any kind, or invalidating any transactions they might have undertaken, may nevertheless be admissible as evidence in court proceedings and taken into account in determining any question.

QUESTION:
Do the proposals in the Client Assets Order cause any difficulties?
If so - how, and what alternatives would you suggest?
9.1 This section is applicable to all persons carrying on general insurance mediation business as a mainstream or incidental activity. It is addition to the requirements set out in Parts Two and Three of this document.

SUPERVISORY OR ENFORCEMENT POWERS

9.2 The Commission has a wide range of supervisory and enforcement powers which can be used against those who breach or abuse the Law whilst carrying on general insurance business as a primary or incidental activity. In the case of breaches or abuse by persons carrying on general insurance mediation business as an incidental activity the powers would only apply to that incidental activity.

POWER TO APPLY TO THE COURT TO APPOINT A MANAGER

9.3 Under the Financial Services (Jersey) Law 1998 (Appointment of a Manager) (Jersey) Order 2000, the Commission can apply to the court for a manager to be appointed in certain prescribed circumstances, which include situations:

9.3.1 where the person carrying on general insurance mediation business has persistently failed to examine the complaints of clients;

9.3.2 where there is a need to appoint a manager to collect, protect or preserve the assets or records of the general insurance mediation business or the property of clients;

9.3.3 where there is a need to appoint a manager to promote or implement a compensation scheme established specifically for the clients of the insurance or insurance mediation business².

POWER TO ISSUE DIRECTIONS

9.4 Under Article 20 of the Financial Services (Jersey) Law 1998 the Commission has wide ranging powers to issue, vary, withdraw or re-issue directions requiring the persons to whom they are addressed to obey, comply with, or otherwise give effect to, the direction within the time and in the manner stated in the direction.

9.5 The Commission may issue such directions where it considers:

9.5.1 that any requirements relating to the registration of a registered person are no longer being satisfied;

9.5.2 that it is in the best interest of clients or creditors of persons carrying on general insurance mediation business;

² No such compensation exists at the present time, nor are there any plans currently to establish such a scheme.
9.5.3 it desirable in order to protect the reputation and integrity of the Island in financial and commercial matters;

9.5.4 it to be in the best economic interests of the Island;

9.5.5 that any general insurance mediation business advertisement issued or proposed to be issued by or on behalf of any person is misleading or undesirable.

9.6 Directions issued by the Commission may:

9.6.1 require anything to be done or be omitted to be done, or impose any prohibition, restriction or limitation, or any other requirement, and confer powers, with respect to any transaction or other act, or to any assets, or to any other thing whatsoever;

9.6.2 require that any principal person or person having functions in relation to the registered person be removed or removed and replaced by another person acceptable to the Commission;

9.6.3 require a registered person or formerly registered person to cease operations and to wind up its affairs, in accordance with such procedures and directions as may be specified in the direction, which may provide for the appointment of a person to take possession and control of all documents, records, assets and property belonging to or in the possession or control of the registered person or formerly registered person;

9.6.4 prohibit the issue, re-issue or continuance of a particular general insurance mediation business advertisement or of general insurance mediation business advertisements of any description;

9.6.5 require that a general or particular general insurance mediation business advertisement of any description be modified in a specified manner.

9.7 Where the circumstances so warrant it the Commission may make a direction public at any time.

9.8 Any person aggrieved by such a direction may apply to the Commission to have it withdrawn or varied, and/or may appeal to the Royal Court on the grounds that the decision of the Commission was unreasonable having regard to all the circumstances of the case. The court may make such order as it thinks fit with respect to the whole or any part of the direction concerned.
9.9 Any person who contravenes or fails to comply with any of the provisions of a direction shall be guilty of an offence and liable to a term of imprisonment for a term not exceeding two years, or a fine, or both. The record of the conviction shall also be admissible in any civil proceedings as evidence of the facts constituting the offence.

POWER TO SEEK AN INJUNCTION OR REMEDIAL ORDER FROM THE COURT

9.10 Under Article 21 of the Financial Services (Jersey) Law 1998, the Commission can make an application to the court seeking an injunction restraining the respondent from committing (or, as the case may be, continuing or repeating) a contravention of:

9.10.1 the prohibition on carrying on unauthorised general insurance mediation business;
9.10.2 any conditions of registration;
9.10.3 the requirement not to knowingly or recklessly provide the Commission or any other person entitled to information under the Law with false information or by failing to supply information;
9.10.4 the requirement not to make misleading statements or engage in misleading practices;
9.10.5 the provisions contained in the Financial Services (Jersey) Law 1998 (General Insurance Mediation Business) (Advertising) Order 200*;
9.10.6 any other Regulation or Order made under the Law.

9.11 The court may issue:

9.11.1 an injunction restraining the person from committing (or, as the case may be, continuing or repeating) the contravention; and/or
9.11.2 issue a remedial order requiring the person to take such steps as the court may direct to remedy the contravention.

POWER TO INTERVENE

9.12 Under Article 23 of the Financial Services (Jersey) Law 1998, the Commission has the power to apply to the court for an order intervening in the general insurance mediation business affairs of the registered person.
9.13 The Commission would only do so where it is desirable for the protection of clients transacting general insurance mediation business, or where the registered person has acted in contravention of:

9.13.1 the prohibition on carrying on unauthorised general insurance mediation business;

9.13.2 any conditions of registration;

9.13.3 the requirement not to knowingly or recklessly provide the Commission or any other person entitled to information under the Law with false information or by failing to supply information;

9.13.4 the requirement not to make misleading statements or engage in misleading practices;

9.13.5 the provisions contained in the Financial Services (Jersey) Law 1998 (General Insurance Mediation Business) (Advertising) Order 200*;

9.13.6 any other Regulation or Order made under the Law.

9.14 The court may make an order or ancillary orders making the registered person subject to such supervision, restraint or conditions, from such time and for such periods as it may specify.

9.15 Where a person by entering into any transaction has:

9.15.1 contravened the prohibition on carrying on general insurance mediation business; or

9.15.2 entered into a transaction with another party who was induced to enter the transaction as a result of the person’s contravening the requirement not to make misleading statements or engage in misleading practices,

the court may order that person or any other person who appears to the court to have been knowingly concerned in the contravention to take such steps as the court may direct for restoring the parties to the position in which they were before the transaction was entered into.

GENERAL POWER TO REQUIRE THE PROVISION OF INFORMATION AND DOCUMENTS

9.16 Under Article 29 of the Financial Services (Jersey) Law 1998, the Commission has wide general powers to obtain information from a registered person, former registered person, or a person who is or was a principal person in relation to him, or any associate of such a principal person.
9.17 Following written notice service served on one of the persons in paragraph 9.15.1 the said person is required to:

9.17.1 provide the Commission at such time and place as may be specified in the notice, information and documents of such a specified description;

9.17.2 to attend at such time and place as may be specified in the notice and answer questions which the Commission or any duly authorised officer or agent of the Commission reasonably requires him to answer,

being information, documents or questions relating to -

9.17.3 the general insurance mediation business of the registered person or former registered person concerned;

9.17.4 the integrity, competence, financial standing or organisation of that person who is or was a principal person in relation to him, and any associate of such a principal person; or

9.17.5 the compliance by those persons with the Law and any Regulation, Order or code of practice made, or a condition of any grant of registration, or a direction given under the Law,

which the Commission reasonably requires or requires him to answer for the performance of his functions under the Law.

9.18 Where the Commission has reasonable grounds for believing that a person is guilty of:

9.18.1 carrying on unregistered general insurance mediation business;

9.18.2 using misleading statements or engaging in misleading practices,

the Commission or any duly authorised officer or agent of the Commission may, by notice in writing served on that person or on any other person appearing to be in possession of the information or documents described in paragraph 9.17 require him to do any of the following:

9.18.3 to provide it forthwith or at such time and place as may be specified, information or documents specified in the notice which the Commission reasonably requires for the purposes of investigating the suspected contravention;
9.18.4 to attend at such place and time as may be specified in the notice and answer questions which the Commission or any duly authorised officer or agent of the Commission reasonably requires him to answer for the purpose of investigating the suspected contravention.

9.19 Any officer of the Commission may on producing evidence of his authority (if required), enter, at a reasonable time:

9.19.1 any premises occupied by a person on whom a notice served under paragraphs 9.17 or 9.18;

9.19.2 any other premises where information or documents are kept by such person

for the purpose of:

9.19.3 obtaining there the information or documents required by that notice

9.19.4 putting the questions referred to in paragraphs 9.17 or 9.19; or

9.19.5 of exercising the powers conferred by paragraph 9.22,

as the case may be.

9.20 A notice under paragraph 9.17 may require the person concerned to provide to the Commission a report (in such form as it may specify) by an accountant or other person with relevant professional skill nominated or approved by the Commission, on, or on any aspect of, any of the matters mentioned in paragraph 9.17.

9.21 Where a person required to provide documents under paragraph 9.18 claims a lien on any such document, the documents shall be provided without prejudice to the lien.

9.22 The power to require documents to be provided includes the power:

9.22.1 if the documents are provided, to retain or take copies of them or extracts from them; and

9.22.2 to require the following persons to provide an explanation of them:

(a) the person providing the documents; or

(b) any person who appears to be in possession of relevant information; or

(c) any person who has been an officer, shareholder controller or auditor or employee of the registered or former registered person in question,

as appropriate to provide an explanation of them.
9.23 Where the documents are not provided, the Commission has the power to require the person to whom the requirement was directed to state to the best of his knowledge and belief, where they are.

9.24 The Commission can retain any documents obtained for a period of one year, or if within that period proceedings to which the documents are relevant are commenced against any person, until the conclusion of those proceedings.

9.25 Where a person whose documents have been retained requires them for the purpose of his business he may request them from the Commission and he shall be supplied with copies of them as soon as is practicable.

9.26 Any person who, without reasonable excuse:

9.26.1 fails to comply with any requirement to supply information or documents; or

9.26.2 obstructs a person exercising the powers of entry outlined in paragraph 9.18, shall be guilty of an offence and liable to imprisonment for a term not exceeding six months or a fine, or both.

9.27 The power of the Commission to require the production of information and documents does not extend to material that a defendant would be entitled to refuse to disclose or produce in a court action on the grounds of professional legal privilege. However, a lawyer must disclose the name and address of his client if he is asked for this information.

9.28 Any statement made by a person in compliance with the requirements imposed under the Law may not be used by the prosecution in evidence against him in any criminal proceedings except where the person concerned:

9.28.1 has, without reasonable excuse, failed to comply with a requirement imposed on him; or

9.28.2 has obstructed a person who has entered any premises occupied by a person on whom a notice has been served or any other premises where information or documents are kept by such person; or

9.28.3 where the person has knowingly or recklessly provided the Commission or any other person entitled to information under the Law with false or misleading in a material particular or failed to supply information in his possession.
POWER TO APPOINT ONE OR MORE COMPETENT PERSONS TO MAKE REPORTS TO THE COMMISSION

9.29 Under Article 30 of the Financial Services (Jersey) Law 1998, the Commission is empowered to appoint one or more competent persons (hereinafter referred to as inspectors for brevity) to investigate and report to the Commission on:

9.29.1 the nature, conduct or state of a registered persons general insurance mediation business or any particular aspect of it;
9.29.2 the integrity, competence, financial standing or organisation;
9.29.3 the integrity, competence and financial standing, so far as it is relevant in the opinion of the Commission, of persons who are principal persons in relation to him, and associates of such principal persons; or
9.29.4 compliance by those persons with this Law and any Regulation, Order or code of practice made, or a condition of any grant of registration, or a direction given under the Law.

9.30 The Commission would appoint inspectors if it appears desirable to do so in the best interests of persons who have transacted, or may transact, general insurance mediation business with the registered person;

9.31 Inspectors are empowered to enter (after giving prior notice in writing) any premises:

9.31.1 occupied by a registered person or formerly registered person; or
9.31.2 a person who is, or was, a principal person in relation to him; or
9.31.3 any associate of such a principal person being investigated by him; or
9.31.4 any other premises where information is kept by such a person.

9.32 Inspectors are also empowered to enter premises without prior notice in writing where they have reasonable cause to believe that if such notice were given any documents whose provision might be required would be removed, tampered with or destroyed.

9.33 Inspectors may retain or take copies of or extracts from any documents provided to them.
9.34 Under Article 31 of the Financial Services (Jersey) Law 1998, the Commission may apply to the Bailiff for a warrant, authorising any police officer, together with any other person named in the warrant:

9.34.1 to enter any premises specified in the warrant, using such force as is reasonably necessary for the purpose;

9.34.2 to search the premises and obtain any documents appearing to be information or documents of the type referred to in the Commission’s application to the court, or information in relation to matters referred to therein or which otherwise appear to be relevant to the investigation of an offence under the Law, or to take, in relation to any such information or documents, any other steps which may appear necessary to preserve them or prevent interference with them;

9.34.3 to take copies of or extracts from such documents; and

9.34.4 to require -

(a) the person who had possession of them; or

(b) any person who appears to be in possession of relevant information; or

(c) a person who is, or has been an officer, shareholder controller; or

(d) auditor or employee; or

(e) former registered person; or

(f) any other person concerned,

as the case may be, to provide an explanation of them.

9.35 The power to enter premises is essentially only used:

9.35.1 where someone has failed to comply with, or may not comply with, a notice or direction issued by the Commission under some other provision of the Law; or

9.35.2 where the person is likely to remove, tamper with or destroy documents; or
9.35.3 has not provided complete information or documents in response to the notice served on him; or

9.35.4 has obstructed an officer or agent of the Commission or a person appointed by the Commission to carry out an investigation on its behalf from entering premises to obtain documents or information; or

9.35.5 a person has been guilty of carrying on unauthorised general insurance mediation business in contravention of the Law; or

9.35.6 a person has been guilty of using misleading statements and/or practices in contravention of the Law.

9.36 Where the information or documents are not provided any person appearing to be in possession of relevant information, can be required to state to the best of his knowledge and belief, where they are and how they may be retrieved.

9.37 Any documents taken into possession may be retained for a period of one year, or if within that period proceedings to which the documents are relevant are commenced against any person, they may be retained until the end of those proceedings.

9.38 Where a person's documents have been taken into possession and he requires them for the purposes of his business, he may request copies of them and they shall be supplied to him as soon as is practicable.

9.39 Any person who obstructs the exercise of any power conferred by the warrant or who fails to comply with a requirement conferred on him shall be guilty of an offence and liable for imprisonment for a term not exceeding two years or a fine, or both.

9.40 Where any person from whose premises documents are taken claims a lien on them, the possession of the documents by the officer or person concerned and by anyone to whom they have been passed shall be without prejudice to the lien.

PROPOSED ADVERTISING ORDER


9.41 The Order will lay down requirements as to the issue, form and content of advertisements and to impose a restriction on the communication of general insurance mediation business advertisements by unauthorised persons.
INTERPRETATION

9.42 General insurance mediation business advertisement - a communication of any description, communicated by any means, which invites or induces a person, to enter into general insurance mediation business activity.

9.43 Communications -

(1) any reference to a communication is a reference to the communication, in the course of business, of an invitation or inducement to engage in general insurance mediation business;

(2) any reference to a communication being made to another person is a reference to a communication being addressed, whether verbally or in legible form, to a particular person or persons (for example where it is contained in a telephone call or letter);

(3) any reference to a communication being directed at persons is a reference to a communication being addressed to persons generally (for example where it is contained in a television broadcast or web site);

(4) “communicate” includes causing a communication to be made or directed;

(5) a “recipient” of a communication is the person to whom the communication is made or which if it is directed at persons generally, any person who reads or hears the communication.

RESTRICTION ON THE COMMUNICATION OF GENERAL INSURANCE MEDIATION BUSINESS ADVERTISEMENTS

9.44 A person must not, in the course of business, communicate an invitation or inducement to enter into a general insurance mediation business activity unless he is a registered person or is exempt under the provisions of this Law.

FORM AND CONTENT OF GENERAL INSURANCE MEDIATION BUSINESS ADVERTISEMENTS

General principles

9.45 When issuing an insurance advertisement a registered person must:

9.45.1 act with the highest standards of integrity and fair dealing in the conduct of all business;
9.45.2 act with due skill, care and diligence with regards to any product or service which it provides or holds itself out as willing to provide; and

9.45.3 deal fairly with its customers in any transactions entered into directly or on their behalf.

WRITTEN AND NON-VERBAL ELECTRONIC COMMUNICATION

9.46 Any written, or non-verbal electronic, general insurance mediation business advertisement must:

9.46.1 contain the name of the firm and its address or a contact point from which an address is available;

9.46.2 be designed in such a way that its promotional purpose is clear and not in any way disguised or misrepresented so as to be misunderstood;

9.46.3 use words that are carefully chosen so that they are clear and understandable to the audience to which they are directed;

9.46.4 treat words such as guarantee, assured, confidential, protected and secret with extreme caution;

9.46.5 be designed in such a way that the format or content does not disguise, obscure or diminish the significance of any statement, information, warning or other matter which the advertisement is required to contain;

9.46.6 contain no false indications or misleading statements, particularly in relation to:

(a) the firm’s independence;

(b) the resources of, or available to, the firm, its group or affiliates; and

(c) the activities or scale of activities of the firm or group; or

(d) the scarcity of any product or service.

9.46.7 not contain any reference to approval of the advert, product or service by the Commission;
9.46.8 contain a reference to the firm’s authorisation by the Commission in every document, advertisement and other type of marketing and sales material that it publishes or causes to be published. The preferred wording is “... regulated by the Jersey Financial Services Commission to carry on general insurance mediation business under the provisions of the Financial Services (Jersey) Law 1998.”

9.46.9 include a fair and adequate description of:

(a) the nature of the product or service;
(b) the commitment required;
(c) the risks involved.

9.46.10 contain no statements relating to taxation benefits unless it is properly qualified to show what it means in practice and to whom such benefits may apply;

9.46.11 contain no statement relating to client confidentiality unless it is properly qualified to show the limits of any confidentiality assurance made;

9.46.12 omit no matters, the omission of which causes the advertisement to be unclear, unfair and/or misleading;

9.46.13 disclose (if applicable) that the firm is contractually bound to sell only the products or services offered by one or a restricted number of insurance firms or their marketing groups;

9.46.14 not create confusion in the market place between the firm itself and a competitor or between the firm’s trademarks, trade names, other distinguishing marks, products or services and those of a competitor;

9.46.15 not discredit or denigrate the trademarks, trade names, other distinguishing marks, products, services, activities or circumstances of a competitor;

9.46.16 restrict any reference to the protection available under a compensation scheme or otherwise to factual references in the scheme.

TERMS AND CONDITIONS

9.47 Where an advertisement contains no details of terms and conditions applying to a particular product or service the advertisement must contain information as to how all such terms and conditions may be obtained.
9.48 Where an advertisement only contains some of the terms and conditions attaching to a product or service, the firm must:

9.48.1 indicate that fact;

9.48.2 ensure that the terms and conditions that are specified in the advertisement give a fair indication of the nature of the product or service being offered;

9.48.3 refer to how all the terms and conditions may be obtained.

STATEMENTS OF OPINION

9.49 Any statement of opinion contained in an advertisement must:

9.49.1 be honestly held;

9.49.2 only be used by the registered person if he has reasonable grounds supported by documentary evidence for believing it to be the honestly held opinion of that person at the time the advertisement was issued;

9.49.3 only be used with the consent of the person concerned, unless such consent is impracticable.

PRODUCT OR SERVICE ENDORSEMENTS

9.50 Where a quotation is used in an advertisement from a person commending any product or service provided by the firm, the firm must:

9.50.1 state the fact that the person is an employee or associate of the firm, its directors, managers or beneficial owners, if such is the case;

9.50.2 ensure, that if the whole statement is not quoted, that what is quoted fairly represents the message contained in the whole statement;

9.50.3 ensure that the statement has not become inaccurate or misleading since it was originally made, because of the passage of time.

STATEMENTS OF FACT, PROMISE OR PREDICTION

9.51 Any statement of fact, promise or prediction must:

9.51.1 be clear, fair and not misleading; and

9.51.2 disclose all relevant assumptions.
9.52 Any statement of fact or promise must either:

9.52.1 be true; or

9.52.2 the person making the statement must have reasonable grounds for believing it to be true at the time the advertisement is issued and for as long as the advertisement continues to be issued in current publications;

9.52.3 the accuracy of all material statements of fact must be substantiated.

COMPARISONS

9.53 Where an advertisement compares or contrasts the products or services of one firm to another it must present the information in a fair and balanced way which is not misleading:

9.54 The facts upon which any comparison or contrast is made must either:

9.54.1 be verified; or alternatively

9.54.2 all relevant assumptions and factors relevant to the comparison or contrast must be disclosed.

DIRECT FACE-TO-FACE OR VERBAL COMMUNICATIONS

9.55 Firms must take all reasonable steps to ensure that a person who engages in direct face to face or verbal communications with a client or prospective client on its behalf:

9.55.1 does so in a way which is clear, fair and not misleading;

9.55.2 does not make any untrue claims;

9.55.3 makes clear the purpose (or purposes) of the communication at the initial point of the communication, and identifies himself and the firm which he represents;

9.55.4 if the time and method of communication were not previously agreed by the recipient;

(a) checks that the recipient wishes him to proceed;

(b) terminates the communication if the recipient does not wish him to proceed (but may ask for another appointment);
(c) recognises and respects, promptly, the right of the recipient to:

(i) end the communication at any time; and

(ii) refuse any request for another appointment;

(iii) gives any recipient with whom he arranges an appointment a contact point;

9.55.5 does not communicate with a person:

(a) at an unsocial hour, unless the person has previously agreed to such a communication;

(b) on an unlisted telephone number, unless the person has previously agreed to such calls on that number;

9.55.6 must take all reasonable care to make and retain copies of any scripts or notes used by the person engaging in the face-to-face or spoken communication, including those compiled afterwards.
PROPOSED FEES ORDER

Financial Services (General Insurance Mediation Business (Registration and Fees)) (Jersey) Order

CLASSES OF FINANCIAL SERVICE BUSINESS - GENERAL INSURANCE MEDIATION BUSINESS

9.56 The Commission is proposing that there shall be three classes of financial service business comprising general insurance mediation business prescribed for the purposes of Article 7(2) of the Law, these are set out in Schedule 1 below.

SCHEDULE 1

Classes of financial service business comprising general insurance mediation business

<table>
<thead>
<tr>
<th>CLASS</th>
<th>DESCRIPTION OF FINANCIAL SERVICE BUSINESS</th>
<th>REGISTRATION FEE</th>
</tr>
</thead>
<tbody>
<tr>
<td>P</td>
<td>Carrying on general insurance mediation business as the primary activity and not already regulated.</td>
<td>£3,000</td>
</tr>
<tr>
<td>Q</td>
<td>Carrying on general insurance mediation business in addition to any other class of financial service business as defined under this Law or authorised under the provisions of the Banking Business (Jersey) Law 1991, the Collective Investment Funds (Jersey) Law 1988 or the Insurance Business (Jersey) Law 1996.</td>
<td>£1,500</td>
</tr>
<tr>
<td>R</td>
<td>Carrying on general insurance mediation business, which is incidental to some other business that does not include any business described in Class Q above.</td>
<td>£30</td>
</tr>
</tbody>
</table>
REGISTRATION CERTIFICATE

9.57 The registration certificate issued by the Commission when registering a person under Article 8 of the Law shall specify the class or classes of general insurance mediation business that the registered person is authorised to carry on.

REGISTRATION FEES

9.58 A registered person shall pay a registration fee in accordance with the table set out in Schedule 1.

9.59 The registration fee is payable -

9.59.1 on first registration; and

9.59.2 no later than each subsequent 31st January.

9.60 If a person is first registered after 30th June but before the following 31st December the registration fee payable on registration shall be half the fee otherwise payable.

LATE PAYMENT OF REGISTRATION FEES

9.61 If a registered person fails to pay the whole or any part of a registration fee on or before the date it becomes due the person shall be liable to pay an additional late payment fee of 5% of the amount unpaid or £10.00 whichever is the greater for each complete month that it remains unpaid.

QUESTION:
Is the proposed level of fees considered reasonable?
PROPOSED EXEMPTIONS ORDER

Financial Services (General Insurance Mediation Business (Exemptions)) (Jersey) Order 200*

REGULATED OVERSEAS PERSONS

9.62 In order to enter into reciprocal arrangements with other overseas supervisors for access by Jersey based persons engaged in general insurance mediation business into their insurance mediation business markets it may be necessary for us to exempt overseas persons from regulation under the Financial Services (Jersey) Law 1998 in similar circumstances.

9.63 “overseas person” means a person who -

(a) has no place of business in the Island from which he carries on general insurance mediation business in or from within the Island; or

(b) is not a company incorporated in the Island;

and has his head office in a jurisdiction where he is supervised in respect to general insurance mediation business by a relevant regulatory or supervisory authority in that jurisdiction that is acceptable to the Commission.

9.64 “carrying on general insurance mediation business” - an overseas person carries on general insurance mediation business if the overseas person, whether as a principal or an agent, does any of the following -

(a) promotes himself or herself or another person as able to give general insurance advice or as able to arrange for persons to enter into contracts of general insurance;

(b) gives general insurance advice to a person in relation to particular contracts of general insurance;

(c) arranges for the entry of persons into contracts of general insurance with other persons;

(d) assists in the administration and performance of contracts of general insurance;

(e) agrees to perform an activity referred to in sub-paragraphs (a), (b), (c) or (d).
9.65 Under the Order it is proposed that the prohibition on the carrying on of unauthorised general insurance mediation business will not apply to a regulated overseas person:

9.65.1 carrying on general insurance mediation business with an authorised insurance company incorporated in Jersey;

9.65.2 carrying on general insurance mediation business with a person in Jersey as a result of an unsolicited request from that person in Jersey;

9.65.3 where the overseas person acts as an agent for a person in the Island if it is in respect of an agreement with another person who is located outside the Island (for example parents insuring their children or their children’s property whilst away at school or college in the United Kingdom);

9.65.4 where the overseas person continues to provide general insurance mediation business that is already in force at the date on which Amendment No.2 to the Financial Services (Jersey) Law 1998 comes into force, but such exemption is only applicable to existing policies and their renewal, and shall last for no longer than twelve months from the date the amendment law comes into force.

JERSEY DOMICILED PERSONS WHO ELECT TO BECOME AUTHORISED BY THE UK FINANCIAL SERVICES AUTHORITY OR WHO BECOME APPOINTED REPRESENTATIVES OF UK INSURANCE FIRMS, UNDER THE FINANCIAL SERVICES AND MARKETS ACT 2000

9.66 Under the proposed Order the prohibition on the carrying on of unauthorised general insurance mediation business will not apply to Jersey domiciled persons who elect not to be regulated by the Commission under the Financial Services (Jersey) Law 1998, as amended, but either become authorised by the Financial Services Authority or are exempted from direct regulation by becoming the appointed representative of a UK insurance company.

9.67 An appointed representative is a person who enters into a contractual relationship with an insurer whereby the insurer takes full responsibility for the actions of the intermediary and the intermediary agrees to act for the insurance company. The intermediary can enter into multiple contractual relationships with insurers, but in such circumstances, there must be agreement by all insurers that the intermediary is free to do so and that one of the insurers will take responsibility for coordinating any complaints made against the intermediary.
9.68 Under the proposed Order the prohibition on the carrying on of unauthorised general insurance mediation business will not apply to Jersey domiciled persons who elect not to be regulated by the Commission under the Financial Services (Jersey) Law 1998, as amended, but to become authorised under the equivalent provisions of an EU Member State or who become the tied representative of an EU insurance company (i.e. the equivalent of the UK appointed representative).

9.69 The Commission will not, however, be granting a blanket exemption to firms in this category. This is because each Member State has the freedom under EU Law to choose how to bring into force the provisions of the Insurance Mediation Directive with the consequence that there are twenty five different legal approaches to implementation of the Directive. Although the Commission has reviewed the UK legislation and regulations it has not had the opportunity to review the approaches taken by the other twenty four EU States. In order not to undertake unnecessary work and ensure that the Directive has been implemented in a consistent manner the Commission will review each application for exemption under this category, on a case by case basis, granting approval to those approaches considered acceptable.

INCIDENTAL PROVISION OF GENERAL INSURANCE MEDIATION BUSINESS

9.70 In order to adopt a lighter regulatory regime for those persons who provide general insurance mediation business incidentally to the provision of goods or services (Class R of the Fees Order), the Commission has excluded them from the application of articles 11 to 17 (inclusive) of the Financial Services (Jersey) Law 1998. However, the Commission retains the power under Article 9(2) of the Law to apply conditions to a registration at any time if it feels that such measures are necessary in the public interest or in the event of malpractice or breaches of the Law. Examples of such conditions would include provisions similar to those contained in the Accounts, Audit and Reports Order and the Client Assets Order, which apply to mainstream general insurance mediation businesses, but conditions would only be imposed on a case-by-case basis.

9.71 The Commission intends to grant further exemptions to persons providing general insurance mediation business incidentally to the provision of goods and services under this Order. These exemptions will apply to the following provisions of Article 8 of the Financial Services (Jersey) Law 1998:

9.71.1 Article 8 (3)(a) and (f);
9.71.2 Article 8(4)(f)

QUESTION:
Are there any other activities associated with the general insurance industry that need to be included in the Exemptions Order?
10.1 There are a number of costs and benefits associated with the Commission’s proposals, which affect the Island, general insurance intermediaries, consumers and the Commission itself.

10.2 Although it has not been feasible to carry out an exercise to determine the financial and manpower costs to industry involved in complying with the Financial Services (Jersey) Law 1998 and the Orders enacted under it, the Commission believes that the costs of regulation should not be significant and in any event be no more than that incurred by the existing Investment Business and Trust Company sectors under the same piece of legislation and similar Orders.

10.3 The cost to businesses who are already regulated by the Commission will rise less, proportionately, than the costs to those firms who have never been regulated before, due to economies of scale i.e. the existence of trained compliance staff, compliance culture and systems.

10.4 The cost to industry and the Island of the Commission not responding to the changes brought about by the EU Insurance Mediation Directive and to the Financial Services and Markets Act 2000 would be significant.

10.4.1 Island firms would be denied access to insurers in all EU Member States and the Lloyd’s Market, unless they became authorised or exempted by EU financial services regulators. The denial of access to the EU insurance market would have a serious effect on the general insurance sector, causing some businesses to cease operations with losses in employment and revenue for the States.

10.4.2 Those obtaining authorisation from the Financial Services Authority under Part IV of the Financial Services and Markets Act 2000 would face higher costs of compliance in comparison to the cost of regulation by the Financial Services Commission. Not only are the fees chargeable by the FSA likely to be on a different scale but firms will also have to comply with the FSA’s more onerous and extensive documentary and disclosure requirements.

10.4.3 If Island firms seek authorisation from the FSA the Island will see its businesses regulated by either the UK or the Jersey Commission. The industry will therefore, be faced with an overlapping regulatory regime.

10.4.4 If Island firms seek exemption by becoming appointed representatives of EU insurers there will be less choice for consumers and reduced competition in insurance products because appointed representatives will only be able to arrange or sell the products of their tied insurer(s).
10.5 General insurance policyholders will receive an element of protection for the first time because they will be purchasing their policies from regulated businesses. Additional protection will come from the proposed advertising Order and the Commission’s supervisory and enforcement powers which may be used in cases of malpractice.

10.6 The level of fees proposed by the Commission in the Fees Order have been set at the minimum that is considered practicable. They are based on current fees paid by Investment Businesses for consistency and the additional extra costs to the Commission of this regulation. The Commission is not intending to recruit any additional permanent staff to service this new sector, although temporary assistance may be required during the initial application process.
11 - SUMMARY OF QUESTIONS

11.1 Are the three categories of registration appropriate to the industry in Jersey? [para 5.4]

11.2 Should accountants and lawyers be exempted from the Law in a similar way to the exemption that is currently in place under other areas of the Financial Services Law or should they be registered under Class R - i.e. carrying on general insurance mediation business that is incidental to some other non-financial services business? [para 5.4]

11.3 If you are an accountancy or legal firm, do you carry on general insurance mediation business directly with insurers or indirectly through other general insurance intermediaries? If business is carried on through both channels please indicate the percentages carried on directly and indirectly. [para 5.4]

11.4 Should other professions be exempted from the Law? Please provide in your response a description of whether or not the rules of your professional body contain provisions regarding the safeguarding of client assets and the handling of complaints. [para 5.4]

11.5 Do the proposals in the Accounts, Audit and Reports Order cause any difficulties? If so - how, and what alternatives would you suggest? [para. 8.94]

11.6 What would be the appropriate level of Professional Indemnity Insurance (PII) cover for those engaged in general insurance mediation business as a primary activity? [para. 8.95]

11.7 Do the proposals in the Client Assets Order cause any difficulties? If so - how, and what alternatives would you suggest? [para. 8.145]

11.8 Is the proposed level of fees considered reasonable? [para. 9.61]

11.9 Are there any other activities associated with the general insurance industry that need to be included in the Exemption Order? [para. 9.71]

GENERAL QUESTIONS

11.10 Is the level of the proposed regulation and supervision acceptable to all those affected? If not please explain why.

11.11 Are the Commission’s proposals compatible with the regimes being adopted in EU States, including the United Kingdom?
| Pension Shop                                | David Hunter & Co     |
| A. De Gruchy & Co. Ltd                      | De Gruchi’s Funeral Services |
| Acorn Finance Limited                       | Despatch Delivery Ltd  |
| Archway Veterinary Centre                   | Europcar              |
| Asco Move                                   | Express Repair Services Ltd |
| Avis Rent-a-Car                             | F. Le Gallais & Sons Ltd |
| A-Z Car Hire                                | G A & R Electrical Repair Services Ltd |
| Meridian Clinic                             | H.W. Maillard & Son Ltd |
| Beck & Deane                                | Harringtons Garage    |
| Bel Royal Physiotherapy Practice            | Hi-Speed Freight Services Ltd |
| Bond Street Estates                         | Homecare Services     |
| Bonhams                                     | Hurricane International|
| Bull & Company                              | Industrial (Motor) Rewinds Ltd |
| Carlton Carriers Ltd                        | Interlink Express     |
| Carrgo                                      | Jersey Gas Company Ltd |
| Channel Express (CI) Limited               | Jersey Post           |
| Channel Islands Cooperative Society Ltd     | Lombard Finance (CI) Limited |
| Channel Logistics                           | Mark Baker Group      |
| Christies                                   | Moore Properties      |
| Citifinancial (Jersey) Ltd                  | Mortgage Shop Plus    |
| Cleveland Clinic Surgery                    | Domestic Appliance Repairs |
| Colomberie Finance                          | New Era Veterinary Hospital |
| Condor Freight                              | Ocean Air Handling Limited |
| Condor Logistics                            | P.W Pinel Carriers    |
| Country Removals                            | Phillips International Removals Limited |
APPENDIX A - CONTINUED

Pickfords
Pitcher & Le Quesne Ltd
Profreight
Quick Fix
R.S Transport
Re-action Physiotherapy Clinic
Securicor Parcels
St Helier Port Services Ltd
Stephen Cohu Antiques
The Little Grove Clinic
The Mortgage Exchange
Physiotherapy and Sports Injuries Clinic
Express Repair Services Ltd
TNT Express
Trinity Finance Ltd
U.P.S. Jersey Ltd
Value It
Vibert & Bridle Limited
Voisins Department Store
Welcome Hire Cars
White & Co PLC
X.C.I. Vehicle Contracts Ltd
Zebra Hire Cars

Chamber of Commerce
Citizens Advice Bureau
Financial Services Legislation Committee of Institute of Directors
Jersey Dental Association
Jersey Finance Limited
Jersey Motor Trades Federation
Jersey Medical Society
The Association of Jersey State Registered Chiropodists and Podiatrists