



JFSC

**CONSULTATION PAPER
NO. 2 2007**

**GENERAL INSURANCE
MEDIATION BUSINESS**

Codes of Practice

ISSUED JUNE 2007

CONSULTATION PAPER

The Jersey Financial Services Commission (the “**Commission**”) invites comments on this consultation paper. Robert Kirkby at Jersey Finance Limited (“**Jersey Finance**”) is co-ordinating an industry response that will incorporate any matters raised by local businesses. Comments should reach Jersey Finance by 31 August 2007.

Responses should be sent to:

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Alternatively, responses may be sent directly to Nigel Woodroffe at the Commission by 31 August 2007. If you require any assistance, clarification or wish to discuss any aspect of the proposal prior to formulating a response, it is of course appropriate to contact the Commission. The Commission contact is:

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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.

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1 - EXECUTIVE SUMMARY

OVERVIEW

- 1.1 In January 2005, the Commission introduced for the first time Legislation and Orders for the regulation and supervision of general insurance mediation business. This extension to the provisions of the Financial Services (Jersey) Law 1998 was a necessary response to the European Union's General Insurance Mediation Directive that required insurance companies to accept new business only from brokers and intermediaries who themselves were registered and authorised to carry on such mediation business.
- 1.2 Having introduced such a regulatory and supervisory framework, there is a need to introduce Codes of Practice that relate to general insurance mediation in a similar way to those Codes that already exist for other financial services sectors.
- 1.3 There are twenty-eight Core Principles of insurance supervision issued by the International Association of Insurance Supervisors ("IAIS"), and the International Monetary Fund ("IMF") uses these Core Principles as the basis of its assessments of jurisdictions' regulatory and supervisory regimes. Four of these Core Principles relate to the marketing and selling of insurance products, and many of the requirements of those four Principles are better addressed in Codes of Practice than in legislation.
- 1.4 The Commission has been notified that a second review of Jersey's financial services regulatory and supervisory legislation and practice will be carried out by the IMF during the first quarter of 2008, so it is important that Codes of Practice for general insurance mediation have been put in place before then.
- 1.5 The review of Jersey's regulatory regime by the IMF will examine in detail the extent of the Island's observance of the insurance Core Principles as well as its compliance with international standards.
- 1.6 The Commission has already begun to include general insurance mediation businesses in its programme of on-site inspections. A permit holder's level of observance of the Codes of Practice will in due course be a necessary element of any on-site inspection.
- 1.7 It is possible that some registered persons for general insurance mediation business are also registered or holders of a licence under another regulatory law. The industry is being asked whether the contents of these Codes conflict in any way with the provisions of other relevant Codes, with the result that there may be compliance problems for regulated businesses.
- 1.8 These draft Codes of Practice are being issued for full consultation with the industry. Detailed responses are encouraged, and will be reviewed by the Commission.
- 1.9 A first draft of these Codes was provided to the Jersey General Insurance Society for initial comment. The Commission is grateful to the following for their constructive feedback, and many of the points raised have been included in the draft that accompanies this consultation paper:

- Ian Touzel (Islands Insurance)
- Steve Wrigglesworth (Rossborough)
- Paul MacDonald (Hepburns)
- John Reed (Reed Insurance)
- Gordon Harris (European Insurance Brokers)
- Gary Boon (Alexander Forbes)

THE CONTENTS OF THE CODES OF PRACTICE

- 1.10 The format is the same as that already adopted in existing Codes. The Introduction and Sections 1, 2 and 6 apply the provisions of existing Codes of Practice with little alteration other than changes in terminology to relate them specifically to general insurance mediation.
- 1.11 Section 3 covers corporate governance and other key elements of the Core Principles of Insurance Supervision. Matters that have been included in the Codes for the first time, and that are therefore to be treated as proper practice, are:
- Inducements to intermediaries to provide new business to insurers (Sections 3.2.1.11 and 3.2.1.12);
 - The requirement for a formal complaints-handling procedure (section 3.5); and
 - The provision to all staff of a suitable level of training and professional development opportunities (Section 3.7).
- 1.12 Section 3 also describes the appointment of a Compliance Officer and a Money Laundering Reporting Officer. In the case of the latter, the Codes recognise that the risk of the use of general insurance for the purposes of money laundering or the financing of terrorism is less than with long term insurance products, so they advise rather than require a registered person to appoint such an officer to examine applications for the insurance of high value or unusual risks and/or claims.
- 1.13 Information for customers is dealt with in Section 4. The main provision is that businesses must be transparent in their dealings with customers, providing them with clear information about insurance contracts, particularly any exclusions or special terms that may apply. The nature and amount of any fees or charges associated with the policy over and above the premium charged by the insurance provider must also be disclosed.
- 1.14 Section 5 reinforces the requirements contained in the Legislation and the Orders relating to solvency and capital adequacy. Information concerning the requirements for the minimum levels of professional indemnity insurance that a registered person must hold is contained in Section 5.7.
- 1.15 Advertising is covered in Section 7. In particular, statements that should not be included in advertising material are described in some detail.

WHO WOULD BE AFFECTED?

- 1.16 All general insurance mediation businesses registered under the provisions of the Financial Services (Jersey) Law 1998 will be affected to some extent by the policies, processes and procedures set out in this document.

- 1.17 These Codes of Practice are not intended to apply to independent financial advisors/intermediaries who provide investment advice by offering long term insurance products. Such advisers/intermediaries will already be familiar with the Codes of Practice issued pursuant to Article 19 of the Financial Services (Jersey) Law 1998 that relate to investment business. Matters relating to the sale of long term insurance business are included in those existing Codes of Practice.
- 1.18 Historically, general insurance brokers have not been subject to regulation, other than to the practices recommended by the General Insurance Standards Council. Some of those practices are replicated in these Codes but there are other, additional provisions necessary to bring these Codes into line with international standards and to make them consistent with the Codes of Practice already in force relating to other sectors of the finance industry.

2 - CONSULTATION

- 2.1 The Commission is issuing this revised 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 content of the proposed Codes of Practice and their likely impact on businesses carrying on general insurance mediation business in or from within Jersey.
- 2.3 It is possible that a registered person for general insurance mediation business is also registered or a licence holder under another financial services law. The Commission is therefore particularly concerned to hear if these Codes contain anything that is in conflict with, or significantly different from, the provisions in the other relevant Codes that may cause problems for the regulated business.
- 2.4 Following this period of consultation, the Commission proposes to issue the final Codes of Practice, amended as appropriate to take into account any significant factors that may emerge as a result of the consultation process.

3 – BACKGROUND

JERSEY'S GENERAL INSURANCE MEDIATION INDUSTRY

- 3.1 Jersey is a leading financial centre. The Island's financial services industry has well-established banking, investment, trust and company administration and fund management sectors that have been supplemented by a steady growth in insurance business in recent years.
- 3.2 There are four classes of general insurance mediation business registration. Class P applies to those businesses that carry on general insurance mediation as their primary activity. Class Q relates to businesses or groups that are already authorised by the Commission to carry on financial services other than general insurance mediation but also undertake the latter as an additional activity. Classes R and S are for businesses not primarily in the financial services sector, but who offer general insurance products as an incidental service. Class R applies when the business gives advice on the terms, conditions or suitability of the policy being proposed, while Class S is appropriate when no such advice is provided.
- 3.3 Exemptions from the provisions of the Financial Services (General Insurance Mediation Business (Client Assets)) (Jersey) Order 2005 and the Financial Services (General Insurance Mediation Business (Accounts, Audits, Reports and Solvency)) (Jersey) Order 2005 are available to businesses that meet certain criteria.
- 3.4 There are approximately one hundred businesses registered to carry on general insurance mediation.

GENERAL INSURANCE MEDIATION LEGISLATION

- 3.5 The extension to the Financial Services (Jersey) Law 1998 to include general insurance mediation came into force on 21 January 2005. Under this Law there are four Orders:
 - The Financial Services (General Insurance Mediation Business (Registration and Fees)) (Jersey) Order 2005;
 - The Financial Services (General Insurance Mediation Business (Client Assets)) (Jersey) Order 2005;
 - The Financial Services (General Insurance Mediation Business (Accounts, Audits, Reports and Solvency)) (Jersey) Order 2005; and
 - The Financial Services (General Insurance Mediation Business (Exemptions)) (Jersey) Order 2005.

4 - THE COMMISSION

4.1 The Commission is a statutory body corporate established under the Financial Services Commission (Jersey) Law 1998, as amended. It is responsible for the supervision and development of financial services provided in or from within Jersey.

4.2 The Commission's guiding principles require it to have particular regard to:

- 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 Jersey;
- the protection and enhancement of the reputation and integrity of Jersey in commercial and financial matters;
- the best economic interests of Jersey; and, in pursuit of the above,
- contributing to the fight against financial crime.

5 - PROPOSED POLICY

INTRODUCTION

- 5.1 The proposed Codes of Practice are intended to introduce the principles of international best regulatory practice to the general insurance mediation industry in the Island. They incorporate the “Twenty Eight Core Principles of Insurance Supervision”, issued by the IAIS where the existing general insurance mediation legislation does not cover these principles in sufficient depth.
- 5.2 The Codes have been produced in the same format as those already issued for other sectors of the finance industry, and therefore contain several sections that are familiar to, and have been accepted by, that industry in Jersey.

THE CONTENT OF THE CODES OF PRACTICE

- 5.3 As an international offshore finance centre, Jersey has registered entities that are owned or controlled by businesses based outside the Island, as well as those for whom Jersey is the home jurisdiction. It is therefore important that the principles of these Codes of Practice can be applied as appropriate to all businesses taking into account any specific requirements that may be laid down by another jurisdiction that is the home regulator for a Jersey-registered general insurance mediation business.
- 5.4 The Introduction and Sections 1, 2 and 6 apply the provisions of the existing Codes of Practice for other sectors of the finance industry to general insurance mediation business with only minor amendments in terminology. The Sections deal with integrity, the interests of policyholders and co-operation between regulated businesses and the Commission.
- 5.5 Section 3 covers corporate governance, and includes management requirements that are in accordance with international best practice as well as specific recommendations contained within the IAIS Core Principles of Insurance Supervision.
- 5.6 Section 3.3 describes the appointment of a Compliance Officer and a Money Laundering Reporting Officer. In the case of the latter, the Codes recognise that the risk of the use of general insurance for the purposes of money laundering or the financing of terrorism is less than with long term insurance products, so they advise rather than require a registered person to appoint such an officer to examine applications for the insurance of high value or unusual risks and/or claims.
- 5.7 In line with the provisions contained in other Codes of Practice, Section 3.7 contains recommendations on the continuing professional development of staff and the level of training that should be available. It is recognised that many staff in the insurance industry hold formal qualifications, and that professional institutes require a minimum amount of continuing professional education as a condition of membership. It is hoped that the Section strikes the right balance between the job-related training beneficial to both employer and employee and the education arising from professional qualifications.

5.8 A key issue for the consideration of competence is whether professional qualifications should be mandatory or discretionary. The Commission is undecided whether or not professional qualifications should be mandatory in line with the Codes of Practice for other regulated business sectors. The Financial Services Authority in the UK does not have this level of prescription.

Given the circumstances the Commission would welcome comments regarding:

5.8.1 Whether there should be a minimum professional qualification for all persons providing general insurance advice to clients and if so, what level of qualification should be required?

5.8.2 Whether a minimum proportion of the board directors should hold a professional qualification and if so, what level of qualification should be required?

5.8.3 If professional qualifications are to be mandatory, what grandfathering provisions should be considered?

5.8.4 What transitional period should be provided for compliance with the required level of professional qualifications?

5.9 Note 4 under the Section on Continuing Professional Development on page 18 suggests the sort of levels of qualification that may be appropriate. Comments will be appreciated.

5.10 Section 4 deals with the way in which a registered person should provide information to its clients. The information provided to policyholders and prospective policyholders by insurance companies, brokers and other intermediaries can vary widely, and it is considered important that all policyholders be provided with the same level of service and information.

5.11 Section 5 covers capital adequacy, solvency, the admissibility of assets, and the required provisions for liabilities. The Section also contains a requirement for a registered person to hold professional indemnity insurance, and sets out the minimum levels of such cover that the registered person should have in place.

5.12 Section 7 contains paragraphs relating to the approach towards, and the content of, insurance advertisements.

5.12.1 Does the industry consider that a transitional period is required to enable persons to obtain compliance with the provision of these Codes, or any specific section?

6 - SUMMARY OF QUESTIONS

REFERENCE	QUESTION
5.8.1	Whether there should be a minimum professional qualification for all persons providing general insurance advice to clients and if so, what level of qualification should be required?
5.8.2	Whether a minimum proportion of the board directors should hold a professional qualification and if so, what level of qualification should be required?
5.8.3	If professional qualifications are to be mandatory, what grandfathering provisions should be considered?
5.8.4	What transitional period should be provided for compliance with the required level of professional qualifications?
5.12.1	Does the industry consider that a transitional period is required to enable persons to obtain compliance with the provision of these Codes, or any specific section?

APPENDIX A

LIST OF REPRESENTATIVE BODIES WHO HAVE BEEN SENT THIS CONSULTATION PAPER.

- Jersey Finance Limited
- Ian Touzel (Islands Insurance)
- Steve Wrigglesworth (Rossborough)
- Paul MacDonald (Hepburns)
- John Reed (Reed Insurance)
- Gordon Harris (European Insurance Brokers)
- Gary Boon (Alexander Forbes)

APPENDIX B

DRAFT CODES OF PRACTICE



Jersey Financial
Services Commission

CODES OF PRACTICE

FOR

**GENERAL INSURANCE
MEDIATION BUSINESS**

ISSUED JUNE 2007

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Introduction

The Codes of Practice (the “**Codes**”) are issued by the Jersey Financial Services Commission (“**the Commission**”) in accordance with the powers given to it by Article 19 of the Financial Services (Jersey) Law 1998 (“**the Law**”). The Codes have been prepared and issued for the purpose of establishing sound principles for the conduct of general insurance mediation business. It is the responsibility of the registered person not only to follow these principles but also to implement such additional practices, as it considers necessary for the proper management and control of its business. In circumstances where strict adherence to the Codes would be at variance with regulatory requirements in the home jurisdiction or produce an anomalous result, a registered person may apply to the Commission for a variation from the Codes.

The Codes are arranged under seven fundamental principles, as described below:

1. A registered person must conduct its business with integrity.
2. A registered person must have due regard for the interests of its customers, acting with skill, care and diligence.
3. A registered person must organise and control its affairs effectively for the proper performance of its business and be able to demonstrate the existence of adequate risk management systems.
4. A registered person must be transparent in its business arrangements.
5. A registered person must maintain, and be able to demonstrate the existence of, adequate financial resources in accordance with the provisions of the Financial Services (General Insurance Mediation Business (Accounts, Audits, Reports and Solvency)) (Jersey) Order 2005, as amended from time to time.
6. A registered person must deal with the Commission and other authorities in the Bailiwick in an open and co-operative manner.
7. A registered person must not make statements that are misleading, false or deceptive.

Each section of the Codes is designed to be understood by reference to its full text, including any notes.

Failure by a registered person to follow these Codes may be grounds for the Commission to take enforcement action. Where the Commission has reason to believe that at any time there has been a failure on the part of a registered person to follow these Codes, it may consider making use of its regulatory powers, perhaps by the use of a compliance examination or the appointment of reporting accountants or, in serious cases, the revocation of the registration.

As the Codes establish sound principles for the conduct of business, a failure to comply with them may support a decision by the Commission that, for example,

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continued non-compliance or other failure to remedy the circumstances that gave rise to the breach, may be addressed by the issue of a specific, additional registration condition under Article 10 of the Law, or by a direction under Article 23 of the Law. In appropriate circumstances, the Commission may issue a public statement concerning the registered person.

Failure to follow these Codes shall not of itself render any person liable to proceedings of any kind or invalidate any transaction, but the Codes shall be admissible in evidence in any proceedings if it appears to the court to be relevant to any questions arising in the proceedings, and shall be taken into account in determining any such question.

The Codes may be revised after consultation with such persons or bodies as appear to be representative of the interests concerned.

J Harris
Director General

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Advisory Note Regarding the Application of the Codes of Practice

Methods of compliance with the provisions of these Codes will vary depending on whether Jersey is the home or host jurisdiction of the registered person and the extent of the registered person's physical presence in the Island or elsewhere:

- A registered person will be subject to the regulatory regime prescribed in its home jurisdiction. It must therefore satisfy itself that its conduct, procedures, controls and risk management systems comply with the requirements in its home jurisdiction. Where the home jurisdiction is outside Jersey, compliance with the home regulatory and supervisory requirements will usually be sufficient to meet the obligations of these Codes. Should any significant contradictions emerge between regulations in the home jurisdiction and these Codes, they must be brought to the attention of the Commission for discussion and resolution.
- A registered person whose home jurisdiction is Jersey shall be subject to the requirements of these Codes. Where such a registered person has subsidiaries or branches outside Jersey, or makes services or products available outside Jersey through brokers or other intermediaries, it must ensure, as far as possible, that Jersey legal and regulatory requirements, and the provisions of these Codes, are applied to those subsidiaries or branches or observed by the brokers and other intermediaries. Any contradictions between the Codes and the regulations in the jurisdiction outside Jersey must be brought to the attention of the Commission for discussion and resolution.
- Where a registered person whose home jurisdiction is Jersey has entered into a contract for the services of a management company, such an outsourcing contract must be in accordance with the Commission's Policy Statement and Guidance Notes on Outsourcing. The registered person must also satisfy itself that the controls and risk management systems applied in combination with the management company meet the requirements laid down in these Codes.
- Where a registered person appoints its own agents or sub-agents, the registered person is responsible for ensuring that the agents or sub-agents are themselves registered persons, and that the legal agreements between them make provision for compliance with these Codes.

1 A registered person must conduct its business with integrity.

- 1.1. Failure to comply with the above principle will be considered amongst the most serious breaches of the Codes.
- 1.2. Without limiting the scope of this principle, a registered person must not:
 - Act or refrain from acting; or
 - Contract or have any other form of arrangement

so as to avoid, or seek to avoid, any regulatory responsibilities that it may have under the Codes and the full consequences of not following them unless the Codes expressly permit any such avoidance.

2 A registered person must have due regard for the interests of its customers.

- 2.1 A registered person must act with due skill, care and diligence to fulfil the responsibilities that it has undertaken and the obligations of the business that it has accepted.
- 2.2 Where a registered person is responsible for providing advice or exercising discretion for or in relation to its customers, it must be able to demonstrate that it has provided the best advice or exercised the necessary discretion that is appropriate for its customers' needs.
- 2.3 Where a registered person is responsible for providing advice or exercising discretion for its customers, it must seek from them such information as may be appropriate with regard to the services requested and ensure that all aspects of the customers' needs have been taken into account. Documentary evidence must be maintained in this respect.
- 2.4 A registered person must only exercise its power or discretion for a proper purpose.
- 2.5 A registered person must either avoid any conflict of interest arising or, where conflicts do occur, must address such conflicts by disclosure, by applying internal rules of confidentiality, by declining to act, or otherwise as appropriate. A registered person must not unfairly place its interests above those of its customers and, where a properly informed customer would reasonably expect that the registered person would place his or her interests above its own, the registered person must live up to that expectation.
- 2.6 A registered person must transact its business (including the establishment, maintenance, transfer or closure of business relationships with its customers) in an expeditious manner.
- 2.7 Any delegation of obligations or responsibilities, whether by Power of Attorney, formal agreement or otherwise, must only be entered into for a proper purpose, and be limited and monitored as appropriate.
- 2.8 A registered person must ensure that adequate procedures are implemented to ensure that the insurance services that it provides are regularly reviewed at appropriate intervals.

3 A registered person must organise and control its affairs effectively for the proper performance of its business and be able to demonstrate the existence of adequate risk management systems.

3.1 Corporate Governance

3.1.1 Corporate governance is the system by which a company is directed and controlled. A corporate governance framework specifies the distribution of rights and responsibilities among different participants in the company and sets out the rules and procedures for making decisions. Risk management is an integral part of a corporate governance framework.

3.1.2 Registered persons must operate an effective corporate governance system that must include the following key elements:

3.1.2.1 An adequate span of control must exist that is appropriate to the nature of the business. Registered persons must be controlled by at least two appropriately qualified or experienced people.

3.1.2.2 The relationship of directors and managers within the company must be such as to ensure that they can all exercise independent judgement without duress or undue influence from one another in the best interests of customers, and so as to secure compliance with the Law, any Orders made under it, and these Codes.

3.1.2.3 The apportionment of responsibilities among directors (executive and non-executive) and senior managers must be such that their individual responsibilities are clear, that there are separated critical functions and that the business of the registered person is adequately monitored and controlled at the appropriate level.

3.1.2.4 The procedures for the appointment of directors, both executive and non-executive, must be documented and in line with the stated structure, functions and accountabilities of the board of directors.

3.1.3 Clearly defined procedures must be in place in order to enable the board of directors and senior management to manage the business risks:

3.1.3.1 The management must assess the risks present in the business, and they must be documented, as must the ways in which these are monitored and controlled.

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3.1.3.2 The registered person must maintain accurate and reliable information systems and timely and appropriate management reporting.

Note 1: The span of control will usually include at least two persons. To form part of the span of control, a person need not necessarily be appointed as a director. Senior employees may be considered by the Commission to form part of the span of control.

Note 2: Where the size of the registered person's business warrants it, a separate risk management function and a risk management committee should be established.

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3.2 Internal Control Systems

3.2.1 A registered person's systems must ensure that:

3.2.1.1 The business is planned and conducted prudently, and in an orderly manner, in accordance with management policies;

3.2.1.2 Transactions and commitments are entered into in accordance with laid down general or specific authority;

3.2.1.3 The assets of the registered person are safeguarded and the liabilities controlled through measures designed to minimise the risk of loss from irregularities, error and fraud, and to identify any such occurrences promptly;

3.2.1.4 The accounting and other records of the registered person are complete, accurate, and timely, and can be used to compile financial statements, management information and returns in line with the requirements of the Law and any Orders made under it;

3.2.1.5 Management is able to monitor the adequacy and quality of the registered person's assets, liabilities, liquidity and profitability;

3.2.1.6 Management is able to identify, regularly assess, and where appropriate quantify, the risk of loss in the business so that any necessary provisions can be made for bad or doubtful debts and for any other exposures both on and off balance sheet;

3.2.1.7 The registered person is able to guard against involvement in financial crime (including the detection and prevention of money laundering and terrorist financing) and to comply with these Codes and other regulatory requirements;

3.2.1.8 Adequate business resumption, disaster recovery and contingency arrangements are in place and are tested at appropriate intervals;

3.2.1.9 Sufficient access controls exist to protect the confidentiality and integrity of electronic data;

3.2.1.10 Adequate procedures are in place for controlling changes to systems and records to ensure that only valid changes are made;

3.2.1.11 Any gifts or entertainment provided or received by the registered person must be limited in value and frequency so as not to be construed as an inducement for the provision of

CODES OF PRACTICE FOR GENERAL INSURANCE MEDIATION BUSINESS

insurance business to the detriment of the principle of best advice to customers;

3.2.1.12 The registered person may provide seminars and other training to the directors and staff for the purpose of ensuring that policies can be properly sold. The provision of such training may include associated travel and accommodation costs;

3.2.1.13 A registered person must maintain an effective, documented system of internal control including, where appropriate, operations manuals for employees in English and kept within the Bailiwick; and

3.2.1.14 The control objectives in section 3.2.1 above apply equally to the operations undertaken in both manual and electronic environments. Special controls are required to address the unique risks encountered with computer systems, although these risks are not exclusive to the area of computer operations.

Note 1: In seeking to ensure that these objectives are met, directors and senior management must exercise their judgement in determining the nature and scope of the controls that are necessary (also having regard to their cost effectiveness). Once such controls are established, it is the responsibility of directors and senior management to monitor their proper operation on a regular basis.

Note 2: The Commission will recognise and take comfort from those registered persons that do have effective internal audit controls or where such functions are provided from elsewhere within a group. The Commission may require access to internal audit reports, and requires that such reports are made available to external auditors.

Note 3: Anti-money laundering legislation includes the Proceeds of Crime (Jersey) Law 1999, the Money Laundering (Jersey) Order 1999, the Terrorism (Jersey) Law 2002 and the Drug Trafficking Offences (Jersey) Law 1988, as well as any other applicable Laws and United Nations or European Union Sanctions Orders applied within the Bailiwick, all as amended from time to time. The legislation must be observed in conjunction with the standards set out in the Handbook For The Prevention And Detection Of Money Laundering And Financing Of Terrorism issued by the Commission, as amended from time to time. Failure to follow legislation to counter money laundering and the financing of terrorism may form the basis for regulatory action by the Commission.

3.3 Compliance Officer and Money Laundering Reporting Officer

- 3.3.1 A registered person must appoint, as its Compliance Officer, a person properly skilled and experienced to monitor and ensure compliance with the regulatory obligations under the Law.
- 3.3.2 The registered person must notify the Commission in advance of the appointment, resignation or change of the designated Compliance Officer, and must arrange for a completed Personal Questionnaire or Update to be sent to the Commission prior to the appointment.
- 3.3.3 In the event that a Compliance Officer is temporarily unable to fulfil his or her responsibilities, the board must notify the Commission and appoint an appropriately skilled and experienced alternate.

Note: Upon receipt of a Personal Questionnaire, the Commission will make a number of enquiries. Registered persons may wish to await the Commission's confirmation that it has no objection before confirming the appointment.

- 3.3.4 The Compliance Officer must:
 - 3.3.4.1 be able to demonstrate appropriate independence and, if they are not a director, must have direct access to the registered person's Jersey management board or equivalent;
 - 3.3.4.2 have unfettered access to all business and support departments;
 - 3.3.4.3 have sufficient status within the registered person's organisation to ensure that directors and senior management consider and act upon any recommendations made; and
 - 3.3.4.4 be able to devote sufficient time and have sufficient resources to properly discharge the responsibilities of the position.
- 3.3.5 The Compliance Officer is responsible for:
 - 3.3.5.1 ensuring that the registered person has proper arrangements for compliance with the Law, Orders and Codes of Practice;
 - 3.3.5.2 ensuring the appropriate monitoring of operational performance and promptly instigating action to remedy any deficiencies in such arrangements; and
 - 3.3.5.3 providing the principle point of contact with the Commission on regulatory matters.

Note 1: Where the registered person has a limited or inexperienced compliance resource, or limited physical presence in Jersey, the Commission expects the registered person to support this

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area of operation as necessary either by importing specialist skills or through the use of group resources or by outsourcing to a management company, if one has been retained.

Note 2: Where the structure of a registered person's business is such that procedures do not require the Compliance Officer to report directly to the local management in Jersey, but do require the Compliance Officer to report to another party, then the Commission will consider an application by the registered person for exemption from the requirement to comply with section 3.3.4.1 above.

Note 3: The Commission considers that a period in excess of four weeks would constitute temporary inability to fulfil the responsibilities for compliance with section 3.3.3 above.

3.3.5 A registered person is advised to appoint a suitably qualified or experienced senior employee to act as Money Laundering Reporting Officer.

3.3.6 The registered person must:

3.3.6.1 notify the Commission of the appointment, resignation or change of its Money Laundering Reporting Officer; and

3.3.6.2 submit to the Commission a completed Personal Questionnaire in respect of the appointed person.

Note: Upon receipt of a Personal Questionnaire, the Commission will make a number of enquiries. Registered persons may wish to await the Commission's confirmation that it has no objection before confirming the appointment.

3.3.7 The Money Laundering Reporting Officer must:

3.3.7.1 report directly to the registered person's Jersey management board or equivalent;

3.3.7.2 be properly trained in the responsibilities and duties of such a position; and

3.3.7.3 have sufficient independence and resources to properly discharge the responsibilities of the position.

Note 1: It is recognised that the risk of the use of general insurance for the purposes of money laundering or the financing of terrorism is less than the use of long term insurance products but the anti-money laundering reporting officer must pay special attention to applications for the insurance of a high value or unusual risks and to claims that are for large amounts of money or are made within a short period of time following the inception of insurance cover.

Note 2: Where a registered person has limited employee resource in Jersey, notification should be made to the Commission that the Compliance Officer and the Money Laundering Reporting Officer are the same person.

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Note 3: Where a registered person has limited physical presence in Jersey, the registered person may support this area of operation as necessary either by importing specialist skills or through the use of group resources or by outsourcing to a management company, if one has been retained.

Note 4: Where the structure of a registered person's business is such that procedures do not require the Money Laundering Reporting Officer to report to local management in Jersey, but do require the Money Laundering Reporting Officer to report to another party, then the Commission will consider an application by the registered person for exemption from the requirement to comply with section 3.3.7.1 above.

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3.4 Record keeping and reporting

3.4.1 A registered person must:

- 3.4.1.1 maintain policy and procedures records that cover the management of the business;
- 3.4.1.2 keep proper records of customers' affairs, including customers' documentation;
- 3.4.1.3 keep adequate and orderly records, not only of business transacted but also of its internal organisation and risk management controls;
- 3.4.1.4 in the case of registered persons whose home jurisdiction is Jersey, maintain the records at an appropriate location in Jersey, and if kept otherwise than in legible form, maintain them so as to be readable at a computer terminal in Jersey so that they may be produced in legible form without delay; and
- 3.4.1.5 keep its records for such time as may be prescribed in the home jurisdiction and have a clearly documented policy regarding the retention of such records. Accounting records must be kept for a minimum of ten years.

Note 1: The Law is silent as to the form that records should take, so the Commission expects that registered persons will use available technology to retain and facilitate access to these records. Legal advice may need to be taken regarding the types of records that are admissible in a court of law.

Note 2: The Commission reserves the right to waive the requirement for a registered person to maintain its records at an appropriate location in Jersey in special circumstances where compliance is clearly impractical.

3.4.2 Accounting and other records maintained by the registered person must:

- 3.4.2.1 capture and record on a timely basis and in an orderly fashion every transaction and commitment into which the registered person has entered, with sufficient information to explain:
 - the nature and purpose of the transaction or commitment;
 - any asset or liability, actual or contingent, that arises or may arise; and
 - any income or expenditure, current or deferred, that arises or may arise.

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3.4.2.2 provide details, as appropriate, of each transaction and commitment, showing:

- the parties;
- the amount and currency, and the frequency of payment; and
- the contracted commission or fee payable or receivable.

3.4.2.3 be maintained in such a manner that financial and business information can be extracted promptly to enable directors and senior management to:

- identify, measure, monitor and control the quality of the registered person's assets and safeguard them;
- identify, measure, monitor and control its obligations to customers;
- monitor its solvency and its reserves;
- monitor the performance of all aspects of its business on an up-to-date basis; and
- make timely and informed decisions.

3.4.3 A registered person must prepare information for directors and management so that they can monitor, assess and control the performance of the business, the state of its affairs and the risks to which it is exposed. Information must be prepared on an individual business basis and, where appropriate, on a consolidated basis.

3.4.4 Management information must be prepared:

3.4.4.1 To show the state of affairs of the business;

3.4.4.2 To show the overall solvency of the business;

3.4.4.3 To show the operational results of the business both on a cumulative basis and by discrete period, and to give a comparison with budgets and relevant previous periods;

3.4.4.4 To provide an analysis of assets and liabilities, showing how they have been valued;

3.4.4.5 To provide an analysis of any off-balance sheet positions, showing how they have been valued;

- 3.4.4.6 To provide an analysis of income and expenditure, showing how the income and expenditure relates to the different categories of asset and liability and to customers' and shareholders' funds; and
- 3.4.4.7 To show the business' exposure to each type of risk, compared to the relevant limits set by management.

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3.5 Complaints

3.5.1 A registered person must establish and maintain an effective complaints-handling system and procedure. Such system and procedure must:

3.5.1.1 maintain adequate records of complaints against the registered person, including a central register that contains details of any compensation that may be agreed;

3.5.1.2 inform customers of how complaints may be made and the internal procedures for dealing with them;

3.5.1.3 handle complaints transparently, fairly and independently;

3.5.1.4 provide a prompt acknowledgement and initial response, as well as regular progress reports, in writing unless agreed to the contrary with the customer; and

3.5.1.5 notify the Commission promptly if:

- a complaint is not satisfactorily resolved within three months;
- the registered person considers it to be in the best interests of the complainant or the general public;
- a complaint progresses to litigation and/or a settlement is imposed by a court;
- a complaint results in the payment of a claim under the registered person's professional indemnity insurance policy;
- a complaint or series of complaints suggests that the registered person is failing to meet the requirements of these Codes.

3.5.2 A registered person must establish and maintain procedures that effectively enable the registered person to make prompt notification to the Professional Indemnity insurers should a complaint progress to the point where such notification becomes necessary in order to be in accordance with the terms and conditions of the insurance policy.

3.6 Integrity and competence

- 3.6.1 A registered person must ensure that its directors, senior managers and all other employees are fit and proper for their roles. The term “employees” includes not only staff directly employed by the registered person but also indirect staff, such as temporary or contracted employees, and other contracted service providers.
- 3.6.2 A registered person must:
- 3.6.2.1 operate robust arrangements for meeting the standards and requirements of the regulatory system;
 - 3.6.2.2 establish effective complaints-handling systems, adequate supervision of employees, and procedures governing sole, dual or multiple authorisations for handling business assets; and
 - 3.6.2.3 guard against involvement in financial crime (including the detection and prevention of money laundering), and ensure that all transactions and decisions are properly authorised by persons with the requisite knowledge and experience to effect such transactions or make such decisions.
- 3.6.3 A registered person must vet and monitor the competence and probity of its directors, senior managers and other employees, and ensure that trainees are properly supervised.
- 3.6.4 A registered person must ensure that:
- 3.6.4.1 it has a clear, written policy regarding the identification, notification and handling of any conflicts of interest that its directors and employees may encounter during the normal course of their employment in the registered person’s business; and
 - 3.6.4.2 it has a clear, written policy regarding private transactions, self-dealing, preferential treatment and other transactions of a non-arm’s length nature.
- 3.6.5 A registered person is responsible for ensuring that its employees are competent on an ongoing basis and trained adequately and appropriately, and must document the basis upon which such competency has been assessed. Competence comprises a balance between relevant qualifications held, training received, and experience gained having regard, amongst other things, for the nature of the work being carried out by the employees and the level of their responsibility.

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- 3.6.6 A registered person must ensure that there is a sufficient number of staff, at all levels, with adequate qualifications and experience. Directors and/or senior management, who form part of the span of control, must always hold appropriate qualifications to enable them to demonstrate the technical competence to perform such a senior role.
- 3.6.7 A registered person must ensure that it obtains and retains copies of documentary evidence of qualifications held by employees where such qualifications have been determined by the registered person to be a requirement for the role involved.
- 3.6.8 A registered person must have in place a proper, documented, remuneration policy for directors and employees, and must review it periodically. Such a policy must ensure that remuneration has due regard for the registered person's financial position as well as the personal performances of directors and employees, and that any incentive schemes are properly managed so as to avoid any encouragement of improper or imprudent behaviour.

Note 1: Paragraph 3.6.1 and 3.6.3 above are subject to the Rehabilitation of Offenders (Jersey) Law 2001, which prevents a registered person requesting information from its directors, senior managers and other employees (and prospective directors, senior managers and other employees) about convictions that are "spent", except where provided for by the Rehabilitation of Offenders (Exceptions) (Jersey) Regulations 2002 ("the Regulations").

Note 2: In the case of "finance employees" (and prospective "finance employees"), the Regulations permit a registered person to request information about all "relevant" convictions, whether "spent" or not.

Note 3: To be consistent with these Codes, it is necessary for employers to make use of such exceptions when screening employees who are subject to these exceptions.

3.7 Continuing Professional Development (“CPD”)

- 3.7.1 A registered person is responsible for ensuring that the opportunity is available to all relevant employees to continue their professional development as part of their normal working environment.
- 3.7.2 A registered person is responsible for ensuring that the CPD is appropriate and relevant to such employees, taking into account their job descriptions, current duties and future development needs.
- 3.7.3 For registered persons that employ relevant employees in Jersey, the recommended CPD is thirty-five hours per year, including technical and professional reading (for which a maximum of five hours is permitted), and research. Other registered persons must ensure that the number of required hours is in accordance with any regulations that may be laid down in their home jurisdiction.
- 3.7.4 A registered person must maintain CPD records for all such employees (although it is permissible for a registered person to require employees to keep their own records and account to the registered person on a regular basis).

Note 1: For these purposes, the term “relevant employee” means an employee who has, or is working towards, or who wishes to begin studies for, a professional qualification that the employer has agreed with the employee is necessary for that person’s employment with the registered person.

Note 2: It is recognised that some employees may be members of professional bodies that have their own CPD requirements as a condition of continued membership. In these circumstances, it is a matter for the registered person, firstly, to ensure that the necessary opportunity is given to such employees to enable them to comply with these professional requirements and, secondly, to take a view on the extent to which such professional CPD is relevant to the registered person’s business and may therefore be counted towards the employees’ work-related CPD.

Note 3: Courses in key subjects, such as anti-money laundering, data protection, health and safety, and IT, should be part of every employee’s training programme in addition to those courses specifically related to insurance.

Note 4: As a guide for the purposes of paragraph 3.6.6 and Section 3.7 a registered person should encourage staff to undertake courses and qualifications provided by institutions that are appropriate to employees’ seniority and experience, such as the Chartered Insurance Institute (“CII”). For example, staff might undertake the following insurance-specific qualifications, as part of a development programme:

<i>Junior employees</i>	<i>CII Foundation Insurance Test</i>
<i>Administrative staff</i>	<i>CII Certificate in Insurance (Cert. CII)</i>
<i>More experienced staff</i>	<i>CII Diploma in Insurance (Dip. CII)</i>

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Middle management

CII Advanced Diploma in Insurance (ACII)

Senior Management/Directors

ACII or FCII

Note 5: Qualifications from other professional institutes, such as, but not limited to, The Chartered Institute of Bankers, the Securities Institute, and the various accountants' institutes, may also be acceptable when combined with practical experience of the insurance industry.

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4 A registered person must be transparent in its business arrangements.

4.1 A registered person must inform its customers that it is regulated and authorised to carry on general insurance mediation business by the Regulatory Authority in its home jurisdiction. The name of the Regulatory Authority and the home jurisdiction must be specifically stated, which for Jersey-based registered persons will be the Jersey Financial Services Commission.

4.2 A registered person must communicate information to customers in a way that is adequate, fair and not misleading. Advertising and promotional literature must be clear, fair and reasonable, and must not be deceptive or misleading (advertising guidelines are contained in Section 7 of these Codes).

4.3 If applicable, a registered person must state whether insurance policies can only be provided from a restricted range of products from one product provider.

4.4 A registered person must provide confirmation, in legible form, of any contract or transaction effected for its customers. This will usually take the form of a policy document or cover note and, where appropriate, a notice of any policy exclusions or special terms that are attached to the policy.

4.5 A registered person must provide to its customers, in writing, the terms and conditions applying to the insurance services provided by the registered person. These terms and conditions must:

4.5.1 be distinguishable from marketing or promotional material;

4.5.2 be consistent with these Codes;

4.5.3 be clearly expressed in plain language that only uses technical or legal terms where absolutely necessary;

4.5.4 be provided before the contract of insurance becomes legally binding on the parties, except when it is impractical to do so in which case the terms and conditions shall be provided at the earliest opportunity; and

4.5.5 contain details of the services provided by the registered person at the renewal date of the policy, and the consequences, financial and otherwise, of early termination.

4.6 At the time when a policy is first taken out and at renewal, the registered person must disclose the nature and amount of all standard fees and charges associated with the policy levied over and above the premium charged by the insurance provider.

4.7 A registered person must, upon request, provide a customer with the information held about that customer to which the customer is legally

entitled. The registered person may recover its reasonable costs of supplying such information to the customer.

- 4.8 A registered person must inform customers if it has a policy of recording telephone conversations with them for monitoring or training purposes. This may be achieved by including an appropriate statement in the registered person's terms of business, marketing and promotional material and regular statements provided to customers, or by advising callers at the start of any telephone conversation.

Note: The requirements described in paragraphs 4.1 and 4.5 above will be satisfied by the inclusion of the information on the registered person's letterhead, or its marketing or advertising literature, or its terms of business, or policy documentation, as appropriate.

5 A registered person must maintain, and be able to demonstrate the existence of adequate capital resources to enable it to meet its liabilities.

Note: This section describes the minimum required solvency margin, the types of asset that are admissible to cover liabilities, and the requirement for professional indemnity insurance. It is applicable to Jersey incorporated entities that are registered under the provisions of the Financial Services (Jersey) Law 1998 to carry on general insurance mediation business. Other registered persons will be subject either to the provisions of this section or, if the Commission has granted the necessary exemption described in Article 21 of the Financial Services (General Insurance Mediation Business (Accounts, Audits, Reports and Solvency)) (Jersey) Order 2005, to the equivalent requirements laid down in their home jurisdiction.

- 5.1 A registered person must maintain at all times a level of capital adequacy sufficient to meet its liabilities and the minimum solvency margin requirements. The required minimum solvency margins are those prescribed in the Financial Services (General Insurance Mediation Business (Accounts, Audits, Reports and Solvency)) (Jersey) Order 2005, as amended from time to time.
- 5.2 The approved types of assets admissible for the purposes of assessing capital adequacy are listed in Article 12 of the Financial Services (General Insurance Mediation Business (Accounts, Audits, Reports and Solvency)) (Jersey) Order 2005.
- 5.3 A registered person must ensure that quoted investments are listed on one of the recognised international stock exchanges described in Article 12 of the Financial Services (General Insurance Mediation Business (Accounts, Audits, Reports and Solvency)) (Jersey) Order 2005. Upon application by the registered person, the Commission may approve other exchanges as recognised for this purpose, but only where the use of such an exchange is considered necessary for the proper performance of the registered person's business.
- 5.4 A registered person must ensure that its liabilities are calculated and monitored on a continuous basis. Such liabilities must be calculated according to generally accepted industry principles and accounting standards, and the calculations must be made available to the Commission for review upon request.
- 5.5 Although a registered person is required to submit to the Commission at regular intervals financial statements that show the company's ability to meet its liabilities and its minimum solvency margin requirements, it is the responsibility of the registered person to ensure that this position is maintained at all times. Should the registered person become aware that it is unable to comply with these requirements, the Commission must be informed at once. The registered person will be required to produce a plan to the Commission for the restoration of solvency. Should the plan not be forthcoming, or be deemed inadequate, the Commission may impose its own

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conditions, financial or otherwise, for the return of the business to acceptable solvency levels.

5.6 In order to properly control its assets, liabilities and its solvency position, a registered person must have in place effective procedures for monitoring and managing the asset/liability position; and

5.6.1 ensure that the directors review the adequacy of all management policies on a regular basis in the light of the company's activities, its overall risk tolerance, and its solvency position; and

5.6.2 have in place procedures to identify and mitigate against the effects of deteriorating business conditions.

5.7 A registered person must maintain professional indemnity insurance ("PII"):

5.7.1 PII cover and extensions must include negligence and errors and omissions by the registered person, and employee dishonesty;

5.7.2 Specifically, so far as is lawful, extensions must include:

5.7.2.1 legal defence costs;

5.7.2.2 retro-active cover in respect of work carried out in the past by the registered person;

5.7.2.3 loss of documents (liability, and cost of replacement, restoration, or reconstruction);

5.7.2.4 self-employed or contract hire persons engaged in the registered person's business; and

5.7.2.5 indemnity to employees, former employees and/or consultants.

5.7.3 A registered person must notify the Commission of any limitations in insurance cover that may apply to any jurisdiction in which business may be conducted.

5.7.4 The minimum aggregate insurance cover must equal or exceed the greater of:

- three times the amount of relevant fees and commissions; or
- £1,000,000 (one million pound Sterling)

but registered persons shall not be required by the above test to have aggregate insurance cover exceeding £5,000,000 (five million pounds Sterling).

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- 5.7.5 Subject to 5.7.6 any excess per claim on the policy should not exceed the total of £5,000 (five thousand pounds Sterling) or 3% of the annual relevant fees and commissions whichever is the greater. The registered person must include a multiple of three times the additional excess as a liability when performing the solvency calculation under Article 14(2) of the Financial Services (General Insurance Mediation (Accounts, Audits, Reports and Solvency)) (Jersey) Order 2005.
- 5.7.6 The Commission may, on application by a registered person, consider a variance to the provisions of 5.7.5 above.
- 5.7.7 With the prior written consent of the Commission, registered persons may enter into self-insurance arrangements.
- 5.7.8 A registered person must have adequate procedures in place to ensure compliance with all of the terms and conditions of the PII policy, particularly, in relation to the timely notification of events that may lead to a claim on the policy by the registered person.

6 A registered person must deal with the Commission and other authorities in the Bailiwick in an open and co-operative manner.

6.1 There is a need for candour and co-operation in a registered person's relationship with the Commission. Registered persons are required to advise the Commission promptly of any matter that might reasonably be expected to affect their authorisation to carry on business in Jersey or might affect the interests of their customers. This principle extends to the provision of information and the notification of events concerning other member companies of a corporate group.

6.2 Where a registered person fails to comply with parts of these Codes, its observance or non-observance of this principle will be considered relevant to the question of mitigation or aggravation.

6.3 A registered person must allow, and shall procure, that any agent or subcontractor of the registered person also allows inspections by or on behalf of the Commission of any part of its activities. The registered person must provide all reasonable assistance in connection with any such inspection and shall procure that any such agents or subcontractors also provide all reasonable assistance.

6.4 In addition to the obligations under the Financial Services (Jersey) Law 1998, as amended, and notwithstanding the generality of paragraph 6.1 above, certain notifications will always be expected in writing from a registered person. The obligations under the Financial Services (Jersey) Law 1998 require registered persons to obtain the prior approval of the Commission for the changes listed below in this section, except for the changes described in paragraph 6.4.3 that only require prior notification:

6.4.1 A change of name of the registered person;

6.4.2 The adoption of, or a change in any business or trading name under which the registered person carries on mediation business;

6.4.3 A change in the address of the registered office or the principal office of the registered person, the registered person's nominated contact person or the associated telephone, fax and e-mail details;

6.4.4 A change of shareholder controller or beneficial owner of a registered person;

6.4.5 A change in the registered person's activities. This includes the introduction of a new business activity, closure to new business, the cessation of a business activity, whether temporarily or permanently, as well as the acquisition or disposal of a subsidiary, associated group company or branch office, wherever situated;

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6.4.6 A change of director and/or other key person of the registered person. This includes the resignation of a director or key person as well as the appointment of a director or key person.

6.5 A registered person must notify the Commission immediately in writing of any of the following events affecting either it or, except where specified otherwise, a company that is a subsidiary or holding company of the registered person:

6.5.1 The presentation of any application to the court for desastre, or the winding up, or the summoning of a meeting to consider a resolution to wind up;

6.5.2 The making of or any proposals for the making of a composition or arrangement with the creditors;

6.5.3 The application by any person for the commencement of insolvency proceedings, the appointment of a receiver, administrator or liquidator under the law of any jurisdiction;

6.5.4 The decision to voluntarily cease trading before any such decision is implemented, including details of arrangements for the protection of customers, creditors and other stakeholders;

6.5.5 The imposition of disciplinary measures or sanctions in relation to its business by any relevant regulatory authority;

6.5.6 A conviction for any offence under the legislation of any jurisdiction relating to the conduct of financial services business, or for any offence involving fraud or dishonesty, or for deliberate tax evasion, including such offences committed by any of its directors and officers;

6.5.7 Any actual or intended legal proceedings taken by the registered person or a subsidiary or against them, where any amount claimed or disputed is likely to exceed 5% of the registered person's admissible assets as applicable to the registered person's solvency margin calculation;

6.5.8 The granting or refusal of any application, or the revocation of authorisation, to carry on insurance business in any jurisdiction outside the Bailiwick;

6.5.9 The refusal of any application for, or the revocation of, membership of any trade or professional body in any jurisdiction;

6.5.10 The appointment of inspectors (howsoever named) by a statutory or regulatory body;

6.5.11 Any matter that the registered person considers to be material to the

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requirements placed on the registered person or any of its employees to be fit and proper;

- 6.5.12 Any event arising that makes it impractical for the registered person to comply with any Conditions attached to the registration or with one or more of the provisions of these Codes. Such notification must specify the steps that the registered person proposes to take to remedy the situation;
- 6.5.13 The breakdown of administrative or control procedures (including computer systems and accounting records) relevant to any part of the business, resulting in the failure to maintain proper records;
- 6.5.14 Any suspicious activities or incidents of fraud that are material to the financial stability, integrity, or reputation of the registered person;
- 6.5.15 The failure to meet minimum solvency margin requirements;
- 6.5.16 Any other matter that would be material to the Commission's supervision of the registered person or any of its employees.

Note 1: The Commission may, upon the application of the registered person, alter any requirements under section 6.4 above so as to adapt them to the specific circumstances of that registered person or to the particular type of business that the registered person carries on.

Note 2: The Commission may exercise the power described in Note 1 above where it appears that compliance with the requirements in question will be unduly burdensome having regard to the benefit that compliance will confer.

Note 3: The duty of disclosure in section 6.5 arises immediately the registered person knows, or has reasonable grounds for believing, that any of the above matters may have been or may be about to be committed, even where such matters are outside the control of the registered person.

7 Advertising guidelines.

- 7.1 A registered person must ensure that its advertising and promotional literature is clear, fair and reasonable, and is free of misleading, false or deceptive statements. Words used in advertisements must be chosen carefully and certain words, such as "guarantee" and "assured" must be treated with caution.
- 7.2 A registered person must comply with such advertising guidelines as may exist in its home jurisdiction. It should, however, make reference to its home regulatory authority, and to the business for which such authorisation has been granted, in the documentary marketing and sales material that it publishes or causes to be published.
- 7.3 A registered person must make reference to its authorisation by the Commission, and to the business for which such authorisation has been granted, in the documentary 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".
- 7.4 A registered person must obtain the approval of its Compliance Officer on each occasion that it intends to issue new or amended product-related advertising or promotional literature.
- 7.5 An advertisement must not contain:
- 7.5.1 a statement, promise or forecast that is untrue or misleading;
 - 7.5.2 a statement of fact that a registered person does not have reasonable grounds, supported by documentary evidence, for believing to be true at the time when the advertisement is issued;
 - 7.5.3 a statement of opinion by any person that the registered person does not have reasonable grounds, supported by documentary evidence, for believing to be the honestly held opinion of that person at the time when the advertisement is issued;
 - 7.5.4 a statement of fact that the registered person does not, at the time the advertisement is issued, have reasonable grounds for believing will continue to be true for so long as the advertisement continues to be issued in current publications;
 - 7.5.5 a misleading statement about the activities of, or the scale of the activities of, or the resources of or available to, the registered person or its group or affiliates;
 - 7.5.6 a statement relating to taxation benefits unless it is properly qualified to show what it means in practice and to whom such benefits apply;

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- 7.5.7 a statement relating to client confidentiality unless it is properly qualified to show the limits of any confidentiality assurance made;
 - 7.5.8 a comparison with other entities that carry on general insurance mediation business unless the basis of comparison is clearly stated, and the comparison is fair;
 - 7.5.9 a statement implying that the product or service involved is only available for a limited period or in limited form, if such is not the case.
- 7.6 The content and format of any advertisement must not:
- 7.6.1 be so designed as to be likely to be misunderstood;
 - 7.6.2 be so designed as to disguise the significance of any warning, statement or information that is required to be included under these Codes;
 - 7.6.3 be presented in such a way that it is not clearly identifiable as an advertisement;
 - 7.6.4 signify in any way that the advertisement has been approved by the Commission (this rule applies even if the Commission has been consulted with regard to the specific advertisement).
- 7.7 An advertisement may include a quotation from a statement made by any person commending any product or service of the registered person provided that:
- 7.7.1 where the person is an employee or associate of the registered person, the fact is disclosed in the advertisement;
 - 7.7.2 the quotation is included with that person's written consent, if applicable;
 - 7.7.3 the statement is relevant to the product or service that is the subject of the advertisement;
 - 7.7.4 where the whole of the statement is not quoted, what is quoted fairly represents the message contained in the whole of the statement; and
 - 7.7.5 the statement has not become inaccurate or misleading since it was originally made, because of the passage of time.
- 7.8 An advertisement that only specifies some of the terms and conditions that attach to a product or service, but excludes others, must indicate this fact. Where those terms and conditions that are specified give only a partial indication of the nature of the product or service being offered, the advertisement must refer to how all the terms and conditions may be

obtained. Where no details of terms and conditions are given, the advertisement must contain information as to how all such terms and conditions may be obtained.

- 7.9 An advertisement must disclose all specific areas of risk that may relate to the product or service advertised. It may not be possible to list within the advertisement all the risks that might apply, but the objective of the Code is to ensure that prospective policyholders are fully apprised of the key risks associated with the product or service prior to a commitment being given in order that they can make informed decisions. The need for such risk warnings will be dependent upon the nature of the products and services being advertised.

Note: This section is intended for the use of all registered persons whose home jurisdiction is Jersey and who make insurance products available to the general public. In the case of those registered persons whose home jurisdiction is outside Jersey but who offer their insurance products to Jersey residents, these guidelines are intended to apply where they do not conflict with any regulatory requirements in the home jurisdiction of those registered persons.