



QATAR FINANCIAL CENTRE

**REGULATORY
AUTHORITY**

Insurance Mediation Business Rules 2011

QFCRA Rules 2011-3

The Board of the Qatar Financial Centre Regulatory Authority makes the following rules, and gives the following guidance, under the *Financial Services Regulations*.

Dated 20 June 2011

PHILLIP THORPE
Chairman



QATAR FINANCIAL CENTRE

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Insurance Mediation Business Rules 2011

QFCRA Rules 2011-3

made under the

Financial Services Regulations

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Chapter 1 General provisions

Part 1.1 Introductory

1.1.1 Name of rules

These rules are the *Insurance Mediation Business Rules 2011* (or IMEB).

1.1.2 Commencement

These rules commence on 1 July 2011.

1.1.3 Glossary

The glossary at the end of these rules is part of these rules.

Note 1 There are also relevant definitions in the INAP glossary. To assist the reader, the application of a definition in that glossary would usually be indicated by the word(s) being in italics (other than bold italics).

Note 2 By contrast, the application of a definition in the glossary in these rules is not indicated by the word(s) being in italics.

Note 3 For the application of definitions, see INAP, rule 2.1.8 (Application of definitions).

Note 4 A note on or to these rules is explanatory and is not part of the rules (see INAP, rule 2.1.6 (1) and rule 2.1.7).

Note 5 However, examples and guidance are part of these rules (see INAP, rule 2.1.4 (1) (b) and (2)).

Note 6 An example is not exhaustive, and may extend, but does not limit the meaning of these rules or the particular provision of these rules to which it relates (see INAP, rule 2.1.5).

Note 7 For the effect of guidance, see the *Financial Services Regulations*, article 17 (4).

Part 1.2 Key terms and basic concepts

1.2.1 Who is an *insurance intermediary*?

An *insurance intermediary* is an authorised firm (or firm) with an authorisation for insurance mediation.

Note *Authorised firm* (or *firm*) and *authorisation* are defined in the glossary.

1.2.2 What is *insurance mediation*?

- (1) *Insurance mediation* is any of the following activities:
 - (a) giving advice to other persons about the merits of entering into contracts of insurance, whether as principal or agent;
 - (b) acting as agent for other persons in relation to the buying or selling of contracts of insurance for them;
 - (c) making arrangements with a view to other persons buying contracts of insurance, whether as principal or agent;
 - (d) assisting in the administration or performance of contracts of insurance for or on behalf of policyholders.

Note *Person* and *contract of insurance* are defined in the glossary.

- (2) Subrule (1) (a) includes making a statement, expressing an opinion, or giving a report, to another person if—
 - (a) the conduct is intended to influence a person in making a decision to select a particular contract of insurance or particular cover under a contract of insurance; or
 - (b) the conduct could reasonably be regarded as having that intention.
- (3) Subrule (1) (c) includes arrangements mentioned in the provision that do not result in another person buying a contract of insurance.
- (4) Subrule (1) (d) includes—

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- (a) assisting policyholders to make claims under contracts of insurance; and
 - (b) managing claims made by policyholders under contracts of insurance.
- (5) However, *insurance mediation* does not include any of the following activities:
- (a) an activity in relation to which all of the following requirements are met:
 - (i) it is conducted in the course of a professional business;
 - (ii) it may reasonably be regarded as a necessary part of any other services provided in the course of that professional business;
 - (iii) it is not remunerated separately from the other services;
 - (b) loss adjusting;
 - (c) expert appraisal of insurance claims;
 - (d) the giving of advice in any newspaper, journal, magazine, other periodical publication, broadcast service or similar service in any medium if the main purpose of the publication or service taken as a whole (including any advertisements or other promotional material contained in it) is not to cause or enable persons to buy, or to make a decision to select, a particular contract of insurance or particular cover under a contract of insurance;
 - (e) the activity involves merely providing the means by which a party to a transaction can communicate to the other parties to the transaction;
 - (f) the act of the other persons mentioned in subrule (1) (b) or (c) in entering, as principal, into a transaction in respect of a contract of insurance;

(g) captive insurance management.

Note *Captive insurance management* is defined in rule 1.2.5.

1.2.3 Insurance mediation is regulated activity

Insurance mediation is a regulated activity under the QFC Law and *Financial Services Regulations* if it is conducted by way of business as described in those regulations, article 25.

Note *Insurance mediation* is defined in rule 1.2.2.

1.2.4 Who is a *captive insurance manager*?

- (1) A *captive insurance manager* is an authorised firm (or firm) with an authorisation for captive insurance management.
- (2) A firm that is not incorporated in the QFC cannot be a captive insurance manager.

Note Unlike some other regulated entities, captive insurance managers are not allowed to operate as a branch.

1.2.5 What is *captive insurance management*?

Captive insurance management is the administration of, and exercise of managerial functions for, a QFC captive insurer, and includes the administration of contracts of insurance for the insurer.

Note *Exercise* and *functions* are defined in the glossary.

1.2.6 Captive insurance management is regulated activity

Captive insurance management is a regulated activity under the QFC Law and the *Financial Services Regulations* if it is conducted by way of business as described in those regulations, article 25.

Note *Captive insurance management* is defined in rule 1.2.5.

1.2.7 Who is a *QFC insurer*?

A *QFC insurer* is a firm with an authorisation to conduct insurance business.

Note **Firm** and **authorisation** are defined in the glossary.

1.2.8 What is *insurance business*?

Insurance business is the business of conducting either or both of the following regulated activities:

- (a) effecting contracts of insurance;
- (b) carrying out contracts of insurance.

Note **Regulated activity** and the regulated activities mentioned in this definition are defined in the glossary.

1.2.9 What is *client money*?

For these rules, **client money** of a firm is money—

- (a) that the firm receives from or holds for a client in the course of, or in connection with, conducting insurance mediation in or from the QFC; or
- (b) that the firm treats as client money in accordance with chapter 3.

Examples of money received in the course of, or in connection with, conducting insurance mediation

- 1 premium, additional premium and return premium of all kinds
- 2 claims and other amounts owing under contracts of insurance
- 3 refunds and salvages
- 4 fees, charges, taxes and similar fiscal levies relating to contracts of insurance
- 5 discounts, commissions and brokerage

Note **Hold** money is defined in rule 1.2.10 and **insurance mediation** is defined in rule 1.2.2. **Money** and **client** are defined in the glossary.

1.2.10 When does a firm *hold* money?

For these rules, a firm **holds** money if the money is held—

- (a) directly by the firm; or
- (b) in an account in the firm's name; or

(c) by a person, or in an account in the name of a person, controlled by the firm.

Chapter 2 Prudential requirements

Part 2.1 Prudential requirements— general

2.1.1 Application—ch 2

- (1) This chapter applies to a firm that is an insurance intermediary with—
 - (a) an authorisation that permits it to conduct only insurance mediation; or
 - (b) authorisations that permit it to conduct only insurance mediation and captive insurance management.
- (2) This chapter also applies to a firm that is a captive insurance manager with—
 - (a) an authorisation that permits it to conduct only captive insurance management; or
 - (b) authorisations that permit it to conduct only captive insurance management and insurance mediation.

Note 1 **Insurance intermediary** is defined in rule 1.2.1 and **insurance mediation** is defined in rule 1.2.2. **Captive insurance manager** is defined in rule 1.2.4 and **captive insurance management** is defined in rule 1.2.5. **Authorisation** and **regulated activity** are defined in the glossary.

Note 2 This chapter also does not apply to an authorised firm with an authorisation that permits it to conduct insurance mediation or captive insurance management and other regulated activities apart from those involved in insurance business. The prudential requirements of the *Investment and Banking Business Rules 2005*, and not those of this chapter, apply to the firm.

2.1.2 Financial resources—general requirement

- (1) A firm must have at all times financial resources of the kinds and amounts required by, and calculated in accordance with, this chapter.
- (2) A firm must also have at all times additional financial resources that are adequate for the nature, size and complexity of its business to ensure that there is no significant risk that liabilities cannot be met as they fall due.

Guidance

For rule 2.1.2 (2), the firm's governing body should assess whether the minimum financial resources required by these rules are adequate for the firm's business. Additional financial resources should be maintained by the firm if its governing body considers that the required minimum financial resources do not adequately reflect the risks of the firm's business.

Note **Governing body** is defined in the glossary.

2.1.3 Firms must have systems and controls for capital and asset requirements

- (1) A firm must have systems and controls to enable it to monitor—
 - (a) the amount of its paid-up share capital; and
 - (b) its net asset value.
- (2) The systems and controls must enable the firm to show at all times whether it complies with this part.

Note **Paid-up share capital** is defined in the glossary for firms that are not companies. **Net asset value** is defined in rule 2.2.3.

2.1.4 Obligation to tell Regulatory Authority about breach of part 2.1

If a firm becomes aware, or has reasonable grounds to believe, that it is or may be (or may be about to be) in breach of any provision of this part, it must—

- (a) tell the Regulatory Authority orally about the matter immediately, but within 1 business day; and

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- (b) by notice given to the authority by no later than the next business day, confirm the oral notification; and
 - (c) not make any distribution to its shareholders or members, whether by way of dividends or otherwise, without the authority's written permission.

Note **Business day** and **written** are defined in the glossary.

Guidance

In dealing with a breach, or possible breach, of this part, the Regulatory Authority's primary concern will be the interests of existing and prospective policyholders and clients. The authority recognises that there will be circumstances in which a problem may be resolved quickly, for example by support from a parent entity, without jeopardising the interests of policyholders and clients. In such circumstances, it will be in the interests of all parties for there to be minimum disruption to the firm's business. The authority's normal approach will be to seek to work cooperatively with firms to deal with any problems. There will, however, be circumstances in which it is necessary to take regulatory action to avoid exposing further policyholders and clients to the risk of the firm's failure, and the authority will not hesitate to take appropriate action if it considers this necessary.

Part 2.2 Minimum capital and asset requirements

2.2.1 When part 2.2 does not apply

This part does not apply to a firm that conducts insurance mediation by means of a branch.

Note 1 Under rule 2.1.1, this part applies to every firm that is an insurance intermediary with an authorisation that permits it to conduct only insurance mediation and no other business that is or includes a regulated activity. However, this rule excludes from the application of this part firms that are not incorporated, or otherwise established as a *partnership* or unincorporated association, in the QFC.

Note 2 A firm that conducts insurance mediation by means of a branch will be subject to the regulatory capital requirements in its home jurisdiction.

Note 3 **Insurance mediation** is defined in rule 1.2.2. **Branch** is defined in the glossary.

2.2.2 Firms must have minimum capital and assets

- (1) A firm must have at all times a paid-up share capital of at least—
 - (a) for a captive insurance manager that is not also an insurance intermediary—US \$50,000; or
 - (b) for an insurance intermediary that is not permitted to hold client money—US \$250,000; or
 - (c) for an insurance intermediary that is permitted to hold client money—US \$500,000.

Note 1 **Paid-up share capital** is defined in the glossary for firms that are not companies. **Captive insurance manager** is defined in rule 1.2.4. **Insurance intermediary** is defined in rule 1.2.1.

Note 2 Rule 5.1.1 prohibits certain insurance intermediaries from holding client money.

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- (2) A firm must also ensure that it has at all times a net asset value of at least 50% of the paid-up share capital that it is required to have under subrule (1).

2.2.3 What is a firm's *net asset value*?

- (1) The *net asset value* of a firm is the amount (if any) by which the total value of its assets exceeds the total amount of its liabilities.
- (2) In calculating the total value of a firm's assets, no amount may be allowed for—
- (a) goodwill or any other intangible asset; and
 - (b) tangible fixed assets, including inventories, plant and equipment and vehicles; and
 - (c) deferred tax assets; and
 - (d) deficiencies of net assets in subsidiaries; and
 - (e) debts and other loans owed to the firm by policyholders and other insurance intermediaries, if they are more than 180 days overdue; and
 - (f) any investment by a subsidiary of the firm in the firm's own *shares*; and
 - (g) holdings of other investments that are not *readily realisable investments*; and
 - (h) investments in affiliates; and
 - (i) loans to affiliates.

Note **Subsidiary** is defined in the glossary.

- (3) In calculating the total amount of a firm's liabilities, all contingent liabilities must be taken into account.
- (4) In this rule:

affiliate, of a firm, means any entity of which the firm holds 10% or more but less than a majority of the voting power.

Part 2.3 Professional indemnity insurance

Note for part 2.3

Under this part, insurance intermediaries and captive insurance managers with authorisations that permit them to conduct only insurance mediation or captive insurance management (or both), but no other business that is or includes a regulated activity), must have professional indemnity insurance (see rule 2.1.1).

2.3.1 Firms must take out and maintain professional indemnity insurance

- (1) A firm must take out and maintain professional indemnity insurance in accordance with this part.
- (2) However, a firm need not take out or maintain professional indemnity insurance for this part if another authorised firm provides a guarantee for it in accordance with rule 2.3.4 (What firms may provide guarantees for part 2.3?).

2.3.2 Who is suitable to provide professional indemnity insurance?

- (1) Before a firm takes out or renews a professional indemnity insurance policy with an insurer for this part, the firm must be satisfied, on reasonable grounds after conducting an appropriate assessment, that the insurer is a suitable person to provide the insurance policy to the firm.
- (2) The firm must have systems and controls in place to ensure that the assessment remains correct.
- (3) In assessing the suitability of the insurer, the firm must have regard to all relevant circumstances, including, for example, the following:
 - (a) the insurer's credit rating, capital and financial resources;

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- (b) the insurer's regulatory status and history;
 - (c) the insurer's expertise and market reputation;
 - (d) the regulatory and legal regimes of the jurisdiction in which the insurer is located.

Note **Jurisdiction** is defined in the glossary.

- (4) Without limiting subrule (1), if an insurer is not a QFC insurer or a person of equivalent status in Qatar or a *zone 1 country*, the insurer cannot be a suitable person to provide a professional indemnity insurance policy to the firm unless all of the following requirements are met:
 - (a) the insurer is rated at least BBB by Standard & Poor's or the equivalent by another *rating agency*;
 - (b) the firm has given notice to the Regulatory Authority about its intention to take out or renew the insurance policy with the insurer;
 - (c) the firm has received written notice from the authority stating that it does not object to the firm taking out or renewing the insurance policy with the insurer.

Note **QFC insurer** is defined in rule 1.2.7. **Writing** is defined in the glossary.

- (5) If the firm gives the Regulatory Authority notice under subrule (4) (b) and, within 28 business days after the day it gives the notice, the firm does not receive written notice from the authority stating that it objects to the firm taking out or renewing the professional indemnity insurance policy with the insurer, the firm is taken to have received written notice from the authority stating that it does not object to the firm taking out or renewing the insurance policy with the insurer.

Note **Business day** is defined in the glossary.

- (6) If, at any time after the firm has taken out or renewed a professional indemnity insurance policy with an insurer, the Regulatory Authority considers that the insurer is, or is likely to become, unsuitable to provide the insurance policy, the authority may, by

written notice given to the firm, require the firm to cancel the insurance policy and take out equivalent professional indemnity insurance with another insurer in accordance with this rule.

- (7) If the firm is given a notice under subrule (6), the firm must comply with the notice within—
- (a) the time stated in the notice; or
 - (b) if the Regulatory Authority allows additional time to comply with the notice—the additional time.

2.3.3 Minimum requirements for professional indemnity insurance policies

- (1) A professional indemnity insurance policy taken out or renewed by a firm for this part must make provision for—
- (a) cover in relation to claims for which the firm may be liable as a result of its conduct or the conduct of its employees and agents; and
 - (b) the minimum limits of indemnity per year in subrule (3); and
 - (c) excess as mentioned in subrules (5) and (6); and
 - (d) appropriate cover in relation to legal defence costs; and
 - (e) continuous cover for claims arising from work carried out from when the firm was authorised to conduct insurance mediation or captive insurance management in or from the QFC; and
 - (f) cover for awards made against the firm under the customer dispute resolution scheme.

Note **Employee** is defined in subrule (7).

- (2) The firm must not take out professional indemnity insurance for this part that makes provision for the payment of fines imposed by the Regulatory Authority or the QFC Authority.

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- (3) For subrule (1) (b), the minimum limits of indemnity per year are—
- (a) for a single claim—US \$1 million; and
 - (b) in total, the greater of the following:
 - (i) US \$1.5 million;
 - (ii) 10% of the firm’s annual income.
- (4) For subrule (1) (b), if a professional indemnity insurance policy provides cover to the firm and another entity (whether or not a firm), the firm must have the sole benefit of the relevant minimum limits of indemnity under subrule (3), irrespective of the amount of any claims for which any other entity named in the policy may be liable.
- (5) For subrule (1) (c) and for a firm that is not permitted to hold client money or other client assets, the excess must not be more than the greater of the following:
- (a) US \$5,000;
 - (b) 1.5% of the firm’s annual income.

Note **Client money** is defined in rule 1.2.9. **Client assets** is defined in subrule (7).

- (6) For subrule (1) (c) and for a firm that is permitted to hold client money or other client assets, the excess must not be more than the greater of the following:
- (a) US \$10,000;
 - (b) 3% of the firm’s annual income.

- (7) In this rule:

annual income of a firm means the firm’s gross income from regulated activities less premiums from clients due to insurers.

client assets includes a document belonging to a client only if it has value, or can have value, in itself (for example, a bearer instrument).

Note **Client** is defined in the glossary.

employee, of a firm, includes any member of the firm's governing body.

Note **Governing body** is defined in the glossary.

2.3.4 What firms may provide guarantees for part 2.3?

- (1) This rule applies for rule 2.3.1 (2) (Firm must take out and maintain professional indemnity insurance).
- (2) A firm (the *relevant firm*) may provide a guarantee to another firm for this part only if the relevant firm has net tangible assets of more than US \$10 million.
- (3) If a firm (the *beneficiary*) is a member of a group in which there is a firm with net tangible assets of more than US \$10 million, a firm that is not a member of the group must not provide a guarantee to the beneficiary for this part.

Note **Group** is defined in the glossary.

- (4) A guarantee provided by a firm for this part must—
 - (a) be in writing; and
 - (b) make provision at least equal to the provision required by rule 2.3.3 (Minimum requirements for professional indemnity insurance policies).

Note **Writing** is defined in the glossary.

Part 2.4 Prudential requirements—other provisions

2.4.1 Preparation of prudential returns

- (1) A firm must prepare the annual and quarterly prudential returns that it is required to prepare by the Regulatory Authority by written notice published on an *approved website*.
- (2) The Regulatory Authority may, by notice given to a firm—
 - (a) require the firm to prepare additional prudential returns; or
 - (b) exempt the firm from the requirement to prepare annual or quarterly returns or a particular annual or quarterly return.
- (3) An exemption under subrule (2) (b) may be subject to conditions, restrictions or requirements.
- (4) A firm given an exemption must comply with all conditions, restrictions and requirements to which the exemption is subject.

2.4.2 Time limit for annual prudential returns

A firm must give an annual prudential return to the Regulatory Authority within 4 months after the day the relevant financial year of the firm ends.

Example

If a financial year of a firm ends on 31 December in a year, the annual prudential return for the year must be given to the Regulatory Authority before 1 May in the next year.

2.4.3 Time limit for quarterly prudential returns

A firm must give a quarterly prudential return to the Regulatory Authority within 1 month after the day the firm's quarter ends.

Example

If a firm's quarter ends on 31 March in a year, the quarterly prudential return for the period must be given to the Regulatory Authority before 1 May in the year.

Chapter 3 Client money

Part 3.1 Client money—general

3.1.1 Application—chapter 3

- (1) This chapter applies to a firm if—
 - (a) the firm is an insurance intermediary with an authorisation that permits it to conduct only insurance mediation, or only insurance mediation and captive insurance management, and no other business that is or includes a regulated activity; and
 - (b) the firm holds client money.
- (2) However, this chapter does not apply in so far as insurance mediation relates to reinsurance contracts.

Note 1 **Insurance intermediary** is defined in rule 1.2.1 and **insurance mediation** is defined in rule 1.2.2. **Authorisation, regulated activity** and **reinsurance contract** are defined in the glossary. **Client money** is defined in rule 1.2.9.

Note 2 This chapter does not apply to certain firms (see chapter 5).

Note 3 Any insurance intermediary to which this chapter does not apply should refer to ASET for how to deal with client money in general.

3.1.2 What is a *client bank account*?

- (1) A **client bank account** of a firm is a bank account maintained by the firm with an eligible bank as a bank account for client money received from 1 or more of the firm's clients.

Note Certain firms are not allowed to hold client money (see chapter 5).

- (2) A **client bank account** of an eligible intermediary is a bank account maintained by the eligible intermediary with an eligible bank as a bank account for client money received from a producing

intermediary or other eligible intermediary as part of a transfer or series of transfers under part 3.7 (Transfer of client money to eligible intermediaries).

Note **Eligible bank, eligible intermediary, producing intermediary and client** are defined in the glossary.

Guidance

A client bank account (whether of a firm or of an eligible intermediary) may contain client money of a number of clients.

3.1.3 Firms must open client bank account

Each firm must open 1 or more client bank accounts before it receives client money.

3.1.4 Client bank account requirements

A client bank account of a firm must—

- (a) be a current or deposit account in an eligible bank in the name of the firm that maintains the account; and
- (b) have the words ‘client bank account’ in the name of the account; and
- (c) must otherwise have a name that sufficiently distinguishes it from any other account holding money belonging to the firm.

3.1.5 Requirements before firm can pay client money into client bank accounts

- (1) A firm must not pay, or permit to be paid, client money into its client bank account unless—
 - (a) under the law applying to the money and the bank account, the money will be taken to be segregated from, and will not form part of, the firm’s assets in its insolvency; and
 - (b) after conducting an appropriate assessment, the firm is satisfied, on reasonable grounds, that the eligible bank is a suitable person to hold the money in the account; and

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- (c) the firm has received the confirmation in rule 3.1.6 (1).
 - (2) In making an assessment about the suitability of an eligible bank, the firm must have regard to all relevant circumstances, including—
 - (a) the bank’s credit rating, capital and financial resources; and
 - (b) the regulatory and insolvency regimes of the jurisdiction in which the bank is located; and
 - (c) the bank’s reputation; and
 - (d) the bank’s regulatory status and history.

Note **Eligible bank** and **jurisdiction** are defined in the glossary.

- (3) A firm must not pay, or permit to be paid, client money into a client bank account of an eligible intermediary unless the firm has received from the eligible intermediary the confirmation in rule 3.1.6 (2).

3.1.6 Confirmation regarding client bank account

- (1) For a client bank account of a firm, the confirmation must be given to the firm by the eligible bank in writing and must state—
 - (a) that all money standing to the credit of the account is held by the firm as trustee; and
 - (b) that the bank is not entitled—
 - (i) to combine the account with any other account; or
 - (ii) to exercise any right of set-off or counterclaim or any security interest against money in the account for any debt or other obligation owed to it on any other account of the firm; and
 - (c) that the name of the account includes the words ‘client bank account’ and sufficiently distinguishes it from any other account holding money belonging to the firm.

-
- (2) For a client bank account of an eligible intermediary, the confirmation must have been received in writing by the firm from the eligible intermediary and must state—
- (a) that any client money transferred to the eligible intermediary will be segregated in the client bank account; and
 - (b) that the eligible intermediary has conducted an assessment as described in rule 3.1.5 (2) and is satisfied, on reasonable grounds, that the eligible bank is a suitable person to hold the money in the account; and
 - (c) that all money standing to the credit of the account is held by the eligible intermediary as trustee; and
 - (d) that the bank with which the account is maintained has accepted that it is not entitled—
 - (i) to combine the account with any other account; or
 - (ii) to exercise any right of set-off or counterclaim or any security interest against money in the account for any debt or other obligation owed to it on any other account of the eligible intermediary; and
 - (e) that the name of the account includes the words ‘client bank account’ and sufficiently distinguishes it from any other account holding money belonging to the eligible intermediary.

Part 3.2 Client money exceptions

3.2.1 Client money exception—money payable to firm

Money is not *client money* of a firm in relation to a client if it is (or becomes) payable immediately by the client to the firm for the firm's own account.

Note *Client* is defined in the glossary.

3.2.2 Client money exception—firm as agent of insurer

- (1) *Client money* of a firm does not include money received by the firm as agent of an insurer under a written agreement to which this rule applies.
- (2) This rule applies to an agreement between a firm and an insurer if the agreement provides in relation to a client—
 - (a) that any premiums received by the firm from the client are received as agent of the insurer; and
 - (b) that the premiums are taken to be received by the insurer at the time they are received by the firm; and
 - (c) that any claims money or refund of premiums is only taken to be received by the client at the time the money or refund is paid to the client.

Note Money received by the firm as agent of an insurer under a written agreement to which this rule applies must not be paid into a client bank account (see rule 3.5.2).

3.2.3 Client money exception—certain cheques and payable orders

Client money of a firm does not include a cheque or other payable order that is—

- (a) payable to a client by a third party; or

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- (b) payable to a third party by a client if it is received by the firm and forwarded to a *regulated financial institution* in accordance with the client's written instructions as soon as practicable (but no later than 2 business days after the day it is received by the firm).

Note 1 A firm must be able to show what cheques and other payable orders have been forwarded to *regulated financial institutions* in accordance with a client's instructions. For a firm's record keeping obligations, see chapter 8.

Note 2 **Business day** is defined in the glossary.

Part 3.3 Treatment of client money and fiduciary duties

3.3.1 Client money—creation of trust and terms of holding

- (1) Client money held by a firm is subject to a trust.
- (2) The firm is the trustee of the trust and holds the client money on the following terms:
 - (a) that the money is held for the purposes, and on the terms, of the client money protection rules and client money distribution rules;
 - (b) that, subject to paragraph (d), the money is held for clients (other than clients who are insurers and who are acting as such), according to their respective interests in it;
 - (c) that, after all valid claims under paragraph (b) have been met, the money is held for insurers (that is, clients who are insurers acting as such), according to their respective interests in it;
 - (d) that, on the failure of the firm, the money will also be held for the payment of costs attributable to the distribution of the client money in accordance with paragraphs (b) and (c);
 - (e) that, after all valid claims and costs under paragraphs (b) to (d) have been met, the money is held for the firm itself.

Note *Client money* is defined in rule 1.2.9. *Client*, *client money protection rules* and *client money distribution rules* are defined in the glossary.

3.3.2 Fiduciary duties of firm

- (1) The fiduciary duties of a firm over client money continue until the money ceases to be client money under rule 3.6.2 (Certain payments out of client bank account to discharge fiduciary duties).

Note Under rule 3.6.2 (1), client money that is paid out of a client bank account ceases to be client money if it is paid—

- (a) to the insurer for the client; or
 - (b) to a client or a duly authorised representative of the client; or
 - (c) on the instructions, or with the consent, of a client (other than a transfer of client money in accordance with rule 3.7.1 (When client money may be transferred to eligible intermediary)); or
 - (d) into a bank account in the client's own name (not being an account that is also in the name of the firm); or
 - (e) to the firm for the firm's own account under rule 3.2.1 (Client money exception—money payable to firm); or
 - (f) to the firm as surplus under rule 3.9.2 (b) (What to do if CM resource is not equal to CM requirement).
- (2) To avoid doubt, the fiduciary duties of a firm over client money do not cease if the money is transferred to an eligible intermediary under rule 3.7.1.

Note To effect an insurance transaction for a client, a firm may, under rule 3.7.1, transfer, or permit to be transferred, to an eligible intermediary or a series of eligible intermediaries, client money belonging to the client.

3.3.3 Accounting for client money

- (1) A firm must ensure that it can promptly and accurately account for client money received or held by it.
- (2) Without limiting subrule (1), the firm must have procedures—
 - (a) to enable it to identify and trace client money it receives (electronically, by post, through an agent or by any other means) or holds; and
 - (b) to promptly record receipt of all client money; and
 - (c) to ensure that, except as permitted by these rules, client money is not mixed with other money; and
 - (d) to enable it to produce accurate accounting records showing how much client money has been transferred to insurers, clients, eligible intermediaries and other persons.

Note 1 For a firm's record keeping obligations, see chapter 8.

Note 2 For provisions allowing client money to be mixed with other money, see rule 3.4.3 (Obligation on receipt of amount that is part client money) and rule 3.5.3 (Exception—non-client money paid into account).

Part 3.4 Payments into client bank accounts

3.4.1 Obligation on receipt of client money

A firm must ensure that client money received by the firm is paid into a client bank account of the firm as soon as possible after it is received but within 1 business day after the day it is received.

Note 1 Rule 3.1.3 requires a firm to open a client bank account before receiving client money.

Note 2 *Business day* is defined in the glossary.

3.4.2 Client money received by approved representatives and non-QFC intermediaries—payment into client bank accounts

A firm must take reasonable steps to ensure that client money received by an *approved representative* or *non-QFC intermediary* of the firm is paid into a client bank account of the firm as soon as possible after it is received, but within 1 business day after the day it is received.

3.4.3 Obligation on receipt of amount that is part client money

If the firm receives an amount of money that is part client money and part non-client money, it must—

- (a) pay the whole amount into a client bank account; and
- (b) within 1 business day after the day on which the firm would normally expect the amount to be cleared in the jurisdiction in which the client bank account is maintained, pay out of the client bank account that part that is non-client money.

Guidance

A firm should not pay money from the client bank account for the firm's own account before the client money calculation has been carried out. See rule 3.6.1 (2) (h) and the guidance to that rule.

Note 1 **Client money** is defined in rule 1.2.9 and **client bank account** is defined in rule 3.1.2. **Business day** and **jurisdiction** are defined in the glossary.

Note 2 Money is not **client money** if it is (or becomes) payable immediately by the client to the firm for the firm's own account—see rule 3.2.1.

Part 3.5 Segregation of client money

3.5.1 Duty to keep money segregated

Except as provided in this part, a firm must not pay its own money into a client bank account.

3.5.2 Only client money must be in client bank account

A firm must not hold money other than client money in a client bank account unless the money—

- (a) is the minimum amount required to open the account or to keep it open; or
- (b) is temporarily in the account in accordance with rule 3.4.3 (Obligation on receipt of amount that is part client money); or
- (c) is excess interest that has not been paid out of the account; or
- (d) is to meet any shortfall.

3.5.3 Exception—non-client money paid into account

- (1) If a firm considers that it is prudent to do so, the firm may pay into a client bank account its own money in order to protect client money that is in the account.

Example

A firm may pay money into a client bank account for bank fees and charges payable on the account.

- (2) Any money paid into a client bank account under subrule (1) becomes client money for the purposes of the client money protection rules and the client money distribution rules.

Note **Client money protection rules** and **client money distribution rules** are defined in the glossary.

3.5.4 Client money received in different currency

If a firm receives client money in a currency other than the currency in which the firm's client money account is denominated, the firm must convert the money into the currency of the account within 1 business day after receiving it.

Guidance

- 1 Firms should not speculate with client money on the currency markets.
- 2 Firms are reminded of the obligation owed to *retail customers* under COND, chapter 4 to disclose in writing the basis or amount of its charges for conducting insurance mediation business.

Part 3.6 Payments out of client bank accounts

3.6.1 Payments must be in accordance with part 3.6

- (1) A firm must have procedures to ensure that all payments out of a client bank account are authorised and made in accordance with this part.
- (2) A firm may pay money out of a client bank account only if—
 - (a) the money is not client money; or
 - (b) the money has been paid into the account in error; or
 - (c) the money is to be paid into another client money account of the firm; or
 - (d) the money is to be paid immediately to a client or a duly authorised representative of the client; or
 - (e) the money is to be paid immediately to the insurer for the client; or
 - (f) the money is to be paid into—
 - (i) a bank account in the client’s own name (not being an account that is also in the name of the firm); or
 - (ii) a client bank account of an eligible intermediary as part of a transfer or series of transfers to eligible intermediaries under part 3.7; or

Note In relation to eligible intermediaries, COND, rule 5.1.2 states that a firm ‘that is acting as intermediary in relation to *general insurance business* for a *person* outside the *QFC* and the *State*...must ensure that it complies with every law, rule and regulation of the *State* applying in relation to *general insurance business*.’

 - (g) the money is to be paid on the instructions, or with the consent, of a client; or

Example

payment to meet an obligation of the client for professional fees to a loss adjuster or surveyor

- (h) the money is to be paid to the firm for the firm's own account, under rule 3.2.1 (Client money exception—money payable to firm); or

Guidance for par (h)

Money to pay a firm's commission or fees in relation to a client may be deducted by the firm from client money received from the client after the payment has cleared and the client money calculation under rule 3.9.1 has been completed.

Note Under rule 3.2.1, money that is (or becomes) payable immediately by the client to the firm for the firm's own account is not client money.

- (i) the money is surplus to be paid to the firm under rule 3.9.2 (b).
- (3) Money paid out of a client bank account by cheque or other payable order must remain in the account (and must continue to be treated as client money) until the cheque or payable order is presented to the client's bank and cleared by the paying agent.
- (4) A firm must not overdraw its client bank account.
- (5) A firm must ensure that no payment is made from its client bank account for a client before sufficient funds paid into the account for the client have been cleared.

3.6.2 Certain payments out of client bank account to discharge fiduciary duties

- (1) Client money that is paid out of a client bank account ceases to be client money if it is paid—
- (a) to the insurer for the client; or
- (b) to a client or a duly authorised representative of the client; or

-
- (c) on the instructions, or with the consent, of a client (other than a transfer of client money in accordance with rule 3.7.1 (When client money may be transferred to eligible intermediaries); or
 - (d) into a bank account in the client's own name (not being an account that is also in the name of the firm); or
 - (e) to the firm for the firm's own account under rule 3.2.1 (Client money exception—money payable to firm); or
 - (f) to the firm as surplus under rule 3.9.2 (b) (What to do if CM resource is not equal to CM requirement).
- (2) However, if the client money paid out of a client bank account is paid by cheque or other payable order the money ceases to be client money after the cheque or payable order is presented to the client's bank and cleared by the paying agent.

Note A firm's fiduciary duties over client money ceases if the money is paid in accordance with this rule (see rule 3.3.2 (1)).

3.6.3 Firms not to use money for other purposes, etc

Nothing in these rules allows a firm to use client money otherwise than in accordance with this chapter and chapter 4.

Part 3.7 Transfer of client money to eligible intermediaries

3.7.1 When client money may be transferred to eligible intermediaries

- (1) A firm may transfer, or permit to be transferred, to an eligible intermediary or a series of eligible intermediaries, client money to effect an insurance transaction for a client through or with the intermediary or intermediaries.

Note 1 This rule is subject to rule 3.8.3 (Client’s instructions to prevail) and to any applicable notice or consent requirements in rule part 3.8 (Client notifications).

Note 2 The fiduciary duties of a firm over client money that is transferred under this rule do not cease because of the transfer (see rule 3.3.2 (2) (Fiduciary duties of firm)).

- (2) A transfer of client money under this rule has the effect of allowing the eligible intermediary to hold or control client money and the firm must use appropriate skill, care and judgement in its selection of eligible intermediaries in order to ensure adequate protection of client money.

Note Under rule 3.1.5 (3), a firm must not pay, or permit to be paid, client money into a client bank account of an eligible intermediary as part of a transfer or series of transfers under this part unless the firm has received from the intermediary a written confirmation that states, among others—

- (a) that any client money transferred to the eligible intermediary will be segregated in the client bank account; and
- (b) that all money standing to the credit of the account is held by the eligible intermediary as trustee.

Example

Client money may be given by a client to the producing intermediary; that is, the insurance intermediary it deals with in relation to the transaction. To effect the client’s transaction, the producing intermediary may transfer the money to another

insurance intermediary (the *2nd intermediary*) who can then pay the money to the insurer or transfer it to other eligible intermediaries until the money is paid to the insurer.

In this example—

- (a) the producing intermediary owes to the client the obligation to segregate the client money; and
- (b) the 2nd intermediary and any subsequent intermediary owes the intermediary transferring money to it the obligation to segregate the client money; and
- (c) the producing intermediary and other intermediaries to which money is transferred must have a client bank account in which client money must be segregated.

Note *Eligible intermediary*, *producing intermediary* and *client money* are defined in the glossary.

Part 3.8 Client notifications

3.8.1 Manner of giving notice

A notice to be given under this part may be given in—

- (a) the firm's terms of business; or
- (b) another disclosure document required under COND; or
- (c) any other document.

Note *Terms of business*, *COND* and *document* are defined in the glossary.

3.8.2 Firms must notify clients of certain matters

- (1) Before, or as soon as reasonably practicable after, a firm receives client money from a client, the firm must notify the client about the following matters:
 - (a) that the client money will be—
 - (i) held by the firm, as trustee, on the terms of the client money protection rules; and
 - (ii) kept segregated from money belonging to the firm;
 - (b) that, in case of failure of the firm, the money will be subject to the client money distribution rules;
 - (c) whether interest on the client money is payable to the client and, if so, the terms and frequency of the payments;
 - (d) that, despite the client money protection rules, the client may be taking an unsecured credit risk on—
 - (i) the eligible bank into which the money is paid; or
 - (ii) any eligible intermediary to whom the money is transferred;
 - (e) if a firm conducts insurance mediation by means of a branch—

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- (i) that the client may not benefit from a priority ranking against other creditors of the firm (to whom the client money protection rules will not apply), in relation to money owed to the client by the firm, if the amounts in the client bank accounts of the firm and of any eligible intermediaries are insufficient; and
 - (ii) that the client would benefit from such priority ranking if the firm conducted insurance mediation as a legal person incorporated in the QFC;

Note For provisions relating to priority ranking in case of firm-related distribution events, see part 4.2 and ASET, rule 3.2.2.

- (f) if applicable—
 - (i) that the firm intends to pay the client money into a client bank account—
 - (A) maintained by the firm with an eligible bank that is in the same group as the firm (**group bank**); or
 - (B) maintained by an eligible intermediary that is in the same group (**group intermediary**) as the firm; and
 - (ii) the name of the group bank or group intermediary.

Note **Client money** is defined in rule 1.2.9 **Client money protection rules, client money distribution rules, eligible bank, eligible intermediary** and **group** are defined in the glossary. **Client bank account** is defined in rule 3.1.2.

- (2) If client money is to be paid into a client bank account in a jurisdiction outside the QFC, the firm must—
 - (a) obtain the client's consent; or
 - (b) notify, and adequately explain in writing to, the client—
 - (i) that client money may be paid into a client bank account in a jurisdiction outside the QFC; and
 - (ii) that the legal, insolvency and regulatory regimes applicable to the client bank account in the particular

jurisdiction may be different from those applicable in the QFC; and

- (iii) that, in the event of failure of the bank with which the account is maintained, the client money may be treated differently from the way it would have been treated in the QFC.

3.8.3 Client's instructions to prevail

- (1) Despite anything in this chapter, a client may, at any time, give written instructions to the firm that client money belonging to it must not be paid into—
 - (a) any client bank account in a jurisdiction outside the QFC; or
 - (b) a client bank account maintained by the firm with an eligible bank that is in the same group as the firm; or
 - (c) a client bank account maintained by an eligible intermediary that is in the same group as the firm.
- (2) A firm must comply with the client's instructions from the date the instructions are given, unless a later date is stated in the instructions.

Note **Jurisdiction** and **group** are defined in the glossary.

Part 3.9 Obligations relating to calculations

Division 3.9.A Performing calculations and reconciliation

3.9.1 Duty to perform calculation

- (1) A firm must perform a client money calculation at least once a month to ensure that, as at the close of business on the day before the calculation is made (the *cut-off date*), the total of the firm's client money resource (*CM resource*) is equal to or greater than its client money requirement (*CM requirement*).
- (2) The client money calculation must be performed by following the steps below:

Step 1

Calculate the firm's *CM resource* by adding the following amounts as at the cut-off date:

- (a) the amount of money in the firm's client bank accounts; plus
- (b) the amount of money transferred to eligible intermediaries; plus
- (c) any amount (such as premiums, premium refunds and claims money) immediately payable to the firm by insurers, clients and other persons.

Step 2

Calculate the firm's *CM requirement* by adding the following amounts as at the cut-off date:

- (a) the amount of money transferred to eligible intermediaries; plus
- (b) unearned commissions payable to the firm; plus
- (c) any money held by *approved representatives* or *non-QFC intermediaries* of the firm; plus
- (d) any amount immediately payable to insurers, clients and other persons by the firm.

Note Under rule 3.6.1 (3), an amount paid by cheque or other payable order must remain in the client bank account until the cheque or payable order is presented to the client's bank and cleared by the paying agent.

Step 3

Compare the firm's CM resource and its CM requirement to check if they are equal.

- (3) If a firm's CM resource is less than its CM requirement, the firm has a shortfall and must pay money into the firm's client bank account in accordance with rule 3.9.2 (a).
- (4) If a firm's CM resource is greater than its CM requirement, the firm has a surplus and must pay out of the firm's client bank account the surplus in accordance with rule 3.9.2 (b).

Note To accurately calculate its CM resource and CM requirement, firms are required under rule 3.3.3 (2) (d) to have procedures to enable it to produce accurate accounting records.

- (5) Within a reasonable period after performing a client money calculation, a firm must also—
 - (a) match its CM resource to its CM requirement by reference to individual clients; and

(b) achieve a match for a majority of its clients and transactions.

Example of client money calculation

Step 1 Calculate CM resource

(a) Bank balances		
Client bank account	20,000	
Total amount in client bank accounts		20,000
(b) Money transferred to eligible intermediaries (<i>EIs</i>)		
Intermediary	10,000	
Total amount transferred to EIs		10,000
(c) Insurance debtors		
Due from clients	5,000	
Due from insurers	3,000	
Total amount due from insurance debtors		8,000
CM resource		38,000

Step 2 Calculate CM requirement

(a) Total amount transferred to EIs (same amount as 1 (b))		10,000
(b) Unearned commissions		1,000
(c) Money held by approved representatives or non-QFC intermediaries		3,700
(d) Insurance creditors		
Due to insurers	4,000	
Due to clients	2,500	
Due to other persons	2,000	
Total amount due to insurance creditors		8,500
CM requirement		23,200

Step 3 Compare CM resource and CM requirement

In this example, the CM resource (38,000) is greater than its CM requirement (23,200), resulting in:

Surplus	14,800
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The firm must therefore pay out of the client bank accounts the amount of the surplus. The surplus must be paid out of the client bank account by the close of business on the day the surplus is identified (see rules 3.9.1 (4) and 3.9.2 (b)).

3.9.2 What to do if CM resource is not equal to CM requirement

If a client money calculation does not result in a firm's CM resource being equal to its CM requirement, the firm must ensure that—

- (a) any shortfall is paid into the client bank account to which it relates by the close of business on the day the shortfall is identified; or

Note For the obligation of the firm to notify the Regulatory Authority if it may not be able to pay the shortfall on time, see rule 3.9.8.

- (b) any surplus amount is paid out of a client bank account by the close of business on the day the surplus is identified, unless the firm considers that it is prudent to keep the money in the account to protect money that is in the account.

Example of when it may be prudent to keep surplus

A firm may want to keep money in the account if there are unreconciled items in its business ledgers as at the date of the calculation, and the firm wants to ensure that the client money in the account is protected.

Guidance

A firm should not pay money from the client bank account for the firm's own account before the client money calculation has been carried out. See rule 3.6.1 (2) (h) and the guidance to that rule.

Note 1 **Business day, client money calculation, surplus** and **shortfall** are defined in the glossary. **Client bank account** is defined in rule 3.1.2.

Note 2 Rule 3.5.2 (a) allows money (other than client money) to be kept in a client bank account if the amount is the minimum amount necessary to open the account or keep it open. Rule 3.5.3 allows money (other than client money) to be kept in a client bank account if the firm concerned considers it prudent to do so to protect client money in the account.

3.9.3 Duty to reconcile accounts

A firm must, within 10 business days after the day of a client money calculation, reconcile the balance on each of its client bank accounts, as recorded by the firm, with the balance on those accounts in the statement or confirmation given by the bank or banks with which the accounts are maintained.

Guidance

When reconciling bank statements, firms should be aware that—

- (a) cheques that have been drawn for the benefit of its clients and that have not been presented and cleared at the time of the calculation may create a surplus in the client bank account; and
- (b) if the amount of the cheque is removed after the calculation, a shortfall may result.

3.9.4 Duty to review calculation and reconciliation

- (1) A firm must ensure that any calculation or reconciliation made under this division is reviewed by an employee of the firm who has sufficient seniority.
- (2) The employee must state in writing whether the calculation or reconciliation has been undertaken in accordance with this division.

3.9.5 Duty to rectify discrepancies

- (1) Any discrepancies identified in a calculation, reconciliation or review under this division must be investigated and rectified by a firm unless the discrepancy arises solely because of timing differences between the accounting systems of the firm and the bank giving the statement or confirmation.

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- (2) If appropriate, a discrepancy must be rectified by paying money into or out of the relevant client bank account of the firm.
 - (3) A rectification under this rule must be made as soon as possible but within 1 business day after the discrepancy is identified.

Note 1 For the duty of the firm to notify material discrepancies that are not rectified within 1 business day, see rule 3.9.6.

Note 2 **Business day** is defined in the glossary.

Division 3.9.B Notice of certain events

3.9.6 Duty to notify material discrepancies

A firm must notify the Regulatory Authority immediately if there is a material discrepancy identified in a calculation, reconciliation or review under division 3.9.A (Performing calculations and reconciliation) and the discrepancy is not rectified within 1 business day after the day on which that discrepancy is identified.

3.9.7 Duty to notify failure to perform calculation or reconciliation

A firm must notify the Regulatory Authority immediately if it is unable to, or does not, perform a calculation, reconciliation or review under division 3.9.A.

3.9.8 Duty to notify inability to pay any shortfall

A firm must notify the Regulatory Authority immediately if it becomes aware that it may not be able to pay any shortfall by the close of business on the day the shortfall is identified.

Note For the obligation to pay shortfalls, see rule 3.9.2 (a).

Chapter 4 Client money distribution rules

Part 4.1 Client money distribution rules—general

4.1.1 Application—chapter 4

- (1) This chapter applies to a firm if—
 - (a) the firm is an insurance intermediary with an authorisation that permits it to conduct only insurance mediation, or only insurance mediation and captive insurance management, and no other business that is or includes a regulated activity; and
 - (b) the firm holds client money.
- (2) However, this chapter does not apply in so far as insurance mediation relates to reinsurance contracts.

Note 1 **Insurance intermediary** is defined in rule 1.2.1 and **insurance mediation** is defined in rule 1.2.2. **Authorisation, regulated activity** and **reinsurance contract** are defined in the glossary. **Client money** is defined in rule 1.2.9.

Note 2 Insurance intermediaries to which this chapter applies should refer to ASET for how to deal with client money in case of firm-related distribution events or third party-related distribution events.

4.1.2 Duty to notify distribution events

A firm must have procedures to ensure that the Regulatory Authority and the firm's clients are promptly informed of any—

- (a) firm-related distribution event; and
- (b) third party distribution event in relation to—
 - (i) an eligible bank with which the firm maintains a client bank account for money received from those clients; and

-
- (ii) an eligible intermediary to which the firm transfers, under part 3.7, client money of those clients.

Part 4.2 Firm-related distribution events

4.2.1 Firm-related distribution events—order of distribution

- (1) After the occurrence of a firm-related distribution event in relation to a firm (whether the firm is incorporated in the QFC or otherwise), the firm must distribute client money as follows:
 - (a) all client money held in any client bank account must be pooled and distributed—
 - (i) first to pay for costs attributable to the distribution of the client money in accordance with subparagraphs (ii) and (iii); and
 - (ii) secondly for clients (other than clients who are insurers and who are acting as such) for whom the money is held on a proportionate basis in accordance with the amount of their respective valid claims against the firm for money owed to them by the firm that is client money; and
 - (iii) thirdly for insurers mentioned in subparagraph (ii) according to their respective interests;

Note ASET, rule 3.2.2 applies if a firm that is incorporated in the QFC does not have sufficient amounts of client money in the client bank accounts to satisfy the claims under this paragraph.

- (b) after satisfaction of all claims in paragraph (a)—
 - (i) if a liquidator, receiver, administrator, or trustee in bankruptcy has been appointed over the firm, the excess must be distributed in accordance with applicable insolvency or bankruptcy laws; and
 - (ii) in all other cases, the excess must be distributed in accordance with the direction of the Regulatory Authority.

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- (2) However, any distribution of client money under subrule (1) is subject to the deduction of any fees payable to an insolvency practitioner or other similar official that has responsibility for distributing such client money.

4.2.2 Client money received after firm-related distribution event

- (1) Client money received by a firm after a firm-related distribution event—
- (a) must not be pooled with client money held in any client bank account that was opened before the event; and
 - (b) must be—
 - (i) returned to the relevant client without delay; or
 - (ii) if the money cannot be returned without delay—paid into a client bank account that was opened after the event and held in the account until the money can be returned to the client.
- (2) However, client money received by a firm after a firm-related distribution event need not be returned to the client to the extent that—
- (a) it relates to a transaction that had not been completed at the time of the firm-related distribution event and the firm has decided to use the money to complete the transaction; or
 - (b) it is money relating to a client and that money is due from the client to the firm at the time of the firm-related distribution event.

Part 4.3 Third party-related distribution event

4.3.1 Continuing fiduciary duties

A firm is not responsible for any deficit in client money arising as a result of, or in connection with, a third party-related distribution event if the firm—

- (a) used appropriate skill, care and judgement in the selection of the eligible bank or eligible intermediary and its subsequent monitoring of the bank or intermediary; and
- (b) complied with its other fiduciary duties.

Guidance

A firm that has complied with its fiduciary duties is not required to make good any deficit. However, the firm may choose to do so in the interests of its relationship with clients (see rule 4.3.2).

Note *Third party-related distribution event*, *client money* and *eligible bank* are defined in the glossary.

4.3.2 Firms may make good deficit

- (1) A firm that, under rule 4.3.1, is not responsible for a deficit in client money arising as a result of, or in connection with, a third party-related distribution event may choose to make good the deficit.
- (2) If a firm chooses not to make good a deficit under subrule (1)—
 - (a) the deficit must be borne by clients who have valid claims against the firm for money owed to them by the firm that is client money, in proportion to the respective value of their claims; and
 - (b) the amount of the deficit must be promptly notified in writing to each affected client, together with the client's share in the deficit.

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- (3) A firm must, as soon as is practicable after the deficit is known, make and keep records of each client's share in the deficit.

Note For a firm's record keeping obligations, see chapter 8.

4.3.3 Client money received after third party-related distribution event

- (1) Client money received by a firm after a third party-related distribution event must not be paid to the eligible bank, or transferred to the eligible intermediary, that suffered the third party-related distribution event unless the client gives written instructions after the occurrence of the event to pay the money to the eligible bank or to transfer the money to the eligible intermediary to meet the client's obligation to the bank or intermediary.
- (2) If the firm does not receive any instructions mentioned in subrule (1), the firm must pay the client money into a client bank account that was opened with another eligible bank after the third party-related distribution event.

Note *Third party-related distribution event*, *eligible bank* and *eligible intermediary* are defined in the glossary.

Chapter 5 Restrictions on holding client money

5.1.1 Certain firms must not hold client money

- (1) A firm must not hold client money if—
 - (a) its authorisation permits it to conduct only insurance mediation and is restricted to giving advice to other persons about the merits of entering into contracts of insurance, whether as principal or agent; or
 - (b) its authorisation permits it to conduct only—
 - (i) insurance mediation as mentioned in paragraph (a) and captive insurance management; or
 - (ii) captive insurance management.

Note *Client money* is defined in rule 1.2.9, *insurance mediation* is defined in rule 1.2.2 and *captive insurance management* is defined in rule 1.2.5. *Authorisation* is defined in the glossary.

- (2) If—
 - (a) the firm receives any money from a client; and
 - (b) the exception in rule 3.2.1 (Client money exception—money payable to firm) or rule 3.2.3 (Client money exception—certain cheques and payable orders) does not apply to the money;the firm must immediately return the money to the client.

Note *Money* and *client* are defined in the glossary.

- (3) The firm must make, and keep—
 - (a) a record of all money to which subrule (2) applies; and
 - (b) for a cheque or other payable order—a copy of the cheque or other payable order.

(4) The record must include the following details:

(a) the client;

(b) the date the money was received by the firm;

(c) the date the money was returned to the client.

Note For a firm's record keeping obligations, see chapter 8.

Chapter 6 Collateral

6.1.1 Application of chapter 6

- (1) This chapter applies to a firm that receives or holds *relevant investments* for the purpose of securing the obligations of a client to the firm in the course of, or in connection with, conducting insurance mediation or captive insurance management in relation to *long term insurance contracts* if—
 - (a) the client's entire legal and beneficial interest in the *relevant investments* has been transferred to the firm; or
 - (b) the security arrangements give to the firm a right to use the *relevant investments* as if the client's entire legal and beneficial interest in the *relevant investments* had been transferred to the firm.
- (2) This chapter does not apply if a firm's interest in the relevant investments is a bare security interest.
- (3) For this chapter, a security interest in a *relevant investment* is a bare security interest if it gives the firm the right to realise the *relevant investment*—
 - (a) only on the client's default; and
 - (b) without a right to use the *relevant investment* except on the client's default.
- (4) Subrule (1) is subject to the obligation to return equivalent *relevant investments* to the client on satisfaction of the client's obligations to the firm.

6.1.2 Records for relevant investments held as collateral

- (1) A firm must keep adequate records to enable it to meet any future obligations to clients in relation to *relevant investments*, including any return of equivalent *relevant investments* to clients.

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- (2) If the *relevant investments* are received by the firm under an arrangement described in rule 6.1.1 (1) (b), this rule applies only if the firm has exercised its right to use the investments as if the client's entire legal and beneficial interest in them had been transferred to the firm.

6.1.3 Reports on relevant investments held as collateral

- (1) A firm must prepare, and send to the client concerned, periodic statements listing the investments and their market values.
- (2) Each statement must be prepared as at a date (the *reporting date*) that is not more than—
- (a) 6 months after the last statement; or
 - (b) if another interval is agreed with the client—the agreed interval after the last statement.
- (3) Each statement must be sent to the client within 1 month after the reporting date.

Chapter 7 Client mandates

7.1.1 Application—ch 7

- (1) This chapter applies to a firm that is an insurance intermediary with—
 - (a) an authorisation that permits it to conduct only insurance mediation; or
 - (b) authorisations that permit it to conduct only insurance mediation and captive insurance management.
- (2) This chapter also applies to a firm that is a captive insurance manager with—
 - (a) an authorisation that permits it to conduct only captive insurance management; or
 - (b) authorisations that permit it to conduct only captive insurance management and insurance mediation.

7.1.2 Mandates—systems and controls

- (1) In this rule:

mandate, for a firm that is an insurance intermediary or captive insurance manager, means any written authority from a client under which the firm may control assets or liabilities of the client in the course of, or in connection with, the firm's insurance mediation or captive insurance management activities, except so far as those activities relate to a reinsurance contract or reinsurance contracts.

Examples of authority

- 1 authority for direct debit of a bank account
- 2 authority to charge a credit card

Note 1 **Insurance intermediary** is defined in rule 1.2.1 and **captive insurance manager** is defined in rule 1.2.4.

Note 2 **Writing, client** and **reinsurance contract** are defined in the glossary.

Note 3 **Insurance mediation** is defined in rule 1.2.2 and **captive insurance management** is defined in rule 1.2.5.

- (2) If a firm holds 1 or more mandates, it must establish appropriate systems and controls in relation to its use of the mandates to prevent misuse of the authority given by the mandates.
- (3) Without limiting subrule (2), the systems and controls must include the following:
 - (a) an up-to-date list of the firm's mandates and all conditions and restrictions imposed by clients on their use;
 - (b) a record of all transactions entered into using a mandate and appropriate controls to ensure that each transaction is within the scope of the authority given by the relevant mandate;
 - (c) details of the procedures and authorities for giving and receiving instructions under the mandates;
 - (d) all reasonable steps to ensure that any employees who are, or are likely to be, required to give or receive instructions under a mandate are fully aware of its terms, including—
 - (i) the procedures and authorities for giving and receiving instructions under the mandate; and
 - (ii) all conditions and restrictions (if any) imposed by the client on its use.

Chapter 8 Record keeping, giving information and safeguarding documents and assets

8.1.1 Application—ch 8

- (1) This chapter applies to a firm that is an insurance intermediary with—
 - (a) an authorisation that permits it to conduct only insurance mediation; or
 - (b) authorisations that permit it to conduct only insurance mediation and captive insurance management.
- (2) This chapter also applies to a firm that is a captive insurance manager with—
 - (a) an authorisation that permits it to conduct only captive insurance management; or
 - (b) authorisations that permit it to conduct only captive insurance management and insurance mediation.

8.1.2 Firms to make and keep records

A firm must make and keep records that enable the firm—

- (a) to show to its auditors and the Regulatory Authority its compliance with these rules; and
- (b) to show and explain all entries for money held in accordance with these rules.

8.1.3 How records to be kept

- (1) A firm must keep books and accounts based on the double-entry bookkeeping principle.
- (2) The books and accounts must—

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- (a) be legible; and
 - (b) be up to date; and
 - (c) include narratives with the entries to identify, and give adequate information about, each transaction to which these rules apply.
- (3) Entries in books and accounts must be made in chronological order.
 - (4) Each of the firm's ledgers must show the current balance.

8.1.4 List of accounts and eligible intermediaries

- (1) A firm that holds client money must make and keep a list of—
 - (a) all of its client bank accounts; and
 - (b) eligible intermediaries to whom it transfers client money.
- (2) The lists for client bank accounts of the firm must include the following details:
 - (a) the name of the account;
 - (b) the account number;
 - (c) the location of the account;
 - (d) whether the account is open or closed;
 - (e) if known, the date of opening and closing of the account.
- (3) Details about bank accounts and eligible intermediaries must be kept for at least 6 years after the closure of the bank account or the final transfer of client money to the intermediary.

8.1.5 Period for keeping records

Except as otherwise stated, all records kept by a firm under these rules must be kept for at least 6 years after the date of the final entry in the records.

8.1.6 Giving information to clients

If a provision of these rules requires a firm to give information to a client, the firm must give the information directly to the client and not another person, unless it has a written instruction from the client requiring or allowing it to give the information to the other person.

Note *Client* and *writing* are defined in the glossary.

8.1.7 Duty to safeguard documents and assets

- (1) This rule applies to—
 - (a) a document evidencing a client's title to a contract of insurance or other similar document; or
 - (b) a tangible asset belonging to a client;
that is in the possession or under the control of a firm.
- (2) A firm must take reasonable steps to ensure that any document or tangible asset to which this rule applies—
 - (a) is kept safe until it is given to the client; and
 - (b) is not given to any other person except in accordance with written instructions given by the client; and
 - (c) is described in a record made by the firm.
- (3) The record about a document or asset must include—
 - (a) sufficient details to enable the document or asset to be readily identified; and
 - (b) the date the document or asset was received by the firm; and
 - (c) the date the document or asset is given to the client or other person.

Chapter 9 Transitional

9.1.1 Meaning of insurance mediation business for chapter 9

In this chapter:

insurance mediation business has the meaning given by INAP as in force immediately before 1 July 2011.

Note *Insurance mediation business*, as defined in INAP immediately before 1 July 2011, meant *insurance management* (as defined in INAP at that time) and any of the following activities carried on in relation to contracts of insurance—

- (a) *dealing in investments*;
- (b) *arranging deals in investments*;
- (c) *advising on investments*.

9.1.2 Existing firms conducting insurance mediation business

- (1) This rule applies to an authorised firm conducting insurance mediation business in or from the QFC immediately before 1 July 2011.
- (2) An authorised firm to which this rule applies may continue to conduct, until 31 March 2012, insurance mediation business on the same terms as if these rules had not commenced.
- (3) Any waiver or modification in force in relation to the firm under the *Financial Services Regulations* continues to apply in relation to the firm in accordance with its terms until—
 - (a) 31 March 2012; or
 - (b) if the waiver or modification is revoked before 31 March 2012—that earlier date.

9.1.3 Scope of certain approved individuals' activities

- (1) This rule applies to an individual who, immediately before 1 July 2011, was approved to exercise the customer facing function for an authorised firm conducting insurance mediation business.
- (2) An approved individual to whom this rule applies may continue to exercise the customer facing function as if the approval had been given under these rules in relation to an insurance intermediary.
- (3) This rule continues to apply to an individual until—
 - (a) 31 March 2012; or
 - (b) if the individual's approval is revoked before 31 March 2012—
that earlier date.

9.1.4 Repeal of chapter 9

This chapter is repealed at the end of 31 March 2012.

Glossary

(see r 1.1.3)

ASET means the *Assets Rules 2005*.

associate, for a legal person (**A**), means any legal person in the same group as **A**.

Note **Legal person** and **group** are defined in this glossary.

authorisation means an authorisation granted under the *Financial Services Regulations*, part 5.

authorised firm (or **firm**) means a person that has an authorisation.

Note **Person** and **authorisation** are defined in this glossary.

branch means a legal person incorporated in a jurisdiction outside the QFC.

Note **Legal person** and **jurisdiction** are defined in this glossary.

breach includes fail to comply with.

business day means a day that is not a Friday, Saturday, or a public or bank holiday in Qatar.

CAPI means the *Captive Insurance Business Rules 2011*.

captive insurance business has the meaning given by the CAPI, rule 1.2.2.

captive insurance management has the meaning given by rule 1.2.5.

captive insurance manager has the meaning given by rule 1.2.4.

carrying out contracts of insurance means the regulated activity described in the *Financial Services Regulations*, schedule 3, part 2, paragraph 3.

Note **Regulated activity** is defined in this glossary.

client has the meaning given by COND, rule 1.2.1.

Note COND, rule 1.2.1 provides as follows:

A **client**, of an *authorised firm*, is a person to whom the firm (or an *approved representative*, or *non-QFC intermediary*, of the firm) provides, intends or wishes to provide or has provided a service or product in conducting a *regulated activity*, and includes a *collective investment scheme* even if it does not have a separate legal personality, but does not include a beneficiary of a trust.

client bank account has the meaning given by rule 3.1.2.

client money has the meaning given by rule 1.2.9.

client money calculation means the calculation under rule 3.9.1.

client money distribution rules means the provisions of chapter 4.

client money protection rules means the provisions of parts 3.3 to 3.9 and chapter 8.

CM requirement has the meaning given by rule 3.9.1.

CM resource has the meaning given by rule 3.9.1.

COND means the *Conduct of Business Rulebook*.

contract of insurance means the specified product described in the *Financial Services Regulations*, schedule 3, part 3, paragraph 10.

Note **Specified product** is defined in this glossary.

customer dispute resolution scheme means the Interim Customer Dispute Resolution Scheme established under the COND, chapter 8 or, if a replacement body is established under the *Financial Services Regulations*, article 86 (2), that body.

day means a period of 24 hours starting at midnight.

director, for an entity, includes any person named as director of the entity and any person in accordance with whose instructions the entity is accustomed to act.

document means a record of information in any form (including electronic form), and includes, for example—

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- (a) anything in writing or on which there is writing; and
 - (b) anything on which there are figures, marks, numbers, perforations, symbols or anything else having a meaning for individuals qualified to interpret them; and
 - (c) a drawing, map, photograph or plan; and
 - (d) any other item or matter (in whatever form) that is, or could reasonably be considered to be, a record of information.

Note **Writing** is defined in this glossary.

effecting contracts of insurance means the regulated activity described in the *Financial Services Regulations*, schedule 3, part 2, paragraph 2.

Note **Regulated activity** is defined in this glossary.

eligible bank means—

- (a) a person that is an authorised firm with an authorisation for *deposit taking*; or
- (b) a person in relation to whom all of the following requirements are satisfied:
 - (i) the person is incorporated in a jurisdiction outside the *QFC*;
 - (ii) the Regulatory Authority has not, by notice, declared that this definition does not apply to the jurisdiction;
 - (iii) the person is regulated as a bank, and principally regulated for prudential purposes, by an *overseas regulator* in the jurisdiction;
 - (iv) the person is required to prepare audited accounts;
 - (v) the person has minimum assets of US \$10 million (or its equivalent in any other currency at the relevant time);

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- (vi) the person had surplus revenue over expenditure for the person's last 2 financial years;
 - (vii) the person's latest annual audit report is not materially qualified.

Note **Person, authorised firm, authorisation and jurisdiction** are defined in this glossary.

eligible intermediary means—

- (a) a person (other than an eligible bank or a producing intermediary) that is an authorised firm; or
- (b) a person in relation to whom all of the following requirements are satisfied:
 - (i) the person is authorised (however described) under the law of a jurisdiction outside the QFC to conduct insurance mediation or the equivalent activity in the jurisdiction;
 - (ii) the person is principally regulated for prudential purposes by an *overseas regulator* in the jurisdiction;
 - (iii) the Regulatory Authority has not, by notice, declared that this definition does not apply to the jurisdiction.

Note **Person, eligible bank, authorised firm and jurisdiction** are defined in this glossary.

employee, of a person (A), means an individual—

- (a) who is employed or appointed by A, whether under a contract of service or services or otherwise; or
- (b) whose services are, under an arrangement between A and a third party, placed at the disposal and under the control of A.

entity means any kind of entity, and includes, for example, any person.

Note **Person** is defined in this glossary.

exercise a function means exercise or perform the function.

Note **Function** is defined in this glossary.

failure, of a firm, means—

- (a) the appointment of a liquidator, receiver or administrator, or trustee in bankruptcy for the firm; or
- (b) any equivalent procedure in a relevant jurisdiction.

Note **Jurisdiction** is defined in this glossary.

firm (or **authorised firm**) means a person that has an authorisation.

Note **Person** and **authorisation** are defined in this glossary.

firm-related distribution event, for a firm, means—

- (a) the appointment of a liquidator, receiver or administrator or of a trustee in bankruptcy; or
- (b) an event in any jurisdiction equivalent to an appointment mentioned in paragraph (a); or
- (c) the withdrawal of the firm's authorisation; or
- (d) the imposition or variation of a condition, restriction or requirement on the firm's authorisation so that it is no longer permitted to hold client money.

Note **Jurisdiction** and **authorisation** are defined in this glossary. **Client money** is defined in rule 1.2.9.

function means any function, authority, duty or power.

governing body, of an entity, means its board of directors, committee of management or other governing body (whatever it is called).

Note **Entity** is defined in this glossary.

group means the following:

- (a) a legal person (A);
- (b) any parent entity of A;

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- (c) any subsidiary (direct or indirect) of A or of any parent entity of A.

Note **Legal person, parent entity** and **subsidiary** are defined in this glossary.

hold money has the meaning given by rule 1.2.10.

INAP means the *Interpretation and Application Rulebook*.

instrument means an instrument of any kind, and includes, for example, any writing or other document.

Note **Writing** and **document** are defined in this glossary.

insurance business has the meaning given by rule 1.2.8.

insurance intermediary has the meaning given by rule 1.2.1.

insurance mediation has the meaning given by rule 1.2.2.

jurisdiction means any kind of legal jurisdiction, and includes, for example—

- (a) the State of Qatar; and
- (b) a foreign country (whether or not an independent sovereign jurisdiction), or a state, province or other territory of such a foreign country; and
- (c) the Qatar Financial Centre or a similar jurisdiction.

legal person means an entity (other than an individual) on which the legal system of a jurisdiction confers rights and imposes duties, and includes, for example, any entity that can own, deal with or dispose of property.

Examples

- 1 a company
- 2 any other corporation
- 3 a *partnership*, whether or not incorporated
- 4 an association or other undertaking, whether or not incorporated.

Note **Entity, jurisdiction** and **property** are defined in this glossary.

money means any form of money of any currency, and includes cheques and other payable orders.

month means calendar month.

net asset value has the meaning given by rule 2.2.3.

office includes position.

paid-up share capital, for a firm that is not a company, means the equity (however described) of the members or owners of the firm.

parent entity, for a legal person (A), means any of the following:

- (a) a legal person that holds a majority of the voting power in A;
- (b) a legal person that is a member of A (whether direct or indirect, or though legal or beneficial entitlement) and alone, or together with 1 or more legal persons in the same group, holds a majority of the voting power in A;
- (c) a parent entity of any legal person that is a parent entity of A.

Note **Legal person** and **group** are defined in this glossary.

person means—

- (a) an individual (including an individual occupying an office from time to time); or
- (b) a legal person.

Note **Office** and **legal person** are defined in this glossary.

property means any estate or interest (whether present or future, vested or contingent, or tangible or intangible) in immovables or property of any other kind, and includes, for example—

- (a) money; and
- (b) bonds, securities, shares, and other negotiable or non-negotiable instruments of any kind; and

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- (c) any right to interest, dividends, or other income, on or accruing from or generated by immovables or property of any other kind; and
 - (d) any other things in action; and
 - (e) any other charge, claim, demand, encumbrance, lien, power, privilege, right, or title, recognised or protected by the law of any jurisdiction over, or in relation to, immovables or property of any other kind; and
 - (f) any other documents evidencing title to, or to any interest in, immovables or property of any other kind.

Note **Money**, **jurisdiction** and **document** are defined in this glossary.

producing intermediary, in relation to a transfer or series of transfers under part 3.7, means a firm to which chapter 3 (Client money) applies.

QFC means the Qatar Financial Centre.

QFC Authority means the Qatar Financial Centre Authority.

QFC insurer has the meaning given by rule 1.2.7.

QFC captive insurer has the meaning given by CAPI, rule 1.2.1.

regulated activity means an activity that is a regulated activity under the *Financial Services Regulations*.

Regulatory Authority means the Regulatory Authority of the QFC.

reinsurance contract means a contract of insurance covering all or part of a risk to which a person is exposed under a contract of insurance.

Note **Contract of insurance** and **person** are defined in this glossary.

shortfall, in relation to a calculation under rule 3.9.1, is the amount by which a firm's CM resource is less than its CM requirement.

specified product means an investment or other type of product that is a specified product under the *Financial Services Regulations*.

subsidiary—a legal person (**A**) is a **subsidiary** of another legal person (**B**) if B is a parent entity of A.

Note **Legal person** and **parent entity** are defined in this glossary.

surplus, in relation to a calculation under rule 3.9.1, is the amount by which a firm's CM resource exceeds its CM requirement.

Note **CM resource** and **CM requirement** are defined in rule 3.9.1 and this glossary.

third party-related distribution event, for an eligible bank or eligible intermediary, means—

- (a) the appointment of a liquidator, receiver or administrator or of a trustee in bankruptcy; or
- (b) an event in any jurisdiction equivalent to an appointment mentioned in paragraph (a).

Note **Jurisdiction** is defined in this glossary.

writing means any form of writing, and includes, for example, any way of representing or reproducing words, numbers, symbols or anything else in legible form (for example, by printing or photocopying).

year means calendar year.